

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

**Post-Effective Amendment No. 2**

**FORM S-8**

**REGISTRATION STATEMENT  
UNDER THE SECURITIES ACT OF 1933**

**JAMES HARDIE INDUSTRIES SE**

(Exact name of registrant as specified in its charter)

**Ireland**

(State or other jurisdiction of incorporation  
or organization)

**Not Applicable**

(IRS Employer  
Identification Number)

**Europa House  
Second Floor, Harcourt Centre  
Harcourt Street, Dublin 2  
Ireland**

(Address of Principal Executive Offices)

**Amended and Restated James Hardie Industries SE Managing Board Transitional  
Stock Option Plan 2005**  
**Amended and Restated James Hardie Industries SE Supervisory Board Share Plan 2006**  
(Full title of the Plan)

**CT Corporation System  
111 Eighth Avenue  
New York, New York 10011d**  
(Name and address of agent for service)

**(212) 894-8940**

Telephone number, including area code, of agent for service

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer   
(Do not check if a smaller reporting company)

Smaller reporting company

## EXPLANATORY NOTE

This Post-Effective Amendment No. 2 to our registration statement on Form S-8 (Registration No. 333-153446), as filed with the Securities and Exchange Commission on September 11, 2008 (the "Registration Statement"), is being filed solely for the purpose of reflecting that the registrant moved its corporate domicile from The Netherlands to Ireland and to provide updated Exhibits 23.1 and 23.2, which are the consents of our independent registered public accounting firms.

## PART II. INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

### Item 6. Indemnification of Directors and Officers

Our articles of association provide for indemnification of any person who is or was a director, company secretary, employee or person deemed by our board to be an agent of James Hardie Industries SE, who suffers any cost, loss or expense as a result of any action in connection with the discharge of their duties to James Hardie Industries SE, provided they acted in good faith in carrying out their duties and in a manner they reasonably believed to be in our interest. This indemnification will generally not be available if the person seeking indemnification acted in a manner that could be characterised as negligent, default, breach of duty or breach of trust in performing their duties. However, under Irish company law, this indemnity only binds us to indemnify a current or former director or company secretary where judgment is given in any civil or criminal action in favour of such director or company secretary, or where a court grants relief because the director or company secretary acted honestly and reasonably and ought fairly to be excused. Our articles of association apply the same limitations to other indemnitees who are not current or former directors or the company secretary of James Hardie Industries SE.

We have provided Deeds of Access, Insurance and Indemnity (which we refer to as an Indemnity Deed) (originally governed by Dutch law) to our directors and senior employees and our subsidiary, James Hardie Building Products Inc., has provided Indemnity Agreements governed by Nevada law (which we refer to as an Indemnity Agreement) to directors, officers and certain employees of us, James Hardie Building Products Inc. or their affiliates. These Indemnity Deeds and Indemnity Agreements are consistent with our articles of association and relevant laws.

The terms of the Indemnity Deeds require us, to the maximum extent permitted by law, to unconditionally and irrevocably indemnify a director in relation to the director serving or having served as a director of us or one of our subsidiaries or another entity at our request or the request of one of our subsidiaries to the extent permitted by law from and against all claims, liabilities (including liability for negligence), civil penalties being pecuniary penalties imposed by legislation, legal costs actually and reasonably incurred (not limited to taxed costs), net wage or withholding taxes, social security premiums or other taxes as a result of indemnification, as well as reasonable legal costs actually incurred in good faith by the director in obtaining legal advice regarding issues arising from an Indemnity Deed or making a claim or in relation to being a witness to any type of proceedings, mediation or other form of dispute resolution. This indemnity is limited to the extent that it is not available to a director where a court has established in a final, non-appealable decision that the director (1) acted with willful misconduct, (2) acted with intentional recklessness, (3) was seriously imputable or (4) did not act in good faith, unless otherwise provided for by law or the boards provide otherwise based on standards of reasonableness and fairness.

The Indemnity Deeds require us, upon a request by a director, to make payment of amounts payable within 30 days of the incurrence of the liability or the date the amount is due and payable, whichever is shorter, and the director undertakes to repay the amounts paid to them if it is ultimately determined that he or she is not entitled to indemnification for such amounts or if such amounts exceed what we are permitted to pay under the Indemnity Deed or if he or she receives payment under an insurance contract in respect of those liabilities. To the extent that a director also receives payment under an indemnity from one of our subsidiaries, the director is not entitled to claim under the Indemnity Deed.

Under the Indemnity Deeds a director has the right to access our company books and those of our subsidiaries in relation to any act or omission in relation to the director acting in that capacity for us, our subsidiaries or another entity at our request or at the request of our subsidiaries.

The Indemnity Agreements provide that James Hardie Building Products Inc. shall hold harmless and indemnify a director, officer or employee of us, James Hardie Building Products Inc., or their affiliates to the maximum extent allowed by Nevada law against any expenses, liabilities and losses (including, without limitation, investigation expenses, expert witnesses' and attorneys' fees and expenses, judgments, penalties, fines, amounts paid or to be paid in settlement, any interest, assessments, or other charges imposed thereon and any federal, state, local or foreign taxes imposed as a result of actual or deemed receipt of any payment) actually and reasonably incurred by the director, officer or employee (net of any insurance proceeds or other amounts received by the indemnitee as compensation for such expenses, liabilities or losses) in connection with any actual or threatened action, suit or proceeding, whether civil, criminal, administrative or investigative or in arbitration, to which the director, officer or employee is a party or participant or is threatened to be made a party or participant (a) based upon, arising from, relating to or by reason of the fact that the director, officer or employee was or is a director, officer or employee of us or of James Hardie Building Products Inc., or is or was serving at our request or the request of James Hardie Building Products Inc., as a director, officer, partner, member, manager, trustee, fiduciary, employee or agent of another corporation or entity, or (b) arising from or relating to any action or omission to act taken by the director, officer or employee in any of the capacities described above. However, the director, officer or employee will only be indemnified in connection with a proceeding initiated by him or her (other than a proceeding to enforce his or her rights under the indemnity agreement) if the proceeding was authorised by a two-thirds vote of the board of directors of James Hardie Building Products Inc.

By the terms of the Indemnity Agreements, its benefits are not available if there is a judgment or other final adjudication, after all appeals and all time for appeals has expired, which is adverse to the director, officer or employee and which establishes (a) his or her acts were committed in bad faith, or were the result of active and deliberate dishonesty or willful fraud or illegality, and were material to the cause of action so adjudicated; (b) that he or she in fact personally gained a financial profit or other advantage to which he or she was not legally entitled, (c) that indemnification of the director, officer or employee is prohibited by applicable law, (d) in respect of any remuneration paid to the director, officer or employee if such remuneration was in violation of law or (e) that such indemnification is not lawful and James Hardie Building Products Inc. and the director, officer or employee have been advised that the US Securities and Exchange Commission believes that the indemnification for liabilities arising under the US federal securities laws is against public policy and is, therefore, unenforceable and claims for indemnification should be submitted to the appropriate court for adjudication. In addition, the benefits are not available for any claim made against the director, officer or employee for an accounting of profits made from the purchase or sale by the director, officer or employee of our securities within the meaning of Section 16(b) of the US Securities Exchange Act of 1934 or analogous provisions of any applicable law.

The Indemnity Agreements require James Hardie Building Products Inc., upon request by the director, officer or employee, to make payment within 30 days of amounts payable under the Indemnity Agreements as expended or incurred in advance of indemnification, provided, however, that the director, officer or employee undertakes to repay the amounts if it is ultimately determined that he or she is not entitled to indemnification for such amounts.

