

The Companies Act 2006

PRIVATE COMPANY LIMITED BY SHARES

**ARTICLES OF ASSOCIATION OF
BH MIDDLETON LIMITED**

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THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

OF

BH MIDDLETON LIMITED (the 'Company')

INTRODUCTION

1 INTERPRETATION

1.1 In these Articles, unless the context otherwise requires:

"Act" means the Companies Act 2006

"Articles" means the company's articles of association for the time being in force

"Barwood" means Barwood Homes Limited, company number 6905856

"Barwood Representatives" means a representative of Barwood on the Board, as appointed from time to time by Barwood by notice in writing to the Company

"Board" means the board of directors of the Company from time to time

"Business Day" means any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in the City of London are generally open for business

"company" includes (except when referring to the Company) any body corporate, partnership, limited liability partnership, unincorporated business or association or other body

"Conflict of Interest" includes a conflict of duties or a conflict of interest and duty, or a potential conflict

"Eligible Director" means a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter)

"Hardingstone" means Hardingstone Property LLP, company number OC342562

"Hardingstone Representative" means a representative of Hardingstone on the Board, as appointed from time to time by Hardingstone by notice in writing to the Company

"Holder" in relation to Shares means the Shareholder whose name is entered in the register of Shareholders as the holder of the Shares

"Independent Expert" means an independent accountant (acting as expert and not as an arbitrator) nominated by the parties concerned or, if the parties fail to agree on such nomination within 20 Business Days of any party first requesting that an independent expert be appointed, by the president for the time being of the Institute of Chartered Accountants in England and Wales

"Insolvency Event" means where a Shareholder take steps to wind up or dissolve itself, or make any composition or arrangement with its creditors, or do or permit or suffer to be done any act or thing whereby it may be wound up or placed into administration or have a receiver appointed;

"Leaver" means a Shareholder who enters into or threatens to enter into an Insolvency Event.

"Leaver Shares" means the Shares held by a Leaver on the Leaver Transfer Date

"Leaver Transfer Date" means the date on which a Shareholder becomes a Leaver

"Model Articles" means the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles

"Project Completion" means the completion of the sale of the last plot on the Property in accordance with the Project as defined in the Shareholders Agreement

"Project Completion Date" means the date upon which Project Completion takes place

"Relevant Agreement" means any agreement entered into between the shareholders of the Ultimate Parent from time to time

"Shares" means the ordinary Shares of £1.00 each in the capital of the Company from time to time

"Shareholder" means a shareholder of the Company from time to time

"Shareholders Agreement" means the private agreement between the Shareholders from time to time

"Shareholder Approval" means the written approval of all Shareholders

"Ultimate Parent" means BP Alteris 2 LLP, a limited liability partnership incorporated in England and Wales with registered number OC419114

- 1.2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles.
- 1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
- 1.4 A reference in these Articles to an "article" is a reference to the relevant article of these Articles unless expressly provided otherwise
- 1.5 Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of:
 - 1.5.1 any subordinate legislation from time to time made under it, and
 - 1.5.2 any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 1.6 Any phrase introduced by the terms "including", "include", "in particular" or any similar

expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

- 1.7 The Model Articles shall apply to the company, except in so far as they are modified or excluded by these Articles.
- 1.8 Articles 8, 11(2) and (3), 13, 14, 17(1)(b), 17(2), 49, 52 and 53 of the Model Articles shall not apply to the company
- 1.9 Article 20 of the Model Articles shall be amended by the insertion of the words "(including alternate directors) and the secretary" before the words "properly incur".
- 1.10 In article 25(2)(c) of the Model Articles, the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity"
- 1.11 Article 27(3) of the Model Articles shall be amended by the insertion of the words ", subject to article 10," after the word "But"
- 1.12 Article 29 of the Model Articles shall be amended by the insertion of the words ", or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under article 28(2)," after the words "the transmittee's name".
- 1.13 Articles 31(1)(a) to (d) (inclusive) of the Model Articles shall be amended by the deletion, in each case, of the words "either" and "or as the directors may otherwise decide"
- 1.14 The Company is a private company and accordingly no offer shall be made to the public (whether for cash or otherwise) of any Shares in or debentures of the Company and no allotment or agreement to allot (whether for cash or otherwise) shall be made of any Shares in or debentures of the Company with a view to all or any of those Shares or debentures being offered for sale to the public

2 CAPITAL, VOTING & DIVIDENDS

- 2.1 Save as otherwise provided in these Articles, all Shares have attached to them the full voting, dividend and capital distribution (including on winding up) rights. They do not confer any rights of redemption.

