

THE SOUTH TEES DEVELOPMENT CORPORATION  
(LAND AT THE FORMER REDCAR STEELWORKS, REDCAR)  
COMPULSORY PURCHASE ORDER 2019

Witness Statement of Simon Melhuish-Hancock

**Appendix 7:           SHA.**



SHEARMAN & STERLING<sub>LLP</sub>

Private & Confidential

Dated 24 March 2011

**TATA STEEL UK LIMITED (1)**

**SAHAVIRIYA STEEL INDUSTRIES UK LIMITED (2)**

**- and -**

**REDCAR BULK TERMINAL LIMITED (3)**

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**PORTCO SHAREHOLDERS' AGREEMENT**

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**WE HEREBY CERTIFY THIS TO BE  
A TRUE COPY OF THE ORIGINAL**

*K O'Neill*  
**KATHERINE O'NEILL**  
**SOLICITOR**

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**THIS AGREEMENT** is made as a Deed on 24 March 2011

**BETWEEN:**

- (1) **TATA STEEL UK LIMITED** a company incorporated in England and Wales with company number 02280000 whose registered office is at 30 Millbank, London SW1P 4WY ("**Tata Steel**");
- (2) **SAHAVIRIYA STEEL INDUSTRIES UK LIMITED** a company incorporated in England and Wales with company number 07381674 whose registered office is at Millenium Bridge House, 2 Lambeth Hill, London EC4V 4AJ ("**SSI UK**"); and
- (3) **REDCAR BULK TERMINAL LIMITED** a company incorporated in England and Wales with company number 07402297 whose registered office is at Millenium Bridge House, 2 Lambeth Hill, London EC4V 4AJ ("**Portco**"),

each a "**party**" and together the "**parties**".

**RECITALS:**

- (A) On 24 February 2011, Tata Steel, SSI UK, Portco and Sahaviriya Steel Industries Public Co. Ltd entered into a sale and purchase agreement pursuant to which, *inter alia*, Tata Steel agreed to sell, and Portco agreed to purchase, the Business and the Assets upon the terms and conditions specified therein (the "**Sale and Purchase Agreement**").
- (B) Portco is a newly formed joint venture company which will be owned 50 per cent. by Tata Steel and 50 per cent. by SSI UK from Completion. This agreement governs, *inter alia*, the relationship of Tata Steel and SSI UK as Shareholders of Portco from Completion, and sets out the terms upon which the parties have agreed to carry on the Business (the "**Agreement**").
- (C) SSI UK currently holds 2 Ordinary Shares of £1.00 each in the capital of Portco. At Completion, the parties intend that: (i) 1 Ordinary Share be transferred by SSI UK to Tata Steel; (ii) the Ordinary Shares be reclassified as Voting Shares; (iii) the Closing A Ordinary Shares be allotted and issued to Tata Steel; and (iv) the Closing B Ordinary Shares be allotted and issued to SSI UK, in accordance with the terms of the Sale and Purchase Agreement and this Agreement, and in compliance with the Articles.

NOW THEREFORE IT IS AGREED as follows:

**1. THE BUSINESS**

- 1.1 Unless otherwise stated, all terms and expressions used in this Agreement (including in the recitals) shall have the meanings as set out in Schedule 1 (Definitions and Interpretation).
- 1.2 Portco's primary purpose is to own the Redcar Ore Terminal, and to manage the day-to-day operation of the Redcar Ore Terminal for the purpose of providing: (a) services to the Shareholders under the Port Services Agreement or any similar services to Third Parties; and (b) port agency services to vessel owners or charterers, in as cost

efficient manner as possible on, and subject to, the terms of this Agreement (the "**Business**").

1.3 Each Shareholder shall procure that:

- (a) Portco carries on the Business in accordance with this Agreement (and, in particular, with the Business Plan) and all applicable laws and consistently with good business practice and prudent industry practices;
- (b) any member of its Group shall deal with Portco on an arm's length basis at all times, including without limitation, in accordance with the provisions set out in paragraph 3 of Schedule 4 (Tax); and
- (c) Portco implements and operates a code of conduct for the Business and its directors, officers and employees that is at least equivalent to the Tata Code of Conduct (excluding those provisions of the Tata Code of Conduct that are relevant only to Tata Steel and other members of its Group) (the "**Code of Conduct**").

1.4 The management and control of Portco shall be exercised in the United Kingdom and each Shareholder shall use all reasonable endeavours to ensure that Portco is treated for Tax purposes as resident in the United Kingdom.

1.5 Tata Steel and SSI UK intend to grant such space (under lease arrangements) for storage or other operations as Portco may require to facilitate expansion of its existing capacity, on such terms as may be agreed between the parties.

1.6 In respect of the services to be provided by Portco to the Shareholders under the Port Services Agreement (the "**Portco Services**"), Portco undertakes to each Shareholder not to Discriminate against a Shareholder, or otherwise treat one Shareholder in a manner more favourable than the other, except when different treatment is either: (a) necessitated on an ad hoc basis by operational or logistical constraints experienced by Portco acting as a reasonable, fair and prudent operator in the proper management, operation or maintenance of the Business; or (b) otherwise expressly permitted by the Port Services Agreement.

2. **COMPLETION**

2.1 Completion shall take place on the Completion Date in accordance with clause 6 of the Sale and Purchase Agreement.

2.2 At Completion the parties shall procure that such Board and Shareholder meetings of Portco are held as may be necessary to:

- (a) procure that Portco registers the transfer of 1 Ordinary Share from SSI UK to Tata Steel;
- (b) procure that the Ordinary Shares be reclassified as Voting Shares;
- (c) procure that Portco issues to Tata Steel, at par, the Closing A Ordinary Shares free from all Encumbrances, enters Tata Steel's name in its register of

members, and delivers share certificates to Tata Steel in respect of those Shares;

- (d) procure that Portco issues to SSI UK, at par, the Closing B Ordinary Shares free from all Encumbrances, enters SSI UK's name in its register of members, and delivers share certificates to SSI UK in respect of those Shares;
- (e) adopt the Articles in the agreed form;
- (f) appoint David Reid and Jira Chotinuchit as SSI UK Directors pursuant to clause 4, in addition to Mr. Win Viriyaprapaikit who is currently a Director;
- (g) appoint Jon Bolton, Nick Clarke and David Nicol as Tata Steel Directors pursuant to clause 4;
- (h) appoint David Venus & Company as the company secretary of Portco;
- (i) resolve that the registered office of Portco shall be at Steel House, Trunk Road, Redcar, TS10 5QW, United Kingdom;
- (j) appoint KPMG LLP as the auditors of Portco;
- (k) resolve that Portco's Financial Year shall end on 31 December in each year;
- (l) procure that Portco appoints David Reid (until 31 March 2011), Phil Dryden (with effect from 1 April 2011) and David Nicol as acting Senior Managers pursuant to the terms of their existing service contracts; and
- (m) ratify the execution by Mr. Win Viriyaprapaikit of the PD Ports Agreements on behalf of Portco.

2.3 At Completion, Portco shall adopt the Management Authorisation Policy, the HSE Policy, the Initial Business Plan and the Portco Pension Plan.

2.4 The final form of the Management Service Contracts shall be adopted by the Board on or as soon as reasonably practicable after Completion.

2.5 The parties waive, or agree to procure the waiver of, any rights or restrictions which may exist in the articles of association of Portco or otherwise which might prevent the allotment and issue or transfer of Shares to SSI UK and/or Tata Steel pursuant to clauses 2.2(c) and 2.2(d).

### 3. **CONDITIONS**

3.1 This Agreement is conditional and shall take effect immediately upon Completion.

### 4. **APPOINTMENT AND REMOVAL OF DIRECTORS**

4.1 From Completion, the Board shall, unless otherwise agreed by the Shareholders, comprise six directors, three of whom shall be appointed by Tata Steel (each a "**Tata Steel Director**"), and three of whom shall be appointed by SSI UK (each a "**SSI UK Director**").



- 4.2 The total number of Directors shall be not less than two nor more than ten, and the Board shall at all times be made up of an equal number of Tata Steel Directors and SSI UK Directors.
- 4.3 Each Director shall be entitled in accordance with Portco's Articles to appoint an alternate director of his choice to represent him in all respects.
- 4.4 A Shareholder may appoint a Director or remove a Director appointed by it by depositing written notice at Portco's registered office and by sending a copy, for information purposes only, to the other Shareholder. The appointment or removal takes effect on the date on which the notice is received by Portco or, if a later date is given in the notice, on that date.
- 4.5 If, in accordance with the terms of this Agreement, a Shareholder transfers or otherwise disposes of all of its Shares in Portco, clause 22.3(b) shall apply.
- 4.6 To the extent that a Director is removed from office, whether pursuant to this Agreement or the Articles, the Shareholder who appointed such Director shall indemnify and hold harmless the other Shareholder and Portco from and against all losses, liabilities and costs which they, or any of them, may incur as a result of, or in connection with, any claim by the Director for unfair or wrongful dismissal, redundancy or any other compensation that arises in respect of his loss of office as a Director.
- 4.7 If and whenever a Shareholder becomes bound to remove a Director pursuant to clause 22.3(b), and fails to do so within 7 days of becoming so bound, the other Shareholder (who is, as security for the obligation, hereby irrevocably and unconditionally appointed as the defaulting Shareholder's attorney for the purpose) may sign and deliver a notice of removal of that Director on behalf of the defaulting Shareholder in accordance with clause 4.4 and such notice shall take effect accordingly.
- 4.8 Each Shareholder shall, on a resolution of Portco to remove a Director, vote against such removal unless that Director is required to be removed or requested to be removed by his appointing Shareholder under any provision of this Agreement or the Articles. In the event of any resolution being proposed at any general meeting of Portco to remove any Director who has been appointed pursuant to the provisions of this clause 4, the Shareholder who appointed that Director shall (for so long as it holds any number of Voting Shares and unless that Director is required to be removed or requested to be removed by his appointing Shareholder under any provision of this Agreement or the Articles) constitute a quorum (in respect of that business of the meeting only) and furthermore, for such business, such Shareholder, whether on a show of hands or a poll, shall be entitled to cast such number of votes as is necessary to pass or defeat the proposed resolution.

## **5. PROCEEDINGS OF DIRECTORS AND RESERVED MATTERS**

- 5.1 The Board shall meet in the United Kingdom at least once a month, or more frequently as may be required.

- 5.2 Unless waived by all Directors, not less than 10 Business Days' notice of all meetings shall be given to each Director entitled to receive the same. In each case, the notice shall be accompanied by an agenda specifying in reasonable detail the matters to be raised at the meeting, and copies of any papers to be discussed at the meeting. Matters not on the agenda, or business conducted in relation to those matters, may not be raised at a meeting of Directors unless otherwise agreed in writing by all of the Directors whether present at the meeting or not.
- 5.3 The quorum at any meeting of the Board (including adjourned meetings) is one Eligible Tata Steel Director (or his alternate) and one Eligible SSI UK Director (or his alternate).
- 5.4 No business shall be conducted at any meeting of the Board unless a quorum is present at the beginning of the meeting and at the time when there is to be voting on any business. If a quorum is not present within 30 minutes after the time specified for a Board meeting in the notice of the meeting then the meeting shall be adjourned for 7 Business Days at the same time and place.
- 5.5 The first Chairman of the Board shall be Jon Bolton, who shall hold office until one year from the date of this Agreement. From each anniversary thereafter, the post of Chairman of the Board will be held in alternate years by a Tata Steel Director or by a SSI UK Director, as nominated by the relevant Shareholder, and the Chairman from the first anniversary of the date of this Agreement to the second anniversary of the date of this Agreement shall be nominated by SSI UK.
- 5.6 In the case of an equality of votes at any meeting of the Board, the Chairman shall not be entitled to a second or casting vote. If the Chairman for the time being is unable to attend any meeting of the Board, the Shareholder who appointed him shall be entitled to appoint another of its appointed Directors to act as Chairman of the meeting.
- 5.7 Subject to clauses 5.8 and 8.12(b), at each meeting of the Board and in respect of each resolution proposed to the Board, each Director shall have one vote. Subject to clause 8.12(b), all decisions of the Board shall require the unanimous approval of all of the Eligible Directors at that meeting.
- 5.8 In the event that any Directors (or their relevant alternates) appointed by a Shareholder do not attend a meeting of the Board or a committee thereof (a "**Non-Attending Director**") any other Director appointed by that Shareholder present at such meeting shall be entitled, in addition to their own vote, to additionally cast the vote(s) of the Non Attending Director(s).
- 5.9 Any Director appointed pursuant to this Agreement and the Articles shall be entitled to supply details of any business transacted at Board meetings or committee meetings and any information which may come into his possession in his capacity as a Director to the Shareholder by whom he was appointed, subject always to the provisions of clause 25.
- 5.10 The Directors shall not be entitled to any remuneration or fee other than reimbursement of reasonable expenses incurred in the performance of their duties as Directors (and for these purposes the time costs of the Directors shall not qualify as an expense).

