

Company Number: 03169276

**THE COMPANIES ACT 1985 (AS AMENDED)**

Company Limited by Shares

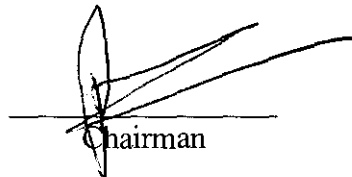
**SPECIAL RESOLUTION**

of

**CITY GREENWICH LEWISHAM RAIL LINK PLC**

At an Extraordinary General Meeting of the above named Company, duly convened and held on 3rd December 2003, the following resolution was passed as a Special Resolution:

“THAT the Articles of Association as attached to these minutes and initialled by the Chairman for the purposes of identification be and are hereby adopted in substitution for the existing Articles of Association of the Company with immediate effect”.

  
Chairman

Dated this 3<sup>rd</sup> day of December 2003



THE COMPANIES ACT 1985

---

PUBLIC COMPANY LIMITED BY SHARES

---

NEW

ARTICLES OF ASSOCIATION

- of -

CITY GREENWICH LEWISHAM RAIL LINK plc

(Adopted by special resolution passed on 2<sup>nd</sup> December 2003)

PRELIMINARY

1

**Definitions**

In these articles the following words and expressions have the meanings set opposite them:-

**Acceptance Period:** a period (which shall not exceed 21 days but, subject thereto, shall be determined by the Independent Directors) during which an offer made under Article 8.7 is open for acceptance;

**Act:** the Companies Act 1985;

**acting in concert:** the meaning given to that expression in the City Code on Takeovers and Mergers (as amended from time to time);

**Affiliate:** in relation to any member a subsidiary or a holding company of that member or subsidiary of such holding company from time to time (other than the Company);

**these articles:** these articles of association as originally adopted or as altered from time to time;

**business day:** any day other than a Saturday, a Sunday or any other day which is a public holiday in England;

**the Independent Directors:** following service of a Transfer Notice until revocation of that Transfer Notice or transfer or other disposition of shares (or an interest therein) specified in that Transfer Notice all of the directors of the Company except any director appointed to the Board of Directors of the

Company by the Proposing Transferor which shall have served such Transfer Notice;

**the Prescribed Price:** the price per Sale Share specified in the Transfer Notice or (if no price is specified) the price per Sale Share agreed or determined pursuant to article 8.4.1);

**Proposing Transferor:** a member proposing to transfer or dispose of shares or any interest in shares;

**Purchaser:** a member willing to purchase shares comprised in a Transfer Notice;

**Statutes:** every statute (including any statutory instrument, order, regulation or subordinate legislation made under it) for the time being in force concerning companies and affecting the Company;

**subsidiary and holding company:** the meanings ascribed to such expressions by section 736 of the Companies Act 1985;

**Table A:** Table A in the Schedule to the Companies (Tables A to F) Regulations 1985, as amended by the Companies (Tables A to F) Amendment Regulations 1985; and

**Transfer Notice:** a written notice specifying the number of shares which the Proposing Transferor wishes to sell and which is served or deemed to be served by a member on the Company in accordance with the article 8.2.

## 2 **Table A**

The regulations contained in Table A shall apply to the Company except in so far as they are excluded by or are inconsistent with these articles. Regulations 2, 8, 17, 24, 32(a), 39, 40, 41, 50, 64, 65, 73 to 77 inclusive 80 and 118 of Table A shall not apply to the Company.

## 3 **Conflict between these articles and Table A**

In the event of any ambiguity or inconsistency between such regulations and these articles, the provisions of these articles shall prevail.

# **SHARE CAPITAL**

## 4 **Share capital**

The capital of the Company (at the date of adoption of these articles) is £12,500,000, divided into 12,500,000 shares of £1 each.

## 5 **Allotment of shares**

5.1 The maximum amount of relevant securities (as defined by Section 80(2) of the Act) over which the directors may allot, grant options or subscriptions or conversion rights or otherwise deal with or dispose of pursuant to this article 5 shall be the authorised but as yet unissued share capital of the Company at the date of adoption of these articles.

5.2 The Company may from time to time by special resolution, whether or not all the shares for the time being authorised shall have been issued or all the shares for the time being issued have been fully paid up, increase its share capital by new shares of such amount as the special resolution prescribes.

