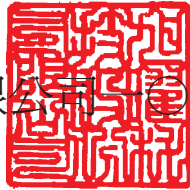


旭曜科技股份有限公司 102 年股東常會議事錄



壹、時間：民國一〇三年六月三十日（星期一）上午九時

貳、地點：新竹科學工業園區工業東二路一號(科學園區科技生活館) 2樓牛頓廳

參、出席：親自出席及委託代表出席股份計84,939,296股，佔本公司股份總數140,105,480股（發行股份總數140,208,480股扣除依公司法第一七九條第二項規定無表決權之股份103,000股）之60.62%。

肆、主席：黃董事長 洲杰



記錄：王澎燕



伍、列席：碩捷國際法律事務所

郭士功律師

勤業眾信聯合會計師事務所

黃鴻文會計師

陸、主席致詞：略

柒、報告事項：

一、本公司一〇二年度營業報告，報請 公鑒。（董事會提）

說明：一〇二度營業報告書，請參閱附件一。

二、審計委員會查核報告，報請 公鑒。（董事會提）

說明：審計委員會查核報告，請參閱附件二至附件三。

三、本公司國內轉換公司債發行狀況報告，報請 公鑒。（董事會提）

說明：(一)本公司為充實營運資金，於一〇二年四月二十五日第一屆第六次審計委員會及第四屆第七次董事會決議通過發行一〇二年度國內第一次無擔保轉換公司債10,000張，每張公司債面額為新台幣10萬元，依面額十足發行，總計發行新台幣10億元整，票面利率0%，發行期間為五年。

(二)本公司債業經金融監督管理委員會一〇二年五月二十七日金管證發字第1020018424 號函及財團法人中華民國證券櫃檯買賣中心一〇二年六月十一日證櫃債字第 10200132401 號函申報生效在案，並於一〇二年六月十七日掛牌發行。

(三)本轉換公司債發行情形如下：

103 年 3 月 31 日

公 司 債 種 類	國內第一次無擔保轉換公司債
發 行 日 期	102/06/17
面 額	新台幣壹拾萬元
發 行 價 格	依面額發行
總 額	新台幣壹拾億元整
利 率	票面利率為 0%
期 限	五年期，到期日：107/06/17
受 託 人	永豐商業銀行信託部
承 銷 機 構	永豐金證券股份有限公司

償 還 方 法	除債券持有人依本辦法第十條轉換為本公司普通股或依本辦法第十八條行使賣回權，及本公司依本辦法第十七條提前收回，或本公司由證券商營業處所買回註銷者外，本公司於本轉換公司債到期時，按債券面額以現金一次償還。
轉 換 期 間	102/07/18~107/06/07
限 制 條 款	無
現 行 轉 換 價 格	新台幣56.23元
累 積 已 轉 換 金 額	3,800,000元
累 積 已 轉 換 股 數	66,630股
尚 未 轉 換 金 額	996,200,000元

捌、承認事項：

一、本公司一〇二年度營業報告書及財務報表，敬請 承認。（董事會提）

說明：(一)本公司一〇二年度財務報表，業經勤業眾信聯合會計師事務所葉東輝及黃鴻文會計師查核完竣。

(二)一〇二年度營業報告書、會計師查核報告書及財務報表，請參閱附件一及附件四至附件八。

決議：經主席徵詢全體出席股東無異議照案承認。

二、本公司一〇二年度盈餘分派案，敬請 承認。（董事會提）

說明：(一)本公司一〇二年度盈餘分派案，業經一〇三年四月二十八日董事會議決通過。

(二)本公司因採用國際財務報導準則，致一〇一年比較期間及一〇二年之未分配盈餘分別減少新台幣 6,599,777 元及減少新台幣 186,140 元。

(三)本公司盈餘分派，除依法提列法定盈餘公積新台幣 36,372,429 元外，擬以一〇二年度未分配盈餘分派普通股現金股息暨紅利每股新台幣 2.0 元計新台幣 280,416,960 元，餘未分配盈餘計新台幣 315,133,699 元則保留於以後年度再行分派。

(四)員工分紅及董監酬勞費用化自九十七年一月一日開始實施，本公司擬實際分派員工分紅金額為 73,387,967 元，董監酬勞金額為 3,648,402 元。

(五)本案俟提經本(一〇三)年股東常會通過後，擬請股東會授權董事長另行訂定配息基準日辦理之。

(六)本公司俟後如因買回庫藏股，或將庫藏股轉讓、註銷，公司債轉換及因員工認股權之行使等因素，而須註銷股份或發行新股，致影響本公司流通在外股份總數，而使股東配息率因此發生變動者，擬請股東會授權董事長調整之。

(七)本公司一〇二年度盈餘分派表請參閱附件九。

決議：經主席徵詢全體出席股東無異議照案承認。

玖、討論事項：

一、本公司擬與敦泰科技股份有限公司進行併購及股份轉換案，提請 核議。(董事會提)

說明：(一)為考量長期發展策略所需，整合雙方資源，提升企業競爭力，本公司擬依下列架構及程序與敦泰科技股份有限公司(FocalTech Corporation, Ltd；以下簡稱敦泰科技)進行併購及股份轉換案(以下簡稱本併購案)。

1.本公司於開曼設立 100%持股之子公司 Orise Holding (Cayman) Inc.

2.本公司以發行新股取得敦泰科技 100%股權之同時，將 Orise Holding (Cayman) Inc. (消滅公司)併入敦泰科技(存續公司)。交易完成後，敦泰科技將成為本公司 100%持股之子公司。

(二)經參考一〇二年十二月三十一日雙方會計師查核之財務報表，並參酌公司經營狀況、股票市價、每股盈餘、每股淨值，本併購及股份轉換案暫定每一股敦泰科技普通股換發 4.8 股本公司普通股股票，惟實際換股比例及增發股數，若因主管機關要求、或相關法令規範變更或併購及股份轉換合約書規定，而需進行調整時，擬請股東會授權董事會決議進行調整並公告之。

(三)本次併購及股份轉換基準日暫訂為一〇四年一月二日，惟得視本併購案進行狀況，由雙方另行協商並經雙方董事會決議後，進行調整並公告之。

(四)本併購經雙方股東會與主管機關核准後進行換股作業，並於換股作業完成後，將召開董事會及股東臨時會決議更改公司名稱為敦泰電子股份有限公司及全面改選董事。

(五)擬提請股東會授權本公司董事長或其指定之經理人代表本公司協商、修改及簽署與本併購及股份轉換案相關文件，並就併購及股份轉換合約書未盡事宜，除法令及併購及股份轉換合約書另有規定外，授權本公司董事長全權處理之。

(六)有關本併購案之『併購及股份轉換合約書』及『併購及股份轉換換股比率合理性之獨立專家意見書』請參閱附件十及附件十一，謹提請 核議。

股東戶號：20639 戶名：花旗託管BNP投資操作SNC投資專戶對本案聲明異議並聲明放棄表決權。

決議：本案經主席裁示進行表決。

本案進行表決時，出席股東總表決權數 83,588,296 權，扣除異議股東放棄之表決權數 450 權，實際總表決權數 83,587,846 權。

贊成權數：74,813,849 權，佔出席股東實際總表決權數權之 89.5% ，

反對權數：0 權，佔出席股東實際總表決權數權之 0% ，

棄權權數：8,773,997 權，佔出席股東實際總表決權數權之 10.5% ，

本案表決結果照案通過。

二、為與敦泰科技股份有限公司進行併購及股份轉換案，擬增資發行本公司普通股案，

提請 核議。(董事會提)

說明：(一)為配合前項議案並依據併購及股份轉換合約書之約定，本公司預計將增發股本計2,664,314,400元，每股面額新台幣10元整，分為266,431,440股，換發予敦泰科技股份有限公司(FocalTech Corporation, Ltd; 以下簡稱敦泰科技)股東，換發後不滿1股之畸零股，均按本公司出售其該部分股份折算現金發放至「元」為止(不足1元之部分捨棄)，並授權本公司董事長洽特定人以併購及股份轉換基準日前最後交易日收盤價承購之。

(二)發行新股給付之對象，將以併購及股份轉換基準日當日敦泰科技股東名冊記載資料為依據，本公司增資發行之新股權利義務與其已發行普通股股份相同，若因主管機關要求、或相關法令規範變更或依併購及股份轉換合約書之規定，而需進行調整時，將請股東會授權董事會決議進行調整並公告之，本公司因併購及股份轉換發行新股之股數亦隨同調整。

(三)有關本公司併購及股份轉換案增資發行普通股案相關未盡事宜，除併購及股份轉換合約書另有規定外，擬授權董事長全權處理之，謹提請 核議。

股東戶號：20639 戶名：花旗託管BNP投資操作SNC投資專戶對本案聲明異議並聲明放棄表決權。

決議：本案經主席裁示進行表決。

本案進行表決時，出席股東總表決權數 84,115,296 權，扣除異議股東放棄之表決權數 450 權，實際總表決權數 84,114,846 權。

贊成權數：74,813,849 權，佔出席股東實際總表決權數之 88.94% ，

反對權數：0 權，佔出席股東實際總表決權數之 0% ，

棄權權數：9,300,997 權，佔出席股東實際總表決權數之 11.06% ，

本案表決結果照案通過。

三、本公司章程修訂案，提請 核議。(董事會提)

說明：為配合與敦泰科技股份有限公司進行併購及股份轉換，擬修訂本公司章程，修訂前後條文對照表請參閱附件十二，謹提請 核議。

決議：本案經主席裁示進行表決。

本案進行表決時，出席股東總表決權數 84,115,296 權。

贊成權數：74,813,849 權，佔出席股東實際總表決權數之 88.94% ，

反對權數：66,447 權，佔出席股東實際總表決權數之 0.07% ，

棄權權數：9,235,000 權，佔出席股東實際總表決權數之 10.99% ，

本案表決結果照案通過。

四、本公司『取得或處分資產處理程序』修訂案，提請 核議。(董事會提)

說明：為配合『公開發行公司取得或處分資產處理準則』修正，擬修訂本公司『取得或處分資產處理程序』，修訂前後條文對照表請參閱附件十三，謹提請 核議。

決議：經主席徵詢全體出席股東無異議照案通過。

五、本公司『從事衍生性商品交易處理程序』修訂案，提請 核議。(董事會提)

說明：為配合『公開發行公司取得或處分資產處理準則』修正及主管機關審查要求，擬修訂本公司『從事衍生性商品交易處理程序』部份相關條文，修訂前後條文對照表請參閱附件十四，謹提請 核議。

決議：經主席徵詢全體出席股東無異議照案通過。

六、解除本公司董事競業之限制案，提請 核議。(董事會提)

說明：(一)依公司法第二〇九條規定「董事為自己或他人為屬於公司營業範圍內之行爲，應對股東會說明其行爲之重要內容，並取得其許可。」

(二)本公司董事因業務需要，擔任其他公司之董事或經理人職務，擬解除其競業禁止之限制，擬解除名單請參閱附件十五，謹提請 核議。

決議：經主席徵詢全體出席股東無異議照案通過。

拾、臨時動議：無。

拾壹、散會：同日上午九時四十五分

營業報告書

旭曜科技歷經產品及市場策略調整與轉型，積極投入大陸智慧型手機市場，公司營運於 2012 年下半年開始重新回到成長的軌道。2013 年全球智慧型手機數量大幅增長，市場規模首次與功能性手機並駕齊驅，來到近 10 億支的規模，其中中國市場是最大的成長來源；本公司因已在此市場紮下穩固根基，是以該年度營運出現爆發性的成長。2013 年銷貨收入年成長 87% 達 93.62 億元；營業毛利及營業淨利分別為 14.78 億元及 4.32 億元，分別較 2012 年成長 70% 及 158%。受惠於營運規模擴張所帶來的槓桿效應，年度淨利較上年度成長近 2 倍達 3.64 億元，基本每股盈餘為新台幣 2.62 元，股東權益報酬率亦回復雙位數至 13.26%。

IC 設計公司的核心組成是技術與人才，為因應營運規模的擴大及維持成長動能，2013 年度本公司積極延攬設計、應用、運籌、行銷等領域專業人才近 50 位；並持續深耕中小尺寸面板應用所需的技術，範圍涵蓋資料壓縮處理、靜電防護、傳輸速率提升、影像優化與色彩處理等技術。在產品開發上，仍以建構完整產品供應為基礎，開發內容包含 FHD、WQHD 等更高解析度整合單晶片、1/2、1/3 記憶體與不帶記憶體整合單晶片、更低成本方案、複合傳輸介面時序控制器、整合時序控制器的源極驅動晶片等解決方案；另外為保護公司智慧財產權，仍不斷提出專利申請，2013 年於全球共計取得 29 件專利，為歷年來最多的年度。大量的人力資源投資與研發投入，致 2013 年營業費用大幅增加 49% 至 10.47 億元，其中研發費用佔比更高達近 8 成。

2013 年全球智慧型手機與平板電腦市場依舊蓬勃發展，依據全球知名研究機構 IDC 的資料指出，上述兩應用分別享有 40% 與 50% 的年度數量成長。旭曜科技近年營運重心專注於智慧型手機與平板電腦上，憑藉長年累積之厚實技術實力，加上公司全體員工積極投入產品、市場開發並提供客戶充分的技術服務，2013 年度在此兩應用上的成績斐然，平板電腦用驅動 IC 出貨與市場成長同步達 50%，智慧型手機驅動 IC 出貨更遠遠超越市場表現，有逾 2 倍的出貨成長。展望 2014 年，智慧型手機與平板電腦的出貨成長雖漸趨緩，但市場普遍預期年度成長率為 20-30%，市場規模分別為 12.5 億支與 3.4 億台；且對解析度要求日益提高，大尺寸手機面板的滲透率逐步拉高，預期中高階解析度如 HD、FHD 的滲透率亦會越來越高；平板電腦面板規格也逐步提升，解析度快速往 WSVGA、HD 與 FHD 發展。旭曜科技將持續與市場發展同步，即時推出適當的產品，保持在中小尺寸面板應用上所需技術與相關市場領先的優勢。

檢視 2014 年外部環境，面板產業仍持續有新產能增加，各家面板驅動 IC 供應商皆積極投入中小尺寸產品應用，造成產業供給過剩疑慮與市場競爭更為激烈；縱然經營壓力因此變大，惟旭曜科技仍有信心憑藉完整的市場與產品佈局維持先行者優勢，並針對不同產品應用採取最適宜的發展策略。針對智慧型手機應用，本公司不論於大陸市場亦或全球市場皆佔有重要的供應地位，除了鞏固入門產品的市場佔有率外，將積極導入中、高階產品，增加高產值與高獲利產品的貢獻。在平板電腦應用上，由於產品供應愈趨完整，自入門 WVGA 至高階 FHD 應用皆有產品佈局，因此除繼續原先白牌平板市場的經營外，更積極拓展全球品牌專案；另外將爭取在同時佈局手機與平板雙行動裝置市場的客戶內進行跨產品線延伸，提供更多服務與強化彼此的合作。此外，本公司亦積極投入車用面板零組件與觸控技術開發，為下一個階段的營運發展作準備。

在充滿機會與考驗的 2014 年，旭曜科技經營團隊將秉持一貫兢兢業業的經營態度，帶領全體同仁持續努力，提升核心競爭力，落實所擬定的策略與目標，加強產品佈局與優化產品結構，維繫本公司與客戶及供應鏈的良好關係，擴張營運規模暨提高營運效率與獲利能力。為全體股東創造長期投資價值，以回饋各位股東長期以來的支持。

謹祝各位股東身體健康、萬事如意。

董事長 黃洲杰



總經理 廖明政



會計主管 張光佑



審計委員會查核報告書

董事會造送本公司民國一〇二年度營業報告書及財務報表，前述財務報表業經委託勤業眾信聯合會計師事務所查核完竣，並出具查核報告。上述營業報告書及財務報表經本審計委員會查核，認為符合公司法相關法令規定，爰依證券交易法第十四條之四之規定報告如上。

敬請 鑒核

此致

旭曜科技股份有限公司

審計委員會召集人： 黃錦煌



中 華 民 國 一 〇 三 年 三 月 十 日

審計委員會查核報告書

董事會造送本公司民國一〇二年度盈餘分派議案。上述盈餘分派議案經本審計委員會查核，認為符合公司法相關法令規定，爰依證券交易法第十四條之四之規定報告如上。

敬請 鑒核

此致

旭曜科技股份有限公司

審計委員會召集人：黃錦煌



中 華 民 國 一 〇 三 年 四 月 二 十 八 日

會計師查核報告

旭曜科技股份有限公司 公鑒：

旭曜科技股份有限公司民國 102 年 12 月 31 日、民國 101 年 12 月 31 日及 1 月 1 日之資產負債表，暨民國 102 年及 101 年 1 月 1 日至 12 月 31 日之綜合損益表、權益變動表與現金流量表，業經本會計師查核竣事。上開財務報表之編製係管理階層之責任，本會計師之責任則為根據查核結果對上開財務報表表示意見。

本會計師係依照會計師查核簽證財務報表規則及一般公認審計準則規劃並執行查核工作，以合理確信財務報告有無重大不實表達。此項查核工作包括以抽查方式獲取財務報告所列金額及所揭露事項之查核證據、評估管理階層編製財務報告所採用之會計原則及所作之重大會計估計，暨評估財務報告整體之表達。本會計師相信此項查核工作可對所表示之意見提供合理之依據。

依本會計師之意見，第一段所述財務報表在所有重大方面係依照證券發行人財務報告編製準則暨經金融監督管理委員會認可之國際財務報導準則、國際會計準則、解釋及解釋公告編製，足以允當表達旭曜科技股份有限公司民國 102 年 12 月 31 日、民國 101 年 12 月 31 日及 1 月 1 日之財務狀況，暨民國 102 年及 101 年 1 月 1 日至 12 月 31 日之財務績效及現金流量。

旭曜科技股份有限公司民國 102 年度財務報告重要會計項目明細表，主要係供補充分析之用，亦經本會計師採用第二段所述之查核程序予以查核。據本會計師之意見，該等科目明細表在所有重大方面與第一段所述財務報表相關資訊一致。

勤業眾信聯合會計師事務所

會計師 葉 東 煒

葉東煒



會計師 黃 鴻 文

黃鴻文



行政院金融監督管理委員會核准文
號

金管證審字第 0980032818 號

財政部證券暨期貨管理委員會核准文
號

台財證六字第 0920123784 號

中 華 民 國 103 年 2 月 10 日



民國 102 年 12 月 31 日及 1 月 1 日

附件五

單位：新台幣仟元

代 碼	資 產	102 年 12 月 31 日		101 年 12 月 31 日		101 年 1 月 1 日	
		金 額	%	金 額	%	金 額	%
1100	現金及約當現金 (附註四、六及二七)	\$ 383,389	6	\$ 232,551	6	\$ 759,009	24
1110	透過損益按公允價值衡量之金融資產－流動 (附註四、七及二七)	141	-	1,292	-	-	-
1125	備供出售金融資產－流動 (附註四、八及二七)	-	-	-	-	52,038	2
1170	應收帳款淨額 (附註四、九、二七及二八)	2,072,541	33	1,448,743	35	1,143,939	36
1180	應收帳款－關係人淨額 (附註四、九、二七及二八)	188,912	3	504,784	12	48,474	1
130X	存貨 (附註四、五及十)	2,772,010	44	1,346,181	32	946,007	30
1470	其他流動資產 (附註十三及二九)	756,858	12	481,921	11	29,887	1
11XX	流動資產總計	6,173,851	98	4,015,472	96	2,979,354	94
非流動資產							
1600	不動產、廠房及設備 (附註四、十一及二八)	26,759	-	46,687	1	42,672	1
1780	無形資產 (附註四、十二及二八)	26,597	-	43,597	1	58,426	2
1840	遞延所得稅資產 (附註四、五及二一)	44,440	1	55,242	1	58,434	2
1920	存出保證金	42,574	1	36,155	1	27,400	1
15XX	非流動資產合計	140,370	2	181,681	4	186,932	6
歸屬於本公司業主之權益 (附註四、十九及二二)							
股 本							
3110	普通股股本						
3200	資本公積						
3310	保留盈餘						
3350	法定盈餘公積						
3350	未分配盈餘						
3490	其他權益－其他						
31XX	本公司業主之權益合計						
3XXX	權益總計						
1XXX	資 產 總 計	\$6,314,221	100	\$4,197,153	100	\$3,166,286	100
負債與權益總計							
負債							
短期借款 (附註十四及二七)		\$ 760,028	12	\$ 319,440	8	\$ -	-
透過損益按公允價值衡量之金融負債－流動 (附註四、七及二七)		-	-	-	-	415	-
應付帳款 (附註十六、二七及二八)		1,262,982	20	1,070,880	26	448,810	14
長期所得稅負債 (附註四及二一)		67,129	1	17,588	-	7,788	-
其他流動負債 (附註十七及二八)		241,122	4	128,959	3	104,022	4
流動負債總計		2,331,261	37	1,536,867	37	561,035	18
非流動負債							
透過損益按公允價值衡量之金融負債－非流動 (附註四、七及二七)		17,434	-	-	-	-	-
應付公司債 (附註四、十五及二七)		921,799	15	-	-	-	-
應計退休金負債 (附註四及十八)		41,530	1	42,073	1	40,055	1
存入保證金 (附註二七)		71,172	1	50,036	1	20,373	1
其他非流動負債 (附註十七)		9,000	-	9,000	-	7,000	-
非流動負債總計		1,060,935	17	101,109	2	67,428	2
負債總計		3,392,196	54	1,637,976	39	628,463	20
歸屬於本公司業主之權益 (附註四、十九及二二)							
股 本							
3110	普通股股本	1,402,085	22	1,387,194	33	1,381,276	44
3200	資本公積	748,425	12	625,610	15	619,432	19
3310	保留盈餘	180,884	3	168,555	4	154,916	5
3350	法定盈餘公積	631,923	10	377,818	9	382,170	12
3490	其他權益－其他	(41,292)	(1)	-	-	29	-
31XX	本公司業主之權益合計	2,922,025	46	2,559,177	61	2,537,823	80
3XXX	權益總計	2,922,025	46	2,559,177	61	2,537,823	80
1XXX	資 產 總 計	\$6,314,221	100	\$4,197,153	100	\$3,166,286	100

後附之附註係本財務報告之一部分。



董事長：黃洲杰



經理人：廖明政



會計主管：張光佑

旭曜科技股份有限公司

綜合損益表

民國 102 年及 101 年 1 月 1 日至 12 月 31 日

單位：新台幣仟元，惟
每股盈餘為元

代 碼		102年度		101年度	
		金 額	%	金 額	%
4100	銷貨收入（附註四及二八）	\$ 9,362,444	100	\$ 5,006,666	100
5110	銷貨成本（附註十、十八、 二十及二八）	<u>7,884,267</u>	<u>84</u>	<u>4,138,435</u>	<u>83</u>
5900	營業毛利	<u>1,478,177</u>	<u>16</u>	<u>868,231</u>	<u>17</u>
	營業費用（附註十八、二十 及二八）				
6100	推銷費用	154,684	1	74,562	2
6200	管理費用	81,467	1	61,563	1
6300	研究發展費用	<u>810,364</u>	<u>9</u>	<u>565,064</u>	<u>11</u>
6000	營業費用合計	<u>1,046,515</u>	<u>11</u>	<u>701,189</u>	<u>14</u>
6900	營業淨利	<u>431,662</u>	<u>5</u>	<u>167,042</u>	<u>3</u>
	營業外收入及支出				
7010	其他收入（附註二十）	7,742	-	7,105	-
7020	其他利益及損失（附註 二十）	20,821	-	(27,129)	-
7050	財務成本（附註二十）	(15,966)	-	(625)	-
7590	什項支出	(<u>2,425</u>)	<u>-</u>	(<u>2,895</u>)	<u>-</u>
7000	營業外收入及支出 淨額	<u>10,172</u>	<u>-</u>	(<u>23,544</u>)	<u>-</u>
7900	稅前淨利	441,834	5	143,498	3
7950	所得稅費用（附註四及二一）	<u>78,109</u>	<u>1</u>	<u>20,974</u>	<u>1</u>
8200	本年度淨利	<u>363,725</u>	<u>4</u>	<u>122,524</u>	<u>2</u>

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代 碼		102年度		101年度	
		金	額 %	金	額 %
	其他綜合損益				
8325	備供出售金融資產未實現評價損益（附註四及十九）	\$	-	(\$	29)
8360	確定福利之精算損益（附註四及十八）	(	187)	(	2,735)
8300	其他綜合損益（稅後淨額）合計	(	187)	(	2,764)
8500	本年度綜合損益總額	\$	363,538	\$	119,760
	每股盈餘（附註二二）				
9750	基 本	\$	2.62	\$	0.89
9850	稀 釋	\$	2.48	\$	0.88

後附之附註係本財務報告之一部分。

董事長：黃洲杰



經理人：廖明政



會計主管：張光佑





加爾各答證券交易所有限公司

民國 102 年 12 月 31 日

單位：除另予註明者外，係新台幣仟元

代碼	股本 (附註二及三) 股數 (仟股)	普通股本額	資本公積 (附註四及五)	保留盈餘 (附註六)	未實現 (附註四)	其他權益 (附註四及五)	員工未賺得酬勞 (附註四及五)	權益總額
A1	138,128	\$ 1,381,276	\$ 619,432	\$ 154,916	\$ 382,170	\$ 29	\$ -	\$ 2,537,823
101 年 1 月 1 日餘額								
B1	-	-	-	13,639	(13,639)	-	-	-
B5	-	-	-	-	(110,502)	-	-	(110,502)
D1	-	-	-	-	122,524	-	-	122,524
D3	-	-	-	-	(2,735)	(29)	-	(2,764)
N1	591	5,918	6,178	-	-	-	-	12,096
Z1	138,719	1,387,194	625,610	168,555	377,818	-	-	2,559,177
101 年 12 月 31 日餘額								
B1	-	-	-	12,329	(12,329)	-	-	-
B5	-	-	-	-	(97,104)	-	-	(97,104)
C5	-	-	66,561	-	-	-	-	66,561
D1	-	-	-	-	363,725	-	-	363,725
D3	-	-	-	-	(187)	-	-	(187)
N1	-	-	8,191	-	-	-	-	8,191
N1	441	4,405	9,251	-	-	-	-	13,656
N1	982	9,820	35,941	-	-	-	(45,761)	-
N1	-	-	-	-	-	-	4,469	4,469
II	67	666	2,871	-	-	-	-	3,537
Z1	140,209	\$ 1,402,085	\$ 748,425	\$ 180,884	\$ 631,923	\$ -	(\$ 41,292)	\$ 2,922,025
102 年 12 月 31 日餘額								

後附之附註係本財務報告之一部分。



董事長：黃洲杰



經理人：廖明政



會計主管：張光佑

旭曜科技股份有限公司

現金流量表

民國 102 年及 101 年 1 月 1 日至 12 月 31 日

單位：新台幣仟元

代 碼		102 年度	101 年度
營業活動之現金流量			
A10000	本年度稅前淨利	\$ 441,834	\$ 143,498
	不影響現金流量之收益費損項目		
A20100	折舊費用	30,698	20,837
A20200	攤銷費用	27,554	30,879
A20400	透過損益按公允價值衡量金融 資產及負債之淨損失（利益）	6,985	(1,707)
A21900	員工認股權酬勞成本	8,191	-
A21900	限制員工權利新股酬勞成本	4,469	-
A20900	財務成本	15,966	625
A21200	利息收入	(6,520)	(4,523)
A24100	外幣兌換淨損失（利益）	39,848	(7,126)
A23100	處分投資利益	(923)	(1,949)
A30000	營業資產負債淨變動數		
A31150	應收帳款增加	(328,513)	(756,962)
A31200	存貨增加	(1,425,829)	(400,174)
A31240	其他流動資產增加	(94,646)	(40,657)
A32150	應付帳款增加	184,551	622,952
A32230	其他流動負債增加	108,421	23,693
A32240	應計退休金負債減少	(730)	(717)
A33000	營運產生之現金流出	(988,644)	(371,331)
A33100	收取之利息	6,625	4,231
A33300	支付之利息	(6,428)	(625)
A33500	支付之所得稅	(17,766)	(7,982)
AAAA	營業活動之淨現金流出	(1,006,213)	(375,707)
投資活動之現金流量			
B00300	取得備供出售金融資產	(1,613,000)	(2,293,059)
B00400	處分備供出售金融資產價款	1,613,923	2,347,017
B02700	取得不動產、廠房及設備	(14,634)	(20,848)
B04500	取得無形資產	(10,554)	(16,050)
B03800	存出保證金增加	(6,529)	(8,513)
B06500	其他金融資產增加	(180,396)	(411,085)
BBBB	投資活動之淨現金流出	(211,190)	(402,538)

(接次頁)

(承前頁)

代 碼		102 年度	101 年度
	籌資活動之現金流量		
C00100	短期借款增加	\$ 430,553	\$ 320,530
C01200	發行可轉換公司債	1,000,000	-
C03100	存入保證金增加	21,136	29,663
C04500	發放現金股利	(97,104)	(110,502)
C04800	員工執行認股權	<u>13,656</u>	<u>12,096</u>
CCCC	籌資活動之淨現金流入	<u>1,368,241</u>	<u>251,787</u>
EEEE	現金及約當現金淨增加（減少）數	150,838	(526,458)
E00100	年初現金及約當現金餘額	<u>232,551</u>	<u>759,009</u>
E00200	年底現金及約當現金餘額	<u>\$ 383,389</u>	<u>\$ 232,551</u>

後附之附註係本財務報告之一部分。

董事長：黃洲杰



經理人：廖明政



會計主管：張光佑



旭曜科技股份有限公司


 盈餘分配表
民國一〇一一年度

新台幣元

項目	金額
期初未分配盈餘	274,984,720
採用 TIFRS 調整數	<u>(6,599,777)</u>
調整後期初未分配盈餘	268,384,943
精算(損)益列入保留盈餘	<u>(186,140)</u>
調整後未分配盈餘	268,198,803
一〇二年稅後淨利	363,724,285
提撥項目：	
法定盈餘公積	<u>(36,372,429)</u>
本期可供分配盈餘	595,550,659
分派項目：	
股東股息(股本 6%)-現金	(84,125,088)
股東股利-現金	<u>(196,291,872)</u>
期末未分配盈餘	<u>315,133,699</u>
附註：	
1.員工紅利總金額共 73,387,967 元	
2.董監酬勞 3,648,402 元	

說明：1.股東股息 84,125,088 元及股東紅利 196,291,872 元計 280,416,960 元，合計每股配發 2.0 元現金股利。

- 2.本案俟提經本(一〇三)年股東常會通過後，擬請股東會授權董事長另行訂定配息基準日辦理之。
- 3.本公司俟後如因買回庫藏股，或將庫藏股轉讓、註銷，公司債轉換及因員工認股權之行使等因素，而須註銷股份或發行新股，致影響本公司流通在外股份總數，而使股東配息率因此發生變動者，擬請股東會授權董事長調整之。
- 4.本次現金股利依除息基準日股東名簿記載之股東名稱及其持有股份計算，並計算至元為止(元以下捨去)。現金股利分配未滿一元之畸零數額，列入公司之其他收入。
- 5.有關一〇一年十二月三十一日自先前一般公認會計原則轉換至國際財務報導準則保留盈餘調整數之調整細項資訊，請參閱一〇二年度個體財務報告中附註「首次採用國際財務報導準則」項下內容。
- 6.依一〇一年四月六日金管證發字第 1010012865 號函，開始採用國際財務報導準則編製財務報告後，帳列其他股東權益減項淨額(如國外營運機構財務報表換算之兌換差額、備供出售金融資產未實現損益、現金流量避險中屬有效避險部分之避險工具利益及損失等累計餘額)應迴轉(提列)特別盈餘公積 0 元。

董事長：黃洲杰



經理人：廖明政



會計主管：張光佑



Business Acquisition and Share Conversion Agreement

併購及股份轉換合約書

This BUSINESS ACQUISITION AND SHARE CONVERSION AGREEMENT (this “**Agreement**”) is entered into as of April 7, 2014 by and among FocalTech Corporation, Ltd., an exempted company incorporated under the laws of the Cayman Islands (“**FocalTech**”), Orise Technology Co., Ltd. a company incorporated under the laws of the Republic of China (“**Orise**”), and Orise Holding (Cayman) Inc., an exempted company incorporated under the laws of the Cayman Islands and a wholly owned subsidiary of Orise (“**Merger Sub**”, and together with Orise and FocalTech, the “**Parties**”). (Certain capitalized terms used in this Agreement are used as defined in Section 9.10)

本併購及股份轉換合約書(「本合約」)係由依開曼群島法律設立之豁免公司敦泰科技股份有限公司(「敦泰科技」)、依中華民國法律設立之旭曜科技股份有限公司(「旭曜」), 及依開曼群島法律設立之豁免公司且由 Orise 全資持有之 Orise Holding (Cayman) Inc. (「**Merger Sub**», 與敦泰科技及旭曜合稱為「**合約當事人**」), 於 2014 年 4 月 7 日簽訂。(本合約部分名詞定義請參第 9.10 項)

RECITALS

前言

1. The respective Boards of Directors of Orise and Merger Sub have (i) approved the merger of Merger Sub with and into FocalTech (the “**Merger**”), with FocalTech surviving the Merger, upon the terms and subject to the conditions set forth in this Agreement and becoming a direct wholly owned Subsidiary of Orise as a result of the Merger, (ii) approved the execution, delivery and performance by Orise and Merger Sub, as the case may be, of this Agreement and the consummation of the Merger and the other transactions contemplated hereby; and (iii) recommended the approval of the Share Issuance (as defined below) by the requisite vote of the Orise shareholders and the authorization and approval of this Agreement and the Merger and the Plan of Merger (as defined below) by the requisite vote of the Merger Sub shareholder; and

1. 旭曜及 Merger Sub 個別之董事會已：(i)同意 Merger Sub 與敦泰科技合併並併入敦泰科技(「**開曼合併**」), 依本合約之規定由敦泰科技為存續公司, 敦泰科技並因開曼合併成為旭曜直接全資持有之子公司；(ii)同意旭曜及 Merger Sub 簽署、交付及履行本合約、執行開曼合併及其他本合約所約定之併購及其相關交易；及(iii)提請旭曜股東依法決議通過核准本

案新股發行(定義如下)，及提請 Merger Sub 股東決議通過，依法授權及核准本合約、開曼合併及開曼法所要求合併計畫(定義如下)。

2. The Board of Directors of FocalTech (the "**FocalTech Board**") has (i) determined that it is in the best interests of FocalTech and its shareholders, and declared it advisable, to enter into this Agreement and the Plan of Merger, (ii) approved the execution, delivery and performance by FocalTech of this Agreement and the Plan of Merger and the consummation of the Merger and the other transactions contemplated hereby and (iii) recommended the authorization and approval by way of special resolution of this Agreement, the Merger and the Plan of Merger by the shareholders of FocalTech.