Irish law contains a restriction on the indemnity that an Irish public company, and therefore an Irish SE, can give its current and former directors and company secretary. Irish law renders void any provision in an Irish company's articles of association or other contract that would exempt from liability or provide any current or former director or company secretary with an indemnity for negligence, default, breach of duty or breach of trust. In addition, under Irish company law, this indemnity only binds us to indemnify a current or former director or company secretary where judgment is given in any civil or criminal action in favour of such director or company secretary, or where a court grants relief because the director or company secretary acted honestly and reasonably and ought fairly to be excused. Our articles of association apply the same limitations to other indemnitees who are not current or former directors or the company secretary of James Hardie Industries SE.

The directors will still be allowed to claim advances for costs as permitted under the Irish law-governed Indemnity Deeds. However, in the event a final determination is made against a current or former director or company secretary or, if no determination is made at all, an Irish Court would interpret the scope of the indemnity contained in the Indemnity Deed such that James Hardie Industries SE could require the current or former director or company secretary to repay an advance in the circumstances required under Irish law outlined above.

As required by the terms of the Indemnity Deeds and the Indemnity Agreements, we and James Hardie Building Products Inc. maintain director and officers insurance policies under which such persons would be insured against liabilities resulting from their service to us.

#### **Item 8. Exhibits**

See "Exhibit Index" below.

#### **Item 9. Undertakings**

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective Registration Statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the Registration Statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment 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) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act that is incorporated by reference in the Registration Statement 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.

(c) 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 Commission 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.

**SIGNATURES**

Pursuant to the requirements of the Securities Act, JAMES HARDIE INDUSTRIES SE certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Post-Effective Amendment No. 2 to the Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Amsterdam, The Netherlands on this 16 day of June, 2010.

**JAMES HARDIE INDUSTRIES SE**

By: /s/ Russell Chenu  
Russell Chenu  
Chief Financial Officer

Pursuant to the requirements of the Securities Act, this Post-Effective Amendment No. 2 to the Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Louis Gries</u> Louis Gries	Chief Executive Officer (Principal Executive Officer)	June 16, 2010
<u>/s/ Russell Chenu</u> Russell Chenu	Chief Financial Officer (Principal Financial and Accounting Officer)	June 16, 2010
<u>*</u> Michael N. Hammes	Chairman of the Board	June 16, 2010
<u>*</u> Donald McGauchie AO	Deputy Chairman of the Board	June 16, 2010
<u>*</u> Brian Anderson	Director	June 16, 2010
<u>*</u> David Harrison	Director	June 16, 2010
<u>*</u> Rudy van der Meer	Director	June 16, 2010
<u>*</u> James Osborne	Director	June 16, 2010
<u>*</u> David Dilger	Director	June 16, 2010

\*By: /s/ Paul Bokota  
Paul Bokota  
Attorney-in-fact

## EXHIBIT INDEX

Exhibit Number	Description
4.1	Form of Memorandum and Articles of Association of James Hardie Industries SE, a European Company registered in Ireland (incorporated herein by reference to Exhibit 3.2 to our registration statement on Form F-4, filed on June 23, 2009)
4.2	Amended and Restated James Hardie Industries SE Managing Board Transitional Stock Option Plan 2005
4.3	Amended and Restated James Hardie Industries SE Supervisory Board Share Plan 2006
5.1	Opinion of Arthur Cox
23.1	Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm
23.2	Consent of PricewaterhouseCoopers LLP, Independent Registered Public Accounting Firm
23.3	Consent of Arthur Cox (contained in its opinion filed as Exhibit 5.1 hereto)

**JAMES HARDIE INDUSTRIES SE**

ARBN 097 829 895  
Incorporated in Ireland

**JAMES HARDIE INDUSTRIES SE**  
**2005 MANAGING BOARD TRANSITIONAL STOCK OPTION PLAN**  
**Amended and Restated**  
**(as of 17 June 2010)**

**1. Purpose, definitions and interpretation**

**1.1** This Plan sets forth the rules agreed between the Company and the holders of Options regarding the Options issued pursuant to this Plan.

**1.2** In this Plan, the following words and expressions have the meanings indicated unless the contrary intention appears:

**Applicable Regulations** means the listing requirements imposed by any exchange or trading system upon which the Company's securities trade and any law or regulation that applies to the operation of the Plan.

**Articles** means the articles of association of the Company.

**ASX** means Australian Securities Exchange or the stock market conducted by it, as the context requires.

**ASTC Settlement Rules** means the settlement rules of ASX Settlement and Transfer Corporation Pty Limited (ACN 008 504 532).

**Board** means the board of the Company.

**Business Day** means a day which is a trading day on ASX.

**Change in Control** means:

- (a) a person obtains Voting Power in the Company of at least 30% pursuant to a takeover bid for all or a proportion of all of the voting shares of the Company which is or becomes unconditional;
- (b) a scheme of arrangement or other merger proposal in relation to the Company becomes binding on the holders of all of the voting shares of the Company and by reason of such scheme or proposal a person obtains Voting Power in the Company of at least 30%; or
- (c) a person becomes beneficial owner of at least 30% of the voting shares of the Company on issue other than under (a) or (b).

**Company** means James Hardie Industries SE, a Societas Europaea under Irish law and for the avoidance of doubt:

- (a) for the period until conversion to an SE under Dutch law, James Hardie Industries, N.V.; and
- (b) for the period after conversion to an SE under Dutch law, but prior to conversion to an SE under Irish law, James Hardie Industries SE, a Societas Europaea under Dutch law.

**CUF** means a Chess Unit of Foreign Securities (which has the meaning given by the ASTC Settlement Rules) in respect of an Ordinary Share.

**Exercise Price** means the closing price of CUFS on ASX on the Issue Date, as adjusted in accordance with Section 5 in respect of Ordinary Shares.



**Family Member** means the spouse or a child of a Participant.

**Fifth Anniversary** means the day falling five years from the Issue Date or, if that day is not a Business Day, the next succeeding Business Day.

**Group** means the Company and its subsidiaries as defined in the *Corporations Act 2001*.

**Issue Date** means the date upon which an Option is issued to a Participant under the Plan.

**Just Cause Dismissal** means a termination of a Participant's employment (including deemed employment under Section 4.11) for cause under the terms of the Participant's employment agreement, or for any of the following reasons:

- (a) the Participant violates any reasonable rule or regulation of the Company or the Participant's superiors, including the Board, and that violation:
  - (i) results in damage to the Company; or
  - (ii) has not ceased within such reasonable time as the Company may specify by written notice to the Participant;
- (b) any willful misconduct or gross negligence by the Participant in the responsibilities assigned to him or her;
- (c) any willful failure to perform his or her job;
- (d) any wrongful conduct of a Participant which has an adverse impact on the Company or which constitutes fraud, embezzlement or dishonesty;
- (e) the Participant's performing services for any other person or entity which competes with the Company while he or she is employed by the Company without the written approval of the Chief Executive Officer of the Company, or, in the case of the Chief Executive Officer, the Board; or
- (f) any other conduct that the Board determines constitutes Just Cause for Dismissal; provided, however, that if the term has been defined in an employment agreement between the Company and the Participant, then Just Cause Dismissal shall have the definition set forth in such employment agreement.

The foregoing definition shall not in any way preclude or restrict the right of the Company to discharge or dismiss any Participant or other person in the service of the Company for any other acts or omissions, but such other acts or omission shall not be deemed, for purposes of this Plan, to constitute grounds for Just Cause Dismissal.

**Listing Rules** means the Listing Rules of ASX.

**Median TSR** means the middle value of the series comprising the TSR for each company comprising the Peer Group for the Performance Period.

**Nominee** means a Family Member or company nominated by a Participant for an issue or transfer of Ordinary Share under Section 3.1.

**Option** means an option granted under this Plan to subscribe for or purchase an Ordinary Share at the Exercise Price.

**Ordinary Shares** means ordinary shares in the capital of the Company.

**Participant** means a member of the managing board of directors of the Company and a former member of the managing board of directors of the Company to whom Section 4.11 applies.

