

**THE COMPANIES ACTS 1985, 1989 AND 2006****PRIVATE COMPANY LIMITED BY SHARES****MEMORANDUM OF ASSOCIATION****OF****SCOTTISH FUTURES TRUST LIMITED**

- 1 The Company's name is Scottish Futures Trust Limited.
- 2 The Company's Registered Office is to be situated in Scotland.
- 3 The Company's objects are to encourage, facilitate, plan, fund, procure and deliver assets, infrastructure and other projects initiated or pursued wholly or partly by or for the benefit of governmental bodies, local authorities, other bodies wholly or partly funded through public funds, and non-profit distributing bodies, in Scotland (hereinafter referred to as "**Infrastructure**") including, without limitation, by:
  - 3.1 developing, by itself or in partnership with other organisations, national, regional and/or sectoral strategies, plans, policies and programmes for the delivery of Infrastructure;
  - 3.2 acting as a focal point for public sector action in Infrastructure investment, including (without limitation) by promoting and disseminating innovation, good practice, experience and value for money in Infrastructure investment;
  - 3.3 identifying and promoting opportunities for investment in Infrastructure;
  - 3.4 raising finance by any means from institutions and/or the public for the purposes of investing in Infrastructure;
  - 3.5 procuring Infrastructure for itself or on behalf of other parties;
  - 3.6 monitoring, reviewing, reporting on and validating the effectiveness of investment in Infrastructure;
  - 3.7 supporting or facilitating any of the above objects by means of supporting, advising, providing consultancy services, or personnel to, or collaborating with, or entering into joint venture arrangements with other parties; and
  - 3.8 doing all such other things or activities as are incidental or conducive to the attainment of the above objects.
- 4 In pursuance of the above objects (but not otherwise) the Company shall have the following powers:

- 4.1 To carry on, directly or indirectly, and whether by itself or through a subsidiary or subsidiaries, associated, affiliated or allied companies any business, project, venture, whether joint or otherwise, undertaking or enterprise of any description whether of a public or a private nature and any or all trades, activities and processes in connection with or ancillary or complementary, or necessary in relation to the business of the Company.
- 4.2 To carry on any business which, in the opinion of the Directors of the Company, can be carried out for the benefit of the Company or any business which is calculated directly or indirectly to enhance the value of any of the Company's property or rights, and to conduct and carry on any part of the Company's business as a separate concern, and to employ in any such separate business any particular part of the Company's capital, and to keep separate capital and income accounts of any such separate part of the Company's business.
- 4.3 To purchase, sell, feu, exchange, improve, grant securities over, rent, let on lease, hire, surrender, license, accept surrenders of, and otherwise acquire and/or deal with any land or interest in land and other property of any tenure or description, either for the Company exclusively or jointly with any other company, and to erect, pull down, repair, alter, develop, hold or otherwise deal with any land or buildings and adapt the same for the purposes of the Company's business.
- 4.4 To buy, sell, manufacture, repair, alter, improve, manipulate, prepare for market, let on hire and generally deal in all kinds of plant, machinery, apparatus, tools, utensils, materials, produce, substances, articles and things for the purpose of any of the businesses specified herein or likely to be required by customers or other persons having or about to have dealings with the Company.
- 4.5 To purchase or otherwise acquire all or any part of the business or assets of any person, firm or company carrying on or formed to carry on any business which the Company is authorised to carry on or possessed of property suitable for the purposes of the Company, and to pay cash or to issue any shares, stocks, debentures or debenture stock of the Company as the consideration for such purchase or acquisition and to undertake any liabilities or obligations relating to the property or business so purchased or acquired.
- 4.6 To sell, lease, exchange, surrender, or otherwise deal with the whole of the undertaking and assets of the Company, or any part thereof, for such consideration as the Company may think fit, and in particular for any shares (whether credited as partly or fully paid up or otherwise) debentures, or securities of any other company
- 4.7 To amalgamate, enter into partnership or into any arrangement for sharing profits, union of interest, joint adventure, reciprocal concessions or co-operation with any persons or company carrying on or proposing to carry on any business within the objects of the Company and to take or otherwise acquire and hold shares or stock in, or securities of, and

to subsidise or otherwise assist any such company, and to sell, hold, re-issue with or without guarantee, or otherwise deal with such shares or securities.

