



PF2 – Articles of Association
Standard Form – October 2013

The Articles of Association of the Company

Company Number ♦

COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

[HOLDCO] [SPV] LIMITED (the "Company")

(Adopted by Special Resolution passed on [] 20[])

1 Preliminary and interpretation

1.1 In these articles:

Board means the board of directors of the Company

CA 2006 means Companies Act 2006

Chairman means such director as may from time to time be appointed by the Shareholders in accordance with articles 7.5 and 7.6

Deed of Adherence means a deed of adherence to a shareholders' agreement relating to the Company existing at the relevant time (if any) in such form as the Shareholders shall agree

HMT Co Group means:

(a) IUK, HM Treasury, any UK government department or public body and any subsidiary, office or agency (from time to time) of IUK, HM Treasury or any UK government department or public body; and

(b) any holding company or parent undertaking or subsidiary undertaking of (a) above

Infrastructure UK or **IUK** means the unit with that name in HM Treasury which works on the UK's long-term infrastructure priorities and, amongst other things, secures private sector investment in relation to infrastructure projects

Investment Fund means any arrangement constituting a collective investment scheme for the purpose of section 235 Financial Services and Markets Act 2000 (as amended or re-enacted for the time being) or which would constitute such a scheme if it did not fall within an exemption or exclusion to that section

Market Value means the price per share reported on by the Valuers as their written opinion of the open market value of each Sale Share as at the date of service of the relevant Transfer Notice or Deemed Transfer Notice, where the Valuers shall once instructed:

(a) act as expert and not as arbitrator and their written determination shall be final and

binding on the Shareholders save in the case of fraud or manifest error; and

- (b) proceed on the basis that:
- (i) the open market value of each Sale Share shall be the sum which an informed willing purchaser would agree with a willing vendor on an arms length basis to be the purchase price for all Sale Shares divided by the number of issued shares;
 - (ii) there shall be no addition of any premium or subtraction of any discount by reference to the size of the holding the subject of the Transfer Notice or in relation to any restrictions on the transferability of the Sale Shares; and
 - (iii) any difficulty in applying either of the foregoing bases shall be resolved by the Valuers as they think fit in their absolute discretion; and
- (c) determine the Market Value on the basis of such matters and directions as may be agreed in writing between the Shareholders from time to time as notified by any Shareholder to the Valuers.

Material Shareholder means any Shareholder holding [15]%¹ or more of the issued share capital

a member of the same group means, in relation to a body corporate, any other body corporate which is for the time being a holding company of that body corporate or a subsidiary of that body corporate or a subsidiary of any holding company of which that body corporate is also a subsidiary and, in respect of any Shareholder who is a member of the HMT Co Group, any member of the HMT Co Group

Model Articles means the model articles for private companies limited by shares prescribed by Schedule 1 to the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended and in force on the date on which these articles become part of the constitution of the Company

Permitted Transfer means any transfer of shares permitted under article 12

Public Sector Entity means an entity which is classified, as at the relevant time, as being a public sector body or institution by the National Accounts Classification Committee

shares means shares of any class in the capital of the Company

Shareholder means a registered holder of shares in the Company

Valuers means the auditors of the Company unless:

- (a) a report on Market Value is to be made pursuant to a Deemed Transfer Notice and, within 21 days after the date of the Deemed Transfer Notice, the Vendor notifies the Board in writing that it objects to the auditors making that report; or
- (b) the auditors decline an instruction to report on Market Value,

¹ **Definitions - Material Shareholder.** Note that this assumes there will be the three shareholders and the percentage will be reconsidered if there are a different number of shareholders.

when the valuers for the purpose of that report shall be a firm of chartered accountants agreed between the Vendor and the Board (the Board, for the purposes of this definition, shall exclude any directors appointed by the Vendor) or, in default of agreement within 20 Business Days after the occurrence of an event referred to in (a) or (b) above, as appointed by the President of the Institute of Chartered Accountants in England and Wales on the application of the Vendor or the Board

the term **Company Communication Provisions** means the company communication provisions in the CA 2006 (being the provisions at sections 1144 to 1148 and Schedules 4 and 5)

references to an **article** are to a provision of these articles

references to an **eligible director** are to a director who would have been entitled to vote on any matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter)

references to a **regulation** are to a regulation in the Model Articles

references to any particular provision of the CA 2006 include any statutory modification or re-enactment of that provision for the time being in force

references in these articles to writing shall be construed as including references to any method of representing words or reproducing words in a legible and non-transitory form.

- 1.2 Save as otherwise specifically provided in these articles, words and phrases used in these articles have the meanings ascribed to them in or by virtue of the Model Articles.
- 1.3 Headings in these articles are for convenience only and shall not affect the interpretation hereof.
- 1.4 The Model Articles apply to the Company, except where they are excluded or modified by these articles or are otherwise inconsistent with these articles and, subject to any such modifications, exclusions or inconsistencies, shall together with these articles, constitute the articles of the Company to the exclusion of any other regulations set out in any statute or in any statutory instrument or other subordinate legislation.
- 1.5 Regulations 7, 9, 10(2), 10(3) 11, 12, 13, 14(1) to 14(5) (inclusive), 17, 22(1), 26(1), 26(5), 36, 38, 41(1), 43, 44(2) to 44(4) (inclusive), 45 and 48 do not apply to the Company.