**Peer Group** means the companies in the Peer Group Index or, if any of the S&P/ASX 200 Index, the 200 Financials Index or the 200 Property Trust index is not published, such other comparable companies as the Board may determine in its sole discretion, but always excluding the Company.

**Peer Group Index** means the companies listed in the S&P/ASX 200 Index at the start of the Performance Period, excluding the companies listed in the 200 Financials and 200 Property Trust indices and companies which cease to be included in the S&P/ASX 200 Index during the Performance Period.

**Performance Period** means the period of time between the Issue Date and the date on which the Vesting Criteria are applied to determine if an Option has vested under Section 4.3 or 4.4.

**Permanent Disability** means, in respect of a Participant:

- (a) the inability of the Participant to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of twelve months or more; or
- (b) if the words "Permanent Disability" are given a particular meaning in the Participant's employment agreement, the same as those words do in that agreement.

**Plan** means this 2005 Managing Board Transitional Stock Option Plan, as amended from time to time.

**Record Date** has the meaning given under the Listing Rules.

**Tenth Anniversary** means the day falling ten years from the Issue Date or, if that day is not a Business Day, the next succeeding Business Day.

**Third Anniversary** means the day falling three years from the Issue Date or, if that day is not a Business Day, the next succeeding Business Day.

**TSR** means, in respect of a company, Total Shareholder Returns (including dividends and other distributions) of such company for the Performance Period, as calculated in accordance with the procedure set out in Schedule A to these Rules.

**TSR Ranking** means the percentile ranking of the Company amongst the Peer Group, where the Company and each company in the Peer Group are ranked in ascending order according to their TSR for the Performance Period so that company with the highest TSR for the Performance Period is at the 100th percentile (being the percentage of companies in the Peer Group above which the Company ranks on this basis).

**Voting Power** has the same meaning as is given to that term in the *Corporations Act 2001*.

- 1.3 Where any calculation or adjustment made under this Plan produces a fraction of a cent or a share, the fraction must be eliminated by rounding to the nearest whole number favourable to an Option holder or its designee.
- 1.4 Words denoting the singular number only shall include the plural number and vice versa.
- 1.5 Headings have been inserted for ease of reference only and shall not affect the interpretation of this Plan.
- 1.6 Subject to Section 5, the number of Ordinary Shares that may be issued and outstanding or subject to outstanding Options under this Plan shall not exceed 1,380,000.

## **2. Grant Of Options**

- 2.1 Subject to the express provisions of this Plan, the Board may, from time to time in its discretion, grant each Participant Options. The number of Options granted to each Participant hereunder, if any, will be determined by the Board based upon, among other matters, a Participant's specific position and responsibilities, grants to other senior executives in the Group, and such other factors as the Board may deem appropriate. Each Option shall be subject to the terms and conditions of this Plan and such other terms and conditions established by the Board as are not inconsistent with the provisions of the Plan. Options may be granted from time to time by the Board, provided that all Option grants shall be made during one of the Company's four open trading windows each year when the Company does not have any material non-public information.
- 2.2 Upon grant of an Option, the Company must deliver to the Option holder a certificate or other written statement evidencing the Option and setting out the terms of its issue and the rights of the Option holder under this Plan.

- 2.3** Unless a Participant has agreed in writing to receive an Option before the Issue Date for the Option, the Participant may, within 10 days of the Issue Date of an Option, or such other period as may be specified in the certificate given to the Participant pursuant to Section 2.2, disclaim his or her rights and entitlements in respect of that Option by written notice to the Company. If a Participant gives the Company notice in respect of an Option under this Section 2.3, the Option is deemed not to have been granted to the Participant. If the Participant does not give the Company notice in respect of an Option under this Section 2.3, the Participant is deemed to have accepted the grant of the Option with effect from the Issue Date.
- 3. Entitlement**
- 3.1** Subject to Section 3.2, each Option entitles the holder, upon exercise, to be issued or, subject to any Applicable Regulations, transferred, one Ordinary Share (newly issued or existing), credited as fully paid, or, at the Option holder's request and subject to any Applicable Regulations, to have issued or transferred to a Nominee, one Ordinary Share (newly issued or existing), credited as fully paid.
- 3.2** The Option grant, the certificate provided to an Option holder under Section 2.2, or other written agreement with an Option holder in respect of an Option may provide that the Option entitles the holder upon exercise to be issued (but not transferred) one Ordinary Share credited as fully paid or, at the Option holder's request and subject to Applicable Regulations, to have one Ordinary Share issued (but not transferred) to a Nominee.
- 3.3** Ordinary Shares issued or transferred on the exercise of Options will rank *pari passu* with all existing Ordinary Shares from the date of issue or transfer.
- 3.4** The Company must, in the case of newly issued Ordinary Shares, promptly make application for official quotation by the ASX of all Ordinary Shares issued on the exercise of Options.
- 4. Exercise of Options**
- 4.1** An Option that has vested under Section 4.3 or 4.4 is exercisable by the holder delivering to the Company's Secretary, or assignee:
- (a) a notice in the form of the notice in Schedule B (or such other form as the Board may, in its discretion approve for the purpose of this Section 4.1(a)) addressed to the Company and signed by the Option holder stating the number of Options which are to be exercised; and
  - (b) payment to the Company in cleared funds of the Exercise Price applicable to all of the Options specified to be exercised.
- 4.2** If the items listed in Section 4.1 are delivered in accordance with that Section, the Company must issue, or, as applicable, transfer, an Ordinary Share (newly issued or existing, as applicable) to the Option holder or, subject to Section 3.1, his or her Nominee, as soon as practicable after the date on which the Option is exercised. Subject to the Listing Rules, if an Option holder requests that he or she or (subject to any Applicable Regulations) his or her Nominee, is allocated a CUF in respect of the Ordinary Share issued, or, as applicable, transferred, to the Option holder or his or her Nominee on the exercise of an Option, the Company will do everything practicable to promptly facilitate the issue, or, as applicable, transfer, of a CUF to the Option holder or his or her Nominee, as applicable, in respect of that Ordinary Share.
- 4.3** On the Third Anniversary of the Issue Date, Options granted hereunder shall vest in accordance with the following criteria (the "**Vesting Criteria**"):

