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**THE COMPANIES ACTS 1985 TO 1989**

**PRIVATE COMPANY LIMITED BY SHARES**

**MEMORANDUM OF ASSOCIATION**

**OF**

**SOLAR CENTURY HOLDINGS LIMITED**

THURSDAY



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COMPANIES HOUSE

**As adopted by special resolution on 24<sup>th</sup> September 2008**

- 1 The Company's name is SOLAR CENTURY HOLDINGS LIMITED
- 2 The Company's registered office is to be situated in England and Wales.
- 3 The Company's objects are
  - (a) to carry on within and without the United Kingdom the business of promoters of solar energy, acting as consultants, importers, exporters, distributors, brokers, agents, manufacturers, general merchants and dealers, both retail and wholesale in relation to relevant equipment, goods and raw materials, and to carry on any other business which is calculated directly or indirectly to enhance the value of any of the Company's business, rights, assets or property, and to carry on the aforesaid business, either together or as a single business or as separate and distinct businesses in any part of the world,
  - (b) to carry on any other trade or business whatever, which can in the opinion of the Directors be advantageously carried on in connection with or ancillary to any of the businesses of the Company,
  - (c) to purchase, take on lease or in exchange, hire or otherwise acquire and hold for any estate or interest any lands, buildings, easements, rights, privileges, concessions, patents, patent rights, licences, secret processes, machinery, plant, stock-in-trade, and any real or personal property of any kind necessary or convenient for the purposes of or in connection with the Company's business or any branch or department thereof,
  - (d) to erect, construct, lay down, enlarge, alter and maintain any roads, railways, tramways, sidings, bridges, reservoirs, shops, stores, factories, buildings, works, plant and machinery necessary or convenient for the Company's business, and to contribute to or subsidise any exhibition or for any public, general or useful object, and to

establish, set up, support and maintain share purchase schemes or profit-sharing schemes for the benefit of any employees of the Company or of any company which is for the time being the Company's holding or subsidiary company as defined by Section 736 of the Companies Act 1985 and to do any of the matters aforesaid, either alone or in conjunction with any such other company as aforesaid,

- (e) to borrow or raise or secure the payment of money for the purposes of or in connection with the Company's business, and for the purposes of or in connection with the borrowing or raising of money by the Company to become a member of any building society,
- (f) to mortgage and charge the undertaking and all or any of the real and personal property and assets, present or future, and all or any of the uncalled capital for the time being of the Company and to issue at par or at a premium or discount, and for such consideration and with and subject to such rights, powers, privileges and conditions as may be thought fit, debentures or debenture stock, either permanent or redeemable or repayable, and collaterally or further to secure any securities of the Company by a trust deed or other assurances,
- (g) to issue and deposit any securities which the Company has power to issue by way of mortgage, and also by way of security for the performance of any contracts or obligations of the Company or of its customers or other persons or corporations having dealings with the Company, or in whose businesses or undertakings the Company is interested, whether directly or indirectly,
- (h) to receive money on deposit or loan upon such terms as the Company may approve, and to guarantee the obligations and contracts of customers and others,
- (i) to lend money to any company, firm or person and to give all kinds of indemnities and either with or without the Company receiving any consideration or advantage, direct or indirect, for giving any such guarantee, to guarantee either by personal covenant or by mortgaging or charging all or any part of the undertaking property and assets present and future and uncalled capital of the Company or by both such methods, the performance of the obligations and the payment of the capital or principal (together with any premium) of and dividends or interest on any debenture stock, shares or other securities of any company, firm or person and in particular (but without limiting the generality of the foregoing) any company which is for the time being the Company's holding or subsidiary company as defined by Section 736 of the Companies Act 1985 or otherwise associated with the Company in business and whether or not this Company receives directly or indirectly any consideration or advantage therefrom,
- (j) to establish and maintain or procure the establishment and maintenance of any non-contributory or contributory pension or superannuation funds for the benefit of, and give or procure the giving of donations, gratuities, pensions, allowances, or emoluments to any persons who are or were at any time in the employment or service of the Company, or of any company which is for the time being the Company's holding or subsidiary company as defined by Section 736 of the Companies Act 1985 or otherwise associated with the Company in business or who are or were at the time

directors or officers of the Company or of any such other company as aforesaid, and the wives, widows, families and dependants of any such persons, and also to establish and subsidise or subscribe to any institutions, associations, clubs or fund calculated to be for the benefit of or to advance the interests and well-being of the Company or of any such other company as aforesaid, or of any such persons as aforesaid, and to make payments for or towards the insurance of any such persons as aforesaid, and to subscribe or guarantee money for charitable or benevolent objects or for any exhibition or for any public, general or useful object, and to establish, set up, support and maintain share purchase schemes or profit-sharing schemes for the benefit of any employees of the Company or of any company which is for the time being the Company's holding or subsidiary company as defined by Section 736 of the Companies Act 1985 and to do any of the matters aforesaid, either alone or in conjunction with any such other company as aforesaid,

- (k) to draw, make, accept, endorse, negotiate, discount and execute promissory notes, bills of exchange and other negotiable instruments,
- (l) to invest and deal with the moneys of the Company not immediately required for the purposes of its business in or upon such investments or securities and in any such manner as may from time to time be determined,
- (m) to pay for any property or rights acquired by the Company, either in cash or in fully or partly paid-up shares, with or without preferred or deferred to special rights or restrictions in respect of dividend, repayment of capital, voting or otherwise, or by any securities which the Company has power to issue, or partly in one mode and partly in another, and generally on such terms as the Company may determine,
- (n) to accept payment for any property or rights sold or otherwise disposed of or dealt with by the Company, either in cash, by instalments or otherwise, or in fully or partly paid-up shares of any company or corporation, with or without deferred or preferred or special rights or restrictions in respect of dividend, repayment of capital, voting or otherwise, or in debentures or mortgage debentures or debenture stock, mortgages or other securities of any company or corporation, or partly in one mode and partly in another, and generally on such terms as the Company may determine, and to hold, dispose of or otherwise deal with any shares, stock or securities so acquired;
- (o) to enter into any partnership or joint-purse arrangement or arrangement for sharing profits union of interests or co-operation with any company, firm or person carrying on or proposing to carry on any business within the objects of this Company and to acquire and hold, sell, deal with or dispose of shares, stocks or securities of any such company and to guarantee the contracts or liabilities of, or the payment of the dividends, interest or capital of any shares, stock or securities of and to subsidise or otherwise assist any such company,
- (p) to establish or promote or concur in establishing or promoting any other company whose objects shall include the acquisition and taking over of all or any of the assets and liabilities of the Company or the promotion of which shall be in any manner calculated to advance directly or indirectly the objects or interests of this Company, and to acquire and hold or dispose of shares, stock or securities and guarantee the

payment of dividends, interest or capital of any shares, stock or securities issued by or any other obligations of any such company,

- (q) to purchase or otherwise acquire and undertake all or any part of the business, property, assets, liabilities and transactions of any person, firm or company carrying on any business which this Company is authorised to carry on,
- (r) to sell, improve, manage, develop, turn to account, exchange, let on rent, royalty, share of profits or otherwise, grant licences, easements and other rights in or over, and in any other manner deal with or dispose of the undertaking and all or any of the property and assets for the time being of the Company for such consideration as the Company may think fit,
- (s) to amalgamate with any other company whose objects are or include objects similar to those of this Company, whether by sale or purchase (for fully or partly paid-up shares or otherwise) of the undertaking, subject to the liabilities of this or any such other company as aforesaid, with or without winding up, or by sale or purchase (for fully or partly paid-up shares or otherwise) of all or a controlling interest in the shares or stock of this or any such other company as aforesaid, or by partnership, or any arrangement of the nature of partnership, or in any other manner,
- (t) to subscribe or guarantee money for or organise or assist any national, local, charitable, benevolent, public, general or useful object, or for any exhibition or for any purpose which may be considered likely directly or indirectly to further the objects of the Company or the interests of its members,
- (u) to distribute among the members in specie any property of the Company, or any proceeds of sale or disposal of any property of the Company, but so that no distribution amounting to a reduction of capital be made except with the sanction (if any) for the time being required by law,
- (v) to give such financial assistance, directly or indirectly, for the purpose of the acquisition of shares in the Company or the Company's holding company as defined by Section 736 of the Companies Act 1985 or for the purpose of reducing or discharging any liability incurred by any person for the purpose of the acquisition of shares in the Company or the Company's holding company as defined by Section 736 of the Companies Act 1985 as may be lawful,
- (w) to do all or any of the above things in any part of the world, and either as principals, agents, trustees, contractors or otherwise, and either alone or in conjunction with others, and either by or through agents, trustees, sub-contractors or otherwise,
- (x) to do all such things as are incidental or conducive to the above objects or any of them

And it is hereby declared that the objects of the Company as specified in each of the foregoing paragraphs of this clause (except only if and so far as otherwise expressly provided in any paragraphs) shall be separate and distinct objects of the Company and shall not be in any way limited by reference to any other paragraph or the name of the Company

4 The liability of the members is limited

5 The Company's share capital is £1,000 divided into 1,000 shares of £1 each <sup>1</sup>

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<sup>1</sup> On incorporation, the share capital of the Company was £1,000 divided into 1,000 shares of £1 each. By a written resolution dated 1 October 1999 the authorised share capital of the Company was increased to £10,000 divided into 10,000 shares of £1 each by the creation of 9,000 shares. By a written resolution dated 10 November 1999, the authorised share capital of the Company was increased to £15,385 divided into 15,385 shares of £1 each by the creation of 5,385 shares. By a written resolution dated 27 June 2000 the authorised share capital of the Company was increased to £18,182 divided into 18,182 shares of £1 each by the creation of 2,797 shares. At the Annual General Meeting of the Company held on 13 December 2004 the shareholders resolved to increase the authorised share capital of the Company to £22,000 divided into 22,000 shares. By a resolution dated 3 May 2006, the authorised share capital of the Company was increased to £31,769 by the creation of an additional 1,096 Ordinary Shares of £1 each and 8,673 A Preference Shares of £1 each. By a written resolution dated 28 August 2007, the authorised share capital of the Company was increased to £40,000 divided into 18,555 A Preference Shares, 7,088 B Preference Shares and 14,357 Ordinary Shares of £1 each by the creation of 1,143 Ordinary Shares and 7,088 B Preference Shares of £1 each.

**THE COMPANIES ACT 1985**

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**PRIVATE COMPANY LIMITED BY SHARES**

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**ARTICLES OF ASSOCIATION**

**OF**

**SOLAR CENTURY HOLDINGS LIMITED (the “Company”)**

**adopted by special resolution passed on 24<sup>th</sup> September 2008**

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**1. PRELIMINARY**

1 1 None of the regulations contained or incorporated in Table A in the Schedule to the Companies (Tables A-F) Regulations 1985, as amended, shall apply to the Company

1 2 In these Articles, unless the context otherwise requires the following words shall have the following meanings:

“**A Preference Offer**” has the meaning given to it in Article 14 14,

“**A Preference Offer Acceptance Period**” has the meaning given to it in Article 14 14,

“**A Preference Shareholders**” the holders of A Preference Shares from time to time;

“**A Preference Shares**” has the meaning given to it in Article 2,

“**A Preference Super-Majority**” means the holder or holders from time to time of more than 66 67 per cent in nominal amount of the A Preference Shares,

“**A Transferor**” has the meaning given to it in Article 14.14,

“**ABO Family Member**” has the meaning given to it in Article 13 5 7(b),

“**ABO Family Trust**” has the meaning given to it in Article 13 5.7(d),

“**Accepting Shareholders**” has the meaning given to it in Article 16 2,

“**Act**” means the Companies Act 1985,

“**Additional Shares**” means any Shares issued after the date of adoption of these Articles other than

(a) any Shares issued to the Employee Benefit Trust pursuant to the Employee Share Scheme or EMI Plan or otherwise issued to employees, directors or consultants pursuant to incentive or option plans, provided that such incentive or option plans have been approved by a Preference Majority;

(b) any warrants granted by the Company to leasing companies and/or banks, provided that the granting and terms of such warrants have been approved by a Preference Majority, and

(c) any Ordinary Shares, A Preference Shares and B Preference Shares issued on or about the date of adoption of these Articles,

“**Affiliate**” with respect to any entity means a person that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with that entity. A person shall be deemed to control another person if such first person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the second person, whether through the ownership of voting securities, by contract, or otherwise,

“**Agreed Value**” has the meaning given to it in Article 14 5,

“**Approved Transferee**” has the meaning given to it in Article 14 2 3,

**“Asset Sale”** means a sale of all or substantially all of the assets of the Company whether in a single transaction or in a series of related or linked transactions,

**“Auditors”** means the auditors for the time being of the Company,

**“B Preference Offer”** has the meaning given to it in article 14.11,

**“B Preference Offer Acceptance Period”** has the meaning given to it in article 14.11,

**“B Transfer”** has the meaning given to it in article 14.11;

**“B Preference Shareholders”** the holders of B Preference Shares from time to time,

**“B Preference Shares”** has the meaning given to it in article 2.1,

**“B Preference Majority”** means B Preference Shareholders who together hold or beneficially own for the time being more than 50% in nominal amount of the issued B Preference Shares;

**“Beneficial Owner”** has the meaning given to it in Article 13.5.4,

**“Board”** means the board of directors of the Company from time to time,

**“Board’s Notice”** has the meaning given to it in Article 14.2;

**“Business Day”** means a day (not being a Saturday) on which banks generally are open for business in London,

**“Connected Persons”** has the meaning given to it in section 839 of the Income and Corporation Taxes Act 1988,

**“Controlling Interest”** means any interest (within the meaning of Part I of Schedule 13 to the Act) in Shares conferring at the time in question in the aggregate 50 per cent or more of the votes exercisable on a poll on substantially all of the resolutions at a general meeting of the Company;

**“Conversion Date”** means (i) the date on which any A Preference Shareholder or B Preference Shareholder, as the case may be, exercises its right to convert the A Preference Shares or B Preference Shares, as the case may be, held by it into Ordinary Shares in accordance with Article 6.1, or (ii) the date on which A Preference Shares and B Preference Shares are automatically converted into Ordinary Shares in accordance with Article 6.2 or Article 6.11,

**“Conversion Price”** means, with respect to the A Preference Shares as at the date of adoption of these Articles, the Series B Preference Price and, with respect to the B Preference Shares as at the date of the adoption of these Articles, the Series B Preference Price, as adjusted from time to time in accordance with Article 7,

**“Disposal”, “Dispose” and “Disposing”** has the meanings given to it in Article 13.1,

**“EBT Offer”** has the meaning given to it in Article 14.22,

**“EBT Offer Acceptance Period”** has the meaning given to it in Article 14.22,

**“EMI Plan”** means the enterprise management incentive share plan of the Company to be approved and adopted by the Board following the date of these Articles, as such plan may be amended and updated from time to time with the approval of the Board,

**“Employee Benefit Trust”** or **“EBT”** means the trust established by a deed dated 16 October 2003 made between the Company and RM2 Trustees Limited as trustees, or any successor trust thereof,

**“Employee Shareholder”** means any Shareholder who has obtained Shares by reason of his employment, office or consultancy with a Group Company,

**“Employee Share Scheme”** means all of the management incentive agreements entered into as at the date of adoption of these Articles between certain individuals and RM2 Trustees Limited and/or the Company,

**“Exit”** means

(a) a Share Sale, or

(b) an Asset Sale,

whichever shall be the first to occur,

**“Expert”** has the meaning given to it in Article 14 2 3,

**“Family Member”** has the meaning given to it in Article 13 5 1;

**“Family Trust”** has the meaning given to it in Article 13 5 2,

**“Financial Year”** means (i) as at the date of the adoption of these Articles, the period commencing on 1 April 2007 and expiring on 31 March 2008 and any subsequent period commencing on 1 April in any year and expiring on 31 March in the next year or, (ii) if determined by the Board, such other period as the Company may elect in accordance with the Act,

**“Foursome”** means Foursome Cleantech Fund 1 LP, a limited partnership established and registered under Article 4 of the Limited Partnership (Jersey) Law 1994, or any or any person to whom Foursome is permitted to transfer, and has transferred, its Shares pursuant to Article 13 5

**“Good Energies”** means Good Energies Investments (Jersey) Limited or any or any person to whom Good Energies is permitted to transfer, and has transferred, its Shares pursuant to Article 13 5,

**“Group”** means the company referred to and each of its subsidiary companies and any holding company or parent company and each of the subsidiaries of that holding company,

**“Group Company”** means the Company, any of its subsidiaries or subsidiary undertakings from time to time,

**“Independent Director”** has the meaning given to it in Article 19 5,

**“Independent Expert”** means an umpire (acting as an expert and not as an arbitrator) nominated by the parties concerned or in the event of disagreement as to nomination,

appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales,

**"Information Requests"** has the meaning given to it in Article 14 2,

**"Investors"** means the Series A Investors and the Series B Investors,

**"Investor Director"** means any director of the Company from time to time appointed pursuant to Article 19 2 1 or Article 19 1 1 **Error! Reference source not found.**,

**"Key Share Offer"** has the meaning given to it in Article 14.17,

**"Key Share Offer Acceptance Period"** has the meaning given to it in Article 14 17,

**"Key Shares"** means Shares which are registered in the name of the Key Shareholders (if any),

**"Key Shareholders"** means Mr Jeremy Leggett, Mr Ronald McCullagh, Mr Michael Perry, Mr Roger Booth, Mr Daniel Davies, Mr Neil Perry, Mr Alan South, Mr Derry Newman, Mr John Low, Mr Anthony White, Mr James Cameron and Ms Teresa Tennant and **"Key Shareholder"** means any one of them,

