

Company number SC182368

**SPECIAL RESOLUTION**

OF

**PELAMIS WAVE POWER LIMITED** (the "Company")

Circulated on 12 May 2011

TUESDAY



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COMPANIES HOUSE

The following resolution was duly passed as a special resolution by way of written resolution under Chapter 2 of Part 13 of the Companies Act 2006.

**SPECIAL RESOLUTION**

1. *"THAT the existing articles of association of the Company be deleted and the articles of association attached to this resolution be and are hereby adopted as the new articles of association of the Company with immediate effect" ("Resolution 1").*
2. *"THAT the authorised share capital of the company be removed the effect of which being that the Company shall no longer have an authorised share capital" ("Resolution 2").*
3. *"THAT the issued A Shares in the share capital of the Company be re-classified as A Series Shares" ("Resolution 3").*
4. *THAT in accordance with section 551 of the 2006 Act, the Directors be generally and unconditionally authorised to allot shares in the Company or grant rights to subscribe for or to convert any security into shares in the Company (the "Rights") pursuant to a subscription agreement among the Company, Emerald Sustainability Fund LP, Emerald Energy Fund 1 LP, Scottish Enterprise and others to be entered into on or around the date of this resolution or any deed of adherence thereto. The maximum amount of shares which may be allotted pursuant to the Rights shall represent an aggregate investment amount of up to £4,000,000 to be comprised of such number of shares and shares of such type as shall be determined by the directors acting at their sole discretion. This authority shall, unless renewed, varied or revoked by the Company, expire on 25<sup>th</sup> July 2011 save that the Company may, before such expiry, make an offer or agreement which would or might require shares to be allotted or Rights to be granted and the Directors may allot shares or grant Rights in pursuance of such offer or agreement notwithstanding that the authority conferred by this resolution has expired ("Resolution 4"); and*
5. *THAT in accordance with section 551 of the 2006 Act, the Directors be generally and unconditionally authorised to allot shares in the Company or grant rights to subscribe for or to convert any security into A1 Series Shares or B Series Shares in the Company (the "Warrant Rights") pursuant to a Series A1 Warrant Instrument and a Series B Warrant Instrument granted by the Company and dated on or around the date of this resolution. The maximum amount of shares which may be allotted pursuant to the Warrant Rights shall be (i) 136,000 B Series Shares and (ii) such number of A1 Series Shares as is equal to*

*1% of the A1 Series Shares issued pursuant to Resolution 4. This authority shall, unless renewed, varied or revoked by the Company, expire on the fifth anniversary of this resolution save that the Company may, before such expiry, make an offer or agreement which would or might require shares to be allotted or Warrant Rights to be granted and the Directors may allot shares or grant Warrant Rights in pursuance of such offer or agreement notwithstanding that the authority conferred by this resolution has expired ("Resolution 5").*

*The authority in Resolutions 4 and 5 is in substitution for all previous authorities conferred on the Directors in accordance with section 80 of the Companies Act 1985 or section 551 of the 2006 Act.*

A handwritten signature in black ink, consisting of a large loop followed by a horizontal stroke.

Signed.....

Director  
For and on Behalf of  
Pelamis Wave Power Limited

Company number SC182368

**SPECIAL RESOLUTION**

OF


**PELAMIS WAVE POWER LIMITED** (the "Company")

Circulated on 12 May 2011

The following resolution was duly passed as a special resolution by way of class resolution of the holders of Ordinary Shares in the capital of the Company under Chapter 2 of Part 13 of the Companies Act 2006.

**SPECIAL RESOLUTION**

- 1.1 I understand that it is a condition precedent of a proposed subscription agreement proposed to be entered into by the Company and others that the Company adopt the new articles of association (the "**New Articles**") and that by doing so the rights of holders of the Ordinary Shares will be varied.
- 1.2 I confirm that I have received a copy of the New Articles and understand the variation of my rights that has been proposed.
- 1.3 I hereby agree to the variation of my rights as a holder of Ordinary Shares as constituted by the adoption of the New Articles.

  
Signed.....

Director  
For and on Behalf of  
Pelamis Wave Power Limited

1

Company number SC182368

**SPECIAL RESOLUTION**

OF

**PELAMIS WAVE POWER LIMITED** (the "Company")

Circulated on 12 May 2011

The following resolution was duly passed as a special resolution by way of class resolution of the holders of A Shares in the capital of the Company under Chapter 2 of Part 13 of the Companies Act 2006.

**SPECIAL RESOLUTION**

- 1.1 I understand that it is a condition precedent of a proposed subscription agreement proposed to be entered into by the Company and others that the Company adopt the new articles of association (the "New Articles") and that by doing so the rights of holders of the A Shares will be varied.
- 1.2 I confirm that I have received a copy of the New Articles and understand the variation of my rights that has been proposed.
- 1.3 I hereby agree to the variation of my rights as a holder of A Shares as constituted by the adoption of the New Articles.

Signed.....

Director  
For and on Behalf of  
Pelamis Wave Power Limited





**MCCLURE NAISMITH**

**Solicitors**

GLASGOW EDINBURGH LONDON

**THE COMPANIES ACT 2006  
COMPANY LIMITED BY SHARES  
ARTICLES OF ASSOCIATION  
of  
PELAMIS WAVE POWER LIMITED**

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**The COMPANIES ACT 2006**  
**COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

of

**PELAMIS WAVE POWER LIMITED**

(as adopted by Special Resolution of 24 May 2011)

**1 TABLE A, DEFINITIONS & INTERPRETATION**

1.1 The Regulations contained or incorporated in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 (*SI 1985/805*) as amended by the Companies (Tables A to F) (Amendment) Regulations 2007 (*SI 2007/2541*) and the Companies (Tables A to F) (Amendment) (No 2) Regulations 2007 (*SI 2007/2826*), and as otherwise amended before the adoption of these Articles ("Table A") shall apply to the Company, except insofar as they are varied or excluded by, or are inconsistent with, the following Articles. The "Act" means the Companies Act 2006.

1.2 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.

1.3 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.

