

THE COMPANIES ACT 1985
COMPANY LIMITED BY SHARES
COPY RESOLUTION
of
OCEAN POWER DELIVERY LIMITED
("Company")

PASSED ON 2 FEBRUARY 2006

At an extraordinary general meeting of the Company duly convened and held on 1 February 2006 at DLA Piper Rudnick Gray Cary Scotland LLP, Collins House, Rutland Square, Edinburgh, EH1 2AA, and adjourned to Zurich on 2 February 2006 the following resolution was duly passed as a special resolution as indicated below:

SPECIAL RESOLUTION

That the draft regulations in the form attached be adopted as the articles of association of the Company to the exclusion of and in substitution for the existing articles of association of the Company.


Director/Secretary





MCCLURE NAISMITH

Solicitors

GLASGOW EDINBURGH LONDON

2 FEBRUARY 2006

THE COMPANIES ACT 1985-1989

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

OCEAN POWER DELIVERY LIMITED

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THE COMPANIES ACTS 1985 - 1989

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

OCEAN POWER DELIVERY LIMITED

(Adopted ●)

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1.1 In these Articles "Table A" means Table A contained in the Companies (Tables A to F) Regulations 1985 forming part of the Companies Act 1985, and "the 1985 Act" means the Companies Act 1985.

1.2

1.2.1 The Regulations contained in Table A shall apply to the Company save in so far as they are excluded or modified hereby. The Regulations of Table A numbered, 40, 41, 54, 64, 73 to 80 inclusive, 87, 89, 91, 94-98, 101 and 118 shall not apply, but, subject as aforesaid, and in addition to the remaining Regulations of Table A the following shall be the Articles of Association of the Company.

1.2.2 In Regulation 6 of Table A the words"shall be sealed with the seal and".... shall be deleted where they appear in the second sentence.

DEFINITIONS

1.3 In these Articles the following words and phrases have the meanings set out opposite them below:

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|------|---|
| "3i" | 3i Group plc, a company registered under the Companies Acts (registered number 1142830) and having its registered office at 91 Waterloo Road, London and "a member of the 3i Group" shall mean 3i, any subsidiary of 3i, any company of which 3i is a subsidiary and any Associate of 3i; |
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| "A Shares" | means convertible redeemable preference shares of £0.25 each in the capital of the Company having the rights and being subject to the restrictions set out in these Articles; "A Shareholders" and "A Shareholding" shall be construed accordingly; |
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| "Acting in Concert" | shall have the meaning given to it in the most recent edition of the City Code on Takeovers and Mergers; |
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| "Anti Dilution Agreement" | means the grant of warrant by the Company in favour of the Investors dated on or around the date of adoption of these Articles; |
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“Associate”

means:

- (a) an entity which is connected with any of the Equity Shareholders (the term “connected with” having the meaning ascribed to it in section 839 Income and Corporation Taxes Act 1988 save that there shall be deemed to be control for that purpose whenever either section 416 or section 840 of that act would so require) or an Investment Fund for whom the Equity Shares are held;
- (b) in relation to a body corporate, any other body corporate which is for the time being a Holding Company of that body corporate or a Subsidiary of that body corporate or a Subsidiary of any Holding Company of which that body corporate is also a Subsidiary; and
- (c) any unitholder, shareholder, partner or participant in, or manager (or an officer or employee, past or present, of such partner or manager) of an Investment Fund which is managed or advised by the same manager or adviser as any Investment Fund of any of the Equity Shareholders or to any member or partner of that Investment Fund or to any custodian or nominee of any such person.

BUT NOTWITHSTANDING THE FOREGOING, Hydro and SAM shall not be deemed to be Associates of each other.

“Bad Leaver”

means an Employee Member who ceases to be a director or employee of the Company as a result of dismissal for fraud, wilful concealment or gross misconduct;

“a Controlling Interest”

an interest in shares (as defined in Schedule 13 Part 1 and section 324 of the 1985 Act) in a company conferring in the aggregate 50% or more of the total voting rights conferred by all the issued shares in that company;

“CTIL”

means Carbon Trust Investments Limited (Company number 04649291) having its registered office at 8th Floor, 3 Clement’s Inn, London, WC2A 2AZ and “a member of the CTIL Group” shall include a Holding

Company, a Subsidiary and/or any Subsidiary of any Holding Company of CTIL and an Associate of CTIL;

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|------------------------------------|----------|---|
| "Disposal" | | means the sale or transfer of all or substantially all of the undertaking or assets of the Company (in one transaction or as a series of related transactions); |
| "The Drag-Along Percentage" | | means an Investor Majority; |
| "Employee Member" | | a person who holds or has held any shares in the Company and is or has been a director and/or an employee of the Company (save for the purposes of this definition Michael Davies); |
| "Equity Shares" | | means the Ordinary Shares and A Shares in the capital of the Company; |
| "Equity Shareholders" | | means the holders of all the Equity Shares; |
| "Expert" | | an independent chartered accountant (who shall act as an expert and not as an arbiter) nominated by the parties concerned or in the event of disagreement, appointed by the President for the time being of the Institute of Chartered Accountants of Scotland; |
| "Founders" | | means Richard Yemm, David Pizer and Christopher Retzler; |
| "Holding Company" and "Subsidiary" | | shall have the respective meanings ascribed to them by section 736 and 736A of the Companies Act 1985; |
| "Hydro" | | means Norsk Hydro Technology Ventures AS, having its registered office at Bygdøy Alle 2, 0240, Oslo, Norway and "a member of the Hydro Group" shall mean Hydro, any Subsidiary of Hydro, any company of which Hydro is a Subsidiary and/or any Subsidiary of any Holding Company of Hydro and any Associate of Hydro; |
| "Intellectual Rights" | Property | means any and all intellectual property rights howsoever called of any nature currently owned and/or used by the Company, whether registered, registerable or otherwise including without limitation patents, trade marks, registered designs, applications for any of the foregoing, including all related know-how and technical information; |
| "Investment Fund" | | means: (a) any arrangement constituting a collective investment scheme for the purpose of |

section 235 of the Financial Services and Markets Act 2000 (as amended or re-enacted for the time being) or which would constitute such a scheme if it did not fall within an exemption or exclusion to that section (and any nominee company holding shares on behalf of any such arrangement);