- 5.11 The Board has responsibility for the supervision and management of Portco and the Business but shall, in accordance with Schedule 2 (Reserved Matters) to this Agreement, obtain the prior written approval of each Shareholder before taking any action with regard to any of the Reserved Matters. Where the Board wishes to take any action relating to a Reserved Matter, it (or any Director) shall send to each Shareholder a notice outlining in sufficient detail the nature of the Reserved Matter and requesting confirmation from each Shareholder that it consents to the Board's proposed actions.
- 5.12 Notwithstanding any other provision of this clause 5:
- (a) the consent of a Shareholder (the "**Conflicted Shareholder**") shall not be required in respect of any Reserved Matter which relates to the amendment of, enforcement of, or a decision to refrain from enforcing, any rights of Portco against such Shareholder or any other member of its Group under this Agreement, the Port Services Agreement, the Portco Transitional Services Agreements, the Portco Resource Sharing Agreement, or any other obligations owed by such Shareholder or any other member of its Group to Portco (other than any decision by Portco to terminate the Stacker Reclaimer Side Agreement in accordance with clause 4.2(a) of that agreement) ("**Conflict Matters**"); and
  - (b) the Conflicted Shareholder shall procure that the Directors appointed by such Conflicted Shareholder shall recuse themselves from attending or voting at any meeting of the Board (or the relevant part of such meeting) or upon any resolution of the Directors which relates to a Conflict Matter and the quorum requirements under clause 5.3 shall be deemed to have been amended accordingly for such purpose.

## 6. MANAGEMENT AUTHORISATION POLICY

- 6.1 The Portco Management Team shall operate the Business in accordance with the Management Authorisation Policy contained at Appendix I. The Shareholders shall procure that the Management Authorisation Policy is adopted by the Board upon Completion in accordance with clause 2.3 and shall procure that their respective appointed Directors shall, so far as it is within each of their respective powers as a Director, enforce the Management Authorisation Policy.

## 7. PROCEEDINGS OF SHAREHOLDERS

- 7.1 No general meeting of the Shareholders may proceed to business unless a quorum is present at the start of and throughout such meeting. A quorum at a general meeting shall be a duly authorised representative of each Shareholder (whether present in person or by their respective proxies or duly authorised representatives).
- 7.2 In the event that a quorum of Shareholders is not so present at the start of and throughout a duly convened general meeting, the meeting shall be adjourned for 7 Business Days at the same time and place in accordance with the Articles.
- 7.3 The presiding Chairman of the Board shall also act as Chairman of the general meeting. In the case of an equality of votes at any general meeting, the Chairman

shall not be entitled to a second or casting vote. If the Chairman for the time being is unable to attend any general meeting, the Shareholder who appointed him shall be entitled to appoint another of its nominated Directors to act as Chairman of the general meeting.

- 7.4 Subject to clause 8.12(e), any and all resolutions proposed at any general meeting shall require the unanimous approval of the Shareholders.
- 7.5 Each Shareholder shall have one vote on any resolution proposed at any general meeting, save where a poll is demanded in accordance with the Articles.

## 8. FUNDING

- 8.1 Save as otherwise provided in this clause 8 or clause 9, neither Tata Steel nor SSI UK shall be obliged to contribute funds or participate in any guarantee or similar obligation for the benefit of Portco.
- 8.2 Save in respect of Discretionary Investments and unless otherwise agreed by both Shareholders, contributions to the funding of Portco made by either or both of the Shareholders pursuant to this clause 8 shall be made by way of Shareholder Loans and the following provisions shall apply:
- (a) to the extent required pursuant to this clause 8, Shareholder Loans shall be made to Portco simultaneously by both Shareholders, at such time(s) as the Board may direct by giving the Shareholders not less than 30 Business Days notice;
  - (b) each Shareholder Loan made simultaneously shall bear the same rate of interest;
  - (c) any payments of interest and/or principal in respect of the Shareholder Loans shall (save as set out in clause 22) be made simultaneously to each Shareholder pro rata to the principal amount outstanding and accrued interest under the Shareholder Loans provided by each Shareholder; and
  - (d) for the avoidance of doubt, the terms on which the Shareholder Loans are required to be made shall be on an arm's length and commercial basis including, without limitation, in accordance with the provisions set out in paragraph 3 of Schedule 4.

## Working Capital

- 8.3 The parties envisage that Portco's working capital requirements, excluding any working capital comprised in, or relating to, a Discretionary Investment ("**Ordinary Working Capital**"), will be financed from the cash flow of the Business (including, in respect of Portco's initial Ordinary Working Capital requirements, by way of advances to Portco of service charges payable pursuant to the Port Services Agreement) and/or from any profits retained in accordance with the Business Plan from time to time. If at any time further contributions to Portco's Ordinary Working Capital are required to make up any shortfall in the Ordinary Working Capital requirements of the Business, as notified by the Board to the Shareholders, and the

Shareholders both agree to fund such shortfall, then the Shareholders shall fund such shortfall in the ratio of 2:10 (Tata Steel: SSI UK). In the event that either Shareholder fails to provide such further contributions, then the provisions of clause 18 shall apply.

### **Maintenance Capex**

- 8.4 The parties envisage that Portco's Maintenance Capex requirements will be financed from service charges payable pursuant to the Port Services Agreement and/or from any profits retained in accordance with the Business Plan from time to time. If at any time further contributions to Maintenance Capex are required to make up any shortfall in the Maintenance Capex requirements of the Business, as notified by the Board to the Shareholders, and the Shareholders both agree to fund such shortfall, then the Shareholders shall fund such shortfall in the ratio of 2:10 (Tata Steel: SSI UK). In the event that either Shareholder fails to provide such further contributions, then the provisions of clause 18 shall apply.

### **Capex Projects and Discretionary Investments**

- 8.5 Based on proposals made by any Director, any Shareholder, or the Portco Management Team, any member of the Board may, from time to time, evaluate further investment opportunities in the Business including, but not limited to, proposals for expansion, cost reduction and other improvements, each such investment or series of related investments (which, for the avoidance of doubt, do not include any Ordinary Working Capital requirements of Portco under clause 8.3 or Maintenance Capex) being a "**Capex Project**".
- 8.6 In evaluating the potential costs and benefits to Portco of a proposed Capex Project, the Board (at the request of any Director) shall be required to either produce, or instruct the Portco Management Team to produce, at the cost of Portco, a feasibility report outlining: (a) the objectives of the Capex Project; (b) the estimated cost of purchasing, financing or improving (as applicable) the relevant asset; (c) the estimated cost of operating and maintaining the relevant asset; (d) any disruption to Business operations which the Capex Project may cause; (e) the cost savings and efficiency gains which the Portco Management Team and/or Board anticipate will result from the Capex Project; (f) the net present value of the Capex Project, discounted pay back period for the sum invested, and internal rate of return to be applied and expected to be achieved in respect of the Capex Project, together with a sensitivity analysis indicating the extent to which the assumptions contained within such report would need to change in order to reduce the expected returns of the Capex Project to a commercially unviable level; (g) the high level Tax implications of the Capex Project; (h) any health, safety, environmental or other risks which may arise from investment in, and operation of, the Capex Project; and (i) the timeframe for funding of the Capex Project (a "**Feasibility Report**"). The Board shall furnish each Shareholder with a copy of every Feasibility Report produced.
- 8.7 Following delivery by the Board to the Shareholders of a Feasibility Report, each Shareholder shall within 50 Business Days of receipt of the Feasibility Report communicate to the other Shareholder and Portco in writing whether it wishes to contribute funds towards the Capex Project which is the subject of that Feasibility Report (and if it fails to do so, it shall be deemed to have declined to participate in the

Capex Project). During this period (being the "**Feasibility Report Assessment Period**"), each Shareholder may freely raise questions with the Portco Management Team and/or the Board in order to obtain any further information that it requires in connection with its investment decision and shall provide a copy of any written information it may receive in response to such questions to the other Shareholder. For the avoidance of doubt, neither Shareholder shall be obliged to contribute to a Capex Project, and any decision to contribute to a Capex Project is made at a Shareholder's discretion.

- 8.8 Where both Shareholders decline to fund a Capex Project, Portco shall not proceed with that Capex Project.
- 8.9 Where both Shareholders decide to fund a Capex Project by giving written notice to Portco and each other in accordance with clause 8.7, they shall within 30 Business Days of the final day of the Feasibility Report Assessment Period seek to agree their respective share of funding for that Capex Project. If the Shareholders are unable to reach agreement within such period then the funding for that Capex Project shall be borne by the Shareholders in the ratio of 2:10 (Tata Steel: SSI UK).
- 8.10 Where any Capex Project is funded by a single Shareholder, or by both Shareholders but otherwise than in the ratio of 2:10 (Tata Steel: SSI UK), such Capex Project shall constitute a "**Discretionary Investment**" and the following provisions of this clause 8 shall apply. For the avoidance of doubt, each Capex Project which is not a Discretionary Investment shall be funded by the Shareholders by way of Shareholder Loans pursuant to clause 8.2 and shall be accounted for in the Notional Accounts.
- 8.11 Where one or both Shareholders decide to and actually do fund a Discretionary Investment, then the following provisions apply:
- (a) any incremental profits, cost savings, revenue or income of Portco which is or are identifiable, quantifiable and attributable to a Discretionary Investment ("**Discretionary Investment Benefits**") shall, to the extent so attributable, be credited to a separate account in the books of Portco, which account shall be adjusted monthly in arrears and which shall be clearly designated as relating solely to that Discretionary Investment (each such account, a "**Discretionary Investment Account**", to be in the form as appended hereto as Appendix IV);
  - (b) any incremental costs or expenses of Portco which are identifiable, quantifiable and attributable to a Discretionary Investment ("**Discretionary Investment Costs**") shall, to the extent so attributable, be charged to the relevant Discretionary Investment Account;
  - (c) any incremental Tax costs and/or benefits of Portco which are identifiable, quantifiable and attributable to a Discretionary Investment shall, to the extent so attributable, be charged or credited to the relevant Discretionary Investment Account in accordance with the principles set out above, such that Tax charges and reliefs of Portco, including capital allowances, related to the Discretionary Investment or to associated income, gains and expenses, shall be credited or charged to the relevant Discretionary Investment Account;

- (d) profits and losses attributable to a Discretionary Investment will be allocated in accordance with clause 9; and
- (e) subject to clause 8.12, and without prejudice to clause 9.6, the Board shall be responsible, subject to the Management Authorisation Policy, for supervising the ongoing day-to-day operation and maintenance of the Discretionary Investment, and decisions relating to that Discretionary Investment which are (in accordance with the Management Authorisation Policy) reserved to the Board shall be made by the Directors in the best interests of Portco as a whole, having regard to their duties under the Act and not with regard solely to the interests of the Investing Shareholder (as such term is defined in clause 8.12).

8.12 Where one Shareholder (an "**Investing Shareholder**") notifies the other and Portco in writing within the Feasibility Report Assessment Period that it wishes to fund a Discretionary Investment, but the other (the "**Non-Investing Shareholder**") does not within the Feasibility Report Assessment Period give written notice to the Investing Shareholder and Portco that it wishes to fund that Discretionary Investment, then:

- (a) the Non-Investing Shareholder shall not, unless both Shareholders agree otherwise, have any right or obligation subsequently to participate in any future funding or expenditure relating to that Discretionary Investment;
- (b) notwithstanding clause 5.7, the Directors appointed by the Investing Shareholder shall, on a resolution of the Board relating solely to the approval or funding of that Discretionary Investment, have two votes each, and each such resolution shall be decided by a majority of votes of the Directors. For the avoidance of doubt, this clause 8.12(b) shall not amend or vary the provisions of clause 5 in any other respect;
- (c) the Directors appointed by the Investing Shareholder shall act in the best interests of Portco as a whole, having regard to their duties under the Act and not with regard solely to the interests of the Investing Shareholder;
- (d) subject to the Directors' fiduciary duties, the Non-Investing Shareholder shall not, and shall procure that the Directors appointed by it shall not, take or omit to take any action (including, but not limited to, exercising voting or consent rights) such as to frustrate the initial or any future funding of a Discretionary Investment by the Investing Shareholder; and
- (e) except in relation to the approval of any Reserved Matter, if a resolution of the Shareholders is required to action a matter that relates solely to the approval or funding of a Discretionary Investment, the Investing Shareholder shall constitute a quorum (in respect of that business of the meeting only) and furthermore, for such business, the Investing Shareholder shall, whether on a show of hands or a poll, be entitled to cast such number of votes as is necessary to pass or defeat the proposed resolution and each such resolution shall be decided by a majority of votes of the Shareholders.