- (a) 50% of the Options shall vest if the Company's TSR Ranking is equal to or above the Median TSR; and
  - (b) an additional 2% of Options shall vest for each 1% increment that the Company's TSR Ranking is above the Median TSR *é.g.*, if the Company's TSR Ranking is 4% above the Median TSR, then 58% of the Options shall vest; if the Company's TSR Ranking is 25% above the Median TSR, then 100% of the Options shall vest);
- 4.4** If any Options remain unvested on the last Business Day of each six month period following the Third Anniversary and before the Fifth Anniversary, the Company will reapply the Vesting Criteria to those Options on that Business Day, and those Options shall vest on that Business Day according to the Vesting Criteria as applied on that date. If the last Business Day of the fourth consecutive six month period following the Third Anniversary is after the Fifth Anniversary, the Company will reapply the Vesting Criteria on the last Business Day immediately preceding the Fifth Anniversary. The Vesting Criteria will be applied on the basis that the number of Options that vest is the number determined by applying the Vesting Criteria to the total number of vested and unvested Options in that tranche and then deducting the number of Options that have previously vested. For the avoidance of doubt, if an Option vests under Section 4.3 or this Section 4.4, the Option will not become unvested as a result of any subsequent application of the Vesting Criteria under this Section 4.4. Any Options that do not vest before the Fifth Anniversary, shall immediately expire and become unexercisable on the Fifth Anniversary. For the sake of clarity, by way of example, see Schedule C hereto.
- 4.5** Subject to Section 4.10, if a Participant's employment with the Company ceases for any reason, then all of such Participant's unvested Options granted hereunder shall immediately expire and become unexercisable as of the date of such cessation of service.
- 4.6** If a Participant's employment ceases for any reason, then all of such Participant's vested Options granted hereunder shall be treated in accordance with this Section 4.6:
- (a) Termination for Cause. Except as otherwise provided by the Board, in the event of a Just Cause Dismissal of a Participant, all of the outstanding vested Options granted to such Participant shall expire and become unexercisable as of the date of such Just Cause Dismissal.
  - (b) Termination Other Than For Cause. Subject to Section 4.6(a) above, and except as otherwise provided by the Board, in the event a Participant's cessation of service to the Company is due to:
    - (i) any reason other than Just Cause Dismissal, death, Permanent Disability or retirement, all of the outstanding vested Options granted to the Participant shall expire and become unexercisable as of the earlier of:
      - (A) the date such Options would expire in accordance with their terms if the Participant had remained employed by the Company; or
      - (B) 18 months after the Participant's employment by the Company is terminated.
    - (ii) Death or Permanent Disability. All of the outstanding vested Options granted to the Participant shall expire and become unexercisable as of the earlier of:
      - (A) the date such Options would expire in accordance with their terms if the Participant had remained in service; or
      - (B) 24 months after the date of death or termination.
    - (iii) Retirement. All of the outstanding, vested Options granted to the Participant shall expire and become unexercisable as of the earlier of:
      - (A) the date such Options expire in accordance with their terms; or
      - (B) 24 months after the date of retirement.
- 4.7** If a Participant dies after an Option has vested and before it has expired or become unexercisable, with the approval of Board, in its absolute discretion, the Option may (but only at a time permitted by the approval and in accordance with any conditions specified in the

approval) be exercised by the legal personal representative of the Participant in accordance with Section 4.1, and to the extent necessary for this to occur, the Option may be transferred to the legal personal representative.

**4.8** Unless the Board provides otherwise in the Option grant or in a written agreement, and subject to any Applicable Regulations, in the event of a Change in Control, the Board shall provide that all Options either:

- (a) vest in full upon the Change in Control and terminate at the end of the period determined by the Board for the purpose of this Section 4.8(a);
- (b) are assumed or continued in effect in connection with the Change in Control transaction;
- (c) are cashed out for an amount equal to the deal consideration per share less the Exercise Price; or
- (d) are substituted for similar awards of the surviving corporation.

Subject to the Listing Rules, each Option that is assumed or otherwise continued in effect in connection with a Change in Control shall, if deemed necessary by the Board, be appropriately adjusted, immediately after such Change in Control, to apply to the number and class of securities which would have been issuable or transferable to an Option holder in consummation of such Change in Control had the Option been exercised immediately prior to such Change in Control. Appropriate adjustments to reflect such Change in Control shall, if deemed necessary by the Board, also be made to the Exercise Price for each outstanding Option, provided the aggregate of the Exercise Prices for all outstanding Options shall remain the same. To the extent the holders of Ordinary Shares receive cash consideration in whole or part for their Ordinary Shares in consummation of the Change in Control, the successor corporation may, in connection with the assumption of the outstanding Options, substitute one or more shares of its own common stock, or the equivalent thereof, with a fair market value equivalent to the cash consideration paid per share of Ordinary Share in such Change in Control transaction.

**4.9** Subject to Sections 4.5 and 4.6, all Options shall expire on the earlier to occur of:

- (a) in the case of Options which do not vest by the Fifth Anniversary under Section 4.3, 4.4 or 4.8(a), on the Fifth Anniversary; and
- (b) in the case of Options which vest by the Fifth Anniversary under Section 4.3, 4.4 or 4.8(a), on the Tenth Anniversary.

**4.10** If a Participant ceases employment with the Company, or gives notice of their intention to cease employment with the Company, the Board may in its absolute discretion (on any conditions which it thinks fit) decide that some or all of the unvested Options held by the Participant do not lapse under Section 4.5, but lapse at the time and subject to the conditions it may specify by notice to the Participant, which may include one or more of the following:

- (a) that the Performance Period of an Option is reduced to a period shorter than that specified in Section 4.3 or 4.4;
- (b) that the Vesting Criteria applicable to an Option be waived; and
- (c) that an Option which vests in accordance with the terms and conditions specified in the notice may be exercised within the period specified in Section 4.6 or any shorter period specified in the notice.

**4.11** If:

- (a) a Participant's employment agreement provides that the Participant will commence as a consultant to a Group company on ceasing employment with the Company; and
- (b) on ceasing employment with the Company, the Participant commences as a consultant to a Group company in accordance with that agreement,

then:

- (c) the Participant is deemed to continue as an employee of the Company for the purpose of this Plan; and
- (d) the Participant will cease to be an employee for the purpose of this Plan when the Participant ceases to be a consultant to that Group company.

**5. Anti-dilution provisions**

**5.1 Participation in new issues**

An Option holder may, to the extent his or her Option has vested and can otherwise be exercised, participate in new issues of securities of the Company to holders of Ordinary Shares if the Option is exercised before the record date for determining entitlements to the issue. The Company must give 7 Business Days' notice of any new issue to the holder before the record date for determining entitlements to the issue in accordance with the Listing Rules, so as to permit the holder to exercise any Option which, on its terms, may be exercised before that record date. An Option holder has no right to participate in new issues of securities of the Company to holders of Ordinary Shares in respect of an Option which has not been exercised before the Record Date for determining entitlements to the issue.

**5.2 Bonus Issues**

- If:
- (a) the Company makes a bonus issue of shares or other securities pro rata to holders of Ordinary Shares; and
  - (b) an Option has not yet vested or can otherwise not be exercised before the Record Date for determining entitlements to the bonus issue,
- then:
- (c) the number of securities over which that Option is exercisable is increased by the number of securities which the Option holder would have received if the Option had been exercised before the Record Date for the bonus issue.

**5.3 Rights Issues**

- If:
- (a) the Company makes pro rata issue to the holders of Ordinary Shares (other than a pro rata issue to the holders of Ordinary Shares for which no consideration is payable by them); and
  - (b) an Option has not yet vested or can otherwise not be exercised before the Record Date for determining entitlements to the rights issue,
- then:
- (c) the Exercise Price will be the greater of the Exercise Price applying before the pro rata issue and the amount calculated as:

$$O' = O - \frac{E[P - (S+D)]}{N + 1}$$

O' = the new exercise price of the option.

O = the old exercise price of the option.

E = the number of underlying securities into which one option is exercisable.

**Note:** E is one unless the number has changed because of a bonus issue.

P = the average market price (as defined in the Listing Rules) per security (weighted by reference to volume) of the underlying securities during the five (5) trading days ending on the day before the ex rights date or ex entitlements date.

S = the subscription price for a security under the pro rata issue.

D = the dividend due but not yet paid on the existing underlying securities (except those to be issued under the pro rata issue).

N = the number of securities with rights or entitlements that must be held to receive a right to one new security.

#### **5.4 Consolidation of capital**

Where prior to the expiration of an Option the Company consolidates its Ordinary Shares, the number of Options is consolidated in the same ratio as the Ordinary Shares are consolidated, and the Exercise Price is amended in inverse proportion to the ratio in which the Ordinary Shares are consolidated.

#### **5.5 Subdivision of capital**

Where prior to the expiration of an Option the Company subdivides its Ordinary Shares, the number of Options is subdivided in the same ratio as the Ordinary Shares are subdivided, and the Exercise Price is amended in inverse proportion to the ratio in which the Ordinary Shares are subdivided.

#### **5.6 Return of capital**

Where prior to the expiration of an Option the Company returns issued capital to holders of Ordinary Shares, the Exercise Price of each Option is reduced by the same amount as the amount returned in relation to each Ordinary Share.