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

"2011 Investment Round"	means the investment round involving the allotment of B Series Shares and A1 Series Shares by the Company on or around the date of adoption of these Articles;
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"A Series Shares"	means convertible 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;
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"A Shareholders"	means the registered holder of one or more Series A Shares;
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"A1 Series Shares"	means convertible preference shares of £0.01 each in the capital of the Company having the rights and being subject to the restrictions set out in these Articles;
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"A1 Shareholders"	means the registered holder of one or more Series A1 Shares;
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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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<b>"Asset Sale"</b>	means the disposal by the Company of all, or a substantial part of, its business and assets (in one or a series of transactions);
<b>"Associate"</b>	means: <ol style="list-style-type: none"> <li>(1) an entity which is connected with any of the Equity Shareholders (the term "connected with" having the meaning ascribed to it in section 993 Income Tax Act 2007) or an Investment Fund for whom the Equity Shares are held;</li> <li>(2) 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;</li> <li>(3) 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; and</li> <li>(4) in relation to SE, any member of the SE Group.</li> </ol> <p>BUT NOTWITHSTANDING THE FOREGOING, Statoil and Emerald shall not be deemed to be Associates of each other;</p>
<b>"B Series Shares"</b>	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;
<b>"B Shareholders"</b>	means the registered holder of one or more Series B Shares;
<b>"Bad Leaver"</b>	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;
<b>"a Controlling Interest"</b>	means an interest in shares giving the person or persons (together with persons Acting in Concert with any such persons) control of the Company within the meaning of section 1124 of the Corporation Tax Act 2010;
<b>"Disposal"</b>	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);

"Emerald"	means, together, Emerald Sustainability Fund LP ("ESF") and Emerald Energy Fund 1 LP ("EEF-1") both having a place of business at Trafalgar Court, les Banques, St. Peter Port, Guernsey and where any matter requires the consent of Emerald, such consent may be given and shall be deemed to have been given by Emerald Equity in its capacity as general partner of both EEF-1 and ESF; "a member of the Emerald Group" shall include (i) EEF-1 and ESF, a Holding Company of each of EEF-1 and ESF, a Subsidiary of each of EEF-1 and ESF and/or any Subsidiary of any Holding Company of each of EEF-1 and ESF, (ii) Emerald Equity and any limited partnership in which Emerald Equity is the general partner, any Holding Company of Emerald Equity, a Subsidiary of Emerald Equity and/or any Subsidiary of any Holding Company of Emerald Equity and (iii) an Associate of each of EEF-1 and ESF;
"Emerald Equity"	means Emerald Partners 1 Ltd, a company incorporated under the laws of Guernsey and having its registered office at Trafalgar Court, les Banques, St. Peter Port, Guernsey;
"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; A Series Shares, A1 Series Shares and B Series Shares in the capital of the Company;
"Equity Shareholders"	means the holders of all the Equity Shares;
"Exit"	means a Share Sale, an Asset Sale, an IPO or any event to which Article 6.4 applies;
"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;
"Intellectual Property Rights"	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"	<p>means:</p> <ul style="list-style-type: none"> <li>(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);</li> <li>(b) any investment trust or venture capital trust;</li> <li>(c) any partnership, whether or not limited; and</li> <li>(d) any pension or retirement or life assurance fund or company or trustee thereof;</li> </ul>
"Investor Majority"	<p>means the holders of not less than 60% by value of the B Shareholders and the A1 Shareholders, acting together as a single class;</p>
"Investor Director"	<p>means a director appointed pursuant to Article 19 (Appointment of Directors);</p>
"Investors"	<p>means holders of B Series Shares;</p>
"IPO"	<p>means the successful application and admission of all or any of the shares in the capital of the Company, or securities representing such shares (including American depositary receipts, American depositary shares and/or other instruments) to the Official List of the UK Listing Authority or on the AIM market operated by the London Stock Exchange plc, or the Nasdaq National Stock Market of the Nasdaq Stock Market Inc., or to any recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000 (as amended));</p>
"Listings" and "Listed"	<p>means:</p> <ul style="list-style-type: none"> <li>(1) the listings of any of the Company's Equity Shares on The London Stock Exchange plc; or</li> <li>(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);</li> </ul>
"Management Carve Out"	<p>means 10% of the net cash proceeds arising out of the relevant Exit event or alternatively, where the Exit event does not give rise to cash proceeds, 10% of the issued or received shares arising out of such Exit event;</p>

<b>"New Securities"</b>	means any shares or other securities convertible into, or carrying the right to subscribe for those shares, issued by the Company after the date of adoption of these Articles, (other than shares issued as a result of the events set out in Article 10.5);
<b>"Ordinary Member"</b>	means any person holding Ordinary Shares in the Company;
<b>"Ordinary Shares"</b>	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;
<b>"Permitted Family"</b>	means: <ol style="list-style-type: none"> <li>(1) the spouse of an Ordinary Member; and</li> <li>(2) Ordinary Members' children (including step and adopted children);</li> </ol>
<b>"Permitted Share Option Schemes"</b>	means: <ol style="list-style-type: none"> <li>(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;</li> <li>(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;</li> <li>(c) the option granted by the Company to Lord Colin Moynihan dated 14 September and 4 October 2008 over up to 31,500 Ordinary Shares;</li> <li>(d) the options granted by the Company to employees and directors over up to 500,000 Ordinary Shares pursuant to requests by the company to investors for investor majority consent dated 8 June 2007; and</li> <li>(e) any other share option granted by the Company with the approval of an Investor Majority;</li> </ol>
<b>"Permitted Transfer"</b>	means a transfer of Shares in accordance with Article 12 (Permitted Transfers);
<b>"Preferred Shareholders"</b>	shall mean the A Shareholders, the A1 Shareholders and the B Shareholders;
<b>"Preferred Share Conversion Price"</b>	means £2.00 (if applicable, adjusted as referred to under Article 8 (Anti-Dilution Protection));

<b>"Preferred Shares"</b>	shall mean the A Series Shares, the A1 Series Shares and the B Series Shares;
<b>"Proposed Purchaser"</b>	means a proposed purchaser who at the relevant time has made an offer on arms length terms;
<b>"Proposed Seller"</b>	means any person proposing to transfer any shares in the capital of the Company;
<b>"Relevant Securities"</b>	means any shares or other securities convertible into, or carrying the right to subscribe for those shares, issued by the Company after the date of which these Articles are adopted, but excluding any shares which the Company is required to issue by reason of a right specifically attached to Preferred Shares under these Articles;
<b>"SE"</b>	means Scottish Enterprise, established by the Enterprise and New Towns (Scotland) Act 1990 and having its principal place of business at Atrium Court, 50 Waterloo Street, Glasgow G2 6HQ;
<b>"SE Group"</b>	means SE, any subsidiary for the time being of SE and any company, corporation or other body of persons which shall have acquired the whole or substantially the whole of the undertaking of SE or any subsidiary of such company, corporation or body and any other body to which the statutory functions of SE have been delegated or an SE Successor and the expression "member of the SE Group" shall be construed accordingly;
<b>"SE Successor"</b>	means any party succeeding in whole or in part to the interest of SE;
<b>"Shares"</b>	means Equity Shares;
<b>"Share Sale"</b>	means 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 (12.1, 12.2, 12.3, or 12.4.1);
<b>"Statoil"</b>	means Statoil Venture AS, having its registered office at Bygdøy Alle 2, 0240, Oslo, Norway and "a member of the Statoil Group" shall mean Statoil, any Subsidiary of Statoil, any company of which Statoil is a Subsidiary and/or any Subsidiary of any Holding Company of Statoil and any Associate of Statoil;
<b>"Subsidiary"</b>	means a company in relation to which another company (its "Holding Company"): <ul style="list-style-type: none"> <li>(a) holds a majority of the voting rights in it; or</li> <li>(b) is a member of it and has the right to appoint and</li> </ul>

