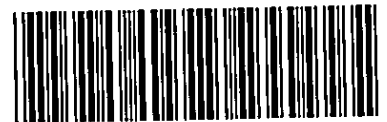


THE COMPANIES ACT 1985

**PRIVATE COMPANY LIMITED BY
SHARES**

**MEMORANDUM OF ASSOCIATION
OF
ITM POWER (TRADING) LIMITED**

MONDAY



A48 *ARQBCP58* 30/04/2007 320
COMPANIES HOUSE

- 1 The company's name is "ITM Power (Trading) Limited"
- 2 The company's registered office is to be situated in England and Wales
- 3 The company's objects are
 - 3 1 To carry on business as a general commercial company
 - 3 2 To carry on any trade or business whatsoever
 - 3 3 To provide services of any kind
 - 3 4 To carry on the business of a holding company and to co-ordinate, finance and manage all or any part of the businesses and undertakings of any and all companies, firms and businesses directly or indirectly controlled by the company or in which the company is interested whether directly or indirectly and whether as a shareholder or otherwise
 - 3 5 To acquire and hold and deal with any property, rights or privileges of any kind
 - 3 6 To acquire and undertake and carry on all or any part of the undertaking, property and liabilities of any person
 - 3 7 To acquire, hold, sell or otherwise dispose of, deal or invest in currencies and to enter into, carry on and participate in financial transactions and operations of any kind
 - 3 8 To acquire, hold, sell or otherwise dispose of, charge, underwrite or otherwise deal with any obligations, securities or other investments of any nature whatsoever and any options or rights in respect of them
 - 3 9 To borrow and raise money in any manner and to secure or discharge any debt or obligation of the company or any other person in such manner and on such terms as the company thinks fit including (without limitation) by mortgages and charges upon all or any part of the undertaking, property and assets (both present and future) and the uncalled capital of the company or by the creation and issue of any securities and to receive money on deposit

- 3 10 To advance, lend or deposit money, securities or other property of any kind and to give credit or financial accommodation to or with any person in such manner and on such terms (with or without security) as the company thinks fit
- 3 11 To execute, make, draw, accept, endorse, acquire, dispose of, discount, negotiate, issue or otherwise deal with cheques, promissory notes, debentures, drafts, bills of exchange, warrants and other instruments (whether negotiable or transferable or not)
- 3 12 To guarantee, indemnify, support or secure in any way the payment or repayment of any money whatsoever or the discharge or performance of any obligation of any kind by any person whether or not any consideration or advantage is received by the company and whether by personal covenant or by mortgaging or charging all or any part of the undertaking, property and assets (both present and future) and the uncalled capital of the company or by both such methods or by any other means whatsoever
- 3 13 To use, exploit, turn to account, develop, work, improve, manage, operate, lease, mortgage, charge, pledge, grant licences, easements, options, rights and privileges in relation to or otherwise deal with all or any part of the property, assets, rights and undertaking of the company
- 3 14 To build, construct, maintain, manage, control, administer, alter, improve, remove, replace or develop buildings, structures or facilities of any kind for any purpose whatsoever
- 3 15 To sell, exchange or otherwise dispose of the property, assets, rights and undertaking of the company or any part thereof and on such terms and for such consideration as the company thinks fit
- 3 16 To accept payment for any property which has been or may be sold or otherwise disposed of or dealt with by the company or for any services which have been or may be provided by the company in such manner and on such terms as the company thinks fit
- 3 17 To enter into a joint venture, partnership or any arrangement for the sharing of profits or losses or merge, amalgamate or co-operate in any way with any person
- 3 18 To establish, promote or assist in the formation or promotion of any company, fund or trust
- 3 19 To establish, provide, carry on, maintain, manage, support, purchase and contribute to any pension, superannuation, retirement, redundancy, injury, death benefit or insurance funds, trusts, schemes or policies for the benefit of, and to give or procure the giving of pensions, annuities, allowances, donations, gratuities, emoluments, benefits of any description (whether in kind or otherwise), incentives, bonuses, assistance and accommodation in such manner and on such terms as the company thinks fit to, and to make payments for or towards the insurance of, any individuals (including their relations, dependants and people connected with them) who are or were at any time directors, officers, employees, agents or consultants of the company or any related company and any individuals (including their relations, dependents and people connected with them) whose service or services have been of benefit to the company or who, in the opinion of the board of directors of the company, have a moral claim on the company