- (b) any investment trust or venture capital trust;
- (c) any partnership, whether or not limited; and
- (d) any pension or retirement or life assurance fund or company or trustee thereof;

"Investor Majority"

means the holders of not less than 66% of the A Shares in issue from time to time save where any single A Shareholder (including its Associates) holds in excess of 34% of the A Shares in issue (who is hereinafter referred to, together with its Associates, as "the Single Shareholder"), in which case the applicable percentage of A Shares whose holders constitute an Investor Majority shall be adjusted to such lesser figure than 66% as represents the percentage of all A Shares held by all A Shareholders other than the Single Shareholder PROVIDED THAT and for the avoidance of doubt where there is more than one holder of A Shares (when taken together with their Associates) each holding in excess of 34% of the A Shares in issue, the Single Shareholder for the purposes of this definition shall be the shareholder holding the higher percentage of A shares in issue and the applicable percentage of A Shares whose holders constitute an Investor Majority shall be the percentage of all A Shares held by all A Shareholders (including the A Shareholder who holds in excess of 34 % of the A Shares but who is not the Single Shareholder for the purposes of this definition) other than the Single Shareholder;

"Investor Director"

means a director appointed pursuant to Article 19;

"Investors"

means Hydro, SAM, 3i and CTIL and their respective successors and permitted assignees as holders of A Shares;

"Listings" and "Listed"

means: -

- (1) the listings of any of the Company's Equity Shares on The London Stock Exchange plc; or

- (2) the granting of an application by the Company for the dealing in the Company's Equity Shares on any other public securities market (including the Unlisted Securities Market);

"Ordinary Member" means any person holding Ordinary Shares in the Company;

"Ordinary Shares" means ordinary shares of £0.25 each in the capital of the Company having the rights and being subject to the restrictions set out in these Articles;

"Permitted Family" means:

- (1) the spouse of an Ordinary Member; and
- (2) Ordinary Members' children (including step and adopted children);

"Permitted Share Option Schemes" means:-

(a) the employee share option scheme created by the Company on 28 March 2003 pursuant to the provisions of the Enterprise Management Initiative under the Finance Act 2000 whereby the Company is entitled to grant options over 78,013 Ordinary Shares;

(b) the share option scheme created by the Company granting options over up to 9,752 Ordinary Shares to David Lindley on 27 March 2003;

(c) the option granted by the Company to Lord Colin Moynihan dated 14 September and 4 October 2005 over up to 31,500 Ordinary Shares; and

(d) any other share option granted by the Company with the approval of an Investor Majority.

"Proceeds" shall mean the gross aggregate consideration received or receivable (whether in one or several instalments) by the Equity Shareholders in respect of a Sale or by the Company in respect of a Disposal;

"Redemption Amount" means the subscription price per A Share;

"Sale" shall mean the sale or transfer of more than 50% of the issued Equity Shares to a single purchaser (or to one or more purchasers as part of a single

transaction) other than pursuant to Articles 9.1, 9.2, 9.3, 9.4, 9.5 or 9.6.1;

“SAM”

means, together, SAM Sustainability Private Equity LP (“SPE-E”), SAM Private Equity Energy Fund LP (“SPE-S”) both having a place of business at Trafalgar Court, les Banques, St. Peter Port, Guernsey and Sustainable Performance Group (Unlisted) N.V., A. Mendes Chumaceiro Boulevard 11 AN-Willemstad, Curaçao Netherlands Antilles (“SPG”) (SPE-E, SPE-S and SPG being collectively referred to as “SAM”) and where any matter requires the consent of SAM, such consent may be given and shall be deemed to have been given by SAM Equity in its capacity as general partner of both SPE-E and SPE-S and representative of SPG; “a member of the SAM Group” shall include (i) SPE-E, SPE-S and SPG, a Holding Company of each of SPE-E, SPE-S and SPG, a Subsidiary of each of SPE-E, SPE-S and SPG and/or any Subsidiary of any Holding Company of each of SPE-E, SPE-S and SPG, (ii) SAM Equity and any limited partnership in which SAM Equity is the general partner, any Holding Company of SAM Equity, a Subsidiary of SAM Equity and/or any Subsidiary of any Holding Company of SAM Equity and (iii) an Associate of each of SPE-E, SPE-S and SPG;

“SAM Equity”

means SAM Equity Partners Limited, a company incorporated under the laws of Guernsey and having its registered office at Trafalgar Court, les Banques, St. Peter Port, Guernsey;

“Termination Date”

means in the case of a Bad Leaver the date on which his contract of employment was terminated by the Company as a result of dismissal for fraud, wilful concealment or gross misconduct or if applicable, the date when such dismissal was upheld by a relevant court or tribunal;

“The Carbon Trust”

means The Carbon Trust a company limited by guarantee, registered in England and Wales with registration number 04190230 whose registered office is at 8th Floor, 3 Clement’s Inn, London WC2A 2AZ; and

“Third Party Investor”

means any third party investor that subscribes for A Shares following the date of adoption of these Articles.