2 Notice of Board meetings

- 2.1 A director may, and the secretary at the request of a director shall, call a meeting of directors.
- 2.2 Notice of a meeting of the directors shall be deemed to be properly given to a director if it is given to him personally or by word of mouth or sent in writing to him at his last known address or any other address given by him to the Company for this purpose, or by any other means authorised in writing by the director concerned.
- 2.3 A director absent or intending to be absent from the United Kingdom may request that notices of meetings of the directors shall during his absence be sent in writing to him at an address or to a fax number given by him to the Company for this purpose.

2.4 A director may waive notice of any meeting either prospectively or retrospectively.

3 Proceedings of Directors

3.1 Subject as provided in these articles, the directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.

3.2 The quorum at any meeting of the directors shall be three directors, of whom one at least shall be appointed by each Material Shareholder. A person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum as a director appointed by the relevant Material Shareholder (as the case may be) reflecting the designation of his appointer. No business shall be transacted at any meeting of the directors (unless the relevant director has given a written waiver in relation to his / her attendance) unless a quorum is present at the commencement of the meeting and also when that business is voted on. If a quorum is not present within 30 minutes of the time for the relevant meeting as set out in the notice of meeting then the meeting shall be adjourned for 7 days and at the adjourned meeting the quorum shall be any two directors.

3.3 If a Material Shareholder fails to appoint a director (and there is no alternate director appointed by that Material Shareholder to attend meetings of the directors), then, if a meeting of the directors is called in accordance with these articles and notice of the meeting is given to that Material Shareholder as if it were a director, the meeting shall be deemed to be quorate notwithstanding the fact that no director appointed by that Material Shareholder is present.

3.4 If a Material Shareholder has more than one director appointee but not all its appointees are present at the Board meeting then its director(s) present shall be entitled to vote each relevant absent director's vote and resolutions of the Board shall be determined by a simple majority of votes cast for or against each resolution save as otherwise agreed in writing by the Shareholders from time to time.

3.5 A committee of the directors shall include at least one director appointed by each Material Shareholder. The provisions of article 3.2 to 3.4 shall apply equally to meetings of any committee of the directors as to meetings of the directors.

3.6 All or any part of the directors or members of any committee of the directors may participate in a meeting of the directors or that committee by means of a conference telephone, video conference or any combination of communication equipment which allows all persons participating in the meeting to hear each other. A person so participating shall be deemed to be present in person at the meeting and shall be entitled to vote or be counted in a quorum; and accordingly, subject to articles 3.2 and 3.3, a meeting of the directors or committee of the directors may be held where each of those present or deemed to be present is in communication with the others only by telephone or other communication equipment as aforesaid. A meeting where those present or deemed to be present are in different locations shall be deemed to take place where the largest group of those participating is assembled, or, if there is no such group, where the Chairman of the meeting then is.

4 Directors' Interests – Disclosure of Information

4.1 A director who to his knowledge is in any way, whether directly or indirectly, interested in a transaction or arrangement or proposed transaction or arrangement with the Company shall

declare the nature of his interest at a meeting of the directors in accordance with CA 2006.

- 4.2 Provided that a director has disclosed any interest he may have in accordance with the CA 2006, and any conflict or potential conflict has been authorised under the provisions of article 5, then that director may vote at a meeting of directors or of a committee of directors on a resolution or participate in any unanimous decision concerning any matter in which he is interested, and (whether or not he votes or participates) he may be counted in the quorum when that resolution or matter is considered.
- 4.3 A director shall be entitled to abstain from voting or to absent himself from all or any part of any meeting in relation to any matter where he considers that to vote for or against a matter may put him in breach of his duties to the Company (whether at law or by reference to any code of conduct, good governance procedures or otherwise) and if he so abstains or absents himself then he shall not be in breach of his duties as a director under sections 172 to 174 of the CA 2006 in relation to the matter in question.
- 4.4 Any director shall be entitled from time to time to disclose to the Material Shareholder responsible for his appointment such information concerning the business and affairs of the Company as he shall at his discretion see fit.