- 4.8 To promote or form any other company or companies for the purpose of acquiring all or any part of the property and liabilities of the Company for the time being, or for any other purpose which may be directly or indirectly calculated to benefit the Company, and to pay or contribute towards the preliminary expenses of any such company or companies, or provide the whole or part of the capital thereof, or take shares therein, or lend money thereto upon debentures or otherwise.
- 4.9 To apply for and otherwise acquire any patents, brevets d'invention, licences, trademarks, rights to use processes, concessions and the like conferring an exclusive or non-exclusive, or limited right to use any process or invention, or any secret or other information as to any invention which may seem calculated directly or indirectly to benefit the Company, and to work out, devise, develop, test, demonstrate, improve and perfect any such process or invention, and to use, exercise, develop, grant licences in respect of, or otherwise turn to account any such patents, brevets d'invention, licences, trademarks, rights to use processes, concessions and the like, and the property, rights and information so acquired.
- 4.10 To lend money to such persons, upon such terms and subject to such conditions as may be desirable, and with or without security therefor.
- 4.11 To borrow or raise money or secure the payment of money or performance of obligations (whether by or of the Company or any other person) in such manner as the Directors shall think fit, and in particular by the granting of bonds, charges and rights in security and by the issue of debentures or debenture stock charged upon all or any of the Company's property both present and future, including its uncalled capital, and to re-issue any debentures at any time paid off.
- 4.12 To grant a Power of Attorney in favour of any person, partnership, firm, company or other body of persons, whether corporate or unincorporated, to carry out on behalf of the Company any act or acts that the Company may lawfully carry out and as the Company shall so authorise in a Power of Attorney.
- 4.13 To guarantee the payment of any debentures, debenture stock, bonds, mortgages, charges, obligations, interest, dividends, securities, moneys or shares or the performance of contracts or engagements of any other company or person, and to give indemnities and guarantees of all kinds.
- 4.14 To pay for any property, rights, privileges or concessions acquired or agreed to be acquired by the Company, and generally to satisfy any payment due by, or obligations of, the Company, by the issue of shares of this or any other company credited as fully or partly paid up, or of debentures or other securities of this or any other company.

- 4.15 To the extent permitted by law, to give financial assistance for the purpose of the acquisition of shares in the Company or the Company's holding company for the time being (as defined by Section 736 of the Companies Act 1985) and to give such assistance by any means howsoever permitted by law.
- 4.16 To draw, make, accept, endorse, negotiate, discount, buy, sell, deal in, execute and issue promissory notes, bills of exchange, debentures, warrants, and other negotiable or transferable instruments, securities or documents.
- 4.17 To purchase, subscribe for, or otherwise acquire and hold shares, stocks, debentures, debenture stocks, or other interests in, or obligations of any other company or corporation, and to invest and deal with the moneys of the Company not immediately required for the purposes of the Company in or upon such securities and subject to such conditions as may seem expedient.
- 4.18 To remunerate any person or company for services rendered or to be rendered in placing or assisting to place or guaranteeing the placing or procuring the underwriting of any of the shares or debentures or other securities of the Company or of any company in which the Company may be interested or proposes to be interested, or in or about the conduct of the business of the Company.
- 4.19 To pay out of the funds of the Company all expenses which the Company may lawfully pay relating or incidental to the formation, registration and advertising of or raising money for the Company and the issue of its capital, or for contributing to or assisting any company either issuing or purchasing with a view to issue all or any part of the Company's capital in connection with the advertising or offering of the same for sale or subscription, including brokerage and commissions for obtaining applications for or taking, placing or underwriting or procuring the underwriting of shares, debentures or debenture stock.
- 4.20 To establish and maintain, or procure the establishment and maintenance of, any pension or superannuation funds (whether contributory or otherwise) for the benefit of, and to give or to procure the giving of donations, gratuities, pensions, allowances and emoluments to, any persons who are or were at any time in the employment or service of the Company, or any of its predecessors in business, or of any company which is a subsidiary of the Company or is allied to or associated with the Company or with any such subsidiary, or who may be or have been directors or officers of the Company, or of any such other company as aforesaid, and the wives, widows, families, relations and dependants of any such persons, and to establish, subsidise and subscribe to any institutions, associations, societies, clubs or funds calculated to be for the benefit of, or to advance the interests and well-being of the Company or of any other company as aforesaid, or of any such persons as aforesaid, and to make payments for or towards the insurance of any such persons as aforesaid, and to subscribe or guarantee money for charitable or benevolent objects, or for any exhibition or for any public, general or useful object and to do any of the matters aforesaid either alone or in conjunction with any such other company as aforesaid.