- 1.4 Unless the context otherwise requires words or expressions contained in these Articles shall bear the same meaning as in the 1985 Act or any modification thereof in force at the date at which these Articles are adopted by the Company.

PRIVATE COMPANY

- 2 The Company is a private company and accordingly any invitation to the public to subscribe for any shares or debentures of the Company is prohibited.

SHARES

- 3 The authorised share capital of the Company at the date of the adoption of these Articles is **£975,000** divided into **900,000 Ordinary Shares** and **3,000,000 A Shares**.
- 4 The pre-emption provisions of Section 89(1) and Sub-sections (2) and (6) of Section 90 of the 1985 Act shall not apply to any allotment of the Company's equity securities.
- 5 Other than as provided for in the Anti Dilution Agreement and other than any grant of an option pursuant to the Permitted Share Option Schemes, the Company shall not issue any Equity Shares or any other share capital without the prior written consent of the Investor Majority.
- 6 The lien conferred by Regulation 8 of Table A shall attach to fully paid shares and to all shares registered in the name of any person indebted or under liability to the Company whether he be the sole registered holder thereof or one of two or more joint holders.

RIGHTS ATTACHING TO SHARES

- 7 The rights attaching to the Ordinary Shares and the A Shares respectively shall be as follows:

7.1 Investor Premium on a Sale/Disposal

- 7.1.1 In the event of a Sale or Disposal, the Proceeds shall be paid into the bank account of the solicitors acting for the Company and, after deduction of the reasonable professional costs and expenses incurred by the Company and the A Shareholders in connection with such Sale or Disposal (as approved and determined by the Investor Majority), they shall be distributed in the following order of priority:-

7.1.1.1 first, in paying to the holders of the A Shares, or in the case of a Sale the parties who held the A Shares immediately prior to the Sale, in respect of each A Share the Redemption Amount paid for the A Shares;

7.1.1.2 second, the balance of such Proceeds shall be distributed among the holders of the Equity Shares, or in the case of a Sale the parties who held the Equity Shares immediately prior to the Sale, *pari passu* as if the same constituted one class of share *pro rata* in proportion to the number of fully paid Equity Shares held by them respectively.

7.2 Capital

- 7.2.1 On a return of capital on liquidation or a reduction of capital, the surplus assets of the Company remaining after the payment of all liabilities shall be distributed in the same order of priority provided in Article 7.1

7.3 As regards conversion

- 7.3.1 At any time or times hereafter the holder of any of the A Shares (hereinafter referred to as "a Converting Member") may convert the whole or any part of the A Shares held by it into Ordinary Shares on the basis of one Ordinary Share for every one A Share so converted.
- 7.3.2 Such conversion shall be effected by notice in writing to that effect ("the Conversion Notice") signed by the Converting Member and delivered to the Company at its Registered Office for the time being. Such Conversion Notice shall be delivered to the Company on the reverse of the Converting Member's certificate for his shares in the Company.
- 7.3.3 Upon the date of receipt by the Company of any such Conversion Notice ("the Conversion Date") all special rights and restrictions attached under these Articles to the A Shares specified in the Conversion Notice shall cease to apply thereto and the A Shares so specified shall *ipso facto* become Ordinary Shares in the capital of the Company and shall rank from the date of conversion *pari passu* in all respects with the other Ordinary Shares in the capital of the Company.
- 7.3.4 The Company shall despatch to the Converting Member within fourteen days of the Conversion Date a definitive certificate in its name for the Ordinary Shares arising upon conversion and a balance certificate for any A Shares comprised in the Converting Member's certificate delivered to the Company but not converted.
- 7.3.5 The A Shares shall automatically convert into Ordinary Shares on a Listing.

7.4 Redemption

- 7.4.1 Subject to the provisions of the 1985 Act and all other legislation for the time being in force affecting companies and the Company, the A Shares may be redeemed (either in whole or in part (any redemption of part only of the A Shares to be made pro rata according to the number of A Shares held by each A Shareholder)) at the option of the Investor Majority at any time following 18 March 2007 upon giving not less than three months' prior written notice to the Company (such notice not to be served prior to 18 March 2007) of the intention to redeem and specifying the amount to be redeemed and the date for redemption ("the Redemption Date").
- 7.4.2 On the Redemption Date the Company shall pay to each holder of A Shares, the amount payable pursuant to sub-article 7.4.3 in respect of such redemption and upon receipt of that amount each holder of A Shares shall surrender to the Company the certificate for its shares which are to be redeemed in order that they may be cancelled provided that if any certificate so surrendered includes any A Shares not to be redeemed at that time the Company shall issue a fresh certificate for the balance of the A Shares not so redeemed to the holder thereof.
- 7.4.3 On the due date or dates for redemption there shall be paid on each of the A Shares redeemed as aforesaid the Redemption Amount together with a sum equal to a 20% premium upon the Redemption Amount for such A Shares.

- 7.4.4 The A Shares held by an A Shareholder shall be deemed to be redeemed in the order that they were subscribed, with the A Shares subscribed most recently being redeemed first.

7.5 Voting

- 7.5.1 Subject to the rights and restrictions for the time being attached to any class or classes of shares, on a show of hands every member entitled to vote who (being an individual) is present in person or by proxy (not being himself a member entitled to vote) or (being a corporate body) is present by a representative or proxy (not being himself a member entitled to vote) shall have one vote and, on a poll, every member shall have one vote for each share of which he is the holder.
- 7.5.2 The words "be entitled to" shall be inserted between the words "shall" and "vote" in regulation 57 of Table A.
- 7.5.3 A member shall not be entitled to appoint more than one proxy to attend on the same occasion and accordingly the final sentence of regulation 59 of Table A shall not apply to the Company. Any proxy shall be entitled to cast the votes to which he is entitled in different ways.