remove a majority of its board of directors; or

- (c) is a member of it and controls alone or pursuant to an agreement with the other shareholders or members, a majority of the voting rights in it;

and, if it is a Subsidiary of a company which is itself a Subsidiary of another company, then it is a Subsidiary of that other company also;

**"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; and

**"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 6th Floor, 5 New Street Square, London EC4A 3BF.

1.5 Unless the context otherwise requires words or expressions contained in these Articles shall bear the same meaning as in the Act or any statutory modification or re-enactment of it.

1.6 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.

## **2 PRIVATE COMPANY**

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.

## **3 SHARES**

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.

## **4 DIVIDENDS**

4.1 Subject to the provisions of the Act and to Article 4.2, the Company may upon approval of the Investor Majority declare and pay dividends on shares of any class of such amounts and on such dates and for such periods as the Investor Majority determines.

4.2 No dividends shall be paid by the Company on the A1 Series Shares, the A Series Shares or the Ordinary Shares unless and until a dividend totalling £6.00 (being a multiple of three times the sum of the original B Series Share purchase price and A1 Series Share purchase price) has been paid on each of the B Series Shares.

## 5 LIQUIDATION PREFERENCE

On a return of assets on liquidation, capital reduction or otherwise, the assets of the Company remaining after meeting any costs or liability (if any) approved by the Investor Majority and deduction of any Management Carve Out, shall (to the extent that the Company is lawfully able to do so) be applied in the following order of priority:

- 5.1 first, in paying to the holders of the B Series Shares (including any B Series Shares issued by the Company pursuant to any share warrants granted by the Company), in respect of each B Series Share an amount equal to £6.00 (being a multiple of three times the sum of the original B Series Share purchase price and A1 Series Share purchase price);
- 5.2 second, in paying to the holders of the A1 Series Shares (including any A1 Series Shares issued by the Company pursuant to any share warrants granted by the Company), in respect of each A1 Series Share an amount equal to £20.00 (being a multiple of two times the original A Series Share purchase price);
- 5.3 third, the balance of such proceeds (up to a maximum of £100,000,000) shall be distributed to holders of B Series Shares and A1 Series Shares *pari passu* as if the same constituted one class of share *pro rata* in proportion to the number of fully paid B Series Shares and A1 Series Shares held by them respectively;
- 5.4 fourth, in paying to the holders of the A Series Shares, in respect of each A Series Share an amount equal to £10.00 (being the original A Series Share purchase price); and
- 5.5 fifth, the remaining balance of such proceeds (if any) shall be distributed among the holders of the Equity Shares, *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.

## 6 EXIT PROVISIONS

- 6.1 The proceeds of a Share Sale remaining after meeting any costs or liability approved by the Investor Majority and deduction of any Management Carve Out shall, (to the extent that the Company is lawfully able to do so) be distributed in the order of priority set out in Article 5 (Liquidation Preference). The Directors shall not register any transfer of Shares if the proceeds of sale are not distributed in that manner (save in respect of any Shares not sold in connection with that Share Sale), provided that, if the proceeds of sale are not settled in their entirety on completion of the Share Sale:
  - 6.1.1 the Directors may register the transfer of the relevant shares, provided that the proceeds have been distributed in the order of priority set out in Article 5 (Liquidation Preference); and
  - 6.1.2 the Shareholders shall take any action required by the Investor Majority to ensure that the proceeds of sale in their entirety are distributed in the order of priority set out in Article 5 (Liquidation Preference).
- 6.2 On an Asset Sale the surplus assets of the Company remaining after meeting any costs or liability approved by the Investor Majority and deduction of any Management Carve Out shall, (to the extent that the Company is lawfully able to do so) be distributed in the order of priority set out in Article 5 (Liquidation Preference). If it is not lawful for the Company to distribute its surplus assets in accordance with the provisions of these Articles, the Shareholders shall take any action required by the Investor Majority (including (but not limited to) any actions that may be

necessary to put the Company into voluntary liquidation so that Article 5 (Liquidation Preference) applies.

- 6.3 Upon an IPO, the proceeds of the IPO (whether in cash or shares received) remaining after meeting any costs or liability approved by the Investor Majority and deduction of any Management Carve Out shall be distributed (to the extent that the Company is lawfully able to do so) in the following order of priority:
  - 6.3.1 first, the Company shall pay to each holder of the B Series Shares in respect of each B Series Share as were held by them prior to the automatic conversion of such B Series Shares into Ordinary Shares pursuant to Article 7.1.2, an amount equal to £6.00 (being a multiple of three times the sum of the original B Series Share purchase price and A1 Series Share purchase price);
  - 6.3.2 second, the Company shall pay to each holder of the A1 Series Shares in respect of each A1 Series Share as were held by them prior to the automatic conversion of such A1 Series Shares into Ordinary Shares pursuant to Article 7.1.2, an amount equal to £20.00 (being a multiple of two times the original A Series Share purchase price); and
  - 6.3.3 third, the balance of such proceeds (up to a maximum of £100,000,000) shall be distributed to holders of B Series Shares and A1 Series Shares in respect of each B Series Share and A1 Series Share as were held by them prior to the automatic conversion of such shares pursuant to Article 7.1.2, *pari passu* as if the same constituted one class of share *pro rata* in proportion to the number of fully paid B Series Shares and A1 Series Shares held by them respectively; and
  - 6.3.4 fourth, the Company shall pay to each holder of the A Series Shares in respect of each A Series Share held as were held by them prior to the automatic conversion of such A Series Shares into Ordinary Shares pursuant to Article 7.1.2, an amount equal to £10.00 (being the original A Series Share purchase price).
- 6.4 In the event of a merger or consolidation of the Company (including any court approved scheme of arrangement under Part 26 of the Act (including any scheme or arrangement entered into in connection with any takeover bid by or for the Company)) in which the Equity Shareholders do not retain at least 40% of the voting powers in the surviving corporation, the provisions of Articles 6.3 shall apply *mutatis mutandis* and Article 7.1.3 shall also apply.
- 6.5 In the event of an Exit approved by the Board and the Investor Majority in accordance with the terms of these Articles (the "Proposed Exit"), all Equity Shareholders shall consent to, vote for, raise no objections to and waive any applicable rights in connection with the Proposed Exit ("Actions"). The Equity Shareholders shall be required to take all actions with respect to the Proposed Exit as are required by the Board to facilitate the Proposed Exit. Subject to Article 6.6, each Equity Shareholder shall be deemed to have irrevocably appointed any Director of the Company (or any other person who may be nominated by a majority by value of the B Shareholders and A1 Shareholders together) to be his agent and attorney to execute all necessary transfer(s) on his behalf, against receipt by the Company (on trust for such Equity Shareholder) of any purchase money due to such Equity Shareholder.
- 6.6 Such deemed appointment pursuant to Article 6.5 shall only apply in relation to SE in the event that SE fails to take any Action as soon as reasonably practicable after request by the Board.

