

THE COMPANIES ACTS 1985 TO 2006

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

TORONTO DOMINION HOLDINGS (U.K.) LIMITED

Adopted by Special Resolutions passed on 28 August 2007 and 04 December 2008

Preliminary

1.1 In these Articles:

**“the Auditors”** means the auditors for the time being of the Company;

**“the Board”** means the Board of Directors for the time being of the Company or the Directors present at a duly convened meeting of Directors at which a quorum is present;

**“CA 1985”** means the Companies Act 1985 (to the extent for the time being in force).

**“CA 2006”** means the Companies Act 2006 (to the extent for the time being in force);

a **“conflict of interest”** includes a conflict of interest and duty and a conflict of duties. ;

**““A” Deferred Shares”** means the “A” Deferred Shares of £0.01 each in the capital of the Company and having the rights and being subject to the restrictions set out in articles 2.7(a) and 4.2;

**““B” Deferred Shares”** means the “B” Deferred Shares of £0.01 each in the capital of the Company and having the rights and being subject to the restrictions set out in article 2.7(b);

**““C” Deferred Shares”** means the “C” Deferred Shares of US\$0.01 each in the capital of the Company and having the rights and being subject to the restrictions set out in article 2.7(c);

**“Deferred Shares”** means the “A” Deferred Shares, the “B” Deferred Shares and the “C” Deferred Shares;

**“Dollar Redeemable Preference Shares”** means the Dollar Redeemable Preference Shares of US\$0.99 each in the capital of the Company;

**“electronic form”** has the meaning given in section 1168 CA 2006;

an **“interest”** means a direct or an indirect interest and interested shall be construed accordingly;

**“Ordinary Shares”** means the ordinary shares of £0.99 each in the capital of the Company;

**“Redeemable Preference Shares”** means the Dollar Redeemable Preference Shares and the Sterling Redeemable Preference Shares;

**“relevant securities”** has the meaning ascribed to it by CA 1985;

**“Sterling Redeemable Preference Shares”** means the Sterling Redeemable Preference Shares of £0.99 each in the capital of the Company;

**“the London Stock Exchange”** means the International Stock Exchange of the United Kingdom and the Republic of Ireland;

**“Table A”** means Table A in the Companies (Tables A to F) Regulations 1985 as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 the Companies (Tables A to F) (Amendment) Regulations 2007 and the Companies (Tables A to F) (Amendment) (No. 2) Regulations 2007. References to regulations are to regulations in Table A;

**“the Statutes”** means CA 1985, CA 2006 and any statutory modification or re-enactment thereof for the time being in force and every other statute for the time being in force concerning companies and affecting the Company;

a **“transaction”** or **“arrangement”** means an actual or proposed transaction or arrangement.

- 1.2 Subject as hereinafter provided, the regulations contained in Table A shall apply to the Company.
- 1.3 Regulations 24, 38, 39, 46, 68, 69, 76-78 inclusive, 87, 101, and 118 shall not apply to the Company, but the Articles hereinafter contained and the remaining regulations of Table A, subject to the modifications hereinafter expressed, shall constitute the regulations of the Company.

## **2 Share capital**

- 2.1 The authorized share capital of the Company at the date of the adoption of these Articles comprises
  - (a) 10,000,000 Ordinary Shares of £0.99 each and 10,000,000 “A” Deferred Shares of £0.01 each;
  - (b) 500,000,000 Sterling Redeemable Preference Shares of £0.99 each and 500,000,000 “B” Deferred Shares of £0.01 each; and
  - (c) 500,000,000 Dollar Redeemable Preference Shares of US\$0.99 each and 500,000,000 “C” Deferred Shares of US\$0.01 each.
- 2.2 Subject to the provisions of Articles 2.3 and 2.4 and to any directions which may be given by the Company in general meeting, the Directors may unconditionally exercise the power of the Company to allot relevant securities and without prejudice to the generality of the foregoing any shares unissued at the date of adoption of these Articles and any shares hereafter created shall be

under the control of the Directors, who may allot, grant options over or otherwise dispose of the same to such persons (including the Directors themselves) on such terms and at such times as they may think proper, provided that no shares shall be issued at a discount.

