As filed with the Securities and Exchange Commission on March 19, 2007

Registration No. 333-138595

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

AMENDMENT NO. 2
TO
Form S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

OCEAN POWER TECHNOLOGIES, INC.

(Exact Name of Registrant as Specified in Its Charter)

New Jersey	3629	22-2535818
(State or Other Jurisdiction of Incorporation or Organization)	*(Primary Standard Industrial Classification Code No.)*	*(I.R.S. Employer Identification No.)*

1590 Reed Road
Pennington, NJ 08534
(609) 730-0400
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Dr. George W. Taylor
Chief Executive Officer
Ocean Power Technologies, Inc.
1590 Reed Road
Pennington, NJ 08534
(609) 730-0400
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

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Approximate date of commencement of proposed sale to the public: As soon as practicable after this Registration Statement is declared effective.

If any of the securities being registered on this form are offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, as amended (the "Securities Act") please check the following box. o

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to Section 8(a), may determine.

SUBJECT TO COMPLETION March 16, 2007

PRELIMINARY PROSPECTUS

Shares

Common Stock

This is the initial public offering of our common stock in the United States. We are offering shares of common stock offered by this prospectus. We expect the public offering price to be between $ and $ per share.

We will apply to have our common stock approved for listing on The Nasdaq Global Market under the symbol "OPTT."

Our common stock is listed on the AIM market of the London Stock Exchange plc under the symbol "OPT." We will apply to list the shares of common stock being offered by this prospectus on the AIM market. The last reported sale price of our common stock on the AIM market on , 2007 was £ per share (as adjusted to give effect to a one-for-ten reverse stock split to be effected as of , 2007), or approximately $ per share based on the noon buying rate for sterling of £1.00 = $ on , 2007.

Investing in our common stock involves a high degree of risk. Before buying any shares, you should read the discussion of material risks of investing in our common stock in "Risk Factors" beginning on page 7 of this prospectus.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

	Per Share	Total
Public offering price	$	$
Underwriting discounts and commissions	$	$
Proceeds, before expenses, to us	$	$

The underwriters may also purchase up to an additional shares of our common stock from the selling stockholders identified in this prospectus and up to additional shares of common stock from us at the public offering price, less the underwriting discounts and commissions, to cover over-allotments, if any, within 30 days from the date of this prospectus. If the underwriters exercise this option in full, the total underwriting discounts and commissions will be $, and our total proceeds, before expenses, will be $. We will not receive any proceeds from the sale of shares by the selling stockholders.

The underwriters are offering the common stock as set forth under "Underwriting." Delivery of the shares will be made on or about , 2007.

UBS Investment Bank

Banc of America Securities LLC

Bear, Stearns & Co. Inc.

First Albany Capital

, 2007

You should rely only on the information contained in this prospectus. We have not, the selling stockholders have not and the underwriters have not, authorized anyone to provide you with additional information or information different from that contained in this prospectus. We and the selling stockholders are offering to sell, and seeking offers to buy, shares of our common stock only in jurisdictions where offers and sales are permitted. The information contained in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or of any sale of shares of our common stock.

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PROSPECTUS SUMMARY

This summary highlights selected information appearing elsewhere in this prospectus. While this summary highlights what we consider to be the most important information about us, you should carefully read this prospectus and the registration statement of which this prospectus is a part in their entirety before investing in our common stock, especially the risks of investing in our common stock, which we discuss under "Risk Factors," and our consolidated financial statements and related notes beginning on page F-1.

Our Company

We develop and are commercializing proprietary systems that generate electricity by harnessing the renewable energy of ocean waves. The energy in ocean waves is predictable, and electricity from wave energy can be produced on a consistent basis at numerous sites located near major population centers worldwide. Wave energy is an emerging segment of the renewable energy market. Based on our proprietary technology, considerable ocean experience, existing products and expanding commercial relationships, we believe we are the leading wave energy company.

We currently offer two products as part of our line of PowerBuoy® systems: a utility PowerBuoy system and an autonomous PowerBuoy system. Our PowerBuoy system is based on modular, ocean-going buoys, which we have been ocean testing for nearly a decade. The rising and falling of the waves moves the buoy-like structure creating mechanical energy that our proprietary technologies convert into electricity. We have tested and developed wave power generation and control technology using proven equipment and processes in novel applications. Our two products are designed for the following applications:

- Our utility PowerBuoy system is capable of supplying electricity to a local or regional electric power grid. Our wave power stations will be comprised of a single PowerBuoy system or an integrated array of PowerBuoy systems, plus the remaining components required to deliver electricity to a power grid. We intend to sell our utility PowerBuoy system to utilities and other electrical power producers seeking to add electricity generated by wave energy to their existing electricity supply.
- Our autonomous PowerBuoy system is designed to generate power for use independently of the power grid in remote locations. There are a variety of potential applications for this system, including sonar and radar surveillance, offshore cellular phone service, tsunami warning, oceanographic data collection, offshore platforms and offshore aquaculture.

From October 2005 to October 2006, we operated a demonstration PowerBuoy system with a maximum peak, or rated, output of 40 kilowatts, or kW, off the coast of New Jersey under a contract with the New Jersey Board of Public Utilities. This PowerBuoy system has been removed from the ocean and is currently undergoing planned maintenance prior to re-deployment. No other PowerBuoy systems are currently deployed.

Our current efforts are focused on our goal of increasing the maximum rated output of our utility PowerBuoy system from the current 40kW to 150kW in 2007, then to 250kW in 2008 and ultimately to 500kW in 2010, as well as expanding our key commercial opportunities for both the utility and the autonomous PowerBuoy systems. We currently have commercial relationships with the following:

- Iberdrola S.A., or Iberdrola, which is a large electric utility company located in Spain and one of the largest renewable energy producers in the world, Total S.A., or Total, which is one of the world's largest oil and gas companies, and two Spanish governmental agencies for the first phase of the construction of a 1.39 megawatt, or MW, wave power station off the coast of Santoña, Spain. We currently plan to deploy an initial 40kW PowerBuoy system for this project by October 2007.
- Iberdrola and Total to evaluate the development of a wave power station off the coast of France.
- The United States Navy to develop and build a wave power station at the US Marine Corps Base in Oahu, Hawaii that we believe will serve as a prototype wave power station for the installation of wave power stations at other US Navy bases. One PowerBuoy system was installed in connection with this

project for a total of eight months over a two-year period. We plan to deploy an improved system by April 2007.

- Lockheed Martin Corporation to market cooperatively with us our autonomous PowerBuoy system for use with Lockheed Martin equipment. Lockheed Martin successfully completed an ocean test of an autonomous PowerBuoy system in September 2004.

As part of our marketing efforts, we use demonstration wave power stations to establish the feasibility of wave power generation. In addition to the demonstration PowerBuoy system operated off the coast of New Jersey, we plan to develop and operate two additional demonstration wave power stations. Unlike the New Jersey power system, these demonstration wave power stations will, if approved and constructed as planned, be connected to the local power grids. In February 2006, we received approval from the South West of England Regional Development Agency to install a 5MW demonstration wave power station off the coast of Cornwall, England. In February 2007, the US Federal Energy Regulatory Commission granted us a preliminary permit to evaluate the feasibility of a location off the coast of Reedsport, Oregon for the proposed construction and operation of a wave power station with a maximum rated output of 50MW, of which up to the first 5MW will be a demonstration wave power station. We plan to generate incremental revenue from the demonstration wave power stations by selling electricity to utilities.

We had revenues of $1.7 million in fiscal 2006 and recorded a net loss of $7.1 million, compared to revenues of $5.4 million and a net loss of $0.4 million in fiscal 2005. For the nine months ended January 31, 2007, we had revenues of $1.5 million and a net loss of $5.5 million. As of January 31, 2007, our accumulated deficit was $34.1 million.

Our Market

Global demand for electric power is expected to increase from 14.8 trillion kilowatt hours in 2003 to 30.1 trillion kilowatt hours by 2030, according to the Energy Information Administration, or the EIA. To meet this demand, the International Energy Agency, or the IEA, estimates that investments in new generating capacity will exceed $4 trillion in the period from 2003 to 2030, of which $1.6 trillion will be for new renewable energy generation equipment.

A variety of factors are contributing to the development of renewable energy systems that capture energy from replenishable natural resources, including ocean waves, flowing water, wind and sunlight, and convert it into electricity. These factors include the rising cost of fossil fuels, dependence on energy from foreign sources, environmental concerns, government incentives and infrastructure constraints.

Wave energy systems such as ours compare favorably with many other renewable energy technologies. Due to the tremendous energy in ocean waves, wave power stations with high capacity — 50MW and above — can be installed in a relatively small area. In addition, the supply of electricity from wave energy can be forecasted days in advance and the annual flow of waves at specific sites can be relatively constant.

Our Competitive Advantages

We believe that our technology for generating electricity from wave energy and our commercial relationships give us several potential competitive advantages in the renewable energy market, including the following:

- our PowerBuoy system uses an ocean-tested technology to generate electricity;
- our PowerBuoy system is efficient in harnessing wave energy;
- our PowerBuoy system takes advantage of time-tested and well-known technology;
- numerous potential sites for our wave power stations are located near major population centers worldwide;
- we have significant commercial relationships with governmental and commercial entities active in the development of renewable energy;

- our PowerBuoy system has the potential to offer cost competitive renewable energy power generation solutions; and
- our PowerBuoy system is environmentally benign and aesthetically non-intrusive.

Our Business Strategy

Our goal is to strengthen our leadership in developing wave energy technologies and commercializing wave power stations and related services. In order to achieve this goal, we are pursuing the following business strategies:

- concentrate sales and marketing efforts on four geographic markets: coastal North America, the west coast of Europe, the coasts of Australia and the east coast of Japan;
- continue to increase PowerBuoy system output;
- construct demonstration wave power stations to encourage market adoption of our wave power stations;
- leverage customer relationships to enhance the commercial acceptance of our utility PowerBuoy system;
- expand revenue streams from our autonomous PowerBuoy system; and
- maximize revenue opportunities with existing customers.

Risks Associated with Our Business

Our business is subject to numerous risks, as more fully described in the section entitled “Risk Factors” immediately following this prospectus summary. We have a history of operating losses, and we may never achieve or maintain profitability. Wave energy technology may not gain broad commercial acceptance, and demand for our PowerBuoy systems may not develop. The reduction or elimination of subsidies and incentives for renewable energy sources could prevent demand for our PowerBuoy systems from developing. Our product development costs have been increasing and are likely to increase significantly over the next several years. We have invested, and will continue to invest, funds in demonstration wave power stations that generate little or no direct revenue. Our PowerBuoy systems do not have a long operating history and may develop performance problems. We may be unable to increase the power output of our utility PowerBuoy system, and we may not be able to deploy multiple systems in a large-scale wave power station or to deploy larger PowerBuoy systems cost effectively and without damage to the systems. We depend on a small number of customers for substantially all of our revenues, and the US Navy currently accounts for a majority of our revenues. Our relationships with alliance partners may not be successful. We compete with other renewable energy companies. We are also subject to risks associated with international operations.

Our Corporate Information

We were incorporated under the laws of the State of New Jersey in April 1984 and began commercial operations in 1994. We plan to reincorporate in Delaware prior to this offering. Our principal executive offices are located at 1590 Reed Road, Pennington, New Jersey 08534, and our telephone number is (609) 730-0400. Our website address is *www.oceanpowertechnologies.com.* The information on our website is not a part of this prospectus.

THE OFFERING

Common stock we are offering	shares
Over-allotment option	shares
	The underwriters have an option for a period of up to 30 days to purchase up to additional shares of common stock from the selling stockholders and up to additional shares of common stock from us to cover over-allotments.
Common stock to be outstanding after this offering	shares (shares if the over-allotment option is exercised in full)
Use of proceeds after expenses	We estimate that the net proceeds from this offering after expenses will be approximately , assuming an initial public offering price of $ per share.
	We intend to use the net proceeds from this offering to construct demonstration wave power stations and to fund minority investments in wave station projects to encourage market adoption of our wave power stations; to fund the continued development of our PowerBuoy system, including increases in system output; to expand our international sales and marketing capabilities; and for working capital and general corporate purposes, including potential acquisitions of complementary businesses, products or technologies. See "Use of Proceeds."
	For a sensitivity analysis of the effect of changes in the public offering price on our net proceeds, see "Use of Proceeds."
	We will not receive any proceeds from the sale of shares of common stock by the selling stockholders as a result of the exercise by the underwriters of their over-allotment option.
Risk Factors	Investing in our common stock involves a high degree of risk. Before buying any shares, you should read the discussion of material risks of investing in our common stock in "Risk Factors" beginning on page 7 of this prospectus.
Proposed Nasdaq Global Market symbol	OPTT
Listing on AIM market	Our common stock is listed on the AIM market of the London Stock Exchange under the symbol "OPT." We will apply to list the shares of common stock being offered by this prospectus on the AIM market.

The number of shares of our common stock outstanding immediately after this offering is based on 5,177,219 shares of common stock outstanding as of January 31, 2007.

The number of shares of our common stock outstanding immediately after this offering excludes:

- 1,366,574 shares of our common stock issuable upon the exercise of stock options outstanding as of January 31, 2007 at a weighted average exercise price of $14.25 per share; and

- 803,215 shares of our common stock available for future grant under our equity compensation plans, including our new 2006 stock incentive plan, as of January 31, 2007.

Unless otherwise indicated, all information in this prospectus:

- assumes that the underwriters do not exercise their option to purchase up to additional shares of our common stock to cover over-allotments, if any;
- gives effect to the one-for-ten reverse stock split of our common stock to be completed prior to this offering;
- gives effect to our reincorporation in Delaware and the adoption of a new certificate of incorporation and bylaws, which will become effective prior to this offering; and
- gives effect to the establishment of our 2006 stock incentive plan, which will become effective upon the effectiveness of the registration statement for this offering.

SUMMARY CONSOLIDATED FINANCIAL DATA

The following summary consolidated financial data as of and for the fiscal years ended April 30, 2004, 2005 and 2006 have been derived from our audited consolidated financial statements. We refer to the fiscal year ended April 30, 2004 as fiscal 2004, the fiscal year ended April 30, 2005 as fiscal 2005 and the fiscal year ended April 30, 2006 as fiscal 2006. The summary consolidated financial data as of January 31, 2007 and for the nine month periods ended January 31, 2006 and 2007 have been derived from our unaudited consolidated financial statements. The unaudited summary consolidated financial statement data includes, in our opinion, all adjustments, consisting only of normal recurring adjustments, that are necessary for a fair presentation of our financial position and results of operations for these periods. Operating results for the nine months ended January 31, 2007 are not necessarily indicative of the results that may be expected for the fiscal year ending April 30, 2007. You should read this information together with our consolidated financial statements and the related notes appearing at the end of this prospectus and the "Management's Discussion and Analysis of Financial Condition and Results of Operations" section of this prospectus.

The as adjusted balance sheet information gives effect to the sale by us of shares of common stock in this offering at an assumed initial public offering price of $ per share, after deducting underwriting discounts and commissions and estimated offering expenses payable by us. For a sensitivity analysis of the effect of changes in the public offering price on our capitalization, see "Capitalization."

	Fiscal Year Ended April 30,			Nine Months Ended January 31,	
	2004	2005	2006	2006	2007
				(Unaudited)	
Consolidated Statement of Operations Data:					
Revenues	$ 4,713,202	$ 5,365,235	$ 1,747,715	$ 1,467,283	$ 1,513,631
Cost of revenues	4,319,850	5,170,521	2,059,318	1,920,980	2,103,108
Gross profit (loss)	393,352	194,714	(311,603)	(453,697)	(589,477)
Operating expenses:					
Product development costs	255,958	904,618	4,224,997	2,630,663	4,100,418
Selling, general and administrative costs	1,745,955	2,553,911	3,190,687	2,168,345	3,083,621
Total operating expenses	2,001,913	3,458,529	7,415,684	4,799,008	7,184,039
Operating loss	(1,608,561)	(3,263,815)	(7,727,287)	(5,252,705)	(7,773,516)
Interest income, net	555,717	1,297,156	1,408,361	1,062,095	1,066,823
Other income (expense)(1)	(3,500,096)	1,545	74,294	75,000	13,744
Foreign exchange gain (loss)	1,585,345	1,507,145	(978,242)	(1,514,630)	1,184,499
Loss before income taxes	(2,967,595)	(457,969)	(7,222,874)	(5,630,240)	(5,508,450)
Income tax benefit	118,119	29,335	143,963	143,963	—
Net loss	$ (2,849,476)	$ (428,634)	$ (7,078,911)	$ (5,486,277)	$ (5,508,450)
Basic and diluted loss per share	$ (0.71)	$ (0.08)	$ (1.37)	$ (1.06)	$ (1.06)
Basic and diluted weighted average common shares outstanding	4,037,501	5,135,550	5,162,340	5,158,982	5,174,539

(1) The $3.5 million expense in fiscal 2004 resulted from a one time charge incurred at the time of our stock offering on the AIM market in October 2003 relating to a 1999 agreement between us and Tyco Electronics Corp.

	As of January 31, 2007	
	Actual	As Adjusted
	(Unaudited)	
Consolidated Balance Sheet Data:		
Cash, cash equivalents and certificates of deposit	$ 26,657,152	$
Working capital	26,224,722	
Total assets	30,925,630	
Long-term debt, net of current portion	233,959	
Deferred credits	600,000	
Accumulated deficit	(34,140,603)	
Total stockholders' equity	26,577,235	

RISK FACTORS

Investing in our common stock involves a high degree of risk. You should carefully consider the risks described below with all of the other information included in this prospectus before deciding to invest in our common stock. If any of the following risks actually occur, they may materially harm our business and our financial condition and results of operations. In this event, the market price of our common stock could decline and you could lose part or all of your investment.

Risks Relating to Our Business

We have a history of operating losses and may never achieve or maintain profitability.

We have incurred net losses since we began operations in 1994, including net losses of $2.8 million in fiscal 2004, $0.4 million in fiscal 2005 and $7.1 million in fiscal 2006. As of January 31, 2007, we had an accumulated deficit of approximately $34.1 million. These losses have resulted primarily from costs incurred in our research and development programs and from our selling, general and administrative costs. We expect to increase our operating expenses significantly as we continue to expand our infrastructure, research and development programs and commercialization activities. As a result, we will need to generate significant revenues to cover these costs and achieve profitability.

We have entered into an agreement for the first phase of construction of a wave power station off the coast of Santoña, Spain, as well as an operations and maintenance contract for the equipment to be installed in this first phase. Under both contracts our potential profitability is limited. Under the construction contract, our revenues are limited to reimbursement for our construction costs without any mark-up and we are required to bear the first €0.5 million of any cost overruns. Under the operations and maintenance contract, we are paid a fixed fee for scheduled maintenance, the profits on which are required to be refunded to cover any unscheduled maintenance fees we receive during the term of the agreement.

We do not know whether or when we will become profitable because of the significant uncertainties with respect to our ability to successfully commercialize our PowerBuoy® systems in the emerging renewable energy market. Even if we do achieve profitability, we may not be able to sustain or increase profitability on a quarterly or annual basis. If we are unable to achieve and then maintain profitability, the market value of our common stock may decline.

Wave energy technology may not gain broad commercial acceptance, and therefore our revenues may not increase, and we may be unable to achieve and then sustain profitability.

Wave energy technology is at an early stage of development, and the extent to which wave energy power generation will be commercially viable is uncertain. Many factors may affect the commercial acceptance of wave energy technology, including the following:

- performance, reliability and cost-effectiveness of wave energy technology compared to conventional and other renewable energy sources and products;
- developments relating to other renewable energy generation technologies;
- fluctuations in economic and market conditions that affect the cost or viability of conventional and renewable energy sources, such as increases or decreases in the prices of oil and other fossil fuels;
- overall growth in the renewable energy equipment market;
- availability and terms of government subsidies and incentives to support the development of renewable energy sources, including wave energy;
- fluctuations in capital expenditures by utilities and independent power producers, which tend to decrease when the economy slows and interest rates increase; and
- the development of new and profitable applications requiring the type of remote electric power provided by our autonomous wave energy systems.

If wave energy technology does not gain broad commercial acceptance, our business will be materially harmed and we may need to curtail or cease operations.

If sufficient demand for our PowerBuoy systems does not develop or takes longer to develop than we anticipate, our revenues may decline, and we may be unable to achieve and then sustain profitability.

Even if wave energy technology achieves broad commercial acceptance, our PowerBuoy systems may not prove to be a commercially viable technology for generating electricity from ocean waves. We have invested a significant portion of our time and financial resources since our inception in the development of our PowerBuoy systems. To date, we have not yet manufactured and deployed any PowerBuoy systems for commercial use. As we begin to manufacture, market, sell and deploy our PowerBuoy systems in greater quantities, unforeseen hurdles may be encountered that would limit the commercial viability of our PowerBuoy systems, including unanticipated manufacturing, deployment, operating, maintenance and other costs. Our target customers and we may also encounter technical obstacles to deploying, operating and maintaining PowerBuoy systems in quantities necessary to generate competitively-priced electricity.

If demand for our PowerBuoy systems fails to develop sufficiently, we may be unable to grow our business or generate sufficient revenues to achieve and then sustain profitability. In addition, demand for PowerBuoy systems in our presently targeted markets, including coastal North America, the west coast of Europe, the coasts of Australia and the east coast of Japan, may not develop or may develop to a lesser extent than we anticipate.

If we are not successful in commercializing our PowerBuoy system, or are significantly delayed in doing so, our business, financial condition and results of operations could be adversely affected.

The reduction or elimination of government subsidies and economic incentives for renewable energy sources could prevent demand for our PowerBuoy systems from developing, which in turn would adversely affect our business, financial condition and results of operations.

Federal, state and local governmental bodies in many countries, most notably France, Spain, the United Kingdom, Australia, Japan and the United States, have provided subsidies in the form of tariff subsidies, rebates, tax credits and other incentives to utilities, power generators and distributors using renewable energy. However, these incentives and subsidies generally decline over time, and many incentive and subsidy programs have specific expiration dates. Moreover, because the market for electricity generated from wave energy is at an early stage of development, some of the programs may not include wave energy as a renewable energy source eligible for the incentives and subsidies.

Currently, the cost of electricity generated from wave energy, without the benefit of subsidies or other economic incentives, substantially exceeds the price of electricity in most significant markets in the world. As a result, the near-term growth of the market for our utility PowerBuoy systems, which are designed to feed electricity into a local or regional power grid, depends significantly on the availability and size of government incentives and subsidies for wave energy. As renewable energy becomes more of a competitive threat to conventional energy providers, companies active in the conventional energy business may increase their lobbying efforts in order to encourage governments to stop providing subsidies for renewable energy, including wave energy. We cannot predict the level of any such efforts, or how governments may react to such efforts. The reduction, elimination or expiration of government incentives and subsidies, or the exclusion of wave energy technology from those incentives and subsidies, may result in the diminished competitiveness of wave energy relative to conventional and non-wave energy renewable sources of energy. Such diminished competitiveness could materially and adversely affect the growth of the wave energy industry, which could in turn adversely affect our business, financial condition and results of operations.

In 2000, we entered into an agreement with Woodside Sustainable Energy Solutions Pty. Ltd., or Woodside, under which we received $0.6 million in exchange for granting Woodside an option to purchase, at a 30% discount from the then-prevailing market rate, up to 500,000 metric tons of carbon emission credits we generate during the years 2008 through 2012. However, if by December 31, 2012 we do not become entitled under applicable laws to the full amount of emission credits covered by the option, we are obligated to return the option fee of $0.6 million, less the aggregate discount on any emission credits sold to Woodside prior to such date. If we receive emission credits under applicable laws and fail to sell to Woodside the credits up to the full amount of emission credits covered by the option, Woodside is entitled to liquidated damages equal to

30% of the aggregate market value of the shortfall in emission credits (subject to a limit on the market price of emission credits).

Our product development costs have been steadily increasing and are likely to increase significantly over the next several years.

Our product development costs primarily relate to our efforts to increase the maximum rated output of our current 40kW utility PowerBuoy system in successive stages to 500kW in 2010. Our product development costs were $4.1 million in the nine months ended January 31, 2007 as compared to $2.6 million in the same period in 2006, and were $4.2 million in fiscal 2006 as compared to $0.9 million in fiscal 2005 and $0.3 million in fiscal 2004. We anticipate that our product development costs related to the planned increase in the output of our utility PowerBuoy system will increase significantly over the next several years.

We have invested, and will continue to invest, funds to construct demonstration wave power stations that may generate little or no direct revenue.

We have constructed and plan to construct in the future demonstration wave power stations to establish the feasibility of wave energy technology and to encourage the market adoption of our wave power stations. Demonstration wave power stations allow potential customers to see first-hand the viability of wave energy technology as a source of electricity. We incur significant costs in constructing and maintaining these demonstration wave power stations, and we may generate little or no direct revenue from them.

Our PowerBuoy systems do not have a sufficient operating history to confirm how they will perform over their estimated 30-year useful life.

We began developing and testing wave energy technology nearly 10 years ago. However, to date we have only manufactured eight PowerBuoy systems for use in testing and development. The longest continuous in-ocean deployment of our PowerBuoy system has been for 12 months. As a result, our PowerBuoy systems do not have a sufficient operating history to confirm how they will perform over their estimated 30-year useful life. Our technology has not been deployed commercially and we have not yet demonstrated that our engineering and test results can be duplicated in commercial production. We have conducted and plan to continue to conduct practical testing of our PowerBuoy system. If our PowerBuoy system ultimately proves ineffective or unfeasible, we may not be able to engage in commercial production of our products or we may become liable to our customers for quantities we are obligated but are unable to produce. If our PowerBuoy systems perform below expectations, we could lose customers and face substantial repair and replacement expense which could in turn adversely affect our business, financial condition and results of operations.

Our future success depends on our ability to increase the maximum rated power output of our utility PowerBuoy system. If we are unable to increase the maximum rated output of our utility PowerBuoy system, the commercial prospects for our utility PowerBuoy system would be adversely affected.

One of our goals is to increase the maximum rated output of our utility PowerBuoy system, which is currently 40kW, to 150kW in 2007, then to 250kW in 2008 and ultimately to 500kW in 2010. Our success in meeting this objective depends on our ability to significantly increase the power output of our PowerBuoy system in a cost-effective and timely manner and our ability to overcome the engineering and deployment hurdles that we face, including developing design and construction techniques that will enable the larger PowerBuoy systems to be deployed cost effectively and without damage, and developing adjustments to the mooring system to account for the larger sized PowerBuoy systems. We have experienced delays in the development and deployment of our PowerBuoy system in the past, and could experience similar delays or other difficulties in the future. If we cannot increase the power output of the PowerBuoy system, or if it takes us longer to do so than we anticipate, we may be unable to expand our business, maintain our competitive position, satisfy our contractual obligations or become profitable. In addition, if the cost associated with these development efforts exceeds our projections, our results of operations will be adversely affected.

If we do not reach full commercial scale, we may not be able to offer a cost competitive power station and the commercial prospects of our utility PowerBuoy system would be adversely affected.

Unless we reach full commercial scale, which we estimate to be manufacturing levels of at least 300 units of 500kW PowerBuoy systems per year, we may not be able to offer an electricity solution that competes on a

non-subsidized basis with today's price of wholesale electricity in key markets in the United States, Europe, Japan and Australia. If we do not reach full commercial scale, the commercial prospects for our utility PowerBuoy system would be adversely affected.

We have not yet deployed a wave power station consisting of an array of two or more PowerBuoy systems. If we are unable to deploy a multiple-system wave power station, our revenues may not increase, and we may be unable to achieve and then maintain profitability.

We have not yet deployed a wave power station consisting of an array of two or more PowerBuoy systems. Our success in developing and deploying a wave power station consisting of an array of two or more PowerBuoy systems is contingent upon, among other things, receipt of required governmental permits, obtaining adequate financing, successful array design implementation and finally, successful deployment and connection of the PowerBuoy systems.

We have not conducted ocean testing or otherwise installed in the ocean a multiple-system wave power station. In particular, unlike single-system wave power stations, multiple-system wave power stations require use of an underwater substation to connect the cables from, and collect the electricity generated by, each PowerBuoy system in the array. If our underwater substation does not work as we anticipate, we will need to design an alternative system, which could delay our business plans. In addition, unanticipated issues may arise with the logistics and mechanics of deploying and maintaining multiple PowerBuoy systems at a single site and the additional equipment associated with these multiple-system wave power stations.

We may be unsuccessful in accomplishing any of these tasks or doing so on a timely basis. The development and deployment of an array of PowerBuoy systems may require us to incur significant expenses for preliminary engineering, permitting and legal and other expenses before we can determine whether a project is feasible, economically attractive or capable of being financed.

If we are unable to deploy larger PowerBuoy systems cost effectively and without damage to the systems, we may be unable to compete effectively.

We will need to build larger buoys in order to increase the output of our current PowerBuoy systems. The larger buoys will be more difficult than our current buoys to deploy cost effectively and without damage. Our current deployment methodologies, including transportation to the installation site and the mooring of the PowerBuoy systems, will need to be revised for PowerBuoy systems with greater output. If we cannot develop cost effective methodologies for deployment of the larger PowerBuoy systems, or if it takes us longer to do so than we anticipate, we may not be able to deploy such systems in the time we anticipate or at all. Therefore, even if we succeed in increasing the output of our PowerBuoy systems above 40kW, if we are unable to deploy these larger PowerBuoy systems or encounter problems in doing so, we may be unable to expand our business, maintain our competitive position, satisfy our contractual obligations or become profitable.

If we are not successful in completing the development of wave power stations in Spain or France, it would materially harm our business, financial condition and results of operations.

In July 2006, we entered into an agreement for the first phase of the construction of a wave power station off the coast of Santoña, Spain, with our customer, Iberdrola Energias Marinas de Cantabria, S.A., or Iberdrola Cantabria. We refer to this agreement as the Spain construction agreement. Iberdrola Cantabria was formed by affiliates of Iberdrola and Total, two Spanish governmental agencies and us for the purpose of constructing and operating a wave power station off the coast of Spain. Under the Spain construction agreement, we have agreed to manufacture and deploy no later than December 31, 2009 one 40kW PowerBuoy system and the ocean-based substation and infrastructure required to connect nine additional 150kW PowerBuoy systems that together are contemplated to constitute a 1.39MW wave power station. Under the terms of the agreement, our revenues are limited to reimbursement for our construction costs without any mark-up. In addition, we are required to bear the first €0.5 million of any cost overruns. As of January 31, 2007, we had recognized an anticipated loss of $0.5 million under the Spain construction agreement.

In addition, because the Spain construction agreement does not cover the terms for deployment of all ten PowerBuoy units, we will need to enter into a subsequent contract with Iberdrola Cantabria before we complete construction of the full wave power station. If we are unable to successfully manufacture all ten PowerBuoy units or meet the terms of the Spain construction agreement, or if we are not able to successfully

negotiate a subsequent contract with Iberdrola Cantabria for the deployment of the nine additional PowerBuoy units, we may lose a material component of our current and anticipated revenue stream. Iberdrola Cantabria has the right to terminate the agreement if we interrupt our services for more than 180 days and do not resume within a 30-day period or if the first phase of construction is not complete by December 31, 2009 for reasons attributable to us, or for a serious and repeated breach of a major obligation that is not cured within a 30-day period after we receive notice of the breach. If Iberdrola Cantabria were to terminate the Spain construction agreement for any of these reasons, we may not be able to find another company to fund development of the wave power station.

Under our agreement with affiliates of Iberdrola and Total to study and assess the feasibility of a wave power station off the coast of France, either of Iberdrola or Total may withdraw. In addition, in order to proceed with development of the France wave power station, all three parties must conclude that development is feasible. If we proceed, Iberdrola, Total and we will form a new company for the purpose of constructing and operating the wave power station. If either Iberdrola or Total withdraws or does not agree that development of the wave power station is feasible, we may not be able to proceed with development of the wave power station. In addition, if we withdraw from the France project, we will remain obligated to supply and install equipment and provide the new company with assistance and information so that a new company can operate the wave power station.

If either of the Spain or France projects were cancelled or otherwise interrupted, it would adversely affect our business, financial condition and results of operations.

If we are unable to successfully negotiate and enter into operations and maintenance contracts with our customers on terms that are acceptable to us, our ability to diversify our revenue stream will be impaired.

An important element of our business strategy is to maximize our revenue opportunities with our existing and future customers by seeking to enter into operations and maintenance contracts with them under which we would be paid fees for operating and maintaining wave power stations that they have purchased from us. Even if customers purchase our PowerBuoy systems, they may not enter into operations and maintenance contracts with us. We may not be able to negotiate operations and maintenance contracts that provide us with any profit opportunities. Even if we successfully negotiate and enter into such operations and maintenance contracts, our customers may terminate them prematurely or they may not be profitable for a variety of reasons, including the presence of unforeseen hurdles or costs. In addition, our inability to perform adequately under such operations and maintenance contracts could impair our efforts to successfully market the PowerBuoy systems. Any one of these outcomes could have a material adverse effect on our business, financial condition and results of operations.

If we are unable to fulfill our obligations under our current operations and maintenance contract in a cost effective manner, our financial condition and results of operations could be adversely affected.

In January 2007, we entered into an agreement with Iberdrola Cantabria for the monitoring, operation and maintenance of the 40kW PowerBuoy system and the ocean-based substation and infrastructure to be manufactured and deployed under the Spain construction agreement. Under this operations and maintenance agreement, we are required to provide services for two years following provisional acceptance of the PowerBuoy system and substation and infrastructure. We are to be paid a fixed fee for scheduled maintenance, ongoing operations and other routine services. In connection with any unscheduled repairs we perform under the operations and maintenance agreement, Iberdrola Cantabria and we will agree on the fees, if any, and timing, for those services. To the extent we would otherwise have profits from the fixed fee at the end of the two-year initial term of the agreement, we are obligated to reimburse Iberdrola Cantabria for any fees paid to us for unscheduled repairs. If the costs we actually incur in connection with providing services under the operations and maintenance agreement exceed the fees we receive, we will incur a loss in connection with these services, which could adversely affect our financial condition and results of operations.

Our inability to effectively manage our growth could adversely affect our business and operations.

The scope of our operations to date has been limited, and we do not have experience operating on the scale that we believe will be necessary to achieve profitable operations. Our current personnel, facilities, systems and internal procedures and controls are not adequate to support our future growth. We plan to add sales, marketing and engineering offices in additional locations, including Australia, Japan, continental Europe

and the west coast of the United States. By the end of fiscal 2010, we currently estimate that we will need to add approximately 90,000 square feet of leased space for sales, marketing, engineering, assembly and testing in order to meet our current manufacturing targets.

To manage the expansion of our operations, we will be required to improve our operational and financial systems, procedures and controls, increase our manufacturing capacity and throughput and expand, train and manage our employee base, which must increase significantly if we are to be able to fulfill our current manufacturing and growth plans. Our management will also be required to maintain and expand our relationships with customers, suppliers and other third parties, as well as attract new customers and suppliers. If we do not meet these challenges, we may be unable to take advantage of market opportunities, execute our business strategies or respond to competitive pressures.

Problems with the quality or performance of our PowerBuoy systems could adversely affect our business, financial condition and results of operations.

Our agreements with customers will generally include guarantees with respect to the quality and performance of our PowerBuoy systems. For example, our agreement to complete the first phase of the construction of a 1.39MW wave power station off the coast of Santoña, Spain contains guarantees associated with this first phase regarding the quality, replacement and repair of the 40kW PowerBuoy system and ocean-based substation and the level of power output of the 40kW PowerBuoy system.

Because of the limited operating history of our PowerBuoy systems, we have been required to make assumptions regarding the durability, reliability and performance of the systems, and we cannot predict whether and to what extent we may be required to perform under the guarantees that we expect to give our customers. Our assumptions could prove to be materially different from the actual performance of our PowerBuoy systems, causing us to incur substantial expense to repair or replace defective systems in the future. We will bear the risk of claims long after we have sold our PowerBuoy systems and recognized revenue. Moreover, any widespread product failures could adversely affect our business, financial condition and results of operations.

We currently depend on a limited number of customers for substantially all of our revenues. The loss of, or a significant reduction in revenues from, any of these customers could significantly reduce our revenues and harm our operating results.

In the nine months ended January 31, 2007, we generated substantially all of our revenues from three entities. The US Navy, our largest customer, accounted for approximately 57% of our revenues during that period, while Iberdrola and Total accounted for 32% of our revenues. In fiscal 2006, revenues from the US Navy accounted for approximately 61% of our total revenues. We expect that revenues from the US Navy will account for a substantial portion of our total revenues in fiscal 2007. In addition, our current contract with the US Navy expires in March 2007 and we expect to receive an extension of time for the performance of this contract. We will be required to enter into additional contracts with the US Navy, which will require appropriation by the US Congress and the US Navy in order to receive additional funding. Additional funding for our project with the US Navy may not be approved or we may not be able to negotiate future agreements with the US Navy on acceptable terms, if at all.

Generally, we recognize revenue on the percentage-of-completion method based on the ratio of costs incurred to total estimated costs at completion. In certain circumstances, revenue under contracts that have specified milestones or other performance criteria may be recognized only when our customer acknowledges that such criteria have been satisfied. In addition, recognition of revenue (and the related costs) may be deferred for fixed-price contracts until contract completion if we are unable to reasonably estimate the total costs of the project prior to completion.

Because we currently have a small number of customers and contracts, problems with a single contract can adversely affect our business, financial condition and results of operations. For example, our revenues in fiscal 2006 decreased significantly from fiscal 2005 primarily as a result of unanticipated delays in our contract with the US Navy.

Historically, we have relied on a small group of customers for substantially all of our revenue, and such concentration will continue for the foreseeable future. The loss of any of our customers or their default in payment could adversely affect our business, financial condition and results of operations.

Our relationships with our alliance partners may not be successful and we may not be successful in establishing additional relationships, which could adversely affect our ability to commercialize our products and services.

An important element of our business strategy is to enter into development agreements and strategic alliances with regional utility and energy companies committed to providing electricity from renewable energy sources. If we are unable to reach agreements with suitable alliance partners, we may fail to meet our business objectives for the commercialization of our PowerBuoy system. We may face significant competition in seeking appropriate alliance partners. Moreover, these development agreements and strategic alliances are complex to negotiate and time consuming to document. We may not be successful in our efforts to establish additional strategic relationships or other alternative arrangements. The terms of any additional strategic relationships or other arrangements that we establish may not be favorable to us. In addition, these relationships may not be successful, and we may be unable to sell and market our PowerBuoy systems to these companies and their affiliates and customers in the future, or growth opportunities may not materialize, any of which could adversely affect our business, financial condition and results of operations.

Our investments in joint ventures could be adversely affected by our lack of sole decision-making authority, our reliance on a co-venturer's financial condition and disputes between us and our co-venturers.

It is part of our strategy to co-invest in wave power projects with third parties through joint ventures by acquiring non-controlling interests in special purpose entities. In these situations, we will not be in a position to exercise sole decision-making authority regarding the joint venture. Investments in joint ventures involve risks that would not be present were a third party not involved, including the possibility that our co-venturers might become bankrupt or fail to fund their share of required capital contributions. Our co-venturers may have economic or other business interests or goals that are inconsistent with our business interests or goals, and may be in a position to take actions that are contrary to our policies or objectives. Disputes between us and our co-venturers may result in litigation or arbitration that would increase our expenses and prevent our officers and/or directors from focusing their time and effort on our business. Consequently, actions by, or disputes with, partners or co-venturers might result in subjecting wave power projects undertaken by the joint venture to additional risk.

Our targeted markets are highly competitive. We compete with other renewable energy companies and may have to compete with larger companies that enter into the renewable energy business. If we are unable to compete effectively, we may be unable to increase our revenues and achieve or maintain profitability.

The renewable energy industry, particularly in our targeted markets of coastal North America, the west coast of Europe, the coasts of Australia and the east coast of Japan, is highly competitive and continually evolving as participants strive to distinguish themselves and compete with the larger electric power industry. Competition in the renewable energy industry is likely to continue to increase with the advent of several renewable energy technologies, including tidal and ocean current technologies. If we are not successful in manufacturing systems that generate competitively priced electricity, we will not be able to respond effectively to competitive pressures from other renewable energy technologies.

Moreover, the success of renewable energy generation technologies may cause larger electric utility and other energy companies with substantial financial resources to enter into the renewable energy industry. These companies, due to their greater capital resources and substantial technical expertise, may be better positioned to develop new technologies.

Our inability to respond effectively to such competition could adversely affect our business, financial condition and results of operations.

We have limited manufacturing experience. If we are unable to increase our manufacturing capacity in a cost-effective manner, our business will be materially harmed.

We plan to manufacture key components of our PowerBuoy systems, including the advanced control and generation systems. However, we have only manufactured our PowerBuoy systems in limited quantities for use in development and testing and have little commercial manufacturing experience. Our future success depends on our ability to significantly increase both our manufacturing capacity and production throughput in a cost-effective and efficient manner. In order to meet our growth objectives, by the end of fiscal 2010 we will need to increase our engineering and manufacturing staff by over 120 people. There is intense competition for hiring qualified technical and engineering personnel, and we may not be able to hire a sufficient number of qualified engineers to allow us to meet our growth objectives.

We may be unable to develop efficient, low-cost manufacturing capabilities and processes that will enable us to meet the quality, price, engineering, design and production standards or production volumes necessary to successfully commercialize our PowerBuoy systems. If we cannot do so, we may be unable to expand our business, satisfy our contractual obligations or become profitable. Even if we are successful in developing our manufacturing capabilities and processes, we may not be able to do so in time to meet our commercialization schedule or satisfy the requirements of our customers.

Failure by third parties to supply or manufacture components of our products or to deploy our systems timely or properly could adversely affect our business, financial condition and results of operations.

We are highly dependent on third parties to supply or manufacture components of our PowerBuoy systems. If, for any reason, our third-party manufacturers or vendors are not willing or able to provide us with components or supplies in a timely fashion, or at all, our ability to manufacture and sell many of our products could be impaired.

We do not have long-term contracts with our third-party manufacturers or vendors. If we do not develop ongoing relationships with vendors located in different regions, we may not be successful at controlling unit costs as our manufacturing volume increases. We may not be able to negotiate new arrangements with these third parties on acceptable terms, if at all.

In addition, we rely on third parties, under our oversight, for the deployment and mooring of our PowerBuoy systems. We have utilized several different deployment methods, including towing the PowerBuoy system to the deployment location, and transporting the PowerBuoy system to the deployment location by barge or ocean workboat. If these third parties do not properly deploy our systems, cannot effectively deploy the PowerBuoy system on a large, commercial scale or otherwise do not perform adequately, or if we fail to recruit and retain third parties to deploy our systems in particular geographic areas, this could adversely affect our business, financial condition and results of operations.

Business activities conducted by our third-party contractors and us involve the use of hazardous materials, which require compliance with environmental and occupational safety laws regulating the use of such materials. If we violate these laws, we could be subject to significant fines, liabilities or other adverse consequences.

Our manufacturing operations, in particular some of the activities undertaken by our third-party suppliers and manufacturers, involve the controlled use of hazardous materials. Accordingly, our third-party contractors and we are subject to foreign, federal, state and local laws governing the protection of the environment and human health and safety, including those relating to the use, handling and disposal of these materials. We cannot completely eliminate the risk of accidental contamination or injury from these hazardous materials. In the event of an accident or failure to comply with environmental or health and safety laws and regulations, we could be held liable for resulting damages, including damages to natural resources, fines and penalties, and any such liability could adversely affect our business, financial condition and results of operations.

Environmental laws and regulations are complex, change frequently and have tended to become stringent over time. While we have budgeted for future capital and operating expenditures to maintain compliance, we cannot assure you that environmental laws and regulations will not change or become more stringent in the future. Therefore, we cannot assure you that our costs of complying with current and future environmental and

health and safety laws, and any liabilities arising from past or future releases of, or exposure to, hazardous substances will not adversely affect our business, financial condition or results of operations.

If we become ineligible for or are otherwise unable to replace any contract with the US federal government that is not extended or is terminated, our business, financial condition and results of operations will be adversely affected.

We derive a significant portion of our revenue from US federal government contracts, which are subject to special funding restrictions, regulatory requirements and eligibility standards and which the government may terminate at any time or determine not to extend after their scheduled expiration. During fiscal 2006, we derived approximately 61% of our total revenue from contracts with the US Navy.

US federal government contracts are subject to funding restrictions that generally limit the government's funding commitments to one federal fiscal year. There is no guarantee that our federal contracts will continue to be funded even if we perform successfully. If sufficient funds are not made available for subsequent contract periods of a multi-year program, the government's obligations will end, which in turn will adversely affect our business, financial condition and results of operations.

Our contracts with the US Navy contain provisions permitting it to terminate the contract for its convenience, as well as for our default. A decision by a government agency not to exercise option periods or to terminate contracts could result in significant revenue shortfalls.

If the government terminates a contract for convenience, then we may recover only our incurred or committed costs, settlement expenses and profit on work completed prior to the termination. We cannot recover anticipated profit on terminated work. If the government terminates a contract for default, then we may not recover even those amounts, and instead we may be liable for excess costs incurred by the government in procuring undelivered items and services from another source. We cannot predict if the government will terminate or choose not to extend our Federal government contracts. The government has never terminated any of our contracts; however, it may do so at any time.

US federal government contracts are also subject to contractual and regulatory requirements that may increase our costs of doing business and could expose us to substantial contractual damages, civil fines and criminal penalties for noncompliance. These requirements include business ethics, equal employment opportunity, environmental, foreign purchasing, most-favored pricing and accounting provisions, among others. Payments that we receive under US federal government contracts are subject to audit and potential refunds for at least three years after the final contract payment is received.

The loss of federal funding designed to promote innovative research by small businesses may adversely affect our research and development costs and revenues.

Most of our federal contracts were awarded through a special US government program designed to promote innovative research by small businesses called Small Business Innovation Research, or SBIR. The SBIR program provides funds to qualified small businesses to further their technological research and development activities and provides incentives to these companies to profit from commercialization of their technology. SBIR funding represents both revenues and outside research and development investment dollars for companies that receive it. The program is open to companies that are majority owned and controlled by individual US citizens or permanent resident aliens, or by a parent entity that meets this standard. Our revenues from the SBIR program were approximately $0.8 million for the first nine months of fiscal 2007 and approximately $1.1 million for fiscal 2006.

Increased institutional, corporate or foreign ownership as a result of this offering will likely make us ineligible for the SBIR program, which may adversely affect our ability to win future government contracts. We intend to continue to seek research and development funding from other sources, including funding from existing government customers under non-SBIR programs. Our inability to replace SBIR contracts with funds from other sources could result in reduced revenues and higher internal research and development costs, and therefore adversely affect our operating results.

We market and sell, and plan to market and sell, our products in numerous international markets. If we are unable to manage our international operations effectively, our business, financial condition and results of operations could be adversely affected.

We market and sell, and plan to market and sell, our products in a number of foreign countries, including France, Spain, the United Kingdom, Australia and Japan, and we are therefore subject to risks associated with having international operations. International operations accounted for 4% of our revenues in fiscal 2005, 9% of our revenues in fiscal 2006 and 35% of our revenues for the first nine months of fiscal 2007. Risks inherent in international operations include, but are not limited to, the following:

- changes in general economic and political conditions in the countries in which we operate;
- unexpected adverse changes in foreign laws or regulatory requirements, including those with respect to renewable energy, environmental protection, permitting, export duties and quotas;
- trade barriers such as export requirements, tariffs, taxes and other restrictions and expenses, which could increase the prices of our PowerBuoy systems and make us less competitive in some countries;
- fluctuations in exchange rates may affect demand for our PowerBuoy systems and may adversely affect our profitability in US dollars to the extent the price of our PowerBuoy systems and cost of raw materials and labor are denominated in a foreign currency;
- difficulty with staffing and managing widespread operations;
- difficulty of, and costs relating to compliance with, the different commercial and legal requirements of the overseas markets in which we offer and sell our PowerBuoy systems;
- inability to obtain, maintain or enforce intellectual property rights; and
- difficulty in enforcing agreements in foreign legal systems.

Our business in foreign markets requires us to respond to rapid changes in market conditions in these countries. Our overall success as a global business depends, in part, on our ability to succeed in differing legal, regulatory, economic, social and political conditions. We may not be able to develop and implement policies and strategies that will be effective in each location where we do business, which in turn could adversely affect our business, financial condition and results of operations.

We may not be able to raise sufficient capital to grow our business.

We have in the past needed to raise funds to operate our business, and we may need to raise additional funds to manufacture our PowerBuoy systems in commercial quantities. If we are unable to raise additional funds when needed, our ability to operate and grow our business could be impaired. We do not know whether we will be able to secure additional funding or funding on terms favorable to us. Our ability to obtain additional funding will be subject to a number of factors, including market conditions, our operating performance and investor sentiment. These factors may make the timing, amount, terms and conditions of additional funding unattractive. If we issue additional equity securities, our existing stockholders may experience dilution or be subordinated to any rights, preferences or privileges granted to the new equity holders.

Our financial results may fluctuate from quarter to quarter, which may make it difficult to predict our future performance.

Our financial results may fluctuate as a result of a number of factors, many of which are outside of our control. For these reasons, comparing our financial results on a period-to-period basis may not be meaningful, and you should not rely on our past results as an indication of our future performance. Our future quarterly and annual expenses as a percentage of our revenues may be significantly different from those we have recorded in the past or which we expect for the future. Our financial results in some quarters may fall below expectations. Any of these events could cause our stock price to fall. Each of the risk factors listed in this “Risk Factors” section, including the following factors, may adversely affect our business, financial condition and results of operations:

- delays in permitting or acquiring necessary regulatory consents;

- delays in the timing of contract awards and determinations of work scope;
- delays in funding for or deployment of wave energy projects;
- changes in cost estimates relating to wave energy project completion, which under percentage of completion accounting principles could lead to significant charges to previously recognized revenue or to changes in the timing of our recognition of revenue from those projects;
- delays in meeting specified contractual milestones or other performance criteria under project contracts or in completing project contracts that could delay the recognition of revenue that would otherwise be earned;
- reductions in the availability or level of subsidies and incentives for renewable energy sources;
- decisions made by parties with whom we have commercial relationships not to proceed with anticipated projects;
- increases in the length of our sales cycle; and
- reductions in the efficiency of our manufacturing processes.

Currency translation and transaction risk may adversely affect our business, financial condition and results of operations.

Our reporting currency is the US dollar, and we conduct our business and incur costs in the local currency of most countries in which we operate. As a result, we are subject to currency translation risk. In fiscal 2006, approximately 9% of our revenues were generated outside the United States and denominated in Euros and in the first nine months of fiscal 2007, 32% of our revenues were generated outside the United States and denominated in Euros and 3% of our revenues were generated outside the United States and denominated in Australian dollars. We expect a large percentage of our revenues to be generated outside the United States and denominated in foreign currencies in the future. Changes in exchange rates between foreign currencies and the US dollar could affect our revenues and cost of revenues, and could result in exchange losses. In addition, we incur currency transaction risk whenever one of our operating subsidiaries enters into either a purchase or a sales transaction using a different currency from our reporting currency. For example, our agreement with Iberdrola Cantabria for the first phase of the construction of a wave power station off the coast of Santoña, Spain is denominated in Euros, and we expect that we will enter into a number of purchase and supply contracts with local Spanish companies also denominated in Euros in connection with the project. We cannot accurately predict the impact of future exchange rate fluctuations on our results of operations. Currently, we do not engage in any exchange rate hedging activities and, as a result, any volatility in currency exchange rates may have an immediate adverse effect on our business, results of operations and financial condition.

Existing regulations and policies and changes to these or new regulations and policies may present technical, regulatory and economic barriers to the use of wave energy technology, which may significantly reduce demand for our PowerBuoy systems.

The market for electricity generation equipment is heavily influenced by foreign, federal, state and local government regulations and policies concerning the electric utility industry, as well as policies promulgated by electric utilities. These regulations and policies often relate to electricity pricing and connection to the power grid. In the United States and in a number of other countries, these regulations and policies currently are being modified and may be modified again in the future. Utility company and independent power producer purchases of, or further investment in the research and development of, alternative energy sources, including wave energy technology, could be deterred by these regulations and policies, which could result in a significant reduction in the potential demand for our PowerBuoy systems.

As the renewable energy industry continues to develop and as the generation of power from wave energy in particular achieves commercial acceptance, we anticipate that wave energy technology and our PowerBuoy systems and their deployment will be subject to increased oversight and regulation. We are unable to predict the nature or extent of regulations that may be imposed or adopted. Any new government regulations or utility policies pertaining to wave energy or our PowerBuoy systems may result in significant additional expenses to us and our customers and, as a result, could adversely affect our business, financial condition and results of operations.

If we are unable to obtain all necessary regulatory permits and approvals, we will not be able to implement our planned projects.

Offshore development of electric power generating facilities is heavily regulated. Each of our planned projects is subject to multiple permitting and approval requirements. With respect to our projects in Spain and France, we are dependent upon our customers to obtain any necessary permits and approvals, and with respect to our project in Cornwall, England, we are dependent on a regional government agency for such permits and approvals. Due to the unique nature of large scale commercial wave power stations, we would expect our projects to receive close scrutiny by permitting agencies, approval authorities and the public, which could result in substantial delay in the permitting process. Successful challenges by any parties opposed to our planned projects could result in conditions limiting the project size or in the denial of necessary permits and approvals.

If we are unable to obtain necessary permits and approvals in connection with any or all of our projects, those projects would not be implemented and our business, financial condition and results of operations would be adversely affected. Further, we cannot assure you that we have been or will be at all times in complete compliance with all such permits and approvals. If we violate or fail to comply with these permits and approvals, we could be fined or otherwise sanctioned by regulators.

We face hurricane- and storm-related risks and other risks typical of a marine environment which could adversely affect our business, financial condition and results of operations.

Our PowerBuoy systems are deployed in the ocean where they are subject to many hazards including severe storms and hurricanes, which could damage them and result in service interruptions. Our systems are also subject to more frequent lock-downs caused by higher waves during winter storm and hurricane seasons, which will reduce annual energy output. We cannot predict whether we will be able to recover from our insurance providers the additional costs that we may incur due to damage caused to our PowerBuoy systems, or whether we will continue to be able to obtain insurance for hurricane- and storm-related damages or, if obtainable and carried, whether this insurance will be adequate to cover our liabilities. Any future hurricane-or storm-related costs could adversely affect our business, financial condition and results of operations.

Since our PowerBuoy systems can only be deployed in certain geographic locations, our ability to grow our business could be adversely affected.

Our systems are designed to work in sites with average annual wave energy of at least 20kW per meter of wave front. Not all coastal areas worldwide have appropriate natural resources for our PowerBuoy systems to harness wave energy. Seasonal and local variations, water depth and the effect of particular locations of islands and other geographical features may limit our ability to deploy our PowerBuoy systems in coastal areas. If we are unable to identify and deploy PowerBuoy systems at sufficient sites near major population centers, our ability to grow our business could be adversely affected.

If we are unable to attract and retain management and other qualified personnel, we may not be able to achieve our business objectives.

Our success depends on the skills, experience and efforts of our senior management and other key development, manufacturing, and sales and marketing employees. We cannot be certain that we will be able to attract, retain and motivate such employees. The loss of the services of one or more of these employees could have a material adverse effect on our business. There is a risk that we will not be able to retain or replace these key employees. We have entered into employment agreements with Dr. George Taylor, our chief executive officer, Charles Dunleavy, our senior vice president and chief financial officer, Mark Draper, the chief executive officer of our UK subsidiary, and John Baylouny, our senior vice president, engineering; however, the agreements permit the employees to terminate their employment with little notice. Implementation of our expansion plans will be highly dependent upon our ability to hire and retain additional senior executives.

In addition, our anticipated growth will require us to hire a significant number of qualified technical, commercial and administrative personnel. In order to meet our short-term goals, by the end of 2007, we plan to add approximately 15 to 20 employees, including a vice president of business development. The remainder will primarily be engineers with varying areas of expertise. By the end of fiscal 2010, we will need to increase

our staff by nearly six times in order to meet our current manufacturing targets. The majority of our new hires will be engineers with varying levels and areas of expertise, project managers and manufacturing personnel. There is intense competition from other companies and research and academic institutions for qualified personnel in the areas of our activities. If we cannot continue to attract and retain, on acceptable terms, the qualified personnel necessary for the continued development of our business, we may not be able to sustain our operations or grow at a competitive pace.

Any acquisitions that we make or joint venture agreements that we enter into, or any failure to identify appropriate acquisition or joint venture candidates, could adversely affect our business, financial condition and results of operations.

From time to time, we evaluate potential strategic acquisitions of complementary businesses, products or technologies, as well as consider joint ventures and other collaborative projects. We may not be able to identify appropriate acquisition candidates or strategic partners, or successfully negotiate, finance or integrate any businesses, products or technologies that we acquire. We do not have any experience with acquiring companies or products. Any acquisition we pursue could diminish the proceeds from this offering available to us for other uses or be dilutive to our stockholders, and could divert management's time and resources from our core operations.

Strategic acquisitions, investments and alliances with third parties could subject us to a number of risks, including risks associated with sharing proprietary information and loss of control of operations that are material to our business. In addition, strategic acquisitions, investments and alliances may be expensive to implement. For example, under the France project, our entitlement to retain our current percentage interest is subject to our ability to make a proportionate capital investment, which we may be unable to finance. Moreover, strategic acquisitions, investments and alliances subject us to the risk of non-performance by a counterparty, which may in turn lead to monetary losses that materially and adversely affect our business, financial condition and results of operations.

Section 404 of the Sarbanes-Oxley Act of 2002 will require us to document and test our internal control over financial reporting for fiscal 2008 and beyond and will require an independent registered public accounting firm to report on our assessment as to the effectiveness of these controls. Any delays or difficulty in satisfying these requirements could adversely affect our future results of operations and our stock price.

Section 404 of the Sarbanes-Oxley Act of 2002 will require us to document and test the effectiveness of our internal control over financial reporting in accordance with an established internal control framework and to report on our conclusion as to the effectiveness of our internal controls. It will also require an independent registered public accounting firm to test our internal control over financial reporting and report on the effectiveness of such controls for our fiscal year ending April 30, 2008 and subsequent years. An independent registered public accounting firm will also be required to test, evaluate and report on the completeness of our assessment. In addition, upon completion of this offering, we will be required under the Securities Exchange Act of 1934 to maintain disclosure controls and procedures and internal control over financial reporting. Moreover, it may cost us more than we expect to comply with these control- and procedure-related requirements.

We may in the future discover areas of our internal controls that need improvement, particularly with respect to businesses that we may acquire. We cannot be certain that any remedial measures we take will ensure that we implement and maintain adequate internal controls over our financial processes and reporting in the future. Any failure to implement required new or improved controls, or difficulties encountered in their implementation, could harm our operating results or cause us to fail to meet our reporting obligations. If we are unable to conclude that we have effective internal control over financial reporting, or if our independent registered public accounting firm is unable to provide us with an unqualified opinion regarding the effectiveness of our internal control over financial reporting as of April 30, 2008 and in future periods as required by Section 404, investors could lose confidence in the reliability of our consolidated financial statements, which could result in a decrease in the value of our common stock. Failure to comply with

Section 404 could potentially subject us to sanctions or investigations by the SEC, The Nasdaq Stock Market or other regulatory authorities.

Risks Related to Intellectual Property

If we are unable to obtain or maintain intellectual property rights relating to our technology and products, the commercial value of our technology and products may be adversely affected, which could in turn adversely affect our business, financial condition and results of operations.

Our success and ability to compete depends in part upon our ability to obtain protection in the United States and other countries for our products by establishing and maintaining intellectual property rights relating to or incorporated into our technology and products. We own a variety of patents and patent applications in the United States and corresponding patents and patent applications in several foreign jurisdictions. However, we have not obtained patent protection in each market in which we plan to compete. In addition, we do not know how successful we would be should we choose to assert our patents against suspected infringers. Our pending and future patent applications may not issue as patents or, if issued, may not issue in a form that will be advantageous to us. Even if issued, patents may be challenged, narrowed, invalidated or circumvented, which could limit our ability to stop competitors from marketing similar products or limit the length of term of patent protection we may have for our products. Changes in either patent laws or in interpretations of patent laws in the United States and other countries may diminish the value of our intellectual property or narrow the scope of our patent protection, which could in turn adversely affect our business, financial condition and results of operations.

Our contracts with the government could negatively affect our intellectual property rights, and our ability to commercialize our products could be impaired.

Our agreements with the US Navy help fund research and development of our PowerBuoy system. When new technologies are developed with US federal government funding, the government obtains certain rights in any resulting patents, technical data and software, generally including, at a minimum, a nonexclusive license authorizing the government to use the invention, technical data or software for non-commercial purposes. These rights may permit the government to disclose our confidential information to third parties and to exercise “march-in” rights. March-in rights refer to the right of the US government to require us to grant a license to the technology to a responsible applicant or, if we refuse, the government may grant the license itself. US government-funded inventions must be reported to the government. US government funding must be disclosed in any resulting patent applications, and our rights in such inventions will normally be subject to government license rights, periodic post-contract utilization reporting, foreign manufacturing restrictions and march-in rights.

The government can exercise its march-in rights if it determines that action is necessary because we fail to achieve practical application of the technology or because action is necessary to alleviate health or safety needs, to meet requirements of federal regulations or to give preference to US industry. Our government-sponsored research contracts are subject to audit and require that we provide regular written technical updates on a monthly, quarterly or annual basis, and, at the conclusion of the research contract, a final report on the results of our technical research. Because these reports are generally available to the public, third parties may obtain some aspects of our sensitive confidential information. Moreover, if we fail to provide these reports or to provide accurate or complete reports, the government may obtain rights to any intellectual property arising from the related research. Funding from government contracts also may limit when and how we can deploy our technology developed under those contracts.

If we are unable to protect the confidentiality of our proprietary information and know-how, the value of our technology and products could be adversely affected, which could in turn adversely affect our business, financial condition and results of operations.

In addition to patented technology, we rely upon unpatented proprietary technology, processes and know-how, particularly with respect to our PowerBuoy control and electricity generating systems. We generally seek to protect this information in part by confidentiality agreements with our employees, consultants and third

parties. These agreements may be breached, and we may not have adequate remedies for any such breach. In addition, our trade secrets may otherwise become known or be independently developed by competitors.

If we infringe or are alleged to infringe intellectual property rights of third parties, our business, financial condition and results of operations could be adversely affected.

Our products may infringe or be claimed to infringe patents or patent applications under which we do not hold licenses or other rights. Third parties may own or control these patents and patent applications in the United States and abroad. From time to time, we receive correspondence from third parties offering to license patents to us. Correspondence of this nature might be used to establish that we received notice of certain patents in the event of subsequent patent infringement litigation. Third parties could bring claims against us that would cause us to incur substantial expenses and, if successfully asserted against us, could cause us to pay substantial damages. Further, if a patent infringement suit were brought against us, we could be forced to stop or delay manufacturing or sales of the product or component that is the subject of the suit.

As a result of patent infringement claims, or in order to avoid potential claims, we may choose or be required to seek a license from the third party and be required to pay license fees or royalties or both. These licenses may not be available on acceptable terms, or at all. Even if we were able to obtain a license, the rights may be nonexclusive, which could result in our competitors gaining access to the same intellectual property. Ultimately, we could be forced to cease some aspect of our business operations if, as a result of actual or threatened patent infringement claims, we are unable to enter into licenses on acceptable terms. This could significantly and adversely affect our business, financial condition and results of operations.

In addition to infringement claims against us, we may become a party to other types of patent litigation and other proceedings, including interference proceedings declared by the United States Patent and Trademark Office and opposition proceedings in the European Patent Office, regarding intellectual property rights with respect to our products and technology. The cost to us of any patent litigation or other proceeding, even if resolved in our favor, could be substantial. Some of our competitors may be able to sustain the costs of such litigation or proceedings more effectively than we can because of their greater financial resources. Uncertainties resulting from the initiation and continuation of patent litigation or other proceedings could have a material adverse effect on our ability to compete in the marketplace. Patent litigation and other proceedings may also absorb significant management time.

Risks Related to the Offering

Provisions in our corporate charter documents and under Delaware law may delay or prevent attempts by our stockholders to change our management and hinder efforts to acquire a controlling interest in us.

After we reincorporate in Delaware, provisions of our certificate of incorporation and bylaws may discourage, delay or prevent a merger, acquisition or other change in control that stockholders may consider favorable, including transactions in which our stockholders might otherwise receive a premium for their shares. These provisions may also prevent or frustrate attempts by our stockholders to replace or remove our management. These provisions include:

- advance notice requirements for stockholder proposals and nominations;
- the inability of stockholders to act by written consent or to call special meetings; and
- the ability of our board of directors to designate the terms of and issue new series of preferred stock without stockholder approval, which could be used to institute a “poison pill” that would work to dilute the stock ownership of a potential hostile acquirer, effectively preventing acquisitions that have not been approved by our board of directors.

The affirmative vote of the holders of at least 75% of our shares of capital stock entitled to vote is necessary to amend or repeal the above provisions of our certificate of incorporation. In addition, absent approval of our board of directors, our bylaws may only be amended or repealed by the affirmative vote of the holders of at least 75% of our shares of capital stock entitled to vote.

In addition, Section 203 of the Delaware General Corporation Law prohibits a publicly held Delaware corporation from engaging in a business combination with an interested stockholder, generally a person which

together with its affiliates owns or within the last three years has owned 15% of our voting stock, for a period of three years after the date of the transaction in which the person became an interested stockholder, unless the business combination is approved in a prescribed manner. Accordingly, after we reincorporate in Delaware, Section 203 may discourage, delay or prevent a change in control of our company.

An active trading market for our common stock may not develop in the United States, and you may not be able to resell your shares at or above the initial public offering price.

Prior to this offering, there has been no public market for shares of our common stock in the United States. Our common stock has been listed on the AIM market of the London Stock Exchange plc, referred to as the AIM market, under the symbol "OPT" since October 2003. However, there is currently a limited volume of trading in our common stock on the AIM market, which limits the liquidity of our common stock on that market. We cannot predict when or whether investor interest in our common stock on the AIM market might lead to an increase in its market price or the development of a more active trading market or how liquid that market might become.

The initial public offering price for our common stock was determined through negotiations with the underwriters based on a number of factors, including the historic trading prices of our common stock on the AIM market, that might not be indicative of prices that will prevail in the trading market for our common stock in the United States. An active trading market for our shares in the United States may never develop or be sustained following this offering. If an active market for our common stock does not develop, it may be difficult to sell shares you purchase in this offering without depressing the market price for the shares, or at all.

Liquidity in the market for our common stock may be adversely affected by our maintenance of two exchange listings.

Following this offering and after our common stock is traded on The Nasdaq Global Market, we currently expect to continue to list our common stock on the AIM market. We cannot predict the effect of having our common stock traded or listed on both of these markets. However, the dual listing of our common stock may dilute the liquidity of our common stock in one or both markets and may adversely affect the development of an active trading market for our shares in the United States.

Our stock price is likely to be volatile, and purchasers of our common stock could incur substantial losses.

The price of our common stock has been volatile on the AIM market, and after this offering our stock price is likely to continue to be volatile. The stock market in general has experienced extreme volatility that has often been unrelated to the operating performance of particular companies. As a result of this volatility, investors may not be able to sell their common stock at or above the initial public offering price. The market price for our common stock may be influenced by many factors, including:

- the success of competitive products or technologies;
- regulatory developments in the United States and foreign countries;
- developments or disputes concerning patents or other proprietary rights;
- the recruitment or departure of key personnel;
- quarterly or annual variations in our financial results or those of companies that are perceived to be similar to us;
- market conditions in the conventional and renewable energy industries and issuance of new or changed securities analysts' reports or recommendations;
- the failure of securities analysts to cover our common stock after this offering or changes in financial estimates by analysts;
- the inability to meet the financial estimates of analysts who follow our common stock;
- investor perception of our company and of the renewable energy industry; and

- general economic, political and market conditions.

A substantial portion of our total outstanding shares may be sold into the market at any time. This could cause the market price of our common stock to drop significantly, even if our business is doing well.

All of the shares being sold in this offering will be freely tradable without restriction or further registration under the federal securities laws, unless purchased by our "affiliates" as that term is defined in Rule 144 under the Securities Act. Approximately 1,500,000 shares will be eligible for sale upon completion of this offering pursuant to Rule 144 subject to the volume limitations and other applicable conditions of Rule 144 upon the expiration of 180-day lock-up agreements. In addition, the 2,000,000 shares of our common stock that were sold in an offering on the AIM market in 2003 are freely tradable without restriction or further registration under the federal securities laws. The balance of the Company's outstanding shares will be immediately eligible for sale after the completion of this offering pursuant to Rule 144(k) without regard to volume limitations and other applicable conditions of Rule 144 or pursuant to other exemptions.

We also intend to register all shares of our common stock that we may issue under our employee benefit plans. Once we register these shares, they can be freely sold in the public market upon issuance, subject to the lock-up agreements described in "Underwriting." Sales of a substantial number of shares of our common stock, or the perception in the market that the holders of a large number of shares intend to sell shares, could reduce the market price of our common stock.

We have broad discretion in the use of our net proceeds from this offering and may not use them effectively.

Our management will have broad discretion in the application of the net proceeds from this offering and could spend the proceeds in ways that do not improve our operating results or enhance the value of our common stock. Our stockholders may not agree with the manner in which our management chooses to allocate and spend the net proceeds. The failure by our management to apply these funds effectively could result in financial losses that could have a material adverse effect on our business and cause the price of our common stock to decline. Pending their use, we may invest our net proceeds from this offering in a manner that does not produce income or that loses value.

We have never paid cash dividends on our common stock, and we do not anticipate paying any cash dividends in the foreseeable future.

We have not paid any cash dividends on our common stock to date. We currently intend to retain our future earnings, if any, to fund the development and growth of our business. In addition, the terms of any future debt agreements may preclude us from paying dividends. As a result, capital appreciation, if any, of our common stock will be your sole source of gain for the foreseeable future.

If you purchase shares of our common stock in this offering, you will suffer immediate and substantial dilution of your investment.

The initial public offering price of our common stock is substantially higher than the net tangible book value per share of our common stock. Therefore, if you purchase shares of our common stock in this offering, your interest will be diluted immediately to the extent of the difference between the initial public offering price per share of our common stock and the net tangible book value per share of our common stock after this offering. See "Dilution."

Provisions in our bylaws will require disclosure of information by shareholders that would not otherwise be required to be disclosed under applicable US state or US federal laws.

In accordance with the rules of the AIM market, we are required to disclose information regarding beneficial owners of three percent or more of our outstanding common stock to the AIM market. In order to allow us to comply with the AIM rules, our bylaws that will be in effect upon completion of the offering contain a provision requiring any beneficial owner of three percent or more of our outstanding common stock to notify us of his or her shareholdings, as well as of any change in his or her beneficial ownership of one percent or more of our outstanding common stock. Comparatively, none of US state or US federal laws that will be applicable to us after the offering or the rules of the SEC or The Nasdaq Global Market require stockholders to report this beneficial ownership information to us or us to disclose this information to the

public or a regulatory body. We do not intend to make any such information public, unless required by law or the rules of the AIM market, the SEC or The Nasdaq Global Market.

We will incur increased costs as a result of being a public company.

As a public company in the United States, we will incur significant legal, accounting and other expenses that we have not incurred to date. In addition, the Sarbanes-Oxley Act of 2002, as well as new rules subsequently implemented by the SEC and The Nasdaq Stock Market, have required changes in corporate governance practices of public companies in the United States. We expect these new rules and regulations to increase our legal and financial compliance costs and to make some activities more time-consuming and costly. In addition, we will incur additional costs associated with our United States public company reporting requirements. We also expect these new rules and regulations to make it more difficult and more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. As a result, it may be more difficult for us to attract and retain qualified persons to serve on our board of directors or as executive officers. We are currently evaluating and monitoring developments with respect to these new rules, and we cannot predict or estimate the amount of additional costs we may incur or the timing of such costs.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus, including the sections titled “Prospectus Summary,” “Risk Factors,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and “Business,” contains forward-looking statements. Forward-looking statements convey our current expectations or forecasts of future events. All statements contained in this prospectus other than statements of historical fact are forward-looking statements. Forward-looking statements include statements regarding our future financial position, business strategy, budgets, projected costs, plans and objectives of management for future operations. The words “may,” “continue,” “estimate,” “intend,” “plan,” “will,” “believe,” “project,” “expect,” “anticipate” and similar expressions may identify forward-looking statements, but the absence of these words does not necessarily mean that a statement is not forward-looking. These forward-looking statements include, among other things, statements about:

- our ability to identify and penetrate markets for our PowerBuoy systems and our wave energy technology;
- our ability to implement our commercialization strategy as planned, or at all;
- changes in current legislation or regulations that affect the demand for renewable energy;
- our ability to compete effectively in the renewable energy market;
- our limited operating history and history of operating losses;
- our sales and marketing capabilities and strategy in the United States and internationally;
- our intellectual property portfolio; and
- our estimates regarding expenses, future revenues, capital requirements and needs for additional financing.

Any or all of our forward-looking statements in this prospectus may turn out to be inaccurate. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, results of operations, business strategy and financial needs. They may be affected by inaccurate assumptions we might make or unknown risks and uncertainties, including the risk, uncertainties and assumptions described in “Risk Factors.” In light of these risks, uncertainties and assumptions, the forward-looking events and circumstances discussed in this prospectus may not occur as contemplated, and actual results could differ materially from those anticipated or implied by the forward-looking statements.

You should not unduly rely on these forward-looking statements, which speak only as of the date of this prospectus. Unless required by law, we undertake no obligation to publicly update or revise any forward-looking statements to reflect new information or future events or otherwise. You should, however, review the factors and risks we describe in the reports we will file from time to time with the SEC after the date of this prospectus. See “Where You Can Find More Information.”

USE OF PROCEEDS

We estimate that the net proceeds to us from the sale of the shares of common stock we are offering will be approximately $ million, assuming an initial public offering price of $ per share, the midpoint of the estimated price range shown on the cover of this prospectus, and after deducting underwriting discounts and commissions and the estimated offering expenses payable by us. If the underwriters exercise their over-allotment option in full, we estimate the net proceeds to use from this offering will be approximately $ million. We will not receive any proceeds from the sale of shares of common stock by the selling stockholders as a result of the exercise by the underwriters of their over-allotment option.

The principal purposes of this offering are to obtain additional capital resources to construct demonstration wave power stations and to fund minority investments in wave station projects to encourage market adoption of our wave power stations; to fund the continued development and commercialization of our PowerBuoy system, including increases in system output; to expand our international sales and marketing capabilities; and for working capital and general corporate purposes, including potential acquisitions of complementary businesses, products or technologies. We intend to use the net proceeds of this offering as follows:

- approximately $25.0 million to construct demonstration wave power stations and approximately $25.0 million to fund minority investments in wave station projects to encourage market adoption of our wave power stations;
- approximately $10.5 million to fund the continued development and commercialization of our PowerBuoy system, including increases in system output;
- approximately $7.5 million to fund the expansion of assembly, test and field service facilities;
- approximately $4.0 million to expand our international sales and marketing capabilities; and
- the balance for working capital and other general corporate purposes.

We may also use a portion of the net proceeds to acquire complementary products, technologies or businesses, although we currently have no agreements or commitments with respect to any such transactions.

Assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, after deducting the estimated underwriting discounts and commissions and other estimated offering expenses payable by us in connection with the offering, a $1.00 increase (decrease) in the assumed public offering price of $ per share of common stock would increase (decrease) our expected net proceeds by approximately $ million.

As of the date of this prospectus, we cannot specify with certainty all of the particular uses for the net proceeds of this offering. The amounts and timing of our actual expenditures may vary significantly from our expectations depending upon numerous factors, including our development and commercialization efforts, our operating costs and capital expenditures, our future revenues and cash generated by operations. Accordingly, we will retain broad discretion to allocate the net proceeds of this offering among the identified uses described above, and we reserve the right to change the allocation of the net proceeds of this offering.