DIRECTORS

3 UNANIMOUS DECISIONS

- 3.1 A decision of the directors is taken in accordance with this article when all Eligible Directors indicate to each other by any means that they share a common view on a matter.
- 3.2 Such a decision may take the form of a resolution in writing, where each Eligible Director has signed one or more copies of it, or to which each Eligible Director has otherwise indicated agreement in writing.
- 3.3 A decision may not be taken in accordance with this article if the Eligible Directors would not have fanned a quorum at such a meeting.

4 DECISION MAKING BY DIRECTORS

- 4.1 Any decision of the directors must be
 - 4.1.1 a majority decision at a directors meeting; or

4.1.2 a decision taken in accordance with Article 3; or

4.1.3 in the form of a directors' written resolution

and regulation 7(1) of the Model Articles is modified accordingly.

5 PROCEEDINGS OF DIRECTORS

5.1 A resolution in writing signed by all the directors shall be as valid and effective as if it had been passed at a meeting of directors or (as the case may be) a committee of directors duly convened and held and may consist of several documents in the like form each signed by one or more directors.

5.2 Any member of the Board may participate in a Board Meeting by means of conference, telephone or similar communications equipment whereby all participating in the meeting can hear each other and participation in such a meeting in this manner shall be deemed to constitute presence in person at such meeting.

6 QUORUM FOR DIRECTORS' MEETINGS

6.1 No business shall be transacted at any Board Meeting unless a quorum is present The quorum for Board Meetings shall be at least 2 Directors, which shall consist of one Barwood Representative and one Hardingstone Representative unless, either of them deliberately absents himself from the Board Meetings (which shall mean missing at least three consecutive Board Meetings which in the reasonable opinion of the majority of the Board, are not suitable reasons for missing such meetings) or all of the Barwood Representatives or the Hardingstone Representative cease to be a Director, in which case the quorum for directors' meetings shall be one.

6.2 For so long as the minimum number of directors is 1, a sole director has all the powers, duties and directions conferred on or vested in the directors by these Articles A sole director may hold a meeting and is a quorum

7 CASTING VOTE

If the numbers of votes for and against a proposal are equal, the chairman or other director chairing a meeting shall have a casting vote.

8 DIRECTORS' WRITTEN RESOLUTION

8.1 Any director may propose a directors' written resolution.

8.2 The directors, or the company secretary (if one is appointed), must propose a directors' written resolution if a director so requests

8.3 A directors' written resolution is proposed by giving notice of the proposed resolution to the directors.

8.4 Notice of proposed directors' written resolution must indicate

8.4.1 the proposed resolution, and

8.4.2 the time by which it is proposed that the directors should adopt it

8.5 Notice of a proposed directors' written resolution must be given in writing to each director

- 8.6 Any decision which a person giving notice of a proposed directors' written resolution takes regarding the process of adopting that resolution must be taken reasonably in good faith.
- 8.7 A proposed directors' written resolution is adopted when all the directors who would have been entitled to vote on the resolution at a directors' meeting have signed one or more copies of it, provided that those directors would have formed a quorum at such a meeting.
- 8.8 It is immaterial whether any director signs the resolution before or after the time by which the notice proposed that it should be adopted.
- 8.9 Once a directors' written resolution has been adopted, it must be treated as if it had been a decision taken at a directors' meeting in accordance with the Articles.
- 8.10 The directors, or the company secretary (if any), must ensure that the Company keeps a record, in writing, of all directors' written resolution for at least 10 years from the date of their adoption