2. 敦泰科技之董事會(「**敦泰科技董事會**」)已：(i)決議為敦泰科技及其股東之最佳利益，其建議簽訂本合約及合併計畫；(ii)核可敦泰科技簽署、交付及履行本合約、合併計畫、並執行開曼合併及本合約所定其他交易；及(iii)提請敦泰科技股東會依特別決議授權並核准本合約、開曼合併及合併計畫。

3. Orise and FocalTech agree that each Party shall not, during the period between the date of this Agreement till June 30, 2014, engage in any discussion, evaluation with respect of, or proceed or enter into any business cooperation plan with any third party relating to partnership, merger, acquisition, joint venture, or enter into any agreement with third party regarding transactions similar or equivalent those contemplated hereunder.

3. 旭曜及敦泰科技同意自本合約簽署日起至西元 2014 年 6 月 30 日止，雙方不得與任何第三人討論、評估、進行或締結任何關於合夥、合併、收購、合資或類似之其他重大商業合作計畫或如本合約所定交易相同或雷同之合約。

AGREEMENT

合約條款

NOW, THEREFORE, in consideration of the foregoing and of the covenants and agreements contained herein, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto hereby agree as follows:

基於本合約所載之前述事實和本合約所定之承諾及約定、及其他相當之對價，合約當事人同意如下：

ARTICLE I

THE MERGER

第 1 條 開曼合併

Section 1.1. The Merger. Subject to the terms and conditions of this Agreement, and in accordance with the Cayman Islands Companies Law Cap. 22 (Law 3 of 1961, as consolidated and revised) (the "**Cayman Companies Law**"), on the Effective Date (as defined in Section 1.2 below), Merger Sub shall be merged with and into FocalTech in accordance with this Agreement, and the separate corporate existence of Merger Sub shall thereupon cease. Pursuant to and simultaneously upon the consummation of the Merger on the Effective Date, in accordance with the Cayman Companies Law, (i) FocalTech shall continue as the surviving company in the Merger (sometimes hereinafter referred to as the "**Surviving Corporation**"), becoming a wholly owned subsidiary of Orise, and (ii) the corporate identity, existence, powers, rights and immunities of FocalTech as the Surviving Corporation shall continue unimpaired by the Merger.

第 1.1 項 開曼合併 依本合約條款及開曼群島公司法第 22 章(經綜合及修訂的 1961 年第 3 號法例)(「**開曼公司法**」)，於基準日(定義請參第 1.2 項)時，Merger Sub 應依本合約被敦泰科技合併，Merger Sub 不再存續。於基準日開曼合併完成時，根據開曼公司法，(i)敦泰科技應為開曼合併之存續公司(下稱「**存續公司**」)，成為旭曜之全資子公司，及(ii)身為存續公司，敦泰科技的公司同一性、存在、權力、權利及豁免應不因開曼合併而改變。

Section 1.2. Filing Certificate of Merger; Effective Date. As soon as practicable following the satisfaction or, to the extent permitted by applicable law, waiver of the conditions set forth in Article VII of this Agreement, if this Agreement shall not have been terminated prior thereto as provided in Article VIII below, Orise, Merger Sub and FocalTech shall execute a plan of merger (the "**Plan of Merger**") substantially in the form contained in *Annex A* hereto and the Parties shall file the Plan of Merger and other documents required to effect the Merger pursuant to the Cayman Companies Law with the Registrar of Companies of the Cayman Islands as provided in Section 233 of the Cayman Companies Law on or as soon as practicable after the Closing Date. The Merger shall become effective on the date when the Plan of Merger has been registered by the Registrar of Companies of the Cayman Islands (the "**Effective Date**").

第 1.2 項 申請合併證明書；基準日 在本合約第 7 條所訂條件成就後、或於法令允許範圍內免除第 7 條所訂條件後，倘本合約尚未依第 8 條而終止，旭曜、Merger Sub 及敦泰科技應於實際可行期間內依附表 A 簽署合併計畫(「**合併計畫**」)，且合約當事人應依開曼公司法第 233 條，在交割日或交割日後之實際可行期間內，依開曼公司法向開曼群島登記單位遞交合併計畫及其他使開曼合併生效之其他文件。開曼合併應於合併計畫向開曼群島登記單位登記時生效(「**基準日**」)。

Section 1.3. Closing of the Merger. Unless otherwise mutually agreed in writing among the Parties, the closing of the Merger (the "**Closing**") will take place at 10:00 a.m.

(Taiwan time), on January 2, 2015 or another date to be agreed between FocalTech and Orise (the "**Closing Date**"), which shall be no later than the third Business Day immediately following the satisfaction or waiver of the conditions set forth in Article VII (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the fulfillment or waiver of those conditions at the Closing), at the offices of Tsar & Tsai Law Firm, 8F, No. 245, Dunhwa S. Rd. Sec. 1, Taipei, Taiwan or another place agreed in writing by FocalTech and Orise. To the extent permissible by the applicable Law, the Board of FocalTech and Orise shall respectively authorize its chairman of the Board, to decide and reach the agreement whether any change of Closing Date and place is desired.

第 1.3 項 開曼合併之交割 除非合約當事人另為書面同意外，開曼合併之交割(「交割」)應在 2015 年 1 月 2 日或敦泰科技及旭曜雙方同意之其他日期的台灣時間上午 10 點(「交割日」)，且該雙方同意之其他日期不得晚於本合約第 7 條所訂條件均已成就或被免除後的第 3 個營業日(不含本質上應於交割時成就之條件，但應限於視交割時其是否已被滿足或被免除之條件)，於台灣台北市敦化南路一段 245 號 8 樓常在國際法律事務所辦公室，或其他敦泰科技及旭曜書面同意之地點進行。在法令允許範圍內，敦泰科技及旭曜之董事會應分別授權其董事長決定並就有無必要變更交割日及地點達成協議。

Section 1.4. Effects of the Merger. The Merger shall have the effects specified in the Cayman Companies Law. Without limiting the generality of the foregoing, and subject thereto, on the Effective Date, the Surviving Corporation shall succeed to and assume all the rights, property of every description, including choses in action, and the business, undertaking, goodwill, benefits, immunities and privileges, mortgages, charges or security interests and all contracts, obligations, claims, debts and liabilities of Merger Sub and FocalTech in accordance with the Cayman Companies Law.

第 1.4 項 開曼合併之效力 開曼合併應有開曼公司法所訂之效力。於不違反前述約定之情況下，於基準日時，存續公司應依開曼公司法承受 Merger Sub 及敦泰科技的所有權利、包含無體財產權在內之各項財產，及營業、保證、商譽、利益、豁免及特權、抵押權、擔保或有價證券利益，及所有合約、義務、請求及負債。

Section 1.5. Memorandum and Articles of Association. On the Effective Date, the memorandum of association and articles of association of Merger Sub then in effect shall be the memorandum of association and articles of association (the "**Articles of Association**") of the Surviving Corporation (except that, on the Effective Date, (i) Clause 1 of the memorandum of association shall be amended to be and read as follows: "The name of the Company is " FocalTech Corporation, Ltd.", and (ii) Clause 5 of the memorandum of association shall be amended to be and read as follows: "The share capital of the Company is NT\$1,500,000,000 divided into 150,000,000 shares of a nominal or par value of NT\$10.00 each", and (iii) the Articles of Association shall be amended to refer to the name of the Surviving

Corporation as " FocalTech Corporation, Ltd."), in each case, until thereafter changed or amended as provided therein or by applicable Law.

第 1.5 項 組織大綱及章程 於基準日時，Merger Sub 當時有效的組織大綱及章程應為存續公司之組織大綱及公司章程(「公司章程」)(除了在基準日時，(i)組織大綱第一條應修訂為：本公司之名稱為 FocalTech Corporation, Ltd.；(ii)組織大綱第五條應修正為：「本公司之授權資本為新台幣 15 億元，分為 1 億 5 仟萬股，每股面額新台幣 10 元。」；及(iii)公司章程應將公司名稱修訂為存續公司名稱，即 FocalTech Corporation, Ltd.)，直至依本合約或依法令改變或修訂組織大綱或章程。

Section 1.6. Directors of Surviving Corporation. From and after the Effective Date, Genda J. Hu and/or his appointees shall be the directors of the Surviving Corporation, each to hold office in accordance with the Articles of Association.

第 1.6 項 存續公司董事 自基準日起，胡正大先生及/或其指定之人應為存續公司之董事，其任期依公司章程而定。

Section 1.7. Officers of Surviving Corporation. From and after the Effective Date, Genda J. Hu and/or his appointees shall be the officers of the Surviving Corporation, each to hold office in accordance with the Articles of Association.

第 1.7 項 存續公司經理人 自基準日起，胡正大先生及/或其指定之人應為存續公司經理人，其任期依公司章程而定。

ARTICLE II

CONVERSION AND ISSUANCE OF SHARES

第 2 條

股份轉換與發行

Section 2.1. Conversion of Securities. On the Effective Date, by virtue of the Merger and without any action on the part of any of the Parties:

第 2.1 項 有價證券轉換 於基準日時，因通過開曼合併、且無須合約當事人任何一方之任何行為：

(a) *Securities of Merger Sub.* The one ordinary share, par value US\$1.00 per share, of Merger Sub issued and outstanding immediately prior to the Effective Date shall be converted into 55,506,550 fully paid and nonassessable ordinary shares, par value NT\$ 10 per share, of the Surviving Corporation. Such shares shall be the only issued and outstanding share capital of the Surviving Corporation.

(a) *Merger Sub 的有價證券* Merger Sub 在基準日前發行並流通在外之一普通股(每股面額 1 美元)，應轉為存續公司合法發行、每股面額新台幣 10 元之 55,506,550 普通股。該等股份應為存續公司唯一發行且在外流通之股份權益。

(b) *Merger Consideration.* Each ordinary share, par value NT\$10 per share, of FocalTech ("**FocalTech Share**") issued and outstanding immediately prior to the Effective Date (individually, a "**FocalTech Share**" and collectively, the "**FocalTech Shares**") (other than the Excluded Shares and any Dissenting Shares), shall be converted into the right to receive 4.8 (the "**Exchange Ratio**") validly issued, fully paid, non-assessable ordinary shares, par value NT\$10 per share, of Orise ("**Orise Shares**") (such number of shares, the "**Per Share Merger Consideration**").

The number of Orise Shares constituting the aggregated Per Share Merger Consideration (the "**Merger Consideration**") to be issued by Orise is set forth in Exhibit 2.1(b) attached hereto.

As of the Effective Date, each FocalTech Share (other than the Excluded Shares and any Dissenting Shares) shall thereafter represent only the right to receive the Per Share Merger Consideration, without interest, provided that Dissenting Shares (as defined below) shall be treated in the manner set forth in Section 2.5, and the register of members of FocalTech will be amended accordingly.

(b) *對價* 敦泰科技在基準日前發行並在外流通之每一普通股(每股面額新台幣 10 元)(「**敦泰科技股份**」)(不含除外股份及任何異議股東股份)應成為取得 4.8 (「**換股比例**」)旭曜為 Merger Sub 與敦泰科技合併投入對價所合法發行每股面額新台幣 10 元普通股之權利(「**旭曜股份**」)(該數量之股份稱為「**每股對價**」)。

旭曜因全部每股對價(「**對價**」)而需增發之股份數(「**對價股份發行**」)規定於本合約附表 2.1(b)

在基準日時，每一股敦泰科技股份(不含除外股份及任何異議股東股份)應僅代表不計息取

得每股對價之權利，惟異議股東股份（定義如下）應依第 2.5 項處理，敦泰科技之股東名簿亦應因此修訂。

(c) *Excluded Shares* Notwithstanding Section 2.1(b), each FocalTech Share issued and outstanding immediately prior to the Effective Date that is (i) held by FocalTech in treasury or (ii) held by Orise (collectively, the "Excluded Shares") shall, by virtue of the Merger and without any action on the part of its holder, automatically be cancelled, shall no longer be issued or outstanding and shall cease to exist, and the register of members of FocalTech will be amended accordingly, and no consideration shall be delivered or deliverable in exchange therefor.

(c)除外股份 不受第 2.1(b)項之限制，在基準日前發行且在外流通之每一敦泰科技股份，並由(i)敦泰科技持有之庫藏股或(ii)旭曜所持有者(合稱「除外股份」)，應不再發行或流通在外並應停止存在，敦泰科技之股東名簿亦應因此修訂，且無須交付或應交付任何對價。

(d) *Untraceable Shareholders.* The Per Share Merger Consideration shall not be issued or delivered to FocalTech shareholders who are untraceable unless, except as provided below, they notify the stock agent of FocalTech of their current contact details prior to the Effective Date. A FocalTech shareholder will be deemed to be untraceable if (i) he has no registered address in the register of members maintained by FocalTech, (ii) on the last two consecutive occasions on which a dividend has been paid by FocalTech, a check payable to such shareholder either (A) has been sent to such shareholder and has been returned undelivered or has not been cashed or (B) has not been sent to such shareholder because on an earlier occasion a check for a dividend so payable has been returned undelivered, and in any such case no valid claim in respect thereof has been communicated in writing to FocalTech or (iii) notice of the FocalTech shareholders meeting for approving this Agreement and transactions hereunder ("**FocalTech Shareholders Meeting**") has been sent to such shareholder and has been returned undelivered.

(d)未能聯絡到之股東 每股對價不應發給或交付給未能聯絡到之敦泰科技股東，除非他們在基準日前通知敦泰科技之股務代理機構其現行聯絡資訊。如果發生下列情形之一，敦泰科技股東將被視為未能聯絡：(i) 在敦泰科技備置的股東名簿中沒有登記地址；(ii)敦泰科技過去連續兩次給付股利時，給該股東之支票(A)雖已寄給該位股東，但被退回無法投遞或未被兌現；或(B)未寄給該股東，因為先前的股利支票被退回無法投遞，且在該情形下，未有任何以書面聯繫敦泰科技的有效請求；或(iii) 敦泰科技為決議本合約及本合約所定交易之股東會（「敦泰科技股東會」）召集通知已寄給該位股東，但被退回無法投遞。

(e) *Exchange Ratio Adjustments.* The parties agree that the Exchange Ratio shall be subject to adjustments in accordance with the provisions set forth in the Exhibit 2.1(e) attached hereto.

(e)換股比例調整 合約當事人同意換股比例應依附表 2.1(e)所列條款調整之。

Section 2.2 Treatment of FocalTech Options.

(a) Each FocalTech Option that is outstanding immediately prior to the Effective Date, whether vested or unvested, shall, on the Effective Date, be assumed by Orise and be replaced by Orise with an Orise Option. Each such FocalTech Option shall be exercisable for that number of whole Orise Shares (rounded down to the nearest whole share) equal to the product of (i) the total number of FocalTech Shares subject to such FocalTech Option and (ii) the Exchange Ratio, at an exercise price per Orise Share (rounded up to the nearest whole cent) equal to the quotient obtained by dividing (x) the exercise price per share of the FocalTech Option by (y) the Exchange Ratio. Each such Orise Option shall continue to have, and shall be subject to, the same terms and conditions as applied to the FocalTech Option immediately prior to the Effective Date (but taking into account any changes thereto provided for in the FocalTech Share Option Plan, any award agreement, or any other contract or agreement, including by reason of this Agreement or the transactions contemplated hereby).

第 2.2 項 敦泰科技認股權憑證之處理

(a)在基準日前在外流通的每一單位敦泰科技認股權憑證，不論既得與否，應在基準日時由旭曜承受並由旭曜轉為一單位旭曜認股權憑證。每一敦泰科技認股權憑證應得轉換為相當於下列計算結果算出之相同數量之整數旭曜股份(無條件捨去法取至整數)：(i) 每一敦泰科技認股權憑證原可認購之敦泰科技股份乘以(ii)換股比例。旭曜每股認股價格(無條件進位法取至小數點第2位)調整為敦泰科技認股權憑證認股價格除以換股比例。該每一單位旭曜認股權憑證應與在基準日前在外流通的敦泰科技認股權憑證適用相同之條款(但亦要考量敦泰科技認股權計畫、任何授與合約、本合約或其他合約，包含本合約所定交易，所規定之任何變動)

(b) Unless otherwise determined by Orise, the FocalTech Share Option Plan shall terminate as of the Effective Date. FocalTech shall take all actions necessary to (i) effect the measures contemplated in this Section 2.2, including but not limited to the adoption of any plan amendments, obtaining FocalTech Board approval, and/or obtaining the necessary employee or option holder consents and (ii) to ensure that from and after the Effective Date neither Orise nor the Surviving Corporation will be required to issue FocalTech Shares, other share capital of the Surviving Corporation or any other consideration (other than as required by this Section 2.2) to any Person pursuant to or in settlement of FocalTech Options or any other awards granted under the FocalTech Share Option Plan.

(b)除非旭曜另有決定，敦泰科技認股權計畫應在基準日時終止。敦泰科技應採取所有必要行動以(i)使第2.2項之措施生效，包含但不限於修訂任何辦法、取得敦泰科技董事會之核准，及/或取得必要之員工或認股權憑證持有人同意(ii)確保自基準日起，旭曜及存續公司皆不會被根據敦泰科技認股權憑證或其他依敦泰科技認股權計畫授予之獎勵，而被要求發行敦泰科技股份、其他存續公司之股份權益或其他對價(第2.2項規定者除外)給任何人。

Section 2.3.

Exchange Procedures.

(a) *Holders of FocalTech Shares.* Each registered holder of FocalTech Shares (except the holders of Excluded Shares and Dissenting Shares) shall be entitled to receive the Per Share Merger Consideration, without interest, for each FocalTech Share converted on the Effective Date multiplied by the number of FocalTech Shares held. On the Effective Date, the registered holder of such FocalTech Shares shall have no further rights in respect of such FocalTech Shares, other than the right to receive the Per Share Merger Consideration as contemplated by this Article II, without interests.

第 2.3 項 交換程序

(a) 敦泰科技股份持有人 每一位敦泰科技股份之登記持有人（除了除外股份及異議股東股份以外）應有權於基準日時取得不計息之每股對價乘以其所持有之敦泰科技股數。於基準日時，除依本合約第 2 條取得不計息每股對價之權利外，該敦泰科技股份之登記持有人對於該敦泰科技股份不再有任何權利。

(b) *Settlement of Fractional Securities.* No fractional Orise Shares shall be issued to holders of FocalTech Shares as part of the total Merger Consideration. Each holder of FocalTech Shares (except the holders of Excluded Shares and Dissenting Shares) who would have received fractional Orise Shares but for this Section 2.3(b) shall receive a cash payment representing such holder's proportionate interest in the net proceeds from the sale by the Orise pursuant to this Section 2.3(b), and Orise's chairman of the Board is hereby authorized to proceed with the sale of such fractional shares, at the closing price of Orise Share on the last trading date immediately before the Effective Date, to any specific third party for the above purpose.

(b) 畸零股之處理 旭曜不得發行畸零股作為應發給敦泰科技股份持有人之合併對價總額之一部分。每一原應收到旭曜股份畸零股之敦泰科技股份持有人(除了除外股份及異議股東股份的持有人外)，應收到旭曜依本 2.3(b)項出售其該部分股份之現金，並授權旭曜董事長為上述目的洽特定人以基準日前最後交易日之旭曜股份收盤價承購該等畸零股份。

Section 2.4

Transfer Books; No Further Ownership Rights.

Subject to Section 2.5, the Merger Consideration paid in respect of FocalTech Shares in accordance with the terms of this Article II shall be deemed to have been paid in full satisfaction of all rights pertaining to FocalTech Shares. On the Effective Date, the register of members of FocalTech shall be closed, and thereafter there shall be no further registration of transfers on the register of members of the Surviving Corporation of FocalTech Shares that were issued and outstanding immediately prior to the Effective Date. From and after the Effective Date, the holders of FocalTech Shares issued and outstanding immediately prior to the Effective

Date shall cease to have any rights with respect to such FocalTech Shares except as otherwise provided for herein or by applicable Law.

第 2.4 項 移轉簿記；無所有權權利

依第 2.5 項，依第 2 條就敦泰科技股份給付之對價，應視為已完全滿足敦泰科技股份包含之所有權利。在基準日時，敦泰科技的股東名簿應停止過戶，存續公司的股東名簿不應再有任何在基準日前已發行且在外流通之敦泰科技股份的移轉登記。自基準日起，基準日前已發行且在外流通的敦泰科技股份，其持有人除本合約規定或法令另有規定外，應不再就該敦泰科技股份有任何權利。

Section 2.5 Dissenting Shares.

(a) No Person who has validly exercised such Person's rights to dissent from the Merger pursuant to Section 238 of the Cayman Companies Law shall be entitled to receive the Per Share Merger Consideration with respect to FocalTech Shares owned by such Person ("**Dissenting Shares**") unless and until such Person shall have effectively withdrawn or lost such Person's rights to dissent from the Merger under the Cayman Companies Law. If a holder of Dissenting Shares effectively withdraws its demand for, or loses its rights to, dissent from the Merger pursuant to Section 238 of the Cayman Companies Law with respect to any Dissenting Shares, such FocalTech Shares shall cease to be Dissenting Shares. Each Dissenting Share shall be entitled to receive only the payment resulting from the procedure in Section 238 of the Cayman Companies Law.

第 2.5 項 異議股東股份 (a)任何人已依開曼公司法第 238 條有效行使對開曼合併之異議權時，其就持有之敦泰科技股份(「**異議股東股份**」)就不得收取每股對價，除非該人已有效地被撤銷或喪失其依開曼公司法對開曼合併之異議權。倘異議股東股份持有人就其任一異議股東股份，有效地撤銷其依開曼公司法第 238 條對開曼合併之異議要求或喪失其異議權時，該敦泰科技股份不再為異議股東股份。每一異議股東股份僅得取得開曼公司法第 238 條所定程序之給付。

Section 2.6 Agreement of Fair Value. Orise, Merger Sub and FocalTech respectively agree that the Per Share Merger Consideration represents the fair value of FocalTech Shares for the purposes of Section 238(8) of the Cayman Companies Law.

第 2.6 項 公平市價 旭曜、Merger Sub 及敦泰科技分別同意每股對價即為敦泰科技股份在開曼公司法第 238(8)條下之公平市價。

Section 2.7 The amendments to Orise Articles and the total number, type, amount and relevant matter of Share Issuance issued by Orise

Orise agrees that pursuant to Section 6.5, Orise's articles of incorporation ("**Orise Articles**") and the total number, type, amount and relevant matter of Share Issuance issued by Orise upon Effective Date shall be as set out in the particulars as provided respectively under Exhibit 2.1(b) and Exhibit 2.7 attached hereto.

第 2.7 項 旭曜章程需變更事項及發行新股之總數、種類、數量及其他有關事項 旭曜同意依據第 6.5 項，其章程需變更事項及於基準日時發行新股之總數、種類、數量及其他有關事項，應分別依附表 2.1(b)及附表 2.7 定之。

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF FOCALTECH

第 3 條

敦泰科技的聲明與保證

Except as set forth in the section of the disclosure schedule delivered to Orise by FocalTech on the date hereof (the "**FocalTech Disclosure Schedule**") that specifically relates to a specified section or subsection of this Article III, or any other section or subsection of this Agreement to the extent that it is reasonably apparent that such information is relevant to such other section or subsection, FocalTech hereby represents and warrants to Orise and Merger Sub that:

除列於敦泰科技於簽署日送達旭曜之揭露事項（敦泰科技揭露事項」）者外(該揭露事項將具體引述本合約第 3 條之特定條款或本合約之其他條款及相關資訊)，敦泰科技向旭曜及 Merger Sub 聲明及保證如下：

Section 3.1 Organization and Qualification.

第 3.1 項 組織與資格

(a) FocalTech and each of its Subsidiaries is a corporation or legal entity duly organized, validly existing and in good standing (with respect to jurisdictions that recognize the concept of good standing) under the Laws of the jurisdiction of its incorporation and has all requisite corporate, partnership or similar power and authority to own, lease and operate its properties and to carry on its businesses as now conducted. FocalTech and each of its Subsidiaries is duly qualified or licensed to do business in each jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification or licensing necessary, except where the failure to be so qualified or licensed is not material.

(a) 敦泰科技及所屬子公司係依所設立之法律合法設立、(依承認有效存在概念的相關法領域而言) 目前仍有效存在之組織或法律主體，並具備所有、出租並使用其財產以及經營目前之營業所需之所有必要之公司或其他類此能力與權限。敦泰科技及其子公司於其所有、租賃或使用之財產或經營之營業所在之法律領域已獲必要之資格或合法之授權以從事營業，但若不具備此等資格或授權並非重要者，不在此限。

(b) Section 3.1(b) of the FocalTech Disclosure Schedule sets forth a list of (i) all Subsidiaries of FocalTech and (ii) FocalTech's interest in any Person which is not a Subsidiary, including any Person in which FocalTech has a non-controlling equity interest, Except for those set forth in the Section 3.1(b) of the Focal Tech Disclosure Schedule, FocalTech does not own, directly or indirectly, beneficially or of record, any shares of capital stock or other security of any other entity or any other investment in any other entity.

(b) 揭露事項第 3.1.(b) 項已列出 (i) 敦泰科技所有子公司及 (ii) 敦泰科技所投資非子公司之任何人 (包含敦泰科技擁有非控制股權利益之任何人)。除前述揭露事項所列出者，敦泰科技並未直接或間接、名義上或實質上擁有其他任何主體之股權或其他證券，或對其他主體進行投資。

Section 3.2

Capitalization.

(a) As of the date of this Agreement, the authorized share capital of FocalTech is NT\$ 1,500,000,000 divided into 150,000,000 ordinary shares of par value NT\$ 10 each. As of the date of this Agreement, (1) 55,506,550 FocalTech Shares were issued and outstanding; and (2) no preferred or special shares or any other securities convertible into or exchangeable for any share capital or any equity equivalents are issued and outstanding, except as provided by FocalTech Disclosure Schedule which sets forth each grant of FocalTech Options as of the date of this Agreement and the information of such grant, including the grant date, the exercise price, respective number of options granted, exercised, expired, not exercised, and the aggregated of total grant (granted, exercised, expired, not exercised)

第 3.2 項 資本

(a) 至本合約簽署日止，敦泰科技之授權資本額為新台幣 1,500,000,000 元，分為普通股共 150,000,000 股，每股面額為 10 元。至本合約簽署日止，(1) 敦泰科技已發行及在外流通之股數為 55,506,550。(2) 除已揭露於敦泰科技揭露事項者外，無優先或特別股或其他可轉換或交換為股份權益或其他股權性質有價證券，該揭露事項已列出至本合約簽署日止，敦泰科技各次授予之認股權憑證及其資訊，包括授予日期、認股價格、敦泰科技認股權憑證之數量(包含授予數量、已執行數量、失效數量、未執行數量)，與全部授予認股權憑證之總和(包含授予數量、已執行數量、失效數量、未執行數量)。

Section 3.3

Authority

(a) FocalTech has all necessary corporate power and authority to execute and deliver this Agreement and, subject to, obtaining the Required FocalTech Shareholders' Approval, to consummate the transactions contemplated hereby. The FocalTech Board has duly and validly authorized the execution, delivery and performance of this Agreement and approved the consummation of the transactions contemplated hereby, and has at a meeting duly called and held (i) approved, and declared advisable this Agreement, the Merger and the Plan of Merger and the other transactions contemplated hereby; (ii) determined that such transactions are advisable and fair to, and in the best interests of, FocalTech and its shareholders and (iii) recommended that the shareholders of FocalTech approve and authorize this Agreement, the Merger and the Plan of Merger. No other corporate proceedings on the part of FocalTech are necessary to authorize and approve this Agreement, the Merger or the Plan of Merger or to consummate the transactions contemplated hereby (other than, the Required FocalTech Shareholders' Approval). This Agreement has been duly and validly executed and delivered by FocalTech and, assuming the due authorization, execution and delivery by Orise and Merger Sub, constitutes a valid, legal and binding agreement of FocalTech, enforceable against FocalTech in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors' rights and to general equity principles (the "**Bankruptcy and Equity Exception**").

第 3.3 項 合法授權

(a) 在敦泰科技取得必要股東同意之前提下，敦泰科技有簽署及交付本合約之所有必要權利及授權，以完成本合約所定之交易。敦泰科技董事會合法及有效授權本合約之簽署、交付及履行並且同意本合約所定交易之完成，並於合法召集之會議：(i)通過本合約、開曼合併、合併計畫及本合約所定交易；(ii)決定本交易適當可行並且對敦泰科技及其股東而言，係公平並符合最大利益；及(iii)提請敦泰科技股東同意並授權本合約、開曼合併及合併計畫。敦泰科技已無其他授權或同意本合約、開曼合併、合併計畫及本合約所定交易之必要程序（但敦泰科技必要股東同意不在此限）。本合約由敦泰科技合法及有效之簽署並交付，並於旭曜及 Merger Sub 有效授權簽署及交付之前提下，構成對於敦泰科技有效、合法、及具有拘束力之約定，並可依相關條件對於敦泰科技執行之，但破產、無清償能力、虛偽移轉、

重整、延期償付和其他關於或影響債權人權利或一般性權益原則之類似法令不在此限(「破產及權益例外」)

(b) FocalTech has obtained or will, by Closing, have obtained all consents, approvals and authorizations that it may be required (under applicable Law or otherwise) to obtain to perform its obligations under this Agreement and any related documents.

(b) 敦泰科技已取得或於交割前將取得所有（依可適用之法律或其他）所必要之同意、許可或授權，以履行本合約或其他相關文件之義務。

Section 3.4 Financial Statements.

(a) The audited consolidated financial statements of FocalTech (and the notes thereto) for the fiscal year ended December 31, 2013 that FocalTech has provided to Orise (collectively, "**FocalTech Financial Statements**") present fairly the financial position of FocalTech and its consolidated Subsidiaries as of the dates indicated and the results of operations and changes in financial position and capital surplus, and retained earnings and cash flows of FocalTech for the periods specified. Such FocalTech Financial Statements (i) have been prepared in accordance with International Financial Reporting Standards ("IFRS") applied on a consistent basis throughout the periods presented (other than as described therein) and (ii) were prepared in accordance with the books of account and other financial records of FocalTech.

第 3.4 項 財務報表

(a) 敦泰科技提供之結束於 2013 年 12 月 31 日並經會計師查核簽證之敦泰科技年度財務報告（合稱「敦泰科技財務報表」）已允當表達所載日期時敦泰科技及其子公司之財務狀況、暨涵蓋期間敦泰科技之營運成果及財務狀況、資本公積、保留盈餘及現金流量之變化。此等敦泰科技財務報表(i)於所示期間（除該財務報表另有表示外）係依國際財務報導準則(IFRS) 於一致性的基礎上編製；(ii)依據敦泰科技會計帳簿或其他財務憑證所編製。

(b) Except as disclosed by FocalTech in the Disclosure Schedule, neither FocalTech nor any of its Subsidiaries has any liabilities or obligations (whether accrued, absolute, contingent or otherwise) of the type required to be reflected on a balance sheet prepared in accordance with IFRS, except for liabilities or obligations (i) reflected or reserved against in the FocalTech Financial Statements, or (ii) incurred since the date thereof in the ordinary course of business and which do not and could not have a FocalTech Material Adverse Effect, or (iii) that do not exceed NT\$5 million. Reserves are reflected on the FocalTech Financial Statements against all liabilities of FocalTech and its Subsidiaries in amounts that have been established on a basis

consistent with the past practices of the FocalTech and the Subsidiaries and in accordance with IFRS.

(b) 除已列於敦泰科技揭露事項者外，敦泰科技及其子公司並無必須反映於依 IFRS 編製之資產負債表內的負債或義務（無論係到期應付、應付之絕對債務、或有負債或其他），除非該等債務或義務(i)於敦泰科技財務報表已反映或已提列準備，或(ii)於正常營運範圍內發生並自發生日起並未造成敦泰科技重大不利影響、或(iii)未超過新台幣五百萬元。就敦泰科技及其子公司所有負債，已依敦泰科技及其子公司一致過去慣例及 IFRS 計算以提列準備之數額，並已反映於敦泰科技財務報表內。

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF ORISE AND MERGER SUB

第 4 條

旭曜及 Merger Sub 之聲明與保證

Except as set forth in the section of the disclosure schedule delivered to FocalTech by Orise on the date hereof (the "**Orise Disclosure Schedule**") that specifically relates to a specified section or subsection of this Article IV or any other section or subsection of this Agreement to the extent that it is reasonably apparent that such information is relevant to such other section or subsection, Orise and Merger Sub hereby jointly and severally represent and warrant to FocalTech that:

除列於旭曜於簽署日送達敦泰科技之揭露事項（「旭曜揭露事項」）者外(該揭露事項將具體引述本合約第 4 條之特定條款或本合約之其他條款及相關資訊)，旭曜及 Merger Sub 連帶向敦泰科技聲明及保證如下：

Section 4.1

Organization and Qualification.

第 4.1 項 組織與資格

(a) Orise and each of its Subsidiaries is a corporation or legal entity duly organized, validly existing and in good standing (with respect to jurisdictions that recognize the concept of

good standing) under the Laws of the jurisdiction of its incorporation and has all requisite corporate, partnership or similar power and authority to own, lease and operate its properties and to carry on its businesses as now conducted. Orise and each of its Subsidiaries is duly qualified or licensed to do business in each jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification or licensing necessary, except where the failure to be so qualified or licensed is not material.

(a) 旭曜及所屬子公司係依所設立之法律合法設立、（依承認有效存在概念的相關法領域而言）目前仍有效存在之組織或法律主體，並具備所有、出租並使用其財產以及經營目前之營業所需之所有必要之公司、合夥或其他能力與權限。旭曜及其子公司於其所有、租賃或使用之財產或經營之營業所在之法律領域已獲必要之資格或合法之授權以從事營業，但若 not 具備此等資格或授權並非重要者，不在此限。

(b) Section 4.1(b) of the Orise Disclosure Schedule sets forth a list of (i) all Subsidiaries of Orise and (ii) Orise's interest in any Person which is not a Subsidiary, including any Person in which Orise has a non-controlling equity interest, Except for those set forth in the Section 4.1(b) of the Orise Disclosure Schedule, Orise does not own, directly or indirectly, beneficially or of record, any shares of capital stock or other security of any other entity or any other investment in any other entity.

(b) 除揭露事項第 4.1(b)項已列出(i)旭曜所有子公司及(ii)旭曜所投資非子公司之任何人(包含旭曜擁有非控制股權利益之任何人)外，旭曜並未直接或間接、名義上或實質上擁有其他任何主體之股權或其他證券，或對其他任何主體進行投資。

Section 4.2

Capitalization.

(a) As of the date of this Agreement, the authorized share capital of Orise is NT\$ 2,100,000,000 divided into 210,000,000 ordinary shares of par value NT\$ 10 each. As of the date of this Agreement, (1) 140,135,480 Orise Shares were issued and outstanding; and (2) no preferred or special shares or any other securities convertible into or exchangeable for any share capital or any equity equivalents are issued and outstanding, except as provided by Orise Disclosure Schedule which sets forth the information with respect to the following matter as of the date of this Agreement: (i) each grant of Orise Options and the information of such grant, including the grant date, the exercise price, number of options granted, exercised, expired, not exercised, and the aggregated of total grant (granted, exercised, expired, not exercised) ;(ii) the convertible bonds issued by Orise and the information hereof, including the conversion price, and the outstanding amount, the amount of shares that those convertible bonds are entitled to convert into; and (iii) any employee restricted shares issued by Orise and the information hereof, including the outstanding amount.