- 8.13 All Discretionary Investments shall be funded by way of subscription for new C Shares at par (including in cases where funding is phased or tranced) and the following provisions shall apply:
- (a) the Shareholder(s) shall fund both initial and any subsequent subscriptions on such date(s) as the Board may direct by giving the Shareholder(s) not less than 10 Business Days notice;
  - (b) where both Shareholders fund a Discretionary Investment, they shall subscribe for C Shares simultaneously; and
  - (c) in accordance with the Articles, different sub-classes of C Shares shall be allotted and issued by Portco in respect of each Discretionary Investment, such that C Shares allotted and issued in connection with the first (in time) Discretionary Investment undertaken by Portco shall be "C1 Shares", and C Shares allotted and issued in connection with the second Discretionary Investment undertaken by Portco shall be "C2 Shares", and so on (each such sub-class being a "**C Share Sub-Class**").
- 8.14 For the avoidance of doubt, any amounts received by Portco from a Shareholder via a subscription for C Shares may be applied only in funding the Discretionary Investment to which those C Shares (or that C Share Sub-Class, if there is more than one sub-class in issue) relate(s), and such amounts may not be used for any other purpose.
- 8.15 For the avoidance of doubt, the parties agree that any Discretionary Investment shall be used by Portco for the purposes of the Business and not for any other purpose.
- 8.16 If a Discretionary Investment becomes fully depreciated such that, for accounting purposes, its book value in the Discretionary Investment Accounts is zero (a "**Fully Depreciated Discretionary Investment**"), then Portco may, with the unanimous consent of the Shareholders, at any time thereafter, elect to treat the Fully Depreciated Discretionary Investment as a Capex Project on the following terms:
- (a) Portco shall cease to prepare Discretionary Investment Accounts for that Fully Depreciated Discretionary Investment, and instead that Fully Depreciated Discretionary Investment shall be accounted for in the Notional Accounts; and
  - (b) the C Shares (or C Share Sub-Class, if there is more than one sub-class in issue) relating to that Fully Depreciated Discretionary Investment shall be converted into A Ordinary Shares (in the case of Tata Steel) or B Ordinary Shares (in the case of SSI UK) pro rata to the Shareholders' respective holdings of the C Shares (or C Share Sub-Class).

For the avoidance of doubt, the non-agreement of the Shareholders on a proposal to treat a Fully Depreciated Discretionary Investment as a Capex Project shall not give rise to a Deadlock.



## 9. PROFIT AND LOSS SHARING

- 9.1 If and to the extent any Losses or Available Profits of Portco are attributable to a particular Discretionary Investment, such Losses or Available Profits (as applicable) shall be allocated to the relevant Investing Shareholder(s) in the Discretionary Investment Accounts relating to such Discretionary Investment (where applicable, pro rata to their respective holdings of the relevant C Share Sub-Class relating to such Discretionary Investment).
- 9.2 Save as the Shareholders may jointly otherwise agree in writing, each Shareholder undertakes to put Portco in funds for the portion of any Losses allocated to it pursuant to clause 9.1 on or before the date that is 30 days following the end of each Quarter. The mechanism of funding in each case shall be a non-refundable cash contribution to the capital of Portco and, for the avoidance of doubt, shall not give rise to any dilution of the voting rights of either Shareholder. Any funds contributed to Portco under this clause 9.2, being a non-refundable cash contribution to the capital of Portco, will be reflected in the accounts for Portco as a whole rather than solely in the relevant Discretionary Investment Accounts.
- 9.3 Following the application of any profits to reserve, and subject to clauses 9.4 and 9.9, in accordance with the Business Plan, the Available Profits of Portco shall, without resolution of the board of Directors or of Portco in general meeting, be applied in paying to the holders of the A Ordinary Shares, B Ordinary Shares and C Shares comprised in each C Share Sub-Class a dividend equal to the Dividend Percentage applicable to such class or sub-class of Shares. The Available Profits shall (to the extent accrued) in respect of each Dividend Period:
- (a) be payable on or before the date that is 60 days following the end of each Quarter (each a "**Dividend Payment Date**");
  - (b) be payable to the person registered as the holder of such Shares at the relevant Dividend Payment Date; and
  - (c) be apportioned among those holders (on the due date for payment) of such A Ordinary Shares, such B Ordinary Shares or the C Shares comprised in each such C Share Sub-Class according to the number of such Shares held by them.
- 9.4 Where a Shareholder has made a Default Loan to Portco under clause 18 (thereby being a Non-Defaulting Shareholder, and the other Shareholder being a Defaulting Shareholder, each as defined in clause 18), then the rights to any dividends or other distributions calculated in accordance with clause 9.3 that are due to be paid to the Defaulting Shareholder at any time after such Default Loan has been made shall, for so long as, and to the extent that, all or any part of such Default Loan (or any interest accrued thereon) remains outstanding, be deemed to have been waived by the Defaulting Shareholder and such dividends or other distributions shall instead be paid to the Non-Defaulting Shareholder by way of repayment of such Default Loan (and payment of such interest).
- 9.5 Where one or both of the Shareholders is required to make cash contributions to Portco pursuant to clause 9.2, Portco shall prepare such interim accounts following the making of such cash contributions as may be required under the Act for purposes

of paying any dividend in accordance with this Agreement and pursuant to the Articles.

- 9.6 Portco shall indemnify a Shareholder (an "**Indemnified Shareholder**") and its Directors, officers and employees in full for and against any Third Party Claims (including all legal expenses and other professional fees reasonably and properly incurred by the Indemnified Shareholder in connection therewith) to the extent arising, incurred or suffered by the Indemnified Shareholder or any of its Directors, officers or employees as a result of any Discretionary Investment having been made and, subject to clause 9.7, the Shareholder which funded such Discretionary Investment (the "**Indemnifying Shareholder**") undertakes to put Portco in funds to the extent required to enable Portco to satisfy such indemnity. The mechanism of funding in any such case shall be a non-refundable cash contribution to the capital of Portco and, for the avoidance of doubt, shall not give rise to any dilution of the voting rights of either Shareholder. Any funds contributed to Portco under this clause 9.6, being a non-refundable cash contribution to the capital of Portco, will be reflected in the accounts for Portco as a whole rather than solely in the relevant Discretionary Investment Accounts.
- 9.7 Where both Shareholders have funded a Discretionary Investment, each shall fund Portco under clause 9.6 pro rata to their respective holdings of the C Share Sub-Class relating to the relevant Discretionary Investment, provided that the Indemnifying Shareholder may at any time, by written notice to the other Shareholder and Portco, set off any then present liability of the Indemnifying Shareholder to fund Portco under this clause 9.7 against any liability of Portco to indemnify the Indemnifying Shareholder under clause 9.6 in respect of the same Discretionary Investment, irrespective of the currency of its denomination. If the liabilities to be set off are expressed in different currencies, the Indemnifying Shareholder may convert either liability at the mid-market spot rate for the purchase of the applicable conversion currency, as quoted in the Financial Times on the Business Day prior to the day on which the set off is carried out. Any exercise by the Indemnifying Shareholder of its rights under this clause shall be without prejudice to any other rights or remedies available to it under this Agreement or otherwise.
- 9.8 Save to the extent provided in clause 9.9 each Shareholder's respective total aggregate liability under the provisions of this clause 9 only in respect of a Discretionary Investment shall not exceed an amount equal to the aggregate of the amount paid-up and any amount required to be paid up by such Shareholder in respect of its entire holding of C Shares of the C Share Sub-Class relating to such Discretionary Investment from time to time (each a "**Cap**").
- 9.9 If and to the extent that, as a result of any Cap applicable to it under clause 9.8, a Shareholder would no longer be liable, but for this clause 9.9, to fund Portco under clause 9.2 and/or clause 9.6 in respect of a Discretionary Investment, such Shareholder shall nevertheless waive any rights it may otherwise have to dividends in respect of any of its Shares for so long as such Shareholder has outstanding obligations under clause 9.2 and/or clause 9.6, and the amounts representing such dividends shall instead be applied by Portco in satisfaction of such obligations (provided that if such amounts are insufficient to satisfy all such obligations in full, such amounts shall be applied against each obligation depending upon when such obligation first arose in time, with obligations arising first in time being satisfied first,

and where more than one obligation arose at the same time, such amounts shall be applied pro rata to the amount due in respect of such obligations).

## 10. **EXPERT DETERMINATION**

- 10.1 The Board shall at all times be responsible for identifying and calculating any Discretionary Investment Benefits and any Discretionary Investment Costs and for preparing and maintaining the Discretionary Investment Accounts. Should either Shareholder dispute: (a) the identification or calculation of any Discretionary Investment Benefits; (b) the identification or calculation of any Discretionary Investment Costs; (c) the basis of preparation or content of any of the Monthly Management Accounts; (d) the allocation of Available Profits or Losses pursuant to clause 9 or the Articles; or (e) any matter which is at the discretion of the Board pursuant to clause 8 (each of clauses 10.1(a) to 10.1(e) being an "**Expert Determination Matter**"), then that Shareholder may serve on Portco and the other Shareholder a written notice of dispute referring the Expert Determination Matter giving rise to the dispute to a nominated officer of the parent company or intermediate parent company of each Shareholder's Group for resolution and the Shareholders shall use all reasonable endeavours in good faith to resolve the dispute. If the dispute has not been resolved within 30 Business Days of service of such notice, then either Shareholder may refer the Expert Determination Matter to an independent chartered accountant appointed in accordance with paragraph 2 of Schedule 3 (Fair Market Value) for expert determination, in which case the provisions of paragraph 2 of Schedule 3 (Fair Market Value) shall apply *mutatis mutandis* to the instruction of an expert under this clause 10 (such that the references to "Fair Market Value" are replaced with references to "the Expert Determination Matter in dispute").

## 11. **THE BUSINESS PLAN**

- 11.1 The "**Business Plan**" is a business plan for Portco prepared annually by Portco and approved by the Board and it shall include the following information relating to the three subsequent Financial Years ("**Financial Year 1**", "**Financial Year 2**" and "**Financial Year 3**", respectively) following the Financial Year in which the Business Plan is produced (the "**Current Financial Year**"):
- (a) a cashflow statement giving an estimate of the company's Ordinary Working Capital requirements: monthly, for Financial Year 1; quarterly, for Financial Year 2; and annually for Financial Year 3 and any subsequent years covered by the Business Plan;
  - (b) a monthly projected profit and loss account for Financial Year 1, a quarterly projected profit and loss account for Financial Year 2, and an annual projected profit and loss account for Financial Year 3 and any subsequent years covered by the Business Plan;
  - (c) an operating budget (including capital expenditure requirements) and balance sheet forecast as follows: monthly, for Financial Year 1; quarterly, for Financial Year 2; and annually for Financial Year 3 and any subsequent years included covered by the Business Plan;

- (d) a management report giving business objectives for each Financial Year covered by the Business Plan;
  - (e) a financial report which shall include an analysis of the estimated results of Portco for the previous Financial Year compared with the Business Plan for the Current Financial Year, identifying variations in sales revenues, costs and other material items;
  - (f) a data schedule showing the key physical and financial assumptions used in the preparation of the Business Plan and the actual full year performance for the previous Financial Year together with the actual monthly performance for the Current Financial Year to-date up to the most recently available data as at the date of the Business Plan; and
  - (g) the Board's recommendations with respect to profit retention.
- 11.2 The initial Business Plan is appended hereto as Appendix II (the "**Initial Business Plan**") and shall be adopted at Completion in accordance with clause 2.3. As soon as practicable following Completion, the Board shall prepare a revised Business Plan for the remainder of the Financial Year to be approved by the Shareholders pursuant to clause 11.3(b).
- 11.3 The Business Plan for every other Financial Year shall be:
- (a) prepared by the Board not later than 60 days prior to the end of the preceding Financial Year; and
  - (b) approved by the Shareholders by agreement in writing or at a general meeting of Shareholders as soon as possible after it has been prepared.

## 12. ACCOUNTING

- 12.1 Portco shall at all times maintain accurate and complete accounting and other financial records including all corporation tax computations and related documents and correspondence with HM Revenue & Customs in accordance with the requirements of all applicable laws and generally accepted accounting principles applicable in the United Kingdom.
- 12.2 Each Shareholder shall be allowed access at all reasonable times to examine the books and records of Portco.
- 12.3 Portco shall supply each Shareholder with the financial information necessary to keep the Shareholders informed about the financial performance of the Business of Portco and in particular shall supply each party with:
- (a) a copy of Portco's monthly management accounts prepared in accordance with the laws applicable in and the accounting standards, principles and practices generally accepted in the United Kingdom (the "**Monthly Management Accounts**") within 7 Business Days of the end of the month to which they relate. The Monthly Management Accounts shall comprise:
    - (i) the monthly accounts for Portco as a whole;

- (ii) the Discretionary Investment Accounts; and
- (iii) monthly accounts for Portco as a whole excluding the effects of any Discretionary Investments (the "**Notional Accounts**"),

and each set of respective accounts shall include a profit and loss account, a balance sheet and a cashflow statement.

