

EDP ENERGIAS DE PORTUGAL SA
Form 6-K
November 10, 2004

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 6-K

REPORT OF FOREIGN PRIVATE ISSUER PURSUANT TO
RULE 13a-16 OR 15d-16 UNDER THE SECURITIES
EXCHANGE ACT OF 1934

For the Month of November 2004

EDP- Energias de Portugal, S.A.

Praça Marquês de Pombal, 12

1250-162 Lisbon, Portugal

(Address of principal executive offices)

(Indicate by check mark whether the registrant files or will file annual reports under cover of Form 20-F or Form 40-F.)

Form 20-F Form 40-F

(Indicate by check mark whether the registrant by
furnishing the information contained in this form
is also thereby furnishing the information to the
Commission pursuant to Rule 12g3-2(b) under the
Securities Exchange Act of 1934.)

Yes No

Banco Comercial Português, S.A.

BCP Investimento - Banco Comercial Português de Investimento, S.A.

Caixa - Banco de Investimento, S.A.

Caixa Geral de Depósitos, S.A.

Goldman Sachs International

Morgan Stanley & Co. International Limited

and

UBS Limited

Rights Offering of EDP-Electricidade de Portugal, S.A.

UNDERWRITING AGREEMENT

July 29, 2004

EDP-Electricidade de Portugal, S.A.

Ordinary Shares

(nominal value 1 per Share)

Underwriting Agreement

July 29, 2004

Banco Comercial Português, S.A.

Praça D. João I, 28,

4000-434 Porto

BCP Investimento - Banco Comercial Português de Investimento, S.A.

Av. José Malhoa, Lote 1686

1070-157 Lisbon

Caixa Geral de Depósitos, S.A.

Av. João XXI, 63

1000-300 Lisbon

Caixa - Banco de Investimento, S.A.

Rua Barata Salgueiro, 33

1269-057 Lisbon

Goldman Sachs International

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Peterborough Court

133 Fleet Street

London EC4A 2BB

Morgan Stanley & Co. International Limited

25 Cabot Square

Canary Wharf

London E14 4QA

and

UBS Limited

1 Finsbury Avenue

London EC2M 2PP

As representatives of the several underwriters named in Schedule I hereto

Ladies and Gentlemen:

EDP-Electricidade de Portugal, S.A., a *sociedade anónima* organized under the laws of the Portuguese Republic (the **Company**), will offer to holders (the **Shareholders**) of its ordinary shares of nominal value 1 per share (the **Shares**) and to holders of its American Depositary Shares (**ADSs**), a number of new ordinary shares or new ADSs (the **Offered ADSs**), respectively, (collectively, the **Offered Shares**, save as context otherwise requires) for subscription through exercise of transferable rights (in the case of Shares, the **Share Rights** and in the case of ADSs, the **ADS Rights**, collectively the **Rights**) granted *pro rata* to holders of Shares or ADSs of record following the close of trading on Euronext Lisbon on the Record Date (as defined below) for the Rights Offering, in an exact number, and for subscription at a price, to be determined pursuant to this Agreement (the **Rights Offering**) up to a maximum aggregate offering amount of 1.2 billion.

Subject to the terms and conditions stated herein, Banco Comercial Português, S.A., Caixa - Banco de Investimento, S.A., Caixa Geral de Depósitos, S.A., Goldman Sachs International, Morgan Stanley & Co. International Limited and UBS Limited and the several underwriters named in Schedule I hereto (together, the **Underwriters**), acting as agents in the name and on the account of the Nominee Subscribers (as defined below), or acting for themselves, respectively, propose to procure subscribers for, or failing which to subscribe for, in all cases *pro rata* to their respective commitments set out in Schedule I hereto, and the Company proposes to issue to any such subscribers or to the Underwriters, as the case may be, the Remaining Offered Shares (as defined below) at the subscription price (the **Subscription Price**) as agreed in the Pricing Supplement between the Company and the Underwriters to be executed on the Pricing Date (both as defined below), which Subscription Price in no event will be less than 1 per Share. The Underwriters shall pay to the Company the aggregate Subscription Price and the Company shall deliver to the Underwriters the Remaining Offered Shares and shall pay to the Underwriters and the Joint Global Coordinators, as applicable, the commissions, expenses and applicable taxes as provided herein.

The Shares will trade with subscription rights on *Euronext Lisbon - Sociedade Gestora de Mercados Regulamentados S.A.* (**Euronext Lisbon**) and the ADSs may trade with subscription rights on the New York Stock Exchange (**NYSE**) until the Record Date. The fourth Business Day (as defined below) prior to the first day of the Subscription Period (as defined below) will hereinafter be referred to as the **Record Date**. The period during which Offered Shares may be subscribed for pursuant to the exercise of Rights shall hereinafter be referred to as the **Subscription Period**. The Share Rights are expected to trade on Euronext Lisbon and the ADS Rights, if they are traded on the NYSE, may trade thereon commencing as of the first date of the Subscription Period. Each Right includes additionally an oversubscription right (the **Oversubscription Right**) to subscribe for a portion of any Offered Shares that are not subscribed for pursuant to the initial exercise of Rights.

The **Exercised Offered Shares** shall be the aggregate number of Offered Shares that have been subscribed for by Shareholders or their respective transferees of Rights, pursuant to the exercise of the Rights (the **Exercising Holders**). The **Remaining Offered Shares** shall be the aggregate number of Offered Shares less the Exercised Offered Shares, which number of Remaining Offered Shares shall be notified to the Underwriters by the Company on the Subscription Date and the Determination Date in accordance with Section 2.

The Remaining Offered Shares shall be allotted to prospective subscribers, including the Nominee Subscribers, who have agreed with the Underwriters to subscribe for such Remaining Offered Shares prior to or on the Subscription Date (as defined below) and any Remaining Offered Shares not subscribed for by such subscribers will be subscribed for by the Underwriters. The Portuguese financial intermediaries that will act as the rights offering coordinators will be BCP Investimento - Banco Comercial Português de Investimento, S.A. (hereinafter **Millennium bcp investimento**) and Caixa - Banco de Investimento, S.A. (hereinafter **Caixa - Banco de Investimento**) (together the **Rights Offering Coordinators**). Millennium bcp investimento will act as settlement agent (the **Settlement Agent**).

The Underwriters and the Joint Global Coordinators (as defined below) hereunder are simultaneously entering into an Agreement among Underwriters (the **Agreement among Underwriters**), which provides, among other things, that Millennium bcp investimento, Caixa - Banco de Investimento, Goldman Sachs International, Morgan Stanley & Co. International Limited and UBS Limited shall act as joint global coordinators (the **Joint Global Coordinators**) of the Rights Offering.

The Offered Shares will be offered outside the United States pursuant to Regulation S under the United States Securities Act of 1933, as amended (the **Securities Act**), and in the United States, in the form of Offered ADSs, through an offering registered under the Securities Act.