**"Leaver"** means

- (a) any employee, officer (including a director) or consultant of a Group Company who is a Shareholder who ceases to be an employee, officer (including a director) or consultant of any Group Company provided that an officer who ceases to be an officer but remains an employee shall not be a Leaver,
- (b) any Shareholder who is a Family Member of any person who ceases to be a Relevant Employee;
- (c) any Shareholder who is the trustee of a Family Trust of any person who ceases to be a Relevant Employee,
- (d) any person who becomes entitled to any Ordinary Shares
  - (i) on the death of any employee, officer (including a director) or consultant of a Group Company who is a Shareholder,
  - (ii) on the bankruptcy of a Shareholder (if an individual) or the receivership, administrative receivership, administration, liquidation or other arrangement for the winding-up (whether solvent or insolvent) of a Shareholder (if a company), or
  - (iii) on the exercise of an option after the person to whom the option was granted ceasing to be a Relevant Employee, or
- (e) any Shareholder holding Shares as a nominee for any person who ceases to be a Relevant Employee,

**"Leaving Date"** means the date on which a person becomes a Leaver,

**"Leaver's Shares"** means all, and not some only, of the Shares held by a Leaver,

**“Montanbedarf”** means Montanbedarf Ltd or any person to whom Montanbedarf is permitted to transfer, and has transferred, its Shares pursuant to Article 13 5,

**“Montanbedarf Beneficial Owner”** means the person who is, as at the date of adoption these Articles, the ultimate beneficial owner of Montanbedarf,

**“NAV Accounts”** has the meaning given to it in Article 14 6,

**“New Member”** has the meaning given to it in Article 16 5,

**“Non-Qualifying Leaver”** has the meaning given to it in Article 15 7 2;

**“Offer Notice”** has the meaning given to it in Article 14 10,

**“Offeree”** means a Shareholder to whom shares are offered pursuant to an Offer Notice,

**“Offeror”** has the meaning given to it in Article 16 1,

**“Ordinary Director”** means any director of the Company who is not an Investor Director or the Independent Director,

**“Ordinary Shares”** has the meaning given to it in Article 2,

**“Ordinary Shareholders”** means the holders of Ordinary Shares from time to time,

**“Other Securities”** means

- (a) any debt or equity securities convertible into or exercisable or exchangeable for Shares, or
- (b) any options, warrants or rights carrying any rights to purchase Shares, other than of a type referred to in paragraphs (a) and (b) of the definition of “Additional Shares”,

**“Other Shareholders”** has the meaning given to it in Article 16 3,

**“Preference Majority”** means the holder or holders from time to time of more than 50 per cent in nominal amount of the Preference Shares in issue,

**“Preference Super-Majority”** means the holder or holders from time to time of more than 66 67 per cent in nominal amount of the Preference Shares in issue,

**“Preference Shareholders”** means the holders of A Preference Shares or B Preference Shares from time to time,

**“Preference Shares”** means the A Preference Shares and the B Preference Shares,

**“Prescribed Period”** has the meaning given to it in Article 14 27,

**“Pro-Rata Entitlement”** means, with respect to any Shareholder, his or its pro rata entitlement in proportion to his or its Shareholding at the relevant time and for the purposes of this definition, Shareholding shall include Shares which are registered in the name of the relevant Shareholder,

**“Purchase Price”** means

- (a) in respect of each A Preference Share, £861 per A Preference Share;
- (b) in respect of each B Preference Share, £1,912 per B Preference Share, and
- (c) in respect of any other Share, the subscription price or acquisition price paid by the relevant Shareholder for that Share,

**“Qualifying Financing”** means any issue of Shares, following the date of adoption of these Articles, to an investor or group of investors, where the aggregate amount raised by the Company pursuant to such issuance is at least equal to £10,000,000 and the market value (as determined by Company’s advisors for the purposes of such issue of Shares) of the entire issued Share capital of the Company prior to such issue of Shares at the issue price is not less than £100,000,000,

**“Qualifying IPO”** means the earlier of:

- (a) effective admission of the Company’s entire issued Ordinary Share capital to the Official List of the UK Listing Authority and admission to trading of such capital by London Stock Exchange plc or any other recognised investment exchange for the purposes of the Financial Services and Markets Act 2000 or any re-enactment thereof; and
- (b) the admission to trade, quotation, listing and/or registration of any of the Shares in or on any other public securities market (including the Alternative Investment Market, NASDAQ and NASDAQ Europe),

provided that on such admission, quotation, listing and/or registration the market value (as determined by the sponsor, nominated adviser or local equivalent appointed by the Company for the purposes of such admission) of the entire issued Share capital of the Company prior to such admission at the issue price is not less than £100,000,000 (or the then equivalent amount in the local currency of the relevant exchange or market),

**“Qualifying Leaver”** has the meaning given to it in Article 15 7.1,

**“Qualifying Offer”** has the meaning given to it in Article 16 1,

**“Realisation Value”** means, in the event of a Share Sale:

- (a) if the Shares of the Company are to be sold by private treaty (as distinct from a public offer) and the consideration is a fixed cash sum payable in full on completion of the Share Sale, the total amount of such cash sum,
- (b) if a written offer has been made for a cash consideration or, if the Share Sale is pursuant to any other public cash offer or public offer accompanied by a cash alternative, the total cash consideration or cash alternative price (regardless of whether or not the cash alternative is capable of being accepted in respect of all the Shares) for all the Shares for which the offer is made,

- (c) if the Share Sale is by private treaty or public offer and the consideration is the issue of securities (not accompanied by a cash alternative)
  - (i) if the securities will rank pari passu with a class of securities already admitted to the Official List maintained by the UKLA or any other Recognised Investment Exchange (in the case of a sale by private treaty) the value attributed to such consideration in the related sale agreement setting out the terms of such sale or, (in the case of a Share Sale following a public offer or failing any such attribution in the sale agreement) by reference to the value of such consideration determined by reference to the average middle market quotation of such securities over the period of 5 Business Days ending 3 days prior to the day on which the Share Sale is completed, or
  - (ii) if the securities are not of such a class, the value of the relevant consideration as agreed by a Preference Majority and, provided any Ordinary Shareholder is to receive any such consideration, at least one of the Ordinary Directors or, in the absence of such agreement prior to completion of the Share Sale, such value as is reported on by an Independent Expert, in a report obtained for the purpose and addressed to (and at the cost of, pro rata to their holdings immediately prior to completion of the Share Sale) the holders of the Shares being sold or transferred,
- (d) to the extent that the Share Sale includes an element of deferred consideration, its value shall be the present value of such deferred consideration determined by an Independent Expert in a report obtained for the purpose and addressed to (and at the cost of, pro rata to their holdings immediately prior to completion of the Share Sale) the holders of the Shares being sold or transferred, and
- (e) if and to the extent (a) to (d) above are not applicable, the value of the relevant consideration as agreed by a Preference Majority and, provided any Ordinary Shareholder is to receive any such consideration, at least one of the Ordinary Directors, or, in the absence of such agreement prior to the Share Sale such value as it is reported on by an Independent Expert, in a report obtained for the purpose and addressed to and at the cost of (pro rata to their holdings immediately prior to completion of the Share Sale) the holders of Shares being sold or transferred,

less for the avoidance of doubt the aggregate of any fees incurred by the holders of the Shares being sold or transferred in connection with the Share Sale,

**“Relevant Competitor”** means a person that carries on business in the field of the production of (i) solar photovoltaic systems, (ii) solar thermal systems and/or (iii) sustainable energy goods and services related to photovoltaic systems or solar thermal systems,

**“Relevant Employee”** shall mean

- (a) an employee or consultant of any Group Company, and/or
- (b) a director of any Group Company (other than an Investor Director),

**“Relevant Shares”** has the meaning given to it in Article 14 1 1,

**“Request Period”** has the meaning given to it in Article 14 2,

**“Series A Investors”** means VPVP, SESL and Montanbedarf (and any person or persons to whom VPVP, SESL or Montanbedarf shall have transferred their Shares pursuant to Article 13 5) and **“Series A Investor”** means any one of them,

**“Series A Preference Price”** has the meaning given to it in Article 3 1 2;

**“Series B Investors”** means VPVP, SESL, Foursome, Good Energies, Vantania and Zouk (and any person or persons to whom VPVP, SESL, Foursome, Good Energies, Vantania or Zouk shall have transferred their Shares pursuant to Article 13 5) and **“Series B Investor”** means any one of them,

**“Series B Preference Price”** has the meaning given to it in Article 3 1 1,

**“SESL”** means SSE Energy Supply Limited or any person to whom SESL is permitted to transfer, and has transferred, its Shares pursuant to Article 13 5 5,

**“SESL Director”** means the director appointed from time to time by SESL in accordance with Articles 19 1 or 19 3,

**“SESL Minimum Holding”** means 1,478 A Preference Shares, as converted, consolidated or subdivided from time to time,

**“Share Sale”** means the completion of any transaction or series of transactions whereby any person or Connected Persons or group of persons acting in concert (within the meaning given in the City Code on Takeovers and Mergers as in force as at the date of adoption of these Articles) purchases or otherwise acquires or obtains a Controlling Interest,

**“Shareholders”** means the members of the Company from time to time,

**“Shares”** means shares in the capital of the Company from time to time,

**“SSA”** means the Shareholders’ and Subscription Agreement dated on or about the date of adoption of these Articles between, among others, the Key Shareholders, the Investors and the Company,

**“SSE Competitor”** means any company registered in the United Kingdom which carries on business in the field of public electricity supply and has a market share in the supply or generation of electricity in the United Kingdom greater than five per cent,

**“Suggested Price”** has the meaning given to it in Article 14 1 3,

**“Third Party Interest”** means and includes any equity or interest of any person (including any right to acquire, option or right of pre-emption), voting arrangement, mortgage, charge, pledge, bill of sale, lien, deposit, hypothecation, assignment or any other encumbrance, priority or security interest or arrangement or interest under any



contract or trust or any other third party interest of whatsoever nature over or in the relevant property,

**“Transferor”** has the meaning given to it in Article 14 1,

**“Transfer Notice”** has the meaning given to it in Article 14 1,

**“Unapproved Transferee”** has the meaning given to it in Article 14 2 2, and

**“Vantania”** means Vantania Holdings Limited, a company registered in the British Virgin Islands or any or any person to whom Vantania is permitted to transfer, and has transferred, its Shares pursuant to Article 13 5,

**“VPVP”** means VantagePoint Venture Partners IV (Q), L P , VantagePoint Venture Partners IV, L.P and VantagePoint Venture Partners IV Principals Fund, L P (or any of them) or any or any person to whom VPVP is permitted to transfer, and has transferred, its Shares pursuant to Article 13 5, and

**“Zouk”** means Cleantech Europe (No 1) LP and Cleantech Europe (No 2) LP, limited partnership funds managed by Zouk Ventures limited (or any of them) or any person to whom Zouk is permitted to transfer, and has transferred, its Shares pursuant to Article 13 5

1 3 In these Articles, unless the context otherwise requires:

1 3 1 references to a document being executed include references to its being executed under hand or under seal or as a deed or by any other method,

1 3 2 references to writing includes references to any visible substitute for writing and to anything partly in one form and partly in another form and shall, for the avoidance of doubt, include email,

1 3 3 the words **“include”** and **“including”** are to be construed without limitation to the generality of the preceding words,

1 3 4 references to statutes or statutory provisions include those statutes or statutory provisions as amended, extended, consolidated, re enacted or replaced from time to time and any orders, regulations, instruments or other subordinate legislation made under them provided that words or expressions defined in the Act bear the same meaning as in the Act but excluding any statutory modification thereof not in force at the date of adoption of these Articles,

1 3 5 words denoting the singular number include the plural number and vice versa, words denoting the masculine gender include the feminine gender and words denoting persons include corporations,

1 3 6 subject to sub-Article 1 3 4, references to any provision of any enactment or of any subordinate legislation (as defined by Section 21(1) of the Interpretation Act 1978) include any modification or re-enactment of that provision from time to time in force,

1 3 7 references to the amount paid up on a Share shall include all amounts credited as paid up thereon including any premiums, and

- 1 3.8 the headings are inserted for convenience only and shall not affect the construction of these Articles

## **2. SHARE CAPITAL**

- 2 1 The authorised Share capital of the Company at the date of adoption of these Articles is £40,000 divided into 18,555 A convertible participating preference Shares of £1 each ("**A Preference Shares**"), 7,088 B convertible participating preference shares of £1 each ("**B Preference Shares**") and 14,357 ordinary Shares of £1 each ("**Ordinary Shares**")
- 2 2 Subject to these Articles and to the provisions of the Act and without prejudice to any rights attached to any existing Shares or the holders of such Shares, any Share may be issued with such rights or restrictions as the Company may by ordinary resolution determine.
- 2 3 Subject to these Articles and to the provisions of the Act and without prejudice to any rights attached to any existing Shares or the holders of such Shares, Shares may be issued which are to be redeemed or are liable to be redeemed at the option of the Company or the holder on such terms and in such manner as may be provided by these Articles
- 2 4 The Company may exercise the powers of paying commissions conferred by the Act Subject to the provisions of the Act, any such commission may be satisfied by the payment of cash or by the allotment of fully or partly paid Shares or partly in one way and partly in the other
- 2 5 Except as required by law or as expressly resolved by a resolution of the Board, no person shall be recognised by the Company as holding any Share upon any trust and (except as otherwise provided by law, these Articles or resolution of the Board) the Company shall not be bound by or recognise (even where having notice thereof) any interest in any Share except an absolute right to the entirety thereof in the holder

## **3. RETURN OF CAPITAL AND EXIT**

- 3 1 On a return of capital, liquidation, dissolution or winding-up, capital reduction or otherwise, the assets of the Company remaining after payment of its liabilities shall be applied in the following order of priority
- 3 1 1 first, in paying to each B Preference Shareholder in respect of each B Preference Share of which it is the holder an amount of £1,912 (the "**Series B Preference Price**")
- 3 1 2 second, and after payment in full of the amount referred to above, in paying to each A Preference Shareholder in respect of each A Preference Share of which it is the holder an amount of £861 (the "**Series A Preference Price**"),
- 3 1 3 third, and after payment in full of the amounts referred to above, the remaining assets shall be distributed with equal priority and pro-rata among the A Preference Shareholders and B Preference Shareholders, (on an as-converted basis pursuant to Article 6), and the Ordinary Shareholders until such B Preference Shareholder has received under sub-Articles 3 1.1 and 3 1 3 an aggregate of two and a half (2 5) times the Series B Preference Price in respect of each B Preference Share held by him (on an as-converted

basis) (whereupon such B Preference Shareholders shall cease to be entitled to receive amounts under this Article 3 1 3), and such A Preference Shareholder has received under sub-Articles 3 1 2 and 3.1 3 an aggregate of four (4) times the Series A Preference Price in respect of each A Preference Share held by him (on an as-converted basis) (whereupon such A Preference Shareholders shall cease to be entitled to receive amounts under this Article 3.1 3), and

3 1 4 Fourth, in distributing any surplus assets (if any) remaining after payment of the amounts calculated in accordance with Articles 3 1 1 to 3 1 3 (inclusive) above amongst the Ordinary Shareholders on a pro-rata basis,

but subject in all cases to the rights of the Company to deduct from any such distribution to any Shareholder any amount remaining unpaid on the Shares held by it

3.2 On a Share Sale, the Shareholders selling or transferring Shares shall distribute among themselves (and if the Realisation Value is received from a purchaser as non-cash consideration the distribution made in accordance with this Article 3 2 shall be paid to such Shareholders in the same form as it is received), the Realisation Value in the following order of priority

3 2 1 first, in paying to each selling or transferring B Preference Shareholder in respect of each B Preference Share of which it is the holder, an amount equal to the Series B Preference Price, less the aggregate amount received, in respect of each B Preference Share, by each B Preference Shareholder, by way of dividend paid by the Company since the date of adoption of these Articles,

3 2 2 second, in paying to each selling or transferring A Preference Shareholder in respect of each A Preference Share of which it is the holder, an amount equal to the Series A Preference Price less the aggregate amount received in respect of each A Preference Share, by each A Preference Shareholder, by way of dividend paid by the Company since May 3, 2006,

3 2 3 third, and after payment in full of the amount referred to above, the balance of any Realisation Value shall be distributed with equal priority and pro-rata among the selling or transferring A Preference Shareholders and B Preference Shareholders, (on an as-converted basis pursuant to Article 6), and the selling or transferring Ordinary Shareholders until such B Preference Shareholder has received under sub-Articles 3 2 1 and 3 2 3 an aggregate of two and a half (2 5) times the Series B Preference Price in respect of each B Preference Share held by him (on an as-converted basis) (whereupon such B Preference Shareholders shall cease to be entitled to receive amounts under this Article 3 2 3), and such A Preference Shareholder has received under sub-Articles 3 2 2 and 3 2 3 an aggregate of four (4) times the Series A Preference Price in respect of each A Preference Share held by him (on an as-converted basis pursuant to Article 6) (whereupon such A Preference Shareholders shall cease to be entitled to receive amounts under this Article 3 2 3), and

3 2 4 fourth, in distributing the balance (if any) remaining after payment of the amounts calculated in accordance with Articles 3 2 1 to 3 2 3 (inclusive) above amongst the Ordinary Shareholders on a pro-rata basis,

For the avoidance of doubt, the order of priority set out in this Article 3 2 shall apply to the allocation of the proceeds of any Share Sale that results from the application of the provisions set out in Articles 16 or 17.