第 4.2 項 資本

(a)至本合約簽署日止，旭曜之授權資本額為新台幣 2,100,000,000 元，分為普通股共 210,000,000 股，每股面額為新台幣 10 元。至本合約簽署日止，(1)旭曜已發行及在外流通之股數為 140,135,480 股；(2) 除已揭露於旭曜揭露事項者外，無優先或特別股其他可轉換或交換為股份權益或其他股權性質有價證券，該揭露事項已列出至本合約簽署日止之下列資訊：(i) 旭曜各次授予之認股權憑證及其資訊，包括授予日期、認股價格、旭曜認股權憑證之數量(包含授予數量、已執行數量、失效數量、未執行數量)，與全部授予認股權憑證之總和(包含授予數量、已執行數量、失效數量、未執行數量)。(ii) 旭曜發行之可轉換公司債及其資訊，包括轉換價格、有效流通在外之數量及尚未轉換之股數餘額。(iii)旭曜各次發行之限制員工權利新股及其資訊，包括流通在外之股數。

(b) Orise has made available to FocalTech accurate and complete copies of the Orise Share Option Plan and the form of award agreements in respect of Orise Options granted as of the date of this Agreement. Since the date of this Agreement, no options, warrants or other rights to purchase Orise Shares have been issued or granted and no Orise Shares have been issued. All the outstanding Orise Shares are, and Orise Shares issuable upon the exercise of outstanding Orise Options will be, when issued in accordance with the terms thereof, duly authorized, validly issued, fully paid and non-assessable. Except as set forth in *Section 4.2(a)* and except for this Agreement, (i) there is no share capital of Orise authorized, issued or outstanding, (ii) there are no authorized or outstanding options, warrants, calls, preemptive rights, subscriptions or other rights, agreements, arrangements or commitments of any character (whether or not conditional) relating to the issued or unissued share capital of Orise or any of its Subsidiaries, obligating Orise or any of its Subsidiaries to issue, transfer or sell or cause to be issued, transferred or sold any share capital or other equity interest in Orise or any of its Subsidiaries or securities convertible into or exchangeable or exercisable for such share capital or equity interests, or obligating Orise or any of its Subsidiaries to grant, extend or enter into any such option, warrant, call, preemptive right, subscription or other right, agreement, arrangement or commitment, and (iii) there are no outstanding obligations of Orise or any of its Subsidiaries to repurchase, redeem or otherwise acquire any Orise Shares or other share capital of Orise or any of its Subsidiaries, or to make any payments based on the market price or value of shares or other share capital of Orise or its Subsidiaries, or to provide funds to make any investment (in the form of a loan, capital contribution or otherwise) in any Subsidiary or any other entity other than loans to Subsidiaries in the ordinary course of business. Except as disclosed otherwise in Orise Disclose Schedule, Orise does not have outstanding any bonds, debentures, notes or other obligations the holders of which have the right to vote (or convertible into or exchangeable or exercisable for securities having the right to vote) with the shareholders of Orise on any matter.

(b)旭曜已將旭曜認股權計畫之正確完整影本，及關於至本合約簽署日已授予之旭曜認股權證之授與合約提供予敦泰科技。自本合約簽署日起，並未發行或給予購買旭曜股份之選擇權、憑證或其他權利，亦未發行旭曜之股份。所有在外流通之旭曜股份，及在外流通之旭曜選擇權憑證行使後應依相關條件所發行之旭曜股份，皆屬有效發行、全額繳足。除第4.2(a)項或本合約另有約定者外，(i)並無旭曜授權、發行、或在外流通之股份；(ii)並無關於旭曜或其子公司已發行或未發行之股份之授權或流通在外之認股權、憑證、買權、優先權、認購或其他權利、合約、安排或類似性質之承諾（無論是否附條件），致旭曜或其任何子公司有義務主動或被要求發行、移轉、賣出任何股份或其他旭曜或其任何子公司之權益；(iii)旭曜或其任何子公司並無尚未履行之買回、贖回、或其他應取得旭曜股份或其任何子公司其他股份權益之義務，或依市價、股價或旭曜或其子公司之其他股份權益之價格支付款項、或提供資金以投資任何子公司或其他任何主體（以貸款、出資或其他形式），但於正常營運之範圍內借款予子公司不在此限。除已於旭曜揭露事項揭露者外，旭曜並無任何流通在外之債務、債券、票據或使其他第三人有權加入股東表決任何事項（或轉換、交換、行使為有權表決之證券）之義務。

(c) Each Orise Option (i) was granted in compliance with all applicable Law in all material respects and all of the terms and conditions of the Orise Share Option Plan, (ii) has an exercise price per Orise Share equal to or greater than the fair market value of an Orise Share on the date of such grant except as disclosed otherwise in Orise Disclose Schedule, and (iii) has a grant date no earlier than the date on which the Board of Directors of Orise(the " Orise Board") actually approved such Orise Option.

(c) 旭曜之每一認股權憑證係 (i)依可適用之法律之重要點及旭曜認股權計畫所列之條件所授予；(ii)除已於旭曜揭露事項揭露者外，每股認購價格相當或高於旭曜股份於授予日之公平市價；及(iii)授予日不早於旭曜董事會通過此等旭曜認股權證之決議。

(d) Orise has no secured creditors and has granted no fixed or floating security interests that are outstanding except as disclosed otherwise in Orise Disclose Schedule.

(d) 除已於旭曜揭露事項揭露者外，旭曜並無有擔保債權人，其亦未設定任何固定或浮動擔保或設質予他人。

(e) The authorized share capital of Merger Sub consists solely of US\$50,000 divided into 50,000 ordinary shares, par value US\$1.00 per share, of which one share is validly issued and outstanding. All of the issued and outstanding share capital of Merger Sub is, and on the Effective Date will be, owned by Orise, free and clear of any Liens. Merger Sub was formed solely for the purpose of engaging in the transactions contemplated by this Agreement, and it has not conducted any business prior to the date hereof and has no, and prior to the Effective Date,

will have no, assets, liabilities or obligations of any nature other than those incident to its formation and capitalization and pursuant to this Agreement and the Merger and the other transactions contemplated by this Agreement.

(e) Merger Sub 之授權資本總數為 50,000 美元，分為 50,000 股普通股，每股面額為 1 美元，其中 1 股已有效發行在外流通。 Merger Sub 已發行且在外流通之所有股份權益，於基準日將會由旭曜所有，且其上並無任何負擔。 Merger Sub 僅基於履行本合約之交易目的所成立，不得於簽署日前從事任何營業，且不得於基準日前擁有任何資產、負債、或任何與其成立、資本、及負擔依本合約或本合約所約定之開曼合併及其他交易事項以外之義務。

(f) Merger Sub has no secured creditors and has granted no fixed or floating security interests that are outstanding.

(f) Merger Sub 並無有擔保之債權人，其亦未設定任何固定或浮動擔保或設質予他人

Section 4.3

Authority.

(a) Each of Orise and Merger Sub has all necessary corporate power and authority to execute and deliver this Agreement and, subject to, in the case of Orise, obtaining the Required Orise Shareholders' Approval, to consummate the transactions contemplated hereby. The Orise Board has duly and validly authorized the execution, delivery and performance of this Agreement and approved the consummation of the transactions contemplated hereby, and has at a meeting duly called and held (i) approved, and declared advisable this Agreement, the Merger and the Plan of Merger and the other transactions contemplated hereby; (ii) determined that such transactions are advisable and fair to, and in the best interests of, Orise and its shareholders; and (iii) recommended that the shareholders of Orise approve of the issuance of Orise Shares constituting the Merger Consideration (the "**Share Issuance**"). The Board of Directors of Merger Sub (the "**Merger Sub Board**"), and Orise as the sole shareholder of Merger Sub, have at meetings duly called and held or by written resolutions, as the case may be, duly and validly authorized and approved by board resolution (in the case of Orise) and by special resolution (in the case of Merger Sub) the execution, performance and delivery of this Agreement, the Merger and the Plan of Merger and the consummation of the transactions contemplated hereby, and taken all corporate actions required to be taken by the Merger Sub Board and by Orise as the sole shareholder of Merger Sub for the consummation of the transactions. No other corporate proceedings on the part of Orise or Merger Sub are necessary to authorize and approve this Agreement, the Merger or the Plan of Merger or to consummate the transactions contemplated hereby (other than, with respect to the Share Issuance, the Required Orise Shareholders' Approval). This Agreement has been duly and validly executed and delivered by each of Orise and Merger Sub and, assuming the due authorization, execution and delivery by FocalTech, constitutes a valid, legal and binding agreement of each of Orise and Merger Sub, enforceable against each of Orise and Merger Sub in accordance with its terms, subject to the Bankruptcy and Equity Exception.

第 4.3 項 合法授權

(a)在旭曜取得必要股東同意之前提下，旭曜或 Merger Sub 有簽署及交付本合約之所有必要權利及授權，以完成本合約所定交易。旭曜董事會合法及有效授權本合約之簽署、交付及履行並且同意本合約所定交易之完成，並於合法召集之會議：(i)通過本合約、開曼合併、合併計畫及本合約約定之交易並認為適當可行；(ii)決定本交易適當可行並且對旭曜公平並符合旭曜及其股東之最大利益；及(iii)提請旭曜股東同意發行旭曜股份以執行開曼合併(「對價股份發行」)。Merger Sub 之董事會(「**Merger Sub 董事會**」)及 Merger Sub 之唯一股東即旭曜，於合法召集之會議或，依書面決議(視情況而定)，(旭曜)經董事會決議合法及有效授權同意，(Merger Sub)經特別決議擁有正當及有效授權以簽署、履行、交付本合約、開曼合併、合併計畫及本合約所定之交易，並由 Merger Sub 董事會及其唯一股東即旭曜採取任何必要之行動以完成交易。旭曜或 Merger Sub 已無其他授權或同意本合約、開曼合併、合併計畫及本合約所定交易之必要程序(但關於對價股份發行之旭曜必要股東同意不在此限)。本合約由旭曜及 Merger Sub 合法及有效之簽署並交付，並於敦泰科技有效授權簽署及交付之前提下，構成對於旭曜及 Merger Sub 有效、合法、及具有拘束力之約定，並可依相關條件對於旭曜或 Merger Sub 執行之，但破產及權益例外不在此限。

(b) Orise has obtained or will, by Closing, have obtained all consents, approvals and authorizations that it may be required (under applicable Law or otherwise) to obtain to perform its obligations under this Agreement and any related documents.

(b)旭曜已取得或於交割前將取得所有(依可適用之法律或其他)必要之同意、許可或授權，以履行本合約或其他相關文件之義務。

Section 4.4 Financial Statements.

(a) The audited financial statements of Orise (and the notes thereto) for the fiscal year ended December 31, 2013, and the unaudited financial data for the interim period ended February 28, 2014 that Orise has provided to FocalTech (collectively, "**Orise Financial Statements**") present fairly the financial position of Orise as of the dates indicated and the results of operations and changes in financial position and capital surplus, and retained earnings and cash flows of the Orise for the periods specified. Such Orise Financial Statements (i) have been prepared in accordance with International Financial Reporting Standards ("IFRS") applied on a consistent basis throughout the periods presented (other than as described therein) and (ii) were prepared in accordance with the books of account and other financial records of Orise.

第 4.4 項 財務報表

(a)旭曜提供敦泰科技之結束於 2013 年 12 月 31 日並經會計師查核簽證之旭曜年度財務報告(及附註)及未經查核之截至 2014 年 2 月 28 日之期中財務資料(合稱「**旭曜財務報表**」)

已允當表達所載日期時旭曜之財務狀況、暨涵蓋期間旭曜之營運成果及財務狀況、資本公積、保留盈餘及現金流量之變化。此等旭曜財務報表(i)於所示期間（除該財務報表另有表示外）係依國際財務報導準則(IFRS) 於一致性的基礎上編製；(ii)依據旭曜會計帳簿或其他財務憑證所編製。

(b) Since December 31, 2013, except as disclosed by Orise in the Disclosure Schedule, (i)the activities of Orise and its Subsidiaries have been conducted in a manner that is consistent with its normal practice; (ii)neither Orise nor any of its Subsidiary has taken any of the actions listed in Article V of the Agreement; and (iii)there has been no Orise Material Adverse Effect.

(b)自 2013 年 12 月 31 日起，除已列於旭曜揭露事項者外：(i)旭曜及其子公司之活動係依正常營運之方式所經營；(ii)旭曜及其子公司皆不得從事本合約第 5 條所列之行為；(iii)對於旭曜並無重大不利影響。

(c) Except as disclosed in Orise Disclosure Schedule, neither Orise nor any of its Subsidiaries has any liabilities or obligations (whether accrued, absolute, contingent or otherwise) of the type required to be reflected on a balance sheet prepared in accordance with IFRS, except for liabilities or obligations (i) reflected or reserved against in the Orise Financial Statements, or (ii) incurred since the date thereof in the ordinary course of business and which do not and could not have an Orise Material Adverse Effect, or (iii) that do not exceed NT\$5 million. Reserves are reflected on the Orise Financial Statements against all liabilities of Orise and its Subsidiaries in amounts that have been established on a basis consistent with the past practices of Orise and its Subsidiaries and in accordance with IFRS.

(c) 除已列於旭曜揭露事項者外，旭曜及其子公司並無必須反映於依 IFRS 編製之資產負債表內的負債或義務（無論係到期應付、應負之絕對債務、或有負債或其他），除非該等債務或義務(i)於旭曜財務報表已反映或已提列準備，或(ii)於正常營運範圍內發生並自發生日起並未造成旭曜重大不利影響、或(iii)未超過新台幣五百萬元。就旭曜及其子公司所有負債，已依旭曜及其子公司一致過去慣例及 IFRS 計算出準備之數額，並已反映於旭曜財務報表內。

Section 4.5

Consents and Approvals; No Violations.

(a) The execution, delivery and performance of this Agreement by Orise or Merger Sub do not, and the consummation by Orise or Merger Sub of the transactions contemplated hereby

including the Merger and the Share Issuance will not constitute or result in (i) (assuming the Required Orise Shareholders' Approval is duly obtained and passed) any breach of any provision of the respective articles of incorporation (or similar governing documents) of Orise or Merger Sub or any of Orise's Subsidiaries, or (ii) a violation or breach of, or (with or without due notice or lapse of time or both) a default (or give rise to any right of termination, amendment, cancellation or acceleration of an obligation or the creation of any Liens (other than any Liens created as a result of any actions taken by FocalTech)) under, any of the terms, conditions or provisions of any of the terms, conditions or provisions of any note, bond, mortgage, indenture, lease, license, contract, agreement or other instrument (each, a "**Contract**") or obligation to which Orise or Merger Sub or any of Orise's Subsidiaries is a party or by which any of them or any of their respective properties or assets may be bound.

第 4.5 項 同意及許可；不違反

(a)旭曜及 Merger Sub 關於本合約之簽署、交付及履行及本合約所定交易之完成，包括開曼合併及對價股份發行並不會構成下列結果：(i)(若旭曜必要股東會決議已合法取得並通過)旭曜、Merger Sub 或任何旭曜子公司章程(或類似文件)之違反；或(ii)違反（無論是否需要合法通知或經過一定期間或兩者皆需要之情況）、抵觸（發生終止、補充、取消或提早義務或任何負擔（並非因敦泰科技所採取任何行動所造成之負擔））旭曜或 Merger Sub 或其他旭曜子公司為一方當事人或渠等財產受到拘束之票據、債券、抵押、租賃、授權、合約、約定或其他文件（下稱「**契約**」）條款或義務所列之條件。

Section 4.6 Legal Proceedings. Neither Orise nor any of its Subsidiaries is a party to any, and there are no pending or, to the Knowledge of Orise, threatened, material Proceedings of any nature against Orise or any of its Subsidiaries or to which any of their equity interests, material properties or assets is subject. There is no material judgment outstanding against Orise, any of its Subsidiaries or any of their equity interests, material properties or assets.

第 4.6 條 法律程序 並無旭曜或其子公司為當事人而對旭曜或其子公司所提起未決的、或依旭曜所知可能發生的重大法律程序，其中包括其股份權益或重大資產或財產可能受到限制者。並無對於旭曜或其子公司或其股份權益、重要資產、財產不利之已發生的重要判決。

Section 4.7 Permits; Compliance with Applicable Laws. Orise and its Subsidiaries hold all material permits, licenses, variances, exemptions, orders and approvals of all Governmental Entities necessary for the lawful conduct of their respective businesses (the "**Orise Permits**"), and are in material compliance with the terms of Orise Permits. Neither Orise nor any of its Subsidiaries is or has been in material violation of any Law applicable to Orise or its Subsidiaries. No investigation or review by any Governmental Entity with respect

to Orise or its Subsidiaries is pending or, to Orise's Knowledge, threatened, nor to Orise's Knowledge has any Governmental Entity indicated an intention to conduct the same, in each case with respect to a material violation of applicable Law.

第 4.7 項 許可、遵守可適用之法律 旭曜及其子公司已取得所有必要之政府機關重要許可、執照、變更、豁免、命令或核准，以合法經營其事業（「旭曜許可」），並遵守旭曜許可之條件。旭曜或其子公司並未有重大違反可適用於旭曜或其子公司之法令。並無政府機關所為關於旭曜或其子公司關於重大違反相關法令之未決的、或依旭曜所知可能發生的調查或審查，亦無旭曜所知任何政府機關有意採取的調查或審查。

Section 4.8 Taxes.

(a) Each of Orise and its Subsidiaries has duly and timely filed, or has caused to be timely filed on its behalf (taking into account any extension of time within which to file), all material Tax Returns required to be filed by it, and all such filed Tax Returns are true, complete and accurate in all material respects, in each case except as would not individually or in the aggregate, have an Orise Material Adverse Effect. All material Taxes shown to be due and payable on such Tax Returns have been timely paid, except as would not individually or in the aggregate, have an Orise Material Adverse Effect.

第 4.8 項 稅

(a)旭曜及其子公司已經合法即時提出、或經代理於期限內提出（包含期限延展之情況）所有必須提出之重要稅務申報。此等已提出之稅務申報於各重要方面皆屬真實、完整、正確，但個別或總體如無法造成對於旭曜之重大不利影響者不在此限。此等申報文件所顯示之所有已屆期需支付之重要賦稅已即時支付，但個別或總體如無法造成旭曜重大不利影響者不在此限。

(b) No deficiency with respect to a material amount of Taxes has been proposed, asserted or assessed against Orise or any of its Subsidiaries, other than any deficiency which has been paid or is being contested in good faith in appropriate Proceedings.

(b)並無對於旭曜或其子公司關於重大稅負金額未足額繳納之提出、請求或課徵，但前述不足數額已經支付或已善意依合理程序提出異議者，不在此限。

(c) All material amounts of Taxes required to be withheld by Orise and each of its Subsidiaries have been timely withheld, except as would not individually or in the aggregate, have an Orise Material Adverse Effect, and to the extent required by applicable Law, all such withheld amounts have been timely paid over to the appropriate Governmental Entity.

(c) 旭曜及其子公司所必須扣繳之所有重大稅負金額已經於期限內扣繳之，但個別或總體如無法造成對於旭曜重大不利影響者不在此限。依據可適用之法令，此等扣繳數額已於期限內支付予適當之政府機關。

(d) No audit or other administrative or court proceedings are pending with respect to any material amounts of Taxes of Orise or any of its Subsidiaries and no written notice thereof has been received, except as would not, individually or in the aggregate, have an Orise Material Adverse Effect.

(d) 旭曜或其子公司並無關於其稅負重大金額所生之查核或未決的行政或司法程序，亦未曾收悉相關書面通知，但個別或總體如無法造成對於旭曜之重大不利影響者不在此限。

Section 4.9 Material Contracts.

(a) Except as otherwise provided by this Agreement or Orise Disclosure Schedule, as of the date hereof, none of Orise or its Subsidiaries is a party to nor are any of Orise's or its Subsidiaries' properties or assets bound by:

- (i) any Contract granting a right of first refusal, first offer or first negotiation;
- (ii) any Contract relating to the formation, creation, operation, management or control of a partnership, joint venture, limited liability company or similar arrangement;
- (iii) any Contract for the acquisition, sale or lease (including leases in connection with financing transactions) of material properties or assets of Orise (by merger, purchase or sale of assets or stock or otherwise);
- (iv) any Contract with any Governmental Entity;
- (v) any Contract involving the payment or receipt of amounts by Orise or its Subsidiaries, or relating to indebtedness for borrowed money or any financial guaranty, of more than USD\$4,000,000;
- (vi) any non-competition Contract or other Contract that purports to limit, curtail or restrict in any material respect the ability of Orise or any of its Subsidiaries to compete in any geographic area, industry or line of business;

- (vii) any Contract that contains a put, call or similar right pursuant to which Orise or any of its Subsidiaries could be required to purchase or sell, as applicable, any equity interests of any Person ;
- (viii) any Contract that contains restrictions with respect to (A) payment of dividends or any distribution with respect to equity interests of Orise or any of its Subsidiaries, (B) pledging of share capital of Orise or any of its Subsidiaries or (C) issuance of guaranty by Orise or any of its Subsidiaries; or
- (ix) any material Orise IP Agreements other than agreements for off-the-shelf software and UGC Agreements

(all such Contracts described in clauses (i) through (ix), collectively, the “**Orise Material Contracts**”).

第 4.9 項 重要契約

(a) 除本合約或已揭露於旭曜揭露事項者外，旭曜或其子公司並未成為下述契約之當事人，其財產或資產亦未受到拘束：

- (i) 任何賦予優先拒絕、優先要約或優先議約之權利。
- (ii) 任何關於合夥、合資、限制責任公司或類似安排的成立、創造、經營、管理或控制。
- (iii) 任何取得、買賣或租賃（包含涉及財務交易之租賃）旭曜重要財產或資產之契約（以併購、買賣資產、股份或其他方式）
- (iv) 與政府單位之任何契約
- (v) 關於旭曜或其子公司支付或收取款項之契約、或關於因借款或其他財務保證之負債，且超過4,000,000美元者
- (vi) 任何禁止競業契約或其他限制或減少旭曜或其子公司在各重要方面於任何地域、產業或生產線之競爭能力的契約；
- (vii) 任何包含買權、賣權或旭曜或其子公司應購買或賣出（於可適用之情況下）任何人之股份權益的類似權利之契約。
- (viii) 任何包含下述限制之契約：(A)支付股利、旭曜或其子公司股份權益之分配、(B)以旭曜或其子公司之股份權益提供擔保、或(C)旭曜或其子公司提供擔保。
- (ix) 除套裝軟體及UGC合約以外之任何旭曜智慧財產權重要契約（列於第(i)-(ix)款之此等契約，合稱「**旭曜重要契約**」）

(b) Each of the Orise Material Contracts constitutes the valid and legally binding obligation of Orise or its applicable Subsidiary, enforceable in accordance with its terms and is in full force and effect. There is no material breach or default under any Orise Material Contract so listed either by Orise or, to Orise's Knowledge, by any other party thereto, and no event has

occurred that with the lapse of time or the giving of notice or both would constitute a default thereunder by Orise or, to Orise's Knowledge, any other party. No party to any such Orise Material Contract has given notice to Orise of or made a claim against Orise with respect to any material breach or default thereunder.

(b) 旭曜之各重要契約構成旭曜或其可適用之子公司有效及合法具有拘束力之義務，並可依其條件完全有效地執行。於依旭曜所知所列舉之重要契約或其他當事人所列舉之重要契約下，並未發生重大違約之情事，亦未發生須通知旭曜或經過一定期間（或須兩者）方可構成之旭曜依其所知所列舉之重要契約或其他當事人所列舉之重大合約違約情事。旭曜重要契約之當事人並未通知旭曜或對旭曜提出重大違約之請求。

Section 4.10 Intellectual Property. Orise and its Subsidiaries own or have sufficient rights to use all Intellectual Property that is material to or necessary for the operation of their business, except as would not, individually or in the aggregate, have an Orise Material Adverse Effect. Except for Orise Intellectual Property, there are no other items of Intellectual Property that are material to or necessary for the operation of the business of Orise and its Subsidiaries. Orise or one of its Subsidiaries is the exclusive owner of all right, title and interest in and to each item of material Orise Owned Intellectual Property, free and clear of all Liens (other than non-exclusive licenses granted in the ordinary course of business consistent with past practice), or any obligation to grant any Lien. Orise has a valid license to use the material Orise Licensed Intellectual Property in connection with and as used in the operation of the business of Orise and its Subsidiaries as currently conducted, subject only to the terms of Orise IP Agreements.

第 4.10 項 智慧財產權 旭曜及其子公司擁有或有充分權利使用重要或其營業所必須之所有智慧財產權，但個別或總體如無法造成對於旭曜之重大不利影響者，不在此限。除旭曜智慧財產權外，並無其他重要且對於旭曜或其子公司營業所必需之智慧財產權。旭曜或其子公司為重要的旭曜所有之智慧財產權的全部權利或利益之專屬所有者，其上無任何負擔（除於日常營運範圍內依過去慣例所為之負擔許可及非專屬授權外），亦無義務賦予任何負擔。關於或目前用於旭曜及其子公司營業或與其等營業相關之重要旭曜被授權智慧財產權，旭曜擁有有效之授權僅需依照旭曜智慧財產權合約之條件予以使用。

Section 4.11 Interested Party Transactions. Except as set forth in the Disclosure Schedule, no Orise (A) Major Shareholder, (B) officer or director of Orise or any of its Subsidiaries or (C) Related Person of any such Major Shareholder, officer or director:

- (i) has any direct or indirect material financial interest in any supplier or customer of Orise or any of its Subsidiaries that has entered into any material agreement or transaction, other than agreements or transactions entered into the ordinary course

of business on terms at least as favorable to Orise or any of its Subsidiaries that would be negotiated on an arm's-length basis with an unrelated third party;

- (ii) is party to any material agreement or transaction with any Major Shareholder or any of their Related Persons, other than agreements or transactions arising in the ordinary course of business on terms no less favorable than would be negotiated on an arm's-length basis with an unrelated third party; or
- (iii) has outstanding any indebtedness to Orise or any of its Subsidiaries, other than indebtedness arising in the ordinary course of business on terms no less favorable to Orise or such Subsidiary than would be negotiated on an arm's-length basis with an unrelated third party.

第 4.11 項 關係人交易 除揭露事項所列舉者外，旭曜(A)重要股東、(B)旭曜或其子公司之經理人、董事、或(C)重要股東、經理人或董事之關係人並無下列情事：

- (i) 對旭曜或其子公司已簽署重要契約或交易之任何供應商或客戶有直接或間接重要財務利益，但於日常經營範圍內所簽署之合約或交易，且其條件對於旭曜或其子公司而言，較與非關係人公平協商之條件未有不利者，不在此限。
- (ii) 為與重要股東或其任何關係人所簽署之任何重要契約或交易之一方。但因日常營運範圍內所生之合約或交易，且較與非關係人公平協商之條件未有不利者，不在此限。
- (iii) 對旭曜或其子公司有未履行之債務，但因日常營運範圍內所生之債務，且較與非關係人公平協商之條件未有不利者，不在此限。

Section 4.12 Labor Matters. There are no collective bargaining agreements which pertain to Orise Employees. (i) There are no pending labor disputes between Orise or any of its Subsidiaries, on the one hand, and any Orise Employee, on the other hand, (ii) each of Orise and its Subsidiaries is in compliance in all material respects with all applicable Law relating to employment, termination, wages and hours and social security, in each case, with respect to each of the Orise Employees (including those on layoff, disability or leave of absence, whether paid or unpaid); and (iii) Orise has no liability with respect to, and has timely made all payments due to, and recorded on its books all amounts properly accrued in respect of, all Employee Benefit Plans and there are no proceedings pending with respect to the Employee Benefit Plans.

第 4.12 項 勞工事項

並無關於旭曜員工之團體協約。(i)旭曜或其子公司與任何旭曜員工間並無未決的勞動爭議、(ii)旭曜及其子公司於各重要方面應遵守所有可適用關於旭曜員工（包含解雇、失能或未到職、無論有償或無償）之勞工、終止、薪資、工時、社會安全的相關法令、(iii)旭曜已於期

限內支付關於員工福利計畫之款項，並將所生之全部數額紀錄於帳冊，並無任何相關債務，亦無未決的員工福利計劃相關法律程序。

ARTICLE V

COVENANTS RELATED TO CONDUCT OF BUSINESS

第 5 條

關於營業之承諾

Section 5.1 *Conduct of Business of Orise and Merger Sub.* Except as required by applicable Law or as expressly contemplated by this Agreement, during the period from the date hereof to the earlier of the Effective Date or the termination of this Agreement in accordance with Article 8, Orise will, and will cause each of its Subsidiaries to, conduct its operations in the ordinary and usual course of business consistent with past practice and keep available the service of its current officers and employees and preserve its relationships with customers, advertisers, licensors, suppliers and others having business dealings with it. Without limiting the generality of the foregoing, and except as required by applicable Law, as otherwise contemplated in this Agreement or the Orise Disclosure Schedule, from the date hereof until the earlier of the Effective Date or the termination of this Agreement in accordance with Article 8, Orise will not, and will not permit its Subsidiaries to, without the prior written consent of FocalTech (which consent shall not be unreasonably withheld):

第 5.1 項 旭曜及 Merger Sub 之營業行為 除可適用之法律另有規定、或本合約另有約定者外，於本合約簽署日至基準日，或至依第 8 條終止時（以較早者為準）之期間，旭曜應自行並應促使其子公司依日常營運範圍且依過去慣例經營其營業，並繼續維持目前經理人、員工及代理人之服務，並維持與客戶、廣告商、授權人、供應商及其他有商業交易關係之第三人間之關係。於不限縮前述一般約定之情況下，自本合約簽署日至基準日或依本合約第 8 條終止時（以較早者為準）之期間，旭曜不得自行或允許其子公司於未取得敦泰科技事前書面同意之情況下（但不得無合理理由拒絕同意），從事下列行為，但法律另有規定、本合約或揭露事項另有約定者，不在此限。

(a) amend its memorandum and articles of association (or other similar governing instrument);

(a) 修改或增補章程（或其他類似之文件）；

(b) authorize for issuance, issue, sell, pledge, dispose of, transfer, deliver or agree or commit to issue, sell, pledge, dispose of, transfer or deliver (whether through the issuance or granting of options, warrants, commitments, subscriptions, rights to purchase or otherwise) any share capital or any other securities convertible into or exchangeable for any share capital or any

equity equivalents (including, without limitation, any stock options or stock appreciation rights), except for the issuance of Orise Shares (i) as required to be issued upon exercise or settlement of Orise Options, and (ii) in connection with the Share Issuance;

(b) 授權發行、發行或賣出、提供擔保、處分、移轉、交付、或同意、承諾發行或賣出、提供擔保、處分、移轉、交付（無論是否透過發行或授予認股權、權證、承諾、認購權、買權或其他）任何股份權益或其他可轉換或交換為股份權益或其他股權性質有價證券（包括但不限於任何認股權或股份增值權），但旭曜股份之發行係：(i)因旭曜認股權憑證之行使或履行所必要之發行，(ii)關於對價股份發行者，不在此限。

(c) split, combine, subdivide or reclassify any of its share capital; (ii) declare, set aside or pay any dividend or other distribution (whether in cash, stock or property or any combination thereof) in respect of its share capital except as provided otherwise by Orise Disclose Schedule; (iii) enter into any agreement with respect to the voting of its share capital, (iv) make any other actual, constructive or deemed distribution in respect of any of its share capital or otherwise make any payments to shareholders in their capacity as such; or (v) redeem, repurchase or otherwise acquire any of its share capital or any share capital of any of its Subsidiaries;

(c) 進行股份之分割、合併、拆分、變更類別；(ii)除已揭露於旭曜揭露事項者外，公告、提撥或支付任何關於股份權益之股利或分配（無論係現金、股票、財產或前述組合）；(iii)簽署關於股份權益表決權之合約；(iv)進行任何其他事實上、被推定、被視為關於股份權益或之分配或依權益對股東為支付；或(v)贖回、買回或取得其或其子公司股份權益；

(d) place Orise or any of its Subsidiaries into liquidation, dissolution, scheme of arrangement, merger, consolidation, restructuring, recapitalization redomiciliation or other reorganization (other than the Merger);

(d) 旭曜或其子公司進行清算、解散、重整、合併、結合、重組、股權結構調整、變更註冊地或其他組織調整（不包括開曼合併）；

(e) alter through merger, liquidation, reorganization, restructuring or in any other fashion the corporate structure or ownership of any of Orise's Subsidiaries (other than the Merger);

(e) 透過合併、清算、組織調整、重組、或其他方式變動旭曜子公司之架構或所有權（不包括開曼合併）。

(f) except pursuant to a Contract existing on the date of this Agreement (i) incur, modify, renew or assume any long-term or short-term debt or issue any debt securities in an amount exceeding USD\$3,000,000 in the aggregate, except for borrowings under existing lines of credit in the ordinary and usual course of business consistent with past practice; (ii) prepay any debt,

borrowings or obligations prior to their stated maturity; (iii) assume, guarantee, endorse or otherwise become liable or responsible (whether directly, contingently or otherwise) for the obligations of any other person, except in the ordinary and usual course of business consistent with past practice and in amounts not material to Orise and its Subsidiaries, taken as a whole, except for guarantees of obligations of Orise's wholly owned Subsidiaries (“**Wholly Owned Orise Subsidiaries**”); (iv) make any loans, advances or capital contributions to, or investments in, any other person (other than to Wholly Owned Orise Subsidiaries, and for advances for travel and other expenses to officers, directors and employees made in the ordinary course of business consistent with past practice); (v) pledge or otherwise encumber shares of capital stock of Orise or its Subsidiaries; or (vi) mortgage or pledge any of its material assets, tangible or intangible, or create or suffer to exist any Lien thereupon other than Permitted Liens;

(f) 除本合約簽署日存在之契約另有約定者外，(i)引起、修改、延展或承擔任何長期或短期債務或發行金額總計超過 3,000,000 美元之任何債券，但依過去慣例於日常營運範圍內所現存之信貸額度所發生之借貸，不在此限；(ii)於到期日前償付債務、借貸、義務；(iii)承擔、保證、背書或以其他方式承擔其他人之義務（無論直接、間接、是否附條件），但依過去慣例於日常營運範圍內所生且數額對於旭曜及其子公司整體而言並非重大者，或對旭曜全資之子公司（「旭曜全資子公司」）之義務為保證者，不在此限；(iv)對任何其他人士（不包括對旭曜全資子公司，或因經理人、董事、員工於日常營運範圍內依過去慣例所為之出差或其他費用之預付者）進行融資、借貸、出資、投資；(v)以旭曜或其子公司之股份權益提供擔保或質押；或(vi)以任何重要財產、實體或無實體之資產抵押或提供擔保、或於目前許可之負擔外創造或承擔任何負擔。