9 DIRECTORS' CONFLICTS OF INTEREST

- 9.1 Article 14 of the Model Articles does not apply
- 9.2 This Article 9 contains provisions for dealing with directors' conflicts of interest, so that the general duties of directors set out in sections 171 to 177 of the Act (the "**general duties**") are not infringed by anything done (or omitted) by a director in accordance with this article. So far as is lawful, the general duties have effect subject to any authority given by or under this Article 9.
- 9.3 The authorisations in this Article 9 are subject to any more restrictive provisions contained in any contract between a director and the Company, in any applicable policy or code adopted by the Company or in any conditions imposed in any authorisation under this Article 9. If any such provisions require disclosure or prior approval of any Conflict of Interest or benefit otherwise authorised by this article, or impose conditions on any such authorisation, the authorisations in this article apply only to the extent that those requirements or conditions are complied with; provided that the directors may excuse any non-compliance either before or after it occurs.
- 9.4 Provided a director has declared his interests pursuant to the Act, that director shall be entitled to attend, speak and vote and any meeting of the board of directors

10 RECORDS OF DECISIONS TO BE KEPT

Where decisions of the directors are taken by electronic means, such decisions shall be recorded by the directors in permanent form, so that they may be read with the naked eye.

11 NUMBER OF DIRECTORS

Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) shall not be subject to any maximum and the minimum number of directors shall be 2, one of which shall be a Barwood Representative and the other must be a Hardingstone Representative

12 APPOINTMENT AND REMOVAL OF DIRECTORS

- 12.1 Barwood may appoint up to three Barwood Representatives at any one time to the Board and Hardingstone may appoint one Hardingstone Representative at any one time to the Board.

- 12.2 Only Barwood may remove a Barwood Representative and only Hardingstone may remove a Hardingstone Representative unless such representative is no longer permitted to act as Director by virtue of law

13 SECRETARY

The directors may appoint any person who is willing to act as the secretary for such term, at such remuneration and upon such conditions as they may think fit and from time to time remove such person and, if the directors so decide, appoint a replacement, in each case by a decision of the directors.

14 SHARE CERTIFICATES

Sub-paragraph (d) of regulation 24(2) of the Model Articles shall not apply

15 RESTRICTIONS ON ALLOTMENT OF SHARES

- 15.1 Save to the extent authorised by these Articles, 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.

- 15.2 Subject to the remaining provisions of Article 15.3, the directors are generally and unconditionally authorised, for the purposes of section 551 of the Act and generally, to exercise any power of the Company to:

15.2.1 offer or allot and/or

15.2.2 grant rights to subscribe for or to convert any security into and/or

15.2.3 otherwise deal in, or dispose of

any Shares to the existing Shareholders pro rata, at any time and subject to any terms and conditions as the directors, with Shareholder Approval, think proper.

- 15.3 The authority referred to in Article 15.2.

15.3.1 shall apply only insofar as the Company has not renewed, waived or revoked it by ordinary resolution, and

15.3.2 may be exercised only for a period of five years commencing on the date on which these Articles are adopted, save that the directors may make an offer or agreement which would, or might, require Shares to be allotted after the expiry of such authority (and the directors may allot Shares in pursuance of an offer of agreement as if such authority had not expired).

16 SHARE TRANSFERS

- 16.1 No Shares may be transferred by any Shareholder until the Project Completion Date

- 16.2 At any time following the Project Completion Date, any Shareholder holding Shares who wishes to transfer any of such Shares (a "**Vendor**") shall give a notice to the Company (a "**Transfer Notice**") of his wish specifying:

16.2.1 the number of Shares which he wishes to transfer (the "**Sale Shares**"),

16.2.2 the price per Share at which he wishes to sell such Sale Shares (if any); and