Pending use of the proceeds from this offering, we intend to invest the proceeds in short-term, investment-grade, interest-bearing instruments.

PRICE RANGE OF OUR COMMON STOCK

Prior to this offering, there has been no trading market for our common stock in the United States. Our common stock has been listed on the AIM market of the London Stock Exchange since October 2003 under the symbol "OPT." The historical trading prices of our common stock on the AIM market may not be indicative of prices that will prevail in the trading market for our common stock in the United States.

The following table sets forth, for the periods indicated, the high and low closing sale prices for our common stock on the AIM market as reported by the London Stock Exchange. The sales prices have been adjusted to give effect to a one-for-ten reverse stock split of our common stock to be effective as of , 2007. The sales prices for our shares of common stock on the AIM market are quoted in pound sterling (£), the lawful currency of the United Kingdom. The following table also shows the high and low closing sales price of our common stock expressed in dollars based upon the average noon buying rate for pound sterling for the periods indicated.

	High	Low	High	Low
Year ended April 30, 2005				
First quarter	£ 8.55	£ 7.35	$ 15.56	$ 13.38
Second quarter	£ 8.15	£ 7.00	$ 14.75	$ 12.67
Third quarter	£ 9.30	£ 7.90	$ 17.58	$ 14.93
Fourth quarter	£ 11.90	£ 7.60	$ 22.61	$ 14.44
Year ended April 30, 2006				
First quarter	£ 8.45	£ 6.55	$ 15.29	$ 11.86
Second quarter	£ 10.75	£ 7.75	$ 19.24	$ 13.87
Third quarter	£ 9.25	£ 7.15	$ 16.19	$ 12.51
Fourth quarter	£ 10.70	£ 6.80	$ 18.73	$ 11.90
Year ending April 30, 2007				
First quarter	£ 10.00	£ 6.60	$ 18.50	$ 12.21
Second quarter	£ 8.90	£ 6.15	$ 16.82	$ 11.62
Third quarter	£ 9.05	£ 5.35	$ 17.56	$ 10.38
Fourth quarter (through February 28, 2007)	£ 8.85	£ 8.60	$ 17.35	$ 16.86

On , 2007, the last reported sale price of our common stock on the AIM market was per share, or approximately per share based on the noon buying rate for pound sterling of £1.00 = on that date.

The following table sets forth, for the periods indicated, the high, low, average and period end noon buying rate for pound sterling, expressed in dollars per pound sterling in New York City as certified for customs purposes by the Federal Reserve Bank of New York.

	High	Low	Average	Period End
Year ended April 30, 2005				
First quarter	$ 1.87	$ 1.75	$ 1.82	$ 1.82
Second quarter	$ 1.85	$ 1.77	$ 1.81	$ 1.83
Third quarter	$ 1.95	$ 1.83	$ 1.89	$ 1.89
Fourth quarter	$ 1.93	$ 1.86	$ 1.90	$ 1.91
Year ended April 30, 2006				
First quarter	$ 1.90	$ 1.73	$ 1.81	$ 1.76
Second quarter	$ 1.84	$ 1.75	$ 1.79	$ 1.77
Third quarter	$ 1.79	$ 1.71	$ 1.75	$ 1.78
Fourth quarter	$ 1.82	$ 1.73	$ 1.75	$ 1.82
Year ending April 30, 2007				
First quarter	$ 1.89	$ 1.81	$ 1.85	$ 1.87
Second quarter	$ 1.91	$ 1.85	$ 1.89	$ 1.91
Third quarter	$ 1.98	$ 1.89	$ 1.94	$ 1.96
Fourth quarter (through February 28, 2007)	$ 1.97	$ 1.94	$ 1.96	$ 1.96

The initial public offering price for the common stock being offered by this prospectus was determined by negotiation between us and the underwriters based on a number of factors which are described in "Underwriting — Determination of Offering Price."

DIVIDEND POLICY

We have never declared or paid any cash dividends on our common stock, and we do not currently anticipate declaring or paying cash dividends on our common stock in the foreseeable future. We currently intend to retain all of our future earnings, if any, to finance the growth and development of our business. Any future determination relating to our dividend policy will be made at the discretion of our board of directors and will depend on a number of factors, including future earnings, capital requirements, financial conditions, future prospects, contractual restrictions and covenants and other factors that our board of directors may deem relevant.

CAPITALIZATION

The following table sets forth our cash, cash equivalents and short-term investments and capitalization as of January 31, 2007:

- on an actual basis; and
- on an as adjusted basis to reflect the sale of the shares of our common stock we are offering at an assumed initial public offering price of $ per share, after deducting underwriting discounts and commissions and estimated offering expenses payable by us.

	As of January 31, 2007	
	Actual	As Adjusted(1)
	(Unaudited)	
Cash, cash equivalents and certificates of deposit(1)	$ 26,657,152	$
Long-term debt	$ 233,959	$ 233,959
Stockholders' equity:		
Preferred stock, par value $0.001 per share; 5,000,000 shares authorized; no shares outstanding actual and no shares outstanding as adjusted	—	—
Common stock, par value $0.001 per share; 105,000,000 shares authorized; 5,177,219 shares outstanding actual and shares outstanding as adjusted	5,177	
Additional paid-in capital	60,731,724	
Accumulated deficit	(34,140,603)	(34,140,603)
Accumulated other comprehensive loss	(19,063)	(19,063)
Total stockholders' equity	26,577,235	
Total capitalization	$ 26,811,194	$

(1) Assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, after deducting the estimated underwriting discounts and commissions and other estimated offering expenses payable by us in connection with the offering, a $1.00 increase (decrease) in the assumed public offering price of $ per share of common stock (the midpoint of the range set forth on the cover of this prospectus) would increase (decrease) each of cash, cash equivalents and certificates of deposit, additional paid-in capital, total stockholders' equity and total capitalization by $ million.

The table above should be read in conjunction with our consolidated financial statements and related notes appearing at the end of this prospectus and the "Management's Discussion and Analysis of Financial Condition and Results of Operations" section of this prospectus.

This table is based on 5,177,219 shares of our common stock outstanding as of January 31, 2007 and excludes:

- 1,366,574 shares of our common stock issuable upon the exercise of stock options outstanding as of January 31, 2007 at a weighted average exercise price of $14.25 per share; and
- 803,215 shares of our common stock available for future grant under our equity compensation plans, including our new 2006 stock incentive plan, as of January 31, 2007.

DILUTION

If you invest in our common stock, your interest will be diluted immediately to the extent of the difference between the initial public offering price per share you will pay in this offering and the net tangible book value per share of our common stock after this offering.

Our actual net tangible book value as of January 31, 2007 was $26.1 million, or $5.03 per share of common stock. Net tangible book value per share represents the amount of our total tangible assets less total liabilities, divided by the number of shares of common stock outstanding.

After giving effect to the issuance and sale by us of the shares of common stock in this offering, at an assumed initial public offering price of $ per share, the midpoint of the range set forth on the cover page of this prospectus, less the underwriting discounts and commissions and estimated offering expenses payable by us, our net tangible book value as of January 31, 2007 would have been $, or $ per share of common stock. This represents an immediate increase in net tangible book value per share of $ to existing stockholders and immediate dilution of $ per share to new investors purchasing shares in this offering. Dilution per share to new investors is determined by subtracting the net tangible book value per share after this offering from the initial public offering price per share paid by a new investor. The following table illustrates the per share dilution without giving effect to the over-allotment option granted to the underwriters:

Assumed initial public offering price per share of common stock		$
Actual net tangible book value per share as of January 31, 2007	$ 5.03	
Increase in net tangible book value per share attributable to new investors		
Adjusted tangible book value per share after this offering		
Dilution per share to new investors		$

A $1.00 increase (decrease) in the assumed public offering price of $ per share would increase (decrease) the adjusted net tangible book value per share by $, and the dilution per share to new investors by $, assuming the number of shares offered by us in this offering as set forth on the cover page of this prospectus remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

If the underwriters exercise their over-allotment option in full, our net tangible book value will increase to $ per share, representing an immediate increase to existing stockholders of $ per share and an immediate dilution of $ per share to new investors. If any shares are issued in connection with outstanding options, you will experience further dilution.

The following table summarizes as of January 31, 2007 the number of shares of common stock purchased or to be purchased from us, the total consideration paid or to be paid and the average price per share paid by (1) the stockholders that purchased our shares in our October 2003 offering on the AIM market of the London Stock Exchange, (2) other existing stockholders and (3) new investors in this offering, before deducting underwriting discounts and commissions and other estimated expenses of this offering.

	Total Shares		Total Consideration		Average Price per Share
	Number	%	Amount	%	
Stockholders that purchased in the AIM market offering	2,000,000		$ 42,600,000		$ 21.30
Other existing stockholders(1)	3,177,219		15,260,000		$ 4.80
New investors					
Total		100%	$	100%	

(1) Includes shares held by our directors and executive officers, 78% of which shares were purchased more than five years prior to January 31, 2007.

The table above is based on shares outstanding as of January 31, 2007 and excludes:

- 1,366,574 shares of our common stock issuable upon the exercise of stock options outstanding as of January 31, 2007 at a weighted average exercise price of $14.25 per share; and
- 803,215 shares of our common stock available for future grant under our equity compensation plans, including our new 2006 stock incentive plan, as of January 31, 2007.

If the underwriters exercise their over-allotment option in full, the following will occur:

- the percentage of shares of common stock held by existing stockholders will decrease to approximately % of the total number of shares of our common stock outstanding after this offering; and
- the number of shares held by new investors will be increased to , or approximately %, of the total number of shares of our common stock outstanding after this offering.

SELECTED CONSOLIDATED FINANCIAL DATA

You should read the following selected consolidated financial data in conjunction with our consolidated financial statements and the related notes appearing at the end of this prospectus and the "Management's Discussion and Analysis of Financial Condition and Results of Operations" section of this prospectus. We have derived the consolidated statement of operations data for the fiscal years ended April 30, 2004, 2005 and 2006 and the consolidated balance sheet data as of April 30, 2005 and 2006 from our audited consolidated financial statements, which are included in this prospectus, as audited by KPMG LLP, our independent registered public accounting firm for fiscal 2005 and 2006 and by Deloitte & Touche LLP for fiscal 2004. We have derived the consolidated statement of operations data for the fiscal years ended April 30, 2002 and 2003 and the consolidated balance sheet data as of April 30, 2002, 2003 and 2004 from our audited consolidated financial statements, which are not included in this prospectus. We have derived the consolidated statement of operations data for the nine months ended January 31, 2006 and 2007 and the consolidated balance sheet data as of January 31, 2007 from our unaudited consolidated financial statements, which are included in this prospectus. The unaudited summary consolidated financial statement data include, in our opinion, all adjustments, consisting only of normal recurring adjustments, that are necessary for a fair presentation of our financial position and results of operations for these periods. Our historical results for any prior period are not necessarily indicative of results to be expected for any future period.

	Fiscal Years Ended April 30,					Nine Months Ended January 31,	
	2002	2003	2004	2005	2006	2006	2007
						(Unaudited)	
Consolidated Statement of Operations Data:							
Revenues	$ 1,375,339	$ 2,548,294	$ 4,713,202	$ 5,365,235	$ 1,747,715	$ 1,467,283	$ 1,513,631
Cost of revenues	3,619,996	2,555,267	4,319,850	5,170,521	2,059,318	1,920,980	2,103,108
Gross profit (loss)	(2,244,657)	(6,973)	393,352	194,714	(311,603)	(453,697)	(589,477)
Operating expenses:							
Product development costs	622,137	180,403	255,958	904,618	4,224,997	2,630,663	4,100,418
Selling, general and administrative costs	1,832,747	818,596	1,745,955	2,553,911	3,190,687	2,168,345	3,083,621
Total operating expenses	2,454,884	998,999	2,001,913	3,458,529	7,415,684	4,799,008	7,184,039
Operating loss	(4,699,541)	(1,005,972)	(1,608,561)	(3,263,815)	(7,727,287)	(5,252,705)	(7,773,516)
Other income (expense):							
Interest income, net	120,880	38,441	555,717	1,297,156	1,408,361	1,062,095	1,066,823
Other income (expense)	499,591	473	(3,500,096)(1)	1,545	74,294	75,000	13,744
Foreign exchange gain (loss)	—	—	1,585,345	1,507,145	(978,242)	(1,514,630)	1,184,499
Loss before incomes taxes	(4,079,070)	(967,058)	(2,967,595)	(457,969)	(7,222,874)	(5,630,240)	(5,508,450)
Income tax benefit	155,312	146,853	118,119	29,335	143,963	143,963	—
Net loss	$ (3,923,758)	$ (820,205)	$ (2,849,476)	$ (428,634)	$ (7,078,911)	$ (5,486,277)	$ (5,508,450)
Basic and diluted net loss per share	$ (1.30)	$ (0.27)	$ (0.71)	$ (0.08)	$ (1.37)	$ (1.06)	$ (1.06)
Basic and diluted weighted average shares outstanding	3,015,118	3,017,422	4,037,501	5,135,550	5,162,340	5,158,982	5,174,539

	As of April 30,					As of January 31,
	2002	2003	2004	2005	2006	2007
						(Unaudited)
Consolidated Balance Sheet Data:						
Cash, cash equivalents and certificates of deposit	$ 3,255,238	$ 2,246,175	$ 39,565,574(2)	$ 38,787,176	$ 32,439,365	$ 26,657,152
Working capital	1,714,786	1,177,789	38,422,395	37,903,207	30,886,029	26,224,722
Total assets	3,837,915	2,878,947	40,747,479	41,596,387	33,996,138	30,925,630
Long-term debt, net of current portion	250,000	250,000	250,000	245,844	233,959	233,959
Accumulated deficit	(17,486,799)	(18,275,132)	(21,124,608)	(21,553,242)	(28,632,153)	(34,140,603)
Total stockholders' equity	1,104,284	490,785	37,853,246	37,836,531	31,066,704	26,577,235

(1) Other expense in fiscal 2004 resulted from a one time charge incurred at the time of our stock offering on the AIM market in October 2003 relating to a 1999 agreement between us and Tyco Electronics Corp.

(2) On October 31, 2003, we completed our offering on the AIM market resulting in net proceeds to us of $38.3 million.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis of our financial condition and results of operations together with our consolidated financial statements and the related notes and other financial information included elsewhere in this prospectus. Some of the information contained in this discussion and analysis or set forth elsewhere in this prospectus, including information with respect to our plans and strategy for our business and related financing, includes forward-looking statements that involve risks and uncertainties. You should review the "Risk Factors" section of this prospectus for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis.

Overview

We develop and are commercializing proprietary systems that generate electricity by harnessing the renewable energy of ocean waves. Our PowerBuoy systems use proprietary technologies to convert the mechanical energy created by the rising and falling of ocean waves into electricity. We currently offer two PowerBuoy products, our utility PowerBuoy system and our autonomous PowerBuoy system.

We market our utility PowerBuoy system, which is designed to supply electricity to a local or regional power grid, to utilities and other electrical power producers seeking to add electricity generated by wave energy to their existing electricity supply. We market our autonomous PowerBuoy system, which is designed to generate power for use independently of the power grid, to customers that require electricity in remote locations. We believe there are a variety of potential applications for our autonomous PowerBuoy system, including sonar and radar surveillance, offshore cellular phone service, tsunami warning, oceanographic data collection, offshore platforms and offshore aquaculture. We also offer our customers operations and maintenance services for our PowerBuoy systems, which are expected to provide a source of recurring revenues.

We were incorporated in New Jersey in April 1984 and began commercial operations in 1994. We currently have four wholly owned subsidiaries, Ocean Power Technologies Ltd., OPT Wave Park LLC, Oregon Wave Energy Partners I, LLC and Oregon Wave Energy Partners II, LLC, and we own approximately 88% of the ordinary shares of Ocean Power Technologies (Australasia) Pty Ltd. Our revenues have been generated from research contracts and development and construction contracts relating to our wave energy technology. The development of our technology has been funded by capital we raised and by development engineering contracts we received starting in fiscal 1995. In fiscal 1996, we received the first of several research contracts with the US Navy to study the feasibility of wave energy. As a result of those research contracts, we entered into our first development and construction contract with the US Navy in fiscal 2002 under a still on-going project for the development and construction of a grid-connected wave power station at the US Marine Corps Base in Oahu, Hawaii. We generated our first revenue relating to our autonomous PowerBuoy system from contracts with Lockheed Martin Corporation in fiscal 2003, and we entered into our first development and construction contract with Lockheed Martin in fiscal 2004 for the development and construction of a prototype demonstration autonomous PowerBuoy system. In fiscal 2005, we entered into a development agreement with an affiliate of Iberdrola S.A., a large electric utility company located in Spain and one of the largest renewable energy producers in the world, and other parties to jointly study the possibility of developing a wave power station off the coast of northern Spain. An affiliate of Total S.A., which is one of the world's largest oil and gas companies, joined the development agreement in June 2005. In January 2006, we completed the assessment phase of the project, and in July 2006 we entered into an agreement with Iberdrola Energias Marinas de Cantabria, S.A. to complete the first phase of the construction of a 1.39 megawatt, or MW, wave power station. In addition, we have entered into a contract with affiliates of Iberdrola and Total to assess the viability of a 2 to 5MW power station off the coast of France.

Our fiscal year ends on April 30. For the nine months ended January 31, 2007, we generated revenues of $1.5 million and incurred a net loss of $5.5 million, and for fiscal 2006 we generated revenues of $1.7 million and incurred a net loss of $7.1 million. As of January 31, 2007, our accumulated deficit was $34.1 million. We have not been profitable since inception, and we do not know whether or when we will become profitable

because of the significant uncertainties with respect to our ability to successfully commercialize our PowerBuoy systems in the emerging renewable energy market. Since fiscal 2002, the US Navy has accounted for a significant majority of our revenues. We expect that over time revenues derived from utilities and other non-government commercial customers will increase more rapidly than sales to government customers and will, within a few years, represent the majority of our revenues.

Financial Operations Overview

The following describes certain line items in our statement of operations and some of the factors that affect our operating results.

Revenues

We have historically generated revenues primarily from the development and construction of our PowerBuoy systems for demonstration purposes and, to a lesser extent, from customer-sponsored research and development. In fiscal 2006, we derived approximately 96% of our revenues from government and commercial development and construction contracts and 4% of our revenues from customer-sponsored research and development contracts. For the nine months ended January 31, 2007, we derived approximately 92% of our revenues from government and commercial development and construction contracts and 8% of our revenues from customer-sponsored research and development. Generally, we recognize revenue on the percentage-of-completion method based on the ratio of costs incurred to total estimated costs at completion. In certain circumstances, revenue under contracts that have specified milestones or other performance criteria may be recognized only when our customer acknowledges that such criteria have been satisfied. In addition, recognition of revenue (and the related costs) may be deferred for fixed-price contracts until contract completion if we are unable to reasonably estimate the total costs of the project prior to completion. Because we have a small number of contracts, revisions to the percentage of completion determination or delays in meeting performance criteria or in completing projects may have a significant effect on our revenue for the periods involved. Under our agreement for the first phase of construction of a wave power station off the coast of Santoña, Spain, our revenues are limited to reimbursement for our construction costs without any mark-up and we are required to bear the first €0.5 million of any cost overruns.

Our revenues increased in each of fiscal 2003, 2004 and 2005, but decreased significantly in fiscal 2006 as a result of delays in the timing of contract award and in the approval of the scope of work relating to our project for the US Navy for the development and construction of a wave power station in Hawaii, and the determination by Lockheed Martin and some of its subcontractors not to proceed with a project under consideration that would have utilized our autonomous PowerBuoy system.

The US Navy has been our largest customer since fiscal 2002. The US Navy accounted for approximately 57% of our revenues in the nine months ended January 31, 2007, approximately 61% of our revenues in fiscal 2006, 57% of our revenues in fiscal 2005 and approximately 95% of our revenues in fiscal 2004. We anticipate that the US Navy will continue to account for a substantial portion of our revenue in fiscal 2007 and, if our commercialization efforts are successful, its relative contribution to our revenue will decline thereafter. Lockheed Martin was also a significant customer in fiscal 2006 and 2005, accounting for approximately 22% of our revenues in fiscal 2006 and approximately 32% of our revenues in fiscal 2005.

We currently focus our sales and marketing efforts on coastal North America, the west coast of Europe, the coasts of Australia and the east coast of Japan. In fiscal 2006, we derived 9%, and for the nine months ended January 31, 2007, we derived 35%, of our revenues from outside the United States. The following table provides information regarding the breakdown of our revenues by geographical region for fiscal years 2004, 2005 and 2006 and for the nine months ended January 31, 2007:

	Percentage of Revenues			
Region	Year Ended April 30, 2004	Year Ended April 30, 2005	Year Ended April 30, 2006	Nine Months Ended January 31, 2007
United States	100%	96%	91%	65%
Europe	—	4	9	32
Australia	—	—	—	3
Total	100%	100%	100%	100%

Cost of revenues

Our cost of revenues consists primarily of material, labor and manufacturing overhead expenses, such as engineering expense, equipment depreciation and maintenance and facility related expenses, and includes the cost of PowerBuoy parts and services supplied by third-party suppliers. Cost of revenues also includes PowerBuoy system delivery and deployment expenses.

In the nine months ended January 31, 2007, we operated at a gross loss of approximately $0.6 million, while in fiscal 2006 we operated at a gross loss of $0.3 million and in fiscal 2005 we operated at a gross profit of $0.2 million. Our ability to operate at a gross profit will depend on our success at increasing sales of our PowerBuoy systems and on our ability to manage costs incurred on fixed price commercial contracts.

Product development costs

Our product development costs consist of salaries and other personnel-related costs and the costs of products, materials and outside services used in our product development and research activities. Our product development costs primarily relate to our efforts to increase the output of our current 40 kilowatt, or kW, utility PowerBuoy system to 150kW in 2007, then to 250kW in 2008 and ultimately to 500kW in 2010 and, to a lesser extent, to our research and development of new products, product applications and complementary technologies. We expense all of our product development costs as incurred, except for external patent costs, which we amortize over a 17-year period commencing with the issuance date of each patent.

Our product development costs increased significantly in each of fiscal 2005 and 2006 as a result of the development of our current 40kW utility PowerBuoy system, which was introduced in fiscal 2006. We expect our product development costs to increase in absolute dollars as we continue to increase the output and efficiency of our PowerBuoy systems.

During fiscal 2006, we refocused many of our engineering and development resources that had previously been deployed on our commercial research or product development contracts on the development effort for our current 40kW PowerBuoy system, including the development of the buoy structure, the power take off system and the power grid connection. We introduced our current 40kW PowerBuoy system in fiscal 2006 — one system has been deployed for twelve months off the coast of New Jersey, one system is expected to be deployed in Hawaii for the US Navy project by April 2007 and another system is expected to be deployed for the wave power station off the coast of Spain by October 2007.

Selling, general and administrative costs

Our selling, general and administrative costs consist primarily of salaries and other personnel-related costs for employees engaged in sales and marketing and support of our PowerBuoy systems, promotional and public relations expenses and management and administration expenses in support of sales and marketing, as well as costs for executive, accounting and administrative personnel, professional fees and other general corporate expenses.

We expect our selling, general and administrative costs to increase in absolute dollars as we expand our sales and marketing capabilities, including increased headcount, and as a result of our becoming a public company in the United States.

Interest income, net

Interest income, net consists primarily of interest received on cash and cash equivalents and investments in commercial bank-issued certificates of deposit. Most of our cash, cash equivalents and bank-issued certificates of deposit result from the remaining proceeds of our October 2003 offering on the AIM market. Total cash, cash equivalents and certificates of deposit were $26.7 million as of January 31, 2007, $32.4 million as of April 30, 2006 and $38.8 million as of April 30, 2005. We expect that interest income will generally increase during periods of increasing interest rates and decrease during periods of declining interest rates, net of changes in invested balances. We anticipate that our interest income will increase significantly as a result of the investment of the proceeds from this offering pending the application of the proceeds as described in "Use of Proceeds."

Foreign exchange gain (loss)

We transact business in various countries and have exposure to fluctuations in foreign currency exchange rates. Foreign exchange gains and losses arise in the translation of foreign-denominated assets and liabilities, which may result in realized and unrealized gains or losses from exchange rate fluctuations. Since we conduct our business in US dollars and our functional currency is the US dollar, our main foreign exchange exposure, if any, results from changes in the exchange rate between the US dollar and the British pound sterling, the Euro and the Australian dollar.

We invest in certificates of deposit and maintain cash accounts that are denominated in British pounds, Euros and Australian dollars. These foreign denominated certificates of deposit and cash accounts had a balance of $17.0 million as of January 31, 2007 and $16.7 million as of April 30, 2006, compared to our total certificates of deposits and cash account balances of $26.7 million as of January 31, 2007 and $32.4 million as of April 30, 2006. These foreign currency balances are translated at each month end to our functional currency, the US dollar, and any resulting gain or loss is recognized in our results of operations.

In addition, a portion of our operations is conducted through our subsidiaries in countries other than the United States, specifically Ocean Power Technologies Ltd. in the United Kingdom, the functional currency of which is the British pound sterling, and Ocean Power Technologies (Australasia) Pty Ltd. in Australia, the functional currency of which is the Australian dollar. Both of these subsidiaries have foreign exchange exposure that results from changes in the exchange rate between their functional currency and other foreign currencies in which they conduct business. All of our international revenues for the year ended April 30, 2006 were recorded in Euros or British pounds.

We currently do not hedge exchange rate exposure. However, we assess the anticipated foreign currency working capital requirements and capital asset acquisitions of our foreign operations and attempt to maintain a portion of our cash, cash equivalents and certificates of deposit denominated in foreign currencies sufficient to satisfy these anticipated requirements. We also assess the need and cost to utilize financial instruments to hedge currency exposures on an ongoing basis and may hedge against exchange rate exposure in the future.

Income tax benefit

As of April 30, 2006, we had federal research and development tax credits of $0.5 million and federal net operating losses of approximately $19.5 million to offset future federal taxable income. If not utilized, the credit carryforwards will expire at various dates through 2026, and the net operating loss carryforwards will expire at various dates through 2026. We may not achieve profitability in time to utilize the tax credit and net operating loss carryforwards in full or at all. In addition, the future utilization of our net operating loss carryforwards may be limited based upon changes in ownership, including changes resulting from this offering and the AIM offering in 2003, pursuant to regulations promulgated under the Internal Revenue Code. These limitations may result in the expiration of net operating losses and credits prior to utilization. As discussed in

Note 12 to our consolidated financial statements included in this prospectus, we have established valuation allowances for the full value of our deferred tax assets, which was $10.1 million as of April 30, 2006 and $12.1 million as of January 31, 2007.

In fiscal 2004, 2005 and 2006, we sold a portion of our New Jersey state net operating losses and a portion of our New Jersey research and development credits under a program offered by the State of New Jersey, and recognized income tax benefits of approximately $0.1 million in fiscal 2004, $29,000 in fiscal 2005 and approximately $0.1 million in fiscal 2006. Because we believe we are no longer eligible to participate in this program, we do not expect to sell any additional New Jersey state net operating losses or research and development credits in the future.

Results of Operations

Nine Months Ended January 31, 2006 and 2007

The following table contains selected unaudited statement of operations information, which serves as the basis of the discussion of our results of operations for the nine months ended January 31, 2006 and 2007:

	Nine Months Ended January 31, 2006		Nine Months Ended January 31, 2007		Change 2007 Period to 2006 Period	
	Amount	As a % of Revenues	Amount	As a % of Revenues	$ Change	% Change
	(Unaudited)		(Unaudited)			
Revenues	$ 1,467,283	100%	$ 1,513,631	100%	$ 46,348	3%
Cost of revenues	1,920,980	131	2,103,108	139	182,128	9
Gross loss	(453,697)	(31)	(589,477)	(39)	(135,780)	30
Operating expenses:						
Product development costs	2,630,663	179	4,100,418	271	1,469,755	56
Selling, general and administrative costs	2,168,345	148	3,083,621	204	915,276	42
Total operating expenses	4,799,008	327	7,184,039	475	2,385,031	50
Operating loss	(5,252,705)	(358)	(7,773,516)	(514)	(2,520,811)	(48)
Interest income, net	1,062,095	72	1,066,823	71	4,728	—
Other income	75,000	5	13,744	1	(61,256)	(82)
Foreign exchange (loss) gain	(1,514,630)	(103)	1,184,499	78	2,699,129	(178)
Loss before income taxes	(5,630,240)	(384)	(5,508,450)	(364)	121,790	2
Income tax benefit	143,963	10	—	—	(143,963)	(100)
Net loss	$ (5,486,277)	(374)%	$ (5,508,450)	(364)%	$ (22,173)	—%

Revenues

Revenues of $1.5 million in the first nine months of fiscal 2007 were relatively unchanged from revenues in the same period of fiscal 2006. The change in composition of revenues between the two periods reflected the following factors:

- Revenues relating to our autonomous PowerBuoy system decreased by approximately $0.3 million as a result of the completion of a development and construction contract with Lockheed Martin in the first quarter of fiscal 2006.
- Revenues relating to our utility PowerBuoy system increased by approximately $0.3 million as we started work on the first phase of construction of a 1.39MW wave power station off the coast of Spain and began to assess the feasibility of a 2 to 5MW wave power station off the coast of France in the first nine months of fiscal 2007.
- Revenues relating to our US Navy project increased by approximately $0.1 million due to a slightly higher activity level.

- Revenues decreased by approximately $0.1 million as a result of the completion of the demonstration wave power system that was deployed off the coast of New Jersey in fiscal 2006.
- Revenues were adversely affected by the determination by Lockheed Martin and some of its subcontractors not to proceed with an anticipated defense application project that would have utilized our autonomous PowerBuoy system, although this was partially offset by revenues from a contract with the US Department of Homeland Security to design and study an autonomous PowerBuoy system for offshore marine surveillance, with Lockheed Martin as our subcontractor.

Cost of revenues

Cost of revenues increased by $0.2 million, or 9%, to $2.1 million in the first nine months of fiscal 2007, as compared to $1.9 million in the same period of fiscal 2006. The decrease in gross margin in the nine months ended January 31, 2007 as compared to the same period of fiscal 2006 was primarily due to an anticipated loss of $0.5 million that was recognized in the nine months ended January 31, 2007 on our contract for a wave power station off the coast of Spain. The loss was recognized based on a change in estimated costs associated with this contract. In addition, $0.2 million of compensation expense was recorded as cost of revenues under Statement of Financial Accounting Standards, or SFAS, No. 123(R), *Share-Based Payment*, or SFAS 123(R), which requires companies to recognize compensation expense for all stock-based payments to employees. Because we adopted SFAS 123(R) effective May 1, 2006, we did not record similar compensation expense in the first nine months of fiscal 2006.

Product development costs

Product development costs increased $1.5 million, or 56%, to $4.1 million in the nine months ended January 31, 2007, as compared to $2.6 million in the same period of fiscal 2006. The substantial increase in product development costs was primarily attributable to our efforts to increase the power output of our utility PowerBuoy system. In addition, we recorded $0.2 million of compensation expense as product development costs under SFAS 123(R). Because we adopted SFAS 123(R) effective May 1, 2006, we did not record similar compensation expense in the first nine months of fiscal 2006. As a percentage of revenues, product development costs increased to 271% in the nine months ended January 31, 2007 from 179% in the same period in fiscal 2006. We anticipate that our product development costs related to the planned increase in the output of our utility PowerBuoy system will increase significantly over the next several years and that the amount of these expenditures will not necessarily be affected by the level of revenue generated over that time period. Accordingly, comparisons of product development costs as a percentage of revenue may not be meaningful.

Selling, general and administrative costs

Selling, general and administrative costs increased $0.9 million, or 42%, to $3.1 million in the nine months ended January 31, 2007, as compared to $2.2 million in the same period of fiscal 2006. The increase was primarily attributable to an increase of $0.2 million related to additional marketing expenses and consulting costs, $0.3 million in professional fees, and $0.5 million of compensation expense recorded under SFAS 123(R). Because we adopted SFAS 123(R) effective May 1, 2006, we did not record similar compensation expense in the first nine months of fiscal 2006.

Interest income, net

Interest income, net remained relatively flat at $1.1 million in the nine months ended January 31, 2007, compared to the same period of fiscal 2006, due to a reduction in the balance of our cash, cash equivalents and certificates of deposit between the two periods of $3.8 million, offset by higher interest rates.

Foreign exchange (loss) gain

Foreign exchange gain was $1.2 million in the nine months ended January 31, 2007, compared to a foreign exchange loss of $1.5 million in the same period of fiscal 2006. The gain in the first nine months of fiscal 2007 was primarily attributable to the appreciation of the British pound compared to the US dollar.

Fiscal Years Ended April 30, 2005 and 2006

The following table contains selected statement of operations information, which serves as the basis of the discussion of our results of operations for the years ended April 30, 2005 and 2006:

	Fiscal Year Ended April 30, 2005		Fiscal Year Ended April 30, 2006		Change 2006 Period to 2005 Period	
	Amount	As a % of Revenues	Amount	As a % of Revenues	$ Change	% Change
Revenues	$ 5,365,235	100%	$ 1,747,715	100%	$ (3,617,520)	(67)%
Cost of revenues	5,171,521	96	2,059,318	117	(3,112,203)	(60)%
Gross profit (loss)	194,714	4	(311,603)	(18)	(506,317)	(260)%
Operating expenses:						
Product development costs	904,618	17	4,224,997	242	3,320,379	367%
Selling, general and administrative costs	2,553,911	48	3,190,687	183	636,776	25%
Total operating expenses	3,458,529	64	7,415,684	424	3,957,155	114%
Operating loss	(3,263,815)	(61)	(7,727,287)	(442)	(4,463,472)	137%
Interest income, net	1,297,156	24	1,408,361	81	111,205	9%
Other income	1,545	—	74,294	4	72,749	4,709%
Foreign exchange gain (loss)	1,507,145	28	(978,242)	(56)	(2,485,387)	(165)%
Loss before income taxes	(457,969)	(9)	(7,222,874)	(413)	(6,764,905)	1,477%
Income tax benefit	29,335	1	143,963	8	114,628	58%
Net loss	$ (428,634)	(8)%	$ (7,078,911)	(405)%	$ (6,650,277)	1,552%

Revenues

Revenues decreased by $3.6 million in fiscal 2006, or 67%, to $1.7 million as compared to $5.4 million in fiscal 2005. The decrease in revenues was primarily attributable to the following factors:

- Revenues from our US Navy wave power station project in Hawaii decreased by approximately $1.8 million as a result of delays in the timing of contract award and in the approval of the scope of development and construction of the wave power station.
- Revenues related to our autonomous PowerBuoy system decreased by approximately $1.3 million as a result of the completion of a development and construction contract with Lockheed Martin in the first quarter of fiscal 2006, and the determination by Lockheed Martin and some of its subcontractors not to proceed with an anticipated defense application project that would have utilized our autonomous PowerBuoy system, partially offset by revenues of approximately $61,000 from a contract with the US Department of Homeland Security to design and study an autonomous PowerBuoy system for offshore marine surveillance.
- Revenues decreased by approximately $0.3 million as a result of the completion early in fiscal 2006 of the demonstration wave power station that was deployed off the coast of New Jersey under a contract with the New Jersey Board of Public Utilities.

Cost of revenues

Cost of revenues decreased by $3.1 million, or 60%, to $2.1 million in fiscal 2006 as compared to $5.2 million in fiscal 2005. The decrease in the cost of revenues was primarily attributable to the reduction in revenue during fiscal 2006. Gross loss on revenues in fiscal 2006 primarily reflected discretionary costs incurred by us in connection with the deployment of the first PowerBuoy system in Hawaii that were not reimbursed under our agreement with the US Navy.

Product development costs

Product development costs increased $3.3 million, or 367%, to $4.2 million in fiscal 2006, as compared to $0.9 million in fiscal 2005. The substantial increase in product development costs was primarily attributable to the development of our current 40kW PowerBuoy system, which was deployed in October 2005 off the coast of New Jersey and which is expected to be deployed in the second half of fiscal 2007 in Hawaii.

As discussed above, in fiscal 2006 we experienced a reduction in revenues from approximately $5.4 million in fiscal 2005 to approximately $1.7 million in fiscal 2006. In response to this reduction in revenues, during fiscal 2006 we refocused many of our engineering and development resources that had previously been deployed on our commercial research or development contracts on the product development effort for our current 40kW PowerBuoy system, including the development of the buoy structure, the power take off system and the power grid connection. We also began our efforts to increase the maximum rated output of our utility PowerBuoy system to 150kW.

Selling, general and administrative costs

Selling, general and administrative costs increased $0.6 million, or 25%, to $3.2 million in fiscal 2006, as compared to $2.6 million in fiscal 2005. The increase was primarily attributable to a $0.5 million increase in marketing expenses, including additional marketing personnel, and to increased professional fees.

Interest income, net

Interest income, net increased $0.1 million, or 9%, to $1.4 million in fiscal 2006, as compared to $1.3 million in fiscal 2005. The increase was attributable to higher interest rates in fiscal 2006, which were partially offset by a reduction of our cash, cash equivalents and bank-issued certificates of deposit balances between the two periods of approximately $6.3 million.

Other income

Other income in fiscal 2006 included the recognition of a one-time payment of $0.1 million in fiscal 2006 in connection with the termination of a license development agreement entered into in April 2003. See Note 8 to our consolidated financial statements appearing elsewhere in this prospectus.

Foreign exchange gain (loss)

In fiscal 2006, we had a foreign exchange loss of $1.0 million, as compared to a foreign exchange gain of $1.5 million in fiscal 2005. The difference was primarily attributable to the appreciation of the US dollar compared to the British pound between the two periods.

Income tax benefit

During fiscal 2006, we recorded an income tax benefit of approximately $0.1 million compared to an income tax benefit of approximately $29,000 recorded in fiscal 2005. The income tax benefit recorded in both periods resulted from our sale of New Jersey state net operating losses under a program offered by the State of New Jersey, and the increase from fiscal 2005 to fiscal 2006 reflected the sale of more state net operating losses in fiscal 2006 than in fiscal 2005. Because we believe we are no longer eligible to participate in this program, we do not expect to sell any additional New Jersey state net operating losses or research and development credits in the future.

Fiscal Years Ended April 30, 2004 and 2005

The following table contains selected statement of operations information, which serves as the basis of the discussion of our results of operations for the years ended April 30, 2004 and 2005:

	Fiscal Year Ended April 30, 2004		Fiscal Year Ended April 30, 2005		Change 2005 Period to 2004 Period	
	Amount	As a % of Revenues	Amount	As a % of Revenues	$ Change	% Change
Revenues	$ 4,713,202	100%	$ 5,365,235	100%	$ 652,033	14%
Cost of revenues	4,319,850	92	5,171,521	96	850,671	20%
Gross profit	393,352	8	194,714	4	(198,638)	(50)%
Operating expenses:						
Product development costs	255,958	5	904,618	17	648,660	253%
Selling, general and administrative costs	1,745,955	37	2,553,911	48	807,956	46%
Total operating expenses	2,001,913	42	3,458,529	64	1,456,616	73%
Operating loss	(1,608,561)	(34)	(3,263,815)	(61)	(1,655,254)	103%
Interest income, net	555,717	12	1,297,156	24	741,439	133%
Other income (expense)	(3,500,096)	(74)	1,545	0	3,501,641	(100)%
Foreign exchange gain	1,585,345	34	1,507,145	28	(78,200)	(5)%
Loss before income taxes	(2,967,595)	(63)	(457,969)	(9)	$ 2,509,626	85%
Income tax benefit	118,119	3	29,335	1	(88,784)	(75)%
Net loss	$ (2,849,476)	(60)%	$ (428,634)	(8)%	$ 2,420,842	(85)%

Revenues

Revenues increased by $0.7 million in fiscal 2005, or 14%, to $5.4 million as compared to $4.7 million in fiscal 2004. The increase in revenues was primarily attributable to the following factors:

- Revenues relating to our autonomous PowerBuoy system increased by approximately $1.5 million as a result of a development and construction contract with Lockheed Martin for an autonomous PowerBuoy system that was deployed in September 2004.
- Revenues relating to our utility PowerBuoy system increased by approximately $0.2 million as we began the development phase of the project for a wave power station off the coast of Spain in fiscal 2005.
- Revenues increased by $0.4 million as a result of the recognition of revenue attributable to work performed on the demonstration wave power station that subsequently was deployed off the coast of New Jersey.
- Revenues from our US Navy project in Hawaii decreased by approximately $1.2 million as a result of lower revenue recognized in fiscal 2005 relating to the first deployment of a PowerBuoy in Hawaii that occurred in the first month of fiscal 2005 and revenues decreased an additional $0.2 million as a result of a US Navy sponsored research contract that was completed during the first quarter of fiscal 2005 under which revenues were recognized for all of fiscal 2004.

Cost of revenues

Cost of revenues increased by $0.9 million in fiscal 2005, or 20%, to $5.2 million as compared to $4.3 million in fiscal 2004. The increase in the cost of revenues was primarily attributable to the increase in revenues. The decrease in gross margin reflected the higher level of labor-related and subcontractor costs in fiscal 2005.

Product development costs

Product development costs increased $0.6 million, or 253%, to $0.9 million in fiscal 2005, as compared to $0.3 million in fiscal 2004. The increase in product development costs was primarily attributable to our development efforts for the autonomous and utility PowerBuoy systems.

Selling, general and administrative costs

Selling, general and administrative costs increased $0.8 million, or 46%, to $2.6 million in fiscal 2005, as compared to $1.7 million in fiscal 2004. The increase was primarily attributable to increased costs of approximately $0.5 million as a result of our listing on the AIM market and increased costs of approximately $0.4 million related to our United Kingdom operations which commenced in September 2004.

Interest income, net

Interest income, net increased $0.7 million, or 133%, to $1.3 million in fiscal 2005, as compared to $0.6 million in fiscal 2004. The increase was attributable to a full year of interest income in fiscal 2005 on the proceeds from our stock offering on the AIM market in October 2003.

Other income (expense)

Other income was approximately $2,000 in fiscal 2005, compared to net other expense of $3.5 million in fiscal 2004. The $3.5 million expense in fiscal 2004 resulted from a one time $3.5 million charge at the time of our stock offering on the AIM market in October 2003 relating to a 1999 agreement between us and Tyco Electronics Corp. See Note 7 to our consolidated financial statements appearing elsewhere in this prospectus.

Foreign exchange gain

Foreign exchange gain decreased $0.1 million, or 5%, to $1.5 million in fiscal 2005, as compared to a foreign exchange gain of $1.6 million in fiscal 2004. The decrease in the foreign exchange gain was primarily attributable to lower balances of funds held in British pound-denominated cash equivalents and certificates of deposit.

Income tax benefit

During fiscal 2005, we recorded an income tax benefit of approximately $29,000 compared to an income tax benefit of $0.1 million recorded in fiscal 2004. The income tax benefit recorded in both periods resulted from our sale of New Jersey state net operating losses under a program offered by the State of New Jersey, and the decrease from fiscal 2004 to fiscal 2005 reflected the sale of fewer state net operating losses in fiscal 2005 than in fiscal 2004.

Liquidity and Capital Resources

Since our inception, the cash flows from customer revenues have not been sufficient to fund our operations and provide the capital resources for the planned growth of our business. For the three years ended April 30, 2006, our revenues were $11.8 million, our net losses were $10.4 million and our net cash used in operating activities was $9.4 million. Over that same period, we raised $38.7 million in financing activities. For the nine months ended January 31, 2007, revenues were $1.5 million and net cash used in operations was $6.6 million, reducing the capital resources available to fund our future operations and growth.

At January 31, 2007, our total cash, cash equivalents and certificates of deposit were $26.7 million. Our cash and cash equivalents are highly liquid investments with maturities of three months or less at the date of purchase and consist primarily of time deposits with large commercial banks. Our certificates of deposit are denominated in US dollars and British pounds. The certificates of deposit generally have a fixed maturity date of more than 90 days but less than one year from the date of purchase.

The primary drivers of our cash flows have been our ability to generate revenues and decrease losses related to our contracts, as well as our ability to obtain and invest the capital resources needed to fund our development. Net cash used in operating activities was $6.6 million for the nine months ended January 31, 2007. This primarily resulted from the net loss for the period of $5.5 million. We used $6.9 million of cash in investing activities for the nine months ended January 31, 2007, which consisted primarily of the purchases of certificates of deposit.

Net cash used in operating activities was $5.1 million for fiscal 2006. This primarily resulted from a net loss for the period of $7.1 million, increased by a $0.6 million reduction in our accounts payable and a $0.1 million reduction in our accrued expenses, partially offset by a $1.3 million decrease in our accounts receivable and unbilled receivables, a non-cash foreign exchange loss of $1.0 million and $0.2 million in depreciation and amortization. In fiscal 2006, the decrease in receivables was due to the large reduction in our revenues. The non-cash foreign exchange loss reflected our significant holdings of sterling-denominated certificates of deposit, which were impacted by the appreciation of the dollar against the British pound during fiscal 2006. Net cash provided by investing activities was $24.3 million for fiscal 2006 resulting primarily from $87.4 million in maturities of certificates of deposit partially offset by $62.7 million in purchases of certificates of deposit and $0.4 million in purchases of equipment and patent costs, as we invested in expanding our assembly and test facilities and developed several new patent applications as part of our ongoing investment in technology development. Net cash provided by financing activities was $0.1 million for fiscal 2006 resulting from the proceeds from the exercise of stock options.

Net cash used in operating activities was $1.9 million for fiscal 2005. This primarily resulted from the net loss for the period of $0.4 million and a non-cash foreign exchange gain of $1.5 million. The non-cash foreign exchange gain primarily reflected the impact of the appreciation of the British pound against the dollar on our holdings in sterling-denominated certificates of deposit. Changes in working capital were offset by non-cash adjustments relating to depreciation and amortization and compensation expenses related to stock option grants. Net cash used in investing activities was $25.1 million for fiscal 2005 and primarily consisted of $58.1 million in purchases of certificates of deposit, partially offset by $33.6 million in maturities of certificates of deposit. Net cash used in investing activities also reflected our $0.4 million investment in assembly and test equipment during the year. Net cash provided by financing activities was $0.2 million for fiscal 2005 resulting from the proceeds from the exercise of stock options.

We expect to devote substantial resources to continue our development efforts for our PowerBuoy systems and to expand our sales, marketing and manufacturing programs associated with the commercialization of the PowerBuoy system. Our future capital requirements will depend on a number of factors, including:

- the success of our commercial relationships with Iberdrola, Total, the US Navy and Lockheed Martin;
- the cost of manufacturing activities;
- the cost of commercialization activities, including demonstration projects, product marketing and sales;
- our ability to establish and maintain additional commercial relationships;
- the implementation of our expansion plans, including the hiring of new employees;
- potential acquisitions of other products or technologies; and
- the costs involved in preparing, filing, prosecuting, maintaining and enforcing patent claims and other patent-related costs.

We believe that the net proceeds from this offering, together with our current cash and cash equivalents and certificates of deposit, will be sufficient to meet our anticipated cash needs for working capital and capital expenditures at least through fiscal 2008. If existing resources are insufficient to satisfy our liquidity requirements or if we acquire or license rights to additional product technologies, we may seek to sell additional equity or debt securities or obtain a credit facility. The sale of additional equity or convertible securities could result in dilution to our stockholders. If additional funds are raised through the issuance of debt securities, these securities could have rights senior to those associated with our common stock and could contain covenants that would restrict our operations. Financing may not be available in amounts or on terms acceptable to us. If we are unable

to obtain required financing, we may be required to reduce the scope of our planned product development and marketing efforts, which could harm our financial condition and operating results.

Contractual Obligations

Our major outstanding contractual obligations relate to our facilities leases. We have summarized in the table below our fixed contractual cash obligations as of April 30, 2006.

	Payments Due by Period				
	Total	Less Than One Year	One to Three Years	Four to Five Years	More Than Five Years
Long-term debt	$ 246,000	$ 12,000	(1)	(1)	(1)
Operating leases	$ 1,496,000	$ 233,000	$ 435,000	$ 414,000	$ 414,000

(1) Our long-term debt consists of an interest-free loan from the New Jersey Commission on Science and Technology. The amounts to be repaid each year are determined as a percentage of revenues we receive in that year from our customer contracts that meet criteria specified in the loan agreement, with any remaining amount due on January 15, 2012.

Off Balance Sheet Arrangements

Since inception we have not engaged in any off balance sheet financing activities.

Quantitative and Qualitative Disclosures About Market Risk

Our primary exposure to market risk is currently confined to our cash, cash equivalents and certificates of deposit. None of these items that we hold have maturities that exceed one year. We currently do not hedge interest rate exposure. We have not used derivative financial instruments for speculative or trading purposes. Because the maturities of our cash, cash equivalents and certificates of deposit do not exceed one year, we do not believe that a change in market rates would have any significant impact on the realized value of our investments. We do not have market risk exposure on our long-term debt because it consists only of an interest-free loan from the New Jersey Board of Public Utilities.

We transact business in various countries and have exposure to fluctuations in foreign currency exchange rates. Foreign exchange gains and losses arise in the translation of foreign-denominated assets and liabilities, which may result in realized and unrealized gains or losses from exchange rate fluctuations. Since we conduct our business in US dollars and our functional currency is the US dollar, our main foreign exchange exposure, if any, results from changes in the exchange rate between the US dollar and the British pound sterling, the Euro and the Australian dollar.

We invest in certificates of deposit and maintain cash accounts that are denominated in British pounds, Euros and Australian dollars. These foreign denominated certificates of deposit and cash accounts had a balance of $17.0 million as of January 31, 2007 and $16.7 million as of April 30, 2006, compared to our total certificates of deposits and cash account balances of $26.7 million as of January 31, 2007 and $32.4 million as of April 30, 2006. These foreign currency balances are translated at each month end to our functional currency, the US dollar, and any resulting gain or loss is recognized in our results of operations.

In addition, a portion of our operations is conducted through our subsidiaries in countries other than the United States, specifically Ocean Power Technologies Ltd. in the United Kingdom, the functional currency of which is the British pound sterling, and Ocean Power Technologies (Australasia) Pty Ltd. in Australia, the functional currency of which is the Australian dollar. Both of these subsidiaries have foreign exchange exposure that results from changes in the exchange rate between their functional currency and other foreign currencies in which they conduct business. All of our international revenues for the year ended April 30, 2006 were recorded in Euros or British pounds. If the foreign currency exchange rates had fluctuated by 10% as of April 30, 2006, our foreign exchange loss would have changed by approximately $1.7 million.

We currently do not hedge exchange rate exposure. However, we assess the anticipated foreign currency working capital requirements and capital asset acquisitions of our foreign operations and attempt to maintain a portion of our cash, cash equivalents and certificates of deposit denominated in foreign currencies sufficient to

satisfy these anticipated requirements. We also assess the need and cost to utilize financial instruments to hedge currency exposures on an ongoing basis and may hedge against exchange rate exposure in the future.

Critical Accounting Policies and Estimates

The discussion and analysis of our financial condition and results of operations set forth above are based on our consolidated financial statements, which have been prepared in accordance with US generally accepted accounting principles. The preparation of these consolidated financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses. On an ongoing basis, we evaluate our estimates and judgments, including those described below. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances. These estimates and assumptions form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

We believe the following accounting policies require significant judgment and estimates by us in the preparation of our consolidated financial statements.

Revenue recognition and deferred revenue

Generally, we recognize revenue on the percentage-of-completion method based on the ratio of costs incurred to total estimated costs at completion. In certain circumstances, revenue under contracts that have specified milestones or other performance criteria may be recognized only when our customer acknowledges that such criteria have been satisfied. In addition, recognition of revenue (and the related costs) may be deferred for fixed-price contracts until contract completion if we are unable to reasonably estimate the total costs of the project prior to completion. Because we have a small number of contracts, revisions to the percentage of completion determination or delays in meeting performance criteria or in completing projects may have a significant effect on our revenue for the periods involved.

Upon anticipating a loss on a contract, we recognize the full amount of the anticipated loss in the current period. We had loss reserves of $1.3 million as of January 31, 2007 related to two contracts, $0.8 million as of April 30, 2006 related to one contract and $0.8 million as of April 30, 2005 related to two contracts. For the nine months ended January 31, 2007, due to a change in estimated costs, we recognized a loss of $0.5 million on our contract for a wave power station off the coast of Spain.

Unbilled receivables represent expenditures on contracts, plus applicable profit margin, not yet billed. Unbilled receivables are normally billed and collected within one year. Billings made on contracts are recorded as a reduction in unbilled receivables, and to the extent that those billings exceed costs incurred plus applicable profit margin, they are recorded as unearned revenues.

Stock-based compensation

In December 2004, the Financial Accounting Standards Board issued SFAS 123(R), which requires companies to recognize compensation expense for all stock-based payments to employees, including grants of employee stock options, in their statement of operations based on the fair value of the awards. We adopted SFAS 123(R) effective May 1, 2006 using the modified prospective method. Under this method, compensation cost is recognized for all share-based payments granted subsequent to April 30, 2006, awards modified after April 30, 2006, and the remaining portion of the fair value of unvested awards at April 30, 2006. Prior to May 1, 2006, we used the intrinsic value method to determine values used in our pro forma stock-based compensation disclosures.

In March 2005, the SEC issued Staff Accounting Bulletin No. 107, or SAB 107, which provides guidance regarding the implementation of SFAS 123(R). In particular, SAB 107 provides guidance regarding calculating assumptions used in stock-based compensation valuation models, the classification of stock-based compensation expense, the capitalization of stock-based compensation costs and disclosures in filings with the SEC.

Determining the appropriate fair-value model and calculating the fair value of stock-based awards at the date of grant using any valuation model requires judgment. We use the Black-Scholes option pricing model to estimate the fair value of employee stock options, consistent with the provisions of SFAS 123(R). Option pricing models, including the Black-Scholes model, require the use of input assumptions, including expected

volatility, expected term and the expected dividend rate. Because our stock is not currently publicly traded in the United States, we do not have an observable share-price volatility for the United States capital markets; therefore, we estimate our expected volatility based on that of what we consider to be similar publicly-traded companies and expect to continue to do so until such time as we have adequate historical data from our traded share price in the United States. We did not estimate our expected volatility based on the price of our common stock on the AIM market because we do not believe, based on the historically low trading volume of our shares on that market, that the price of our common stock on the AIM market is an appropriate indicator of the expected volatility of our common stock. Prior to fiscal 2007, we estimated the expected term of our options using our best estimate of the period of time from the grant date that we expect the options to remain outstanding. Beginning in fiscal 2007, we estimate the expected term using the average midpoint between the vesting terms and the contractual terms of our options as described in SAB 107. If we determine another method to estimate expected volatility or expected term is more reasonable than our current methods, or if another method for calculating these input assumptions is prescribed by authoritative guidance, the fair value calculated for future stock-based awards could change significantly. Higher volatility and longer expected terms have a significant impact on the value of stock-based compensation determined at the date of grant. The expected dividend rate is not as significant to the calculation of fair value.

In addition, SFAS 123(R) requires us to develop an estimate of the number of stock-based awards that will be forfeited due to employee turnover. Quarterly changes in the estimated forfeiture rate can have a significant effect on reported stock-based compensation. If the actual forfeiture rate is higher than the estimated forfeiture rate, then an adjustment is made to increase the estimated forfeiture rate, which will result in a decrease to the expense recognized in the consolidated financial statements during the quarter of the change. If the actual forfeiture rate is lower than the estimated forfeiture rate, then an adjustment is made to decrease the estimated forfeiture rate, which will result in an increase to the expense recognized in the consolidated financial statements. These adjustments affect our cost of revenues, product development costs and selling, general and administrative costs. Through the nine months ended January 31, 2007, the effect of forfeiture adjustments on our consolidated financial statements has been insignificant. The expense we recognize in future periods could differ significantly from the current period and/or our forecasts due to adjustments in the assumed forfeiture rates.

As a result of the adoption of SFAS 123(R), we recorded stock compensation expense of $0.9 million in the nine months ended January 31, 2007.

Income taxes

We account for income taxes in accordance with SFAS No. 109, *Accounting for Income*, or SFAS 109. Under this method, we determine deferred tax assets and liabilities based upon the differences between the financial statement carrying amounts and the tax bases of assets and liabilities, as well as credit and net operating loss carryforwards, using enacted tax rates in effect for the year in which such items are expected to affect taxable income. The tax consequences of most events recognized in the current year's financial statements are included in determining income taxes currently payable. However, because tax laws and financial accounting standards differ in their recognition and measurement of assets, liabilities, equity, revenues, expenses, gains and losses, differences arise between the amount of taxable income and pretax financial income for a year and between the tax bases of assets or liabilities and their reported amounts in the financial statements. Because we assume that the reported amounts of assets and liabilities will be recovered and settled, respectively, a difference between the tax basis of an asset or a liability and its reported amount in the balance sheet will result in a taxable or a deductible amount in some future years when the related liabilities are settled or the reported amounts of the assets are recovered, giving rise to a deferred tax asset. We then assess the likelihood that our deferred tax assets will be recovered from future taxable income and, to the extent we believe that recovery is not likely, we establish a valuation allowance. As discussed in Note 12 to our consolidated financial statements included in this prospectus, we have established valuation allowances for the full value of our net deferred tax assets, which were $10.1 million as of April 30, 2006 and $12.1 million as of January 31, 2007.

Recent Accounting Pronouncements

In June 2005, the Financial Accounting Standards Board issued SFAS No. 154, *Accounting Changes and Error Corrections*, or SFAS 154, which requires entities that voluntarily make a change in accounting principle to apply that change retrospectively to prior periods' financial statements, unless this would be impracticable. SFAS 154 supersedes Accounting Principles Board Opinion No. 20, *Accounting Changes*, which previously required that most voluntary changes in accounting principles be recognized by including the cumulative effect of changing to the new accounting principle in the current period's net income or loss. SFAS No. 154 also makes a distinction between "retrospective application" of an accounting principle and the "restatement" of financial statements to reflect the correction of an error. Another significant change in practice under SFAS No. 154 will be that if an entity changes its method of depreciation, amortization or depletion for long-lived, non-financial assets, the change must be accounted for as a change in accounting estimate. Under Accounting Principles Board Opinion No. 20, such a change would have been reported as a change in accounting principle. SFAS 154 is effective for accounting changes and corrections of errors made in fiscal years beginning after December 15, 2005. Adoption is not expected to have a material effect on our financial position or results of operations.

In July 2006, the Financial Accounting Standards Board issued Financial Accounting Standards Board Interpretation No. 48, *Accounting for Uncertainty in Income Taxes*, or FIN 48. FIN 48 clarifies the accounting for uncertainty in income taxes recognized in an enterprises' financial statements in accordance with SFAS 109. FIN 48 prescribes a recognition and measurement method for tax positions taken or expected to be taken in a tax return. FIN 48 also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosures and transitions. FIN 48 is effective for fiscal years beginning after December 15, 2006. We are currently analyzing the effects of FIN 48 but do not expect it to have a material effect on our financial position or results of operations.

In September 2006, the SEC issued Staff Accounting Bulletin No. 108, *Considering the Effects of Prior Year Misstatements when Quantifying Misstatements in Current Year Financial Statements*, or SAB 108. SAB 108 provides guidance on how prior year misstatements should be taken into consideration when quantifying misstatements in current year financial statements for purposes of determining whether the current year's financial statements are materially misstated. SAB 108 becomes effective during our 2007 fiscal year. We do not expect the adoption of SAB 108 to have a material impact on our consolidated financial statements.

Change in Accountants

Deloitte & Touche LLP previously served as our independent registered public accounting firm. On July 27, 2004, the audit committee of our board of directors directed us to seek proposals from several accounting firms, with respect to the audit of our consolidated financial statements for the fiscal year ended April 30, 2005. On or about August 10, 2004, Deloitte & Touche LLP notified us that it declined to stand for reappointment as our independent auditors for the fiscal year ended April 30, 2005.

Deloitte & Touche LLP's audit reports on our consolidated financial statements as of and for the years ended April 30, 2003 and 2004 did not contain any adverse opinion or disclaimer of opinion, nor were they qualified or modified as to uncertainty, audit scope or accounting principle. In connection with its audits of our financial statements as of April 30, 2003 and 2004 and for the years then ended and during the interim period from May 1, 2004 until the date Deloitte & Touche LLP notified us that it declined to stand for reappointment as our independent auditors, there were no disagreements with Deloitte & Touche LLP on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of Deloitte & Touche LLP, would have caused Deloitte & Touche LLP to make reference to the subject matter of the disagreement in connection with its audit reports related to our fiscal 2003 and 2004 consolidated financial statements. During our two fiscal years ended April 30, 2003 and 2004 and during the interim period from May 1, 2004 until the date Deloitte & Touche LLP notified us that it declined to stand for reappointment as our independent auditors, there were no reportable events as defined in Item 304(a)(1)(v) of Regulation S-K.

On November 24, 2004, the audit committee of our board of directors appointed KPMG LLP as our new independent registered public accounting firm for the fiscal year ended April 30, 2005. We did not consult with KPMG LLP on any financial or accounting reporting matters before its appointment.

BUSINESS

Overview

We develop and are commercializing proprietary systems that generate electricity by harnessing the renewable energy of ocean waves. The energy in ocean waves is predictable, and electricity from wave energy can be produced on a consistent basis at numerous sites located near major population centers worldwide. Wave energy is an emerging segment of the renewable energy market. Based on our proprietary technology, considerable ocean experience, existing products and expanding commercial relationships, we believe we are the leading wave energy company.

We currently offer two products as part of our line of PowerBuoy® systems: a utility PowerBuoy system and an autonomous PowerBuoy system. Our PowerBuoy system is based on modular, ocean-going buoys, which we have been ocean testing for nearly a decade. The rising and falling of the waves moves the buoy-like structure creating mechanical energy that our proprietary technologies convert into electricity. We have tested and developed wave power generation and control technology using proven equipment and processes in novel applications. Our two products are designed for the following applications:

- Our utility PowerBuoy system is capable of supplying electricity to a local or regional electric power grid. Our wave power stations will be comprised of a single PowerBuoy system or an integrated array of PowerBuoy systems, plus the remaining components required to deliver electricity to a power grid. We intend to sell our utility PowerBuoy system to utilities and other electrical power producers seeking to add electricity generated by wave energy to their existing electricity supply.
- Our autonomous PowerBuoy system is designed to generate power for use independently of the power grid in remote locations. There are a variety of potential applications for this system, including sonar and radar surveillance, offshore cellular phone service, tsunami warning, oceanographic data collection, offshore platforms and offshore aquaculture.

From October 2005 to October 2006, we operated a demonstration PowerBuoy system with a maximum peak, or rated, output of 40 kilowatts, or kW, off the coast of New Jersey under a contract with the New Jersey Board of Public Utilities. This PowerBuoy system has been removed from the ocean and is currently undergoing planned maintenance prior to re-deployment. No other PowerBuoy systems are currently deployed.

Our product development and engineering efforts are focused on increasing the maximum rated output of our utility PowerBuoy system from the current 40kW to 150kW in 2007, then to 250kW in 2008 and ultimately to 500kW in 2010. We believe by increasing system output, we will be able to decrease the cost per kW of our PowerBuoy system and the cost per kilowatt hour of the energy generated. In addition, we are focusing on expanding our key commercial opportunities for both the utility and the autonomous PowerBuoy systems. We currently have commercial relationships with the following:

- Iberdrola S.A., or Iberdrola, which is a large electric utility company located in Spain and one of the largest renewable energy producers in the world, Total S.A., or Total, which is one of the world’s largest oil and gas companies, and two Spanish governmental agencies for the first phase of the construction of a 1.39 megawatt, or MW, wave power station off the coast of Santoña, Spain. We currently plan to deploy an initial 40kW PowerBuoy system for this project by October 2007.
- Iberdrola and Total to evaluate the development of a wave power station off the coast of France.
- The United States Navy to develop and build a wave power station at the US Marine Corps Base in Oahu, Hawaii that we believe will serve as a prototype wave power station for the installation of wave power stations at other US Navy bases. One PowerBuoy system was installed in connection with this project for a total of eight months over a two-year period. We plan to deploy an improved system by April 2007.
- Lockheed Martin Corporation to market cooperatively with us our autonomous PowerBuoy system for use with Lockheed Martin equipment. Lockheed Martin successfully completed an ocean test of an autonomous PowerBuoy system in September 2004.

As part of our marketing efforts, we use demonstration wave power stations to establish the feasibility of wave power generation. In addition to the demonstration PowerBuoy system operated off the coast of New

Jersey, we plan to develop and operate two additional demonstration wave power stations. Unlike the New Jersey power system, these demonstration wave power stations will, if approved and constructed as planned, be connected to the local power grids. In February 2006, we received approval from the South West of England Regional Development Agency to install a 5MW demonstration wave power station off the coast of Cornwall, England. In February 2007, the US Federal Energy Regulatory Commission granted us a preliminary permit to evaluate the feasibility of a location off the coast of Reedsport, Oregon for the proposed construction and operation of a wave power station with an anticipated maximum rated output of 50MW, of which up to the first 5MW will be a demonstration wave power station. In February 2007, we signed a cooperative agreement with a utility partner, Pacific Northwest Generating Cooperative, for the development of a wave power station. We plan to generate incremental revenue from the demonstration wave power stations by selling electricity to utilities.

In January 2007, we filed applications with the US Federal Energy Regulatory Commission for preliminary permits to evaluate the feasibility of two locations, off the coasts of Coos Bay, Oregon and Newport, Oregon, for the proposed construction and operation of wave power stations, each with an anticipated maximum rated output of 100MW.

Our Market

Global demand for electric power is expected to increase from 14.8 trillion kilowatt hours in 2003 to 30.1 trillion kilowatt hours by 2030, according to the Energy Information Administration, or the EIA. To meet this demand, the International Energy Agency, or the IEA, estimates that investments in new generating capacity will exceed $4 trillion in the period from 2003 to 2030, of which $1.6 trillion will be for new renewable energy generation equipment.

According to the IEA, fossil fuels such as coal, oil and natural gas generated over 60% of the world's electricity in 2002. However, a variety of factors are contributing to the development of renewable energy systems that capture energy from replenishable natural resources, including ocean waves, flowing water, wind and sunlight, and convert it into electricity.

- *Rising cost of fossil fuels.* The cost of fossil fuel used to generate electricity has been rising. From 2000 to 2005 in the United States, the cost of coal used for electricity generation increased by 28%, the cost of natural gas used for electricity generation increased by 91% and the cost of oil used for electricity generation increased by 64%.
- *Dependence on energy from foreign sources.* Many countries, including the United States, Japan and much of Europe, depend on foreign resources for a majority of their domestic energy needs. Concerns over political and economic instability in some of the leading energy producing regions of the world are encouraging consuming countries to diversify their sources of energy.
- *Environmental concerns.* Environmental concerns regarding the by-products of fossil fuels have led many countries and several US states to agree to reduce emissions of carbon dioxide and other gases associated with the use of fossil fuels and to adopt policies promoting the development of cleaner technologies.
- *Government incentives.* Many countries have adopted policies to provide incentives for the development and use of renewable energy sources, such as subsidies to encourage the commercialization of renewable energy power generation.
- *Infrastructure constraints.* In many parts of the world, the existing electricity infrastructure is insufficient to meet projected, and in some places existing, demand. Expansion of generating capacity from existing energy sources is frequently hindered by significant regulatory, political and economic constraints.

As a result of these and other factors, the EIA projects that grid-connected generating capacity fueled by renewable energy resources will continue to grow over the next 25 years.

Wave Energy

The energy in ocean waves is a form of renewable energy that can be harnessed to generate electricity. Ocean waves are created when wind moves across the ocean surface. The interaction between the wind and the ocean surface causes energy to be exchanged. At first, small waves occur on the ocean surface. As this process continues, the waves become larger and the distance between the tops of the waves becomes longer.

The size of the waves, and the amount of energy contained in the waves, depends on the wind speed, the time the wind blows over the waves and the distance it covers. The rising and falling of the waves moves our PowerBuoy system creating mechanical energy that our proprietary technologies convert into usable electricity.

There are a variety of benefits to using wave energy for electricity generation.

- *Scalability within a small site area.* Due to the tremendous energy in ocean waves, wave power stations with high capacity — 50MW and above — can be installed in a relatively small area. We estimate that, upon completion of the development of our 500kW PowerBuoy system, we would be able to construct a wave power station that would occupy less than one-tenth of the ocean surface occupied by an offshore wind power station of equivalent capacity.
- *Predictability.* The supply of electricity from wave energy can be forecasted in advance. The amount of energy a wave thousands of miles away will have when it arrives at a wave power station days later can be calculated based on satellite images and meteorological data with a high degree of accuracy. Customers can use this information to develop sourcing plans to meet their short-term electricity needs.
- *Constant Source of Energy.* The annual flow of waves at specific sites can be relatively constant. Based on our studies and analysis of our target sites, we believe our wave power stations will be able to produce usable electricity for approximately 90% of all hours during a year.

There are currently several approaches, in different stages of development, for capturing wave energy and converting it into electricity. Methods for generating electricity from wave energy can be divided into two general categories: onshore systems and offshore systems. Our PowerBuoy system is an offshore system. Offshore systems are typically located one to five miles offshore and in water depths of between 100 and 200 feet. The system can be above, on or below the ocean surface. Many offshore systems utilize a floatation device to harness wave energy. The heaving or pitching of the floatation device due to the force of the waves creates mechanical energy, which is converted into electricity by various technologies. Onshore systems are located at the edge of the shore, often on a sea cliff or a breakwater and typically must concentrate the wave energy first before using it to drive an electrical generator. Although maintenance costs of onshore systems may be less than those associated with offshore systems, there are a variety of disadvantages with these systems. As waves approach the shore, the energy in the waves decreases; therefore, onshore wave power stations do not take full advantage of the amount of energy that waves in deeper water produce. In addition, there are a limited number of suitable sites for onshore systems and there are environmental and possible aesthetic issues with these wave power stations due to their size and location on the seashore.

The scalability, predictability, constancy and limited environmental impact of offshore wave energy systems such as ours compare favorably with many other renewable energy technologies.

- Hydroelectric power generates electricity by capturing energy from flowing waters typically stored in and then released from reservoirs. The expansion of hydroelectric power may be limited due to the environmental and ecological impact of hydroelectric power stations.
- Wind power generates electricity by using wind turbines to harness the energy produced as a result of the wind’s motion and to convert it into electricity. Wind turbine structures, which can be over 300 feet high and have blades with a span over 200 feet wide, require locations with plenty of open space and high average wind speeds. Due to the perceived aesthetic impact of wind turbines, some local governments have zoning restrictions prohibiting the installation of wind farms. In addition, because of their usual proximity to the shore, offshore wind farms share some of the same perceived aesthetic challenges as onshore wind farms.
- Solar power generates electricity from sunlight. Since the sun’s energy is not always available and is widely scattered, current solar power technology is not scalable to create a large power station for supplying power to the grid.
- Tidal power captures energy contained in moving water due to tides and water current power captures energy contained in ocean and river flows and non-tidal currents. Both of these technologies require specific geographic characteristics for installation, which limits the availability of suitable sites.

Our Competitive Advantages

We believe that our technology for generating electricity from wave energy and our commercial relationships give us several potential competitive advantages in the renewable energy market.

- *Our PowerBuoy system uses an ocean-tested technology to generate electricity.*
  - We have been conducting ocean tests for nearly a decade in order to prove the viability of our technology. We initiated our first ocean installation in 1997 and have had several deployments of our systems for testing and operation since then, the longest of which has lasted 12 months. Our PowerBuoy systems have survived several hurricanes and winter storms while installed in the ocean.
  - We have had an operational demonstration PowerBuoy system off the coast of New Jersey since October 2005, which system was removed from the ocean for maintenance in October 2006, and currently plan to build and deploy two additional demonstration wave power stations that, unlike the PowerBuoy system in New Jersey, will provide electricity to the local power grids. In February 2006, we received approval from the South West of England Regional Development Agency to install a demonstration wave power station off the coast of Cornwall, England and in February 2007, the US Federal Energy Regulatory Commission granted us a preliminary permit to evaluate the feasibility of a wave power station off the coast of Reedsport, Oregon, a portion of which will be for demonstration purposes.
- *Our PowerBuoy system is efficient in harnessing wave energy.*
  - Our PowerBuoy system is designed to efficiently convert wave energy into electricity by using onboard sensors to detect actual wave conditions and then to automatically adjust the performance of the generator using our proprietary electrical and electronics-based control systems in response to that information.
  - One measure of the efficiency of an electric power generation system is load factor. The load factor is the percent of kilowatt hours produced by a system in a given period as compared to the total possible kilowatt hours that could be produced by the system in that period. A high load factor indicates a high degree of utilization of the capacity of the system and provides a means to compare the efficiencies of different energy sources to produce equivalent power outputs (without taking into account the relative costs of constructing such systems). Since we have not yet operated a wave power station, we do not have a measured load factor. However, based on our research and analysis, we believe the load factor for a PowerBuoy wave power station located at most of our targeted sites would be in the range of 30% to 45%.
- *Our PowerBuoy system takes advantage of time-tested and well-known technology.*
  - Our PowerBuoy system is designed to combine features of ocean-going buoys with advanced electrical and electronics-based systems. Since standard ocean-going buoys have been deployed in maritime applications for decades, their survival and risk profiles are known and proven. By using electrical, rather than mechanical, engineering solutions whenever possible, we are able to control materials, construction and other capital costs while maintaining reliability.
  - Our PowerBuoy system can be built using easily sourced components supplied by third parties. Due to the PowerBuoy system's modular design, total construction time is minimized as multiple components can be built simultaneously, and generating capacity can be scaled up or down by incrementally adding or subtracting groups of PowerBuoy units. In addition, our PowerBuoy system can be deployed using common maritime techniques.
- *Numerous potential sites for our wave power stations are located near major population centers worldwide.*
  - Our systems are designed to work in sites with average annual wave energy of at least 20kW per meter of wave front, which can be found in many coastal locations around the world. In particular, we are targeting coastal North America, the west coast of Europe, the coasts of Australia and the east

coast of Japan. These potential sites not only have appropriate natural resources for harnessing wave energy, but they are also located near large population centers with significant and increasing electricity requirements. Due to seasonal and local variations, water depth and the effect of particular locations of islands and other geographical features, it is not necessarily the case that all locations in our targeted coastal areas are suitable sites for our systems.

- *We have significant commercial relationships.*
  - Our current projects with Iberdrola and Total provide us with an initial opportunity to sell our wave power stations to utilities. By collaborating with leaders in renewable energy development, we believe we are able to accelerate both our in-house knowledge of the utility power generation market and our reputation as a credible renewable energy equipment supplier. If these projects are successful, we intend to leverage our experiences with the Spain and France projects to add wave power stations, new customers and complementary revenue streams from operations and maintenance contracts similar to the agreement we have in connection with the Spain project.
  - For certain customers in need of electricity solutions independent of the grid in defense and related markets, our marketing relationship with Lockheed Martin will enable us to offer a complete solution — both equipment and power generation for that equipment — thereby maximizing the marketability of our autonomous PowerBuoy system for these remote applications.
  - With the funding from the US Navy, we have been able to refine our PowerBuoy system while simultaneously preparing for commercial deployment to address a particular customer need. If we are able to successfully deploy PowerBuoy systems for the US Navy, we believe our market visibility will be significantly enhanced.
- *Our PowerBuoy system has the potential to offer a cost competitive renewable energy power generation solution.*
  - Our product development and engineering efforts are focused on increasing the maximum rated output of our utility PowerBuoy system from the current 40kW to 150kW in 2007, then to 250kW in 2008 and ultimately to 500kW in 2010. Assuming we are able to reach manufacturing levels of at least 300 units of 500kW PowerBuoy systems per year, we believe, based upon our research and analysis, that the economies of scale we would have with our fabricators would allow us to offer a renewable electricity solution that competes on a non-subsidized basis with the price of wholesale electricity in key markets. We expect to complete development of our 500kW PowerBuoy system in 2010.
  - Prior to achieving full production levels of the 500kW PowerBuoy system, if we achieve economies of scale for our 150kW or 250kW PowerBuoy systems, we expect to be able to offer a renewable electricity solution that competes with the price of electricity from traditional sources in certain local markets where the current retail price of electricity is relatively high or where sufficient subsidies are available.
- *Our systems are environmentally benign and aesthetically non-intrusive.*
  - We believe that our PowerBuoy system does not present significant risks to marine life and does not emit significant levels of pollutants. In connection with our demonstration project at the US Marine Corps Base in Hawaii, our customer, the US Navy, obtained an independent environmental assessment of our PowerBuoy system prior to installation, as required by the National Environmental Policy Act. Although our project for the US Navy only contemplates an array of up to six PowerBuoy systems in Hawaii, we believe that PowerBuoy systems deployed in other geographic locations, including larger PowerBuoy systems under development and multiple-system wave power stations, would have minimal environmental impact due to the physical similarities with the tested system.
  - Since our PowerBuoy systems are typically located one to five miles offshore, PowerBuoy wave power stations are usually not visible from the shore. Visual impact is often cited as one of the

reasons that many communities have opposed plans to develop power stations. Our PowerBuoy system has the distinct advantage of having only a minimal visual profile. Only a small portion of the unit is visible at close range, with the bulk of the unit hidden below the water.