#### **5.7 Reduction of capital by cancellation**

Where prior to the expiration of an Option the Company reduces its issued capital by a cancellation of paid up capital that is lost or not represented by available assets and where no Ordinary Shares are cancelled, the number of Options and the Exercise Price of each Option remain unaltered.

#### **5.8 Pro-rata cancellation of capital**

Where prior to the expiration of an Option the Company cancels Ordinary Shares on a pro-rata basis, the number of Options is reduced in the same ratio as the Ordinary Shares are cancelled, and the Exercise Price of each Option is amended in inverse proportion to the ratio in which the Ordinary Shares are cancelled.

#### **5.9 Other reorganisations of capital**

Where prior to the expiration of an Option the Company reorganises its issued capital in a manner that is not referred to in Sections 5.4 to 5.8, the number of Options, or the Exercise Price of those Options, or both, must be reorganised so that the Option holder does not receive a benefit that holders of Ordinary Shares do not receive. This Section 5.9 does not prevent a rounding up of the number of Ordinary Shares the Holder may receive on exercise of an Option if the rounding up is approved at the meeting of Ordinary Share holders which approves the reorganisation.

#### **5.10 Listing Rules**

If the Company is listed, each amendment contemplated by the provisions of this Section 5 is subject to its being consistent with the Listing Rules. The rights of a Participant will be changed to the extent necessary to comply with the Listing Rules applying to a reorganisation of capital at the time of the reorganisation.

### **6. Miscellaneous**

**6.1** The Company must send to the holder of Options all reports and accounts required to be laid before a general meeting of the Company, and all notices of general meetings of shareholders, as if the Option holder was the holder of an Ordinary Share.

**6.2** If Options are exercised simultaneously, then the holder may aggregate the number of Ordinary Shares or fractions of Ordinary Shares or other securities to which the holder is

entitled to subscribe under those Options. Fractions in the aggregate number only will be disregarded in determining the total entitlement to subscribe.

- 6.4** In spite of anything else in this Plan, the exercise of Options, the issue, or, as applicable, transfer, of Ordinary Shares to and/or the acquisition of CUFS by an Option holder or his or her Nominee, and the disposal of the resulting Ordinary Shares and/or CUFS is subject to:
- (a) insider trading rules and securities offering rules imposed by law; and
  - (b) the securities transactions rules to which the Company and each Participant has agreed.

**6.5** Subject to Section 4.7, Options are not transferable.

**6.6** Any power or discretion which is conferred on the Board by the terms of the Plan or an Option may be delegated by the Board to a committee consisting of those Directors, other officers, employees of the Company (or any combination of people who hold any of these positions) as the Board thinks fit.

## **7. Notices**

**7.1** The Company must give notices to Option holders in the manner prescribed by the Articles for the giving of notices to holders of Ordinary Shares. For this purpose the provisions of the Articles prescribing the manner for giving notices to holders of Ordinary Shares apply, with all necessary modifications, to giving notices to Option holders.

**7.2** Whenever adjustments are made to:

- (a) the Exercise Price for an Option;
- (b) the number of Options held by an Option holder;
- (c) the entitlement to Ordinary Shares on exercise of Options; or
- (d) this Plan,

then the Company must give notice of the adjustment to each Option holder.

## **8. Shareholder approval**

If any Applicable Regulations require the approval of holders of Ordinary Shares of the grant of Options to a Participant, no Options will be granted to the Participant before that approval is obtained in accordance with the Applicable Regulations.

## **9. Amendments; Interpretation**

**9.1** This Plan is effective from its approval by the Company's shareholders to 31 December 2006, unless terminated by the Board prior to that date, whereupon the Plan will terminate automatically. The Board may, insofar as permitted by law, from time to time suspend or terminate the Plan. No Options may be granted during any suspension of this Plan or after its termination. Any Option outstanding after the termination of the Plan shall remain in effect until such Option has been exercised or expires in accordance with its terms and the terms of the Plan. The Board may, insofar as permitted by any Applicable Regulations, from time to time revise or amend the Plan in any respect except that, unless required to comply with any Applicable Regulations, no such amendment shall adversely affect any rights or obligations of an Option holder under any outstanding Option previously granted under the Plan without the consent of such Option holder. Amendments shall be subject to approval by a general meeting of the Company to the extent such approval is required to comply with any Applicable Regulations.



- 9.2 Subject to the express provisions of the Plan, the Board has the authority to interpret the Plan and any documents used to evidence Options, to determine the terms and conditions of Options and to make all other determinations necessary or advisable for the administration of the Plan. All interpretations, determinations and actions by the Board shall be final, conclusive and binding upon all parties. The Board has authority to prescribe, amend and rescind rules and regulations relating to the Plan.
- 9.3 Subject to any Applicable Regulations, the Board may make any modifications to the terms and conditions of an outstanding Option provided that the resultant provisions are permissible under the Plan and the consent of the Option holder shall be obtained if the amendment will materially and adversely affect his or her rights under the Option.
- 9.4 The Plan shall be binding upon the successors and assigns of the Company.

**10. Governing Law**

This plan is governed by the laws in force in The Republic of Ireland and are construed and take effect in accordance with those laws.

**SCHEDULE A**

**CALCULATION OF TSR**

The TSR for each company in the Peer Group over the Performance Period shall be calculated in accordance with the following procedure:

	<u>Explanation</u>	<u>Example</u>			
Step 1	Calculate the average daily closing price of an ordinary share of a company over the 5 days immediately preceding the end of the Performance Period.	Suppose average closing price at end of Performance Period is \$9.00.			
Step 2	Work out the average daily closing price of an ordinary share of a company over the 5 days immediately preceding the start of the Performance Period.	Suppose average closing price at start of Performance Period is \$6.00.			
Step 3	Divide the result from Step 1 by the result from Step 2.	$9.00 \div 6.00 = 1.50$			
Step 4	Divide each dividend (including all cash payments for capital reductions, special dividends etc) paid on an ordinary share of the same company during the Performance Period by the price of an ordinary share of the same company on the date of payment of the respective dividend. Each of these amounts is the "dividend yield".	<b>Year</b>	<b>Price</b>	<b>Dividend</b>	<b>Dividend Yield</b>
		1	6.50	12.0 cents	1.8462%
		2	7.50	12.0 cents	1.6000%
		3	8.50	12.0 cents	1.4118%
Step 5	Add 1.0 to each of the dividend yields for the Performance Period. Each of these amounts is a result.	<b>Year</b>	<b>Result</b>		
		1	1.018462		
		2	1.016000		
		3	1.014118		
Step 6	Multiply each of the results in Step 5 together.	$1.018462 \times 1.016000 \times 1.014118 = 1.049365$			
Step 7	Multiply the result from Step 3 by the result from Step 6.	$1.50 \times 1.049365 = 1.574048$			
Step 8	Subtract 1.0 from the result from Step 7.	$1.574048 - 1.00 = 0.574048$			
Step 9	Multiply the result from Step 8 by 100.	$0.574048 \times 100 = 57.4048\%$			

**SCHEDULE B**

**NOTICE OF EXERCISE FOR NONQUALIFIED STOCK OPTION**

Date: \_\_\_\_\_

To: James Hardie Stock Plan Administrator

James Hardie Industries N.V.  
26300 La Alameda, Suite 100  
Mission Viejo, California 92691 USA

(ACN 000 009 263)  
e-mail: stock.options@jameshardie.com  
FAX: 1-949-348-4579

Notice is hereby given that I elect to purchase \_\_\_\_\_ shares of common stock, represented by CHESS Units of Foreign Securities, or "CUFS" (the "Shares") pursuant to the stock option (option grant number \_\_\_\_\_) granted to me on \_\_\_\_\_ with an exercise price of A\$\_\_\_\_\_ per share (the "Option").