- 16.2.3 whether the Transfer Notice is conditional upon all and not part only of the Sale Shares so specified being sold pursuant to the offer hereinafter mentioned, and in the absence of such stipulation it shall be deemed not to be so conditional
- 16.3 Where any Transfer Notice is given in accordance with Article 16.1, the sale price of the Sale Shares shall, subject to the approval of the Board, be the price per Share specified in the Transfer Notice pursuant to Article 16.2.2
- 16.4 Where any Transfer Notice is deemed to have been given in accordance with these Articles, the deemed Transfer Notice shall be treated as having specified:
- 16.4.1 that all the Shares registered in the name of the Vendor shall be included for transfer, and
- 16.4.2 that the Transfer Notice is not conditional upon all and not part only of the Shares so specified being sold pursuant to the offer
- 16.5 In the event that agreement is not reached as to the sale price of the Sale Shares pursuant to Article 16.2 within 10 Business Days of the date of the Transfer Notice, the Board shall within 20 Business Days of the Transfer Notice, instruct the Independent Expert to determine in accordance with Article 16.6 the sale price of the Sale Shares which are the subject of the Transfer Notice.
- 16.6 Where the Independent Expert is instructed in accordance with these Articles the sale price of the Sale Shares shall, subject to Article 17.1, be the value which the Independent Expert certifies in his opinion as a fair value of the Sale Shares. In arriving at his opinion the Independent Expert will value the Sale Shares as at the date the Transfer Notice is, or is deemed to have been served -
- 16.6.1 as Shares in the Company on a going concern basis;
- 16.6.2 as on an arm's length basis between a willing seller and a willing buyer;
- 16.6.3 ignoring any reduction or enhancement in value which may be ascribed to the Sale Shares by virtue of the fact that they represent a minority or majority interest, and
- 16.6.4 on the assumption that the Sale Shares are capable of transfer without restriction
- 16.7 The sale price of the Sale Shares whether fixed, agreed or determined under these Articles shall be referred to as the "**Transfer Price**".
- 16.8 Any Shareholder (including the Vendor) shall be entitled to make representations, in connection with the calculation of the fair value of the Sale Shares to the Independent Expert within 20 Business Days of his appointment (which shall be notified to the Shareholders within 5 Business Days of being made) and the Independent Expert shall be required to take into account in calculating the fair value of the Sale Shares all reasonable representations so made to him.
- 16.9 The decision of the Independent Expert as to the Transfer Price shall, save in the case of clerical or manifest error appearing within 15 Business Days of the Independent Expert's determination of the Transfer Price, be final and binding. The Independent Expert's charges including disbursements and value added tax in connection with the determination will be paid as to one half by the Company and the other half by the Vendor.
- 16.10 No Transfer Notice once given in accordance with this Article 16 shall be withdrawn without

the consent in writing of the Board.

- 16.11 The Transfer Notice shall constitute the Company the agent of the Vendor for the sale of the Sale Shares specified therein at the Transfer Price.
- 16.12 Once the Transfer Price has been fixed, agreed or determined (as the case may be) the Company may not later than 15 Business Days from the Transfer Price being agreed, fixed or determined exercise its power, subject to the provisions of the Act, to purchase any of the Sale Shares at the Transfer Price
- 16.13 If the Company declines or is unable to or fails to exercise the powers referred to in Article 16.12 the Company shall forthwith give notice in writing to each of the Ordinary Shareholders of the Company (other than the Vendor) informing them that the Sale Shares are available and of the Transfer Price and shall invite each Shareholder (other than the Vendor) to state in writing within 20 Business Days from the date of the notice (which date shall be specified therein) whether he is willing to purchase any and, if so, how many of the Sale Shares at the Transfer Price
- 16.14 The notice in Article 16.13 shall state that Sale Shares shall be offered to each Shareholder (other than the Vendor) on terms that in the event of competition the remaining Sale Shares offered shall be sold to the Shareholders accepting the offer in proportion (as nearly as may be) to their existing holdings of Shares ("**Proportionate Entitlement**"). It shall be open to each such Shareholder to specify if he is willing to purchase the remaining Sale Shares in excess of his Proportionate Entitlement ("**Excess Shares**") and if the Shareholder does so specify he shall state the number of Excess Shares
- 16.15 After the expiry of the offers to be made pursuant to Article 16.13 above the Board shall allocate the Sale Shares to the other Shareholders if the other Shareholders have applied to purchase such Sale Shares
- 16.16 If the Vendor shall have included in the Transfer Notice a provision that unless all the Sale Shares are sold none shall be sold and if the aggregate number of Sale Shares applied for by the other Shareholders is less than the total number of Sale Shares then notice shall be served on such Shareholders informing them of this condition, inviting them to apply for all of the Sale Shares and completion of the Sale Shares in accordance with the preceding paragraphs of this Article shall be conditional upon such provision as aforesaid being complied with in full.
- 16.17 In the event of all the Sale Shares specified in a Transfer Notice served under Article 16.1 not being sold under the preceding paragraphs of this Article, the Company shall forthwith give notice in writing of this fact to the Vendor, in which case the Transfer Notice shall be revoked and the Sale Shares may not be sold to any other party.