Our Business Strategy

Our goal is to strengthen our leadership in developing wave energy technologies and commercializing wave power stations and related services. In order to achieve this goal, we are pursuing the following business strategies:

- *Concentrate sales and marketing efforts on four geographic markets.* We are focusing our sales and marketing efforts over the next three years on coastal North America, the west coast of Europe, the coasts of Australia and the east coast of Japan. We believe that each of these areas represents a strong potential market for our PowerBuoy wave power stations because they combine appropriate wave conditions, political and economic stability, large population centers, high levels of industrialization and significant and increasing electricity requirements.
- *Continue to increase PowerBuoy system output.* Our product development and engineering efforts are focused on increasing the output of our PowerBuoy systems from 40kW to 500kW. We plan to increase the rated output of our PowerBuoy system to 150kW in 2007, to 250kW in 2008 and ultimately to 500kW in 2010. The key to increasing the rated output of the PowerBuoy system is to increase the system's efficiency as well as its diameter. If we increase the size of a PowerBuoy system, we will be able to increase the amount of wave energy the system can capture and, in turn, increase the output of the system. For example, if we double the size of the unit's diameter, we will approximately quadruple its power capacity. We believe that by increasing system output, we will be able to decrease the cost per kW of our PowerBuoy system and the cost per kilowatt hour of the energy generated.
- *Construct demonstration wave power stations to encourage market adoption of our wave power stations.* Our demonstration wave power stations are intended to allow us to prove the viability of our PowerBuoy systems in a particular region. By enabling customers to experience our technology first-hand, we believe we will be able to facilitate our entry into our target markets. In addition, demonstration wave power stations provide us with the opportunity to test and refine our technology in actual operating conditions. In February 2006, we were approved by the South West of England Regional Development Agency to install a 5MW demonstration wave power station off the coast of Cornwall, England. In February 2007, the US Federal Energy Regulatory Commission granted us a preliminary permit to evaluate the feasibility of a location off the coast of Reedsport, Oregon for the proposed construction and operation of a wave power station with a maximum rated output of 50MW, of which up to the first 5MW will be a demonstration wave power station. The Cornwall and Reedsport power station will, if approved and constructed as planned, be connected to local power grids.
- *Leverage customer relationships to enhance the commercial acceptance of our utility PowerBuoy system.* We currently have commercial relationships with Iberdrola and Total for two projects. We are in the first phase of the construction of a 1.39MW wave power station off the coast of Santoña, Spain, which phase is to be completed by June 30, 2008. We, along with affiliates of Iberdrola and Total, are currently assessing the viability of a 2 to 5MW power station off the coast of France. In addition, we believe that our project at the US Marine Corps Base in Oahu, Hawaii will serve as a prototype wave power station for the installation of wave power stations at other US Navy bases. We intend to build on these existing commercial relationships both by expanding the number and size of projects we have with our current customers and by entering into new alliances and commercial relationships with other utilities and independent power producers.
- *Expand revenue streams from our autonomous PowerBuoy system.* The autonomous PowerBuoy system addresses specific power generation needs of customers requiring off-grid electricity generation in remote locations in the open ocean. Since our PowerBuoy systems are well suited for many of these uses, we do not expect that they will require subsidies or other price incentives for commercial acceptance. This equipment might be used for powering sonar and radar surveillance, offshore cellular

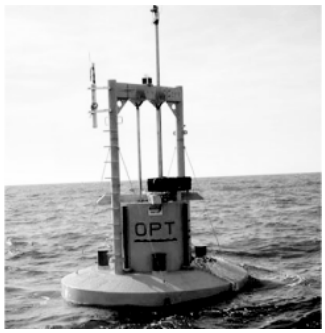
phone service, tsunami warning, oceanographic data collection, offshore platforms and offshore aquaculture. We have entered into a marketing cooperation agreement with Lockheed Martin to identify marketing opportunities for use of our autonomous PowerBuoy system to power Lockheed Martin equipment in remote locations.

- *Maximize revenue opportunities with existing customers.* In January 2007, we entered into an agreement for the monitoring, operation and maintenance of the 40kW PowerBuoy system and the ocean-based substation and infrastructure to be manufactured and deployed in connection with the first phase of the Spain project. Under this agreement, we will be paid a fixed fee for scheduled maintenance, ongoing operations and other routine services and fees to be negotiated for unscheduled repairs. We plan to pursue similar operations and maintenance contracts with future customers, including for our France project, in order to provide us with ongoing revenue streams.

Our Products

We offer two types of PowerBuoy systems: our utility PowerBuoy system, which is designed to supply electricity to a local or regional electric power grid, and our autonomous PowerBuoy system, which is designed to generate power for use independently of the power grid in remote locations. Both products use the same PowerBuoy technology.

Pictured below is our 40kW utility PowerBuoy system at our facilities in New Jersey and installed in the ocean off the coast of New Jersey.



Our PowerBuoy system consists of a floating buoy-like device that is loosely moored to the seabed so that it can freely move up and down in response to the rising and falling of the waves, as well as a power take off device, an electrical generator, a power electronics system and our control system, all of which are sealed in the unit.

The power take off device converts the mechanical stroking created by the movement of the unit caused by ocean waves into rotational mechanical energy, which, in turn, drives the electrical generator. The power electronics system then conditions the output from the generator into usable electricity. The operation of the PowerBuoy system is controlled by our customized control system.

The control system uses sophisticated sensors and an onboard computer to continuously monitor the PowerBuoy subsystems as well as the height, frequency and shape of the waves interacting with the PowerBuoy system. The control system collects data from the sensors and uses proprietary algorithms to electrically adjust the performance of the PowerBuoy system in real-time and on a wave-by-wave basis. By making these electrical adjustments automatically, the PowerBuoy system is able to maximize the amount of usable electricity generated from each wave. We believe that this ability to optimize the performance of the PowerBuoy system in real-time is a significant advantage of our product.

In the event of storm waves larger than 13 feet, the control system automatically locks down the PowerBuoy system and electricity generation is suspended. When the wave heights return to a normal operating range of 13 feet or less, the control system automatically unlocks the PowerBuoy system and electricity generation and transmission recommences. This safety feature prevents the PowerBuoy system from being damaged by the increased amount of energy in storm waves.

Our 40kW PowerBuoy system has a maximum diameter of 12 feet near the surface, and is 52 feet long, with approximately 13 feet of the PowerBuoy system protruding above the surface of the ocean. Larger PowerBuoy systems will be slightly longer and have a larger diameter. For example, our 500kW PowerBuoy system, once developed and manufactured, is expected to have a maximum diameter of approximately 62 feet and be approximately 128 feet long with approximately 26 feet protruding above the ocean surface.

Utility PowerBuoy System

The utility PowerBuoy system is designed to transmit electricity to shore by an underwater power cable, which would then be connected to a power grid. Our utility PowerBuoy system presently has a capacity of 40kW, which we are working to increase to 150kW in 2007, to 250kW in 2008 and ultimately to 500kW in 2010. The utility PowerBuoy system is designed to be positioned in water with a depth of 100 to 200 feet, which can usually be found one to five miles offshore. This depth allows the system to capture meaningful amounts of energy from the waves, since decreasing water depth depletes the energy in the waves.

The mooring system for keeping a utility PowerBuoy system in position connects it by slack lines to three floats that, in turn, are connected by slack lines to three anchors. This is a well-established mooring system, referred to as three-point mooring, which we have improved upon with various technologies that reduce cost and deployment time.

We refer to the entire utility power generation system at one location as a wave power station, which can either be comprised of a single PowerBuoy system or an integrated array of PowerBuoy systems connected to an underwater cable to transmit the electricity to shore. Our system is designed to be scalable as multiple PowerBuoy units can be integrated to create a wave power station with a larger output capacity. An array of PowerBuoy systems would typically be arranged in three staggered rows parallel to the incoming wave front to form a long rectangle. This staggered arrangement would maximize the level of wave energy that the wave power station can capture. For example, to create the planned 1.39MW station off the coast of Santoña, Spain, we intend to use an array of one 40kW PowerBuoy system and nine 150kW PowerBuoy systems arranged in three staggered parallel rows of two or four PowerBuoy systems each.

We have not yet deployed a wave power station consisting of an array of two or more PowerBuoy systems. We have completed the design of arrays, but have not conducted ocean testing or otherwise installed in the ocean a multiple-system wave power station. In particular, unlike single-system power stations, multiple-system power stations require use of an underwater substation to connect the cables from, and collect the electricity generated by, each PowerBuoy system in the array. If our underwater substation does not work as we anticipate, we will need to design an alternative system, which could delay our business plans. In addition, unanticipated issues may arise with the logistics and mechanics of deploying and maintaining multiple PowerBuoy systems at a single site and the additional equipment associated with these multiple-system wave power stations.

We are also exploring the use of our utility PowerBuoy systems for applications that include generating electricity for desalination of water, hydrogen production, water treatment and natural resource processing. In these instances, the power generated by the utility PowerBuoy system would bypass the grid and be delivered directly to the point of electricity consumption.

Autonomous PowerBuoy System

The autonomous PowerBuoy system is based on the same technology as the utility PowerBuoy system but is designed for electricity generation of relatively low amounts of power for use independently of the power grid in remote locations. The autonomous PowerBuoy system currently has a maximum rated output

ranging from 300 watts to 40kW, depending on the application. Our autonomous PowerBuoy system is designed to operate anywhere in the ocean and in any depth of water.

We expect that autonomous PowerBuoy systems will generally be suitable for use on a stand-alone basis for providing power for specific applications, including sonar and radar surveillance, offshore cellular phone service, tsunami warning, oceanographic data collection, offshore platforms and offshore aquaculture.

Product Deployments

The following chart describes the current status of recent and planned deployments of our PowerBuoy systems. As of January 31, 2007, no PowerBuoy systems are in the water as our PowerBuoy system previously deployed off the coast of New Jersey is undergoing planned maintenance out of the water. The deployments are in most cases subject to further negotiation and agreement with third parties, including joint venture partners, and the receipt of necessary government permits and other approvals.

Location	Customer or Power Producer	Project Objective	Planned Capacity and Use	Status
Utility PowerBuoy Systems				
Santoña, Spain	Iberdrola, Total and regional and federal Spanish government agencies	Commercial electricity supply to Spain	1.39MW for grid connection	Planning phase complete; have begun construction of a 40kW PowerBuoy and underwater infrastructure; awarded operations and maintenance contract
West Coast, France	Iberdrola and Total	Commercial electricity supply to France	2 to 5MW for grid connection	In the planning and development phase
Marine Corps Base, Oahu, Hawaii	United States Navy	Demonstrate viability of wave power stations for use at US Navy bases	Electricity supply for grid connection at naval base	One system installed for a total of eight months over a two-year period; an improved system is planned to be deployed in April 2007
Cornwall, England	Wave power station to be operated by us as an independent power producer	Demonstration wave power station; commercial power supply to Cornwall, England	5MW for grid connection	In the planning and development phase
Reedsport, Oregon	Initial 5MW wave power station to be operated by us as an independent power producer	Demonstration wave power station; commercial power supply to Oregon	Initial 5MW and up to 50MW total planned for grid connection	Preliminary permit granted for 50MW wave power station; cooperative agreement signed with utility partner
Autonomous PowerBuoy Systems				
Atlantic City, New Jersey	New Jersey Board of Public Utilities	Demonstrate viability of PowerBuoy system off the coast of New Jersey	One free-standing demonstration system with a maximum rated output of 40kW	Deployed from October 2005 to October 2006; undergoing scheduled routine maintenance out of the water
Gray's Harbor, Washington (completed)	Lockheed Martin	Temporary installation to demonstrate ability to power underwater sensing and communications equipment	Up to 1kW for distributed power use on location	Testing completed successfully
Free-standing ocean sites to be determined	US Department of Homeland Security	Design, analysis and planning of an ocean-based system to be used for detection and tracking of ocean vessels	Output to be determined; to be used for on location distributed power	Initial phase completed; further development subject to US Department of Homeland Security and other governmental approvals

Status of Utility PowerBuoy System Deployments

Our projects in Spain, France and Hawaii are being conducted in conjunction with third-party customers. We have completed the planning phase for the wave power station to be located at Santoña, Spain and currently have begun construction of a 40kW PowerBuoy system and the underwater infrastructure for the wave power station. We are paid in connection with this project as we complete milestones, which include deployment of a 40kW PowerBuoy system. Under our agreement for this first phase of construction, our revenues are limited to reimbursement for our construction costs without any mark-up and we are required to bear the first €0.5 million, or approximately $0.6 million, of any cost overruns. As of January 31, 2007, we had recognized an anticipated loss of $0.5 million under this contract. Consistent with our revenue recognition policies, each quarter we evaluate if additional loss amounts need to be recognized. In addition, the second phase of this project contemplates deployment of nine additional 150kW PowerBuoy systems and connection of the ten total PowerBuoy systems in an integrated array. The economic and other terms relating to the second phase of the project have not been negotiated. Although we plan to enter into an agreement prior to the completion of the first phase, which is expected to be in December 2009, we may not be able to successfully negotiate and enter into such an agreement. We have not completed development and testing of a 150kW PowerBuoy system and have not yet deployed a wave power station consisting of an array of two or more PowerBuoy systems. We currently plan to deploy the initial 40kW PowerBuoy system by October 2007 and the remainder of the PowerBuoy systems by April 2009.

The wave power station to be located off the west coast of France is in the planning and development phase. We currently anticipate extending the current development contract until June 2008. Before we begin construction of this wave power station, we must enter into an additional agreement with affiliates of Iberdrola and Total. Until we enter into an additional agreement, we will not receive any additional revenue in respect of the France project. We currently plan to enter into an agreement for the construction of a wave power station prior to the expiration of any extension of the current agreement in June 2008. The economic and other terms of the construction contract have not yet been negotiated, and we may not be able to successfully negotiate such an agreement.

At the Marine Corps Base in Oahu, Hawaii, we had installed a wave power system for a total of eight months over a two-year period. We are currently constructing and testing an improved PowerBuoy system that we plan to deploy by April 2007. The US Navy reimburses us for our costs and pays us a fixed fee in connection with this project. Our current contract with the US Navy expires in March 2007 and we are in the process of negotiating an extension that we anticipate will be executed prior to the current contract's expiration. However, we may not be able to negotiate an extension of the current contract.

Our projects in England and Oregon are currently being funded solely by us. In February 2006, we received approval from the South West of England Regional Development Agency to install a wave power station off the coast of Cornwall, England. We are currently in the planning and development stage. This wave power station will serve as demonstration wave power station, which we intend to operate as an independent power producer. We plan to collect incremental revenue from the sale of power to electrical utilities. However, we currently do not have any revenue-generating contracts in place with respect to this project, and we may not be able to successfully negotiate and enter into any such contracts.

In February 2007, the US Federal Energy Regulatory Commission granted us a preliminary permit to evaluate the feasibility of a location off the coast of Reedsport, Oregon for the proposed construction and operation of a wave power station with anticipated capacity of 50MW. We plan to operate up to the first 5MW as an independent producer, whereby we would collect revenue from the sale of power to electrical utilities. However, we currently do not have any revenue-generating contracts in place with respect to this project. We plan to construct the additional 45MW under a supply contract with a third-party customer who, in turn, would own and operate the wave power station. We have begun the planning and development phase of the initial wave power station and have signed a cooperative agreement with a utility partner, Pacific Northwest Generating Cooperative.

Status of Autonomous PowerBuoy System Deployments

Our PowerBuoy system off the coast of New Jersey was deployed from October 2005 to October 2006. This PowerBuoy system is currently undergoing planned maintenance out of the water. Prior to re-deployment, we are conducting extensive diagnostic tests on the system so that we can learn more about the effects of ocean deployments and implement improvements in future PowerBuoy systems. To date, we have discovered no significant problems with the system, and the system has required only routine maintenance. This system was not designed to supply electricity to the power grid, but rather to provide us with operational data and marketing opportunities. The PowerBuoy system is currently undergoing assessment, maintenance and repairs in our Pennington, New Jersey facilities prior to re-deployment. We were partially funded for the construction of this PowerBuoy system by the New Jersey Board of Public Utilities. We do not anticipate recognizing any additional revenue in connection with this project, nor do we expect to incur significant additional investment.

In September 2004, Lockheed Martin completed testing of a PowerBuoy system with a maximum rated output of 1kW for distributed power use on location. Subsequently, we entered into a marketing arrangement with Lockheed Martin whereby we have agreed to market cooperatively our autonomous PowerBuoy system. We expect to generate revenue after entering into agreements with new customers.

Marketing and Sales

We are developing our sales capabilities and have begun commercial marketing and selling of our PowerBuoy systems. Our marketing and sales efforts are currently led and coordinated by Dr. George W. Taylor, our chief executive officer, and Mr. Mark R. Draper, the chief executive of Ocean Power Technologies Limited, our wholly-owned subsidiary located in the United Kingdom. Because our products use a new commercial technology, the decision process of a customer requires substantial educational efforts, in which many of our employees may participate. We are currently seeking to hire a vice president of business development and marketing.

In addition to our own direct sales, we will continue to enter into development agreements and strategic alliances with regional utility and energy companies committed to providing electricity from renewable energy sources. We plan to leverage these relationships to sell and market our PowerBuoy wave power stations to these companies and their affiliates and to other customers in the region. We plan to expand our relationships by entering into long-term operations and maintenance contracts to support completed wave power stations.

In order to penetrate international markets, we plan to implement marketing strategies that respond to local market demands. In particular markets, we may grant licenses to local businesses, including independent power producers, to sell, manufacture or operate PowerBuoy wave power stations. For example, in January 2007, we entered into an agreement for the monitoring, operation and maintenance of the 40kW PowerBuoy system and the ocean-based substation and infrastructure to be manufactured and deployed in connection with the first phase of the Spain project. Under this operations and maintenance agreement, we are required to provide services for two years following provisional acceptance of the PowerBuoy system and substation and infrastructure. We are to be paid a fixed fee for scheduled maintenance, ongoing operations and other routine services. In connection with any unscheduled repairs we perform under the agreement, the parties will agree on the fees, if any, and timing for those services. To the extent we would otherwise have profits from the fixed fee at the end of the two-year initial term of the agreement, we are obligated to refund any fees paid to us for unscheduled repairs.

Utility PowerBuoy System Marketing

We plan to market our utility PowerBuoy systems to utilities and independent power producers interested in adding electricity generated from renewable sources to their existing electricity supply. We are currently targeting customers in coastal North America, the west coast of Europe, the coasts of Australia and the east coast of Japan. In addition, we are exploring the use of our utility PowerBuoy systems for applications that include desalination of water, hydrogen production, water treatment and natural resource processing. In these instances, the power generated by the utility PowerBuoy system would bypass the grid and be delivered directly to the point of electricity consumption.

Subsidies and Incentives

Countries in Europe and Asia and several states in the United States have adopted a variety of government subsidies to allow renewable sources of electricity to compete with conventional sources of electricity, such as fossil fuels. Government subsidies and incentives generally focus on grid-connected systems and take several forms, including tariff subsidies, renewable portfolio standards, rebates, tax incentives and low interest loans. In addition, the adoption by governments of limits on carbon dioxide emissions and targets for renewable energy production has spurred a market for trading of surplus carbon credits and renewable energy certificates.

We expect to be able to use the availability of subsidies and other incentives to market the electricity generated by wave power stations as an alternative to fossil fuel generated electricity. We plan to educate potential customers on the availability of these incentives and, where appropriate, work with them to prepare and file the necessary applications, select sites to meet program requirements and take advantage of these incentives.

Demonstration Wave Power Stations

We use demonstration PowerBuoy systems to establish the feasibility of providing wave-generated electricity to customers. Demonstration wave power stations allow potential customers to see first-hand the viability of wave energy as a significant source of electricity. Since October 2005, we have operated a demonstration PowerBuoy system off the coast of New Jersey, which allowed us to continuously monitor the system and evaluate its performance in actual wave conditions. This PowerBuoy system was removed from the ocean for maintenance in October 2006. Although the system did not supply electricity to the power grid, it provided us with valuable operational data as well as important marketing opportunities.

We have identified a site off the coast of the United Kingdom to install a demonstration wave power station of up to 5MW that will connect to the power grid in Cornwall, England. In connection with the development of this wave power station, we are planning to take advantage of incentives offered in the United Kingdom to encourage growth in power derived from renewable sources.

The US Federal Energy Regulatory Commission has granted us a preliminary permit to develop a 50MW PowerBuoy wave power station off the coast of Oregon that will be connected to the local power grid, the first phase of which is expected to be a 5MW demonstration wave power station. We will need additional authorization from the US Federal Energy Regulatory Commission to sell electric power generated from the Oregon wave power station into the wholesale or retail markets.

Autonomous PowerBuoy System Marketing

There are a variety of potential customers, such as the US Department of Homeland Security, that have specific needs for off-grid power generation that can be supplied by our autonomous PowerBuoy. Potential applications for off-grid power supply include sonar and radar surveillance, offshore cellular phone service, tsunami warning, oceanographic data collection, offshore platforms and offshore aquaculture.

In September 2006, we entered into a marketing cooperation agreement with Lockheed Martin under which Lockheed Martin's Maritime Systems and Sensory business unit and we will work together to identify marketing opportunities for our autonomous PowerBuoy system. For each marketing opportunity Lockheed Martin and we agree to pursue, a subsequent agreement will be entered into setting forth the terms of the specific arrangement. There are no assurances that we will be able to reach any such agreement with Lockheed Martin. The marketing cooperation agreement terminates in September 2009, and either Lockheed Martin or we may terminate the agreement earlier upon 30 days' prior written notice.

Customers

The table below shows the percentage of our revenue we derived from significant customers for the periods indicated:

Customer	Fiscal 2004	Fiscal 2005	Fiscal 2006	Nine Months Ended January 31, 2007
US Navy	95%	57%	61%	57%
New Jersey Board of Public Utilities	1%	7%	5%	—
Iberdrola and Total	—	4%	9%	32%
Lockheed Martin	4%	32%	22%	—
US Department of Interior for Department of Homeland Security	—	—	3%	3%
National Institute of Standards and Technologies	—	—	—	5%
Australian Greenhouse Office	—	—	—	3%

We anticipate that the US Navy will continue to account for a substantial portion of our revenue in fiscal 2007 and, if we are successful in obtaining commercial acceptance of our systems, its relative contribution to our revenue will decline thereafter. In the first nine months of fiscal 2007, we recognized revenues of $37,000 relating to a renewable energy project for the Australian Greenhouse Office under an agreement signed in 1998. We also completed a funded research study for the National Institute of Standards and Technologies and recognized revenues of $75,000 in the first nine months of fiscal 2007.

Our potential customer base for our utility PowerBuoy systems consists of public utilities, independent power producers and other governmental entities and agencies. Our potential customer base for our autonomous PowerBuoy systems consists of different public and private entities who use electricity in and near the ocean. Our efforts to identify new customers are concentrated on four geographic markets: coastal North America, the west coast of Europe, the coasts of Australia and the east coast of Japan. Our efforts to identify new customers are currently led and coordinated by Dr. George W. Taylor, our chief executive officer, and Mr. Mark R. Draper, the chief executive of Ocean Power Technologies Ltd., our wholly-owned subsidiary located in the United Kingdom. We also use consultants and other personnel to assist us in locating potential customers.

Spain Project

In July 2004, we entered into a development agreement, which we refer to as the Spain development agreement, with Iberdrola Energias Renovables II, S.A., an affiliate of Iberdrola, Sociedad para el Desarrollo Regional de Cantabria, S.A., or SODERCAN, which is the industrial development agency of the Spanish region of Cantabria, and Instituto para la Diversificacion y Ahorro de la Energia, S.A., or IDAE, a Spanish government agency dedicated to energy conservation and diversification efforts, to jointly study the possibility of developing a wave power station off the coast of Santoña, located in the Cantabria region in northern Spain. Total Eolica S.A., an affiliate of Total, joined the development agreement in June 2005. In January 2006, we completed the assessment phase of the project, which included an assessment of wave energy resources at the site, feasibility analysis for deployment at the site, determination of capacity and design, and an estimation of investments needed for the project as well as anticipated costs for operation, maintenance and repairs. Expenses associated with this phase were shared among the parties to the agreement based on agreed upon percentages. As of January 31, 2007, we had invested less than $0.1 million for our share of the assessment phase funding, and had recognized revenue of approximately $0.4 million under the Spain development agreement.

In July 2006, Iberdrola Energias Marinas de Cantabria, S.A., or Iberdrola Cantabria, was formed for the purpose of constructing and operating a wave power station off the coast of Santoña, Spain. Iberdrola Energias is the largest shareholder of Iberdrola Cantabria. Total Eolica, SODERCAN, IDAE and we each have minority ownership positions. Expenses will be shared among the parties to the agreement based on agreed upon percentages. We own 10% of Iberdrola Cantabria.

In July 2006, we entered into a construction agreement with Iberdrola Cantabria, which we refer to as the Spain construction agreement. Under this agreement, we have agreed to complete the first phase of the construction of a 1.39MW wave power station. This phase of construction includes the manufacturing and deployment of one 40kW PowerBuoy system, installation of the underwater power transmission cable and the deployment of the underwater substation required for connecting the 40kW PowerBuoy system with nine additional 150kW PowerBuoy systems that together are contemplated to constitute the 1.39MW wave power station. Under the Spain construction agreement, our revenues are limited to reimbursement for our construction costs without any mark-up and we are required to bear the first €0.5 million of any cost overruns. The Spain construction agreement does not cover the terms for the second phase of the 1.39MW wave power station project, which encompasses the deployment of the nine additional 150kW PowerBuoy systems. We will need to agree to the terms for the second phase of this project and enter into a subsequent contract with Iberdrola Cantabria before we can complete the construction of the full wave power station. We currently plan to deploy the initial 40kW PowerBuoy system for this project by October 2007, and, if we can reach agreement as to the second phase of the project, we plan to deploy the remainder of the PowerBuoy systems by April 2009. Under the Spain construction agreement, Iberdrola Cantabria has the right to terminate the agreement if we interrupt our services for more than 180 days and do not resume within a 30-day period, the first phase of construction is not completed by December 31, 2009 for reasons attributable to us, or for a serious and repeated breach of a major obligation that is not cured within a 30-day period after we receive notice of the breach. In addition, we have made guarantees to Iberdrola Cantabria associated with the first phase of construction in respect of the quality, repair and replacement of the 40kW PowerBuoy system and ocean-based substation and the level of power output of the 40kW PowerBuoy system.

We are paid under the Spain construction agreement as we complete certain milestones for a total potential payment for the first phase of construction of approximately €2.7 million. As of January 31, 2007, we had recognized revenue of less than $0.5 million and recognized an anticipated loss of $0.5 million under the Spain construction agreement. The loss was recognized based on a change in estimated costs associated with the Spain construction agreement. In order to receive additional funding for the project, we must enter into additional contracts with Iberdrola Cantabria. There are no assurances that we will be able to reach agreement with Iberdrola Cantabria for the future phases of the project.

France Project

In June 2005, we entered into a development agreement, which we refer to as the France development agreement, with Total Energie Development S.A., an affiliate of Total, and Iberdrola Energias Renovables II, S.A., an affiliate of Iberdrola, to study and assess the feasibility of a 2 to 5MW wave power station off the coast of France. Pursuant to the France development agreement, the parties have agreed to extend the current phase until June 2007. Expenses are shared among the parties based on agreed upon percentages, which also reflect the parties' anticipated ownership interest in the wave power station. Iberdrola Energias has a majority interest, while Total Energie and we have minority interests. Our interest is 10%. In addition, pursuant to the France development agreement, we are restricted from developing or building, or supplying equipment for use in, a PowerBuoy system for any other customer in France until December 2008.

If upon completion of the feasibility study, Iberdrola Energias, Total Energie and we unanimously conclude that the operation of a wave power station off the coast of France is economically, technically and financially feasible, we will meet to discuss whether and how the wave power station should be implemented. If we proceed, Iberdrola Energias, Total Energie and we will form a company for the purpose of constructing and operating the wave power station. Each party will be entitled to retain its current percentage interest by making a proportionate capital investment. Regardless of our participation in the new company, we are obligated to supply and install equipment on market terms so that the new company can operate the wave power station. Specific terms, including price and schedule, for these supply and installation obligations are not included in the France development agreement. Iberdrola Energias and Total Energie may withdraw from the France development agreement. If we withdraw, however, we will remain bound by our supply and installation obligations under the contract.

As of January 31, 2007, we had contributed approximately $11,500 for expenses and had recognized revenue of approximately $0.1 million under the France development agreement. In order to receive additional

funding for the project, we must enter into additional contracts. There are no assurances that we will be able to reach agreement for future phases of the project.

US Navy

Since September 2001, we have entered into a series of contracts with the United States Office of Naval Research for the development and construction of a wave power station at the Marine Corps Base in Oahu, Hawaii. Under the contract for the current phase of the project, which was entered into in September 2005 and expires in March 2007, we are reimbursed for costs and paid a fixed fee for total potential revenue of $2.8 million. We are in the process of negotiating an extension that we anticipate will be executed prior to the current contract's expiration. However, we may not be able to negotiate an extension of the current contract.

In order to receive additional funding for the project, we must enter into additional contracts with the Office of Naval Research, which will require appropriation of funds by the US Congress. There are no assurances that our funding will be approved or that we will be able to reach agreement with the Office of Naval Research in future years.

Backlog

Our contract backlog consists of the aggregate anticipated revenue remaining to be earned at a given time from the uncompleted portions of our existing customer contracts. As of January 31, 2007, our contract backlog was $4.8 million as compared to $2.6 million as of January 31, 2006. We anticipate that a majority of our backlog will be recognized as revenue over the next 12 months.

The amount of contract backlog is not necessarily indicative of future revenue because modifications to or terminations of present contracts and production delays can provide additional revenue or reduce anticipated revenue. A substantial majority of our revenue is recognized using the percentage-of-completion method, and changes from time to time in estimates may have a significant effect on revenue and backlog. Our backlog is also typically subject to large variations from time to time due to the timing of new awards. Consequently, it is difficult to make meaningful comparisons of backlog.

Manufacturing and Deployment

Manufacturing and Raw Materials

We engage in two types of manufacturing activities: the manufacturing of the high value-added components, or modules, for systems control, power generation and power conversion for each PowerBuoy system, and the contracting and fabrication of the buoy-like structure, anchoring and mooring, and cabling.

Our core in-house manufacturing activity is the assembly and testing of the power generation and control modules at our Pennington, New Jersey facility. The power generation and control modules include the critical electrical and electronic systems that convert the mechanical energy into usable electrical energy. The sensors and control systems use sophisticated technology to monitor ocean conditions and automatically optimize the performance of the PowerBuoy system in response to those changing conditions. We have several patents, including those that cover our power generation, power conversion and control technologies. Due to the critical and proprietary nature of these systems, we do not outsource their assembly and testing. After a generator and control module passes our rigorous quality control procedures, it is transported as a ready-to-install component to the project site. We currently employ nine engineers who are responsible for manufacturing and testing our generators and control systems. In order to meet our growth objectives, by the end of fiscal 2010 we will need to increase our engineering and manufacturing staff by over 120 people. In addition to adding engineers with various specialties, by the end of fiscal 2008 we plan to hire a manager of our production manufacturing and a manager of our supply chain.

We purchase the remaining components of and raw materials for each PowerBuoy system from various vendors. Currently, we contract for these components on a project-by-project basis. We conduct a bidding process to select a supplier with the optimal combination of price, delivery terms and quality. Our goal is to develop ongoing relationships with select vendors centrally located in different regions, which will allow us to

reduce unit costs as our volume increases. We provide specifications to each vendor who is responsible for performing quality analysis and quality control over the course of construction, subject to our review of the quality test procedures and results. After each vendor completes testing of the component, it is transported ready-to-install to the project site.

Upon arrival at the project site, the generator and control modules are integrated with the balance of the components of the PowerBuoy system. We are highly dependent on our third-party suppliers; however, we actively manage key steps in the supply chain. We act as the general contractor, and retain the ultimate responsibility for building the PowerBuoy wave power station, and installing, testing and deploying the complete wave power station at the project site. This process requires significant project and contract management by us. We currently employ individuals who have experience with all aspects of both the manufacturing and engineering contracting processes, and demonstrated organizational capabilities in these critical areas.

We do not have long-term contracts with our third-party manufacturers or vendors. If, for any reason, our third-party manufacturers or vendors are not willing or able to provide us with components or supplies in a timely fashion, or at all, our ability to manufacture and sell many of our products could be impaired. To date, we have been able to obtain adequate outsourced manufacturing services and supplies from our third-party manufacturers and vendors in a timely manner. We believe that over time alternative component manufacturers and vendors can be identified if our current third-party manufacturers and vendors fail to fulfill our requirements.

Deployment

For our existing and currently planned deployments, we purchase from subcontractors the mooring system and cables needed to install the PowerBuoy system and connect it to either the power grid or a remote power site. The vendor transports these components to the project site.

Each step in the deployment process for our existing and currently planned deployments is outsourced to subcontractors located near the project site. First the mooring system, consisting of floats, anchors and chains, are brought to the wave power station's ultimate ocean location by workboats. At the same time, the cable to transmit the generated electricity is laid by a subcontractor. Next the PowerBuoy system is towed to the ocean location and fixed to the mooring system. The PowerBuoy system would then be connected to the transmission cable, which would then be connected to the grid or the distributed power site. At this point, we would have a fully assembled PowerBuoy wave power station, which, subject to final testing, would be ready for operation. We expect to be able to install an array of PowerBuoy systems using a similar approach.

Although we expect that the subcontractor services required for deployment of a wave power station will be readily available in the locations where we currently plan to deploy our systems, we are dependent on third parties for the entire process. We actively manage each step with personnel who have significant project management and deployment experience.

Research and Development

Our research and development team consists of employees with a broad range of experience in mechanical engineering, electrical engineering, hydrodynamics and systems engineering. We engage in extensive research and development efforts to improve PowerBuoy efficiency and power output and to reduce manufacturing cost and complexity. Our research and development efforts are currently focused on product development, in particular increasing the output of our utility PowerBuoy system. We are also conducting research on improvements to our current technology, including alternative power generation and power take off systems.

Research and development expenses are reflected on our consolidated statements of operations as product development costs. Our company-sponsored research and development expenses were approximately $0.3 million for fiscal 2004, $0.9 million for fiscal 2005, $4.2 million for fiscal 2006 and $4.1 million in the nine months ended January 31, 2007. In addition, while we have in the past self-funded the majority of our

research and development expenditures, we also have customer-sponsored research and development expenses of approximately $0.4 million for fiscal 2004, $0.2 million for fiscal 2005, $0.1 million for fiscal 2006 and $0.1 million in the nine months ended January 31, 2007.

We currently plan to increase the maximum rated output of our utility PowerBuoy system to 150kW in 2007, to 250kW in 2008 and ultimately to 500kW in 2010. The key to increasing the rated output of the PowerBuoy system is to increase the system's efficiency as well as its diameter. If we increase the size of a PowerBuoy system, we will be able to increase the amount of wave energy the system can capture and, in turn, increase the output of the system. For example, if we double the size of the unit's diameter, we will approximately quadruple its power capacity. We believe that we will be able to increase the output capacity of the PowerBuoy system using technology that we have already developed, so our focus is on the design, manufacture, testing and deployment of the higher capacity systems. We are exploring design and construction techniques that will enable the larger PowerBuoy systems to be deployed cost effectively and without damage. For example, our 40kW PowerBuoy systems are transported to the onshore deployment sites using standard flatbed trucks. However, the assembled 150kW PowerBuoy systems will be too large for these trucks and will need to be transported in modules and assembled on-site. In addition, we may need to adjust the mooring system to account for the larger-sized PowerBuoy systems.

We also plan to continue our technology development of specific applications for our PowerBuoy systems to expand our growth opportunities. For example, we are exploring applications that include desalination of water, hydrogen production, water treatment and natural resource processing.

We expect our research and development expenses to continue to rise in the next several years, with our product development expenses increasing more rapidly than our research expenses.

Intellectual Property

We believe that our technology differentiates us from other providers of wave and other renewable energy technologies. As a result, our success depends in part on our ability to obtain and maintain proprietary protection for our products, technology and know-how, to operate without infringing the proprietary rights of others and to prevent others from infringing our proprietary rights. Our policy is to seek to protect our proprietary position by, among other methods, filing United States and foreign patent applications related to our proprietary technology, inventions and improvements that are important to the development of our business. We also rely on trade secrets, know-how, and continuing technological innovation and may rely on in-licensing opportunities to develop and maintain our proprietary position.

As of March 1, 2007, we owned a total of 31 United States patents and 15 United States patent applications, three of which are provisional patent applications. We have pending foreign counterparts to nine of our issued patents and six of our pending non-provisional patent applications.

Our patent portfolio includes patents and patent applications with claims directed to:

- system design;
- control systems;
- power conversion;
- anchoring and mooring; and
- wave farm architecture.

The expiration dates for our issued United States patents range from 2015 to 2023. We do not consider any single patent or patent application that we hold to be material to our business. The patent positions of companies like ours are generally uncertain and involve complex legal and factual questions. Our ability to maintain and solidify our proprietary position for our technology will depend on our success in obtaining effective patent claims and enforcing those claims once granted. In addition, certain technologies that we developed with US federal government funding are subject to certain government rights as described in "Risk Factors — Risks Relating to Our Business."

We rely, in some circumstances, on trade secrets to protect our technology. Trade secrets, however, are difficult to protect. We seek to protect our proprietary technology and processes, in part, by confidentiality agreements with our employees, consultants and other contractors; however, these agreements may be breached. In addition, our trade secrets may otherwise become known or be independently discovered by competitors. To the extent that our employees, consultants or contractors use intellectual property owned by others in their work for us, disputes may arise as to the rights in related or resulting know-how and inventions.

We use trademarks on nearly all of our products and believe that having distinctive marks is an important factor in marketing our products. We have registered our PowerBuoy® mark and filed applications to register our CellBuoy™ and Talk on Water™ marks for a cellular telephone service application of our autonomous PowerBuoy system and our Making Waves in Power℠ service mark in the United States.

Competition

We compete and will compete with power generation equipment suppliers in all segments of the electric power industry, including wave energy, other forms of renewable energy and traditional fossil fuel. The renewable energy industry is both highly competitive and continually evolving as participants strive to distinguish themselves within their markets and compete within the larger electric power industry. Many of our competitors in certain of these segments have established a stronger market position than ours and have greater resources and name recognition than we have. In addition, there are many companies, including some of the largest multinational energy companies, that are developing or sponsoring innovative technologies for renewable energy production. Accordingly, our success depends in part on developing and demonstrating the commercial viability of wave energy solutions and identifying markets for and applications of our PowerBuoy systems and technology.

Although the market for equipment that generates electricity from wave energy is in its early stage of commercial development, there are a number of private companies, some with institutional funding, developing technologies to generate electricity from wave energy, and we compete or will compete with them. We believe there are 20 to 30 companies worldwide developing wave energy technologies. Most of these companies are located in the United Kingdom, continental Europe, the United States and Australia, and almost all are focused on offshore systems. A few of these companies have conducted ocean testing of their systems, which is the critical factor in proving the survivability and performance of any wave energy system.

Sixteen companies expressed an interest to the South West of England Regional Development Agency in participating in the development of a new Wave Hub power station project off the coast of Cornwall, England. Three companies were ultimately selected: Ocean Prospect Ltd., a subsidiary of the Wind Prospect group, Fred.Olsen Ltd. and us.

Ocean Prospect Ltd. has stated that it will deploy the Pelamis device developed by Ocean Power Delivery at the Cornwall site. The Pelamis system is a semi-submerged, articulated structure composed of cylindrical sections linked by hinged joints. The wave-induced motion of these cylinders relative to each other is used to pump hydraulic power take off systems, providing the mechanical power to turn the generators to produce electricity. Fred.Olsen, a ship and offshore platform builder, intends to deploy a multiple point-absorber system comprised of a number of floating buoys attached to a stable floating platform. Additional competitors may enter the market, and we are likely to compete with new companies in the future.

To compete effectively, we have to demonstrate that our PowerBuoy systems are attractive, compared to other wave energy systems and other renewable energy systems, by differentiating our systems on the basis of performance, survivability in operation and storm wave conditions, cost effectiveness and the operations and maintenance services that we provide. We believe that we perform favorably to our competition with respect to each of these factors.

Government Regulation

The electric power industry is subject to extensive regulation, which varies by jurisdiction. For example, the electricity industry in the United States is governed by both federal and state laws and regulations, with the federal government having jurisdiction over the sale and transmission of electricity at the wholesale level in

interstate commerce, and the states having jurisdiction over the sale and distribution of electricity at the retail level. The electricity industry in the European Union, or the EU, is primarily governed by national law, but a number of EU-level regulations impose obligations on member states, notably with respect to the liberalization of the electricity markets.

The renewable energy industry has also been subject to increasing regulation, however none of the countries in which we are currently marketing our PowerBuoy systems have comprehensive regulatory schemes tailored to wave energy. As the renewable energy industry continues to evolve and as the wave energy industry in particular develops, we anticipate that wave energy technology and our PowerBuoy systems and their deployment will be subject to increased oversight and regulation in accordance with international, national and local regulations relating to safety, sites, environmental protection, utility interconnection and metering and related matters.

Our PowerBuoy wave power stations currently face regulation in the US and in foreign jurisdictions concerning, among other areas, the sale and transmission of electricity, site approval and environmental approval and compliance. In addition, in order to encourage the adoption of renewable energy systems, many governments offer subsidies and other financial incentives and have mandated renewable energy targets. These subsidies, incentives and targets may not be applicable to our wave energy technology and therefore may not be available for us or our customers.

Sale and Transmission of Electricity

The US government regulates the electricity wholesale and transmission business through the Federal Energy Regulatory Commission, or FERC. FERC regulates the rates and terms for sales of electricity at the wholesale level, and the organization, governance and financing of the companies engaged in electricity sales. As a result, FERC regulates the rates charged for sales of electric power from a wave power station into the wholesale market, although it is possible to obtain an exemption from FERC that would allow those sales to occur at market-based rates. FERC also regulates the construction, operation, and maintenance of any dam, water conduit, reservoir or powerhouse along or in any of the navigable waters of the United States for the purpose of generating electric power. As a result, the construction and operation of a wave power station in the United States requires the issuance of a license by FERC. We have been granted a preliminary permit by FERC to evaluate the feasibility of a 50MW wave power station off the coast of Oregon. An application to FERC was not required for the current project in New Jersey because the system is not grid-connected and is for demonstration purposes.

Under Spanish law, each of the Spanish Autonomous Regions, including the Cantabria region, has the power to issue administrative authorizations for the construction and exploitation of installations for the production of renewable energy, including installations that use the energy of waves.

Site Approval

Generally, we expect that we will deploy our PowerBuoy systems in the range of one to five miles from the shore, subject to water depth and overall wave heights. Although regulations regarding the use of ocean space vary around the world, we do not expect significant delay in obtaining site approvals, as governments have to date encouraged the use of renewable energy sources. Our customers for the Spain and France projects and the South West of England Regional Development Agency for the Cornwall, England project are responsible for obtaining the necessary siting permits for their projects.

In the United States, federal agencies regulate the siting of renewable energy and related-uses located on the outer continental shelf, which is generally more than three miles offshore. For projects located within three miles of the US shore, the adjacent state would be responsible for issuing a lease and other required authorizations for the location of the project. In either case an assessment of the potential environmental impact of the project would be conducted in addition to other requirements. In Spain, the owner of the wave power station will be required to pay rent to the Spanish government, which will be negotiated prior to installation.

Environmental Approval and Compliance

We are subject to various foreign, federal, state and local environmental protection and health and safety laws and regulations governing, among other things: the generation, storage, handling, use and transportation of hazardous materials; the emission and discharge of hazardous materials into the ground, air or water; and the health and safety of our employees. In addition, in the United States, the construction and operation of a power system offshore would require permits and approvals from FERC, Coast Guard, Army Corps of Engineers and other governmental authorities. These required permits and approvals evaluate, among other things, whether the proposed project is in the public interest and ensure that the project would not create a hazard to navigation. Other foreign and international laws may require similar approvals. Each PowerBuoy system installed within Spanish territorial waters must be approved and authorized by the Spanish Ministry of Environment. In addition, we anticipate that our PowerBuoy systems will be subject to EU law on the protection of the environment and environmental assessments of development projects including the Environmental Impact Assessment and Strategic Environmental Assessment Directives.

We believe that a significant advantage or our PowerBuoy systems is that they do not present significant environmental risks when compared to traditional power generation technologies, as there is no significant visual or audible impact and such systems have not been shown to have a significant negative effect on fish or sea mammals. We are not aware of any liabilities in connection with compliance with such laws, regulations, permits and approvals that would have a material adverse effect on our financial position, results of operations or cash flows.

Subsidies and Incentives

Several governments have enacted subsidies and incentives designed to encourage the development of renewable energy resources. Because of the relative novelty of wave energy generation, these government programs generally do not apply specifically to wave energy generation, and so these programs may not be available to our customers or us in all cases.

Under a tariff subsidy, the government sets price subsidies to be paid to electricity producers for renewable electricity generated by them. The prices are set above market rates and may be differentiated based on system size or application. Under a renewable portfolio standard, the government requires regulated utilities to supply a portion of their total electricity in the form of renewable electricity. Some programs further specify that a portion of the renewable energy quota must be from a particular renewable energy source, although none have specific quotas for wave energy.

Tax incentive programs for renewable energy exist in the United States at both the federal and state level and can take the form of investment tax credits, accelerated depreciation and property tax exemptions. Several governments also facilitate low interest loans for renewable energy systems, either through direct lending, credit enhancement or other programs.

Each of the member states of the EU has a country-specific target for the level of consumption of electricity from renewable sources that it should attain by 2010. The United Kingdom Renewables Obligation of April 2002 included a target of 10% of electricity generation to come from renewable sources by 2010 and 15% by 2016, which will continue until 2027. Electricity suppliers that are unable to otherwise meet their renewables obligation have to pay a buy-out price (currently £0.033 per kWh) or purchase Renewables Obligation Certificates from companies that generate electricity from renewable resources. The United Kingdom Department of Trade and Industry has established a £50 million Marine Renewables Deployment Fund of which £42 million is allocated to provide a maximum seven-year benefit to any one marine power technology of £9 million, in the form of a 25% capital grant and a tariff supplement of £0.10 per kilowatt-hour generated.

Many countries and other local jurisdictions have established limits on carbon dioxide emissions. In particular, a key component of the Kyoto Protocol is the commitments made by certain countries to reduce carbon dioxide emissions. The country, locality or companies within the jurisdiction are given carbon emission allowances, or carbon credits, which represent the right to emit a specific amount of carbon dioxide. A country, locality or company having emissions that exceed its allocated carbon credits may purchase unused carbon credits from a country, locality or company that has reduced its emissions beyond its requirements to do so. The carbon dioxide emissions from a PowerBuoy wave power station are far lower than the emissions

from a fossil fuel power station of the same capacity. Therefore, a PowerBuoy wave power station may generate carbon credits that could be used and sold.

In 2000, we entered into an agreement with Woodside Sustainable Energy Solutions Pty. Ltd., or Woodside, under which we received $0.6 million in exchange for granting Woodside an option to purchase, at a 30% discount from the then-prevailing market rate, up to 500,000 metric tons of carbon emission credits we generate during the years 2008 through 2012. However, if by December 31, 2012 we do not become entitled under applicable laws to the full amount of emission credits covered by the option, we are obligated to return the option fee of $0.6 million, less the aggregate discount on any emission credits sold to Woodside prior to such date. If we receive emission credits under applicable laws and fail to sell to Woodside the credits up to the full amount of emission credits covered by the option, Woodside is entitled to liquidated damages equal to 30% of the aggregate market value of the shortfall in emission credits (subject to a limit on the market price of emission credits).

Employees

As of January 31, 2007, we had 37 employees, including 11 employees in manufacturing, 16 in research, development and engineering functions and ten employees in selling, general and administrative functions. Of these employees, 30 are located in Pennington, New Jersey and seven are located in Warwick, UK. We believe that our future success will depend in part on our continued ability to attract, hire and retain qualified personnel. None of our employees is represented by a labor union, and we believe our employee relations are good.

In order to meet our short-term goals, by the end of 2007, we plan to add approximately 15 to 20 employees, including a vice president of business development and engineers with varying levels and areas of expertise. By the end of fiscal 2010, we will need to increase our staff by nearly six times in order to meet our current manufacturing targets. The majority of our new hires will be engineers with varying levels and areas of expertise, project managers and manufacturing personnel.

Facilities

Our corporate headquarters are located in Pennington, New Jersey, where we occupy approximately 22,000 square feet under a lease expiring on April 30, 2013. We use these facilities for administration, research and development, as well as assembly and testing of the generators and control models.

We also have an office in Warwick, United Kingdom, where we occupy 1,390 square feet under a lease expiring on January 1, 2009. Seven employees, all members of the executive, engineering, administration and business development teams, operate out of this office, which serves as a hub for our European presence.

We plan to add sales, marketing and engineering offices in additional locations, including Australia, Japan, continental Europe and the west coast of the United States. We currently estimate that by the end of fiscal 2010 we will need to add approximately 90,000 square feet of leased space for sales, marketing, engineering, assembly and testing in order to meet our current manufacturing targets.

Product Insurance

We currently have a property and liability insurance policy underwritten by Lloyd’s Underwriters that covers our PowerBuoy systems in Hawaii and New Jersey, and that can be expanded to cover our PowerBuoy systems to be deployed off the coasts of Santoña, Spain and Cornwall, England. We have not claimed any losses under this policy.

Legal Proceedings

We are subject to legal proceedings, claims and litigation arising in the ordinary course of business. While the outcome of these matters is currently not determinable, we do not expect that the ultimate costs to resolve these matters will have a material adverse effect on our financial position, results of operations or cash flows.

MANAGEMENT

Executive Officers and Directors

Our executive officers and directors and their respective ages and positions as of March 1, 2007 are as follows:

Name	Age	Position
Executive Officers		
Dr. George W. Taylor	72	Chief Executive Officer
Charles F. Dunleavy	57	Chief Financial Officer, Senior Vice President, Treasurer and Secretary
Mark R. Draper	43	Chief Executive and Director of Ocean Power Technologies Ltd.
John A. Baylouny	45	Senior Vice President, Engineering
Directors		
Sir Eric A. Ash	79	Director
Thomas J. Meaney	72	Director
Seymour S. Preston III	73	Chairman of the Board of Directors
Dr. George W. Taylor	72	Director
Charles F. Dunleavy	57	Director

Dr. George W. Taylor has served as our chief executive officer since 1993 and as a director since 1984, when he co-founded our company. From 1990 to 2004, Dr. Taylor was our president and from 1984 to 1990, he was our vice president. In 1979, he co-founded and served as president of Princeton Research Associates, Inc., a consulting engineering, technical marketing and product development company. In 1971, Dr. Taylor co-founded Princeton Materials Science, Inc., a manufacturer of liquid crystal displays and digital watches. Dr. Taylor received a Bachelor of Engineering degree with First Class Honours in Electrical Engineering and a Doctor of Engineering degree from the University of Western Australia and a Ph.D. in Electrical Engineering degree from the University of London. He is a Fellow of the Institute of Engineers, Australia and the Institute of Electrical Engineers, London.

Charles F. Dunleavy has served as our chief financial officer and our senior vice president since 2000 and as our treasurer, secretary and director since 1990. From 1993 to 2001, Mr. Dunleavy served as our vice president, finance. From 1990 to 1993, Mr. Dunleavy served as vice president and chief financial officer of Whole Systems International Corp., a privately held company specializing in multimedia instructional systems and information technology. From 1983 to 1990, Mr. Dunleavy was the corporate controller for Intermetrics, Inc., a publicly held software engineering company that is now a part of Titan Corporation. Mr. Dunleavy is a Certified Public Accountant and holds a Masters of Business Administration with honors from Rutgers Graduate School of Business Administration. He received his A.B. degree from Colgate University with honors.

Mark R. Draper has served as the chief executive and director of our wholly-owned European subsidiary based in the UK, Ocean Power Technologies Ltd., since September 2004. From 2001 to May 2004, Mr. Draper served as managing director, generation business of PowerGen plc, a UK power utility. In this capacity, he was responsible for over 9,000MW of power generating assets, including a 60MW offshore wind power station. He is a fellow of both the Institutes of Mechanical and Electrical Engineers and serves as a non-executive Director on the Board of Slough Heat & Power, a utility company. He also serves as a director of Iberdrola Energias Marinas de Cantabria, S.A., the joint venture in which we participate with affiliates of Iberdrola and Total. Mr. Draper holds a Master's degree in Mechanical and Electrical Engineering from Cambridge University.

John A. Baylouny has served as our senior vice president, engineering since November 2005. From January 2000 to November 2005, Mr. Baylouny served as vice president and general manager of DRS Data & Imaging Systems, Inc., a subsidiary of DRS Technologies, Inc., a defense technology company, and from 1996

to 1999, Mr. Baylouny served as head of engineering and led the technical strategic planning at DRS. Mr. Baylouny held engineering positions at ITT Avionics, a defense technology company, from 1983 to 1986. He holds a Masters degree in Electrical Engineering from Stevens Institute of Technology and a Bachelors degree in Electrical Engineering from Fairleigh Dickenson University.

Sir Eric A. Ash has been a director since 2001. Since December 2005, he has served as a member of the international advisory group of Keppel Corporation Limited, a marine engineering company based in Singapore. He is a member of the board of NeST (Europe) Ltd., an electronics company. Eric Ash is a Fellow of the Royal Society of London, where he served as treasurer and vice president from 1997 to 2002. He is a Fellow of the Royal Academy of Engineering, a foreign member of the US National Academy of Engineering, and a foreign member of the Russian Academy of Science. Eric Ash's academic appointments include the headship of the Department of Electronic Engineering at University College London, and a period of eight years as the Rector of Imperial College London. He was appointed a Knight Bachelor in 1990.

Thomas J. Meaney has been a director since June 2006. He is the president, chief executive officer and a director of Mikros Systems Corp., an electronics equipment company. From 1983 to 1986, Mr. Meaney served as a senior vice president and director at Robotic Vision Systems, Inc., an electronics company, and from 1977 to 1983 he served as the vice president of business development of the Norden Systems Division of United Technologies Corp., an electronics company. Mr. Meaney holds a Master of Science degree in Mechanical Engineering from Drexel University and a Bachelors degree in Mechanical Engineering from Villanova University.

Seymour S. Preston III has been a director since September 2003. Mr. Preston is also a director of Albemarle Corporation, a specialty chemicals company, Scott Specialty Gas Corporation, a provider of gases for calibration, testing and emission standards, Tufco Technologies, Inc., a consumer products contract manufacturing company, and Independent Publications, Inc., a newspaper publisher. From 1994 to 2003, he was the chairman and chief executive officer of AAC Engineered Systems, Inc., a privately-held manufacturing company. Over the period from 1961 to 1989, Mr. Preston held various positions at Pennwalt Corporation, including serving as president, chief operating officer and director from 1978 to 1989. Mr. Preston served as president and chief executive officer of Elf Atochem North America, Inc., a chemical and plastics company from 1990 to 1993. Mr. Preston received his Masters of Business Administration from Harvard Business School and his B.A. degree from Williams College.

There are no family relationships among any of our directors or executive officers.

Board Composition and Election of Directors

Our board of directors consists of five members. All directors serve for one-year terms and are elected for a new one-year term at our annual meeting of stockholders.

Three of our current directors, Eric Ash, Thomas Meaney and Seymour Preston, are independent directors, as defined by the applicable rules of The Nasdaq Stock Market.

Board Committees

Our board of directors has established an audit committee, a compensation committee and a nominating and corporate governance committee. The composition of each committee will be effective upon the closing of this offering.

Audit Committee

The members of our audit committee are Eric Ash, Thomas Meaney and Seymour Preston. Seymour Preston is the chair of the committee. Our audit committee assists our board of directors in its oversight of the integrity of our consolidated financial statements, our independent registered public accounting firm's qualifications and independence and the performance of our independent registered public accounting firm.

Upon the completion of this offering, our audit committee's responsibilities will include:

- appointing, approving the compensation of, and assessing the independence of, our independent registered public accounting firm;
- overseeing the work of our independent registered public accounting firm, including through the receipt and consideration of reports from our independent registered public accounting firm;
- reviewing and discussing with management and our independent registered public accounting firm our annual and quarterly consolidated financial statements and related disclosures;
- monitoring our internal control over financial reporting, disclosure controls and procedures and code of business conduct and ethics;
- establishing procedures for the receipt and retention of accounting related complaints and concerns;
- meeting independently with our internal auditing staff, our independent registered public accounting firm and management; and
- preparing the audit committee report required by SEC rules.

All audit services to be provided to us and all non-audit services, other than de minimus non-audit services, to be provided to us by our independent registered public accounting firm must be approved in advance by our audit committee. Eric Ash and Seymour Preston are our audit committee financial experts. We believe that the composition of our audit committee meets the requirements for independence under the current Nasdaq Global Market and SEC rules and regulations.

Compensation Committee

The members of our compensation committee are Eric Ash and Seymour Preston. Eric Ash is the chair of the committee. Our compensation committee assists our board of directors in the discharge of its responsibilities relating to the compensation of our executive officers.

Upon the completion of this offering, our compensation committee's responsibilities will include:

- reviewing and approving, or making recommendation to the board of directors with respect to, our chief executive officer's compensation;
- evaluating the performance of our executive officers and reviewing and approving, or making recommendations to the board of directors with respect to, the compensation of our executive officers;
- overseeing and administering, and making recommendations to the board of directors with respect to, our cash and equity incentive plans;
- reviewing and making recommendations to the board of directors with respect to director compensation; and
- preparing the compensation committee report required by SEC rules.

Nominating and Corporate Governance Committee

The members of our nominating and corporate governance committee are Eric Ash and Thomas Meaney. Thomas Meaney is the chair of the committee.

Upon completion of this offering, our nominating and corporate governance committee's responsibilities will include:

- recommending to the board of directors the persons to be nominated for election as directors or to fill vacancies on the board of directors, and to be appointed to each of the board's committees;
- overseeing an annual review by the board of directors with respect to management succession planning;

- developing and recommending to the board of directors corporate governance principles and guidelines; and
- overseeing periodic evaluations of the board of directors.

Compensation Committee Interlocks and Insider Participation

None of our executive officers serves as a member of the board of directors or compensation committee, or other committee serving an equivalent function, of any entity that has one or more executive officers who serve as members of our board of directors or our compensation committee. None of the members of our compensation committee has ever been our employee.

Director Compensation

In September 2003, our board of directors approved a compensation program pursuant to which we pay each of our directors who is not our employee, whom we refer to as a non-employee directors, fees for service on our board of directors and for attendance at board and board committee meetings. After our annual general meeting, each non-employee director currently receives $15,000 and an option to purchase 2,500 shares of our stock that is fully vested at the time of grant. Each non-employee director also receives $2,000 for each board meeting he attends in person or by video or teleconference, $2,000 for each audit committee meeting he attends in person or by video or teleconference and $1,000 for each compensation committee and nominating and corporate governance committee meeting that he attends in person or by video or teleconference.

We reimburse each non-employee member of our board of directors for out-of-pocket expenses incurred in connection with attending our board and board committee meetings. Compensation for our directors, including cash and equity compensation, is determined, and remains subject to adjustment, by our board of directors.

Executive Compensation

The following table sets forth the compensation paid or accrued during the fiscal year ended April 30, 2006 to our chief executive officer and to our three other most highly compensated executive officers whose salary and bonus exceeded $100,000 for the year ended April 30, 2006. We refer to these officers collectively as our named executive officers.

Summary Compensation Table

	Annual compensation			Long-Term Compensation
Name and Principal Position	Salary	Bonus	Other Annual Compensation	Securities Underlying Options (#)
Dr. George W. Taylor Chief Executive Officer	$ 289,554	$ 85,000	$ —	13,500
Charles F. Dunleavy Chief Financial Officer, Senior Vice President, Treasurer and Secretary	212,673	70,000	—	13,500
Mark R. Draper Chief Executive and Director of Ocean Power Technologies Ltd.	270,630(1)	79,897(1)	52,696(1)(2)	33,499
John A. Baylouny Senior Vice President, Engineering	88,520(3)	35,000	—	30,000

(1) Based on the average buying rate of $1.77548 for £1 over the period from May 1, 2005 through April 30, 2006.

(2) Represents amounts paid for health insurance and pension benefits.

(3) Mr. Baylouny joined our company in November 2005. His annual base salary is currently $213,750.

Stock Options

The following table contains information regarding options to purchase shares of our common stock granted to our named executive officers during the year ended April 30, 2006. Amounts in the following table represent potential realizable gains that could be achieved for the options if exercised at the end of the option term. The 5% and 10% assumed annual rates of compounded stock price appreciation are calculated based on the requirements of the SEC and do not represent an estimate or projection of our future stock prices. These amounts represent certain assumed rates of appreciation in the value of our common stock from the fair market value on the date of grant. Actual gains, if any, on stock option exercises depend on the future performance of the common stock and overall stock market conditions. The amounts reflected in the following table may not necessarily be achieved.

Option Grants in Last Fiscal Year

Name	Number of Securities Underlying Options Granted(1)	Percentage of Total Options Granted to Employees in Fiscal Year	Exercise Price per Share	Expiration Date	Potential Realizable Value at Assumed Annual Rates of Stock Price Appreciation for Option Term (2)	
					5%($)	10%($)
Dr. George W. Taylor	13,500	7.5	$ 11.90	6/17/2010	28,350	82,350
Charles F. Dunleavy	13,500	7.5	11.90	6/17/2015	101,250	256,500
Mark R. Draper	19,999	11.1	12.60	11/10/2015	230,000	516,000
	13,500	7.5	11.90	6/17/2015	101,250	256,500
John A. Baylouny	30,000	16.7	13.30	11/21/2015	252,000	636,000

(1) To date, the options that we have granted to our executive officers and other employees typically vest monthly over a period of five years from the date of grant. See "— Stock Option and Other Compensation Plans — 1994 Stock Option Plan," "— Stock Option and Other Compensation Plans — Incentive Stock Option Plan" and "— Stock Option and Other Compensation Plans — 2001 Stock Plan" below for information regarding the vesting of options under the 1994 stock option plan, the incentive stock option plan and the 2001 stock plan.

(2) The dollar amounts under these columns are the result of calculations at rates set by the SEC and, therefore, are not intended to forecast possible future appreciation, if any, in the price of the underlying common stock. These amounts represent total hypothetical gains that could be achieved for the respective options if exercised at the end of the option term. These amounts assume that our stock price will appreciate from the fair market value on the date of grant at a rate of 5% and 10% compounded annually from the date on which the options were granted until their expiration. We calculated these values assuming that the fair market value of our common stock on the date of grant was equal to the closing price of our common stock on the AIM market on that date.

In June 2006, we granted additional options to purchase shares of common stock to most of our employees, including each of our executive officers. Dr. Taylor was granted an option to purchase 45,000 shares. Mr. Dunleavy was granted an option to purchase 40,000 shares. Mr. Draper was granted an option to purchase 30,000 shares. Mr. Baylouny was granted an option to purchase 17,500 shares. Each of the options has an exercise price per share of $13.80, the closing price of our common stock on the AIM market on the date of grant, and expires on June 16, 2016, with the exception of the option granted to Dr. Taylor, which expires on June 16, 2011.

Option Exercises and Year-End Option Values

The following table provides information about the exercise of stock options during fiscal 2006 and the number and value of options held by our named executive officers at April 30, 2006. There was no public trading market in the United States for our common stock as of April 30, 2006. Accordingly, as permitted by the rules of the SEC, we have calculated the value of unexercised in-the-money options at fiscal year end assuming that the fair market value of our common stock as of April 30, 2006 was equal to $17.80, the closing price of our common stock on the AIM market on April 27, 2006, based on the noon buying rate for pound sterling on that date.

Aggregated Option Exercises in Last Fiscal Year and Fiscal Year-End Option Values

Name	Shares Acquired on Exercise (#)	Value Realized(1) ($)	Number of Securities Underlying Unexercised Options at Fiscal Year-End (#)		Value of Unexercised In-the-Money Options at Fiscal Year-End ($)	
			Exercisable	Unexercisable	Exercisable	Unexercisable
Dr. George W. Taylor	—	$ —	378,000	25,500	$ 2,251,100	$ 119,450
Charles F. Dunleavy	47,500	123,000	168,050	27,450	706,275	79,650
Mark R. Draper	—	—	14,000	49,499	61,200	228,450
John A. Baylouny	—	—	10,000	20,000	45,000	90,000

(1) Value represents the difference between the exercise price per share of common stock and the fair market value per share of our common stock on the date of exercise, determined by the closing price of our common stock on the AIM market on the date of exercise, multiplied by the number of shares acquired on exercise.

Employment Agreements

Dr. George W. Taylor. We employ Dr. Taylor as our chief executive officer. Under an employment agreement entered into in October 2003, Dr. Taylor was entitled to an annual base salary of $250,000 for the first year of his employment with us, subject to adjustment upon annual review by our board of directors. Dr. Taylor's annual base salary has been adjusted by our board of directors and is currently $303,000. Dr. Taylor is also eligible to earn discretionary incentive bonuses and incentive compensation.

Upon the termination of his employment other than for cause, or if he terminates his employment for good reason, Dr. Taylor has the right to receive severance payments equal to one year of his base salary then in effect. Dr. Taylor is not entitled to severance if we terminate his employment for cause or if he resigns without good reason. Pursuant to this agreement, Dr. Taylor is prohibited from competing with us and soliciting our customers, prospective customers or employees during the term of his employment and for a period of one year after the termination or expiration of his employment.

Charles F. Dunleavy. We employ Mr. Dunleavy as our chief financial officer and senior vice president. Under an employment agreement entered into in October 2003, Mr. Dunleavy was entitled to an annual base salary of $170,000 for the first year of his employment with us, subject to adjustment upon annual review by our board of directors. Mr. Dunleavy's annual base salary has been adjusted by our board of directors and is currently $214,000. Mr. Dunleavy is also eligible to earn discretionary incentive bonuses and incentive compensation.

Upon the termination of his employment other than for cause, or if he terminates his employment for good reason, Mr. Dunleavy has the right to receive severance payments equal to one year of his base salary then in effect. Mr. Dunleavy is not entitled to severance if we terminate his employment for cause or if he resigns without good reason. Pursuant to this agreement, Mr. Dunleavy is prohibited from competing with us

and soliciting our customers, prospective customers or employees during the term of his employment and for a period of one year after the termination or expiration of his employment.

Mark R. Draper. We employ Mr. Draper as the chief executive and director of our wholly-owned UK subsidiary, Ocean Power Technologies, Ltd. Under a service agreement entered into in September 2004, Mr. Draper was entitled to an annual base salary of £136,000 for the first year of his employment with our subsidiary, subject to adjustment upon annual review. Mr. Draper's annual base salary has been adjusted and is currently £156,000. Mr. Draper is also eligible to earn a discretionary annual incentive bonus in an amount up to 50% of his annual base salary.

Upon the termination of his employment or upon a termination or resignation that occurs within six months of a change in control, Mr. Draper has the right to receive a severance payment equal to 25% of his base salary that is then in effect. In addition, if we give Mr. Draper less than one year's written notice of termination, he is entitled to receive his base salary for any unexpired portion of that one year notice period. Pursuant to this agreement, Mr. Draper is prohibited from competing with us and soliciting our customers, prospective customers or employees during the term of his employment and for a period of one year after the termination or expiration of his employment.

John A. Baylouny. We employ Mr. Baylouny as our senior vice president, engineering. Under a letter agreement entered into in September 2005, Mr. Baylouny was entitled to an annual base salary of $205,000 for the first year of his employment with us, subject to adjustment. Mr. Baylouny's annual base salary has been adjusted by our board of directors and is currently $213,750. Mr. Baylouny is also eligible to earn discretionary incentive bonuses and incentive compensation.

Upon the termination of his employment other than for cause, Mr. Baylouny has the right to receive a severance payment equal to six months of his base salary then in effect. Mr. Baylouny is not entitled to severance if we terminate his employment for cause.

Stock Option and Other Compensation Plans

1994 Stock Option Plan

Our 1994 stock option plan was adopted by our board of directors on May 4, 1994, approved by our stockholders on August 22, 1994 and expired on August 24, 2001. The 1994 stock option plan provided for the grant of non-statutory options to our employees, officers, directors, consultants and advisors. A maximum of 187,500 shares of common stock were authorized for issuance under this plan.

The 1994 stock option plan provides that outstanding options shall become fully exercisable if we undergo a fundamental transaction, as defined in the 1994 stock option plan, and the successor entity does not assume the options under the 1994 stock option plan or substitute equivalent options.

As of January 31, 2007, options to purchase 15,794 shares of our common stock at a weighted average exercise price of $15.97 were outstanding under our 1994 stock option plan, options to purchase 12,682 shares of common stock had been exercised and options to purchase 104,342 shares of common stock had been forfeited. No awards have been granted under the 1994 stock option plan since its expiration in 2001.

Incentive Stock Option Plan

Our incentive stock option plan was adopted by our board of directors on May 4, 1994, approved by our stockholders on August 22, 1994 and expired on August 24, 2001. The incentive stock option plan provided for the grant of incentive stock options to our employees and officers. A maximum of 337,500 shares of common stock were authorized for issuance under this plan.

The incentive stock option plan provides that outstanding options shall become fully exercisable if we undergo a fundamental transaction, as defined in the incentive stock option plan, and the successor entity does not assume the options under the incentive stock option plan or substitute equivalent options.

As of January 31, 2007, options to purchase 140,550 shares of our common stock at a weighted average exercise price of $19.22 were outstanding under our incentive stock option plan, options to purchase 28,525 shares of common stock had been exercised and options to purchase 107,749 shares of common stock had been forfeited. No awards have been granted under the incentive stock option plan since its expiration in 2001.

2001 Stock Plan

Our 2001 stock plan was adopted by our board of directors and approved by our stockholders on August 24, 2001. The 2001 stock plan provides for the grant of incentive stock options, non-statutory options, restricted stock awards and stock awards. A maximum of 1,000,000 shares of common stock are authorized for issuance under our 2001 stock option plan. Our employees, officers, directors, consultants and advisors are eligible to receive awards under our 2001 stock plan; however, incentive stock options may only be granted to our employees.

Our board of directors administers our 2001 stock option plan. Pursuant to the terms of our 2001 stock option plan, and to the extent permitted by law, our board may delegate administrative authority to a committee composed of two or more of our non-executive directors. Our board of directors, or a committee to whom the board of directors delegates authority, selects the recipients of awards and determines:

- the number of shares of common stock covered by options and the dates upon which the options become exerciseable;
- the exercise price of options;
- the duration of the options; and
- the terms and conditions of awards, including transfer restrictions, conditions for repurchase and rights of first refusal.

The 2001 stock plan provides that outstanding options shall become fully exercisable if we undergo a fundamental transaction, as defined in the 2001 stock plan, and the successor entity does not assume the options under the 2001 stock plan or substitute equivalent options.

The 2001 stock plan provides that, prior to an initial public offering which is defined as an underwritten offering pursuant to an effective registration statement under the Securities Act, we have a right of first refusal on any shares held by optionees under the 2001 stock plan and we may repurchase any stock or stock awards upon the exercise of options at the fair market value on the date of purchase. The right of first refusal and the right to repurchase will terminate upon the completion of this offering. We do not intend to exercise these rights before they terminate.

No award may be granted under the 2001 stock plan after August 23, 2011. Our board of directors may amend or terminate this plan at any time.

As of January 31, 2007, options to purchase 871,980 shares of our common stock at a weighted average exercise price of $13.99 were outstanding under our 2001 stock plan, 3,250 options to purchase shares of common stock had been exercised and 60,067 options to purchase shares of common stock had been forfeited. After the effectiveness of the 2006 stock incentive plan described below, we will grant no further stock options or other awards under the 2001 stock plan.

2006 Stock Incentive Plan

Our 2006 stock incentive plan, which will become effective on the date that the registration statement for this offering is declared effective, was adopted by our board of directors on December 7, 2006 and approved by our stockholders on January 12, 2007. The 2006 stock incentive plan provides for the grant of incentive stock options, nonstatutory stock options, restricted stock awards and other stock-unit awards. Upon effectiveness of the plan, the number of shares of common stock that will be reserved for issuance under the 2006 stock incentive plan will be 680,000 shares plus the number of shares of common stock equal to the number of shares of common stock then available for issuance under the 2001 stock plan, up to a maximum of 123,215 shares.

Our employees, officers, directors, consultants and advisors are eligible to receive awards under our 2006 stock incentive plan; however, incentive stock options may only be granted to our employees. The maximum

number of shares of common stock with respect to which awards may be granted to any participant under the 2006 stock incentive plan is 200,000 per calendar year.

Our 2006 stock incentive plan is administered by our board of directors. Pursuant to the terms of the 2006 stock incentive plan, and to the extent permitted by law, our board of directors may delegate authority to one or more committees or subcommittees of the board of directors or to our officers. Our board of directors or any committee to whom the board of directors delegates authority selects the recipients of awards and determines:

- the number of shares of common stock covered by options and the dates upon which the options become exercisable;
- the exercise price of options;
- the duration of the options; and
- the number of shares of common stock subject to any restricted stock or other stock-unit awards and the terms and conditions of such awards, including conditions for repurchase, issue price and repurchase price.

If our board of directors delegates authority to an officer, the officer has the power to make awards to all of our employees, except to executive officers. Our board of directors will fix the terms of the awards to be granted by such officer, including the exercise price of such awards, and the maximum number of shares subject to awards that such officer may make.

If a merger or other reorganization event occurs, our board of directors may provide that all of our outstanding options are to be assumed or substituted by the successor corporation. Our board of directors may also provide that, in the event the succeeding corporation does not agree to assume, or substitute for, outstanding options, then all unexercised options will become exercisable in full prior to the completion of the event and that these options will terminate immediately prior to the completion of the merger or other reorganization event if not previously exercised. Our board of directors may also provide for a cash out of the value of any outstanding options.

No award may be granted under the 2006 stock incentive plan after December 7, 2016, but the vesting and effectiveness of awards granted before that date may extend beyond that date. Our board of directors may amend, suspend or terminate the 2006 stock incentive plan at any time, except that stockholder approval will be required for any revision that would materially increase the number of shares reserved for issuance, expand the types of awards available under the plan, materially modify plan eligibility requirements, extend the term of the plan or materially modify the method of determining the exercise price of options granted under the plan, or otherwise as required to comply with applicable law or stock market requirements.

401(k) Retirement Plan

We maintain a 401(k) retirement plan that is intended to be a tax-qualified defined contribution plan under Section 401(k) of the Internal Revenue Code. In general, all of our employees are eligible to participate, subject to a 30-day waiting period. The 401(k) plan includes a salary deferral arrangement pursuant to which participants may elect to reduce their current compensation by up to the statutorily prescribed limit, equal to $15,000 in 2006 for certain age groups, and have the amount of the reduction contributed to the 401(k) plan. We are permitted to match employees' 401(k) plan contributions; however, we have not done so to date.