7.6 Class Rights

- 7.6.1 The rights attached to the A Shares as set out in these Articles may be varied either whilst the Company is a going concern or during or in contemplation of a winding up only with (1) the consent in writing of the Investor Majority or (2) otherwise with the sanction of a resolution of the Investor Majority passed at a separate meeting of the A shareholders.
- 7.6.2 To every such separate meeting all the provisions of these Articles relating to general meetings of the Company shall apply, except that the necessary quorum shall be two persons at least holding or representing by proxy one third in nominal amount of the issued shares of the class, and that the holders of shares of the class shall, on a poll, have one vote in respect of every share of the class held by them respectively.
- 7.6.3 Provided that, without prejudice to the generality of this Article the special rights attached to the A Shares shall be deemed to be varied if the Company shall:-
- 7.6.3.1 issue any share capital in or grant any option over or other right to call for the issue of its share capital (other than pursuant to the Anti Dilution Agreement or the Permitted Share Option Schemes);
 - 7.6.3.2 take any steps to have the Company wound up whether for the purposes of amalgamation or reconstruction or otherwise unless a registered insolvency practitioner shall have advised that the Company is required to be wound up by reason of it having become insolvent;
 - 7.6.3.3 dispose of the whole or a substantial part of the Company's business or assets including any licence of Intellectual Property Rights created or owned by the Company;

- 7.6.3.4 merge the business of the Company with any other person whether by way of disposal or acquisition;
- 7.6.3.5 alter its Memorandum and/or Articles of Association;
- 7.6.3.6 declare or pay any dividend or distribution on or in respect of any of its share capital;
- 7.6.3.7 take any steps to effect a Listing;
- 7.6.3.8 subscribe for, purchase or acquire or dispose of any shares (including its own shares), debentures, debenture stock, mortgages or securities or interest in any other company, trust partnership or other body;
- 7.6.3.9 incorporate or otherwise set up or acquire or dispose of any subsidiary or associated company; and
- 7.6.3.10 create any security or charge or grant any indemnity, surety or guarantee or like assurance of third party obligations.

SHARE TRANSFERS

- 8 The directors shall refuse to register any transfer of shares not made in accordance with the provisions of these Articles but (subject to Regulation 24 of Table A) shall not otherwise be entitled to refuse to register any transfer of shares. The directors may request the transferor, or the person named as transferee in any transfer lodged for registration, to furnish the Company with such information and evidence of the foregoing as the directors reasonably think necessary or relevant failing which after expiry of one month from such request the directors shall be entitled to refuse to register the transfer.

9

9.1 Permitted transfers by 3i

- 9.1.1 Notwithstanding any other provisions of these Articles a transfer of any shares in the Company held by any member of the 3i Group may be made between the member in the Group holding such shares and any other member in the 3i Group without restriction as to price or otherwise and any such transfer shall be registered by the directors. If any such transferee ceases to be a member of the 3i Group it shall forthwith transfer the relevant shares to a member of the 3i Group.
- 9.1.2 Notwithstanding any other provision of these Articles a transfer of any shares in the Company held by any member of the 3i Group may be made between the member in the 3i Group holding such shares and any member of the Hydro Group, the SAM Group or the CTIL Group without restriction as to price or otherwise and any such transfer shall be registered by the directors. If any such transferee ceases to be a member of the Hydro Group, the SAM Group or the CTIL Group, it shall forthwith transfer the relevant shares to a member of the Hydro Group, the SAM Group or the CTIL Group as the case may be.

9.2 Permitted transfers by Hydro

- 9.2.1 Notwithstanding any other provisions of these Articles a transfer of any shares in the Company held by any member of the Hydro Group may be made between the member in the

Group holding such shares and any other member in the Hydro Group without restriction as to price or otherwise and any such transfer shall be registered by the directors. If any such transferee ceases to be a member of the Hydro Group it shall forthwith transfer the relevant shares to a member of the Hydro Group.

- 9.2.2 Notwithstanding any other provision of these Articles a transfer of any shares in the Company held by any member of the Hydro Group may be made between the member in the Hydro Group holding such shares and any member of the 3i Group, the SAM Group or the CTIL Group without restriction as to price or otherwise and any such transfer shall be registered by the directors. If any such transferee ceases to be a member of the 3i Group, the SAM Group or the CTIL Group, it shall forthwith transfer the relevant shares to a member of the 3i Group, the SAM Group or the CTIL Group as the case may be.

9.3 Permitted transfers by SAM

- 9.3.1 Notwithstanding any other provisions of these Articles a transfer of any shares in the Company held by any member of the SAM Group may be made between the member in the Group holding such shares and any other member in the SAM Group without restriction as to price or otherwise and any such transfer shall be registered by the directors. If any such transferee ceases to be a member of the SAM Group it shall forthwith transfer the relevant shares to a member of the SAM Group.

- 9.3.2 Notwithstanding any other provision of these Articles a transfer of any shares in the Company held by any member of the SAM Group may be made between the member in the SAM Group holding such shares and any member of the 3i Group, the Hydro Group or the CTIL Group without restriction as to price or otherwise and any such transfer shall be registered by the directors. If any such transferee ceases to be a member of the 3i Group, the Hydro Group or the CTIL Group, it shall forthwith transfer the relevant shares to a member of the 3i Group, the Hydro Group or the CTIL Group as the case may be.