- (b) a copy of each year's Business Plan for approval in accordance with clause 11.3; and
  - (c) a copy of the audited accounts of Portco prepared in accordance with the laws applicable in and the accounting standards, principles and practices generally accepted in the United Kingdom, within 9 months of the end of the Financial Year to which the audited accounts relate.
- 12.4 Each Shareholder shall be entitled to require Portco, and Portco shall as soon as possible comply with such a request, to provide any documents, information and correspondence necessary (at the cost of the Shareholder making the request) to enable the relevant Shareholder to comply with filing, elections, returns or any other requirements of HM Revenue & Customs or of any other revenue or Tax authority.

### 13. **TAX**

- 13.1 The parties agree that Schedule 4 (Tax) hereto is hereby incorporated into this Agreement.

### 14. **INSURANCE**

- 14.1 Portco shall, unless the Shareholders otherwise consent in writing:
- (a) insure with insurance companies approved by the Board and keep so insured at all times Portco against appropriate risks in accordance with good commercial practice (such insurance to include cover against any liability of the Directors and their respective alternates in the performance of their respective duties to the fullest extent permitted by applicable law); and
  - (b) procure that the insurances maintained by Portco are reviewed by Portco's insurance brokers at least once in each calendar year and that all reasonable recommendations made by such insurance brokers in relation to such insurances are complied with.

### 15. **DEADLOCK AND DEADLOCK RESOLUTION**

- 15.1 There is a "**Deadlock**" if in respect of a Reserved Matter:
- (a) the Board or any Director sends the Shareholders a written request for approval of a Reserved Matter in accordance with clause 5.11, and one Shareholder (the "**Consenting Shareholder**") grants its written approval to that Reserved Matter, but the other Shareholder does not; and

- (b) not less than 14 days (and no more than 42 days) following the Board's or any Director's initial request for approval of a Reserved Matter pursuant to clause 15.1(a), the Board or any Director sends the Shareholders a second written request for approval of the same Reserved Matter, and within 14 days of such second written request (the "**Request Period**") the Consenting Shareholder grants its written approval to that Reserved Matter, but the other Shareholder does not,

and, for the avoidance of doubt, the failure by the Directors or Shareholders to agree on any other matter other than those outlined in clauses 15.1(a) and 15.1(b) shall not constitute a Deadlock.

15.2 Either Shareholder may within 30 Business Days of the end of the Request Period serve notice on the other Shareholder (a "**Deadlock Notice**");

- (a) stating that in its opinion a Deadlock has occurred; and
- (b) identifying the matter giving rise to the Deadlock (the "**Deadlock Matter**").

15.3 The Shareholders undertake that they shall:

- (a) on the date of service of the Deadlock Notice, refer the Deadlock Matter to, in the case of Tata Steel, the Long Products Hub Director of Tata Steel (or such other senior manager as Tata Steel may nominate in writing to SSI UK from time to time) and, in the case of SSI UK, the Managing Director of SSI UK for resolution;
- (b) if the Deadlock remains unresolved on the date that is 30 Business Days from the date of the Deadlock Notice, on such date refer the Deadlock Matter to, in the case of Tata Steel, the CEO of Tata Steel Europe and, in the case of SSI UK, the President of Sahaviriya Steel Industries Public Co. Ltd for resolution;
- (c) if the Deadlock remains unresolved on the date that is 60 Business Days from the date of the Deadlock Notice, seek settlement of that dispute by mediation. The language to be used in the mediation shall be English and the mediation shall take place in London, England but otherwise the mediation shall be in such form as the Shareholders may agree; and
- (d) use all reasonable endeavours in good faith to resolve the dispute.

15.4 If the Deadlock remains unresolved for 120 Business Days from the date of the Deadlock Notice (the "**Resolution Period**"), then either Shareholder may, within the period of 20 Business Days following the expiry of the Resolution Period, serve a further written notice (a "**Resolution Notice**") on the other. A Resolution Notice:

- (a) may not be revoked;
- (b) may not be served by a Shareholder who is in Material Breach pursuant to clause 18; and
- (c) may not be served before the first anniversary of the date of this Agreement.

- 15.5 A Resolution Notice is a notice served by one Shareholder on the other in which the server offers, at the price for each Share specified in the notice (in cash and not on deferred terms), to sell all of its Shares in Portco to the recipient of the notice (the "Offer").
- 15.6 The recipient of a Resolution Notice shall have 60 Business Days from receipt of the Resolution Notice to irrevocably accept the Offer.
- 15.7 If the recipient of the Resolution Notice does not irrevocably accept the Offer within the 60 Business Day period, then the Shareholder who served the Resolution Notice is required to purchase all of the Shares of the other Shareholder at the price specified in the Resolution Notice and in accordance with clause 22.
- 15.8 If both Shareholders serve a Resolution Notice under clause 15.4, the Resolution Notice containing the highest price per Share shall be effective.
- 15.9 The Shareholders shall at all times act in good faith towards each other in order to give effect to the spirit and intention of the provisions of this clause 15 and in particular shall not artificially manufacture Deadlocks.

## 16. TRANSFER OF SHARES

- 16.1 Save as provided in clause 17, no Shareholder shall transfer, grant any Encumbrance over, or otherwise dispose of or give any person any rights in or over any Share or interest in any Share in Portco unless it is permitted or required under this Agreement or the Articles and carried out in accordance with the terms of this Agreement and the Articles. The Shareholders shall procure that the Directors shall only register any transfer of Shares which complies with this clause 16.
- 16.2 A Shareholder may at any time transfer all (but not part) of its Shares in Portco:
- (a) where the transferor is one of Tata Steel or SSI UK, to a company which is a member of Tata Steel's Group or SSI UK's Group (as the case may be); or
  - (b) where the transferor is a member of Tata Steel's Group or SSI UK's Group, to Tata Steel or SSI UK (as the case may be) or another member of Tata Steel's Group or SSI UK's Group (as the case may be),
- provided that such Shareholder must:
- (c) procure that the transferee executes and delivers to the other Shareholder and Portco a Deed of Adherence; and
  - (d) provide a parent company guarantee or other security reasonably satisfactory to the other Shareholder (acting reasonably) in respect of the transferee's obligations under this Agreement, any Shareholder Loans, the Port Services Agreement, the Portco Resource Sharing Agreement (in the case of SSI UK) or the Portco Transitional Services Agreements (in the case of Tata Steel or SSI UK (as the case may be)).
- 16.3 If a Shareholder holding Shares transferred to it under clause 16.2 is about to cease to be a member of the Group to which it currently belongs, it shall without delay and

prior to it so ceasing to be member, notify Portco and the other Shareholder that such event will occur and shall transfer those Shares to a member of its current Group. Without prejudice to the rights and remedies of the other Shareholder under clause 18, in the event that such a Shareholder fails to transfer the relevant Shares to a member of its current Group, then the relevant Shares shall carry no rights as to voting, the receipt of dividends or the appointment of directors until such time as such a transfer has been made.

- 16.4 A Shareholder may in addition transfer all (but not part) of its Shares in Portco to any bona fide Third Party purchaser if it follows the steps outlined in clauses 16.5 to 16.11.
- 16.5 The Shareholder wishing to transfer its Shares (the "**Selling Shareholder**") shall give an irrevocable notice ("**Transfer Notice**") to the other party ("**Continuing Shareholder**") of the terms of the proposed transfer including:
- (a) the name and reasonable details of such proposed transferee (the "**Transferee**"); and
  - (b) the price (in cash) and the terms upon which it wishes to transfer its Shares.
- 16.6 If the Continuing Shareholder gives notice to the Selling Shareholder within 30 Business Days of receiving the Transfer Notice that it wishes to buy all the Selling Shareholder's Shares in Portco, the Continuing Shareholder shall have the right to do so at the price and on the terms specified in the Transfer Notice (such terms being equivalent or no less favourable to the terms offered by the Selling Shareholder to the Transferee).
- 16.7 The Continuing Shareholder is bound to buy all the Selling Shareholder's Shares when it gives notice to the Selling Shareholder under clause 16.6 that it wishes to do so. The sale and purchase of the Shares shall take place on the terms set out in clause 22.
- 16.8 If at the expiry of the period specified in clause 16.6, the Continuing Shareholder has not notified the Selling Shareholder that it wants to buy the Shares or if the Continuing Shareholder has expressly stated in writing that it does not wish to buy the Shares, the Selling Shareholder may transfer all its Shares in Portco to the Transferee at a price not less than the price specified in the Transfer Notice and upon terms no more favourable to the Transferee than the terms offered to the Continuing Shareholder provided that it does so within 2 months of the expiry of the period specified in clause 16.6.
- 16.9 The Selling Shareholder shall procure that, in relation to the Shares being sold in Portco, any Transferee shall before completion of such sale:
- (a) execute and deliver to the Continuing Shareholder and Portco a Deed of Adherence;
  - (b) acquire any Shareholder Loans made by the Selling Shareholder to Portco;
  - (c) assume all obligations of the Selling Shareholder under the Port Services Agreement via a novation or other appropriate contractual mechanism; and



- (d) obtain any regulatory approvals (including any antitrust approval or clearance required under the EU Merger Control Regulation or other applicable merger control regulation) required to be obtained prior to such transfer.
- 16.10 Each party undertakes (in respect of the Shares that it holds) to give, and to use its reasonable efforts to procure that shareholders in its Group give, the approvals required for the transfer of Shares under this clause.
- 16.11 References in this clause to Shares held by a party in Portco are to all the Shares in Portco held by that party and not to some only of those Shares.
- 17. **ENCUMBRANCES**
  - 17.1 A Shareholder (a "**Pledging Shareholder**") shall be entitled to grant a mortgage, charge (fixed or floating), pledge, lien or hypothecation over any Shares it may hold (a "**Permitted Encumbrance**").
  - 17.2 Portco shall, on the written request of a Pledging Shareholder, grant a mortgage, charge (fixed or floating), pledge, lien or hypothecation over any tangible movable property distinct and separable from the other assets of Portco and forming part of a Discretionary Investment funded by that Pledging Shareholder pursuant to clause 8.13, to the extent that such tangible movable property was not in existence prior to the making of that Discretionary Investment, provided that, for the avoidance of doubt, no such mortgage, charge, pledge, lien or hypothecation may be granted unless the terms on which it is granted are on an arm's length basis including, without limitation, in accordance with the provisions set out in paragraph 3 of Schedule 4 (a "**Discretionary Investment Encumbrance**").
  - 17.3 Clauses 17.1 and 17.2 are subject in all respects to the Pledging Shareholder:
    - (a) obtaining the prior written consent (not to be unreasonably withheld) of the other Shareholder (the "**Non-Pledging Shareholder**") to the form of pledge or other instrument under which the Permitted Encumbrance and/or Discretionary Investment Encumbrance will be granted (which pledge or other instrument shall include an obligation on the pledgee to act in accordance with clause 17.4, the "**Pledge Agreement**"); and
    - (b) providing both Portco and the Non-Pledging Shareholder with details of: (i) the identity of the relevant chargee, mortgagee, or pledgee (as applicable); (ii) the amount and term of the financing being secured; and (iii) such other information relating to the Permitted Encumbrance and/or Discretionary Investment Encumbrance as either Portco or the Non-Pledging Shareholder may reasonably request.
  - 17.4 Upon enforcement of a Permitted Encumbrance, the Non-Pledging Shareholder may make a request in writing to the pledgee under the Pledge Agreement (the "**Pledgee**") that the Pledgee execute and deliver to the Non-Pledging Shareholder and Portco a Deed of Adherence agreeing to be bound by this Agreement (including clause 9.2 hereto). For the avoidance of doubt, and notwithstanding clause 17.3(a), any Pledge Agreement entered into by a Shareholder under this clause 17 shall contain an

obligation on the Pledgee to act in accordance with this clause 17.4 immediately upon the request in writing of the Non-Pledging Shareholder.

## 18. MATERIAL BREACH

### 18.1 A "Material Breach" occurs where:

- (a) a Shareholder (the "**Defaulting Shareholder**") commits a material breach in performing or observing any of its obligations under this Agreement, and where such default is capable of remedy, it has not been so remedied to the reasonable satisfaction of the other Shareholder (the "**Non-Defaulting Shareholder**") within 90 Business Days after service of notice in writing from the Non-Defaulting Shareholder requesting remedy of such breach; or
- (b) the Defaulting Shareholder has committed or is committing a material breach of: (i) the Port Services Agreement; or (ii) the Portco Resource Sharing Agreement (in the case of SSI UK), which has led Portco to validly terminate the relevant agreement(s).