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

Since May 1, 2003, we have engaged in the following transactions with our directors, executive officers and holders of more than 5% of our voting securities, and affiliates of our directors, executive officers and 5% stockholders:

Consulting Agreement

In August 1999, we entered into a consulting agreement with Thomas J. Meaney, who became a member of our board of directors in June 2006, for marketing services at a rate of $600 per day of services provided. We paid Mr. Meaney $42,000 in fiscal 2004, $51,000 in fiscal 2005 and $53,000 in fiscal 2006 under this consulting agreement for his services and related expenses. We believe the terms contained in this agreement are comparable to those we would receive from an unaffiliated third party for similar services.

Agreement Relating to Patent Royalties

In November 1993, we entered into an agreement providing for royalty payments to Dr. George W. Taylor, our chief executive officer, Michael Y. Epstein and Joseph R. Burns, whose estate transferred his interests under this agreement to our stockholder, JoAnne E. Burns. The royalty payments are based on revenues from specified piezoelectric technology covered by U.S. patent 4404490 entitled “Power Generation from Waves Near the Surface of Bodies of Water.” Under the agreement, we are obligated to pay to the other parties to this agreement royalties of six percent of license fees received and four percent of product sales and development contract revenues, up to an aggregate amount of $0.9 million. As of April 30, 2006, approximately $0.2 million of royalties had been earned. We made payments of $48,000 in fiscal 2004 under this agreement, and no payments in fiscal 2005 or fiscal 2006. As of January 31, 2007, we have accrued $26,100 in unpaid fees to Dr. Taylor under the terms of this agreement. We are not currently using the technology covered by this patent, and we do not anticipate that any further royalties will be earned under the agreement. We believe the terms contained in this agreement are comparable to those we would receive from an unaffiliated third party for similar technology.

Director Compensation

Please see “Management — Director Compensation” for a discussion of options granted to our non-employee directors.

Executive Compensation and Employment Agreements

Please see “Management — Executive Compensation” and “— Stock Options” for additional information on compensation of our executive officers. Information regarding employment agreements with several of our executive officers is set forth under “Management — Employment Agreements.”

PRINCIPAL AND SELLING STOCKHOLDERS

The following table sets forth information with respect to the beneficial ownership of our common stock, as of March 14, 2007, by:

- each of our directors;
- each of our named executive officers;
- each person, or group of affiliated persons, who is known by us to beneficially own more than 5% of our common stock; and
- all of our directors and executive officers as a group.

The percentage of shares beneficially owned prior to the offering is based on 5,186,263 shares of our common stock being outstanding as of March 14, 2007. The percentage of shares beneficially owned after the offering is based on shares of our common stock to be outstanding after this offering, including the shares of common stock that we are selling in this offering. The underwriters have an option to purchase up to additional shares of our common stock to cover over-allotments, including additional shares from the selling stockholders. For more information regarding the shares that may be sold by the selling stockholders, see "— Selling Stockholders" below. No other stockholder is participating in the offering. Our shares are traded on the AIM market of the London Stock Exchange, and brokers or other nominees may hold shares of our common stock in "street name" for customers who are the beneficial owners of the shares. As a result, we may not be aware of each person or group of affiliated persons who own more than 5% of our common stock.

For purposes of the table below, and in accordance with the rules of the SEC, we deem shares of common stock subject to options that are currently exercisable or exercisable within 60 days of March 14, 2007 to be outstanding and to be beneficially owned by the person holding the options for the purpose of computing the percentage ownership of that person, but we do not treat them as outstanding for the purpose of computing the percentage ownership of any other person. Except as otherwise noted, the persons or entities in this table have sole voting and investing power with respect to all of the shares of common stock beneficially owned by them, subject to community property laws, where applicable. Except as otherwise set forth below, the street address of the beneficial owner is c/o Ocean Power Technologies, Inc. 1590 Reed Road, Pennington, NJ 08534. The following table assumes that the underwriters' over-allotment option is not exercised.

	Shares Beneficially Owned Prior to Offering		Shares Beneficially Owned After Offering	
	Common Stock		Common Stock	
Name of Beneficial Owner	Shares	%	Shares	%
Officers and Directors				
Dr. George W. Taylor(1)	1,567,332	28.2		
Charles F. Dunleavy(2)	288,486	5.4		
John A. Baylouny(3)	14,000	*		
Mark F. Draper(4)	24,700	*		
Sir Eric A. Ash(5)	16,250	*		
Thomas J. Meaney	5,448	*		
Seymour S. Preston, III(6)	12,936	*		
All Executive Officers and Directors as a group (7 individuals)	1,929,152	33.3		
5% Stockholders				
JoAnne E. Burns(7)	422,574	8.1		
RAB Special Situations (Master) Fund Limited(8)	387,000	7.5		
Henderson Global Investors Limited	267,969	5.2		

* represents a beneficial ownership of less than one percent of our outstanding common stock.

(1) Includes 543 shares held by Princeton Research Associates, Inc. Dr. Taylor is President and a director of Princeton Research Associates. Dr. Taylor disclaims beneficial ownership of the shares held by Princeton Research Associates except to the extent of his pecuniary interest therein. On February 27, 2007, Dr. Taylor

exercised options to purchase 15,000 shares of common stock and paid the exercise price of such options ($127,500) by transferring 7,456 shares of common stock held by him to the Company, as permitted by the terms of the applicable option plan. Also includes 321,287 shares owned by JoAnne E. Burns over which Dr. Taylor has sole voting power pursuant to a Voting and First Refusal Agreement between Dr. Taylor and Ms. Burns, dated September 27, 2003 and amended and restated on April 18, 2005. Also includes 377,700 shares of common stock issuable upon the exercise of options that are currently exercisable or exercisable within sixty days of March 14, 2007.

(2) Includes 76,720 shares held by Dunfield Investment Company. Mr. Dunleavy is a Managing Partner of Dunfield Investment Company. Mr. Dunleavy disclaims beneficial ownership of the shares held by Dunfield Investment Company except to the extent of his pecuniary interest therein. Also includes 174,150 shares of common stock issuable upon the exercise of options that are currently exercisable or exercisable within sixty days of March 14, 2007.

(3) Consists of 14,000 shares of common stock issuable upon the exercise of options that are currently exercisable or exercisable within sixty days of March 14, 2007.

(4) Consists of 24,700 shares of common stock issuable upon the exercise of options that are currently exercisable or exercisable within sixty days of March 14, 2007.

(5) Includes 13,250 shares of common stock issuable upon the exercise of options that are currently exercisable or exercisable within sixty days of March 14, 2007.

(6) Includes 8,000 shares of common stock issuable upon the exercise of options that are currently exercisable or exercisable within sixty days of March 14, 2007.

(7) Includes 321,287 shares owned by JoAnne E. Burns over which Dr. George W. Taylor has sole voting power pursuant to a Voting and First Refusal Agreement between Dr. Taylor and Ms. Burns, dated September 27, 2003 and amended and restated on April 18, 2005.

(8) Based solely on filings with the SEC, RAB Special Situations (Master) Fund Limited owns 387,000 shares of common stock. William Philip Richards, the fund manager of RAB Special Situations (Master) Fund Limited, owns 10,000 shares.

Selling Stockholders

The stockholders listed in the following table have granted an option to the underwriters to purchase up to an aggregate of additional shares of our common stock to cover over-allotments. The following table sets forth for each selling stockholder the number of shares of our common stock subject to the over-allotment option. The information under "Shares Beneficially Owned After Offering" assumes full exercise of the underwriter's over-allotment option.

		Shares Beneficially Owned Prior to Offering		Shares Beneficially Owned After Offering	
		Common Stock		Common Stock	
Name	Number of Shares of Common Stock Offered	Shares	%	Shares	%
JoAnne E. Burns	75,000	422,574	8.1		
Charles F. Dunleavy	15,000	288,486	5.4		
Total	90,000	711,060	13.3		

Ms. Burns owns shares that were transferred to her by the estate of Joseph R. Burns, one of our co-founders. She is not our employee or a member of our board of directors. Mr. Dunleavy is employed as our chief financial officer and senior vice president and is a member of our board of directors.

DESCRIPTION OF CAPITAL STOCK

General

The following description of our capital stock and provisions of our certificate of incorporation and bylaws are summaries and are qualified by reference to the certificate of incorporation and the bylaws that will be in effect upon our reincorporation in Delaware prior to completion of this offering. Copies of these documents have been filed with the SEC as exhibits to our registration statement, of which this prospectus forms a part. The descriptions of the common stock and preferred stock reflect changes to our capital structure that will occur prior to this offering.

Immediately prior to this offering, our authorized capital stock will consist of 105,000,000 shares of common stock, par value $0.001 per share, and 5,000,000 shares of preferred stock, par value $0.001 per share, all of which will be undesignated.

As of April 30, 2006, we had issued and outstanding 5,171,119 shares of common stock, held by 478 stockholders of record. As of January 31, 2007, we had issued and outstanding 5,177,219 shares of common stock, held by 537 stockholders of record. As of January 31, 2007, we also had outstanding options to purchase 1,366,574 shares of common stock at a weighted average exercise price of $14.25 per share.

Common Stock

Holders of common stock are entitled to one vote for each share held on all matters submitted to a vote of stockholders and do not have cumulative voting rights. Accordingly, holders of a majority of the shares of common stock entitled to vote in any election of directors may elect all of the directors standing for election. Holders of common stock are entitled to receive proportionately any dividends as may be declared by our board of directors, subject to any preferential dividend rights of outstanding preferred stock. Upon our liquidation, dissolution or winding up, the holders of common stock are entitled to receive proportionately our net assets available after the payment of all debts and other liabilities and subject to the prior rights of any outstanding preferred stock. Holders of common stock have no preemptive, subscription, redemption or conversion rights. Our outstanding shares of common stock are, and the shares offered by us in this offering will be, when issued and paid for, fully paid and nonassessable. The rights, preferences and privileges of holders of common stock are subject to, and may be adversely affected by, the rights of the holders of shares of any series of preferred stock that we may designate and issue in the future.

Preferred Stock

Under the terms of our certificate of incorporation, our board of directors is authorized to issue shares of preferred stock in one or more series without stockholder approval. Our board of directors has the discretion to determine the rights, preferences, privileges and restrictions, including voting rights, dividend rights, conversion rights, redemption privileges and liquidation preferences, of each series of preferred stock.

Authorizing our board of directors to issue preferred stock and determine its rights and preferences has the effect of eliminating delays associated with a stockholder vote on specific issuances. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions, future financings and other corporate purposes, could have the effect of making it more difficult for a third party to acquire, or could discourage a third party from seeking to acquire, a majority of our outstanding common stock. Upon completion of this offering, there will be no shares of preferred stock outstanding, and we have no present plans to issue any shares of preferred stock.

Anti-Takeover Effects of Delaware Law; Our Certificate of Incorporation and Our Bylaws

Delaware law, our certificate of incorporation and our bylaws contain provisions that could have the effect of delaying, deferring or discouraging another party from acquiring control of us. These provisions, which are summarized below, are intended to discourage coercive takeover practices and inadequate takeover

bids. These provisions are also designed to encourage persons seeking to acquire control of us to first negotiate with our board of directors.

Removal of Directors

Our certificate of incorporation and our bylaws provide that directors may be removed only for cause and only by the affirmative vote of the holders of 75% of our shares of capital stock present in person or by proxy and entitled to vote. Under our certificate of incorporation and bylaws, any vacancy on our board of directors, including a vacancy resulting from an enlargement of our board of directors, may be filled only by vote of a majority of our directors then in office.

The limitations on the ability of our stockholders to remove directors and fill vacancies could make it more difficult for a third party to acquire, or discourage a third party from seeking to acquire, control of us.

Stockholder Action by Written Consent; Special Meetings

Our certificate of incorporation provides that any action required or permitted to be taken by our stockholders must be effected at a duly called annual or special meeting of such holders and may not be effected by any consent in writing by such holders. Our certificate of incorporation and our bylaws also provide that, except as otherwise required by law, special meetings of our stockholders can only be called by our chairman of the board, our chief executive officer, our president or our board of directors.

Advance Notice Requirements for Stockholder Proposals

Our bylaws establish an advance notice procedure for stockholder proposals to be brought before an annual meeting of stockholders, including proposed nominations of persons for election to the board of directors. Stockholders at an annual meeting may only consider proposals or nominations specified in the notice of meeting or brought before the meeting by or at the direction of the board of directors or by a stockholder of record on the record date for the meeting, who is entitled to vote at the meeting and who has delivered to our secretary a timely written notice in proper form of the stockholder's intention to bring such business before the meeting. These provisions could have the effect of delaying until the next stockholder meeting stockholder actions that are favored by the holders of a majority of our outstanding voting securities.

Delaware Business Combination Statute

Upon reincorporation in Delaware, we will be subject to Section 203 of the Delaware General Corporation Law. Subject to certain exceptions, Section 203 prevents a publicly held Delaware corporation from engaging in a "business combination" with any "interested stockholder" for three years following the date that the person became an interested stockholder, unless the interested stockholder attained such status with the approval of our board of directors or unless the business combination is approved in a prescribed manner. A "business combination" includes, among other things, a merger or consolidation involving us and the "interested stockholder" and the sale of more than 10% of our assets. In general, an "interested stockholder" is any entity or person beneficially owning 15% or more of our outstanding voting stock and any entity or person affiliated with or controlling or controlled by such entity or person.

Amendment of Certificate of Incorporation and Bylaws

The Delaware General Corporation Law provides generally that the affirmative vote of a majority of the shares entitled to vote on any matter is required to amend a corporation's certificate of incorporation or bylaws, unless a corporation's certificate of incorporation or bylaws, as the case may be, requires a greater percentage. Our bylaws may be amended or repealed by a majority vote of our board of directors or the affirmative vote of the holders of at least 75% of the voting power of our capital stock issued and outstanding and entitled to vote on the matter.

Limitation of Liability and Indemnification of Officers and Directors

Our certificate of incorporation that will be in effect upon the completion of this offering limits the personal liability of directors for breach of fiduciary duty to the maximum extent permitted by the Delaware General Corporation Law. Our certificate of incorporation provides that no director will have personal liability to us or to our stockholders for monetary damages for breach of fiduciary duty or other duty as a director. However, these provisions do not eliminate or limit the liability of any of our directors:

- for any breach of their duty of loyalty to us or our stockholders;
- for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- for voting or assenting to unlawful payments of dividends or other distributions; or
- for any transaction from which the director derived an improper personal benefit.

Any amendment to or repeal of these provisions will not eliminate or reduce the effect of these provisions in respect of any act or failure to act, or any cause of action, suit or claim that would accrue or arise prior to any amendment or repeal or adoption of an inconsistent provision. If the Delaware General Corporation Law is amended to provide for further limitations on the personal liability of directors of corporations, then the personal liability of our directors will be further limited to the greatest extent permitted by the Delaware General Corporation Law.

In addition, our certificate of incorporation provides that we must indemnify our directors and officers and we must advance expenses, including attorneys' fees, to our directors and officers in connection with legal proceedings, subject to limited exceptions.

Notice of Share Ownership

Our bylaws that will be in effect upon completion of the offering will contain a provision requiring any beneficial owner of three percent or more of our outstanding common stock to notify us of his or her shareholdings, as well as of any change in his or her beneficial ownership of one percent or more of our outstanding common stock. In accordance with the rules of the AIM market, we are required to disclose this information to the AIM market. Our bylaws do not provide for any specific remedy in the event a shareholder does not comply with this provision. We do not intend to make any such information public, unless required by law or the rules of the AIM market, the SEC or The Nasdaq Global Market.

Authorized But Unissued Shares

The authorized but unissued shares of common stock and preferred stock are available for future issuance without stockholder approval, subject to any limitations imposed by the listing standards of The Nasdaq Market and the AIM market. These additional shares may be used for a variety of corporate finance transactions, acquisitions and employee benefit plans. The existence of authorized but unissued and unreserved common stock and preferred stock could make it more difficult or discourage an attempt to obtain control of us by means of a proxy contest, tender offer, merger or otherwise.

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is Computershare Limited.

SHARES ELIGIBLE FOR FUTURE SALE

Prior to this offering, there has been no market for our common stock in the United States, and a liquid trading market for our common stock in the United States may not develop or be sustained after this offering. Our common stock has been listed on the AIM market of the London Stock Exchange under the symbol "OPT" since October 2003, and we expect that it will continue to be listed on the AIM market after this offering. Future sales of substantial amounts of common stock, including shares issued upon exercise of outstanding options or in the public markets after this offering, or the anticipation of those sales, could adversely affect market prices prevailing from time to time and could impair our ability to raise capital through sales of our equity securities. We have applied for the quotation of our common stock on The Nasdaq Global Market under the symbol "OPTT."

Upon the completion of this offering, we will have outstanding shares of common stock. All the shares of common stock sold in this offering will be freely tradable in the United States without restriction or further registration under the Securities Act, except for any shares purchased by our "affiliates," as that term is defined in Rule 144 under the Securities Act. Shares acquired directly or indirectly from us or any of our affiliates in a transaction or series of transactions not involving a public offering are "restricted securities" under Rule 144. A portion of these restricted securities will be subject to the 180-day lock-up period described below. The balance of our outstanding shares, including the 2,000,000 shares sold in an offering on the AIM market in 2003, are freely tradable without restriction or further registration under the federal securities laws.

These restricted securities and shares held by our affiliates may be sold in the public market in the United States only if registered or if they qualify for an exemption from registration under Rules 144 or 701 under the Securities Act.

Rule 144

In general, under Rule 144, beginning 90 days after the date of this prospectus, a person who has beneficially owned shares of our common stock for at least one year would be entitled to sell within any three-month period a number of shares that does not exceed the greater of:

- 1% of the number of shares of our common stock then outstanding, which will equal approximately shares immediately after this offering, and
- the average weekly trading volume in our common stock on The Nasdaq Global Market during the four calendar weeks preceding the sale.

Sales under Rule 144 are also subject to manner of sale provisions and notice requirements and to the availability of current public information about us. Beginning 90 days after the date of this prospectus, 175,279 shares of common stock will be eligible for sale under Rule 144. Upon the expiration of the 180-day lock-up period described below, an additional 1,410,750 shares of common stock will also be eligible for sale under Rule 144.

Rule 144(k)

Shares of our common stock eligible for sale under Rule 144(k) may be sold in the United States immediately upon the completion of this offering. In general, under Rule 144(k), a person may sell shares of common stock acquired from us immediately upon the completion of this offering, without regard to the volume, manner of sale or availability of public information requirements of Rule 144, if:

- the person is not our affiliate and has not been our affiliate at any time during the three months preceding the sale; and
- the person has beneficially owned the shares proposed to be sold for at least two years, including the holding period of any prior owner other than an affiliate.

Approximately 3,600,000 shares, or %, of our common stock will be eligible for sale under Rule 144(k) immediately upon completion of this offering or under other exemptions.

Rule 701

In general, under Rule 701 of the Securities Act, any of our employees, consultants or advisors who purchased shares from us in connection with a qualified compensatory stock plan or other written agreement is eligible to resell those shares 90 days after the effective date of this offering in reliance on Rule 144, but without compliance with the various restrictions, including the holding period, contained in Rule 144. Subject to the 180-day lock-up period described below, 55,146 shares of our common stock will be eligible for sale in accordance with Rule 701.

Lock-Up Agreements

The holders of 27.2% of our currently outstanding common stock have agreed that, without the prior written consent of UBS Securities LLC, Banc of America Securities LLC and Bear, Stearns & Co. Inc., they will not, during the period ending 180 days after the date of this prospectus, offer, sell, contract to sell or otherwise dispose of, directly or indirectly, or hedge our common stock or securities convertible into or exchangeable for or exercisable for our common stock, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend or otherwise dispose of, directly or indirectly, any shares of common stock or any securities convertible into or exercisable for common stock.

Stock Options

As of January 31, 2007, we had outstanding options to purchase 1,366,574 shares of common stock, of which options to purchase 1,026,816 shares of common stock were vested as of that date. Following this offering, we intend to file registration statements on Form S-8 under the Securities Act to register all of the shares of common stock subject to outstanding options and other awards issuable pursuant to our 1994 stock option plan, incentive stock option plan, 2001 stock plan and 2006 stock incentive plan. Please see “Management — Stock Option and Other Compensation Plans” for additional information regarding these plans.

MATERIAL US FEDERAL INCOME AND ESTATE TAX CONSEQUENCES TO NON-US HOLDERS

The following is a general discussion of the material US federal income and estate tax consequences of the ownership and disposition of our common stock by a non-US holder that acquires common stock pursuant to this offering. The discussion is based on provisions of the Internal Revenue Code of 1986, as amended, which we refer to as the Code, applicable US Treasury regulations promulgated thereunder and administrative and judicial interpretations, all as in effect on the date of this prospectus, and all of which are subject to change, possibly on a retroactive basis. The discussion is limited to non-US holders that hold our common stock as a "capital asset" within the meaning of Section 1221 of the Code — generally, as property held for investment. As used in this discussion, the term "non-US holder" means a beneficial owner of our common stock that is not, for US federal income tax purposes:

- an individual who is a citizen or resident of the United States;
- a corporation or partnership, including any entity treated as a corporation or partnership for US federal income tax purposes, created or organized in or under the laws of the United States or any state of the United States or the District of Columbia, other than a partnership treated as foreign under US Treasury regulations;
- an estate the income of which is includible in gross income for US federal income tax purposes regardless of its source; or
- a trust (1) if a US court is able to exercise primary supervision over the administration of the trust and one or more US persons have authority to control all substantial decisions of the trust, or (2) that has a valid election in effect under applicable US Treasury regulations to be treated as a US person.

This discussion does not consider:

- US federal gift tax consequences, or US state or local or non-US tax consequences of an investment in our common stock;
- specific facts and circumstances that may be relevant to a particular non-US holder's tax position, including, if the non-US holder is a partnership, that the US tax consequences of holding and disposing of our common stock may be affected by certain determinations made at the partner level;
- the tax consequences for partnerships or persons who hold their interests through a partnership or other entity classified as a partnership for US federal income tax purposes;
- the tax consequences for the stockholders or beneficiaries of a non-US holder;
- all of the US federal tax considerations that may be relevant to a non-US holder in light of its particular circumstances or to non-US holders that may be subject to special treatment under US federal tax laws, such as financial institutions, insurance companies, tax-exempt organizations, certain trusts, hybrid entities, certain former citizens or residents of the United States, holders subject to US federal alternative minimum tax, broker-dealers, traders in securities, pension plans and regulated investment companies; or
- special tax rules that may apply to a non-US holder that holds our common stock as part of a "straddle," "hedge," "conversion transaction," "synthetic security" or other integrated investment.

Prospective investors are urged to consult their own tax advisors regarding the US federal, state, local and non-US income and other tax considerations with respect to owning and disposing of shares of our common stock.

Dividends

As previously discussed, we do not anticipate paying dividends on our common stock in the foreseeable future. See "Dividend Policy." If we make distributions on our common stock, those payments will constitute dividends for US federal income tax purposes to the extent paid from our current or accumulated earnings and

profits, as determined under US federal income tax principles. To the extent those distributions exceed our current and accumulated earnings and profits, the excess will constitute a return of capital and first reduce the non-US holder's basis, but not below zero, and then will be treated as gain from the sale of stock.

We will have to withhold US federal income tax at a rate of 30%, or a lower rate under an applicable income tax treaty, from the gross amount of the dividends paid to a non-US holder, unless the dividend is (1) effectively connected with the conduct of a trade or business of the non-US holder within the United States or (2) if an income tax treaty applies, attributable to a permanent establishment or fixed base of the non-US holder within the United States. Under applicable US Treasury regulations, a non-US holder, including, in certain cases of non-US holders that are entities, the owner or owners of such entities, will be required to satisfy certain certification requirements in order to claim a reduced rate of withholding pursuant to an applicable income tax treaty. Non-US holders should consult their tax advisors regarding their entitlement to benefits under any relevant income tax treaty.

Dividends that are effectively connected with a non-US holder's conduct of a trade or business in the United States and, if an income tax treaty applies, attributable to a permanent establishment or fixed base of the non-US holder within the United States, are taxed on a net income basis at the regular graduated US federal income tax rates in the same manner as if the non-US holder were a resident of the United States. In such cases, we will not have to withhold US federal income tax if the non-US holder complies with applicable certification and disclosure requirements. In addition, a "branch profits tax" may be imposed at a 30% rate, or a lower rate under an applicable income tax treaty, on dividends received by a foreign corporation that are effectively connected with the conduct of a trade or business in the United States.

In order to claim the benefit of an income tax treaty or to claim exemption from withholding because the income is effectively connected with the conduct of a trade or business in the United States, the non-US holder must provide a properly executed IRS Form W-8BEN, for treaty benefits, or W-8ECI, for effectively connected income, or such successor forms as the Internal Revenue Service, or IRS, designates prior to the payment of dividends. These forms must be periodically updated.

A non-US holder that is eligible for a reduced rate of US federal withholding tax under an income tax treaty may obtain a refund of any excess amounts withheld by filing with the IRS an appropriate claim for a refund together with the required information.

Gain on Disposition of Common Stock

A non-US holder generally will not be subject to US federal income tax or withholding tax with respect to gain realized on a sale or other disposition of our common stock unless one of the following applies:

- the gain is effectively connected with the non-US holder's conduct of a trade or business in the United States and, if an income tax treaty applies, is attributable to a permanent establishment or fixed base maintained by the non-US holder in the United States; in these cases, the non-US holder will generally be taxed on its net gain derived from the disposition in the manner and at the regular graduated US federal income tax rates applicable to United States persons, as defined in the Code, and, if the non-US holder is a foreign corporation, the "branch profits tax" described above may also apply;
- the non-US holder is a nonresident alien individual who is present in the United States for 183 days or more in the taxable year of the disposition and meets certain other requirements; in this case, the non-US holder will be subject to a 30% tax on the gain derived from the disposition, which may be offset by US source capital losses of the non-US holder, if any; or
- our common stock constitutes a United States real property interest by reason of our status as a "United States real property holding corporation," or a USRPHC, for US federal income tax purposes at any time during the shorter of the five-year period ending on the date of such disposition or the period that the non-US holder held our common stock. We believe that we are not currently and will not become a USRPHC. However, because the determination of whether we are a USRPHC depends on the fair market value of our United States real property interests relative to the fair market value of our other business assets, there can be no assurance that we will not become a USRPHC in the future. As long as

our common stock is "regularly traded on an established securities market" within the meaning of Section 897(c)(3) of the Code, however, such common stock will be treated as United States real property interests only if a non-US holder owned directly or indirectly more than 5% of such regularly traded common stock during the shorter of the five-year period ending on the date of disposition or the period that the non-US holder held our common stock and we were a USRPHC during such period. If we are or were to become a USRPHC and a non-US holder owned directly or indirectly more than 5% of our common stock during the period described above or our common stock is not "regularly traded on an established securities market," then a non-US holder would generally be subject to US federal income tax on its net gain derived from the disposition of our common stock at the regular graduated US federal income tax rates applicable to United States persons, as defined in the Code.

Federal Estate Tax

Common stock owned or treated as owned at the time of death by an individual who is not a citizen or resident of the United States, as specifically defined for US federal estate tax purposes, will be included in the individual's gross estate for US federal estate tax purposes, unless an applicable estate tax or other treaty provides otherwise, and, therefore, may be subject to US federal estate tax.

Information Reporting and Backup Withholding Tax

We must report annually to the IRS and to each non-US holder the gross amount of the distributions paid to that holder and the tax withheld from those distributions. These reporting requirements apply regardless of whether withholding was reduced or eliminated by an applicable income tax treaty. Copies of the information returns reporting those distributions and withholding may also be made available under the provisions of an applicable income tax treaty or agreement to the tax authorities in the country in which the non-US holder is a resident or incorporated.

Under some circumstances, US Treasury regulations require backup withholding and additional information reporting on reportable payments on common stock. The gross amount of dividends paid to a non-US holder that fails to certify its non-US holder status in accordance with applicable US Treasury regulations generally will be reduced by backup withholding at the applicable rate, currently 28%. Dividends paid to non-US holders subject to the US withholding tax at a rate of 30%, described above in "Dividends," generally will be exempt from US backup withholding.

The payment of the proceeds of the sale or other disposition of common stock by a non-US holder effected by or through the US office of any broker, US or non-US, generally will be reported to the IRS and reduced by backup withholding, unless the non-US holder either certifies its status as a non-US holder under penalties of perjury or otherwise establishes an exemption. The payment of the proceeds from the disposition of common stock by a non-US holder effected by or through a non-US office of a non-US broker generally will not be reduced by backup withholding or reported to the IRS, unless the non-US broker has certain enumerated connections with the United States. In general, the payment of proceeds from the disposition of common stock effected by or through a non-US office of a broker that is a US person or has certain enumerated connections with the United States will be reported to the IRS and may be reduced by backup withholding unless the broker receives a statement from the non-US holder that certifies its status as a non-US holder under penalties of perjury or the broker has documentary evidence in its files that the holder is a non-US holder.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules from a payment to a non-US holder can be refunded or credited against the non-US holder's US federal income tax liability, if any, provided that the required information is furnished to the IRS in a timely manner. These backup withholding and information reporting rules are complex and non-US holders are urged to consult their own tax advisors regarding the application of these rules to them.

The foregoing discussion of US federal income and estate tax considerations is not tax advice and is not based on an opinion of counsel. Accordingly, each prospective non-US holder of our common stock should consult that holder's own tax advisor with respect to the federal, state, local and non-US tax consequences of the ownership and disposition of our common stock.

UNDERWRITING

We and the selling stockholders are offering the shares of our common stock described in this prospectus through the underwriters named below. UBS Securities LLC, Banc of America Securities LLC and Bear, Stearns & Co. Inc. are the joint bookrunners and representatives of the underwriters. We and the selling stockholders have entered into an underwriting agreement with the underwriters named below. Subject to the terms and conditions of the underwriting agreement, each of the underwriters has severally agreed to purchase from us the number of shares of common stock listed next to its name in the following table.

Underwriter	Number of Shares
UBS Securities LLC	
Banc of America Securities LLC	
Bear, Stearns & Co. Inc.	
First Albany Capital Inc.	
Total	

The underwriting agreement provides that the underwriters must buy all of the shares if they buy any of them. However, the underwriters are not required to take or pay for the shares covered by the underwriters' over-allotment option described below.

The common stock is offered subject to a number of conditions, including:

- receipt and acceptance of the common stock by the underwriters, and
- the underwriters' right to reject orders in whole or in part.

In connection with this offering, certain of the underwriters or securities dealers may distribute prospectuses electronically.

Sales of shares made outside of the United States may be made by affiliates of the underwriters.

Over-Allotment Option

The underwriters have an option to buy up to additional shares of our common stock from the selling stockholders and up to additional shares of common stock from us. The underwriters may exercise this option solely for the purpose of covering over-allotments, if any, made in connection with this offering. The underwriters have 30 days from the date of this prospectus to exercise this option. If any shares are purchased with this over-allotment option, the underwriters will purchase shares first from the selling stockholders and then from us. If the underwriters exercise this option, they will each purchase additional shares approximately in proportion to the amounts specified in the table above.

Commissions and Discounts

Shares sold by the underwriters to the public will initially be offered at the offering price set forth on the cover of this prospectus. Any shares sold by the underwriters to securities dealers may be sold at a discount of up to $ per share from the public offering price. Any of these securities dealers may resell any shares purchased from the underwriters to other brokers or dealers at a discount of up to $ per share from the public offering price. If all the shares are not sold at the initial public offering price, the representatives may change the offering price and the other selling terms. The underwriters have informed us that they do not expect discretionary sales to exceed 5% of the shares of common stock to be offered.

The following table shows the per share and total underwriting discounts and commissions to be paid to the underwriters, assuming both no exercise and full exercise of the underwriters' option to purchase up to additional shares:

	No Exercise	Full Exercise
Per share	$	$
Total	$	$

We will pay the underwriting discounts and commissions on all shares sold by us, and the selling stockholders will pay the underwriting discounts and commissions on any shares sold by them. We estimate that the total expenses of this offering payable by us, not including the underwriting discounts and commissions, will be approximately $ million.

No Sales of Similar Securities

We, our executive officers and directors, the selling stockholders and other holders of 1,409,742 shares of our common stock have entered into lock-up agreements with the underwriters. Under these agreements, we and each of these persons may not, without the prior written approval of UBS Securities LLC, Banc of America Securities LLC and Bear, Stearns & Co. Inc., offer, sell, contract to sell or otherwise dispose of or hedge our common stock or securities convertible into or exchangeable for our common stock. These restrictions will be in effect for a period of 180 days after the date of this prospectus. At any time and without public notice, UBS Securities LLC, Banc of America Securities LLC and Bear, Stearns & Co. Inc. may in their sole discretion release some or all of the securities from these lock-up agreements.

These lock-up agreements are subject to certain exceptions. For example, we will be permitted to issue common stock, or securities convertible into or exercisable or exchangeable for our common stock, in connection with any transaction that includes a strategic relationship or any acquisition of assets or acquisition of a majority or controlling portion of the equity of another entity, so long as the recipient of any such common stock or other securities executes and delivers to UBS Securities LLC, Banc of America Securities LLC and Bear, Stearns & Co. Inc. a lock-up agreement and the aggregate amount of common stock or other securities issued in all such transaction does not exceed 5% of the outstanding shares of common stock on a fully diluted basis after giving effect to this offering.

If:

- during the period that begins on the date that is 15 calendar days plus three business days before the last day of the 180-day lock-up period and ends on the last day of the 180-day lock-up period,
  - we issue an earnings release or
  - material news or a material event relating to us occurs; or
- prior to the expiration of the 180-day lock-up period, we announce that we will release earnings results during the 16-day period beginning on the last day of the 180-day lock-up period,

then the 180-day lock-up period will be extended until the expiration of the date that is 15 calendar days plus three business days after the date on which the issuance of the earnings release or the material news or material event occurs.

Indemnification and Contribution

We and the selling stockholders have agreed to indemnify the underwriters and their controlling persons against certain liabilities, including liabilities under the Securities Act. If we are unable to provide this indemnification, we and the selling stockholders will contribute to payments the underwriters and their controlling persons may be required to make in respect of those liabilities.

Nasdaq Listing

We have applied to have our common stock listed on The Nasdaq Global Market under the trading symbol “OPTT.”

AIM Market Listing

Our common stock has been listed on the AIM market of the London Stock Exchange since October 2003 under the symbol “OPT.” We will apply to list the shares of common stock being offered by this prospectus on the AIM market, although we cannot assure you that we will maintain the listing of our common stock on the AIM market.

Price Stabilization, Short Positions

In connection with this offering, the underwriters may engage in activities that stabilize, maintain or otherwise affect the price of our common stock on the Nasdaq Global Market, including:

- stabilizing transactions;
- short sales;
- purchases to cover positions created by short sales;
- imposition of penalty bids;
- syndicate covering transactions; and
- passive market making.

Stabilizing transactions consist of bids or purchases made for the purpose of preventing or retarding a decline in the market price of our common stock while this offering is in progress. These transactions may also include making short sales of our common stock, which involve the sale by the underwriters of a greater number of shares of common stock than they are required to purchase in this offering. Short sales may be "covered short sales," which are short positions in an amount not greater than the underwriters' over-allotment option referred to above, or may be "naked short sales," which are short positions in excess of that amount.

The underwriters may close out any covered short position either by exercising their over-allotment option, in whole or in part, or by purchasing shares in the open market. In making this determination, the underwriters will consider, among other things, the price of shares available for purchase in the open market compared to the price at which they may purchase shares through the over-allotment option. The underwriters must close out any naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market that could adversely affect investors who purchased in this offering.

The underwriters also may impose a penalty bid. This occurs when a particular underwriter repays to the underwriters a portion of the underwriting discount received by it because the representatives have repurchased shares sold by or for the account of that underwriter in stabilizing or short covering transactions. In connection with this offering, certain underwriters and selling group members, if any, who are qualified market makers on The Nasdaq Global Market may engage in passive market making transactions in our common stock on The Nasdaq Global Market in accordance with Rule 103 of Regulation M under the Securities Exchange Act of 1934. In general, a passive market maker must display its bid at a price not in excess of the highest independent bid of such security; if all independent bids are lowered below the passive market maker's bid, however, such bid must then be lowered when certain purchase limits are exceeded.

As a result of these activities, the price of our common stock may be higher than the price that otherwise might exist in the open market. If these activities are commenced, they may be discontinued by the underwriters at any time. The underwriters may carry out these transactions on The Nasdaq Global Market in the over-the-counter market or otherwise.

Determination Of Offering Price

Prior to this offering, there has been no trading market for our common stock in the United States. Our common stock has been listed on the AIM market of the London Stock Exchange since October 2003 under the symbol "OPT." The initial public offering price of the common stock being offered by this prospectus will be determined by negotiation by us and the representatives of the underwriters. The principal factors to be considered in determining the initial public offering price include:

- the information set forth in this prospectus and otherwise available to the representatives;
- our history and prospects and the history of, and prospects for, the industry in which we compete;
- our past and present financial performance and an assessment of our management;
- our prospects for future earnings and the present state of our development;

- the general condition of the securities markets at the time of this offering;
- the recent market prices of, and the demand for, publicly traded common stock of generally comparable companies and of us; and
- the historical trading prices of our common stock on the AIM market, which may not be indicative of prices that will prevail in the trading market for our common stock in the United States.

Affiliations

Certain of the underwriters and their affiliates have in the past provided and may from time to time provide certain commercial banking, financial advisory, investment banking and other services for us for which they were and will be entitled to receive separate fees.

The underwriters and their affiliates may from time to time in the future engage in transactions with us and perform services for us in the ordinary course of their business.

Selling Restrictions

Each underwriter intends to comply with all applicable laws and regulations in each jurisdiction in which it acquires, offers, sells or delivers shares of our common stock or has in its possession or distributes this prospectus.

European Economic Area

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a Relevant Member State), with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the Relevant Implementation Date), an offer of shares of our common stock to the public may not be made in that Relevant Member State prior to the publication of a prospectus in relation to such shares which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, all in accordance with the Prospectus Directive, except that an offer to the public in that Relevant Member State of any shares of our common stock may be made at any time under the following exemptions under the Prospectus Directive if they have been implemented in the Relevant Member State:

(a) to legal entities which are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities;

(b) to any legal entity which has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more than €43,000,000 and (3) an annual net turnover of more than €50,000,000, as shown in its last annual or consolidated accounts; or

(c) in any other circumstances falling within Article 3 (2) of the Prospectus Directive, provided that no such offer of Securities shall result in a requirement for the publication by the us or any underwriter of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an “offer of shares of our common stock to the public” in relation to any shares of our common stock in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the shares of our common stock to be offered so as to enable an investor to decide to purchase or subscribe the shares of our common stock, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression Prospectus Directive means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

France

No prospectus (including any amendment, supplement or replacement thereto) has been prepared in connection with the offering of the shares of our common stock that has been approved by the Autorité des marchés financiers or by the competent authority of another State that is a contracting party to the Agreement on the European Economic Area and notified to the Autorité des marchés financiers; no shares of our common

stock have been offered or sold and will be offered or sold, directly or indirectly, to the public in France except to permitted investors ("Permitted Investors") consisting of persons licensed to provide the investment service of portfolio management for the account of third parties, qualified investors (investisseurs qualifiés) acting for their own account and/or investors belonging to a limited circle of investors (cercle restreint d'investisseurs) acting for their own account, with "qualified investors" and "limited circle of investors" having the meaning ascribed to them in Articles L. 411-2, D. 411-1, D. 411-2, D. 411-4, D. 734-1, D. 744-1, D. 754-1 and D. 764-1 of the French Code Monétaire et Financier and applicable regulations thereunder; none of this prospectus or any other materials related to the offering or information contained therein relating to the shares of our common stock has been released, issued or distributed to the public in France except to Permitted Investors; and the direct or indirect resale to the public in France of any Securities acquired by any Permitted Investors may be made only as provided by Articles L. 411-1, L. 411-2, L. 412-1 and L. 621-8 to L. 621-8-3 of the French Code Monétaire et Financier and applicable regulations thereunder.

United Kingdom

Each underwriter acknowledges and agrees that:

(i) it has not offered or sold and will not offer or sell shares of our common stock other than to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or as agent) for the purposes of their businesses or who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of their businesses where the issue of such shares would otherwise constitute a contravention of Section 19 of the Financial Services and Markets Act 2000 (the "FSMA") by us;

(ii) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the FSMA) received by it in connection with the issue or sale of the shares in circumstances in which Section 21(1) of the FSMA does not apply to us; and

(iii) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the shares in, from or otherwise involving the United Kingdom.

This document is only being distributed to and is only directed at (i) persons who are outside the United Kingdom or (ii) to investment professionals falling within Article 19(5) of the FSMA (Financial Promotion) Order 2005 (the "Order") or (iii) high net worth entities, and other persons to whom it may lawfully be communicated, falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as "relevant persons"). The shares are only available to, and any invitation, offer or agreement to subscribe, purchase or otherwise acquire such shares will be engaged in only with, relevant persons. Any person who is not a relevant person should not act or rely on this document or any of its contents.

Italy

The offering of shares of our common stock has not been cleared by the Italian Securities Exchange Commission (Commissione Nazionale per le Società e la Borsa, the "CONSOB") pursuant to Italian securities legislation and, accordingly, each underwriter acknowledges and agrees that the shares of our common stock may not and will not be offered, sold or delivered, nor may or will copies of this prospectus or any other documents relating to the shares of our common stock be distributed in Italy, except (i) to professional investors (operatori qualificati), as defined in Article 31, second paragraph, of CONSOB Regulation No. 11522 of July 1, 1998, as amended (the "Regulation No. 11522"), or (ii) in other circumstances which are exempted from the rules on solicitation of investments pursuant to Article 100 of Legislative Decree No. 58 of February 24, 1998 (the "Financial Service Act") and Article 33, first paragraph, of CONSOB Regulation No. 11971 of May 14, 1999, as amended.

Any offer, sale or delivery of shares of our common stock or distribution of copies of this prospectus or any other document relating to the shares of our common stock in Italy may and will be effected in accordance with all Italian securities, tax, exchange control and other applicable laws and regulations, and, in particular, will be: (i) made by an investment firm, bank or financial intermediary permitted to conduct such activities in Italy in accordance with the Financial Services Act, Legislative Decree No. 385 of September 1, 1993, as

amended (the "Italian Banking Law"), Regulation No. 11522, and any other applicable laws and regulations; (ii) in compliance with Article 129 of the Italian Banking Law and the implementing guidelines of the Bank of Italy; and (iii) in compliance with any other applicable notification requirement or limitation which may be imposed by CONSOB or the Bank of Italy.

Any investor purchasing shares of our common stock in the offering is solely responsible for ensuring that any offer or resale of the shares of our common stock it purchased in the offering occurs in compliance with applicable laws and regulations.

This prospectus and the information contained therein are intended only for the use of its recipient and, unless in circumstances which are exempted from the rules on solicitation of investments pursuant to Article 100 of the "Financial Service Act" and Article 33, first paragraph, of CONSOB Regulation No. 11971 of May 14, 1999, as amended, is not to be distributed, for any reason, to any third party resident or located in Italy. No person resident or located in Italy other than the original recipients of this document may rely on it or its content.

Italy has only partially implemented the Prospectus Directive, the provisions under the heading "European Economic Area" above shall apply with respect to Italy only to the extent that the relevant provisions of the Prospectus Directive have already been implemented in Italy.

Insofar as the requirements above are based on laws that are superseded at any time pursuant to the implementation of the Prospectus Directive, such requirements shall be replaced by the applicable requirements under the Prospectus Directive.

LEGAL MATTERS

The validity of the common stock we are offering will be passed upon by Wilmer Cutler Pickering Hale and Dorr LLP, New York, New York. Certain legal matters relating to this offering that are governed New Jersey state law will be passed upon for us by Fox Rothschild LLP, Princeton, New Jersey. Fox Rothschild LLP, Princeton, New Jersey and Morgan, Lewis & Bockius LLP, Princeton, New Jersey are acting as counsel to the selling stockholders in connection with this offering. Davis Polk & Wardwell, New York, New York is counsel for the underwriters in connection with this offering.

EXPERTS

Our consolidated financial statements as of April 30, 2005 and 2006, and for the years then ended, have been included herein and in the registration statement in reliance upon the report of KPMG LLP, independent registered public accounting firm, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing. The audit report contains an explanatory paragraph that states that we have restated our consolidated statement of cash flows for the year ended April 30, 2005.

Our consolidated financial statements for the year ended April 30, 2004 included in this prospectus and elsewhere in the registration statement have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report (which report expresses an unqualified opinion and includes an explanatory paragraph relating to the restatement discussed in Note 1(b)) appearing herein and have been so included in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act of 1933 with respect to the shares of common stock we are offering to sell. This prospectus, which constitutes part of the registration statement, does not include all of the information contained in the registration statement and the exhibits, schedules and amendments to the registration statement. For further information with respect to us and our common stock, we refer you to the registration statement and to the exhibits and schedules to the registration statement. Statements contained in this prospectus about the contents of any contract or any other document are not necessarily complete, and, and in each instance, we refer you to the copy of the contract or other documents filed as an exhibit to the registration statement. Each of these statements is qualified in all respects by this reference.

You may read and copy the registration statement of which this prospectus is a part at the SEC's public reference room, which is located at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. You can request copies of the registration statement by writing to the SEC and paying a fee for the copying cost. Please call the SEC at 1-800-SEC-0330 for more information about the operation of the SEC's public reference room. In addition, the SEC maintains an Internet website, which is located at http://www.sec.gov, that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC. You may access the registration statement of which this prospectus is a part at the SEC's Internet website. Upon completion of this offering, we will be subject to the information reporting requirements of the Securities Exchange Act of 1934, and we will file reports, proxy statements and other information with the SEC.

We maintain an Internet website at www.oceanpowertechnologies.com. We have not incorporated by reference into this prospectus the information on our website, and you should not consider it to be part of this prospectus.

This prospectus includes statistical data that were obtained from industry publications. These industry publications generally indicate that the authors of these publications have obtained information from sources believed to be reliable but do not guarantee the accuracy and completeness of their information.

OCEAN POWER TECHNOLOGIES, INC. AND SUBSIDIARIES

Index to Consolidated Financial Statements

Report of Independent Registered Public Accounting Firm

When the common stock reverse stock split referred to in Note 14 of the Notes to Consolidated Financial Statements has been consummated, we will be in a position to render the following report.

/s/ KPMG LLP

The Board of Directors and Stockholders
Ocean Power Technologies, Inc.:

We have audited the accompanying consolidated balance sheets of Ocean Power Technologies, Inc. and subsidiaries as of April 30, 2005 and 2006, and the related consolidated statements of operations, stockholders' equity and comprehensive loss, and cash flows for the years then ended. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Ocean Power Technologies, Inc. and subsidiaries as of April 30, 2005 and 2006, and the results of their operations and their cash flows for the years then ended, in conformity with U.S. generally accepted accounting principles.

As further discussed in Note 1(b), the Company has restated its consolidated statement of cash flows for the year ended April 30, 2005.

Philadelphia, Pennsylvania
October 30, 2006, except as to Note 14,
which is as of March , 2007

Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders
Ocean Power Technologies, Inc.:

We have audited the accompanying consolidated statements of operations, stockholders' equity and comprehensive loss, and cash flows of Ocean Power Technologies, Inc. and subsidiary for the year ended April 30, 2004. These consolidated financial statements are the responsibility of the Company's management.

Our responsibility is to express an opinion on these consolidated financial statements based on our audit. We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, such consolidated financial statements referred to above present fairly, in all material respects, the results of operations and cash flows of Ocean Power Technologies, Inc. and subsidiary for the year ended April 30, 2004, in conformity with accounting principles generally accepted in the United States of America.

As discussed in Note 1(b), the Company has restated its consolidated statement of cash flows for the year ended April 30, 2004.

Parsippany, New Jersey
July 20, 2004 (November 8, 2006 as to the effects of the restatement discussed in Note 1(b) and March , 2007 as to Note 14)

The accompanying financial statements give effect to a 1-for-10 reverse stock split of the common stock of Ocean Power Technologies, Inc. which will be consummated prior to the effective date of the registration statement of which this prospectus is a part. The preceding report is in the form which will be furnished by Deloitte & Touche LLP, an independent registered public accounting firm, upon completion of the 1-for-10 reverse stock split of the common stock of Ocean Power Technologies, Inc. described in Note 14 to the consolidated financial statements and assuming that from July 20, 2004 to the date of such completion no other material events have occurred that would affect the accompanying consolidated financial statements or disclosure therein.

/s/ Deloitte & Touche LLP
Parsippany, New Jersey
March 16, 2007

OCEAN POWER TECHNOLOGIES, INC. AND SUBSIDIARIES

Consolidated Balance Sheets

	April 30, 2005	April 30, 2006	January 31, 2007 (Unaudited)
ASSETS			
Current assets:			
Cash and cash equivalents	$ 13,584,814	31,957,209	19,622,549
Certificates of deposit	25,202,362	482,156	7,034,603
Accounts receivable	668,424	—	494,673
Unbilled receivables	822,037	211,000	345,418
Other current assets	464,582	331,139	2,232,443
Total current assets	40,742,219	32,981,504	29,729,686
Property and equipment, net	427,613	544,285	439,431
Patents, net of accumulated amortization of $137,693, $157,451 and $172,490 (unaudited), respectively	334,809	372,448	526,443
Other noncurrent assets	91,746	97,901	230,070
Total assets	$ 41,596,387	33,996,138	30,925,630
LIABILITIES AND STOCKHOLDERS' EQUITY			
Current liabilities:			
Accounts payable	$ 876,968	242,624	685,897
Accrued expenses	1,891,483	1,726,870	2,724,694
Unearned revenues	16,788	14,405	66,877
Other current liabilities	53,773	111,576	27,496
Total current liabilities	2,839,012	2,095,475	3,504,964
Long-term debt	245,844	233,959	233,959
Deferred rent	—	—	9,472
Deferred credits	675,000	600,000	600,000
Total liabilities	3,759,856	2,929,434	4,348,395
Commitments and contingencies (note 13)			
Stockholders' equity:			
Preferred stock, $0.001 par value; authorized 5,000,000 shares; none issued or outstanding	—	—	—
Common stock, $0.001 par value; authorized 105,000,000 shares; issued and outstanding 5,151,221, 5,171,119 and 5,177,219 (unaudited) shares, respectively	5,151	5,171	5,177
Additional paid-in capital	59,423,955	59,725,777	60,731,724
Accumulated deficit	(21,553,242)	(28,632,153)	(34,140,603)
Accumulated other comprehensive loss	(39,333)	(32,091)	(19,063)
Total stockholders' equity	37,836,531	31,066,704	26,577,235
Total liabilities and stockholders' equity	$ 41,596,387	33,996,138	30,925,630

See accompanying notes to consolidated financial statements.

OCEAN POWER TECHNOLOGIES, INC. AND SUBSIDIARIES

Consolidated Statements of Operations

	Year Ended April 30,			Nine Months Ended January 31,	
	2004	2005	2006	2006	2007
				(Unaudited)	
Revenues	$ 4,713,202	5,365,235	1,747,715	1,467,283	1,513,631
Cost of revenues	4,319,850	5,170,521	2,059,318	1,920,980	2,103,108
Gross profit (loss)	393,352	194,714	(311,603)	(453,697)	(589,477)
Operating expenses:					
Product development costs	255,958	904,618	4,224,997	2,630,663	4,100,418
Selling, general, and administrative costs	1,745,955	2,553,911	3,190,687	2,168,345	3,083,621
Total operating expenses	2,001,913	3,458,529	7,415,684	4,799,008	7,184,039
Operating loss	(1,608,561)	(3,263,815)	(7,727,287)	(5,252,705)	(7,773,516)
Interest income, net	555,717	1,297,156	1,408,361	1,062,095	1,066,823
Other income (expense)	(3,500,096)	1,545	74,294	75,000	13,744
Foreign exchange gain (loss)	1,585,345	1,507,145	(978,242)	(1,514,630)	1,184,499
Loss before income taxes	(2,967,595)	(457,969)	(7,222,874)	(5,630,240)	(5,508,450)
Income tax benefit	118,119	29,335	143,963	143,963	—
Net loss	$ (2,849,476)	(428,634)	(7,078,911)	(5,486,277)	(5,508,450)
Basic and diluted net loss per share	$ (0.71)	(0.08)	(1.37)	(1.06)	(1.06)
Weighted average shares used to compute basic and diluted net loss per share	4,037,501	5,135,550	5,162,340	5,158,982	5,174,539

See accompanying notes to consolidated financial statements.

OCEAN POWER TECHNOLOGIES, INC. AND SUBSIDIARIES

Consolidated Statements of Stockholders' Equity and Comprehensive Loss

	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Stockholders' Equity
	Shares	Amount				
Balance, May 1, 2003	3,023,118	$ 1,327,889	$ 17,472,327	$ (18,275,132)	$ (34,299)	$ 490,785
Net loss	—	—	—	(2,849,476)	—	(2,849,476)
Foreign currency translation adjustment	—	—	—	—	1,371	1,371
Total comprehensive loss						(2,848,105)
Change to $0.001 par value	—	(1,324,866)	1,324,866	—	—	—
Compensation related to stock issued for services	4,979	5	92,345	—	—	92,350
Compensation related to stock option grants issued for services	—	—	311,024	—	—	311,024
Sale of common stock, net of issuance costs (including 17,817 shares issued as fee payment)	2,017,817	2,017	38,305,175	—	—	38,307,192
Stock issued under agreement with AMP Incorporation (now Tyco Electronics)	70,588	71	1,499,929	—	—	1,500,000
Balance, April 30, 2004	5,116,502	5,116	59,005,666	(21,124,608)	(32,928)	37,853,246
Net loss	—	—	—	(428,634)	—	(428,634)
Foreign currency translation adjustment	—	—	—	—	(6,405)	(6,405)
Total comprehensive loss						(435,039)
Compensation related to stock option grants issued to employees	—	—	131,500	—	—	131,500
Compensation related to stock option grants issued for services	—	—	53,174	—	—	53,174
Adjustment for shareholder reduction in shares held	(1,397)	(1)	1	—	—	—
Proceeds from exercise of stock options	36,116	36	233,614	—	—	233,650
Balance, April 30, 2005	5,151,221	5,151	59,423,955	(21,553,242)	(39,333)	37,836,531
Net loss	—	—	—	(7,078,911)	—	(7,078,911)
Foreign currency translation adjustment	—	—	—	—	7,242	7,242
Total comprehensive loss						(7,071,669)
Compensation related to stock option grants issued to employees	—	—	44,000	—	—	44,000
Compensation related to stock option grants issued for services	—	—	85,139	—	—	85,139
Stock issued for amounts received in prior years	2,732	3	49,997	—	—	50,000
Proceeds from exercise of stock options	17,166	17	122,686	—	—	122,703
Balance, April 30, 2006	5,171,119	5,171	59,725,777	(28,632,153)	(32,091)	31,066,704
Net loss (unaudited)	—	—	—	(5,508,450)	—	(5,508,450)
Foreign currency translation adjustment (unaudited)	—	—	—	—	13,028	13,028
Total comprehensive loss (unaudited)						(5,495,422)
Compensation related to stock option grants issued to employees (unaudited)	—	—	881,593	—	—	881,593
Compensation related to stock option grants issued for services (unaudited)	—	—	70,235	—	—	70,235
Proceeds from exercise of stock options (unaudited)	6,100	6	54,119	—	—	54,125
Balance, January 31, 2007 (unaudited)	5,177,219	$ 5,177	$ 60,731,724	$ (34,140,603)	$ (19,063)	$ 26,577,235

See accompanying notes to consolidated financial statements.

OCEAN POWER TECHNOLOGIES, INC. AND SUBSIDIARIES

Consolidated Statements of Cash Flows

	Year Ended April 30,			Nine Months Ended January 31,	
	2004	2005	2006	2006	2007
	(Restated)	(Restated)		(Unaudited)	
Cash flows from operating activities:					
Net loss	$ (2,849,476)	(428,634)	(7,078,911)	(5,486,277)	(5,508,450)
Adjustments to reconcile net loss to net cash used in operating activities:					
Foreign exchange (gain) loss	(1,585,345)	(1,507,145)	978,242	1,514,630	(1,184,499)
Depreciation and amortization	42,005	140,984	233,132	170,477	199,845
Loss on disposal of equipment	—	—	—	—	20,344
Compensation expense related to stock option grants and common stock issuance	403,374	184,674	129,139	—	951,828
Realization of deferred credits	—	—	(75,000)	(75,000)	—
Issuance of shares in connection with settlement agreement with AMP Incorporated (now Tyco Electronics)	1,500,000	—	—	—	—
Deferred rent	—	—	—	—	9,472
Changes in operating assets and liabilities:					
Accounts receivable	(46,925)	(621,499)	668,424	631,863	(477,281)
Unbilled receivables	(210,743)	(268,216)	611,037	448,902	(132,737)
Other current assets	(173,610)	(239,274)	161,505	105,439	(1,896,820)
Accounts payable	213,801	404,491	(632,778)	(510,113)	433,568
Accrued expenses	116,433	708,022	(121,840)	(252,598)	983,831
Unearned revenues	263,678	(246,890)	(2,383)	59,681	50,120
Other current liabilities	(87,841)	—	57,803	(27,667)	(85,470)
Net cash used in operating activities	(2,414,649)	(1,873,487)	(5,071,630)	(3,420,663)	(6,636,249)
Cash flows from investing activities:					
Purchases of certificates of deposit	(725,329)	(58,050,287)	(62,677,400)	(62,778,856)	(46,889,973)
Maturities of certificates of deposit	710,000	33,573,254	87,397,606	61,812,650	40,337,527
Purchases of equipment	(80,445)	(435,488)	(330,047)	(274,262)	(94,790)
Payments of patent costs	(79,415)	(125,414)	(57,396)	(26,549)	(163,494)
Investments in joint ventures and other noncurrent assets	—	(78,399)	(30,747)	578	(125,696)
Net cash (used in) provided by investing activities	(175,189)	(25,116,334)	24,302,016	(1,266,439)	(6,936,426)
Cash flows from financing activities:					
Sale of common stock, net of issuance costs	38,307,192	—	—	—	—
Proceeds from exercise of stock options	—	233,650	122,703	172,702	54,125
Net cash provided by financing activities	38,307,192	233,650	122,703	172,702	54,125
Effect of exchange rate changes on cash and cash equivalents	1,586,716	1,500,740	(980,694)	(1,508,409)	1,183,890
Net increase (decrease) in cash and cash equivalents	37,304,070	(25,255,431)	18,372,395	(6,022,809)	(12,334,660)
Cash and cash equivalents, beginning of period	1,536,175	38,840,245	13,584,814	13,584,814	31,957,209
Cash and cash equivalents, end of period	$ 38,840,245	13,584,814	31,957,209	7,562,005	19,622,549
Supplemental disclosure of noncash investing and financing activities:					
Issuance of shares in connection with amounts received in prior years	$ —	—	50,000	—	—
Issuance of shares to consultant in connection with offering on the AIM market	$ 378,000	—	—	—	—
Capitalized patent costs financed through accounts payable	$ —	—	—	—	5,540

See accompanying notes to consolidated financial statements.

OCEAN POWER TECHNOLOGIES, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements
(Information as of January 31, 2007 and for the Nine Months Ended
January 31, 2006 and 2007 is unaudited)

(1) Background

(a) Organization

Ocean Power Technologies, Inc. (the Company) was incorporated on April 19, 1984 in the State of New Jersey and commenced active operations in 1994. The Company develops and is commercializing proprietary systems that generate electricity by harnessing the renewable energy of ocean waves. The Company markets and sells its products in the United States and internationally.

(b) Restatement

Subsequent to the issuance of its consolidated financial statements for the years ended April 30, 2005 and 2004, the Company determined that the presentation in the statements of cash flows of the effect of exchange rate changes on cash balances held in foreign currencies was incorrect. Pursuant to Statement of Financial Accounting Standards (SFAS) No. 95, *Statement of Cash Flows*, the statement of cash flows should report the effect of exchange rate changes on cash balances held in foreign currencies as a separate part of the reconciliation of the change in cash and cash equivalents during the period. Previously, the effect was included in the net cash used in operating activities. In addition, the Company determined that the year ended April 30, 2004 supplemental disclosure of noncash financing activities for the issuance of shares to a consultant was incorrect. As a result, the accompanying consolidated statements of cash flows for the years ended April 30, 2005 and 2004 have been restated from the amounts previously reported. These matters had no impact on the consolidated balance sheet as of April 30, 2005 or the consolidated statements of operations or consolidated statements of stockholders' equity and comprehensive loss for the years ended April 30, 2004 or 2005. The impact of these matters on the previously issued consolidated statements of cash flows is as follows –

	As previously reported	Adjustment	As restated
For the year ended April 30, 2004			
Net cash used in operating activities	$ (829,304)	$ (1,585,345)	$ (2,414,649)
Effect of exchange rate changes on cash and cash equivalents	$ 1,371	$ 1,585,345	$ 1,586,716
Supplemental disclosure of noncash investing and financing activities – issuance of shares to consultant in connection with offering on the AIM market	$ 178,350	$ 199,650	$ 378,000
For the year ended April 30, 2005			
Net cash used in operating activities	$ (366,342)	$ (1,507,145)	$ (1,873,487)
Effect of exchange rate changes on cash and cash equivalents	$ (6,405)	$ 1,507,145	$ 1,500,740

(2) Summary of Significant Accounting Policies

(a) Consolidation

The accompanying consolidated financial statements include the accounts of the Company and its majority owned subsidiaries. All significant intercompany balances and transactions have been eliminated in consolidation.

In addition, the Company evaluates its relationships with other entities to identify whether they are variable interest entities as defined by Financial Accounting Standards Board (FASB) Interpretation No. 46(R), *Consolidation of Variable Interest Entities* (FIN 46R), and to assess whether it is the primary beneficiary of such entities. If the determination is made that the Company is the primary beneficiary, then that entity is included in the consolidated financial statements in accordance with FIN 46R.

(b) Unaudited Financial Information

The accompanying interim consolidated balance sheet at January 31, 2007, the consolidated statements of operations and cash flows for the nine months ended January 31, 2006 and 2007 and the consolidated

statement of stockholders' equity and comprehensive loss for the nine months ended January 31, 2007 are unaudited. These unaudited interim consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles. In the opinion of the Company's management, the unaudited interim consolidated financial statements have been prepared on the same basis as the audited financial statements and include all adjustments, consisting only of normal recurring adjustments, necessary for the fair presentation of the Company's consolidated balance sheet at January 31, 2007, and its results of operations and cash flows for the nine months ended January 31, 2006 and 2007. The results of operations for the nine months ended January 31, 2007 are not necessarily indicative of the results to be expected for the year ending April 30, 2007.

(c) Use of Estimates

The preparation of the consolidated financial statements requires management of the Company to make a number of estimates and assumptions relating to the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the period. Significant items subject to such estimates and assumptions include the recoverability of the carrying amount of property and equipment and patents; valuation allowances for receivables and deferred income tax assets; and percentage of completion of customer contracts for purposes of revenue recognition. Actual results could differ from those estimates.

(d) Revenue Recognition

The Company recognizes revenue on government and commercial contracts under the percentage-of-completion method. The percentage of completion is determined by relating the costs incurred to date to the estimated total costs. The cumulative effects resulting from revisions of estimated total contract costs and revenues are recorded in the period in which the facts requiring revision become known. Upon anticipating a loss on a contract, the Company recognizes the full amount of the anticipated loss in the current period. During the year ended April 30, 2005, the Company recorded a provision of $21,000 related to an anticipated loss on a contract. Reserves related to loss contracts in the amounts of approximately $806,000, $785,000 and $1,270,000 are included in accrued expenses in the accompanying consolidated balance sheets as of April 30, 2005 and 2006 and January 31, 2007, respectively.

Unbilled receivables represent expenditures on contracts, plus applicable profit margin, not yet billed. Unbilled receivables are normally billed and collected within one year. Billings made on contracts are recorded as a reduction of unbilled receivables, and to the extent that such billings exceed costs incurred plus applicable profit margin, they are recorded as unearned revenues.

(e) Cash Equivalents

Cash equivalents consist of investments in short-term financial instruments with maturities of three months or less from the date of purchase.

(f) Property and Equipment

Property and equipment is stated at cost, less accumulated depreciation and amortization. Depreciation and amortization is calculated using the straight-line method over the estimated useful lives (three to seven years) of the assets. Leasehold improvements are amortized using the straight-line method over the shorter of the estimated useful life of the asset or the remaining lease term. Expenses for maintenance and repairs are charged to operations as incurred. Depreciation and amortization expense was $33,762, $112,070 and $213,374 for the years ended April 30, 2004, 2005 and 2006, respectively, and $155,775 and $184,806 for the nine-month periods ended January 31, 2006 and 2007, respectively.

(g) Foreign Exchange Gains and Losses

The Company has invested in certain certificates of deposit and has maintained cash accounts that are denominated in British pound sterling, Euros and Australian dollars. Such certificates of deposit and cash accounts had a balance of approximately $21,788,000, $16,724,000 and $16,968,000 as of April 30, 2005 and 2006 and January 31, 2007, respectively. Such positions may result in realized and unrealized foreign exchange gains or losses from exchange rate fluctuations, which are included in foreign exchange gain (loss) on the accompanying consolidated statements of operations.

(h) Patents

External costs related to the filing of patents, including legal and filing fees, are capitalized. Amortization is calculated using the straight-line method over the life of the patents (17 years). Expenses for the development of technology are charged to operations as incurred. Amortization expense was $8,243, $28,914 and $19,758 for the years ended April 30, 2004, 2005 and 2006, respectively, and $14,702 and $15,039 for the nine months ended January 31, 2006 and 2007, respectively. Amortization expense for the next five fiscal years related to amounts capitalized for patents as of April 30, 2006 is estimated to be approximately $20,000 per year.

(i) Long-Lived Assets

In accordance with SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*, long-lived assets, such as property and equipment, and purchased intangible assets subject to amortization, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of the asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of the asset to estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of the asset exceeds its estimated future cash flows, then an impairment charge is recognized by the amount by which the carrying amount of the asset exceeds the fair value of the asset. Assets to be disposed of would be separately presented in the consolidated balance sheet and reported at the lower of the carrying amount or fair value less costs to sell, and are no longer depreciated. The assets and liabilities of a disposal group classified as held for sale would be presented separately in the appropriate asset and liability sections of the consolidated balance sheet. The Company reviewed its long-lived assets for impairment in accordance with SFAS No. 144 and determined that no impairment charge was necessary for the years ended April 30, 2004, 2005 or 2006 or the nine months ended January 31, 2006 or 2007.

(j) Concentration of Credit Risk

Financial instruments that potentially subject the Company to concentration of credit risk consist principally of cash balances, bank certificates of deposit and trade receivables. The Company invests its excess cash in highly liquid investments (principally short-term bank deposits) and does not believe that it is exposed to any significant risks related to its cash accounts or certificates of deposit.

OCEAN POWER TECHNOLOGIES, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

The table below shows the percentage of the Company's revenue derived from significant customers for the periods indicated:

	Years Ended April 30,			Nine Months Ended January 31,	
Customer	2004	2005	2006	2006	2007
US Navy	95%	57%	61%	57%	57%
New Jersey Board of Public Utilities	1%	7%	5%	6%	—
Iberdrola and Total	—	4%	9%	10%	32%
Lockheed Martin	4%	32%	22%	26%	—
US Department of Interior for Department of Homeland Security	—	—	3%	1%	3%
National Institute of Standards and Technologies	—	—	—	—	5%
Australian Greenhouse Office	—	—	—	—	3%

The loss of, or a significant reduction in revenues from, any of these customers could significantly impact the Company's financial position or results of operations. The Company does not require collateral from its customers.

(k) Net Loss per Common Share

Basic and diluted net loss per share for all periods presented is computed by dividing net loss by the weighted average number of shares of common stock outstanding during the period. Due to the Company's net losses, potentially dilutive securities, consisting of outstanding stock options, were excluded from the diluted loss per share calculation due to their anti-dilutive effect.

In computing diluted net loss per share, 1,032,496, 1,116,281, 1,205,030, and 1,366,574 options to purchase shares of common stock were excluded from the computations for the years ended April 30, 2004, 2005 and 2006, and the nine months ended January 31, 2006 and 2007, respectively.

(l) Stock-Based Compensation

Prior to May 1, 2006, the Company applied the intrinsic-value-based method of accounting prescribed by Accounting Principles Board (APB) Opinion No. 25, *Accounting for Stock Issued to Employees*, and related interpretations including FASB Interpretation No. 44, *Accounting for Certain Transactions Involving Stock Compensation*, to account for its fixed plan stock options. Under this method, compensation expense was recorded only if on the date of grant the market price of the underlying stock exceeded the exercise price. SFAS No. 123, *Accounting for Stock-Based Compensation*, and SFAS No. 148, *Accounting for Stock-Based Compensation — Transition and Disclosure*, established accounting and disclosure requirements using a fair-value-based method of accounting for stock-based employee compensation plans. As permitted by existing accounting standards, for periods through the year ended April 30, 2006, the Company elected to continue to apply the intrinsic-value-based method of accounting described above, and adopted only the disclosure

OCEAN POWER TECHNOLOGIES, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

requirements of SFAS No. 123, as amended. The following table illustrates the effect on net loss if the fair-value-based method had been applied to all outstanding and unvested awards in the periods presented:

	Year Ended April 30,			Nine Months Ended
	2004	2005	2006	January 31, 2006
Net loss, as reported	$ (2,849,476)	(428,634)	(7,078,911)	(5,486,277)
Add stock-based employee compensation expense included in reported net loss	171,542	131,500	44,000	—
Deduct total stock-based employee compensation expense determined under fair-value-based method for all awards	(2,310,000)	(1,367,000)	(680,000)	(510,000)
Pro forma net loss	$ (4,987,934)	(1,664,134)	(7,714,911)	(5,996,277)
Basic and diluted net loss per share, as reported	$ (0.71)	(0.08)	(1.37)	(1.06)
Basic and diluted net loss per share, pro forma	$ (1.24)	(0.32)	(1.49)	(1.16)

In accordance with SFAS No. 123, as amended by SFAS No. 148, the fair value of option grants is estimated on the date of grant using the Black-Scholes option pricing model for pro forma disclosure purposes with the following weighted-average assumptions used for grants: dividend yield of 0%; risk-free interest rate of 3.4%, 4%, 4.9% and 5% in the years ended April 30, 2004, 2005 and 2006 and the nine months ended January 31, 2006, respectively; an expected option life of 10 years, 8.9 years, 9.3 years and 9.4 years in the years ended April 30, 2004, 2005 and 2006 and the nine months ended January 31, 2006, respectively; and volatility of 85.6%, 80.8%, 72% and 72% in the years ended April 30, 2004, 2005 and 2006 and the nine months ended January 31, 2006, respectively.

On May 1, 2006, the Company adopted the provisions of SFAS No. 123 (revised 2004), *Share-Based Payment* (SFAS No. 123R), which requires that the costs resulting from all share-based payment transactions be recognized in the consolidated financial statements at their fair values. The Company adopted SFAS No. 123R using the modified prospective application method under which the provisions of SFAS No. 123R apply to new awards and to awards modified, repurchased, or canceled after the adoption date. Additionally, compensation cost for the portion of the awards for which the requisite service had not been rendered that were outstanding as of May 1, 2006 will be recognized in the consolidated statements of operations over the remaining service period after such date based on the award's original estimate of fair value. The aggregate share-based compensation expense recorded in the consolidated statements of operations for the nine months ended January 31, 2007 under SFAS No. 123R was approximately $882,000. The Company would have recorded no share-based compensation expense for the nine months ended January 31, 2007 if it had continued to account for share-based compensation under APB Opinion No. 25. For the nine months ended January 31, 2007, this additional share-based compensation increased the net loss by approximately $882,000 and increased basic and diluted loss per share by approximately $0.17.

Valuation Assumptions for Options Granted During the Nine Months Ended January 31, 2007

The fair value of each stock option granted during the nine months ended January 31, 2007 was estimated at the date of grant using the Black-Scholes option pricing model, assuming no dividends and using the weighted average valuation assumptions noted in the following table. The risk-free rate is based on the U.S. Treasury yield curve in effect at the time of grant. The expected life (estimated period of time outstanding) of the stock options granted was estimated by the "simplified" method as prescribed by the Securities and Exchange Commission's Staff Accounting Bulletin No. 107, *Share-Based Payment.* Expected volatility was based on historical volatility for a peer group of companies for a period equal to the stock option's expected life, and calculated on a daily basis.

Risk-free interest rate	5%
Expected dividend yield	0.0%
Expected life	5.5 years
Expected volatility	72.0%

The above assumptions were used to determine the weighted average per share fair value of $8.80 for stock options granted during the nine months ended January 31, 2007.

(m) Accounting for Income Taxes

Income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

(n) Accumulated Other Comprehensive Loss

The functional currency for the Company's foreign operations is the applicable local currency. The translation from the applicable foreign currencies to U.S. dollars is performed for balance sheet accounts using the exchange rates in effect at the balance sheet date and for revenue and expense accounts using an average exchange rate during the period. The unrealized gains or losses resulting from such translation are included in accumulated other comprehensive loss within stockholders' equity.

(o) Recent Accounting Pronouncements

In June 2005, the FASB issued SFAS No. 154, *Accounting Changes and Error Corrections,* which requires entities that voluntarily make a change in accounting principle to apply that change retrospectively to prior periods' financial statements, unless this would be impracticable. SFAS No. 154 supersedes APB Opinion No. 20, *Accounting Changes*, which previously required that most voluntary changes in accounting principles be recognized by including the cumulative effect of changing to the new accounting principle in the current period's net income or loss. SFAS No. 154 also makes a distinction between "retrospective application" of an accounting principle and the "restatement" of financial statements to reflect the correction of an error. Another significant change in practice under SFAS No. 154 will be that if an entity changes its method of depreciation, amortization or depletion of long-lived, non-financial assets, the change must be accounted for as a change in accounting estimate effected by a change in accounting principle. Under APB Opinion No. 20, such a change would have been reported as a change in accounting principle. SFAS No. 154 is effective for accounting changes and corrections of errors made in fiscal years beginning after December 15, 2005. Adoption is not expected to have a material effect on the Company's financial position or results of operations.

In July 2006, the FASB issued FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes*, or FIN 48. FIN 48 clarifies the accounting for uncertainty in income taxes recognized in an enterprise's

financial statements in accordance with SFAS No. 109, *Accounting for Income Taxes*. FIN 48 prescribes a recognition and measurement method for tax positions taken or expected to be taken in a tax return. FIN 48 also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosures and transitions. FIN 48 is effective for fiscal years beginning after December 15, 2006. The Company is currently analyzing the effects of FIN 48, but does not expect FIN 48 to have a material effect on its financial position or results of operations.

In September 2006, the Securities and Exchange Commission issued Staff Accounting Bulletin No. 108, *Considering the Effects of Prior Year Misstatements when Quantifying Misstatements in Current Year Financial Statements*, or SAB 108. SAB 108 provides guidance on how prior year misstatements should be taken into consideration when quantifying misstatements in current year financial statements for purposes of determining whether the current year's financial statements are materially misstated. SAB 108 becomes effective during the Company's 2007 fiscal year. The Company does not expect the adoption of SAB 108 to have a material impact on its consolidated financial statements.

(p) Reclassifications

Certain amounts in the prior years' consolidated financial statements have been reclassified to conform to the current year presentation.