9.4 Permitted transfers by CTIL

- 9.4.1 Notwithstanding any other provisions of these Articles a transfer of any shares in the Company held by any member of the CTIL Group may be made between the member in the Group holding such shares and any other member of the CTIL Group or a government body or agency or any body to whom CTIL's or The Carbon Trust's functions are transferred (upon the specific request of the government body or agency) without restriction as to price or otherwise and any such transfer shall be registered by the directors. If any transferee (other than a government body or agency or any such body to whom such functions or activities are so transferred) ceases to be a member of the CTIL Group it shall forthwith transfer the relevant shares to a member of the CTIL Group.

- 9.4.2 Notwithstanding any other provision of these Articles a transfer of any shares in the Company held by any member of the CTIL Group or any transferee permitted under Article 9.4.1 may be made between the member in the CTIL Group or the permitted transferee holding such shares and any member of the SAM Group, the 3i Group or the Hydro Group without restriction as to price or otherwise and any such transfer shall be registered by the directors. If any such transferee ceases to be a member of the SAM Group, the 3i Group or the Hydro Group, it shall forthwith transfer the relevant shares to a member of the SAM Group, the 3i Group or the Hydro Group as the case may be.

9.5 Permitted transfers by A Shareholders

9.5.1 Notwithstanding any other provisions of these Articles a transfer of any shares in the Company held by an A Shareholder may be made to an Associate of the A Shareholder without restriction as to price or otherwise and any such transfer shall be registered by the directors. If any such transferee ceases to be an Associate of the A Shareholder it shall forthwith transfer the relevant shares to the original A Shareholder or an Associate of that A Shareholder.

9.6 Permitted transfers by the Founders and Employee Members

9.6.1 Notwithstanding any other provisions of these Articles, any shares held by the Founders or Employee Members shall be freely transferable to Permitted Family or to any other person approved in writing by the Investor Majority; the Investor Majority having been deemed to have approved the transfer of shares by the Founders in accordance with the provisions of an agreement between the Founders, the Investors (except for CTIL), 3i and others dated 18 March 2002.

9.6.2 Subject to sub-article 9.6.1, any shares held by the Founders may only be transferred with the prior written consent of the Investor Majority.

RESTRICTIONS ON TRANSFER OF SHARES - ORDINARY SHARES

10 Limitations on Transfer

10.1 Ordinary Share Transfer Procedure

10.1.1 Save as otherwise provided in these Articles any member wishing to transfer any Ordinary Shares ("the Vendor") shall give to the Company notice to that effect in writing ("a Transfer Notice"). Where the Transfer Notice is deemed to have been given it is referred to as a Deemed Transfer Notice. Transfer Notices and Deemed Transfer Notices shall constitute the Company the Vendor's agent for the sale of all shares specified therein (hereinafter called "the Sale Shares") in one or more lots at the discretion of the directors and at a price to be determined hereinafter for the Sale Shares (hereinafter called "the Sale Price").

10.1.2 The Sale Price shall be agreed between the Vendor and the directors. If the Vendor and the directors are unable to agree a price within 28 days of the Transfer Notice being given or being deemed to have been given the Sale Price will instead be the price which the Expert shall certify to be their fair value. The Expert will value the Sale Shares on a going concern basis as between a willing seller and a willing buyer ignoring any reduction in value which may be ascribed to the Sale Shares if they represent a minority interest and assuming that the Sale Shares can be freely transferred. The Expert's decision on the Sale Price shall be final and binding.

10.1.3 The Sale Price of a Bad Leaver's shares shall not exceed the original subscription price of the Sale Shares.

10.1.4 A Transfer Notice (but not a Deemed Transfer Notice) may contain a condition ("a Total Transfer Condition") that unless all the shares comprised therein are sold by the Company none shall be sold.

10.1.5 If the Expert is asked to certify the fair value, his certificate shall be delivered to the Company. As soon as the Company receives the Certificate it shall deliver a copy of it to the Vendor. The Vendor shall be entitled by notice in writing given to the Company within ten days of the service upon him of the copy certificate to cancel the Company's authority to sell the Sale Shares unless the shares are to be sold pursuant to a Deemed Transfer Notice. The cost of obtaining the certificate shall be paid by the Company unless the Vendor cancels it in which case the Vendor shall bear the cost.

10.1.6 Once the Sale Price has been determined then unless the Vendor gives a valid notice of cancellation, the Sale Shares shall be offered for sale as set out below. All offers made by the Company shall give details of the number and Sale Price of the Sale Shares.

10.2 Ordinary Shares - First Offer Round

10.2.1 As soon as Sale Shares become available they shall be forthwith offered for sale by the Company to all holders of the Ordinary Shares (other than the Vendor) in proportion as nearly as may be to the respective numbers of Ordinary Shares held by such members.

10.2.2 Any offer made by the Company under this sub-article will invite the relevant Ordinary Members to state in writing the maximum number of the shares offered to them they wish to purchase and will remain open for 21 days ("the First Offer Period").

10.3 Ordinary Shares - Second Offer Round

10.3.1 If at the end of the First Offer Period there are any Sale Shares offered which have not been allocated the Company shall offer such shares to such Ordinary Members as have stated in writing their willingness to purchase all the shares previously offered to them.

10.3.2 This offer will invite the relevant members to state in writing the maximum number of shares they wish to purchase. If there are insufficient Sale Shares to meet the demand then the directors will allocate the Sale Shares pro rata as nearly as may be in proportion to the number of Ordinary Shares held by the relevant Ordinary Members. This offer will remain open for a further period of 21 days ("the Second Offer Period"). Thereafter the Company shall continue to make offers on the same terms while any Ordinary Member continues to state in writing his willingness to purchase all shares offered to him.