## 7 RIGHTS ATTACHING TO SHARES

### 7.1 Conversion of Preferred Shares

- 7.1.1 Any holder of Preferred Shares shall be entitled, by notice in writing to the Company, to require conversion into Ordinary Shares of all of the Preferred Shares held by them at any time and those Preferred Shares shall convert automatically on the date of such notice (the "Conversion Date"). The holder may in such notice, state that conversion of its Preferred Shares into Ordinary Shares is conditional upon the occurrence of particular events (the "Conditions").
- 7.1.2 All of the Preferred Shares shall automatically convert into Ordinary Shares immediately prior to the occurrence of an IPO in accordance with Article 7.1.5.
- 7.1.3 All of the Preferred Shares shall automatically convert into Ordinary Shares in circumstances where Article 6.4 applies (and "Conversion Date" shall be construed accordingly).
- 7.1.4 In the case of (i) Article 7.1.1 or 7.1.3, within five Business Days after the Conversion Date or (ii) in the case of Article 7.1.2, at least five Business Days prior to the occurrence of the IPO, each holder of the relevant Preferred Shares shall deliver the certificate (or an indemnity in a form reasonably satisfactory to the Board in respect of any lost certificate(s)) in respect of the shares being converted for such shares to the Company at its registered office for the time being.
- 7.1.5 Where conversion is mandatory on the occurrence of an IPO, that conversion will be effective only immediately prior to such IPO (and "Conversion Date" shall be construed accordingly) and, if such IPO does not become effective or does not take place, such conversion shall be deemed not to have occurred. In the event of a conversion under Article 7.1.1, if the Conditions have not been satisfied or waived by the relevant holder by the Conversion Date such conversion shall be deemed not to have occurred.
- 7.1.6 In the event of a conversion under Article 7.1.2 or Article 7.1.3, on the Conversion Date the relevant Preferred Shares shall without further authority than is contained in these Articles stand converted into Ordinary Shares on the basis of one Ordinary Share for each Preferred Share held.
- 7.1.7 In the event of a conversion under Article 7.1.1, on the Conversion Date:
  - 7.1.7.1 the relevant A Series Shares shall without further authority than is contained in these Articles stand converted into Ordinary Shares on the basis of one Ordinary Share for each Series A Share held; and
  - 7.1.7.2 the relevant B Series Shares and the relevant A1 Series Shares shall without further authority than is contained in these Articles each stand converted into such number of Ordinary Shares as is obtained by:
    - 7.1.7.2.1 in relation to the relevant B Series Shares, multiplying the relevant number of B Series Shares by £2.00 (being the sum of original B Series Share purchase price and the par value of the A1 Series Shares) and dividing the result by the Preferred Share Conversion Price; and
    - 7.1.7.2.2 in relation to the A1 Series Shares, multiplying the relevant number of A1 Series Shares by £10.00 (being the original A Series Share purchase price) and dividing the result by the Preferred Share Conversion Price,

and the Ordinary Shares resulting from that conversion shall in all other respects rank *pari passu* with the existing issued Ordinary Shares;

7.1.8 In the event that the circumstances to which any of Articles 6.1, 6.2 or 6.3 arise and the Company is (i) not lawfully able to give effect to the distribution preference specified in such Article and/or (ii) not (for whatever reason) able to effect the priority of distribution specified in such Article, any holder of Preferred Shares shall be entitled to follow the procedure in Article 7.1.1 to require the conversion into Ordinary Shares of all the Preferred Shares in the Company. In such circumstances, the conversion ratio calculation specified in Article 7.1.7.2.1 and Article 7.1.7.2.2 shall be adjusted as is necessary to reflect a conversion ratio into Ordinary Shares of both the B Series Shares and A1 Series Shares which reflects the economic value of the relevant distribution preference as specified in Article 6.1, 6.2 or 6.3.

7.1.9 The Company shall on the Conversion Date enter the holder of the converted Preferred Shares on the register of members of the Company as the holder of the appropriate number of Ordinary Shares and, subject to the relevant holder delivering its certificate(s) (or indemnity) in respect of the Preferred Shares in accordance with this Article, the Company shall within 10 Business Days of the Conversion Date forward to such holder of Preferred Shares by post to his address shown in the register of members, free of charge, a definitive certificate for the appropriate number of fully paid Ordinary Shares.

## 7.2 Redemption - B Series Shares

7.2.1 Subject to the Act, the holder(s) of at least 66.6% of the B Series Shares acting together may require the Company by notice in writing (a "B Shareholder Redemption Notice") to redeem all of the B Series Shares at that time and, if any B Shareholder Redemption Notice is served, all the B Series Shares will immediately become due for redemption on the relevant date specified in such notice (subject to any restriction governing the Redemption Date as may be agreed by all B Shareholders) (the "Redemption Date").

7.2.2 On the B Shareholder Redemption Date the Company shall pay to each holder of B Series Shares the amount payable pursuant to sub-article 7.2.3 below in respect of such redemption and upon receipt of that amount each holder of B Series Shares shall surrender to the Company the certificate for its shares which are to be redeemed in order that they may be cancelled.

7.2.3 On the due date for redemption there shall be paid on each of the B Series Shares redeemed as aforesaid a sum equal to £6.00 (being a multiple of three times the sum of the original B Series Share purchase price and A1 Series Share purchase price) less any amount paid by the Company by way of dividend on each such B Series Share prior to the Redemption Date.

7.2.4 The B Series Shares held by a B Shareholder shall be deemed to be redeemed in the order that they were subscribed, with the B Series Shares subscribed most recently being redeemed first.