- 2.3 The maximum nominal amount of share capital which or in respect of which the Directors may allot, grant options or subscription or conversion rights, create, deal or otherwise dispose of in accordance with this Article shall be:
- (a) £4,927,230 in respect of the Ordinary Shares;
  - (b) £28,270 in respect of the “A” Deferred Shares;
  - (c) £432,630,000 in respect of the Sterling Redeemable Preference Shares;
  - (d) £3,400,000 in respect of the “B” Deferred Shares;
  - (e) US\$494,901,000 in respect of the Dollar Redeemable Preference Shares; and
  - (f) US\$3,390,150 in respect of the “C” Deferred Shares,
- or such other amounts as shall be authorised by the Company in general meeting.
- 2.4 The authority conferred on the Directors by Articles 2.2 and 2.3 shall be subject to any directions which may be given by the Company in general meeting and shall expire on the day preceding the fifth anniversary of the date of adoption of these Articles; provided that such authority may at any time by ordinary resolution of the Company in General Meeting be revoked, varied or renewed (whether or not it has been previously renewed hereunder) for a further period not exceeding five years.
- 2.5 The provisions of section 89(1) of the CA 1985 shall not apply to the Company
- 2.6 The rights attached to the Redeemable Preference Shares are as follows:

*Income and Capital*

- (a) In the event that it is resolved pursuant to regulation 102 or 103 to distribute by way of dividend all or part of the profits of the Company available for distribution in respect of any financial year or other accounting period of the Company, the holders of the Redeemable Preference Shares shall be entitled to receive a variable non-cumulative preferential dividend (“**preferential dividend**”) which in respect of the Sterling Redeemable Preference Shares of £0.99 each shall be between the rates of 1 per cent. and 20 per cent. per share and in respect of the Dollar Redeemable Preference Shares of US\$0.99 each shall be between the rates of 1 per cent. and 20 per cent. per share. No dividend shall be paid on the Redeemable Preference Shares in the absence of such resolution and the rate of any dividend payment shall be determined by the Directors in their absolute discretion immediately before each payment of a dividend (exclusive of any imputed tax credit available to shareholders) on the amount for the time being paid up or credited as paid up on the Redeemable Preference Shares held by them.
- (b) The Redeemable Preference Shares, shall rank for dividend in priority to any other shares of the Company for the time being in issue. The dividend rates are fixed on the basis that

they are gross, to the effect that if the Company is obliged to pay or account for tax at source such dividend shall be reduced accordingly.

- (c) Except as is provided for in this Article or by necessary application of any law, Redeemable Preference Shares shall have attached to them all the same rights regarding voting and payment on a winding up or other distribution of capital as are attached to the Ordinary Shares and in such respects shall rank *pari passu* with the Ordinary Shares.