5.3 Save as provided in this article 5 the directors shall have no power to issue unissued shares and shall not allot, grant options or subscription or conversion rights over or otherwise dispose of or deal with the same.

## 6 **Company's lien**

The Company shall have a first and paramount lien on every share for all monies (whether presently payable or not) called or payable at a fixed time and in respect of that share, and the Company shall also have a first and paramount lien on all shares registered in the name of any person (whether solely or jointly with others) for all monies owing to the Company from him or his estate either alone or jointly with any other person whether as a member or not and whether such monies are presently payable or not. The directors may at any time declare any share to be wholly or partly exempt from the provisions of this article. The Company's lien on a share shall extend to any amount payable in respect of it.

## **TRANSFER OF SHARES**

### 7 **Instrument of transfer**

The instrument of transfer of any share shall be executed by or on behalf of the transferor, and the transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the register of members in respect thereof, provided that in the case of a partly-paid share the instrument of transfer must also be executed by or on behalf of the transferee.

### 8 **Rights of pre-emption**

8.1 No transfer of any shares or any interest in any shares shall be made by any member unless the following provisions are complied with in respect of such transfer.

8.2 Before transferring, or disposing of, any shares (or any interest in shares) the Proposing Transferor shall serve a Transfer Notice on the Company specifying the number of shares (the "Sale Shares") in question, and the Transfer Notice shall constitute the Company its agent for the sale of the Sale Shares at the Prescribed Price to any member or members. Except as provided in this article, a Transfer Notice once given or deemed to be given shall not be revocable except with the consent of the Independent Directors.

8.3 A Transfer Notice:-

8.3.1 may specify the Prescribed Price;

8.3.2 shall, if the Proposing Transferor has received any offer to purchase any or all of its shares (whether or not an offer capable of becoming legally binding upon acceptance), within the period of three months prior to service of the Transfer Notice, give the name of the offeror, the number of shares concerned and the price per share offered.

- 8.4.1           Forthwith following receipt of a Transfer Notice which does not specify a Prescribed Price, the Independent Directors shall seek to agree the Prescribed Price with the Proposing Transferor. In the event that the Prescribed Price is not agreed within ten business days of receipt of the Transfer Notice by the Company the Independent Directors shall without delay request the auditors of the Company (acting as experts and not as arbitrators) to determine the Prescribed Price. The determination of the Prescribed Price by the auditors of the Company shall be binding.
- 8.4.2           The auditors shall within 15 business days of such a request notify the Company in writing of the Prescribed Price, being the value of each Sale Share calculated on the following basis:-
- 8.4.2.1           by determining the sum which a willing purchaser would offer to a willing vendor for the whole of the issued share capital of the Company;
- 8.4.2.2           by dividing the resultant figure by the number of issued shares in the capital of the Company;
- 8.4.2.3           by making such adjustment (if any) as the auditors consider necessary to allow for any rights which may be outstanding under which any person may call for the issue of further shares;
- 8.4.2.4           by making no adjustment to reflect any premium or discount arising in relation 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.
- 8.5           Subject as provided in article 8.9.4, the costs of the auditors in respect of the determination of the Prescribed Price ("the Determination Costs") shall be borne by the Proposing Transferor.
- 8.6           The Sale Shares shall, within five business days following receipt of the Transfer Notice or (in a case falling within article 8.4.1) agreement or determination of the Prescribed Price, be offered at the Prescribed Price by notice in writing by the Company to the members provided that no Sale Shares shall be offered to the Proposing Transferor. A copy of such notice shall at the same time be served by the Company on the Proposing Transferor and the Proposing Transferor, if it shall not have specified a Prescribed Price in its Transfer Notice or agreed a Prescribed Price with the Independent Directors, shall be entitled to revoke its Transfer Notice by notice in writing served on the Company within ten business days of service of such copy notice and thereupon the Independent Directors shall serve notice on all members (other than the Proposing Transferor) withdrawing the offer of the Sale Shares.
- 8.7           All offers of Sale Shares pursuant to article 8.6 shall be made on the following basis:
- 8.7.1.1           If there is more than one member to whom such offer shall fall to be made the Sale Shares shall be offered to such members in proportion as nearly as may be to their existing holdings of shares, and the Independent Directors' decision as to the number

of shares which shall be "in proportion as nearly as may be to their existing holdings of shares" shall be conclusive;