Two forms of documents are to be used in connection with the Rights Offering: (i) an offering circular dated the Pricing Date relating to the Offered Shares to be offered in certain jurisdictions outside of Portugal, constituting the International Offering Circular (as defined in Section 1(a)(i)

below) and (ii) a Portuguese language offering circular, relating to the Offered Shares to be offered in Portugal (the **Portuguese Offering Circular**). The Portuguese Offering Circular will be substantially similar to the International Offering Circular, except for the inclusion of certain information required by Portuguese regulation, the exclusion of certain information not required to be included under Portuguese regulation, the use of a different style and format and the use of the Portuguese language. References herein to any **Offering Circular** or the **Offering Circulars** , shall include the International Offering Circular and the Portuguese Offering Circular, whether in preliminary or final form, and whether amended or supplemented, in each case.

On June 30, 2004, the Company filed with the Securities and Exchange Commission (the **Commission**) an annual report on Form 20-F for the year ended December 31, 2003 (the **Form 20-F**). On July 7, 2004, the Company filed with the Commission a registration statement on Form F-3 in the form of a shelf registration statement in respect of the Offered Shares, among other securities, such registration statement (being defined in Section 1(a)(i) below as the **Registration Statement**).

The term **Disclosure Documents** , as used herein, shall refer to:

- (a) as at the date of this Agreement, the Registration Statement, including the Form 20-F and any Forms 6-K furnished by the Company to the Commission from June 30, 2004 to and including the date hereof which have been incorporated by reference therein; and
- (b) as at the Pricing Date, the Determination Date and the Closing Date, the Offering Circulars and the Registration Statement, including the Form 20-F and any Forms 6-K furnished by the Company to the Commission from June 30, 2004 to and including the respective date which have been incorporated by reference therein.

Any Offered ADSs to be issued in connection with the Rights Offering are to be issued pursuant to a deposit agreement (the **Deposit Agreement**), dated as of June 16, 1997 and as amended by Amendment No.1 dated as of September 8, 2000, among the Company, Citibank, N.A., as depository (the **Depository**), and all holders and beneficial owners from time to time of the American Depositary Receipts (the **ADRs**) issued by the Depository and evidencing the American Depositary Shares issued under such agreement. Each Offered ADS will initially represent the right to receive ten Ordinary Shares deposited pursuant to the Deposit Agreement.

References to this Agreement shall be deemed to include the Pricing Supplement (as defined below) from and after the execution of the Pricing Supplement.

1. (a) The Company represents and warrants to and agrees with each of the Underwriters as set forth below. Each representation, warranty and agreement in this Section shall be made as of the date of this Agreement, as of the Pricing Date, as of the Determination Date and as of the Closing Date, except for representation, warranty and agreement (xxxix) which is not being made as of the date hereof.
 - (i) A registration statement and related base prospectus (the **Base Prospectus**) on Form F-3 (Commission File No. 333-117209) in respect of the registration of certain equity and debt securities, including the Shares, and the offering thereof from time to time was filed with the Commission pursuant to Rule 415 of the Securities Act on July 7, 2004 (the **Initial Registration Statement**); such registration statement as amended at the time it became effective and, if any post-effective amendment is filed with respect thereto, as amended by each such post-effective amendment and each related registration statement, if any filed pursuant to Rule 462(b) under the Securities Act (a **462(b) Registration Statement**), in each case including the exhibits thereto and any documents incorporated by reference therein, each in the form to be or heretofore delivered to you, have been declared effective by the Commission in such form; and, if applicable, since the time the Registration Statement became effective, no stop order suspending the

effectiveness of such registration statement has been issued and, to the best of the Company's knowledge, no proceeding for that purpose has been initiated or threatened by the Commission; any final prospectus supplement filed with the Commission pursuant to Rule 424(b) under the Securities Act including any documents incorporated by reference therein is hereinafter called a **Prospectus Supplement**; the various parts of the Initial Registration Statement, including all exhibits thereto, any documents incorporated by reference therein and the information contained in the Prospectus Supplement filed with the Commission pursuant to Rule 424(b) under the Securities Act in accordance with Section 5(a) hereof and deemed to be part of the Initial Registration Statement at the time it was declared effective by virtue of Rule 430A under the Securities Act, and each related 462(b) Registration Statement, if any, each as amended at the time such part of the registration statement became effective, are hereinafter collectively called the **Registration Statement**; the Prospectus Supplement, in the form first filed pursuant to Rule 424(b) under the Securities Act, together with the Base Prospectus, including any documents incorporated by reference therein is hereinafter called the **International Offering Circular**;

- (ii) No order preventing or suspending the use of any International Offering Circular has been issued by the Commission, and each International Offering Circular, at the time of filing thereof, conformed in all material respects to the requirements of the Securities Act and the rules and regulations of the Commission thereunder, and did not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, *provided, however*, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Company by an Underwriter expressly for use therein;

- (iii) The Registration Statement conforms and will conform, as applicable, and the International Offering Circular and any further amendments or supplements to the Registration Statement or the International Offering Circular conform and will conform, as applicable, in all material respects to the requirements of the Securities Act and the rules and regulations of the Commission thereunder and, as applicable, do not, and as of the applicable effective date as to the Registration Statement and any amendment thereto and as of the applicable filing date as to the International Offering Circular and any amendment or supplement thereto will not, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, *provided, however*, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Company by an Underwriter expressly for use therein; the Portuguese Offering Circular and any further amendments or supplements thereto conform and will conform, as applicable, in all material respects to the requirements of the *Código dos Valores Mobiliários* (Portuguese Securities Code) and the rules and regulations of the *Comissão do Mercado de Valores Mobiliários* (**CMVM**) thereunder and, as applicable, do not, and as of the applicable approval date and any amendment or supplement thereto will not, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, *provided, however*, that this representation and

warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Company by an Underwriter expressly for use therein;

- (iv) A registration statement on Form F-6 (File No. 333-7002) in respect of the ADSs, as amended on September 8, 2000, has been filed with the Commission; such registration statement in the form heretofore delivered to you has been declared effective by the Commission in such form; no other document with respect to such registration statement has heretofore been filed with the Commission; no stop order suspending the effectiveness of such registration statement has been issued and, to the best of the Company's knowledge, no proceeding for that purpose has been initiated or threatened by the Commission (the various parts of such registration statement, including all exhibits thereto, each as amended at the time such part of the registration statement became effective, being hereinafter called the **ADS Registration Statement**); and the ADS Registration Statement when it became effective conformed, and any further amendment thereto, when it becomes effective or is filed with the Commission, as the case may be, will conform, in all material respects, to the requirements of the Securities Act and the rules and regulations of the Commission thereunder, and did not, as of the applicable effective date, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading;
- (v) the Deposit Agreement has been duly authorized, executed and delivered by the Company and constitutes a valid and legally binding agreement of the Company, enforceable in accordance with its terms, subject, as to enforceability, to bankruptcy, insolvency, reorganization and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles and, with respect to enforceability in Portugal, subject to translation into Portuguese by a sworn translator; upon issuance by the Depositary of Offered ADSs against the deposit of Offered Shares in respect thereof in accordance with the provisions of the Deposit Agreement, such Offered ADSs will be duly and validly issued and the persons in whose names the Offered ADSs are registered will be entitled to the rights specified therein and in the Deposit Agreement; and the Deposit Agreement and the Offered ADSs conform or will conform in all material respects to the descriptions thereof contained in the Offering Circulars;
- (vi) The Form 20-F, at the time of filing thereof, conformed in all material respects to the requirements of the Securities Exchange Act of 1934, as amended (the **Exchange Act**) and the rules and regulations of the Commission thereunder;
- (vii) The Disclosure Documents do not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, *provided, however*, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Company by an Underwriter expressly for use therein;
- (viii) The Company will prepare the Offering Circulars for use in connection with the Rights Offering; the Portuguese Offering Circular will be substantially similar to the International Offering Circular, except for the inclusion of certain other information required by Portuguese regulation, the exclusion of