(g) except in the ordinary course of business or as may be required by Law (i) enter into, adopt, amend, extend or terminate any bonus, profit sharing, compensation, severance, termination, equity, stock option, stock appreciation right, restricted stock, performance unit, stock equivalent, stock purchase, pension, retirement, deferred compensation, labor, collective bargaining, employment, severance or other benefit or compensation agreement, trust, plan, fund, award or arrangement for the benefit or welfare of any director, officer or employee in any manner (other than the entry into or amendment of employment or labor contracts with newly hired or promoted employees or the termination of employment agreements or labor contracts with terminated employees in the ordinary course of business consistent with past practice), (ii) (or except as required under any agreement, plan or arrangement in effect on the date hereof) increase in any manner the compensation or benefits payable or to become payable to any director, officer or employee (including, without limitation, the granting of stock options or other equity awards), (iii) grant or increase any severance, termination or similar compensation or benefits payable to any director, officer or employee (except with respect to new hires and to employees in connection with promotions in the ordinary course of business consistent with past practice), or (iv) accelerate the time of payment or vesting of, or the lapsing of restrictions with respect to, or fund or otherwise secure the payment of, any compensation or benefits payable or to become payable to any director, officer or employee under any benefit or compensation plan, agreement or arrangement;

(g) 除於日常營運範圍內，或法令另規定者外，(i)簽署、決議、增補、延長或終止任何紅利、盈餘分配、補償、資遣、解雇、股份、認股權、股份增值權、限制型股票、績效

單位 (performance unit)、股權性質之權利、股份買權、津貼、退休金、遞延補償、勞工、集體協商、雇傭、資遣費、利益或其他福利之合約、信託、計畫、基金、以任何方式給予或安排任何董事、經理人及員工福利及利益 (但與新進或晉升之員工簽署勞動或雇傭合約之增補，或於日常營運範圍內依過去慣例終止與被解雇員工之勞動或雇傭合約者，不在此限)，(ii) (除本合約簽署日有效之合約計畫或安排另有規定外) 以任何方式增加應支付或將來應支付予任何董事、經理人或員工之補償或利益 (包含但不限於給與任何認股權或其他股權)，(iii) 給予或增加應支付予任何董事、經理人或員工之任何資遣費、解雇金或其他補償或利益 (不包括關於新進員工及依過去慣例於日常營運範圍內晉升之員工)，或(iv) 關於任何依福利或補償計畫、合約、或安排應支付或將應支付予任何董事、經理人或員工之補償或利益，提早其支付、給予、限制、提供或保證支付之期限。

(h) (i) dispose of, license, transfer or grant to any Person any rights to Orise Intellectual Property, (ii) abandon, permit to lapse or otherwise dispose of any Orise Intellectual Property, (iii) make any material change in the ownership or right to register any Orise Intellectual Property, or (iv) enter into any Contract with respect to or otherwise binding upon any Orise Intellectual Property other than, in the case of clauses (i) to (iv), in the ordinary course of business consistent with past licensing practice;

(h) (i) 處分、授權、移轉或授予旭曜智慧財產權之任何權利予任何人、(ii) 拋棄、同意失效或以其他方式處分旭曜智慧財產權、(iii) 對於旭曜智慧財產權之登記權或所有權為重要變更、(iv) 簽署關於或對任何旭曜智慧財產權有拘束力之契約。前述第(i)~(iv)款規定者，如於日常營運範圍內依過去慣例所為者，不在此限。

(i) acquire, sell, lease, transfer or otherwise dispose of any assets, in a transaction or a series of transactions, in an amount exceeding USD\$4,000,000 in the aggregate (including but not limited to domain names, trademarks and content licenses), except in the ordinary course of business consistent with past practice;

(i) 取得、賣出、出租、移轉、或以其他方式處分任何資產，其金額總計或累計超過4,000,000 美元 (包含但不限於網域名稱、商標及內容授權)，但於日常營運範圍內依過去慣例所為者，不在此限，且金額不得細拆。

(j) except as may be required as a result of a change in Law or in IFRS, change any of the accounting principles used by it;

(j) 除法令或 IFRS 變更者外，變更任何目前適用之會計準則。

(k) revalue in any material respect any of its assets, including, without limitation, writing down the value of inventory or writing-off notes or accounts receivable other than in the ordinary and usual course of business consistent with past practice or as required by IFRS;

(k) 重估任何方面重要之資產，包含但不限於減記存貨之價值或註銷支票或應收帳款，但於日常營運範圍內依過去慣例所為或 IFRS 另有規定者，不在此限。

(l) acquire (by merger, consolidation, or acquisition of stock or assets or otherwise) any corporation, partnership or other business organization or division thereof or any equity interest therein, if such acquisition would be material to Orise or (ii) authorize any new capital expenditures, except as specifically budgeted in Orise's current plan approved by the Orise Board prior to the date hereof that was made available to FocalTech or that, in the aggregate, would not exceed USD\$4,000,000 during any fiscal quarter (other than the Merger);

(l) 取得任何公司、合夥或其他商業組織、或其所屬部分或其任何股份權益(透過合併、結合、取得股票、資產或其他方式)，如該取得部分對於旭曜屬於重大、或(ii)授權任何新資本支出，但已於旭曜現存計畫特別列出預算，並經旭曜董事會於本合約簽署日前所通過(並告知敦泰科技)，或於會計年度之各季總額未超過 4,000,000 美元者，不在此限(不包括開曼合併)。

(m) make or revoke any material Tax election, or settle or compromise any material Tax liability, or change (or make a request to any taxing authority to change) any aspect of its method of accounting for Tax purposes in a material manner;

(m) 進行或取消任何重要之租稅規劃、對於任何重要租稅義務為和解或承認、或改變(或要求稅務機關改變)任何基於租稅目的具有重要性之會計方法。

(n) pay, discharge or satisfy any material claims, liabilities or obligations (absolute, accrued, asserted or unasserted, contingent or otherwise), other than the payment, discharge or satisfaction in the ordinary course of business consistent with past practice;

(n) 支付、履行或滿足任何重要請求、債務、義務(無論係應付之絕對債務、或到期應付、是否請求、或有負債、或其他)，但於日常營運範圍內依過去慣例所為者，不在此限。

(o) waive the benefits of, reduce the restriction periods or agree to modify in a manner adverse to Orise or any of its Subsidiaries any non-competition, confidentiality, standstill or similar agreement to which Orise or any of its Subsidiaries is a party;

(o) 以不利於旭曜或其子公司之方式，就任何競業禁止、保密、利益或併購終止協議或其他旭曜或其子公司為當事人之類似合約，放棄其利益、減少限制期間或同意變更。

(p) settle or compromise any pending or threatened suit, action or claim relating to the transactions contemplated hereby (other than responding to takedown notices or other notices or accusations of potential infringement in a manner consistent with past practice in the ordinary course of business or taking any legal action necessary to protect the interests of Orise or/and its Subsidiary);

(p) 對關於本合約交易未決或可能發生之訴訟、法律行動、請求為和解或承認（但於日常營運範圍內依過去慣例所為回應潛在侵權之停止通知、其他通知、控訴及為維護旭曜及其子公司權益之必要法律行為所為者，不在此限。）

(q) (i) cancel, materially modify, terminate or grant a waiver of any rights under any Orise Material Contract in a manner adverse to Orise or any of its Subsidiaries, (ii) enter into a new Contract that (A) would be an Orise Material Contract if in existence as of the date of this Agreement or (B) contains, unless required by applicable Law, a change of control provision in favor of the other party or parties thereto or would otherwise require a payment to or give rise to any rights to such other party or parties in connection with the transactions contemplated by this Agreement or (iii) waive, release, cancel, convey or otherwise assign any material rights or claims under any such Orise Material Contract or new Contract;

(q) (i)對旭曜重要契約下任何權利為取消、重大修改、終止或授予豁免之行為，且重大不利於旭曜或其子公司；

(ii)簽署新契約且(A)如其於本合約簽署日前簽署即屬旭曜重要契約、或(B)除可適用之法律另有規定者外，包括對另一方有利之控制權變動條款，或該控制權變動條款可能會因本合約所定之交易而致應支付或使該合約之當事人有權為任何請求；或

(iii)放棄、豁免、取消、轉讓或移轉旭曜重要契約或新契約下之任何重要權利或請求。

(r) enter into any new lines of business;

(r) 經營新業務

(s) grant any Lien in any of its assets (other than non-exclusive licenses granted in the ordinary course of business); or

(s) 在任何資產上（除於日常營運範圍內之非專屬性授權外）設定任何負擔

(t) take, propose to take, or agree in writing or otherwise to take, any of the actions described in Section 5.1(a) through Section 5.1(s).

(t) 採取、提議採取、書面同意或以其他方式採取第 5.1(a)~5.1(s)項所列之行為。

ARTICLE VI

第 6 條

ADDITIONAL AGREEMENTS

補充條款

Section 6.1 Shareholders Meetings. (a) Orise shall take, in accordance with applicable Law and its articles of incorporation, all actions necessary to cause an annual meeting of its shareholders (the "**Orise Shareholders Meeting**") to be duly called and held on June 30,

2014 for the purpose of voting on the authorization and approval of this Agreement and the Share Issuance and pass the amended articles of incorporation as attached hereto as Exhibit 2.7 (“**Required Orise Shareholders’ Approval**”) by a majority vote as required under its articles of incorporation and applicable Law. (b) FocalTech shall take, in accordance with applicable Law and its memorandum and articles of association, all actions necessary to cause the FocalTech Shareholders Meeting to be duly called and held on June 30, 2014 for the purpose of voting on the authorization and approval by way of special resolution of this Agreement, the Merger and the Plan of Merger (“**Required FocalTech Shareholders’ Approval**”)

第 6.1 項 股東會 (a)旭曜應依其所適用法令及其章程，採取所有必要之措施於 2014 年 6 月 30 日合法召開股東常會(下稱「旭曜股東會」)，依其章程或可適用之法律所要求之多數決進行表決，以通過就本合約及對價股份發行之授權及核准、及附表 2.7 所示之章程修正案 (下稱「旭曜必要股東同意」)。(b)敦泰科技應依其所適用法令及其章程，採取所有必要措施於 2014 年 6 月 30 日 召開股東常會 (下稱「敦泰科技股東會」)，以特別決議就本合約、開曼合併及合併計畫為授權及核准 (下稱「敦泰科技必要股東同意」)

Section 6.2 *Reasonable Best Efforts.* (a) Subject to the terms and conditions of this Agreement, and subject at all times to each Party's and its directors' duty to act in a manner consistent with their fiduciary duties, each Party will use its reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable Law promptly to consummate the Merger and the other transactions contemplated by this Agreement, including preparing, executing and filing promptly all documentation to effect all necessary notices, reports and other filings and to obtain promptly all consents, registrations, approvals, permits and authorizations necessary or advisable to be obtained from any third party and/or Governmental Entity in order to consummate the Merger and the other transactions contemplated by this Agreement. In furtherance and not in limitation of the foregoing, to the extent applicable, each Party hereto agrees to promptly provide to each relevant Governmental Entity with jurisdiction over enforcement of any applicable antitrust or competition Laws ("**Governmental Antitrust Entity**") non-privileged information and documents (i) requested by any Governmental Antitrust Entity or (ii) that are necessary, proper or advisable to permit consummation of the transactions contemplated by this Agreement, and use its reasonable best efforts to take or cause to be taken all other actions necessary, proper or advisable consistent with this Section 6.2 to cause the expiration or termination of the applicable waiting periods, or receipt of required authorizations, as applicable, under all applicable antitrust Laws as soon as practicable.

第 6.2 項 盡一切合理努力 (a)根據本合約之條款及條件，及本合約各當事人及其董事均依忠實義務執行職務，合約當事人應盡一切合理之努力，迅速依法完成所有必要、合理且適當之措施，以完成開曼合併及本合約所定交易，包括為完成開曼合併及本合約所定交易，而應於期限內準備、簽署及提交文件，以完成所有必要之通知、報告等文件申報，並於期限內取得第三人及/或政府單位所必要或合理之同意、登記、核准、許可及授權。包括但不限於上述，合約當事人於適當之情況下，應即向負責反壟斷及競爭法之政府單位(「反壟斷主管機關」) 提供(i)經反壟斷主管機關所要求、或(ii) 為完成本合約所定交易所必須的、適當的且合適的非機密資訊及文件，並且於可能之範圍內盡一切合理之努力依本 6.2 條完

成其他必要、合理或適當之措施(如有)，盡快使反壟斷等待期屆滿或終止或取得所要求之授權。

(b) In furtherance and not in limitation of the covenants of the Parties contained in Section 6.2(a), each of Orise and FocalTech shall use its reasonable best efforts to resolve such objections if any, as may be asserted by any applicable Governmental Entity or other person with respect to the transactions contemplated hereby under any antitrust Law. In connection with the foregoing, if any administrative or judicial action or proceeding, including any action or proceeding by a private party, is instituted (or threatened to be instituted) challenging any transaction contemplated by this Agreement as violative of any antitrust Law, each of Orise and FocalTech shall cooperate with each other to contest and resist any such action or proceeding and to use their reasonable best efforts to have vacated, lifted, reversed or overturned any decree, judgment, injunction or other order, whether temporary, preliminary or permanent, that is in effect and that prohibits, prevents or restricts consummation of the transactions contemplated by this Agreement, so long as such actions by Orise or FocalTech do not have, and are not reasonably likely to have, individually or in the aggregate, a FocalTech Material Adverse Effect or an Orise Material Adverse Effect; *provided, however*, that FocalTech may expressly condition any such actions and any agreement to take any such actions upon the consummation of the Merger and the other transactions contemplated hereby.

(b)為促進包括且不限於第 6.2 項(a)所定合約當事人之承諾，旭曜及敦泰科技將盡一切合理之努力，解決任何政府單位或第三人（倘適用）就本合約所定交易提出之任何有關反壟斷法上之異議。如有任何行政或司法行動或程序，包括任何私人所發起之行動或程序，質疑本合約所定交易有違反反壟斷法之情事(或有違反之虞)，旭曜與敦泰科技應協力就該行動及程序進行抗辯，並且盡一切合理之努力以排除、解除、逆轉或推翻任何暫時、初步、永久影響、禁止或限制本合約所定交易之法令、判決、強制處分或其他命令，只要旭曜或敦泰科技所採取之行動不會或合理判斷應不會，個別地或綜合地，造成旭曜重大不利影響或敦泰科技重大不利影響。惟敦泰科技得明訂採取該行動或約定係以開曼合併及本合約所定交易完成為前提。

Section 6.3 *Public Announcements.* The initial press release and the public announcement with respect to the execution of this Agreement shall be a joint press release to be reasonably agreed upon by Orise and FocalTech. Thereafter, each of Orise and FocalTech will consult with one another before issuing any press release or otherwise making any public statements with respect to the transactions contemplated by this Agreement, including, without limitation, the Merger, and shall not issue any such press release or make any such public statement prior to obtaining the written approval of such other Party (such approval not to be unreasonably withheld or delayed), except with respect to any action taken by the FocalTech Board pursuant to, and in accordance with, Section 6.1, any action taken by the Orise Board pursuant to, and in accordance with, Section 6.1, or as may be required by Law or by any applicable listing agreement with or rules of a securities exchange, as determined by Orise or FocalTech, as the case may be.

第 6.3 項 公開聲明 本合約簽署之最初新聞稿與公告應係經旭曜及敦泰科技雙方合理同意之聯名新聞稿。在此之後，旭曜及敦泰科技於發布有關本合約所定交易（包括但不限於開曼合併）之新聞稿或公開聲明前應向他方諮詢。且於取得他方書面同意以前（該同意不得被無理拒絕或遲延之），不得發布該新聞稿或公開聲明。惟敦泰科技董事會依本合約第 6.1 項而採取之行動、旭曜董事會依本合約第 6.1 項採取之行動，或旭曜或敦泰科技依法或與證券交易所簽訂之上市協議或上市規則要求者，不在此限。

Section 6.4 *Fees and Expenses.* Whether or not the Merger is consummated, all Expenses (as hereinafter defined) incurred in connection with this Agreement, and the transactions contemplated hereby shall be paid by the Party incurring such Expenses, provided however, FocalTech shall pay the incorporation Expenses of establishing the Merger Sub. As used in this Agreement, "**Expenses**" includes all reasonable and documented out-of-pocket expenses (including, without limitation, all filing costs and reasonable fees and expenses of counsel, accountants, investment bankers, experts and consultants to a Party hereto and its Affiliates) incurred by a Party or on its behalf in connection with, or related to, the authorization, preparation, negotiation, execution and performance of this Agreement and the transactions contemplated hereby, including the solicitation of shareholder approvals and all other matters related to the transactions contemplated hereby; *provided*, that Expenses incurred in connection with the printing and mailing of the Prospectus and, to the extent applicable, filing fees with respect to Governmental Antitrust Entities shall be shared equally by Orise and FocalTech.

第 6.4 項 費用及支出 無論開曼合併是否完成，因本合約及本合約所定交易所產生之所有費用（定義如下所示），應由產生費用之一方自行負擔，惟敦泰科技應支付註冊成立 Merger Sub 之相關費用。本合約所稱之「費用」，包括任一方或其相關代理人就本合約及本合約所定交易有關之授權、準備、協商、簽署及履行之所有合理且有單據之實報實銷之開支（包括但不限於所有的申請費用、合理費用、本合約當事人一方或其關係企業之律師、會計師、投資銀行家、專家及顧問之費用），包括徵求股東會承認及與本交易有關之所有其他事項。惟若該費用係因公開說明書之印製及郵寄，以及向反壟斷主管機關申請之費用，則應由旭曜及敦泰科技共同分擔之。

Section 6.5 *Orise Articles of Incorporation.* Prior to the Effective Date, Orise shall amend Orise Articles by amendments as set for in Exhibit 2.7 attached hereto.

第 6.5 項 旭曜公司章程 旭曜應於基準日前通過增修其公司章程，增修後條文應如同附表 2.7 所示。

Section 6.6 *Employee Retention* (a) Orise shall cause the retention of the Key Employee (as defined hereunder) at all time during the period from the date of this Agreement till the date immediately after the Board Reelection Date ("Retention Period") so that all 290 key employees ("**Key Employees**") as identified by FocalTech with a separate letter and

delivered to Orise on the date of this Agreement, and the turnover rate of such Key Employees during the Retention Period shall be less than 5% (i.e. among them at least 276 shall remain as full-time employees of Orise during the Retention Period).

(b) Parties agree that Orise shall not let go any of the Orise full-time employees who stays with Orise as of the Effective Date (“Orise Effective Date Employees”) unless otherwise permitted by ROC Laws, and within one year from the Effective Date, Orise shall not revise or amend the employment terms of the Orise Effective Date Employees to the extent such revised or amended terms are less favorable to the affected employees comparing to his/her terms of employment with Orise upon Effective Date.

第 6.6 項 員工留任 (a)旭曜於本合約簽署至董事會改選日隔日(下稱「留任期間」)，應留任重要員工(定義如下)，290 名重要員工由敦泰科技另函定義，並於本合約簽署日寄予旭曜。於留任期間內，重要員工之流動率應小於 5%。(亦即於留任期間內，重要員工中至少有 276 人留任為旭曜全職員工。)

(b) 合約當事人同意對於旭曜於基準日當日仍在職之員工(「基準日在職員工」)，除依中華民國法令允許之情事外，旭曜不得單方解僱該員工。旭曜承諾對基準日在職員工自基準日起一年內對其基準日當天之既有勞動條件不為不利益變更。

Section 6.7 *Board Reelection; Resignations.* immediately after the “Governmental Approvals” are obtained, Orise agrees to take or cause to be taken all such actions as are necessary to have its Board call an extraordinary shareholders’ meeting to be scheduled on the date immediately following the Effective Date, or a later date as requested by FocalTech (“Board Reelection Date”) to approve the following: 1)a re-election of all 9 seats of the Orise directors and have all 9 directors of FocalTech to be elected and registered as the directors of Orise, with the directors to serve the term according to the **Orise Articles** ; and 2) approve the amendments to the Orise Articles to change company name of Orise as designated by FocalTech by a separate notice to Orise.

第 6.7 項 董事會改選與辭任 於取得本案政府許可後，旭曜同意立即為必要之行爲促使其董事會 (下稱「董事會改選日」)召集臨時股東會於基準日後一日或其他敦泰科技指定較後之日通過下述決議:1)以進行旭曜九席董事之改選，並使九位原敦泰科技之董事改選登記為旭曜之董事。經改選之董事任期依旭曜章程而定；及 2)通過章程修正案，以變更旭曜之公司名稱為敦泰科技另外通知所指定之名稱。

To the extent requested by FocalTech in writing at least three Business Days prior to the Closing, on the Closing Date, Orise shall cause to be delivered to FocalTech duly signed resignations, effective as of the Effective Date, of the directors and officers of Merge Sub.

至少於交割日前三個工作天前，經敦泰科技書面請求時，旭曜應於交割日促使 Merge Sub 交付 Merge Sub 董事及經理人之辭呈，其生效日為基準日。

Section 6.8 Further Assurances.

(a) Parties shall use its reasonable best efforts, to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary and reasonably appropriate to consummate and make effective, in the most expeditious manner practicable, the Merger and the other transactions provided for herein.

(b) After all Governmental Approvals have been obtained, the Parties shall use its best efforts to prepare and proceed to the Closing, and FocalTech will provide a talent retention plan for Orise and FocalTech.

第 6.8 項 其他保證

(a) 為完成並使開曼合併及本合約所定其他交易生效，本合約當事人應盡其一切合理努力，以最有效率且可行之方式，採取或促使採取一切行動，或進行合理必要之安排。

(b) 於本案政府許可均已取得後，本合約當事人應盡其一切合理努力，為交割進行準備，敦泰科技將提出相關之留才計畫。

ARTICLE VII

CONDITIONS PRECEDENT

第 7 條

交割條件

Section 7.1 *Conditions to Each Party's Obligations to Effect the Merger.* The obligation of each Party to consummate the transactions contemplated by this Agreement is subject to the fulfillment at or prior to the Effective Date of each of the following conditions:

第 7.1 項 合約當事人使開曼合併生效之義務的條件

個別合約當事人完成本合約所訂交易之義務係以基準日或基準日前下述條件完成為前提：

(a) The Required FocalTech Shareholders' Approval and the Required Orise Shareholders' Approval shall have been obtained.

(a) 取得敦泰科技必要股東同意及旭曜必要股東同意

(b) No Governmental Entity of competent jurisdiction shall have enacted, issued,

promulgated, enforced or entered any statute, rule, regulation, executive order, decree, injunction or other order (whether temporary, preliminary or permanent) which (i) is in effect and (ii) has the effect of making the Merger illegal or otherwise prohibiting or preventing consummation of the Merger.

(b) 有權政府單位未制定、發布、公告、執行或簽署任何法律、命令、規則、行政命令、規章、禁制令、或其他命令（無論暫時、臨時或永久），而(i)有效且(ii)使開曼合併違法或禁止開曼合併之完成

(c) All authorizations, consents, orders and approvals of all Governmental Entity that are or become necessary for its execution and delivery of, and the performance of the Parties' obligations pursuant to this Agreement (“**Governmental Approvals**”) shall have been obtained prior to the Closing Date.

(c) 於交割日前取得與本合約義務之簽署、交付及履行所必要或將成為必要之所有政府單位授權、同意、命令或許可（「本案政府許可」）。

Section 7.2 *Conditions to the Obligations of Orise and Merger Sub.* The obligation of Orise and Merger Sub to consummate the transactions contemplated by this Agreement is subject to the fulfillment at or prior to the Effective Date of each of the following additional conditions, any or all of which may be waived in whole or part by Orise to the extent permitted by applicable Law:

第 7.2 項 旭曜及 Merger Sub 義務之條件 旭曜及 Merger Sub 完成本合約交易之義務係以下列額外條件於基準日或之前完成為前提，其中全部或部分可由旭曜於法律允許之範圍內免除之：

(a) The representations and warranties of FocalTech set forth in Article 3 shall be true and correct in all material respects as of the date of this Agreement, and as of the Closing Date as though made on and as of the Closing Date (except for representations and warranties made as of a specified date, which need be true and correct, or true and correct in all material respects, as the case may be, only as of the specified date).

(a) 第 3 條所列之敦泰科技之聲明與保證，於本合約簽署日及交割日在各重要方面皆屬真實、正確（但聲明與保證事項之日期另有約定者，該等事項於該日期應屬真實正確、或於各重要方面皆屬真實、正確。）

(b) FocalTech shall have performed or complied in all material respects with all covenants and agreements contained herein required to be performed or complied with by it prior to or at the time of the Closing.

(b) 敦泰科技應履行及於各重要方面遵守本合約須於交割前（含）所履行或遵守之承諾及約定。

(c) FocalTech shall have delivered to Orise a certificate, dated as of the Effective Date, signed by an executive officer of FocalTech, certifying as to the fulfillment of the conditions specified in Section 7.2(a) to (b) above.

(c) 敦泰科技應於基準日交付證明書予旭曜，該證明書應由敦泰科技之執行經理人簽署，以證明第 7.2.(a)~(b)項條件之完成。

Section 7.3 *Conditions to the Obligations of FocalTech.* The obligation of FocalTech to consummate the transactions contemplated by this Agreement is subject to the fulfillment at or prior to the Effective Date of each of the following conditions, any or all of which may be waived in whole or in part by FocalTech to the extent permitted by applicable Law.

第 7.3 項 敦泰科技義務之條件 敦泰科技完成本合約交易之義務係以下列額外條件於基準日前（含）完成為前提，其中全部或部分可由敦泰科技於法律允許之範圍內免除之。

(a) The representations and warranties of Orise and Merger Sub set forth in Article 4 shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date as if made on and as of such date and time (except for representations and warranties made as of a specified date, which need be true and correct, or true and correct in all material respects, as the case may be, only as of the specified date).

(a) 第 4 條所列之旭曜及 Merger Sub 之聲明與保證，於本合約簽署日及交割日在各重要方面皆屬真實、正確。（但聲明與保證事項之日期另有約定者，該等事項僅於該日期應屬真實正確、或於各重要方面皆屬真實、正確。）

(b) Orise and Merger Sub shall have performed or complied in all material respects with all covenants and agreements contained herein required to be performed or complied with by it prior to or at the time of the Closing.

(b) 旭曜及 Merger Sub 應履行及於各重要方面遵守本合約須於交割前（含）所履行或遵守之承諾及約定。

(c) Since the date of this Agreement, there shall not have been any Orise Material Adverse Effect.

(c) 自本合約簽署日起，旭曜並無發生重大不利影響。

(d) Orise shall have delivered to FocalTech a certificate, dated as of the Effective Date, signed by a designated director of Orise and a designated director of Merger Sub, certifying as to the fulfillment of the conditions specified in Section 7.3(a), (b) and (c).

(d) 旭曜應於基準日交付證明書予敦泰科技，該證明書應由旭曜之指定董事及

MergerSub 指定之董事簽署，以證明第 7.3(a), (b) 及 (c)項條件之完成。

ARTICLE VIII

第 8 條

TERMINATION, AMENDMENT AND WAIVER

終止、修正及免責

Section 8.1 *Termination by Mutual Agreement.* This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Date, whether before or after receipt of the Required FocalTech Shareholders' Approval and the Required Orise Shareholders' Approval, by mutual written consent of FocalTech and Orise.

第 8.1 項 合意終止 於本合約基準日以前，無論係於收到敦泰科技及旭曜必要股東同意前或後，雙方於任何時點均得以書面合意終止本合約及開曼合併。

Section 8.2 *Termination by Either Orise or FocalTech.* This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Date by either Orise or FocalTech if:

第 8.2 項 旭曜或敦泰科技之終止 如有下列各款情形，旭曜或敦泰科技得於基準日前終止本合約及開曼合併：

(a) any Law, injunction or order having the effect set forth in Section 7.1(b) shall be in effect and shall have become final and non-appealable; *provided, however*, that the right to terminate this Agreement pursuant to this Section 8.2(a) shall not be available to a Party if the issuance of such final, non-appealable Law, injunction or order was primarily due to the breach or failure of such Party to perform in a material respect any of its obligations under this Agreement;

(a) 第 7.1 項(b)所定之法律、強制命令或命令發生效力且成為終局、不可變更時。惟若該終局、不可變更之法律、強制命令或命令，係因一方違約或怠於履行本合約約定之重大義務所致時，則該方則不具有第 8.2 項(a)終止本合約之權利。

(b) the Required FocalTech Shareholders' Approval is not obtained at the FocalTech Shareholders Meeting or any adjournment thereof at which this Agreement and the Plan of Merger has been voted upon; or

(b) 敦泰科技未於其股東會或續會中就本合約及合併計畫取得敦泰科技股東必要同意。

(c) the Required Orise Shareholders' Approval is not obtained at the Orise Shareholders Meeting or any adjournment thereof at which the Share Issuance has been voted upon.

(c)旭曜未於其股東會或續會中取得對價股份發行之旭曜必要股東同意。

Section 8.3 *Termination by Orise.* This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Date by Orise if:

第 8.3 項 旭曜終止合約 若有以下情形，旭曜得於基準日前終止本合約及開曼合併。

(a) the representations and warranties of FocalTech shall not be true and correct or FocalTech shall have breached or failed to perform any of its covenants or agreements contained in this Agreement, which failure to be true and correct, breach or failure to perform (i) would give rise to the failure of a condition set forth in Section 7.2 and (ii) cannot be cured, or if capable of being cured, shall not have been cured within 30 days following receipt by FocalTech of written notice of such breach or failure to perform from Orise stating Orise's intention to terminate this Agreement pursuant to this Section 8.3(a) and the basis for such termination; *provided*, that Orise shall not have the right to terminate this Agreement pursuant to this Section 8.3(a) if it is then in material breach of any representations, warranties, covenants or other agreements hereunder that would result in any condition to Closing set forth in Section 7.3 not being satisfied; or

(a)敦泰科技之聲明與保證非屬真實、正確，或敦泰科技有違約或怠於執行本合約下之承諾或協議。而該不實或錯誤，或違約或怠於執行有(i)致第 7.2 項之條件無法成就；且(ii)無法補正，或於可以補正之情況下，於旭曜以書面通知敦泰科技其違約或怠於執行後（應告知終止之事由，及若於三十日內未補正者，即依第 8.3 項(a)終止本合約），敦泰科技仍未於期限內補正。但如因旭曜重大違反聲明、保證、承諾或其他協議而將致第 7.3 項所定之交割條件未能成就，則旭曜不得依第 8.3 項(a)主張終止本合約。或者；

(b) (i) all of the conditions set forth in Section 7.1 and Section 7.3 (other than those conditions that by their nature are to be satisfied by actions taken at the Closing) have been satisfied, (ii) Orise has confirmed by notice to FocalTech that all conditions set forth in Section 7.2 have been satisfied or that it is willing to waive any unsatisfied conditions in Section 7.2 and (iii) FocalTech fails to consummate the Merger within three Business Days following the date the Closing should have occurred pursuant to Section 1.3.

(b) (i)第 7.1 項及第 7.3 項所定之條件(除了依其性質為交割時方可滿足之條件)均成就；(ii)旭曜通知敦泰科技確認第 7.2 項之條件已經滿足，或第 7.2 項之條件已被免除；且(iii)敦泰科技未於第 1.3 項所定之應為交割日後三個營業日內完成開曼合併案。

Section 8.4 *Termination by FocalTech.* This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Date by FocalTech if:

第 8.4 項 敦泰科技終止合約 若有以下情形，敦泰科技得於基準日前終止本合約及開曼合併。

(a) the representations and warranties of Orise or Merger Sub shall not be true and correct or Orise or Merger Sub shall have breached or failed to perform any of their covenants or agreements contained in this Agreement, which failure to be true and correct, breach or failure to perform (i) would give rise to the failure of a condition set forth in Section 7.3 and(ii) cannot be cured, or if capable of being cured, shall not have been cured within 30 days following receipt by Orise and Merger Sub of written notice of such breach or failure to perform from FocalTech stating FocalTech's intention to terminate this Agreement pursuant to this Section 8.4(a) and the basis for such termination; *provided*, that FocalTech shall not have the right to terminate this Agreement pursuant to this Section 8.4(a) if it is then in material breach of any representations, warranties, covenants or other agreements hereunder that would result in any condition to Closing set forth in Section 7.2 not being satisfied; or

(a) 旭曜或 Merger Sub 之聲明與保證非屬真實、正確，或旭曜或 Merger Sub 有違約或怠於執行本合約下之承諾或協議。而該不實或錯誤之情事，或違約或怠於執行有(i)致第 7.3 項之條件無法成就；且(ii)無法補正，或於可補正之情況下，於敦泰科技書面通知旭曜或 Merger Sub 其違約及怠於執行之情事（告知終止事由及若於三十日內未補正者，即依第 8.4 項(a)終止本合約）並聲明若未補正將於三十日內終止本合約，惟旭曜未於期限內補正。但如因敦泰科技重大違反聲明、保證、承諾或其他協議而將致第 7.2 項所定之交割條件未能成就，則敦泰科技不得依第 8.4 項(a)主張終止本合約。或者；

(b) if (i) all of the conditions set forth in Section 7.1 and Section 7.2 (other than those conditions that by their nature are to be satisfied by actions taken at the Closing) have been satisfied, (ii) FocalTech has confirmed by notice to Orise that all conditions set forth in Section 7.3 have been satisfied or that it is willing to waive any unsatisfied conditions in Section 7.3 and (iii) Orise or Merger Sub fail to consummate the Merger within three Business Days following the date the Closing should have occurred pursuant to Section 1.3.

(b) (i)第 7.1 項及第 7.2 項(除了依其性質為交割時方可滿足之條件)所定之條件均成就；(ii)敦泰科技通知旭曜確認第 7.3 項之條件已經滿足，或第 7.3 項之條件已被免除；且(iii)旭曜未於第 1.3 項所定之應為交割日後三個營業日內完成開曼合併案。

Section 8.5 *Effect of Termination and Abandonment.* (a) In the event of termination of this Agreement and the abandonment of the Merger pursuant to this Article VIII, written notice thereof shall be given to the other Party or Parties specifying the provision hereof pursuant to which such termination is made, and this Agreement shall become void and of no effect with no

liability on the part of any Party hereto (or of any of its Representatives); *provided, however*, that (i) this Section 8.5, 6.4, and Article IX (in each case, subject to the terms thereof) shall remain in full force and effect and survive termination of this Agreement, and (ii) nothing herein shall relieve any Party from liability for fraud.