- 3 20 To establish, provide, carry on, maintain, manage, support and contribute to any schemes for encouraging or facilitating the holding of shares or other securities of the company or any related company by or for the benefit of any individuals who are or were at any time directors, officers or employees of the company or any related company and (to the extent permitted by law) to lend money to any such individuals to enable them to acquire shares or other securities of the company or any related company and to establish, provide, carry on, maintain, manage and support any schemes for sharing profits with any such individuals
- 3 21 To purchase and maintain any type of insurance for or for the benefit of any persons who are or were at any time directors, officers, employees or auditors of the company or any related company
- 3 22 To purchase and maintain any type of insurance for or for the benefit of any persons who are or were at any time trustees of any pension fund or employees' share scheme in which any employees of the company or any related company are interested
- 3 23 If and only to the extent permitted by law, to indemnify or exempt any person, including (without limitation) any person of the kind referred to in clauses 3 21 and 3 22, against or from any liability of any kind
- 3 24 If and only to the extent permitted by law, to provide any current or former director or officer of the company with funds to meet expenditure incurred or to be incurred by him in defending any criminal or civil proceedings or in connection with any application under any of the provisions of the Companies Act 1985 referred to in section 337A(2) of that Act and to do anything to enable such persons to avoid incurring such expenditure
- 3 25 To support, contribute to, sponsor or promote in any way any charitable, benevolent, social, public or general object or any purpose, which may be considered by the board of directors of the company, likely to further the interests of the company or its employees
- 3 26 To establish, carry on, maintain, manage, subsidise or otherwise support any society, club, association, institution, other establishment or fund which the company considers likely to benefit the interests of the company, its members or any of the persons referred to in clause 3 20
- 3 27 To pay and discharge all or any expenses, costs and disbursements, to pay commissions and to remunerate any person for services provided or to be provided in connection with the promotion, formation and incorporation of the company and the underwriting, placing or issue at any time of any securities of the company or any other person
- 3 28 To issue and allot securities of the company for cash or otherwise or in payment or part payment for any property purchased or otherwise acquired by the company or any services provided to the company or as security for or towards satisfaction of any liability or obligation or for any other purpose
- 3 29 If and only to the extent permitted by law, to give financial assistance for any purpose specified in the Companies Act 1985
- 3 30 To distribute among the members of the company in kind any property of the company

- 3 31 To carry on all or any of the objects set out in clause 3 in any part of the world and either as principal, agent, contractor, trustee or otherwise and by or through agents, contractors, trustees, subsidiary companies or otherwise and either alone or in conjunction with others
- 3 32 To carry on any other business or activity of any nature whatsoever which can, in the opinion of the board of directors of the company, be conveniently or advantageously carried on by the company in connection or conjunction with any businesses of the company referred to in clause 3
- 3 33 To do all such other acts or things which, in the opinion of the board of directors of the company, are or may be incidental or conducive to the achievement of the company's objects or any of them
- 4 In clause 3 the following provisions apply
- 4 1 The objects set out in clauses 3 1 to 3 33 shall not be restrictively interpreted, but the widest interpretation possible shall be given to them and they shall not, except where the context expressly so requires, be in any way limited or restricted by application of the eusdem generis rule or by reference to or inference from any other object or objects set out in any clause or from the terms of any other clause or by the name of the company
- 4 2 None of such clauses or the object or objects therein specified or the powers thereby conferred shall be deemed subsidiary or ancillary to the objects or powers given in any other clause The company shall have full power to exercise all or any of the powers and to achieve or to attempt to achieve any of the objects which are set out in any one or more of those clauses
- 4 3 Unless the context otherwise requires, references to "**and**" and "**or**" mean "**and/or**" and words in the singular include the plural and vice versa
- 5 In this memorandum the following words have the following meanings
- 5 1 "**acquire**" means to acquire in any way and includes to purchase, subscribe for, take on lease, exchange, hire or otherwise to acquire and for any kind of estate or interest,
- 5 2 "**company**" includes any company or corporate body,
- 5 3 "**holding company**" has the same meaning as in the Companies Act 1985,
- 5 4 "**person**" includes any company, corporate body, partnership, firm, government, authority, body or society (whether incorporated or not) as well as any other legal or natural person of any kind,
- 5 5 "**property**" includes real and personal property of any kind and any interest in or right to any such property,
- 5 6 "**related company**" means (i) any company which is or was the company's holding company or (ii) any body (whether incorporated or not) in which the company or any holding company has or had any kind of interest (whether direct or indirect) or (iii) any body (whether incorporated or not) which is associated or connected in any way with the company or any holding company of the company, (iv) any predecessors in business of the company or any other body referred to in this clause 5 6, or (v) any body (whether incorporated or not) which is a subsidiary undertaking of the company or any other body referred to in this clause 5 6,