certain information not required by Portuguese regulation, including, without limitation, certain documents incorporated by reference in the Registration Statement and the Base Prospectus, the use of a different style and format and the use of the Portuguese language;

- (ix) Neither the Company nor any of its subsidiaries has sustained since the date of the latest audited financial statements included in the Disclosure Documents any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the Disclosure Documents or as does not, individually or in the aggregate, have a material adverse effect on the general affairs, management, consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole; and, since the respective dates as of which information is given in the Disclosure Documents, there has not been any change in the share capital or an increase in the long-term debt of the Company or any of its subsidiaries or any material adverse change, or any development involving a prospective material adverse change, in or affecting the general affairs, management, financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole, otherwise than as set forth or contemplated in the Disclosure Documents;
- (x) The Company and its subsidiaries have good and marketable title to all real property and good and marketable title to all personal property owned by them, in each case free and clear of all liens, encumbrances and defects except such as are described in the Disclosure Documents or such as do not, individually or in the aggregate, have a material adverse effect on the consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole; and any real property and buildings held under lease by the Company and its subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as do not, individually or in the aggregate, have a material adverse effect on the consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole;
- (xi) The Company has been duly incorporated and is validly existing as a *sociedade anónima* under the laws of the Republic of Portugal, with power and authority (corporate and other) to own, use, lease and operate its properties and conduct its business as described in the Disclosure Documents, and, to the extent contemplated by such laws, if any, has been duly qualified as a foreign corporation for the transaction of business and is in good standing under the laws of each other jurisdiction in which it owns or leases properties or conducts any business, except for any failure to so qualify or be in good standing that would not, individually or in the aggregate, have a material adverse effect on the consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole;
- (xii) Each of EDP Gestão da Produção de Energia, S.A. and EDP Distribuição Energia, S.A. (each, a **Significant Subsidiary**) has been duly incorporated and is validly existing as a *sociedade anónima* in good standing under the laws of the Portuguese Republic to own, use, lease and operate its properties and conduct its business as described in the Disclosure Documents, and, to the extent contemplated by such laws, if any, has been duly qualified as a foreign corporation for the transaction of business and is in good standing

under the laws of each other jurisdiction in which it owns or leases properties or conducts any business, except for any failure to so qualify or be in good standing with respect to any subsidiary that would not, individually or in the aggregate, have a material adverse effect on the consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole; and each other subsidiary of the Company has been duly organized and is validly existing as a company under the laws of its jurisdiction of organization, to the extent contemplated by such laws, if any, except for any failure to be so duly organized or validly existing that would not, individually or in the aggregate, have a material adverse effect on the consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole;

- (xiii) The Company has an issued share capital as set forth in the Disclosure Documents, and all of the issued Shares of the Company have been duly and validly authorized and issued, are fully paid and non-assessable and conform in all material respects to the description thereof in the Disclosure Documents; and all of the issued share capital of each subsidiary of the Company has been duly and validly authorized and issued, is fully paid and non-assessable and (except as set forth in the Disclosure Documents) is owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims, except for any failure with respect to any subsidiary that would not, individually or in the aggregate, have a material adverse effect on the consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole; the Offered Shares will, upon payment of the Subscription Price, their issuance by notarial deed and registration of the issuance with the competent Portuguese Commercial Registry and their inscription in the book entry accounts of the *Central de Valores Mobiliários* (**CVM**) be duly and validly authorized and issued, fully paid and non-assessable and conform in all material respects to the description thereof in the Offering Circulars and the Registration Statement;

- (xiv) Except as described in the Disclosure Documents, the holders of outstanding Shares are not entitled to preemptive or other rights to acquire Offered Shares or Offered ADSs; except as described in the Disclosure Documents, there are no outstanding securities convertible into or exchangeable for, or warrants, rights or options to purchase from the Company, or obligations of the Company to issue, Shares, or ADSs or any other class of capital stock of the Company; there are no restrictions on subsequent transfers of the Shares or ADSs under the laws of Portugal except as described in the Disclosure Documents; and the Shares conform in all material respects to the descriptions thereof contained in the Offering Circulars and to the Registration Statement; the Rights will be duly and validly granted, and the persons to whom such Rights are allocated will be entitled to the Share Rights or the ADS Rights pursuant to Portuguese law, the Articles of Association of the Company and the Deposit Agreement, as applicable, and the Share Rights will be tradable through Euronext Lisbon.

- (xv) All consents, approvals, authorizations, orders, registrations, clearances and qualifications of or with any court or governmental ministry, department, agency or body or any stock exchange authorities (hereinafter referred to as a **Governmental Agency**) having jurisdiction over the Company or any of its subsidiaries or any of their properties or operations or any stock exchange authorities (hereinafter referred to as **Governmental Authorizations**) required for (A) the Offered Shares and the Offered ADSs to be duly and

validly authorized and issued, (B) the execution, delivery and performance by the Company of this Agreement and the Deposit Agreement to be duly and validly authorized, (C) the listing of the Offered ADSs (and, for technical purposes only, but not for trading, the Shares) on the New York Stock Exchange and the Offered Shares on Euronext Lisbon and (D) the issue, publication, distribution or making available of the Offering Circulars and the Registration Statement have been or will be obtained or made and are or will be in full force and effect on the Pricing Date, and those required by the CMVM, Euronext Lisbon and the CVM in connection with the registration of the Rights Offering with the CMVM have been or will be obtained or made and are or will be in full force and effect on the day prior to the Record Date;