#### *Redemption and Purchase*

- (d) The Company shall in any manner permitted by law and as the Board shall determine have the right (subject to the provisions of the Statutes and subject to first obtaining the prior written consent of any applicable regulatory authority) to redeem in accordance with Article 2.6 (f) all or any (to be selected by drawings) of the Redeemable Preference Shares on such date or dates as the Directors may in their absolute discretion determine.
- (e) In the case of a partial redemption, the Company shall cause any drawing of Redeemable Preference Shares to be made in the presence of a representative of the Auditors at the registered office of the Company or at such other place and in such manner as the Board may determine.
- (f) The Company shall give not less than one month notice in writing to each of the holders of the Redeemable Preference Shares, any of whose Redeemable Preference Shares have been selected for redemption, of the date determined by the Directors in accordance with article 2.6(d) for the redemption of his Redeemable Preference Shares due for redemption (“**the Redemption Date**”) specifying the Redeemable Preference Shares due for redemption (“**the Relevant Shares**”) and naming the place at which the certificates for the Relevant Shares are to be presented for redemption and at which the redemption monies are to be paid.
- (g) On the Redemption Date the Company shall be entitled and bound to redeem the Relevant Shares and the holders of the Relevant Shares shall be bound to deliver to the Company at the place named in the notice, the certificate (or an indemnity in lieu thereof in a form satisfactory to the Company) for their Relevant Shares and, upon such delivery and against the receipt of the holder (or in the case of joint registered holders the receipt of any of them) of the Relevant Shares for the redemption monies payable in respect of his shares, which shall constitute an absolute discharge to the Company in respect thereof, the Company shall pay to the holder of the Relevant Shares the redemption monies payable to him in respect of such redemption.
- (h) The Company shall in the case of a redemption in full cancel the holder’s certificate relating to the Relevant Shares and in the case of a redemption of part of the Redeemable Preference Shares included in a certificate either:
  - (i) enface a memorandum of the amount and respective redemption date on such certificate; or
  - (ii) cancel the same and without charge issue to the holder of the partially redeemed Redeemable Preference Shares delivering such certificate to the Company a fresh certificate for the balance of the Redeemable Preference Shares not redeemed on that occasion.

- (i) If any holder of Relevant Shares shall fail or refuse to deliver up the certificate for his Relevant Shares the Company may retain the redemption monies until delivery up of the certificate or of an indemnity in respect thereof satisfactory to the Company but shall within seven days thereafter pay the redemption monies to such holder of Relevant Shares to the extent permitted by the Statutes.
- (j) There shall be paid on each Relevant Share a sum equal to:
  - (i) the nominal capital paid up or credited as paid up thereon except where otherwise stated in these Articles; and
  - (ii) all arrears (if any) of the preferential dividend thereon, to be calculated to and including the Redemption Date relating to such Relevant Share.
- (k) If following the redemption of any Redeemable Preference Shares pursuant to this Article the nominal amount of the issued share capital of the Company is less than that of the authorised share capital, the difference to the extent of the nominal amount of the Redeemable Preference Shares so redeemed shall, by virtue of this paragraph (I), be converted into unclassified shares and each of a like nominal amount (as nearly as may be) as any unclassified shares then forming part of the authorised share capital of the Company, or if there are no such unclassified shares, of a like nominal amount (as nearly as may be) as the New Ordinary Shares then in issue and the Board shall have power to issue New Ordinary Shares of such nominal value in anticipation of such redemption permitted by the Statutes.
- (l) Subject to the provisions of the Statutes, the Company may at any time purchase Redeemable Preference Shares:
  - (i) in the market; or
  - (ii) by tender (available alike to all holders of Redeemable Preference Shares); or
  - (iii) by private treaty,

in each case at a price (exclusive of all costs of purchase) which, if the Redeemable Preference Shares are listed on the London Stock Exchange, shall not exceed the average of the middle market quotations thereof based on the London Stock Exchange Daily Official List during the period of 10 business days immediately prior to the date of such purchase, or, in the case of a purchase in the market, at the market price thereof provided that such market price is not more than 5 per cent. above such average, but not otherwise, and on such other terms and conditions as the Company may think fit. The Company may exercise its rights and powers of purchase as regards the Redeemable Preference Shares and any further Redeemable Preference Shares which may be issued (not being a series which is identical to and forms a single series with the Redeemable Preference Shares) at its sole discretion and without obligation to maintain the ratio between the nominal amounts for the time being outstanding of any series.
- (m) Upon the redemption of any Redeemable Preference Shares pursuant to this Article the Board may pursuant to the authority given by the passing of the resolution to adopt this Article consolidate and/or sub-divide and/or convert the authorised preference share capital existing as a consequence of such redemption into shares of any other class of share capital into which the

authorised share capital of the Company is or may at that time be divided of a like nominal amount (as nearly as may be) as the shares of such class then in issue or into unclassified shares of the same nominal amount as the Redeemable Preference Shares and the Board shall have power to issue New Ordinary Shares of such nominal value in anticipation of such redemption to the extent permitted by the Statutes.