## 7.3 Voting

7.3.1 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 and on a vote on a written resolution, every member shall have:

- 7.3.1.1 in relation to each Ordinary Share that member holds, one vote for each Ordinary Share of which he is the holder;
  - 7.3.1.2 in relation to each A Series Share that member holds, one vote for each A Series Share of which he is the holder; and
  - 7.3.1.3 in relation to each B Series Share and A1 Series Share that member holds, a number of votes equal to the number of Ordinary Shares then issuable by the Company upon conversion of such shares pursuant to Article 7.1 (Conversion of Preferred Shares) for each B Series Share and A1 Series Share of which he is the holder.
- 7.3.2 The words "be entitled to" shall be inserted between the words "shall" and "vote" in regulation 57 of Table A.
- 7.3.3 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.

#### 7.4 Class Rights

- 7.4.1 The rights attached to the B Series 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 holders of not less than 60% of the B Series Shares in issue or (2) otherwise with the sanction of a resolution of the holders of not less than 60% of the B Series Shares in issue passed at a separate meeting of the B Shareholders.
- 7.4.2 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.
- 7.4.3 Provided that, without prejudice to the generality of this Article the special rights attached to the B Shares shall be deemed to be varied if the Company shall:
- 7.4.3.1 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 Permitted Share Option Schemes);
  - 7.4.3.2 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;
  - 7.4.3.3 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;

- 7.4.3.4 merge the business of the Company with any other person whether by way of disposal or acquisition;
- 7.4.3.5 alter its Memorandum and/or Articles of Association;
- 7.4.3.6 declare or pay any dividend or distribution on or in respect of any of its share capital;
- 7.4.3.7 take any steps to effect a Listing;
- 7.4.3.8 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;
- 7.4.3.9 incorporate or otherwise set up or acquire or dispose of any subsidiary or associated company; and
- 7.4.3.10 create any security or charge or grant any indemnity, surety or guarantee or like assurance of third party obligations.

## 8 ANTI-DILUTION PROTECTION

- 8.1 If at any time the Company issues any New Securities to parties at a subscription price per New Security which is less than £2.00 (being the sum of the original B Series Share purchase and the A1 Series Share purchase price) (which in the event that the New Security is not issued for cash shall be a price certified by the Company's auditors (acting as experts and not as arbiters) as being in their opinion the current cash value of the new consideration for the allotment of the New Securities) then the Preferred Share Conversion Price in respect of each B Series Share and A1 Series Share shall be equal to the New Security subscription price.
- 8.2 Immediately upon any adjustment of the Preferred Share Conversion Price the Company shall give written notice thereof to all holders of the applicable class of Preferred Share, setting forth in reasonable detail and certifying the calculation of such adjustment.

## 9 PAY TO PLAY

If the Company makes an issue of New Securities after the date on which the Articles are adopted (a "Further Issue") and:

- 9.1 a holder of B Series Shares or A1 Series Shares is entitled to participate in the Further Issue by virtue of its pre-emption rights (whether arising under these Articles or otherwise);
- 9.2 the holder of the B Series Shares or A1 Series Shares has an opportunity to participate in the Further Issue; and
- 9.3 the holder of the B Series Shares or A1 Series Shares in question does not subscribe for at least:
  - 9.3.1 their pro-rata amount of their respective ownership among all Preferred Shares in the case of an internal financing round; or
  - 9.3.2 their pro-rata amount of their respective ownership among all Equity Shares in the case of an external financing round; or
  - 9.3.3 an amount equal to that party's pro-rata holding (prior to the 2011 Investment Round) of the Series A Shares as set out in Appendix 1,

of their entitlement of the Further Issue (ignoring any rights which arise from the failure of another person to subscribe),

then all B Series Shares or A1 Series Shares held by that holder will, unless otherwise agreed by all B Shareholders, lose their right to the anti-dilution protection set out in Article 8 (Anti-Dilution Protection).

## 10 FURTHER ISSUES OF SHARES: PRE-EMPTION

- 10.1 The Equity Shares shall be under the control of the Directors and the Directors (subject to (i) section 551 of the Act and (ii) these Articles) may allot, grant options over, or otherwise dispose of or deal with any Relevant Securities to such persons and generally on such terms and in such manner as they think fit.
- 10.2 Subject to Article 10.5 and save for the allotment of shares pursuant to Article 7.1 (Conversion of Preferred Shares), or any allotment of Shares pursuant to the 2011 Investment Round, if the Company proposes to allot any Relevant Securities, those Relevant Securities shall not be allotted to any person unless the Company has first offered them to the B Series Shareholders on the same terms, and at the same price, as those Relevant Securities are being offered to other persons on a pari passu and pro rata basis to the number of B Series Shares held by the B Series Shareholders (as near as possible without involving fractions). The offer:
  - 10.2.1 shall be in writing, and give details of the number and subscription price of the Relevant Securities; and
  - 10.2.2 may stipulate that any B Series Shareholder who wishes to subscribe for a number of Relevant Securities in excess of the proportion to which each is entitled shall, in its acceptance, state the number of excess Relevant Securities ("Excess Securities") for which they wish to subscribe.
- 10.3 Any Relevant Securities not accepted by the B Series Shareholders pursuant to the offer made to them in accordance with Article 10.2 shall be used for satisfying any requests for Excess Securities made pursuant to Article 10.2. If there are insufficient Excess Securities to satisfy such requests, the Excess Securities shall be allotted to the applicants pro rata to the number of Equity Shares held by the applicants immediately before the offer was made to the B Series Shareholders in accordance with Article 10.2 (as nearly as possible without involving fractions or increasing the number of Excess Securities allotted to any B Series Shareholder beyond that applied for by him). After that allotment, any Excess Securities remaining shall be offered, subject to Article 10.1, to any other person as the Directors may determine at the same price and on the same terms as the offer to the holders of the B Series Shares.
- 10.4 In accordance with section 568 of the Act, sections 561 and 562 shall not apply to the Company.
- 10.5 The provisions of Articles 10.1 to 10.3 shall not apply to new shares issued or granted in order for the Company to comply with its obligations under these Articles or any share warrants granted by the Company.
- 10.6 In substitution for and to the exclusion of any existing authority under section 551 of the Act, but without prejudice to any previous exercise of any such authority, the Directors are (unless otherwise agreed by all B Shareholders) generally and unconditionally authorised for the purposes of section 551 of the Act, to exercise any power of the Company to allot and grant rights to subscribe for or convert securities into, or otherwise deal in, or dispose of any shares or any other relevant securities in the Company to any person, at any time and subject to any terms and conditions as the Directors think proper.