- 3 3 In the event of an Asset Sale that is approved by at least one director appointed by the Ordinary Shareholders and unless a Preference Majority agrees otherwise, the Shareholders shall as soon as practicable following completion of such an Asset Sale pass a resolution for the winding-up of the Company and the proceeds of such liquidation remaining after the payment of the Company's liabilities shall be distributed to Shareholders in accordance with Article 3 1

#### **4. VOTING: PREFERENCE SHARES**

- 4 1 The holders of the Preference Shares shall have the right to receive notice of and attend and vote at all general meetings of the Company
- 4 2 Subject to Article 4 3, each Preference Shareholder present in person or by proxy or by a duly authorized representative shall be entitled on a show of hands to one vote and on a poll to one vote for each Ordinary Share it would hold if, at the time of the meeting, its Preference Shares had been converted into Ordinary Shares in accordance with the provisions of Article 6
- 4.3 Notwithstanding Article 4.2, no Preference Shareholder shall be entitled to vote with respect to
- 4 3 1 the appointment or removal by any Investor of any non-executive director of the Company in accordance with sub-Article 19 3 1 (except for the appointment or removal of any director nominated by that Preference Shareholder in accordance with that Article), or
- 4 3.2 the appointment or removal by any Ordinary Shareholder of any director of the Company in accordance with sub-Article 19 4.1

#### **5. VOTING: ORDINARY SHARES**

- 5 1 The Ordinary Shareholders shall have the right to receive notice of and attend and vote at all general meetings of the Company
- 5 2 Subject to Article 5.3, each Ordinary Shareholder present in person or by proxy or by a duly authorised representative shall be entitled on a show of hands to one vote and on a poll to one vote for each Ordinary Share held by it
- 5 3 Notwithstanding Article 5 2, and save with respect to the appointment of an Independent Director in accordance with Article 7 8 below, no Ordinary Shareholder shall be entitled to vote with respect to the appointment or removal of any non-executive director of the Company in accordance with sub-Articles 19 2 1 and 19.3 1

#### **6. CONVERSION**

- 6 1 Subject to Article 6 2, each Preference Shareholder shall have the right to convert its A Preference Shares or B Preference Shares into Ordinary Shares in accordance with Article 6, as the case may be, at any time by completing a conversion notice ("Conversion Notice") and delivering the same to the Company at least 10 Business Days prior to the Conversion Date together with such evidence (if any) as the Board may reasonably require to prove the title of the person exercising its right to convert.

- 6 2 Subject to Article 6 11, Preference Shares shall be automatically converted into Ordinary Shares at the applicable Conversion Price
- 6 2.1 immediately prior to, but conditional upon, a Qualifying IPO,
- 6 2.2 with respect to the B Preference Shares, on the B Preference Shareholders so electing by a B Preference Majority, or
- 6 2 3 with respect to the A Preference Shares, on the A Preference Shareholders so electing by an A Preference Super-Majority.
- 6 3 The number of fully paid Ordinary Shares into which the B Preference Shares shall be converted will be equal to the number of B Preference Shares being converted, multiplied by a fraction, the numerator of which will be 1,912 and the denominator of which will be the then prevailing Conversion Price
- 6 4 The number of fully paid Ordinary Shares into which the A Preference Shares shall be converted will be equal to the number of A Preference Shares being converted multiplied by a fraction, the numerator of which will be 861 and the denominator of which will be the then prevailing Conversion Price
- 6 5 Where the total number of Ordinary Shares to be received by a person holding Preference Shares as a result of conversion pursuant to Articles 6 3 or 6 4 would not be a whole number, it shall be rounded up to the nearest whole number
- 6 6 Conversion shall be effected in such manner as the Board shall, subject to the provisions of the Act and these Articles, from time to time determine In particular, and without limitation, conversion may be effected either by the re-designation (or reclassification) of the A Preference Shares and/or B Preference Shares, as the case may be, as Ordinary Shares (in the event that the Conversion Price remains the same as it is as at the adoption of these Articles)
- 6 7 If A Preference Shares or B Preference Shares, as the case may be, are to convert into Ordinary Shares with a total nominal value greater than the total nominal value of the relevant A Preference Shares, or B Preference Shares, as the case may be, the additional Ordinary Shares shall be issued fully paid up by the capitalisation of amounts standing to the credit of the share premium account or any other available reserves of the Company as determined by the Board Such capitalisation shall be automatic and shall not require any action on the part of Shareholders and the Board shall allot the Ordinary Shares arising on such capitalisation to the relevant A Preference Shareholder or B Preference Shareholder, as the case may be, in accordance with this Article If the Company is prohibited from effecting a capitalisation of reserves required by this Article, whether by virtue of the Act or for any other reason, the person entitled to the bonus issue shall be entitled, at any time, to subscribe at par for the Ordinary Shares that they would otherwise have been entitled to have received as a bonus issue by virtue of this Article
- 6 8 The Ordinary Shares arising on conversion shall rank *pari passu* in all respects with the Ordinary Shares then in issue and shall entitle the holders thereof to all dividends declared, made or paid after the Conversion Date on the Ordinary Shares
- 6 9 The Company shall procure that at all times whilst the A Preference Shares and/or B Preference Shares remain convertible, there shall be sufficient unissued Ordinary Shares for the purpose of satisfying the automatic conversion in accordance with the terms hereof

- 6.10 In any jurisdiction where it is permitted and subject to any agreement to the contrary, the Company shall ensure that the Ordinary Shares issued in respect of the conversion of the A Preference Shares or B Preference Shares on a Qualifying IPO are admitted to listing, registered, quoted and/or permitted to be dealt in and/or traded on the relevant exchange or exchanges upon such Qualifying IPO. Subject to any agreement to the contrary, the Company shall further ensure that fully paid definitive certificates for the appropriate number of Ordinary Shares (or, if relevant, equivalent securities) due to each A Preference Shareholder and B Preference Shareholder upon conversion will be issued to each A Preference Shareholder and B Preference Shareholder within whatever time is required to allow such A Preference Shareholder or B Preference Shareholder to participate fully in any Qualifying IPO.
- 6.11 Immediately prior to any A Preference Share or B Preference Share (or Share ranking *pari passu* therewith) being registered, as a result of the application of Articles 14.16 or 20.3, in the name of any person who is as at the date of adoption of these Articles an Ordinary Shareholder (or any transferee of such Shareholder permitted by these Articles), such A Preference Share and B Preference Share shall convert into one Ordinary Share in accordance with the provisions of Articles 6.3 to 6.10.

## **7. ANTI-DILUTION**

- 7.1 Subject to Article 7.7, if the Company issues or grants options over or other rights to acquire any Additional Shares for a price per Share (or at an exercise or conversion price per Share) less than the then prevailing Conversion Price of any B Preference Share, the Conversion Price shall for that B Preference Share be adjusted to a price determined in accordance with the following formula:

$$\text{Adjusted Conversion Price} = \text{CP} \times \frac{(A+B)}{(A+C)}$$

Where

CP = the Conversion Price of any B Preference Share as at the date on which the Additional Shares are issued,

A = the number of B Preference Shares outstanding immediately prior to the issue of the Additional Shares,

B = the number of B Preference Shares that the aggregate consideration received by the Company for the issue of the Additional Shares would purchase at the Conversion Price of B Preference Shares as at the date on which the Additional Shares are issued, and

C = the number of Additional Shares to be issued (or, in the case of a grant of rights to subscribe for or to convert other Shares into Ordinary Shares, the number of Ordinary Shares which would be issued on exercise in full of such subscription or conversion rights at the subscription price or conversion price of such rights).

- 7.2 In the case of the issue of Additional Shares for cash, the consideration shall be deemed to be the amount of cash paid before deducting any reasonable discount, commissions or other expenses allowed, paid or incurred by the Company in connection with the issue or sale thereof, but shall not in any circumstances be less than the amount credited as paid on such Shares in the Company's accounts.

- 7 3 In the case of the issue of Additional Shares for a consideration in whole or in part other than cash, the consideration shall be deemed to be the fair market value thereof as determined in good faith by the Board irrespective of any accounting treatment, but shall not in any circumstances be less than the amount credited as paid on such Shares in the Company's accounts. In the event of a dispute between the holders of the B Preference Shares and the Company regarding the determination of any such fair market value, the Company shall refer the dispute to an Independent Expert to prepare an independent appraisal of the fair market value of such consideration and such appraisal shall (in the absence of manifest error) be deemed for the purposes hereof to be a conclusive, final and binding determination. The expenses of such an appraisal shall be borne equally by the Company and the B Preference Shareholders.
- 7 4 In the event that the Company shall at any time after the date of adoption of these Articles
- 7 4 1 consolidate all or any of its Ordinary Shares; or
- 7 4 2 sub-divide all or any of its Ordinary Shares,
- the Conversion Price shall be adjusted as appropriate to reflect such consolidation or sub-division or (at the request in writing of a Preference Majority) the B Preference Shares shall be consolidated or sub-divided in a similar manner and the Conversion Price shall be adjusted to reflect such consolidation or sub-division.
- 7 5 If the Ordinary Shares issuable upon conversion of any B Preference Share shall be changed into the same or a different number of shares of any other class or classes of shares, whether by capital reorganisation, reclassification or otherwise (other than a consolidation or sub-division covered by Article 7 4), then, concurrently with the effectiveness of such reorganisation or reclassification, each B Preference Share shall be convertible into, in lieu of the number of Ordinary Shares which the holders would otherwise have been entitled to receive, a number of shares of such other class or classes of shares which a holder of the number of Ordinary Shares deliverable upon conversion of such B Preference Shares immediately before that change would have been entitled to receive in such reorganisation or reclassification.
- 7 6 Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to this Article 7 5, the Company at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and send to each B Preference Shareholder a certificate setting out such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Company shall, upon the written request at any time of any B Preference Shareholder, send or cause to be sent to such holder a like certificate setting out (i) such adjustments and readjustments, (ii) the Conversion Prices at the time in effect, and (iii) the number of Ordinary Shares and the amount, if any, of other property which at the time would be received upon the conversion of the B Preference Shares.
- 7 7 The anti-dilution rights of the B Preference Shareholders set out in this Article 7 shall expire and be of no further effect from the date of completion of a Qualifying Financing, provided that following such Qualifying Financing, there remains no class of Share or any loan or other instrument convertible into Shares with anti-dilution rights, or rights substantially similar to anti-dilution rights, attached to it.

**8. CLASS RIGHTS AND ADDITIONAL RIGHTS OF THE PREFERENCE SHAREHOLDERS**

8.1 Subject to Articles 8 2 and 8 3, whenever the capital of the Company is divided into different classes of Shares, the rights attached to any class may, subject to the provisions of the Act, be varied or abrogated, whether or not the Company is being wound up, either with the consent in writing of the holders of not less than 75 per cent. of the nominal amount of the issued Shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of such holders. To every such separate general meeting all the provisions of these Articles relating to general meetings shall apply mutatis mutandis, except that

8 1 1 the necessary quorum at any such meeting (other than an adjourned meeting) shall be two persons holding or representing by proxy not less than one-third in nominal amount of the issued Shares of the class,

8 1 2 at an adjourned meeting the necessary quorum shall be one person holding any Shares of the class or his proxy, and

8 1 3 the holders of Shares of the class shall have one vote in respect of every Share of the class held by them respectively

8 2 If and to the extent any right or rights of the A Preference Shares or the A Preference Shareholders or B Preference Shares or B Preference Shareholders, as the case may be, set out in Clause 9 1.2 of the SSA shall be determined by a court of competent jurisdiction to be a class right of the A Preference Shares or the A Preference Shareholders or the B Preference Shares or the B Preference Shareholders, as the case may be, then, subject to the Act, such right or rights may be varied or abrogated, whether or not the Company is being wound up, either with the consent in writing of an A Preference Super-Majority or B Preference Majority, as the case may be, or with the sanction of an ordinary resolution passed at a separate general meeting of the A Preference Shareholders and B Preference Shareholders by those holder(s) as (being entitled to do so) vote in person or by proxy, representing 66 67 per cent. of the A Preference Shares or B Preference Shares voting on a poll at such meeting. To every such separate general meeting, all the provisions of these Articles relating to general meetings shall apply mutatis mutandis, except that

8 2 1 the necessary quorum at any such meeting (other than an adjourned meeting) shall be two persons holding or representing by proxy not less than one-third in nominal amount of the then issued A Preference Shares or B Preference Shares, as the case may be,

8 2 2 at an adjourned meeting the necessary quorum shall be one person holding any A Preference Shares or B Preference Shares, as the case may be, or his proxy, and

8 2 3 the holders of A Preference Shares and B Preference Shares shall have one vote in respect of every A Preference Share or B Preference Share, as the case may be, held by them respectively

To the extent the Act provides that the procedure referred to in this Article 8.2 cannot be applied in relation to the variation or abrogation of any right or rights of the A Preference Shares or the A Preference Shareholders or the B Preference Shares or the B Preference Shareholders, as the case may be, in Clause 9.1 2, of the SSA then the provisions of Article 8 1 shall apply to any such variation or abrogation



8 3 The rights conferred upon the holders of the Shares of any class shall not, unless otherwise expressly provided by the terms of issue of the Shares of that class, be deemed to be varied by:

8.3 1 the creation or issue of further Shares ranking pari passu therewith, or

8.3 2 any alteration to the Memorandum of Association of the Company or these Articles made conditional upon, or otherwise in connection with, a Qualifying IPO which does not adversely affect any income, voting or capital rights attaching to them

8 4 If, at any time while SESL holds at least the SESL Minimum Holding, the Board shall determine to dispose of all or substantially all of the assets and business of the Company to an SSE Competitor, it shall notify SESL of the terms on which the Company will dispose of such assets (including, and without prejudice to the generality of the foregoing, details of any warranties, representations, covenants and/or indemnities to be provided by the Company and/or any other party in connection with the disposal of such assets and business) (the "**Disposal Terms**"), such notice to constitute an offer to sell, and SESL shall have the right to purchase such assets on the Disposal Terms. SESL shall, within 30 days of receipt of the Disposal Terms notify the Company in writing if it wishes to acquire the assets on the Disposal Terms, in which event the receipt by the Company of such notice shall constitute acceptance of the offer and a binding agreement between the Company and SESL for the sale of the assets on the Disposal Terms. The disposal shall thereafter be completed within 14 days of the Company's receipt of SESL's acceptance notice. If SESL fails to give notice of such acceptance within such 30-day period or its notice does not comply with the provisions of this Clause 8 4, SESL shall be deemed to have declined the offer and the Company shall be free to sell such assets to the SSE Competitor on the Disposal Terms.

8 5 Notwithstanding any other provision of these Articles, and to the maximum extent permitted by law and the Act, any alteration to these Articles that has the effect of restricting, deleting or authorising the amendment or waiver of any of Article 8 4, this Article 8 5, Articles 13 1 2, 14 3 4, 14 3 5 or 20 4 shall be null and void unless the Company has received the prior written consent of SESL to such alteration.

8 6 For the purposes of this Article 8 any particular issue of Shares not carrying the same rights (whether as to dividend, redemption or otherwise) as any other Shares for the time being in issue, shall be deemed to constitute a separate class of Share.

## **9. INSTRUMENTS OF TRANSFER**

9 1 The instrument of transfer of a Share may be in any usual form or in any other form which the directors may approve and shall be executed by or on behalf of the transferor and, unless the Share is fully paid, by or on behalf of the transferee.

9 2 The transferor shall be deemed to remain the holder of the Share until the name of the transferee is entered in the register of members in respect thereof.

## **10. SHARE CERTIFICATES**

10 1 Every member, upon becoming the holder of any Shares, shall be entitled to receive within two months of allotment or lodgement of transfer (or within such other period as the conditions of issue shall provide) without payment one certificate for all the Shares of each class held by him (and, upon transferring a part of his holding of Shares of any

class, to a certificate for the balance of such holding) or several certificates each for one or more of his Shares upon payment for every certificate after the first of such reasonable sum as the directors may determine. Every certificate shall be under seal and shall specify the number, class and distinguishing numbers (if any) of the Shares to which it relates and the amount or respective amounts paid up thereon. The Company shall not be bound to issue more than one certificate for Shares held jointly by several persons and delivery of a certificate to one joint holder shall be a sufficient delivery to all of them.

- 10 2 If a Share certificate is defaced, worn-out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and payment of the expenses reasonably incurred by the Company in investigating evidence as the directors may determine but otherwise free of charge, and (in the case of defacement or wearing-out) on delivery up of the old certificate.

## **11. LIEN**

- 11 1 The Company shall have a first and paramount lien on every Share (not being a fully paid Share) for all monies (whether presently payable or not) payable at a fixed time or called in respect of that Share. The Board may at any time declare any Share to be wholly or in part exempt from the provisions of this Article 11. The Company's lien on a Share shall extend to any amount payable in respect of it.
- 11 2 The Company may, in such manner as the Board think fit, sell any Shares on which the Company has a lien if a sum in respect of which the lien exists is presently payable and is not paid within fourteen clear days after notice has been given to the holder of the Share or to the person entitled to it in consequence of the death or bankruptcy of the holder. The notice must demand payment and state that if the notice is not complied with the Shares may be sold.
- 11 3 To give effect to such a sale the Board may authorise some person to execute an instrument of transfer of the Shares sold to, or in accordance with the directions of, the purchaser. The transferee shall not be bound to see to the application of the purchase money nor shall his title to the Shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
- 11 4 The proceeds of the sale, after payment of the costs, shall be applied in payment of so much of the sum for which the lien exists as is presently payable, and any residue shall (upon surrender to the Company for cancellation of the certificate for the Shares sold and subject to a like lien for any monies not presently payable as existed upon the shares before the sale) be paid to the person entitled to the Shares at the date of the sale.