- (xvi) Under the current laws and regulations of Portugal, no authorizations by the Portuguese Government or any political subdivision thereof (collectively, the **Government**) expressly for use therein (including foreign exchange) are required for (A) the Company to declare and pay dividends on the Shares to the holders thereof and the Depositary in euro or (B) the conversion of any such dividends into foreign currency that may be freely transferred out of Portugal. Payment of all such dividends will be subject to withholding under the laws and regulations of Portugal, as described in the Disclosure Documents;
- (xvii) The transactions to be contemplated by the Privatization Decree Law in respect of the Rights Offering and the Council of Ministers Resolutions related thereto, the compliance by the Company with all of the provisions of this Agreement and the Deposit Agreement and the consummation of the transactions herein and therein contemplated will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, except as disclosed in the Disclosure Documents and except for any conflict, breach, violation or default that would not, individually or in the aggregate, have a material adverse effect on the consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole, nor will such action result in any violation of the provisions of the Articles of Association or By-laws of the Company or any statute or any decree, order, rule or regulation of any Governmental Agency having jurisdiction over the Company or any of its Significant Subsidiaries or any of their properties or operations, except as disclosed in the Disclosure Documents and except for any violation that would not, individually or in the aggregate, have a material adverse effect on the consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole; and no Governmental Authorization of or with any such Governmental Agency is required for the consummation by the Company of the transactions contemplated by this Agreement and, in connection with the Rights Offering, the Deposit Agreement, except (A) the registration under the Securities Act of the Offered Shares and the Offered ADSs, (B) such Governmental Authorizations as will be or have been duly obtained and will be or are in full force and effect and copies of which will be or have been furnished to you, (C) such Governmental Authorizations as may be required under any laws of jurisdictions outside Portugal and the United States in connection with the subscription for and distribution of the Offered Shares by or for the account

of the Underwriters, (D) the registration of the Rights Offering with the CMVM and consequently the approval by the CMVM of the Portuguese Offering Circular and the conduct of the Rights Offering; (E) the approval by Euronext Lisbon of the listing and admission to trading of the Offered Shares, (F) the registration of the Offered Shares by the Portuguese Commercial Registry and their inscription in the book-entry accounts of CVM, and (G) such Governmental Authorizations as may be required under state securities or Blue Sky laws.

- (xviii) Neither the Company nor any of its subsidiaries is in violation of its Articles of Association or By-laws or in default in the performance or observance of any material obligation, agreement, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it or any of its properties or operations may be bound, except (A) as set forth in or contemplated by the Disclosure Documents or (B) any such violations or defaults that would not, individually or in the aggregate, have a material adverse effect on the consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole;

- (xix) Except as described in the Disclosure Documents, the Company and each of its Significant Subsidiaries possesses all licenses, franchises, rights, concessions, permits, authorizations, approvals or orders of and from all Governmental Agencies necessary to own, use, lease and operate their properties and conduct their businesses as described in the Disclosure Documents, except for such licenses, franchises, rights, concessions, permits, authorizations, approvals or orders of and from Governmental Agencies the failure to obtain which would not, individually or in the aggregate, have a material adverse effect on the consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole, and has not received any written or oral notice of proceedings relating to the revocation or modification thereof; and neither the Company nor any of its Significant Subsidiaries is in violation of licenses, franchises, rights, concessions, permits, authorizations, approvals or orders of and from all Governmental Agencies necessary to own, use, lease and operate their properties and conduct their businesses as described in the Disclosure Documents or any statute or any decree, order, rule or regulation relating to its operations of any Governmental Agency having jurisdiction over the Company or any of its Significant Subsidiaries or any of their properties or operations, except for any violation which would not, individually or in the aggregate, have a material adverse effect on the consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole;

- (xx) Neither the Company nor any of its subsidiaries has taken or will take, directly or indirectly, any action which was designed to or which has constituted or which might reasonably be expected to cause or result in stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Offered Shares and the Offered ADSs, except as customary in Portugal in accordance with Portuguese law and any stabilization agreement that may be entered into by the Company;

- (xxi) The statements set forth in the Offering Circulars and the Registration Statement under the captions "Articles of Association" and "Description of American Depositary Receipts", insofar as they purport to constitute a summary of the terms of the Shares and the ADSs, respectively, and under

the captions Regulation , Taxation and Underwriting , insofar as they purport to summarize the material provisions of the laws and documents referred to therein, constitute a fair, true and accurate summary of such material provisions;

- (xxii) Other than as set forth in the Disclosure Documents, there are no legal or governmental proceedings pending to which the Company or any of its subsidiaries is a party or of which any property of the Company or any of its subsidiaries is the subject which, (A) if determined adversely to the Company or any of its subsidiaries, would individually or in the aggregate have a material adverse effect on the current or future consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole, or (B) challenge the Rights Offering or any part thereof; and, to the knowledge of the Company, no such proceedings are threatened or contemplated by any Governmental Agency or threatened by others;
- (xxiii) Except as described in the Disclosure Documents, no holder of securities of the Company has rights to the registration of such securities under the Registration Statement or ADS Registration Statement (as defined below);
- (xxiv) The Company and each of its subsidiaries maintains insurance of the types and in amounts adequate for their business, all of which insurance is in full force and effect;
- (xxv) The Company is not and, after giving effect to the offering of the Offered Shares, will not be an investment company or an entity controlled by an investment company, as such terms are defined in the Investment Company Act of 1940, as amended;
- (xxvi) The Company is not, and as a result of the application of the proceeds of the Rights Offering will not become, a passive foreign investment company within the meaning of Section 1297 of the United States Internal Revenue Code of 1986, as amended;
- (xxvii) PricewaterhouseCoopers, which has audited certain financial statements of the Company and its subsidiaries, are independent public accountants as required by the Securities Act and the rules and regulations of the Commission thereunder;
- (xxviii) The consolidated financial statements (including the related notes and schedules) of the Company and its consolidated subsidiaries included in the Disclosure Documents were prepared in accordance with generally accepted accounting principles in Portugal (**Portuguese GAAP**) and, where stated in the Disclosure Documents, have been reconciled in accordance with the Securities Act and the rules and regulations thereunder, with generally accepted accounting principles in the United States (**U.S. GAAP**), in each case consistently applied throughout the periods involved (except as otherwise stated therein) and fairly present the financial position and results of operations of the Company and its subsidiaries, on a consolidated basis, at the dates and for the periods presented. The selected financial data set forth under the caption Selected Consolidated Financial Data , which is contained in certain of the Disclosure Documents, fairly present, on the basis stated in such Disclosure Documents, the information included therein;
- (xxix) Except as disclosed in the Disclosure Documents and except for such matters that would not, individually or in the aggregate, have a material adverse effect on the business, consolidated financial position, shareholders' equity or

results of operations of the Company and its subsidiaries, taken as a whole, (A) the Company has not violated and is not subject to liability under any laws, regulations, orders, rules, decrees or directives (including EU directives), relating to the protection of occupational health and safety, human health, the environment or otherwise relating to the generation, use, emission, handling or disposal of hazardous or toxic substances, coal and its residues and by-products, ash, sulfur dioxide, oxides of nitrogen or any other wastes, pollutants or contaminants regulated by law or any Governmental Authority (**Environmental Laws**); (B) the Company possesses all permits, authorizations, licenses and approvals necessary to the current and anticipated future conduct of its businesses required under any Environmental Law; and (C) the Company is not subject to any current or, to the knowledge of the Company, threatened claims, liabilities, costs, proceedings, investigations, operating restrictions or increased operating expenditures under any Environmental Laws;