5 Directors' power to authorise conflict situations

- 5.1 The provisions of this article 5 are subject to any shareholders agreement relating to the Company in existence at the relevant time. For the purposes of section 175 CA 2006, the directors shall have the power to authorise, on such terms (including as regards duration and revocation) and subject to such limits or conditions (if any) as they may determine (a **Conflict Authorisation**), any matter proposed to them in accordance with these articles which would, or might, if not so authorised, constitute or give rise to a situation in which a director (a **Relevant Director**) has, or can have, a direct or indirect interest which conflicts, or possibly may conflict, with the interests of the Company (a **Conflict Situation**). Any Conflict Authorisation shall extend to any actual or possible conflict of interest which may reasonably be expected to arise out of the Conflict Situation so authorised.
- 5.2 Unless otherwise agreed between the Shareholders in writing and notwithstanding article 3.2, the quorum for any meeting (or part of a meeting) of the directors whilst it is considering the grant, alteration or revocation of a Conflict Authorisation shall be at least one director for each Material Shareholder other than the Material Shareholder responsible for the appointment of the Relevant Director.
- 5.3 Where directors give a Conflict Authorisation:
- (a) the terms of the Conflict Authorisation shall be recorded in writing (but the authorisation shall be effective whether or not the terms are so recorded);
 - (b) the directors may revoke or vary such authorisation at any time but this will not affect anything done by the Relevant Director prior to such revocation or variation in accordance with the terms of such authorisation; and
 - (c) the Relevant Director shall be obliged to act in accordance with any terms, limits or conditions to which such Conflict Authorisation is made subject.
- 5.4 Any terms to which a Conflict Authorisation is made subject (**Conflict Authorisation Terms**)

may include (without limitation to article 5.1) provision that:

- (a) where the Relevant Director obtains (other than in his capacity as a director of the Company or as its employee or agent or, if the directors so decide, in any other capacity that would otherwise oblige him to disclose it to the Company) information that is confidential to a third party, he will not be obliged to disclose it to the Company or to use it directly or indirectly for the benefit of the Company or in performing his duties as a director of the Company in circumstances where to do so would amount to a breach of a duty of confidence owed to that third party;
- (b) the Relevant Director may (but shall be under no obligation to) absent himself from the discussion of, and/or the making of decisions relating to, the relevant matter (whether at any meeting of the directors or otherwise) and be excused from reviewing documents and information prepared by or for the directors to the extent that they relate to that matter; and
- (c) the Relevant Director be excluded from the receipt of documents and information, the participation in discussion and/or the making of decisions (whether at directors' meetings or otherwise) related to the relevant matter,

and anything done (or omitted to be done) by the Relevant Director in accordance with any such provision (or otherwise in accordance with any Conflict Authorisation Terms given under article 5.1) will not constitute a breach by him of his duties under sections 172 to 174 CA 2006.

5.5 Subject to articles 5.6 and 5.8 but without prejudice to articles 5.1 to article 5.3 (inclusive), authorisation is given by the Shareholders for the time being on the terms of these articles to each director in respect of any Conflict Situation that exists as at the date on which these articles are adopted or that subsequently arises because (in either case) the director is or becomes a shareholder, investor or other participant in, lender to, guarantor, director, officer, manager or employee of, or otherwise in any other way interested or concerned in, or has been appointed by, the Company and/or any other member (if any) of the Relevant Group (**Group Conflict Authorisation**). The Conflict Authorisation Terms applicable to the Group Conflict Authorisation (**Group Conflict Authorisation Terms**) are automatically set by this article 5.5 so that the director concerned:

- (a) is not obliged to disclose to the Company information that is confidential to a third party obtained by him (other than in his capacity as a director of the Company or as its employee or agent or, if the directors so decide, in any other capacity that would otherwise oblige him to disclose it to the Company) in any situation to which the Group Conflict Authorisation applies, nor to use any such information directly or indirectly for the benefit of the Company or in performing his duties as a director of the Company, in circumstances where to do so would amount to a breach of a duty of confidence owed to that third party; and
- (b) may (but shall be under no obligation to):
 - (i) absent himself from the discussions of, and/or the making of decisions; and/or
 - (ii) make arrangements not to receive documents and information,

relating to the Conflict Situation concerned,

and the Company will not treat anything done (or omitted to be done) by the director concerned in accordance with the Group Conflict Authorisation Terms as a breach by him of his duties under sections 172 to 174 CA 2006.

5.6 A Group Conflict Authorisation given or deemed given under article 5.5 may be revoked, varied or reduced in its scope or effect by special resolution.

5.7 In this article 5 **Relevant Group** comprises:

- (a) the Company;
- (b) any body corporate which is for the time being a wholly owned subsidiary of the Company;
- (c) any body corporate of which the Company is for the time being a wholly owned subsidiary (**Parent**);
- (d) any body corporate (not falling within any preceding paragraph of this definition) which is for the time being a wholly owned subsidiary of the Parent;
- (e) any body corporate which is for the time being a Shareholder of the Company; and
- (f) HMT Co Group.