## **12. CALLS ON SHARES AND FORFEITURE**

- 12 1 Subject to the terms of allotment, the Board may make calls upon the members in respect of any monies unpaid on their Shares (whether in respect of nominal value or premium) and each member shall (subject to receiving at least fourteen clear days' notice specifying when and where payment is to be made) pay to the Company as required by the notice the amount called on his Shares. A call may be required to be paid by instalments. A call may, before receipt by the Company of any sum due thereunder, be revoked in whole or part and payment of a call may be postponed in whole or part. A person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the Shares in respect whereof the call was made.

- 12 2 A call shall be deemed to have been made at the time when the resolution of the directors authorising the call was passed.
- 12 3 The joint holders of a Share shall be jointly and severally liable to pay all calls in respect thereof.
- 12 4 If a call remains unpaid after it has become due, the person from whom it is due shall pay interest on the amount unpaid from the day it became due until the day it is paid and shall also pay all costs and expenses incurred by the Company as determined by the Board in order to procure payment of the sums due or in consequence of the non-payment of such sums. The rate of interest shall be that fixed by the terms of allotment of the Share or in the notice of the call or, if no rate is fixed, at the appropriate rate (as defined by the Act) subject to the right of the Board to waive payment of the interest costs and expenses wholly or in part.
- 12 5 An amount payable in respect of a Share on allotment or at any fixed date, whether in respect of nominal value or premium or as an instalment of a call, shall be deemed to be a call and if it is not paid the relevant provisions of these Articles shall apply as if the amount had become due by virtue of a call.
- 12.6 Subject to the terms of allotment, the Board may make arrangements on the issue of Shares for a difference between the holders in the amounts and times of payment of calls on their Shares.
- 12 7 The Board may, if it thinks fit, receive from any member willing to advance the same, all or any part of the monies uncalled and unpaid upon any Shares held by him, and upon all or any of the monies so advanced may (until the same would, but for such advance, become payable) pay interest at such rate as may be agreed upon between the Board and the member paying such sum in advance.
- 12 8 If a call remains unpaid after it has become due, the Board may give to the person from whom it is due not less than fourteen clear days' notice requiring payment of the amount unpaid together with any interest which may have accrued plus expenses or costs determined in accordance with Article 12 4. The notice shall name the place where payment is to be made and shall state that if the notice is not complied with the Shares in respect of which the call was made will be liable to be forfeited.
- 12 9 If the notice is not complied with any Share in respect of which it was given may, before the payment required by the notice has been made, be forfeited by a resolution of the Board and the forfeiture shall include all dividends or other monies payable in respect of the forfeited Shares and not paid before the forfeiture.
- 12 10 No member shall be entitled to receive any dividend or (save as proxy for another member) be present or vote at any general meeting, either personally or by proxy, or exercise any privilege as a member, or be reckoned in a quorum in respect of any Share held by him (whether alone or jointly with any other person) if and for so long as he shall have defaulted in payment of any call or other sum for the time being due on such Share or any interest or expenses payable in connection therewith.
- 12 11 Subject to the provisions of the Act, a forfeited Share may be sold, re-allotted or otherwise disposed of on such terms and in such manner as the Board thinks fit either to the person who was before the forfeiture the holder or to any other person. At any time before sale, re-allotment or other disposition, the forfeiture may be cancelled on such terms as the Board thinks fit. Where for the purposes of its disposal a forfeited

Share is to be transferred to any person the Board may authorise some person to execute an instrument of transfer of the Share to that person

- 12 12 A person any of whose Shares have been forfeited shall cease to be a member in respect of them and shall surrender to the Company for cancellation the certificate for the Shares forfeited but shall remain liable to the Company for all monies which at the date of forfeiture were presently payable by him to the Company in respect of those Shares with interest at the rate at which interest was payable on those monies before the forfeiture or, if no interest was so payable, at the appropriate rate (as defined in the Act) plus costs and expenses from the date of forfeiture until payment. The Board may waive payment wholly or in part or enforce payment without any allowance for the value of the Shares at the time of forfeiture or for any consideration received on their disposal
- 12 13 A statutory declaration by a director or the secretary that a Share has been forfeited on a specified date shall be conclusive evidence of the facts stated therein as against all persons claiming to be entitled to the Share and the declaration shall (subject to the execution of an instrument of transfer if necessary) constitute a good title to the Share and the person to whom the Share is disposed of shall not be bound to see to the application of the consideration, if any, nor shall his title to the Share be affected by any irregularity in or invalidity of the proceedings in reference to the forfeiture or disposal of the Share

### **13. RESTRICTIONS ON TRANSFERS OF SHARES**

- 13 1 Subject to Article 13 2 and 13 5, no person shall transfer, mortgage, charge or otherwise dispose of the whole or any part of his legal or beneficial interest in, or grant any option or other rights over, any Shares (a “**Disposal**” and references to “**Dispose**” and “**Disposing**” shall be read accordingly) except for

13 1 1 Disposals in accordance with Articles 14, 15, 16 or 17, or

13 1.2 in the case of a Disposal

- (a) of B Preference Shares not otherwise permitted by this Article 13, only with the prior written consent of each Series B Investor,
- (b) of A Preference Shares not otherwise permitted by this Article 13, only with the prior written consent of each Series A Investor,
- (c) of Ordinary Shares not otherwise permitted by this Article 13, only with the prior written consent of a B Preference Majority and the holder or holders from time to time of 75 per cent in nominal amount of the Ordinary Shares in issue,

*provided that*, in each case, any such Disposal shall be subject to the provisions of Articles 14 34 and 14 35 (if applicable)

- 13 2 The provisions of this Article 13 and Articles 14, 15, 16 and 17 shall terminate immediately upon, and shall not apply with respect to, a Qualifying IPO.
- 13.3 For the purposes of Articles 13 5 7(d) and 14 only, the Board may refuse to register a transfer of any Share, whether or not it is a fully paid Share, to a third party in the event that the third party

- 13 3 1 holds business interests, either itself or through a shareholding or similar financial commitment, which are competitive with the business of the Company which for the purpose of this Article 13 3 shall be solar photovoltaic systems, solar thermal systems and sustainable energy goods and services related to photovoltaic systems or solar thermal systems, and/or
- 13 3 2 holds business interests, either itself or through a shareholding or similar financial commitment which in the reasonable opinion of the Board conflict with the business of the Company stated in sub-Article 13 3 1, and/or
- 13 3 3 has stated objectives that would conflict with the purpose of the Company and/or the value of its brand
- 13 4 The directors may also refuse to recognise any transfer or instrument of transfer
  - 13 4 1 unless the instrument of transfer is accompanied by the certificate of the Shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer,
  - 13 4 2 unless the instrument of transfer is in respect of only one class of Share,
  - 13 4 3 unless the transfer is made in accordance with these Articles, and
  - 13 4 4 if the transferee is a person who is known to them to be an infant, bankrupt or person of unsound mind The directors shall not be bound to enquire into the age or soundness of mind of any transferee or whether or not he is a bankrupt.
- 13 5 Articles 13 1 and 14 shall not apply to any transfer of Shares
  - 13 5 1 by an Ordinary Shareholder to that Ordinary Shareholder's spouse, widow or widower, parent(s) and/or lineal descendant(s) (which term shall include, at each generation, step and adopted children) (each a "**Family Member**"),
  - 13 5 2 to the trustees of a trust (a "**Family Trust**") of which the only beneficiaries (and the only persons capable of being beneficiaries) are the Ordinary Shareholder who is transferring the relevant Ordinary Shares (including on death) and/or that member's Family Members provided that the trustees of any such trust shall not themselves be entitled to transfer any Ordinary Shares or any interests therein pursuant to this Article 14 5 2, other than to replacement trustees of the same trust or otherwise in accordance with the terms of the trust,
  - 13 5 3 by a Shareholder (not being SESL) being a body corporate to any of its subsidiaries, subsidiary undertakings or its holding company or any subsidiary or subsidiary undertaking of its holding company for the time being provided that any transfer of Shares by such transferee (other than back to the Shareholder) shall be subject to the same restrictions as though it was a transfer by the Shareholder itself,
  - 13 5 4 any transfer of Shares from a Shareholder (the "**Beneficial Owner**") to a person who is to hold such Shares as its nominee provided that the nominee shall hold such Shares in a trust which is entirely controlled by the Beneficial Owner and any transfer of Shares by such nominee (other than

back to the Beneficial Owner or another nominee of the Beneficial Owner) shall be subject to the same restrictions as though it was a transfer by the Beneficial Owner itself,

13.5.5 by SESL to any of its subsidiaries, subsidiary undertakings or its holding company or any subsidiary or subsidiary undertaking of its holding company for the time being *provided that*

- (a) any transfer of Shares by such transferee (other than back to SESL) shall be subject to the same restrictions as though it was a transfer by the Shareholder itself, and
- (b) SESL shall not be permitted to transfer any Shares to any subsidiary or subsidiary undertaking of SESL or any subsidiary or subsidiary undertaking of its holding company that is a Relevant Competitor,

13.5.6 by VPVP to one of its Affiliates, including to its parent, subsidiary, general partners, limited partners, retired partners, members or retired members,

13.5.7 by Montanbedarf to

- (a) one of its Affiliates,
- (b) the Montanbedarf Beneficial Owner or the Montanbedarf Beneficial Owner's spouse (common law or otherwise), widow, parent(s) and/or lineal descendant(s) (which term shall include, at each generation, step and adopted children) (each an "**ABO Family Member**"),
- (c) an ABO Family Trust, or
- (d) the trustees of a charitable trust settled by the Montanbedarf Beneficial Owner provided that the trustees of any such trust shall not themselves be entitled to transfer any Shares or any interests therein pursuant to this Article 13.5.7, other than to replacement trustees of the same trust or otherwise in accordance with the terms of the trust

For the purposes of this Article 13.5.7 an "**ABO Family Trust**" means the trustees of a trust of which the only beneficiaries (and the only persons capable of being beneficiaries) are ABO Family Members (including on death) provided that the trustees of any such trust shall not themselves be entitled to transfer any Shares or any interests therein pursuant to this Article 13.5.7, other than to replacement trustees of the same trust or otherwise in accordance with the terms of the trust; and

13.5.8 by Zouk

- (a) to any unitholder, shareholder, partner, participant in or manager of or adviser to (or an employee of such manager or adviser) Zouk,
- (b) to any other limited partnership, trust or other entity managed or advised by the same manager or adviser as Zouk; or
- (c) to any trustee or nominee of or custodian for the Zouk or for any other transferee under this Article 13.5.8,

- 13 5 9 by a trustee or nominee of or custodian for Zouk or to any of the persons referred to in sub-paragraphs (a), (b) or (c) of Article 13 5 8,
- 13 5 10 by Vantania to one of its Affiliates, including to its parent, subsidiary, general partners, limited partners, retired partners, members or retired members,
- 13 5 11 by Good Energies to one of its Affiliates, including to its parent, subsidiary, general partners, limited partners (including limited partners of its Affiliates), retired partners, members or retired members (and, for the avoidance of doubt, the foregoing shall include Good Energies Private Capital II, L P ),
- 13 5 12 by Foursome to any of its Affiliates, including to its parent, subsidiary, general partners, limited partners, retired partners, members or retired members
- 13 5.13 by the trustees of the Employee Benefit Trust to any person entitled to Shares upon exercise of an option granted under the EMI Plan or under the Company's employee share option plan in place immediately prior to the adoption of these Articles

#### **14. PRE-EMPTION ON TRANSFERS**

##### ***Obligation to give notice of desire to transfer***

- 14 1 Subject to Articles 13 2 and 13 5, before Disposing of its Shares, the Shareholder proposing to Dispose of the same (hereinafter called the "**Transferor**") shall give a notice in writing (hereinafter called a "**Transfer Notice**") to the Company that it desires to Dispose of the same The Transfer Notice shall specify
  - 14 1 1 the number and class of Shares and/or any interest therein which the Transferor wishes to Dispose provided that such Shares and interest therein is in respect of all and not some only of the Shares of a particular class then held by the Transferor (hereinafter called the "**Relevant Shares**"),
  - 14 1 2 the details of any buyer ("**Proposed Transferee**") who has made a bona fide offer to the Transferor to buy the Relevant Shares and to whom the Transferor wishes to sell the Relevant Shares in the event that no buyer has been found under this Article 14, and
  - 14 1 3 the price per Share offered by the Proposed Transferee (the "**Suggested Price**")

The Transfer Notice shall have annexed to it the share certificate(s) in respect of the Relevant Shares

##### ***Determining the bona fides/suitability of the Proposed Transferee***

- 14 2 The Board may make one or more requests for information from the Transferor as regards the Proposed Transferee (referred to in the Transfer Notice) and its offer as is reasonably required for the Board to ascertain the bona fides of the offer (the "**Information Requests**") The first Information Request will be made within 10 days of receipt of the Transfer Notice Within 15 days following the first Information

Request (the “**Request Period**”) the Board shall notify the Transferor (the “**Board’s Notice**”) that either

- 14 2 1 on the basis that such information is either not supplied to the Board or not supplied in reasonable detail to enable the Board to make an informed decision, the Transfer Notice has been determined as being invalid,
- 14 2 2 the Proposed Transferee is not approved by the Board by virtue of falling within one or more of the categories set out in Article 13 2 (the “**Unapproved Transferee**”) thereby rendering the Transfer Notice invalid, or
- 14 2 3 the Proposed Transferee is approved by the Board (the “**Approved Transferee**”) thereby rendering the Transfer Notice valid,

*provided always* that if the Transferor, acting reasonably, has valid grounds for disagreeing with the determination of the Board pursuant to Article 14 2 2 the Transferor shall within 5 days of the Board’s Notice request that the chief executive of the Company, or in his absence, the Board, appoint an independent expert to determine the matter. Upon such request, the chief executive of the Company or the Board (as the case may be) shall forthwith appoint an independent expert, agreed with the Transferor, or in the absence of agreement, a solicitor nominated on the application of either party by the President for the time being of the Law Society in England and Wales solicitor to act as an independent expert (the “**Expert**”) The Expert shall act as an expert and not an arbitrator, the Arbitration Act 1996 shall not apply and his determination shall be valid and binding The determination shall be made by the Expert based on the principles set out in Article 13 2 and based only on the information available to the Company immediately prior to service of the Board’s Notice and the information provided to the Board by the Transferor pursuant to Article 14 1 The Expert shall be instructed to make its determination within 5 days of receiving the relevant information referred to above The costs of the Expert shall be borne as determined by the Expert and in the absence of such determination shall be borne by the Transferor and the Company equally

Further, and without prejudice to the foregoing, the Board may, with respect to any Transfer Notice served by an Employee Shareholder, in its absolute discretion choose to reject the Transfer Notice by notification to the relevant Employee Shareholder In such event, the remaining provisions of this Article 14 shall not apply

#### ***Company agent for sale***

- 14 3 A valid Transfer Notice shall constitute the Company the agent of the Transferor for the sale of the Relevant Shares at the Agreed Value (as determined in accordance with Article 14 5) to the other Shareholders and shall not be revocable save (i) pursuant to Article 14 9, or (ii) with the written consent of all the other Shareholders.
- 14 4 Within 7 days following the receipt of any Transfer Notice (including a Transfer Notice deemed to be issued pursuant to Article 18 2) or, where information is requested by the Board pursuant to Article 14 2, within 7 days of the Request Period or within 7 days of the Expert’s determination pursuant to Article 14 2 (which ever is the later) (provided that the Transfer Notice has not been determined (prior to such time) as invalid in accordance with the terms of Article 14 2) the Board shall give written notice to all the Shareholders that the Transfer Notice has been given, such notice to be accompanied with a copy of the Transfer Notice (if applicable)



### ***Determination of the Agreed Value***

14 5 The agreed value (“Agreed Value”) of the Relevant Shares shall be

14 5 1 in the event of a Transfer Notice deemed to be served pursuant to Article 18.1, or a Transfer Notice served by (i) an Employee Shareholder, (ii) a Key Shareholder, or (iii) any other Ordinary Shareholder not covered by sub-Articles 14 5 2 and 14 5 3, the lower of the:

(a) Suggested Price (where applicable), and

(b) the value of the Relevant Shares, determined in accordance with Article 14 6,

14 5 2 in the event of a transfer of Leaver Shares, the amount determined in accordance with Article 15 6; and

14 5 3 in the event of any transfer of Preference Shares, the Suggested Price.

### ***Determination of Net Asset Value of Ordinary Shares***

14 6 In the event that Article 14 18 1 applies, the Board shall make the determination of the price of the Relevant Shares as soon as reasonably practicable after the receipt of a Transfer Notice which is determined to be valid pursuant to Article 14 2 (if applicable) and shall give notice of the price to the Transferor. The price of the Relevant Shares shall be calculated by the Board on the basis of their fully diluted net asset value which shall be derived from an unaudited balance sheet of the Company prepared in accordance with the then prevailing accounting principles of the Company as at the date of the Transfer Notice (the “NAV Accounts”). Within 7 days of receipt of the Board’s determination, the Transferor shall either serve written notice (i) accepting the determination of the Board, or (ii) rejecting the determination. In the event that no written notice is given of unconditional acceptance or rejection within such 7-day period, the Transferor shall be deemed to have accepted the determination of the Board which shall thereafter constitute the final and binding Agreed Value. In the event that the determination of the Board has been validly rejected, an Independent Expert shall be appointed to act as an expert in determining the application of the Company’s accounting policies only. If the Independent Expert determines that the Company has prepared the NAV Accounts correctly according to the then prevailing accounting principles of the Company, the Board’s determination of the price of the Relevant Shares shall apply. If the Independent Expert determines that the Company has prepared the NAV Accounts incorrectly according to the then prevailing accounting principles of the Company, the Independent Expert, working with the Company, shall as soon as reasonably practicable prepare a revised balance sheet and the price of the Relevant Shares shall accordingly be determined by the Independent Expert based on such revised balance sheet.