(xxx) Except as disclosed in the Disclosure Documents, the Company and its subsidiaries own or have the right to use all patents, patent applications, licenses, inventions, trademarks, trademark applications, trade names, service marks, copyrights, franchises, know-how, trade secrets, proprietary or other confidential information, systems or procedures and intangible properties and assets (collectively, **Intangibles**) necessary to conduct their business as presently conducted other than those Intangibles the loss of which would not, individually or in the aggregate, have a material adverse effect on the business, consolidated financial position or results of operations of the Company and its subsidiaries, taken as a whole; neither the Company nor any of its subsidiaries has infringed or is infringing, and neither the Company nor any of its subsidiaries is aware of or has received or expects to receive, after giving effect to the offering and sale of the Offered Shares, notice of infringement of or conflict with asserted rights of others with respect to, Intangibles of others other than those infringements which would not, individually or in the aggregate, have a material adverse effect on the business, consolidated financial position or results of operations of the Company and its subsidiaries, taken as a whole; to the best knowledge of the Company, there is no infringement by others of Intangibles of the Company or any of its subsidiaries other than those infringements which would not, individually or in the aggregate, have a material adverse effect on the business, consolidated financial position or results of operations of the Company and its subsidiaries, taken as a whole; and the consummation of the transactions contemplated by this Agreement will not materially prejudice or affect the ability of the Company or any of its subsidiaries to obtain and/or maintain in good effect any Intangibles necessary to conduct its business as presently conducted;

(xxxi) The Company and its subsidiaries have duly filed with the appropriate taxing authorities all tax returns, reports and other information (**Tax Returns**) that are required to be filed by them and each such Tax Return, when filed, was true, correct and complete in all material aspects and the Company and its subsidiaries have paid all taxes required to be paid by them and all assessments, fines or penalties received by the Company or any of its subsidiaries, except where the failure so to file or to pay would not, individually or in the aggregate, have a material adverse effect on the business, consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole; no tax deficiency has been assessed or proposed against the Company or any of its

subsidiaries, other than such tax deficiency which would not, individually or in the aggregate, have a material adverse effect on the business, consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole; and adequate charges, accruals and reserves have been provided for in the financial statements in respect of all taxes for all periods as to which the tax liability of the Company and its subsidiaries has not been finally determined or remains open to examination by applicable taxing authorities;

- (xxxii) No labor dispute with the employees of the Company or any of its Significant Subsidiaries exists or is threatened and neither the Company nor any of its subsidiaries is aware of any existing or threatened labor disturbance by the employees of any of its principal suppliers or contractors, except for labor disputes and disturbances that would not, individually or in the aggregate, have a material adverse effect on the business, consolidated financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole;
- (xxxiii) Except as set forth in the Disclosure Documents, no indebtedness (actual or contingent) and no contract or arrangement is outstanding between the Company and the Government or any agency or affiliate thereof that is material to the Company and its subsidiaries, taken as a whole;
- (xxxiv) The Company is subject to civil and commercial law with respect to its obligations under this Agreement and the Deposit Agreement, and the execution, delivery and performance of such agreements by it constitute private and commercial acts rather than public or governmental acts. Under the laws of Portugal, neither the Company nor, except as disclosed in the Disclosure Documents regarding reversionary and certain other assets held by the Company, any of its assets has any immunity (sovereign or otherwise) from set-off, the jurisdiction of any court of Portugal or any legal process in any court of Portugal (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise), except that all of the Company's assets which belong to the Portuguese Republic's public domain (*domínio público do Estado*) and held by the Company under an administrative concession, as well as those assets of the Company which are attached to public utility purposes, are not available for the enforcement of judgment. To the best knowledge of the Company, no principle of public policy in Portugal is violated by any provision of this Agreement or the Deposit Agreement, including, without limitation, the indemnification and contribution provisions hereof and thereof;
- (xxxv) This Agreement, the Deposit Agreement and any other documents to be furnished hereunder or thereunder do not and, when executed and delivered, will not, contravene in any substantial aspect the laws of Portugal for the enforcement thereof against the Company under the laws of Portugal; and to ensure the legality, validity, enforceability and admissibility into evidence in Portugal of each of such agreements or any such other document, it is not necessary that any such agreements or any such other document be filed or recorded with any court or other authority in Portugal or be notarized or that any stamp tax, other than a stamp tax of 5 on each such agreement, be paid on or in respect thereof or that any other document be furnished thereunder, *provided, however*, that such agreements or documents may need to be translated into Portuguese;

- (xxxvi) It is not necessary under the laws of Portugal (A) to enable the Underwriters or the Depositary, or any or all of them, to enforce their respective rights under this Agreement, the Deposit Agreement, the ADSs or any other documents to be furnished hereunder or thereunder or (B) solely by reason of the execution, delivery or consummation of this Agreement, the Deposit Agreement, the ADRs or any other documents to be furnished hereunder or thereunder, that any of them should be licensed, qualified or entitled to carry out business in Portugal;
- (xxxvii) No Underwriter will be deemed resident, domiciled, carrying on business or subject to taxation in Portugal solely by reason of the execution, delivery, consummation or enforcement of this Agreement, the Deposit Agreement, the ADRs evidencing ADSs or any other document to be furnished hereunder or thereunder;
- (xxxviii) There is no substantial U.S. market interest as defined in Rule 902(j) of Regulation S under the Securities Act for the Shares or any security of the same class or series with the Shares; and
- (xxxix) The Offered Shares are and will be fungible in all respects with Shares existing prior to the Rights Offering, including with respect to their tax treatment under Portuguese law and any necessary tax or government authority approvals in respect thereof have been received.
2. (a) Subject to the terms and conditions and on the basis of the representations, warranties and agreements herein set forth, the Company agrees to issue to subscribers procured by the Underwriters or to the Underwriters, as the case may be, and each of the Underwriters severally and not jointly agrees with effect on the last day of the Subscription Period (the **Subscription Date**), acting as agents in the name and on the account of the Nominee Subscribers, or acting for themselves, respectively, to procure subscribers for, or failing which to subscribe for, in all cases *pro rata* to their respective commitments set out in Schedule I hereto as adjusted to eliminate fractional shares), a number of Offered Shares equal to the number of the Remaining Offered Shares to be determined on the Determination Date, at the Subscription Price, and to deposit on the Determination Date in the name of the Company in the Blocked Accounts (as defined below) and pay on the Settlement Date same day funds for value in the amount of the Subscription Price of the Remaining Offered Shares. The Underwriters undertake that the Subscription Price to be set forth in the Pricing Supplement (as defined below) shall in any event be equal to, or higher than, \$1 per Share and shall represent a discount to the Theoretical Ex-Rights Price on the Pricing Date (**TERP**) of no less than 20% and no more than 30%.
- (b) On the Settlement Date (as defined below), the Company shall pay to the Underwriters a fee of 0.05% of the aggregate Subscription Price for the Offered Shares (including Offered Shares in the form of ADSs) subscribed for pursuant to this Agreement for each full week from the date hereof until the Pricing Date (the **Commitment Fee**), as compensation for their commitment hereunder. In the event this Agreement is terminated before the Settlement Date, the Commitment Fee will be equal to 0.05% of \$1.2 billion (the approximate expected aggregate proceeds of the Rights Offering) for each full week from the date hereof until the date on which the Underwriters provide notice of termination of this Agreement under Section 11, 12 or 13 hereof. The Commitment Fee will be payable on the Settlement Date, or in the event of termination of this Agreement prior to the Settlement Date, as soon as practicable following the date on which the Joint Global Coordinators provide notice of termination of this Agreement under Section 11, 12 or 13 hereof.