第 8.5 項 終止及放棄之效力 (a)依第 8 條規定終止本合約及開曼合併時，一方應以書面通知他方或雙方，並應表明其所依據之終止條款，本合約因此對任何一方(或其代表人)均失其效力，且任何一方均不因此負擔任何義務。惟(i)第 8.5 項、第 6.4 項及第 9 條(依其條件)於本合約終止後仍具有完全效力，且(ii)任一方均不得自詐欺行為中免除其責。

ARTICLE IX

第 9 條

GENERAL PROVISIONS

一般條款

Section 9.1. Assignment; Binding Effect; Benefit. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto (whether by operation of law or otherwise) without the prior written consent of the other parties hereto. Subject to the preceding sentence, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Notwithstanding anything contained in this Agreement to the contrary, except for the provisions of Sections 2.2 of this Agreement (collectively, the “**Third Party Provisions**”), nothing in this Agreement, expressed or implied, is intended to confer on any person other than the parties hereto or their respective successors and assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement. The Third Party Provisions may be enforced only by the specifically intended beneficiaries thereof.

第 9.1 項 轉讓、拘束力及利益 本合約或任何權利、利益或義務，非經他方事前書面同意，不得轉讓之(無論係依法或其他之方式)。於不違反前述約定之前提下，本合約對於合約當事人及其繼受人、受讓人均有拘束力且惠及合約當事人及其繼受人、受讓人。無論本合約中是否有相反之規定，除本合約第 2.2 條之規定外(統稱為「第三方條款」)，本合約並無明示或暗示賦予本合約當事人以外之人或其受讓人因本合約取得任何權利、救濟、義務或責任。第三方條款僅得被特定受益人強制執行。

Section 9.2. Entire Agreement. This Agreement and any documents delivered by the parties in connection herewith constitute the entire agreement among the parties with respect to the subject matter hereof.

第 9.2 項 完整合意 雙方所交付有關本合約及相關文件，構成雙方對本合約標的之完整合意。

Section 9.3. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Republic of China (Taiwan) without regard to its rules of conflict of laws, except that the following matters to the extent provided for in this

Agreement shall be construed, performed and enforced in accordance with the laws of the Cayman Islands: the Merger, the vesting of the undertaking, property and liabilities of Merger Sub in FocalTech, the exchange of FocalTech Shares for Orise Shares and the treatment of FocalTech Shares pursuant thereto and the rights provided for in Section 238 of the Cayman Companies Law with respect to any Dissenting Shares.

第 9.3 項 準據法 本合約應以中華民國法(台灣)為準據法，並從其解釋，且不考慮法律衝突法則。惟下列事項於本合約規定範圍內應依開曼群島法律解釋、履行及執行：開曼合併、Merger Sub 之事業、財產和責任歸屬至敦泰科技、敦泰科技與旭曜之股份交換、敦泰科技股份之處理等、以及依開曼群島公司法第 238 條之異議股東權。

Section 9.4. Language.

This Agreement has been executed in the English language only, except that the Disclosure Schedule has been delivered in the Chinese language. A Chinese translation of this Agreement will be prepared but any such translation will be for reference only, and the English original shall prevail in the event of any discrepancy between the Agreement and Chinese reference translation.

第 9.4 項 語言 本合約應以英文為準，但揭露事項係以中文記載者，則以中文為準。本合約之中文翻譯僅供參考，若中文翻譯與英文原本有不一致，應依英文為準。

Section 9.5. Dispute Resolution.

第 9.5 項 爭端解決

- (a) Any and all disputes, controversies and conflicts between the Parties in connection with Agreement and the performance or non-performance of the obligations set forth herein shall be settled amicably between the Parties through good faith negotiation or conciliation within thirty (30) days after written notice of such dispute, controversy or conflict has been given by one Party to the other Party.

合約當事人間任何關於本合約之履行或本合約所定之義務未履行之爭端、爭議及衝突，應盡可能於一方以書面通知他方該爭端、爭議或衝突後 30 日內，合約雙方當事人秉持誠意，透過友好協商解決之。

- (b) Failing an amicable settlement thereof within the 30-day period specified above, any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration referred to the Chinese Arbitration Association, Taipei (“Association”) in accordance with the Arbitration Act of the ROC, and the Association’s arbitration rules for the time being in force. The place of arbitration shall be in Taipei, Taiwan. The language of arbitration shall be Mandarin Chinese. The Tribunal shall consist of three arbitrator(s).

若未能依上述於 30 日內友好解決時，包括任何有關本合約存在與否、有效與否及本合約終止之任何與本合約相關之爭端，均應依中華民國仲裁法及當時有效之中華民國仲裁協會仲裁規則之規定，以中華民國仲裁協會為爭議解決機關解決之。仲裁地點應於台灣台北。仲裁使用語言應為繁體中文。仲裁庭應由三位仲裁人組成。

- (c) The arbitral award made and granted by the arbitrators shall be final, binding and incontestable and may be used as a basis for judgment and for enforcement purposes anywhere. All costs of arbitration (including those incurred in the appointment of the three members of the arbitration board) shall be apportioned in the arbitral award.

仲裁人所做成之仲裁決定應具有最終性、拘束性、不可爭性，且可作為判決及各地執行之基礎。仲裁費用(包含委任三名仲裁人之費用)應於仲裁決定中分攤。

Section 9.6 Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all of the parties hereto.

第 9.6 項 簽署份數 本合約一式數份，每份一經簽署及交付即視為正本並應構成同份文件。如有任一份僅部分當事人簽署，可與經其他當事人簽署之其他份，視為一份。

Section 9.7. Headings. Headings of the Articles and Sections of this Agreement are for the convenience of the parties only and shall be given no substantive or interpretative effect whatsoever.

第 9.7 項 標題 本合約各章、各條之標題係為便利雙方而定，不具實質內容，亦不得作為解釋之依據。

Section 9.8. Severability. If any provision of this Agreement is determined by any court or arbitrator of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, such provision shall be stricken from this Agreement and the remainder of this Agreement shall be enforced as if such invalid, illegal or unenforceable clause or provision had (to the extent not enforceable) never been contained in this Agreement.

第 9.8 項 可分性 若本合約之任何條款經有管轄權之法院或仲裁庭認定為無效、違法或無法執行時，應考量合約當事人之意思，使該條款仍應盡可能有效。若該條款仍無法執行，則該條款應自於本合約刪除，而本合約其他條款將繼續有效執行，如同本合約從未包含該無效、違法或無法執行之條款。

Section 9.9 Notices. All notices, requests, instructions or other documents to be given under this Agreement shall be in writing and shall be deemed given if delivered personally or sent by registered or certified mail, postage prepaid, by facsimile (which is

confirmed) or overnight courier (with proof of delivery) to a Party at the following address for such Party:

if to Orise or to Merger Sub, to:

Orise

address: 4F., No.6, Dusing 1st Rd.,
Science Based Industry Park,
Hsinchu City 30078,Taiwan (R.O.C.)

Telephone: 03-666-1660#2711

Facsimile: 03-666-1696

Attention: Ming-Cheng Liao

And

Merger Sub

address: 4F., No.6, Dusing 1st Rd.,
Science Based Industry Park,
Hsinchu City 30078,Taiwan (R.O.C.)

Telephone: 03-666-1660#2711

Facsimile: 03-666-1696

Attention: Ming-Cheng Liao

if to FocalTech, to:

address: 8F.-1, No.32, Gaotie 2nd
Rd., Zhubei City, Hsinchu County
30274, Taiwan (R.O.C.)

Telephone:03-667-2758#6202

Facsimile: 03-667-5515

Attention: James Liao

or to such other address as the person to whom notice is given may have previously furnished to the other in writing in the manner set forth above.

第 9.9 項 通知 本合約之一切通知、請求、指示或其他本合約所要求應以書面形式之文件，若以親自遞送、掛號或掛號信寄送、預付郵資、傳真(經確認)、隔夜快遞(寄送證明)至他方下列地址時，將視為已收受：

旭曜或 Merger Sub：

旭曜：

地址:30078 新竹科學工業園區篤
行一路 6 號 4F

電話號碼: 03-666-1660#2711

傳真號碼: 03-666-1696

聯絡人: 廖明政 總經理

附註:

及

Merger Sub

地址: 30078 新竹科學工業園區篤
行一路 6 號 4F

電話號碼: 03-666-1660#2711

傳真號碼: 03-666-1696

聯絡人: 廖明政 總經理

附註:

敦泰科技：

地址: 新竹縣竹北市高鐵二路 32 號
8 樓之 1

電話號碼:03-667-2758#6202

傳真號碼: 03-667-5515

聯絡人: 廖俊杰 財務長

附註:

或過去曾依上述方法以書面形式提供之其他地址。

Section 9.10 Certain Definitions.

第 9.10 項 部分名詞定義

(a) "**Affiliate**" means, as to any Person, (i) any other Person that, directly or indirectly, controls, or is controlled by, or is under common control with, such Person. For this purpose,

"control" (including, with its correlative meanings, "controlled by" and "under common control with") shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise and (ii) with respect to any natural Person, any member of the immediate family of such natural Person.

「關係企業」：係指對任何人而言，(i) 直接或間接、控制該人或被該人控制、或與該人共同控制之其他人。基於上述目的，「控制」(包含其關聯之意義，即「被控制」或「被共同控制」)，意指，擁有以直接或間接之方式指示或促成某人其管理或政策方向的能力，不論係透過有價證券的所有權或合夥或其他所有權利益，透過合約或其他方式；及 (ii)於自然人之情況，即為該自然人的任一直系親屬。

(b) "**Business Day**" means any day other than a Saturday or Sunday or a day on which banks are required or authorized to close in Taipei, ROC.

「營業日」：係指週六、週日或中華民國台北地區銀行停止營業之日以外之日。

(c) "**Board**" means the Board of Directors of the FocalTech Board and/or the Orise Board.

「董事會」：係指敦泰科技及/或旭曜之董事會。

(d) "**Employee Benefit Plans**" (i) Each "employee benefit plan" that Orise or any of its Subsidiaries maintains, sponsors, participates in, is a party to or contributes to, or with respect to which Orise or any of its Subsidiaries could reasonably be expected to have any liability (including without limitation, any stock option, stock purchase, stock appreciation rights or other stock or stock-based incentive plan, cash bonus or incentive compensation arrangement, retirement or deferred compensation plan, profit sharing plan, unemployment or severance compensation plan, or employment or consulting agreement).

「員工福利計劃」：係指(1)旭曜或其子公司所應維持、支持、參與或成為其一方或提撥、或旭曜或其子公司可合理預期須負擔債務之員工福利計畫義務(包括但不限於認股權、購買股票、股份增值權或其他股票或股票期權之激勵計畫、現金紅利、激勵獎金安排、獎勵退休或延期支付計畫、分紅計畫、失業或離職補償計畫、就業諮詢或諮詢協議)。

(e) "**FocalTech Material Adverse Effect**" means any change, circumstance, event, effect or occurrence that, individually or in the aggregate with all other changes, circumstances, events, effects or occurrences, (i) has had or would reasonably be expected to have a material adverse effect on the business, results of operations, assets or consolidated financial condition of FocalTech and its Subsidiaries, taken as a whole, or (ii) would or would reasonably be expected to prevent or materially impair or delay the consummation of the transactions contemplated by this Agreement.

「**敦泰科技重大不利影響**」：係指任何變動、情形、事件、影響或發生，而個別地或與其他變動、情形、事件、影響或發生綜合地：(i)已對或可合理預期將對敦泰科技及其子公司整體的營業、營運結果、資產或合併財務狀況有重大不利影響；或(ii)會或可合理預期會使本合約所訂交易無法進行、受重大損害或遲延。

(f) "**FocalTech Option**" means an option to purchase FocalTech Shares granted pursuant to the **FocalTech Share Option Plan**.

「**敦泰科技認股權憑證**」：係指依敦泰科技認股權計畫授予、可憑以購買敦泰科技股份之認股權憑證。

(g) "**FocalTech Share Option Plan**" means the 2006 and 2013 Share Option Plan of FocalTech.

「**敦泰科技股份認股權計畫**」：係指根據敦泰科技 2006 年及 2013 年認股權計畫。

(h) "**Governmental Entity**" means any supranational, national, state, municipal or local court or tribunal or administrative, governmental, quasi-governmental or regulatory body, agency or authority.

「**政府單位**」：係指任何超國家的、全國性的、州的、市的或當地法院或委員會或行政、官方、準官方或管制的個體、機構或機關。

(i) "**Intellectual Property**" means in any and all jurisdictions worldwide, all (i) patents, statutory invention registrations and invention disclosures, and all related continuations, continuations-in-part, divisionals, reissues, re-examinations, substitutions, and extensions thereof, (ii) trademarks, service marks, domain names, uniform resource locators, trade dress, trade names, logos and other identifiers of source, including the goodwill symbolized thereby or associated therewith, (iii) works of authorship (including software) and copyrights, (iv) confidential and proprietary information, including trade secrets and confidential and proprietary know-how, inventions, processes, models and methodologies, (v) rights of publicity, (vi) registrations, applications, and renewals for any of the foregoing in (i)-(v), and (vii) all rights in the foregoing and in other similar intangible assets.

「**智慧財產權**」：係指全球之(1)專利、依法登記之發明、揭露之發明，以及所有相關之全部或部分延續、分割、重新核發、重新審查、更替及專利展期，(2)商標、服務標章、網域名稱、網址、URL、商品外觀、商品名稱、標誌及其他可識別來源，包括所象徵或相關之商譽；(3)作品之版權（包括軟體）及著作權，(4)機密且獨占之資訊，包括商業秘密、機密且獨占之 know-how、發明、程序、模式及方法。(5)公開權，(6)註冊、申請或更新上述(1)~(5)，以及(7)所有上述權利及其他相類似之無形資產。

(j) "**know**" or "**knowledge**" means, with respect to any Party, the knowledge of such Party's executive officers after due inquiry, including inquiry of such Party's counsel and other officers or employees of such Party responsible for the relevant matter.

「所知」係指當事人之任一方，其執行經理人於適當詢問該當事人之顧問及負責相關事件之經理人或員工後所得知悉之資訊。

(k) "**Law**" means any ROC, Cayman or other relevant jurisdiction's national, provincial or local, or multinational law, statute or ordinance, common law, or any rule, regulation, directive, treaty provision, governmental guidelines or interpretations having the force of law, permits and orders of any Governmental Entity.

「法律」：係指中華民國、開曼群島或其他有關司法管轄之國家、省或地區或跨國性之具有法效力之法律、規定、條例，普通法、法則、規則、指針，條約、政府指導原則、解釋、或政府單位之核准及命令。

(l) "**Lien**" means, with respect to any asset (including, without limitation, any security) any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset.

「負擔」：係指有關財產（包括但不限於任何擔保）之抵押權、留置權、抵押、質押、擔保利益或任何形式之產權上負擔。

(m) "**Major Shareholder**" means SUNPLUS TECHNOLOGY CO.,LTD..

「重要股東」：係指凌陽科技股份有限公司

(n) "**Orise Employees**" means the current employees, officers or directors of Orise or any Subsidiary of Orise, excluding FocalTech Employees.

「旭曜員工」：係指旭曜或其子公司現有員工、經理人或董事，但不包含敦泰科技員工。

(o) "**Orise Intellectual Property**" means Orise Owned Intellectual Property and Orise Licensed Intellectual Property.

「旭曜智慧財產權」：係指旭曜持有之智慧財產權及旭曜被授權之智慧財產權。

(p) "**Orise IP Agreements**" means all (i) licenses of Intellectual Property to Orise and its Subsidiaries, (ii) licenses of Intellectual Property by Orise or any of its Subsidiaries to third parties and (iii) agreements restricting the right of Orise or its Subsidiaries, or pursuant to which Orise or its Subsidiaries permit other Persons, to use or register Intellectual Property.

「旭曜 IP 合約」：係指所有(i)授權予旭曜及其子公司；(ii) 旭曜或其任一子公司授權予第三人；及(iii)限制旭曜或其子公司使用或註冊登記智慧財產權之權利，或旭曜或其子公司許可其他人使用或註冊登記智慧財產權之合約。

(q) **"Orise Licensed Intellectual Property"** means all Intellectual Property owned by third parties (including FocalTech) and licensed to Orise and any of its Subsidiaries pursuant to Orise IP Agreements.

「旭曜被授權之智慧財產權」：係指依旭曜 IP 合約，所有第三人(包含敦泰科技)持有且授權給旭曜及其任一子公司之智慧財產權。

(r) **"Orise Material Adverse Effect"** means any change, circumstance, event, effect or occurrence that, individually or in the aggregate, with all other changes, circumstances, events, effects or occurrences, (i) has had or would reasonably be expected to have a material adverse effect on the business, results of operations, assets or consolidated financial condition of Orise and its Subsidiaries taken as a whole, (ii) would or would reasonably be expected to prevent or materially impair or delay the consummation of the transactions contemplated by this Agreement; or (iii) is reasonably likely to materially and adversely affect the ability of Orise to operate or conduct the business of Orise and its Subsidiaries in the manner in which they are currently operated or conducted or contemplated to be operated or conducted.

「旭曜重大不利影響」：係指任何變動、情形、事件、影響或發生，而個別地或與其他變動、情形、事件、影響或發生綜合地：(i)已對或可合理預期將對旭曜及其子公司整體的營業、營運結果、資產或合併財務狀況有重大不利影響；(ii) 會或可合理預期會使本合約所定交易無法進行、受重大損害或遲延；或(iii)可能對旭曜經營或管理旭曜或其子公司依目前或將來擬經營或管理之營業，有重大且不利之影響。

(s) **"Orise Option"** means an option to purchase Orise Shares granted under the Orise Share Option Plans.

「旭曜認股權憑證」：係指依旭曜認股權計畫所授予、可憑以購買旭曜股份之認股權憑證。

(t) **"Orise Owned Intellectual Property"** means all Intellectual Property owned or purported to be owned by Orise or its Subsidiaries.

「旭曜所有之智慧財產權」：係指旭曜或其子公司目前或將來將擁有之所有智慧財產權。

(u) **"Orise Material Contracts"** means all such Contracts described in Section 4.9 clauses (i) through (ix)

「旭曜重要契約」：係指第 4.9 條(i)至(ix)所列之合約。

(v) "**Orise Share Option Plans**" means the 2013 Share Option Plan of Orise.

「旭曜認股權計畫」：係指旭曜 2013 年認股權計畫。

(w) "**Person**" means an individual, corporation, limited liability company, partnership, association, trust, unincorporated organization, other entity or group.

「人」：係指個人、公司、有限責任公司、合夥、協會、信託、非法人組織或其他機構或團體。

(x) "**Proceeding**" means any claim, action, suit, arbitration, inquiry, proceeding or investigation by or before any Governmental Entity.

「程序」：係指政府單位所為或經由政府單位主張之任何請求、法律行動、訴訟、仲裁、詢問、程序、調查。

(y) "**Related Person**" means with respect to any Person, any corporation or other business organization of which such Person is a director, officer or partner or is the beneficial owner, directly or indirectly, of ten percent or more of any class of equity securities, any trust or estate in which such Person has a substantial beneficial interest or as to which such Person serves as a trustee or in a similar capacity and any relative or spouse of such Person, or any relative of such spouse, who has the same home as such Person.

「關係人」：係指擔任任何公司或其他事業組織之董事、經理人或合夥人，或為 10% 以上任何種類之股權有價證券的直接或間接受益人、或對信託財產或資產有實質利益，或擔任受託人或其他類似權限之人，或為該人之親屬、配偶，或與其同住之配偶親屬。

(z) "**Representatives**" means a Party's respective officers, employees, agents, advisers, nominated directors, shareholders, assignees or other representatives.

「代表人」：係指各當事人之經理人、員工、代理、顧問、被提名董事、股東、受讓人或其他有代表權之人。

(aa) "**ROC**" means the Republic of China (Taiwan).

「中華民國」：係指中華民國(台灣)。

(bb) "**Subsidiary**" means, when used with reference to any Person, (i) of which such party or any other Subsidiary of such party is a general or managing partner, or (ii) the outstanding voting securities or interests of which, having by their terms ordinary voting power to elect a majority of the Board of Directors or others performing similar functions with respect to such corporation or other organization, are directly or indirectly owned or controlled by such party or by any one or more of its Subsidiaries, and, when use with reference to FocalTech or Orise, of which FocalTech or Orise, as applicable, consolidates in its consolidated financial statements as a variable interest entity in accordance with IFRS.

「**子公司**」：係指於符合下述條件者：(1)任何一方或其他子公司擔任該人之一般或管理合夥人，或(2)行使股份或股權之投票權，依其條款中之普通投票權有權選任董事會之多數董事直接或間接由一方之當事人或其一個或數個子公司所擁有或控制之者；就敦泰科技或旭曜係指其個別依 IFRS 於合併財務報表中之子公司。

(cc) "**Tax Returns**" means all federal, state, local, provincial returns, declarations, statements, claims, reports, schedules, forms and information returns and, including any attachment thereto or amendment thereof, with respect to Taxes.

「**納稅申報書**」：係指稅務相關之聯邦、州、地方、市政府各層級申報、宣稱、聲明、請求、報告、計畫、表格及資訊通知單，包括任何附件或修正。

(dd) "**Tax**" or "**Taxes**" includes all forms of taxation, whenever created or imposed, whether imposed by a local, municipal, governmental, provincial, state, foreign, federal or other Governmental Entity, including all interest, penalties and additions imposed with respect to such amounts.

「**稅**」或「**稅負**」：係指包含地方、市政府、政府、省、州、外國、聯邦或其他政府組織之所有形式稅收，包括利息、罰款及相關額外費用。

(ee) "**UGC Agreements**" means agreements with individual end-users who provide user-generated content.

「**UGC 合約**」：係指與終端使用者（該終端使用者提供使用者製作之內容）簽署之合約。

(ff) "**US\$**" means the legal currency of the United States of America.

「**美元**」：係指美國法定貨幣。

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IN WITNESS WHEREOF, FocalTech, Orise and Merger Sub have caused this Agreement to be signed by their respective officers thereunto duly authorized, all as of the date first written above.

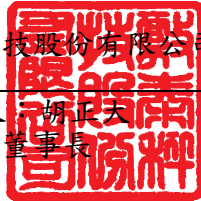
茲證明本合約書已經敦泰科技及旭曜正式授權且具有代表權限之人於首揭期日簽署。

FOCALTECH CORPORATION, LTD.,
an exempted company organized under the
laws of the Cayman Islands

By: 
Name: Genda J. Hu
Title: Chairman of the Board

敦泰科技股份有限公司（依開曼群島法律成立之豁免公司）

代表人：胡正太
職稱：董事長



Orise Technology Co., Ltd.,
a company incorporated under the
laws of the Republic of China

By: 
Name: Chou-Chye Huang
Title: Chairman of the Board

旭曜科技股份有限公司（依中華民國法律成立之公司）

代表人：黃洲杰
職稱：董事長



Orise Holding (Cayman) Inc.
an exempted company organized under the
laws of the Cayman Islands

By: 
Name: Chou-Chye Huang
Title: Sole director

Merger Sub（依開曼群島法律成立之豁免公司）

代表人：黃洲杰
職稱：董事

The Companies Law (2013 Revision) of the Cayman Islands
Plan of Merger

This plan of merger (the "**Plan of Merger**") is made on **[insert date]** 2014 between FocalTech Corporation, Ltd. ("**FocalTech**" or the "**Surviving Company**") and Orise Holding (Cayman) Inc. (the "**Merging Company**").

Whereas the Merging Company is a Cayman Islands exempted company and is entering into this Plan of Merger pursuant to the provisions of Part XVI of the Companies Law (2013 Revision) (the "**Statute**").

Whereas the Surviving Company is a Cayman Islands exempted company and is entering into this Plan of Merger pursuant to the provisions of Part XVI of the Statute.

Whereas the directors of the Merging Company and the directors of the Surviving Company deem it desirable and in the commercial interests of the Merging Company and the Surviving Company, respectively, that the Merging Company be merged with and into the Surviving Company and that the undertaking, property and liabilities of the Merging Company vest in the Surviving Company (the "**Merger**").

Terms not otherwise defined in this Plan of Merger shall have the meanings given to them under the Business Acquisition and Share Conversion Agreement dated **[insert date]** 2014 and made between, amongst others, the Surviving Company and the Merging Company (the "**Agreement**") a copy of which is annexed at Annexure 1 hereto.

Now therefore this Plan of Merger provides as follows:

- 1 The constituent companies to this Plan of Merger are FocalTech and the Merging Company.
- 2 The surviving company (as defined in the Statute) is the Surviving Company.
- 3 The registered office of the Surviving Company is c/o Maples Corporate Services Limited of PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands and the registered office of the Merging Company is c/o Maples Corporate Services Limited of PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands.
- 4 Immediately prior to the Effective Date (as defined below), the share capital of FocalTech will be NT\$1,500,000,000 divided into 150,000,000 ordinary shares of a par value of NT\$10.00 each and FocalTech will have **[insert number]** ordinary shares in issue.
- 5 Immediately prior to the Effective Date (as defined below), the share capital of the Merging Company will be US\$50,000 divided into 50,000 ordinary shares of a par value of US\$1.00 each and the Merging Company will have one ordinary share in issue.
- 6 The Merger shall take effect on **[date]** 2015 (the "**Effective Date**").
- 7 The terms and conditions of the Merger are such that:
 - 7.1 the one ordinary share of US\$1.00 par value in the Merging Company issued and outstanding on the Effective Date shall be converted into and exchanged for **[insert number]** ordinary shares of NT\$10 each in the Surviving Company;
 - 7.2 each ordinary share of NT\$10 par value in FocalTech issued and outstanding on the Effective Date, other than Excluded Shares and any Dissenting Shares shall be cancelled in exchange for the right to receive the Per Share Merger Consideration (as defined in the Agreement);

- 7.3 Excluded Shares shall be cancelled for no consideration; and
- 7.4 Dissenting Shares shall be cancelled in exchange for a payment resulting from the procedure in section 238 of the Statute unless any holders of Dissenting Shares fail to exercise or withdraw their rights to dissent from the Merger under section 238 of the Statute in which event they shall receive the Per Share Merger Consideration.
- 8 The rights and restrictions attaching to the shares in the Surviving Company are set out in the Amended and Restated Memorandum and Articles of Association of the Surviving Company in the form annexed at Annexure 2 hereto.
- 9 The Memorandum and Articles of Association of the Surviving Company shall be amended and restated in the form annexed at Annexure 2 hereto on the Effective Date.
- 10 There are no amounts or benefits payable to the directors of the constituent companies on the Merger becoming effective.
- 11 The Merging Company has granted no fixed or floating security interests that are outstanding as at the date of this Plan of Merger.
- 12 [The Surviving Company has granted no fixed or floating security interests that are outstanding as at the date of this Plan of Merger.] OR [The Surviving Company has granted certain fixed or floating security interests details of which are set out in Annexure 3 hereto. The Surviving Company has obtained the consent to the Merger of each holder of such security interests pursuant to section 233(8) of the Statute.]
- 13 The names and addresses of each director of the surviving company are:
- 13.1 ***[Insert name of Director]*** of ***[Insert personal address of Director]***;
- 13.2 ***[Insert name of Director]*** of ***[Insert personal address of Director]***; and
- 13.3 ***[repeat for all Directors of the surviving company (i.e. the merged entity)]***.
- 14 This Plan of Merger has been approved by the board of directors of each of FocalTech and the Merging Company pursuant to section 233(3) of the Statute.
- 15 This Plan of Merger has been authorised by the shareholders of each of the Surviving Company and the Merging Company pursuant to section 233(6) of the Statute.
- 16 At any time prior to the Effective Date, this Plan of Merger may be terminated pursuant to the terms and conditions of the Agreement.
- 17 This Plan of Merger may be executed in counterparts.
- 18 This Plan of Merger shall be governed by and construed in accordance with the laws of the Cayman Islands.

In witness whereof the parties hereto have caused this Plan of Merger to be executed on the day and year first above written.

SIGNED by _____)
Duly authorised for _____)
and on behalf of _____) Director
FocalTech Corporation, Ltd.)

SIGNED by _____)
Duly authorised for _____)
and on behalf of _____) Director
Orise Holding (Cayman) Inc.)

Annexure 1
The Agreement

Annexure 2

**THE COMPANIES LAW (2013 REVISION)
OF THE CAYMAN ISLANDS
COMPANY LIMITED BY SHARES**

**THIRD AMENDED AND RESTATED
MEMORANDUM AND ARTICLES OF ASSOCIATION**

OF

FOCALTECH CORPORATION, LTD.

(adopted by special resolution effective on [Merger Effective Date])

**THE COMPANIES LAW (2013 REVISION)
OF THE CAYMAN ISLANDS
COMPANY LIMITED BY SHARES**

**THIRD AMENDED AND RESTATED
MEMORANDUM OF ASSOCIATION
OF
FOCALTECH CORPORATION, LTD.**

(adopted by special resolution effective on [Merger Effective Date])

- 1 The name of the Company is **FocalTech Corporation, Ltd.**
- 2 The Registered Office of the Company shall be at the offices of Maples Corporate Services Limited, PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands, or at such other place within the Cayman Islands as the Directors may decide.
- 3 The objects for which the Company is established are unrestricted and the Company shall have full power and authority to carry out any object not prohibited by the laws of the Cayman Islands.
- 4 The liability of each Member is limited to the amount unpaid on such Member's shares.
- 5 The share capital of the Company is NT\$1,500,000,000 divided into 150,000,000 shares of a par value of NT\$10.00 each.
- 6 The Company has power to register by way of continuation as a body corporate limited by shares under the laws of any jurisdiction outside the Cayman Islands and to be deregistered in the Cayman Islands.
- 7 Capitalised terms that are not defined in this Memorandum of Association bear the respective meanings given to them in the Articles of Association of the Company.

**THE COMPANIES LAW (2013 REVISION)
OF THE CAYMAN ISLANDS
COMPANY LIMITED BY SHARES**

**THIRD AMENDED AND RESTATED
ARTICLES OF ASSOCIATION
OF
FOCALTECH CORPORATION, LTD.**

(adopted by special resolution effective on [Merger Effective Date])

1 Interpretation

- 1.1 In the Articles Table A in the First Schedule to the Statute does not apply and, unless there is something in the subject or context inconsistent therewith:

"Articles"	means these articles of association of the Company.
"Auditor"	means the person for the time being performing the duties of auditor of the Company (if any).
"Company"	means the above named company.
"Directors"	means the directors for the time being of the Company.
"Dividend"	means any dividend (whether interim or final) resolved to be paid on Shares pursuant to the Articles.
"Electronic Record"	has the same meaning as in the Electronic Transactions Law.
"Electronic Transactions Law"	means the Electronic Transactions Law (2003 Revision) of the Cayman Islands.
"Member"	has the same meaning as in the Statute.
"Memorandum"	means the memorandum of association of the Company.

"Ordinary Resolution"	means a resolution passed by a simple majority of the Members as, being entitled to do so, vote in person or, where proxies are allowed, by proxy at a general meeting, and includes a unanimous written resolution. In computing the majority when a poll is demanded regard shall be had to the number of votes to which each Member is entitled by the Articles.
"Register of Members"	means the register of Members maintained in accordance with the Statute and includes (except where otherwise stated) any branch or duplicate register of Members.
"Registered Office"	means the registered office for the time being of the Company.
"Seal"	means the common seal of the Company and includes every duplicate seal.
"Share"	means a share in the Company and includes a fraction of a share in the Company.
"Special Resolution"	has the same meaning as in the Statute, and includes a unanimous written resolution.
"Statute"	means the Companies Law (2013 Revision) of the Cayman Islands.
"Subscriber"	means the subscriber to the Memorandum.
"Treasury Share"	means a Share held in the name of the Company as a treasury share in accordance with the Statute.

1.2 In the Articles:

- (a) words importing the singular number include the plural number and vice versa;
- (b) words importing the masculine gender include the feminine gender;
- (c) words importing persons include corporations as well as any other legal or natural person;
- (d) "written" and "in writing" include all modes of representing or reproducing words in visible form, including in the form of an Electronic Record;
- (e) "shall" shall be construed as imperative and "may" shall be construed as permissive;

- (f) references to provisions of any law or regulation shall be construed as references to those provisions as amended, modified, re-enacted or replaced;
- (g) any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- (h) the term "and/or" is used herein to mean both "and" as well as "or." The use of "and/or" in certain contexts in no respects qualifies or modifies the use of the terms "and" or "or" in others. The term "or" shall not be interpreted to be exclusive and the term "and" shall not be interpreted to require the conjunctive (in each case, unless the context otherwise requires);
- (i) headings are inserted for reference only and shall be ignored in construing the Articles;
- (j) any requirements as to delivery under the Articles include delivery in the form of an Electronic Record;
- (k) any requirements as to execution or signature under the Articles including the execution of the Articles themselves can be satisfied in the form of an electronic signature as defined in the Electronic Transactions Law;
- (l) sections 8 and 19(3) of the Electronic Transactions Law shall not apply;
- (m) the term "clear days" in relation to the period of a notice means that period excluding the day when the notice is received or deemed to be received and the day for which it is given or on which it is to take effect; and
- (n) the term "holder" in relation to a Share means a person whose name is entered in the Register of Members as the holder of such Share.

2 Commencement of Business

- 2.1 The business of the Company may be commenced as soon after incorporation of the Company as the Directors shall see fit.
- 2.2 The Directors may pay, out of the capital or any other monies of the Company, all expenses incurred in or about the formation and establishment of the Company, including the expenses of registration.

3 Issue of Shares

- 3.1 Subject to the provisions, if any, in the Memorandum (and to any direction that may be given by the Company in general meeting) and without prejudice to any rights attached to any existing Shares, the Directors may allot, issue, grant options over or otherwise dispose of Shares

(including fractions of a Share) with or without preferred, deferred or other rights or restrictions, whether in regard to Dividend or other distribution, voting, return of capital or otherwise and to such persons, at such times and on such other terms as they think proper, and may also (subject to the Statute and the Articles) vary such rights. Notwithstanding the foregoing, the Subscriber shall have the power to:

- (a) issue one Share to itself;
- (b) transfer that Share by an instrument of transfer to any person; and
- (c) update the Register of Members in respect of the issue and transfer of that Share.

3.2 The Company shall not issue Shares to bearer.

4 Register of Members

4.1 The Company shall maintain or cause to be maintained the Register of Members in accordance with the Statute.

4.2 The Directors may determine that the Company shall maintain one or more branch registers of Members in accordance with the Statute. The Directors may also determine which register of Members shall constitute the principal register and which shall constitute the branch register or registers, and to vary such determination from time to time.

5 Closing Register of Members or Fixing Record Date

5.1 For the purpose of determining Members entitled to notice of, or to vote at any meeting of Members or any adjournment thereof, or Members entitled to receive payment of any Dividend or other distribution, or in order to make a determination of Members for any other purpose, the Directors may provide that the Register of Members shall be closed for transfers for a stated period which shall not in any case exceed forty days.

5.2 In lieu of, or apart from, closing the Register of Members, the Directors may fix in advance or arrears a date as the record date for any such determination of Members entitled to notice of, or to vote at any meeting of the Members or any adjournment thereof, or for the purpose of determining the Members entitled to receive payment of any Dividend or other distribution, or in order to make a determination of Members for any other purpose.