- 5 7 "securities" include any fully or partly paid shares, stocks, debenture or loan stock, depositary receipts, bonds, notes, warrants or rights to subscribe or convert or any similar right or obligation, and
- 5 8 "subsidiary" has the same meaning as in the Companies Act 1985
- 6 The liability of the members is limited
- 7 The share capital of the company is £1,000 00 divided into 1,000 Ordinary shares of £1 00 each

THE COMPANIES ACT 1985

**PRIVATE COMPANY LIMITED BY
SHARES**

**ARTICLES OF ASSOCIATION
OF
ITM POWER (TRADING) LIMITED**

PRELIMINARY

7 1 In these articles "**Table A**" means Table A set out in the schedule to the Companies (Tables A to F) Regulations 1985 (as amended prior to the date of incorporation of the company) The regulations contained in Table A shall, except where they are excluded or modified by these articles, apply to the company References in these articles to regulations are to regulations in Table A.

7 2 Regulations 24, 54, 57, 62, 64 to 66 (inclusive), 73 to 80 (inclusive), 87, 94, 95, 115 and 118 shall not apply to the company but the articles hereinafter contained and the remaining regulations of Table A, subject to the modifications hereinafter expressed, shall constitute the articles of the company

7 3 Words and expressions defined in Table A shall (unless the context otherwise requires) bear the same meanings in these articles In these articles "**address**" in relation to electronic communications includes any number or address used for the purposes of such communications The headings are inserted for convenience only and shall not affect the construction of these articles

8 SHARE CAPITAL

8 1 The company's share capital at the date of adoption of these articles is £1,000 00 divided into 1,000 Ordinary shares of £1 00 each

9 UNISSUED SHARES

9 1 Subject to the provisions of the Act, all unissued shares shall be under the control of the directors and the directors may allot, grant options over or otherwise dispose of them to such persons on such terms and at such times as they may determine

10 AUTHORITY TO ALLOT RELEVANT SECURITIES

10 1 The directors are generally and unconditionally authorised pursuant to and in accordance with section 80 of the Act to exercise during the period of five years from the date of incorporation of the company all the powers of the company to allot relevant securities up to an aggregate nominal amount of £999 The directors may before the expiry of the authority conferred by this article make offers or agreements which would or might require relevant securities to be allotted after such expiry and the directors may

allot relevant securities pursuant to any such offers or agreements as if such authority had not expired

11 EXCLUSION OF STATUTORY PRE-EMPTION RIGHTS

- 11 1 Section 89(1) of the Act shall not apply to the allotment by the company of any equity security

12 TRANSFER OF SHARES

- 12 1 The instrument of transfer of a share taken by a subscriber to the memorandum which is not a fully paid share need not be executed by or on behalf of the transferee Regulation 23 shall be modified accordingly
- 12 2 The directors may, in their absolute discretion and without giving any reason for doing so, decline to register any transfer of any share, whether or not it is a fully paid share

13 GENERAL MEETINGS

- 13 1 In regulation 37 the words "seven weeks" shall be substituted for the words "eight weeks" and the words "within the United Kingdom" shall be deleted

14 PROCEEDINGS AT GENERAL MEETINGS

- 14 1 Regulation 40 shall be modified by the insertion of the following words at the end of that regulation ", provided that if the company has only one member, that member or the proxy for that member or (if that member is a corporation) its duly authorised representative shall be a quorum "
- 14 2 Regulation 41 shall be modified by the insertion at the end of that regulation of the following sentence "If at any adjourned meeting a quorum is not present within fifteen minutes from the time appointed for holding that meeting, the meeting shall be dissolved ".
- 14 3 A poll may be demanded at any general meeting by any member present in person or by proxy and entitled to vote Regulation 46 shall be modified accordingly
- 14 4 A resolution in writing in accordance with regulation 53 shall be deemed to have been duly executed on behalf of a corporation if signed on its behalf by one of its directors or its secretary or by its duly appointed attorney or its duly authorised representative In the case of a share held by joint holders the signature of any one of them shall be sufficient for the purposes of that regulation Regulation 53 shall be modified accordingly

15 VOTES OF MEMBERS

- 15 1 At a general meeting, but subject to any rights or restrictions attached to any shares, on a show of hands every member who (being an individual) is present in person or (being a corporation) is present by a duly authorised representative and every proxy for any member (even if he is a member or is a proxy for more than one member) shall have one vote and on a poll every member who is present in person or by proxy shall have one vote for every share of which he is the holder