- (c) In addition to the Commitment Fee, on the Settlement Date, the Company shall pay for the account of the Underwriters a selling commission of 0.75% (the **Selling Commission**) and for the account of the Joint Global Coordinators a management commission of 0.75% (the **Management Commission**) of the aggregate Subscription Price for the Offered Shares (including Offered Shares in the form of ADSs) subscribed for pursuant to this Agreement. The Selling Commission payable by the Company shall increase by a percentage of the aggregate Subscription Price which shall be proportionately determined between the percentages stated as follows (the **Incremental Percentage**): (i) between 1.15% and 1.01%, in case the Offered Shares are sold at a discount to TERP of between 20% and 24.99%; (ii) between 1.00% and 0.91%, in case the Offered Shares are sold at a discount to TERP of between 25% and 29.99%; or (iii) 0.90%, in case the Offered Shares are sold at a discount to TERP of 30%.
- (d) In addition to the Commitment Fee, the Selling Commission and the Management Commission, the Company may also pay to the Joint Global Coordinators on the Settlement Date a discretionary incentive fee of 0.35% of the aggregate Subscription Price for the Offered Shares (the **Incentive Fee**).
- (e) The Commitment Fee, the Selling Commission and the Management Commission and, if any, the Incentive Fee, will, after adjustment for unreimbursed expenses and stabilization profits and losses, as set out below, be distributed among the Underwriters or the Joint Global Coordinators, as applicable, on a pro rata basis according to their respective underwriting commitments, provided that, in the case of Millennium bcp investimento, as Joint Global Coordinator, such distribution shall be pro rata to the underwriting commitment of Banco Comercial Português and in the case of Caixa - Banco de Investimento, as Joint Global Coordinator, such distribution shall be pro rata to the aggregate underwriting commitments of Caixa - Banco de Investimento and Caixa Geral de Depósitos, S.A.
- (f) On the eighth Business Day preceding the commencement of the Subscription Period (the **Pricing Date**) the Company and the Underwriters, subject, in the Underwriters' discretion, to the condition that all representations and warranties and other statements of the Company applicable according to Section 1 of this Agreement are as of the Pricing Date true and correct and that the Company shall have furnished or caused to be furnished to the Underwriters on the Pricing Date certificates of officers of the Company satisfactory to the Underwriters as to the accuracy of such representations and warranties at and as of the Pricing Date and subject to Section 12(a), shall execute a pricing supplement (the **Pricing Supplement**) substantially in the form set forth in Annex A hereto, confirming the Subscription Price.
- (g) On the Subscription Date, the Company shall notify the Underwriters in writing (the **Interim Notice**) of the Rights Offering Coordinators' interim calculation of the number of Remaining Offered Shares on the Subscription Date (the **Interim Remaining Offered Shares**) as provided to the Company by the Rights Offering Coordinators. The Interim Remaining Offered Shares shall be the difference between the aggregate number of Offered Shares and the aggregate number of Offered Shares estimated by the Rights Offering Coordinators to have been subscribed for at such time on the basis of the most recent figures transmitted to them by the other Portuguese financial intermediaries in the Rights Offering. Promptly upon receipt by the Underwriters of the Interim Notice, the Underwriters will submit to the Company a notice of their respective subscriptions (the **Interim Subscription Notice**) substantially in the form set forth in Annex B. The Interim Subscription Notice will confirm for each Underwriter its relevant subscription for the respective number of the Interim Remaining Offered Shares set out in such Interim Subscription Notice for each Underwriter, which shall be equal to the number of the Interim Remaining

Offered Shares times the percentage (expressed as a decimal) set forth opposite the name of each Underwriter (each such number, the **Interim Underwriter's Subscription**), *provided, however* that if an Interim Subscription Notice is not delivered to the Company or a Relevant Underwriter's Subscription (as defined below) is not submitted with respect to an Underwriter on the Subscription Date, the provisions of Section 9 will apply.

- (h) The Company shall use reasonable endeavors not later than two hours after the Rights Offering Coordinators have informed the Company of the final number of Remaining Offered Shares (the **Remaining Offered Shares**), as determined by the Rights Offering Coordinators, to notify the Underwriters in writing (the **Determination Notice**) of such number (such date, the **Determination Date**). The Determination Date is expected to occur two Business Days following the Subscription Date.
- (i) If all the Offered Shares are subscribed for pursuant to the exercise of Rights, including the Oversubscription Rights, in the Rights Offering, the obligation of the Underwriters to subscribe for the Remaining Offered Shares under this Agreement shall thereupon terminate upon the receipt by the Company of the aggregate Subscription Price for such Offered Shares without prejudice to the Underwriters' rights under subsection (b) hereof.
- (j) Promptly upon receipt of the Determination Notice, the Underwriters will submit to the Company a subscription confirmation order (the **Subscription Confirmation Order**) substantially in the form set forth in Annex C. The Subscription Confirmation Order will confirm for each Underwriter its relevant subscription for the respective number of the Remaining Offered Shares set out in the Subscription Confirmation Order for each Underwriter, which shall be equal to the number of the Remaining Offered Shares times the percentage (expressed as a decimal) set forth opposite the name of each Underwriter in Schedule I hereto (each such number, the **Relevant Underwriter's Subscription**).
- (k) The Relevant Underwriter's Subscriptions mentioned in the Subscription Confirmation Order shall be final and binding on the Company for all purposes and shall be considered as irrevocable subscriptions for such number of Remaining Offered Shares by each of the Underwriters or if a Relevant Underwriter's Subscription is not confirmed with respect to an Underwriter on the Determination Notice the provisions of Section 9 shall apply.
- (l) Simultaneously with submitting the Subscription Confirmation Order, each of the Underwriters shall deposit with a bank account opened in the name of the Company (the **Blocked Accounts**) an amount equal to the respective Relevant Underwriter's Subscription multiplied by the Subscription Price with respect to the number of Remaining Offered Shares subscribed for through each such Underwriter and shall promptly notify the Company thereof in writing (such notification being included in the Subscription Confirmation Order); provided that if any Underwriter fails to deposit an amount equal to its Relevant Underwriter's Subscription multiplied by the Subscription Price in accordance with the foregoing, the Underwriters that have so deposited shall deposit an amount equal to the amount owed by the non-depositing Underwriter pro rata to the percentages set forth in Schedule I hereto (subject to adjustment pursuant to Section 9 hereof) up to an amount corresponding to the aggregate subscription price for one-eleventh of the aggregate number of all the Offered Shares.
- (m) The Company agrees that it will not be able to transfer or withdraw, or direct the transfer of or payment from, the funds deposited by the respective Underwriters in the Blocked Accounts before confirmation by such Underwriters of receipt by them or their respective Nominee Subscribers of their respective Relevant Underwriter's