## **11 SHARE TRANSFERS**

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.

## **12 PERMITTED TRANSFERS**

### **12.1 Permitted transfers by Statoil**

12.1.1 Notwithstanding any other provisions of these Articles a transfer of any shares in the Company held by any member of the Statoil Group may be made between the member in the Group holding such shares and any other member in the Statoil 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 Statoil Group it shall forthwith transfer the relevant shares to a member of the Statoil Group.

12.1.2 Notwithstanding any other provision of these Articles a transfer of any shares in the Company held by any member of the Statoil Group may be made between the member in the Statoil Group holding such shares and any member of the Emerald 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 Emerald Group, it shall forthwith transfer the relevant shares to a member of the Emerald Group.

### **12.2 Permitted transfers by Emerald**

12.2.1 Notwithstanding any other provisions of these Articles a transfer of any shares in the Company held by any member of the Emerald Group may be made between the member in the Group holding such shares and any other member in the Emerald 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 Emerald Group it shall forthwith transfer the relevant shares to a member of the Emerald Group.

12.2.2 Notwithstanding any other provision of these Articles a transfer of any shares in the Company held by any member of the Emerald Group may be made between the member in the Emerald Group holding such shares and any member of the Statoil 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 Statoil Group it shall forthwith transfer the relevant shares to a member of the Statoil Group as the case may be.

### **12.3 Permitted transfers by Preferred Shareholders**

Notwithstanding any other provisions of these Articles a transfer of any shares in the Company held by an Preferred Shareholder may be made to an Associate of that Preferred 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 that Preferred Shareholder it shall forthwith transfer the relevant shares to the original Preferred Shareholder or an Associate of that Preferred Shareholder.

### **12.4 Permitted transfers by the Founders and Employee Members**

- 12.4.1 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, Statoil, Emerald, 3i and others dated 18 March 2002.
- 12.4.2 Subject to sub-article 12.4.1, any shares held by the Founders may only be transferred with the prior written consent of the Investor Majority.

### **13 RESTRICTIONS ON TRANSFER OF SHARES - ORDINARY SHARES**

#### **13.1 Ordinary Share Transfer Procedure**

- 13.1.1 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 as 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").
- 13.1.2 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.
- 13.1.3 The Sale Price of a Bad Leaver's shares shall not exceed the original subscription price of the Sale Shares.
- 13.1.4 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.
- 13.1.5 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.
- 13.1.6 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.

#### **13.2 Ordinary Shares - First Offer Round**

13.2.1 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.

13.2.2 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").

### **13.3 Ordinary Shares - Second Offer Round**

13.3.1 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.

13.3.2 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.

### **13.4 Ordinary Shares - Third Offer Round (B Shareholders)**

13.4.1 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 B Shareholders in the proportion as nearly as may be to the respective numbers of B Series Shares held by each B Shareholder.

13.4.2 Any Offer made by the Company under this sub-article will invite the relevant B 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").

### **13.5 Ordinary Shares - Fourth Offer Round (A1 Shareholders)**

13.5.1 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 A1 Shareholders who have stated in writing their willingness to purchase all the shares previously offered to them.

13.5.2 This offer will invite the relevant A1 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 A1 Series Shares held by the A1 Shareholders. This Offer will remain open for a further period of 21 days (the "Fourth Offer Period").

### **13.6 Ordinary Shares - Fifth Offer Round (A Shareholders)**

13.6.1 If at the end of the Fourth 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.

13.6.2 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 Series Shares held by the A Shareholders.

- 13.7 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.
- 13.8 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.
- 13.9 Any attempted transfer of Ordinary Shares not in accordance with the provisions of these articles shall be void and have no effect.
- 13.10 **Bad Leaver Provisions**
  - 13.10.1 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:
    - 13.10.1.1 all shares held by the Bad Leaver immediately before such cessation; and
    - 13.10.1.2 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).
  - 13.10.2 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.
- 13.11 If a Bad Leaver Notice is deemed to have been given pursuant to this Article 13 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

- 13.12 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.

#### **14 RESTRICTIONS ON TRANSFER OF SHARES - PREFERRED SHARES**

- 14.1 Any Preferred Shareholder wishing to transfer Preferred Shares ("a Proposing Transferor") other than in accordance with Article 10 (Further Issue of Shares: Pre-Emption) shall give to the remaining Shareholders of that class Preferred Share (the "Remaining Shareholders") notice in writing to that effect ("an Investor Transfer Notice").
- 14.2 The Remaining 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 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 Shareholders shall negotiate in good faith with a view to agreeing a price for the 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 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 14.3.
- 14.3 In the event of the Proposing Transferor receiving an offer for those Shares from a Third Party Purchaser, the Proposing Transferor shall be obliged to offer such shares to the Remaining 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 Shareholders in proportion as nearly as may be to the respective numbers of 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 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 Shareholders at the Third Party Price.
- 14.4 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.
- 14.5 If the Remaining Shareholders are unwilling to purchase the 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 shares to the Third Party Purchaser at a price which is no less than the Third Party Price.
- 14.6 Any attempted transfer of Shares not in accordance with the provisions of these Articles shall be void and have no effect.

#### **15 MANDATORY OFFER ON A CHANGE OF CONTROL**

- 15.1 Except in the case of Permitted Transfers and transfers pursuant to Article 13.10 (Bad Leaver Provisions), after going through the pre-emption provisions in Article 10, the provisions of Article 15.2 will apply if one or more Proposed Sellers propose to transfer in one or a series of related transactions any Equity Shares (the "Proposed Transfer") which would, if put into effect, result



in any Proposed Purchaser (and Associates of his or persons Acting in Concert with him) acquiring a Controlling Interest in the Company.

- 15.2 The Company shall give written notice (a "Proposed Sale Notice") to the other Shareholders at least 10 Business Days prior to the proposed sale date (the "Proposed Sale Date"). The Proposed Sale Notice shall set out, to the extent not described in any accompanying documents, the identity of the Proposed Purchaser, the purchase price and other terms and conditions of payment (but subject always to Articles 5 and 6), the Proposed Sale Date and the number of Shares proposed to be purchased by the Proposed Purchaser (the "Proposed Sale Shares").
- 15.3 The other Shareholders (each a "Remaining Shareholder") may, by written notice given to the Company within 5 Business Days of receipt of the Proposed Sale Notice, require the Company as agent for such Remaining Shareholder to procure that the Proposed Purchaser purchases all of the Shares held by that Remaining Shareholder on the same terms and conditions as those set out in the Proposed Sale Notice. Any Remaining Shareholder who has failed to accept the said offer within the specified period for acceptance shall be deemed to have rejected it.
- 15.4 If any Shareholder is not given the rights afforded to him by this Article, the Proposed Sellers shall not be entitled to complete their sale to the Proposed Purchaser and the Company will not register any transfer intended to carry out that sale into effect.
- 15.5 The Proposed Transfer is subject to the pre-emption provisions of Article 10 (Further Issues of Shares: Pre- Emption) but the purchase of the Proposed Sale Shares from Remaining Shareholders shall not be subject to Article 10 (Further Issues of Shares: Pre- Emption).