8.7.1.2 any member to whom Sale Shares are offered may accept all or some only of the Sale Shares offered to him;

8.7.1.3 each member to whom the offer is made (if more than one) shall be invited to indicate whether, if he accepts the number of Sale Shares offered to him pursuant to this article 8.7, he wishes to purchase any Sale Shares offered to other members in the same offer which they decline to accept (such Sale Shares being referred to as "excess Shares") and if so the maximum number which he wishes to purchase;

8.7.1.4 if there are any excess Shares they shall be allocated between the members who have indicated that they wish to purchase excess Shares. If the number of excess shares available is insufficient the excess Shares shall be allocated between the members seeking to purchase them as follows:-

(a) any member who has sought to purchase no more than his proportionate entitlement of excess Shares (calculated by reference to the proportion of the total holdings of shares of members seeking to purchase excess Shares represented by that member's holding) shall be allocated all the excess Shares he sought to purchase;

(b) any member or members who sought to purchase more than their proportionate entitlement shall have the number of excess Shares applied for scaled down and (if more than one) in proportion to their respective holdings of shares;

8.7.1.5 subject to the provisions of this article, the Purchasers shall be bound to purchase the Sale Shares allocated to them under the provisions of this article 8.7 at the Prescribed Price.

8.8 Not later than five business days following the expiration of the last Acceptance Period the Company shall give written notice to the Proposing Transferor stating:-

8.8.1 if it is the case, that no Purchaser has been found for any of the Sale Shares; or, otherwise

8.8.2 the number of Sale Shares which members have sought to purchase, giving the name and address of each Purchaser and the number of Sale Shares to be purchased by him;

and so that if Purchasers have been found for some only of the Sale Shares the Proposing Transferor may within five business days of service on him of notice under this Article 8.8 revoke his Transfer Notice by written notice to the Company.

8.9

8.9.1 In the event that the Proposing Transferor is given notice under Article 8.8.2 (and subject to the Proposing Transferor not revoking his Transfer Notice in accordance with Article 8.8, where possible) the Proposing Transferor shall be bound on payment of the Prescribed Price and such sums, if any, as shall fall to be paid pursuant to article 8.9.4 to transfer the Sale Shares in question to the respective Purchasers. The sale and purchase shall be completed at the registered office of the Company during normal business hours on the first business day after the expiry of ten business days from the date of service of notice under Article 8.8.2.

8.9.2 If a Proposing Transferor, having become bound to transfer any Sale Shares to a Purchaser, shall fail to do so the Independent Directors may authorise any individual to execute on behalf of and as attorney for the Proposing Transferor any necessary instruments of transfer and shall register the Purchaser as the holder of the relevant Sale Shares. The Company's receipt of the purchase money and such sums as shall be payable under article 8.9.4 shall be a good discharge to the Purchaser, and the Company shall thereafter hold the same on trust for the Proposing Transferor. After the name of the Purchaser has been entered in the register of members in purported exercise of these powers, the validity of the proceedings shall not be questioned by any person.

8.9.3 The Proposing Transferor may transfer Sale Shares to any person or persons in the following circumstances:-

8.9.3.1 if the Company shall fail to find a Purchaser or Purchasers for any of the Sale Shares pursuant to Article 8.6, the Proposing Transferor may transfer all or any of the Sale Shares;

8.9.3.2 if the Company shall find a Purchaser or Purchasers for some (but not all) of the Sale Shares and shall serve notice accordingly under Article 8.8.2 the Proposing Transferor may transfer all or any of the Sale Shares for which no Purchaser has been found, but so that if the Proposing Transferor revokes his Transfer Notice under Article 8.8 he may transfer all (but not some only) of the Sale Shares

subject to the following restrictions:-

8.9.3.3 Sale Shares may not be transferred after the expiry of six calendar months after the date on which notice is given under Article 8.8;

8.9.3.4 Sale Shares must be transferred in a bona fide transaction at a price not less than the Prescribed Price; the Independent Directors may require to be satisfied that the Sale Shares are being transferred in pursuance of a bona fide transaction for the consideration stated in the instrument of transfer without any deduction, rebate or allowance to the purchaser.