5.8 Authorisation is given by the Shareholders for the time being on the terms of these articles to each director for the time being (including any alternate) in respect of any Conflict Situation that exists as at the date on which these articles are adopted or that subsequently arises because (in either case) the director is or becomes a shareholder, investor or other participant in, lender to, guarantor, director, officer, manager or employee of, or otherwise in any other way interested or concerned in, or has been appointed by, any Relevant Shareholder Entity (**Shareholder Conflict Authorisation**). The Conflict Authorisation Terms applicable to the Shareholder Conflict Authorisation (**Shareholder Conflict Authorisation Terms**) are automatically set by this article 5.8 so that the director:

- (a) is not obliged to disclose to the Company information that is confidential to a third party obtained by him (other than in his capacity as a director of the Company or as its employee or agent or in any other capacity that would otherwise oblige him to disclose it to the Company) in any situation to which the Shareholder Conflict Authorisation applies, nor to use any such information directly or indirectly for the benefit of the Company or in performing his duties as a director of the Company, in circumstances where to do so would amount to a breach of a duty of confidence owed to that third party; and
- (b) may (but shall be under no obligation to):
 - (i) absent himself from the discussions of, and/or the making of decisions; and/or
 - (ii) make arrangements not to receive documents and information,

relating to the Conflict Situation concerned,

and the Company will not treat anything done (or omitted to be done) by the director concerned in accordance with the Shareholder Conflict Authorisation Terms as a breach by him of his duties under sections 172 to 174 CA 2006.

5.9 In this article 5 **Relevant Shareholder Entity** means:

- (a) any Shareholder;
- (b) any body corporate in which a Shareholder holds for the time being or has ever held or are or may become obliged (whether or not contingently) to make or acquire any investment (whether debt, equity or otherwise);
- (c) any other body corporate which is a member of the same group as any Shareholder or with whom the Shareholder (or a member of its group) has or is proposing or considering having any business or commercial dealings or relationship; and
- (d) HMT Co Group.

6 Number of directors

The number of directors shall not be less than two.

7 Appointment and removal of directors

7.1 The Shareholders shall be entitled to nominate and appoint in writing persons as directors of the Company and to remove such persons from office. Any Material Shareholder holding [15]²% or more of the issued share capital shall be entitled to nominate one director for every [15]% of the issued share capital of the Company held by it.

7.2 If any director appointed in accordance with article 7.1, shall die or be removed from or vacate office for any cause, the Material Shareholder responsible for his appointment shall, as soon as reasonably practicable after the relevant office becomes vacant, appoint in his place another person to be a director (as the case may be).

7.3 Any appointment or removal of a director pursuant to this article shall be in writing and signed by or on behalf the relevant Material Shareholder (as the case may be) and served on each of the other Shareholders and the Company at its registered office marked for the attention of the Company secretary or delivered to a duly constituted meeting of the directors of the Company. Any such appointment or removal shall take effect at the time of such lodgement or delivery or at such later time as shall be specified in such notice.

7.4 No director or alternate director shall be appointed or removed otherwise than pursuant to this article, save as provided by law or as otherwise agreed between the Shareholders of the Company in writing.

Chairman

7.5 If the Shareholders agree to appoint an independent, non-executive Chairman then the Chairman shall be appointed either on an annual basis or on such occasions as the Shareholders (acting in their absolute discretion) may agree, and the period of appointment

² **Article 7.1 – Material Shareholder.** Note that this assumes there will be the three shareholders; the percentage will need to be reconsidered if there are a different number of shareholders.

shall be for such time as the Shareholders may agree (acting in their absolute discretion) from time to time. The Chairman appointed shall be a director and his appointment shall be in addition to the appointments of directors referred to in articles 7.1 to 7.4. If a Chairman is unable to attend any meeting of the Board or of the Shareholders of the Company the directors in attendance shall appoint one of their number as the chair for that meeting to act in his place. An independent non-executive Chairman appointed under this article 7.5 shall not have a vote.

7.6 If the Shareholders do not agree to appoint an independent non-executive Chairman under article 7.5 then the Chairman shall be one of the directors appointed in accordance with articles 7.1 to 7.4 unless agreed otherwise by the Shareholders in writing from time to time.

7.7 Any Chairman appointed in accordance with article 7.6 shall have one vote in his or her capacity as a director, but for the avoidance of doubt such Chairman shall not have a second vote by reason of their position as Chairman and they shall not have a casting vote.

8 Appointment and removal of alternate directors

8.1 The Shareholders appointing directors pursuant to article 7 shall in addition be entitled to appoint persons to be alternate directors of those directors (up to a maximum of three alternate directors for each director) and may remove and replace any such alternate directors appointed by them.

8.2 An alternate director shall be entitled to receive notice of all meetings of the directors and of all meetings of committees of directors of which the director for whom he is the alternate director is entitled, to attend, speak and vote at such meetings at which that director is not personally present, and generally to perform all the functions of that director in his absence.

8.3 An alternate director may be paid expenses and shall be entitled to be indemnified by the Company to the same extent as if he were a director.

9 Share capital

9.1 The issued share capital of the Company at the date of adoption of these articles is £♦ divided into ♦ ordinary shares.

9.2 The issued share capital of the Company shall not exceed £♦ divided into ♦ ordinary shares.

9.3 No variation of the rights attaching to any class of shares in issue from time to time shall be effective except with the consent in writing of the Shareholders holding not less than three-quarters in nominal value of the issued shares.