16 DELIVERY OF PROXIES

16 1 The appointment of a proxy and any power of attorney or other authority under which it is executed or a copy of such power or authority certified notari ally or in some other way approved by the directors must

- (a) (in the case of an appointment which is not contained in an electronic communication), be delivered to the place specified for that purpose in the notice convening the meeting or (if no place is specified) to the office before the time appointed for holding the meeting or adjourned meeting at which the person named in the appointment proposes to vote or be delivered to the chairman or the secretary on the day and at the place of, but in any event before the time appointed for holding, the meeting or adjourned meeting, or
- (b) (in the case of an appointment which is contained in an electronic communication), where an address has been specified by the company for the purpose of receiving electronic communications, be received at such address before the time appointed for holding the meeting or adjourned meeting at which the person named in the appointment proposes to vote, or
- (c) in the case of a poll which is not taken on the same day as the meeting or adjourned meeting, be delivered or (in the case of an electronic communication) received as aforesaid before the time appointed for the taking of the poll,

and an appointment of a proxy which is not delivered or received in a manner so permitted shall be invalid

17 NUMBER OF DIRECTORS

17 1 Unless and until otherwise determined by the company in general meeting, the number of directors shall not be subject to any maximum and the minimum number of directors shall be one Whenever the minimum number of directors is one, the sole director shall have authority to exercise all the powers and discretions expressed by these articles to be vested in the directors Regulation 89 shall be modified accordingly

18 ALTERNATE DIRECTORS

18 1 Any director (other than an alternate director) may at any time appoint any other director or any other person who is willing to act to be his alternate director Any director may at any time remove from office an alternate director appointed by him

18 2 An alternate director shall (subject to his giving the company an address within the United Kingdom or an address for the purpose of electronic communications at which notices may be served on him) be entitled to receive notice of all meetings of the directors and of committees of the directors of which his appointor is a member and (in the absence of his appointor) to attend and vote as a director and be counted in the quorum at any such meeting and generally (in the absence of his appointor) to perform all the functions of his appointor as a director

18 3 An alternate director may represent more than one director An alternate director shall have one vote for each director for whom he acts as alternate (in addition, if he is a director, to his own vote) but he shall count as only one for the purpose of determining whether a quorum is present

18 4 If his appointor is absent from the United Kingdom or otherwise temporarily unable to act the signature of an alternate director to any resolution in writing of the directors shall be as effective as the signature of his appointor

18 5 An alternate director shall not be entitled to receive any remuneration from the company in respect of his appointment as an alternate director except only such part (if any) of the remuneration otherwise payable to his appointor as his appointor may by notice in writing to the company from time to time direct

18 6 An alternate director shall be entitled to contract and be interested in and benefit from contracts or arrangements with the company and to be repaid expenses and to be indemnified to the same extent as if he were a director

19 DELEGATION OF DIRECTORS' POWERS

19 1 Without prejudice to the powers contained in regulation 72, the directors may delegate any of their powers to committees consisting of such person or persons (whether directors or not) as the directors think fit. References in these articles to a committee of directors shall include a committee established under this article and references to a director as a member of such a committee shall include any such person or persons. Regulation 72 shall be modified accordingly

20 NO RETIREMENT BY ROTATION

20 1 The directors shall not be required to retire by rotation and all references in Table A to retirement by rotation shall be disregarded

21 APPOINTMENT AND REMOVAL OF DIRECTORS BY MAJORITY SHAREHOLDERS

21 1 Any member holding, or any members holding in aggregate, more than one half of the issued ordinary shares of the company shall have the power from time to time and at any time to appoint any person to be a director (either to fill a vacancy or as an additional director) and to remove from office any director howsoever appointed. Any such appointment or removal shall be effected by an instrument in writing delivered to the office and signed by the member or members appointing or removing such director or in the case of a member being a corporation signed on its behalf by one of its directors or its secretary or by its duly appointed attorney or duly authorised representative and shall take effect immediately upon delivery to the office

22 APPOINTMENT OF ADDITIONAL DIRECTORS BY THE BOARD

22 1 The directors shall have power at any time and from time to time to appoint any person who is willing to act to be a director either to fill a vacancy or as an additional director

23 NO AGE LIMIT FOR DIRECTORS

23 1 No person shall be ineligible for appointment as a director, and no director shall be required to vacate his office as a director, because he has reached the age of 70

23 2 Special notice shall not be required of a resolution appointing a person who is 70 or more as a director and the notice of the resolution given by the company to its members does not need to state the age of the person proposed for appointment