8.9.4 In addition to the Prescribed Price Purchasers shall upon transfer of the Sale Shares pay to the Proposing Transferor an amount equal to £X in respect of the part reimbursement of the Determination Costs calculated as follows:

$$\frac{A}{B} \times \frac{(50 \times C)}{100} = \text{£X}$$

Where:

A = number of Sale Shares being transferred to the Purchaser in question

B = number of Sale Shares

C = Determination Costs

8.10 Notwithstanding the foregoing provisions of this article 8, the directors may decline to register any transfer of any share on which the Company has a lien.

8.11 The restrictions on transfer contained in this article 8 shall not apply to:

8.11.1 any transfer approved in writing by all the holders of shares;

8.11.2 any transfer by a corporate holder of shares to an associated company (that is to say any holding company or wholly-owned subsidiary of such corporate holder of shares and any other wholly-owned subsidiary of any such holding company); provided always that if the transferee company subsequently ceases to be a wholly owned subsidiary of such holding company the transferee company shall be deemed to have given a Transfer Notice immediately prior to that event in respect of all shares so transferred;

8.11.3 any transfer by a corporate holder of shares to a company formed to acquire the whole or a substantial part of the undertaking and assets of such corporate holder of shares as part of a scheme of amalgamation or reconstruction;

provided that it must be proved to the reasonable satisfaction of the directors that the transfer bona fide falls within one of these exceptions.

8.12 For the purposes of this article and other relevant provisions of these articles the following shall be deemed (without limitation) to be service of a Transfer Notice:-

8.12.1 any direction (by way of renunciation nomination or otherwise) by a holder of shares entitled to an allotment or transfer of shares to the effect that such shares or any of them be allotted or issued or transferred to some other person;

8.12.2 any sale or other disposition of any beneficial interest in any share (whether or not for consideration or otherwise) by whomsoever made and whether or not effected by an instrument in writing;

8.12.3 the inability of a holder of shares or a holding company of that holder of shares to pay its debts in accordance with Section 123 of the Insolvency Act 1986;

8.12.4 a holder of shares or a holding company of that holder of shares ceasing or threatening to cease wholly or substantially to carry on its business, otherwise than for the purpose of a reconstruction or amalgamation without insolvency previously approved by the other members (such approval not to be unreasonably withheld);

8.12.5 any encumbrancer taking possession of or a receiver or administrative receiver or administrator or trustee or similar officer being appointed over the whole or any



substantial part of the undertaking, property or assets of a holder of shares or a holding company of that holder of shares;

8.12.6 the making of an order or the passing of a resolution for the winding up of a holder of shares or a holding company of that holder of shares, otherwise than for the purpose of a reconstruction or amalgamation without insolvency previously approved by the other members (such approval not to be unreasonably withheld).

8.13 For the purpose of ensuring that a transfer of shares is duly authorised hereunder, or that no circumstances have arisen whereby a Transfer Notice is deemed to have been given hereunder, the directors may require any holder of shares or the liquidator of any corporate holder of shares or any person named as transferee in any transfer lodged for registration to furnish to the Company such information and evidence as the directors may think fit regarding any matter they deem relevant to such purpose. Failing such information or evidence being furnished to the satisfaction of the directors within a reasonable time after such request, the directors shall be entitled to refuse to register the transfer in question or (in case no transfer is in question) to require by notice in writing that a Transfer Notice be given in respect of the shares concerned, and they may likewise so require if any such information or evidence discloses that a Transfer Notice ought to be given in respect of any shares. If the directors do so require and the notice is not duly given within one month from the date of its being so required, such notice shall be deemed to have been given at the expiration of such period and the provisions of this article shall take effect accordingly.

8.14 The directors shall register any transfer of shares made pursuant to or permitted by the foregoing provisions of this article, but shall refuse to register any other transfer.

## 9 Tag Along Right

9.1 In the event that one or more members of the Company holding between them in excess of 75 per cent of the shares for the time being in issue ("the Vendor(s)") propose to sell the legal or beneficial interest in shares representing not less than 75 per cent of the shares then in issue to a person other than an Affiliate ("the relevant transaction"), the Vendor(s) shall notify all the other holders of shares in the Company ("the Tag Shareholders") and the Tag Shareholders shall have the right ("the Tag Along Right") to require the Vendor or the Vendors (as the case may be) to procure that an offer is made by the proposed purchaser (or any person or persons acting in concert with it) to the Tag Shareholders to acquire their entire holdings of shares and that offer complies with the requirements of article 9.2.