9.4 Each of the following shall be deemed to constitute a variation of the rights attached to each class of share:

- (a) any alteration to these articles;
- (b) any increase or reduction or other alteration in the issued share capital of the Company or any of the rights attaching to any share capital; and
- (c) any resolution to put the Company into liquidation.

10 Allotment of shares

- 10.1 Save to the extent authorised by these articles, or authorised from time to time by an ordinary resolution of the Shareholders, the directors shall not exercise any power to allot shares or to grant rights to subscribe for, or to convert any security into, any shares in the Company.
- 10.2 The directors are hereby authorised pursuant to section 551 of the CA 2006 generally and unconditionally to exercise all the powers of the Company to allot shares in the capital of the Company and to grant rights to subscribe for or to convert any security into such shares (**Allotment Rights**), but so that:
- (a) this authority shall expire on the day immediately preceding the fifth anniversary of the date of the resolution adopting these articles; and
 - (b) the maximum amount of shares that may be allotted or made the subject of Allotment Rights under this authority are shares which (when aggregated with each share already in issue on the adoption of these articles) have an aggregate nominal value equal to the limit on share capital stated in article 9.2 (and disregarding any later consent to vary the same).

This authority revokes all (if any) prior unexercised authorities vested in the directors to allot shares or to grant Allotment Rights.

- 10.3 By virtue of section 567(1) of the CA 2006, the provisions of sections 561 and 562 of the CA 2006 shall not apply to an allotment made by the Company of equity securities (as defined in section 560(1) of the CA 2006).

11 Transfer of shares

- 11.1 Subject to the requirements of the CA 2006, the Board shall not register the transfer of any share or any interest in any share unless:
- (a) the transfer is either:
 - (i) permitted by article 12 (*Transfers - Permitted Transfers*); or
 - (ii) made in accordance with article 13 (*Transfers - Voluntary Transfers*), or article 14 (*Transfers - Compulsory Transfers*); and
 - (b) the transferee (if not an existing Shareholder) has delivered to the Board a duly executed Deed of Adherence.
- 11.2 For the purpose of ensuring that a transfer of shares is in accordance with these articles or that no circumstances have arisen whereby a Shareholder may be bound to give or be deemed to have given a Transfer Notice (as defined in article 13.1) the Board may from time to time require any Shareholder or any person named as transferee in any transfer lodged for registration to furnish to the Board such information and evidence as the Board deems relevant to such purpose. Failing such information or evidence being furnished to its reasonable satisfaction within a reasonable time after request the Board may in its absolute discretion refuse to register the transfer in question (PROVIDED THAT the Board gives the Shareholder concerned and the person named as transferee in the Transfer Notice of its intention to do so as soon as practicable and in any event within 2 months after the date on

which the transfer was lodged with the Company, such notice providing the reason(s) for such a refusal to register the transfer of the shares) or (in case no transfer is in question) require by notice in writing to the Shareholder(s) concerned that a Transfer Notice be given in respect of the shares concerned within the period (being not more than 28 days) specified in that notice. If such information or evidence discloses to the satisfaction of the Board in its absolute discretion that circumstances have arisen whereby a Shareholder may be bound to give or be deemed to have given a Transfer Notice the Board may in its absolute discretion by notice in writing to the Shareholder(s) concerned require that a Transfer Notice be given in respect of the shares concerned within the period (being not more than 28 days) specified in that notice.

- 11.3 An obligation to transfer a share under these articles shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such share free from any lien, charge or other encumbrance.
- 11.4 No arrangement shall be entered into by any Shareholder whereby the terms upon which that Shareholder holds any shares are to be varied if as a result any interest in those shares is varied, disposed of or created or extinguished.
- 11.5 The directors may at any time give notice requiring any transferee to elect either to be registered himself in respect of the share or to transfer the share and, if the notice is not complied with within sixty days, the directors may thereafter withhold payment of all dividends, bonuses or other moneys payable in respect of the share until the requirements of the notice shall have been complied with.
- 11.6 Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of:
- (a) the transferor; and
 - (b) (if any of the shares is not fully paid) the transferee.

12 Transfers – Permitted Transfers

12.1 Transfers within groups of companies

- (a) Unless otherwise agreed in writing by the Shareholders, any Shareholder which is a body corporate may at any time transfer any shares held by it to a member of the same group.
- (b) Any shares shall be freely transferable by any member of the HMT Co Group to any other member of the HMT Co Group.
- (c) Where shares have been transferred under article 12.1(a) or article 12.1(b) (as the case may be) (whether directly or by a series of such transfers) from a Shareholder (**Transferor** which expression shall not include a second or subsequent transferor in such a series of transfers) to a member of the same group as the Transferor (**Transferee**) and subsequently the Transferee ceases to be a member of the same group as the Transferor, the Transferee shall forthwith transfer all the shares held by it to the Transferor, for such consideration as they agree, within 21 days of the cessation, or, failing such transfer within that period, shall during the remainder of the 28 day period after the cessation, give a Transfer Notice in respect of all of the shares

then held by the Transferee.