## 16 DRAG ALONG

- 16.1 If the holder(s) of a majority by value of the B Series Shares and A1 Series Shares acting together (the "Accepting Shareholders") agree to sell their Shares to a Proposed Purchaser (other than pursuant to Article 12 (Permitted Transfers)), then the provisions of this Article shall apply.
- 16.2 The Accepting Shareholders shall have the option (the "Drag Along Option") to require all the other holders of Shares (the "Called Shareholders") to sell and transfer all their Shares to the Proposed Purchaser or as the Proposed Purchaser shall direct in accordance with the provisions of this Article.
- 16.3 The Accepting Shareholders may exercise the Drag Along Option by giving a written notice to that effect (a "Drag Along Notice") to the Company (which the Company shall forthwith copy to the Called Shareholders) at any time before the transfer of the Shares held by the Accepting Shareholders to the Proposed Purchaser. A Drag Along Notice shall specify that the Called Shareholders are required to transfer all their Shares (the "Called Shares") under this Article, the person to whom they are to be transferred, the consideration for which the Called Shares are to be transferred (calculated in accordance with Article 16.5) and the proposed date of the transfer.
- 16.4 A Drag Along Notice shall be irrevocable but will lapse if for any reason there is not a sale of the Shares by the Accepting Shareholders to the Proposed Purchaser within 40 Business Days after the date of the Drag Along Notice. The Accepting Shareholders shall be entitled to serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 16.5 The consideration for which the Called Shareholders shall be obliged to sell the Called Shares shall be that to which they would be entitled if the total consideration proposed to be paid by the Proposed Purchaser were distributed in accordance with the provisions of Article 5 (Liquidation Preference).

- 16.6 Completion of the sale of the Called Shares shall take place on the same date proposed for the completion of the sale of the Accepting Shareholders' Shares unless all of the Called Shareholders and the Accepting Shareholders agree otherwise.
- 16.7 Each Called Shareholder shall be deemed to have irrevocably appointed any of the Investor Directors (or any other person who may be nominated by a majority by value of the B Shareholders and A1 Shareholders together) to be his agent and attorney to execute all necessary transfer(s) on his behalf, against receipt by the Company (on trust for such Called Shareholder) of the consideration payable for the Called Shares, to deliver such transfer(s) to the Proposed Purchaser (or as they may direct) as the holder thereof. After the Proposed Purchaser (or its nominee) has been registered as the holder, the validity of such proceedings shall not be questioned by any such person. Failure to produce a share certificate shall not impede the registration of shares under this Article 16.
- 16.8 The rights of pre-emption set out in Article 10 (Further Issues of Shares: Pre-emption) and any obligation to serve a Transfer Notice pursuant to Article 13 (Restriction of Transfer of Shares - Ordinary Shares) or an Investor Transfer Notice pursuant to Article 14 (Restrictions on Transfer of Shares - Preferred Shares) shall not apply to any transfer of Shares to a Proposed Purchaser (or as it may direct) pursuant to a sale for which a Drag Along Notice has been duly served.
- 16.9 Upon any person, following the issue of a Drag Along Notice, becoming a Shareholder of the Company pursuant to the exercise of a pre-existing option to acquire shares in the Company or pursuant to the conversion of any convertible security of the Company (a "New Member"), a Drag Along Notice shall be deemed to have been served on the New Member on the same terms as the previous Drag Along Notice who shall then be bound to sell and transfer all such shares acquired by him to the Proposed Purchaser or as the Proposed Purchaser 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 immediately upon the Drag Along Notice being deemed served on the New Member.

## 17 CO-SALE

- 17.1 No transfer (other than a transfer pursuant to Article 12 (Permitted Transfers), Article 16 (Drag Along) and Article 15 (Mandatory Offer on a Change of Control) of any of the Equity Shares may be made or validly registered unless the relevant Shareholder (a "Selling Shareholder") shall have observed the following procedures of this Article.
- 17.2 After the Selling Shareholder has gone through the pre-emption process set out in Article 13 (Restriction on Transfer of Shares - Ordinary Shares) or Article 14 (Restriction on Transfer of Shares - Preferred Shares) (as appropriate), the Selling Shareholder shall give to each holder of the same class or classes of Equity Shares which the Selling Shareholder is proposing to sell who has not taken up their pre-emptive rights under Article 13 or 14 (as appropriate) (an "Equity Holder") not less than 15 Business Days' notice in advance of the proposed sale (a "Co-Sale Notice"). The Co-Sale Notice shall specify:
- 17.2.1 the identity of the proposed purchaser (the "Buyer");
  - 17.2.2 the price per Equity Share for each class of Equity Share which the Buyer is proposing to pay;
  - 17.2.3 the manner in which the consideration is to be paid;
  - 17.2.4 the number of Equity Shares of each class which the Selling Shareholder proposes to sell; and

17.2.5 the address where the counter-notice should be sent.

- 17.3 Each Equity Holder shall be entitled within five Business Days after receipt of the Co-Sale Notice, to notify the Selling Shareholder that in respect of each class of Equity Share which the Selling Shareholder is proposing to sell, they wish to sell a certain number of Equity Shares of that class held by them at the proposed sale price by sending a counter-notice which shall specify the number of Equity Shares which such Equity Holder wishes to sell. The maximum number of Equity Shares (in respect of each class of Equity Share which the Selling Shareholder is proposing to sell) which an Equity Holder can sell under this procedure shall be:

$$\left( \frac{X}{Y} \right) \times Z$$

Where:

- X is the number of Equity Shares of that class (on a fully diluted basis) held by the Equity Holder;
- Y is the total number of Equity Shares of that class (on a fully diluted basis); and
- Z is the number of Equity Shares of that class the Selling Shareholder proposes to sell.

Any Equity Holder who does not send a counter-notice within such five Business Day period shall be deemed to have specified that they wish to sell no Equity Shares.