### 18.2 For the avoidance of doubt, the Shareholders acknowledge that the following circumstances constitute a material breach of this Agreement for the purposes of clause 18.1(a):

- (a) failure by a Shareholder to fund any Losses of Portco allocated to it pursuant to clause 9; and
- (b) failure by a Shareholder to fund Maintenance Capex, any Ordinary Working Capital required by Portco in accordance with clause 8.3, any Capex Project, or any Discretionary Investment where both Shareholders have agreed to fund that Maintenance Capex, Ordinary Working Capital or Capex Project, or a Shareholder has given notice in writing of its intention to fund that Discretionary Investment in accordance with clause 8, and been directed to so fund by the Board in accordance with clause 8.

### 18.3 Where a Material Breach occurs, the Defaulting Shareholder shall give notice in writing of such fact (a "**Notice of Material Breach**") to the Non-Defaulting Shareholder as soon as reasonably practicable and, if it does not, it is deemed to have given such notice on the date on which the Non-Defaulting Shareholder becomes aware of the Material Breach and in this circumstance the Non-Defaulting Shareholder shall notify the Defaulting Shareholder in writing of its discovery of the occurrence of the Material Breach (provided that any failure by the Non-Defaulting Shareholder to notify the Defaulting Shareholder shall not in any way affect the exercise by the Non-Defaulting Shareholder of its rights under this clause 18).

### 18.4 For a period of 30 Business Days after the date of service, or deemed service, of the Notice of Material Breach, the Shareholders may enter into discussions to attempt to resolve the issue giving rise to the Material Breach or to remedy the Material Breach.

- 18.5 Within 45 Business Days of the end of that 30 Business Day period the Non-Defaulting Shareholder may give notice in writing to the Defaulting Shareholder as follows:
- (a) where the Material Breach relates to the matters set out in clause 18.2, notifying the Defaulting Shareholder that the Non-Defaulting Shareholder will provide the whole of the amount that has not been provided by the Defaulting Shareholder on the terms set out in clause 18.7 (such amount of additional funding being provided by the Non-Defaulting Shareholder being the "**Excess Funding**");
  - (b) requiring the Defaulting Shareholder to sell all of the Shares held by the Defaulting Shareholder to the Non-Defaulting Shareholder at a price per Share equal to 90 per cent. of the amount of the Fair Market Value attributable to the Defaulting Shareholder; or
  - (c) requiring the Defaulting Shareholder to purchase all of the Shares held by the Non-Defaulting Shareholder at a price per Share equal to 110 per cent. of the amount of the Fair Market Value attributable to the Non-Defaulting Shareholder.
- 18.6 A notice served under clause 18.5 shall be irrevocable and shall bind the Shareholders to buy and sell the Shares, as the case may be, in accordance with clause 22.
- 18.7 Where the Non-Defaulting Shareholder has stated that it will provide the whole of the amount that has not been provided by the Defaulting Shareholder under clause 18.5(a), the Excess Funding will be provided by way of a shareholder loan made by the Non-Defaulting Shareholder to Portco (the "**Default Loan**"). The Default Loan shall be in the same form as a Shareholder Loan, save that it shall attract interest at the Default Interest Rate from and including the date the Default Loan was made up to and including the day the Default Loan is repaid. The Default Loan shall be repaid in accordance with clause 9.4.
- 18.8 Each Shareholder hereby waives its rights to receive payment of dividends or other distributions due to it from Portco in any period during which it is a Defaulting Shareholder in respect of the matters set out in clause 18.2 and the Non-Defaulting Shareholder has paid the Excess Funding by way of Default Loan, such period starting on the date on which the Non-Defaulting Shareholder makes the Default Loan and ending on the day on which all amounts due in respect of that Default Loan (including any interest accrued thereon) have been repaid in full in accordance with clause 9.4 (the "**Default Loan Period**"). A Shareholder shall cease to be a Defaulting Shareholder in respect of the matters set out in clause 18.2 on the repayment in full of all amounts due in respect of a Default Loan and the payment of all interest accrued thereon.
- 18.9 If a Non-Defaulting Shareholder has made a Default Loan in circumstances where a Shareholder has given notice in writing of its intention to fund a Discretionary Investment in accordance with clause 8 but failed to fund that Discretionary Investment, then during the relevant Default Loan Period the provisions of clauses 8.12(b), 8.12(c), 8.12(d) and 8.12(e) shall apply as if references to the "Investing

Shareholder" were references to the "Non-Defaulting Shareholder" and references to the "Non-Investing Shareholder" were references to the "Defaulting Shareholder".

## 19. CHANGE OF CONTROL

- 19.1 Where a Change of Control occurs, the Shareholder who suffers the Change of Control (the "**Changing Shareholder**") shall give notice in writing of such fact (a "**Notice on Change of Control**") to the other Shareholder (the "**Non-Changing Shareholder**") as soon as reasonably practicable and, if it does not, it is deemed to have given such notice on the date on which the Non-Changing Shareholder becomes aware of the Change of Control.
- 19.2 Within 90 Business Days after service, or deemed service, of the Notice on Change of Control, the Non-Changing Shareholder may give notice in writing to the Changing Shareholder requiring the Changing Shareholder to sell all of the Shares held by the Changing Shareholder to the Non-Changing Shareholder at a total price equal to the amount of the Fair Market Value attributable to the Changing Shareholder.
- 19.3 A notice served under clause 19.2 shall be irrevocable and shall bind the Shareholders to buy and sell the Shares, as the case may be, in accordance with clause 22. Where no such notice is served, the Non-Changing Shareholder shall be deemed to have accepted the Change of Control.

## 20. SHAREHOLDER INSOLVENCY EVENT

- 20.1 Where an Insolvency Event occurs, the Shareholder who suffers the Insolvency Event (the "**Insolvent Shareholder**") shall give notice in writing of such fact (a "**Notice on an Insolvency Event**") to the other Shareholder (the "**Solvent Shareholder**") as soon as reasonably practicable and, if it does not, it is deemed to have given such notice on the date on which the Solvent Shareholder becomes aware of the Insolvency Event.
- 20.2 Immediately upon the service, or deemed service, of the Notice on an Insolvency Event, the Solvent Shareholder may give notice in writing to the Insolvent Shareholder that:
- (a) the Insolvent Shareholder shall forthwith procure the resignation of all of the Directors appointed by it pursuant to clause 4, and it shall have no rights in respect of the day-to-day management or control of Portco pursuant to this Agreement or the Articles and the quorum requirements of clause 5.3 shall be amended accordingly;
  - (b) the Insolvent Shareholder shall exercise all votes attaching to its Voting Shares in Portco, whether in general meeting or otherwise, as the Solvent Shareholder may direct; and
  - (c) the Insolvent Shareholder shall have no rights in respect of the Reserved Matters or any veto rights to which the Shareholders are otherwise entitled by this Agreement or the Articles.
- 20.3 If a Secured Party or a bank or financial institution that is a lender to an Insolvent Shareholder enforces any Encumbrance it holds over the Shares of that Insolvent

Shareholder or shares in the capital of that Insolvent Shareholder, Clause 20.2 shall not apply for so long as that lender or the Insolvent Shareholder is continuing to perform and observe all of the obligations of the Insolvent Shareholder under this Agreement.

20.4 Clause 20.2 shall cease to apply in the event that:

- (a) the Insolvent Shareholder provides the Solvent Shareholder with satisfactory evidence (as determined by the Solvent Shareholder acting reasonably at all times) of its intention and ability to resume (or continue) performance of its obligations under the Port Services Agreement, Portco Resource Sharing Agreement (in the case of SSI UK), and this Agreement, provided that the Insolvent Shareholder shall indemnify Portco and the Solvent Shareholder in respect of any unremedied breaches by the Insolvent Shareholder of the Port Services Agreement, Portco Resource Sharing Agreement (in the case of SSI UK), and this Agreement; or
- (b) the Insolvent Shareholder's obligations under the Port Services Agreement, Portco Resource Sharing Agreement (in the case of SSI UK), and this Agreement are assumed by a Third Party in a manner reasonably satisfactory to the Solvent Shareholder, provided that such Third Party shall indemnify Portco and the Solvent Shareholder in respect of any unremedied breaches by the Insolvent Shareholder of the Port Services Agreement, Portco Resource Sharing Agreement (in the case of SSI UK), and this Agreement.

20.5 For the avoidance of doubt, this clause 20 is without prejudice to any other rights the Solvent Shareholder may have under this Agreement, including without limitation clauses 16 and 18.

## 21. TERMINATION

21.1 Except for the provisions which this clause states shall continue in full force after termination, this Agreement shall terminate:

- (a) subject to compliance with clause 16.2 where applicable, with respect to a Shareholder, when it shall have transferred all of the Shares held by it in accordance with the terms of this Agreement and the Articles so that all rights and liabilities of such Shareholder shall cease and shall be of no further effect; or
- (b) when a resolution is passed by the Shareholders or Portco's creditors, or an order made by a court or other competent body or person instituting a process that shall lead to Portco being wound up and its assets being distributed among Portco's creditors or shareholders.

21.2 The following provisions of this Agreement remain in full force after termination: Schedule 1 (*Definitions and Interpretation*); clause 13 (*Tax*); this clause 21; clause 25 (*Confidentiality*); clause 27 (*Entire agreement*); clause 29 (*Severability*); clause 30 (*Waiver and Consents*); clause 31 (*Variations*); clause 32 (*Costs*); clause 35 (*Notice*); clause 37 (*Language*); and clause 41 (*Governing Law and Jurisdiction*).

21.3 Termination of this Agreement shall not affect any rights or liabilities that the parties have accrued under it.

21.4 Where any party is required by any law, regulation or governmental or regulatory authority to retain any proprietary information (or copies of such information) of the other party or Portco, it shall notify the other party in writing of such retention giving details of the information that it has been required to retain.

## 22. COMPLETION OF THE SALE AND PURCHASE OF SHARES IN PORTCO

22.1 This clause applies only to transfers between the Shareholders pursuant to clause 15 (*Deadlock and Deadlock Resolution*), clause 16 (*Transfer of Shares*), clause 18 (*Material Breach*) and clause 19 (*Change of Control*).

22.2 The sale of Shares under this Agreement shall be completed at the offices of Shearman & Sterling (London) LLP at 9 Appold Street, London EC2A 2AP, United Kingdom (or such other location as the Shareholders may agree in writing) on the 10<sup>th</sup> Business Day after, as applicable:

- (a) the date of acceptance of an Offer by a recipient of a Resolution Notice pursuant to clause 15.6; or
- (b) the date on which a server of a Resolution Notice is compelled to purchase the Shares of a recipient of a Resolution Notice pursuant to clause 15.7; or
- (c) the date on which a Continuing Shareholder gives notice to a Selling Shareholder that it wishes to purchase its Shares upon the terms contained in a Transfer Notice pursuant to clause 16.5; or
- (d) the date on which Fair Market Value is determined in accordance with Schedule 3 following service (or deemed service) of a Notice of Material Breach under clause 18 or a Notice on Change of Control under clause 19, as the case may be.

22.3 At completion of the sale of the Shares in accordance with clause 22.2, the Selling Shareholder shall:

- (a) transfer the Shares free from all Encumbrances by way of a duly completed stock transfer form to the buying Shareholder (the "**Buying Shareholder**") together with the relevant share certificate and such other documents as the Buying Shareholder may reasonably require to show good title to the Shares or enable it to be registered as the holder of the Shares;
- (b) procure the resignations of any Directors appointed by the Selling Shareholder to take effect at completion and procure the entry by such Directors into letters of resignation acknowledging that they have no claims against Portco;
- (c) warrant that it has no right to require Portco to issue it with any share capital or other securities and that no Encumbrance in favour of that Selling Shareholder affects any unissued shares or other securities of Portco;
- (d) warrant that it is selling the Shares with full title guarantee;

- (e) warrant that no commitment has been given to create an Encumbrance affecting the Shares being sold (or any unissued shares or other securities of Portco) and that no person has claimed any rights in respect thereof;
  - (f) undertake to do all it can, at its own cost, to give the Buying Shareholder the full legal and beneficial title to the Shares; and
  - (g) provide Portco with a waiver in writing of any rights it may have to be issued with any share capital or other securities in Portco.
- 22.4 At completion of the sale of the Shares in accordance with clause 22.2, the Buying Shareholder shall pay the relevant purchase price calculated in accordance with the provisions of this Agreement in cash by same day wire transfer to the Selling Shareholder.
- 22.5 At or before completion of the sale of the Shares in accordance with clause 22.2:
- (a) Portco shall, except as otherwise provided in clause 16.9(b), repay any loans made by the Selling Shareholder to Portco (together with any interest accrued thereon); and
  - (b) the parties shall use their best endeavours to procure that the Selling Shareholder is released from any guarantees, security arrangements and other obligations that it has given in respect of Portco.
- 22.6 The parties shall procure the registration (subject to due stamping by the Buying Shareholder) of the transfer of Shares in Portco pursuant to this clause and each of them consents to such transfer and registration pursuant to this Agreement and the Articles.
- 22.7 The Shares shall be sold with all rights that attach, or may in the future attach, to them.
- 22.8 The Buying Shareholder is not obliged to complete the purchase of any of the Shares being sold unless the purchase of all the Shares being sold is completed simultaneously.
- 22.9 If the Selling Shareholder, having become bound to transfer Shares pursuant to the terms of this Agreement, fails to transfer such Shares then it, irrevocably and by way of security for its obligations under this Agreement, hereby:
- (a) appoints any one Director nominated in writing by the Buying Shareholder as its attorney to execute, and deliver to Portco, a transfer of the Shares on the Selling Shareholder's behalf and to execute such other documents and do all such other acts as may be necessary to transfer title to the Shares to the Buying Shareholder or as it directs; and
  - (b) authorises the Directors (other than those appointed by the Selling Shareholder) to approve the registration of such transfer or other documents, and the quorum requirements of clause 5.3 shall be deemed to have been amended accordingly,

and Portco shall receive the purchase money and shall upon receipt of such money (subject to such instrument being stamped with any required stamp duty) cause the Buying Shareholder to be registered as the holder of such Shares and shall hold such purchase money in trust for the Selling Shareholder. Portco shall not be bound to earn or pay interest on any money so held and shall not pay such money to the Selling Shareholder until it shall have delivered its share certificates (or an appropriate indemnity in respect of any lost certificates) to Portco. The receipt by Portco of such purchase money shall be a good discharge to the Buying Shareholder who shall not be bound to see to the application of such money, and after the name of the Buying Shareholder has been entered in the register of members in purported exercise of the above-mentioned power the validity of the proceedings shall be unchallengeable.