### ***Decision of Independent Expert and his costs and expenses***

14 7 The Independent Expert appointed pursuant to Article 14 6 shall be deemed to be acting as an expert and not as an arbitrator, the Arbitration Act 1996 shall not apply and his decision as to the price of the Shares shall be final and binding on the Shareholders.

14 8 The costs and expenses of any Independent Expert instructed pursuant to Article 14 6 shall be borne by the Transferor and an amount equal to the Transferor’s liability for such costs and expenses may be deducted by the Company from any purchase monies.

otherwise to be paid to the Transferor in particular if the Transferor is in liquidation, receivership or is the subject of an administration order. The Transferor hereby indemnifies the Company against all costs and expenses incurred by it in respect of Independent Expert's determination pursuant to Article 14.6

***Board to notify Transferor of the Agreed Value and revocation of Transfer Notices***

14.9 The Board shall notify the Transferor of the Agreed Value

14.9.1 within 7 days of the Board's determination of the price of the Relevant Shares pursuant to Article 14.6 if the Transferor accepted such initial determination,

14.9.2 within 7 days of the determination of the price of the Relevant Shares by the Independent Experts pursuant to Article 14.6, if applicable, or

14.9.3 within 7 days of the determination of the price of the Leaver's Shares, if Article 15 applies,

and the Transferor may, within 7 days from receipt of any such notice, notify the Board that it wishes to revoke the Transfer Notice. For the avoidance of doubt, there will be no right of revocation in the event a Transfer Notice has been deemed to have been served pursuant to Article 15.2, 15.4 or 18.2

***Offer Notice to be issued by Company***

14.10 Save where the Transfer Notice is deemed invalid pursuant to Article 14.2 or save where the Transfer Notice is revoked by the Transferor pursuant to Article 14.9 and unless otherwise agreed by all the Shareholders in writing, as soon as reasonably practicable after the Transferor has been notified by the Company of the determination of the Agreed Value of the Relevant Shares, the Company shall issue a notice (an "Offer Notice") to Shareholders offering to sell the Relevant Shares in accordance with the following provisions of this Article 14.

***Offer of B Preference Shares to other Shareholders***

14.11 Any B Preference Shares which are the subject of a valid Transfer Notice served by a B Preference Shareholder (a "B Transferor") shall be included in the Offer Notice and shall first be offered for sale (the "B Preference Offer") to the other B Preference Shareholders. The B Preference Offer shall be open for acceptance by the other B Preference Shareholders for a period of 28 days of an B Preference Offer (the "B Preference Offer Acceptance Period"), the other B Preference Shareholders must notify the Company in writing of their respective decisions within such 28-day period. The provisions of Articles 14.27 to 14.30 shall then apply save that the following references in such Articles shall have the following meanings when so applied

14.11.1 "Offeree(s)" shall be read as "other B Preference Shareholder(s)",

14.11.2 "Relevant Shares" shall be read as "B Preference Shares"

14.11.3 "Prescribed Period" shall be read as "B Preference Offer Acceptance Period", and

14.11.4 "Transferor" shall be read as "B Transferor"

14 12 If the other B Preference Shareholders do not wish to acquire all of the B Preference Shares the subject of an B Preference Offer, the Company shall issue an Offer Notice in respect of such unwanted B Preference Shares (which shall then be deemed to be the Relevant Shares) to all the A Preference Shareholders in accordance with their respective Pro-Rata Entitlements. Such offer shall be made within 7 days of the date of the earlier to occur of

14.12.1 notification by the other B Preference Shareholders that they do not wish to purchase such B Preference Shares, and

14 12 2 the expiry of the B Preference Offer Acceptance Period.

14 13 The offer of B Preference Shares to the A Preference Shareholders shall be open for acceptance for a period of 28 days from making the offer. The A Preference Shareholders must notify the Company in writing of their respective decisions within such 28-day period and may only take up their respective Pro-Rata Entitlements. Any B Preference Shares accepted by the A Preference Shareholders shall be sold to the relevant A Preference Shareholder at their Agreed Value and such sale and purchase shall be completed within a period of 7 days from the expiry of the 28-day offer period referred to above. The provisions of Article 14 37 shall apply to such sale. If the A Preference Shareholders do not wish to acquire all of the B Preference Shares the subject of a B Preference Offer, the Company shall issue an Offer Notice in respect of such unwanted B Preference Shares (which shall then be deemed to be the Relevant Shares) to all the Ordinary Shareholders in accordance with their respective Pro-Rata Entitlements. Such offer shall be made within 7 days of the date of the earlier to occur of.

14 13 1 notification by the other B Preference Shareholders that they do not wish to purchase such B Preference Shares, and

14 13.2 the expiry of the B Preference Offer Acceptance Period

Any B Preference Shares accepted by the Ordinary Shareholders shall be sold to the relevant Ordinary Shareholder at their Agreed Value and such sale and purchase shall be completed within a period of 7 days from the expiry of the 28-day offer period referred to above. The provisions of Article 14 37 shall apply to such sale. The provisions of Article 6 11 shall apply to any B Preference Shares transferred to any Ordinary Shareholder. Any B Preference Shares that are not wanted by the Ordinary Shareholders shall become available for transfer to an Approved Transferee in accordance with Article 14 32.

#### ***Offer of A Preference Shares to other Shareholders***

14 14 Any A Preference Shares which are the subject of a valid Transfer Notice served by an A Preference Shareholder (an "**A Transferor**") shall be included in the Offer Notice and shall first be offered for sale (the "**A Preference Offer**") to the other A Preference Shareholders. The A Preference Offer shall be open for acceptance by the other A Preference Shareholders for a period of 28 days of an A Preference Offer (the "**A Preference Offer Acceptance Period**"), the other A Preference Shareholders must notify the Company in writing of their respective decisions within such 28-day period. The provisions of Articles 14 27 to 14.30 shall then apply save that the following references in such Articles shall have the following meanings when so applied

14.14 1 "Offeree(s)" shall be read as "other A Preference Shareholder(s)",

- 14 14 2 "Relevant Shares" shall be read as "A Preference Shares"
- 14 14 3 "Prescribed Period" shall be read as "A Preference Offer Acceptance Period", and
- 14 14 4 "Transferor" shall be read as "A Transferor".
- 14 15 If the other A Preference Shareholders do not wish to acquire all of the A Preference Shares the subject of an A Preference Offer, the Company shall issue an Offer Notice in respect of such unwanted A Preference Shares (which shall then be deemed to be the Relevant Shares) to all the Ordinary Shareholders, in accordance with their respective Pro-Rata Entitlements Such offer shall be made within 7 days of the date of the earlier to occur of
  - 14.15 1 notification by the other A Preference Shareholders that they do not wish to purchase such A Preference Shares, and
  - 14.15 2 the expiry of the A Preference Offer Acceptance Period
- 14 16 The offer of A Preference Shares to the Ordinary Shareholders shall be open for acceptance for a period of 28 days from making the offer The Ordinary Shareholders must notify the Company in writing of their respective decisions within such 28-day period and may only take up their respective Pro-Rata Entitlements Any A Preference Shares accepted by the Ordinary Shareholders shall be sold to the relevant Ordinary Shareholders at their Agreed Value and such sale and purchase shall be completed within a period of 7 days from the expiry of the 28-day offer period referred to above The provisions of Article 14 37 shall apply to such sale The provisions of Article 6 11 shall apply to any A Preference Shares transferred to any Ordinary Shareholder Any A Preference Shares that are not wanted by the Ordinary Shareholders shall become available for transfer to an Approved Transferee in accordance with Article 14.32.

***Offer of Key Shares to the Key Shareholders, EBT and Employee Shareholders***

- 14 17 Any Key Shares which are the subject of a valid Transfer Notice served by a Key Shareholder not falling to be treated in accordance with Article 15 shall first be offered for sale ("Key Share Offer") by way of an Offer Notice to the other Key Shareholders in accordance with their respective Pro-Rata Entitlements within 14 days of the Agreed Value being determined in accordance with Article 14 6 ("Key Share Offer Period"). The provisions of Articles 14 27 to 14 30 shall then apply to such offer (the Key Shares the subject of the Offer Notice being "Relevant Shares" for this purpose) For purposes of calculating the Pro Rata Entitlement of a Shareholder pursuant to this Article 14.17 account shall be taken of any vested options to acquire Shares that are exercised by a Shareholder during the Key Share Offer Period.
- 14 18 If the Key Shareholders do not wish to acquire all of the Key Shares the subject of a Key Share Offer, the Company shall issue an Offer Notice in respect of such unwanted Key Shares to the EBT Such offer shall be made within 7 days of the date of the earlier to occur of
  - 14.18 1 notification by each of the other Key Shareholders that he does not wish to purchase such Key Shares, and
  - 14 18 2 the expiry of 28 days from the original offer to the Key Shareholders

The offer of Key Shares to the EBT shall be open for acceptance for a period of 28 days from the date of making the offer. The EBT must notify the Company in writing of its decision within such 28-day period. Any Key Shares accepted by the EBT shall be sold to the EBT at their Agreed Value and such sale and purchase shall be completed within a period of 7 days from the expiry of the 28-day offer period referred to above. The provisions of Article 14 37 shall apply to such sale.

- 14 19 If the EBT does not wish to acquire all of the Key Shares on offer, the Company shall issue an Offer Notice in respect of such unwanted Key Shares to all Employee Shareholders (other than those who are also Key Shareholders) in accordance with their respective Pro-Rata Entitlements. Such offer shall be made within 7 days of the dates of the earlier to occur of

14 19 1 notification by the EBT that it does not wish to purchase such Key Shares, and

14 19 2 the expiry of 28 days from the original offer to the EBT

The provisions of Articles 14 27 to 14 30 shall then apply to such offer (the Key Shares the subject of the Offer Notice being "Relevant Shares" for this purpose)

- 14 20 If the Employee Shareholders do not wish to acquire all of the Key Shares on offer, the Company shall issue an Offer Notice in respect of such unwanted Key Shares to all other Shareholders (not being Key Shareholders, the EBT or Employee Shareholders). Such offer shall be made within 7 days of the date of the earlier to occur of

14 20 1 notification by each Employee Shareholder that he does not wish to purchase such Key Shares, and

14 20 2 the expiry of 28 days from the original offer to the Employee Shareholders

- 14 21 The provisions of Articles 14 27 to 14 30 shall then apply to such offer (the Key Shares the subject of the Offer Notice being "Relevant Shares" for this purpose). Any Key Shares that are not wanted by the other Shareholders shall be deemed Relevant Shares and shall be available for transfer to an Approved Transferee in accordance with Article 14 30.

***Offer of Leaver's Shares and Shares held by Employee Shareholders to the EBT and other Employee Shareholders***

- 14 22 Any Shares which are the subject of a valid Transfer Notice served by an Ordinary Shareholder, Employee Shareholder (and, in either case, not falling to be treated in accordance with Article 14.17) or a Leaver or any Shares the subject of a Transfer Notice deemed to have been served by a Leaver pursuant to Article 15 2 2 or 15 4 shall first be offered for sale (the "EBT Offer") to the Employee Benefit Trust within 7 days of the Agreed Value being determined in accordance with Article 14 6 or 15 6, as the case may be. The EBT Offer shall be open for acceptance by the Employee Benefit Trust for a period of 28 days from the making of an EBT Offer (the "EBT Offer Acceptance Period"), the Employee Benefit Trust must notify the Company in writing of its decision within such 28-day period. In the event that the EBT Offer is accepted (in whole or in part) within the EBT Offer Acceptance Period, then the Shares which have been accepted shall be sold to the Employee Benefit Trust at the Agreed Value and such sale and purchase shall be completed within a period of 14 days from the end of the EBT Offer Acceptance Period. The provisions of Article 14 37 shall apply to such sale.

- 14 23 If the Employee Benefit Trust does not wish to acquire all of the Shares the subject of an EBT Offer, the Company shall issue an Offer Notice in respect of such unwanted Shares to all the Employee Shareholders, in accordance with their respective Pro-Rata Entitlements. Such offer shall be made within 7 days of the date of the earlier to occur of
- 14 23 1 notification by the Employee Benefit Trust that it does not wish to purchase such Shares, and
- 14 23 2 the expiry of the EBT Offer Acceptance Period
- 14 24 The provisions of Articles 14 27 to 14 30 shall then apply to such offer (the Shares the subject of the Offer Notice being "Relevant Shares" for this purpose)
- 14 25 If the Shares being offered to the Employee Shareholders are Leaver's Shares and the Employee Shareholders do not wish to acquire all of such Leaver's Shares, any unwanted Leaver's Shares shall not then be available or offered for sale to any other person under this Article 14 25, or otherwise. In all other cases, if the Employee Shareholders do not wish to acquire all of the Shares on offer, the Company shall issue an Offer Notice in respect of such unwanted Shares to all other Shareholders (not being the EBT or Employee Shareholders) in accordance with their respective Pro-Rata Entitlements. Such offer shall be made within 7 days of the date of the earlier to occur of
- 14 25 1 notification by the Employee Shareholders that they do not wish to purchase such Shares, and
- 14 25 2 the expiry of 28 days from the original offer to the Employee Shareholders
- 14 26 Any Shares that are not wanted by the other Shareholders shall be deemed Relevant Shares and shall be available for transfer to an Approved Transferee in accordance with Article 14 32

***Prescribed Period for certain offers***

- 14 27 Each Offer Notice shall be open for acceptance by the relevant Offerees from the date of the Offer Notice and at any time within a period of 28 days thereafter (the "Prescribed Period"). Every Offer Notice shall specify (i) the total number and class of Relevant Shares which the Transferor proposes to transfer, (ii) the number of Relevant Shares in that Shareholder's Pro-Rata Entitlement and (iii) the Agreed Value. The Offer Notice shall be accompanied by a form of application for use by the Shareholder in applying for its Pro-Rata Entitlement and for any Shares in excess of such Pro-Rata Entitlement which it wishes to purchase.

***Only one offeree***

- 14 28 If only one Offeree applies for all or some of the Relevant Shares within the Prescribed Period, the Company shall give notice in writing thereof to the Transferor and the Transferor shall be bound to transfer to the Offeree all of the Relevant Shares applied for by it (including any excess above its Pro-Rata Entitlement for which it has applied). The purchase shall be completed at a place and time to be appointed by the directors being not less than 3 days nor more than 10 days after the date of such notice, and the directors shall be bound to register the transfer. The provisions of Article 14 37 shall apply to such transfer.

***More than one offeree and notice of allocations***

- 14 29 If more than one Offeree applies within the Prescribed Period for all or some of the Relevant Shares, the directors shall allocate the Relevant Shares (or so many of them as shall have been applied for as aforesaid) to or amongst the Offerees in accordance with their respective Pro-Rata Entitlements provided that if not all Offerees accept their full Pro-Rata Entitlement, any Relevant Shares not so accepted shall be used to satisfy requests from other Offerees as nearly as may be in proportion to their requests for Relevant Shares in excess of their Pro-Rata Entitlement
- 14 30 However, no Offeree shall be obliged to take more than the maximum number of Relevant Shares specified by it as aforesaid The directors shall forthwith give notice of such allocations to the Transferor and the Offerees to whom the Relevant Shares have been allocated and shall specify in such notice the place and time, being not less than 3 days nor more than 10 days from the date of such notice, at which the sale of the Relevant Shares shall be completed The Transferor shall be bound to transfer to each Offeree the Relevant Shares allocated to it and the directors shall be bound to register the relevant transfers The provisions of Article 14 34 shall apply to such transfers

***Transfer to an Approved Transferee***

- 14 31 If the directors receive acceptances from Offerees in respect of less than all of the Relevant Shares within the Prescribed Period then they shall, within 2 days of the Prescribed Period, give notice in writing of that fact to the Transferor
- 14 32 Subject to Article 14 34, any Relevant Shares which have not been accepted pursuant to the pre-emption provisions set out in this Article 14 may then be transferred at a price per Share which is no less than the price per Share derived from the Agreed Value, to the Approved Transferee identified in the Transfer Notice provided that the transfer to the Approved Transferee is approved by the Board pursuant to Article 14 33. If the transaction is not completed within 7 days of the Board's approval of the transfer pursuant to Article 14 33, the Transfer Notice shall be deemed to be withdrawn and no transfer of the Relevant Shares shall be completed
- 14 33 The Board shall approve the sale of the Relevant Shares to an Approved Transferee unless
- 14 33.1 circumstances relating to such third party have arisen since the approval pursuant to 14 2 was given which, if known to the Board when giving the original approval, would have led to the Board determining that such person was an Unapproved Transferee, or
- 14 33 2 the Board has become aware, since its original deliberations pursuant to Article 14 2, of information, facts and/or circumstances relating to the Approved Transferee which had it known at the time of such original deliberations, would have caused it to consider the third party an Unapproved Transferee

***SESL's right of pre-emption on transfers***

- 14 34 If, at any time while SESL holds at least the SESL Minimum Holding, a transfer
- 14 34.1 of Relevant Shares to an Approved Transferee pursuant to Article 14 32, or
- 14 34 2 of Shares pursuant to sub-Article 13 1 2 or Articles 16 or 17,

would result if made and registered in an SSE Competitor holding, or increasing a holding of, Shares, then before such transfer is registered by the Company, the Company shall issue a notice to SSE offering to sell all of the Relevant Shares referred to in sub-Article 14 34.1 at the Agreed Value or all of the Shares referred to in sub-Article 14 34 2 at the price to be received by the proposed transferor(s) pursuant to the relevant Disposal, Qualifying Offer or transfer of Shares (as the case may be). Such offer shall be made within 7 days of the Board being satisfied, following notification by SESL, that a transfer of the Relevant Shares or Shares referred to in sub-Articles 14 34 1 and 14 34 2 respectively to the relevant proposed transferee would result, if made and registered, in an SSE Competitor holding, or increasing a holding of, Shares.