Subscription (as defined below) on the Delivery Date (as defined below). Each of the parties hereto agrees that any interest earned on the funds on deposit in the Blocked Accounts shall accrue (i) prior to the Settlement Date, to the benefit of the Underwriters in accordance with the percentage set forth opposite the name of each Underwriter in Schedule I hereto (subject to adjustment in accordance with Section 9 hereof) and (ii) as of and following the Settlement Date, to the benefit of the Company. In the event that this Agreement is terminated at a time following the deposit of funds representing the Relevant Underwriter's Subscriptions with the Blocked Accounts, but before delivery to each of the Underwriters or Nominee Subscribers of their respective Relevant Underwriter's Subscription, the Underwriters may withdraw such funds from the Blocked Accounts immediately following the termination of the Agreement.

- (n) As soon as practicable following confirmation by the CVM that settlement may occur, and in any event no later than the third Business Day following the Determination Date, unless all parties hereto agree otherwise, the Underwriters shall transfer the funds deposited in the Blocked Accounts to a designated deposit account or accounts with the Settlement Agent in satisfaction of their obligations under subsection (a) hereof; following such transfer, on the same day, the Settlement Agent will transfer the Subscription Price to a bank account designated by the Company for payment in of aggregate subscription amount in respect of the Remaining Offered Shares (such date called the **Settlement Date**). Promptly upon receipt of such amount, the Company will transfer an amount equal to the Commitment Fees, the Management Commission and Selling Commission and, if any, the Incentive Fee expenses and applicable taxes to a bank account so designated by the Joint Global Coordinators in accordance with, and in satisfaction of its obligations under subsections (b), (c) and (d) hereof.
 - (o) The subscription for the Remaining Offered Shares made by the Underwriters in the Subscription Confirmation Order in accordance with this Section 2 is governed by, and assisted with the right of substitution under, Portuguese law (*cláusula para pessoa a nomear*) which right of substitution can be exercised in favor of one or more final institutional investors (each the **Nominee Subscriber**) as defined in article 30 of the Portuguese Securities Code (*Código dos Valores Mobiliários*) prior to 17:00 hours Lisbon time on the Determination Date and, once exercised, has retroactive effects to the Subscription Date, provided that (i) the exercise of the rights of substitution shall be made by notice in writing to the Company substantially in the form of Annex D hereto (the **Substitution Notice**) prior to 17:00 hours Lisbon time on the Determination Date; (ii) the pro rata amounts of the payments made by the Underwriters are deemed to have been made for and on behalf of the Nominee Subscribers in respect of whom each substitution is being effected; and (iii) in order to be valid, the Substitution Notice shall be accompanied by a declaration of ratification from the Nominee Subscriber in the form of Annex E.
3. After the Subscription Date, the several Underwriters propose to offer the Remaining Offered Shares for sale upon the terms and conditions set forth in this Agreement. Any resale of the Remaining Offered Shares by the Underwriters or any sub-underwriters appointed by the Underwriters will be for their own account and not on behalf of the Company or any Shareholders. In the process of procuring final subscribers or of reselling Offered Shares under the terms of this Agreement, the Underwriters shall conduct the allocations in consultation with the Company.
4. (a) Issuance of the Remaining Offered Shares by the Company will be made by means of an execution of a notarial deed which shall be subsequently registered with the Commercial Registry (such execution of a notarial deed called the **Issuance**). The Company, after receiving any relevant information it has reasonably requested from

the Underwriters in connection with the Issuance, including (without limitation) (i) the name and book-entry account details of an authorized financial intermediary for each of the Nominee Subscribers, as well as copies of the relevant Substitution Notices and declarations of ratification and (ii) evidence of the deposit of funds in the Blocked Accounts pursuant to clause (i) above, shall use its best efforts to ensure that Issuance occurs on the Determination Date. In the event that Issuance does not occur on the Determination Date, the Company shall use its best efforts to ensure that Issuance occurs no later than the Settlement Date.

- (b) The Company shall deliver the Remaining Offered Shares to an account or accounts of the Underwriters or Nominee Subscribers specified in the relevant Substitution Notices, within the clearance and settlement system of the CVM (the **Delivery Date**). The Company shall use its best commercial efforts to cause the Delivery Date to be no later than (i) the Settlement Date, in the event that Issuance occurs on the Determination Date, or (ii) the Business Day immediately following the Settlement Date, in the event that Issuance occurs on the Settlement Date, *provided however*, that in the event that the Company has complied with such best commercial efforts obligation, the Company shall not be liable for any delay in the Delivery Date. The Company shall use its best commercial efforts to cause the Offered Shares to be duly admitted to listing and trading on Euronext Lisbon and the Offered ADSs on the New York Stock Exchange on the Business Day immediately following the Delivery Date.

It is understood and agreed by the parties hereto that no delivery or transfer of Offered Shares to be subscribed for hereunder on the Settlement Date shall be effective until and unless payment therefor has been made pursuant hereto.

- (c) With respect to the Offered Shares to be delivered to Nominee Subscribers hereunder on the Delivery Date, the Underwriters, in the Substitution Notice, will designate a portion thereof to be locally delivered on behalf of investors to local custodians in Portugal participating in the CVM (any reference herein to Offered Shares to be delivered by local delivery shall be deemed to refer to Offered Shares as to which such a designation has been made) and, if so agreed with the Company, another portion thereof to be delivered in the form of ADSs, to The Depository Trust Company (**DTC**). Furthermore, if so agreed with the Company, with respect to all or a portion of the Offered Shares to be issued hereunder on the Issuance Date, the Joint Global Coordinators, on behalf of the several Underwriters, may elect to have Offered ADSs delivered and paid for hereunder in lieu of, and in satisfaction of, the Company's obligation to offer to the several Underwriters, and the several Underwriters' obligations to subscribe for the Offered Shares. Notice of such election shall be given by the Joint Global Coordinators to the Company by 9:00 a.m. (London time) on the Business Day preceding the Issuance Date, or such later time as the Company may agree (the **Notification Time**).

The Offered Shares to be delivered to each of the Underwriters hereunder on the Delivery Date and, if an election has been made in accordance with the preceding paragraph, the Offered ADSs to be subscribed for by each Underwriter on the Delivery Date, shall be delivered by or on behalf of the Company, as described in the next succeeding paragraph, against payment in euro by or on behalf of the several Underwriters of the aggregate Subscription Price in accordance with Section 2 above.