- 22.10 In the event that any step is to be taken as a result of which Portco will become a concentration with a Community dimension under the EU Merger Control Regulation or otherwise give rise to a merger control notification requirement, then the parties will coordinate and cooperate with each other to ensure that any required notification is made and clearance obtained from the relevant authorities before the relevant step which renders it such a concentration is put into effect.

## **23. RETURN OF CAPITAL**

- 23.1 The rights as regards return of capital attaching to each class of Share shall be as set out in this clause.

- 23.2 On a return of capital on liquidation or otherwise the surplus assets of Portco remaining after the payment of its liabilities (including for the avoidance of doubt any debts arising from non-payment of accrued dividends) shall be applied in the following order of priority:

- (a) first, any such assets to the extent attributable to a Discretionary Investment shall be distributed amongst the holders of the C Shares comprised in the C Share Sub-Class relating to such Discretionary Investment;
- (b) second, the holders of the Voting Shares shall have the right to receive a sum equal to the amount paid up on such Shares; and
- (c) thereafter, all other such assets shall be distributed amongst the holders of the A Ordinary Shares and the B Ordinary Shares (*pari passu* as if the same constituted one class of Shares).

## **24. STATUS OF AGREEMENT**

- 24.1 Each Shareholder shall, to the extent that it is able to do so, exercise all its voting rights and other powers in relation to Portco to procure that the provisions of this Agreement are properly and promptly observed and given full force and effect according to the spirit and intention of the Agreement.
- 24.2 If any provision in the Articles conflicts with any provision of this Agreement, this Agreement shall prevail.



- 24.3 The parties shall, when necessary, exercise their powers of voting and any other rights and powers they have to amend, waive or suspend a conflicting provision in the Articles to the extent necessary to permit Portco and its business to be administered as provided in this Agreement.

25. **CONFIDENTIALITY**

This agreement constitutes an Acquisition Document for the purpose of clause 26 (*Confidentiality*) of the Sale and Purchase Agreement, which clause shall apply *mutatis mutandis* to this Agreement.

26. **WARRANTY**

SSI UK warrants and represents to Tata Steel that, at the date of this Agreement, Portco has not carried on any business, has no assets or liabilities, has no employees and is not a party to any contracts, agreements or other arrangements except the Acquisition Documents to which it is a party and the PD Ports Agreements.

27. **ENTIRE AGREEMENT**

- 27.1 This Agreement and the other Acquisition Documents constitute the entire agreement and understanding between the parties hereto with regard to the subject matter of the Acquisition Documents.

- 27.2 Each party acknowledges that in entering into this Agreement, it does not rely on, and shall have no remedy in respect of, any statement, representation, assurance or warranty of any person other than as expressly set out in this Agreement or those documents.

- 27.3 Nothing in this clause 27 operates to limit or exclude any liability for fraud.

28. **SUCCESSORS AND ASSIGNMENT**

- 28.1 This Agreement shall be binding on and enure for the benefit of each party's successors in title but shall not be assignable in whole or in part by any party without the prior written consent of all the other parties, provided that:

- (a) a party may assign its rights under this Agreement (but not, for the avoidance of doubt, its obligations) to a member of its Group (a "**Group Assignee**"). If a Group Assignee ceases to be a company within the assignor's Group it shall immediately assign all of its rights to the original assignor or another company within such assignor's Group;
- (b) SSI UK may assign all or a portion of its rights under this Agreement by way of security to (i) any Secured Party; and/or (ii) any bank or financial institution; and
- (c) Tata Steel or Portco may assign all or a portion of their respective rights under this Agreement by way of security to any bank or financial institution.

- 28.2 Each person that has rights under this Agreement is acting on its own behalf.

**29. SEVERABILITY**

- 29.1 If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect.
- 29.2 If any provision of this Agreement is so found to be invalid or unenforceable but would cease to be invalid or unenforceable if some part of the provision were deleted, the provision in question shall apply with such modification as may be necessary to make it valid and enforceable.

**30. WAIVERS AND CONSENTS**

- 30.1 Any waiver of any right under this Agreement shall only be effective if it is in writing.
- 30.2 No waiver by a party of any breach or non fulfilment by another party of any provision of this Agreement shall be deemed to be a waiver of any subsequent or other breach of that or any other provision of this Agreement and no failure to exercise or delay in exercising any right or remedy under this Agreement shall constitute a waiver thereof. No single or partial exercise of any right or remedy under this Agreement shall preclude or restrict the further exercise of any such right or remedy. The rights and remedies of the parties provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.
- 30.3 The giving by one party to another of any consent to any act which by the terms of this Agreement requires such consent shall not prejudice the right of a party to withhold or give consent to the doing of any similar act.

**31. VARIATIONS**

No variation or alteration of this Agreement or any of the documents in the agreed form shall be valid unless it is in writing and signed by or on behalf of each of the parties to this Agreement. Any variation to the terms of this Agreement which is agreed between SSI UK, Tata Steel and Portco shall not require the consent of any third party that may be granted a right under this Agreement.

**32. COSTS**

Unless otherwise agreed between the Shareholders, each of Tata Steel and SSI UK shall bear and pay their own legal, accountancy and other fees and expenses incurred in relation to the negotiation, preparation, execution and implementation of this Agreement and all other documents in the agreed form referred to herein.

**33. NO PARTNERSHIP**

The parties to this Agreement are not in partnership with each other and there is no relationship of principal and agent between them.

34. **THIRD PARTY RIGHTS**

- 34.1 Save where a right is expressly granted to a third party under this Agreement, a person who is not party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

35. **NOTICE**

- 35.1 Any notice to be given pursuant to the terms of this Agreement must be given in writing in the English language to the party due to receive such notice at the address or fax number set out below:

**Tata Steel**                      Tata Steel UK Limited  
30 Millbank  
London SW1P 4WY

For the attention of:    The Company Secretary

Fax number:                020 7717 4630

For the attention of:    Director Legal Affairs

Fax number:                (+44) (0) 20 7717 4622

**SSI UK**                              c/o Sahaviriya Steel Industries Public Co. Ltd.  
28/1 Prapawit Bldg., 2nd – 3rd Floor, Surasak Road  
Silom, Bangrak, Bangkok 10500, Thailand

For the attention of:    Mr. Jira Chotinuchit

Fax number:                (+66-2) 236-8892

with a copy to:

**Salans LLP**                      Millennium Bridge House, 2 Lambeth Hill, London, EC4V  
4AJ

For the attention of:    Mr. Zarko Iankov

Fax number:                (+44) (0) 20 7429 6351; and

**Portco**

For the attention of:    The Company Secretary (at such address and fax number to be notified by Portco),

with a copy to Tata Steel and SSI UK in accordance with this clause 35,

or to such other address, number or addressee as any party may by notice advise from time to time to the other parties, but without prejudice to the effectiveness of any notice already given in accordance with this clause 35.

- 35.2 Notice shall be delivered personally or sent by first class, prepaid, recorded delivery or registered post (airmail if overseas) or by facsimile transmission and shall be deemed to be given, in the case of delivery, on delivery and, in the case of posting (in the absence of evidence of earlier receipt), within 48 hours after posting (six days if sent by airmail) and, in the case of facsimile transmission, on completion of the transmission, provided that if, under these provisions, any such notice would otherwise be deemed to be given after 5.00 p.m. (local time) on a Business Day, or at any time on any other day, such notice shall be deemed to be given at 9.00 a.m. (local time) on the next Business Day.
- 35.3 In proving the giving of a notice under this clause 35 it shall be conclusive evidence to prove that it was left at the appropriate address or the envelope containing it was properly addressed and posted or the fax was sent in full to the relevant number (as the case may be).

#### **36. INTEREST AND PAYMENT OF SUMS DUE UNDER THIS AGREEMENT**

- 36.1 Any party liable to pay any sum under this Agreement to any other party shall pay interest on the amount payable from the due date until the date on which the party's obligation to pay the sum is discharged at the rate of three per cent. above LIBOR on the date of payment (whether before or after judgment). Interest shall accrue and be payable from day to day.
- 36.2 Any party liable to pay any sum under this Agreement to any other party shall pay such sum:
- (a) in the case of any sum due to Tata Steel, to HSBC London, swift code MIDLGB22, for the credit of Tata Steel UK Limited, account number 31410989, IBAN GB79MIDL40053031410989;
  - (b) in the case of any sum due to SSI UK, to The Royal Bank of Scotland plc, swift code RBOSGB2L, for the credit of Sahaviriya Steel Industries UK Limited, account number 31311952, IBAN GB56RBOS16040031311952; and
  - (c) in the case of any sum due to Portco, to The Royal Bank of Scotland plc, swift code RBOSGB2131, for the credit of Redcar Bulk Terminal Limited, account number 23035807, sort code 151000, cin 1724283556,

or to such other account as the relevant party may from time to time notify in writing to the other parties.

#### **37. LANGUAGE**

If this Agreement is translated into any language other than English, the English language text shall prevail.

38. **FURTHER ASSURANCE**

Each party shall promptly execute and deliver all such documents, and do all such things, as the other party may from time to time reasonably require for the purpose of giving full effect to the provisions of this Agreement.

39. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts each of which, when executed by one or more of the parties to this Agreement, shall constitute an original but all of which shall constitute one and the same instrument.

40. **AGREEMENT SURVIVES COMPLETION**

This Agreement (other than obligations that have already been fully performed) remains in full force after Completion.

41. **GOVERNING LAW AND JURISDICTION**

41.1 This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

41.2 All disputes, controversies or claims arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination (a "**Dispute**"), shall be referred to and finally resolved by arbitration in accordance with the LCIA Rules. The seat and place of arbitration shall be London, England. The arbitration shall be held, and the award shall be rendered, in the English language.

41.3 The LCIA Court shall appoint the tribunal in accordance with the LCIA Rules. In exercising its powers under Article 5 of the LCIA Rules, the LCIA Court shall seek to give effect to the parties' desire for any and all Disputes to be resolved expeditiously. The parties agree that no provision in the LCIA Rules will apply insofar as it renders any individual ineligible for appointment as arbitrator on the grounds of nationality.

41.4 The parties agree that they shall each do all things necessary for the proper and expeditious conduct of the arbitral proceedings. If the tribunal determines that a party has failed to comply with this obligation, the tribunal may take such failure into account in its assignment of the legal and other costs of the arbitration under Article 28 of the LCIA Rules.

41.5 The parties hereby agree that if any Dispute:

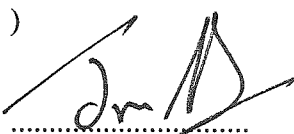
- (a) raises issues which are substantially the same as or connected with issues raised in:
  - (i) a Dispute which has already been referred to arbitration; or
  - (ii) a dispute between any of the parties under any of the other Acquisition Documents which has already been referred to arbitration (in the case of either (i) or (ii) an "**Existing Dispute**"); or

- (b) arises out of substantially the same facts as are the subject of an Existing Dispute (in the case of either (a) or (b) a "**Related Dispute**"),

the tribunal appointed or to be appointed in respect of such Existing Dispute shall also be appointed as the tribunal in respect of the Related Dispute. In such case, the tribunal may, having regard to the stage of the proceedings of the Existing Dispute and the interests of justice and efficiency, consolidate the proceedings arising out of the Existing Dispute and the Related Dispute. For the purposes of such consolidated proceedings, where the Existing Dispute arises out of or in connection with one of the other Acquisition Documents, the parties adhere to and consent to be bound by the arbitration agreement contained in that Acquisition Document. In the event that there is any dispute as to whether a Dispute is a Related Dispute for the purposes of this clause 41.5, such dispute shall be resolved by the tribunal appointed or to be appointed in respect of the relevant Existing Dispute.