(3) Certificates of Deposit

Certificates of deposit with maturities in excess of 90 days from purchase are summarized as follows:

	Nominal Face Amount	Currency	April 30, 2005	April 30, 2006	January 31, 2007
4.75% due May 26, 2005	5,868,435	GBP	$ 11,194,039	—	—
2.08% due July 11, 2005	469,789	USD	469,789	—	—
2.90% due July 18, 2005	8,038,548	USD	8,038,548	—	—
4.73% due July 18, 2005	2,883,348	GBP	5,499,986	—	—
3.92% due August 11, 2006	482,156	USD	—	482,156	—
5.43% due April 12, 2007	3,583,598	GBP	—	—	7,034,603
			$ 25,202,362	482,156	7,034,603

(4) Property and Equipment

The components of property and equipment are as follows:

	April 30, 2005	April 30, 2006	January 31, 2007
Computers and software	$ 260,698	402,037	487,061
Equipment	335,238	452,448	435,424
Office furniture and equipment	206,766	233,178	239,330
Leasehold improvements	39,358	59,358	59,358
	842,060	1,147,021	1,221,173
Less accumulated depreciation	(414,447)	(602,736)	(781,742)
	$ 427,613	544,285	439,431

OCEAN POWER TECHNOLOGIES, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(5) Accrued Expenses

Included in accrued expenses at April 30, 2005 and 2006 and January 31, 2007 were contract reserves of approximately $806,000, $785,000 and $1,270,000, respectively, accrued bonuses of approximately $308,000, $353,000 and $176,000, respectively, and accrued vacation expense of approximately $71,000, $84,000 and $62,000, respectively.

(6) Related-Party Transactions

The Company is obligated to pay royalties to G.W. Taylor, a founding stockholder of the Company; M.Y. Epstein; and the estate of J.R. Burns (stockholders of the Company) related to U.S. patent 4404490 entitled, "Power Generation from Waves Near the Surface of Bodies of Water." Royalty payments are limited to $925,000 in the aggregate, based on revenues related to certain piezoelectric-technology, if any, on the basis of 6% of future licenses sold and 4% of future product sales and development contracts. Through January 31, 2007, approximately $200,000 of royalties had been earned. During the years ended April 30, 2004, 2005 and 2006 and the nine-month periods ended January 31, 2006 and 2007, no royalties were earned pursuant to these agreements, and no future royalties are expected to be earned. As of April 30, 2005 and 2006 and January 31, 2007, approximately $26,000 was included in other current liabilities related to these agreements.

In August 1999, the Company entered into a consulting agreement with an individual for marketing services at a rate of $600 per day of services provided. The individual became a member of the board of directors in June 2006. Under this consulting agreement, the Company expensed approximately $47,000, $51,000 and $53,000 during the years ended April 30, 2004, 2005 and 2006, respectively, and $40,000 in each of the nine-month periods ended January 31, 2006 and 2007.

Also see Note 8 for an additional related-party transaction.

(7) Debt

In the year ended April 30, 2000, the Company received an award of $250,000 from the State of New Jersey Commission on Science and Technology for the development of a wave power system that was deployed off the coast of New Jersey. Under the terms of this award, the Company must repay the amount funded, without interest, by January 15, 2012. The amounts to be repaid each year are determined as a percentage of revenues (as defined in the loan agreement) the Company receives that year from its customer contracts that meet criteria specified in the loan agreement, with any remaining amount due on January 15, 2012. Based upon the terms of the award, the Company has repaid approximately $4,000 and is required to repay an additional approximately $12,000 as of April 30, 2006. The total repayment amount of approximately $16,000 reduced the long-term debt balance, and the current payment required was recorded in accrued expenses in the accompanying consolidated balance sheet as of April 30, 2006.

Conversion of Debt and Preferred Stock

On October 14, 1999, a group comprised of three members of the Company's senior management acting as individuals (the Group) purchased from AMP Incorporated (AMP) the 3,211,100 shares of Series A Preferred Stock owned by AMP, and a convertible promissory note issued by the Company to AMP in 1996. The convertible promissory note had a face amount of $1,684,000 plus unpaid interest of approximately $536,000. On October 14, 1999, the Group converted the Series A Preferred Stock, plus the promissory note and accrued interest, into a total of 460,705 shares of the Company's common stock in accordance with the terms of those instruments. Also on October 14, 1999, AMP agreed to release all liens on the assets of the Company and to convey to the Company the remaining $320,000 of principal of the convertible promissory note. In consideration, the Company agreed to pay a commission of 3% on sales by the Company through October 14, 2009 of certain piezoelectric products utilizing certain circuitry, the development of which was funded, in part, by AMP's previous investment in the Company. In addition, the Company agreed to make

additional payments to AMP, subject to certain limitations, if prior to October 14, 2004 the Company entered into any of the following transactions: liquidation or dissolution, sale of all or substantially all of its assets, an initial public offering or a merger or other business combination. The maximum total potential payments under all these circumstances, including commissions, was $3,500,000. These future payments were contingent and were not estimable at the time of the agreement.

Following its offering and listing on the AIM market of the London Stock Exchange on October 31, 2003, the Company completed its payment obligations under these agreements. A total of $3,500,000 was paid to AMP, now Tyco Electronics, through the issuance of 70,588 shares of the Company's common stock, valued at $1,500,000, and payment of $2,000,000 in cash. Such amounts are included in other income (expense) in the consolidated statement of operations for the year ended April 30, 2004.

(8) Deferred Credits

During the year ended April 30, 2003, the Company entered into an agreement under which the Company received a payment of $75,000, which was included in deferred credits until the earning process was completed. During the year ended April 30, 2006, the earning process was completed, and the nonrefundable payment of $75,000 has been included in other income in the accompanying consolidated statement of operations for the year ended April 30, 2006.

During the year ended April 30, 2001, in connection with the sale of common stock to an investor, the Company received $600,000 from the investor in exchange for an option to purchase up to 500,000 metric tons of carbon emissions credits generated by the Company during the years 2008 through 2012, at a 30% discount from the then-prevailing market rate. This amount has been recorded in deferred credits in the accompanying consolidated balance sheets as of April 30, 2005 and 2006 and October 31, 2006. If by December 31, 2012 the Company does not become entitled under applicable laws to the full amount of emission credits covered by the option, the Company is obligated to return the option fee of $600,000, less the aggregate discount on any emission credits sold to the investor prior to such date. If the Company receives emission credits under applicable laws and fails to sell to the investor the credits up to the full amount of emission credits covered by the option, the investor is entitled to liquidated damages equal to 30% of the aggregate market value of the shortfall in emission credits (subject to a limit on the market price of emission credits).

(9) Common Stock

On October 31, 2003, the Company completed an offering on the AIM market of the London Stock Exchange by issuing 2,000,000 shares of its common stock for a purchase price of 12.50 pound sterling, or $21.30, per share (the Offering), resulting in net proceeds to the Company of $38,307,192.

During the year ended April 30, 2004, the Company issued 4,979 shares of common stock to vendors for services rendered, and recorded a charge of $92,350 in the accompanying consolidated statement of operations, based on the estimated fair market value of the shares. In addition, the Company issued 17,817 shares of common stock to a financial consultant for services rendered in connection with the Offering, and recorded a charge of $378,000 to additional paid-in capital related to the issuance of those shares.

During the year ended April 30, 2003, the Company sold 3,750 shares of common stock to an investor at a price of $13.30 per share, which was subject to adjustment based on the pricing of future financings, if any, during calendar year 2003. Based on the price at which the Company's common shares were sold at the time of the Offering, this adjustment, in the form of a reduction of 1,397 shares issued, was resolved and recorded in the year ended April 30, 2005.

During the year ended April 30, 1998, under an agreement with a group of investors, the Company received $50,000 as an advance payment related to a potential future transaction, which was recorded in

accrued expenses. During the year ended April 30, 2006, the Company repaid this amount by issuing 2,732 shares of common stock, in accordance with the terms of the agreement.

(10) Preferred Stock

In September 2003, and in connection with the Offering, the Company's stockholders authorized 5,000,000 shares of undesignated preferred stock with a par value of $0.001 per share. At April 30, 2005 and 2006 and January 31, 2007, no shares of preferred stock had been issued.

(11) Stock Options

Prior to August 2001, the Company maintained qualified and nonqualified stock option plans. The Company has reserved 510,155 shares of common stock for issuance under these plans. There are no options available for future grant under these plans as of April 30, 2006.

In August 2001, the Company approved the 2001 Stock Plan, which provides for the grant of incentive stock options and nonqualified stock options. A total of 1,000,000 shares are authorized for issuance under the 2001 Stock Plan. As of April 30, 2006, the Company had issued 694,881 shares and had 301,869 shares of common stock reserved for issuance under the 2001 Stock Plan. Members of the board of directors who are not full-time employees receive an annual option grant to acquire 2,500 shares. The options are granted after the annual meeting of shareholders for the year then ended. Vesting of stock options is determined by the board of directors. The contractual term of these stock options is five years.

OCEAN POWER TECHNOLOGIES, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

Transactions under these option plans are as follows:

	Shares Under Option	Weighted Average Exercise Price	Weighted Average Fair Value
Outstanding May 1, 2003 (exercisable 687,150)	841,893	$ 12.50	
Forfeited/Expired	(13,600)	18.70	
Exercised	—	—	
Granted	204,203	17.40	13.60
Outstanding April 30, 2004 (exercisable 880,994)	1,032,496	13.90	
Forfeited/Expired	(46,424)	15.00	
Exercised	(36,116)	6.47	
Granted	166,325	16.49	13.92
Outstanding April 30, 2005 (exercisable 932,138)	1,116,281	14.50	
Forfeited/Expired	(74,060)	16.80	
Exercised	(17,166)	7.15	
Granted	179,975	12.91	10.20
Outstanding April 30, 2006 (exercisable 988,366)	1,205,030	14.19	
Forfeited/Expired	(28,476)	14.20	
Exercised	(6,100)	8.87	
Granted	196,120	13.75	8.80
Outstanding January 31, 2007 (exercisable 1,026,816)	1,366,574	14.25	

The total intrinsic value of options exercised during the nine months ended January 31, 2007 was approximately $47,000. The total intrinsic value of outstanding and exercisable options as of January 31, 2007 was approximately $4,700,000 and $3,600,000, respectively. As of January 31, 2007, approximately 306,000 options were expected to vest, which had total intrinsic value of approximately $1,000,000. As of January 31, 2007, there was approximately $2,600,000 of total unrecognized compensation cost related to non-vested stock options granted under the plans. This cost is expected to be recognized over a weighted-average period of 2.9 years. The Company normally issues new shares to satisfy option exercises under these plans.

The following table summarizes information about stock options outstanding at April 30, 2006:

Range of Exercise Prices	Number Outstanding	Weighted Average Remaining Life	Weighted Average Exercise Price	Number Exercisable	Weighted Average Exercise Price
$2.70 to $7.70	321,334	4.3	$ 6.89	311,580	$ 6.86
$8.50 to $16.70	327,161	6.5	13.32	180,157	13.91
$17.00 to $22.40	556,535	5.1	18.92	496,629	19.04
	1,205,030			988,366	

Certain stock options granted during the years ended April 30, 2005 and 2006 were granted to employees with exercise prices less than the fair value of the underlying common stock on the date of grant. Additionally, certain options were granted to consultants. The Company has charged compensation expense of $311,024, $184,674 and $129,139 related to these option grants, which has been included in selling, general, and administrative costs in the accompanying consolidated statements of operations for the years ended April 30, 2004, 2005 and 2006, respectively.

OCEAN POWER TECHNOLOGIES, INC. AND SUBSIDIARIES

Notes to Consolidated Financial Statements (Continued)

(12) Income Taxes

The tax effects of temporary differences that give rise to significant portions of the Company's deferred tax assets and deferred tax liabilities are presented below.

	April 30, 2005	April 30, 2006	January 31, 2007
Deferred tax assets:			
Federal net operating loss carryforwards	$ 4,588,000	6,638,000	7,544,000
Foreign net operating loss carryforwards	915,000	1,210,000	1,552,000
Research and development tax credits	295,000	505,000	690,000
Stock compensation	1,426,000	1,478,000	1,722,000
Unrealized foreign exchange loss	103,000	—	16,000
Accrued expenses	322,000	314,000	552,000
Gross deferred tax assets	7,649,000	10,145,000	12,076,000
Deferred tax liabilities:			
Property and equipment	(31,000)	(31,000)	(17,000)
Unrealized foreign exchange gain	—	(60,000)	—
Gross deferred tax liabilities	(31,000)	(91,000)	(17,000)
Deferred tax assets valuation allowance	(7,618,000)	(10,054,000)	(12,059,000)
Net deferred tax assets	$ —	—	—

Income tax benefit was $118,119, $29,335 and $143,963 for the years ended April 30, 2004, 2005 and 2006, respectively. The effective income tax rate differed from the percentages computed by applying the U.S. Federal income tax rate of 34% to loss before income taxes as a result of the following:

	Years Ended April 30, 2004	2005	2006
Computed "expected" tax benefit	(34)%	(34)%	(34)%
Increase (reduction) in income taxes resulting from:			
State income taxes, net of federal benefit	(6)	(6)	(6)
Federal research and development tax credits	—	(6)	(2)
Sale of state loss carryforwards and tax credits	(4)	(6)	(2)
Non-deductible expenses	1	9	1
Increase in valuation allowance	39	37	41
	(4)%	(6)%	(2)%

In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. As of April 30, 2005 and 2006 and January 31, 2007, based upon the level of historical taxable losses, valuation allowances of $7,618,000, $10,054,000 and $12,059,000, respectively, were recorded in accordance with the provisions of SFAS No. 109.

As of April 30, 2006, the Company had net operating loss carryforwards for Federal income tax purposes of approximately $19,500,000, which begin to expire in 2009. The Company also had federal research and development credit carryforwards of approximately $505,000, which begin to expire in 2012. The Tax Reform Act of 1986 contains provisions that limit the utilization of net operating loss and tax credit carryforwards if

there has been an ownership change, as defined. Such an ownership change, as described in Section 382 of the Internal Revenue Code, may limit the Company's ability to utilize its net operating loss and tax credit carryforwards on a yearly basis. Foreign loss before income taxes was $249,329, $527,974 and $982,934 for the years ended April 30, 2004, 2005 and 2006, respectively. As of April 30, 2006, foreign net operating loss carryforwards were approximately $4,000,000. These losses can be carried forward indefinitely, but the Company's ability to utilize these carryforwards may be limited in the event of an ownership change.

During the years ended April 30, 2004, 2005 and 2006, the Company sold a portion of its New Jersey state net operating loss carryforwards and research and development credits to a company for net proceeds of $118,119, $29,335 and $143,963, respectively, resulting in the recognition of income tax benefits in the accompanying consolidated statements of operations.

(13) Commitments and Contingencies

(a) Operating Lease Commitments

The Company leases office, laboratory and manufacturing space in Pennington, New Jersey and office space in Warwick, United Kingdom under operating leases that expire on various dates through 2013. Rent expense under operating leases was $136,450, $154,731 and $295,089 for the years ended April 30, 2004, 2005 and 2006, respectively, and $213,690 and $251,475 for the nine-month periods ended January 31, 2006 and 2007, respectively. Future minimum lease payments under operating leases as of April 30, 2006 are:

Year ending April 30:		
2007	$	233,094
2008		228,722
2009		206,859
2010		206,859
2011		206,859
Thereafter		413,719
	$	1,496,112

(b) Litigation

The Company is involved from time to time in certain legal actions arising in the ordinary course of business. Management believes that the outcome of such actions will not have a material adverse effect on the Company's financial position or results of operations.

(14) Reverse Stock Split

On December 7, 2006, the board of directors approved and recommended to shareholders and on January 12, 2007, the shareholders of the Company approved a one-for-ten reverse stock split, to be effective prior to the Company's reincorporation in Delaware. All share data shown in the accompanying consolidated financial statements have been retroactively restated to reflect the reverse stock split and the reincorporation.

Through and including , 2007 (25 days after the date of this prospectus), all dealers that buy, sell or trade our common stock, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments and subscriptions.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. ***Other Expenses of Issuance and Distribution***

The following table indicates the expenses to be incurred in connection with the offering described in this Registration Statement, other than underwriting discounts and commissions, all of which will be paid by the Registrant. All amounts are estimated except the SEC registration fee and the National Association of Securities Dealers Inc. filing fee.

	Amount
Securities and Exchange Commission registration fee	$ 10,700
National Association of Securities Dealers Inc. filing fee	10,500
Nasdaq Stock Market listing fee	*
Accountants' fees and expenses	*
Legal fees and expenses	*
Blue Sky fees and expenses	*
Transfer Agent's fees and expenses	*
Printing and engraving expenses	*
Miscellaneous	*
Total expenses	$ *

* To be filed by amendment.

Item 14. ***Indemnification of Directors and Officers***

Section 102 of the General Corporation Law of the State of Delaware permits a corporation to eliminate the personal liability of directors of a corporation to the corporation or its stockholders for monetary damages for a breach of fiduciary duty as a director, except where the director breached his duty of loyalty, failed to act in good faith, engaged in intentional misconduct or knowingly violated a law, authorized the payment of a dividend or approved a stock repurchase in violation of Delaware corporate law or obtained an improper personal benefit. The Registrant's certificate of incorporation provides that no director of the Registrant shall be personally liable to it or its stockholders for monetary damages for any breach of fiduciary duty as director, notwithstanding any provision of law imposing such liability, except to the extent that the General Corporation Law of the State of Delaware prohibits the elimination or limitation of liability of directors for breaches of fiduciary duty.

Section 145 of the General Corporation Law of the State of Delaware provides that a corporation has the power to indemnify a director, officer, employee, or agent of the corporation and certain other persons serving at the request of the corporation in related capacities against expenses (including attorneys' fees), judgments, fines and amounts paid in settlements actually and reasonably incurred by the person in connection with an action, suit or proceeding to which he is or is threatened to be made a party by reason of such position, if such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, in any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, except that, in the case of actions brought by or in the right of the corporation, no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or other adjudicating court determines that, despite the adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

The Registrant's certificate of incorporation provides that the Registrant will indemnify each person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or

proceeding (other than an action by or in the right of the Registrant) by reason of the fact that he or she is or was, or has agreed to become, a director or officer of the Registrant, or is or was serving, or has agreed to serve, at the Registrant's request as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise (all such persons being referred to as an "Indemnitee"), or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding and any appeal therefrom, if such Indemnitee acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the Registrant's best interests, and, with respect to any criminal action or proceeding, he or she had no reasonable cause to believe his or her conduct was unlawful. The Registrant's certificate of incorporation provides that the Registrant will indemnify any Indemnitee who was or is a party to an action or suit by or in the right of the Registrant to procure a judgment in the Registrant's favor by reason of the fact that the Indemnitee is or was, or has agreed to become, a director or officer of the Registrant, or is or was serving, or has agreed to serve, at the Registrant's request as a director, officer, partner, employee or trustee or, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise, or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys' fees) and, to the extent permitted by law, amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding, and any appeal therefrom, if the Indemnitee acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Registrant, except that no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to the Registrant, unless a court determines that, despite such adjudication but in view of all of the circumstances, he or she is entitled to indemnification of such expenses. Notwithstanding the foregoing, to the extent that any Indemnitee has been successful, on the merits or otherwise, he or she will be indemnified by the Registrant against all expenses (including attorneys' fees) actually and reasonably incurred in connection therewith. Expenses must be advanced to an Indemnitee under certain circumstances.

The Registrant maintains a general liability insurance policy that covers certain liabilities of the Registrant's directors and officers arising out of claims based on acts or omissions in their capacities as directors or officers.

In any underwriting agreement the Registrant enters into in connection with the sale of common stock being registered hereby, the underwriters will agree to indemnify, under certain conditions, the Registrant, its directors, its officers and persons who control the Registrant within the meaning of the Securities Act of 1933, as amended, against certain liabilities.

Item 15. ***Recent Sales of Unregistered Securities***

Set forth below is information regarding shares of common stock issued, and options granted, by the Registrant within the past three years. Also included is the consideration, if any, received by the Registrant for such shares and options and information relating to the section of the Securities Act, or rule of the SEC, under which exemption from registration was claimed. The share numbers below reflect the one-for-ten reverse stock split of the Registrant's common stock, which will become effective prior to this offering.

1. From the period beginning January 31, 2004 through January 31, 2007, the Registrant granted stock options under its stock option plans for an aggregate of 499,343 shares of common stock (net of exercises, expirations and cancellations) at exercise prices ranging from $11.90 to $19.60 per share. Options to purchase 44,383 shares of common stock granted under the Registrant's stock option plans have been exercised for an aggregate purchase price of $0.4 million.

2. From the period beginning January 31, 2004 through January 31, 2007, the Registrant did not grant stock options outside its stock option plans. Options to purchase 15,000 shares of common stock have been exercised for an aggregate purchase of $40,000.

3. During the year ended April 30, 2004, the Registrant issued 4,979 shares of common stock to vendors for services rendered. In addition, the Registrant issued 17,817 shares of common stock to a financial consultant for services rendered in connection with its offering on the AIM market of the London stock exchange.

No general solicitation was made in the United States by either the Registrant or any person acting on the Registrant's behalf; the securities sold are subject to transfer restrictions; and certificates for the shares contain appropriate legends stating that such securities have not been registered under the Securities Act and may not be offered or sold absent registration or pursuant to an exemption therefrom. The securities described in paragraphs 1 and 4 of Item 15 were issued in transactions that were exempt from registration pursuant to Section 4(2) of the Securities Act or Regulation S promulgated thereunder with respect to the securities offered and sold outside the United States to investors who were neither citizens nor residents of the United States.

The issuances of stock options and the shares of common stock issuable upon the exercise of the options as described in paragraphs 2 and 3 of Item 15 were issued pursuant to written compensatory plans or arrangements with the Registrant's employees, directors and consultants, in reliance on the exemption provided by Section 3(b) of the Securities Act and Rule 701 promulgated thereunder. All recipients either received adequate information about the Registrant or had access, through employment or other relationships, to such information.

Item 16. ***Exhibits***

The exhibits to the registration statement are listed in the Exhibit Index to this registration statement and are incorporated by reference herein.

Item 17. ***Undertakings***

(a) The undersigned Registrant hereby undertakes to provide to the underwriters, at the closing specified in the underwriting agreement, certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

(b) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

(c) The undersigned Registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in the form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of the registration statement as of the time it was declared effective.

(2) For purposes of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) For the purpose of determining liability under the Securities Act to any purchaser, each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made

in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

(4) For the purpose of determining liability of the registrant under the Securities Act to any purchaser in the initial distribution of the securities, in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

SIGNATURES

Pursuant to the requirements of the Securities Act, the Registrant has duly caused this Amendment to the Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the Town of Pennington, New Jersey on the 16 day of March, 2007.

OCEAN POWER TECHNOLOGIES, INC.

By: /s/ GEORGE W. TAYLOR
Dr. George W. Taylor
Chief Executive Officer

Pursuant to the requirements of the Securities Act, this Amendment to the Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ GEORGE W. TAYLOR George W. Taylor	Director, Chief Executive Officer (Principal Executive Officer)	March 16, 2007
/s/ CHARLES F. DUNLEAVY Charles F. Dunleavy	Director, Chief Financial Officer, Senior Vice President, Treasurer and Secretary (Principal Financial Officer and Principal Accounting Officer)	March 16, 2007
* Eric A. Ash	Director	March 16, 2007
* Thomas J. Meaney	Director	March 16, 2007
* Seymour S. Preston III	Director	March 16, 2007

*By: /s/ GEORGE W. TAYLOR
George W. Taylor
Attorney-in-fact

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EXHIBIT INDEX

Exhibit Number	Description
1.1**	Form of Underwriting Agreement
3.1*	Certificate of Incorporation of the Registrant, as amended
3.2	Form of Restated Certificate of Incorporation of the Registrant to be effective prior to the offering
3.3*	Bylaws of the Registrant
3.4	Form of Amended and Restated Bylaws of the Registrant, to be effective prior to the closing of the offering
4.1	Specimen certificate of common stock
5.1**	Opinion of Wilmer Cutler Pickering Hale and Dorr LLP
10.1+*	Engineering, Procurement and Construction of a Wave Energy Power Plant at ‘‘Punta del Pescador” (Santoña, Spain), dated July 27, 2006, between Iberdrola Energias Marinas de Cantabria, S.A. and Ocean Powers Technologies Limited
10.2+*	Contract Number N00014-05-C-0384, dated September 20, 2005, between the Office of Naval Research, U.S. Navy and Ocean Power Technologies, Inc.
10.3+*	Contract Number N00014-02-C-0053, dated February 8, 2002, between the Office of Naval Research, U.S. Navy and Ocean Power Technologies Inc., as modified.
10.4*	Option Agreement for Purchase of Emissions Credits, dated November 24, 2000 between Ocean Power Technologies, Inc. and its affiliates and Woodside Sustainable Energy Solutions Pty. Ltd.
10.5*	1994 Stock Option Plan
10.6*	Incentive Stock Option Plan
10.7*	2001 Stock Plan
10.8	2006 Stock Incentive Plan
10.9*	Amended and Restated Voting and Right of First Refusal Agreement, dated April 18, 2005, between Ocean Power Technologies, Inc., George W. Taylor and JoAnne E. Burns
10.10*	Agreement to Refinance, dated November 14, 1993 between Joseph R. Burns, Michael Y. Epstein, George W. Taylor and Ocean Powers Technologies, Inc.
10.11*	Employment Agreement, dated October 23, 2003, between Charles F. Dunleavy and Ocean Power Technologies, Inc.
10.12*	Employment Agreement, dated October 23, 2003, between George W. Taylor and Ocean Power Technologies, Inc.
10.13*	Consultant Agreement, dated August 1, 1999, between Thomas J. Meaney and Ocean Power Technologies, Inc.
10.14*	Employment Agreement, dated September 9, 2004, between Mark R. Draper and Ocean Power Technologies Ltd.
10.15*	Employment Agreement, dated September 30, 2005, between John A. Baylouny and Ocean Power Technologies, Inc.
10.16*	Lease Agreement, dated August 30, 2005 between Ocean Power Technologies, Inc. and Reed Road Industrial Park LLC #1, as amended on January 27, 2006.
10.17	Lease, dated January 15, 2007, between University of Warwick Science Park Innovation Centre Limited and Ocean Power Technologies Ltd.
10.18+	Agreement for Renewable Energy Economic Development Grants, dated November 3, 2003, between State of New Jersey Board of Public Utilities and Ocean Power Technologies, Inc.
10.19+	Contract for the Development and Application of a Sea Wave Energy Generation System in France, dated as of June 17, 2005, between Iberdrola Energias Renovables II, S.A. Sociedad Unipersonal, Total Energie Development SA, Ocean Power Technologies Ltd. and Ocean Power Technologies, Inc.
10.20+	Contract Number DM259735, dated September 17, 2005 between Lockheed Martin Corporation-Maritime Systems and Sensors (MS2) and Ocean Power Technologies, Inc., as modified

Exhibit Number	Description
16.1*	Letter from Deloitte and Touche LLP
21.1	Subsidiaries of the Registrant
23.1	Consent of KPMG LLP
23.2	Consent of Deloitte and Touche LLP
23.3**	Consent of Wilmer Cutler Pickering Hale and Dorr LLP (included in Exhibit 5.1).
24.1*	Powers of Attorney (included on signature page).

* Previously filed

** To be filed by amendment.

\+ Confidential treatment requested as to certain portions, which portions have been omitted and filed separately with the Securities and Exchange Commission.

Exhibit 3.2

CERTIFICATE OF INCORPORATION

OF

OCEAN POWER TECHNOLOGIES, INC.

FIRST: The name of the Corporation is Ocean Power Technologies, Inc.

SECOND: The address of the Corporation's registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

THIRD: The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

FOURTH: The total number of shares of all classes of stock which the Corporation shall have authority to issue is 110,000,000 shares, consisting of (i) 105,000,000 shares of Common Stock, $0.001 par value per share ("Common Stock"), and (ii) 5,000,000 shares of Preferred Stock, $0.001 par value per share ("Preferred Stock").

The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation.

A COMMON STOCK.

1. General. The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights of the holders of the Preferred Stock of any series as may be designated by the Board of Directors upon any issuance of the Preferred Stock of any series.

2. Voting. The holders of the Common Stock shall have voting rights at all meetings of stockholders, each such holder being entitled to one vote for each share thereof held by such holder; provided, however, that, except as otherwise required by law, holders of Common Stock shall not be entitled to vote on any amendment to this Certificate of Incorporation (which, as used herein, shall mean the certificate of incorporation of the Corporation, as amended from time to time, including the terms of any certificate of designations of any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together as a class with the holders of one or more other such series, to vote thereon pursuant to this Certificate of Incorporation. There shall be no cumulative voting.

The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law of Delaware.

3. Dividends. Dividends may be declared and paid on the Common Stock from funds lawfully available therefor as and when determined by the Board of Directors and subject to any preferential dividend or other rights of any then outstanding Preferred Stock.

4. Liquidation. Upon the dissolution or liquidation of the Corporation, whether voluntary or involuntary, holders of Common Stock will be entitled to receive all assets of the Corporation available for distribution to its stockholders, subject to any preferential or other rights of any then outstanding Preferred Stock.

B PREFERRED STOCK.

Preferred Stock may be issued from time to time in one or more series, each of such series to have such terms as stated or expressed herein and in the resolution or resolutions providing for the issue of such series adopted by the Board of Directors of the Corporation as hereinafter provided. Any shares of Preferred Stock that may be redeemed, purchased or acquired by the Corporation may be reissued except as otherwise provided by law.

Authority is hereby expressly granted to the Board of Directors from time to time to issue the Preferred Stock in one or more series, and in connection with the creation of any such series, by resolution or resolutions providing for the issuance of the shares thereof, to determine and fix the number of shares of such series and such voting powers, full or limited, or no voting powers, and such designations, preferences and relative participating, optional or other special rights, and qualifications, limitations or restrictions thereof, including, without limitation thereof, dividend rights, conversion rights, redemption privileges and liquidation preferences, as shall be stated and expressed in such resolutions, all to the full extent now or hereafter permitted by the General Corporation Law of Delaware. Without limiting the generality of the foregoing, the resolutions providing for issuance of any series of Preferred Stock may provide that such series shall be superior or rank equally or be junior to the Preferred Stock of any other series to the extent permitted by law.

The number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares then outstanding) by the affirmative vote of the holders of a majority of the stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law of Delaware.

FIFTH: Except as otherwise provided herein, the Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute and this Certificate of Incorporation, and all rights conferred upon stockholders herein are granted subject to this reservation.

SIXTH: In furtherance and not in limitation of the powers conferred upon it by the laws of the State of Delaware, and subject to the terms of any series of Preferred Stock, the Board of Directors shall have the power to adopt, amend, alter or repeal the Corporation's By-laws. The

affirmative vote of a majority of the directors present at any regular or special meeting of the Board of Directors at which a quorum is present shall be required to adopt, amend, alter or repeal the Corporation's By-laws. The Corporation's By-laws also may be adopted, amended, altered or repealed by the affirmative vote of the holders of at least seventy-five percent (75%) of the votes that all the stockholders would be entitled to cast in any annual election of directors, in addition to any other vote required by this Certificate of Incorporation. Notwithstanding any other provisions of law, this Certificate of Incorporation or the By-Laws of the Corporation, and notwithstanding the fact that a lesser percentage may be specified by law, the affirmative vote of the holders of at least seventy-five percent (75%) of the votes that all the stockholders would be entitled to cast in any annual election of directors shall be required to amend or repeal, or to adopt any provision inconsistent with, this Article SIXTH.

SEVENTH: Except to the extent that the General Corporation Law of Delaware prohibits the elimination or limitation of liability of directors for breaches of fiduciary duty, no director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for any breach of fiduciary duty as a director, notwithstanding any provision of law imposing such liability. No amendment to or repeal of this provision shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal. If the General Corporation Law of Delaware is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law of Delaware, as so amended.

EIGHTH: The Corporation shall provide indemnification as follows:

1. Actions, Suits and Proceedings Other than by or in the Right of the Corporation. The Corporation shall indemnify each person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he or she is or was, or has agreed to become, a director or officer of the Corporation, or is or was serving, or has agreed to serve, at the request of the Corporation, as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise (including any employee benefit plan) (all such persons being referred to hereafter as an "Indemnitee"), or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by or on behalf of Indemnitee in connection with such action, suit or proceeding and any appeal therefrom, if Indemnitee acted in good faith and in a manner that Indemnitee reasonably believed to be in, or not opposed to, the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that Indemnitee did not act in good faith and in a manner that Indemnitee reasonably believed to be in, or not opposed to, the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

2. Actions or Suits by or in the Right of the Corporation. The Corporation shall indemnify any Indemnitee who was or is a party to or threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that Indemnitee is or was, or has agreed to become, a director or officer of the Corporation, or is or was serving, or has agreed to serve, at the request of the Corporation, as a director, officer, partner, employee or trustee of, or in a similar capacity with, another corporation, partnership, joint venture, trust or other enterprise (including any employee benefit plan), or by reason of any action alleged to have been taken or omitted in such capacity, against all expenses (including attorneys' fees) and, to the extent permitted by law, amounts paid in settlement actually and reasonably incurred by or on behalf of Indemnitee in connection with such action, suit or proceeding and any appeal therefrom, if Indemnitee acted in good faith and in a manner that Indemnitee reasonably believed to be in, or not opposed to, the best interests of the Corporation, except that no indemnification shall be made under this Section 2 in respect of any claim, issue or matter as to which Indemnitee shall have been adjudged to be liable to the Corporation, unless, and only to the extent, that the Court of Chancery of Delaware shall determine upon application that, despite the adjudication of such liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnity for such expenses (including attorneys' fees) that the Court of Chancery of Delaware shall deem proper.

3. Indemnification for Expenses of Successful Party. Notwithstanding any other provisions of this Article, to the extent that an Indemnitee has been successful, on the merits or otherwise, in defense of any action, suit or proceeding referred to in Sections 1 and 2 of this Article EIGHTH, or in defense of any claim, issue or matter therein, or on appeal from any such action, suit or proceeding, Indemnitee shall be indemnified against all expenses (including attorneys' fees) actually and reasonably incurred by or on behalf of Indemnitee in connection therewith. Without limiting the foregoing, if any action, suit or proceeding is disposed of, on the merits or otherwise (including a disposition without prejudice), without (i) the disposition being adverse to Indemnitee, (ii) an adjudication that Indemnitee was liable to the Corporation, (iii) a plea of guilty or nolo contendere by Indemnitee, (iv) an adjudication that Indemnitee did not act in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and (v) with respect to any criminal proceeding, an adjudication that Indemnitee had reasonable cause to believe his conduct was unlawful, Indemnitee shall be considered for the purposes hereof to have been wholly successful with respect thereto.

4. Notification and Defense of Claim. As a condition precedent to an Indemnitee's right to be indemnified, such Indemnitee must notify the Corporation in writing as soon as practicable of any action, suit, proceeding or investigation involving such Indemnitee for which indemnity will or could be sought. With respect to any action, suit, proceeding or investigation of which the Corporation is so notified, the Corporation will be entitled to participate therein at its own expense and/or to assume the defense thereof at its own expense, with legal counsel reasonably acceptable to Indemnitee. After notice from the Corporation to Indemnitee of its election so to assume such defense, the Corporation shall not be liable to Indemnitee for any legal or other expenses subsequently incurred by Indemnitee in connection with such action, suit, proceeding or investigation, other than as provided below in this Section 4. Indemnitee shall have the right to employ his or her own counsel in connection with such action, suit, proceeding or investigation, but the fees and expenses of such counsel incurred after notice from the Corporation of its assumption of the defense thereof shall be at the expense of Indemnitee unless

(i) the employment of counsel by Indemnitee has been authorized by the Corporation, (ii) counsel to Indemnitee shall have reasonably concluded that there may be a conflict of interest or position on any significant issue between the Corporation and Indemnitee in the conduct of the defense of such action, suit, proceeding or investigation or (iii) the Corporation shall not in fact have employed counsel to assume the defense of such action, suit, proceeding or investigation, in each of which cases the fees and expenses of counsel for Indemnitee shall be at the expense of the Corporation, except as otherwise expressly provided by this Article. The Corporation shall not be entitled, without the consent of Indemnitee, to assume the defense of any claim brought by or in the right of the Corporation or as to which counsel for Indemnitee shall have reasonably made the conclusion provided for in clause (ii) above. The Corporation shall not be required to indemnify Indemnitee under this Article EIGHTH for any amounts paid in settlement of any action, suit, proceeding or investigation effected without its written consent. The Corporation shall not settle any action, suit, proceeding or investigation in any manner that would impose any penalty or limitation on Indemnitee without Indemnitee's written consent. Neither the Corporation nor Indemnitee will unreasonably withhold or delay its consent to any proposed settlement.

5. Advance of Expenses. Subject to the provisions of Section 6 of this Article EIGHTH, in the event of any action, suit, proceeding or investigation of which the Corporation receives notice under this Article, any expenses (including attorneys' fees) incurred by or on behalf of Indemnitee in defending an action, suit, proceeding or investigation or any appeal therefrom shall be paid by the Corporation in advance of the final disposition of such matter; provided, however, that the payment of such expenses incurred by or on behalf of Indemnitee in advance of the final disposition of such matter shall be made only upon receipt of an undertaking by or on behalf of Indemnitee to repay all amounts so advanced in the event that it shall ultimately be determined by final judicial decision from which there is no further right to appeal that Indemnitee is not entitled to be indemnified by the Corporation as authorized in this Article; and further provided that no such advancement of expenses shall be made under this Article EIGHTH if it is determined (in the manner described in Section 6) that (i) Indemnitee did not act in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Corporation, or (ii) with respect to any criminal action or proceeding, Indemnitee had reasonable cause to believe his conduct was unlawful. Such undertaking shall be accepted without reference to the financial ability of Indemnitee to make such repayment.

6. Procedure for Indemnification and Advancement. In order to obtain indemnification or advancement of expenses pursuant to Section 1, 2, 3 or 5 of this Article EIGHTH, an Indemnitee shall submit to the Corporation a written request. Any such advancement of expenses shall be made promptly, and in any event within 60 days after receipt by the Corporation of the written request of Indemnitee, unless (i) the Corporation has assumed the defense pursuant to Section 4 of this Article EIGHTH (and none of the circumstances described in Section 4 of this Article EIGHTH that would nonetheless entitle the Indemnitee to indemnification for the fees and expenses of separate counsel have occurred) or (ii) the Corporation determines within such 60-day period that Indemnitee did not meet the applicable standard of conduct set forth in Section 1, 2 or 5 of this Article EIGHTH, as the case may be. Any such indemnification, unless ordered by a court, shall be made with respect to requests under Section 1 or 2 only as authorized in the specific case upon a determination by the Corporation that the indemnification of Indemnitee is proper because Indemnitee has met the

applicable standard of conduct set forth in Section 1 or 2, as the case may be. Such determination shall be made in each instance (a) by a majority vote of the directors of the Corporation consisting of persons who are not at that time parties to the action, suit or proceeding in question ("disinterested directors"), whether or not a quorum, (b) by a committee of disinterested directors designated by majority vote of disinterested directors, whether or not a quorum, (c) if there are no disinterested directors, or if the disinterested directors so direct, by independent legal counsel (who may, to the extent permitted by law, be regular legal counsel to the Corporation) in a written opinion, or (d) by the stockholders of the Corporation.

7. Remedies. The right to indemnification or advancement of expenses as granted by this Article shall be enforceable by Indemnitee in any court of competent jurisdiction. Neither the failure of the Corporation to have made a determination prior to the commencement of such action that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Corporation pursuant to Section 6 of this Article EIGHTH that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct. In any suit brought by Indemnitee to enforce a right to indemnification, or brought by the Corporation to recover and advancement of expenses pursuant to the terms of an undertaking, the burden of proving that Indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Article EIGHTH or otherwise shall be on the Corporation. Indemnitee's expenses (including attorneys' fees) reasonably incurred in connection with successfully establishing Indemnitee's right to indemnification, in whole or in part, in any such proceeding shall also be indemnified by the Corporation. Notwithstanding the foregoing, in (i) any suit brought by Indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the Corporation to recover an advancement of expenses) it shall be a defense that, and (ii) in any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that, Indemnitee has not met any applicable standard for indemnification set forth in the General Corporation Law of Delaware.

8. Limitations. Notwithstanding anything to the contrary in this Article, except as set forth in Section 7 of this Article EIGHTH, the Corporation shall not indemnify an Indemnitee pursuant to this Article EIGHTH in connection with a proceeding (or part thereof) initiated by such Indemnitee unless the initiation thereof was approved by the Board of Directors of the Corporation. Notwithstanding anything to the contrary in this Article, the Corporation shall not indemnify an Indemnitee to the extent such Indemnitee is reimbursed from the proceeds of insurance, and in the event the Corporation makes any indemnification payments to an Indemnitee and such Indemnitee is subsequently reimbursed from the proceeds of insurance, such Indemnitee shall promptly refund indemnification payments to the Corporation to the extent of such insurance reimbursement.

9. Subsequent Amendment. No amendment, termination or repeal of this Article EIGHTH or of the relevant provisions of the General Corporation Law of Delaware or any other applicable laws shall adversely affect or diminish in any way the rights of any Indemnitee to indemnification under the provisions hereof with respect to any action, suit, proceeding or investigation arising out of or relating to any actions, transactions or facts occurring prior to the final adoption of such amendment, termination or repeal.

10. Other Rights. The indemnification and advancement of expenses provided by this Article EIGHTH shall not be deemed exclusive of any other rights to which an Indemnitee seeking indemnification or advancement of expenses may be entitled under any law (common or statutory), agreement or vote of stockholders or disinterested directors or otherwise, both as to action in Indemnitee's official capacity and as to action in any other capacity while holding office for the Corporation, and shall continue as to an Indemnitee who has ceased to be a director or officer, and shall inure to the benefit of the estate, heirs, executors and administrators of Indemnitee. Nothing contained in this Article EIGHTH shall be deemed to prohibit, and the Corporation is specifically authorized to enter into, agreements with officers and directors providing indemnification rights and procedures different from those set forth in this Article EIGHTH. In addition, the Corporation may, to the extent authorized from time to time by its Board of Directors, grant indemnification rights to other employees or agents of the Corporation or other persons serving the Corporation and such rights may be equivalent to, or greater or less than, those set forth in this Article EIGHTH.

11. Partial Indemnification. If an Indemnitee is entitled under any provision of this Article EIGHTH to indemnification by the Corporation for some or a portion of the expenses (including attorneys' fees), judgments, fines or amounts paid in settlement actually and reasonably incurred by or on behalf of Indemnitee in connection with any action, suit, proceeding or investigation and any appeal therefrom but not, however, for the total amount thereof, the Corporation shall nevertheless indemnify Indemnitee for the portion of such expenses (including attorneys' fees), judgments, fines or amounts paid in settlement to which Indemnitee is entitled.

12. Insurance. The Corporation may purchase and maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise (including any employee benefit plan) against any expense, liability or loss incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the General Corporation Law of Delaware.

13. Savings Clause. If this Article or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify each Indemnitee as to any expenses (including attorneys' fees), judgments, fines and amounts paid in settlement in connection with any action, suit, proceeding or investigation, whether civil, criminal or administrative, including an action by or in the right of the Corporation, to the fullest extent permitted by any applicable portion of this Article that shall not have been invalidated and to the fullest extent permitted by applicable law.

14. Definitions. Terms used herein and defined in Section 145(h) and Section 145(i) of the General Corporation Law of Delaware shall have the respective meanings assigned to such terms in such Section 145(h) and Section 145(i).

NINTH: In furtherance of and not in limitation of powers conferred by statute, it is further provided:

1. General Powers of Board. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.

2. Number of Directors; Election of Directors. Subject to the rights of holders of any series of Preferred Stock to elect directors, the number of directors of the Corporation shall be established by the Board of Directors. Election of directors need not be by written ballot, except as and to the extent provided in the By-laws of the Corporation.

3. Terms of Office. Subject to the rights of holders of any series of Preferred Stock to elect directors, each director shall serve for a term ending on the date of the Corporation's annual meeting; provided however, that the term of each director shall continue until the election and qualification of his successor and be subject to his earlier death, resignation or removal.

4. Quorum. The greater of (a) a majority of the directors at any time in office and (b) one-third of the number of directors fixed pursuant to Section 2 of this Article NINTH shall constitute a quorum. If at any meeting of the Board of Directors there shall be less than such a quorum, a majority of the directors present may adjourn the meeting from time to time without further notice other than announcement at the meeting, until a quorum shall be present.

5. Action at Meeting. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors unless a greater number is required by law or by this Certificate of Incorporation.

6. Removal. Subject to the rights of holders of any series of Preferred Stock, directors of the Corporation may be removed only for cause and only by the affirmative vote of the holders of at least seventy-five percent (75%) of the votes that all the stockholders would be entitled to cast in any annual election of directors.

7. Vacancies. Subject to the rights of holders of any series of Preferred Stock, any vacancy or newly created directorships in the Board of Directors, however occurring, shall be filled only by vote of a majority of the directors then in office, although less than a quorum, or by a sole remaining director and shall not be filled by the stockholders. A director elected to fill a vacancy shall hold office until the next election of directors, subject to the election and qualification of a successor and to such director's earlier death, resignation or removal.

8. Stockholder Nominations and Introduction of Business, Etc. Advance notice of stockholder nominations for election of directors and other business to be brought by stockholders before a meeting of stockholders shall be given in the manner provided by the By-laws of the Corporation.

9. Amendments to Article. Notwithstanding any other provisions of law, this Certificate of Incorporation or the By-laws of the Corporation, and notwithstanding the fact that a lesser percentage may be specified by law, the affirmative vote of the holders of at least seventy-five percent (75%) of the votes that all the stockholders would be entitled to cast in any annual election of directors shall be required to amend or repeal, or to adopt any provision inconsistent with, this Article NINTH.

TENTH: Stockholders of the Corporation may not take any action by written consent in lieu of a meeting. Notwithstanding any other provisions of law, this Certificate of Incorporation or the By-laws of the Corporation, and notwithstanding the fact that a lesser percentage may be specified by law, the affirmative vote of the holders of at least seventy-five percent (75%) of the votes that all the stockholders would be entitled to cast in any annual election of directors shall be required to amend or repeal, or to adopt any provision inconsistent with, this Article TENTH.

ELEVENTH: Special meetings of stockholders for any purpose or purposes may be called at any time by the Board of Directors, the Chairman of the Board, the President or the Chief Executive Officer, but such special meetings may not be called by any other person or persons. Business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of meeting. Notwithstanding any other provision of law, this Certificate of Incorporation or the By-laws of the Corporation, and notwithstanding the fact that a lesser percentage may be specified by law, the affirmative vote of the holders of at least seventy-five percent (75%) of the votes that all the stockholders would be entitled to cast in any annual election of directors shall be required to amend or repeal, or to adopt any provision inconsistent with, this Article ELEVENTH.

TWELFTH: The name and mailing address of the sole incorporator are as follows:

NAME	MAILING ADDRESS
Charles F. Dunleavy	c/o Ocean Power Technologies, Inc. 1590 Reed Road Pennington, NJ 08534

EXECUTED at _____, on _____, 200_.

Charles F. Dunleavy, Incorporator

Exhibit 3.4

BY-LAWS

OF

OCEAN POWER TECHNOLOGIES, INC.

(Effective as of _____, 200_)

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ARTICLE I

STOCKHOLDERS

1.1 Place of Meetings. All meetings of stockholders shall be held at such place as may be designated from time to time by the Board of Directors, the Chairman of the Board or the Chief Executive Officer or, if not so designated, at the principal office of the corporation.

1.2 Annual Meeting. The annual meeting of stockholders for the election of directors and for the transaction of such other business as may properly be brought before the meeting shall be held on a date and at a time designated by the Board of Directors, the Chairman of the Board or the Chief Executive Officer (which date shall not be a legal holiday in the place where the meeting is to be held). If no annual meeting is held in accordance with the foregoing provisions, a special meeting may be held in lieu of the annual meeting, and any action taken at that special meeting shall have the same effect as if it had been taken at the annual meeting, and in such case all references in these By-laws to the annual meeting of the stockholders shall be deemed to refer to such special meeting.

1.3 Special Meetings. Special meetings of stockholders for any purpose or purposes may be called at any time by the Board of Directors, the Chairman of the Board or the Chief Executive Officer, but such special meetings may not be called by any other person or persons. The Board of Directors may postpone or reschedule any previously scheduled special meeting. Business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

1.4 Notice of Meetings. Except as otherwise provided by law, notice of each meeting of stockholders, whether annual or special, shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting. Without limiting the manner by which notice otherwise may be given to stockholders, any notice shall be effective if given by a form of electronic transmission consented to (in a manner consistent with the General Corporation Law of the State of Delaware) by the stockholder to whom the notice is given. The notices of all meetings shall state the place, date and time of the meeting and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called. If notice is given by mail, such notice shall be deemed given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the corporation. If notice is given by electronic transmission, such notice shall be deemed given at the time specified in Section 232 of the General Corporation Law of the State of Delaware.

1.5 Voting List. The Secretary shall prepare, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, for a period of at least 10 days prior to the meeting: (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with notice of the meeting, or (b) during ordinary

business hours, at the principal place of business of the corporation. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

1.6 Quorum. Except as otherwise provided by law, the Certificate of Incorporation or these By-laws, the holders of a majority in voting power of the shares of the capital stock of the corporation issued and outstanding and entitled to vote at the meeting, present in person, present by means of remote communication in a manner, if any, authorized by the Board of Directors in its sole discretion, or represented by proxy, shall constitute a quorum for the transaction of business. A quorum, once established at a meeting, shall not be broken by the withdrawal of enough votes to leave less than a quorum.

1.7 Adjournments. Any meeting of stockholders may be adjourned from time to time to any other time and to any other place at which a meeting of stockholders may be held under these By-laws by the stockholders present or represented at the meeting and entitled to vote, although less than a quorum, or, if no stockholder is present, by any officer entitled to preside at or to act as secretary of such meeting. It shall not be necessary to notify any stockholder of any adjournment of less than 30 days if the time and place of the adjourned meeting, and the means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting, are announced at the meeting at which adjournment is taken, unless after the adjournment a new record date is fixed for the adjourned meeting. At the adjourned meeting, the corporation may transact any business which might have been transacted at the original meeting.

1.8 Voting and Proxies. Each stockholder shall have one vote for each share of stock entitled to vote held of record by such stockholder and a proportionate vote for each fractional share so held, unless otherwise provided by law or the Certificate of Incorporation. Each stockholder of record entitled to vote at a meeting of stockholders may vote in person (including by means of remote communications, if any, by which stockholders may be deemed to be present in person and vote at such meeting) or may authorize another person or persons to vote for such stockholder by a proxy executed or transmitted in a manner permitted by the General Corporation Law of the State of Delaware by the stockholder or such stockholder's authorized agent and delivered (including by electronic transmission) to the Secretary of the corporation. No such proxy shall be voted upon after three years from the date of its execution, unless the proxy expressly provides for a longer period.

1.9 Action at Meeting. When a quorum is present at any meeting, any matter other than the election of directors to be voted upon by the stockholders at such meeting shall be decided by the affirmative vote of the holders of a majority in voting power of the shares of stock present or represented and voting on such matter (or if there are two or more classes of stock entitled to vote as separate classes, then in the case of each such class, the holders of a majority in voting power of the shares of stock of that class present or represented and voting on such matter), except when a different vote is required by law, the Certificate of Incorporation or these By-laws. When a quorum is present at any meeting, any election by stockholders of directors shall be determined by a plurality of the votes cast by the stockholders entitled to vote on the election.

1.10 Nomination of Directors.

(a) Except for (1) any directors entitled to be elected by the holders of preferred stock, (2) any directors elected in accordance with Section 2.9 hereof by the Board of Directors to fill a vacancy or newly-created directorships or (3) as otherwise required by applicable law or stock market regulation, only persons who are nominated in accordance with the procedures in this Section 1.10 shall be eligible for election as directors. Nomination for election to the Board of Directors at a meeting of stockholders may be made (i) by or at the direction of the Board of Directors or (ii) by any stockholder of the corporation who (x) complies with the notice procedures set forth in Section 1.10(b) and (y) is a stockholder of record on the date of the giving of such notice and on the record date for the determination of stockholders entitled to vote at such meeting.

(b) To be timely, a stockholder's notice must be received in writing by the Secretary at the principal executive offices of the corporation as follows: (i) in the case of an election of directors at an annual meeting of stockholders, not less than 90 days nor more than 120 days prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced by more than 20 days, or delayed by more than 60 days, from the first anniversary of the preceding year's annual meeting, a stockholder's notice must be so received not earlier than the 120th day prior to such annual meeting and not later than the close of business on the later of (A) the 90th day prior to such annual meeting and (B) the tenth day following the day on which notice of the date of such annual meeting was mailed or public disclosure of the date of such annual meeting was made, whichever first occurs; or (ii) in the case of an election of directors at a special meeting of stockholders, provided that the Board of Directors has determined that directors shall be elected at such meeting, not earlier than the 120th day prior to such special meeting and not later than the close of business on the later of (x) the 90th day prior to such special meeting and (y) the tenth day following the day on which notice of the date of such special meeting was mailed or public disclosure of the date of such special meeting was made, whichever first occurs. In no event shall the adjournment or postponement of an annual meeting (or the public announcement thereof) commence a new time period (or extend any time period) for the giving of a stockholder's notice.

The stockholder's notice to the Secretary shall set forth: (A) as to each proposed nominee (1) such person's name, age, business address and, if known, residence address, (2) such person's principal occupation or employment, (3) the class and number of shares of stock of the corporation which are beneficially owned by such person, and (4) any other information concerning such person that must be disclosed as to nominees in proxy solicitations pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act"); (B) as to the stockholder giving the notice (1) such stockholder's name and address, as they appear on the corporation's books, (2) the class and number of shares of stock of the corporation which are owned, beneficially and of record, by such stockholder, (3) a description of all arrangements or understandings between such stockholder and each proposed nominee and any other person or persons (including their names) pursuant to which the nomination(s) are to be made by such stockholder, (4) a representation that such stockholder intends to appear in person or by proxy at the meeting to nominate the person(s) named in its notice and (5) a representation whether the stockholder intends or is part of a group which intends (x) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the corporation's outstanding capital stock required to elect the nominee and/or (y) otherwise to solicit proxies from stockholders in support of such nomination; and (C) as to the beneficial owner, if any, on whose behalf the nomination is being made (1) such beneficial owner's name and address, (2) the class and number of shares of stock of the corporation which are beneficially owned by such beneficial owner, (3) a description of all arrangements or understandings between such beneficial owner and each proposed nominee and any other person or persons (including their names) pursuant to which the nomination(s) are to be made and (4) a representation whether the beneficial owner intends or is part of a group which intends (x) to deliver a proxy

statement and/or form of proxy to holders of at least the percentage of the corporation's outstanding capital stock requirement to elect the nominee and/or (y) otherwise to solicit proxies from stockholders in support of such nomination. In addition, to be effective, the stockholder's notice must be accompanied by the written consent of the proposed nominee to serve as a director if elected. The corporation may require any proposed nominee to furnish such other information as may reasonably be required to determine the eligibility of such proposed nominee to serve as a director of the corporation. A stockholder shall not have complied with this Section 1.10(b) if the stockholder (or beneficial owner, if any, on whose behalf the nomination is made) solicits or does not solicit, as the case may be, proxies in support of such stockholder's nominee in contravention of the representations with respect thereto required by this Section 1.10.

(c) The chairman of any meeting shall have the power and duty to determine whether a nomination was made in accordance with the provisions of this Section 1.10 (including whether the stockholder or beneficial owner, if any, on whose behalf the nomination is made solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies in support of such stockholder's nominee in compliance with the representations with respect thereto required by this Section 1.10), and if the chairman should determine that a nomination was not made in accordance with the provisions of this Section 1.10, the chairman shall so declare to the meeting and such nomination shall be disregarded.

(d) Except as otherwise required by law, nothing in this Section 1.10 shall obligate the corporation or the Board of Directors to include in any proxy statement or other stockholder communication distributed on behalf of the corporation or the Board of Directors information with respect to any nominee for director submitted by a stockholder.

(e) Notwithstanding the foregoing provisions of this Section 1.10, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the corporation to present a nomination, such nomination shall be disregarded, notwithstanding that proxies in respect of such vote may have been received by the corporation. For purposes of this Section 1.10, to be considered a qualified representative of the stockholder, a person must be authorized by a written instrument executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such written instrument or electronic transmission, or a reliable reproduction of the written instrument or electronic transmission, at the meeting of stockholders.

(f) For purposes of this Section 1.10, "public disclosure" shall include disclosure in a press release reported by the Dow Jones New Service, Associated Press or

comparable national news service or in a document publicly filed by the corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

1.11 Notice of Business at Annual Meetings.

(a) At any annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (1) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (2) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (3) properly brought before the meeting by a stockholder. For business to be properly brought before an annual meeting by a stockholder, (i) if such business relates to the nomination of a person for election as a director of the corporation, the procedures in Section 1.10 must be complied with and (ii) if such business relates to any other matter, the business must constitute a proper matter under Delaware law for stockholder action and the stockholder must (x) have given timely notice thereof in writing to the Secretary in accordance with the procedures set forth in Section 1.11(b) and (y) be a stockholder of record on the date of the giving of such notice and on the record date for the determination of stockholders entitled to vote at such annual meeting.

(b) To be timely, a stockholder's notice must be received in writing by the Secretary at the principal executive offices of the corporation not less than 90 days nor more than 120 days prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced by more than 20 days, or delayed by more than 60 days, from the first anniversary of the preceding year's annual meeting, a stockholder's notice must be so received not earlier than the 120th day prior to such annual meeting and not later than the close of business on the later of (A) the 90th day prior to such annual meeting and (B) the tenth day following the day on which notice of the date of such annual meeting was mailed or public disclosure of the date of such annual meeting was made, whichever first occurs. In no event shall the adjournment or postponement of an annual meeting (or the public announcement thereof) commence a new time period (or extend any time period) for the giving of a stockholder's notice.

The stockholder's notice to the Secretary shall set forth as to each matter the stockholder proposes to bring before the annual meeting (1) a brief description of the business desired to be brought before the annual meeting, the text relating to the business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the By-laws, the language of the proposed amendment), and the reasons for conducting such business at the annual meeting, (2) the name and address, as they appear on the corporation's books, of the stockholder proposing such business, and the name and address of the beneficial owner, if any, on whose behalf the proposal is made, (3) the class and number of shares of stock of the corporation which are owned, of record and beneficially, by the stockholder and beneficial owner, if any, (4) a description of all arrangements or understandings between such stockholder or such beneficial owner, if any, and any other person or persons (including their names) in connection with the proposal of such business by such stockholder and any material interest of the stockholder or such beneficial owner, if any, in such business, (5) a representation that such stockholder intends to appear in person or by proxy at the annual meeting to bring such business before the meeting and (6) a representation whether the

stockholder or the beneficial owner, if any, intends or is part of a group which intends (x) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the corporation's outstanding capital stock required to approve or adopt the proposal and/or (y) otherwise to solicit proxies from stockholders in support of such proposal. Notwithstanding anything in these By-laws to the contrary, no business shall be conducted at any annual meeting of stockholders except in accordance with the procedures set forth in this Section 1.11; provided that any stockholder proposal which complies with Rule 14a-8 of the proxy rules (or any successor provision) promulgated under the Securities Exchange Act of 1934, as amended, and is to be included in the corporation's proxy statement for an annual meeting of stockholders shall be deemed to comply with the requirements of this Section 1.11. A stockholder shall not have complied with this Section 1.11(b) if the stockholder (or beneficial owner, if any, on whose behalf the nomination is made) solicits or does not solicit, as the case may be, proxies in support of such stockholder's proposal in contravention of the representations with respect thereto required by this Section 1.11.

(c) The chairman of any meeting shall have the power and duty to determine whether business was properly brought before the meeting in accordance with the provisions of this Section 1.11 (including whether the stockholder or beneficial owner, if any, on whose behalf the proposal is made solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies in support of such stockholder's proposal in compliance with the representation with respect thereto required by this Section 1.11), and if the chairman should determine that business was not properly brought before the meeting in accordance with the provisions of this Section 1.11, the chairman shall so declare to the meeting and such business shall not be brought before the meeting.

(d) Notwithstanding the foregoing provisions of this Section 1.11, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual meeting of stockholders of the corporation to present business, such business shall not be considered, notwithstanding that proxies in respect of such vote may have been received by the corporation. For purposes of this Section 1.11, to be considered a qualified representative of the stockholder, a person must be authorized by a written instrument executed by the such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as a proxy at the meeting of stockholders and such person must produce such written instrument or electronic transmission, or a reliable reproduction of the written instrument or electronic transmission, at the meeting of stockholders.

(e) For purposes of this Section 1.11, "public disclosure" shall include disclosure in a press release reported by the Dow Jones New Service, Associated Press or comparable national news service or in a document publicly filed by the corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

1.12 Conduct of Meetings.

(a) Meetings of stockholders shall be presided over by the Chairman of the Board, if any, or in the Chairman's absence by the Vice Chairman of the Board, if any, or in the Vice Chairman's absence by the Chief Executive Officer, or in the Chief Executive Officer's absence, by the President (if the President shall be a different individual than the Chief Executive

Officer), or in the President's absence by a Vice President, or in the absence of all of the foregoing persons by a chairman designated by the Board of Directors, or in the absence of such designation by a chairman chosen by vote of the stockholders at the meeting. The Secretary shall act as secretary of the meeting, but in the Secretary's absence the chairman of the meeting may appoint any person to act as secretary of the meeting.

(b) The Board of Directors may adopt by resolution such rules, regulations and procedures for the conduct of any meeting of stockholders of the corporation as it shall deem appropriate including, without limitation, such guidelines and procedures as it may deem appropriate regarding the participation by means of remote communication of stockholders and proxyholders not physically present at a meeting. Except to the extent inconsistent with such rules, regulations and procedures as adopted by the Board of Directors, the chairman of any meeting of stockholders shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chairman of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the corporation, their duly authorized and constituted proxies or such other persons as shall be determined; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. Unless and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

(c) The chairman of the meeting shall announce at the meeting when the polls for each matter to be voted upon at the meeting will be opened and closed. If no announcement is made, the polls shall be deemed to have opened when the meeting is convened and closed upon the final adjournment of the meeting. After the polls close, no ballots, proxies or votes or any revocations or changes thereto may be accepted.

(d) In advance of any meeting of stockholders, the Board of Directors, the Chairman of the Board or the Chief Executive Officer shall appoint one or more inspectors of election to act at the meeting and make a written report thereof. One or more other persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is present, ready and willing to act at a meeting of stockholders, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. Unless otherwise required by law, inspectors may be officers, employees or agents of the corporation. Each inspector, before entering upon the discharge of such inspector's duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such inspector's ability. The inspector shall have the duties prescribed by law and shall take charge of the polls and, when the vote in completed, shall make a certificate of the result of the vote taken and of such other facts as may be required by law.

1.13 No Action by Consent in Lieu of a Meeting. Stockholders of the corporation may not take any action by written consent in lieu of a meeting.

1.14 Notice of Share Ownership. Any person who is the beneficial owner, directly or indirectly, of three percent or more of the corporation's outstanding common stock shall be an "AIM reporting person." For so long as shares of common stock of the corporation are listed on the AIM market of the London Stock Exchange plc, an AIM reporting person shall notify the corporation of the number of shares of common stock owned by such stockholder promptly following the event by which such stockholder becomes an AIM reporting person. An AIM reporting person shall promptly notify the corporation of any aggregate change of such stockholder's beneficial ownership equal to or greater than one percent of the corporation's outstanding common stock. Information provided to the corporation by an AIM reporting person shall be disclosed by the corporation to the AIM market in accordance with the rules of the AIM market.

ARTICLE II

DIRECTORS

2.1 General Powers. The business and affairs of the corporation shall be managed by or under the direction of a Board of Directors, who may exercise all of the powers of the corporation except as otherwise provided by law or the Certificate of Incorporation.

2.2 Number, Election and Qualification. Subject to the rights of holders of any series of Preferred Stock to elect directors, the number of directors of the Corporation shall be established by the Board of Directors. Election of directors need not be by written ballot. Directors need not be stockholders of the corporation.

2.3 Terms of Office. Subject to the rights of holders of any series of Preferred Stock to elect directors, each director shall serve for a term ending on the date of the corporation's annual meeting; provided however, that the term of each director shall continue until the election and qualification of a successor and be subject to such director's earlier death, resignation or removal.

2.4 Quorum. The greater of (a) a majority of the directors at any time in office and (b) one-third of the number of directors fixed by the Board of Directors shall constitute a quorum. If at any meeting of the Board of Directors there shall be less than such a quorum, a majority of the directors present may adjourn the meeting from time to time without further notice other than announcement at the meeting, until a quorum shall be present.

2.5 Action at Meeting. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors unless a greater number is required by law or by the Certificate of Incorporation.

2.6 Removal. Subject to the rights of holders of any series of Preferred Stock, directors of the corporation may be removed only for cause and only by the affirmative vote of the holders of at least 75% of the votes which all the stockholders would be entitled to cast in any annual election of directors or class of directors.

2.7 Vacancies. Subject to the rights of holder of any series of Preferred Stock, any vacancy or newly-created directorships on the Board of Directors, however occurring, shall be filled only by vote of a majority of the directors then in office, although less than a quorum, or by a sole remaining director and shall not be filled by the stockholders. A director elected to fill a vacancy shall hold office until the next election of the class for which such director shall have been chosen, subject to the election and qualification of a successor or until such director's earlier death, resignation or removal.

2.8 Resignation. Any director may resign by delivering a resignation in writing or by electronic transmission to the corporation at its principal office or to the Chairman of the Board, the Chief Executive Officer or the Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some later time or upon the happening of some later event.

2.9 Regular Meetings. Regular meetings of the Board of Directors may be held without notice at such time and place as shall be determined from time to time by the Board of Directors; provided that any director who is absent when such a determination is made shall be given notice of the determination. A regular meeting of the Board of Directors may be held without notice immediately after and at the same place as the annual meeting of stockholders.

2.10 Special Meetings. Special meetings of the Board of Directors may be held at any time and place designated in a call by the Chairman of the Board, the Chief Executive Officer, two or more directors, or by one director in the event that there is only a single director in office.

2.11 Notice of Special Meetings. Notice of any special meeting of directors shall be given to each director by the Secretary or by the officer or one of the directors calling the meeting. Notice shall be duly given to each director (a) in person or by telephone at least 24 hours in advance of the meeting, (b) by sending written notice via reputable overnight courier, telecopy, facsimile, or electronic transmission, or delivering written notice by hand, to such director's last known business, home or electronic transmission address at least 48 hours in advance of the meeting, or (c) by sending written notice via first-class mail to such director's last known business or home address at least 72 hours in advance of the meeting. A notice or waiver of notice of a meeting of the Board of Directors need not specify the purposes of the meeting.

2.12 Meetings by Conference Communications Equipment. Directors may participate in meetings of the Board of Directors or any committee thereof by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

2.13 Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent to the action in writing or by electronic transmission, and the written consents or electronic transmissions are filed with the minutes of proceedings of the Board of Directors or committee.

2.14 Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation. The Board of

Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members of the committee present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors and subject to the provisions of law, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation and may authorize the seal of the corporation to be affixed to all papers which may require it. Each such committee shall keep minutes and make such reports as the Board of Directors may from time to time request. Except as the Board of Directors may otherwise determine, any committee may make rules for the conduct of its business, but unless otherwise provided by the directors or in such rules, its business shall be conducted as nearly as possible in the same manner as is provided in these By-laws for the Board of Directors. Except as otherwise provided in the Certificate of Incorporation, these Bylaws, or the resolution of the Board of Directors designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

2.15 Compensation of Directors. Directors may be paid such compensation for their services and such reimbursement for expenses of attendance at meetings as the Board of Directors may from time to time determine. No such payment shall preclude any director from serving the corporation or any of its parent or subsidiary entities in any other capacity and receiving compensation for such service.

ARTICLE III

OFFICERS

3.1 Titles. The officers of the corporation shall consist of a Chief Executive Officer, a Secretary, a Treasurer and such other officers with such other titles as the Board of Directors shall determine, including a President, a Chairman of the Board, a Vice Chairman of the Board, and one or more Vice Presidents, Assistant Treasurers, and Assistant Secretaries. The Board of Directors may appoint such other officers as it may deem appropriate.

3.2 Election. The Chief Executive Officer, Treasurer and Secretary shall be elected annually by the Board of Directors at its first meeting following the annual meeting of stockholders. Other officers may be appointed by the Board of Directors at such meeting or at any other meeting.

3.3 Qualification. Any two or more offices may be held by the same person.

3.4 Tenure. Except as otherwise provided by law, by the Certificate of Incorporation or by these By-laws, each officer shall hold office until such officer's successor is elected and qualified, unless a different term is specified in the resolution electing or appointing such officer, or until such officer's earlier death, resignation or removal.

3.5 Resignation and Removal. Any officer may resign by delivering a written resignation to the corporation at its principal office or to the Chief Executive Officer or the Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some later time or upon the happening of some later event.

Any officer may be removed at any time, with or without cause, by vote of a majority of the directors then in office.

Except as the Board of Directors may otherwise determine, no officer who resigns or is removed shall have any right to any compensation as an officer for any period following such officer's resignation or removal, or any right to damages on account of such removal, whether such officer's compensation be by the month or by the year or otherwise, unless such compensation is expressly provided for in a duly authorized written agreement with the corporation.

3.6 Vacancies. The Board of Directors may fill any vacancy occurring in any office for any reason and may, in its discretion, leave unfilled for such period as it may determine any offices other than those of Chief Executive Officer, Treasurer and Secretary. Each such successor shall hold office for the unexpired term of such officer's predecessor and until a successor is elected and qualified, or until such officer's earlier death, resignation or removal.

3.7 Chairman of the Board. The Board of Directors may appoint from its members a Chairman of the Board, who need not be an employee or officer of the corporation. If the Board of Directors appoints a Chairman of the Board, such Chairman shall perform such duties and possess such powers as are assigned by the Board of Directors and, if the Chairman of the Board is also designated as the corporation's Chief Executive Officer, shall have the powers and duties of the Chief Executive Officer prescribed in Section 3.8 of these By-laws. Unless otherwise provided by the Board of Directors, the Chairman of the Board shall preside at all meetings of the Board of Directors and stockholders.

3.8 Chief Executive Officer. The Chief Executive Officer shall have general charge and supervision of the business of the Corporation subject to the direction of the Board of Directors. The Chief Executive Officer may, but need not, also be the President.

3.9 President. If the Chief Executive Officer is not also the President, the President shall perform such duties and shall have such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe.

3.10 Vice Presidents. Any Vice President shall perform such duties and possess such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. In the event of the absence, inability or refusal to act of the Chief Executive Officer or the President (if the President is not the Chief Executive Officer), the Vice President (or if there shall be more than one, the Vice Presidents in the order determined by the Board of Directors) shall perform the duties of the Chief Executive Officer and when so performing shall have all the powers of and be subject to all the restrictions upon the Chief Executive Officer. The Board of Directors may assign to any Vice President the title of Executive Vice President, Senior Vice President or any other title selected by the Board of Directors.

3.11 Secretary and Assistant Secretaries. The Secretary shall perform such duties and shall have such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. In addition, the Secretary shall perform such duties and have such powers as are incident to the office of the secretary, including without limitation the duty and power to give notices of all meetings of stockholders and special meetings of the Board of Directors, to attend all meetings of stockholders and the Board of Directors and keep a record of the proceedings, to maintain a stock ledger and prepare lists of stockholders and their addresses as required, to be custodian of corporate records and the corporate seal and to affix and attest to the same on documents.

Any Assistant Secretary shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the Secretary may from time to time prescribe. In the event of the absence, inability or refusal to act of the Secretary, the Assistant Secretary (or if there shall be more than one, the Assistant Secretaries in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Secretary.

In the absence of the Secretary or any Assistant Secretary at any meeting of stockholders or directors, the chairman of the meeting shall designate a temporary secretary to keep a record of the meeting.

3.12 Treasurer and Assistant Treasurers. The Treasurer shall perform such duties and shall have such powers as may from time to time be assigned by the Board of Directors or the Chief Executive Officer. In addition, the Treasurer shall perform such duties and have such powers as are incident to the office of treasurer, including without limitation the duty and power to keep and be responsible for all funds and securities of the corporation, to deposit funds of the corporation in depositories selected in accordance with these By-laws, to disburse such funds as ordered by the Board of Directors, to make proper accounts of such funds, and to render as required by the Board of Directors statements of all such transactions and of the financial condition of the corporation.

The Assistant Treasurers shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the Treasurer may from time to time prescribe. In the event of the absence, inability or refusal to act of the Treasurer, the Assistant Treasurer (or if there shall be more than one, the Assistant Treasurers in the order determined by the Board of Directors) shall perform the duties and exercise the powers of the Treasurer.

3.13 Salaries. Officers of the corporation shall be entitled to such salaries, compensation or reimbursement as shall be fixed or allowed from time to time by the Board of Directors.

3.14 Delegation of Authority. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officer or agent, notwithstanding any provision hereof.

ARTICLE IV

CAPITAL STOCK

4.1 Issuance of Stock. Subject to the provisions of the Certificate of Incorporation, the whole or any part of any unissued balance of the authorized capital stock of the corporation or the whole or any part of any shares of the authorized capital stock of the corporation held in the corporation's treasury may be issued, sold, transferred or otherwise disposed of by vote of the Board of Directors in such manner, for such lawful consideration and on such terms as the Board of Directors may determine.

4.2 Certificates of Stock. Every holder of stock of the corporation shall be entitled to have a certificate, in such form as may be prescribed by law and by the Board of Directors, certifying the number and class of shares owned by such holder in the corporation unless and until the Board of Directors adopts a resolution permitting shares to be uncertificated consistent with the General Corporation Law of the State of Delaware. Each such certificate shall be signed by, or in the name of the corporation by, the Chairman or Vice Chairman, if any, of the Board of Directors, or the Chief Executive Officer or a Vice President, and the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of the corporation. Any or all of the signatures on the certificate may be a facsimile.

Each certificate for shares of stock which are subject to any restriction on transfer pursuant to the Certificate of Incorporation, these By-laws, applicable securities laws or any agreement among any number of stockholders or among such holders and the corporation shall have conspicuously noted on the face or back of the certificate either the full text of the restriction or a statement of the existence of such restriction.

There shall be set forth on the face or back of each certificate representing shares of such class or series of stock of the corporation a statement that the corporation will furnish without charge to each stockholder who so requests a copy of the full text of the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

4.3 Transfers. Except as otherwise established by rules and regulations adopted by the Board of Directors, and subject to applicable law, shares of stock may be transferred on the books of the corporation by the surrender to the corporation or its transfer agent of the certificate representing such shares properly endorsed or accompanied by a written assignment or power of attorney properly executed, and with such proof of authority or the authenticity of signature as the corporation or its transfer agent may reasonably require. Except as may be otherwise required by law, by the Certificate of Incorporation or by these By-laws, the corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect to such stock, regardless of any transfer, pledge or other disposition of such stock until the shares have been transferred on the books of the corporation in accordance with the requirements of these By-laws.

4.4 Lost, Stolen or Destroyed Certificates. The corporation may issue a new certificate of stock in place of any previously issued certificate alleged to have been lost, stolen or destroyed, upon such terms and conditions as the Board of Directors may prescribe, including the presentation of reasonable evidence of such loss, theft or destruction and the giving of such indemnity and posting of such bond as the Board of Directors may require for the protection of the corporation or any transfer agent or registrar.

4.5 Record Date. The Board of Directors may fix in advance a date as a record date for the determination of the stockholders entitled to notice of or to vote at any meeting of stockholders, or entitled to receive payment of any dividend or other distribution or allotment of any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action. Such record date shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action to which such record date relates.

If no record date is fixed, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day before the day on which notice is given, or, if notice is waived, at the close of business on the day before the day on which the meeting is held. If no record date is fixed, the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating to such purpose.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

ARTICLE V

GENERAL PROVISIONS

5.1 Fiscal Year. Except as from time to time otherwise designated by the Board of Directors, the fiscal year of the corporation shall begin on the first day of May of each year and end on the last day of April in each year.