9.2 The offer referred to in article 9.1 above shall:-

9.2.1 be open for acceptance in England for a period of at least 28 days following the making of the offer;

9.2.2 be on terms that the shareholders shall be entitled to receive for their holdings of shares a sum in cash equal to:-

9.2.2.1 an amount for each share equal to the price per share paid or payable by the proposed purchaser in the relevant transaction or any related or previous transaction by the same purchaser or any

person acting in concert with the proposed purchaser which price shall be deemed to include any consideration (in cash or otherwise) paid or payable by such purchaser or person acting in concert which, having regard to the substance of the transaction as a whole, is reasonably regarded by the directors as an addition to the price so paid or payable;

9.2.2.2 be on terms that the purchase of any shares in respect of which such offer is accepted shall be completed at the same time as the relevant transaction.

- 9.3 The Tag Along Right may be exercised by the Tag Shareholders serving notice to that effect ("the Tag Along Notice") on the Vendor or Vendors (as the case may be) within 7 days following the notice pursuant to article 9.1
- 9.4 A Tag Along Notice once given shall be irrevocable but shall lapse (and the obligations thereunder shall lapse) in the event that for any reason the Vendor or Vendors (as the case may be) do not transfer shares representing not less than 75 per cent of the shares in issue at that time to the person making the offer ("the Offeror") or the Offeror's nominee not later than the date specified as the date for completion of the sale and purchase of shares pursuant to acceptance of the offer.
- 9.5 Upon the exercise of the Tag Along Right in accordance with this article 9 other than article 9.4 each of the Tag Shareholders shall be bound to accept the offer made to it in respect of its entire holding of shares in the Company and to comply with the obligations assumed by virtue of such acceptance PROVIDED THAT for the avoidance of doubt this article shall not require the Tag Shareholders to give any warranties, representations, indemnities or covenants other than covenants as to good title with full title guarantee to the shares owned by them respectively.
- 9.6 In the event that any Tag Shareholder fails to accept the offer made to him or, having accepted such offer, fails to complete the sale of any of its shares pursuant to the offer or otherwise fails to take any action required of it under the terms of the offer the directors (or any of them) may authorise any person to accept the offer on behalf of the Tag Shareholder in question or undertake any action required under the terms of the offer on the part of a Tag Shareholder who has accepted the offer. The directors may in particular authorise any person to execute a transfer of any shares held by a Tag Shareholder in favour of the Offeror (or its nominee) and the Company may give a good receipt for the same. The Tag Shareholder shall in such case be bound to deliver up its certificate for its shares to the Company whereupon the Tag Shareholder shall be entitled to receive the purchase price for such shares which shall in the meantime be held by the Company on trust for the Tag Shareholder, but without interest. After the name of the Offeror (or its nominee) has been entered in the Register in purported exercise of these powers, the validity of the proceedings shall not be questioned by any person.

## **GENERAL MEETINGS**

### **10 Consolidation, division, sub-division and cancellation**

The powers of consolidation, division, sub-division and cancellation of the share capital of the Company conferred by regulation 32(b), (c) and (d) of Table A shall be exercised by special resolution.

### **11 Quorum for a General Meeting**

No business shall be transacted at any general meeting unless the requisite quorum is present when the meeting proceeds to business. The holders of eighty per cent of the shares who are entitled to vote at a general meeting present in person or by proxy (or, in the case of a member being a corporation, by representative) shall be a quorum for all purposes. Where all the holders of shares have waived in writing the quorum requirement then such waiver shall be effective for the meeting or particular business specified in the waiver or otherwise as specified in the waiver.

### **12 Adjournment**

12.1 If within half an hour from the time appointed for any general meeting a quorum is not present the meeting shall stand adjourned to the same day in the next week (or if that day be a holiday to the next working day thereafter) and at the same time and place.

12.2 If at such adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the holder or holders of shares present shall be a quorum.