- 14 35 The offer of the Relevant Shares or Shares referred to in sub-Articles 14 34 and 14 34 2 respectively shall be for all and not some only of such Shares and shall be open for acceptance for a period of 28 days from the date of making the offer. If SESL accepts the offer within the 28-day period, the Relevant Shares on offer and referred to in sub-Article 14 34 1 shall be sold at the Agreed Value or all of the Shares on offer and referred to in sub-Article 14 34 2 shall be sold at the price to be received by the proposed transferor(s) pursuant to the relevant Disposal, Qualifying Offer or transfer of Shares (as the case may be) and such sale and purchase shall be completed within a period of 7 days from the expiry of the 28-day offer period referred to above. The provisions of Article 14 37 shall apply to such sale.

#### *Miscellaneous*

- 14 36 If any Shares to be transferred shall not be capable of being offered or allocated without involving fractions, the same shall be offered to or allocated amongst the Shareholder, or some of them, in such proportions as may be determined by lots drawn in respect thereof, and the lots shall be drawn in such manner as the Board shall think fit.
- 14 37 A Transferor, having become bound to transfer any Shares pursuant to this Article 14, shall, within the relevant time limits prescribed hereby, deliver to the transferee duly executed transfers in respect of the Shares to be sold in favour of the transferee together with the relative share certificate(s) against payment (unless sub-Article 15 5 4 applies to permit a delay in payment), by the transferee of the price due in respect thereof. If the Transferor makes default in transferring the same, the Board may nominate some person to complete and execute the necessary instrument of transfer of such Shares, together with a standard form of indemnity for non-production of share certificates for such Shares, and deliver them on its behalf. The Company shall receive the purchase money on trust for the Transferor and shall thereupon (subject to such instrument being duly stamped) cause the transferee to be registered as the holder of such Shares. The Company shall not be bound to earn or pay interest on any money so held and shall be entitled not to pay such money to the Transferor until it shall have delivered its share certificates (or an appropriate indemnity in respect of any lost certificates) to the Company. The receipt of the Company for such purchase money shall be a good discharge to the transferee who shall not be bound to see to the application thereof, and after the name of the transferee has been entered in the register of members in purported exercise of the aforesaid power, the validity of the transfer shall not be questioned by any person.
- 14 38 An obligation to transfer a Share under this Article 14 shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such Share free and clear of all Third Party Interests and together with all rights attaching thereto.



- 14 39 Upon the transfer of any Shares, the Transferor shall be entitled to all dividends and interest accrued in relation to those Shares up to the date of transfer and any amount paid to either the Transferor or transferee in excess of such pro-rated entitlement shall be held by it on trust for the other
- 14 40 Without prejudice to Articles 8 5 and 13 1 2, the provisions of this Article may be waived in whole or in part in any particular case with the prior written consent of all the Shareholders
- 14 41 If the directors refuse to register a transfer they shall within two months after the date on which the transfer was lodged with the Company send to the transferee notice of the refusal
- 14 42 The registration of transfers may be suspended at such times and for such periods as the directors may from time to time determine, provided always that such registration shall not be suspended for more than thirty days in any year.
- 14 43 No fee shall be charged for the registration of any instrument of transfer or other document relating to or affecting the title to any Share The Company shall be entitled to retain any instrument of transfer that is registered, but any instrument of transfer which the directors refuse to register shall be returned to the person lodging it when notice of the refusal is given

## **15. LEAVERS**

- 15 1 Subject to Article 15 2, the provisions of this Article shall apply to any Leaver and to any Leaver's Shares
- 15.2 Subject to Article 15 3, within the period commencing on the relevant Leaving Date and expiring at midnight on the first anniversary of such date, either
- 15 2 1 the Company may serve a notice on the Leaver once only notifying him that he is, with immediate effect, deemed to have served a Transfer Notice in respect of some or all of his Leaver's Shares as specified by the Company, or
- 15 2 2 the Leaver may serve a Transfer Notice on the Company, once only, that he desires to transfer some or all of his Leaver's Shares in accordance with these Articles
- 15 3 If a Qualifying Leaver is deemed to have served a Transfer Notice pursuant to Article 15 2 1 or has himself served a Transfer Notice pursuant to Article 15 2 2 and, in either case, either
- 15 3 1 he has immediately before the relevant Leaving Date been a Relevant Employee who has been employed by one or more Group Companies for at least 5 years, or
- 15 3 2 he is the Permitted Transferee of a Relevant Employee who has immediately before the relevant Leaving Date been employed by one or more Group Companies for at least 5 years,

he shall be entitled to retain up to the Relevant Percentage of his Leaver's Shares by giving notice to the Company of his wish to do so within 30 days of receipt of the

deemed Transfer Notice referred to in Article 15 2.1 or within 30 days of serving the Transfer Notice referred to in Article 15 2 2, as the case may be.

- 15 4 If any Qualifying Leaver who retains any Leaver's Shares pursuant to Article 15 3 subsequently falls, in the reasonable opinion of the Board, within any of the criteria set out in Article 13 3 (whether in a personal capacity or by virtue of being employed or otherwise engaged by a person falling within one of the criteria set out in Article 13 3), he shall immediately be deemed to have served a Transfer Notice in respect of all the Shares he holds and for the purposes of Article 15.6 shall be regarded as a Non-Qualifying Leaver
- 15 5 The provisions of Article 14 22 shall apply to any Transfer Notice deemed served or actually served in accordance with this Article 15, provided that for these purposes
- 15 5 1 the Relevant Shares shall comprise the Shares in respect of which a Transfer Notice has been deemed served or actually served in accordance with Article 15 2 and in respect of which no notice has been given pursuant to Article 15 3 or in respect of which a Transfer Notice has been deemed served in accordance with Article 15 4,
- 15 5 2 no Proposed Transferee shall be specified in the Transfer Notice, and
- 15 5 3 the price for which the Shares are to be transferred shall be determined in accordance with Article 15 6, and
- 15 5 4 payment of the consideration due in respect of the Shares to be transferred may be deferred at the option of the EBT for a maximum period of one year from the date of completion of the transfer
- 15 6 The price for which the Shares are to be transferred shall be
- 15 6 1 in the case of a Qualifying Leaver, the Fair Price, and
- 15 6 2 in the case of a Non-Qualifying Leaver, the lower of the Purchase Price and the Fair Price, unless the Non-Qualifying Leaver and the Board agree some other price
- 15 7 In these Articles
- 15 7 1 a Leaver shall be deemed to be a **"Qualifying Leaver"** in circumstances where
- (a) the relevant person dies or is incapacitated,
- (b) the relevant person suffers a physical or mental deterioration which, in the opinion of the Board, is sufficiently serious to prevent the relevant person from following his normal employment or which seriously prejudices his earning capacity,
- (c) the relevant person retires at or after normal retirement age, or retires earlier than at normal retirement age with the agreement of the Company,
- (d) save where, in the reasonable opinion of the Board, the resignation has been tendered by the relevant person in bad faith in anticipation of

termination by a Group Company of his service agreement or employment agreement for Cause, the relevant person resigns following 5 years or more of employment with a Group Company *and provided that* at the time the Transfer Notice is deemed to have been served on him or he has actually served the Transfer Notice, such person has not accepted or agreed to accept, and does not intend to accept, any offer of employment or consultancy with a third party that would fall within any of the criteria set out in Article 13 3,

(e) the relevant person's employment is terminated by any Group Company without Cause,

(f) the relevant person is made redundant, or

(g) the relevant person is so designated by the Board,

15 7 2 a Leaver shall be deemed to be a **"Non-Qualifying Leaver"** in circumstances where the relevant person is not deemed to be a Qualifying Leaver,

15 7 3 the **"Fair Price"** shall be such price as the Leaver and the Board shall agree within 20 Business Days of the date of the deemed Transfer Notice or, failing such agreement, such price as the Independent Expert shall determine pursuant to Article 15 8 and shall be calculated as at the Leaving Date,

15 7 4 **"Permitted Transferee"** means any of the persons included in paragraphs (b) to (e) of the definition of Leaver,

15 7 5 the **"Relevant Percentage"** shall be 50 per cent on the fifth anniversary of the date on which the relevant person became a Relevant Employee and shall increase on each anniversary of that date up to and including the tenth anniversary as follows

Sixth anniversary	60 per cent
Seventh anniversary	70 per cent.
Eighth anniversary	80 per cent.
Ninth anniversary	90 per cent.
Tenth anniversary	100 per cent

15 7 6 An employee is terminated for **"Cause"** in the event he is terminated

(a) by his failure or refusal to perform his duties to the Company or any Group Company (whether as employee or a director) and, in the case of directors, refusal to comply with the lawful instructions of the Board or the Company, in each case after a written demand or notice for performance has been delivered to him by or on behalf of the Board or the Company,

(b) on account of being guilty of any act of fraud or dishonesty, or other gross misconduct or gross incompetence or wilful neglect of duty, or otherwise being in serious breach of his service agreement or employment agreement with the Company or any Group Company,

- (c) for acting in any manner (whether in the course of his duties or otherwise) which is likely to bring him, the Company or any Group Company into serious disrepute or materially prejudice the interests of the Company or any Group Company,
- (d) having become bankrupt, applying for or having made against him a receiving order under Section 286 of the Insolvency Act 1986, or having any order made against him to reach a voluntary arrangement as defined by Section 253 of the Insolvency Act 1986,
- (e) with respect to an employee who is a director, having resigned and ceasing to be director of the Company or any Group Company (without the Board's written consent) or having become prohibited by law or regulation from being a director,
- (f) on account of being convicted of an indictable offence (excluding an offence under road traffic legislation in respect of which he is not sentenced to a term of imprisonment, whether immediate or suspended), and/or
- (g) as a result of a breach of his fiduciary duty to the Company or any Group Company

**15 8 If the Fair Price falls to be determined by the Valuation Expert**

- 15 8 1 the Board shall immediately instruct the Independent Expert to determine the Fair Price on the basis which, in their opinion, represents a fair price for the Leaver's Shares at the Leaving Date as between a willing seller and a willing buyer and, in making such determination, the Independent Expert shall be instructed in particular
  - (a) to have regard to the rights and restrictions attached to the Relevant Shares in respect of income, capital and voting but to disregard any other special rights or restrictions attached to such shares,
  - (b) to disregard whether such shares represent a minority or majority interest, and
  - (c) if the Company is then carrying on business as a going concern, to assume it will continue to do so,
- 15 8 2 the Independent Expert shall certify the Fair Price as soon as possible after being instructed by the Company and in so certifying the Independent Expert shall be deemed to be acting as an expert and not as an arbitrator and the Arbitration Act 1996 shall not apply,
- 15 8 3 the certificate of the Independent Expert shall, in the absence of manifest error, be final and binding, and
- 15 8 4 the Company shall procure that any certificate required hereunder is obtained with due expedition and the cost of obtaining such certificate shall be borne by the Company unless (i) such an arrangement would not be permitted by the Act, or (ii) the Fair Price as determined by the Independent Expert is the same as, or within 10 per cent. of, that price (if any) which the

Board had previously notified to the Leaver as being in its opinion the Fair Price, in which event the cost shall be borne by the Leaver

**16. DRAG ALONG RIGHTS**

- 16 1 In these Articles a “**Qualifying Offer**” shall mean an offer in writing by or on behalf of any person (“**Offeror**”) to acquire the entire issued Share capital of the Company, whether for cash consideration or otherwise and shall include, for the avoidance of doubt, any offer pursuant to Article 17
- 16 2 Subject to Article 13 2, if the holders of not less than 66 67 per cent in nominal value of the then issued Shares wish to accept the Qualifying Offer, (in either case, such accepting Shareholders being “**Accepting Shareholders**”), then the remaining provisions of this Article shall apply
- 16 3 Subject to Article 14 34, the Accepting Shareholders shall give written notice to the remaining Shareholders (“**Other Shareholders**”) of their wish to accept the Qualifying Offer and the Other Shareholders shall thereupon become bound to accept the Qualifying Offer and to transfer their Shares to the Offeror (or his nominee) with full title guarantee on the date specified by the Accepting Shareholders Article 3 2 shall apply to the distribution among the Accepting Shareholders and the Other Shareholders of the Realisation Value received from the Offeror
- 16 4 If any Other Shareholder shall not, within five Business Days of being required to do so, execute and deliver transfers in respect of the Shares held by him or it and deliver the certificate(s) in respect of the same (or a suitable indemnity in lieu thereof), then the Company shall be entitled to execute, and shall be entitled to authorise and instruct such person as he or it thinks fit to execute, the necessary transfer(s) and indemnities on the Other Shareholder’s behalf and, against receipt by the Company (on trust for such Shareholder) of the consideration payable for the relevant Shares, deliver such transfer(s) and certificate(s) or indemnities to the Offeror (or his nominee) and register such Offeror (or his nominee) as the holder thereof and, after such registration, the validity of such proceedings shall not be questioned by any person
- 16 5 Upon any person, following the issue of a notice pursuant to Article 16 3, becoming a Shareholder pursuant to the exercise of a pre-existing option to acquire Shares (a “**New Member**”), a notice shall be deemed to have been served upon the New Member on the same terms as the previous notice who shall thereupon be bound to sell and transfer all such Shares acquired by him or it to the Offeror or as the Offeror may direct and the provisions of this Article shall apply mutatis mutandis to the New Member save that completion of the sale of such Shares shall take place forthwith upon the notice being deemed served on the New Member

**17. RIGHT TO RECEIVE AN OFFER IN THE EVENT OF A TRANSFER OF A CONTROLLING INTEREST**

- 17 1 Subject to Article 13 2, if a transfer of any Shares would result if made and registered in a person (and any other person who in relation to him is a Connected Person) holding, or increasing a holding of, more than a Controlling Interest, then before such transfer is registered by the Company, the proposed transferee must have made an offer in writing to acquire all the Shares (on an as-converted basis pursuant to Article 6) on exactly the same terms as it is proposing to acquire such Shares, except that
- 17 1 1 such offer must be open for acceptance for at least 30 days, and

17 1 2 if the proposed transferee has acquired any other Shares within the period of twelve months prior to such offer for a greater consideration than the terms of such offer, such offer shall be increased to equal such greater consideration

17.2 Article 17 1 shall not apply to any transfer to which the provisions of Article 13 5 apply Article 3 2 shall apply to the distribution among the accepting Shareholders of the Realisation Value received from the person obliged to make an offer pursuant to this Article 17

## **18. TRANSMISSION OF SHARES**

18 1 If any person (other than an existing Shareholder) shall become entitled to any Shares by reason of the death or bankruptcy of any Shareholder (other than an Employee Shareholder who is, at the relevant time, a Relevant Employee), he shall forthwith give to the Company notice in writing to that effect, and if that person shall fail to give such notice, the directors may give the notice on his behalf

18 2 All the foregoing provisions of Article 14 in relation to a Transfer Notice and the procedure to be adopted following the service of such a notice shall apply mutatis mutandis to a notice given pursuant to Article 18 1 which shall accordingly be deemed to be a Transfer Notice in respect of all the Shares to which such person has become entitled Such Shares shall for the purposes of Article 14 be Relevant Shares All the provisions of these Articles relating to the transfer of Shares shall apply to the notice or instrument of transfer executed by the person entitled to a Share in consequence of the death or bankruptcy of the Shareholder as if it were an instrument of transfer executed by the Shareholder and the death or bankruptcy of the Shareholder had not occurred

18 3 The directors shall have the right to waive the provisions of Article 18 2 in relation to a beneficiary who has become entitled to Shares following the death of a Shareholder and such person may continue to hold Shares unless in the reasonable opinion of the directors such person is undertaking or has undertaken any activity which has had or which could have a material adverse effect on the Company and/or the Company's interests

18 4 The directors shall have the same right to decline or suspend registration as it would have had in the case of a transfer of the Share by that Shareholder before his death or bankruptcy, as the case may be The provisions of this Article shall apply to any person becoming entitled to a Share in consequence of the merger or consolidation of any Shareholder being a corporation as they apply to any person becoming entitled to a Share in consequence of the death or bankruptcy of a Shareholder

## **19. RIGHT TO APPOINT DIRECTORS**

19 1 Subject to Article 19 3, the holders of a majority in nominal amount of the B Preference Shares, shall have the right by notice in writing from such majority to the Company signed by them and delivered to the registered office of the Company

19 1 1 to appoint two persons nominated by them as non-executive director of the Company and to remove from office any person so appointed and, upon any such person ceasing to hold office for any reason whatever, to reappoint him or to appoint another person in his place, and/or,

19 1 2 to appoint two representatives to attend as an observer each and any meeting of the Board

19 2 Subject to Article 19 3, the holders of a majority in nominal amount of the A Preference Shares shall have the right by notice in writing from such majority to the Company signed by them and delivered to the registered office of the Company