5.2 Corporate Seal. The corporate seal shall be in such form as shall be approved by the Board of Directors.

5.3 Waiver of Notice. Whenever notice is required to be given by law, by the Certificate of Incorporation or by these By-laws, a written waiver signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before, at or after the time stated in such notice, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

5.4 Voting of Securities. Except as the Board of Directors may otherwise designate, the Chief Executive Officer or the Treasurer may waive notice of, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact for this corporation (with or without power

of substitution) at any meeting of stockholders or securityholders of any other entity, the securities of which may be held by this corporation.

5.5 Evidence of Authority. A certificate by the Secretary, or an Assistant Secretary, or a temporary Secretary, as to any action taken by the stockholders, directors, a committee or any officer or representative of the corporation shall as to all persons who rely on the certificate in good faith be conclusive evidence of such action.

5.6 Certificate of Incorporation. All references in these By-laws to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the corporation, as amended and in effect from time to time.

5.7 Severability. Any determination that any provision of these By-laws is for any reason inapplicable, illegal or ineffective shall not affect or invalidate any other provision of these By-laws.

5.8 Pronouns. All pronouns used in these By-laws shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.

ARTICLE VI

AMENDMENTS

These By-laws may be altered, amended or repealed, in whole or in part, or new By-laws may be adopted by the Board of Directors or by the stockholders as provided in the Certificate of Incorporation.

Exhibit 4.1

Common Stock **Common Stock**

Certificate Number **Shares**

[Ocean Power Technologies Logo]

Ocean Power Technologies, INC.

INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE

CUSIP 674870 20 9
SEE REVERSE SIDE FOR CERTAIN DEFINITIONS

THIS CERTIFIES THAT

is the owner of

FULLY PAID AND NON-ASSESSABLE SHARES OF COMMON STOCK OF

Ocean Power Technologies, Inc. (hereinafter called the "Company") transferable on the books of the Corporation by the holder hereof, in person or by duly authorized attorney, upon surrender of this Certificate properly endorsed. This Certificate is not valid until countersigned and registered by the Transfer Agent and Registrar.

Witness the facsimile seal of the Corporation and facsimile signatures of its duly authorized officers.

Dated:

/s/ George Taylor
Chief Executive Officer and Director

[Seal]

/s/ Charles F. Dunleavy
Vice President and Chief Financial Officer

COUNTERSIGNED AND REGISTERED:
Computershare Trust Company, N.A.

Transfer Agent and Registrar

By:_____
Authorized Signature

Ocean Power Technologies, INC.

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	-	as tenants in common	UNIF GIFT MIN ACT	-	_____ Custodian _____ (Cust) (Minor) under Uniform Gifts to Minors Act _____ (State)
TEN ENT	-	as tenants by the entireties			
JT TEN	-	as joint tenants with right of survivorship and not as tenants in common	UNIF TRF MIN ACT	-	_____ Custodian (until age _____) (Cust) (Minor) under Uniform Transfers to Minors Act _____ (State)

Additional abbreviations may also be used though not in the above list.

THE COMPANY WILL FURNISH WITHOUT CHARGE TO EACH SHAREHOLDER WHO SO REQUESTS, A SUMMARY OF THE POWERS, DESIGNATIONS, PREFERENCES AND RELATIVE, PARTICIPATING OPTIONAL OR OTHER SPECIAL RIGHTS OF EACH CLASS OF STOCK OF THE COMPANY AND THE QUALIFICATIONS, LIMITATIONS OR RESTRICTIONS OF SUCH PREFERENCES AND RIGHTS, AND THE VARIATIONS IN RIGHTS, PREFERENCES AND LIMITATIONS DETERMINED FOR EACH SERIES, WHICH ARE FIXED BY THE ARTICLES OF INCORPORATION OF THE COMPANY, AS AMENDED, AND THE RESOLUTIONS OF THE BOARD OF DIRECTORS OF THE COMPANY, AND THE AUTHORITY OF THE BOARD OF DIRECTORS TO DETERMINE VARIATIONS FOR FUTURE SERIES. SUCH REQUEST MAY BE MADE TO THE OFFICE OF THE SECRETARY OF THE COMPANY OR TO THE TRANSFER AGENT. THE BOARD OF DIRECTORS MAY REQUIRE THE OWNER OF A LOST OR DESTROYED STOCK CERTIFICATE, OR HIS LEGAL REPRESENTATIVES, TO GIVE THE COMPANY A BOND TO INDEMNIFY IT AND ITS TRANSFER AGENTS AND REGISTRARS AGAINST ANY CLAIM THAT MAY BE MADE AGAINST THEM ON ACCOUNT OF THE ALLEGED LOSS OR DESTRUCTION OF ANY SUCH CERTIFICATE.

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

For value received, _____ hereby sell, assign and transfer unto

_____

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING ZIP CODE, OF ASSIGNEE)

_____

_____

_____ Shares

of the capital stock represented by the within Certificate, and do hereby irrevocably constitute and appoint

_____ Attorney

to transfer the said stock on the books of the within named Corporation with full power of substitution in the premises.

Dated _____ 20_____

Signature:_____

Signature:_____

Signature(s) Guaranteed: Medallion Guarantee Stamp
THE SIGNATURE(s) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (Banks, Stockbrokers, Savings and Loan Associations and Credit Untions)WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM PURSUANT TO S.E.C. Rule 17Ad-15

Exhibit 10.8

OCEAN POWER TECHNOLOGIES, INC.

2006 STOCK INCENTIVE PLAN

1. Purpose

The purpose of this 2006 Stock Incentive Plan (the "Plan") of Ocean Power Technologies, Inc., a New Jersey corporation (including any successor corporations, the "Company"), is to advance the interests of the Company's stockholders by enhancing the Company's ability to attract, retain and motivate persons who are expected to make important contributions to the Company and by providing such persons with equity ownership opportunities and performance-based incentives that are intended to align their interests with those of the Company's stockholders. Except where the context otherwise requires, the term "Company" shall include any of the Company's present or future parent or subsidiary corporations as defined in Sections 424(e) or (f) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder (the "Code") and any other business venture (including, without limitation, joint venture or limited liability company) in which the Company has a controlling interest, as determined by the Board of Directors of the Company (the "Board").

2. Eligibility

All of the Company's employees, officers, directors, consultants and advisors are eligible to be granted options, stock appreciation rights, restricted stock, restricted stock units and other stock-unit awards (each, an "Award") under the Plan. Each person who receives an Award under the Plan is deemed a "Participant".

3. Administration and Delegation

(a) Administration by Board of Directors. The Plan will be administered by the Board. The Board shall have authority to grant Awards and to adopt, amend and repeal such administrative rules, guidelines and practices relating to the Plan as it shall deem advisable. The Board may construe and interpret the terms of the Plan and any Award agreements entered into under the Plan. The Board may correct any defect, supply any omission or reconcile any inconsistency in the Plan or any Award in the manner and to the extent it shall deem expedient to carry the Plan into effect and it shall be the sole and final judge of such expediency. All decisions by the Board shall be made in the Board's sole discretion and shall be final and binding on all persons having or claiming any interest in the Plan or in any Award. No director or person acting pursuant to the authority delegated by the Board shall be liable for any action or determination relating to or under the Plan made in good faith.

(b) Appointment of Committees. To the extent permitted by applicable law, the Board may delegate any or all of its powers under the Plan to one or more committees or subcommittees of the Board (a "Committee"). All references in the Plan to the "Board" shall mean the Board or a Committee of the Board or the officers referred to in Section 3(c) to the

extent that the Board's powers or authority under the Plan have been delegated to such Committee or officers.

(c) Delegation to Officers. To the extent permitted by applicable law, the Board may delegate to one or more officers of the Company the power to grant Awards to employees or officers of the Company or any of its present or future subsidiary corporations and to exercise such other powers under the Plan as the Board may determine, provided that the Board shall fix the terms of the Awards to be granted by such officers (including the exercise price of such Awards, which may include a formula by which the exercise price will be determined) and the maximum number of shares subject to Awards that the officers may grant; provided further, however, that no officer shall be authorized to grant Awards to any "executive officer" of the Company (as defined by Rule 3b-7 under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) or to any "officer" of the Company (as defined by Rule 16a-1 under the Exchange Act).

4. Stock Available for Awards

(a) Number of Shares. Subject to adjustment under Section 10, Awards may be made under the Plan for up to the number of shares of common stock, $0.001 par value per share, of the Company (the "Common Stock") that is equal to the sum of:

(1) 6,800,000 shares of Common Stock; plus

(2) such additional number of shares of Common Stock (up to 1,232,159 shares) as is equal to the sum of (x) the number of shares of Common Stock reserved for issuance under the Company's 2001 Stock Plan (the "Existing Plan") that remain available for grant under the Existing Plan immediately prior to the closing of the Company's initial public offering and (y) the number of shares of Common Stock subject to awards granted under the Existing Plan which awards expire, terminate or are otherwise surrendered, canceled, forfeited or repurchased by the Company at their original issuance price pursuant to a contractual repurchase right (subject, however, in the case of Incentive Stock Options (as hereinafter defined) to any limitations of the Code).

If any Award expires or is terminated, surrendered or canceled without having been fully exercised, is forfeited in whole or in part (including as the result of shares of Common Stock subject to such Award being repurchased by the Company at the original issuance price pursuant to a contractual repurchase right) is settled in cash or otherwise results in any Common Stock not being issued, the unused Common Stock covered by such Award shall again be available for the grant of Awards under the Plan. Further, shares of Common Stock tendered to the Company by a Participant to exercise an Award or to satisfy a tax withholding obligation (including shares retained from an Award creating the tax obligation) shall be added to the number of shares of Common Stock available for the grant of Awards under the Plan. However, in the case of Incentive Stock Options (as hereinafter defined), the foregoing provisions shall be subject to any limitations under the Code. Shares issued under the Plan may consist in whole or in part of authorized but unissued shares or treasury shares.

(b) Per-Participant Limit. Subject to adjustment under Section 10, for Awards granted after the Common Stock is registered under the Securities Exchange Act of 1934 (the "Exchange Act"), the maximum number of shares of Common Stock with respect to which Awards may be granted to any Participant under the Plan shall be 2,000,000 per fiscal year. For purposes of the foregoing limit, the combination of an Option in tandem with an SAR (as each is hereafter defined) shall be treated as a single Award. The per-Participant limit described in this Section 4(b) shall be construed and applied consistently with Section 162(m) of the Code or any successor provision thereto, and the regulations thereunder ("Section 162(m)").

(c) Substitute Awards. In connection with a merger or consolidation of an entity with the Company or the acquisition by the Company of property or stock of an entity, the Board may grant Awards in substitution for any options or other stock or stock-based awards granted by such entity or an affiliate thereof. Substitute Awards may be granted on such terms as the Board deems appropriate in the circumstances, notwithstanding any limitations on Awards contained in the Plan. Substitute Awards shall not count against the overall share limit set forth in Section 4(a), except as may be required by reason of Section 422 and related provisions of the Code.

5. Stock Options

(a) General. The Board may grant options to purchase Common Stock (each, an "Option") and determine the number of shares of Common Stock to be covered by each Option, the exercise price of each Option and the conditions and limitations applicable to the exercise of each Option, including conditions relating to applicable federal or state securities laws, as it considers necessary or advisable. An Option which is not intended to be an Incentive Stock Option (as hereinafter defined) shall be designated a "Nonstatutory Stock Option".

(b) Incentive Stock Options. An Option that the Board intends to be an "incentive stock option" as defined in Section 422 of the Code (an "Incentive Stock Option") shall only be granted to employees of Ocean Power Technologies, Inc., any of Ocean Power Technologies, Inc.'s present or future parent or subsidiary corporations as defined in Sections 424(e) or (f) of the Code, and any other entities the employees of which are eligible to receive Incentive Stock Options under the Code, and shall be subject to and shall be construed consistently with the requirements of Section 422 of the Code. The Company shall have no liability to a Participant, or any other party, if an Option (or any part thereof) that is intended to be an Incentive Stock Option is not an Incentive Stock Option or for any action taken by the Board including without limitation the conversion of an Incentive Stock Option to a Nonstatutory Stock Option.

(c) Exercise Price. The Board shall establish the exercise price of each Option and specify such exercise price in the applicable option agreement; provided, however, that the exercise price shall not be less than 100% of the Fair Market Value (as defined below) on the date the Option is granted.

(d) Duration of Options. Each Option shall be exercisable at such times and subject to such terms and conditions as the Board may specify in the applicable option agreement.

(e) Exercise of Option. Options may be exercised by delivery to the Company of a written notice of exercise signed by the proper person or by any other form of notice (including electronic notice) approved by the Board together with payment in full as specified in Section 5(f) for the number of shares for which the Option is exercised. Shares of Common Stock subject to the Option will be delivered by the Company following exercise either as soon as practicable or, subject to such conditions as the Board shall specify, on a deferred basis (with the Company's obligation to be evidenced by an instrument providing for future delivery of the deferred shares at the time or times specified by the Board).

(f) Payment Upon Exercise. Common Stock purchased upon the exercise of an Option granted under the Plan shall be paid for as follows:

(1) in cash or by check, payable to the order of the Company;

(2) except as may otherwise be provided in the applicable option agreement, by (i) delivery of an irrevocable and unconditional undertaking by a creditworthy broker to deliver promptly to the Company sufficient funds to pay the exercise price and any required tax withholding or (ii) delivery by the Participant to the Company of a copy of irrevocable and unconditional instructions to a creditworthy broker to deliver promptly to the Company cash or a check sufficient to pay the exercise price and any required tax withholding;

(3) to the extent provided for in the applicable option agreement or approved by the Board, in its sole discretion, by delivery of shares of Common Stock owned by the Participant valued at their fair market value as determined by (or in a manner approved by) the Board ("Fair Market Value"), provided (i) such method of payment is then permitted under applicable law, (ii) such Common Stock, if acquired directly from the Company, was owned by the Participant for such minimum period of time, if any, as may be established by the Board in its discretion and (iii) such Common Stock is not subject to any repurchase, forfeiture, unfulfilled vesting or other similar requirements;

(4) to the extent permitted by applicable law and provided for in the applicable option agreement or approved by the Board, in its sole discretion, by (i) delivery of a promissory note of the Participant to the Company on terms determined by the Board, or (ii) payment of such other lawful consideration as the Board may determine; or

(5) by any combination of the above permitted forms of payment.

(g) Repricing of Options. The Board may, without stockholder approval, amend any outstanding Option granted under the Plan to provide an exercise price per share that is lower than the then-current exercise price per share of such outstanding Option. The Board may also, without stockholder approval, cancel any outstanding option (whether or not granted under the Plan) and grant in substitution therefor new Awards under the Plan covering the same or a

different number of shares of Common Stock and having an exercise price per share lower than the then-current exercise price per share of the cancelled option.

6. Stock Appreciation Rights.

(a) General. The Board may grant Awards consisting of a Stock Appreciation Right, or SAR, is an Award entitling the holder, upon exercise, to receive an amount in cash, Common Stock or a combination thereof (such form to be determined by the Board) determined by reference to appreciation, from and after the date of grant, in the fair market value of a share of Common Stock. SARs may be based solely on appreciation in the fair market value of Common Stock or on a comparison of such appreciation with some other measure of market growth such as (but not limited to) appreciation in a recognized market index. The date as of which such appreciation or other measure is determined shall be the exercise date.

(b) Grants. Stock Appreciation Rights may be granted in tandem with, or independently of, Options granted under the Plan.

(1) Tandem Awards. When Stock Appreciation Rights are expressly granted in tandem with Options, (i) the Stock Appreciation Right will be exercisable only at such time or times, and to the extent, that the related Option is exercisable (except to the extent designated by the Board in connection with a Reorganization Event [or a Change in Control Event]) and will be exercisable in accordance with the procedure required for exercise of the related Option; (ii) the Stock Appreciation Right will terminate and no longer be exercisable upon the termination or exercise of the related Option, except to the extent designated by the Board in connection with a Reorganization Event [or a Change in Control Event] and except that a Stock Appreciation Right granted with respect to less than the full number of shares covered by an Option will not be reduced until the number of shares as to which the related Option has been exercised or has terminated exceeds the number of shares not covered by the Stock Appreciation Right; (iii) the Option will terminate and no longer be exercisable upon the exercise of the related Stock Appreciation Right; and (iv) the Stock Appreciation Right will be transferable only with the related Option.

(2) Independent SARs. A Stock Appreciation Right not expressly granted in tandem with an Option will become exercisable at such time or times, and on such conditions, as the Board may specify in the SAR Award.

(c) Grant Price. The Board shall establish the grant price or exercise price of each SAR and specify such price in the applicable Award agreement; provided, however, that the grant price or exercise price of an SAR shall not be less than 100% of the Fair Market Value per share of Common Stock on the date of grant of the SAR.

(d) Term. Each SAR shall be exercisable at such times and subject to such terms and conditions as the Board may specify in the applicable Award agreement.

(e) Exercise. Stock Appreciation Rights may be exercised by delivery to the Company of a written notice of exercise signed by the proper person or by any other form of notice (including electronic notice) approved by the Board, together with any other documents required by the Board.

7. Restricted Stock; Restricted Stock Units.

(a) General. The Board may grant Awards entitling recipients to acquire shares of Common Stock ("Restricted Stock"), subject to the right of the Company to repurchase all or part of such shares at their issue price or other stated or formula price (or to require forfeiture of such shares if issued at no cost) from the recipient in the event that conditions specified by the Board in the applicable Award are not satisfied prior to the end of the applicable restriction period or periods established by the Board for such Award. Instead of granting Awards for Restricted Stock, the Board may grant Awards entitling the recipient to receive shares of Common Stock to be delivered at the time such shares of Common Stock vest ("Restricted Stock Units") (Restricted Stock and Restricted Stock Units are each referred to herein as a "Restricted Stock Award").

(b) Terms and Conditions for all Restricted Stock Awards. The Board shall determine the terms and conditions of a Restricted Stock Award, including the conditions for vesting and repurchase (or forfeiture) and the issue price, if any.

(c) Additional Provisions Relating to Restricted Stock.

(1) Dividends. Participants holding shares of Restricted Stock will be entitled to all ordinary cash dividends paid with respect to such shares, unless otherwise provided by the Board. If any such dividends or distributions are paid in shares, or consist of a dividend or distribution to holders of Common Stock other than an ordinary cash dividend, the shares, cash or other property will be subject to the same restrictions on transferability and forfeitability as the shares of Restricted Stock with respect to which they were paid. Each dividend payment will be made no later than the end of the calendar year in which the dividends are paid to shareholders of that class of stock or, if later, the 15th day of the third month following the date the dividends are paid to shareholders of that class of stock.

(2) Stock Certificates. The Company may require that any stock certificates issued in respect of shares of Restricted Stock shall be deposited in escrow by the Participant, together with a stock power endorsed in blank, with the Company (or its designee). At the expiration of the applicable restriction periods, the Company (or such designee) shall deliver the certificates no longer subject to such restrictions to the Participant or if the Participant has died, to the beneficiary designated, in a manner determined by the Board, by a Participant to receive amounts due or exercise rights of the Participant in the event of the Participant's death (the "Designated Beneficiary"). In the absence of an effective designation by a Participant, "Designated Beneficiary" shall mean the Participant's estate.

(d) Additional Provisions Relating to Restricted Stock Units.

(1) Settlement. Upon the vesting of and/or lapsing of any other restrictions (i.e., settlement) with respect to each Restricted Stock Unit, the Participant shall be entitled to receive from the Company one share of Common Stock or an amount of cash equal to the Fair Market Value of one share of Common Stock, as provided in the applicable Award agreement. The Board may, in its discretion, provide that settlement of Restricted Stock Units shall be deferred, on a mandatory basis or at the election of the Participant.

(2) Voting Rights. A Participant shall have no voting rights with respect to any Restricted Stock Units.

(3) Dividend Equivalents. To the extent provided by the Board, in its sole discretion, a grant of Restricted Stock Units may provide Participants with the right to receive an amount equal to any dividends or other distributions declared and paid on an equal number of outstanding shares of Common Stock ("Dividend Equivalents"). Dividend Equivalents may be paid currently or credited to an account for the Participants, may be settled in cash and/or shares of Common Stock and may be subject to the same restrictions on transfer and forfeitability as the Restricted Stock Units with respect to which paid, as determined by the Board in its sole discretion, subject in each case to such terms and conditions as the Board shall establish, in each case to be set forth in the applicable Award agreement.

8. Other Stock-Unit Awards

Other Awards of shares of Common Stock, and other Awards that are valued in whole or in part by reference to, or are otherwise based on, shares of Common Stock or other property, may be granted hereunder to Participants ("Other Stock Unit Awards"), including without limitation Awards entitling recipients to receive shares of Common Stock to be delivered in the future. Such Other Stock Unit Awards shall also be available as a form of payment in the settlement of other Awards granted under the Plan or as payment in lieu of compensation to which a Participant is otherwise entitled. Other Stock Unit Awards may be paid in shares of Common Stock or cash, as the Board shall determine. Subject to the provisions of the Plan, the Board shall determine the conditions of each Other Stock Unit Award, including any purchase price applicable thereto.

9. Adjustments for Changes in Common Stock and Certain Other Events.

(a) Changes in Capitalization. In the event of any stock split, reverse stock split, stock dividend, recapitalization, combination of shares, reclassification of shares, spin-off or other similar change in capitalization or event, or any distribution to holders of Common Stock other than an ordinary cash dividend, (i) the number and class of securities available under this Plan, (ii) the per-Participant limit set forth in Section 4(b), (iii) the number and class of securities and exercise price per share of each outstanding Option, (iv) the share- and per-share provisions of each Stock Appreciation Right, (v) the repurchase price per share subject to each outstanding Restricted Stock Award, and (vi) the share- and per-share-related provisions of each outstanding Other Stock Unit Award, shall be equitably adjusted by the Company (or substituted Awards may be made, if applicable) in the manner determined by the Board.

(b) Reorganization Events

(1) Definition. A "Reorganization Event" shall mean: (a) any merger or consolidation of the Company with or into another entity as a result of which all of the Common Stock of the Company is converted into or exchanged for the right to receive cash, securities or other property or is cancelled, (b) any exchange of all of the Common Stock of the Company for cash, securities or other property pursuant to a share exchange transaction or (c) any liquidation or dissolution of the Company.

(2) Consequences of a Reorganization Event on Awards Other than Restricted Stock Awards. In connection with a Reorganization Event, the Board shall take any one or more of the following actions as to all or any outstanding Awards, other than Restricted Stock Awards, on such terms as the Board determines: (i) provide that Awards shall be assumed, or substantially equivalent Awards shall be substituted, by the acquiring or succeeding corporation (or an affiliate thereof), (ii) upon written notice to a Participant, provide that the Participant's unexercised Options or other unexercised Awards will terminate immediately prior to the consummation of such Reorganization Event unless exercised by the Participant within a specified period following the date of such notice, (iii) provide that outstanding Awards shall become exercisable, realizable or deliverable, or restrictions applicable to an Award shall lapse, in whole or in part prior to or upon such Reorganization Event, (iv) in the event of a Reorganization Event under the terms of which holders of Common Stock will receive upon consummation thereof a cash payment for each share surrendered in the Reorganization Event (the "Acquisition Price"), make or provide for a cash payment to a Participant equal to the excess, if any, of (A) the Acquisition Price times the number of shares of Common Stock subject to the Participant's Options or other Awards (to the extent the exercise price does not exceed the Acquisition Price) over (B) the aggregate exercise price of all such outstanding Options or other Awards and any applicable tax witholdings, in exchange for the termination of such Options or other Awards, (v) provide that, in connection with a liquidation or dissolution of the Company, Awards shall convert into the right to receive liquidation proceeds (if applicable, net of the exercise price thereof) and (vi) any combination of the foregoing.

For purposes of clause (i) above, an Option shall be considered assumed if, following consummation of the Reorganization Event, the Option confers the right to purchase, for each share of Common Stock subject to the Option immediately prior to the consummation of the Reorganization Event, the consideration (whether cash, securities or other property) received as a result of the Reorganization Event by holders of Common Stock for each share of Common Stock held immediately prior to the consummation of the Reorganization Event (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding shares of Common Stock); provided, however, that if the consideration received as a result of the Reorganization Event is not solely common stock of the acquiring or succeeding corporation (or an affiliate thereof), the Company may, with the consent of the acquiring or succeeding corporation, provide for the consideration to be received upon the exercise of Options to consist solely of common stock of the acquiring or succeeding corporation (or an affiliate thereof) equivalent in value (as determined by the Board) to the per share

consideration received by holders of outstanding shares of Common Stock as a result of the Reorganization Event.

(3) Consequences of a Reorganization Event on Restricted Stock Awards. Upon the occurrence of a Reorganization Event other than a liquidation or dissolution of the Company, the repurchase and other rights of the Company under each outstanding Restricted Stock Award shall inure to the benefit of the Company's successor and shall, unless the Board determines otherwise, apply to the cash, securities or other property which the Common Stock was converted into or exchanged for pursuant to such Reorganization Event in the same manner and to the same extent as they applied to the Common Stock subject to such Restricted Stock Award. Upon the occurrence of a Reorganization Event involving the liquidation or dissolution of the Company, except to the extent specifically provided to the contrary in the instrument evidencing any Restricted Stock Award or any other agreement between a Participant and the Company, all restrictions and conditions on all Restricted Stock Awards then outstanding shall automatically be deemed terminated or satisfied.

10. General Provisions Applicable to Awards

(a) Transferability of Awards. Except as the Board may otherwise determine or provide in an Award, Awards shall not be sold, assigned, transferred, pledged or otherwise encumbered by the person to whom they are granted, either voluntarily or by operation of law, except by will or the laws of descent and distribution or, other than in the case of an Incentive Stock Option, pursuant to a qualified domestic relations order, and, during the life of the Participant, shall be exercisable only by the Participant. References to a Participant, to the extent relevant in the context, shall include references to authorized transferees.

(b) Documentation. Each Award shall be evidenced in such form (written, electronic or otherwise), as the Board shall determine. Each Award may contain terms and conditions in addition to those set forth in the Plan.

(c) Board Discretion. Except as otherwise provided by the Plan, each Award may be made alone or in addition or in relation to any other Award. The terms of each Award need not be identical, and the Board need not treat Participants uniformly.

(d) Termination of Status. The Board shall determine the effect on an Award of the disability, death, retirement, authorized leave of absence or other change in the employment or other status of a Participant and the extent to which, and the period during which, the Participant, or the Participant's legal representative, conservator, guardian or Designated Beneficiary, may exercise rights under the Award.

(e) Withholding. Each Participant shall pay to the Company, or make provision satisfactory to the Company for payment of, any taxes required by law to be withheld in connection with an Award to such Participant; provided, however that Participant shall not be required to make any payment until such time as the Company is obligated to make the applicable withholding payment. Except as the Board may otherwise provide in an Award, for

so long as the Common Stock is registered under the Exchange Act, Participants may satisfy such tax obligations in whole or in part by delivery of shares of Common Stock, including shares retained from the Award creating the tax obligation, valued at their Fair Market Value; provided, however, except as otherwise provided by the Board, that the total tax withholding where stock is being used to satisfy such tax obligations cannot exceed the Company's minimum statutory withholding obligations (based on minimum statutory withholding rates for federal and state tax purposes, including payroll taxes, that are applicable to such supplemental taxable income). Shares surrendered to satisfy tax withholding requirements cannot be subject to any repurchase, forfeiture, unfulfilled vesting or other similar requirements. The Company may, to the extent permitted by law, deduct any such tax obligations from any payment of any kind otherwise due to a Participant.

(f) Amendment of Award. The Board may amend, modify or terminate any outstanding Award, including but not limited to, substituting therefor another Award of the same or a different type, changing the date of exercise or realization, and converting an Incentive Stock Option to a Nonstatutory Stock Option, provided that the Participant's consent to such action shall be required unless the Board determines that the action, taking into account any related action, would not materially and adversely affect the Participant.

(g) Conditions on Delivery of Stock. The Company will not be obligated to deliver any shares of Common Stock pursuant to the Plan or to remove restrictions from shares previously delivered under the Plan until (i) all conditions of the Award have been met or removed to the satisfaction of the Company, (ii) in the opinion of the Company's counsel, all other legal matters in connection with the issuance and delivery of such shares have been satisfied, including any applicable securities laws and any applicable stock exchange or stock market rules and regulations, and (iii) the Participant has executed and delivered to the Company such representations or agreements as the Company may consider appropriate to satisfy the requirements of any applicable laws, rules or regulations.

(h) Acceleration. The Board may at any time provide that any Award shall become immediately exercisable in full or in part, free of some or all restrictions or conditions, or otherwise realizable in full or in part, as the case may be.

11. Miscellaneous

(a) No Right To Employment or Other Status. No person shall have any claim or right to be granted an Award, and the grant of an Award shall not be construed as giving a Participant the right to continued employment or any other relationship with the Company. The Company expressly reserves the right at any time to dismiss or otherwise terminate its relationship with a Participant free from any liability or claim under the Plan, except as expressly provided in the applicable Award.

(b) No Rights As Stockholder. Subject to the provisions of the applicable Award, no Participant or Designated Beneficiary shall have any rights as a stockholder with respect to any shares of Common Stock to be distributed with respect to an Award until becoming the record

holder of such shares. Notwithstanding the foregoing, in the event the Company effects a split of the Common Stock by means of a stock dividend and the exercise price of and the number of shares subject to such Option are adjusted as of the date of the distribution of the dividend (rather than as of the record date for such dividend), then an optionee who exercises an Option between the record date and the distribution date for such stock dividend shall be entitled to receive, on the distribution date, the stock dividend with respect to the shares of Common Stock acquired upon such Option exercise, notwithstanding the fact that such shares were not outstanding as of the close of business on the record date for such stock dividend.

(c) Effective Date and Term of Plan. The Plan shall become effective on the date on which the Securities and Exchange Commission declares the registration statement on Form S-1 for the initial public offering of the Company's common stock effective (the "Effective Date"). No Awards shall be granted under the Plan after the completion of 10 years from the earlier of (i) the date on which the Plan was adopted by the Board or (ii) the date the Plan was approved by the Company's stockholders, but Awards previously granted may extend beyond that date.

(d) Amendment of Plan. The Board may amend, suspend or terminate the Plan or any portion thereof at any time; provided, however that, to the extent determined by the Board, no amendment requiring stockholder approval under any applicable legal, regulatory or listing requirement shall become effective until such stockholder approval is obtained.

(e) Provisions for Foreign Participants. The Board may modify Awards or Options granted to Participants who are foreign nationals or employed outside the United States or establish subplans or procedures under the Plan to recognize differences in laws, rules, regulations or customs of such foreign jurisdictions with respect to tax, securities, currency, employee benefit or other matters.

(f) Compliance with Code Section 409A. No Award shall provide for deferral of compensation that does not comply with Section 409A of the Code, unless the Board, at the time of grant, specifically provides that the Award is not intended to comply with Section 409A of the Code. The Company shall have no liability to a Participant, or any other party, if an Award that is intended to be exempt from, or compliant with, Section 409A is not so exempt or compliant or for any action taken by the Board.

(g) Governing Law. The provisions of the Plan and all Awards made hereunder shall be governed by and interpreted in accordance with the laws of the State of Delaware, excluding choice-of-law principles of the law of such state that would require the application of the laws of a jurisdiction other than such state.

DATED 15 JANUARY 2007

(1) UNIVERSITY OF WARWICK SCIENCE PARK
INNOVATION CENTRE LIMITED

AND

(2) OCEAN POWER TECHNOLOGIES LIMITED

LEASE
Relating to
Unit 6
Warwick Science Park Innovation Centre
Warwick Technology Park
Gallows Hill
Warwick
CV34 6UW

TERM	: 2 years from and including the 2 January 2007 until and including the 1 January 2009 (Subject to prior determination renewal or continuation)
TENANTS BREAK	: 1 January 2008
YEARLY RENT	: L25,020.00per annum (exclusive)
PAYABLE	: Monthly in advance by Direct Debit
NOTE	: This Lease is excluded from the security of tenure provisions of the Landlord & Tenant Act 1954 (as amended)

FLINT, BISHOP & BARNETT
SOLICITORS
THE ATRIUM
20 WOLLATON STREET
NOTTINGHAM
NG1 5FW
REF. JR/037556.0014

THIS LEASE made the 15th day of January two thousand and seven _____.

BETWEEN

1. UNIVERSITY OF WARWICK SCIENCE PARK INNOVATION CENTRE LIMITED, (company number 03205246) whose registered office is at the University of Warwick in the City Of Coventry in the County of West Midlands (THE LANDLORD)

2. OCEAN POWER TECHNOLOGIES LIMITED (company number 05225532) of Warwick Innovation Centre Warwick Technology Park Gallows Hill Warwick CV34 6UW (THE TENANT)

NOW THIS DEED WITNESSETH as follows:

1 INTERPRETATION

1.1 In this Lease Urn following definitions apply:

THE ADDITIONAL RENTS	Means the additional rents reserved in sub-clauses 2.1 to 2 5 inclusive
THE BASIC YEARLY RENT	TWENTY FIVE THOUSAND AND TWENTY POUNDS (L25,020.00) per annum excluding VAT
THE COMMON PARTS OF THE WARWICK INNOVATION CENTRE	Means those parts of the Warwick Innovation Centre provided for the common use benefit or enjoyment of the occupants of the Warwick Innovation Centre including all car parking roadways footways landscaped and other common areas
DIRECT DEBIT	Means a process of automated payment operated by BACS Payment Schemes Limited or equivalent service enabling the collection of funds at the request of the payee
THE INSURED RISKS	Means the risks against which the Landlord may from time to time procure insurance pursuant to Clause 4.2 hereof
THE INTEREST RATE	Means a rate equal to 2% above the base lending rate (or its equivalent) of Barclays Bank pic from time to time
THE LANDLORD'S COSTS	Means the moneys actually expended or reserved for periodical and/or future expenditure by or on behalf of the Landlord in providing the Landlord's Services and in making all necessary contributions to the maintenance and operation of the Warwick Technology Park in respect of the Warwick Innovation Centre and its occupants from time to time
THE LANDLORD'S SERVICES	Means the services amenities facilities and payments set out in the Third Schedule hereto
THE LETTABLE AREAS	Means all of the Units contained within the Warwick Innovation Centre which are either occupied or available for occupation from time to time

THE MANAGING AGENT	Means the Landlord's representative or Managing Agent appointed from time to erne by the Landlord to administer and manage the Warwick Innovation Centre
THE PERMITTED USER	Means use for the purposes of research development design training technical support services and ancillary commercial exploitation functions in connection with the business of Ocean Power Technologies Limited
THE PERPETUITY PERIOD	Means the period of eighty years from the date hereof
THE PLAN	Means the plan annexed hereto
THE PLANNING ACTS	Means the Town and Country Planning Act 1990 (as amended) and any subsequent legislation of a similar nature and any Order instrument plan regulation permission consent and direction made or issued thereunder or deriving therefrom
THE RELEVANT DATE	Means 1 January 2008
SERVICE MEDIA	Means the pipes poles meters wires cables sewers drains mains truncking ducts channels watercourses gutters structures apparatus equipment machinery sub-stations and other media now or within the Perpetuity Period to be constructed for the provision of all or any service of whatsoever nature or the extraction of any matter or thing such media serving or forming part of the Warwick Innovation Centre whether or not the same serves it exclusively or otherwise
THE TERM	Means the Term of 2 years from and including the 2 January 2007 to the 1 January 2009
THE UNIT	Means Unit no. 6 in the Warwick Innovation Centre described in Part I of the First Schedule
THE WARWICK INNOVATION CENTRE	Means the building erected within the Warwick Technology Park and shortly known as the Warwick Innovation Centre and any alterations or additions thereto together with the land forming the site and curtilage thereon
THE WARWICK TECHNOLOGY PARK	Means the land situate at Gallows Hill Warwick known as the Warwick Technology Park owned and developed by Warwickshire County Council

1.2 In this Lease where the context so admits:-

1.2.1 The expression the Landlord shall include the person or persons for the time being entitled to the reversion expectant upon the determination of the Term

1.2.2 Where there are two or more persons included in the expression the Tenant and the Guarantor covenants contained in this Lease which are expressed to be made

by the Tenant and/or the Guarantor shall be deemed to be made by such persons jointly and severally

1.2.3 Any reference to the Unit shall include the whole and/or any part or parts thereof

1.2.4 Any obligation imposed herein on the Tenant not to do any act or omission shall include an obligation not to permit or cause any such act omission or default by any other party

1.2.5 Where the Tenant is obliged to make any payment under the provisions or this Lease such obligation shall include an obligation to pay a fair and reasonable proportion (determined by the Landlord) of the like payment where it is demanded of the Landlord in respect of the Unit and other parts of the Warwick innovation Centre

2 TERM RENT ETC

in consideration of the rents hereby reserved and the Tenant's covenants and conditions hereinafter contained and on the part of the Tenant to be paid observed and performed and (if a Surety is hereinbefore named) at the request of the Guarantor the Landlord HEREBY DEMISES unto the Tenant with full title guarantee ALL THAT Unit together with the rights (in common with the Landlord and all others from time to time entitled thereto) specified in Part II of the First Schedule hereto EXCEPT AND RESERVING the easements rights and matters specified in Part III of the First Schedule hereto TO HOLD the same unto the Tenant subject to the easements quasi-easements covenants rights privileges terms and conditions hereinafter contained for the Term

YIELDING AND PAYING therefore to the Landlord the Basic Yearly Rent such rent to be paid by equal monthly payments in advance on the first day of each calendar month in every year the first of such payments being a proportion thereof to the last day of the month next following the date hereof to be paid on completion of this Lease

AND FURTHER YIELDING AND PAYING: -

2.1 Forthwith upon demand throughout the Term a sum or sums of money (the insurance Rent) in each year of the Term equal to a fair and proper proportion of the money which shall be expended by the Landlord in each year in or in respect of maintaining the insurance of the Unit the Warwick Innovation Centre and the Landlord's fixtures of an insurable nature which at any time during the Term may be erected placed upon or affixed within the Unit or the Warwick Innovation Centre in accordance with the covenant on the pan of the Landlord contained in clause 4.2 hereof

2.2 Yearly and proportionately for any fraction of a year a service charge (the Service Charge) the amount thereof to be calculated and payable in accordance with the provisions of the Second Schedule hereto

2.3 A sum of money (the Reimbursement Rent) equal to the amount (if any) which the Landlord shall incur in each year of the Term in remedying any breach of covenant hereunder by the Tenant or the Guarantor or in ensuring compliance by the Tenant or the Guarantor with their obligation in this Lease such sum to be paid on demand at any time

2.4 A sum of money (the Interest Rent) in each year of the Term and proportionately for part of a year calculated at the Interest Rate in force from time to time on any moneys overdue for payment hereunder calculated from the date payment fell due such Interest Rent to be paid on the date on which the money or moneys on which it has accrued are paid Provided

Always that moneys shall be deemed overdue if not paid within fourteen days of the day provided for payment thereof or (if paid by Direct Debit) if payment is not received within two working days of request being made under such mandate

2.5 A sum of money (the VAT Rent) equal to such Value Added Tax or other similar tax (VAT) which is or may be or become chargeable upon any supply or payment (including without limitation the rents reserved in this clause 2) made pursuant to the provisions of this Lease payable upon presentation of an appropriate invoice for such supply or payment

PROVIDED THAT neither the Reimbursement Rent nor the Interest Rent shall prejudice any other right or remedy of the Landlord to recover monies due by this tease

3 TENANTS COVENANTS

The Tenant HEREBY COVENANTS with the Landlord as follows: -

3.1 PAYMENT OF RENT

To pay the Basic Yearly Rent and the Additional Rents at the times and in manner aforesaid clear of all deductions by Direct Debit from such a bank account as shall be nominated from time to time by the Tenant and for which the Tenant shall maintain a valid Direct Debit mandate in favour of the Landlord

3.2 PAYMENT OF RATES ETC

To pay all rates taxes duties assessments charges impositions liabilities outgoings and obligations whatsoever whether Parliamentary parochial municipal local environmental or of any other description at any time assessed charged or imposed upon or payable in respect of the Unit or upon the owner or occupier in respect thereof save for any liability imposed on the Landlord arising out of dealing with its reversionary interest

3.3 OUTGOINGS

To pay all charges (including meter rents and installation charges) for water gas electricity and telephone or other services consumed in or used by the Unit or its occupants

3.4 REPAIRS

3.4.1 To maintain and keep the Unit in good and tenanted repair and condition except for damage by any of the Insured Risks unless the relevant policy or policies shall have been rendered void or voidable or payment of the whole or part of the insurance money refused in consequence of some act or default on the part of or suffered by the Tenant its servants or licensees or invitees

3.4.2 To use such contractors and appropriately qualified persons as shall first be approved in writing by the Landlord to carry out all or any works pursuant to Clause 3.4.1 hereof

3.5 DECORATION

To keep and maintain the interior of the Unit in good decorative order throughout the Term and to repaint and redecorate throughout at least once during the Term

3.6 TO YIELD UP PREMISES

At the expiry of the Term quietly to yield up unto the Landlord the Unit as shall be in accordance with the several covenants on the part of the Tenant and the conditions agreements and obligations herein contained or contained in any licence or agreement made supplemental hereto

3.7 TO COMPLY WITH STATUTES

3.7.1 At the Tenant's own expense to do all such works and comply with all such directions and requirements in pursuance of any existing or future Acts of Parliament statutory instruments bye-laws rules regulations orders notices directions planning permissions licences or consents already made or hereafter made and for the time being in force are or may be required to be done to the unit or the Tenant's user

3.7.2 At the Tenant's own expense within 7 days of receipt of the same to give to the Landlord a copy of any notice order direction requisition or other thing issued or given by (or particulars of any proposal for a notice or order of) any government department district council local or public or other competent authority and relating to or affecting or likely to affect the Unit or the Warwick Innovation Centre or the use thereof or the persons employed therein and without delay to take all reasonable or necessary steps to comply with such notice order direction or requisition so far as it relates to the Tenant's use and occupation of the Unit

3.8 RIGHTS OF LANDLORD TO INSPECT

3.8.1 To permit the Landlord at all times during the Term and during reasonable hours in the daytime upon previous notice in writing whenever practical and at any time and without notice in an emergency to enter into and upon the Unit to view the state of repair and condition of the same and to ascertain whether the covenants on the part of the Tenant and the conditions agreements and obligations herein contained are being duly observed and performed as to defects and wants of reparation for which the Tenant is liable hereunder or otherwise and to take inventories of the Landlord's fixtures and fittings and appurtenances and things then upon the Unit or to be yielded up at the expiration or sooner determination of the Term and to give or leave at the Unit notice in writing to the Tenant of any such defects and wants of reparation or obligations hereunder on the part of the Tenant and the Tenant will within the period of twenty-eight days after such notice or sooner if requisite repair and make good the same in accordance with such notice and the covenants conditions agreements and obligations in that behalf herein contained and in case the Tenant snail make default in so doing it shall be lawful for the workman and others employed or authorised by the Landlord (without prejudice and in addition to the right of re-entry hereinafter contained and any other right or remedy of the Landlord) to enter into and upon the Unit (with or without plant and materials) and repair make good decorate and restore such defects and wants of reparation and all reasonable costs charges and expenses incurred thereby (which costs charges and expenses shall include but not be limited to all legal costs surveyors and architects fees and other professional fees and other expenditure whatsoever incidental thereto or attendant thereon together with interest thereon at the Interest Rate from the date of expenditure) shall be a debt due from the Tenant to the Landlord on demand

3.8.2 RIGHTS OF ENTRY

To permit the Landlord and its agents or workmen and the tenants and occupiers of the Warwick Innovation Centre now or at any time hereafter belonging to the Landlord at all convenient hours in the daytime and on reasonable prior notice (except in case of emergency) to the Tenant to enter upon the Unit for executing inspecting, cleaning, decorating, maintenance, repairs or alterations to or upon any other part of the Warwick Innovation Centre Or the Service Media such persons making good forthwith upon completion thereof to the reasonable satisfaction of the Tenant all damage to the Unit thereby occasioned

3.9 ERECTIONS AND INSTALLATIONS

3.9.1 Not to erect any new structure within the Unit or make any alteration or additions of whatsoever nature to the Unit or any Service Media

3.9.2 Notwithstanding anything contained in the immediately preceding sub-clause not to bring into the Unit any article or thing which shall exceed the permitted floor loading of the Unit from time to time nor to suspend permit or cause to be suspended from the ceiling of the Unit or any attachment thereto any article or thing of whatsoever nature

3.9.3 In the event of any breach of sub-clause 3.9.1 or 3.9.2 of this sub-clause the Landlord shall be at liberty to enter the Unit to remove or restore as the case may be all or any of sued unauthorised structures erections alterations improvements or additions as may be found and the costs of carrying out such work together with interest thereon at the rate specified in Clause 2.4 hereof from the date of expenditure snail be due to the Landlord by the Tenant forthwith on demand

3.9.4 Notwithstanding the aforesaid provisions the Tenant may (having first given not less than fourteen days prior written notice all requisite plane to the Landlord and not having received any objection from the Landlord prior to commencing work) install and/or remove internal demountable non-structural partitioning provided that:-

a) the Tenant will procure the removal of the same and the making good all damage so caused to the Unit and/or the decoration thereof at the end of the Term; and

b) the Tenant ensuring full compliance with the requirements of the fire or other competent authority all building regulations and the reasonable requirements of the Landlord's insurers from time to time during their retention

3.10 INDEMNITY

To keep the Landlord fully and effectually indemnified from and against all expenses proceedings costs claims damages demands and any other liability whatsoever arising directly or indirectly out of: -

3.10.1 The state of repair and condition of the Unit any alteration thereto or the user thereof or work carried out or in the course of being carried out to the Unit

3.10.2 The breach by the Tenant of any of its obligations under this Lease or

3.10.3 Any of the following caused by or arising from any acts or omissions of the Tenant its servants agents visitors:-

a) Any interference or alleged interference or obstruction of any right or alleged right of light air drainage now existing for the benefit of any adjoining or neighbouring property; or

b) Any malfunction or stoppage of the Service Media

3.11 USER

3.11.1 Not to use the Unit or any part or parts thereof for any purpose other than for the Permitted Use

3.11.2 Not to undertake any user within the Unit which may or might lead to suspension of the Landlord's election to charge VAT upon supplies relating to the Unit or the Warwick Innovation Centre

3.11.3 Not to carry on any offensive noisy noxious hazardous or dangerous trade or act or any illegal or immoral purpose or for any purpose or in any manner which may be a nuisance or annoyance to the Landlord or the owners or other occupiers of neighbouring or adjacent premises

3.11.4 Not to permit any sale by auction or public exhibition or public show of spectacle or political meeting to take place on the Unit

3.11.5 Not to suffer the Unit or any part thereof to become void and not to claim the benefit of any void rate or void rate period in respect of it or any part of it

3.11.6 Not to sleep or reside upon or permit any person or persons to sleep or reside Upon the Unit or any part thereof

3.12 ADVERTISEMENTS AND SIGNS

3.12.1 Not except as authorised by sub-clause 3.12.2 hereof to exhibit on the exterior of the unit or on the Warwick Innovation Centre (or inside the Unit so as to be visible from the outside) any sign signboard or hanging sign fascia advertisement placard or lettering

3.12.2 To put and maintain by the method and of a size and type required by the Landlord properly and professionally painted or built up perspex or plastic detachable signs previously approved in writing by the Landlord stating the Tenant's name on the purpose made display panel in the entrance of the Warwick Innovation Centre and on the front door or the Unit in such position as shall be allocated from time to time by the Landlord

3.13 PLANNING

3.13.1 Not to do or omit or permit to be done or omitted anything on or in connection with the Unit the doing or omission of which shall be a contravention of the Planning Acts or of any notice orders licences consents permissions and conditions (if any) granted or imposed thereunder or under any enactment repealed thereby and to indemnify the Landlord against all actions proceedings damages penalties costs charges claims and demands in respect of such acts and omissions or any of them

3.13.2 Not to apply for any planning permission relating to the Unit or to the use thereof

3.14 INSURANCE

3.14.1 Forthwith to insure and at all times during the said Term to keep insured in some established office approved by the Landlord owners and occupiers third party liability risks in a sum of not less than L5,000,000 and whenever required to produce to the Landlord or its agent the policy or policies of such insurance with the receipts for premiums payable in respect of the same and to cause all moneys received under or by virtue of any such insurance to be forthwith laid out and expended in settlement of any third party claims and make good any deficiency out of the Tenant's own moneys

3.14.2 In the event of the Unit or any parts thereof or the Warwick Innovation Centre or any parts thereof or any adjoining or neighbouring premises or any parts thereof being at any time during the Term damaged or destroyed and the insurance money under any policy or policies of insurance effected thereon by the Landlord being wholly or partially irrecoverable by reason of any act or default of the Tenant its servants agents licensees or visitors forthwith to pay to the Landlord the difference between the moneys actually received under the Landlord's said policy or policies and the amount which the Landlord would have received if the Tenant or others aforesaid had not committed such act or default as aforesaid

3.15 ASSIGNMENT UNDERLETTING AND OCCUPATION

Not to assign transfer charge mortgage underlet or part with or share the use or possession or occupation of the Unit

3.16 ADMINISTRATION OF THE WARWICK TECHNOLOGY PARK

3.16.1 Not to bring or permit to be brought into the Unit or the Warwick Innovation Centre or to place or store or permit to be placed or stored or lo remain in or about the Unit or the Warwick Innovation Centre any article or thing which is dangerous combustible inflammable radio-active or explosive or the keeping of which may contravene any statute or order or local regulation or bye-law or constitute a nuisance to the Landlord or occupiers owners or tenants of neighbouring property and without prejudice to the generality of the foregoing not to bring onto or suffer to be brought onto or kept on the Unit or any part thereof any live or dead animals fish birds game or other food stuffs save only for such items as are bought to the Unit by the Tenant or its employees for their own consumption

3.16.2 From time to time during the Term to pay alt costs charges and expenses incurred by the landlord in abating any nuisance caused by the Tenant its servants agents licensees or visitors on the Unit or on any other part of the Warwick Innovation Centre and in executing all works as may be necessary for abating a nuisance caused by the Tenant or such other persons on the Unit in obedience to a notice served by any local or other authority

3.16.3 Subject to sub-clause 3.16.8 hereof not to deposit or permit or suffer to be deposited any rubbish or refuse within or outside the Warwick Innovation Centre (except as hereafter mentioned) and not to deposit or burn any rubbish or refuse on the Unit and to remove at regular intervals all and any refuse or rubbish to receptacles to be provided by the Landlord within or outside the Warwick Innovation Centre

3.16.4 To comply with

a) all such reasonable regulations as the Managing Agent shall from time to time make in connection with any security system(s) and/or procedures or under the powers conferred on it by paragraph 4 of Part III of the First Schedule hereto; and

b) all such regulations as may apply from time to time in respect of the Warwick Technology Park and are notified to the Tenant

3.16.5 Not to endanger or permit or suffer the endangering of the Service Media or any part thereof by overloading or polluting the same or otherwise utilise the same so that it may diminish its or any part of its efficiency or usual life expectancy

3.16.6 Not to allow to pass into the Service Media any harmful noxious or deleterious effluent or other substance which may cause an obstruction in or injure the said sewers drains or watercourses

3.16.7 Not to:

a) Park any vehicle except in the parking spaces (if any) designated as such by the Landlord from time to time and allocated from time to time for use by occupiers of the Warwick Innovation Centre or in connection with the Unit and in particular not to park any such vehicle on nor to cause any obstruction or damage to the roadways passages accessways or any areas designated from time to time by the Landlord for common use in the Warwick Innovation Centre and to permit the Landlord its agents or contractors to remove at the cost of the Tenant any such improperly parked vehicles or obstructions

b) Cause or permit the loading or unloading of any vehicles unless the same is carried out within the areas (if any) designated for such use from time to time during the Term by the Landlord

3.16.8 Not to dispose of any chemical combustible hazardous radio-active nuclear or other waste except in accordance with the proper codes of practice laid down by Government Industry or other appropriate authority

3.16.9 To permit the Managing Agent to remove the Tenant and all unauthorised persons or any personnel agents or servants of the Tenant should they in the sole opinion of the Managing Agent be or become a hazard or danger to other occupiers of the Warwick Innovation Centre by reason of their acts omission or defaults or should they fail to observe and perform the safety security or other regulations issued by the Managing Agent from time to time

3.17 COSTS

3.17.1 To reimburse the Landlord's reasonable legal and other costs incurred by the grant of this Lease

3.17.2 To pay all reasonable and proper costs charges and expenses (including solicitors' cost and surveyors' fees) incurred by the Landlord for the purpose or in contemplation of or incidental to the preparation and service of any notice under sections 146 and 147 or the Law of Property Act 1925 (or any statutory

modification thereof) notwithstanding that forfeiture may be avoided otherwise than by relief granted by the Court

3.17.3 To pay all costs and expenses (including solicitors' costs and surveyors' fees) incurred by the Landlord in contemplation of or incidental to the preparation and service of any notice and/or schedule relating to the schedule of dilapidations and whether by the Landlord or not the same is served during or within 3 months after the expiration or sooner determination of the Term (howsoever the same may be determined) but relating in all cases only to dilapidations which accrued prior to the expiration or sooner determination of the Term

3.17.4 Where by virtue of any of the provisions of this Lease the Tenant is required to pay or repay to the Landlord or to any other person or persons any moneys (whether in respect of rent the supply of any goods or services by the Landlord or any other person or persons or otherwise) to also pay or repay (upon demand by the provision of an appropriate invoice therefor) and to keep the Landlord indemnified against the amount of any Value Added Tax (or any tax replacing or additional to the same) which may be chargeable in respect thereof

3.18 ADVERTISING FOR SALE OR LEASE

To permit the Landlord at any time to affix and retain in a conspicuous position on the Unit a notice board during the six months immediately preceding the end or sooner determination of the Term for the re-letting and at any time during the Term for the selling or otherwise dealing with the same or the interest of the Landlord therein

3.19 NOTIFICATION OF DAMAGE

Forthwith after becoming aware of any damage to the Unit resulting from an insured peril to notify in writing the Landlord of the same and to take all steps necessary to prevent further loss or damage of any description and to indemnify the Landlord in respect of any consequential loss arising out of the neglect or omission of the Tenant to comply with the requirements

4 LANDLORD'S COVENANTS

The Landlord hereby covenants with the Tenant:

4.1 That the Tenant paying the rents hereby reserved and performing and observing the covenants on the part of the Tenant's conditions and agreements herein contained shall and may quietly enjoy the Unit during the Term without any interruption by the Landlord or any person rightfully claiming under or in trust for the Landlord

4.2 If and so long as and to the extent that the Tenant shall pay the Insurance Rent to use its best endeavours to procure insurance (unless the insurance so effected shall become void or voidable through or by reason of any act neglect or default of the Tenant or of the servants agents licensees or visitors of the Tenant) of the Unit (whether alone or in conjunction with any adjoining premises of the Landlord or Superior Landlord) and all buildings erections and Landlord's fixtures of an insurable nature which at any time during the Term may be erected or placed upon or affixed to the Unit against loss or damage by fire explosion aircraft (but not hostile aircraft) or articles dropped therefrom flood storm tempest damage by impact civil commotion earthquake riot and such other risks as the Landlord shall from time to time in its reasonable discretion consider necessary in an insurance company or underwriters of good repute to the full reinstatement value thereof from time to time throughout the Term as the Landlord shall determine together with architects' engineers' and

surveyors' fees based on such value at the current rates for the Landlord's demolition and clearing costs and also a sum equal to three years' loss of the rent hereby reserved and to produce upon demand but no more than once a year to the Tenant a copy of or extract from the Policy of such insurance and the receipt for last payment thereon and in case of destruction or damage by fire or other insured risks (unless payment of any moneys under any policy of insurance shall be refused either in whole or in part through or by reason of any act neglect or default of the Tenant or of the servants agents or visitors of the Tenant) to apply all policy moneys received by the Landlord under or by virtue of any such insurance as aforesaid making of any shortfall out of its own funds (other than in respect of loss of rent) in rebuilding or reinstating the Unit with all reasonable speed

5 AGREEMENTS

IT IS HEREBY AGREED between the Landlord and the Tenant as follows:

5.1 FORFEITURE

If the rents or any part thereof hereby reserved or made payable by the Tenant shall be unpaid for twenty-eight days after becoming payable or if such payment has not been received within two working days following request by Direct Debit (whether legally demanded or not) or if any covenant on the Tenant's part herein contained shall not be performed or observed or if the Tenant or any other person in whom for the time being the Term hereby created shall be vested or any Surety shall become insolvent or enter into any composition with his creditors or suffer any distress or execution to be levied on his goods or being a company shall enter into administration or liquidation either voluntarily (except for the purpose of amalgamations of reconstruction) or compulsorily or if a receiver shall be appointed thereof (and these terms are to be interpreted in accordance with the provisions of the Insolvency Act 1986) or the Tenant shall leave the Unit unoccupied for a continuous period of three months then and in any of the said cases it shall be lawful for the Landlord at any time thereafter to re-enter upon the Unit or any part thereof in the name of the whole and peaceably to hold and enjoy thenceforth the Unit as if this Lease had not been made and thereupon the Term shall absolutely determine but without prejudice to any claim right of action or remedy in respect of any agreements or obligations on the part of either party herein contained

5.2 RECEIPT OR DEMAND FOR RENT NOT ACT AS WAIVER

No acceptance of or demand or receipt for rent by the Landlord after knowledge or notice received by the Landlord or its agents of any breach of any of the Tenant's covenants herein contained or implied or after the service by the Landlord or the Tenant of any notice hereunder or in respect hereof shall operate as a waiver in whole or in part of any such breach or of all or any of the Landlord's rights of forfeiture or re-entry in respect thereof but that any such breach shall for all the purposes of this Lease be a continuing breach of covenant so long as such breach shall be subsisting

5.3 DESTRUCTION OR DAMAGE TO THE UNIT

In the event of the destruction or damage of the Unit or any material part thereof by any of the Insured Risks so as to be unfit for occupation and use then and in every such case (unless the insurance of the Unit shall have become void or payment of the insurance moneys be refused in whole or in part by reason of or arising out of any set omission neglect or default by or on the part of the Tenant or any person under the control of the Tenant) the rents hereby reserved or a fair proportion thereof according to the nature and extent of the damage sustained shall be suspended from the date of such damage or destruction until the Unit has been re-built or reinstated and made fit for occupation and use or for 3 years from the date of such damage or for the residue of the Term then remaining (whichever is the

shorter) and in case of dispute touching this provision the same shall be referred to arbitration as set out in Clause 5.6 hereof

5.4 NOTICES

That the provisions of Section 196 of the Law of Property Act 1925 as amended by the Recorded Delivery Service Act 1952 shall apply to any notice served under this Lease

5.5 DISPUTES BETWEEN TENANTS

Any dispute arising between the Tenant and the tenants or the owners or occupiers of adjoining or neighbouring premises forming part of the Warwick Innovation Centre or otherwise belonging to the Landlord as to the nature and extent of any easement right or privilege in favour of or affecting the Unit or such other premises shall be decided by the Managing Agent whose decision save in the case of manifest error shall be binding upon all parties to the dispute or shall be settled in such manner as the Landlord shall direct

5.6 SETTLEMENT OF DISPUTES

That except where otherwise provided if any dispute shall arise between the Landlord and the Tenant at any time with respect to the construction or effect of this Lease or any provision hereof or otherwise in connection with the Unit such dispute shall be referred to and be determined by a single arbitrator appointed (in default of agreement between the Landlord and the Tenant) by the President for the time being of the Royal Institution of Chartered Surveyors in accordance with the provisions of the Arbitration Act 1996 and any amendment or modification thereof

5.7 LANDLORD AND TENANT ACT 1954 (AS AMENDED)

5.7.1 The Tenant hereby confirms that before the date of this Lease:

a) The Landlord served on the Tenant a notice dated 6 December 2006 in relation to the tenancy created by this Lease (the Notice) in a form complying with the requirements of Schedules 1 and 2 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003 (the Order)

b) The Tenant or a person duly authorised by the Tenant in relation to the Notice made a statutory declaration (the Declaration) dated 20 December 06 in a form complying with the requirements of Schedule 2 of the Order

5.7.2 The Tenant further confirms that where the Declaration was made by a person other than the Tenant the declarant was duly authorised by the Tenant to make the declaration on the Tenant's behalf

5.7.3 The Landlord and the Tenant confirm that there is no Agreement for Lease to which this Lease gives effect

5.7.4 The Landlord and Tenant agree to exclude the provisions of sections 24 to 28 (inclusive) of the Landlord and Tenant Act 1954 (as amended) in relation to the tenancy created by this Lease

5.7.5 That subject to the provisions of sub-section (2) of Section 38 of the Landlord and Tenant Act 1954 neither the Tenant nor any assignee transferee or underlessee

shall be entitled on quitting the Unit to any compensation under Section 37 of the said Act

5.8 WORDINGS ON COVER HEREOF AND HEADINGS

Headings to sections schedules paragraphs clauses and sub-clauses hereof are for ease of reference only and are not to form pan of the text or to govern or vary the terms hereof in any way whatsoever

5.9 REFERENCES TO STATUTES ETC

All references herein to statutes statutory instruments rules orders and regulations or the like shall (unless otherwise stated) include any future re-enactments or modifications thereof and those made in substitution or replacement of any which are repealed

5.10 VALUE ADDED TAX

All and any moneys payable pursuant to the provisions of this Lease (whether reserved as rent or otherwise) shall be deemed to be exclusive of (VAT) and where such money shall be or become liable to VAT then such VAT shall be payable in addition to the said moneys on production of a proper VAT invoice

6 THIRD PARTY RIGHTS

Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 or any other provision the obligations herein contained shall be enforceable only by the parties hereto

7 STAMP DUTY LAND TAX

The Landlord and the Tenant hereby certify that there is no Agreement for Lease to which this Lease gives effect

8 TENANT'S BREAK CLAUSE

If the Tenant shall desire to determine the Term upon the Relevant Date (if such expression is defined in this Lease) then the Tenant shall give to the Landlord not less than three months prior written notice or such desire and if the Tenant shall pay all rents due to the Relevant Date and shall on or before the Relevant Date give vacant possession of the Unit to the Landlord men immediately upon the Relevant Date this Lease and the Term shall cease and become void and of no further effect save only for any prior breach by either party

IN WITNESS whereof the Landlord has hereunto affixed its common seal and the Tenant and the Guarantor (if any) have executed as deed a counterpart hereof and all parties have delivered this deed the day and year first before written

THE FIRST SCHEDULE

PART 1 - THE UNIT

ALL THAT Unit numbered 6 situate on the ground floor within the Warwick Innovation Centre and having an area extending to approximately 1,390 square feet as is for the purpose of identification only shown edged red on the Plan including (without derogating from the generality of the foregoing and the demise hereby made)

1 The Landlord's plant fixtures and fittings in or upon the same

2 The floor covering and ceiling surface of such part of the Warwick Innovation Centre as is hereby demised but not horizontal structure supporting the same

3 The surface finish (but not any structure beyond) of all boundary walls and structures which serve to enclose the Unit

4 All Service Media running in upon over or under the Unit which exclusively serve the Unit

5 All additions (except tenant's trade fixtures) hereafter made in or about the premises hereby demised

PART II - RIGHTS AND EASEMENTS GRANTED TO THE TENANT

1 Subject as hereinafter provided a free and uninterrupted right of way for the Tenant its servants agents or invitees and visitors (in common with the Landlord and all others from time to time entitled thereto) for the purposes of ingress to and egress from the Unit:

1.1 On foot and with or without vehicles over and across the roadways designated by the Landlord for such use within the site of and leading to and from the Warwick innovation Centre from the publicly adopted highway

1.2 On foot only over and across the entrance hall stairs lifts (if any) corridors and any areas within the Warwick Innovation Centre designated from time to time by the Landlord for common use including without limitation kitchens and toilet accommodation

SUBJECT TO the Landlord from time to time issuing directions for the regulation flow and control of pedestrian or vehicular traffic thereon

2 The free and uninterrupted passage and running of all services to and from the Unit through the Service Media now serving the Unit and which are situate in upon over or under the Warwick Business Innovation Centre Provided Always and It Is Hereby Agreed and Declared that if at any time during the Term the Landlord shall desire to alter stop up or divert such Service Media or any part of parts thereof the Landlord shall have full right and liberty so to do subject to the Landlord leaving available for use at all times by the Tenant reasonable and adequate alternative provisions for the services hereinbefore mentioned

3 The right (in common as aforesaid) to use and enjoy such part or parts of the Warwick Innovation Centre as shall be designated by the Landlord from time to time in such manner as the Landlord shall from time to time direct

4 The right (in common as aforesaid) to park private motor vehicles belonging to the Tenant or the servants and visitors of the Tenant in such part or parts of the areas of the Warwick Innovation Centre designated as such and as may be allocated by the Landlord from time to time Provided Always and It Is Hereby Agreed and Declared that if at any time during the Term and in its absolute discretion the Landlord shall desire to alter or relocate such areas than the Landlord shall have full right and liberty so to do

PART III - RIGHTS AND OTHER MATTERS TO WHICH THE DEMISE IS SUBJECT

1 Such easements quasi-easements rights and benefits of a similar nature as are now enjoyed by any third party

2 Such rights of access to and entry upon the Unit by the Landlord and its or their lessees and tenants and all others authorised by it or them as are necessary for the proper performance of its or their obligations hereunder or in favour of any other third party and for the performance of any of the Landlord's Services Together With such rights of access and entry on over and through the Unit as are necessary in the event of emergency or accident in any other part of the Warwick Innovation Centre

3 The right for the Landlord and others as aforesaid at any time or times hereafter to build or rebuild or alter or permit to be built or rebuilt or altered any buildings or erections (other than the Unit) upon any adjoining property now or hereafter belonging to the Landlord or any associated company of the Landlord according to such plans and to such height extent or otherwise and in such manner as the Landlord shall think fit without obtaining any consent from or making any compensation to the Tenant notwithstanding that such buildings as so built rebuilt or altered may obstruct any lights windows or other openings in or on the Unit

4 The right for the Landlord or the Managing Agent from time to time to make add to or amend regulations for the management or administration or preservation of the amenities of the Warwick Innovation Centre or any part thereof or for the general convenience of the occupiers of the Warwick Innovation Centre

5 The right (so far as necessary in common with the Tenant) for the Landlord and others aforesaid to the free passage and running of all services and other matters within the Perpetuity Period from and to any adjoining or neighbouring property not included in the Unit through and from the Service Media within the Unit Together with all easements rights and privileges necessary and proper for inspecting cleaning repairing maintaining and reinstating the same

6 The full and free right and liberty for the Landlord and others as aforesaid to enter (after reasonable notice but immediately in case of emergency) upon the unit at all reasonable times for the purpose! of connecting laying inspecting repairing cleansing maintaining amending altering replacing relaying or renewing the Service Media and any part or parts thereof and to erect construct or lay in under over or across the Unit any Service Media to other premises within the Warwick Innovation Centre the person or persons exercising such right making good any damage thereby occasioned to the Unit

7 The full and free right to enter on the Unit and all other rights powers and privileges of whatsoever kind as are necessary to enable the Landlord (if it elects so to do) and others authorized by it to remedy any and all breaches of covenant by the Tenant

8 Full right of lateral and subjacent support for the remainder of the Warwick Innovation Centre

THE SECOND SCHEDULE

THE SERVICE CHARGE PROVISIONS

1 Accounts for the Landlord's Costs reasonably and properly incurred in connection with the provision of the Landlord's Services and amenities and complying with the obligations mentioned in the Third Schedule to this Lease (including such sum or sums of money by way of reasonable provision for anticipated expenditure in respect thereof as the Landlord or the Managing Agent may in its or his sole discretion allocate to the year in question as being fair and reasonable in the circumstances) and all costs expenses and contributions to the servicing management and operation of the Warwick Technology Park that the Landlord may be required to make from time to time for each year of the Term (ending on the 29 September in each year) shall be prepared and a copy of each such account shall be supplied by the Landlord to the Tenant within six months of the period to which it relates together with a copy of a certificate from the Managing Agent that such account is correct and such certificate shall save in the case of manifest error be final arid binding on both parties

2 The Managing Agent shall determine and certify the Service Charge which shall be a fair proportion (calculated at the sole discretion of the Managing Agent) of the Landlord's Costs attributable to the Unit calculated upon the proportion that the gross area of the Unit bears to the gross area of the Lettable Areas of the Warwick Innovation Centre and such certificate given by the Managing Agent shall (except in case of manifest error) be final and binding upon both parties

3 The Tenant shall pay to the Landlord the amount of the Service Charge in the manner following that is to say:

3.1 On the first day of each calendar month during the Term the Tenant shall pay to the Landlord in advance one twelfth of the amount reasonably and properly estimated from time to time by the Landlord or the Managing Agent to be the proportion of the Landlord's Costs attributable to the Unit (hereinafter called the Estimated Service Charge) for the following period of twelve months

3.2 Within 14 days after the service by the Landlord or the Managing Agent on the Tenant of the copy of any account and certificate referred to in paragraphs 1 and 2 of this Schedule the Tenant shall pay to the Landlord the balance by which the Service Charge exceeds the total sums paid by the Tenant to the Landlord pursuant to paragraph 3.1 of this Schedule for the period to which such account relates and it is hereby agreed that if the Service Charge for any period falls short of the total sums paid by the Tenant to the Landlord pursuant to sub-clause 3.1 or this Schedule for the period to which such account or certificate relates appropriate credit for the same will be given to the Tenant in respect of the next following service charge period or returned at the expiry of the Term

4 It is hereby agreed and declared that for the purposes of this Schedule the Managing Agent's certificate from time to time as to gross areas referred to herein shall be final and binding upon both parties except in case of manifest error

THE THIRD SCHEDULE

(THE LANDLORD'S SERVICES REFERRED TO IN THE SECOND SCHEDULE)

1 Where necessary providing repairing decorating maintaining cleansing drainage lighting repainting replacing resurfacing relocating altering amending and renewing as often as may be necessary at the sole discretion of the Managing Agent the whole of the Warwick innovation Centre including without prejudice to the generality of the foregoing all existing and future fixtures and fittings thereof and equipment apparatus or installation or security heating lighting or air conditioning systems conference facilities therein or thereon and any amenities of Service Media except those things or parts thereof which are the sole responsibility of any occupier from time to time thereof

2 All costs and charges and expenses of abating a nuisance and of executing all such works as may be necessary for complying with any notice served by a Local Authority in connection with the Warwick Innovation Centre or any part thereof insofar as the same is not the liability of any individual tenant of any part thereof

3 Providing replacing and maintaining all existing and any future boundary hedges walls end fences and plants shrubs trees hedges and grassed and garden hard surfaced roadway car parking or loading areas forming part of the Warwick Innovation Centre or any part or parts thereof and keeping the same properly cultivated free from weeds and regularly cut or pruned surfaced and traffic or pedestrian controlled as deemed appropriate by the Managing Agent at his sole discretion

4 Insuring such equipment apparatus or amenities where provided and insuring any staff office or residential accommodation for personnel and any housing for plant necessary for or incidental to the carrying out of the Landlord's Services and any other services and amenities which the Managing Agent may from time to time at his sole discretion consider desirable or for the benefit of the Warwick Innovation Centre or any of its occupants

5 Providing (a) a sinking fund (in accordance with an accounting practice approved by the Managing Agent from lime to time) and/or (b) interest upon any loan required to produce moneys to cover coats of providing the Landlord's Services or any other services referred to at paragraph 4 above or any capital plant equipment amenity or thing connected therewith

6 Providing and paying the costs charges and remuneration (including any employers tax insurance or pension contribution) of any staff servant or agents (including without prejudice to the generality of the foregoing any administrator receptionist typist solicitor surveyor accountant or other professional body and any necessary accommodation therefor) to manage and administer the Warwick Innovation Centre or carry out any of the Landlord's Services or any other services referred to at paragraph 4 above

7

7.1 The insurance of the whole of the Warwick Innovation Centre or any part thereof in respect of any property owners' public liability; and

7.2 Insurance against any risks for which the Landlord may be liable as an employer of persons working or engaged in the administration or maintenance of the Warwick innovation Centre insofar as or to the extent that the same may not be the responsibility of any Tenant therein

EXECUTED as a DEED by)
UNIVERSITY OF WARWICK)
SCIENCE PARK INNOVATION)
CENTRE LIMITED)
acting under the hand of two)
directors or a director and a)

/s/ N.T. Thir

Director

/s/ UNM Haiw

Secretary

Exhibit 10.18

Confidential Materials omitted and filed separately with the Securities and Exchange Commission. Asterisks denote omissions.

AGREEMENT
FOR

RENEWABLE ENERGY ECONOMIC DEVELOPMENT GRANTS

BETWEEN

STATE OF NEW JERSEY

NEW JERSEY BOARD OF PUBLIC UTILITIES

AND

OCEAN POWER TECHNOLOGIES, INC.
1590 REED ROAD
PENNINGTON, NJ 08534

AWARD NUMBER
2

TABLE OF CONTENTS

II. GENERAL TERMS AND CONDITIONS

A. PARTIES

Whereas, Ocean Power Technologies, Inc. (hereinafter "award recipient"), with its principal place of business located at 1590 Reed Road, Pennington, New Jersey, has been selected by the New Jersey Board of Public Utilities (hereinafter "BPU") to receive a grant award under the Renewable Energy Economic Development Program (hereinafter "REED Program").

Award recipient and the BPU, intending to be legally bound hereto, accept and agree to abide by the following terms and conditions set forth in this Agreement and the proposal submitted by award recipient under the competitive solicitation entitled Ocean Demonstration of Next Generation Powerbuoy (hereinafter referred to as the "proposal").

B. ELIGIBILITY

Award recipient represents and warrants that it is an incorporated organization, with its principal place of business located and registered to do business in the State of New Jersey on the date of execution of this Agreement. Award recipient represents and warrants that it is duly organized, validly existing, and in good standing under the laws of the State of New Jersey as of the time of execution of this agreement. Award recipient agrees that any product development or process improvement activities that result from this funding, will occur in its majority within New Jersey as outlined in the proposal. Award recipient agrees that it will maintain its primary place of business and principal operations in New Jersey, during the funding period and until all obligations under this agreement have been satisfied, unless otherwise agreed by the BPU. Violation of this provision without express written approval of the BPU constitutes default under this Agreement and may result in penalties pursuant to section I.K. herein.

C. CORPORATE AUTHORITY

Award recipient represents and warrants that it has the corporate power and authority and legal right to execute and perform its obligations under this Agreement and that it has taken all necessary corporate action to authorize its execution and performance of obligations under this Agreement.

D. ENTITLEMENT TO FUNDS

Upon execution of this Agreement, award recipient shall be entitled to receive a total of $[**] in funding (hereinafter "award") from the BPU, subject to the terms and conditions stated herein, for the purposes set forth in the proposal, Attachment "A".

E. PAYMENT OF FUNDS BY BPU

Payment of funds for this award shall be made to award recipient upon receipt by the BPU of a properly executed copy of this Agreement, signed by an authorized officer of the award recipient. The BPU will advance funds to award recipient in an amount equal to [**] percent ([**]%) of this award, within [**] days of receipt of a properly executed agreement. The remaining [**] percent ([**]%) of the award to be provided in equal payments during the next [**] providing that award recipient continues to perform the work specified in the proposal to the satisfaction of the BPU.

The period of funding shall be from the start date of December 1, 2003, to the projected date of conclusion of the award supported activities (the "ending date"), which shall be May 31, 2005.

F. AVAILABILITY OF FUNDS

The parties recognize and agree that initial and continued funding for this award is expressly dependent upon the availability to BPU of funds appropriated by or through the New Jersey Clean Energy Program or other such funding sources as may be applicable for the REED program. The BPU shall not be held liable for any breach of this agreement because of the absence of available funding appropriations.