### **13 Resolution in writing**

A resolution in writing such as is referred to in regulation 53 of Table A executed by or on behalf of a member may be evidenced by letter, telex, cable, electronic mail, facsimile or otherwise as the directors may from time to time resolve.

### **14 Voting**

On a show of hands or on a poll votes may be given either personally or by proxy and regulation 54 of Table A shall be construed accordingly.

### **15 Proxies**

An instrument appointing a proxy may, in the case of a corporation, be signed on its behalf by a director or the secretary thereof or by its duly appointed attorney or duly authorised representative. Regulation 60 of Table A shall be construed accordingly. The directors may at their discretion treat a copy of a faxed or machine made instrument appointing a proxy as an instrument of proxy. Appointment of a proxy may be accepted by the directors even if the instrument is deposited less than 48 hours before the time appointed for the meeting but this power shall not prevent the directors from requiring that 48 hours' notice be given in any particular case. An instrument of proxy may be revoked at any time prior to the commencement of the meeting by notice of revocation given by such

means as an instrument of proxy may be given under these articles. Regulation 62 of Table A shall be construed accordingly.

16        **Participation by telephone**

16.1       Members (or their proxies or representatives) participating in the manner described in this article shall be deemed to be present in person and to be holding a meeting.

16.2       A member (or his proxy or representative) may, to the extent permitted by law, participate in a meeting of the Company by means of telephone or audio-visual conference telephone or similar communicating equipment whereby all members (or their proxies or representatives) participating can hear or see and hear each other. Resolutions in general meeting may be made through participation and voting by such means even though none or only some of the members (or their proxies or representatives) are physically present with each other.

17        **Votes**

Save as otherwise specifically provided in these articles, on a show of hands each holder of shares present in person, or by corporate representative or proxy shall have one vote and on a poll shall have one vote for every share of which he is the holder.

**DIRECTORS**

18        **First directors**

The first directors shall be appointed in writing by the subscribers of the memorandum of association.

19        **Appointment of directors**

19.1       In its application to the Company Regulation 78 of Table A shall be modified by the deletion of the words "...and may also determine the rotation in which additional directors are to retire".

19.2       In its application to the Company Regulation 79 of Table A shall be modified by the deletion of the second and third sentences.

19.3       In its application to the Company Regulation 84 of Table A shall be modified by the deletion of the third and final sentence.

20        **No directors' shareholder qualification**

A director (including an alternate director) shall not require any shareholding qualification, but shall nevertheless be entitled to notice of and shall be entitled to attend and speak at any general meeting.

21        **Chairman**

21.1       The first Chairman of the Company shall be such director as the members may agree and who shall retire from office at the expiry of one year from the date of adoption of these articles unless otherwise agreed by all members of the

“(e) he is otherwise duly removed from office.”

25

### **No age limit for directors**

No director shall vacate his office or be ineligible for re-election, nor shall any person be ineligible for appointment as a director, by reason only of his attaining or having attained any particular age.

## **PROCEEDINGS OF DIRECTORS**

26

### **No power to fill vacancies**

The words “of filling vacancies or” shall be omitted from regulation 90 of Table A.

27

### **Notice to directors outside the United Kingdom**

Regulation 88 of Table A shall be amended by substituting for the sentence:-

“It shall not be necessary to give notice of a meeting to a director who is absent from the United Kingdom”.

the following sentences:-

“Notice of every meeting of directors shall be given to each director or his alternate director, including directors and alternate directors who may for the time being be absent from the United Kingdom and have given the Company their address outside the United Kingdom. Directors who are for the time being absent from the United Kingdom shall be entitled to receive 7 day’s notice of every meeting”.

## **CAPITALISATION OF PROFITS**

28

### **Special resolution to capitalise profits**

The words “special resolution” shall be substituted for the words “ordinary resolution” in regulation 110 of Table A.

## **INDEMNITY**

29

The directors, auditors, secretary and other officers for the time being of the Company and the trustees (if any) for the time being acting in relation to any of the affairs of the Company and their respective executors or administrators shall be indemnified and secured harmless out of the assets of the Company from and against any liability incurred by them to the extent permitted by the Statutes. Further, the directors may purchase and maintain insurance at the expense of the Company for the benefit of any such director or other officer or auditor to the extent permitted by the Statutes.