I understand that James Hardie Industries N.V. (the "Company") is not obligated to issue or transfer any Shares unless I have paid the total exercise price for the Shares and all tax withholding requirements as may be applicable with respect to the exercise of the Option and issuance of the Shares, which consists of:

*COMPLETE ONE OR MORE AS APPLICABLE*

<u>Exercise Price</u>	<u>Withholding Tax</u>	
<input type="checkbox"/>	<input type="checkbox"/>	A direct deposit in Australian dollars into the Company's bank account maintained at ANZ Bank, Pitt Street, Sydney, NSW, Australia; BSB 012 003; Account 8372 04785
<input type="checkbox"/>	<input type="checkbox"/>	A direct deposit in US dollars into the Company's bank account maintained at Wells Fargo Bank, Los Angeles, CA, USA; ABA 121000248; Account XXXXXXXX
<input type="checkbox"/>	<input type="checkbox"/>	If acceptable to Goldman Sachs JBWere Equity Finance Pty Ltd, I request it provide me with a recourse loan for the amount due in order to exercise my stock options. I authorize Goldman Sachs JBWere Equity Finance Pty Ltd to repay the loan from the proceeds of the immediate sale at market of the exercised shares less brokerage and interest fees. (This requires immediate sale of shares after exercise at market price. See the attached Form B for details required to sell these shares.)

Please instruct the company register to issue the CUFS holding statement (in lieu of a share certificate) in my name as designated below. I hereby acknowledge that, to the extent I am an "affiliate" of the Company (as that term is defined in Rule 144 promulgated under the Securities Act of 1933, as amended) or to the extent that the Shares have not been registered under the Securities Act of 1933, as amended, or applicable state securities laws,

the Shares are subject to, and the certificates representing the Shares (or holding statements for the CUFSS) may, in the Company's discretion, be legended to reflect, certain trading restrictions under applicable securities laws (including particularly the Securities and Exchange Commission's Rule 144), and I hereby agree to comply with all such restrictions and to execute such documents or take such other actions as the Company may require in connection with such restrictions.

I confirm that I do not possess any Insider Information as such term is defined in the Company's Insider Trading Policy.

I acknowledge that I understand that this Option is a Nonqualified Stock Option, meaning that it is not eligible for United States tax deferral, and accordingly that if I am subject to taxation in the United States, I will owe taxes on the difference between the Option exercise price and the Company's stock price on the date of exercise, and I must pay over to the Company an amount required to satisfy withholding tax obligations on the date of this Option exercise.

I agree to provide to the Company such additional documents or information as may be required pursuant to the Company's 2005 Managing Board Transitional Stock Option Plan.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 200\_\_

OPTIONEE:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Home Street Address

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
City/State/ZIP

\_\_\_\_\_  
Social Security or Other Identification Number

\_\_\_\_\_  
Country

FORM B

NOTICE OF IMMEDIATE SALE OF SHARES (CUFS) AFTER EXERCISE OF OPTIONS

To: Donna Gulbin — [donna.gulbin@gsjwbw.com](mailto:donna.gulbin@gsjwbw.com)

Cc: Corporate Secretary

Date:

From: Cathy McCutcheon as agent for James Hardie Industries SE 2005 Managing Board Transitional Stock Option Plan  
(Phone: 1-949-348-4408; fax 1-949-348-4579; e-mail: [Cathy.Mccutcheon@jameshardie.com](mailto:Cathy.Mccutcheon@jameshardie.com))

SUBJECT: Confirmation of James Hardie Industries SE CUFS sale order placed today.

To be completed by employee selling Shares:

Full Name:

Home Address (in full):

Street  
City/State/Zip code  
Country

Security Holder Reference Number (SRN) — *if available*

Number of Shares being exercised (as a number and spelled out)

Exercise Price (AUD\$)

Date Options vested

Number of Shares being SOLD (as a number and spelled out)

ASX price limits in AUD (if any)

Note: you can only set AUD price limits if you already own the shares or are using a "cash" exercise.

**SETTLEMENT INSTRUCTIONS:**

*(items 1 & 2 to be completed by plan administrator)*

**Goldman Sachs JBWere Pty Ltd**

1. Repayment of advance in AUD to be directly credited to:

1. Sale proceeds to be directed as follows for repayment of advance:

a. Advance provided by JH:

a. AUD \$\_\_\_\_\_ to Goldman Sachs JBWere Equity Finance Pty Ltd

b. Advance provided by Goldman Sachs JBWere Equity Finance Pty Ltd:

b. Interest on the above loan charged at the prevailing margin lending rate for the number of days debt is outstanding with a minimum of AUD\$200.

2. Withholding taxes (USD) — if applicable, credited directly to:

2. USD \_\_\_\_\_ credited to: **JH Building Products Corporate** account at Wells Fargo Bank, Los Angeles, CA USA. **ABA#121000248; account #4375690534**

3. Remainder to seller's account after, brokerage fees, loan repayment and applicable taxes (converted to sellers nominated currency):

3. Direct Credit of remainder, after fees, in local currency to:

Name of holder of bank account: \_\_\_\_\_

bank name: \_\_\_\_\_

address: \_\_\_\_\_

ABA(BSB)# \_\_\_\_\_

account # \_\_\_\_\_

currency: \_\_\_\_\_

OPTIONEE:

\_\_\_\_\_

\_\_\_\_\_

**SCHEDULE C**

**VESTING UPON RETESTING**

For the sake of clarity, by way of example only:

If 100,000 options were granted to a Participant and 58% (58,000) vested because the Company's TSR Ranking on the Third Anniversary was 54%, then 42,000 Options would remain unvested. If, upon retesting the Company's TSR Ranking after the Third Anniversary in accordance with Section 4.4, it is determined that the Company's TSR Ranking is 60%, then an aggregate of 70,000 Options are entitled to be vested. Accordingly, because 58,000 were already vested, an additional 12,000 Options would become vested, for a total of 70,000 Options being vested as of the retest date.

Assume that, on the next retest date, it is determined that the Company's TSR Ranking is 55%, 5% less than it was the last time the Company's TSR Ranking was tested. In this event, such retest would have no effect on the Participant's vested or unvested Options: 70,000 would remain vested and 30,000 would remain unvested.

# MALLESONS STEPHEN JAQUES

James Hardie Industries SE  
Supervisory Board Share Plan

Dated 14 August 2006 and amended and restated as of 19 February 2010 and 17 June 2010

**Mallesons Stephen Jaques**

Level 60  
Governor Phillip Tower  
1 Farrer Place  
Sydney NSW 2000  
Australia  
T +61 2 9296 2000  
F +61 2 9296 3999  
DX 113 Sydney  
[www.mallesons.com](http://www.mallesons.com)

---

## **1 Introduction**

### **1.1 Purpose**

The Plan provides Board Members with an opportunity to acquire an ownership interest in the Company either directly, or indirectly through a Superannuation Plan nominated by them.

### **1.2 Commencement**

The Plan commences on the date that the Company determines.

### **1.3 Rules are binding**

The Company and each Participant are bound by these rules.

## **2 Invitation, application and acceptance**

### **2.1 Eligibility**

The Board may determine the Board Members who are eligible to participate in the Plan from time to time.

### **2.2 Invitation may be made**

From time to time the Company may make, and a person who is eligible to participate in the Plan in accordance with rule 2.1 may receive, an Invitation to participate in the Plan.

### **2.3 Content of Invitation**

The Invitation must be in writing and include the following details:

- (a) the number of CUFS or the method of calculating the number of CUFS for which the Participant may apply;
- (b) any restrictions or other conditions relating to the CUFS as determined by the Board; and
- (c) the method of acceptance of an Application.

### **2.4 Application Form**

The Invitation to a Participant must be accompanied by an Application Form.

### **2.5 Applying for CUFS**

A Participant who receives an Invitation under rule 2.2 may apply for CUFS by completing and returning the Application form in accordance with the directions in the Invitation.