12.2 Transfers between funds

Any shares held by or on behalf of an Investment Fund may be transferred:

- (a) to the Investment Fund for whom the shares are held; or
- (b) to another Investment Fund which is managed or advised by the same manager or adviser as the transferor or by a manager or adviser which is a member of the same group as the transferor's manager or adviser; or
- (c) to any unitholder, shareholder, partner or participant in, or manager or adviser (or an officer or employee, past or present, of such partner, manager or adviser) of that Investment Fund; or
- (d) to any custodian or nominee or other person so authorised, to be held solely on behalf of any person referred to in sub-paragraphs (a) to (c) above.

12.3 Transfer to successors of public sector bodies

A transfer of any share held by a Shareholder which is a public sector body to a successor body shall be treated as a permitted transfer for the purpose of these articles. For the purpose of this article a body is a successor body to another body if it assumes some or all of the functions formerly exercised by the other body.

12.4 Transfers with consent

A Shareholder may transfer shares to any person at any time with the prior written consent of each of the other Shareholders.

12.5 Transfers of entire interests

A transfer of any share pursuant to this article 12 shall only be treated as a permitted transfer for the purposes of these articles if it is a transfer of the entire legal and beneficial interest in such share, free from any lien, charge or other encumbrance.

13 Transfers - Voluntary Transfers

13.1 Except as permitted under article 12 (*Transfers - Permitted Transfers*), any Shareholder (a **Vendor**) shall, before transferring or agreeing to transfer any share, serve notice in writing (a **Transfer Notice**) on the Company of his wish to make that transfer.

13.2 In the Transfer Notice, the Vendor shall specify:

- (a) the number and class of shares (**Sale Shares**) which he wishes to transfer;
- (b) the price per share at which the Vendor wishes to transfer the Sale Shares (**Proposed Sale Price**);
- (c) any other terms relating to the transfer of the Sale Shares which are not prohibited by these articles;

- (d) whether the Transfer Notice is conditional upon all (and not part only) of the Sale Shares being sold pursuant to the following provisions of this article 13 (a **Total Transfer Condition**); and
- (e) the identity of any proposed transferee the Vendor has agreed terms with or has had or is in negotiations with in relation to the potential acquisition by that person of the Sale Shares.

13.3 Each Transfer Notice shall:

- (a) constitute the Company as the agent of the Vendor for the sale of the Sale Shares on the terms of this article 13;
- (b) be irrevocable save as otherwise expressly agreed between the Shareholders in writing from time to time; and
- (c) not be deemed to contain a Total Transfer Condition unless expressly stated otherwise or required by these articles.

13.4 The Sale Shares shall be offered first to the Shareholders for purchase at a price per Sale Share (the **Sale Price**) in accordance with this article 13 where the Sale Price is:

- (a) the price per Sale Share agreed between the Vendor and the Board (the **Agreed Price**); or
- (b) in default of agreement under article 13.4(a) as to the Agreed Price within 14 days after the date of service of the Transfer Notice, the Proposed Sale Price.

For the purpose of decisions of the Board under this article 13.4, any director appointed by a Shareholder holding any Sale Shares shall not be entitled to vote on any resolution of the Board.

13.5 The Board shall offer the Sale Shares for purchase at the Sale Price by a written offer notice (**Offer Notice**) within 7 days after the Sale Price is agreed or determined under article 13.4.

13.6 An Offer Notice shall:

- (a) specify the Sale Price;
- (b) expire 14 days after its service;
- (c) contain the other details included in the Transfer Notice; and
- (d) invite the relevant Shareholders to apply in writing, before expiry of the Offer Notice, to purchase the numbers of Sale Shares specified by them in their application.

13.7 Sale Shares shall be treated as offered to all Shareholders with the exception of the Vendor or any other Shareholder who is then bound to give or deemed to have given a Transfer Notice.

13.8 After the expiry date of the Offer Notice, (or, if earlier, upon valid applications being received for all the Sale Shares in accordance with article 13.6 and the Board resolving that it will not select any person who is not a Shareholder other than those (if any) already selected), the

Board shall allocate the Sale Shares in accordance with the applications received, subject to the other provisions of these articles, save that:

- (a) if the applications for Sale Shares exceed the number of Sale Shares then the allocation shall be pro rata to the applicant's existing shareholding (up to a maximum of the number of shares applied for by each Shareholder);
- (b) if it is not possible to allocate any of the Sale Shares without involving fractions, those fractions shall be aggregated and allocated amongst the applicants of each class in such manner as the Board thinks fit; and
- (c) if the Transfer Notice contained a Total Transfer Condition, no allocation of Sale Shares shall be made unless all the Sale Shares are allocated.

13.9 The Board shall, within 7 days of the expiry of the Offer Notice, give notice in writing (a **Sale Notice**) to the Vendor and to each person to whom Sale Shares have been allocated (each a **Purchaser**) specifying the name and address of each Purchaser, the number of Sale Shares allocated to him, the aggregate price payable for them and the time for completion of each sale and purchase.