5.3 If the Register of Members is not so closed and no record date is fixed for the determination of Members entitled to notice of, or to vote at, a meeting of Members or Members entitled to receive payment of a Dividend or other distribution, the date on which notice of the meeting is sent or the date on which the resolution of the Directors resolving to pay such Dividend or other distribution is passed, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Article, such determination shall apply to any adjournment thereof.

6 Certificates for Shares

- 6.1 A Member shall only be entitled to a share certificate if the Directors resolve that share certificates shall be issued. Share certificates representing Shares, if any, shall be in such form as the Directors may determine. Share certificates shall be signed by one or more Directors or other person authorised by the Directors. The Directors may authorise certificates to be issued with the authorised signature(s) affixed by mechanical process. All certificates for Shares shall be consecutively numbered or otherwise identified and shall specify the Shares to which they relate. All certificates surrendered to the Company for transfer shall be cancelled and subject to the Articles no new certificate shall be issued until the former certificate representing a like number of relevant Shares shall have been surrendered and cancelled.
- 6.2 The Company shall not be bound to issue more than one certificate for Shares held jointly by more than one person and delivery of a certificate to one joint holder shall be a sufficient delivery to all of them.
- 6.3 If a share certificate is defaced, worn out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and on the payment of such expenses reasonably incurred by the Company in investigating evidence, as the Directors may prescribe, and (in the case of defacement or wearing out) upon delivery of the old certificate.
- 6.4 Every share certificate sent in accordance with the Articles will be sent at the risk of the Member or other person entitled to the certificate. The Company will not be responsible for any share certificate lost or delayed in the course of delivery.

7 Transfer of Shares

- 7.1 Subject to Article 3.1, Shares are transferable subject to the consent of the Directors who may, in their absolute discretion, decline to register any transfer of Shares without giving any reason. If the Directors refuse to register a transfer they shall notify the transferee within two months of such refusal.
- 7.2 The instrument of transfer of any Share shall be in writing and shall be executed by or on behalf of the transferor (and if the Directors so require, signed by or on behalf of the transferee). The transferor shall be deemed to remain the holder of a Share until the name of the transferee is entered in the Register of Members.

8 Redemption, Repurchase and Surrender of Shares

- 8.1 Subject to the provisions of the Statute the Company may issue Shares that are to be redeemed or are liable to be redeemed at the option of the Member or the Company. The redemption of such Shares shall be effected in such manner and upon such other terms as the Company may, by Special Resolution, determine before the issue of the Shares.

- 8.2 Subject to the provisions of the Statute, the Company may purchase its own Shares (including any redeemable Shares) in such manner and on such other terms as the Directors may agree with the relevant Member.
- 8.3 The Company may make a payment in respect of the redemption or purchase of its own Shares in any manner permitted by the Statute, including out of capital.
- 8.4 The Directors may accept the surrender for no consideration of any fully paid Share.

9 Treasury Shares

- 9.1 The Directors may, prior to the purchase, redemption or surrender of any Share, determine that such Share shall be held as a Treasury Share.
- 9.2 The Directors may determine to cancel a Treasury Share or transfer a Treasury Share on such terms as they think proper (including, without limitation, for nil consideration).

10 Variation of Rights of Shares

- 10.1 If at any time the share capital of the Company is divided into different classes of Shares, all or any of the rights attached to any class (unless otherwise provided by the terms of issue of the Shares of that class) may, whether or not the Company is being wound up, be varied without the consent of the holders of the issued Shares of that class where such variation is considered by the Directors not to have a material adverse effect upon such rights; otherwise, any such variation shall be made only with the consent in writing of the holders of not less than two thirds of the issued Shares of that class, or with the sanction of a resolution passed by a majority of not less than two thirds of the votes cast at a separate meeting of the holders of the Shares of that class. For the avoidance of doubt, the Directors reserve the right, notwithstanding that any such variation may not have a material adverse effect, to obtain consent from the holders of Shares of the relevant class. To any such meeting all the provisions of the Articles relating to general meetings shall apply *mutatis mutandis*, except that the necessary quorum shall be one person holding or representing by proxy at least one third of the issued Shares of the class and that any holder of Shares of the class present in person or by proxy may demand a poll.
- 10.2 For the purposes of a separate class meeting, the Directors may treat two or more or all the classes of Shares as forming one class of Shares if the Directors consider that such class of Shares would be affected in the same way by the proposals under consideration, but in any other case shall treat them as separate classes of Shares.
- 10.3 The rights conferred upon the holders of the Shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the Shares of that class, be deemed to be varied by the creation or issue of further Shares ranking *pari passu* therewith.

11 Commission on Sale of Shares

The Company may, in so far as the Statute permits, pay a commission to any person in consideration of his subscribing or agreeing to subscribe (whether absolutely or conditionally) or procuring or agreeing to procure subscriptions (whether absolutely or conditionally) for any Shares. Such commissions may be satisfied by the payment of cash and/or the issue of fully or partly paid-up Shares. The Company may also on any issue of Shares pay such brokerage as may be lawful.

12 Non Recognition of Trusts

The Company shall not be bound by or compelled to recognise in any way (even when notified) any equitable, contingent, future or partial interest in any Share, or (except only as is otherwise provided by the Articles or the Statute) any other rights in respect of any Share other than an absolute right to the entirety thereof in the holder.

13 Lien on Shares

- 13.1 The Company shall have a first and paramount lien on all Shares (whether fully paid-up or not) registered in the name of a Member (whether solely or jointly with others) for all debts, liabilities or engagements to or with the Company (whether presently payable or not) by such Member or his estate, either alone or jointly with any other person, whether a Member or not, but the Directors may at any time declare any Share to be wholly or in part exempt from the provisions of this Article. The registration of a transfer of any such Share shall operate as a waiver of the Company's lien thereon. The Company's lien on a Share shall also extend to any amount payable in respect of that Share.
- 13.2 The Company may sell, in such manner as the Directors think fit, any Shares on which the Company has a lien, if a sum in respect of which the lien exists is presently payable, and is not paid within fourteen clear days after notice has been received or deemed to have been received by the holder of the Shares, or to the person entitled to it in consequence of the death or bankruptcy of the holder, demanding payment and stating that if the notice is not complied with the Shares may be sold.
- 13.3 To give effect to any such sale the Directors may authorise any person to execute an instrument of transfer of the Shares sold to, or in accordance with the directions of, the purchaser. The purchaser or his nominee shall be registered as the holder of the Shares comprised in any such transfer, and he shall not be bound to see to the application of the purchase money, nor shall his title to the Shares be affected by any irregularity or invalidity in the sale or the exercise of the Company's power of sale under the Articles.
- 13.4 The net proceeds of such sale after payment of costs, shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable and any balance shall (subject to a like lien for sums not presently payable as existed upon the Shares before the sale) be paid to the person entitled to the Shares at the date of the sale.

14 Call on Shares

- 14.1 Subject to the terms of the allotment and issue of any Shares, the Directors may make calls upon the Members in respect of any monies unpaid on their Shares (whether in respect of par value or premium), and each Member shall (subject to receiving at least fourteen clear days' notice specifying the time or times of payment) pay to the Company at the time or times so specified the amount called on the Shares. A call may be revoked or postponed, in whole or in part, as the Directors may determine. A call may be required to be paid by instalments. A person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the Shares in respect of which the call was made.
- 14.2 A call shall be deemed to have been made at the time when the resolution of the Directors authorising such call was passed.
- 14.3 The joint holders of a Share shall be jointly and severally liable to pay all calls in respect thereof.
- 14.4 If a call remains unpaid after it has become due and payable, the person from whom it is due shall pay interest on the amount unpaid from the day it became due and payable until it is paid at such rate as the Directors may determine (and in addition all expenses that have been incurred by the Company by reason of such non-payment), but the Directors may waive payment of the interest or expenses wholly or in part.
- 14.5 An amount payable in respect of a Share on issue or allotment or at any fixed date, whether on account of the par value of the Share or premium or otherwise, shall be deemed to be a call and if it is not paid all the provisions of the Articles shall apply as if that amount had become due and payable by virtue of a call.
- 14.6 The Directors may issue Shares with different terms as to the amount and times of payment of calls, or the interest to be paid.
- 14.7 The Directors may, if they think fit, receive an amount from any Member willing to advance all or any part of the monies uncalled and unpaid upon any Shares held by him, and may (until the amount would otherwise become payable) pay interest at such rate as may be agreed upon between the Directors and the Member paying such amount in advance.
- 14.8 No such amount paid in advance of calls shall entitle the Member paying such amount to any portion of a Dividend or other distribution payable in respect of any period prior to the date upon which such amount would, but for such payment, become payable.

15 Forfeiture of Shares

- 15.1 If a call or instalment of a call remains unpaid after it has become due and payable the Directors may give to the person from whom it is due not less than fourteen clear days' notice requiring payment of the amount unpaid together with any interest which may have accrued and any expenses incurred by the Company by reason of such non-payment. The notice shall specify

where payment is to be made and shall state that if the notice is not complied with the Shares in respect of which the call was made will be liable to be forfeited.

- 15.2 If the notice is not complied with, any Share in respect of which it was given may, before the payment required by the notice has been made, be forfeited by a resolution of the Directors. Such forfeiture shall include all Dividends, other distributions or other monies payable in respect of the forfeited Share and not paid before the forfeiture.
- 15.3 A forfeited Share may be sold, re-allotted or otherwise disposed of on such terms and in such manner as the Directors think fit and at any time before a sale, re-allotment or disposition the forfeiture may be cancelled on such terms as the Directors think fit. Where for the purposes of its disposal a forfeited Share is to be transferred to any person the Directors may authorise some person to execute an instrument of transfer of the Share in favour of that person.
- 15.4 A person any of whose Shares have been forfeited shall cease to be a Member in respect of them and shall surrender to the Company for cancellation the certificate for the Shares forfeited and shall remain liable to pay to the Company all monies which at the date of forfeiture were payable by him to the Company in respect of those Shares together with interest at such rate as the Directors may determine, but his liability shall cease if and when the Company shall have received payment in full of all monies due and payable by him in respect of those Shares.
- 15.5 A certificate in writing under the hand of one Director or officer of the Company that a Share has been forfeited on a specified date shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the Share. The certificate shall (subject to the execution of an instrument of transfer) constitute a good title to the Share and the person to whom the Share is sold or otherwise disposed of shall not be bound to see to the application of the purchase money, if any, nor shall his title to the Share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the Share.
- 15.6 The provisions of the Articles as to forfeiture shall apply in the case of non payment of any sum which, by the terms of issue of a Share, becomes payable at a fixed time, whether on account of the par value of the Share or by way of premium as if it had been payable by virtue of a call duly made and notified.

16 Transmission of Shares

- 16.1 If a Member dies the survivor or survivors (where he was a joint holder) or his legal personal representatives (where he was a sole holder), shall be the only persons recognised by the Company as having any title to his Shares. The estate of a deceased Member is not thereby released from any liability in respect of any Share, for which he was a joint or sole holder.
- 16.2 Any person becoming entitled to a Share in consequence of the death or bankruptcy or liquidation or dissolution of a Member (or in any other way than by transfer) may, upon such evidence being produced as may be required by the Directors, elect, by a notice in writing sent by him to the Company, either to become the holder of such Share or to have some person

nominated by him registered as the holder of such Share. If he elects to have another person registered as the holder of such Share he shall sign an instrument of transfer of that Share to that person. The Directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the Share by the relevant Member before his death or bankruptcy or liquidation or dissolution, as the case may be.

- 16.3 A person becoming entitled to a Share by reason of the death or bankruptcy or liquidation or dissolution of a Member (or in any other case than by transfer) shall be entitled to the same Dividends, other distributions and other advantages to which he would be entitled if he were the holder of such Share. However, he shall not, before becoming a Member in respect of a Share, be entitled in respect of it to exercise any right conferred by membership in relation to general meetings of the Company and the Directors may at any time give notice requiring any such person to elect either to be registered himself or to have some person nominated by him be registered as the holder of the Share (but the Directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the Share by the relevant Member before his death or bankruptcy or liquidation or dissolution or any other case than by transfer, as the case may be). If the notice is not complied with within ninety days of being received or deemed to be received (as determined pursuant to the Articles) the Directors may thereafter withhold payment of all Dividends, other distributions, bonuses or other monies payable in respect of the Share until the requirements of the notice have been complied with.

17 Amendments of Memorandum and Articles of Association and Alteration of Capital

17.1 The Company may by Ordinary Resolution:

- (a) increase its share capital by such sum as the Ordinary Resolution shall prescribe and with such rights, priorities and privileges annexed thereto, as the Company in general meeting may determine;
- (b) consolidate and divide all or any of its share capital into Shares of larger amount than its existing Shares;
- (c) convert all or any of its paid-up Shares into stock, and reconvert that stock into paid-up Shares of any denomination;
- (d) by subdivision of its existing Shares or any of them divide the whole or any part of its share capital into Shares of smaller amount than is fixed by the Memorandum or into Shares without par value; and
- (e) cancel any Shares that at the date of the passing of the Ordinary Resolution have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the Shares so cancelled.

- 17.2 All new Shares created in accordance with the provisions of the preceding Article shall be subject to the same provisions of the Articles with reference to the payment of calls, liens, transfer, transmission, forfeiture and otherwise as the Shares in the original share capital.
- 17.3 Subject to the provisions of the Statute and the provisions of the Articles as regards the matters to be dealt with by Ordinary Resolution, the Company may by Special Resolution:
- (a) change its name;
 - (b) alter or add to the Articles;
 - (c) alter or add to the Memorandum with respect to any objects, powers or other matters specified therein; and
 - (d) reduce its share capital or any capital redemption reserve fund.

18 Offices and Places of Business

Subject to the provisions of the Statute, the Company may by resolution of the Directors change the location of its Registered Office. The Company may, in addition to its Registered Office, maintain such other offices or places of business as the Directors determine.

19 General Meetings

- 19.1 All general meetings other than annual general meetings shall be called extraordinary general meetings.
- 19.2 The Company may, but shall not (unless required by the Statute) be obliged to, in each year hold a general meeting as its annual general meeting, and shall specify the meeting as such in the notices calling it. Any annual general meeting shall be held at such time and place as the Directors shall appoint and if no other time and place is prescribed by them, it shall be held at the Registered Office on the second Wednesday in December of each year at ten o'clock in the morning. At these meetings the report of the Directors (if any) shall be presented.
- 19.3 The Directors may call general meetings, and they shall on a Members' requisition forthwith proceed to convene an extraordinary general meeting of the Company.
- 19.4 A Members' requisition is a requisition of Members holding at the date of deposit of the requisition not less than ten per cent. in par value of the issued Shares which as at that date carry the right to vote at general meetings of the Company.
- 19.5 The Members' requisition must state the objects of the meeting and must be signed by the requisitionists and deposited at the Registered Office, and may consist of several documents in like form each signed by one or more requisitionists.

- 19.6 If there are no Directors as at the date of the deposit of the Members' requisition or if the Directors do not within twenty-one days from the date of the deposit of the Members' requisition duly proceed to convene a general meeting to be held within a further twenty-one days, the requisitionists, or any of them representing more than one-half of the total voting rights of all of the requisitionists, may themselves convene a general meeting, but any meeting so convened shall be held no later than the day which falls three months after the expiration of the said twenty-one day period.
- 19.7 A general meeting convened as aforesaid by requisitionists shall be convened in the same manner as nearly as possible as that in which general meetings are to be convened by Directors.

20 Notice of General Meetings

- 20.1 At least five clear days' notice shall be given of any general meeting. Every notice shall specify the place, the day and the hour of the meeting and the general nature of the business to be conducted at the general meeting and shall be given in the manner hereinafter mentioned or in such other manner if any as may be prescribed by the Company, provided that a general meeting of the Company shall, whether or not the notice specified in this Article has been given and whether or not the provisions of the Articles regarding general meetings have been complied with, be deemed to have been duly convened if it is so agreed:
- (a) in the case of an annual general meeting, by all of the Members entitled to attend and vote thereat; and
 - (b) in the case of an extraordinary general meeting, by a majority in number of the Members having a right to attend and vote at the meeting, together holding not less than ninety five per cent. in par value of the Shares giving that right.
- 20.2 The accidental omission to give notice of a general meeting to, or the non receipt of notice of a general meeting by, any person entitled to receive such notice shall not invalidate the proceedings of that general meeting.

21 Proceedings at General Meetings

- 21.1 No business shall be transacted at any general meeting unless a quorum is present. Two Members being individuals present in person or by proxy or if a corporation or other non-natural person by its duly authorised representative or proxy shall be a quorum unless the Company has only one Member entitled to vote at such general meeting in which case the quorum shall be that one Member present in person or by proxy or (in the case of a corporation or other non-natural person) by its duly authorised representative or proxy.
- 21.2 A person may participate at a general meeting by conference telephone or other communications equipment by means of which all the persons participating in the meeting can communicate with each other. Participation by a person in a general meeting in this manner is treated as presence in person at that meeting.

- 21.3 A resolution (including a Special Resolution) in writing (in one or more counterparts) signed by or on behalf of all of the Members for the time being entitled to receive notice of and to attend and vote at general meetings (or, being corporations or other non-natural persons, signed by their duly authorised representatives) shall be as valid and effective as if the resolution had been passed at a general meeting of the Company duly convened and held.
- 21.4 If a quorum is not present within half an hour from the time appointed for the meeting to commence or if during such a meeting a quorum ceases to be present, the meeting, if convened upon a Members' requisition, shall be dissolved and in any other case it shall stand adjourned to the same day in the next week at the same time and/or place or to such other day, time and/or place as the Directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting to commence, the Members present shall be a quorum.
- 21.5 The Directors may, at any time prior to the time appointed for the meeting to commence, appoint any person to act as chairman of a general meeting of the Company or, if the Directors do not make any such appointment, the chairman, if any, of the board of Directors shall preside as chairman at such general meeting. If there is no such chairman, or if he shall not be present within fifteen minutes after the time appointed for the meeting to commence, or is unwilling to act, the Directors present shall elect one of their number to be chairman of the meeting.
- 21.6 If no Director is willing to act as chairman or if no Director is present within fifteen minutes after the time appointed for the meeting to commence, the Members present shall choose one of their number to be chairman of the meeting.
- 21.7 The chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 21.8 When a general meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Otherwise it shall not be necessary to give any such notice of an adjourned meeting.
- 21.9 A resolution put to the vote of the meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands, the chairman demands a poll, or any other Member or Members collectively present in person or by proxy (or in the case of a corporation or other non-natural person, by its duly authorised representative or proxy) and holding at least ten per cent. in par value of the Shares giving a right to attend and vote at the meeting demand a poll.
- 21.10 Unless a poll is duly demanded and the demand is not withdrawn a declaration by the chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost or not carried by a particular majority, an entry to that effect in the minutes of the proceedings of the meeting shall be conclusive evidence of that fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

- 21.11 The demand for a poll may be withdrawn.
- 21.12 Except on a poll demanded on the election of a chairman or on a question of adjournment, a poll shall be taken as the chairman directs, and the result of the poll shall be deemed to be the resolution of the general meeting at which the poll was demanded.
- 21.13 A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such date, time and place as the chairman of the general meeting directs, and any business other than that upon which a poll has been demanded or is contingent thereon may proceed pending the taking of the poll.
- 21.14 In the case of an equality of votes, whether on a show of hands or on a poll, the chairman shall be entitled to a second or casting vote.

22 Votes of Members

- 22.1 Subject to any rights or restrictions attached to any Shares, on a show of hands every Member who (being an individual) is present in person or by proxy or, if a corporation or other non-natural person is present by its duly authorised representative or by proxy, shall have one vote and on a poll every Member present in any such manner shall have one vote for every Share of which he is the holder.
- 22.2 In the case of joint holders the vote of the senior holder who tenders a vote, whether in person or by proxy (or, in the case of a corporation or other non-natural person, by its duly authorised representative or proxy), shall be accepted to the exclusion of the votes of the other joint holders, and seniority shall be determined by the order in which the names of the holders stand in the Register of Members.
- 22.3 A Member of unsound mind, or in respect of whom an order has been made by any court, having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, receiver, curator bonis, or other person on such Member's behalf appointed by that court, and any such committee, receiver, curator bonis or other person may vote by proxy.
- 22.4 No person shall be entitled to vote at any general meeting unless he is registered as a Member on the record date for such meeting nor unless all calls or other monies then payable by him in respect of Shares have been paid.
- 22.5 No objection shall be raised as to the qualification of any voter except at the general meeting or adjourned general meeting at which the vote objected to is given or tendered and every vote not disallowed at the meeting shall be valid. Any objection made in due time in accordance with this Article shall be referred to the chairman whose decision shall be final and conclusive.
- 22.6 On a poll or on a show of hands votes may be cast either personally or by proxy (or in the case of a corporation or other non-natural person by its duly authorised representative or proxy). A Member may appoint more than one proxy or the same proxy under one or more instruments to

attend and vote at a meeting. Where a Member appoints more than one proxy the instrument of proxy shall state which proxy is entitled to vote on a show of hands and shall specify the number of Shares in respect of which each proxy is entitled to exercise the related votes.

- 22.7 On a poll, a Member holding more than one Share need not cast the votes in respect of his Shares in the same way on any resolution and therefore may vote a Share or some or all such Shares either for or against a resolution and/or abstain from voting a Share or some or all of the Shares and, subject to the terms of the instrument appointing him, a proxy appointed under one or more instruments may vote a Share or some or all of the Shares in respect of which he is appointed either for or against a resolution and/or abstain from voting a Share or some or all of the Shares in respect of which he is appointed.

23 Proxies

- 23.1 The instrument appointing a proxy shall be in writing and shall be executed under the hand of the appointor or of his attorney duly authorised in writing, or, if the appointor is a corporation or other non natural person, under the hand of its duly authorised representative. A proxy need not be a Member.
- 23.2 The Directors may, in the notice convening any meeting or adjourned meeting, or in an instrument of proxy sent out by the Company, specify the manner by which the instrument appointing a proxy shall be deposited and the place and the time (being not later than the time appointed for the commencement of the meeting or adjourned meeting to which the proxy relates) at which the instrument appointing a proxy shall be deposited. In the absence of any such direction from the Directors in the notice convening any meeting or adjourned meeting or in an instrument of proxy sent out by the Company, the instrument appointing a proxy shall be deposited physically at the Registered Office not less than 48 hours before the time appointed for the meeting or adjourned meeting to commence at which the person named in the instrument proposes to vote.
- 23.3 The chairman may in any event at his discretion declare that an instrument of proxy shall be deemed to have been duly deposited. An instrument of proxy that is not deposited in the manner permitted, or which has not been declared to have been duly deposited by the chairman, shall be invalid.
- 23.4 The instrument appointing a proxy may be in any usual or common form (or such other form as the Directors may approve) and may be expressed to be for a particular meeting or any adjournment thereof or generally until revoked. An instrument appointing a proxy shall be deemed to include the power to demand or join or concur in demanding a poll.
- 23.5 Votes given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the Share in respect of which the proxy is given unless notice in writing of such death, insanity, revocation or transfer was received by the

Company at the Registered Office before the commencement of the general meeting, or adjourned meeting at which it is sought to use the proxy.

24 Corporate Members

Any corporation or other non-natural person which is a Member may in accordance with its constitutional documents, or in the absence of such provision by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of Members, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as the corporation could exercise if it were an individual Member.

25 Shares that May Not be Voted

Shares in the Company that are beneficially owned by the Company shall not be voted, directly or indirectly, at any meeting and shall not be counted in determining the total number of outstanding Shares at any given time.

26 Directors

There shall be a board of Directors consisting of not less than one person (exclusive of alternate Directors) provided however that the Company may by Ordinary Resolution increase or reduce the limits in the number of Directors. The first Directors of the Company shall be determined in writing by, or appointed by a resolution of, the Subscriber.

27 Powers of Directors

- 27.1 Subject to the provisions of the Statute, the Memorandum and the Articles and to any directions given by Special Resolution, the business of the Company shall be managed by the Directors who may exercise all the powers of the Company. No alteration of the Memorandum or Articles and no such direction shall invalidate any prior act of the Directors which would have been valid if that alteration had not been made or that direction had not been given. A duly convened meeting of Directors at which a quorum is present may exercise all powers exercisable by the Directors.
- 27.2 All cheques, promissory notes, drafts, bills of exchange and other negotiable or transferable instruments and all receipts for monies paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be in such manner as the Directors shall determine by resolution.
- 27.3 The Directors on behalf of the Company may pay a gratuity or pension or allowance on retirement to any Director who has held any other salaried office or place of profit with the Company or to his widow or dependants and may make contributions to any fund and pay premiums for the purchase or provision of any such gratuity, pension or allowance.
- 27.4 The Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property and assets (present and future) and uncalled capital or any part thereof and to issue debentures, debenture stock, mortgages, bonds and other such securities

whether outright or as security for any debt, liability or obligation of the Company or of any third party.

28 Appointment and Removal of Directors

- 28.1 The Company may by Ordinary Resolution appoint any person to be a Director or may by Ordinary Resolution remove any Director.
- 28.2 The Directors may appoint any person to be a Director, either to fill a vacancy or as an additional Director provided that the appointment does not cause the number of Directors to exceed any number fixed by or in accordance with the Articles as the maximum number of Directors.

29 Vacation of Office of Director

The office of a Director shall be vacated if:

- (a) the Director gives notice in writing to the Company that he resigns the office of Director; or
- (b) the Director absents himself (for the avoidance of doubt, without being represented by proxy or an alternate Director appointed by him) from three consecutive meetings of the board of Directors without special leave of absence from the Directors, and the Directors pass a resolution that he has by reason of such absence vacated office; or
- (c) the Director dies, becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- (d) the Director is found to be or becomes of unsound mind; or
- (e) all of the other Directors (being not less than two in number) determine that he should be removed as a Director, either by a resolution passed by all of the other Directors at a meeting of the Directors duly convened and held in accordance with the Articles or by a resolution in writing signed by all of the other Directors.

30 Proceedings of Directors

- 30.1 The quorum for the transaction of the business of the Directors may be fixed by the Directors, and unless so fixed shall be two if there are two or more Directors, and shall be one if there is only one Director. A person who holds office as an alternate Director shall, if his appointor is not present, be counted in the quorum. A Director who also acts as an alternate Director shall, if his appointor is not present, count twice towards the quorum.
- 30.2 Subject to the provisions of the Articles, the Directors may regulate their proceedings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In the case of an equality of votes, the chairman shall have a second or casting vote. A Director who is also an

alternate Director shall be entitled in the absence of his appointor to a separate vote on behalf of his appointor in addition to his own vote.

- 30.3 A person may participate in a meeting of the Directors or any committee of Directors by conference telephone or other communications equipment by means of which all the persons participating in the meeting can communicate with each other at the same time. Participation by a person in a meeting in this manner is treated as presence in person at that meeting. Unless otherwise determined by the Directors the meeting shall be deemed to be held at the place where the chairman is located at the start of the meeting.
- 30.4 A resolution in writing (in one or more counterparts) signed by all the Directors or all the members of a committee of the Directors or, in the case of a resolution in writing relating to the removal of any Director or the vacation of office by any Director, all of the Directors other than the Director who is the subject of such resolution (an alternate Director being entitled to sign such a resolution on behalf of his appointor and if such alternate Director is also a Director, being entitled to sign such resolution both on behalf of his appointor and in his capacity as a Director) shall be as valid and effectual as if it had been passed at a meeting of the Directors, or committee of Directors as the case may be, duly convened and held.
- 30.5 A Director or alternate Director may, or other officer of the Company on the direction of a Director or alternate Director shall, call a meeting of the Directors by at least two days' notice in writing to every Director and alternate Director which notice shall set forth the general nature of the business to be considered unless notice is waived by all the Directors (or their alternates) either at, before or after the meeting is held. To any such notice of a meeting of the Directors all the provisions of the Articles relating to the giving of notices by the Company to the Members shall apply *mutatis mutandis*.
- 30.6 The continuing Directors (or a sole continuing Director, as the case may be) may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the number fixed by or pursuant to the Articles as the necessary quorum of Directors the continuing Directors or Director may act for the purpose of increasing the number of Directors to be equal to such fixed number, or of summoning a general meeting of the Company, but for no other purpose.
- 30.7 The Directors may elect a chairman of their board and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for the meeting to commence, the Directors present may choose one of their number to be chairman of the meeting.
- 30.8 All acts done by any meeting of the Directors or of a committee of the Directors (including any person acting as an alternate Director) shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any Director or alternate Director, and/or that they or any of them were disqualified, and/or had vacated their office and/or were not entitled to vote, be as valid as if every such person had been duly appointed and/or not disqualified to be a Director

or alternate Director and/or had not vacated their office and/or had been entitled to vote, as the case may be.

- 30.9 A Director but not an alternate Director may be represented at any meetings of the board of Directors by a proxy appointed in writing by him. The proxy shall count towards the quorum and the vote of the proxy shall for all purposes be deemed to be that of the appointing Director.

31 Presumption of Assent

A Director or alternate Director who is present at a meeting of the board of Directors at which action on any Company matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent from such action with the person acting as the chairman or secretary of the meeting before the adjournment thereof or shall forward such dissent by registered post to such person immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director or alternate Director who voted in favour of such action.

32 Directors' Interests

- 32.1 A Director or alternate Director may hold any other office or place of profit under the Company (other than the office of Auditor) in conjunction with his office of Director for such period and on such terms as to remuneration and otherwise as the Directors may determine.
- 32.2 A Director or alternate Director may act by himself or by, through or on behalf of his firm in a professional capacity for the Company and he or his firm shall be entitled to remuneration for professional services as if he were not a Director or alternate Director.
- 32.3 A Director or alternate Director may be or become a director or other officer of or otherwise interested in any company promoted by the Company or in which the Company may be interested as a shareholder, a contracting party or otherwise, and no such Director or alternate Director shall be accountable to the Company for any remuneration or other benefits received by him as a director or officer of, or from his interest in, such other company.
- 32.4 No person shall be disqualified from the office of Director or alternate Director or prevented by such office from contracting with the Company, either as vendor, purchaser or otherwise, nor shall any such contract or any contract or transaction entered into by or on behalf of the Company in which any Director or alternate Director shall be in any way interested be or be liable to be avoided, nor shall any Director or alternate Director so contracting or being so interested be liable to account to the Company for any profit realised by or arising in connection with any such contract or transaction by reason of such Director or alternate Director holding office or of the fiduciary relationship thereby established. A Director (or his alternate Director in his absence) shall be at liberty to vote in respect of any contract or transaction in which he is interested provided that the nature of the interest of any Director or alternate Director in any such contract or transaction shall be disclosed by him at or prior to its consideration and any vote thereon.

- 32.5 A general notice that a Director or alternate Director is a shareholder, director, officer or employee of any specified firm or company and is to be regarded as interested in any transaction with such firm or company shall be sufficient disclosure for the purposes of voting on a resolution in respect of a contract or transaction in which he has an interest, and after such general notice it shall not be necessary to give special notice relating to any particular transaction.

33 Minutes

The Directors shall cause minutes to be made in books kept for the purpose of recording all appointments of officers made by the Directors, all proceedings at meetings of the Company or the holders of any class of Shares and of the Directors, and of committees of the Directors, including the names of the Directors or alternate Directors present at each meeting.

34 Delegation of Directors' Powers

- 34.1 The Directors may delegate any of their powers, authorities and discretions, including the power to sub-delegate, to any committee consisting of one or more Directors. They may also delegate to any managing director or any Director holding any other executive office such of their powers, authorities and discretions as they consider desirable to be exercised by him provided that an alternate Director may not act as managing director and the appointment of a managing director shall be revoked forthwith if he ceases to be a Director. Any such delegation may be made subject to any conditions the Directors may impose and either collaterally with or to the exclusion of their own powers and any such delegation may be revoked or altered by the Directors. Subject to any such conditions, the proceedings of a committee of Directors shall be governed by the Articles regulating the proceedings of Directors, so far as they are capable of applying.
- 34.2 The Directors may establish any committees, local boards or agencies or appoint any person to be a manager or agent for managing the affairs of the Company and may appoint any person to be a member of such committees, local boards or agencies. Any such appointment may be made subject to any conditions the Directors may impose, and either collaterally with or to the exclusion of their own powers and any such appointment may be revoked or altered by the Directors. Subject to any such conditions, the proceedings of any such committee, local board or agency shall be governed by the Articles regulating the proceedings of Directors, so far as they are capable of applying.
- 34.3 The Directors may by power of attorney or otherwise appoint any person to be the agent of the Company on such conditions as the Directors may determine, provided that the delegation is not to the exclusion of their own powers and may be revoked by the Directors at any time.
- 34.4 The Directors may by power of attorney or otherwise appoint any company, firm, person or body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or authorised signatory of the Company for such purpose and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under the Articles) and for such period and subject to such conditions as they may think fit, and any such powers of attorney or other appointment may contain such provisions for the protection and convenience of persons dealing with any such attorneys or authorised signatories as the Directors may think fit

and may also authorise any such attorney or authorised signatory to delegate all or any of the powers, authorities and discretions vested in him.

- 34.5 The Directors may appoint such officers of the Company (including, for the avoidance of doubt and without limitation, any secretary) as they consider necessary on such terms, at such remuneration and to perform such duties, and subject to such provisions as to disqualification and removal as the Directors may think fit. Unless otherwise specified in the terms of his appointment an officer of the Company may be removed by resolution of the Directors or Members. An officer of the Company may vacate his office at any time if he gives notice in writing to the Company that he resigns his office.

35 Alternate Directors

- 35.1 Any Director (but not an alternate Director) may by writing appoint any other Director, or any other person willing to act, to be an alternate Director and by writing may remove from office an alternate Director so appointed by him.
- 35.2 An alternate Director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his appointor is a member, to attend and vote at every such meeting at which the Director appointing him is not personally present, to sign any written resolution of the Directors, and generally to perform all the functions of his appointor as a Director in his absence.
- 35.3 An alternate Director shall cease to be an alternate Director if his appointor ceases to be a Director.
- 35.4 Any appointment or removal of an alternate Director shall be by notice to the Company signed by the Director making or revoking the appointment or in any other manner approved by the Directors.
- 35.5 Subject to the provisions of the Articles, an alternate Director shall be deemed for all purposes to be a Director and shall alone be responsible for his own acts and defaults and shall not be deemed to be the agent of the Director appointing him.

36 No Minimum Shareholding

The Company in general meeting may fix a minimum shareholding required to be held by a Director, but unless and until such a shareholding qualification is fixed a Director is not required to hold Shares.

37 Remuneration of Directors

- 37.1 The remuneration to be paid to the Directors, if any, shall be such remuneration as the Directors shall determine. The Directors shall also be entitled to be paid all travelling, hotel and other expenses properly incurred by them in connection with their attendance at meetings of Directors or committees of Directors, or general meetings of the Company, or separate meetings of the

holders of any class of Shares or debentures of the Company, or otherwise in connection with the business of the Company or the discharge of their duties as a Director, or to receive a fixed allowance in respect thereof as may be determined by the Directors, or a combination partly of one such method and partly the other.