10.4 Ordinary Shares - Third Offer Round (A Shareholders)

10.4.1 If at the end of the Second Offer Period there are any Sale Shares offered which have not been allocated to the Ordinary Members the Company shall offer such shares remaining to the A Shareholders in the proportion as nearly as may be to the respective numbers of A Shares held by each A Shareholder.

10.4.2 Any Offer made by the Company under this sub-article will invite the relevant A Shareholders to state in writing the maximum number of shares offered to them that they wish to purchase and will remain open for 21 days ("the Third Offer Period").

10.5 Ordinary Shares - Fourth Offer Round (A Shareholders)

10.5.1 If at the end of the Third Offer Period there are any Sale Shares offered which have not been allocated the Company shall offer such shares to any A Shareholders who have stated in writing their willingness to purchase all the shares previously offered to them.

- 10.5.2 This offer will invite the relevant A Shareholders to state in writing the maximum number of shares they wish to purchase. If there are insufficient Sale Shares to meet the demand then the directors will allocate the Sale Shares pro rata as nearly as may be in proportion to the number of A Shares held by the A Shareholders. This Offer will remain open for a further period of 21 days.
- 10.6 If the Company finds a purchaser for all or any of the Sale Shares under the terms of this article the Vendor must on receipt of the Sale Price transfer the Sale Shares (or those for which the Company shall have found a purchaser(s)) to such persons. If the Vendor defaults in transferring Sale Shares the Company shall if so required by the person or persons willing to purchase such Sale Shares receive and give a good discharge for the purchase money on behalf of the Vendor and shall authorise some person to execute transfers of the Sale Shares in favour of the purchasers and shall enter the names of the purchasers in the Register of Members accordingly.
- 10.7 If the Company does not find purchasers for all of the Sale Shares under the terms of this article the Vendor shall at any time within six months after the final offer by the Company to its members be free to sell and transfer such of the Sale Shares as have not been so sold to any person at a price which is no less than the Sale Price, subject to observing any Total Transfer Condition.
- 10.8 Any attempted transfer of Ordinary Shares not in accordance with the provisions of these articles shall be void and have no effect.
- 10.9 **Bad Leaver Provisions**
- 10.9.1 Unless otherwise agreed by the Investor Majority, notice in writing ("Bad Leaver Notice") shall be deemed to have been served by a Bad Leaver on the Termination Date in respect of:
- 10.9.1.1 all shares held by the Bad Leaver immediately before such cessation; and
- 10.9.1.2 all shares then held by the Bad Leaver's Permitted Family (other than shares which the directors are satisfied were not acquired by such holders either (i) directly or indirectly from the Bad Leaver or (ii) by reason of their connection with the Bad Leaver, and the decision of the Investor Majority in this respect will be final).
- 10.9.2 Notwithstanding any other provision of these Articles, unless the Investor Majority agrees otherwise in relation to any shares, any member holding Ordinary Shares in respect of which Bad Leaver Notice is deemed to have been given shall not be entitled to exercise any voting rights at general meetings of the Company in respect of those shares on and from the date of the relevant Bad Leaver Notice until the entry in the register of members of the Company of another person as the holder of those shares.
- 10.10 If a Bad Leaver Notice is deemed to have been given pursuant to this Article 10 then the Investor Majority or the Company may within 21 days of the Termination Date require that all or any shares to which such Bad Leaver Notice relates should be made or kept available either for any person or persons who is or are (an) existing director(s) and/or employee(s) of the Company or a person (whether or not then ascertained) who it is proposed should be appointed as a director and/or employee of the Company whether or not in place of the person by whom the relevant Bad Leaver Notice is deemed to have been given ("a New Employee") in which case such shares ("the Employee

Shares”) shall either be offered to the New Employee(s) (and, in the case of more than one, in the proportions) specified by the Investor Majority (conditional, in the case of any prospective director and/or employee upon his taking up his proposed appointment with the Company (if not then taken up)); or

- 10.11 if the Investor Majority so require, be offered to persons designated by the Board (in the event of their acquiring the Employee Shares) upon trust for a New Employee as and when appointed.

RESTRICTIONS ON TRANSFER OF SHARES - A SHARES

11

- 11.1 Any A Shareholder wishing to transfer A Shares (“a Proposing Transferor”) other than in accordance with Article 9 shall give to the remaining A Shareholders notice in writing to that effect (“an Investor Transfer Notice”).
- 11.2 The remaining A Shareholders shall, within 14 days of receipt of an Investor Transfer Notice indicate to the Proposing Transferor whether they wish to purchase the Proposing Transferor’s Shares and, if so the maximum number of shares they would wish to purchase. If the remaining A Shareholders (or any of them) indicate to a Proposing Transferor that they may wish to purchase the Proposing Transferor’s Shares, the Proposing Transferor and the remaining A Shareholders shall negotiate in good faith with a view to agreeing a price for the A Shares which are the subject of the Investor Transfer Notice and failing agreement as to price within a period of 21 days after the date on which the remaining A Shareholders indicated their interest in acquiring such shares pursuant to this sub article, the Proposing Transferor shall be free to seek a third party purchaser for such shares (a “Third Party Purchaser”), but they shall not conclude any sale without first complying with the provisions of Article 11.3.
- 11.3 In the event of the Proposing Transferor receiving an offer for those A Shares from a Third Party Purchaser, the Proposing Transferor shall be obliged to offer such shares to the remaining A Shareholders at a price equal to, and so far as is practical on the same terms as are offered by, the Third Party Purchaser (“the Third Party Price”) and any such shares shall be offered to the remaining A Shareholders in proportion as nearly as may be to the respective numbers of A Shares held by them, prior to any sale to a Third Party Purchaser. Such an offer shall disclose full terms and conditions of the Third Party Price. The remaining A Shareholders, or any of them, shall then have a period of 21 days from the date of such offer within which to indicate to the Proposing Transferors, by notice in writing, whether they wish to purchase the shares subject to the Investor Transfer Notice at the Third Party Price and in what proportions. In the event that they do so indicate, the Proposing Transferor shall be obliged to complete the sale of such shares to the remaining A Shareholders at the Third Party Price.
- 11.4 The Proposing Transferor shall not be obliged to sell some only of the shares which are the subject of an Investor Transfer Notice and may require that unless all the shares comprised therein are sold, none shall be sold.
- 11.5 If the remaining A Shareholders are unwilling to purchase the A Shares which are the subject of the Investor Transfer Notice the Proposing Transferor shall at any time within six months after the date of the offer by the Proposing Transferor to the remaining Investors be free to sell and transfer the A Shares to the Third Party Purchaser at a price which is no less than the Third Party Price.
- 11.6 Any attempted transfer of A Shares not in accordance with the provisions of these Articles shall be void and have no effect.