## **2.6 Election as to method of satisfying Applications**

The Company may elect to satisfy an Application either by issuing new shares (to be held in the form of CUFS) or purchasing shares on market (as defined in section 9 of the Corporations Act) on behalf of the Participant.

## **2.7 Participant agrees to be bound**

Each Participant is, by submitting an Application Form, deemed to have agreed to be bound by:

- (a) the terms of the Invitation and Application Form;
- (b) the Insider Trading Policy of the Company;
- (c) the provisions of these rules; and
- (d) the articles of association of the Company and the laws applicable to the Company.

## **2.8 Acceptance of Application**

The acceptance by the Company of an Application by a Participant is effective and occurs at the time of allotment or transfer of the CUFS to the Participant.

## **2.9 When Applications will not be accepted**

A Participant's Application will not be accepted if, at the date of the proposed allotment or transfer of CUFS, they are not a Board Member (or a Superannuation Plan nominated by a person who is a Board Member).

## **2.10 Board may deny Application**

The Board has the discretion to determine that an Application by a Participant who otherwise would be eligible to acquire CUFS under the Plan will not be accepted.

## **3 Acquisition Price**

### **3.1 Shares issued to Participants**

Any shares issued to a Participant under the Plan are to be issued at a price equal to the average of the closing prices for CUFS on the ASX during the period of five business days immediately preceding the date of issue of the shares.

### **3.2 Shares acquired on market**

Any shares purchased on market under the Plan on behalf of a Participant are taken to be transferred under the Plan to the Participant at the price at which the relevant CUFS were acquired by the Company. Any brokerage, stamp duty or other costs are to be borne by the Company.

#### **4 Allotment of CUFS**

##### **4.1 Notice**

The Company must advise a Participant that it has allotted or transferred CUFS to them under the Plan as soon as reasonably practicable after the allotment or transfer occurs.

##### **4.2 Ownership of CUFS**

- (a) Subject to (b) and (c), each Board Member has the legal and beneficial ownership of the CUFS allotted or transferred to them.
- (b) If CUFS have been allotted or transferred to a Superannuation Plan, the trustee or its equivalent in respect of the relevant Superannuation Plan will hold the legal interest in the CUFS allotted to the Superannuation Plan.
- (c) Any disposal of those CUFS referred to in (a) or (b) above by a Participant is restricted in accordance with any restrictions specified in the Invitation to the Participant to apply for the CUFS under rule 2.3(b).

##### **4.3 Quotation of CUFS**

The Company must apply to ASX for official quotation of any new shares / CUFS allotted under the Plan.

#### **5 Administration of Plan**

##### **5.1 Board to administer Plan**

The Plan is to be administered by the Board in accordance with these rules. The Board may make further provisions for the operation of the Plan which are consistent with these rules.

##### **5.2 Board powers and discretions**

Any power or discretion which is conferred on the Board by these rules must be exercised by the Board in the interests or for the benefit of the Company, and the Board is not, in exercising any power or discretion, under any fiduciary or other obligation to any other person.

##### **5.3 Delegation of Board powers and discretions**

Any power or discretion which is conferred on the Board by these rules may be delegated by the Board to a committee consisting of those directors, other officers or employees of the Company as the Board thinks fit.

#### **5.4 Board decision: final and conclusive**

The decision of the Board as to the interpretation, effect or application of these rules is final and conclusive.

#### **5.5 Suspension of Plan**

The Board may suspend the operation of the Plan and may cancel the Plan even if the suspension or cancellation of the Plan is prejudicial to the existing rights of a Participant under the Plan. Suspension or termination of the Plan does not give rise to any liability on the part of, or any right of action against, the Company.

#### **6 Overriding restrictions on the Plan**

Despite any other provision of these rules, no CUFS may be acquired by a Participant or other person under the Plan if to do so would contravene applicable laws, including the Corporations Act, the U.S. Securities Act of 1933 or the Listing Rules.

#### **7 Amendment of the Plan**

##### **7.1 Board may amend**

The Board may at any time by written instrument amend all or any of the provisions of these rules, including this rule 7, even if the amendment is prejudicial to the existing rights of a Participant under the Plan. Amendment of the Plan does not give rise to any liability on the part of, or any right of action against, the Company.

##### **7.2 Retrospective amendment possible**

Any amendment made under rule 7.1 may be given retrospective effect as specified in the written instrument by which the amendment is made.

#### **8 Miscellaneous provisions**

##### **8.1 Instructions by Members**

For the purposes of these rules, the Company is entitled to regard any notice, direction or other communication given or purported to be given by or on behalf of a Participant (or a legal personal representative of a Board Member) as valid, whether given orally or in writing.

##### **8.2 Governing law**

These rules are governed by the laws in force in The Republic of Ireland and are construed and take effect in accordance with those laws.

### 8.3 Rounding

Unless expressly provided for in these rules, any calculation of a number of CUFS under the Plan is to be rounded down to the nearest whole number.

## 9 Definitions and interpretation

### 9.1 Definitions

The following words and expressions have the following meanings unless the contrary intention appears:

**Application** means an application for CUFS made by a Participant under the terms of an Invitation.

**Application Form** means an application form for CUFS attached to an Invitation.

**ASTC** means Australian Settlement and Transfer Corporation Pty Limited (ABN 49 008 532).

**ASTC Settlement Rules** means the settlement rules of ASTC.

**ASX** means Australian Securities Exchange.

**Board** means all or some of the members of the board of the Company acting as such, and includes a committee of the Board and a delegate of the Board.

**Board Member** means a non-executive member of the Board.

**CUFS** means a CHESS Unit of Foreign Securities, as defined in the ASTC Settlement Rules, in respect of a Share.

**Company** means James Hardie Industries SE, a Societas Europaea under Irish law and for the avoidance of doubt:

- (a) for the period until conversion to an SE under Dutch law, James Hardie Industries N.V.; and
- (b) for the period after conversion to an SE under Dutch law, but before conversion to an SE under Irish law, James Hardie Industries SE, a Societas Europaea under Dutch law.

**Corporations Act** means the *Corporations Act 2001* (Cwlth).

**Invitation** means an invitation to apply for CUFS under the Plan made in accordance with clause 2.2.

**Listing Rules** means the Listing Rules of ASX, except to the extent of any express waiver by ASX.

**Participant** means any Board Member eligible to acquire CUFS under this Plan in accordance with rule 2.1 and includes any Superannuation Plan nominated, with the prior written approval of the Board, by a Board Member to receive an Invitation for which the relevant Board Member would otherwise be eligible.

**Plan** means the Supervisory Board Share Plan as amended from time to time, the rules of which are set out in this document.

**Shares** means fully paid ordinary shares in the capital of the Company.

**Superannuation Plan** means a personal superannuation or pension plan nominated by a Board Member to participate in the Plan that meets such criteria as the Board may, in its discretion, from time to time determine.

## **9.2 Interpretation**

In these rules, unless the contrary intention appears:

- (a) words importing the singular include the plural and vice versa;
- (b) references to these rules, or any particular clause of these rules, means these rules, or the relevant clause, as amended from time to time;
- (c) references to a document or any part of a document means the document or relevant part, as amended from time to time;
- (d) references to a statute or other law include regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (e) references to the exercise of a power or discretion include a decision not to exercise the power or discretion; and
- (f) “including” when introducing a list of items does not exclude a reference to other items whether of the same class or genus or not.

Headings are for convenience only and do not affect the interpretation of these rules.