- 4.21 To remunerate any person or company rendering services to the Company.
- 4.22 To redeem or purchase any shares or securities of the Company.
- 4.23 To promote or sponsor any primary or secondary legislation of the Scottish Parliament or of the United Kingdom Parliament for enabling the Company to carry any of its objects into effect, and to oppose any proceedings or applications which may seem likely directly or indirectly to prejudice the Company's interests.
- 4.24 To do all such other things as are incidental or conducive to the attainment of the Company's objects or any of them in any part of the world, and either as principals, agents, contractors, trustees or otherwise and either alone or in conjunction with others and either by or through agents, sub-contractors, trustees or otherwise.

AND IT IS HEREBY DECLARED THAT:-

- 4.24.1 The word "company" in this clause, except where used in reference to the Company, shall be deemed to include any partnership, firm or other body of persons, whether corporate or unincorporate, and whether domiciled in the United Kingdom or elsewhere.
  - 4.24.2 The words "United Kingdom" in this clause means the United Kingdom of Great Britain and Northern Ireland.
  - 4.24.3 In this clause, words denoting the singular number only shall include the plural and vice versa.
  - 4.24.4 The powers specified in each of the paragraphs of this clause shall be regarded as independent powers, and accordingly shall not be limited or restricted (except where otherwise expressed in such paragraphs) by reference to or inference from the terms of any other paragraph or the name of the Company. In all cases, the powers shall be capable of being exercised only in direct furtherance of the objects of the Company as set out in Clause 3.
- 5 The liability of the members is limited.
  - 6 The Company's Share Capital is £100 divided into 100 shares of £1 each.
  - 7 The Company shall be non-profit distributing, meaning that all income and property of the Company, howsoever derived, shall (other than on the winding-up of the Company) be applied solely towards the promotion of the objects of the Company as set out in Clause 3 and no portion thereof shall be paid or transferred directly or indirectly by way of profit to the members of the Company.

We, the subscriber to this Memorandum of Association, wish to be formed into a Company pursuant to this Memorandum; and we agree to take the number of shares set out in the table below.

Name and address of Subscriber	Number of shares taken by the Subscriber
Scottish Ministers St. Andrew's House Regent Road Edinburgh EH1 3DG	Two
Signature: ..." <i>Stella Manzie</i> "..... For and on behalf of the Scottish Ministers	
Before this witness: -  ..." <i>Alistair Brown</i> ".....(sign)  ..." <i>Alistair Brown</i> "..... (print name)  ..." <i>Room 3B 77</i> "..... (address)  ..." <i>Victoria Quay</i> ".....  ..." <i>Edinburgh EH6 6QQ</i> ".....	
Total shares taken	Two

Dated: "9 September" 2008

**THE COMPANIES ACTS 1985, 1989 AND 2006****PRIVATE COMPANY LIMITED BY SHARES****ARTICLES OF ASSOCIATION****OF****SCOTTISH FUTURES TRUST LIMITED****1 Preliminary**

- 1.1 The Regulations in 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 2007 and The Companies (Tables A to F) (Amendment) (No. 2) Regulations 2007 as that Schedule was in force on the date of adoption of these Articles (hereinafter called "Table A") shall apply to the Company save to the extent that they are excluded by or are inconsistent with any of these Articles.
- 1.2 Regulations 5, 8, 46, 54, 64, 66 to 69 inclusive, 76 to 79 inclusive, 81, 82, 83, 87, 88, 89 91, 101, 102 to 108 inclusive, 110, 117 and 118 of Table A shall not apply to the Company.