2.7 The rights and restrictions attached to the Deferred Shares are as follows:

(a) “A” Deferred Shares

- (i) the “A” Deferred Shares shall not entitle the holders of such shares to receive any dividend or other distribution;
- (ii) the “A” Deferred Shares shall not entitle the holders to receive notice of or to attend or vote at any General Meeting of the Company;
- (iii) on a return of capital or winding up or otherwise the “A” Deferred Shares shall rank *pari passu* with the “B” Deferred Shares and the “C” Deferred Shares and shall only be entitled to receive the amount paid up on such shares after the holders of the Ordinary Shares, the Sterling Redeemable Preference Shares and the Dollar Redeemable Preference Shares have each received the sum of £1,000,000 per share and shall have no other right to participate in the assets of the Company available for distribution or return to holders of shares;
- (iv) the Company shall not be obliged to issue certificates for all or any of the “A” Deferred Shares;
- (v) neither (a) the passing by the Company of any resolution for a reduction of capital (by way of cancellation of the Deferred Shares or otherwise) or the reduction of share premium account of the Company or the obtaining by the Company or the making by the court of an order confirming any such reduction of capital or of the share premium account or the making effective of such order or (b) the purchase or redemption by the Company in accordance with the provisions of the Statutes of any of its own shares or other securities or the passing of a resolution to permit any such purchase, shall constitute a variation, modification, alteration or abrogation of the rights attaching to the “A” Deferred Shares; and
- (vi) the rights of the “A” Deferred Shares shall not be varied, modified, altered or abrogated by the creation or issue of further shares ranking *pari passu* with or in priority to the “A” Deferred Shares.

(b) “B” Deferred Shares

- (i) As to redemption, the Company may redeem all or any of the “B” Deferred Shares for consideration of 1p for every 1,000,000 Deferred Shares held by each holder thereof forthwith on notice by the Company;
- (ii) In all other respects the “B” Deferred Shares shall have the same rights and be subject to the same restrictions as the “A” Deferred Shares and shall, subject to the foregoing, rank *pari passu* with “A” Deferred Shares and, subject to article 2.7(b)(i) and subject to article

2.7(c)(i), the “C” Deferred Shares.

(c) “C” Deferred Shares

- (i) As to redemption, the Company may redeem all or any of the “C” Deferred Shares for consideration of US\$0.01 for every 1,000,000 Deferred Shares held by the holder thereof forthwith on notice by the Company;
- (ii) In all other respects the “C” Deferred Shares shall have the same rights and be subject to the same restrictions as the “A” Deferred Shares and subject to the foregoing shall rank pari passu with the “A” Deferred Shares and, subject to article 2.7(b)(i) and article (c)(i), the “B” Deferred Shares;

**3 Lien**

3.1 The lien conferred by regulation 8 shall apply to:

- (a) all shares of the Company whether fully paid or not;
- (b) all shares registered in the name of any person indebted or under liability to the Company, whether he be the sole registered holder thereof or one of several joint holders;

and shall be for all indebtedness or other liability to the Company of any member.

3.2 Regulation 8 shall be modified accordingly.

**4 Transfer of shares**

- 4.1 The Directors may, in their absolute discretion decline to register any transfer of any share, whether or not it is a fully paid share.
- 4.2 The Company is authorised at any time to appoint any person to execute on behalf of the holders of the “A” Deferred Shares, a transfer thereof and/or an agreement to transfer the same, without making any payment to the holders thereof, to such person as the Company may determine as being beneficially entitled thereto.

**5 General meetings**

- 5.1 General meetings shall be called by at least 14 days’ notice but a general meeting may be called by shorter notice if it is so agreed by a majority in number of the members having a right to attend and vote, being a majority together holding not less than 90 per cent. in nominal value of the shares giving that right, or such lesser percentage, not being less than 90 per cent., as may be specified in or pursuant to any elective resolution passed by the Company.