19 2 1 to appoint three persons nominated by them as non-executive directors of the Company and to remove from office any person so appointed and, upon any such person ceasing to hold office for any reason whatever, to reappoint him or to appoint another person in his place, and/or;

19 2 2 to appoint three representatives to attend as observers each and any meeting of the Board

19 3 Each Series A Investor, for so long as it holds at least 50 per cent of the number of Shares held by it as at the date of adoption of these Articles, and Zouk and Good Energies, for so long as each of them holds at least 50 per cent of the number of Shares held by each of them as at the date of adoption of these Articles, shall have the right, subject to Articles 19 5 and 19 7, by notice in writing signed by each of them and delivered to the registered office of the Company

19 3 1 to appoint one person nominated by it as a non-executive director of the Company and to remove from office any person so appointed and, upon any such person ceasing to hold office for any reason whatever, to reappoint him or to appoint another person in his place, and for; and/or

19 3 2 to appoint a representative to attend as an observer to each and any meeting of the Board,

and the directors and representatives so appointed shall, subject to Articles 19 5 and 19 7, be deemed to be the directors and representatives appointed by (a) the holders of a majority of the A Preference Shares in terms of nominal value for the purposes of Article 19 1 2, and (b) the holders of a majority of the B Preference Shares in terms of nominal value for the purposes of Article 19 1 1

19 4 The holders of a majority of the Ordinary Shares in terms of nominal value shall be entitled by notice in writing from such majority to the Company signed by them and delivered to the registered office of the Company

19 4 1 to appoint two persons nominated by them as directors of the Company as directors of the Company (one being the chief executive officer, or equivalent officer, of the Company from time to time one being the chief financial officer, or equivalent officer, of the Company from time to time) and to remove from office any person so appointed and, upon any such person ceasing to hold office for any reason whatever, to reappoint him or to appoint another person in his place, and/or

19 4 2 to appoint two representatives to attend as observers each and any meeting of the Board

19 5 The Ordinary Directors shall have the right to nominate one person, being independent of any Shareholder, as a director of the Company (the **"Independent Director"**) Such person shall, subject to the approval of a majority of the Investor Directors and the Board (which approval shall not be unreasonably withheld or delayed), be appointed as a non-executive director of the Company In the event that such person ceases to hold office for any reason whatever, the Ordinary Directors shall be entitled to nominate a

replacement for approval by the Investor Directors in accordance with the provision of this Article 19 5

- 19 6 Montanbedarf shall not be entitled to appoint a director or observer pursuant to Articles 19 1 or 19 3 and no person shall be treated or recognised as a director or observer unless the proposed appointment has first been approved in writing by a majority of the then serving directors (excluding, at that time, any director who has been appointed by Montanbedarf pursuant to Articles 19.1 or 19 1 1) where such proposed appointment.

19 6 1 is in anticipation of a transfer by Montanbedarf of some or all of its Shares to the trustees of a charitable trust pursuant to Article 13 5 7(d), or

19 6 2 follows a transfer by Montanbedarf of some or all of its Shares to the trustees of a charitable trust pursuant to Article 13 5 7(d)

- 19.7 SESL shall

19 7.1 not be entitled to appoint a person as a director or an observer pursuant to Articles 19 1 or 19.3, and no such person shall be treated or recognised as a director or an observer, if that person is also a director or an employee of a Relevant Competitor, and

19 7 2 remove immediately in accordance with these Articles any SESL Director or observer appointed by SESL immediately upon becoming aware that such SESL Director or observer is also a director or an employee of a Relevant Competitor

## **20. PRE-EMPTION RIGHTS ON ISSUE OF SHARES AND OTHER SECURITIES**

- 20 1 The pre-emption provisions of section 89(1) of the Act and the provisions of sub-sections (1) to (6) inclusive of section 90 of the Act shall not apply to any allotment of the Company's equity securities

- 20 2 Subject to Articles 20 3 and 20 4, the Company shall before it issues or sells any Additional Shares or Other Securities offer in writing to issue or sell such Additional Shares or Other Securities to the Shareholders, as nearly as practicable in accordance with the respective Pro-Rata Entitlements of each such Shareholder on the date of the written offer For the purposes only of calculating the Pro-Rata Entitlements of the A Preference Shareholders or B Preference Shareholders, their A Preference Shares or B Preference Shares, as the case may be, shall be deemed to have been converted into Ordinary Shares in accordance with the provisions of these Articles immediately prior to the date of the written offer

- 20 3 Such offer shall be open for acceptance by Shareholders for a period of at least 30 days, provided that any A Preference Shareholder or B Preference Shareholder, as the case may be, (an "Acceptor") may, upon receipt of any such offer, offer to acquire more than his or its Pro-Rata Entitlement of Additional Shares or Other Securities being offered and in the event of Shareholders not taking up their full entitlement of Additional Shares or Other Securities so on offer, any such excess Additional Shares or Other Securities shall be issued and allotted to Acceptors in the numbers applied for by them or, in the event of competition, pro-rata to their existing holdings (as a percentage of Shares held by all Acceptors) of Shares, subject to any maximum allotment specified by the Acceptor Any Additional Shares or Other Securities not being Ordinary Shares but which are accepted by Ordinary Shareholders shall, immediately prior to issue, be subject to the provisions of Article 6 11 Any such Additional Shares or Other



Securities which are not accepted by the Shareholders under this Article 20 3 may be allotted to such person(s) as the Board shall determine on no more favourable terms and conditions than those offered to the Shareholders

- 20 4 If, at any time while SESL holds at least the SESL Minimum Holding, an SSE Competitor makes an application to subscribe for Shares which, subject to this Article 20 4, the Board has agreed to accept, then prior to any issue to the SSE Competitor, the Shares shall first be offered to SESL at the same price and on the same terms and conditions as such Shares have been applied for by the SSE Competitor. Such offer shall be open for acceptance by SESL for a period of 30 days from the date the Shares are first offered to it. If the Shares are not accepted by SESL under this Article 20 4, they shall then be offered to the other Shareholders (other than SESL) on the basis set out in Article 20 2
- 20 5 The provisions of Article 20.2 shall not apply to any issue or allotment of Ordinary Shares on conversion of any A Preference Shares or B Preference Shares in accordance with these Articles

## **21. ALTERATION OF SHARE CAPITAL**

- 21 1 The Company may by ordinary resolution
- 21 1 1 increase its Share capital by such sum to be divided into Shares of such amount as the resolution prescribes,
  - 21 1 2 consolidate and divide all or any of its Share capital into Shares of larger amount than its existing Shares,
  - 21 1 3 sub-divide its existing Shares, or any of them, into Shares of smaller amount than is fixed by the Memorandum of Association so, however, that in the subdivision the proportion between the amount paid and the amount (if any) unpaid on each reduced Share shall be the same as it was in the case of the Share from which the reduced Share is derived, or
  - 21 1 4 cancel Shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person
- 21 2 Whenever as a result of a consolidation of Shares any Shareholders would become entitled to fractions of a Share, the directors may, on behalf of those Shareholders, sell the Shares representing the fractions for the best price reasonably obtainable to any person (including, subject to the provisions of the Act, the Company) and distribute the net proceeds of sale in due proportion among those Shareholders, and the directors may authorise some person to execute an instrument of transfer of the Shares to, or in accordance with the directions of, the purchaser. The transferee shall not be bound to see to the application of the purchase money nor shall his title to the Shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale
- 21 3 Subject to the provisions of the Act, the Company may by special resolution reduce its Share capital, any capital redemption reserve and any Share premium account in any way

## **22. CONVERSION OF SHARES INTO STOCK**

- 22 1 The Company may by ordinary resolution convert any paid-up Shares into stock, and reconvert any stock into paid-up Shares of any denomination

- 22 2 The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same restrictions, as and subject to which the Shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit, and the directors may from time to time fix the minimum amount of stock transferable but so that such minimum shall not exceed the nominal amount of the Shares from which the stock arose
- 22 3 The holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the Company and other matters as if they held the Shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the Company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in Shares, have conferred that privilege or advantage
- 22.4 Such of these Articles as are applicable to paid-up Shares shall apply to stock, and the words "Shares" and "Shareholder" shall include "stock" and "stockholder"

### **23. PURCHASE OF OWN SHARES**

Subject to the provisions of the Act, the Company may purchase its own Shares (including any redeemable Shares) and make a payment in respect of the redemption or purchase of its own Shares otherwise than out of distributable profits of the Company or the proceeds of a fresh issue of Shares

### **24. GENERAL MEETINGS**

- 24 1 The Company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notice calling it Not more than fifteen months shall elapse between the date of one annual general meeting of the Company and that of the next
- 24 2 All general meetings other than annual general meetings shall be called extraordinary general meetings
- 24 3 The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition or, in default, may be convened by such requisitionists, as provided by the Act If at any time there are not within the United Kingdom sufficient directors capable of acting to form a quorum, any director or any Shareholder may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors

### **25. NOTICE OF GENERAL MEETINGS**

- 25 1 An annual general meeting and an extraordinary general meeting called for the passing of a special resolution or a resolution appointing a person as a director shall be called by at least twenty-one clear days' notice All other extraordinary general meetings shall be called by at least fourteen clear days' notice but a general meeting may be called by shorter notice if it is so agreed
- 25 1 1 in the case of an annual general meeting, by all the Shareholders entitled to attend and vote thereat,
- 25 1 2 in the case of any other meeting by a majority in number of the Shareholders having a right to attend and vote being a majority together

holding not less than ninety-five per cent in nominal value of the Shares giving that right,

25.1 3 the notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general meeting, shall specify the meeting as such, and

25 1 4 subject to the provisions of these Articles and to any restrictions imposed on any Shares, the notice shall be given to all persons entitled to a Share in consequence of the death or bankruptcy of a Shareholder and to the directors

25.2 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting

## **26. PROCEEDINGS AT GENERAL MEETINGS**

26 1 No business shall be transacted at any general meeting unless a quorum of Shareholders is present at the time when the meeting proceeds to business. Save as herein otherwise provided, two persons entitled to vote upon the business to be transacted, each being a Shareholder, or a proxy of a Shareholder or a duly authorised representative of a corporation shall be a quorum, provided that a quorum shall not be present unless a duly authorised representative of at least (a) one A Preference Shareholder, and (b) one B Preference Shareholder is present

26 2 If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the directors may determine. In the event that a quorum is not present at the adjourned meeting the meeting shall be dissolved.

26 3 The chairman, if any, of the board of directors or in his absence some other director nominated by the directors shall preside as chairman of the meeting, but if neither the chairman nor such other director (if any) be present within fifteen minutes after the time appointed for holding the meeting and willing to act, the directors present shall elect one of their number to be chairman and, if there is only one director present and willing to act, he shall be chairman

26 4 If no director is willing to act as chairman, or if no director is present within fifteen minutes after the time appointed for holding the meeting, the Shareholders present and entitled to vote shall choose one of their number to be chairman

26 5 A director shall, notwithstanding that he is not a Shareholder, be entitled to attend and speak at any general meeting and at any separate meeting of the holders of any class of Shares in the Company

26 6 The chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice

- 26 7 A poll may be demanded by the chairman or by any Shareholder present in person, by proxy or by authorised representative.
- 26.8 Unless a poll has been demanded, a declaration by the chairman that a resolution has been carried (whether unanimously or by a particular majority) or lost and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution
- 26 9 The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairman and a demand so withdrawn shall not be taken to have invalidated the show of hands declared before the demand was made
- 26 10 A poll shall be taken as the chairman directs and he may appoint scrutineers (who need not be Shareholders) and fix a time and place for declaring the result of the poll The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded
- 26 11 In the case of an equality of votes, whether on a show of hands or a poll, the chairman shall not be entitled to a casting vote in addition to any other vote he may have.
- 26 12 A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith A poll demanded on any other question shall be taken either forthwith or at such time and place as the chairman directs not being more than thirty days after the poll is demanded The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made
- 26 13 No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken
- 26 14 A resolution signed or approved in writing by all the Shareholders for the time being entitled to receive notice of and attend and vote at general meetings (or being corporations signed or approved by their duly authorised representatives) shall be as valid and effective as if the same had been passed at a general meeting of the Company duly convened and held Such a resolution may consist of one or more documents in like form each signed or approved by one or more Shareholders

## **27. CORPORATIONS ACTING BY REPRESENTATIVES AT MEETINGS**

Any corporation which is a Shareholder may by resolution of its directors or other governing body or by any representative of the corporation duly authorised in that behalf authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of Shareholders and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual Shareholder

## **28. VOTES OF MEMBERS**

- 28 1 In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders

Seniority shall be determined by the order in which the names of the holders stand in the register of members

- 28 2 A Shareholder in respect of whom an order has been made by any court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder may vote, whether on a show of hands or on a poll, by his receiver, curator bonis or other person authorised in that behalf appointed by that court, and any such receiver, curator bonis or other person may, on a poll, vote by proxy Evidence to the satisfaction of the directors of the authority of the person claiming to exercise the right to vote shall be deposited at the office, or at such other place as is specified in accordance with these Articles for the deposit of instruments of proxy, not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in default the right to vote shall not be exercisable
- 28 3 No Shareholder shall vote at any general meeting or at any separate meeting of the holders of any class of Share in the Company, either in person or by proxy, in respect of any Share held by him unless all monies presently payable by him in respect of that Share have been paid
- 28 4 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid Any objection made in due time shall be referred to the chairman whose decision shall be final and conclusive
- 28.5 On a poll, votes may be given either personally or by proxy A Shareholder may appoint more than one proxy to attend on the same occasion
- 28 6 The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing, or if the appointor is a corporation, either under seal, or under the hand of an officer or attorney or signatory duly authorised A proxy need not be a Shareholder
- 28 7 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of that power or authority may be deposited at the office or such other place as is specified for that purpose in the notice convening the meeting or may be produced at the meeting at which the person named in the instrument proposes to vote
- 28 8 An instrument appointing a proxy shall be in any usual or common form or such other form as the directors may accept
- 28.9 A vote given or poll demanded by a proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding the poll unless notice of the determination was received by the Company at the office or at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded

## **29. NUMBER OF DIRECTORS**

- 29 1 Subject to Article 29 2 the maximum number of directors (other than alternate directors) shall be eight and the minimum number shall be two

- 29 2 The minimum and maximum numbers of directors may be varied by ordinary resolution with the consent in writing of a Preference Majority

### **30. ALTERNATE DIRECTORS**

- 30.1 Any director (other than an alternate director) may appoint any other person to be an alternate director and may remove from office an alternate director so appointed by him. Any appointment or removal of an alternate director shall be by notice to the Company signed by the director making or revoking the appointment or in any other manner approved by the directors.
- 30 2 An alternate director shall be entitled to receive notice of all meetings of directors and of all meetings of committees of directors of which his appointor is a member, to attend and vote at any such meeting at which the director appointing him is not personally present, and generally to perform all the functions of his appointor as a director in his absence but shall not be entitled to receive any remuneration from the Company for his services as an alternate director. An alternate director who is absent from the United Kingdom shall be entitled to receive notice of all meetings of directors and meetings of committees of directors of which his appointor is a member
- 30 3 An alternate director shall cease to be an alternate director if his appointor ceases to be a director
- 30 4 Save as otherwise provided in the Articles, an alternate director shall be deemed for all purposes to be a director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the director appointing him.
- 30 5 Any director acting as an alternate director shall have an additional vote for each director for whom he acts as an alternate director

### **31. QUALIFICATION SHARES**

A director shall not be required to hold any Shares in the capital of the Company to qualify him for office

### **32. POWERS OF DIRECTORS**

- 32 1 Subject to the provisions of the Act, the Memorandum of Association and the Articles and to any directions given by special resolution, the business of the Company shall be managed by the directors who may exercise all powers of the Company. No alteration of the Memorandum of Association or Articles and no such direction shall invalidate any prior act of the directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Article shall not be limited by any special power given to the directors by the Articles and a meeting of directors at which a quorum is present may exercise all powers exercisable by the directors
- 32 2 The directors may, by power of attorney or otherwise, appoint any person to be the agent of the Company for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers

### **33. DELEGATION OF DIRECTORS' POWERS**

The directors may delegate any of their powers to any committee consisting of one or more directors. They may also delegate to any managing director or any director

holding any other executive office such of their powers as they consider desirable to be exercised by him. Any such delegation may be made subject to any conditions the directors may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with two or more members shall be governed by the Articles regulating the proceedings of directors so far as they are capable of applying.

#### **34. CHANGES TO THE DIRECTORS**

In addition to any appointment made pursuant to Article 19 and without prejudice to the rights of Shareholders pursuant to that Article, the directors may, with the consent of a Preference Super-Majority and at least one Ordinary Director, (i) appoint a person who is willing to act to be a director either to fill a vacancy or as an additional director; and/or (ii) remove from office any person so appointed and, upon such person ceasing to hold office for any reason whatever, to reappoint him or to appoint another person in his place.

#### **35. DISQUALIFICATION OF DIRECTORS**

35.1 The office of a director shall be vacated in any of the following events

- 35.1.1 he becomes prohibited by law from acting as a director,
- 35.1.2 he resigns as a director, in which event he shall cease to be a director on the delivery of his resignation to the Company,
- 35.1.3 he becomes bankrupt or has a receiving order made against him or makes any arrangement or composition with his creditors,
- 35.1.4 an order is made by a court of competent jurisdiction by reason of his mental disorder for his detention or for the appointment of any person to exercise powers with respect to his property or affairs,
- 35.1.5 he is absent from meetings of the directors for a period of at least six months without leave of absence from the directors and the directors resolve that he should for that reason cease to be a director, or
- 35.1.6 he is convicted of a criminal offence involving fraud or dishonesty and the directors resolve that he shall for that reason cease to be a director.