24 REMUNERATION OF DIRECTORS

- 24 1 Any director who is appointed to any executive office or who serves on any committee or who performs any other services which in the opinion of the directors are outside the scope of the ordinary duties of a director may be paid such extra remuneration (whether by way of salary, commission, participation in profits or otherwise) and receive such other benefits as the directors may determine Regulation 82 shall be modified accordingly

25 DIRECTORS' GRATUITIES AND PENSIONS

- 25 1 The directors may exercise all the powers of the company to provide benefits whether by the payment of gratuities, pensions or other retirement, superannuation, death or disability benefits of any kind or other allowances or benefits to any individuals (including their relations, dependants and people connected with them) who are or were at any time directors of the company or any body corporate which is or has been a subsidiary of the company or a predecessor in business of the company or any such subsidiary The directors may contribute to any fund or scheme and pay premiums to a third party for the purchase or provision of any such benefit
- 25 2 A director or former director shall not be accountable to the company or the members for any benefit of any kind conferred under or pursuant to this article

26 PROCEEDINGS OF DIRECTORS

- 26 1 Notice of a meeting of the directors shall be deemed to be properly given to a director if it is given to him personally or by word of mouth or sent in writing to him at his last known address or any other address given by him to the company for this purpose or by using electronic communications to an address given by him to the company for this purpose
- 26 2 Notice of a meeting of the directors shall be given to all directors including any directors who are absent from the United Kingdom A director may waive notice of any meeting of the directors even if the meeting has already taken place Regulation 88 shall be modified accordingly
- 26 3 Any director or member of a committee of the directors may participate in a meeting of the directors or such committee by means of a conference telephone or similar communication equipment whereby all persons participating in the meeting can hear and speak to each other and participation in a meeting in this manner shall be deemed to constitute presence in person at such meeting A meeting held in this way shall be deemed to take place where the largest group is assembled or if there is no such group where the chairman of the meeting is located
- 26 4 A director may vote on any matter in which he is interested (whether directly or indirectly) and shall be taken into account for the purpose of determining whether a quorum is present

27 NOTICES

- 27 1 In the first sentence of regulation 112 the words "(or at such other address whether within or outside the United Kingdom as he may supply to the company for that purpose)" shall be inserted after "registered address" The third sentence of regulation 112 shall be deleted

- 27 2 If a notice or other document is sent by post, it shall be deemed to have been served or delivered twenty-four hours after it was posted or (where second class post is used) forty-eight hours after it was posted. Proof that an envelope containing the notice or document was properly addressed, stamped and put into the post shall be conclusive evidence that the notice was given. Any notice or other document not sent by post but delivered or left at a registered address or address for service in the United Kingdom shall be deemed to have been served or delivered when it was so delivered or left. A notice or other document sent by electronic communications shall be deemed to have been served or delivered at the time it was sent. Proof that a notice or other document contained in an electronic communication was sent in accordance with guidance issued from time to time by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that the notice was given.

28 INDEMNITY

- 28 1 If and only to the extent permitted by law, every director, auditor, secretary or other officer of the company shall be indemnified by the company out of its own funds against all costs, charges, losses, expenses and liabilities incurred by him
- (a) in connection with any negligence, default, breach of duty or breach of trust by him in relation to the company,
 - (b) in performing his duties, and/or
 - (c) in exercising his powers, and/or
 - (d) in claiming to perform his duties or exercise his powers, and/or
 - (e) otherwise in relation to or in connection with his duties, powers or office

29 INSURANCE

- 29 1 Without prejudice to the power contained in article 28, the directors may purchase and maintain at the expense of the company insurance for or for the benefit of any persons who are or were at any time directors, officers, employees or auditors of the company or any related company or trustees of any pension fund or employees' share scheme in which any employees of the company or any related company are interested
- 29 2 In this article "**related company**" means (i) any company which is or was the company's holding company or (ii) any body (whether incorporated or not) in which the company or any holding company has or had any kind of interest (whether direct or indirect) or (iii) any body (whether incorporated or not) which is associated or connected in any way with the company or any holding company of the company, (iv) any predecessors in business of the company or any other body referred to in this article 29 2, or (v) any body (whether incorporated or not) which is a subsidiary undertaking of the company or any other body referred to in this article 29 2

30 FUNDS TO MEET EXPENDITURE

- 30 1 The company (to the extent permitted by law and in compliance with the terms set out in section 337A(4) of the Act)
- (a) may provide a director or officer or former director or officer with funds to meet expenditure incurred or to be incurred by him in defending any criminal or

civil proceedings or in connection with any application under any of the provisions mentioned in section 337A(2) of the Act, and

- (b) may do anything to enable a director or officer or a former director or officer to avoid incurring such expenditure