17 DEEMED TRANSFER NOTICE

- 17.1 Notwithstanding the provisions of Article 16, upon a person or entity becoming a Leaver (unless it is approved otherwise with Shareholder Approval within 20 Business Days following the date on which that person becomes a Leaver), an irrevocable Transfer Notice shall be deemed to be issued ("**Compulsory Sale Notice**") immediately in respect of all the Leaver Shares on the date 20 Business Days following Leaver Transfer Date in which case the provisions of Article 16 shall apply save for the provisions in respect of price where the price payable for such Leaver Shares shall be the nominal value of such Shares.

18 PURCHASE OF OWN SHARES

- 18.1 Subject to the Act but without prejudice to any other provision of these Articles, the Company may purchase its own shares in accordance with Chapter 4 of Part 18 of the Act, including (without limitation) with cash up to any amount in a financial year not exceeding the lower of:

18.1.1 £15,000; and

18.1.2 the value of 5% of the Company's share capital.

19 GENERAL MEETINGS

- 19.1 No general meeting shall take place unless a quorum is present. All Shareholders must be present shall constitute a quorum. Regulation 37 of the Model Articles shall be amended accordingly

- 19.2 Regulation 41 of the Model Articles applies with the addition 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, any person or persons entitled to vote upon the business to be transacted, being (or each being) a Shareholder or a proxy for a Shareholder or a duly authorised representative of a corporation, shall be a quorum if he is (or they are together) entitled to cast more than one half of the number of votes which might be cast at the meeting upon the business to be transacted; or in other circumstances, the meeting shall be dissolved."

20 WRITTEN RESOLUTIONS

The joint holder of a Share whose name comes first in the register of Shareholders in respect of the joint holding is authorised to agree to any written resolution on behalf of all the joint holders and to receive any document which is required by the Act to be supplied to the joint holders in connection with that resolution

DECISION MAKING BY SHAREHOLDERS

21 QUORUM FOR GENERAL MEETINGS

- 21.1 Subject to article 21.2 below, the minimum number of Shareholders shall be 2, consisting of Barwood and Hardingstone.

- 21.2 The following is added to the end of regulation 38 of the Model Articles "If and for so long as the Company has only 1 Shareholder and that Shareholder takes any decision which is required to be taken in general meeting or by means of a written resolution, that decision shall be valid and effectual as if agreed by the Company in general meeting".

22 PROXIES

- 22.1 Article 45(1)(d) of the Model Articles shall be deleted and replaced with the words "is delivered to the company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate".

- 22.2 Article 45(1) of the Model Articles shall be amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid, unless the directors, in their discretion, accept the notice at any time before the meeting" as a new paragraph at the

end of that article.

ADMINISTRATIVE ARRANGEMENTS

23 MEANS OF COMMUNICATION TO BE USED

23.1 Any notice, document or other information shall be deemed served on or delivered to the intended recipient:

23.1.1 if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or 5 Business Days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least 5 Business Days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider);

23.1.2 if properly addressed and delivered by hand, when it was given or left at the appropriate address;

23.1.3 if properly addressed and sent or supplied by electronic means, 1 hour after the document or information was sent or supplied, and

23.1.4 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.

For the purposes of this article, no account shall be taken of any part of a day that is not a working day.

23.2 In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the Act.

24 INDEMNITY

24.1 Subject to Article 24.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

24.1.1 each relevant officer shall be indemnified out of the company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer

24.1.1.1 in the actual or purported execution and/or discharge of his duties, or in relation to them; and

24.1.1.2 in relation to the company's (or any associated company's) activities as trustee of an occupational pension scheme (as defined in section 235(6) of the Act), including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to

the company's (or any associated company's) affairs

24.2 This Article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

24.3 In this Article:

24.3.1 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and

24.3.2 a "relevant officer" means any director or other officer or former director or other officer of the company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor).

25 INSURANCE

25.1 The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant officer in respect of any relevant loss.

25.2 In this Article:

25.2.1 a "relevant officer" means any director or other officer or former director or other officer of the company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor),

25.2.2 a "relevant loss" means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company, and

25.2.3 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

26 ULTIMATE PARENT COMPANY CONSENT

26.1 Without first obtaining the requisite consent or approval in accordance with the terms of the Relevant Agreement, the Company shall not resolve to do any act, matter or thing which would require a prior approval pursuant to the terms of any Relevant Agreement were such act, matter or thing being decided by the Ultimate Parent.