CA106021.1

17 June 2010

To: Board of Directors  
James Hardie Industries SE  
Europa House,  
Second Floor,  
Harcourt Centre,  
Dublin 2

Re: **James Hardie Industries SE Post-Effective Amendment to registration statements on Form S-8 in relation to the Plans (as defined below)**

Dear Sirs,

1. **Basis of Opinion**

- 1.1 We are acting as Irish counsel to James Hardie Industries SE, a European public company (*Societas Europaea*) limited by shares (the “**Company**”), currently registered under the laws of Ireland, with its registered office at Europa House, Second Floor, Harcourt Centre, Dublin 2, in connection with the post-effective amendment No. 2 to the registration statement with the file number 333-153446 (the “**Post Effective Amendment**”) on Form S-8 to be filed with the United States Securities and Exchange Commission (the “**SEC**”) on the date hereof under the Securities Act of 1933, as amended (the “**Securities Act**”), with respect to the ordinary shares with nominal value of €0.59 per share of the Company (the “**Shares**”) that may be delivered pursuant to the Amended and Restated James Hardie Industries SE Managing Board Transitional Stock Option Plan 2005 and the Amended and Restated James Hardie Industries SE Supervisory Board Share Plan 2006, each as amended and restated on 17 June 2010 in order to comply with Irish law following the recent transfer of the Company’s registered office to Ireland from The Netherlands (the “**Plans**”).
  - 1.2 This Opinion is confined to and given in all respects on the basis of the laws of Ireland (meaning Ireland exclusive of Northern Ireland) in force as at the date hereof as currently applied by the courts of Ireland. We have made no investigation of and we express no opinion as to the laws of any other jurisdiction or the effect thereof.
  - 1.3 This Opinion is also strictly confined to:
    - (a) the matters expressly stated herein at paragraph 2 below and is not to be read as extending by implication or otherwise to any other matter; and
    - (b) the Plan Documents (as defined in the Schedule).
-

We express no opinion, and make no representation or warranty, as to any matter of fact or in respect of any documents which may exist in relation to the Plans other than the Plan Documents.

- 1.4 For the purpose of giving this Opinion, we have examined copies sent to us by email in pdf or other electronic format of the Plan Documents.
- 1.5 For the purpose of giving this Opinion, we have caused to be made legal searches against the Company on 17 June 2010 on the file of the Company maintained by the Irish Registrar of Companies in Dublin for returns of allotments, special resolutions amending the memorandum and articles of association of the Company and notice of the appointment of directors and secretary of the Company and for the appointment of any receiver, examiner or liquidator.
- 1.6 This Opinion is governed by and is to be construed in accordance with the laws of Ireland as interpreted by the courts of Ireland at the date hereof. This Opinion speaks only as of its date.

## 2. **Opinion**

Subject to the assumptions and qualifications set out in this Opinion and to any matters not disclosed to us, we are of the opinion that when the Shares have been issued (and, if required, paid for in cash) pursuant to and in accordance with the terms and conditions referred to or summarized in the Plans, the Shares will be validly issued, fully paid up and non-assessable (which term means when used herein that no further sums are required to be paid by the holders thereof in connection with the issue of such shares).

## 3. **Assumptions**

For the purpose of giving this Opinion, we assume the following without any responsibility on our part if any assumption proves to have been untrue as we have not verified independently any assumption:

### *The Post-Effective Amendment and the Plans*

- 3.1 that when filed with the SEC, the Post-Effective Amendment will not differ in any material respect from the draft that we have examined;
- 3.2 that no Shares will be issued before the Plans have been amended and restated in the manner shown in the drafts we have examined together with any other amendments as may be required to render the Plans effective under Irish law from time to time.
- 3.3 that (if required under the terms of any of the Plans) any awards granted under any Plan will be in consideration of the receipt by the Company prior to the issue of the Shares pursuant thereto of cash at least equal to the nominal value of such Shares and that where Shares are issued under any Plan without the requirement for the payment of cash consideration by the relevant beneficiary, then such shares shall either be fully paid up by the Company or one of its subsidiaries in a manner permitted by section 60(12)(e) of the Companies Act 1963 (as amended) and within the time permitted by Section 29(1) of the Companies (Amendment) Act 1983 or issued for consideration as set out in Section 30(2) of the Companies (Amendment) Act 1983;
- 3.4 that the filing of the Post-Effective Amendment with the SEC has been authorized by all necessary actions under all applicable laws other than Irish law;

- 3.5 that the exercise of any options granted under the Plans and the issue of the Shares upon exercise of such options (and the issue of the Shares in connection with any other awards granted under the Plans) will be conducted in accordance with the terms and the procedures described in the Plans and the applicable award certificate;

*Authenticity and bona fides*

- 3.6 the completeness and authenticity of all documents submitted to us as originals or copies of originals and (in the case of copies) conformity to the originals of copy documents and the genuineness of all signatories, stamps and seals thereon;
- 3.7 where incomplete Plan Documents have been submitted to us or signature pages only have been supplied to us for the purposes of issuing this Opinion, that the originals of such Plan Documents correspond in all respects with the last draft of the complete Plan Documents submitted to us;
- 3.8 that prior to the issue of any Shares under the Plans, the Plan Documents will be executed in a form and content having no material difference to the drafts provided to us, will be delivered by the parties thereto, and that the terms thereof will be observed and performed by the parties thereto;

*Accuracy of searches and warranties*

- 3.9 the accuracy and completeness of the information disclosed in the searches referred to in paragraph 1.5 above and that such information has not since the time of such search or enquiry been altered. It should be noted that searches at the Companies Registration Office, Dublin, do not necessarily reveal whether or not a prior charge has been created or a resolution has been passed or a petition presented or any other action taken for the winding-up of or the appointment of a receiver or an examiner to the Company;
- 3.10 the truth, completeness and accuracy of all representations and statements as to factual matters contained in the Plan Documents;

*Commercial Benefit*

- 3.11 that the Plan Documents have been or will be entered into for bona fide commercial purposes, on arm's length terms and for the benefit of each party thereto and are in those parties' respective commercial interest and for their respective corporate benefit.

**4. Disclosure**

This Opinion is addressed to you in connection with the registration of the Shares with the SEC. We hereby consent to the inclusion of this Opinion as an exhibit to the Post-Effective Amendment to be filed with the SEC. In giving this consent, we do not thereby admit that we are in a category of person whose consent is required under Section 7 of the Securities Act.

Yours faithfully,

/s/ ARTHUR COX



**SCHEDULE**

**Plan Documents**

1. A copy of the form of the Post Effective Amendment to be filed by the Company with the SEC.
2. A copy of each of the Plans as each Plan will stand following amendment and restatement on or about 17 June 2010.
3. A copy of the memorandum and articles of association of the Company which will become effective once the Company has transferred its registered office to Ireland.
4. A certificate from Marcin Firek, legal counsel to the Company confirming that the Company has sufficient share capital to issue the required number of Shares under the Plans, and all required corporate authorisations have been obtained (i) to implement the amendment and restatement of the Plans on 17 June 2010; and (ii) to approve the issue of the Shares by the board of directors of the Company pursuant to the Plans.

**CONSENT OF ERNST & YOUNG LLP, INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in this Post-Effective Amendment No. 2 to Registration Statement (Form S-8 No. 333-153446) pertaining to the Amended and Restated James Hardie Industries SE Managing Board Transitional Stock Option Plan 2005 and the Amended and Restated James Hardie Industries SE Supervisory Board Share Plan 2006 of our reports dated June 19, 2009 with respect to the consolidated financial statements of James Hardie Industries N.V. included in its Annual Report (Form 20-F) for the year ended March 31, 2009, and the effectiveness of internal control over financial reporting of James Hardie Industries N.V. filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Orange County, California  
June 14, 2010

**CONSENT OF PRICEWATERHOUSECOOPERS LLP, INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We hereby consent to the incorporation by reference in the Registration Statement on Form S 8 of our report dated June 27, 2008 relating to the consolidated financial statements, which appears in James Hardie Industries SE's (formerly James Hardie Industries N.V.) Annual Report on Form 20-F for the year ended March 31, 2009.

/s/ PricewaterhouseCoopers LLP

Los Angeles, California  
June 14, 2010