The notice shall specify the time and place of the meeting, the general nature of the business to be transacted and the terms of any resolution to be proposed at it.

Subject to the provisions of these Articles and to any restrictions imposed on any shares, the notice shall be given to all members, to all persons entitled to a share in consequence of the death or bankruptcy of a member and to the Directors and the auditors.

- 5.2 Regulation 41 shall be modified by the addition at the end of that regulation of the following sentence: “If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting shall be dissolved.
- 5.3 A poll may be demanded at any general meeting by the Chairman or by any member present in person or by proxy and entitled to vote.
- 5.4 A written resolution proposed in accordance with the CA 2006 will lapse if it is not passed before the end of the period of [•] days beginning with the circulation date

## **6 Powers and duties of Directors**

- 6.1 Subject to the provisions of the Statutes, a Director may be interested in any transaction or arrangement with the Company or with any other company in which the Company is otherwise interested or in which any company which has an interest in the Company is interested and he may hold and be remunerated in respect of any office or place of profit (other than the office of auditor of the Company or any subsidiary thereof) under the Company or any such other company and he or any firm of which he is a member may act in a professional capacity for the Company or any such other company and be remunerated therefore. Notwithstanding his interest but subject to the provisions of the Statutes and, if relevant, to any limits or conditions imposed by the Board as referred to in Article 6.2, a Director may vote on any matter in which he is interested and be included for the purpose of a quorum at any meeting at which the same is considered and he may retain for his own benefit all profits and advantages accruing to him.
- 6.2 Where the existence of a Director’s relationship with another person (an authorised conflict) is authorised by the Board pursuant to the Statutes (and subject to any limits or conditions imposed by the Board), the Director shall not be in breach of the general duties he owes to the Company under the Statutes because he absents himself from any meetings or discussions relating to the authorised conflict, makes arrangements not to receive documents and information relating to the authorised conflict sent or supplied by the Company and/or makes arrangements for such documents and information to be received and read by a professional adviser, fails to disclose to the Board or to any person any information which he obtains otherwise than as a Director and in respect of which he has a duty of confidentiality to another person, and/or fails to use or apply any such information in performing his duties as a Director.
- 6.3 The Directors may exercise all the powers of the Company contained in clause 3(DD) of the Memorandum of Association of the Company.

## **7 Appointment, removal and disqualification of Directors**

- 7.1 Without prejudice to the powers of the Company under section 168 CA 2006 to remove a Director by ordinary resolution, the holder or holders for the time being of more than one half of the issued New Ordinary Shares of the Company shall have the power from time to time and at any time to appoint any person or persons as a Director or Directors and to remove from office any Director howsoever appointed. Any such appointment or removal shall be effected by an instrument in writing signed by the member or members making the same or (in the case of a member being a corporation) signed on its behalf by one of its directors or its secretary and shall take effect upon lodgment at the registered office of the Company.



- 7.2 The office of a Director shall be vacated if he is removed from office under Article 7.1 Regulation 81 shall be modified accordingly.
- 7.3 Unless and until otherwise determined by the Company by Ordinary Resolution, either generally or in any particular case, no Director shall vacate or be required to vacate his office as a Director on or by reason of his attaining or having attained the age of 70, and any person proposed to be appointed a Director shall be capable of being appointed as a Director notwithstanding that he has attained the age of 70, and no special notice need be given of any resolution for the appointment as a Director of a person who shall have attained the age of 70, and it shall not be necessary to give to the members notice of the age of any Director or person proposed to be appointed as such.