**2 Interpretation**

- 2.1 Regulation 1 of Table A shall apply to these Articles as it applies to the Regulations in Table A.

**3 Share capital**

- 3.1 The Company shall be entitled, but shall not be bound, to accept and, in case of acceptance, shall be entitled to record in such manner as it may think fit notices of any trusts in respect of any of the shares of the Company. Notwithstanding any such acceptance and/or the making of any such record, the Company shall not be bound to see to the execution, administration or observance of any trust, whether expressed, implied or constructive in respect of any shares of the Company and shall be entitled to recognise and give effect to the acts and deeds of the registered holders of such shares as if they were absolute owners thereof. For the purpose of this Article 'trust' includes any right in respect of any shares of the Company other than an absolute right thereto in the registered holder thereof for the time being or such other rights in case of transmission thereof as hereinafter mentioned.

**4 Non-distribution of profits and assets**

- 4.1 No share shall carry any entitlement to a dividend or (except to the extent permitted by Article 16) other distribution.

- 4.2 No share shall be redeemable.
- 4.3 The Company shall not transfer any of its assets to any member or Affiliate other than for full consideration except as may be required by law.
- 4.4 Article 4.3 shall not apply to any distribution of assets to members on a winding up, but only to the extent permitted by Article 16.
- 4.5 The Company shall not transfer any assets to any person (not being a member or Affiliate) other than for full consideration except as approved by the members by ordinary resolution.
- 4.6 For the purposes of Article 4:
- 4.6.1 **"Affiliate"** means any entity that directly or indirectly controls, is controlled by, or is under common control with a member; and
- 4.6.2 **"Control"** has the meaning given in section 89J of the Financial Services and Markets Act 2000 and "controls" and "controlled" shall be construed accordingly.

## **5 Lien**

- 5.1 The Company shall have a first and paramount lien on every share for all moneys (whether presently payable or not) payable at a fixed time or called in respect of that share and, in the case of a share standing registered in the name of a single person, for all moneys presently payable by that person or his estate to the Company. The Directors may at any time declare any share to be wholly or partially exempt from the provisions of this Article. The Company's lien on a share shall extend to any amount payable in respect of that share, whether by way of dividend or otherwise.

## **6 Proceedings at general meetings**

- 6.1 A resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands a poll is demanded. Subject to the provisions of the Act, a poll may be demanded by any member present in person or by proxy.

## **7 Votes of members**

- 7.1 Subject to any rights or restrictions attached to any shares, on a show of hands every member who is present in person or by proxy or by a duly authorised representative shall have one vote, and on a poll every member shall have one vote for every share of which he is the holder.

**8 Number of directors**

8.1 The maximum number and minimum number respectively of the Directors may be determined from time to time by ordinary resolution of the Company. Subject to and in default of such determination there shall be no maximum number of Directors and the minimum number of Directors shall be one. Whensoever the minimum number of the Directors shall be one, a sole Director shall have authority to exercise all the powers and discretions expressed by these Articles to be vested in the Directors generally, and Regulations 89 and 90 in Table A shall be modified accordingly.

**9 Alternate directors**

9.1 Any Director (other than an Alternate Director) may appoint any other Director, or any other person approved by ordinary resolution and willing to act, to be an Alternate Director and may remove from office an Alternate Director so appointed by him.

9.2 An Alternate Director shall be entitled to receive notice of all meetings of Directors and of committees of Directors of which his appointor is a member, to attend and vote at any such meeting at which the Director appointing him is not personally present, and generally to perform all the functions of his appointor as a Director in his absence.