G. INTELLECTUAL PROPERTY

Award recipient warrants and represents that it owns or holds licenses for the use of all patents, trademarks, trade names, service marks, copyrights, and franchise and marketing rights or rights in any of the foregoing, as is necessary to engage in the award related activities. Any such patents trademarks, trade names, service marks, copyrights, and franchise and marketing rights or rights in any of the foregoing which result from the award supported activities shall be the property of award recipient.

H. PUBLICITY POLICY

All publications resulting from publicity releases concerning award related activities shall acknowledge the support of the BPU and the New Jersey Clean Energy Program and award recipient shall coordinate all publicity for award related activities through the BPU project manager.

I. COMPLIANCE WITH EXISTING LAWS

Award recipient agrees to comply with and require all contractors and consultants used by it in relation to the award supported activities to comply with all federal, state and municipal laws, rules and regulations applicable to all activities performed by award recipient in pursuit of and in relation to award supported activities. Specifically, and without limitation, award recipient agrees to comply

with and require all contractors and consultants used by it in pursuit of and in relation to the award supported activities to comply with the requirements of N.J.A.C. 17:27 et. seq. (Affirmative Action Rules), where applicable, P.L. 1975, c.127 (N.J.S.A 10:5-31 et. seq.) (Equal Opportunity in Public Works Contracts), where applicable, and all implementing regulations, and the Americans With Disabilities Act and implementing regulations and guidelines, where applicable. Failure to comply with these or any other applicable laws, rules or regulations shall be grounds for termination of this Agreement.

J. CONFLICT OF INTEREST

Award recipient agrees to abide by the provisions of N.J.S.A 52:13D et seq.(the New Jersey State Employees Conflict of Interest Law) governing activities between award recipient and state officials, employees, special state officers and members of the Legislature. The provisions of N.J.S.A 52:13D et seq. are incorporated herein in their entirety, by reference thereto. Award recipient represents and warrants that it has not and will not at any time in the future act in violation of said statutory provisions. Any violation of said prohibitions shall render award recipient liable to debarment in the public interest.

K. REMEDIES

The following definitions shall apply for the purposes of this section:

Termination -- the termination of an award means the cancellation of an award, in whole or in part, at any time prior to the date of completion.

Suspension -- the suspension of an award is an action by the BPU, which temporarily suspends funding under the award, pending corrective action by award recipient or pending a decision to terminate the award by the BPU.

Disallowed costs -- are those charges to the program which the BPU or its representatives determine to be beyond the scope of the purpose of the award supported activities or are excessive or incurred during a period of suspension or after termination or are otherwise unallowable.

Award recipient warrants and represents that all statements, representations and warranties made by award recipient in its application and proposal package to the BPU, and any other materials furnished in support of the request for funding are true. It is specifically understood by award recipient that all such statements, representations and warranties shall be deemed to have been relied upon by the BPU in its decision to make the award, and that if any such statements, representations or warranties were materially false at the time they were made or are breached during the term hereof, the BPU may, in its sole discretion, consider any such misrepresentation or breach an event of default and the BPU may take one or more of the following actions, as appropriate in the circumstances.

(1) The BPU may suspend the award, withhold further funding and prohibit the award recipient from incurring additional obligations pending corrective action by the award recipient and disallow costs incurred during suspension.

(2) The BPU may terminate the award in whole or in part. The BPU shall promptly notify the award recipient, in writing, of the termination and the reasons for the termination, together with the effective date and, in case of partial termination, the portion to be terminated and the recoverable portion, if any. When an award is terminated pursuant to this paragraph, payments made to the award recipient shall be terminated and any funds already distributed that are determined by the BPU to be recoverable shall be returned within [**] days of demand thereof by the BPU. Costs incurred after termination shall be disallowed.

(3) The BPU may disallow any costs.

(4) The BPU may demand immediate return of some or all of the award, excepting those funds rightfully disbursed by award recipient to third party entities.

(5) The BPU may pursue other remedies at law or in equity as may be within legal right.

The BPU may also terminate the award at any time, in whole or in part, when the BPU determines that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The BPU shall promptly notify award recipient in writing, of the determination to terminate the award, together with the effective date and, in case of partial termination, the portion to be terminated. Award recipient shall cancel as many outstanding obligations as possible. Costs incurred after termination pursuant to this paragraph shall be disallowed.

The costs of award recipient resulting from obligations incurred by it during a suspension, or after termination of an award, are not allowable unless the BPU expressly authorizes them in the notice of suspension or termination or subsequently. Such costs may be allowed if they are: (l) necessary and (2) not reasonably avoidable and (3) were properly incurred by the award recipient before the effective date of suspension or termination and (4) are not in anticipation of it and (5) in the case of a termination are non-cancelable and (6) the costs would be allowable if the award were not suspended or expired normally at the end of the funding period.

No remedy herein conferred or reserved to the BPU is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof.

Section III of this agreement, award closeout procedures, shall apply in all cases of termination.

L. HEARINGS, APPEALS

Upon taking an enforcement action pursuant to section I.K. above, the BPU will provide award recipient an opportunity for such hearing, appeal, or other administrative proceeding to which award recipient is entitled under any statute or regulation applicable to the action involved.

M. CHANGES TO SCOPE

The BPU may request changes in the scope of the services to be performed hereunder. Such changes, including any increase or decrease in the amount of the funds provided herein, shall be mutually agreed upon by and between the BPU and award recipient, and must be incorporated in written amendments to this Agreement.

N. ASSIGNABILITY

Award recipient shall not subcontract or assign any of the work or services to be performed by it in relation to award supported activities except as already stated in Attachment "A," without the express written approval of the BPU. All terms and provisions herein shall apply to all subcontractors or assignees.

O. INDEMNIFICATION

Award recipient shall be solely responsible for and shall keep, save, hold harmless and indemnify the BPU and the State of New Jersey from and against any and all actions, costs, damages, disbursements, expenses including, but not limited to, attorney's fees, judgments, liabilities, losses, obligations, penalties, suits, proceedings, claims and matters of any kind whatsoever which may at any time be imposed on, incurred by, agreed to or asserted against the BPU and the State of New Jersey, arising out of any and all activities, acts, omissions, services performed and products provided by award recipient, including the award supported activities. The BPU and the State of New Jersey shall bear no liability in any form to any third party for any acts or omissions on the part of award recipient. Award recipient's liability under this paragraph shall continue for a five-year period after the closeout or termination of this agreement.

P. ENTIRE AGREEMENT

This agreement and the attachments hereto embody the entire agreement and understanding between award recipient and the BPU, representing the State of New Jersey and supersede all prior agreements and understandings, both written and oral, between the parties relating to the subject matter herein. All modifications, waivers, and amendments hereto must be made in writing by mutual agreement of the parties, except as otherwise stated herein.

Q. JURISDICTION AND CHOICE OF LAW

Jurisdiction of any action hereunder shall lie in a court of competent jurisdiction in the State of New Jersey and shall be construed in accordance with the laws of the State of New Jersey applicable to contracts made and performed in the State of New Jersey.

R. CONSTRUCTION

Whenever possible, each provision of the Agreement shall be interpreted in such a manner as to be effective and valid under the applicable law, but, if any provision of this Agreement shall be held to be prohibited or invalid under such applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of the Agreement.

S. NOTICES

Upon request by the BPU, any notices, demands, and communications hereunder shall be given by certified or overnight mail and shall be addressed to:

For Award Recipient:

Charles F. Dunleavy
Ocean Power Technologies, Inc.
1590 Reed Road
Pennington, NJ 08534

For The State:

New Jersey Board of Public Utilities
44 S. Clinton Avenue, P.O. Box 350
Trenton, NJ 08625-0350

Any changes or additions to the notice provisions above shall be made in writing provided as stated above.

III. POST AWARD REQUIREMENTS

A. IDENTIFICATION OF KEY PERSONNEL

Award recipient shall identify and maintain an individual with the principal responsibility for the management of all award related activities. This individual, designated the project manager, shall be [**].

Award recipient shall identify and maintain an individual with the principal responsibility for maintaining an adequate financial management system as

described below. This individual, designated the financial manager, shall be Charles F. Dunleavy.

B. FINANCIAL MANAGEMENT SYSTEM

The financial manager shall be responsible for maintaining a financial management system in compliance with this agreement. The financial manager shall notify the BPU immediately if award recipient cannot comply with the requirements established herein.

The financial management system shall provide for:

(1) accurate, current and complete records of the financial results of this program, in conformity with generally accepted principles of accounting, capable of being reported in a format in accordance with the financial reporting requirements as described herein; and

(2) records that adequately identify the source and application of funds for BPU supported activities, containing information pertaining to awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures and income, and be maintained in conformity with generally accepted principles of accounting; and

(3) effective internal and accounting controls over all funds, property, and other assets; and

(4) comparison of actual expenditures or outlays with budgeted amounts for the award, which shall be related to performance or productivity data; and

(5) procedures for determining reasonableness, allowableness, and allocability of costs, consistent with the provisions of federal and state requirements; and

(6) source documentation.

The BPU may review the adequacy of the award recipient's financial management system at any time during the period of the award. If the BPU determines that the award recipient's system does not meet the standards described in this section, additional information may be required by the BPU upon written notice to the award recipient. This information shall be provided to the BPU until such time as the BPU determines that the system meets with BPU approval. If award recipient fails to provide such information to the satisfaction of the BPU, or if the BPU determines that the award recipient has consistently failed to maintain the proper financial management system, the BPU may take action pursuant to section I.K, herein.

C. USE OF FUNDS

The funds provided herein may be used only for allowable costs. Award funds may be used for salaries, supplies, travel, purchase of services, equipment, and other direct project expenses, plus properly allocable indirect costs as set forth in the Proposal, and incorporated in the Award Budget. Funds may only be used for costs that are directly applicable to the project, not for general and administrative costs to the company.

Award recipient may charge to the award only the costs resulting from obligations incurred during the funding period, unless carryover of unobligated balances is permitted, in which case the carryover balances may be charged for costs resulting from obligations of the subsequent program period.

The award recipient must liquidate all obligations incurred under this award not later than [**] days after the end of the funding period, unless specific authority to extend this deadline is granted, in writing, by the BPU.

D. MATCHING AND COST SHARING

Award recipient shall be required to account for, to the satisfaction of the BPU, the matching and cost-sharing requirements as stated herein. The BPU requires that any funds it commits to support award related activities shall be matched as outlined in the proposal with non-state support. Non-state support may include cash and/or in kind support. In kind support includes the salary costs of the research team, use of company equipment, materials, and other resources devoted to the project by the company, its consultants, subcontractors, vendors, or other participating partners. Cash support includes third party equity investments or loans, funding from federal grants, foundations, and universities, cash commitments from distributors to support marketing, sales promotion, and/or customer service, investments by company principals, payments to outside vendors, consultants, or contractors for work performed related to the project. The matching support may include contributions by the sponsoring company for the expenses of the project, and contributions by individuals and/or organizations collaborating with the company. To qualify as cost sharing, all support must be available for expenditure during the funding period.

E. BUDGET REVISIONS AND MODIFICATIONS

The "award budget" as used in this section means the agreed financial plan approved by the BPU that will be utilized to implement award-related activities. The award budget is appended as Attachment "A" hereto. Line item variances in the award budget, in amounts up to [**] dollars ($[**]) or [**] percent ([**]%) of the total amount of the award, whichever is less, do not require the prior approval of the BPU but may be initiated by award recipient and reported in the financial reports. In the event that the financial reports indicate line item variances in excess of this amount (either under or over expenditure) and have not received

BPU pre-approval, the BPU may require that the amount of the variance over [**] dollars ($[**]) or [**] percent ([**]%) of the total award be refunded to the State of New Jersey.

All other budget revisions and modifications to the award budget in amounts in excess of [**] dollars or [**] percent ([**]%) of the total amount of the award, must be approved in advance, in writing, by the BPU. Before any obligation is incurred which would result in any line item variance in excess of the variances permitted above, the award recipient must obtain an award budget amendment, in writing, from the BPU. The award recipient must also obtain prior written approval when a revision or modification will be necessary for any of the following reasons:

(1) changes in the scope, objective, or timing of the project or program;

(2) the need for additional funding, or to extend the period of availability of funds;

(3) the award recipient plans to transfer funds that would cause part of the award, or part thereof, to be used for purposes other than those originally indicated.

If the award recipient is making program expenditures or providing grant services at a rate, which in the judgment of the BPU, will result in substantial failure to expend the award amount or provide services, the BPU shall so notify the award recipient. If, within [**] days of such notice, the award recipient is unable to develop, to the satisfaction of the BPU, a plan to rectify its low level of program expenditures or services, the BPU may, upon a [**] day notice, reduce the award amount so that the revised award amount fairly projects program expenditures over the award period. This reduction shall take into account the award recipient's fixed costs and shall establish the committed level of activity for each program element of activity at the reduced amount.

F. MONITORING OF PROGRAM PERFORMANCE

The award recipient, shall continually monitor the performance of award supported activities to assure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved, as applicable, and as defined by the proposal, Attachment "A" hereto.

The award recipient shall inform the BPU of the following types of conditions, which affect program objectives and performance as soon as they become known:

(1) problems, delays or adverse conditions which will materially impair the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods, accompanied by a statement of the action taken, or contemplated, and any BPU assistance needed to resolve the situation; and

(2) favorable developments or events which enable meeting time schedules and goals sooner than anticipated or at less cost, or producing more beneficial results than originally planned.

The BPU may at its discretion make site visits to review program accomplishments and management control systems and to provide technical assistance as the BPU determines may be required.

G. ACCOUNTING PRINCIPLES

Compliance with any provision of this Agreement relating to financial or accounting computation or reporting shall be determined in accordance with generally accepted principles of accounting.

H. ACCESS TO RECORDS

The award recipient agrees to make available to the BPU, and any state or federal agency whose funds are expended in the course of this program, or any of their duly authorized representatives, pertinent accounting records, books, documents, electronic files, and other items as may be necessary to monitor and audit operations and finances. All visitations, inspections and audits, including visits and requests for documentation in discharge of the BPU's responsibilities, shall as a general rule provide for prior notice when reasonable and practical to do so. However, the BPU retains the right to make unannounced visitations, inspections, and audits as deemed necessary. The BPU reserves the right to have access to all work papers available to the award recipient in connection with audits made by the award recipient or by independent certified public accountants, registered municipal accountants, or licensed public accountants hired by the award recipient to perform such audits.

I. INSURANCE

Award recipient agrees to carry general liability insurance and other such insurance against loss, damage and liability as is customary within its industry, to be held with insurance companies licensed to do business in New Jersey.

J. TAXES, ASSESSMENTS AND GOVERNMENTAL CHARGES

Award recipient warrants and represents that all tax returns and reports of award recipient required by law to be filed have been duly filed and all taxes, assessments, fees and other governmental charges upon the award recipient or upon any of its respective properties, assets, income or franchises which are due and payable pursuant to such returns and reports, or pursuant to any assessment received by the award recipient have been paid other than those which may be presently payable without penalty or interest.

Award recipient agrees to pay as they become due, all taxes, assessments and governmental charges, which may be required by law or contract to be paid by the

award recipient. Award recipient may in good faith contest such taxes and governmental charges and such taxes and charges may remain unpaid during the period of such contest.

IV. AWARD CLOSEOUT

A. PROCEDURES

The BPU shall close out the award provided herein when it determines that all applicable administrative action and all required work pertaining to the award have been completed by the award recipient.

The date of completion of this program shall be when all activities related to the award are completed, the funding period has expired, or the BPU terminates the award, whichever occurs earliest.

The award recipient shall submit a final report pursuant to section IV.B below upon the date of completion or termination of the award. The BPU may permit extensions when requested in advance, in writing, by the award recipient.

Upon the date of completion, or termination of the award by the BPU, the award recipient will, together with the submission of the final report, refund to the BPU any unexpended funds or unobligated (unencumbered) cash advanced, except such sums that have been otherwise authorized in writing by the BPU to be retained.

Award recipient must liquidate all obligations incurred under this award not later than [**] days after date of completion or termination of the award, unless specific authority to extend this deadline is granted, in writing, by the BPU.

Within the limits of the award amount, the BPU may make a settlement for any upward or downward adjustment of costs after these reports are received.

In the event a final audit has not been performed prior to the closeout of the award, the BPU retains the right to recover any appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

The award recipient shall account for any property acquired with award funds or received from the BPU.

B. FINANCIAL AND PERFORMANCE REPORTING

(1) Monthly reports will be sent to the BPU program manager with updates on each of the tasks outlined in the proposal and an expenditures for that month and cumulative to the project. A final report will also be provided to the BPU program manager.

(2) If applicable, the award recipient shall provide to the BPU, concurrently with the furnishings thereof, copies of all reports sent to award recipient's shareholders, the Securities and Exchange Commission, or any securities exchange.

C. RECORD RETENTION

Except as otherwise noted below, financial and program records, supporting documents, statistical records, and all other records pertinent to this award shall be retained for a period of [**] years, starring from the date of "submission of the final expenditure report, unless federal or state funding statutes require a longer period.

If any litigation, claim, negotiation, action or audit involving the records is started before the expiration of the [**] year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular [**] year period, whichever is later.

Records for nonexpendable property acquired with BPU funds shall be retained for [**] years after final disposition of the property.

The retention period for real property and equipment records starts from the date of the disposition, replacement or transfer of the real property or equipment.

The BPU may request transfer of certain records to its custody from the award recipient when it determines that the records possess long-term retention value and will make arrangements with the award recipient to retain any records that are continuously needed for joint use.

IN WITNESS WHEREOF, the parties, duly authorized and intending to be legally bound hereto, execute this agreement, as of the date last written below.

(Cassandra Kling)
Witness

Ocean Power Technologies, Inc.
Charles F. Dunleavy
Chief Financial Officer

Date 3 November 2003

/s/ Charles F. Dunleavy

New Jersey Board of Public Utilities

/s/ Jeanne M. Fox
- ---
Witness

Jeanne M. Fox
President

Date

APPROVED AS TO FORM:

ATTORNEY GENERAL OF NEW JERSEY

11-03-03
Date

By: Brian Lipman
Deputy Attorney General

/s/ Brian Lipman

ATTACHMENT A

AGREEMENT

between

STATE OF NEW JERSEY

NEW JERSEY BOARD OF PUBLIC UTILITIES

and

Ocean Power Technologies, Inc.

(2)

Proposal "Ocean Demonstration of Next Generation Powerbuoy," dated March 31, 2003

ATTACHMENT B

AGREEMENT

between

STATE OF NEW JERSEY

NEW JERSEY BOARD OF PUBLIC UTILITIES

and

Ocean Power Technologies, Inc.

(2)

FINAL PERFORMANCE REPORT GUIDELINES

The Final Performance Report, which is required under terms of the BPU's award agreements with Renewable Energy Economic Development Program award recipients, is intended to provide recipients with a consistent means of reporting their achievements resulting from BPU support. The Final Report should be concise, yet sufficiently detailed to provide a comprehensive overview of the activities, results and achievements of the funded project, relative to the proposal. Variances from the proposal should be identified and explained.

The Final Performance Report should be provided in the following format:

I. Executive Summary (one page)

II. Technical Report

A. Technical achievements of the grant period (compared explicitly against outcomes projected in grant proposal).

B. Unanticipated technical stumbling blocks.

C. Additional technical work likely to be required prior to commercial exploitation of the research by the New Jersey industrial partner.

III. Partnership Report

A. Nature of the matching contribution actually received from the New Jersey industrial partner.

B. Nature of the substantive collaboration evidenced by or accompanying the match.

C. Nature of the arrangements made for ownership/disposition of intellectual property (i.e., was there a research agreement executed?).

D. Assessment by the industrial partner of the commercial or strategic importance of the project outcomes (cite an individual by name who can be contacted for verification by the BPU).

E. The industrial partner's future plans for knowledge developed during the project, whether owned by the university or the partner (e.g., any licensing and/or manufacturing plans). Be specific as to geographic locus of these activities.

IV. Institutional Report (as applicable)

A. Assessment by the principal investigator of the impact which the project has had on the future research capacity of the sponsoring academic institution.

B. Plans for further development funding of the research, assuming that full commercialization has not been achieved during the grant period.

C. Publications resulting (include reprints with credit to BPU).

D. Patent applications/awards resulting (specify stage reached as of final report).

E. Licenses issued/issuing (specify stage reached as of final report).

F. Jobs created (direct and indirect)

G. Additional funding leveraged by BPU award.

Exhibit 10.19

Confidential Materials omitted and filed separately with the Securities and Exchange Commission. Asterisks denote omissions.

CONTRACT FOR THE DEVELOPMENT AND APPLICATION OF A SEA WAVE ENERGY GENERATION SYSTEM IN FRANCE

This contract for the development of the application of a wave energy generation system in France (hereinafter: "the Agreement") is signed as of June 17, 2005 by and between:

IBERDROLA ENERGIAS RENOVABLES II, S.A. SOCIEDAD UNIPERSONAL (hereinafter: "IBERENOVA"), a company existing and organised under the Spanish law, with Tax Registration Number A-83028035, having its registered office located at Tomas Redondo, 1, Madrid, Spain, represented by Ms ANA ISABEL BUITRAGO MONTORO with National Identity Document No. 79.305.185-N and Mr. MIGUEL MARTIN SAEZ, with National Identity Document No. 12.158.285-W, acting in their capacity as joint and several representatives by virtue of the deed of power of attorney executed on 29 May 2002 before the Notary Public of Bilbao, Mr. Arriola Arana, under number 1.039 of his records.

And

TOTAL ENERGIE DEVELOPPEMENT SA (hereinafter: "TED"), a company existing and organised under the French law, having its registered office located in France, 92078 Paris la Defense Cedex, 2, Place de la Coupole, La Defense 6, represented by Mr. GILLES COCHEVELOU acting in his capacity as President.

And

OCEAN POWER TECHNOLOGIES LTD. (hereinafter: "OPT"), a company, wholly-owned by OPT Inc. existing and organised under the laws of England and Wales having its registered office located at Warwick Innovation Centre, Gallows Hill, CV34 6UW Warwick, England, United Kingdom, represented by Mr. MARK DRAPER acting in his capacity as Chief Executive.

And

OCEAN POWER TECHNOLOGIES INC, (hereinafter: "OPT Inc") a company existing and organised under the laws of United States of America having its registered office located at Pennington, New Jersey, United States of America, represented by Dr. George W. Taylor, acting as Chief Executive officer of the company.

IBERENOVA, TED and OPT being hereinafter individually referred to as a (Party) and collectively referred to as the (Parties).

WHEREAS:

A. OPT represents that it has all rights to (i) use the industrial and intellectual property rights of the technology for the generation of electrical power using energy from sea waves, registered under the name PowerBuoyTM System (hereinafter: together with any developments, improvements or derivatives thereof, the "Technology"), (ii) sell the PowerBuoys stations, and (iii) operate and maintain them.

B. IBERENOVA is strongly active in the renewable energy sector.

C. IBERENOVA and OPT Inc., inter alia, have entered into a Collaboration Agreement dated July 2, 2004 (hereinafter: the "Cantabria Agreement") whereby they are participating in the evaluation and possible development of a pilot project for a sea wave energy generation electricity power station with an initial power of 1.25 MW on the North coast of Spain (hereinafter: the "Cantabria Project") using the Technology. As of the date hereof, TOTAL EOLICA, S.A has joined the Cantabria Agreement in writing, with the remaining partners' prior consent.

D. IBERENOVA and OPT, assuming that the [**], wish to develop a new project for a sea wave energy generation electricity power station using the Technology on the coast of France, in collaboration with an industrial company being active in the renewable energy sector in France.

E. TED (a company of the TOTAL Group which is active world-wide in the energy sector) is conducting its business in the renewable energy sector especially in France and is interested in participating in generation electricity projects using sea wave energy both in France and in other countries including Spain.

F. TOTAL EOLICA, S.A (a company of the TOTAL Group which is active in the energy sector) is conducting its business in the renewable energy sector in Spain and is interested in participating in generation electricity projects using sea wave energy in Spain.

G. The Parties, based on the complementary nature of their skills, experience and resources, wish to enter into a collaboration to study and assess the technical and economical possibility to develop on the coast of France, one sea wave energy generation electricity power station with a capacity of around 2 to 5 MW (the exact number of MWs to be decided by the Steering Committee as provided below) using the Technology (hereinafter: the "Project").

H. The Parties acknowledge that the French Authorities have enabled the development of Renewable Energy Projects through [**]. The Parties acknowledge that the Project will not be a Demonstration Project (with little or no return on capital) and that the intention of this Agreement is to develop a project which will be submitted to the [**].

I. The Parties wish to set forth certain rules to regulate more precisely their collaboration and, in this regard, have entered into this Agreement.

NOW IT IS HEREBY AGREED AS FOLLOWS.

1. PURPOSE.

Under the terms and subject to the conditions set forth in this Agreement, the Parties shall actively and closely co-operate in good faith to study and assess the feasibility of the Project. Such feasibility study shall include the research of potential sites on the coast of France whereon one sea wave energy generation electricity power station (hereinafter: the "Power Station") may be installed and shall concern all other aspects relating to the Project including but not limited to its economical, technical, legal, administrative, environmental, marketing and operational constraints, aspects and perspectives.

Should the Parties conclude that the Project is feasible, they shall meet and discuss in good faith as to whether the Project should be implemented or not and, if the Parties decide to implement the Project, shall define the scheme for any such development and operation of the Project.

For the purposes of this Agreement the Parties agree that "France" shall mean all French territories excluding the following: "Nouvelle-Caledonie", "Polynesie-Francaise", "Wallis et Futuna", and the "Terres australes et antarctiques francaises" (TAAF).

2. RELATIONSHIP BETWEEN THE PARTIES.

2.1 Pursuant to the provisions of this Agreement, the interests, rights, duties, obligations and liabilities of the Parties shall be several and not joint, but without limitation to what is provided in section 10 below.

2.2 Nothing in this Agreement shall be construed as creating a partnership, association, joint venture or any other legal entity between the Parties. The Parties agree that their entering into any further agreements or their decision to proceed with the implementation of the Project (phase 2) are subject to the prior corporate approval by their respective Board of Directors (or equivalent) and, with respect to TED and IBERENOVA, to the prior approval by the Executive Committee of TOTAL S.A. and of the Steering Committee (Comite Operativo) and the Executive Committee of IBERDROLA, S.A. respectively. Nothing in this Agreement is intended to bind the Parties neither to enter into any further agreement nor to proceed with the implementation of the Project.

2.3 From the effective date of this Agreement, each Party shall not enter into any commitment or incur any liabilities or obligations for or on behalf of any other Party towards third parties in connection with the Project without the prior written consent of the relevant Party. In this regard, no Party shall be deemed to be a representative, agent, employee of any other Party for any purpose whatsoever.

2.4 During the duration of the Feasibility of Studies (phase 1 of this Agreement) including any written extension thereof, and until [**], OPT shall not, directly or indirectly, within France: (i) develop any power plant based on the Technology or any improvements or developments thereof; (ii) build and/or supply any equipment based on the PowerBuoy System other than as provided for in this Agreement.

3. FEASIBILITY STUDIES (PHASE 1)

During an initial period of eighteen (18) months from the execution date of this Agreement, the Parties will jointly conduct studies (the "Feasibility Studies") in respect of the following aspects of the Project :

(a) Determination of the wave energy potential of the coast of France obtainable with the Technology;

(b) Establishment and development of a design and installation programme of the corresponding Power Station with a capacity of around 2 to 5 MW, the exact capacity to be agreed to by the Steering Committee;

(c) Negotiation with the French authorities of the conditions and agreement required to implement the Project, including without limitation public marine domain concession, building consent, connection agreement and power purchase agreement;

(d) Obtaining all other necessary consents and permits;

(e) Assessment of the required engineering procurement and construction contract and related agreements;

The Parties shall prepare a work program (including a project plan) and a budget in respect of the Feasibility Studies for approval by the Steering Committee.

The Parties shall use reasonable efforts to complete the Feasibility Studies in accordance with the work program. If the Parties do not have sufficient information eighteen (18) months after signing this Agreement to make the decision contemplated in this section regarding the development of the Project, the Parties, through the Steering Committee, agree to extend the initial phase up to a maximum of further six (6) months.

During this phase 1, IBERENOVA shall be the leader for promoting the Project and negotiating with the French authorities all necessary authorisations. However, IBERENOVA shall keep the other Parties informed of the content of its discussions with French Officials (including but not limited to: representatives of the French government, ministries, local and central administration, elected people etc...) regarding the Project.

When the Feasibility Studies are completed, and if the Parties unanimously conclude that the Project would be economically, technically and financially feasible, the Parties will meet to discuss and decide in writing whether and how they will jointly develop such Project. The Party or Parties not agreeing in writing to develop the Project before the said 90-day from completion of the Feasibility Studies will be considered, for all the purposes of this Agreement, as a Withdrawing Party and thus subject (without limitation) to Clauses 8.3.(b) and 8.3.(c) below. For the purposes herein, the Feasibilities Studies will be deemed to have been completed when so agreed to by the Steering Committee, but without limitation to Clause 8.2.(a) below.

The Parties shall exchange all relevant information necessary to perform the Feasibility Studies, provided that none of the Parties shall be required to furnish the others with non-proprietary data subject to confidentiality agreements vis-a-vis third parties until they obtain such third party's prior consent, provided that OPT will not be entitled to claim third parties' rights over the "Technology" to restrain the other Parties from having access thereto.

Each Party shall be entitled to use the Feasibility Studies only pursuant to the terms of this Agreement and in accordance with the provisions of Exhibit 1 ("Confidential Information, Inventions and Trade Secrets Agreement") to this Agreement.

4. PARTICIPATING INTERESTS IN THE PROJECT.

At the time of execution of this Agreement, the undivided interest of each Party in the rights, benefits and obligations pursuant to this Agreement and in the Project (hereinafter: the "Participating Interest") shall be :

PARTY	PARTICIPATING INTEREST
IBERENOVA	[**]
TED	[**]
OPT	[**]

5. COSTS AND EXPENSES.

All costs and expenses incurred directly by the PARTIES in connection with the study and assessment of the Project, together with all other costs and expenses from external advisors for the purpose of carrying out the work contemplated by the PHASE 1 shall be shared between the PARTIES as per their respective PARTICIPATING INTEREST in the Project, provided they have been previously approved by the STEERING COMMITTEE and regardless of whether or not the PROJECT finally goes ahead and even if one or several of the PARTIES hereto decide not to go into the PROJECT, in which case section 8.3 (b) shall apply.

In that sense, an economic fund (hereinafter the "FUND") will be established and shall be payable by the PARTIES in the proportions of their PARTICIPATING INTEREST. The FUND will be managed by the STEERING COMMITTEE which will detail the contributions to be made by each of the PARTIES to the FUND, and the budget of expenses of each PARTY to be paid by the FUND, in the PHASE 1.

The Steering Committee shall decide which of the Parties or a third party shall carry out the various aspects of work contemplated by this Agreement.

The Fund shall be managed by IBERENOVA who also shall be the formal addressee of the invoices from the Parties. The invoices shall be paid within [**] days.

If the decision to implement the Project is taken, said payments to the Fund by each Party shall be recoverable from the Special Purpose Company that may be created by the

Parties for the development and operation of the Project or shall be capitalised in this Special Purpose Company as appropriate.

Each Party shall retain evidence, including supporting documentation such as invoices and timesheets, of all costs for inspection upon request. All costs to be incurred in accordance with this Agreement, shall be budgeted, presented and approved by the Steering Committee.

6. STEERING COMMITTEE.

6.1 Upon execution of this Agreement, the Parties shall set up a Steering Committee (hereinafter: the "Steering Committee") composed of the following three (3) members (1 representative appointed by each Party):

TED representative: [**]
IBERENOVA representative: [**]
OPT representative: [**]

The representative appointed by [**] shall be the chairman of the Steering Committee. The Steering Committee shall have ultimate overall control and decision-making powers with regard to the activities under Phase 1 of this Agreement. A Party may change its representative or designate an alternate (who will need to be an employee of the appointing Party or of any company of its group of companies subject to the confidentiality obligations provided herein), subject to give prior written notice to the other Parties.

6.2 The Steering Committee shall meet as often as necessary, but at least [**]. Any Party shall have the right to submit a proposal for consideration by the Steering Committee.

6.3 The meetings will be held alternately in Madrid and Paris (at the head-offices of IBERENOVA and TED) or at such other place as may be agreed from time to time by the Parties. The presence of all representatives of the Parties shall be required to constitute a quorum for any meeting of the Steering Committee. Each Party shall use its reasonable efforts to ensure the existence of a quorum at any duly called meeting of the Steering Committee.

6.4 The Parties intend that the members of the Steering Committee shall attend the meetings of the Steering Committee in person, but recognise that members may from time to time be prevented from doing so. Therefore, members of the Steering Committee may participate in a meeting of the Steering Committee by means of telephone or video conference or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at such meeting. Each Party may also designate by written notice to the other Parties an alternate representative, who will need to be an employee of the appointing Party or of any company of its group companies subject to the confidentiality obligations provided herein, to act in the absence of a member unable to attend a meeting of the Steering Committee. Any action required or permitted to be taken at a meeting of

the Steering Committee may be taken without a meeting if a written consent, setting forth the action so taken, is signed by all members of the Steering Committee.

6.5 The Steering Committee shall be responsible for the following activities:

- reviewing, modifying and approving the budget for all costs and expenses to be incurred in accordance with clause 5 in connection with the Project;

- monitoring Project progress and adherence to the budget;

- engagement and termination of any external accountants, engineers, environmental consultants, financial advisors or legal counsel and all other external advisors providing services for the Project;

- approving the distribution or payment of any amount to any Party except pursuant to the approved budget;

- approving the selection of the site whereon Power Station may be installed;

- analysis of the conclusions of the Feasibility Studies and recommendation to the Parties as to the possible implementation of the Project;

- deciding that the Feasibility Studies of the Project are ended;

- extending the duration of the Feasibility Studies phase;

- approving a time schedule for the possible implementation of the Project;

- approving public announcements to be made in connection with the Project.

6.6 Decisions of the Steering Committee shall be made by unanimous approval of the representatives of the Parties (principle of consensus), it being understood that the representative of each Party shall have one (1) vote. If the Steering Committee is unable to reach agreement on any matter within its competence, at the request of either Party, a second meeting of the Steering Committee shall be convened to be held within [**] weeks from the date of the first meeting at which the Steering Committee failed to reach agreement. At this second meeting, the Steering Committee shall apply all possible means to resolve the disagreement.

6.7 All decisions taken during a meeting by the Steering Committee shall be recorded in minutes. Minutes of the meetings of the Steering Committee shall be drafted in English by the Chairman and a draft shall be sent to the Parties within [**] working days of the meeting. The minutes shall be deemed approved by the Parties if no comment is made within [**] working days from the sending of the draft to the Parties. All the important decisions taken during a meeting shall be recorded and signed upon at the end of the meeting.

6.8 Relations with French media will be managed by TED as per the decision taken by the Steering Committee. Similar arrangements will be implemented for phase 2.

7. IMPLEMENTATION OF THE PROJECT (PHASE 2).

Provided that the Parties agree in writing that the Project should be implemented, they shall identify an optimal legal structure and in connection therewith, they (or any of their Affiliated Companies) shall incorporate a "Societe Anonyme"(S.A) or a "Societe par Actions Simplifiees" (S.A.S) under French law (or other legal vehicle as may be agreed by the Parties) for the implementation of the Project (hereinafter: the "Special Purpose Company" or the "SPC"). For the purpose of this Agreement, "Affiliated Company" shall mean any company or legal entity which (i) controls either directly or indirectly a Party, or (ii) which is controlled directly or indirectly by such Party, or (iii) is directly or indirectly controlled by a company or entity which directly or indirectly controls such Party. "Control" means the right to exercise one hundred percent (100%) of the voting rights.

The Parties shall use their reasonable commercial efforts to negotiate in good faith and enter into the bylaws and shareholders agreement, and to incorporate the SPC no later than [**] months after a final decision (if any) is taken in writing to implement the Project.

The Parties hereby agree on the following basic principles that shall govern the ownership and management of the SPC and the business relationships between the SPC and each Party (or its Affiliated Companies):

(a) The head-office of the SPC shall be located in the region of Paris, France.

(b) Share in the capital of the SPC shall be distributed between the Parties (or any Affiliated Company of each Party) as follows:

PARTY	SHARE CAPITAL PERCENTAGE
IBERENOVA	[**]
TED	[**]
OPT	[**]

The shares shall be indivisible and shall give rise each to equal rights of participation in the collective decisions and in the annual income as well.

(c) The share capital of the SPC shall be in an amount sufficient so that external funding does not require sureties or guarantees of the Parties. Each Party shall contribute to the equity of the SPC in proportion to its percentage of share in the capital;

(d) The General Manager ("Directeur General" in a S.A. or "President" in a S.A.S. under French law), the Chairman and the Company Secretary shall be appointed amongst candidate(s) proposed by [**]. Subject to the overall supervision and control of the Board of Directors (or any equivalent corporate decision body in

the S.A.S.), the General Manager shall be responsible for the day-to-day management of the SPC;

(e) The Board of Directors shall be composed of [**] members of whom [**] shall be appointed by [**] by [**] and [**] by [**] provided that the initial capital stake of each Party is in accordance with Clause 4 above. In case of change of the distribution of the share capital among the shareholders, the Board composition will be amended to reflect broadly the respective percentage held by each Party; in any case, each Party will have the right to appoint at least [**] member of the Board of Directors. Except for the decisions mentioned below, all resolutions of the Board of Directors shall be adopted by a simple majority of the directors present or represented at the meeting;

(f) No action shall be taken by or on behalf of the SPC by the General Manager or any other person on any of the following matters, except by a resolution of the Board of Directors (or the general assembly of the shareholders as appropriate) adopted by not less than a [**]% majority of the voting powers of the directors (i.e. for the foreseen initial composition of the Board, [**] out of [**] directors vote favourably) (or [**]% of the share capital, as the case may be):

- approval of the SPC's business plans, which shall include the investments to be carried out for implementing the Project and amendments to said investments exceeding [**] Euros;

- investment or divestitures other than in the ordinary course of business of the SPC or except expressly authorized in the business plan or in duly approved amendments thereto, including without limitation operation and maintenance investments directly addressed to enlarge the useful life or increase the production of the original Project;

- making of loans or borrowing by the SPC other than those addressed to financing the investments included in the SPC's business plans or its duly approved amendments or otherwise previously approved pursuant this Section (f);

- entering into, terminating or modifying any contract between the SPC and (i) any Party (or its Affiliated Companies), or (ii) any company or entity in which any Party has a direct or indirect interest, or (iii) any manager or director of the SPC;

- conversion, transformation, merger, split, dissolution and liquidation, save in the compulsory cases contemplated by law;

- establishment, closing down or winding up of branches and subsidiaries;

- modification of the share capital, except those share capital increases required so that external financing of the Project does not entail personal guarantees by the Parties;

- elimination of the preferential subscription right in capital increases;

- issues of convertible debentures and execution of any loan agreement with rights to conversion to capital.

(g) The shareholder agreement shall contain "deadlock" provisions that may apply in the case at any decision listed in sub-paragraph (f) above is not approved by a vote satisfying the required supermajority;

(h) Bylaws and the shareholders agreement shall contain provisions granting the Parties pre-emption rights for the case of transfer of the SPC shares to third parties (other than to the transferring Party's Affiliated Companies).

In any case, (i) OPT's prior written approval shall be required when the potential transferees is a competitor to OPT, (ii) TED's prior written approval shall be required when the potential transferee is an oil and gas company, (iii) IBERENOVA's prior written approval shall be required when the potential transferee is a utility.

(i) The SPC shall submit each year its financial statements for auditing by an independent accounting firm that will be chosen among the four top auditing firms in France.

(j) OPT shall supply and install the equipment based on the Technology, and provide the SPC with assistance and information, including operation and maintenance services, with the sufficient scope and extension so that the SPC may operate the Project, and any further projects as per Section 9 below, pursuant to state-of-the art standards during all its useful life (the "Supply"). Such Supply obligations [**];

(k) In the design and construction phases, the SPC shall arrange with IBERENOVA or TED (or any of their Affiliated Companies), whichever company submits the best proposal in market conditions, a contract for the provision of promotion, management, direction, control, administrative and representation services. The SPC may decide to split this contract between IBERENOVA and TED.

(l) For the operation phase, the SPC shall have the minimum team necessary to perform the tasks that are required and to the extent feasible shall subcontract the other functions. Alternatively, the SPC may decide that the Parties will perform these tasks on its behalf.

(m) The SPC shall be responsible for the acquisition of all necessary supplies and services for the installation, start-up and operation of the Power Stations.

In that sense, on market conditions, the SPC shall contract with OPT for the supply and installation of the Power Stations. [**].

Additionally, an Operation and Maintenance agreement shall be awarded to OPT, on market conditions, for the Power Stations over the first [**] years of the projects' lifetime.

8. EFFECTIVENESS / TERMINATION.

8.1 After its execution by the Parties, this Agreement shall become effective as from the day and year first above written.

8.2 This Agreement shall terminate upon the earliest to occur of the following events:

(a) 27 months after the date of execution of this Agreement without a written decision having been passed to implement the Project (phase 2), except if the Parties agree in writing on a time-extension of the Feasibility Studies, in which case this Agreement shall terminate 90 days after the date of completion of the Feasibility Studies without such a written decision having been passed;

(b) at any time if the Parties jointly decide not to implement the Project (phase 2)

(c) on such other date as the Parties may mutually agree;

(d) following a material breach by a Party (the "Defaulting Party") of any material provision of this Agreement which has not been remedied within [**] days from the receipt by such Defaulting Party of a notice of default sent by the other Parties, the decision of such other Parties to terminate this Agreement;

(e) the decision by the Parties to enter into a new agreement which explicitly supersedes this Agreement;

8.3 Withdrawal of any Party.

(a) At any time following the date of this Agreement, any Party (the "Withdrawing Party") may withdraw from the Project in its sole discretion provided it gives 15 days prior written notice of its withdrawal to the other Parties (the "Non-Withdrawing Parties") indicating the date as from which such withdrawal shall be effective.

The Non-Withdrawing Party or Parties shall be entitled to use the rights over the Feasibility Studies together with, any document or information prepared by the Withdrawing Party in connection with the Project which use will be free of charge. The Non-Withdrawing Party or Parties shall be entitled to complete the implementation of the Project exclusive of the Withdrawing Party.

(b) Upon its withdrawal from the Project, the Withdrawing Party shall be relieved from any obligations and liabilities to the Non-Withdrawing Party(ies) arising out

or in connection with such withdrawal. Therefore, except otherwise provided for in this Agreement, the Withdrawing Party will not be bound by the Agreement from the date of its withdrawal from the Project. However OPT shall remain bound by the Supply obligations under Section 7.(j) above. Furthermore, each Party shall remain bound by the confidentiality provisions stated in this Agreement and in the Confidential Information, Inventions and Trade Secrets Agreement attached to this Agreement as Exhibit 1, but without prejudice to the right of the Non-Withdrawing Parties to use the information disclosed hereunder by the Withdrawing Party for the purposes of the Project and enlarged collaboration set forth herein.

However, the Withdrawing Party shall be obligated to pay on or prior to the date of effectiveness of withdrawal its Participating Interest share of External Costs for which it has become obligated to fund hereunder. For purposes hereof, External Costs shall include all such costs committed by the Steering Committee in accordance with this Agreement as of the date of the Non-Withdrawing Parties' actual receipt of the written notice of withdrawal and anticipated to be incurred within [**] days, whether or not actually incurred as of the date of the effectiveness of withdrawal.

In addition, should OPT withdraw from this Agreement while IBERENOVA and/or TED decide to implement the Project, OPT shall nevertheless comply with its Supply Obligations toward the SPC or, in case only either IBERENOVA or TED decide to implement the Project, to the Non-Withdrawing Party. This Supply will be exclusive during a period expiring on December 31, 2008 and will be granted pursuant to the remaining terms and conditions provided for under Section 7(j) above.

(c) The Non-Withdrawing Party or Parties shall not have any cause of action against the Withdrawing Party acting in good faith and without breach of this Agreement or any other fault, for damages and losses which could directly or indirectly result from such withdrawal. However, if the Agreement is terminated pursuant to clause 8.2(e) (material breach), the non-defaulting Party (or Parties) may pursue any and all remedies that may be available against the Defaulting Party.

(d) The foregoing provisions, and specially 8.3(c) shall apply, mutatis mutandi, in case of termination of Agreement under section 8.2(d) (references to Withdrawing Party being understood made to the Defaulting Party and references to the Non-withdrawing Parties to the Non-defaulting Parties, respectively).

9. ENLARGEMENT OF THE COLLABORATION.

If either the Parties or IBERENOVA and TED decide in writing to enlarge their collaboration under this Agreement to the study and possible development of additional wave energy project(s) using the Technology on the coast of France up to [**], it is acknowledged that it should be beneficial for the Project that TED and IBERENOVA assumes, on an alternative basis, the leadership in the conduct of the operations relating

to the Phases 1 and 2 of each such additional projects. Furthermore, the Parties agree that the current Participating Interests of IBERENOVA and TED in the Project (as mentioned in article 4) [**].

In accordance with the above mentioned, OPT agrees to supply and install the equipment based on the PowerBuoy System and its further improvements to the SPC(s) created between the Parties for the implementation of these additional Project(s), and provide the SPC(s) with assistance and information, including operation and maintenance services, with the sufficient scope and extension so that the SPC(s) may operate the Project(s) as per state-of-the art standards during all its useful life (the "Supply"). Such Supply obligations [**].

10. WARRANTY

10.1 OPT Inc hereby warrants the fulfilment by OPT of OPT's obligations under this Agreement, so that OPT Inc undertakes to fulfil all OPT's obligations under the Agreement, in the case that OPT does not fulfil them, immediately upon Iberenova and/or Total's demand, being able to oppose only the exceptions that OPT would be entitled to under this Agreement.

In particular, and for OPT's obligations of payment under the Agreement, the Parties agrees that the guarantee will be governed by articles 2021 et seq of the Civil Code. OPT Inc. expressly waives the benefice de discussion and benefice de division (OPT Inc.'s rights to limit its liability and to require execution to be first directed against OPT) as provided in articles 2021 and 2026 of the Civil Code.

Furthermore, OPT Inc undertakes not to liquidate OPT and not to allow OPT to become bankrupt or insolvent or otherwise unable to meet its obligations hereunder.

11. GOVERNING LAW & ARBITRATION

11.1 This Agreement shall be governed by and construed in accordance with the French law.

11.2 Any dispute arising out of or in connection with this Agreement shall be exclusively and finally settled under the Rules of Arbitration of the International Chamber of Commerce then in effect (the (ICC Rules)) by three (3) arbitrators appointed in accordance with the ICC Rules. The place of arbitration shall be Paris (France) and the language of arbitration shall be English.

12. LIABILITY.

12.1 No Party shall be liable to the other Party for any special, indirect or consequential losses or damages, including but not limited to loss of profits, revenues, contracts, opportunities, goodwill or business, arising out of or in connection with this Agreement.

12.2 In case of a third party claim arising out of or in connection with this Agreement, each Party shall be liable in proportion to its Participating Interest in the Project.

13. NOTICES.

Any notice which may be or is required to be given pursuant to this Agreement shall be in writing and may be delivered, by hand, or sent by registered post or fax to the relevant address set out below:

TED

2 place de la Coupole -- La Defense 6
92400 Courbevoie, France
Phone (33-1) 01.47.44.30.96
Fax (33-1) 01.47.44.31.13
E-mail gilles.cochevelou@total.com
Attention Mr. Gilles Cochevelou

IBERENOVA
Tomas Redondo, 1
28033 Madrid, Espana
Phone (34) 91 577 65 00
Fax (34) 91 784 37 03
E-mail roberto.legaz@iberdrola.es
Attention Mr. Roberto Legaz

OPT
Warwick Innovation Centre
Gallows Hill
Warwick
CV34 6UW
UK
Phone (44) 01926623371
Fax (44) 01926408190
E-mail mdraper@oceanpowertech.com
Attention Mr. Mark Draper

OPT INC
1590 Reed Road
Pennington,
New Jersey 08534
USA
Phone 6097300400
Fax 6097300404
E-mail gtaylor@oceanpowertech.com
Attention Dr. George W. Taylor

14. ASSIGNMENT.

14.1 The assignment by a Party of all or part of its Participating Interest under this Agreement to a third party requires the prior written approval of the other Parties.

14.2 Notwithstanding the provisions of clause 14.1 hereabove, each Party may, without the prior written approval of the other Party, assign all or part of its Participating Interest under this Agreement to any of its Affiliated Companies subject however to first give written notice thereof to the other Parties, and provided the assignee is actually in a position to fulfill all assignor's obligations under this Agreement. Otherwise, the assignor's guaranty shall be required.

15. INSTITUTIONAL COMMUNICATION.

If any Party within the frame of its institutional communication, wishes to issue any public announcement or statement regarding this Agreement and/or in connection with the Project, it shall not do so without the prior written approval of the Steering Committee, except if it is necessary to do so in order to comply with applicable laws, decrees, rules or regulations of any government legal proceedings, or stock exchange, having jurisdiction over such Party.

16. CONFIDENTIALITY.

16.1 The Parties shall keep confidential all information and data acquired, developed or disclosed in the course of implementation of this Agreement (hereinafter referred to as the (Confidential Information)) and shall not disclose it to third parties or use it for other purposes other than as provided herein except to the extent that such information and data:

(i) is, at the time of its disclosure, in the public domain; or

(ii) becomes generally available to third parties by publication or otherwise after its disclosure, through no breach of this Agreement; or

(iii) was lawfully in the possession of the receiving Party prior to its disclosure, as evidenced by the written records of such Party, and which was not acquired directly or indirectly from the other Party; or

(iv) is disclosed independently by a third party that warrants to a good-faith Party that such disclosure does not infringe confidentiality obligations; or

(v) is subject to any legal or judiciary obligation to disclose.

16.2 Notwithstanding the provisions of clause 16.1, the Parties shall be entitled to disclose such Confidential Information (i) to their employees, officers and directors and to those of their Affiliates (ii) to any professional consultant or bank who requires these information and data for the evaluation and implementation of the Project, subject however to the prior execution by such consultant or bank of a confidentiality undertaking.

16.3 The disclosure of Confidential Information by any Party does not vest the other Party with a right of ownership on the said Confidential Information, which is and shall remain the property of the Party who disclosed it.

16.4 The provisions of this clause 16 shall apply for the duration of this Agreement, and for a period of [**] years after the termination of this Agreement, howsoever caused.

16.5 With respect to the Confidential Information of technical nature disclosed by OPT to any of the other Parties to this Agreement, the PARTIES agree to sign the Confidential Information, Inventions and Trade Secrets Agreement attached to this Agreement as Exhibit 1. To the extent of any conflict between the terms of this Agreement and the terms of the Confidential Information, Inventions and Trade Secrets Agreement, the terms of the Confidential Information, Inventions and Trade Secrets Agreement shall prevail.

17. MISCELLANEOUS.

17.1 No waiver by any Party of any one or more defaults by another Party in the performance of this Agreement shall operate or be construed as a waiver of any future defaults by the same Party, whether of a like or of a different character. Except as expressly provided for in this Agreement, no Party shall be deemed to have waived, released or modified any of its rights under this Agreement.

17.2 No amendments, changes or modifications to this Agreement shall be valid except if they are in writing and approved by the Parties.

17.3 Each of the Parties agrees to comply with, and to procure that each of their subcontractors complies with (i) the Total and IBERDROLA HSE Policies and (ii) the Total and IBERDROLA Codes of Conduct attached hereto.

This Agreement has been executed in four (4) originals by the duly authorised representatives of each Party on the day and year first above written.

FOR TED

/s/ Gilles Cochevelou
- ----------
Signature
Name Gilles Cochevelou

FOR IBERENOVA

/s/ Ana Buitrago

Signature
Name Ana Buitrago

/s/ Miguel Martin

Signature
Name Miguel Martin

FOR OPT

/s/ Mark Draper
- ----------
Signature
Name Mr. Mark Draper

FOR OPT, INC

/s/ George W. Taylor

Signature
Name Dr. George W. Taylor

EXHIBIT 1

CONFIDENTIAL INFORMATION, INVENTIONS AND TRADE SECRETS AGREEMENT

WHEREAS representatives of Ocean Power Technologies, Limited having its offices in Warwick, UK, or Ocean Power Technologies, Inc, having an office at Pennington, New Jersey, USA, ("OPT" or, the "Company" hereinafter) are about to enter into discussions with Total Energie Development SA (hereinafter "TED") a company existing and organized under French law, having its registered office located in France, 2, Place de la Coupole, 92078 Paris la Defense Cedex, and with Iberdrola Energias Renovables II, S.A., Sociedad Unipersonal (hereinafter "IBERENOVA"), a company existing and organised under the Spanish law, with Tax Registration Number A-83028035, having its registered office located at [ ], (TED, and IBERENOVA, hereinafter, the "PARTIES"), concerning the use of certain electrical power generation technology owned by OPT for the potential construction and operation of power generation plant(s) based on the sea waves energy in the coast of France (hereinafter, the "Power Plant"), and

WHEREAS it is anticipated that the discussions will be mutually beneficial to signatories hereto, and

WHEREAS during the course of such discussions it is expected that representatives of PARTIES will receive or have access to specifications, designs, plans, drawings, data, prototypes, marketing plans or other technical or business information belonging to OPT and which OPT considers to be proprietary (hereinafter "INFORMATION"); the term INFORMATION also shall be deemed to include all notes, analyses, compilations, studies, interpretations or other documents prepared by PARTIES which contain, reflect or are based upon the INFORMATION but expressly excluding those parts of such notes, analyses, compilations, studies, interpretations or other documents or information prepared by or on behalf of PARTIES relating to or in connection with the analysis of waves resources, marine and coastal dynamics, performance assessment, power output, stability of the system, environmental issues and any other similar information furnished or obtained by the Parties in the course of the development of the Power Plant.

WHEREAS during the course of the discussions PARTIES may develop certain inventions, improvements or discoveries based on the INFORMATION.

NOW THEREFORE, in consideration of the mutual benefits to be derived from the above discussions and other good and valuable consideration, receipt of which is acknowledged, it is agreed by and between the parties hereto as follows:

1. PARTIES shall

   a. Restrict disclosure of the INFORMATION solely to those of its employees (and those of Total SA) and consultants with a need to know and not disclose such INFORMATION to third parties; and

b. Advise employees (including those of Total SA) and consultants who receive the INFORMATION of the obligation of confidentiality hereunder and take steps, which may include the execution of confidentiality contracts, in order to mitigate the risk of employees and consultants breaching this Confidential Information, Inventions and Trade Secrets Agreement (hereinafter "Agreement"), and

c. Use and require employees and consultants to use the same degree of care to protect the INFORMATION as is used with PARTIES' own proprietary INFORMATION, and

d. Use INFORMATION solely for the development by OPT of OPT wave power projects in France.

2. Notwithstanding anything to the contrary herein, PARTIES shall have no obligation to preserve the confidentiality of any INFORMATION as set forth in clause 16.1 of the accompanying Contract for the Develoment and Application of a Sea Wave Energy Generation System in France.

3. PARTIES and OPT agree that any company of the group of companies of each of the PARTIES, including any which are directly or indirectly controlled by such companies, and any employee and consultant of such companies, will be considered as third party for the purposes of the confidentiality obligations above-stated. Therefore, disclosure of INFORMATION to the third parties before-mentioned will require the approval of OPT. However, INFORMATION could be disclosed to Total SA pursuant to this Agreement.

4. Upon termination of this Agreement, PARTIES will exercise reasonable efforts to return all INFORMATION received in tangible form and all copies thereof to OPT.

5. Nothing contained in this Agreement shall be construed as granting or conferring any rights by license or otherwise in any INFORMATION disclosed or limiting the rights and obligations of the parties under the Contract.

6. For the avoidance of doubt, nothing in this Agreement shall entitle any of the PARTIES or third parties to make or use, or have made or have used by any third parties, any invention derived from INFORMATION.

7. Nothing in this Agreement shall prevent the PARTIES and/or third parties from using in any way they see fit, their general knowledge, skills and experience and any tools, skills and techniques acquired or used by them (together "PARTIES' GENERAL KNOWLEDGE") in the performance of this Agreement. Such PARTIES' GENERAL KNOWLEDGE shall not include INFORMATION or any tools, skills and techniques derived from INFORMATION.

8. This Agreement shall be governed and construed in accordance with French Law. Any disputes between OPT and the Parties in connection with this Agreement and, in particular, concerning its interpretation, validity, compliance and termination (including the validity and compliance with this Clause) shall be submitted to arbitration of law, that shall be settled by three arbitrators pursuant to the Arbitration Regulations of the

International Chamber of Commerce. The arbitration proceedings will be held in Paris, in English. The nominating authority will be the Chairman of the ICC. The Parties agree to comply the arbitration award as soon as it is issued.

9. In the event of a breach of this Agreement by PARTIES, PARTIES understands and agrees that OPT may suffer irreparable harm and will therefore be entitled to injunctive relief to enforce this Agreement.

10 This Agreement shall become effective on the date of execution and shall be in force for a period of five years from the date of execution.

/s/ Gilles Cochevelou
- ----------
TOTAL ENERGIE DEVELOPMENT

/s/ Ana Isabel Buitrago Montoro
- ----------

/s/ Miguel Martin Saez
- ----------
IBERENOVA
Represented by
Mrs. Ana Isabel Buitrago Montoro and
Mr. Miguel Martin Saez

/s/ Mark Draper
- ----------
Ocean Power Technologies Limited
Represented by Mark Draper

/s/ George W. Taylor
- ----------
Ocean Power Technologies, Inc.
Represented by Dr. George W. Taylor

Confidential Materials omitted and filed separately with the Securities and Exchange Commission. Asterisks denote omissions.

LOCKHEED MARTIN Post-Proposal Letter Contract

Subcontractor: Ocean Power Technologies (OPT)
1590 Reed Rd.
Pennington, NJ 08534

Date: 9/17/04

Prime or Customer Contract No.: N00039-04-C-0035

Subject: LOCKHEED MARTIN CORPORATION- Maritime Systems & Sensors (MS2)

Letter Contract No. DM259735:

Reference: a) MS2 Request for Proposal (RFP)No. 29-RA-042904 dated April 8, 2004 and All Amendments

b) OPT Proposal dated April 29, 2004 (with pricing update/correction provided 30-Apr-04 and 05-May-04) and Revision dated August 4, 2004

1. Authorization is hereby given to proceed with the Work against the subject contract, as follows:

Tactical Interface System Buoy in Support of the Advanced Deployable System (ADS) Technology Development (TD) CLIN's 0001 and 0002 ("The Program").

2. Delivery schedules shall be as follows: Period of Performance 9/14/04 - 10/31/05

3. Fact-finding of your proposal submitted in response to Lockheed Martin's Request for Proposal No. 29-RA-042904 is anticipated to begin on 9/22/04. Negotiations are anticipated to begin on 9/23/04. The target definitization date for the contract is 9/24/04, or before expenditure of [**]% of the total estimated cost.

4. The total Not-to-Exceed (NTE) price of this contract is: $[**].

5. This contract is incrementally funded. Lockheed Martin's limitation of obligation to pay under this authorization is $[**]. The funds are expected to be adequate for performance of the Work until 2/16/05.

6. Payment Terms are: Net 30 Days.

7. Lockheed Martin anticipates executing a cost plus fixed fee (CPFF) type contract. Contractual provisions applicable to this authorization are incorporated by reference, as follows:

A. General Provisions:

i. Lockheed Martin CORPDOC No.4, dated 10/03, pages 1 through 11, including Addendum No. 4A, dated 10/03, pages 1 through 3. Final terms and conditions to be mutually agreed to prior to contract definitization.

ii. Terminations. If this authorization is terminated for any reason before executing the definitive contract, the termination will be accomplished according lo the 'Termination' clause of the CORPDOC incorporated above. A definitive contract will be issued for the work accomplished up to the point of termination.

B. Special Provisions:

i. Quality Assurance clauses: Per MS2 RFP #29-RA-042904 - and as included in definitized contract.

ii. Government Prime Contract Flowdowns: Per MS2 RFP #29-RA-042904 - to be further refined prior to contract definitization.

C. Statement of Work No. Attachment G to RFP #29-RA-042904, entitled Advanced Deployable System (ADS) System Development and Demonstration (SDD) Phase, dated 07 June 2004, pages 1 through 26.

D. System Performance Specification No. Rev 8.4, and Interface Requirements Document Rev 3.2b.

8. The CONTRACTOR is claiming the following Rights in Technical Data: [**]

The proposed Program extends the work performed under these contracts, and as such is accorded all rights of an SBIR Phase III funding agreement. The rights are subject to Patent Rights, Rights in Data, and Rights in Technical Data provisions of FAR 52.227-11, 52.227-20 and DFARS 252.227-7018.

9. This contract is subject to the Cost Accounting Standards (CAS), as provided in Attachment A of MS2 RFP #29-RA-042904.

10. This is a rated contract certified for National Defense. The Contractor is required to follow all provisions of the Defense Priorities and Allocations System (DPAS) regulations (15 CFR 700). The rating on this order is DO-A7.

11. This authorization is subject to your prompt acceptance. Please return a signed copy by FAX no later than cob, Monday, September 20, 2004, confirming your acceptance of the contents herein and acknowledging that the effort authorized has been initiated.

Contractor: OCEAN POWER TECHNOLOGIES	LOCKHEED MARTIN CORPORATION
By: /s/ Charles F. Dunleavy	By: /s/ Brenda Aanderud
Title: C.F.O.	Title: Staff Subcontract Administrator
Date: 22 September 2004	Date: 9/17/04

Section A - PO #DM259735
LOCKHEED MARTIN CORPORATION

CORPDOC 4

LOCKHEED MARTIN

COST REIMBURSEMENT GENERAL PROVISIONS AND FAR FLOWDOWN PROVISIONS FOR SUBCONTRACTS/PURCHASE ORDERS (ALL AGENCIES) FOR NON-COMMERCIAL ITEMS UNDER A U.S. GOVERNMENT PRIME CONTRACT

SECTION I: GENERAL PROVISIONS

1. ACCEPTANCE OF CONTRACT/TERMS AND CONDITIONS

(a) This Contract integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and, together with Exhibits, Attachments, and any Task Order(s) issued hereunder, constitutes the entire agreement between the parties.

(b) SELLER's acknowledgment, acceptance of payment, or commencement of performance, shall constitute SELLER's unqualified acceptance of this Contract.

(c) ADDITIONAL OR DIFFERING TERMS OR CONDITIONS PROPOSED BY SELLER OR INCLUDED IN SELLER'S ACKNOWLEDGMENT ARE OBJECTED TO BY LOCKHEED MARTIN AND HAVE NO EFFECT UNLESS EXPRESSLY ACCEPTED IN WRITING BY LOCKHEED MARTIN.

2. ALLOWABLE COST AND PAYMENT.

(a) INVOICING. LOCKHEED MARTIN shall make payments to SELLER when requested as work progresses, but (except for Small Business Concerns) not more often than once every 2 weeks, in amounts determined to be allowable by LOCKHEED MARTIN in accordance with the terms of this Contract and Subpart 31.2 of the FAR, and agency supplements as appropriate, in effect on the date of this Contract. If the Contract is with an educational institution, FAR Subpart 31.3 shall apply; and if with a non-profit organization other than an educational institution, FAR Subpart 31.7 shall apply. SELLER may submit to the LOCKHEED MARTIN Procurement Representative, in such form and reasonable detail as the Representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this Contract.

(b) REIMBURSING COSTS.

(1) For the purpose of reimbursing allowable costs (except as provided in paragraph (b)(2) of the clause, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term "costs" includes only:

(i) Those recorded costs that, at the time of the request for reimbursement, SELLER has paid by cash, check, or other form of actual payment for items or services purchased directly for this Contract;

(ii) When SELLER is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for--

(A) Work purchased directly for the Contract and associated financing payments to subcontractors, provided payments determined due will be made--

(1) In accordance with the terms and conditions of a subcontract or invoice; and

(2) Ordinarily within 30 days of prior to the submission of SELLER's payment request to the Government;

(B) Materials issued from SELLER's inventory and placed in the production process for use on this Contract;

(C) Direct labor;

(D) Direct travel;

(E) Other direct in-house costs; and

(F) Properly allocable and allowable indirect costs, as shown in the records maintained by SELLER for purposes of obtaining reimbursement under Government contracts; and

(iii) The amount of financing payments that have been paid by cash, check, or other forms of payment to SELLER's subcontractors.

(2) Accrued costs of SELLER contributions under employee pension plans shall be excluded until actually paid unless:

(i) SELLER's practice is to make contributions to the retirement fund quarterly or more frequently; and

(ii) The contribution does not remain unpaid 30 days after the end of the applicable quarter or shorter payment period (any contribution remaining unpaid shall be excluded from SELLER's indirect costs for payment purposes).

(3) Notwithstanding the audit and adjustment of invoices or vouchers under paragraph (g) of this clause, allowable indirect costs under this contract shall be obtained by applying indirect cost rates established in accordance with paragraph (d) of this clause.

(4) Any statements in specifications or other documents incorporated in this Contract by reference designating performance of services or furnishing of materials at SELLER's expense or at no cost to LOCKHEED MARTIN shall be disregarded for purposes of cost-reimbursement under this clause.

(c) SMALL BUSINESS CONCERNS. A small business concern may receive more frequent payments than every 2 weeks.

(d) FINAL INDIRECT COST RATES. LOCKHEED MARTIN shall reimburse SELLER on the basis of final annual indirect cost rates and the appropriate bases established by SELLER and the Government in effect for the period covered by the indirect cost rate proposal. Such rates and bases shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this Contract. The rates and bases shall be deemed incorporated into this Contract upon execution.

(e) BILLING RATES. There shall be included as allowable indirect costs such overhead rates as may be established by SELLER and the cognizant Government agency in accordance with the principles of the FAR and applicable FAR supplement. Pending establishment of final indirect overhead rates for any period, SELLER shall be reimbursed at billing rates approved by the cognizant Government agency, which billing rates may be revised from time to time subject to such approval and subject to appropriate adjustment when the final rates for that period are established.

(f) QUICK-CLOSEOUT PROCEDURES. When SELLER and LOCKHEED MARTIN agree, quick-closeout procedures of Subpart 42.7 of the FAR may be used.

(g) AUDIT. At any time or times before final payment, LOCKHEED MARTIN or the Contracting Officer may have SELLER's invoices or vouchers and statements of cost audited. Any payment may be (1) reduced by amounts found not to constitute allowable costs or (2) adjusted for prior overpayments or underpayments.

(h) FINAL PAYMENT.

(1) SELLER shall submit a completion invoice or voucher, designated as such, promptly upon completion of the Work, but no later than one year (or longer, as LOCKHEED MARTIN may approve in writing) from the completion date. Upon approval of that completion invoice or voucher and upon SELLER's compliance with all terms of this Contract, LOCKHEED MARTIN shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.

(2) SELLER shall pay to LOCKHEED MARTIN any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by SELLER or any assignee under this Contract to the extent that those amounts are properly allocable to costs for which SELLER has been reimbursed by LOCKHEED MARTIN. Reasonable expenses incurred by SELLER for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by LOCKHEED MARTIN: Before final payment under this contract, SELLER and each assignee whose assignment is in effect at the time of final payment shall execute and deliver:

(i) An assignment to LOCKHEED MARTIN, in form and substance satisfactory to LOCKHEED MARTIN, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which SELLER has been reimbursed by LOCKHEED MARTIN under this Contract; and

(ii) A release discharging LOCKHEED MARTIN, the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this Contract, except:

(A) Specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known;

(B) Claims (including reasonable incidental expenses) based upon liabilities of SELLER to third parties arising out of the performance of this Contract; provided, that the claims are not known to SELLER on the date of the execution of the release, and that SELLER gives notice of the claims in writing to LOCKHEED MARTIN within 6 years following the release date or notice of final payment date, whichever is earlier; and

(C) Claims for reimbursement of costs, including reasonable incidental expenses, incurred by SELLER under the patent clauses of this Contract, excluding, however, any expenses arising from SELLER's indemnification of LOCKHEED MARTIN and the Government against patent liability.

(i) SUBCONTRACTS. No subcontract placed under this Contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursements type subcontracts shall not exceed the fee limitations in paragraph 15.404-4(c) of the FAR.

3. APPLICABLE LAWS

(a) This Contract shall be governed by and construed in accordance with the laws of the State from which this Contract is issued, excluding its choice of law rules, except that any provision in this Contract that is (i) incorporated in full text or by reference from the Federal Acquisition Regulations (FAR) or (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR or (iii) that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of Government contracts as enunciated and applied by federal judicial bodies, boards of contracts appeals, and quasi-judicial agencies of the federal Government.

(b) (1) SELLER agrees to comply with all applicable laws, orders, rules, regulations, and ordinances. SELLER shall procure all licenses/permits and pay all fees and other required charges. SELLER shall comply with all applicable guidelines and directives of any local, state, and/or federal governmental authority.

(2) If: (i) LOCKHEED MARTIN's contract cost or fee is reduced; (ii) LOCKHEED MARTIN's costs are determined to be unallowable; (iii) any fines, penalties, or interest are assessed on LOCKHEED MARTIN; or (iv) LOCKHEED MARTIN incurs any other costs or damages; as a result of any violation of applicable laws, orders, rules, regulations, or ordinances by SELLER, its officers, employees, agents, suppliers, or subcontractors at any tier, LOCKHEED MARTIN may proceed as provided for in (4) below.

(3) Where submission of cost or pricing data is required or requested at any time prior to or during performance of this Contract, if SELLER or its lower-tier subcontractors: (i) submit and/or certify cost or pricing data that are defective; (ii) with notice of applicable cutoff dates and upon LOCKHEED MARTIN's request to provide cost or pricing data, submit cost or pricing data, whether certified or not certified at the time of submission, as a prospective subcontractor, and any such data are defective as of the applicable cutoff date on LOCKHEED MARTIN's Certificate of Current Cost or Pricing Data; (iii) claim an exception to a requirement to submit cost or pricing data and such exception is invalid; (iv) furnish data of any description that is inaccurate; or if (v) the U.S. Government alleges any of the foregoing; and, as a result, (1) LOCKHEED MARTIN's Contract price or fee is reduced; (2) LOCKHEED MARTIN's costs are determined to be unallowable; (3) any fines, penalties, or interest are assessed on

LOCKHEED MARTIN; or (4) LOCKHEED MARTIN incurs any other costs or damages; LOCKHEED MARTIN may proceed as provided for in paragraph (4) below.

(4) UPON THE OCCURRENCE OF ANY OF THE CIRCUMSTANCES IDENTIFIED IN PARAGRAPHS (2) AND (3) ABOVE, LOCKHEED MARTIN MAY MAKE A REDUCTION OF CORRESPONDING AMOUNTS (IN WHOLE OR IN PART) IN THE COSTS AND FEE OF THIS CONTRACT OR ANY OTHER CONTRACT WITH SELLER, AND/OR MAY DEMAND PAYMENT (IN WHOLE OR IN PART) OF THE CORRESPONDING AMOUNTS. SELLER SHALL PROMPTLY PAY AMOUNTS SO DEMANDED.

(c) SELLER represents that each chemical substance constituting or contained in Work sold or otherwise transferred to LOCKHEED MARTIN hereunder is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.) as amended.

(d) SELLER shall provide to LOCKHEED MARTIN with each delivery any Material Safety Data Sheet applicable to the Work in conformance with and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder, or its state approved counterpart.

4. ASSIGNMENT

Any assignment of SELLER's Contract rights or delegation of SELLER's duties shall be void, unless prior written consent is given by LOCKHEED MARTIN. SELLER may assign rights to be paid amounts due, or to become due, to a financing institution if LOCKHEED MARTIN is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. Amounts assigned shall be subject to setoff or recoupment for any present or future claims of LOCKHEED MARTIN against SELLER. LOCKHEED MARTIN shall have the right to make settlements and/or adjustments in the estimated cost and fee without notice to any assignee.

5. COMMUNICATION WITH LOCKHEED MARTIN CUSTOMER

LOCKHEED MARTIN shall be solely responsible for all liaison and coordination with the LOCKHEED MARTIN customer, including the U.S. Government, as it affects the applicable prime contract, this Contract, and any related contract

6. CONTRACT DIRECTION

(a) Only the LOCKHEED MARTIN Procurement Representative has authority to make changes in or amendments to this Contract. Changes and amendments must be in writing.

(b) LOCKHEED MARTIN engineering and technical personnel may from time to time render assistance or give technical advice or discuss or effect an exchange of information with SELLER's personnel concerning the Work hereunder. No such action shall be deemed to be a change under the "Changes" clause of this Contract and shall not be the basis for equitable adjustment.

(c) Except as otherwise provided herein, all notices to be furnished by the SELLER shall be sent to the LOCKHEED MARTIN Procurement Representative.

7. DEFINITIONS

The following terms shall have the meanings set forth below:

(a) "Contract" means the instrument of contracting, such as "PO", "Purchase Order", or "Task Order", or other such type designation, including all referenced documents, exhibits and attachments. If these terms and conditions are incorporated into a "master" agreement that provides for releases, (in the form of a purchase order or other such document) the term "Contract" shall also mean the release document for the Work to be performed.

(b) "FAR" means the Federal Acquisition Regulation, issued as Chapter 1 of Title 48, Code of Federal Regulations.

(c) "LOCKHEED MARTIN", means LOCKHEED MARTIN CORPORATION, acting through its companies or business units as identified on the face of this Contract. If a subsidiary or affiliate of LOCKHEED MARTIN CORPORATION is identified on the face of this Contract, then "LOCKHEED MARTIN" means that subsidiary or affiliate.

(d) "LOCKHEED MARTIN Procurement Representative" means a person authorized by LOCKHEED MARTIN's cognizant procurement organization to administer and/or execute this Contract.

(e) "PO" or "Purchase Order" means this Contract.

(f) "SELLER" means the party identified on the face of this Contract with whom LOCKHEED MARTIN is contracting.

(g) "Task Order" means a separate order issued under this Contract.

(h) "Work" means all required labor, articles, materials, supplies, goods and services constituting the subject matter of this Contract.

8. DISPUTES

All disputes under this Contract which are not disposed of by mutual agreement may be decided by recourse to an action at law or in equity. Until final resolution of any dispute hereunder, SELLER shall diligently proceed with the performance of this Contract as directed by LOCKHEED MARTIN.

9. ELECTRONIC CONTRACTING

The parties agree that if this Contract is transmitted electronically neither party shall contest the validity of this Contract, or any Acknowledgement thereof, on the basis that this Contract or Acknowledgement contains an electronic signature.

10. EXPORT CONTROL

(a) SELLER agrees to comply with all applicable U.S. export control laws and regulations, specifically including, but not limited to, the requirements of the Arms Export Control Act, 22 U.S.C.2751-2794, including the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120 et seq.; and the Export Administration Act, 50 U.S.C. app. 2401-2420, including the Export Administration Regulations, 15 C.F.R. 730-774; including the requirement for obtaining any export license or agreement, if applicable. Without limiting the foregoing, SELLER agrees that it will not transfer any export controlled item, data, or services, to include transfer to foreign persons employed by or associated with, or under contract to SELLER or SELLER's lower-tier suppliers, without the authority of an export license, agreement, or applicable exemption or exception.

(b) SELLER agrees to notify LOCKHEED MARTIN if any deliverable under this Contract is restricted by export control laws or regulations.

(c) SELLER shall immediately notify the LOCKHEED MARTIN Procurement Representative if SELLER is, or becomes, listed in any Denied Parties List or if SELLER's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency.

(d) If SELLER is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, SELLER represents that it is registered with the Office of Defense Trade Controls, as required by the ITAR, and it maintains an effective export/import compliance program in accordance with the ITAR. NOTE: IT IS UNDERSTOOD THAT THIS PARAGRAPH DOES NOTE APPLY UNTIL SUCH TIME AS THE TWO PARTIES AFFIRMLY AGREE THAT THE PARAGRAPH WILL APPLY.