TAG ALONG

- 12 No sale or transfer of any shares in the Company may be made or validly registered if as a result a Controlling Interest would be obtained in the Company by a person(s) who are not members of the Company at the date of adoption of these Articles unless the proposed transferees are independent third parties acting in good faith and have previously offered in writing to purchase all of the Equity Shares at the price per share (in cash or non-cash consideration) equal to the price offered by the proposed transferees for the A Shares/Ordinary Shares together with any other consideration received or receivable by the holders of those A Shares/Ordinary shares which could be regarded as an addition to the price paid or payable provided that in no circumstance shall such price paid be less than the Redemption Amount. For the avoidance of doubt the proceeds from any such sale shall be distributed in accordance with Article 7.1 above.

DRAG ALONG

- 13
- 13.1 If not less than the Drag Along Percentage of the A Shareholders propose to sell the beneficial interest in their entire holding of A Shares in the Company and procure that an offer is made by the proposed transferee (or any person Acting in Concert with it) ("the Offerors") to the holders of all the A Shares and Ordinary Shares in the Company and that offer ("the Drag Along Offer") complies with the requirements of Article 13.1.5 those A Shareholders shall have the right ("the Drag Along Right") to require all of the holders of Ordinary Shares in the Company and the holders of the remaining A Shares in the Company ("the Called Shareholders") to accept the Drag Along Offer in full.
- 13.1.1 The Drag Along Right may be exercised by the Investor Majority serving notice to that effect ("the Drag Along Notice") on the Called Shareholders at the same time as or within 14 days following, the making of the Drag Along Offer.
- 13.1.2 A Drag Along Notice once given shall be irrevocable but shall lapse (and the obligations thereunder shall lapse) in the event that for any reason the Investor Majority do not transfer their entire holding of A Shares to the Offeror or the Offeror's nominee not later than the date specified as the date for completion of the sale and purchase of shares pursuant to acceptance of the Drag Along Offer.
- 13.1.3 Each of the Called Shareholders shall be bound to accept the Drag Along Offer made to him in respect of his entire holding of Ordinary Shares and A Shares and to transfer such shares in accordance with the provisions of the Drag Along Offer.
- 13.1.4 If any Called Shareholder fails to accept the Drag Along Offer or, having accepted such offer, fails to complete the sale of any of its shares pursuant to the Drag Along Offer or otherwise fails to take any action required of it under the terms of the Drag Along Offer the Investors or the board of directors of the Company (or any of them) may authorise any person to accept the Drag Along Offer on behalf of the Called Shareholder in question or undertake on his behalf any other action required under the terms of the Drag Along Offer.
- 13.1.5 The Drag Along Offer shall be on terms that:
- 13.1.5.1 it will open for acceptance in the United Kingdom for a period of at least 28 days following the making of the offer;

13.1.5.2 each member to whom it is made shall be entitled to receive, for each of the Ordinary Shares and A Shares held by him, not less than the consideration offered to the Investor Majority for each of the A Shares held by them by the proposed purchaser or any person Acting in Concert with the proposed purchaser, which shall be deemed to include any consideration (in cash or otherwise) paid or payable by such purchaser or person Acting in Concert which, having regard to the substance of the transaction as a whole, may reasonably be regarded as an addition to the price so paid or payable.

13.1.6 The purchase of any shares in respect of which such offer is accepted shall be completed at the same time as the sale by the Investor Majority of their holding of A Shares to the Offerors and after such an Offeror or his nominee has been registered as the holder of shares transferred in accordance with this Article 13 the validity of such transaction shall not be questioned by any person.

13.1.7 No Drag Along Notice may be served earlier than 20 June 2006.

PROCEEDINGS AT GENERAL MEETINGS

- 14 All business shall be deemed special that is transacted at an extraordinary general meeting, and also all that which is transacted at an annual general meeting with the exception of the consideration of the accounts, balance sheets and the reports of the directors and auditors, the appointment of, and the fixing of the remuneration of, the auditors.
- 15 If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the meeting shall be dissolved.
- 16 No business shall be transacted at any general meeting unless a quorum is present. Two persons entitled to vote upon the business to be transacted, each being a member or proxy for a member or a duly authorised representative of a corporation, one of whom shall be a an Investor or a proxy or duly authorised representative of an Investor, shall be a quorum.
- 17 It shall not be necessary to give any notice of an adjourned meeting and Regulation 45 of Table A shall be construed accordingly.
- 18 A poll may be demanded by the Chairman or by any Member present in person or by proxy and entitled to vote and Regulation 46 of Table A shall be modified accordingly.