9.3 Any appointment or removal of an Alternate Director may be made by letter, cable, telex, telegram, facsimile message or electronic communication or in any other manner approved by the Directors. Any cable, telex, telegram, facsimile message or electronic communication shall be confirmed as soon as possible by letter, but may be acted upon by the Company meanwhile.

9.4 The remuneration of any Alternate Director shall be payable out of the remuneration of the Director appointing him, and shall consist of such portion of the last-mentioned remuneration as shall be agreed between the Alternate Director and his appointor.

9.5 An Alternate Director shall cease to be an Alternate Director if his appointor ceases for any reason to be a Director; but if a Director, having vacated office at a meeting of the Company, is re-appointed or deemed to have been re-appointed at that meeting, any appointment of an Alternate Director made by him which was in force immediately prior to his vacation of office shall continue after his re-appointment.

9.6 Every person acting as an Alternate Director shall be an officer of the Company and shall alone be responsible to the Company for his own acts and defaults, and he shall not be deemed to be the agent of or for the Director appointing him.

9.7 An Alternate Director shall not be taken into account in reckoning the minimum or maximum number of Directors allowed for the time being.

## 10 Appointment and removal of directors

10.1 At any time and from time to time the Company may by ordinary resolution:

10.1.1 appoint persons who are willing to act as non-executive members of the board of Directors ("**Non-Executive Directors**");

10.1.2 designate a Non-Executive Director to act as chairman of the board of Directors (the "**Chairman**"); and

10.1.3 remove from office any person appointed in accordance with Article 10.1.1 or 10.1.2.

10.2 At any time and from time to time the Non-Executive Directors may by resolution:

10.2.1 appoint a person who is willing to act as an Executive Director, either to fill a vacancy or as an additional Executive Director but provided that the number of Executive Directors shall not at that time exceed the number of Non-Executive Directors; and

10.2.2 remove from office any person appointed in accordance with Article 10.2.1.

10.3 The office of a Director shall be vacated if:-

10.3.1 he ceases to be a Director by virtue of any provision of the Act or he becomes prohibited by law from being a Director; or

10.3.2 he becomes bankrupt or makes any arrangement or composition with his creditors generally; or

10.3.3 he is, or may be, suffering from mental disorder and either:-

10.3.3.1 he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1984, or

10.3.3.2 an order is made by a Court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs; or

10.3.4 he resigns his office by notice to the Company; or

10.3.5 he shall for more than six consecutive months have been absent without permission of the Directors from meetings of Directors held during that period and the Directors resolve that his office be vacated.

## **11 Remuneration of directors**

11.1 The Company shall from time to time determine in general meeting the remuneration of the Directors or the process by which the remuneration of the Directors shall be determined.

## **12 Directors' expenses**

12.1 The Directors (including Alternate Directors) may be repaid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Company or in connection with the business of the Company.

12.2 Any Director who, being so requested by the Directors, performs special or extraordinary services on behalf of the Company, or who, for the purpose of discharging his duties, travels to or resides in any place other than that in which he usually resides may be paid such extra remuneration (whether by way of lump sum, commission or participation in profits or otherwise) as the Directors may determine.

## **13 Directors' gratuities and pensions**

13.1 The Directors may grant retirement pensions or annuities or other gratuities or allowances including allowances on death, to any persons or to the widow or dependants of any person in respect of services rendered by him to the Company in any office or employment under the Company or indirectly as an officer or employee of any subsidiary company of the Company, notwithstanding that he may be or may have been a Director of the Company, and the Company may make payments towards insurances or trusts for such purposes in respect of such person and may include rights in respect of such pensions, annuities and allowances in the terms of engagement of any such person

## **14 Proceedings of directors**

14.1 A resolution of which any Director has signified his approval by letter, facsimile message or electronic communication shall be as valid and effectual as a resolution in writing signed by that Director.

14.2 The Directors shall:

14.2.1 ensure that the Company's external borrowings do not exceed such limits as are set out by ordinary resolution of the members for each year running from 1 April to 31 March;

14.2.2 obtain the approval of the members by ordinary resolution to all proposed capital expenditure projects above such levels as may be set from time to time by the members by ordinary resolution. Any request for such approval shall be supported by a full economic appraisal; and

14.2.3 manage the Company's affairs in accordance with a management statement and financial memorandum as determined by members from time to time.