- 37.2 The Directors may by resolution approve additional remuneration to any Director for any services which in the opinion of the Directors go beyond his ordinary routine work as a Director. Any fees paid to a Director who is also counsel, attorney or solicitor to the Company, or otherwise serves it in a professional capacity shall be in addition to his remuneration as a Director.

38 Seal

- 38.1 The Company may, if the Directors so determine, have a Seal. The Seal shall only be used by the authority of the Directors or of a committee of the Directors authorised by the Directors. Every instrument to which the Seal has been affixed shall be signed by at least one person who shall be either a Director or some officer of the Company or other person appointed by the Directors for the purpose.
- 38.2 The Company may have for use in any place or places outside the Cayman Islands a duplicate Seal or Seals each of which shall be a facsimile of the common Seal of the Company and, if the Directors so determine, with the addition on its face of the name of every place where it is to be used.
- 38.3 A Director or officer, representative or attorney of the Company may without further authority of the Directors affix the Seal over his signature alone to any document of the Company required to be authenticated by him under seal or to be filed with the Registrar of Companies in the Cayman Islands or elsewhere wheresoever.

39 Dividends, Distributions and Reserve

- 39.1 Subject to the Statute and this Article and except as otherwise provided by the rights attached to any Shares, the Directors may resolve to pay Dividends and other distributions on Shares in issue and authorise payment of the Dividends or other distributions out of the funds of the Company lawfully available therefor. A Dividend shall be deemed to be an interim Dividend unless the terms of the resolution pursuant to which the Directors resolve to pay such Dividend specifically state that such Dividend shall be a final Dividend. No Dividend or other distribution shall be paid except out of the realised or unrealised profits of the Company, out of the share premium account or as otherwise permitted by the Statute.
- 39.2 Except as otherwise provided by the rights attached to any Shares, all Dividends and other distributions shall be paid according to the par value of the Shares that a Member holds. If any Share is issued on terms providing that it shall rank for Dividend as from a particular date, that Share shall rank for Dividend accordingly.

- 39.3 The Directors may deduct from any Dividend or other distribution payable to any Member all sums of money (if any) then payable by him to the Company on account of calls or otherwise.
- 39.4 The Directors may resolve that any Dividend or other distribution be paid wholly or partly by the distribution of specific assets and in particular (but without limitation) by the distribution of shares, debentures, or securities of any other company or in any one or more of such ways and where any difficulty arises in regard to such distribution, the Directors may settle the same as they think expedient and in particular may issue fractional Shares and may fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any Members upon the basis of the value so fixed in order to adjust the rights of all Members and may vest any such specific assets in trustees in such manner as may seem expedient to the Directors.
- 39.5 Except as otherwise provided by the rights attached to any Shares, Dividends and other distributions may be paid in any currency. The Directors may determine the basis of conversion for any currency conversions that may be required and how any costs involved are to be met.
- 39.6 The Directors may, before resolving to pay any Dividend or other distribution, set aside such sums as they think proper as a reserve or reserves which shall, at the discretion of the Directors, be applicable for any purpose of the Company and pending such application may, at the discretion of the Directors, be employed in the business of the Company.
- 39.7 Any Dividend, other distribution, interest or other monies payable in cash in respect of Shares may be paid by wire transfer to the holder or by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of the holder who is first named on the Register of Members or to such person and to such address as such holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Any one of two or more joint holders may give effectual receipts for any Dividends, other distributions, bonuses, or other monies payable in respect of the Share held by them as joint holders.
- 39.8 No Dividend or other distribution shall bear interest against the Company.
- 39.9 Any Dividend or other distribution which cannot be paid to a Member and/or which remains unclaimed after six months from the date on which such Dividend or other distribution becomes payable may, in the discretion of the Directors, be paid into a separate account in the Company's name, provided that the Company shall not be constituted as a trustee in respect of that account and the Dividend or other distribution shall remain as a debt due to the Member. Any Dividend or other distribution which remains unclaimed after a period of six years from the date on which such Dividend or other distribution becomes payable shall be forfeited and shall revert to the Company.

40 Capitalisation

The Directors may at any time capitalise any sum standing to the credit of any of the Company's reserve accounts or funds (including the share premium account and capital redemption reserve fund) or any sum standing to the credit of the profit and loss account or otherwise available for

distribution; appropriate such sum to Members in the proportions in which such sum would have been divisible amongst such Members had the same been a distribution of profits by way of Dividend or other distribution; and apply such sum on their behalf in paying up in full unissued Shares for allotment and distribution credited as fully paid-up to and amongst them in the proportion aforesaid. In such event the Directors shall do all acts and things required to give effect to such capitalisation, with full power given to the Directors to make such provisions as they think fit in the case of Shares becoming distributable in fractions (including provisions whereby the benefit of fractional entitlements accrue to the Company rather than to the Members concerned). The Directors may authorise any person to enter on behalf of all of the Members interested into an agreement with the Company providing for such capitalisation and matters incidental or relating thereto and any agreement made under such authority shall be effective and binding on all such Members and the Company.

41 Books of Account

- 41.1 The Directors shall cause proper books of account (including, where applicable, material underlying documentation including contracts and invoices) to be kept with respect to all sums of money received and expended by the Company and the matters in respect of which the receipt or expenditure takes place, all sales and purchases of goods by the Company and the assets and liabilities of the Company. Such books of account must be retained for a minimum period of five years from the date on which they are prepared. Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the Company's affairs and to explain its transactions.
- 41.2 The Directors shall determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Company or any of them shall be open to the inspection of Members not being Directors and no Member (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by Statute or authorised by the Directors or by the Company in general meeting.
- 41.3 The Directors may cause to be prepared and to be laid before the Company in general meeting profit and loss accounts, balance sheets, group accounts (if any) and such other reports and accounts as may be required by law.

42 Audit

- 42.1 The Directors may appoint an Auditor of the Company who shall hold office on such terms as the Directors determine.
- 42.2 Every Auditor of the Company shall have a right of access at all times to the books and accounts and vouchers of the Company and shall be entitled to require from the Directors and officers of the Company such information and explanation as may be necessary for the performance of the duties of the Auditor.

- 42.3 Auditors shall, if so required by the Directors, make a report on the accounts of the Company during their tenure of office at the next annual general meeting following their appointment in the case of a company which is registered with the Registrar of Companies as an ordinary company, and at the next extraordinary general meeting following their appointment in the case of a company which is registered with the Registrar of Companies as an exempted company, and at any other time during their term of office, upon request of the Directors or any general meeting of the Members.

43 Notices

- 43.1 Notices shall be in writing and may be given by the Company to any Member either personally or by sending it by courier, post, cable, telex, fax or e-mail to him or to his address as shown in the Register of Members (or where the notice is given by e-mail by sending it to the e-mail address provided by such Member). Any notice, if posted from one country to another, is to be sent by airmail.
- 43.2 Where a notice is sent by courier, service of the notice shall be deemed to be effected by delivery of the notice to a courier company, and shall be deemed to have been received on the third day (not including Saturdays or Sundays or public holidays) following the day on which the notice was delivered to the courier. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, pre paying and posting a letter containing the notice, and shall be deemed to have been received on the fifth day (not including Saturdays or Sundays or public holidays in the Cayman Islands) following the day on which the notice was posted. Where a notice is sent by cable, telex or fax, service of the notice shall be deemed to be effected by properly addressing and sending such notice and shall be deemed to have been received on the same day that it was transmitted. Where a notice is given by e-mail service shall be deemed to be effected by transmitting the e-mail to the e-mail address provided by the intended recipient and shall be deemed to have been received on the same day that it was sent, and it shall not be necessary for the receipt of the e-mail to be acknowledged by the recipient.
- 43.3 A notice may be given by the Company to the person or persons which the Company has been advised are entitled to a Share or Shares in consequence of the death or bankruptcy of a Member in the same manner as other notices which are required to be given under the Articles and shall be addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description at the address supplied for that purpose by the persons claiming to be so entitled, or at the option of the Company by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.
- 43.4 Notice of every general meeting shall be given in any manner authorised by the Articles to every holder of Shares carrying an entitlement to receive such notice on the record date for such meeting except that in the case of joint holders the notice shall be sufficient if given to the joint holder first named in the Register of Members and every person upon whom the ownership of a Share devolves by reason of his being a legal personal representative or a trustee in bankruptcy of a Member where the Member but for his death or bankruptcy would be entitled to receive notice of the meeting, and no other person shall be entitled to receive notices of general meetings.

44 Winding Up

- 44.1 If the Company shall be wound up the liquidator shall apply the assets of the Company in satisfaction of creditors' claims in such manner and order as such liquidator thinks fit. Subject to the rights attaching to any Shares, in a winding up:
- (a) if the assets available for distribution amongst the Members shall be insufficient to repay the whole of the Company's issued share capital, such assets shall be distributed so that, as nearly as may be, the losses shall be borne by the Members in proportion to the par value of the Shares held by them; or
 - (b) if the assets available for distribution amongst the Members shall be more than sufficient to repay the whole of the Company's issued share capital at the commencement of the winding up, the surplus shall be distributed amongst the Members in proportion to the par value of the Shares held by them at the commencement of the winding up subject to a deduction from those Shares in respect of which there are monies due, of all monies payable to the Company for unpaid calls or otherwise.
- 44.2 If the Company shall be wound up the liquidator may, subject to the rights attaching to any Shares and with the sanction of a Special Resolution of the Company and any other sanction required by the Statute, divide amongst the Members in kind the whole or any part of the assets of the Company (whether such assets shall consist of property of the same kind or not) and may for that purpose value any assets and determine how the division shall be carried out as between the Members or different classes of Members. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the Members as the liquidator, with the like sanction, shall think fit, but so that no Member shall be compelled to accept any asset upon which there is a liability.

45 Indemnity and Insurance

- 45.1 Every Director and officer of the Company (which for the avoidance of doubt, shall not include auditors of the Company), together with every former Director and former officer of the Company (each an "**Indemnified Person**") shall be indemnified out of the assets of the Company against any liability, action, proceeding, claim, demand, costs, damages or expenses, including legal expenses, whatsoever which they or any of them may incur as a result of any act or failure to act in carrying out their functions other than such liability (if any) that they may incur by reason of their own actual fraud or wilful default. No Indemnified Person shall be liable to the Company for any loss or damage incurred by the Company as a result (whether direct or indirect) of the carrying out of their functions unless that liability arises through the actual fraud or wilful default of such Indemnified Person. No person shall be found to have committed actual fraud or wilful default under this Article unless or until a court of competent jurisdiction shall have made a finding to that effect.
- 45.2 The Company shall advance to each Indemnified Person reasonable attorneys' fees and other costs and expenses incurred in connection with the defence of any action, suit, proceeding or

investigation involving such Indemnified Person for which indemnity will or could be sought. In connection with any advance of any expenses hereunder, the Indemnified Person shall execute an undertaking to repay the advanced amount to the Company if it shall be determined by final judgment or other final adjudication that such Indemnified Person was not entitled to indemnification pursuant to this Article. If it shall be determined by a final judgment or other final adjudication that such Indemnified Person was not entitled to indemnification with respect to such judgment, costs or expenses, then such party shall not be indemnified with respect to such judgment, costs or expenses and any advancement shall be returned to the Company (without interest) by the Indemnified Person.

- 45.3 The Directors, on behalf of the Company, may purchase and maintain insurance for the benefit of any Director or other officer of the Company against any liability which, by virtue of any rule of law, would otherwise attach to such person in respect of any negligence, default, breach of duty or breach of trust of which such person may be guilty in relation to the Company.

46 Financial Year

Unless the Directors otherwise prescribe, the financial year of the Company shall end on 31st December in each year and, following the year of incorporation, shall begin on 1st January in each year.

47 Transfer by Way of Continuation

If the Company is exempted as defined in the Statute, it shall, subject to the provisions of the Statute and with the approval of a Special Resolution, have the power to register by way of continuation as a body corporate under the laws of any jurisdiction outside the Cayman Islands and to be deregistered in the Cayman Islands.

48 Mergers and Consolidations

The Company shall, with the approval of a Special Resolution, have the power to merge or consolidate with one or more constituent companies (as defined in the Statute), upon such terms as the Directors may determine.

Annexure 3

Details of Secured Creditors and Secured Interests

- 1 The Surviving Company has granted a [fixed and floating charge] over [all of its assets] to ***[insert name of secured creditor]*** pursuant to [a security agreement dated ***[insert date]***]. The address of such secured creditor is ***[insert address]***¹.
- 2 ***[Repeat as necessary]***.

¹ The statute requires the name and address of the secured creditor and the nature of the secured interest to be provided.

Exhibit 2.1(b)

At the date of this Agreement, the Share Issuance is estimated to consist of the issue of 266,431,440 new Orise Shares, at the par value of NT\$10 per share, to be issued by Orise to FocalTech Shareholders (excluding the holders of Excluded Shares and Dissenting Shares) in order to perform Orise's obligations with respect to the Merger. The total amount of increased capital represented by such Share Issuance is expected to be NT\$2,664,314,400.

Notwithstanding anything to the contrary in this Agreement, the total number of the Orise Shares which Orise is obligated to issue under this Agreement shall be calculated based on the number of total FocalTech Shares (excluding any Excluded Shares) issued and outstanding immediately prior to the Effective Date (including any FocalTech employee restricted shares which are issued and outstanding but not yet vested) in accordance with the Exchange Ratio. For the avoidance of doubt, the calculation of the total number of Orise Shares to be issued in the Share Issuance shall take into consideration, among others, any FocalTech Shares newly issued during the period from the date of this Agreement until immediately before Effective Date as a result of the FocalTech Option holders' exercising their options, or any FocalTech employee restricted shares issued during such period.

於本合約簽署日，為履行旭曜就開曼合併之義務，對價股份發行預計發行普通股共 266,431,440 股旭曜股份予敦泰科技股東（異議股東股份及例外股份之持有者，無須發行新股予以換發），每股面額新臺幣 10 元整，預計新發行股份資本總額為新臺幣 2,664,314,400 元整。

惟，旭曜依本合約應發行之旭曜股份總數，仍應以敦泰科技截至基準日，依其實際發行之普通股（不含除外股份，但含已發行尚未解除限制之限制員工權利新股）股數，按換股比例計算之。為免疑義，前述因對價股份發行而應發行之旭曜股份總數之計算，至少應納入本合約簽署日至股份轉換基準日前，敦泰科技因員工認股權憑證之持有人行使認股權，及此期間發行限制員工權利新股所為之新股發行。

Exhibit 2.1(e) Exchange Ratio Adjustment 換股比例調整

FocalTech and Orise agree that without violating Article 5 of this Agreement, or in the event that the Party is in default of any provision under this Agreement and the non-defaulting Party elects not to exercise the right to terminate this Agreement, the Parties, no later than the day immediately preceding the Effective Date, shall authorize the respective Board to negotiate on and determine to adjust the Exchange Ratio under Section 2.1.(b) without convening FocalTech Shareholders Meeting or Orise Shareholders Meetings for approval or resolution provided any of the following events occurs during the period from the date of this Agreement till the Effective Date. The formula of Exchange Ratio Adjustments shall be negotiated between the Parties and provided by the written agreement entered into by the Parties.

敦泰科技及旭曜雙方同意在不違反本合約第 5 條之約定，或有違反本合約約定但未違約方當事人不擬解除本合約情形下，雙方於不晚於基準日前一日，授權其董事會，於本合約簽訂日至基準日（股份轉換基準日）之間發生下列任何情事時，共同協商決定本合約第 2.1(b) 條所同意之換股比例調整事宜，而無庸另行召開敦泰科技或旭曜之股東會。惟敦泰科技及旭曜雙方同意另行協商並以書面訂定換股比例調整公式：

- (i) With the prior written consents of the other party, FocalTech or Orise conducted capitalization by retained earnings, capitalization by capital reserve, capital increase for cash injection, capital reduction or stock dividend issuance, except for: (1) the issuance of shares under the plan of the employee restricted shares as adopted and approved by FocalTech's Shareholders Meeting in 2014; and / or (2) the issuance of new shares to fulfill the obligation incurred by the convertible bonds exercised by the holders thereof or incurred by the employee options exercised by either party's employee.
- (ii) With the prior written consents of the other party, FocalTech or Orise repurchases or has repurchased its shares (except for the repurchase of Dissenting Shares pursuant to FocalTech's constitutional documents or Taiwan Law, as the case may be).
- (iii) FocalTech or Orise repurchases or has repurchased the Dissenting Shares pursuant to FocalTech's constitutional documents or Taiwan Law, as the case may be, and the total amount of such repurchased Dissenting Shares is more than 2% of total issued shares of the repurchasing party.
- (iv) turn-over rate of Orise Key Employees has exceeded 5% as required under Section 6.6.
- (v) FocalTech or Orise has (A) made material capital expenditure or material expenses, (B) disposed of any of its material assets, (C) suffered from the material nature disaster, or other force majeure event, or (D) made material change to the matter with respect to its finance or business, occurrence of material litigation, or other event which has a FocalTech Material Adverse Effect or Orise Material Adverse Effect, as the case maybe, and such event listed in (A) to (D) has caused

the Exchange Ratio as agreed by the Parties become obviously unfair to any Party.

- (vi) Any change or amendment to the applicable mandatory regulations, Laws, rule, order or ruling or decree issued by any of the competent Governmental Entities and hence corresponding adjustment of the Exchange Ratio under Section 2.1(b) is required.
- (i) 經他方當事人（在此僅指旭曜或敦泰科技）之事前書面同意，旭曜或敦泰科技辦理盈餘轉增資，資本公積轉增資、現金增資或減資，無償配股。惟不含：
(1) 敦泰科技於民國 103 年股東常會決議通過之限制員工權利新股發行；及/
或(2)為可轉換公司債債權人執行轉換權、或任一方員工執行認股權憑證之新股發行。
- (ii) 經他方當事人（在此僅指旭曜或敦泰科技）之事前書面同意，旭曜或敦泰科技有買回本公司股份之情形時（不包含敦泰科技依據章程或旭曜依法（依個案情況予以適用）買回異議股東股份之情形）。
- (iii) 敦泰科技依章程或旭曜依法（依個案情況予以適用）買回異議股東股份，且所買回之股份超過該買回之合約當事人已發行股份總數之 2%。
- (iv) 旭曜重要員工流動率超過本合約第 6.6 條所定之 5%。
- (v) 敦泰科技或旭曜如有(A)重大資本支出或費用支出，(B)處分其重大資產，(C)發生重大災害或重大不可抗力，(D)財務或業務做出重大變更，產生重大訴訟或其他有敦泰或旭曜重大不利影響之行為或情事產生，以致依據原換股比例進行股份轉換顯失公平時。
- (vi) 因法令之強制或禁止規定，法令變更、或由相關有權主管機關所為核示或行政處分，以致有調整本合約第 2.1(b)條所訂換股比例之必要時。

For purpose of this Exhibition 2.1(e), the term “material” or “Material” herein means any event which would have an effect, adverse or positive, on the latest audited (consolidated) financial statements of Orise or FocalTech to the extent that such affected Party’s net asset value in such latest audited financial statements will as a result increase or decrease (accumulatively during the period from the date of this Agreement till the day immediately preceding the Effective Date) by 5% or more comparing to such party’s 2013 annual audited financial statements.

本附表所稱「重大」，係指其事狀程度對於旭曜或敦泰科技之最近期經簽證之合併財務報告可能導致之負面或正面影響，相較於其 2013 年之經簽證之財務報告，淨值累計（自本合約簽約日至股份轉換基準日前止）將增加或減少百分之五(5%)（含）以上之情形。

附表 2.7 基準日旭曜章程

旭曜科技股份有限公司章程

第一章 總則

第一條：本公司依照公司法股份有限公司之規定組織，定名為旭曜科技股份有限公司(英文名稱為 Orise Technology Co., Ltd.)。

第二條：本公司所營業事業如下：

一、CC01080 電子零組件製造業

二、I301010 資訊軟體服務業

三、IG02010 研究發展服務業

四、I501010 產品設計業

研究、開發、設計、製造及銷售下列產品：

(1)平面顯示驅動晶片及控制晶片(LCD Driver & Control IC)，並提供上述產品之軟硬體應用、設計、測試、維修、技術諮詢服務。

(2)兼營與前項業務相關之進出口業務。

第三條：本公司設總公司於新竹科學工業園區，必要時經董事會之決議及主管機關核准後得在國內外設立分公司。

第四條：本公司公告方式，依公司法第二十八條規定辦理。

第二章 股份

第五條：本公司資本總額定為新台幣伍拾億元整，分為伍億股（其中保留叁仟萬股供認股權憑證使用），均為普通股，每股面額新台幣壹拾元整，授權董事會視實際需要分次發行。

第五條之一：本公司如擬以低於市價（每股淨值）之認股價格發行員工認股權憑證，應依發行人募集與發行有價證券處理準則第五十六條之一及第七十六條之規定，經股東會決議後，始得發行之。

第五條之二：本公司如擬將買回本公司之股份以低於實際買回股份之平均價格轉讓予員工，應依上市上櫃公司買回本公司股份辦法第十條之一及第十三條之規定，經最近一次股東會（有代表已發行股份總數過半數股東之出席，出席股東

表決權三分之二以上同意)決議後，始得辦理轉讓。

第六條：本公司股票概為記名式，由董事三人以上簽名或蓋章，並經主管機關或其核定之發行登記機構簽證後發行之，亦得採免印製股票之方式發行，但應洽證券集中保管事業機構辦理保管或登錄。

第七條：本公司股務處理作業，除法令及證券規章另有規定外，悉依「公開發行股票公司股務處理準則」辦理，如相關法令變更時，隨時依變更後法令執行之。

第八條：股東名簿記載之變更，於股東常會開會前六十日內，股東臨時會開會前三十日內，或公司決議分派股息及紅利或其他利益之基準日前五日內，均停止之。

第三章 股東會

第九條：股東會分常會及臨時會兩種，均由董事會依法召集，常會每年召開一次，於每會計年度終了後六個月內召開之，臨時會於必要時依法召集之。股東會之召集，常會應於三十日前，臨時會應於十五日前，將開會之日期、地點及召集事由通知各股東並公告之。持有記名股票未滿一千股之股東，前項召集通知，得以公告方式為之。

第九條之一：本公司召開股東常會時持有已發行股份總數百分之一之股東，得以書面向公司提出股東常會議案，但以一項為限，提案超過一項者，均不列作議案，其相關作業依公司法及相關規定辦理之。

第十條：股東會之決議，除公司法另有規定外，應有代表已發行股份總數過半數之股東出席，其決議以出席股東表決權過半數之同意行之。

第十一條：股東不能出席股東會時，依公司法第一七七條規定，出具委託書載明授權範圍，委託代理人出席，該項委託書應於開會五日前送達本公司。

股東委託出席之辦法，除依公司法規定外，悉依主管機關頒佈之「公開發行公司出席股東會使用委託書規則」規定辦理。

第十二條：本公司各股東，除有公司法第一七九條規定之股份無表決權之情形外，每持有一股份，有一表決權。

第十三條：股東會開會時，以董事長為主席，遇董事長缺席時，由董事長指定董事一人代理，未指定時，由董事互推一人代理之；由董事會以外之其他召集權人召集者，主席由該召集權人擔任，召集權人有二人以上時應互推一人擔任。

第十四條：股東會之議決事項，應作成議事錄，由主席簽名或蓋章，並於會後二十日內，將議事錄分發各股東，議事錄之分發得以公告方式為之。議事錄之應記載方式暨議事錄、出席股東之簽名簿或簽到卡及代理出席之委託書其保存期依公司法第一八三條規定辦理。

第十五條：本公司股票擬撤銷公開發行時，應提股東會決議，且於上市期間均不變動此條文。

第四章 董事及審計委員會

第十六條：本公司設董事九人，由股東會就有行為能力之人選任之，任期三年，連選得連任。法人股東代表人如當選為董事，得由該法人隨時改派之，但以補足原任期為限。本公司得在相關法規允許下，經董事會決議，為董事購買責任保險，以降低董事因依法執行職務，致被股東或其他關係人控訴之風險。

第十六條之一：前條董事名額中，獨立董事人數不得少於三人，且不得少於董事席次五分之一，採候選人提名制度，由股東會就獨立董事候選人名單中選任之。前項獨立董事之專業資格、持股與兼職限制、提名方式及其他應遵行事項，依證券主管機關之相關規定辦理。

第十六條之二：本公司董事執行本公司職務時，不論公司營業盈虧，公司得支給報酬，其報酬授權董事會參酌同業通常水準議定之。如公司有盈餘時，另依本章程第二十七條之規定分配酬勞。

第十六條之三：本公司依據證券交易法第十四條之四規定，設置審計委員會並由審計委員會負責執行公司法、證券交易法暨其他法令規定監察人之職權。審計委員會應由全體獨立董事組成，其人數不得少於三人，並由其中一名擔任召集人，且至少一人具備會計或財務專長。審計委員會之決議，應有全體成員二分之一以上之同意。

自審計委員會成立之日起，本公司有關監察人之規定停止適用。已當選之監察人，其任期至本公司第一屆審計委員成立之日為止。

第十七條：董事缺額達三分之一時，董事會應於六十日內召開股東臨時會補選之。

第十八條：董事之任期屆滿而不及改選時，除公司法另有規定外，延長其執行職務，至改選董事就任時為止。

第十九條：董事組織董事會，由三分之二以上董事之出席及出席董事過半數之同意，互選董事長一人。依照法令、章程、股東會及董事會之決議執行本公司一切事務。

第二十條：董事會除公司法另有規定外，由董事長依公司法之規定召集之。董事會開會時除公司法另有規定外，董事應親自出席，董事無法親自出席時，得出具委託書，並列舉召集事由之授權範圍，委託其他董事代理出席董事會，董事代理其他董事出席董事會時以受一人之委託為限。

第二十條之一：本公司董事會之召集應於七日前以書面、電子郵件（E-mail）或傳真方式通知各董事。

本公司如遇緊急情形得隨時召集董事會，並亦得以書面、電子郵件（E-mail）或傳真方式為之。

第二十一條：董事長對外代表公司，董事長請假或因故不能行使職權時，由董事長指定董事一人代理之。未指定時，由董事互推一人代理之。

第二十二條：董事會之決議事項，應作成議事錄，由主席簽名或蓋章，並於會後二十日內，將議事錄分發各董事，董事會議事錄應記載方式暨董事會議事錄、出席董事之簽名簿及代理出席之委託書其保存期限依公司法第二〇七條辦理。

第二十三條：董事會之職權如下：

- 一、營業方針之決定。
- 二、預算之審定。
- 三、編具財務報表報告股東會。
- 四、修訂公司章程之擬議。
- 五、執行股東會決議事項。
- 六、主要契約之審定。
- 七、提出盈餘分派或虧損撥補之議案。
- 八、提出增資或減資之議案。
- 九、重要職員之聘免。
- 十、組織規章及業務章則之訂定。
- 十一、其他依法令或股東會決議之職權。

第五章 經理人及職員

第二十四條：本公司得設經理人，其委任、解任及報酬依照公司法第二十九條規定辦理。

第二十四條之一：本公司得在相關法規允許下，經董事會決議，為經理人購買責任保險，以降低經理人因依法執行職務，致被股東或其他關係人控訴之風險。

第二十五條：本公司得經董事會依章程第二十四條規定決議，聘請重要職員。

第六章 決算

第二十六條：本公司於會計年度終了，應由董事會編造下列各項表冊，提請股東常會承認：

一、營業報告書。二、財務報表。三、盈餘分派或虧損撥補之議案。四、其他依法令規定應造具之表冊。

第二十七條：本公司每年決算後如有盈餘，除依法繳納營利事業所得稅及彌補以往年度虧損外，應先提撥百分之十法定盈餘公積，但法定盈餘公積已達資本總額時不在此限。次依法令或主管機關規定提撥或迴轉特別盈餘公積，所餘盈餘按下列方式分派之，惟前述盈餘提供分派之比率及股東現金股利之比率，得視當年度實際獲利及資金狀況，經股東會決議調整之：

一、股東股息提存股本之百分之六。

二、次就餘額提撥董事酬勞百分之一·五；及員工紅利不低於百分之一。

三、餘為股東紅利；其中現金股利不得低於股利總數之百分之十，但現金股利每股若低於〇·五元得不予發放。

如有前一年度累積或當年度發生但當年度稅後盈餘不足提列之股東權益減項，應自前一年度累積未分配盈餘提列相同數額之特別盈餘公積，並於擬撥供分派前先行扣除。員工紅利以股票發放時，其對象得包括符合一定條件之從屬公司員工，該一定條件由董事會訂定之。

第二十八條：本公司得對外背書保證，並得因業務之需要，將資金貸與他人，其作業辦法由董事會依法令訂定之。

第二十九條：本公司轉投資總額，不受公司法第十三條有關轉投資不得超過實收股本百分之四十之限制。

第三十條：本公司組織規章及辦事細則由董事會另訂之。

第三十條之一：本章程未定事項，悉依照公司法及其他法令規定辦理。

第三十一條：本章程訂立於民國九十四年十二月十五日。第一次修正於九十五年一月十九

日。第二次修正於九十五年三月二十八日。第三次修正於九十五年十月五日。
第四次修正於九十六年五月十日。第五次修正於九十七年六月六日。第六次
修正於九十八年六月十六日。第七次修正於一百年六月十五日。第八次修正
於一〇一年六月十三日。第九次修正於一〇二年六月十八日。第十次修正於一
〇三年六月三十日。

旭曜科技股份有限公司

董事長：黃洲杰

敦泰科技股份有限公司(FocalTech Corporation, Ltd.)

與旭曜科技股份有限公司併購及股份轉換案

換股比例合理性之獨立專家意見書

敦泰科技股份有限公司(FocalTech Corporation, Ltd.)(為第一上市公司，以下簡稱F-敦泰)於民國(以下同)94年在美国註冊成立，並於深圳及台灣設立研發及工程服務中心，為國際上少數同時擁有電容式觸控晶片設計能力以及 TFT-LCD 顯示驅動晶片設計能力的 IC 設計公司，自行研發多個系列電容式觸控式螢幕控制晶片、On-cell 觸控方案晶片、及繼 Apple(應用產品 iPhone5)之後全球第一家推出 In-cell 方案並成功應用於量產的廠商，除此之外，F-敦泰深耕中國品牌市場有成，與客戶關係緊密，在中國觸控晶片市場享有過半市佔率，於 102 年締造出觸控晶片累積出貨逾 4 億顆的傲人成績，並於臺灣證券交易所掛牌上市(股票代碼：5280TT)，一躍成為全亞洲最具影響力且出貨量最大的觸控晶片供應商。

旭曜科技股份有限公司(為上市公司，以下簡稱旭曜)於 95 年 1 月成立，其前身為國內 IC 專業設計公司凌陽科技旗下之 TFT 專案部門，於 95 年 3 月 31 日自凌陽正式分割獨立，並於 96 年 7 月於台灣證券交易所掛牌上市(股票代號：3545TT)。旭曜為平面顯示驅動晶片及控制晶片 IC 設計公司，擁有堅實研發團隊，產品廣泛應用於智慧型手機、平板電腦等領域，近年積極強化客戶組合，建立緊密客戶關係，除涵蓋台、中、日、韓等直接客群，並與下游歐、美、日、中等終端廠商互動頻繁，掌握產品發展趨勢。

為考量整合資源運用、擴大經營規模、以提升經營績效與競爭力，F-敦泰與旭曜進行併購及股份轉換，併購完成後將由旭曜繼續上市，F-敦泰於股份轉換完成後將下市，特委託本會計師就換股比例出具合理性意見書，茲就本案換股比例之合理性評估如後：

一、財務狀況

單位：新台幣仟元

科目	102年度	旭曜	F-敦泰
資產總計		6,314,221	7,410,606
負債總計		3,392,196	1,004,026
歸屬於母公司業主之權益合計		2,922,025	6,406,580
期末股本		1,402,085	550,899
每股淨值(元)(註)		20.85	115.42

資料來源：旭曜與F-敦泰經會計師查核簽證之102年度合併財務報表。

註：旭曜每股淨值係以截至103年3月31日流通在外股數140,135,480股計算之；F-敦泰每股淨值係以截至103年3月31日流通在外股數55,506,550股計算之。

單位：新台幣仟元

科目	102年度	旭曜	F-敦泰
營業收入		9,362,444	4,853,231
營業毛利		1,478,177	2,145,108
營業淨利(損)		431,662	1,274,479
稅前淨利(損)		441,834	1,323,600
本期淨利(損)歸屬於母公司業主		363,725	1,267,355
稅後每股盈餘(元)(註)		2.60	22.83

資料來源：旭曜與F-敦泰經會計師查核簽證之102年度合併財務報表。

註：旭曜每股盈餘係以截至103年3月31日流通在外股數140,135,480股計算之；F-敦泰每股盈餘係以截至103年3月31日流通在外股數55,506,550股計算之。

二、評估模式

(一)評價方法介紹

常用評估企業價值之分析模式，均有其學理依據及理論基礎，大致區分下列三類：

- 1、市場法：例如市價法(針對已掛牌交易之標的公司，可由其於集中市場交易價格推估其合理價值)、市場比較法(依據對標的公司及市場同業之財務資料，以市場乘數例如本益比、股價淨值比、或其他財務比率等來分析評價)。
- 2、收益法：例如現金流量法，以評價標的公司所創造未來營運所產生

之現金流量為評估基礎，透過資本化或折現過程，將未來之現金流量轉換為評價標的公司之企業價值。

- 3、成本法：以帳面價值為基礎，並經由評價標的公司涵蓋之個別資產及個別負債之總價值，且考量各項資產及負債之公平市場價值、交易成本及稅負，以反映標的公司整體價值。

(二)同業選取

F-敦泰為電容式觸控螢幕控制晶片及 TFT-LCD 驅動晶片 IC 設計商，台灣證券交易所及證券櫃檯買賣中心市場 IC 設計廠商中，以義隆電子股份有限公司(以下簡稱義隆)、奕力科技股份有限公司(以下簡稱奕力)及禾瑞亞科技股份有限公司(以下簡稱禾瑞亞)在業務內容、營運模式及客戶屬性上最為相近，故以前述三家公司為比較之同業。下表為三家同業 102 年度之財務狀況、獲利情形：

單位：新台幣仟元

科目/公司	義隆	奕力	禾瑞亞
資產總計	9,521,707	5,266,792	1,784,567
負債總計	2,082,354	2,303,555	439,824
歸屬於母公司業主之權益合計	7,374,610	2,963,237	1,273,894
期末股本	4,332,125	719,056	523,340
每股淨值(元)(註)	17.02	41.21	24.34
營業收入	7,794,533	9,628,256	1,534,544
營業毛利	3,576,577	1,307,210	875,887
營業淨利(損)	1,661,426	237,436	503,493
稅前淨利(損)	1,719,779	264,108	531,254
本期淨利(損)歸屬於母公司業主	1,545,693	213,817	451,118
稅後每股盈餘(元)(註)	3.57	2.97	8.62