13.10 Completion of a sale and purchase of Sale Shares pursuant to a Sale Notice shall take place at the registered office of the Company at the time specified in the Sale Notice (being not less than 7 days nor more than 14 days after the service of the Sale Notice, unless agreed otherwise in relation to any sale and purchase by both the Vendor and the Purchaser concerned) when the Vendor shall, upon payment to him by a Purchaser of the Sale Price in respect of the Sale Shares allocated to that Purchaser, transfer those Sale Shares and deliver the relative share certificates to that Purchaser.

13.11 The Vendor may, at any time within the two months commencing 14 days after the expiry of the Offer Notice, sell any Sale Shares for which a Sale Notice has not been given by way of bona fide sale to the proposed transferee (if any) named in the Transfer Notice at any price per Sale Share which is not less than the lower of the Agreed Price (if any) and the Proposed Sale Price, without any deduction, rebate or allowance to the proposed transferee, PROVIDED THAT if the Transfer Notice contained a Total Transfer Condition, the Vendor shall not be entitled to sell only some of the Sale Shares under this article 13, save with the written consent of all the other Shareholders.

13.12 If a Vendor fails to transfer any Sale Shares when required pursuant to this article 13, the Board (excluding any directors appointed by the Vendor) may authorise any person (who shall be deemed to be the attorney of the Vendor for the purpose) to execute the necessary transfer of such Sale Shares and deliver it on the Vendor's behalf. The Company may receive the purchase money of the Sale Shares from the Purchaser and shall, upon receipt of the transfer duly stamped, register the Purchaser as the holder of those Sale Shares. The Company shall hold the purchase money in a separate bank account on trust for the Vendor but shall not be bound to earn or pay interest on any money so held. The Company's receipt for the purchase money shall be a good discharge to the Purchaser (who shall not be concerned to see to the application of it) and, after the name of the Purchaser has been entered in the register of Shareholders in purported exercise of the power conferred by this article 13, the validity of that exercise shall not be questioned by any person.

14 Transfers - Compulsory Transfers

14.1 In this article 14 a **Transfer Event** means, in relation to any Shareholder:

- (a) a Shareholder making any arrangement or composition with his creditors generally;
- (b) a Shareholder which is a body corporate:
 - (i) having a receiver, manager or administrative receiver appointed over all or any part of its undertaking or assets; or
 - (ii) having an administrator appointed in relation to it; or
 - (iii) entering into liquidation (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction); or
 - (iv) having any equivalent action taken in any jurisdiction;
- (c) a Shareholder attempting to deal with or dispose of any share or any interest in it otherwise than in accordance with article 12 (*Transfers - Permitted Transfers*), article 13 (*Transfers - Voluntary Transfers*) article 14 (*Transfers - Compulsory Transfers*), or article 15 (*Transfers - Prohibited Transfers*);
- (d) a Shareholder not giving a Transfer Notice in respect of any shares or not transferring any shares (as the case may be) as required by articles 11.2 or 12.1(c) and/or as required as a consequence of a breach or default under any shareholders' agreement relating to the Company in existence at the relevant time.

14.2 Upon the happening of any Transfer Event, but subject to any rectification rights agreed in writing between the Shareholders from time to time, the Shareholder in question shall be deemed to have immediately given a Transfer Notice in respect of all the shares then held by them (a **Deemed Transfer Notice**). A Deemed Transfer Notice shall supersede and cancel any then current Transfer Notice insofar as it relates to the same shares except for shares which have then been validly transferred pursuant to that Transfer Notice.

14.3 Notwithstanding any other provision of these articles any Shareholder holding shares in respect of which a Deemed Transfer Notice is deemed given shall not be entitled to exercise any voting rights at general meetings of the Company in respect of those shares between the date of the relevant Deemed Transfer Notice and the expiry of 3 months after the date of the Sale Notice given in respect of those shares or, if earlier, the entry in the register of Shareholders of the Company of another person as the holder of those shares.

14.4 The shares which are the subject of any Deemed Transfer Notice shall be offered for sale in accordance with article 13 as if they were Sale Shares in respect of which a Transfer Notice had been given save that:

- (a) a Deemed Transfer Notice shall be deemed to have been given on the date of the Transfer Event or, if later, the date of the first meeting of the Board at which details of the facts or circumstances giving rise to the Deemed Transfer Notice are tabled;
- (b) the Sale Price shall be a price per Sale Share agreed between the Vendor and the Board in accordance with principles established by agreement between the Shareholders from time to time or, in default of agreement within 21 days after the

date of the Transfer Event, the Market Value, including in each case any dividends on the Sale Shares referred to in article 14.4(d);

- (c) a Deemed Transfer Notice shall be deemed to contain a Total Transfer Condition and shall be irrevocable save as expressly otherwise agreed in writing between the Shareholders;
- (d) the Sale Shares shall be sold together with all rights, attaching thereto as at the date of the Transfer Event, including the right to any dividend declared or payable on those shares after that date; and
- (e) the Shareholders may agree in writing additional arrangements for the sale of Sale Shares which shall apply in addition to the above provisions.