**IN WITNESS** whereof the parties have executed this Agreement as a Deed on the date first above written.

SIGNED AS A DEED by

)  


as attorney for  
**TATA STEEL UK LIMITED**  
under a power of attorney dated 23 February  
2011

Name: **J.M. Boston**

in the presence of:



Name: **SARA COULING**

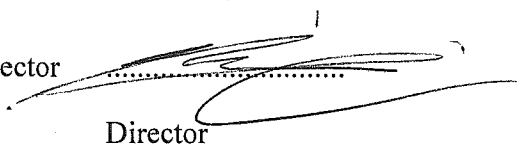
Occupation: **TRAINEE SOLICITOR**

Address: **SHEARMAN & STERLING LLP,**  
**9 APPOLD STREET,**  
**LONDON, EC2A 2AP**

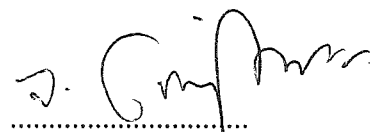
EXECUTED AS A DEED by  
**SAHAVIRIYA STEEL INDUSTRIES UK**  
**LIMITED**

)  
)  
)

acting by Mr Win Viriyaprapaikit, a director

  
Director

in the presence of:



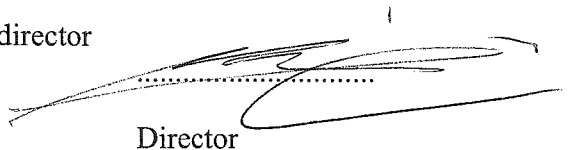
Name: **JIRA CHOTINUCHIT**

Occupation: **M+A**

Address: **38/1 Prapowit Building**  
**Surasak Road**  
**Bangkok 10500 Thailand**

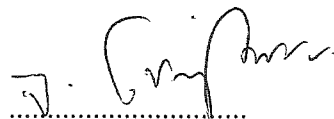
EXECUTED AS A DEED by )  
REDCAR BULK TERMINAL LIMITED )  
)

acting by Mr Win Viriyaprapaikit, a director



Director

in the presence of:



Name: JIRA CHOTINUCHIT

Occupation: M2A

Address: 88/1 Prapawit Building  
Surasak Road  
Bangkok 10500 Thailand



## SCHEDULE 1

### DEFINITIONS AND INTERPRETATION

<b>"A Ordinary Shares"</b>	means the non-voting "A" ordinary shares of £1.00 each in the capital of Portco having the rights provided for under the Articles;
<b>"A Profits"</b>	means, with respect to each Dividend Period, an amount equal to the Notional Profits for such Dividend Period multiplied by either: (a) the A Through-put Percentage; or (b) if the total Through-put Amount in that Dividend Period is zero, 16.6667 per cent.;
<b>"A Through-put Amount"</b>	means the actual Through-put Amount handled by Portco on behalf of the holder of the A Ordinary Shares or any member of its Group under the Port Services Agreement during any given Dividend Period;
<b>"A Through-put Percentage"</b>	means, in respect of any Dividend Period, the A Through-put Amount for such Dividend Period divided by the total Through-put Amount for the same Dividend Period;
<b>"Acquisition Documents"</b>	shall have the meaning given to that term in the Sale and Purchase Agreement;
<b>"Act"</b>	means the Companies Act 2006;
<b>"Agreement"</b>	has the meaning given to that term in the recitals to this agreement;
<b>"Articles"</b>	means the new articles of association of Portco in the agreed form to be adopted at Completion as amended or superseded from time to time, as appended at Schedule 5;
<b>"Assets"</b>	means the Portco Assets, as defined in the Sale and Purchase Agreement;
<b>"Available Profits"</b>	means the profits of Portco available for distribution within the meaning of Part 23 of the Act;
<b>"B Ordinary Shares"</b>	means the non-voting "B" ordinary shares of £1.00 each in the capital of Portco having the rights provided for under the Articles;

<b>"B Profits"</b>	means, with respect to each Dividend Period, an amount equal to the Notional Profits for such Dividend Period multiplied by either: (a) the B Through-put Percentage; or (b) if the total Through-put Amount in that Dividend Period is zero, 83.3333 per cent.;
<b>"B Through-put Amount"</b>	means the actual Through-put Amount handled by Portco on behalf of the holder of the B Ordinary Shares or any member of its Group under the Port Services Agreement during any given Dividend Period;
<b>"B Through-put Percentage"</b>	means, in respect of any Dividend Period, the B Through-put Amount for such Dividend Period divided by the total Through-put Amount for the same Dividend Period;
<b>"Board"</b>	means the board of directors of Portco as constituted from time to time;
<b>"Business"</b>	has the meaning given in clause 1.2;
<b>"Business Day"</b>	means any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in the City of London are generally open for business;
<b>"Business Plan"</b>	has the meaning given in clause 11;
<b>"Buying Shareholder"</b>	has the meaning given in clause 22.3(a);
<b>"C Profits"</b>	means, with respect to the holders of the C Shares comprised in each C Share Sub-Class and with respect to each Dividend Period, such amount of the profits of Portco for such Dividend Period as is attributable to the relevant Discretionary Investment to which such C Share Sub-Class relates, as shown in the Discretionary Investment Accounts;
<b>"C Shares"</b>	means the non-voting "C" Shares of £1.00 each in the capital of Portco having the rights provided for under the Articles and to be issued to Shareholder(s) in connection with Discretionary Investments;
<b>"C Share Sub-Class"</b>	has the meaning given in clause 8.13;
<b>"Cap"</b>	has the meaning given in clause 9.8;
<b>"Capex Project"</b>	has the meaning given in clause 8.5;

<b>"Change of Control"</b>	means, in respect of a Shareholder, a change in control (as "control" is defined in section 1124 of the Corporation Tax Act 2010) of such Shareholder otherwise than as a result of (i) a bona fide reorganisation or reconstruction of such Shareholder's Group; or (ii) the enforcement by a Secured Party or a bank or financial institution of any Encumbrance it holds over shares in the capital of that Shareholder or its parent company;
<b>"Changing Shareholder"</b>	has the meaning given in clause 19.1;
<b>"Closing A Ordinary Shares"</b>	means such number of new A Ordinary Shares (rounded up or down to the nearest whole number) as is equal to 50 per cent. of the Portco Principal Debt divided by the Exchange Rate;
<b>"Closing B Ordinary Shares"</b>	means such number of new B Ordinary Shares (rounded up or down to the nearest whole number) as is equal to 50 per cent. of the Portco Principal Debt divided by the Exchange Rate;
<b>"Code of Conduct"</b>	has the meaning given in clause 1.3(c);
<b>"Completion"</b>	means the completion of the sale and purchase of the Business and the Assets pursuant to clause 6 of the Sale and Purchase Agreement;
<b>"Completion Date"</b>	shall have the meaning set out in the Sale and Purchase Agreement;
<b>"Conflict Matters"</b>	has the meaning given in clause 5.12(a);
<b>"Conflicted Shareholder"</b>	has the meaning given in clause 5.12(a);
<b>"Consenting Shareholder"</b>	has the meaning given in clause 15.1(a);
<b>"Continuing Shareholder"</b>	has the meaning given in clause 16.5;
<b>"Current Financial Year"</b>	has the meaning given in clause 11.1;
<b>"Deadlock"</b>	has the meaning given in clause 15.1;
<b>"Deadlock Matter"</b>	has the meaning given in clause 15.2;
<b>"Deadlock Notice"</b>	has the meaning given in clause 15.2;
<b>"Deed of Adherence"</b>	means an instrument in the form attached hereto as Schedule 6 pursuant to which a Third Party or a member of a Shareholder's Group will become a party to this Agreement;

<b>"Default Interest Rate"</b>	means, in respect of any amount, the rate comprising LIBOR determined on the due date for payment thereof and at the end of each successive 3 month period while such unpaid amount remains outstanding, plus 5 per cent.;
<b>"Default Loan"</b>	has the meaning given in clause 18.7;
<b>"Default Loan Period"</b>	has the meaning given in clause 18.8;
<b>"Defaulting Shareholder"</b>	has the meaning given in clause 18.1;
<b>"Director"</b>	means a duly appointed director of Portco, and includes any person occupying the position of director by whatever name called;
<b>"Discretionary Investment"</b>	has the meaning given in clause 8.10;
<b>"Discretionary Investment Account"</b>	has the meaning given in clause 8.11(a);
<b>"Discretionary Investment Benefits"</b>	has the meaning given in clause 8.11(a);
<b>"Discretionary Investment Costs"</b>	has the meaning given in clause 8.11(b);
<b>"Discretionary Investment Encumbrance"</b>	has the meaning given in clause 17.2;
<b>"Discriminate"</b>	means the failure by Portco to provide a Shareholder, to the detriment of that Shareholder, with any of the Portco Services on the same or an equivalent basis (disregarding for this purpose the actual or anticipated amounts of cargo previously or expected to be handled by Portco on behalf of each Shareholder) as accorded to the other Shareholder;
<b>"Dispute"</b>	has the meaning given in clause 41.2;
<b>"Dividend Payment Date"</b>	has the meaning given in clause 9.3;
<b>"Dividend Percentage"</b>	means: <ul style="list-style-type: none"> <li>(a) with respect to the holders of the A Ordinary Shares, the A Profits divided by the Total Profits;</li> <li>(b) with respect to the holders of the B Ordinary Shares, the B Profits divided by the Total Profits; and</li> <li>(c) with respect to the holders of the C Ordinary Shares comprised in each C Share Sub-Class,</li> </ul>

	the C Profits for that C Share Sub-Class divided by the Total Profits;
<b>"Dividend Period"</b>	means each period beginning on the date which is the first day of each Quarter (e.g. 1 April 2011) and ending on the date which is the last day of each Quarter (e.g. 30 June 2011);
<b>"Dollars" or "US\$"</b>	means the lawful currency of the United States of America;
<b>"Eligible Director"</b>	means either an Eligible Tata Steel Director, or an Eligible SSI UK Director, as the context requires;
<b>"Eligible SSI UK Director"</b>	means an SSI UK Director who would be entitled to vote on the matter at a meeting of the Board (but excluding any SSI UK Director whose vote is not to be counted in respect of the particular matter);
<b>"Eligible Tata Steel Director"</b>	means a Tata Steel Director who would be entitled to vote on the matter at a meeting of the Board (but excluding any Tata Steel Director whose vote is not to be counted in respect of the particular matter);
<b>"Encumbrance"</b>	means any mortgage, charge (fixed or floating), pledge, lien, hypothecation, guarantee, trust, right of set-off or other third party right or interest (legal or equitable) including any assignment by way of security, reservation of title or other security interest of any kind, howsoever created or arising, or any other agreement or arrangement (including a sale and repurchase agreement) having similar effect;
<b>"Excess Funding"</b>	has the meaning given in clause 18.5(a);
<b>"Exchange Rate"</b>	means the mid-market spot rate for the exchange of Dollars to Pounds Sterling as shown in The Financial Times (London Edition) on the Business Day immediately prior to the Completion Date;
<b>"Existing Dispute"</b>	has the meaning given in clause 41.5(a)(ii);
<b>"Expert Determination Matter"</b>	has the meaning given in clause 10;
<b>"Fair Market Value"</b>	means the fair market value of Portco determined in accordance with Schedule 3;
<b>"Feasibility Report"</b>	has the meaning given in clause 8.6;
<b>"Feasibility Report Assessment Period"</b>	has the meaning given in clause 8.7;

<b>"Financial Year"</b>	means a financial accounting period of 12 months ending on the date given in clause 2.2(k) but, in the first year in which Portco was formed, means the period from 11 October 2010 to 31 December 2011;
<b>"Financial Year 1"</b>	has the meaning given in clause 11.1;
<b>"Financial Year 2"</b>	has the meaning given in clause 11.1;
<b>"Financial Year 3"</b>	has the meaning given in clause 11.1;
<b>"Fully Depreciated Discretionary Investment"</b>	has the meaning given in clause 8.16;
<b>"Group"</b>	means, in relation to a company, that company and any company which is a holding company or subsidiary or subsidiary undertaking of that company and any subsidiary or subsidiary undertaking of any such holding company. Unless the context otherwise requires, the application of the definition of Group to any company at any time shall apply to the company as it is at that time;
<b>"HSE Policy"</b>	means the health, safety and environmental policy of Portco as amended from time to time, the policy to be adopted at Completion being the document appended hereto as Appendix III (and the documents incorporated therein by reference);
<b>"Indemnified Shareholder"</b>	has the meaning given in clause 9.6;
<b>"Indemnifying Shareholder"</b>	has the meaning given in clause 9.6;
<b>"Initial Business Plan"</b>	has the meaning given in clause 11.2;
<b>"Insolvency Event"</b>	has the meaning given to that term in the Sale and Purchase Agreement;
<b>"Insolvent Shareholder"</b>	has the meaning given in clause 20.1;
<b>"Investing Shareholder"</b>	has the meaning given in clause 8.12;
<b>"LIBOR"</b>	means the rate (expressed as an annual percentage rate) at which 3-month deposits in the relevant currency are offered in the London Inter Bank Market by reference to the applicable British Bankers' Association Interest Settlement Rate displayed on the appropriate page of the Reuters screen (or if the relevant Reuters screen is not available, the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the party to whom a relevant sum is due for payment

pursuant to this Agreement at its request quoted by HSBC Bank plc, Lloyds TSB Bank plc and The Royal Bank of Scotland plc) at or about 11.00 am on the relevant day;

**"Losses"**

means any losses, liabilities, costs or expenses actually incurred by Portco, and shall in any event include the accumulated realised losses of Portco as determined in accordance with Part 23 of the Act;

**"Maintenance Capex"**

means expenditure for planned maintenance as contemplated by the Business Plan and expenditure on unplanned maintenance not envisaged by the Business Plan where such expenditure is required for the continued ordinary operation of the Assets excluding, for the avoidance of doubt, any expenditure comprised in or relating to a Discretionary Investment;

**"Management Authorisation Policy"**

means the management authorisation policy contained at Appendix I.