(e) Where SELLER is a signatory under a LOCKHEED MARTIN export license or export agreement (e.g., TAA, MLA), SELLER shall provide prompt notification to the LOCKHEED MARTIN Procurement Representative in the event of changed circumstances including, but not limited to, ineligibility, a violation or potential violation of the ITAR, and the initiation or existence of a U.S. Government investigation, that could affect the Seller's performance under this Contract.

(f) SELLER SHALL BE RESPONSIBLE FOR ALL LOSSES, COSTS, CLAIMS, CAUSES OF ACTION, DAMAGES, LIABILITIES AND EXPENSE, INCLUDING ATTORNEYS' FEES, ALL EXPENSE OF LITIGATION AND/OR SETTLEMENT, AND COURT COSTS, ARISING FROM ANY ACT OR OMISSION OF SELLER, ITS OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS, OR SUBCONTRACTORS AT ANY TIER, IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS UNDER THIS CLAUSE.

11. EXTRAS

Work shall not be supplied in excess of quantities specified in this Contract. SELLER shall be liable for handling charges and return shipment costs for any excess quantities.

12. FEE (Applicable only if this Contract includes a fee.)

LOCKHEED MARTIN shall pay the SELLER for performing this Contract the fee as specified in this Contract.

13. FURNISHED PROPERTY

(a) LOCKHEED MARTIN may provide to SELLER property owned by either LOCKHEED MARTIN or its customer (Furnished Property). Furnished Properly shall be used only for the performance of this Contract.

(b) Title to Furnished Property shall remain in LOCKHEED MARTIN or its customer. SELLER shall clearly mark (if not so marked) all Furnished Property to show its ownership.

(c) Except for reasonable wear and tear, SELLER shall be responsible for, and shall promptly notify LOCKHEED MARTIN of, any loss or damage. SELLER shall manage, maintain, and preserve Furnished Property in accordance with good commercial practice.

(d) At LOCKHEED MARTIN's request, and/or upon completion of this Contract, the SELLER shall submit, in an acceptable form, inventory lists of Furnished Property and shall deliver or make such other disposal as may be directed by LOCKHEED MARTIN.

(e) The Government Property Clause contained in Section II shall apply in lieu of paragraphs (a) through (d) above with respect to Government-furnished property, or property to which the Government may take title under this Contract.

14. GRATUITIES/KICKBACKS

(a) No gratuities (in the form of entertainment, gifts or otherwise) or kickbacks shall be offered or given by SELLER, to any employee of LOCKHEED MARTIN for the purpose of obtaining or rewarding favorable treatment as a supplier.

(b) BY ACCEPTING THIS CONTRACT, SELLER CERTIFIES AND REPRESENTS THAT IT HAS NOT MADE OR SOLICITED AND WILL NOT MAKE OR SOLICIT KICKBACKS IN VIOLATION OF FAR 52.203-7 OR THE ANTI-KICKBACK ACT OF 1986 (41 USC 51-58), BOTH OF WHICH ARE INCORPORATED HEREIN BY THIS SPECIFIC REFERENCE, EXCEPT THAT PARAGRAPH (C)(1) OF FAR 52.203-7 SHALL NOT APPLY.

15. INDEPENDENT CONTRACTOR RELATIONSHIP

(a) SELLER is an independent contractor in all its operations and activities hereunder. The employees used by SELLER to perform Work under this Contract shall be SELLER's employees exclusively without any relation whatsoever to LOCKHEED MARTIN.

(b) SELLER SHALL BE RESPONSIBLE FOR ALL LOSSES, COSTS, CLAIMS, CAUSES OF ACTION, DAMAGES, LIABILITIES, AND EXPENSES, INCLUDING ATTORNEYS' FEES, ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, AND COURT COSTS, ARISING FROM ANY ACT OR OMISSION OF SELLER, ITS OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS, OR SUBCONTRACTORS AT ANY TIER, IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS UNDER THIS CONTRACT. THIS INDEMNITY AND HOLD HARMLESS SHALL NOT BE CONSIDERED AN ALLOWABLE COST UNDER ANY PROVISIONS OF THIS CONTRACT EXCEPT WITH REGARD TO ALLOWABLE INSURANCE COSTS.

16. INFORMATION OF LOCKHEED MARTIN

Information provided by LOCKHEED MARTIN to SELLER remains the property of LOCKHEED MARTIN. SELLER agrees to comply with the terms of any proprietary information agreement with LOCKHEED MARTIN and to comply with all proprietary information markings and restrictive legends applied by LOCKHEED MARTIN to anything provided hereunder to SELLER. SELLER agrees not to use any LOCKHEED MARTIN provided information for any purpose except to perform this Contract and agrees not to disclose such information to third parties without the prior written consent of LOCKHEED MARTIN.

17. INFORMATION OF SELLER

SELLER shall not provide any proprietary information to LOCKHEED MARTIN without prior execution of a proprietary information agreement by the parties.

18. INSURANCE/ENTRY ON LOCKHEED MARTIN PROPERTY

(a) In the event that SELLER, its employees, agents, or subcontractors enter the site(s) of LOCKHEED MARTIN or its customers for any reason in connection with this Contract then SELLER and its subcontractors shall procure and maintain for the performance of this Contract worker's compensation, comprehensive general liability, bodily injury and property damage insurance in reasonable amounts, and such other insurance as LOCKHEED MARTIN may require. In addition, SELLER and its subcontractors shall comply with all site requirements. SELLER shall provide LOCKHEED MARTIN thirty (30) days advance written notice prior to the effective date of any cancellation or change in the term or coverage of any of SELLER's required insurance, provided however such notice shall not relieve SELLER of its obligations to procure and maintain the required insurance. If requested, SELLER shall send a "Certificate of Insurance" showing SELLER's compliance with these requirements, provided however such notice shall not relieve SELLER's of its obligations to procure and maintain the required insurance. SELLER shall name LOCKHEED MARTIN as an additional insured for the duration of this Contract. Insurance maintained pursuant to this clause shall be considered primary as respects the interest of LOCKHEED MARTIN and is not contributory with any insurance which LOCKHEED MARTIN may carry. "Subcontractor" as used in this clause shall include SELLER's subcontractors at any tier. SELLER's obligations for procuring and maintaining insurance coverages are freestanding and are not affected by any other language in this Contract.

(b) SELLER SHALL INDEMNIFY AND BOLD HARMLESS LOCKHEED MARTIN, ITS OFFICERS, EMPLOYEES, AND AGENTS FROM ANY LOSSES, COSTS, CLAIMS, CAUSES OF ACTION, DAMAGES, LIABILITIES, AND EXPENSES, INCLUDING ATTORNEYS' FEES, ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, AND COURT COSTS, BY REASON OF PROPERTY DAMAGE OR LOSS OR PERSONAL INJURY TO ANY PERSON CAUSED IN WHOLE OR IN PART BY THE ACTIONS OR OMISSIONS OF SELLER, ITS OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS, OR SUBCONTRACTORS.

19. INTELLECTUAL PROPERTY

(a) SELLER WARRANTS THAT THE WORK PERFORMED OR DELIVERED UNDER THIS CONTRACT WILL NOT INFRINGE OR OTHERWISE VIOLATE THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY IN THE UNITED STATES OR ANY FOREIGN COUNTRY. SELLER AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS LOCKHEED MARTIN AND ITS CUSTOMERS FROM AND AGAINST ANY CLAIMS, DAMAGES, LOSSES, COSTS, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING OUT OF ANY ACTION BY A THIRD PARTY THAT IS BASED UPON A CLAIM THAT THE WORK PERFORMED OR DELIVERED UNDER THIS CONTRACT INFRINGES OR OTHERWISE VIOLATES THE INTELLECTUAL PROPERTY RIGHTS OF ANY PERSON OR ENTITY. THIS INDEMNITY AND HOLD HARMLESS SHALL NOT BE CONSIDERED AN ALLOWABLE COST UNDER ANY PROVISIONS OF THIS CONTRACT EXCEPT WITH REGARD TO ALLOWABLE INSURANCE COSTS.

(b) Unless LOCKHEED MARTIN's Prime Contract contains 52.227-3, "Patent Indemnity", then SELLER's obligation to defend, indemnify, and hold harmless LOCKHEED MARTIN and its customers under this Paragraph 17(a) shall not apply to the extent FAR 52.227-1 "Authorization and Consent", applies to LOCKHEED MARTIN's contract

(c) Seller shall provide to LOCKHEED MARTIN only such rights as are reasonably necessary to meet and perform the requirements of LOCKHEED MARTIN's Prime Contract.

20. OFFSET CREDIT/COOPERATION

This Contract has been entered into in direct support of LOCKHEED MARTIN's international offset programs. All offset benefit credits resulting from this Contract are the sole property of LOCKHEED MARTIN to be applied to the offset program of its choice. SELLER agrees to assist LOCKHEED MARTIN in securing appropriate offset credits from the respective country government authorities.

21. PACKING AND SHIPMENT

(a) Unless otherwise specified, all Work is to be packed in accordance with good commercial practice.

(b) A complete packing list shall be enclosed with all shipments. SELLER shall mark containers or packages with necessary lifting, loading, and shipping information, including the LOCKHEED MARTIN Contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this Contract number.

(c) Unless otherwise specified, delivery shall be FOB Place of Shipment.

22. PARTS OBSOLESCENCE

LOCKHEED MARTIN may desire to place additional orders for Work purchased hereunder. SELLER shall provide LOCKHEED MARTIN with a "Last Time Buy Notice" at least twelve (12) months prior to any action to discontinue any Work purchased under this Contract.

23. PAYMENTS, TAXES, AND DUTIES

(a) Unless otherwise provided, terms of payment shall be net 30 days from the latest of the following: (i) LOCKHEED MARTIN's receipt of the SELLER's proper invoice; (ii) Scheduled delivery date of the Work; or (iii) Actual delivery of the Work. LOCKHEED MARTIN shall have a right of setoff against payments due or at issue under this Contract or any other contract between the parties.

(b) Each payment made shall be subject to reduction to the extent of amounts which are found by LOCKHEED MARTIN not to have been properly payable, and shall also be subject to reduction for overpayments.

(c) Payment shall be deemed to have been made as of the date of mailing LOCKHEED MARTIN's payment or electronic funds transfer.

(d) Unless otherwise specified, estimated costs include all applicable federal, state, and local taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice.

24. PRECEDENCE

Any inconsistencies in this Contract shall be resolved in accordance with the following descending order of precedence: (i) Face of the Purchase Order and/or Task Order, release document or schedule, (including any continuation sheets), as applicable, including any special provisions; (ii) This CORPDOC ; (iii) Statement of Work.

25. PRIORITY RATING

If so identified, this Contract is a "rated order" certified for national defense use, and the SELLER shall follow all the requirements of the Defense Priorities and Allocation System Regulation (15 CFR Part 700).

26. QUALITY CONTROL SYSTEM

(a) SELLER shall provide and maintain a quality control system to an industry recognized Quality Standard and in compliance with any other specific quality requirements identified in this Contract. NOTE: IT IS UNDERSTOOD THAT THIS PARAGRAPH DOES NOTE APPLY UNTIL SUCH TIME AS THE TWO PARTIES AFFIRMLY AGREE THAT THE PARAGRAPH WILL APPLY.

(b) Records of all quality control inspection work by SELLER shall be kept complete and available to LOCKHEED MARTIN and its customers.

27. RELEASE OF INFORMATION

Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Contract or the subject matter hereof, will be made by SELLER without the prior written approval of LOCKHEED MARTIN.

28. SEVERABILITY

Each paragraph and provision of this Contract is severable, and if one or more paragraphs or provisions are declared invalid, the remaining paragraphs and provisions of this Contract will remain in full force and effect.

29. SURVIVABILITY

(a) If this Contract expires, is completed or terminated, SELLER shall not be relieved of those obligations contained in the following provisions:

Allowable Cost and Payment
Applicable Laws
Electronic Contracting
Export Control
Independent Contractor Relationship
Information of Lockheed Martin
Insurance/Entry on Lockheed Martin Property
Intellectual Property
Release of Information

(b) Those U. S. Government flowdown provisions that by their nature should survive.

30. TIMELY PERFORMANCE

(a) SELLER's timely performance is a critical element of this Contract.

(b) Unless advance shipment has been authorized in writing by LOCKHEED MARTIN, LOCKHEED MARTIN may store at SELLER's expense, or return, shipping charges collect, all Work received in advance of the scheduled delivery date.

(c) If SELLER becomes aware of difficulty in performing the Work, SELLER shall timely notify LOCKHEED MARTIN, in writing, giving pertinent details. This notification shall not change any delivery schedule.

(d) In the event of a termination or change, no claim will be allowed for any manufacture or procurement in advance of SELLER's normal flow time unless there has been prior written consent by LOCKHEED MARTIN.

31. WAIVERS, APPROVALS, AND REMEDIES

(a) Failure by LOCKHEED MARTIN to enforce any provisions of this Contract shall not be construed as a waiver of the requirements of such provisions, or as a waiver of the right of LOCKHEED MARTIN thereafter to enforce each such provision.

(b) LOCKHEED MARTIN's approval of documents shall not relieve SELLER of its obligation to comply with the requirements of this Contract

(c) The rights and remedies of LOCKHEED MARTIN in this Contract are in addition to any other rights and remedies provided by law or in equity.

SECTION II: FAR FLOWDOWN PROVISIONS

A. INCORPORATION OF FAR CLAUSES

The Federal Acquisition Regulation (FAR) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, to this Contract. If the date or substance of any of the clauses listed below is different from the date or substance of the clause actually incorporated in the Prime Contract referenced by number herein, the date or substance of the clause incorporated by said Prime Contract shall apply instead. The Contracts Disputes Act shall have no application to this Contract Any reference to a "Disputes" clause shall mean the "Disputes" clause of this Contract.

B. GOVERNMENT SUBCONTRACT

This Contract is entered into by the parties in support of a U.S. Government Contract. As used in the FAR clauses referenced below and otherwise in this Contract:

1. "Commercial Item" means a commercial item as defined in FAR 2.101.

2. "Contract" means this contract

3. "Contracting Officer" shall mean the U.S. Government Contracting Officer for LOCKHEED MARTIN's government prime contract under which this Contract is entered.

4. "Contractor" and "Offerer" means the SELLER, as defined in this CORPDOC 4, acting as the immediate (first-tier) subcontractor to LOCKHEED MARTIN.

5. "Prime Contract" means the contract between LOCKHEED MARTIN and the U.S. Government or between LOCKHEED MARTIN and its higher-tier contractor who has a contract with the U.S. Government

6. "Subcontract" means any contract placed by the Contractor or lower-tier subcontractors under this Contract.

C. NOTES

1. Substitute "LOCKHEED MARTIN" for "Government" or "United States" throughout this clause.

2. Substitute "LOCKHEED MARTIN Procurement Representative" for "Contracting Officer", "Administrative Contracting Officer", and "ACO" throughout this clause.

3. Insert "and LOCKHEED MARTIN" after "Government" throughout this clause.

4. Insert "or LOCKHEED MARTIN" after "Government" throughout this clause.

5. Communication/notification required under this clause from/to the SELLER to/from the Contracting Officer shall be through LOCKHEED MARTIN.

6. Insert "and LOCKHEED MARTIN" after "Contracting Officer" throughout the clause.

7. Insert "or LOCKHEED MARTIN Procurement Representative" after "Contracting Officer" throughout the clause.

D. AMENDMENTS REQUIRED BY PRIME CONTRACT

Contractor agrees that upon the request of LOCKHEED MARTIN it will negotiate in good faith with LOCKHEED MARTIN relative to amendments to this Contract to incorporate additional provisions herein or to change provisions hereof, as LOCKHEED MARTIN may reasonably deem necessary in order to comply with the provisions of the applicable Prime Contract or with the provisions of amendments to such Prime Contract. If any such amendment to this Contract causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the Work under this Contract, an equitable adjustment shall be made pursuant to the "Changes" clause of this Contract.

E. PRESERVATION OF THE GOVERNMENT'S RIGHTS

If LOCKHEED MARTIN furnishes designs, drawings, special tooling, equipment, engineering data, or other technical or proprietary information (Furnished Items) to which the U.S. Government owns or has the right to authorize the use of, nothing herein shall be construed to mean that LOCKHEED MARTIN, acting on its own behalf, may modify or limit any rights the Government may have to authorize the Contractor's use of such Furnished Items in support of other U.S. Government prime contracts.

F. FAR FLOWDOWN CLAUSES

	REFERENCE	TITLE
1.	THE FOLLOWING FAR CLAUSES APPLY TO THIS CONTRACT:	
(a)	52.211-5	MATERIAL REQUIREMENTS (AUG 2000) (Note 2 applies.)
(b)	52.215-20	REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA (OCT 1997) (Note 2 applies.)
(c)	52.215-21	REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA - MODIFICATIONS (OCT 1997) (Note 2 applies.)
(d)	52.216-8	FIXED FEE (MAR 1997) (Applicable only if this Contract includes a fixed fee. Notes 1 and 2 apply. Delete the last two sentences of the clause.)
(e)	52.216-10	INCENTIVE FEE (MAR 1997) (Applicable only if this Contract includes an incentive fee. Notes 1 and 2 apply, except in subparagraphs (e) (v) and (e) (vi) where "Government" is unchanged. In subparagraph (e) (iv) and the last two sentences of paragraph (c) is deleted. The amounts in paragraph (e) are set forth on the face of the contract.)
(f)	52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2000)
(g)	52.222-2	PAYMENT FOR OVERTIME PREMIUMS (JUL 1990) (Insert ZERO in the Blank. Notes 2 and 3 apply.)
(f)	52.222-21	PROHIBITION OF SEGREGRATED FACILITIES (FEB 1999)
(g)	52.222-26	EQUAL OPPORTUNITY (APR 2002) (Only paragraphs (b)(1)-(11) applies.)
(h)	52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (OCT 2003)
(i)	52.227-14	RIGHTS IN DATA - GENERAL (JUN 1987)
(j)	52.232-20	LIMITATION OF COST (APR 1984) (Applicable when this Contract becomes fully funded. Notes 1 and 2 apply.)
(k)	52.232-22	LIMITATION OF FUNDS (APR 1984) (Applicable if this Contract is incrementally funded. When the Contract becomes fully funded 52.232-20 shall apply in lieu of this clause. Notes 1 and 2 apply.)
(l)	52.234-1	INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTION ACT TITLE III (DEC 1994) (Notes 1 and 2 apply.)
(m)	52.242-13	BANKRUPTCY (JUL 1995)(Notes 1 and 2 apply.)
(n)	52.242-15	STOP-WORK ORDER (AUG 1989) with ALT I (APR 1984) (Notes 1 and 2 apply.)
(o)	52.243-2	CHANGES - COST REIMBURSEMENT (AUG 1987) (Notes 1 and 2 apply.)
(p)	52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS (APR 2003).
(q)	52.246-3	INSPECTION OF SUPPLIES - COST REIMBURSEMENT (MAR 2001) (Note 1 applies, except in paragraphs (b), (c), and (d) where Note 3 applies, and in paragraph (k) where the term is unchanged. In paragraph (e), change "60 days" to "120 days", and in paragraph (f) change "6 months" to "12 months".)
(r)	52.246-5	INSPECTION OF SERVICES - COST REIMBURSEMENT (APR 1984) (Note 3 applies in paragraphs (b) and (c). Note 1 applies in paragraphs (d) and(e).)
(s)	52.247-64	PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS (APR 2003)
(t)	52.249-6	TERMINATION (COST-REIMBURSEMENT) (SEP 1996) (Notes 1 and 2 apply. Substitute "90 days" for "120 days" and "90-day" for "120-day" in paragraph (d). Substitute "180 days" for "1 year" in paragraph (f). In paragraph (j) "right of appeal", "timely appeal" and "on an appeal" shall mean the right to proceed under the

"Disputes" clause of this Contract. Settlements and payments under this clause may be subject to the approval of the Contracting Officer.)

(u) 52.249-14 EXCUSABLE DELAYS (APR 1984) (Note 2 applies; Note 1 applies to (c). In (a)(2) delete "or contractual".)

2. THE FOLLOWING FAR CLAUSES APPLY TO THIS CONTRACT IF THE VALUE OF THIS CONTRACT EQUALS OR EXCEEDS $10,000:

(a) 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)

3. THE FOLLOWING FAR CLAUSES APPLY TO THIS CONTRACT IF THE VALUE OF THIS CONTRACT EQUALS OR EXCEEDS $25,000:

(a) 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001)

(b) 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001)

4. THE FOLLOWING FAR CLAUSES APPLY TO THIS CONTRACT IF THE VALUE OF THIS CONTRACT EQUALS OR EXCEEDS $100,000:

(a) 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)

(b) 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 2003)

(c) 52.215-2 AUDIT AND RECORDS-NEGOTIATION (JUN 1999) (Applicable if: (1) Contractor is required to furnish cost or pricing data, or (2) the Contract requires Contractor to furnish cost, funding, or performance reports. If this is a cost type contract with an educational institution or other non-profit organization, add ALT II (APR 1998). Note 3 applies.)

(d) 52.215-14 INTEGRITY OF UNIT PRICES (OCT 1997) (Delete paragraph (b) of the clause.)

(e) 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION (SEP 2000)

(f) 52.223-14 TOXIC CHEMICAL RELEASE REPORTING (AUG 2003) (Note 2 applies. Delete paragraph (e).)

(g) 52.227-1 AUTHORIZATION AND CONSENT (JUL 1995) (Applicable only if the Prime Contract contains this clause.)

(h) 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 1996) (Notes 2 and 4 apply.)

(i) 52.248-1 VALUE ENGINEERING (FEB 2000) (Note 1 applies, except in paragraphs (c)(5) and (m), where note 3 applies and where "Government" proceeds "cost" throughout. Note 2 applies.)

5. THE FOLLOWING FAR CLAUSES APPLY TO THIS CONTRACT IF THE VALUE OF THIS CONTRACT EQUALS OR EXCEEDS $500,000:

(a) 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2002) (Applicable if the Contractor is not a small business. Note 2 is, applicable to paragraph (c) only. The Contractor's subcontracting plan is incorporated herein by reference.)

6. THE FOLLOWING FAR CLAUSES APPLY TO THIS CONTRACT IF THE VALUE OF THIS CONTRACT EQUALS OR EXCEEDS $550,000:

(a) 52.215-12 SUBCONTRACTOR COST OR PRICING DATA (OCT 1997) (Applicable if not otherwise exempt under FAR 15.403.)

(b) 52.215-13 SUBCONTRACTOR COST OR PRICING DATA - MODIFICATIONS (OCT 1997) (Applicable for modifications if not otherwise exempt under FAR 15.403.)

7. THE FOLLOWING FAR CLAUSES APPLY TO THIS CONTRACT AS INDICATED:

(a) 52.204-2 SECURITY REQUIREMENTS (AUG 1996) (Applicable if the Work requires access to classified information.)

(b) 52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (OCT 1997) (Applicable if submission of cost or pricing data is required. Notes 2 and 4 apply. Note 7 applies to paragraph (c)(1). Rights and obligations under this clause shall survive completion of the Work and final payment under this Contract.)

(c) 52.215-11 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - MODIFICATIONS (OCT 1997) (Applicable if submission of cost or pricing data is required for modifications. Notes 2 and 4 apply. Note 7 applies to paragraph (d)(1) Rights and obligations under this clause shall survive completion of the Work and final payment under this Contract.)

(d) 52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS (DEC 1998) (Applicable if this Contract meets the applicability requirements of FAR 15.408(g). Note 5 applies.)

(e) 52.215-16 FACILITIES CAPITAL COST OF MONEY (JUN 2003) (Applicable only if this Contract is subject to the Cost Principles at FAR Subpart 31.2 and the Contractor proposed facilities capital cost of money in its offer.)

(f) 52.215-17 WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997) (Applicable only if this Contract is subject to the Cost Principles at FAR Subpart 31.2 and the Contractor did not propose facilities capital cost of money in its offer.)

(g) 52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POST-RETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (OCT 1997) (Applicable if this Contract meets the applicability requirements of FAR 15.408(j). Note 5 applies.)

(h) 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997) (Applicable if this Contract meets the applicability requirements of FAR 15.408(k). Note 5 applies.)

(i) 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) (Applicable if this Contract involves hazardous material. Notes 2 and 3 apply, except for paragraph (f) where Note 4 applies.)

(j) 52.223-7 NOTICE OF RADIOACTIVE MATERIALS (JAN 1997) (Applicable to Work containing covered radioactive material. In the blank insert "30". Notes 1 and 2 apply.)

(k) 52.223-11 OZONE-DEPLETING SUBSTANCES (MAR 2001) (Applicable if the Work was manufactured with or contains ozone-depleting substances.)

(l) 52.225-1 BUY AMERICAN ACT--SUPPLIES (JUN 2003) (Applicable if the Work contains other than domestic components. Note 2 applies to the first time "Contracting Officer" is mentioned in paragraph (c).)

(m) 52.225-5 TRADE AGREEMENTS (OCT 2003) (Applicable if the Work contains other than domestic components U.S. made, designated country, Caribbean or NAFTA country end products.)

(n) 52.225-8 DUTY FREE ENTRY (FEB 2000) (Applicable if supplies will be imported into the Customs Territory of the United States. Note 2 applies.)

(o) 52.227-9 REFUND OF ROYALTIES (APR 1984) (Applicable when reported royalty exceeds $250. Note 1 applies except for the first two times "Government" appears in paragraph (d). Note 2 applies.)

(p) 52.227-10 FILING OF PATENT APPLICATIONS-CLASSIFIED SUBJECT MATTER (APR 1984) (Applicable if the Work or any patent application may cover classified subject matter.)

(q) 52.227-11 PATENT RIGHTS-RETENTION BY THE CONTRACTOR (SHORT FORM) (JUN 1997) (Applicable if this Contract is for experimental, developmental, or research Work and Contractor is a small business concern or domestic nonprofit organization. Reports required by this clause shall be filed with the agency identified in this Contract. If no agency is identified, contact the LOCKHEED MARTIN Procurement Representative identified on the face of this Contract.)

(r) 52.227-12 PATENT RIGHTS-RETENTION BY THE CONTRACTOR (LONG FORM) (JAN 1997) (Applicable if this Contract is for experimental, developmental, or research Work and Contractor is a large business concern. Reports required by this clause shall be filed with the agency identified in this Contract. If no agency is identified, contact the LOCKHEED MARTIN Procurement Representative identified on the face of this Contract)

(s) 52.228-5 INSURANCE - WORK ON A GOVERNMENT INSTALLATION (JAN 1997) (Applicable if this Contract involves Work on a Government installation. Note 2 applies. Note 4 applies to paragraph (b).)

(t) 52.230-2 COST ACCOUNTING STANDARDS (APR 1998) (When referenced in the Contract, full CAS coverage applies. "United States" means "United States or Lockheed Martin." Delete paragraph (b) of the clause.)

(u) 52.230-3 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (APR 1998) (When referenced in this Contract, modified CAS coverage applies. "United States" means "United States or Lockheed Martin". Delete paragraph (b) of the clause.)

(v) 52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS (NOV 1999) (Applicable if FAR 52.230-2 or FAR 52.230-3 applies.)

(w) 52.233-3 PROTEST AFTER AWARD (AUG 1996) ALTI(JUN 1985) (In the event LOCKHEED MARTIN's customer has directed LOCKHEED MARTIN to stop performance of the Work under the Prime Contract under which this Contract is issued pursuant to FAR 33.1, LOCKHEED MARTIN may, by written order to Contractor, direct Contractor to stop performance of the Work called for by this Contract. "30 days" means "20 days" in paragraph (b)(2). Note 1 applies, except the first time "Government" appears in paragraph (f). In paragraph (f) add after "33.104(h)(1)" the following: "and recovers those costs from LOCKHEED MARTIN". Note 2 applies.)

(x) 52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT AND VEGETATION (APR 1984) (Applicable if Work is performed on a Government installation. Note 2 applies. Note 4 applies to the second time "Government" appears in the clause.)

(y) 52.243-6 CHANGE ORDER ACCOUNTING (APR 1984) (Applicable only if Prime Contract requires Change Order Accounting. Note 2 applies.)

(z) 52.245-5 GOVERNMENT PROPERTY (COST-REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR-HOUR CONTRACTS) (JUN 2003) (Applicable if Government Property is furnished in the performance of this Contract. Note 1 applies, except in the phrases "Government property", "Government-furnished property", and in references to title to property. Note 2 applies. Paragraphs (g)(1), (g)(2), and (g)(3) are deleted and replaced with the following: "Contractor assumes the risk of, and shall be responsible for, any loss or destruction, or damage to, Government property covered by this clause. Contractor shall not be liable for reasonable wear and tear to Government property or for Government Property properly consumed in the performance of this Contract." The following is added as paragraph (m): "Contractor shall provide to LOCKHEED MARTIN immediate notice of any disapproval, withdrawal of approval, or non-acceptance by the Government of its property control system.")

(aa) 52.245-18 SPECIAL TEST EQUIPMENT (FEB 1993) (Applicable if this Contract involves the acquisition or fabrication of Special Test Equipment. Note 4 applies, except in paragraphs (b), (c) and (d). Note 2 applies to paragraphs (b) and (d). Note 5 applies. In paragraph (b) and (e), change "30 days" to "60 days".)

(bb) 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JUN 2003) (Applicable if this Contract involves international air transportation.)

G. CERTIFICATIONS AND REPRESENTATIONS

(1) THIS CLAUSE CONTAINS CERTIFICATIONS AND REPRESENTATIONS THAT ARE MATERIAL REPRESENTATIONS OF FACT UPON WHICH LOCKHEED MARTIN WILL RELY IN MAKING AWARDS TO CONTRACTOR. BY SUBMITTING ITS WRITTEN OFFER, OR PROVIDING ORAL OFFERS/QUOTATIONS AT THE REQUEST OF LOCKHEED MARTIN, OR ACCEPTING ANY CONTRACT, CONTRACTOR CERTIFIES TO THE REPRESENTATIONS AND CERTIFICATIONS AS SET FORTH BELOW IN THIS CLAUSE. THESE CERTIFICATIONS SHALL APPLY WHENEVER THESE TERMS AND CONDITIONS ARE INCORPORATED BY REFERENCE IN ANY CONTRACT, AGREEMENT, OTHER CONTRACTUAL DOCUMENT OR ANY QUOTATION, REQUEST FOR QUOTATION (ORAL OR WRITTEN), REQUEST FOR PROPOSAL OR SOLICITATION (ORAL OR WRITTEN), ISSUED BY LOCKHEED MARTIN. CONTRACTOR SHALL IMMEDIATELY NOTIFY LOCKHEED MARTIN OF ANY CHANGE OF STATUS WITH REGARD TO THESE CERTIFICATIONS AND REPRESENTATIONS.

(a) FAR 52.203-11 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (Applicable to solicitations and contracts exceeding $100,000)

(1) The definitions and prohibitions contained in the clause at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions are hereby incorporated by reference in paragraph (b) of this certification.

(2) Contractor certifies that to the best of its knowledge and belief that on and after December 23,1989-

(a) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

(b) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with a solicitation or order, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, in accordance with its instructions, and

(c) Contractor will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of $100,000 shall certify and disclose accordingly.

(3) Submission of this certification and disclosure is a prerequisite for making or entering into a contract as imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than $10,000, and not more than $100,000, for each such failure.

(b) FAR 52.209-5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS.

(1) Contractor certifies that, to the best of its knowledge and belief, that Contractor and/or any of its Principals, (as defined in FAR 52.209-5,) are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency.

(2) Contractor shall provide immediate written notice to LOCKHEED MARTIN if, any time prior to award of any contract, it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) FAR 52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS.

Contractor represents that if Contractor has participated in a previous contract or subcontract subject to the Equal Opportunity clause (FAR 52.222-26) and (i) Contractor has filed all required compliance reports and (ii) that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(d) FAR 52.222-25 AFFIRMATIVE ACTION COMPLIANCE.

Contractor represents (1) that Contractor has developed and has on file at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or (2) that in the event such a program does not presently exist, Contractor will develop and place in operation such a written Affirmative Action Compliance Program within 120 days from the award of this Contract.

(e) FAR 52.323-13 CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (Applicable to competitive solicitations/contracts which exceed $100,000)

(1) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.

(2) Contractor certifies that--

(a) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986(EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106),Contractor will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

(b) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons:

(i) The facility does not manufacture, process or otherwise use any toxic chemicals listed in 40 C.F.R. 372.65;

(ii) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

(iii)The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

(iv) The facility does not fall within Standard Industrial Classification Code (SIC) codes or their corresponding North American Industry Classification System (NAICS); or

(A) Major group code 10 (except 1011, 1081, and 1094).

(B) Major group code 12 (except 1241).

(C) Major group codes 20 through 39.

(D) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).

(E) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, et seq.), 5169, 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

(v) The facility is not located in the United States or its outlying areas.

CORPDOC 4A

LOCKHEED MARTIN

COST REIMBURSEMENT DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT (DFARS)
FLOWDOWN PROVISIONS FOR SUBCONTRACTS/PURCHASE ORDERS FOR NON-COMMERCIAL ITEMS
UNDER A U.S. GOVERNMENT PRIME CONTRACT

A. INCORPORATION OF DFARS CLAUSES

The Defense Federal Acquisition Regulation Supplement (DFARS) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, to this Contract. If the date or substance of any of the clauses listed below is different from the date or substance of the clause actually incorporated in the Prime Contract referenced by number herein, the date or substance of the clause incorporated by said Prime Contract shall apply instead. The Contracts Disputes Act shall have no application to this Contract. Any reference to a "Disputes" clause shall mean the "Disputes" clause of this Contract

B. GOVERNMENT SUBCONTRACT

This Contract is entered into by the Parties in support of a U.S. Government contract.

As used in the clauses referenced below and otherwise in this Contract:

1. "Commercial Item" means a commercial item as defined in FAR 2.101.

2. "Contract" means this contract.

3. "Contracting Officer" shall mean the U.S. Government Contracting Officer for LOCKHEED MARTIN's government prime contract under which this Contract is entered.

4. "Contractor" or "Offeror" means the SELLER, as defined in CORPDOC 4, acting as the immediate (first-tier) subcontractor to LOCKHEED MARTIN.

5. "Prime Contract" means the contract between LOCKHEED MARTIN and the U.S. Government or between LOCKHEED MARTIN and its higher-tier contractor who has a contract with the U.S. Government.

6. "Subcontract" means any contract placed by the Contractor or lower-tier subcontractors under this Contract.

C. NOTES

1. Substitute "LOCKHEED MARTIN" for "Government" or "United States" throughout this clause.

2. Substitute "LOCKHEED MARTIN Procurement Representative" for "Contracting Officer", "Administrative Contracting Officer", and "ACO" throughout this clause.

3. Insert "and LOCKHEED MARTIN" after "Government" throughout this clause.

4. Insert "or LOCKHEED MARTIN" after "Government" throughout this clause.

5. Communication/notification required under this clause from/to Contractor to/from the Contracting Officer shall be through LOCKHEED MARTIN.

6. Insert "and LOCKHEED MARTIN" after "Contracting Officer" throughout the clause.

7. Insert "or LOCKHEED MARTIN Procurement Representative" after "Contracting Officer" throughout the clause.

D. AMENDMENTS REQUIRED BY PRIME CONTRACT

Contractor agrees that upon the request of LOCKHEED MARTIN it will negotiate in good faith with LOCKHEED MARTIN relative to amendments to this Contract to incorporate additional provisions herein or to change provisions hereof, as LOCKHEED MARTIN may reasonably deem necessary in order to comply with the provisions of the applicable Prime Contract or with the provisions of amendments to such Prime Contract. If any such amendment to this Contract causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the Work under this Contract, an equitable adjustment shall be made pursuant to the "Changes" clause of this Contract.

E. PRESERVATION OF THE GOVERNMENT'S RIGHTS

If LOCKHEED MARTIN furnishes designs, drawings, special tooling, equipment, engineering data, or other technical or proprietary information (Furnished Items) which the U.S. Government owns or has the right to authorize the use of, nothing herein shall be construed to mean that LOCKHEED MARTIN, acting on its own behalf, may modify or limit any rights the Government may have to authorize the Contractor's use of such Furnished Items in support of other U.S. Government prime contracts.

F. DOD FAR SUPPLEMENT (DFARS) FLOWDOWN CLAUSES

	REFERENCE	TITLE
1.	THE FOLLOWING DFARS CLAUSES APPLY TO THIS CONTRACT:	
(a)	252.225-7001	BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM (APR 2003) (Applicable if the Work contains other than domestic components. Applicable in lieu of FAR 52.225-1 and FAR 52.225-5.)
(b)	252.225-7014	PREFERENCE FOR DOMESTIC SPECIALTY METALS (MAR 1998) and ALT I (MAR 1998) (Applicable if the Work to be furnished contains specialty metals.)
(c)	252.225-7021	TRADE AGREEMENTS (AUG 2003) (Applicable if the Work contains other than domestic components. Applicable in lieu of FAR 52.225-1 and FAR 52.225-5.)
(d)	252.227-7013	RIGHTS IN TECHNICAL DATA - NON-COMMERCIAL ITEMS (NOV 1995) (Applicable in lieu of FAR 52.227-14.)
(e)	252.227-7014	RIGHTS IN NON-COMMERCIAL COMPUTER SOFTWARE AND NON-COMMERCIAL COMPUTER SOFTWARE DOCUMENTATION (JUN 1995) (Applicable in lieu of FAR 52.227-14.)
(f)	252.227-7016	RIGHTS IN BID OR PROPOSAL INFORMATION (JUN 1995)
(g)	252.227-7019	VALIDATION OF ASSERTED RESTRICTIONS - COMPUTER SOFTWARE (JUN 1995)
(h)	252.227-7025	LIMITATIONS ON THE USE OR DISCLOSURE OF GOVERNMENT-FURNISHED INFORMATION MARKED WITH RESTRICTIVE LEGENDS (JUN 1995) (For paragraph (c)(1), Note 3 applies.)
(i)	252.227-7026	DEFERRED DELIVERY OF TECHNICAL DATA OR COMPUTER SOFTWARE (APR 1988) (Note 1 applies.)
(j)	252.227-7027	DEFERRED ORDERING OF TECHNICAL DATA OR COMPUTER SOFTWARE (APR 1988) (Note 1 applies, only the first time "Government appears.)
(k)	252.227-7028	TECHNICAL DATA OR COMPUTER SOFTWARE PREVIOUSLY DELIVERED TO THE GOVERNMENT (JUN 1995) (The term "contract" and "subcontract" shall not change in meaning, except for the first reference to "contract".)
(l)	252.227-7030	TECHNICAL DATA - WITHHOLDING OF PAYMENT (MAR 2000) (Notes 1 and 2 apply to (a). Note 4 applies to (b))
(m)	252.227-7036	DECLARATION OF TECHNICAL DATA CONFORMITY (JAN 1997)
(n)	252.227-7037	VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA (SEP 1999)
(o)	252.228-7005	ACCIDENT REPORTING AND INVESTIGATION INVOLVING AIRCRAFT, MISSILES, AND SPACE LAUNCH VEHICLES (DEC 1991) (In paragraph (a), Note 5 applies. In paragraph (b), Note 3 applies.)

(p) 252.231-7000 SUPPLEMENTAL COST PRINCIPLES (DEC 1991)

(q) 252.243-7001 PRICING OF CONTRACT MODIFICATIONS (DEC 1991)

(r) 252.247-7024 NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA (MAR 2000) (Applicable if this Contract meets the criteria set forth in paragraph (b) (2) (ii) of the clause. Notes 1 and 2 apply)

2. THE FOLLOWING DFARS CLAUSES APPLY TO THIS CONTRACT IF THE VALUE OF THIS CONTRACT EQUALS OR EXCEEDS $100,000:

(a) 252.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE CONTRACT-RELATED FELONIES (MAR 1999) (In this clause, the terms "contract", "contractor", and "subcontract" shall not change in meaning in paragraphs (a) thru (d). Delete paragraph g. Note 5 applies.)

(b) 252.209-7000 ACQUISITION FROM SUBCONTRACTORS SUBJECT TO ON-SITE INSPECTION UNDER THE INTERMEDIATE RANGE NUCLEAR FORCES (INF) TREATY (NOV 1995) (Note 5 applies.)

(c) 252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA (MAY 2002) (Applicable in lieu of FAR 52.247-64 in all Contracts for ocean transportation of supplies. In the first sentence of paragraph (g) insert a period after "Contractor" and delete the balance of the sentence. Paragraphs (f) and (g) shall not apply if this Contract is at or below $100,000. Notes 1 and 2 apply to paragraph (g).)

3. THE FOLLOWING DFARS CLAUSES APPLY TO THIS CONTRACT IF THE VALUE OF THIS CONTRACT EQUALS OR EXCEEDS $500,000:

(a) 252.225-7026 REPORTING OF CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES (APR 2003) (Delete paragraph (c).)

(b) 252.249-7002 NOTIFICATION OF ANTICIPATED CONTRACT TERMINATION OR REDUCTION (DEC 1996) (Note 2 applies. Delete paragraph (d) (1) and the first five words of paragraph (d) (2).)

4. THE FOLLOWING DFARS CLAUSES APPLY TO THIS CONTRACT IF THE VALUE OF THIS CONTRACT EQUALS OR EXCEEDS $1,000,000:

(a) 252.211-7000 ACQUISITION STREAMLINING (DEC 1991) (Note 1 applies.)

5. THE FOLLOWING DFARS CLAUSES APPLY TO THIS CONTRACT AS INDICATED:

(a) 252.215-7000 PRICING ADJUSTMENTS (DEC 1991) (Applicable if FAR 52.215-12 or 52.215-13 applies to this Contract.)

(b) 252.219-7003 SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (DoD CONTRACTS) (APR 1996) (Applicable if FAR 52.219-9 applies to this Contract. Delete paragraph (g).)

(c) 252.223-7001 HAZARD WARNING LABELS (DEC 1991) (Applicable if this Contract requires the delivery of hazardous materials.)

(d) 252.223-7002 SAFETY PRECAUTIONS FOR AMMUNITION AND EXPLOSIVES (MAY 1994) (Applicable only if the articles furnished under this Contract contain ammunition or explosives, including liquid and solid propellants. Notes 2, 3, and 5 apply to paragraphs g(1)(i) and e(1)(ii). Note 3 applies. Delete "prime" to g(1)(ii) and add "and LOCKHEED MARTIN Procurement Representative". Delete in g(1)(ii) "substituting its name for references to the Government".)

(e) 252.223-7003 CHANGE IN PLACE OF PERFORMANCE - AMMUNITION AND EXPLOSIVES (DEC 1991) (Applicable if DFARS 252.223-7002 applies to this Contract. Notes 2 and 4 apply.)

(f) 252.223-7007 SAFEGUARDING SENSITIVE CONVENTIONAL ARMS, AMMUNITION, AND EXPLOSIVES (SEP 1999) (Applicable if this Contract is for the development, production, manufacture, or purchase of arms, ammunition, and explosives or when arms, ammunition, and explosives will be provided to Contractor as Government Furnished Property.)

(g) 252.225-7001 BUY AMERICAN ACTBALANCE OF PAYMENTS PROGRAM (APR 2003) (Applicable if the Work contains other than domestic components. Applicable in lieu of FAR 52.225-1 and FAR 52.225-5.)

(h) 252.225-7016 RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS (APR 2003) (Applicable if Work supplied under this Contract contains ball or roller bearings. Note 2 applies.)

(i) 252.225-7021 TRADE AGREEMENTS (AUG 2003) (Applicable if the Work contains other than domestic components. Applicable in lieu of FAR 52.225-1 and FAR 52.225-5.)

(j) 252.225-7033 WAIVER OF UNITED KINGDOM LEVIES (OCT 1992) (Applicable if this Contract is with a United Kingdom firm. Note 2 applies. Note 3 applies to (c)(3).)

(k) 252.225-7043 ANTI-TERRORISM/FORCE PROTECTION FOR DEFENSE CONTRACTORS OUTSIDE THE UNITED STATES (JUN 1998) (Applies where contractor will be performing or traveling outside the U.S. under this Contract. For paragraph (c), see applicable information cited in DFARS 225.7401.)

(l) 252-226-7001 UTILIZATION OF INDIAN ORGANIZATIONS, AND INDIAN-OWNED ECONOMIC ENTERPRISES AND NATIVE HAWAIIN SMALL BUSINESS CONCERNS (OCT 2003) (This clause is applicable only when included in LOCKHEED MARTIN's Prime Contract and if this contract is more than $500,000. In e(l), "Contractor" shall mean "LOCKHEED MARTIN". Note 2 applies to (c) the first time "Contracting Officer" appears.)

(m) 252.235-7003 FREQUENCY AUTHORIZATION (DEC 1991) (Applicable if this Contract requires developing, producing, constructing, testing, or operating a device requiring a frequency authorization. Note 2 applies.)

(n) 252.245-7001 REPORTS OF GOVERNMENT PROPERTY (MAY 1994) (Applicable if Government Property is provided or acquired under this Contract. Contractor shall submit its required reports to LOCKHEED MARTIN. In paragraph (a)(3), change October 31 to October 10.)

PURCHASE ORDER NO. DM259735 - SECTION A

Date: March 24, 2005

Seller: Ocean Power Technologies (OPT)
1590 Reed Rd.
Pennington, NJ 08534

Payment Terms: Net 30

Govt. Contract No.: N00039-04-C-0035

Attention: Ms. Debbie Montagna

DPAS Rating: DO-A7

1. PARTIES/TYPE OF CONTRACT

This cost plus fixed fee (CPFF) Purchase Order between Lockheed Martin Maritime Systems & Sensors, a business unit of Lockheed Martin Corporation (hereinafter referred to as "Buyer") located at 9500 Godwin Drive, Manassas, VA 20110 and Ocean Power Technologies (OPT), (hereinafter referred to as "Seller") located at 1590 Reed Rd., Pennington, NJ 08534 definitizes Letter Contract #DM259735 and is placed on the basis set forth herein.

The Buyer's procurement representative is the only person authorized to approve changes to the terms and conditions or the requirements of the Purchase Order. If the Seller complies with any order, direction, interpretation, approval, or disapproval, conditional approval, or determination (written or oral), from someone other than the Buyer's procurement representative, it shall be at Seller's own risk and Buyer shall not be liable for any increased cost or delay in performance in accordance with the requirements set forth herein. The Seller shall ensure that all Seller's personnel are aware of this provision.

Buyer is a signatory to the Defense Industry Initiatives on Business Conduct and Ethics (DII).

The Seller agrees to indemnify Buyer for any amounts required to be paid to the United States Government by virtue of the Seller's violation of Public Law 100-679 (see FAR 52.203- 10(c)). This applies to Purchase Orders over $50,000 or Purchase Order modifications over $50,000.

2. PRODUCT/SERVICES

Seller will provide articles, services and/or data as set forth in Schedule A of this purchase order (copy attached).

3. REQUIREMENTS/DATA

This is a rated order certified for national defense use, and Seller shall follow all requirements of the Defense Priorities and Allocations System Regulation (15 CFR Part 350). Seller accepts said rating unless rejected in writing within ten (10) days if "DO" rating, or five (5) days if "DX" rating from the date of order receipt.

- Government Contract Number N00039-04-C-0035

- DPAS Rating: DO-A7

Seller will provide work effort as set forth in Attachment 3, Statement of Work #2005-PC4-4 for the Advanced Deployable System (ADS) Aboard the Littoral Combat Ship (LCS) Development dated 22 February 2005 which is incorporated herein and made a part hereof by reference.

All drawings, specifications or other documents referenced in this Purchase Order, but not attached are incorporated and made a part by this reference.

4. PERIOD OF PERFORMANCE AND/OR DELIVERY SCHEDULE

Work under this Purchase Order shall commence on September 14, 2004 (authorized via the Letter Contract) and continue through October 31, 2005 or as amended by Buyer in accordance with Terms and Conditions herein.

Articles, services and/or data shall be delivered in accordance with the delivery dates contained in the Statement of Work, Attachment 3 and the Integrated Master Plan (IMP) and Integrated Master Schedule (IMS).

All articles, services and/or data shall be delivered as directed by the ADS LCS Program Manager, the SOW or other attachments to this Purchase Order.

A. Packing Slip

Seller shall submit a packing slip with each shipment of supplies against this Purchase Order/Release. At a minimum, the packing slip shall contain the following information:

1. Purchase Order Number/Release Number

2. Itemized list of supplies within the shipment

3. List of back-order items remaining to be delivered

4. Date of shipment

5. CONSIDERATION AND PAYMENT

The total agreed price for the work identified in this Purchase Order is $[**]. Seller is not authorized to incur any costs, obligations, or liabilities, of any nature whatsoever for the amount and any such additional costs, obligations, or liabilities incurred or assumed by Seller shall be at his sole risk and account and the Buyer and/or the Government shall not be liable in any manner to pay or reimburse Seller on account thereof. Seller shall notify Buyer when the amount of costs incurred is within [**] of the above-cited ceiling.

In the event of a termination or cancellation of this Purchase Order or part thereof, Buyer's sole obligation shall be to pay Seller for satisfactory services performed prior to the date of termination or cancellation. Such payment is subject, in the case of termination for material breach, to a setoff and/or payment of damages or losses incurred by Buyer as a result of any breach.

This purchase order is incrementally funded with respect to both cost and fee in accordance with FAR 52.232-20 and 52.232-22. The amounts presently available and allotted to this purchase order for payment of cost and fee are as follows:

Line Item 001	Allocated to Cost	$[**]	Line Item 002 Not Separately Priced
	Allocated to Fixed Fee	$[**]	
	Total	$[**]	

Buyer shall make payments on account of fixed fee equal to the stated amount for work performed and submitted by Seller under FAR clauses 52.216-7 entitled "Allowable Cost and Payment" and 52.216-8 entitled "Fixed Fee" of the attached FAR Supplemental Terms and Conditions for cost reimbursement type subcontracts, subject to withholding provisions of said clauses.

6. INVOICING

All invoice originals and one (1) copy shall be submitted to the following:

Lockheed Martin Shared Services
Accounts Payable

Attention: OHM Desk - MANPUR
PO Box 33064
Lakeland, FL 33807-3064

INVOICES

Each invoice submitted for payment shall indicate complete Purchase Order number and be set up in accordance with the line items specified in this Purchase Order and Schedule A.

One (1) copy of each invoice and all correspondence pertaining to this Purchase Order shall be sent via e-mail to the Subcontract Administrator: Brenda Aanderud brenda.aanderud@lmco.com.

7. INSPECTION AND ACCEPTANCE

Inspection and acceptance criteria shall be as set forth in the SOW and Systems Engineering Management Plan (SEMP).

8. TERMS AND CONDITIONS

This Purchase Order is subject to the following terms and conditions:

- Lockheed Martin Corporation, CORPDOC 4 and 4A dated 10/03, Cost Reimbursement General Provisions and FAR Flowdowns for Subcontracts/Purchase Orders (All Agencies) for Non- Commercial Items under a U.S. Government Prime Contract.

- Proprietary Information Exchange Agreement No. MAN2004048.

9. SPECIAL PROVISIONS

The following special provisions shall apply to this Purchase Order:

- Sections B - J of this purchase order including reference attachments.

10. ORDER OF PRECEDENCE

In the event of an inconsistency in this Purchase Order, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order.

(a) Body of the Purchase Order Section A Including Schedule A and CORPDOC 4 & 4A

(b) Sections B - J of the Purchase Order

(c) Statement of Work and Contract Data Requirements List

(d) Specifications

(e) All Other Documents

11. ACCEPTANCE

This Purchase Order is the entire agreement between Buyer and Seller. It supersedes all prior agreements, oral or written and all other communications relating to the subject matter of this Purchase Order.

Any terms contained in Seller's invoices, acknowledgments, shipping instructions or other forms that are inconsistent with or different from this Purchase Order, shall be void and of no effect.

This Purchase Order is executed in duplicate originals as of the date specified on page one (1).

Please sign and return this Purchase Order to Buyer within ten (10) working days after receipt.

Lockheed Martin Maritime System & Sensors

By: /s/ Brenda Aanderud

Brenda Aanderud
Title: Staff Subcontract Administrator
Date: 3/27/05

Oceans Power Technologies, Inc.
1590 Reed Rd.
Pennington, NJ 08534

By: /s/ Charles F. Dunleavy

Title: C.F.O.
Date: 4/6/2005

Lockheed Martin Manassas
9500 Godwin Drive Manassas, VA 20 -415
Telephone 703-367-2121

LOCKHEED MARTIN

In Reply Refer To: LM05-ADSLCS031-BKA079

January 19, 2005

Ocean Power Technologies
1590 Reed Rd.
Pennington, NJ 08534

Attention: Ms. Debbie Montagna

Subject: Letter Contract Definitization

Reference: a) LM MS2 Letter #LM04-ADSLCS027-BKA075 dated December 22, 2004

b) OPT Proposal dated April 29, 2004 (with pricing update/correction provided 30-Apr-04 and 05-May-04), Revision dated August 4, 2004 and Update Provided on 11/15/04

c) LM MS2 Letter Contract #DM259735

Dear Ms. Montagna

This letter is to revise the offer presented in the reference a) letter. An offer of $[**] is extended for the definitized subcontract based on OPT's proposal update on 11/15/04.

Please indicate your acceptance of this offer by signing below and returning a copy of this letter. Acceptance will also indicate confirmation that the fee included in the updated proposal/offer does not exceed [**]. OPT is also required to provide certified cost or pricing data in accordance with the attached form F 630.

Please contact me at 703/367-3223 if you have any questions regarding this information.

Sincerely,

/s/ Brenda Aanderud
Brenda Aanderud
Subcontract Administrator

ACCEPTED AND AGREED TO:

Ocean Power Technologies (OPT)

/s/ Charles F. Dunleavy
By: Charles F. Dunleavy
Title: CFO
Date: 20 January 2005

Attachment - Form F 630

LOCKHEED MARTIN

Certificate of Current Cost or Pricing Data--FAR-Covered Contracts

This is to certify that, to the best of my knowledge and belief, cost or pricing data (as defined in section 2.101 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to Lockheed Martin in support of

Cost proposal by Ocean Power Technologies, Inc., as

revised November 15, 2004 for ADS on LCS

are accurate, complete, and current as of 20 (day) January (month) 2005 (year)

This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government or Lockheed Martin that are part of the proposal.

Firm Ocean Power Technologies, Inc.
Name Charles F. Dunleavy

Signature /s/ Charles F. Dunleavy

Title C.F.O.

Date of Execution 20 January 2005

* Describe the proposal, quotation, request for price adjustment, or other submission involved, giving the appropriate identifying number (for example, RFP No. _____).

** Insert the day, month, and year when price negotiations were concluded and price agreement was reached. Or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on price.

*** Insert the day, month, and year of signing, which should be as close as practicable to the date when price negotiations were concluded and the contract price was agreed to.

Post-Proposal Letter Contract

LOCKHEED MARTIN

Subcontractor: Ocean Power Technologies (OPT)
1590 Reed Rd.
Pennington, NJ 08534

Date: 3/10/05

Prime or Customer Contract
No.: N00039-04-C-0035

Subject: LOCKHEED MARTIN CORPORATION- Maritime Systems & Sensors (MS2)

Modification 02 to Letter Contract No. DM259735:

Reference:
a) MS2 Request for Proposal (RFP) No. 29-RA-042904 dated April 8, 2004 and All Amendments

b) OPT Proposal dated April 29, 2004 (with pricing update/correction provided 30-Apr-04 and 05-May-04) and Revision dated August 4, 2004

c) Letter Contract No. DM259735 dated 9/17/04

d) Confirmation of Negotiations dated January 19, 2005

Refer to Letter Contract #DM259735 dated 9/17/04 and make the following addition, deletions, changes and modifications hereinafter set forth:

- Revise Paragraph 4 as follows: "The total Not-to-Exceed (NTE) price of this contract is $[**]."

- Revise Paragraph 5 as follows:

"This contract is incrementally funded. Lockheed Martin's limitation of obligation to pay under this subcontract is $[**]. The funds are expected to be adequate for performance of the Work until June 18, 2005.

Except as hereby amended, all provisions of the letter contract, including modifications thereto, shall remain unmodified and in full force and effect and shall also apply in carrying out the provisions of this modification.

This authorization is subject to your prompt acceptance. Please return a signed copy by FAX no later than cob, Tuesday, March 15, 2005, confirming your acceptance of the contents herein and acknowledging that the effort authorized has been initiated.

Contractor: OCEAN POWER TECHNOLOGIES

By: /s/ Charles F. Dunleavy
Title: C.F.O.
Date: 3/11/05

LOCKHEED MARTIN CORPORATION

By: /s/ Bruce Gaines
Title: Staff Subcontract Administrator
Date: 3/10/05

F 860 (03/04)

Tab - Letter Contract

Lockheed Martin Corporation
Maritime Systems & Sensors
9500 Godwin Drive
Manasaas, Va. 20110-4157

Modification 01
To Purchase Order No. DM259735

Date: April 27, 2005

Seller: Ocean Power Technologies
1590 Reed Rd.
Pennington, NJ 08534

Attention: Ms. Debbie Montagna

This modification is subject to the terms and conditions contained in the original purchase order and subsequent modifications and the additional instructions hereinafter set forth:

Articles/services and/or data provided hereunder will be used on Government Contract Number N00039-04-C-0035.

This is a rated order certified for National Defense use, and seller shall follow all requirements of the Defense Priorities and Allocations System Regulation (15 CFR part 700). Seller accepts said rating unless rejected in writing within 10 days if DO rating, or 5 days if DX rating from the date of order receipt.

DPAS Rating: DO-A7.

BODY OF ALTERATION

Refer to the above Purchase Order Number DM259735 and make the additions, deletions, changes and/or modifications hereinafter set forth:

1. Refer to the PO Para 5 Consideration and Payment and add the following statement:

   "This PO is fully funded at the total price of $[**]."

2. Schedule A

   Delete the existing Schedule A dated March 24, 2005 and update with the revised Schedule A dated April 24,2005 - copy attached.

PO #DM259735, Modification 03
September 2, 2005

ACCEPTANCE

Except as hereby amended, all provisions of the purchase order, including modifications thereto, shall remain unmodified and in full force and effect and shall also apply in carrying out the provisions of this modification.

This modification is executed in duplicate originals as of the effective date of Buyer's signature on last page.

This modification must be signed and returned to the buyer within ten (10) working days after receipt.

BUYER: Lockheed Martin Corporation
Maritime Systems & Sensors
9500 Godwin Drive
Manassas, VA 20110-4157

/s/ Bruce Gaines

BY: Bruce Gaines
TITLE: Staff Subcontract Administrator
DATE: April 27, 2005

SELLER: Ocean Power Technologies
1590 Reed Rd.
Pennington, NJ 08534

BY: /s/ Charles F. Dunleavy

TITLE: CFO
DATE: April 27, 2005

Purchase Order Number DM259735 - Mod 01
SCHEDULE "A"
DATED APRIL 27, 2005

P.O. LINE ITEM	CLIN	DESCRIPTION	AUTHORIZED FUNDING COST	COM	FIXED FEE	TOTAL CPFF	PERIOD OF PERFORMANCE	ESTIMATED COST + COM	FIXED FEE	TOTAL TARGET COST
001	0001	ADS LCS Technology Development Phase	$[**]		[**]	$[**]	9/14/04-10/31/05	$[**]	$[**]	$[**]
002	0002	Data for CLIN 0001	NSP	NSP	NSP	NSP	9/14/04-10/31/05	NSP	NSP	NSP
	Total Contract	Total Authorized Funding - All Line Items =	$[**]	$[**]	$[**]	$[**]		$[**]	$[**]	$[**]

CORPDOC 4(10/03)

Lockheed Martin Corporation
Maritime Systems & Sensors
9500 Godwin Drive
Manasaas, Va. 20110-4157

Modification 02
To Purchase Order No. DM259735

Date: August 5, 2005

Seller: Ocean Power Technologies
1590 Reed Rd.
Pennington, NJ 08534

Attention: Ms. Debbie Montagna

This modification is subject to the terms and conditions contained in the original purchase order and subsequent modifications and the additional instructions hereinafter set forth:

Articles/services and/or data provided hereunder will be used on Government Contract Number N00039-04-C-0035.

This is a rated order certified for National Defense use, and seller shall follow all requirements of the Defense Priorities and Allocations System Regulation (15 CFR part 700). Seller accepts said rating unless rejected in writing within 10 days if DO rating, or 5 days if DX rating from the date of order receipt.

DPAS Rating: DO-A7.

BODY OF ALTERATION

Refer to the above Purchase Order Number DM259735 and make the additions, deletions, changes and/or modifications hereinafter set forth:

1. LINE IREM 001

Incremental funding for Line Item 001 is increased by $[**] from $[**] to $[**].

Allocated to Costs	$[**]
Allocated to Fixed Fee	$[**]
Ttoal Authorized Funding	$[**]

2. Schedule A

Delete the existing Schedule A dated April 27, 2005 and update with the revised Schedule A dated August 5, 2005 - copy attached.

PO #DM259735, Modification 03
September 2, 2005

ACCEPTANCE

Except as hereby amended, all provisions of the purchase order, including modifications thereto, shall remain unmodified and in full force and effect and shall also apply in carrying out the provisions of this modification.

This modification is executed in duplicate originals as of the effective date of Buyer's signature on last page.

This modification must be signed and returned to the buyer within ten (10) working days after receipt.

BUYER: Lockheed Martin Corporation
Maritime Systems & Sensors
9500 Godwin Drive
Manassas, VA 20110-4157

/s/ Bruce Gaines

Bruce Gaines
Staff Subcontract Administrator

DATE: August 5, 2005

SELLER: Ocean Power Technologies
1590 Reed Rd.
Pennington, NJ 08534

DATE:

Purchase Order Number DM259735 - Mod 02
SCHEDULE "A"
DATED AUGUST 5, 2005

P.O. LINE ITEM	CLIN	DESCRIPTION	AUTHORIZED FUNDING COST	COM	FIXED FEE	TOTAL CPFF	PERIOD OF PERFORMANCE	ESTIMATED COST + COM	FIXED FEE	TOTAL TARGET COST
001	0001	ADS LCS Technology Development Phase	$[**]		[**]	$[**]	9/14/04- 10/31/05	$[**]	$[**]	$[**]
002	0002	Data for CLIN 0001	NSP	NSP	NSP	NSP	9/14/04-10/31/05	NSP	NSP	NSP
	Total Contract		$[**]	$[**]	$[**]	$[**]		$[**]	$[**]	$[**]
		Total Authorized Funding - All Line Items =	$[**]							

Lockheed Martin Corporation
Maritime Systems & Sensors
9500 Godwin Drive
Manasaas, Va. 20110-4157

Modification 03
To Purchase Order No. DM259735

Date: September 2, 2005

Seller: Ocean Power Technologies
1590 Reed Rd.
Pennington, NJ 08534

Attention: Ms. Debbie Montagna

This modification is subject to the terms and conditions contained in the original purchase order and subsequent modifications and the additional instructions hereinafter set forth:

Articles/services and/or data provided hereunder will be used on Government Contract Number N00039-04-C-0035.

This is a rated order certified for National Defense use, and seller shall follow all requirements of the Defense Priorities and Allocations System Regulation (15 CFR part 700). Seller accepts said rating unless rejected in writing within 10 days if DO rating, or 5 days if DX rating from the date of order receipt.

DPAS Rating: DO-A7.

BODY OF ALTERATION

Refer to the above Purchase Order Number DM259735 and make the additions, deletions, changes and/or modifications hereinafter set forth:

1. LINE IREM 001

   Incremental funding for Line Item 001 is increased by $[**] from $[**] to $[**].

2. Schedule A

   Delete the existing Schedule A dated August 5, 2005 and update with the revised Schedule A dated September 2, 2005 - copy attached.

PO #DM259735, Modification 03
September 2, 2005

ACCEPTANCE

Except as hereby amended, all provisions of the purchase order, including modifications thereto, shall remain unmodified and in full force and effect and shall also apply in carrying out the provisions of this modification.

This modification is executed in duplicate originals as of the effective date of Buyer's signature on last page.

This modification must be signed and returned to the buyer within ten (10) working days after receipt.

BUYER: Lockheed Martin Corporation
Maritime Systems & Sensors
9500 Godwin Drive
Manassas, VA 20110-4157

/s/ Bruce Gaines

Bruce Gaines

TITLE: Staff Subcontract Administrator

DATE: September 2, 2005

SELLER: Ocean Power Technologies
1590 Reed Rd.
Pennington, NJ 08534

BY:

TITLE:

Exhibit 21.1

Subsidiary	Jurisdiction of Incorporation
Ocean Power Technologies Ltd	United Kingdom
Ocean Power Technologies (Australasia) Pty Ltd	Australia
Reedsport OPT Wave Park LLC	Oregon
Oregon Wave Energy Partners I, LLC	Delaware
Oregon Wave Energy Partners II, LLC	Delaware
Fairhaven OPT Ocean Power, LLC	California

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

When the common stock reverse stock split referred to in Note 14 of the Notes to Consolidated Financial Statements has been consummated, we will be in a position to issue the following consent.

/s/ KPMG LLP

The Board of Directors
Ocean Power Technologies, Inc.:

We consent to the use of our report included herein and to the references to our firm under the headings “Selected Consolidated Financial Data,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations — Change in Accountants” and “Experts” in the prospectus.

Our report refers to the Company’s restatement of the consolidated statement of cash flows for the year ended April 30, 2005.

Philadelphia, Pennsylvania
March ___ , 2007

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the use in this Amendment No. 3 to Registration Statement No. 333-138595 of our report dated July 20, 2004, November 8, 2006 as to the effects of the restatement discussed in Note 1(b) and March , 2007 as to Note 14 (which report expresses an unqualified opinion and includes an explanatory paragraph relating to the restatement discussed in Note 1(b)) relating to the financial statements of Ocean Power Technologies, Inc. and subsidiary for the year ended April 30, 2004, appearing in the Prospectus, which is part of such Registration Statement, and to the reference to us under the headings "Selected Consolidated Financial Data" and "Experts" in such prospectus.

Parsippany, New Jersey
March , 2007

The consolidated financial statements give effect to a 1-for-10 reverse stock split of the common stock of Ocean Power Technologies, Inc. which will be consummated prior to the effective date of the registration statement of which this prospectus is a part. The preceding consent is in the form which will be furnished by Deloitte & Touche LLP, an independent registered public accounting firm, upon completion of the 1-for-10 reverse stock split of the common stock of Ocean Power Technologies, Inc. described in Note 14 to the consolidated financial statements and assuming that from July 20, 2004 to the date of such completion no other material events have occurred that would affect the consolidated financial statements or require disclosure therein.

/s/ Deloitte & Touche LLP

Parsippany, New Jersey
March 16, 2007

WILMERHALE

Robert A. Schwed

+1 212 937 7276 (t)
+1 212 230 8888 (f)
robert.schwed@wilmerhale.com

March 16, 2007

Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Attention: Anita Karu

Re: Ocean Power Technologies, Inc.
Registration Statement on Form S-1
File No. 333-138595

Ladies and Gentlemen:

On behalf of Ocean Power Technologies, Inc. (the "Company"), submitted herewith for filing is Amendment No. 2 ("Amendment No. 2") to the Registration Statement referenced above (the "Registration Statement").

Amendment No. 2 is being filed in response to comments contained in the letter dated February 26, 2007 from H. Christopher Owings of the Staff (the "Staff") of the Securities and Exchange Commission (the "Commission") to Dr. George W. Taylor, the Company's Chief Executive Officer. The responses set forth below are based upon information provided to Wilmer Cutler Pickering Hale and Dorr LLP by the Company. The responses are keyed to the numbering of the comments and the headings used in the Staff's letter. Where appropriate, the Company has responded to the Staff's comments by making changes to the disclosure in the Registration Statement as set forth in Amendment No. 2. Page numbers referred to in the responses reference the applicable pages of Amendment No. 2.

On behalf of the Company, we advise you as follows:

Summary Consolidated Financial Data, page 6

1. *Please tell us why you omitted per share information from this table.*

Response: Share data was omitted from the Summary Consolidated Financial Data in Amendment No. 1 because the Company had not yet effected the proposed one-for-ten reverse stock split of its common stock. With the filing of Amendment No. 2 to the Registration Statement, the Company has reflected the reverse stock split throughout the Registration Statement and intends to announce shortly the effective date of the split on the AIM market of the London Stock Exchange.

Management's Discussion and Analysis of Financial Condition..., page 31

Liquidity and Capital Resources, page 40

2. *We have read your response to comment 14 in our letter dated December 12, 2006 and note your revised disclosures. Please quantify the extent to which your cash requirements have exceeded cash flows from customer revenues. In addition, please quantify the amount of additional funding that has been necessary to sufficiently fund operations.*

Response: The Company has revised the disclosure on page 42 in response to the Staff's comment.

Business, page 46

Our Competitive Advantages, page 49

Our PowerBuoy system is efficient in harnessing wave energy, page 49

3. *Please disclose your historical load factor.*

Response: As described on page 51 of the Registration Statement, load factor is one measure of the efficiency of an electric power generation system. It is defined as the percent of kilowatt hours produced by a system in a given period as compared to the total possible kilowatt hours that could be produced by the system in that period. Relative load factors are a means of comparing the efficiencies of different energy sources to produce equivalent power outputs (without taking into account the relative costs of constructing such systems).

The Company does not believe that disclosure of its historical load factor is meaningful or even possible. Over the last several years, the Company has been developing its PowerBuoy systems and has recently reached the point of commercialization. The load factor stated in the Registration Statement is based on the Company's view that, given the expected wave energy at its targeted

sites, its PowerBuoy wave power station will be able to operate at a 30% to 45% load factor. The relative efficiency of prototype systems, if installed at such sites, is not meaningful.

Our systems are environmentally and aesthetically non-intrusive, page 50

4. *We note your response to comment 18 in our letter dated December 12, 2006. Please name the preparers of the environmental assessment report as experts and include their consents pursuant to Rule 436.*

Response: The independent study referred to on page 52 of the Registration Statement was commissioned and paid for by the Company's customer, the US Navy. The Company does not believe that it is meaningful to investors to name the environmental firm and that it is impracticable to obtain its consent as the Company does not have a client relationship with the firm. The Company has modified this section to make clear that it is the Company's belief as to the environmental impact of its systems and to delete the reference to the formal conclusion of the report, which, we believe, means that the Company is not quoting or summarizing from a report or opinion of an expert and, accordingly, is not required to obtain the consent of such expert.

Product Deployments, page 54

5. *We note your response to comment 16 in our letter of December 12, 2006. Notwithstanding your disclosure in the text, please restore the column in your table that shows the status of each product deployment. Further, for each project, please revise to clarify the following;*

- *the payments to be received in connection with each project and whether you expect to profit from the project or will only be reimbursed for expenses and costs;*
- *whether you will receive any payment in connection with your demonstration projects, and if so, describe these payments;*
- *the dates when payments or reimbursements will be received, and if the payments are contingent on future events, when will you know when payments may be expected or losses incurred; and*
- *the dates when additional agreements will be entered into, if at all.*

Response: The Company has revised this section of the Registration Statement in response to the Staff's comments. Please note that the Company's projects are complex development projects that are all in their initial phases. The timing of subsequent phases will depend on the progress that is made during these initial

phases. Similarly, the expected dates for future agreements cannot be determined with any precision. With the changes made to the Registration Statement in response to the Staff's comments, the Company believes that it has adequately disclosed the nature of its development projects and the risks associated with completing them.

6. *It is unclear where you have disclosed the aggregate funds required to achieve your development projects. Please advise or revise.*

Response: The Company has indicated in the section of the Registration Statement captioned "Use of Proceeds" that approximately $25 million of the proceeds of the offering will be used to construct demonstration wave power stations, approximately $25 million will be used to fund minority investments in wave station projects and approximately $10.5 million will be used to fund continued development and commercialization of the Company's PowerBuoy system. The balance of the proceeds will be used to expand facilities and international sales and marketing capabilities and for working capital and other general corporate purposes. On page 43 of Management's Discussion and Analysis of Financial Condition and Results of Operations, the Company also stated that the net proceeds of the offering, together with its current cash resources, will be sufficient to meet its anticipated capital needs for working capital and capital expenditures at least through fiscal 2008. Given the risks and uncertainties surrounding the Company's development projects, the Company believes that it cannot provide additional assurances as to the funds required to achieve all of its development goals.

7. *Please update the status of the Navy contract which expires in March 2007. In addition, please describe the problems with the New Jersey system.*

Response: The Company is in the process of negotiating an extension that it anticipates will be executed prior to the current Navy contract's expiration. The Registration Statement has been modified accordingly.

As stated in the Registration Statement, the New Jersey system is currently undergoing planned maintenance. The Company has discovered no significant problems with the system, and the system has required only routine maintenance, such as the replacement of fluids and filters. The Company has revised the disclosure on page 59 of the Registration Statement to clarify the status of the New Jersey system.

Customers, page 57

8. *Please describe how you locate customers. In an appropriate section, please describe the revenues from the Australian Greenhouse Office and the National Institute of Standards and Technologies and describe any arrangement or agreement with these entities.*

Response: The Company has revised the disclosure on page 61 of the Registration Statement in response to the Staff's comments.

Management, Page 66

Stock Plan, page 73

9. *We note that the 2001 stock plan provides that prior to an initial public offering, you have a right of first refusal on any shares held by optionees and that you may repurchase any stock upon the exercise of options, Please describe your intentions with respect to this right of first refusal and any repurchase.*

Response: The disclosure on page 77 of the Registration Statement has been revised to indicate that the Company's right of first refusal and right to repurchase under the 2001 stock plan will terminate upon completion of the offering and that the Company has no intentions of exercising such rights with respect to any shares prior to such completion.

Certain Relationships and Related Party Transactions, page 75

10. *We note that Mr. Draper is also a director of Iberdrola Energias. Please describe your joint ventures and agreements with Iberdrola in this section. Please also include a risk factor that discusses the risks of joint ventures and the conflict regarding enforcing your rights under these related party agreements.*

Response: Mr. Draper is a director of Iberdrola Energias Marinas de Cantabria, S.A. ("Iberdrola Cantabria"), which is the entity that is engaged in the joint venture with Iberdrola S.A. ("Iberdrola"), the electric utility company. As disclosed on page 10 of the Registration Statement, Iberdrola Cantabria was formed by the Company along with affiliates of Iberdrola, Total S.A. ("Total") and two Spanish governmental agencies for the purpose of constructing and operating a wave power station off the coast of Spain. Mr. Draper was appointed to Iberdrola Cantabria as part of our joint venture arrangement with Iberdrola and Total, but Mr. Draper has no prior affiliation with either Iberdrola or Total. He was appointed to be the Company's representative on the board of Iberdrola Cantabria at the time the joint venture arrangements were concluded. Accordingly, the arrangement was negotiated by the Company and Iberdrola on

an arms'-length basis. The Company does not believe that its joint venture arrangement with Iberdrola Cantabria is a related party transaction.

In any event, the instructions to Item 404(a) of Regulation S-K state that a person will not have a reportable "indirect material interest" if his relationship with a party to a transaction with the issuer arises only from his position as a director of that party.

In response to the Staff's comments, the Company has added a risk factor regarding its joint venture arrangement.

Principal and Selling Stockholders, page 76

11. *Please disclose the natural persons with investment power over the shares held by RAB Special Situations (Master) Fund Limited and Henderson Global Investors Limited.*

Response: Based on a Schedule 13G filed by RAB Special Situations (Master) Fund Limited ("RAB") with respect to its investment in the Company, the Company has disclosed the name of the fund manager. Henderson Global Investors Limited ("Henderson") has not made a similar filing with the SEC. Neither RAB nor Henderson is yet obligated to make such filings, and it is likely that both investors will be below the 5% ownership threshold after the offering. Neither investor is represented on the Company's board nor are they otherwise affiliates of the Company. The rules of the AIM market do not require either RAB or Henderson to disclose the natural persons who manage such funds. Accordingly, the Company has disclosed all the information available to it.

* * *

If you require additional information, please telephone either the undersigned at the telephone number indicated on the first page of this letter, or Jennifer Berrent of this firm at (212) 937-7513.

Very truly yours,

/s/ ROBERT A. SCHWED

Robert A. Schwed