15 Transfers – Prohibited Transfers

Subject to the CA 2006 and notwithstanding any other provision of these articles, no transfer of any share shall be registered if it is to any person (if not an existing Shareholder) who has not executed a Deed of Adherence.

16 Quorum at General Meetings

- 16.1 The quorum at any general meeting of the Company or adjourned general meeting shall be [three] persons present in person or by proxy, of whom at least one shall be a representative of each Material Shareholder, save where any Material Shareholder is deemed to have given a Deemed Transfer Notice (a **Defaulting Shareholder**) pursuant to article 14.2 in which case the quorum at any such general meeting shall be reduced by the number of any such Defaulting Shareholders at the time of the general meeting, and such Defaulting Shareholder shall not be required to have a representative at the general meeting for the purposes of such general meeting to be quorate].
- 16.2 No business shall be transacted by any general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on.
- 16.3 If within thirty minutes (or such longer time as the persons present may all agree to wait) from the time appointed for any general meeting a quorum is not present, the meeting shall be adjourned.

17 Votes

At a general meeting, on a show of hands every Shareholder present in person shall have one vote, and on a poll every Shareholder present in person or by proxy shall have one vote for each share of which he is the holder.

18 Proxies

- 18.1 An instrument appointing a proxy shall be in writing, executed by or on behalf of the appointor and in any common form or in such other form as the directors may approve, and the directors may at their discretion treat a faxed or other machine-made copy of an instrument in any such form as an original copy of the instrument. The instrument of proxy shall, unless the contrary is stated in it, be valid for any adjournment of the meeting as well as for the meeting to which it relates, and shall be deemed to include authority to vote as the proxy thinks fit on

any amendment of a resolution put to the meeting for which it is given and an authority to vote as the proxy thinks fit.

- 18.2 The instrument appointing a proxy and (if required by the directors) any authority under which it is executed or a copy of the authority (certified notarially or in any other manner approved by the directors) may be delivered to the registered office of the Company, or to some other place or to some person specified or agreed by the directors, before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to act or, in case of a poll taken after the date of the meeting or adjourned meeting, before the time appointed for the taking of the poll, and an instrument of proxy which is not so delivered shall be invalid and regulation 46 shall be amended accordingly.

19 Notices - time of service

- 19.1 Any notice or other document may be served on or delivered to any Shareholder by the Company either personally, or by sending it by pre-paid registered post (air mail in the case of an address for service outside the United Kingdom) addressed to the Shareholder at his registered address or by fax to a number provided by the Shareholder for this purpose, or by leaving it at his registered address addressed to the Shareholder, or by any other means authorised in writing by the Shareholder concerned.
- 19.2 In the case of joint holders of a share, service or delivery of any notice or other document on or to one of the joint holders shall for all purposes be deemed a sufficient service on or delivery to all the joint holders.
- 19.3 Any notice or other document if given personally shall be deemed served when delivered, if sent by registered post, shall be deemed to have been served or delivered 48 hours after posting to an address in the United Kingdom (or five days after posting to an address outside the United Kingdom), and if sent by fax shall be deemed served when despatched. In proving such service or delivery, it shall be sufficient to prove that the notice or document was delivered to the address given for notice, or properly addressed, stamped and put in the post or, in the case of a fax, that such fax was duly despatched to a current fax number of the addressee. This article 19.3 shall have effect in place of the Company Communication Provisions relating to deemed delivery of notices, documents or information.
- 19.4 Any requirement in these articles or in the Model Articles for any notice, resolution or other document to be signed by or on behalf of any person shall be deemed satisfied where a notice, resolution or other document is received with the signature of the relevant person reproduced thereon by means of facsimile copy if such signature is confirmed by receipt of the notice, resolution or document bearing the original signature in manuscript within 14 days of receipt of the reproduction.

20 Miscellaneous provisions

- 20.1 The words "make any rule" in regulation 16 shall be deleted and substituted with the words "make, vary, relax or repeal any rule".
- 20.2 In regulation 18(f), the words "as a director" shall be included after the words "the director is resigning".
- 20.3 Regulation 19(3) shall be amended by the deletion of the word "and" at the end of regulation

19(3)(a).

- 20.4 Regulation 20 shall be amended by the insertion of the words "(including alternate directors) and the secretary" before the words "properly incur".
- 20.5 In regulation 24(2)(c), the words "that the shares are fully paid" shall be substituted with the words "the amounts paid up on them".
- 20.6 In regulation 25(2)(c), the words "payment of a reasonable fee as the directors decide" shall be substituted with the words "payment of reasonable expenses".
- 20.7 Regulation 29 shall be amended by the insertion of the words ", or the name of any person nominated under regulation 27(2)," after the words "the transmittee's name".