INVESTOR DIRECTORS

- 19 Notwithstanding any other provisions of these Articles, the two A Shareholders (which for the purposes of this Article shall be ascertained by including all A Shares held by their Associates and parties to whom they are permitted to transfer A Shares to pursuant to these Articles) with the largest holdings of A Shares in issue from time to time in the Company ("the Appointing Shareholders" and each an "Appointing Shareholder") shall each be entitled to appoint as a director of the Company any person and to remove from office such person so appointed and to appoint another person in their place. The remuneration and reasonable expenses to be paid to the Investor Director shall be payable by the Company and shall be such sum as may be agreed between him and the Company or failing agreement such reasonable sum as shall be

fixed by the relevant Appointing Shareholder. Where a party ceases to be an Appointing Shareholder they shall forthwith remove from office as a director of the Company, its nominated representative.

- 20 Notwithstanding any other provisions of these Articles and without prejudice to an existing nomination and appointment at the date of adoption of these Articles, the Investor Majority shall have the right to nominate any person acceptable to the board acting reasonably as external, non-executive directors ("the External Directors") and/or executive directors.

NUMBER OF DIRECTORS

- 21 Unless otherwise determined by the Investor Majority the maximum number of directors shall be seven and shall consist of the Investor Directors (where appointed), the External Directors and executive directors.

MEETINGS OF DIRECTORS

- 22 Notice of every meeting of the directors shall be given to each director at any address supplied by him to the Company for that purpose whether or not he be present in the United Kingdom provided that any director may waive notice of any meeting either prospectively or retrospectively and if he shall do so it shall be no objection to the validity of such meeting that notice was not given to him. Meetings of the directors may, be held by conference telephone or similar equipment, so long as all the participants can hear each other. Such meetings shall be as effective as if the directors had met in person.
- 23 The quorum for transaction of business of the directors shall (unless otherwise determined by the board) be two of whom one shall be an Investor Director provided that there are two Investor Directors appointed and where there is only one Investor Director appointed, that Investor Director shall not be required for a quorum. If a quorum is not present within half an hour of the time of the meeting of the directors, the meeting shall be adjourned to a date determined by those who are present and those present at the adjourned meeting will form the quorum. Any person who holds office only as an alternate director shall, if his appointer is not present, be counted in the quorum.

DIRECTORS

- 24 The directors may exercise all the powers of the Company to borrow or raise money and to mortgage or charge its undertaking, property and uncalled capital and subject to Section 80 of the 1985 Act to issue debentures, debenture stock and other securities as security for any debt, liability or obligation of the Company or of any third party.
- 25 Without prejudice to the obligation of any director to disclose his interest in accordance with Section 317 of the 1985 Act a director may vote as a director in regard to any contract, transaction or arrangement in which he is interested, or upon any matter arising therefrom, and if he does so vote his vote shall be counted and he shall be reckoned in calculating a quorum when any such contract transaction or arrangement is under consideration.
- 26 A director shall not retire by rotation and the words "...by rotation or otherwise..." where they appear in Regulation 67 of Table A shall be deleted.
- 27 No person shall be or become incapable of being appointed a director by reason only of his having attained the age of seventy or any other age nor shall any special notice be required in connection with the appointment or the approval of the appointment of such person, and no director shall vacate his office at any time by reason only of the fact that he has attained the age of seventy or any other age.

DIVIDENDS

- 28 Subject to the provisions of the 1985 Act and of these Articles, the Company may by ordinary resolution declare a dividend to be paid to the holders of any class of shares, but no dividend shall exceed the amount recommended by the Board.
- 29 Subject to the provisions of the 1985 Act, the Board may, if it considers that the profits of the Company available for distribution justify such payments declare and pay interim dividends on shares of any class of such amounts and on such dates and for such periods as it determines.

INDEMNITIES

30

- 30.1 Subject to the provisions of the 1985 Act, the Company may:
- 30.1.1 indemnify any person who is or was a director, company secretary or other Relevant Officer directly or indirectly (including by funding any expenditure incurred or to be incurred by him), against any loss or liability, 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; and / or
 - 30.1.2 purchase and maintain insurance for any person who is or was a director, company secretary or other Relevant Officer against any loss or liability or any expenditure he may incur, 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.
- 30.2 A director shall be entitled to vote and be counted in the quorum at any meeting of the Board or a committee of the Board at which any indemnity, arrangement or proposal falling within any of the provisions of this Article 30 is to be considered.
- 30.3 For the purposes of this Article:
- 30.3.1 "associated company" has the same meaning as in Section 309A of the 1985 Act; and
 - 30.3.2 a "Relevant Officer" is any officer of the Company or an associated company (other than in either case any person engaged by the Company or an associated company as auditor)".

SERVICE OF NOTICES

31

- 31.1 Any Notice to be served pursuant to these Articles, may be served by leaving it at the address provided for service or by posting by first class mail, facsimile or otherwise transmitting in printed form said Notice to the said address provided for service. Such Notice shall be deemed to have been properly served, if posted, at the expiration of twenty four hours after posting; if by facsimile on the day it is sent; and in the case of other forms of transmission on the date on which it should be received by the recipient in the normal course of such form of transmission. In proving service of Notice by post it shall be sufficient to prove that the envelope containing the same was properly addressed, stamped and posted; and in the case of facsimile that the transmission receipt appeared on the sender's copy of transmission.

- 31.2 In Regulation 112, the words “an address within the United Kingdom at which notices may be given to him, and “but, otherwise, no such member shall be entitled to receive any notice from the company” where they appear in the second sentence shall be deleted.