**"Management Service Contracts"**

means the contracts of employment of the Senior Managers;

**"Material Breach"**

has the meaning given in clause 18.1;

**"Monthly Management Accounts"**

has the meaning given in clause 12.3(a);

**"Non-Attending Director"**

has the meaning given in clause 5.8;

**"Non-Changing Shareholder"**

has the meaning given in clause 19.1;

**"Non-Defaulting Shareholder"**

has the meaning given in clause 18.1;

**"Non-Investing Shareholder"**

has the meaning given in clause 8.12;

**"Non-Pledging Shareholder"**

has the meaning given in clause 17.3(a);

**"Notice of Material Breach"**

has the meaning given in clause 18.3;

**"Notice on an Insolvency Event"**

has the meaning given in clause 20.1;

**"Notice on Change of Control"**

has the meaning given in clause 19.1;

**"Notional Accounts"**

has the meaning given in clause 12.3(a)(iii);

**"Notional Profits"**

means either (a) if there have been no Discretionary Investments, the Available Profits; or (b) if there have been any Discretionary Investments, the profits of Portco as shown in the most recent Notional

	Accounts;
<b>"Offer"</b>	has the meaning given in clause 15.5;
<b>"Ordinary Shares"</b>	means the ordinary shares of £1.00 each in the capital of Portco, prior to the reclassification of such shares at Completion in accordance with clause 2;
<b>"Ordinary Working Capital"</b>	has the meaning given in clause 8.3;
<b>"Ore Equivalent Tonnes"</b>	shall have the meaning given to that term in the Port Services Agreement;
<b>"PD Ports Agreements"</b>	means: <ul style="list-style-type: none"> <li>(a) the deed of variation and novation of the conservancy dues agreement dated 23 December 2010 between PD Teesport Limited, Tata Steel and Portco; and</li> <li>(b) the deed of novation of the dredging agreement dated 23 December 2010 between PD Teesport Limited, Tata Steel and Portco;</li> </ul>
<b>"Permitted Encumbrance"</b>	has the meaning given in clause 17.1;
<b>"Pledge Agreement"</b>	has the meaning given in clause 17.3;
<b>"Pledgee"</b>	has the meaning given in clause 17.4;
<b>"Pledging Shareholder"</b>	has the meaning given in clause 17.1;
<b>"Port Services Agreement"</b>	means the services agreement between Tata Steel, SSI UK and Portco, relating to the provision of services by Portco to each of Tata Steel and SSI UK respectively, in the agreed form;
<b>"Portco Management Team"</b>	means the Senior Managers and other employees of Portco with responsibility for the day-to-day operation of Portco;
<b>"Portco Pension Plan"</b>	means The RBT Group Stakeholder Pension Plan provided by Scottish Widows;
<b>"Portco Principal Debt"</b>	means US\$43,430,000 (forty-three million four hundred and thirty thousand Dollars);
<b>"Portco Resource Sharing Agreement"</b>	means the resource sharing agreement, in the agreed form, between SSI UK and Portco;
<b>"Portco Services"</b>	has the meaning given in clause 1.6;



<b>"Portco Transitional Services Agreements"</b>	means the transitional services agreements, in the agreed form, between Tata Steel and Portco and between SSI UK and Portco;
<b>"Pounds Sterling" or "£"</b>	means the lawful currency of the United Kingdom;
<b>"Quarter"</b>	means each period of three calendar months ending on 31 March, 30 June, 30 September and 31 December in each year;
<b>"Redcar Ore Terminal"</b>	has the meaning given to that term in the Sale and Purchase Agreement;
<b>"Related Dispute"</b>	has the meaning given in clause 41.5(b);
<b>"Related Party Transaction"</b>	means any transaction, agreement or arrangement between Portco and a Shareholder (or any member of that Shareholder's Group);
<b>"Request Period"</b>	has the meaning given in clause 15.1(b);
<b>"Reserved Matters"</b>	means those reserved matters listed in Schedule 2;
<b>"Resolution Notice"</b>	has the meaning given in clause 15.4;
<b>"Resolution Period"</b>	has the meaning given in clause 15.4;
<b>"Sale and Purchase Agreement"</b>	has the meaning given to that term in the recitals to this Agreement;
<b>"Secured Party"</b>	means any secured creditor (including its agent or trustee) from time to time party to any agreement(s) creating indebtedness and entered into in connection with the funding of the payment by SSI UK of the Purchase Price (as defined in the Sale and Purchase Agreement), including, for the avoidance of doubt, any hedging of any indebtedness incurred for such purpose;
<b>"Selling Shareholder"</b>	has the meaning given in clause 16.5;
<b>"Senior Managers"</b>	means such persons as are appointed from time to time as senior managers of Portco;
<b>"Shares"</b>	means the A Ordinary Shares, B Ordinary Shares, C Shares (to the extent allotted and issued pursuant to this Agreement and the Articles) and Voting Shares;
<b>"Shareholders"</b>	means the holders of Shares in Portco and <b>"Shareholder"</b> shall mean any one of them;

<b>"Shareholder Loans"</b>	means loans by the Shareholders to Portco in the form attached hereto as Schedule 7;
<b>"Solvent Shareholder"</b>	has the meaning given in clause 20.1;
<b>"SSI UK Director"</b>	means any director appointed to the Board by SSI UK pursuant to clause 4.1;
<b>"Stacker Reclaimer Side Agreement"</b>	has the meaning given to that term in the Sale and Purchase Agreement;
<b>"subsidiary", "holding company" and "wholly-owned subsidiary"</b>	have the meanings respectively ascribed thereto by section 1159 of the Act and a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) its nominee;
<b>"Tata Code of Conduct"</b>	means the code of conduct applicable to Tata Steel from time to time (the code of conduct applicable to Tata Steel as at the date of this Agreement being the "Tata Code of Conduct 2008");
<b>"Tata Steel Director"</b>	means any director appointed to the Board by Tata Steel pursuant to clause 4.1;
<b>"Tax"</b>	means any tax, levy, import, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or delay in paying the same);
<b>"Third Parties"</b>	means persons other than Shareholders or members of any Shareholders' Group and "Third Party" shall be construed accordingly;
<b>"Third Party Claim"</b>	means any claim made against a Shareholder or any of its directors, officers or employees by a person who is not a party or a member of any party's Group, including without limitation claims made by any regulatory authority;
<b>"Through-put Amount"</b>	means the actual amount of cargo (measured in Ore Equivalent Tonnes) handled by Portco at the Redcar Ore Terminal but without regard to volumes generated by any Discretionary Investments or cargo handled by Portco on behalf of Third Parties;
<b>"Total Profits"</b>	means, with respect to each Dividend Period, the

aggregate amount of the A Profits, B Profits and C Profits;

**"Transfer Notice"**

has the meaning given in clause 16.5;

**"Transferee"**

has the meaning given in clause 16.5(a); and

**"Voting Shares"**

means the voting shares of £1.00 each in the capital of Portco, classified prior to Completion as Ordinary Shares, but to be reclassified by Portco at Completion in accordance with clause 2.

In this Agreement unless the context otherwise requires:

- (a) reference to a statute or statutory provision (whether of the United Kingdom or elsewhere) includes reference to:
  - (i) any order, regulation, statutory instrument or other subsidiary legislation at any time made under it for the time being in force (whenever made); and
  - (ii) any modification, amendment, consolidation, re-enactment or replacement of it or provision of which it is a modification, amendment, consolidation, re-enactment or replacement except to the extent that any modification, amendment, consolidation, re-enactment or replacement made after the date of this Agreement would increase the liability of any of the parties hereto;
- (b) reference to statutory obligations shall include obligations arising under articles of the Treaty establishing the European Community and regulations and directives of the European Union as well as United Kingdom Acts of Parliament and subordinate legislation;
- (c) reference to a clause, schedule, appendix or paragraph is to a clause, schedule, appendix or a paragraph of a schedule or appendix of or to this Agreement respectively;
- (d) reference to the parties to this Agreement includes their respective successors, permitted assigns and personal representatives;
- (e) the words and phrases "other", "including" and "in particular" shall not limit the generality of any preceding words or be construed as being limited to the same class as the preceding words where a wider construction is possible;
- (f) references to this Agreement or any other document or to any specified provision of this Agreement or any other document are to this Agreement, that document or that provision as in force for the time being and as amended from time to time in accordance with the terms of this Agreement or that document or, as the case may be, with the agreement of the relevant parties;
- (g) reference to any party to this Agreement comprising more than one person includes each person constituting that party;

- (h) words importing the singular include the plural and vice versa, reference to any gender includes the other genders and references to persons includes corporations, partnerships and other unincorporated associations or bodies of persons;
- (i) reference to any professional firm or company includes any firm or company effectively succeeding to the whole, or substantially the whole, of its practice or business;
- (j) the index, headings and any descriptive notes are for ease of reference only and shall not affect the construction or interpretation of this Agreement;
- (k) this Agreement incorporates the schedules to it;
- (l) reference to a time of day is a reference to the time in London; and
- (m) the "agreed form" in relation to any document means the form agreed between the parties to this Agreement on or before the execution of this Agreement and, for the purposes of identification only, initialled by or on behalf of the parties.

## **SCHEDULE 2**

### **RESERVED MATTERS**

Portco shall not do any of the following (or do anything which is analogous to or has a substantially similar effect to any of the following) without the prior written approval of each Shareholder:

1. Permit the registration of any person as a member of Portco other than Tata Steel and SSI UK in relation to their respective shareholdings from Completion and any of their transferees in accordance with the terms of this Agreement.
2. Alter its name.
3. Alter in any respect the Articles or the rights attaching to any of the Shares in Portco.
4. Adopt or amend the Business Plan in respect of each Financial Year.
5. Adopt or amend the Code of Conduct.
6. Change the nature of Portco's Business or the commencement of any new business by Portco which is not ancillary to the Business.
7. Make any acquisition or disposal of any material asset(s).
8. Appoint or remove any Senior Manager.
9. Undertake a Related Party Transaction or amend, enforce or refrain from enforcing any material rights of Portco under this Agreement (including Portco's rights under clause 9.2 or 9.6), the Port Services Agreement or the Portco Resource Sharing Agreement.
10. Create or grant any Encumbrance over the whole or any part of the Business, undertaking or Assets or any other business or assets of Portco or over any Shares or agree to do so, save in the case of a Permitted Encumbrance.
11. Voluntarily liquidate, dissolve or wind up Portco.
12. Change its auditors.
13. Alter its Financial Year end.
14. Form any subsidiary or acquire shares in any company or participate in, or terminate any participation in, any partnership or joint venture.
15. Apply for the appointment of a receiver or administrator over its assets.
16. Grant any option or other interest (in the form of convertible securities or in any other form) over or in the Shares or redeem or purchase any of Portco's own Shares or effect any other reorganisation of the share capital of Portco.
17. Make any amendment to the Portco Pension Plan

18. Create or issue any share capital in Portco.
19. Institute, settle or compromise any material legal proceedings (other than debt recovery proceedings in the ordinary course of business) or submit to arbitration or alternative dispute resolution any material dispute involving Portco (and for the avoidance of doubt, any legal proceedings or disputes between Portco and a Shareholder (or any member of that Shareholder's Group) under this Agreement, the Port Services Agreement or the Portco Resource Sharing Agreement shall be considered "material" for this purpose).