- (d) The documents to be delivered by or on behalf of the parties hereto pursuant to Section 7 hereof, including any additional documents requested by the Underwriters pursuant to Section 7(i) hereof, will be delivered at the Company's offices or any other place to be agreed upon by the Joint Global Coordinators and the Company (the **Closing Location**). Closing will occur on the day on which Issuance occurs (the

Closing Date). In particular, the Closing Date will be (i) the Determination Date, in the event that Issuance occurs on the Determination Date, or (ii) the Settlement Date, in the event that Issuance occurs on the Settlement Date. As used in this Agreement, **Business Day** shall mean each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in Lisbon, New York City and London are generally authorized or obligated by law or executive order to close.

5. (a) The Company agrees with each of the Underwriters:

- (i) to take and cause to be taken any and all necessary action for the allotment of Rights to its Shareholders on the Record Date, the offering of the Offered Shares for subscription to holders of Rights and the allotment and issue of Offered Shares to the Exercising Holders, the subscribers procured by the Underwriters, as applicable, and the filing of the Portuguese Offering Circular and the registration of the Rights Offering in accordance with Portuguese law, the Company's Articles of Association and the provisions of this Agreement;
- (ii) to prepare the Offering Circulars and the Registration Statement in a form that has not been reasonably disapproved by the Joint Global Coordinators;
- (iii) to file the International Offering Circular pursuant to Rule 424(b) under the Securities Act not later than the Commission's close of business on the second U.S. business day following the Pricing Date, or, if applicable, such earlier time as may be required by Rule 430A(a)(3) under the Securities Act; to make no further amendment or any supplement to the Registration Statement, the ADS Registration Statement, any International Offering Circular or any Offering Circular that shall be reasonably disapproved by the Joint Global Coordinators promptly after reasonable notice thereof; to advise the Joint Global Coordinators, promptly after it receives notice thereof, of the time at which any amendment to the Registration Statement or ADS Registration Statement has been filed or becomes effective or any supplement to the International Offering Circular or any amended International Offering Circular or Portuguese Offering Circular has been filed and to furnish you copies thereof; to advise you, promptly after it receives notice thereof, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of any International Offering Circular, of the suspension of the qualification of the Offered Shares and Offered ADSs for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose, or of any request by the Commission for the amending or supplementing of the Registration Statement, the ADS Registration Statement or International Offering Circular or for additional information; and, in the event of the issuance of any stop order or of any order preventing or suspending the use of any International Offering Circular or suspending any such qualification, promptly to use its best efforts to obtain the withdrawal of such order; and to use its best commercial efforts to ensure that the registration of the Rights Offering with the CMVM has been completed by the Business Date preceding the Record Date;
- (iv) promptly from time to time to take such action as the Joint Global Coordinators may reasonably request to qualify the Offered Shares or the Offered ADSs for offering and sale under the securities laws of such jurisdictions in the United States or elsewhere as they may request and to comply with such laws so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the

distribution of the Offered Shares or Offered ADSs, *provided* that in connection therewith the Company shall not be required (A) to qualify as a foreign corporation, (B) to file a general consent to service of process in any jurisdiction or (C) to subject itself to taxation as doing business in any such jurisdiction;

- (v) prior to the commencement of the Subscription Period and from time to time, to furnish the Underwriters with copies of the Offering Circulars in such quantities as the Joint Global Coordinators may from time to time reasonably request, and, if the delivery of an International Offering Circular is required at any time prior to the expiration of nine months after the commencement of the Subscription Period in connection with the offering or sale of the Offered Shares or Offered ADSs and if at such time any events shall have occurred as a result of which the International Offering Circular, as then amended or supplemented, would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such International Offering Circular is delivered, not misleading, or, if for any other reason it shall be necessary during such period to amend or supplement any International Offering Circular in order to comply with the Securities Act, to notify you and upon your request to prepare and furnish without charge to each Underwriter and to any dealer in securities as many copies as you may from time to time reasonably request of an amended International Offering Circular or a supplement to any International Offering Circular which will correct such statement or omission or effect such compliance, and in case any Underwriter is required to deliver any International Offering Circular in connection with sale of any of the Offered Shares or Offered ADSs at any time nine months or more after the time of issue of the Offering Circulars, upon your request but at the expense of such Underwriter, to prepare and deliver to such Underwriter as many copies as you may request of an amended or supplemented International Offering Circular complying with Section 10(a)(3) of the Securities Act;
- (vi) to make generally available to its securityholders as soon as practicable, but in any event not later than eighteen months after the effective date of the Registration Statement (as defined in Rule 158(c) under the Securities Act), an earnings statement of the Company and its subsidiaries (which need not be audited) complying with Section 11(a) of the Securities Act and the rules and regulations of the Commission thereunder (including, at the option of the Company, Rule 158);
- (vii) during the period beginning from the date hereof and continuing to and including the date 180 days after the Delivery Date, (A) not to offer, sell, contract to sell or otherwise dispose of any Shares or any securities of the Company that are substantially similar to the Offered Shares or Offered ADSs, except for Offered Shares or Offered ADSs offered in connection with the Rights Offering and the Acquisition Agreements, including but not limited to any securities that are convertible into or exchangeable for, or that represent the right to receive, Shares or ADSs or any such substantially similar securities (other than pursuant to employee stock option plans existing on the date of this Agreement), and (B) not to take any action to permit the waiver of or consent to the release of restrictions imposed on resales of Offered Shares subscribed for in the Rights Offering, in each case without the prior written consent of the Joint Global Coordinators;

- (viii) for as long as the Shares are outstanding and registered under the Exchange Act, to furnish to its shareholders as soon as practicable after the end of each fiscal year an annual report (in English) (including a balance sheet and statements of income, shareholders' equity and cash flows of the Company and its consolidated subsidiaries certified by independent public accountants and prepared in conformity with Portuguese GAAP (or any successor thereto) together with a reconciliation of net income and total shareholders' equity to U.S. GAAP and, as soon as practicable after the end of the first six months of each fiscal year), consolidated summary financial information of the Company and its subsidiaries for such semi-annual period in reasonable detail;
- (ix) during a period of five years from the effective date of the Registration Statement, to furnish to you copies of all reports or other communications (financial or other) furnished to shareholders, and to deliver to you (A) as soon as they are available, copies of any reports and financial statements furnished to or filed with the Commission or any securities exchange on which any class of securities of the Company is listed (such financial statements to be on a consolidated basis to the extent the accounts of the Company and its subsidiaries are consolidated in reports furnished to its shareholders generally or to the Commission); and (B) such additional information concerning the business and financial condition of the Company as you may from time to time reasonably request;
- (x) to comply with the Deposit Agreement so that ADRs evidencing the ADSs will be executed (and, if applicable, countersigned) and issued by the Depositary against receipt of Offered Shares to be delivered in the form of the ADSs at the Delivery Date and delivered to the Underwriters on the Delivery Date;
- (xi) not to (and to cause its subsidiaries not to) take, directly or indirectly, any action that is designed to or that constitutes or that might reasonably be expected to cause or result in stabilization or manipulation of the price of any security of the Company or facilitate the sale or resale of the Offered Shares and the Offered ADSs, except as customary in Portugal in accordance with Portuguese law and any stabilization agreement that may be entered into by the Company;