資料來源：同業經會計師查核簽證之102年度合併財務報告。

註：義隆、奕力及禾瑞亞之每股淨值及每股盈餘係以103年3月31日流通在外股數433,212,545股、71,905,614股及52,334,031股計算之。

(三)本案評估方法選取

基於本案背景及評價目的，本意見書採用市場法為主要評估方法，擬同步採用市價法、本益比法及股價淨值比法為基礎，並依據本案非量化之關鍵因素進行必要調整，設算合理換股比例區間。

收益法部分，須利用公司對未來現金流量之預估值，涉及較多的假設性項目，具有較高之不確定性，不若其他方法客觀，故不採用。

成本法部分，考量 F-敦泰之營運模式及財務結構，並不適合以成本法進行價值評估，故亦不採用。

(四)評估之資料來源

本次評估之主要資料：

- 1、F-敦泰經會計師查核簽證之 102 年度合併財務報告。
- 2、公開資訊觀測站取得之 F-敦泰及同業公司相關營業概況、財務報告資料及其他與評價相關目的有關之重要訊息。
- 3、台灣證券交易所及證券櫃檯買賣中心網站資料有關 F-敦泰及同業公司之分析比較性資料及歷史股價資訊。
- 4、F-敦泰所屬產業及相關同業之產業資訊。

四、價值計算

為評估公司合理價值，除審視 F-敦泰本身相關財務數據及其於公開交易市場之價格外，本意見書並同時參酌主要上市櫃同業公司相關表現，加以反映整體產業近期狀況。茲採用市場法之市價法、本益比法及股價淨值比法，就本次換股比率評估其合理性如下：

(一)市價法

由於旭曜、F-敦泰皆為上市公司，具備客觀之公開市場交易價格可參考，茲以雙方於評價基準日 103 年 4 月 3 日(含)前 10、30、60 個營

業日之平均收盤價，設算雙方換股比率區間如下表所列示：

單位：新台幣元

項目	旭曜	F-敦泰	換股比率
10 日均價	54.56	285.30	5.229
30 日均價	51.55	270.18	5.241
60 日均價	48.44	245.08	5.059

資料來源：台灣證券交易所網站資料(102/12/31~103/04/03)；均價係以收盤價為資料，採簡單算數平均數計算。

(二)本益比法

依據 F-敦泰之財務資料計算每股盈餘，採樣上市櫃同業公司之平均本益比作為比較參數，以估算 F-敦泰合理每股價值，並設算旭曜與 F-敦泰之換股比率區間。

以同業公司評價基準日 103 年 4 月 3 日(含)前 10 個營業日收盤價作為採樣基準，依據各公司於 102 年度合併財務報表所列示之歸屬於母公司業主之稅後淨利及截至 103 年 3 月 31 日流通在外股數等財務數據，計算上市同業之平均本益比，設算 F-敦泰合理之參考價及雙方換股比率區如下：

單位：新台幣

	比較同業		
	義隆	奕力	禾瑞亞
最近 10 日平均收盤價(元)	57.12	61.62	94.40
102 年 12 月 31 日每股盈餘(元)	3.57	2.97	8.62
本益比	16.00	20.75	10.95

資料來源：台灣證券交易所及證券櫃檯買賣中心網站資料(103/03/21~103/04/03)；均價係以收盤價為資料，採簡單算數平均數計算。

項目	說明
義隆本益比	16.00
奕力本益比	20.75
禾瑞亞本益比	10.95
上市櫃同業平均本益比	15.90
F-敦泰 102 年 12 月 31 日每股盈餘(元)	22.83
上市櫃同業平均本益比推估 F-敦泰每股參考價(元)	363.00

F-敦泰	每股市價	旭曜	換股比例
363.00 元	10 日均價	54.56 元	6.653
	30 日均價	51.55 元	7.042
	60 日均價	48.44 元	7.494

(三)股價淨值比法

依據 F-敦泰之財務資料計算每股帳面淨值，採樣上市櫃同業公司之平均股價淨值比作為比較參數，以估算 F-敦泰合理每股價值。

以同業公司評價基準日 103 年 4 月 3 日(含)前 10 個營業日收盤價作為採樣基準，依據各公司於 102 年合併財務報表所列示之歸屬於母公司業主權益總額及截至 103 年 3 月 31 日流通在外股數等財務數據，計算上市同業之平均本益比，設算 F-敦泰合理之參考價及雙方換股比率區如下：

單位：新台幣

	比較同業		
	義隆	奕力	禾瑞亞
最近 10 日平均收盤價(元)	57.12	61.62	94.40
102 年 12 月 31 日每股淨值(元)	17.02	41.21	24.34
股價淨值比	3.36	1.50	3.88

資料來源：台灣證券交易所及證券櫃檯買賣中心網站資料(103/03/21~103/04/03)；均價係以收盤價為資料，採簡單算數平均數計算。

項目	說明
義隆股價淨值比	3.36
奕力股價淨值比	1.50
禾瑞亞股價淨值比	3.88
上市同業平均股價淨值比	2.91
F-敦泰 102 年 12 月 31 日每股淨值(元)	115.42
上市同業平均股價淨值比推估 F-敦泰每股參考價(元)	335.87

F-敦泰	每股市價	旭曜	換股比例
335.87 元	10 日均價	54.56 元	6.156
	30 日均價	51.55 元	6.515
	60 日均價	48.44 元	6.934

五、評估換股比率合理性

(一)理論換股比率彙總

茲將上述各種評價模式對雙方換股比例之計算結果彙整如下。有鑑於旭曜與 F-敦泰均為上市公司，具備客觀之市場交易價格，故給予市價法為主要基礎給予較高之權重，本益比法及股價淨值比法給予適當之權重設算合理換股比率。另考量本次併購及股份轉換案業經主管機關核准後，旭曜擬將召開董事會更改公司名稱為敦泰電子股份有限公司並進行全面改選董事，而原旭曜之法人股東-凌陽科技股份有限公司將成為單純股權投資者，整併後之新敦泰集團將在 F-敦泰董事長胡正大先生帶領下，匯集 F-敦泰、旭曜的優秀團隊規劃未來方向，結合雙方資源，為公司的長期成長佈局；另參考 Bloomberg 亞太新興地區半導體產業自西元 2013 年至今併購案件之平均溢價率 13.374%，故本次 F-敦泰併購旭曜案給予旭曜控制權溢價之相關調整比率，調整後換股比率區間計算如下：

評估模式	換股比率區間	權重 (%)	加權後 換股比率區間	給予旭曜之 控制權溢價率	考量控制權溢價後 換股比率區間
市價法	5.059 ~ 5.241	80%	5.328 ~ 5.635	13.374%	4.699 ~ 4.970
本益比法	6.653 ~ 7.494	10%			
股價淨值比法	6.156 ~ 6.934	10%			

(二)結論

經可量化之財務數字及市場客觀資料，分別依市價法、本益比法及股價淨值比法等數據加以分析，並進一步考量雙方目前經營狀況、市場評價，及本次併購及股份轉換案業經主管機關核准後，旭曜擬將召開董事會更改公司名稱為敦泰電子股份有限公司並進行全面改選董事，而原旭曜之法人股東-凌陽科技股份有限公司將成為單純股權投資者，整併後之新敦泰集團將由 F-敦泰董事長帶領雙方團隊規劃未來營運方向等因素後，本評估人認為 F-敦泰每 1 股普通股換取旭曜 4.8 股普通股應屬合理。


審 查 人：邱繼盛



民國 103 年 4 月 3 日

會計師簡歷

姓 名：邱繼盛

考試及格：

中華民國會計師高考及格

學 歷：

國立成功大學統計學系畢業

東吳大學會計研究所畢業

國立台北大學法律研究所學分班結業

經 歷：

第一聯合會計師事務所

經、副理

致遠會計師事務所

資深經理

第一聯合會計師事務所

會計師

現 任：

國富浩華聯合會計師事務所(原第一聯合會計師事務所) 合夥會計師

台北市會計學會

理事、專任講師

獨立性聲明書

本人受託就旭曜科技股份有限公司(以下簡稱旭曜)與敦泰科技股份有限公司(以下簡稱 F-敦泰)併購及股份轉換案，有關換股比例之合理性，提出評估意見書。

本人為執行上開業務，特聲明並無下列情事：

- 1.本人或配偶現受旭曜、F-敦泰或證券承銷商聘雇，擔任經常工作，支領固定薪給者。
- 2.本人或配偶曾任旭曜、F-敦泰或證券承銷商之職員，而解任未滿二年者。
- 3.本人或配偶任職之公司與旭曜、F-敦泰或證券承銷商互為關係人者。
- 4.與旭曜、F-敦泰或證券承銷商負責人或經理人有配偶或二等親以內親屬關係者。
- 5.本人或配偶與旭曜、F-敦泰或證券承銷商有投資或分享利益之關係者。
- 6.為台灣證券交易所股份有限公司現任之董事、監察人及其配偶或二等親以內親屬關係者。
- 7.本人或配偶任職之公司與旭曜、F-敦泰具有業務往來關係者。

為旭曜科技股份有限公司與敦泰科技股份有限公司併購及股份轉換案，本人提出之專家評估意見均維持超然獨立之精神。

審查人：



民國 103 年 4 月 3 日

旭曜科技股份有限公司
公司章程修訂前後對照表

條次	內容		變更事由
	修訂前	修訂後	
第 二 條	本公司所營業事業如下： 一、CC01080 電子零組件製造業 二、I301010 資訊軟體服務業 三、 I301020 資料處理服務業 四、I501010 產品設計業 五、 F401010 國際貿易業 研究、開發、設計、製造及銷售下列產品： 平面顯示驅動晶片及控制晶片(LCD Driver & Control IC)	本公司所營業事業如下： 一、CC01080 電子零組件製造業 二、I301010 資訊軟體服務業 三、IG02010 研究發展服務業 四、I501010 產品設計業 研究、開發、設計、製造及銷售下列產品： (1)平面顯示驅動晶片及控制晶片(LCD Driver & Control IC)， <u>並提供上述產品之軟硬體應用、設計、測試、維修、技術諮詢服務。</u> (2) <u>兼營與前項業務相關之進出口業務。</u>	配合公司併購及股份轉換修正。惟實際內容依主管機關核准者為依據
第 五 條	本公司資本總額定為新台幣貳拾壹億元整，分為貳億壹仟萬股（其中保留壹仟叁佰萬股供認股權憑證使用），均為普通股，每股面額新台幣壹拾元整，授權董事會視實際需要分次發行。	本公司資本總額定為新台幣伍拾億元整，分為 <u>伍億股</u> （其中保留叁仟萬股供認股權憑證使用），均為普通股，每股面額新台幣壹拾元整，授權董事會視實際需要分次發行。	配合公司併購及股份轉換修正
第三十一條	本章程訂立於民國九十四年十二月十五日。第一次修正於九十五年一月十九日。第二次修正於九十五年三月二十八日。第三次修正於九十五年十月五日。第四次修正於九十六年五月十日。第五次修正於九十七年六月六日。第六次修正於九十八年六月十六日。第七次修正於一百零一年六月十五日。第八次修正於一〇一年六月十三日。第九次修正於一〇二年六月十八日。	本章程訂立於民國九十四年十二月十五日。第一次修正於九十五年一月十九日。第二次修正於九十五年三月二十八日。第三次修正於九十五年十月五日。第四次修正於九十六年五月十日。第五次修正於九十七年六月六日。第六次修正於九十八年六月十六日。第七次修正於一百零一年六月十五日。第八次修正於一〇一年六月十三日。第九次修正於一〇二年六月十八日。 <u>第十次修正於一〇三年六月三十日。</u>	新增修訂日期。

旭曜科技股份有限公司

取得或處分資產處理程序修訂前後對照表

條次	內容		修訂理由
	修訂前	修訂後	
第 二 條	本程序所稱資產之適用範圍如下： 一、股票、公債、公司債、金融債券、表彰基金之有價證券、存託憑證、認購(售)權證、受益證券及資產基礎證券等投資。 二、不動產及其他固定資產。 三、會員證。 四、專利權、著作權、商標權、特許權等無形資產。 五、依法律合併、分割、收購或股份受讓而取得或處分之資產。 六、其他重要資產。	本程序所稱資產之適用範圍如下： 一、股票、公債、公司債、金融債券、表彰基金之有價證券、存託憑證、認購(售)權證、受益證券及資產基礎證券等投資。 二、不動產(含土地、房屋及建築、投資性不動產、土地使用權)及設備。 三、會員證。 四、專利權、著作權、商標權、特許權等無形資產。 五、依法律合併、分割、收購或股份受讓而取得或處分之資產。 六、其他重要資產。	1.配合「公開發行公司取得或處分資產處理準則」第三條修正。 2.配合我國採用國際財務報導準則後，固定資產項目改為不動產、廠房及設備；另由於土地使用權應適用國際會計準則第十七號「租賃」之規定，故將其併入不動產予以規範，爰修改第二款，增訂括弧內文，刪除其他固定資產，改以廠房及設備代替，以資明確。
第 三 條	本程序用詞定義如下： 一、關係人：指依財團法人中華民國會計研究發展基金會（以下簡稱會計研究發展基金會）所發布之財務會計準則公報第六號所規定者。 二、子公司：指依會計研究發展基金會發布之財務會計準則公報第五號及第七號所規定者。 三、專業估價者：指不動產估價師或其他依法律得從事不動產、其他固定資產估價業務者。 四、事實發生日：指交易簽約日、付款日、委託成交日、過戶日、董事會決議日或其	本程序用詞定義如下： 一、關係人、子公司：應依證券發行人財務報告編製準則規定認定之。 二、專業估價者：指不動產估價師或其他依法律得從事不動產、設備估價業務者。 三、事實發生日：指交易簽約日、付款日、委託成交日、過戶日、董事會決議日或其他足資確定交易對象及交易金額之日等日期孰前者。但屬需經主管機關核准之投資者，以上開日期或接獲主管機關核准之日孰前者為準。 四、依法律合併、分割、收購或	1.配合「公開發行公司取得或處分資產處理準則」第四條第二款修正。 2.本公司適用國際財務報導準則後，有關關係人及子公司之認定，應依證券發行人財務報告編製準則（採國際財務報導準則版本）相關規定辦理，爰將現行第一項第一款及第二款

條次	內容		修訂理由
	修訂前	修訂後	
	他足資確定交易對象及交易金額之日等日期孰前者。但屬需經主管機關核准之投資者，以上開日期或接獲主管機關核准之日孰前者為準。	<u>股份受讓而取得或處分之資產：指依企業併購法、金融控股公司法、金融機構合併法或其他法律進行合併、分割或收購而取得或處分之資產，或依公司法第一百五十六條第八項規定發行新股受讓他公司股份（以下簡稱股份受讓）者。</u> <u>五、大陸地區投資：指依經濟部投資審議委員會在大陸地區從事投資或技術合作許可辦法規定從事之大陸投資。</u>	規定合併為第一款，並述明其定義依據來源。 3.原第一項第三款及第四款移列至第二款及第三款。 4.配合國際財務報導準則，修正第二款，「其他固定資產」修正為「設備」。 5.配合「公開發行公司取得或處分資產處理準則」第四條第二款及第六款內容，新增第四款及第五款名詞定義以茲明確。
第 六 條	本公司取得或處分不動產或其他固定資產，除與政府機構交易、自地委建、租地委建，或取得、處分供營業使用之機器設備外，交易金額達公司實收資本額百分之二十或新臺幣三億元以上者，應於事實發生日前取得專業估價者出具之估價報告，並符合下列規定： 一、因特殊原因須以限定價格、特定價格或特殊價格作為交易價格之參考依據時，該項交易應先提經董事會決議通過，未來交易條件變更者，亦應比照上開程序辦理。 二、交易金額達新臺幣十億元以上者，應請二家以上之專業估價者估價。 三、專業估價者之估價結果有下列情形之一者，除取得資產之估價結果均高於交易金額，或處分資產之估價結果均低於交易	本公司取得或處分不動產或設備，除與政府機構交易、自地委建、租地委建，或取得、處分供營業使用之機器設備外，交易金額達公司實收資本額百分之二十或新臺幣三億元以上者，應於事實發生日前取得專業估價者出具之估價報告，並符合下列規定： 一、因特殊原因須以限定價格、特定價格或特殊價格作為交易價格之參考依據時，該項交易應先提經董事會決議通過，未來交易條件變更者，亦應比照上開程序辦理。 二、交易金額達新臺幣十億元以上者，應請二家以上之專業估價者估價。 三、專業估價者之估價結果有下列情形之一者，除取得資產之估價結果均高於交易金額，或處分資產之估價結果均低於交易	1.配合「公開發行公司取得或處分資產處理準則」第九條修正。 2.配合我國採用國際財務報導準則後，固定資產項目改為不動產、廠房及設備，爰修正第一項序文有關其他固定資產及供營業使用機器設備之文字。

條次	內容		修訂理由
	修訂前	修訂後	
	金額外，應洽請會計師依會計研究發展基金會所發布之審計準則公報第二十號規定辦理，並對差異原因及交易價格之允當性表示具體意見： (一)估價結果與交易金額差距達交易金額之百分之二十以上者。 (二)二家以上專業估價者之估價結果差距達交易金額百分之十以上者。 四、專業估價者出具報告日期與契約成立日期不得逾三個月。但如其適用同一期公告現值且未逾六個月者，得由原專業估價者出具意見書。	金額外，應洽請會計師依會計研究發展基金會所發布之審計準則公報第二十號規定辦理，並對差異原因及交易價格之允當性表示具體意見： (一)估價結果與交易金額差距達交易金額之百分之二十以上者。 (二)二家以上專業估價者之估價結果差距達交易金額百分之十以上者。 四、專業估價者出具報告日期與契約成立日期不得逾三個月。但如其適用同一期公告現值且未逾六個月者，得由原專業估價者出具意見書。	
第 七 條	本公司取得或處分有價證券，應於事實發生日前取具標的公司最近期經會計師查核簽證或核閱之財務報表作為評估交易價格之參考，另交易金額達公司實收資本額百分之二十或新臺幣三億元以上者，應於事實發生日前洽請會計師就交易價格之合理性表示意見，會計師若需採用專家報告者，應依會計研究發展基金會所發布之審計準則公報第二十號規定辦理。但該有價證券具活絡市場之公開報價或行政院金融監督管理委員會（以下簡稱金管會）另有規定者，不在此限。	本公司取得或處分有價證券，應於事實發生日前取具標的公司最近期經會計師查核簽證或核閱之財務報表作為評估交易價格之參考，另交易金額達公司實收資本額百分之二十或新臺幣三億元以上者，應於事實發生日前洽請會計師就交易價格之合理性表示意見，會計師若需採用專家報告者，應依會計研究發展基金會所發布之審計準則公報第二十號規定辦理。但該有價證券具活絡市場之公開報價或金融監督管理委員會（以下簡稱金管會）另有規定者，不在此限。	1. 配合「公開發行公司取得或處分資產處理準則」第十條修正。 2. 行政院金融監督管理委員會自一百零一年七月一日起改制為金融監督管理委員會，爰修正本條文字。
第 八 條	本公司取得或處分會員證或無形資產交易金額達公司實收資本額百分之二十或新臺幣三億元以上者，應於事實發生日前洽請會計師就交易價格之合理性表示意見，會計師並應依會計研究發展基金會所發布之審計準則公報第二十號規定辦理。	本公司取得或處分會員證或無形資產交易金額達公司實收資本額百分之二十或新臺幣三億元以上者，<u>除與政府機構交易外</u>，應於事實發生日前洽請會計師就交易價格之合理性表示意見，會計師並應依會計研究發展基金會所發布之審計準則公報第二十號規定辦理。	1. 配合「公開發行公司取得或處分資產處理準則」第十條修正。 2. 為衡平考量，爰參照第九條規定，明定與政府機構之無形資產等交

條次	內容		修訂理由
	修訂前	修訂後	
			易，無需委請會計師出具交易價格合理性意見。
第十一條	本公司取得或處分前述之其他固定資產、會員證、無形資產等，其交易條件、授權額度及執行，以本公司之「採購、付款與倉儲管理辦法」、「財產管理辦法」及「職務授權辦法」辦理。	本公司取得或處分前述之設備、會員證、無形資產等，其交易條件、授權額度及執行，以本公司之「採購、付款與倉儲管理辦法」、「財產管理辦法」及「職務授權辦法」辦理。	配合我國採用國際財務報導準則後，固定資產項目改為不動產、廠房及設備；另由於土地使用權應適用國際會計準則第十七號「租賃」之規定，故將其併入不動產予以規範，刪除其他固定資產，改以廠房及設備代替，以資明確。
第十六條之一	(本條新增)	<u>前條有關總資產百分之十之規定，係以證券發行人財務報告編製準則規定之最近期本公司之個體或個別財務報告中之總資產金額計算。</u> <u>本公司之子公司股票無面額或每股面額非屬新臺幣十元者，前條有關實收資本額百分之二十之交易金額規定，以歸屬於本公司業主之權益百分之十計算之。</u>	1. 配合「公開發行公司取得或處分資產處理準則」第三十三條之二增訂之第一項。 2. 因我國採用國際財務報導準則後，財務報告係以合併財務報表作為公告申報主體，惟考量取得或處分資產之風險係由取得或處分公司承擔，關係人交易之重大性金額宜以公司本身之規模評估，爰增訂第十六條之一，明定有關總資產百分之十之規定，係以本公司本身最近期之個體或個

條次	內容		修訂理由
	修訂前	修訂後	
			別財務報告總資產金額計算。
第 十 八 條	本公司向關係人取得或處分不動產，或與關係人爲取得或處分不動產外之其他資產且交易金額達公司實收資本額百分之二十、總資產百分之十或新臺幣三億元以上者，應將下列資料，提交審計委員會及董事會通過後，始得簽訂交易契約及支付款項： 一、取得或處分資產之目的、必要性及預計效益。 二、選定關係人爲交易對象之原因。 三、向關係人取得不動產，依第十九條及第二十條規定評估預定交易條件合理性之相關資料。 四、關係人原取得日期及價格、交易對象及其與公司和關係人之關係等事項。 五、預計訂約月份開始之未來一年各月份現金收支預測表，並評估交易之必要性及資金運用之合理性。 六、依前條規定取得之專業估價者出具之估價報告，或會計師意見。 七、本次交易之限制條件及其他重要約定事項。 前項交易金額之計算，應依「公開發行公司取得或處分資產處理準則」第三十條第二項規定辦理，且所稱一年內係以本次交易事實發生之日爲基準，往前追溯推算一年，已依本準則規定提交董事會通過及審計委員會承認部分免再計入。 本公司設置獨立董事，依前項規定提報董事會討論時，應充分考量各獨立董事之意見，獨立董事如有反對意見或保留意見，應於董事會議事錄載明，並準用本處	本公司向關係人取得或處分不動產，或與關係人爲取得或處分不動產外之其他資產且交易金額達公司實收資本額百分之二十、總資產百分之十或新臺幣三億元以上者，<u>除買賣公債、附買回、賣回條件之債券、申購或贖回國內貨幣市場基金外</u>，應將下列資料，提交審計委員會及董事會通過後，始得簽訂交易契約及支付款項： 一、取得或處分資產之目的、必要性及預計效益。 二、選定關係人爲交易對象之原因。 三、向關係人取得不動產，依第十九條及第二十條規定評估預定交易條件合理性之相關資料。 四、關係人原取得日期及價格、交易對象及其與公司和關係人之關係等事項。 五、預計訂約月份開始之未來一年各月份現金收支預測表，並評估交易之必要性及資金運用之合理性。 六、依前條規定取得之專業估價者出具之估價報告，或會計師意見。 七、本次交易之限制條件及其他重要約定事項。 前項交易金額之計算，應依「公開發行公司取得或處分資產處理準則」第三十條第二項規定辦理，且所稱一年內係以本次交易事實發生之日爲基準，往前追溯推算一年，已依本準則規定提交董事會通過及審計委員會承認部分免再計入。 <u>本公司與母公司或子公司間，取得或處分供營業使用之設備，董事會得依第十一條之「職務授權</u>	1. 配合「公開發行公司取得或處分資產處理準則」第十四條修正。 2. 向關係人買賣公債、附買回、賣回條件之債券、申購、贖回國內貨幣市場基金，因主管機關(金管會)認定風險性偏低，得依處理準則第三章資訊公開第三十條規定免于公告，主管機關爲衡平考量，爰修正第一項序文，規範前開事項得免檢具第一項各款資料提交審計委員會及董事會通過，而依本公司「職務授權辦法」之核決權限辦理。 3. 依處理準則第十四條第三項有關規定，新增本條第三項有關本公司與母公司或子公司間，取得或處分供營業使用之設備，董事會得依本處理序程第十一

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	修訂前	修訂後	
	理程序第二十五之規定辦理公告申報。	<u>辦法</u> 授權董事長在一定額度內先行決行，事後再提報最近期之董事會追認。 本公司已設置獨立董事，依第一項規定提報董事會討論時，應充分考量各獨立董事之意見，獨立董事如有反對意見或保留意見，應於董事會議事錄載明，並準用本處理程序第二十五之規定辦理公告申報。	條提及之「職務授權辦法」，於授權董事長在一定額度內先行決行，事後再提報最近期之董事會追認辦理。 4. 依中央法規標準法第八條用語規定，酌修第四項引用項次寫法。
第十九條	本公司向關係人取得不動產，應按下列方法評估交易成本之合理性： 一、按關係人交易價格加計必要資金利息及買方依法應負擔之成本。所稱必要資金利息成本，以公司購入資產年度所借款項之加權平均利率為準設算之，惟其不得高於財政部公布之非金融業最高借款利率。 二、關係人如曾以該標的物向金融機構設定抵押借款者，金融機構對該標的物之貸放評估總值，惟金融機構對該標的物之實際貸放累計值應達貸放評估總值之七成以上及貸放期間已逾一年以上。但金融機構與交易之一方互為關係人者，不適用之。 合併購買同一標的之土地及房屋者，得就土地及房屋分別按前項所列任一方法評估交易成本。本公司向關係人取得不動產，依第一項及第二項規定評估不動產成本，並應洽請會計師複核及表示具體意見。 本公司向關係人取得不動產，有下列情形之一者，應依第十九條規定辦理，不適用前三項規定：	本公司向關係人取得不動產，應按下列方法評估交易成本之合理性： 一、按關係人交易價格加計必要資金利息及買方依法應負擔之成本。所稱必要資金利息成本，以公司購入資產年度所借款項之加權平均利率為準設算之，惟其不得高於財政部公布之非金融業最高借款利率。 二、關係人如曾以該標的物向金融機構設定抵押借款者，金融機構對該標的物之貸放評估總值，惟金融機構對該標的物之實際貸放累計值應達貸放評估總值之七成以上及貸放期間已逾一年以上。但金融機構與交易之一方互為關係人者，不適用之。 合併購買同一標的之土地及房屋者，得就土地及房屋分別按前項所列任一方法評估交易成本。本公司向關係人取得不動產，依第一項及第二項規定評估不動產成本，並應洽請會計師複核及表示具體意見。 本公司向關係人取得不動產，有下列情形之一者，應依第十八條	1.配合「公開發行公司取得或處分資產處理準則」第十五條修正。 2.主管機關(金管會)考量自地委建或租地委建等委請關係人興建不動產事宜者，性質與合建契約類似，爰修正第四項第三款，明定公司以自有土地或租用素地委請關係人興建廠房建物，而取得不動產者，不適用第十九條至第二十一條有關向關係人取得不動產應評估交易成本合理性之規定，惟仍應依第十七條及第十八條規定辦理。 3.原第四項引用之相關條文規定有誤植，正確應

條次	內容		修訂理由
	修訂前	修訂後	
	一、關係人係因繼承或贈與而取得不動產。 二、關係人訂約取得不動產時間距本交易訂約日已逾五年。 三、與關係人簽訂合建契約而取得不動產	規定辦理，不適用前三項規定： 一、關係人係因繼承或贈與而取得不動產。 二、關係人訂約取得不動產時間距本交易訂約日已逾五年。 三、與關係人簽訂合建契約，或 <u>自地委建、租地委建等委請關係人興建不動產</u> 而取得不動產。	更正為依本處理程序「第十八條」規定辦理。
第二十二條	本公司及子公司個別得購買非供營業使用之不動產或有價證券之總額及得投資個別有價證券之限額如下： 一、得購買非供營業使用之不動產總額為公司實收資本額之百分之五十為限。 二、本公司採權益法之長期股權投資之總額不得超過本公司最近期財務報告股東權益百分之五十。 三、採權益法之長期股權投資之個別有價證券之限額為公司最近期財務報告股東權益百分之十。 除債券型基金及貨幣型基金以外之投資，公司得投資個別有價證券之限額為公司最近期財務報告股東權益百分之二，整體投資限額為公司最近期財務報告股東權益百分之十。	本公司及子公司個別得購買非供營業使用之不動產或有價證券之總額及得投資個別有價證券之限額如下： 一、得購買非供營業使用之不動產總額為公司實收資本額之百分之五十為限。 二、本公司採權益法之長期股權投資之總額不得超過本公司最近期財務報告歸屬於 <u>母公司業主之權益</u> 百分之五十。 三、採權益法之長期股權投資之個別有價證券之限額為公司最近期財務報告歸屬於 <u>母公司業主之權益</u> 百分之十。 除債券型基金及貨幣型基金以外之投資，公司得投資個別有價證券之限額為公司最近期財務報告歸屬於 <u>母公司業主之權益</u> 百分之二，整體投資限額為公司最近期財務報告歸屬於 <u>母公司業主之權益</u> 百分之十。	因採用國際財務報導準則後，係以合併財務報表為主體報表，故述明本處所稱之「權益」係指「歸屬於母公司業主之權益」項目。

旭曜科技股份有限公司

從事衍生性商品交易處理程序修訂前後對照表

條次	內容		修訂理由
	修訂前	修訂後	
第三條 交易原則 與方針	五、績效評估要領 1. 避險性交易 本公司所從事之衍生性商品係配合公司營運而產生之財務避險性交易，惟財務須會同會計定期評估損益及風險，若全部或個別契約損失達契約10%以上時，須呈報董事長決定是否停損。若適用避險會計，於指定避險開始時，負責衍生性商品交易之人員應於「投資分析報告」中依財務會計準則第34號公報有關避險會計之條件進行分析報告。 2. 非避險性交易 本公司不從事非避險性交易。	五、績效評估要領 1. 避險性交易 本公司所從事之衍生性商品係配合公司營運而產生之財務避險性交易，惟財務須會同會計定期評估損益及風險，<u>契約損失上限不得逾契約金額之10%，適用於個別契約與全部契約。若全部或個別契約損失達上限時</u>，須呈報董事長決定是否停損。若適用避險會計，於指定避險開始時，負責衍生性商品交易之人員應於「投資分析報告」中依財務會計準則第34號公報有關避險會計之條件進行分析報告。 2. 非避險性交易 本公司不從事非避險性交易。	1. 本公司業於所訂「從事衍生性商品交易處理程序」第三條交易原則與方針中，業已明文訂定本公司從事衍生性商品交易若全部或個別契約損失達契約10%以上時，須呈報董事長決定是否停損。 2. 唯臺灣證券交易所股份有限公司管區執行不定期審查時，認為本公司所定之全部與個別契約損失上限金額未有明確，於中華民國103年2月25日發函(臺證上一字第1031800885號函)，要求本公司嗣後應確實注意改善，故本公司擬修訂本處理程序所定之全部與個別契約損失上限表達方式，以為因應。
第九條 董事會之 監督管理	從事衍生性商品交易，董事會應依下列原則確實監督管理： 一、指定高階主管人員應隨時注意衍生性商品交易風險	從事衍生性商品交易，董事會應依下列原則確實監督管理： 一、指定高階主管人員應隨時注意衍生性商品交易風險	1. 配合「公開發行公司取得或處分資產處理準則」第二十條修

條次	內容		修訂理由
	修訂前	修訂後	
	之監督與控制。 二、定期評估從事衍生性商品交易之績效是否符合既定之經營策略及承擔之風險是否在公司容許承受之範圍。 董事會授權之高階主管人員應依下列原則管理衍生性商品之交易： 一、定期評估目前使用之風險管理措施是否適當並確實依證期會規定及公司所訂之從事衍生性商品交易處理程序辦理。 二、監督交易及損益情形，發現有異常情事時，應採取必要之因應措施，並立即向董事會報告，已設置獨立董事者，董事會應有獨立董事出席並表示意見。 從事衍生性商品交易，依本程序規定授權相關人員辦理者，事後應提報董事會。 本公司設置獨立董事，依前項規定提報董事會討論時，應充分考量各獨立董事之意見，獨立董事如有反對意見或保留意見，應於董事會議事錄載明，並準用本處理程序第十一條第三項之規定辦理公告申報。	之監督與控制。 二、定期評估從事衍生性商品交易之績效是否符合既定之經營策略及承擔之風險是否在公司容許承受之範圍。 董事會授權之高階主管人員應依下列原則管理衍生性商品之交易： 一、定期評估目前使用之風險管理措施是否適當並確實依證期會規定及公司所訂之從事衍生性商品交易處理程序辦理。 二、監督交易及損益情形，發現有異常情事時，應採取必要之因應措施，並立即向董事會報告，已設置獨立董事者，董事會應有獨立董事出席並表示意見。 從事衍生性商品交易，依本程序規定授權相關人員辦理者，事後應提報<u>最近期</u>董事會。 本公司設置獨立董事，依前項規定提報董事會討論時，應充分考量各獨立董事之意見，獨立董事如有反對意見或保留意見，應於董事會議事錄載明，並準用本處理程序第十一條第三項之規定辦理公告申報。	正。 2.金管會考量現行公開發行公司從事衍生性商品交易，依所定處理程序規定授權相關人員辦理者，僅規範應事後提報董事會，惟未明確訂定事後提報董事會之期間，爰修正第三項，明定事後應提報最近期董事會，俾利遵循。

旭曜科技股份有限公司

解除董事及其所代表法人競業禁止限制彙總表

董事及其所代表法人	兼任公司	兼任職務
黃洲杰 董事長 [凌陽科技(股)公司法人代表人]	傳芯科技(股)公司	董事長 (法人代表人)
	佳能企業(股)公司 【註 3】	董事 (法人代表人)
	遠見科技(股)公司	董事 (法人代表人)
	北京凌陽益輝科技有限公司 【註 1】及【註 2】	董事長兼總經理
凌陽科技(股)公司法人	凌陽創業投資(股)公司	董事長、董事暨監察人
邱琦瑛 董事	錦華資訊科技(股)公司	董事
詹文雄 董事 [凌陽科技(股)公司法人代表人]	佳能企業(股)公司 【註 3】	董事 (法人代表人)
獨立董事 沈顯和	台灣表面黏著科技(股)公司	董事
	志聖工業(股)公司	監察人

【註 1】：事業營業項目：計算機軟件的技術開發、技術服務、技術諮詢；銷售自行研發的軟件產品。

【註 2】：公司地址：中國北京市海淀區上地信息產業基地三街 1 號樓（6 層 A 段）A601。

【註 3】：凌旭投資(股)公司於 102/06/21 改派代表人，由黃洲杰先生擔任其法人董事代表人；後續於 103/03/05 改派詹文雄先生擔任其法人董事代表人。