#### **36. REMUNERATION OF DIRECTORS**

The directors shall be entitled to such remuneration as the Company may by ordinary resolution determine and, unless the resolution provides otherwise, the remuneration shall be deemed to accrue from day to day.

#### **37. DIRECTORS' EXPENSES**

The directors may be paid all reasonable travelling, hotel, and other expenses properly incurred by them in connection with their attendance at meetings of directors or committees of directors or general meetings or separate meetings of the holders of any class of Shares or of debentures of the Company or otherwise in connection with the discharge of their duties. For the purpose of this Article 37, business class airfare on transatlantic flights will constitute reasonable travel expenses.

### **38. MANAGING DIRECTOR AND EXECUTIVE DIRECTORS**

- 38 1 The directors may from time to time appoint one or more of their body to the office of managing director, joint managing director or other executive office for such period and on such terms as they think fit and notwithstanding the terms of any agreement entered into in any particular case may revoke such appointment. Any such appointment shall be automatically determined if he ceases to be a director.
- 38 2 A managing director, joint managing director or a director holding executive office shall receive such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the directors may determine. Such remuneration shall be deemed to arise from day to day.
- 38 3 The directors may entrust to and confer upon such a director any of the powers exercisable by them upon such terms and conditions and with such restrictions as they may think fit, and either collaterally with or to the exclusion of their own powers and may from time to time revoke, withdraw, alter or vary all or any of such powers.

### **39. DIRECTORS' INTERESTS**

- 39 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
- 39 1 1 may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested,
- 39 1 2 may be a director or other officer of, or employed by, or 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 otherwise interested, and
- 39 1 3 shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any such office 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.
- 39 2 For the purposes of this Article 39
- 39 2 1 a general notice given 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, and
- 39 2 2 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

### **40. DIRECTORS' GRATUITIES AND PENSIONS**

- 40 1 The directors may procure the establishment and maintenance of, or participate in, or contribute to any non-contributory pension or superannuation fund, scheme or arrangement or life assurance scheme or arrangement for the benefit of, and pay,



provide for or procure the grant of donations, gratuities, pensions, allowances, benefits or emoluments to, any persons who are or shall have been at any time directors of the Company or in the employment or service of the Company or of any Company which is or was a subsidiary of or associated with the Company or of the predecessors in business of the Company or any such subsidiary or associated company or the wives, widows, families, relatives or dependants of any such persons

- 40 2 The directors may also procure the establishment and subsidy of or subscription to and support of any institutions, associations, clubs, funds or trusts calculated to be for the benefit of any such persons as aforesaid or otherwise to advance the interests and well-being of the Company or of any such other Company as aforesaid, or its Shareholders, and may make or procure payments for or towards the insurance of any such persons as aforesaid and subscriptions or guarantees for charitable or benevolent objects or for any exhibition or for any public, general or useful object

#### **41. PROCEEDINGS OF DIRECTORS**

- 41 1 Subject to the provisions of the Articles, the directors may regulate their proceedings as they think fit. A director may, and the secretary at the request of a director shall, call a meeting of the directors. A director who is absent from the United Kingdom shall be entitled to receive notice of the meeting provided that he shall have notified the Company of an address (whether within or outside the United Kingdom) for service thereof. Subject to these Articles, questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes, the chairman shall not have a second or casting vote. A director who is also an alternate director shall be entitled in the absence of his appointor to a separate vote on behalf of his appointor in addition to his own vote
- 41 2 The directors shall meet at least once each month unless the Board otherwise directs. The quorum for the transaction of the business of the directors shall be five directors including at least three Investor Directors. A person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum
- 41 3 The continuing directors or a sole continuing director may act notwithstanding any vacancies in their number, but, if the number of directors is less than the number fixed as the quorum, they may act only for the purpose of calling a general meeting provided that in the event of a meeting of the directors which shall have been duly convened, the directors present do not constitute a quorum, the meeting shall be adjourned to such time (not being less than 7 days therefrom) and place as the directors present shall determine and as shall be notified in writing to all directors. The quorum at such adjourned meeting shall be four directors, including at least any two Investor Directors
- 41 4 Unless otherwise agreed by all the directors, notice of all directors' meetings shall be sent to all directors at least 7 days prior to the date of the meeting together with an agenda and all papers to be considered at the meeting. No resolution on any matter considered by the Board but not included in the notice shall be passed unless all Investor Directors vote in favour thereof. Minutes of all directors' meetings shall be circulated to all directors within 7 days of the date of the meeting to which they relate
- 41 5 The directors may appoint one of their number to be the chairman of the board of directors and may at any time remove him from that office. Unless he is unwilling to do so, the director so appointed shall preside at every meeting of directors at which he is present. But if there is no director holding that office, or if the director holding it is unwilling to preside or is not present within five minutes after the time appointed for

the meeting, the directors present may appoint one of their number to be chairman of the meeting

41 6 All acts done by a meeting of directors, or of a committee of directors, or by a person acting as a director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and had been entitled to vote

41 7 A resolution in writing signed or approved by e-mail or facsimile transmission by all the directors entitled to receive notice of a meeting of directors or of a committee of directors shall be as valid and effectual as if it had been passed at a meeting of directors or (as the case may be) a committee of directors duly convened and held and may consist of several documents in the like form each signed by one or more directors A resolution signed by an alternate director need not also be signed by his appointor and, if it is signed by a director who has appointed an alternate director, it need not be signed by the alternate director in that capacity

41 8 No director shall be disqualified by his position as director from entering into any contract or arrangement with the Company and subject to Article 39 1 a director may vote and be taken into account for the purposes of constituting a quorum in respect of any contract or arrangement in which he may be in any way interested and may retain for his own absolute benefit all profits and advantages accruing to him therefrom A director may hold any other office or place of profit under the Company other than that of auditor on such terms as to remuneration and otherwise as shall be determined by the directors

For the purposes of this Article, an interest of a person who is, for any purpose of the Act, 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

41 9 The Company may by ordinary resolution suspend or relax to any extent, either generally or in respect of any particular matter, any provision of the Articles prohibiting a director from voting at a meeting of directors or of a committee of directors

41 10 Where proposals are under consideration concerning the appointment of two or more directors to offices or employments with the Company or any body corporate in which the Company is interested the proposals may be divided and considered in relation to each director separately

41 11 If a question arises at a meeting of directors or of a committee of directors as to the right of a director to vote, the question may, before the conclusion of the meeting, be referred to the chairman of the meeting and his ruling in relation to any director other than himself shall be final and conclusive.

41 12 The Board shall be entitled to permit observers, in addition to those appointed pursuant to Articles 19, to attend but not vote at meetings of the Board and to provide notice of and any documentation relating to the business to be transacted at such meetings to such observers The observers shall not, by virtue of their status as observers, be directors, nor shall such observers be entitled to any remuneration in respect of attending meetings of the Board

- 41 13 A representative of the Solar Century Global Community Trust selected from time to time by the Trust and known as "the Designated Representative" shall be entitled to receive notice of and attend any meetings of directors at which business relating to the Trust is on the agenda. The Designated Representative shall only be entitled to attend that part of the meeting that considers such business. The names, addresses, facsimile and electronic mail numbers of the Designated Representative shall be notified to the secretary in writing from time to time.

#### **42. DIRECTORS' TELE-CONFERENCE OR VIDEO CONFERENCE MEETINGS**

- 42 1 The contemporaneous linking together by telephone or video conferencing equipment of a number of the directors not less than the quorum wherever in the world they are, shall be deemed to constitute a meeting of the directors so long as the following conditions are met:

42 1.1 all the directors for the time being entitled to receive notice of any meeting of the directors (including any alternate for any director) shall be entitled to notice of any meeting by telephone or video conference and to be linked by telephone or video conference for the purpose of such meeting. Notice of any such meeting may be given by telephone,

42 1 2 each of the directors taking part must be able to hear each of the other directors taking part subject as hereinafter mentioned throughout the meeting,

42 1 3 at the commencement of the meeting each director must acknowledge his presence to all the other directors taking part,

42.1 4 unless he has previously obtained the consent of the chairman of the meeting, a director may not leave the meeting by disconnecting his telephone or video conferencing equipment and shall be conclusively presumed to have been present and to have formed part of the quorum throughout the meeting. The meeting shall be deemed to have been validly conducted notwithstanding that a director's telephone or video conferencing equipment is accidentally disconnected during the meeting, and the proceedings thereof shall be deemed to be as valid as if the telephone or video conferencing equipment had not been disconnected, and

42 1 5 a minute of the proceedings shall be sufficient evidence thereof and of the observance of all necessary formalities if certified by a director who was party to the proceedings.

#### **43. SECRETARY**

- 43 1 Subject to the provisions of the Act, the secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit. Any secretary so appointed may be removed by them. The directors may also appoint two or more joint secretaries each of whom shall have full authority to act alone.
- 43.2 A provision of the Act or these Articles requiring or authorising a thing to be done by or to a director and the secretary shall not be satisfied by this being done by or to the same person acting both as director and as, or in place of, the secretary.

#### **44. MINUTES**

- 44 1 The directors shall cause minutes to be made in books kept for the purpose
- 44 1 1 of all appointments of officers made by the directors, and
- 44.1 2 of all proceedings at meetings of the Company, of the holders of any class of Shares in the Company, and of the directors, and of committees of directors, including the names of the directors present at each such meeting

#### **45. THE SEAL**

The seal shall only be used by the authority of the directors or of a committee of directors authorised by the directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a director and by the secretary or by a second director. The instrument may be signed or countersigned before or after the affixing of the seal

#### **46. DIVIDENDS**

- 46.1 Any profits which the Company may determine to distribute shall be distributed amongst the Ordinary Shareholders, A Preference Shareholders and B Preference Shareholders pari passu as if the same were one class of Share
- 46 2 Every dividend shall be distributed to the appropriate Shareholders pro rata according to the number of Shares held by them respectively (on an as converted basis) and shall accrue on a daily basis. All dividends shall be paid in cash
- 46 3 Subject to the provisions of the Act and this Article, the Company may by ordinary resolution and with the prior consent of a Preference Majority declare dividends in accordance with the respective rights of the Shareholders, but no dividend shall exceed the amount recommended by the directors
- 46 4 Subject to the provisions of the Act and this Article, the directors may, with the prior consent of a Preference Majority, pay interim dividends if it appears to them that they are justified by the profits of the Company available for distribution. The directors may also pay at intervals settled by them any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment
- 46 5 Except as otherwise provided by the rights attached to Shares, all dividends shall be declared and paid according to the amounts paid up on the Shares on which the dividend is paid. All dividends shall be apportioned and paid proportionately to the amounts paid up on the Shares during any portion or portions of the period in respect of which the dividend is paid, but, if any Share is issued on terms providing that it shall rank for dividend as from a particular date, that Share shall rank for dividend accordingly
- 46 6 Any dividend or other monies payable in respect of a Share may be paid by cheque sent by post to the registered address of the person entitled or, if two or more persons are the holders of the Share or are jointly entitled to it by reason of the death or bankruptcy of the holder, to the registered address of that one of those persons who is first named in the register of members or to such person and to such address as the person or persons entitled may in writing direct. Every cheque shall be made payable to the order of the person or persons entitled or to such other person as the person or persons entitled may in writing direct and payment of the cheque shall be a good discharge to

the Company Any joint holder or other person jointly entitled to a Share as aforesaid may give receipts for any dividend or other monies payable in respect of the Share

- 46 7 A general meeting declaring a dividend may, upon the recommendation of the Board, direct that it shall be satisfied wholly or partly by the distribution of assets and, where any difficulty arises in regard to the distribution, the directors may settle the same and in particular may issue fractional certificates and fix the value for distribution of any assets and may determine that cash shall be paid to any member upon the footing of the value so fixed in order to adjust the rights of members and may vest any assets in trustees
- 46 8 No dividend or other monies payable in respect of a Share shall bear interest against the Company unless otherwise provided by the rights attached to the Share
- 46 9 Any dividend which has remained unclaimed for twelve years from the date when it became due for payment shall, if the directors so resolve, be forfeited and cease to remain owing by the Company

#### **47. ACCOUNTS**

- 47 1 The directors shall cause accounting records to be kept in accordance with the Act
- 47 2 The accounting records shall be kept at the office or at such other place or places as the directors think fit and shall always be open to the inspection of the officers of the Company
- 47 3 The directors shall determine whether and to what extent and at what times and places and under what conditions the accounts and books of the Company or any of them shall be open to the inspection of Shareholders not being directors, and no such Shareholder shall have any right of inspecting any account or book or document of the Company except as conferred by the Act or authorised by the directors or by the Company in general meeting
- 47 4 The directors shall, in accordance with the Act, cause to be prepared and to be laid before the Company in general meeting such profit and loss accounts, balance sheets, and reports as are required by the Act
- 47 5 A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the Company in general meeting, together with a copy of the auditors' report and directors' report, shall not less than twenty-one days before the date of the meeting be sent to every Shareholder.

#### **48. CAPITALISATION OF PROFITS**

- 48 1 Subject to Article 6, the directors may with the authority of an ordinary resolution of the Company and with the prior consent of a Preference Majority
- 48 1 1 subject as hereinafter provided, resolve to capitalise any undivided profits of the Company not required for paying any preferential dividend (whether or not they are available for distribution) or any sum standing to the credit of the Company's share premium account or capital redemption reserve;
- 48 1 2 appropriate the sum resolved to be capitalised to the Shareholders who would have been entitled to it if it were distributed by way of dividend and in the same proportions and apply such sum on their behalf either in or

towards paying up the amounts, if any, for the time being unpaid on any Shares held by them respectively, or in paying up in full unissued Shares or debentures of the Company of a nominal amount equal to that sum, and allot the Shares or debentures credited as fully paid to those Shareholders, or as they may direct, in those proportions, or partly in one way and partly in the other; but the Share premium account, the capital redemption reserve, and any profits which are not available for distribution may, for the purposes of this Article, only be applied in paying up unissued Shares to be allotted to Shareholders credited as fully paid,

48.1.3 make such provision by the issue of fractional certificates or by payment in cash or otherwise as they determine in the case of Shares or debentures becoming distributable under this Article in fractions, and

48.1.4 authorise any person to enter on behalf of all the Shareholders concerned into an agreement with the Company providing for the allotment to them respectively, credited as fully paid, of any Shares or debentures to which they are entitled upon such capitalisation, any agreement made under such authority being binding on all such Shareholders

#### **49. NOTICES**

49.1 Any notice to be given to or by any person pursuant to the Articles shall be in writing except that a notice calling a meeting of directors need not be in writing

49.2 Every Shareholder is entitled to written notice of every meeting of the Company, at such address, whether or not in the United Kingdom, as the Shareholder may inform the directors of from time to time, provided that a notice given to a joint holder whose name stands first in the register of members in respect of a jointly held Share shall be sufficient to notify those holding jointly with him. A notice shall be deemed to have been received

49.2.1 when given, if delivered personally,

49.2.2 on the next Business Day, if sent by facsimile or email,

49.2.3 after 48 hours, if properly addressed and sent within the United Kingdom by pre-paid first class post, or

49.2.4 after 72 hours, if properly addressed and sent to or from an address outside of the United Kingdom by international courier

49.3 A Shareholder present, either in person or by proxy or, being a corporation by its duly authorised representative at any meeting of the Company or of the holders of any class of Shares in the Company shall be deemed to have received notice of the meeting and, where necessary, of the purposes for which it was called

49.4 Every person who becomes entitled to a Share shall be bound by any notice in respect of that Share which, before his name is entered in the register of members, has been duly given to a person from whom he derives his title

49.5 A notice may be given by the Company to the persons entitled to a Share in consequence of the death or bankruptcy of a Shareholder by sending or delivering it, in any manner authorised by the Articles for the giving of notice to a Shareholder, addressed to them by name, or by the title of representatives of the deceased, or trustee

of the bankrupt or by any like description at the address, if any, supplied for that purpose by the persons claiming to be so entitled. Until such an address has been supplied, a notice may be given in any manner in which it might have been given if the death or bankruptcy had not occurred.

- 49 6 If the Company is wound up, the liquidator may, with the sanction of an extraordinary resolution of the Company and any other sanction required by the Act, divide among the members in specie the whole or any part of the assets of the Company in accordance with Article 3 1. The liquidator may, with the like sanction, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the members as he with the like sanction determines, but no member shall be compelled to accept any assets upon which there is a liability.

## **50. INDEMNITY**

- 50 1 Subject to the provisions of the Act, but without prejudice to any indemnity to which the person concerned may otherwise be entitled, every director or other officer of the Company (other than any person (whether an officer or not) engaged by the Company as auditor) shall be indemnified out of the assets of the Company against and/or exempted by the Company from all costs, charges, expenses or liabilities incurred by him in the actual or purported execution and/or discharge of his duties and/or the exercise or purported exercise of his powers and/or otherwise in relation to or in connection with his duties, powers or office whether in connection with any proven or alleged negligence, default, breach of duty or breach of trust by him or otherwise in relation to the Company, or any associated company, including funding any expenditure incurred or to be incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the Company or any associated company, provided that this Article shall be deemed not to provide for, or entitle any such person to, indemnification to the extent that it would cause this Article, or any element of it, to be treated as void under the Act or otherwise under the Act.
- 50 2 For the purpose of Article 50 1 the expression "associated company" shall mean a company which is either a subsidiary or a holding company of the Company or a subsidiary of such holding company.