## **8 Alternate Directors**

- 8.1 Any appointment or removal of an alternate Director made under Table A shall be by notice in writing signed by the Director making or revoking the appointment and be delivered at the registered office of the Company.
- 8.2 Save as provided in these Articles and in Table A an alternate Director shall not have power to act as a Director nor shall he be deemed to be a Director for the purposes of these Articles.
- 8.3 The provisions of Article 6.1 and 6.2 shall apply to an alternate Director to the same extent as if he was a Director and for the purposes of those provisions an alternate Director shall be deemed to have an interest which conflicts, or possibly may conflict, with the interest of the Company if either he or his appointor has such an interest. The provisions of Article 13 shall also apply to an alternate Director to the same extent as if he was a Director. An alternate Director shall be entitled to be repaid expenses to the same extent mutatis mutandis as if he were a Director, but he shall not be entitled to receive from the Company in respect of his appointment as alternate Director any remuneration, except only such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct.

## **9 Proceedings of Directors**

- 9.1 Subject to the Articles, Directors participate in a meeting of the Board or a committee of the Board when:
- 9.1.1 the meeting has been called and takes place in accordance with the Articles; and
- 9.1.2 they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.

In determining whether Directors are participating in the meeting, it is irrelevant where any Director is or how they communicate with each other.

- 9.2 A person so participating by being present or being in telephone communication with or by exchanging communication in electronic form with those in the meeting or with the Chairman of the meeting shall be deemed to be present in person at the meeting and shall accordingly be counted in a quorum and be entitled to vote. If all the Directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any

of them is. If they do not so decide, such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no group which is larger than any other group, where the Chairman of the meeting is.

- 9.3 The following sentence shall be inserted after the first sentence of regulation 72:  
“Any committee shall have power unless the Directors direct otherwise to co-opt as a member or members of the committee for any specific purpose any person or persons although not being a Director of the Company.”
- 9.4 For a signed resolution under regulation 93 to be effective it shall not be necessary for it to be signed by a Director who is prohibited by the Articles or by law from voting thereon. Regulation 93 shall be modified accordingly.

## **10 The seal**

- 10.1 If the Company has a seal, it shall only be used with the authority of the Directors or a committee of the Directors. The Directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a Director and by the secretary or second Director. The obligation under regulation 6 relating to the sealing of share certificates shall apply only if the Company has a seal.
- 10.2 If the Company has a common seal, the Company may also have an official seal for use abroad under the provisions of the Statutes, where and as the Directors shall determine, and the Company may by writing under the common seal appoint any agents or agent, committees or committee abroad to be the duly authorised agents of the Company, for the purpose of affixing and using such official seal, and may impose such restrictions on the use thereof as may be thought fit. Wherever in these Articles reference is made to the common seal of the Company, the reference shall, when and so far as may be applicable, be deemed to include any such official seal as aforesaid.

## **11 Notices**

- 11.1 Every Director of the Company and every alternate Director shall be entitled to receive notices of general meetings (at his usual address or such other address as he may notify to the Company) in addition to the persons so entitled under the Statutes. The third sentence of regulation 112 shall be deleted.
- 11.2 The Company can deliver a notice or other document, including a share certificate, to a shareholder by;
- (a) delivery by hand to the address recorded for the shareholder on the register;
  - (b) sending it by post or other delivery service in an envelope (with postage or delivery paid) to the address recorded for the shareholder on the register;
  - (c) fax (except for share certificates) to a fax number notified by the shareholder in writing;
  - (d) electronic mail (except a share certificate) to an address notified by the shareholder in writing;

- (e) a website (except a share certificate) the address of which shall be notified to the shareholder in writing; or
- (f) a relevant system.

If a notice or other document is sent or supplied in electronic form it shall be treated as being delivered at the time it is transmitted to the person to whom it is addressed. Regulations 111 and 112 shall be amended accordingly.

## **12 Indemnity**

- 12.1 Subject to the provisions of, and so far as may be consistent with the Statutes, but without prejudice to any indemnity to which a Director may be otherwise entitled, every Director, auditor, secretary or other officer of the Company shall be entitled to be indemnified by the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution and/or discharge of his duties and/or the exercise of his powers and/or otherwise in relation to or in connection with his duties, powers or office including (without prejudice to the generality of the foregoing) any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the Company and in which judgment is given in his favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part) or in which he is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted to him by the Court.