- 17.4 Following the expiry of five Business Days from the date the Equity Holders receive the Co-Sale Notice, the Selling Shareholder shall be entitled to sell to the Buyer on the terms notified to the Equity Holders in respect of each class of Equity Share a number of shares not exceeding the number specified in the Co-Sale Notice less any shares which Equity Holders have indicated they wish to sell, provided that at the same time the Buyer (or another person) purchases from the Equity Holders the number of shares they have respectively indicated they wish to sell on terms no less favourable than those obtained by the Selling Shareholder from the Buyer and set out in the Co-Sale Notice.
- 17.5 No sale by the Selling Shareholder shall be made pursuant to any Co-Sale Notice more than three months after service of that Co-Sale Notice.
- 17.6 Sales made in accordance with this Article 17 shall not be subject to Article 13 (Restriction on Transfer of Shares - Ordinary Shares) or Article 14 (Restriction on Transfer of Shares - Preferred Shares..

## 18 PROCEEDINGS AT GENERAL MEETINGS

- 18.1 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.
- 18.2 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.

- 18.3 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 an Investor or a proxy or duly authorised representative of an Investor, shall be a quorum.
- 18.4 It shall not be necessary to give any notice of an adjourned meeting and Regulation 45 of Table A shall be construed accordingly.
- 18.5 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.

## 19 APPOINTMENT OF DIRECTORS

- 19.1 Notwithstanding any other provisions of these Articles, Emerald and SE as B Series Shareholders ("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 each 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.
- 19.2 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 an independent, non-executive director (the "Independent Director") and two persons acceptable to the board acting reasonably as executive directors (the "Executive Directors").

## 20 NUMBER OF DIRECTORS

Unless otherwise determined by the Investor Majority the maximum number of directors shall be nine and shall consist of the Investor Directors, the Independent Director and the Executive Directors.

## 21 MEETINGS OF DIRECTORS

- 21.1 Notice of every meeting of the directors shall be given to each director at any address supplied by him to the Company for that purpose whether or not he be present in the United Kingdom provided that any director may waive notice of any meeting either prospectively or retrospectively and if he shall do so it shall be no objection to the validity of such meeting that notice was not given to him. 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.
- 21.2 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. 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.

## 22 DIRECTORS

- 22.1 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 Act to issue debentures, debenture stock and other securities including any right to subscribe for, or to convert any securities into, shares in the Company (including without limitation options and warrants) as security for any debt, liability or obligation of the Company or of any third party or otherwise.
- 22.2 Without prejudice to the obligation of any director to disclose his interest in accordance with the 2006 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.
- 22.3 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.
- 22.4 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.

## 23 DIRECTORS' CONFLICTS OF INTEREST

- 23.1 The directors may, in accordance with the requirements set out in this Article, authorise any matter or situation proposed to them by any director which would, if not authorised, involve a director breaching his duty under section 175 of the Act to avoid conflicts of interest ("Conflict").
- 23.2 Any authorisation under this Article will be effective only if:
  - 23.2.1 the matter in question shall have been proposed by any director for consideration at a meeting of directors in the same way that any other matter may be proposed to the directors under the provisions of these Articles or in such other manner as the directors may determine;
  - 23.2.2 any requirement as to the quorum at the meeting of the directors at which the matter is considered is met without counting the director in question; and
  - 23.2.3 the matter was agreed to without his voting or would have been agreed to if his vote had not been counted.
- 23.3 Any authorisation of a Conflict under this Article may (whether at the time of giving the authorisation or subsequently):
  - 23.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised;
  - 23.3.2 be subject to such terms and for such duration, or impose such limits or conditions as the directors may determine; and
  - 23.3.3 be terminated or varied by the directors at any time.

This will not affect anything done by the director prior to such termination or variation in accordance with the terms of the authorisation.

- 23.4 In authorising a Conflict the directors may decide (whether at the time of giving the authorisation or subsequently) that if a director has obtained any information through his involvement in the Conflict otherwise than as a director of the Company and in respect of which he owes a duty of confidentiality to another person, the director is under no obligation to:

23.4.1 disclose such information to the directors or to any director or other officer or employee of the Company; or

23.4.2 use or apply any such information in performing his duties as a director;

where to do so would amount to a breach of that confidence.

- 23.5 Where the directors authorise a Conflict they may (whether at the time of giving the authorisation or subsequently) provide, without limitation, that the director:

23.5.1 is excluded from discussions (whether at meetings of directors or otherwise) related to the Conflict;

23.5.2 is not given any documents or other information relating to the Conflict; and

23.5.3 may or may not vote (or may or may not be counted in the quorum) at any future meeting of directors in relation to any resolution relating to the Conflict.

- 23.6 Where the directors authorise a Conflict:

23.6.1 the director will be obliged to conduct himself in accordance with any terms imposed by the directors in relation to the Conflict; and

23.6.2 the director will not infringe any duty he owes to the Company by virtue of sections 171 to 177 of the Act provided he acts in accordance with such terms, limits and conditions (if any) as the directors impose in respect of its authorisation.

- 23.7 A director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director), to account to the Company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the directors or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.

## 24 INDEMNITIES

- 24.1 Subject to the provisions of the Act, but without prejudice to any indemnity to which a director may otherwise be entitled, each 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 Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a director or other officer of the Company or any company that is a trustee of an occupational pension scheme (as defined in section 235(6) of the Act) in the actual or purported execution and/or discharge of his duties, or in relation thereto including any liability incurred by him in defending any civil or criminal proceedings, in which judgement is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court

grants him relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's affairs.

- 24.2 The Company may 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.
- 24.3 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 24 is to be considered.
- 24.4 For the purposes of this Article:
  - 24.4.1 "Associated Company" means a company which is the Company's Subsidiary, or the Company's Holding Company, or a Subsidiary of the Company's Holding Company; and
  - 24.4.2 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)".

## 25 SERVICE OF NOTICES

- 25.1 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 the 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.
- 25.2 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.

This is the Appendix referred to in the foregoing Articles of Association of Pelamis Wave Power Limited

<b>Party</b>	<b>Pro-rata holding (in £'000) (prior to the 2011 Investment Round) of Series A Shares</b>
Emerald Energy Fund 1 LP	468
Emerald Sustainability Fund LP	142
SPG	189
Statoil Venture	720
3i	282
Carbon Trust	210
New Energies Invest	148
Nettuno Power	265
GE	80
PUK	121
Sigma Innovation	23
Sigma Sustainable Energies	46
Commons Capital	20
Impax Environmental Markets (Ireland) Fund	44
Impax Environmental Markets plc	77
Tudor	231
Nutraco/BlackRock	627
Kaupthing Bank (Vantania)	36
Colin Moynihan	67
Phil Metcalf	10
Scottish Enterprise	184