

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 475 OF 2005

IN THE MATTER OF DRAX GROUP LIMITED

AND IN THE MATTER OF THE COMPANIES LAW (2004 REVISION)

PETITION



TO THE GRAND COURT OF THE CAYMAN ISLANDS

THE HUMBLE PETITION OF DRAX GROUP LIMITED showeth as follows:

1. The object of this Petition is to seek the sanction of the Court for a scheme of arrangement between the above named Drax Group Limited (the "**Company**") and its Members pursuant to section 86 of the Companies Law (2004 Revision) (the "**Drax Group Limited Scheme**"). Save where otherwise defined, capitalised terms in this Petition shall have the meanings attributed to them in the Scheme Document.
2. The Company was incorporated in the Cayman Islands on 29 September 2003 as an exempted company limited by shares under the Companies Law (2003 Revision) (as amended) under company number WK-129356.
3. The registered office of the Company is situated at the offices of Walkers SPV Limited, PO Box 908 GT, Walker House, Mary Street, George Town, Grand Cayman, Cayman Islands. The authorised share capital of the Company is £10,000 divided into 992,217,520 Existing Ordinary Shares and 7,782,480 Non-Voting Shares. The amount of the capital paid up or credited as paid up is £942.54. There are in issue 86,472,000 Existing Ordinary Shares and 7,782,480 Non-Voting Shares.
4. The Existing Ordinary Shares (which are proposed to be transferred to Drax Group plc under the Drax Group Limited Scheme) are linked to the A2 Loans and A3 Loans made to InPower 2 Limited, a company incorporated and registered under the laws of Jersey ("**InPower 2**"). The A2 Loans and the A3 Loans include loans to NoteCo Limited, which has issued notes, the A2 Notes and A3 Notes, on back-to-back terms to the A2

Loans and A3 Loans. This means that the Members are also the A2 Lenders and A3 Lenders or A2 Noteholders and A3 Noteholders. InPower 2 proposes to enter into a parallel scheme of arrangement with certain of its creditors (the “**Scheme Creditors**”) pursuant to article 125 of the Jersey Companies Law and section 425 of the English Companies Act (the “**InPower 2 Scheme**”). The A2 Loans and A3 Loans (including those represented by the A2 Notes and A3 Notes) are proposed to be transferred to Drax Group plc under the InPower 2 Scheme.

5. The Non-Voting Shares are held exclusively by the directors and management of the Company and its subsidiaries pursuant to the terms of the Long Term Incentive Plan (“**LTIP**”), as well as by the LTIP Trustee.
6. The objects for which the Company was incorporated as set out in its memorandum of association are unrestricted, but include, without limitation, the carrying on of business as an investment company together with other objects as set out in its memorandum of association.
7. Following its acquisition by The AES Corporation in November 1999 and the subsequent failure of its principal customer, TXU EET, in late 2002, Drax was involved in the 2003 Restructuring. The 2003 Restructuring was a secured creditor-led restructuring effected by way of parallel schemes of arrangement in England, Jersey and the Cayman Islands. The Company was formed for the purpose of the 2003 Restructuring and is the holding company of the Group.
8. Since the 2003 Restructuring, Drax has established itself as a leading UK standalone power generation business. Drax has developed its trading capabilities with a new customer base and laid the foundations for sustained high levels of operational performance aiming towards world class safety performance targets. Against a background of rising UK wholesale electricity prices and increasing margins, there has been a significant improvement in underlying profitability of the Group. These developments have given rise to the opportunity to restructure Drax’s capital structure.
9. The principal elements of the current capital structure of the Group were put in place as part of the 2003 Restructuring, but retain elements of the financing structure established at the time of the acquisition in 1999 of the Power Station. The circumstances existing at the time of the 2003 Restructuring were materially different to those existing today. At that time, as a result of the termination of certain contractual arrangements with TXU EET, Drax was unable to comply with its obligations to its

senior secured creditors and consequently there was little ability to negotiate more flexible financing arrangements as part of the 2003 Restructuring.

10. In consequence, the existing capital structure of the Group principally focuses on creditor protection. The existing capital structure places significant constraints on the Group because of the requirement for a 100% cash sweep every six months to prepay debt. Until all debt is prepaid, no cash is available to pay distributions. Extensive lender and shareholder consents are required when considering the implementation of a wide range of corporate transactions and other corporate activities, even where these transactions would usually be regarded as being in the normal course of business.
11. Accordingly, as a result of the severe constraints imposed by its existing capital structure and the lead time and expense in complying with its finance and equity documents, the Company has found it difficult to take advantage of current market conditions and to implement its trading strategy.
12. It is now proposed that a further restructuring takes place to remove a number of the constraints inherent in the existing capital structure, reduce financing costs and enable Drax to pursue strategies to maximise shareholder value.
13. There are four main elements to this further restructuring:
  - (i) the Drax Group Limited Scheme to provide for the transfer of all the Existing Ordinary Shares in issue at the record time for the Drax Group Limited Scheme (the “**Scheme Shares**”) to Drax Group plc, in consideration of the issue of shares in Drax Group plc to the registered holders of the Scheme Shares;
  - (ii) the scheme of arrangement to be proposed by InPower 2. Under the InPower 2 Scheme the Scheme Creditors will transfer their A2 Loans and A3 Loans to Drax Group plc in consideration for the allotment, issue or payment, as applicable, of the consideration due under the InPower 2 Scheme to the Scheme Creditors;
  - (iii) pre-payment in full of the A1 Debt and B Debt and effective pre-payment of £112 million of principal of A2 Debt from the New Debt Facilities and existing cash within the Group; and
  - (iv) the admission of the Ordinary Shares in Drax Group plc to (i) the Official List of the United Kingdom Listing Authority and (ii) trading on the London Stock Exchange’s market for listed securities.

14. The Drax Group Limited Scheme (in summary) accordingly provides for:
- (a) the transfer of the Company's issued share capital (excluding the Non-Voting Shares, as these are transferred to Drax Group plc under separate agreements) to Drax Group plc; and
  - (b) the allotment and issue, and transfer, of three new Ordinary Shares in Drax Group plc to the registered holders of the Scheme Shares in exchange for each Scheme Share.
15. Drax Group plc has agreed to the Drax Group Limited Scheme and will give the Court an undertaking to be bound by the Drax Group Limited Scheme.
16. It will be for the benefit of the Company and its Members that the Drax Group Limited Scheme should be sanctioned by this Honourable Court.

YOUR PETITIONER THEREFORE HUMBL Y PRAYS AS FOLLOWS:

- (1) that the Drax Group Limited Scheme may be sanctioned by the Court so as to be binding on the Company and its Members; and/or
- (2) that such other orders may be made in the premises as this Honourable Court shall deem fit.

DATED this 20<sup>th</sup> day of October 2005.



WALKERS

Attorneys-at-Law for the Petitioner

NOTE: It is intended to serve this Petition on the Registrar of Companies

ENDORSEMENT

This Petition, having been presented to the Grand Court of the Cayman Islands on the 20<sup>th</sup> day of October 2005 will be heard at the Grand Court of the Cayman Islands on:

DATE: December 2005

TIME:

(or as soon thereafter as the Petition can be heard).

THIS PETITION was filed by Walkers, Attorneys-At-Law for the Company, whose address for service is that of its said Attorneys-At-Law, PO Box 265GT, Walker House, Mary Street, George Town, Grand Cayman, Cayman Islands