## **15 Directors' Meetings**

15.1 Subject to the provisions of these Articles, the Directors may regulate their proceedings as they think fit.

15.2 A meeting of the Directors, or of a committee of the Directors, may be held either in person or by conference call, live video link, or any other suitable means agreed between the Directors or committee of Directors in which all participants may communicate simultaneously with all other participants. A Director taking part in a meeting by conference call, live video link or any other suitable means determined by the Directors or committee of Directors shall be deemed to be present in person at the meeting and shall be entitled to vote and be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating in the meeting is assembled, or, if there is no such group, where the Chairman of the meeting is. The word "meeting" when referring to a meeting of the Directors, or of a committee of the Directors, in these Articles shall be construed accordingly.

15.3 The Chairman shall preside at every meeting of the Directors at which he is present. If the Chairman is not present at a meeting of the Directors within five minutes after the time appointed for the meeting, the Non-Executive Directors present shall appoint one of their number to be chairman of the meeting.

15.4 Subject to Article 15.5, a meeting of the Directors shall be quorate only if at least one Non-Executive Director and at least one Executive Director are present. An Alternate Director shall be counted for the purpose of reckoning whether a quorum is present at any meeting of the Directors attended by him at which he is entitled to vote.

15.5 If no Executive Directors have been appointed or hold office at the time of the meeting, the quorum for a meeting of Directors shall be one.

15.6 Questions arising at any meeting of the Directors shall be decided by a majority of votes. Subject to Articles 15.7, 15.8 and 15.9, each Executive Director and Non-Executive Director shall have one vote.

15.7 If the number of Non-Executive Directors present and entitled to vote ("**X**") is less than the number of Executive Directors present and entitled to vote ("**Y**"), the Chairman shall have, in addition to his own vote, a further number of votes equal to **Y-X**.

- 15.8 If in any case the application of Articles 15.6 and 15.7 results in an equality of votes, the Chairman shall have an additional, casting, vote.
- 15.9 If in any case the Chairman (or, if the Chairman is absent, the person appointed to chair the meeting pursuant to Article 15.3) is not entitled to vote, the remaining Non-Executive Directors present shall appoint from their number a person who is entitled to vote (the "**Replacement Chairman**") and the provisions of Articles 15.7 and 15.8 shall apply to the Replacement Chairman as they apply to the Chairman *mutatis mutandis*.

## **16 Winding-up**

- 16.1 If the Company shall be wound up the assets remaining after payment of the debts and liabilities of the Company and the costs of the liquidation shall first be applied in repaying to the members the amounts paid or credited as paid on the shares held by them respectively and the balance (if any) shall be distributed among the members in proportion to the number of shares held by them respectively; Provided always that the provisions hereof shall be subject to the rights of the holders of shares (if any) issued upon special conditions.

## **17 Indemnity**

- 17.1 Subject to the provisions of the Act but without prejudice to any indemnity which may otherwise be available, every Director, Managing Director, Auditor, Secretary or other officer of the Company shall be entitled to be indemnified by and out of the assets of the Company against:-
- 17.1.1 all charges, losses, expenses and liabilities incurred by him in the execution and discharge of his duties or in relation thereto; and
- 17.1.2 any liability incurred by him in:-
- 17.1.2.1 defending any proceedings, whether civil or criminal, in which judgement is not given against him; or
- 17.1.2.2 in connection with any application in which relief is granted to him by the Court from liability for negligence, breach of duty or breach of trust in relation to the affairs of the Company.
- 17.2 The Company may purchase and maintain for any officer or auditor of the Company insurance against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the Company.

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Name and address of Subscriber

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Name and address of Subscriber
Scottish Ministers St. Andrew's House Regent Road Edinburgh EH1 3DG
Signature: ..... " <i>Stella Manzie</i> " ..... <p style="text-align: center;">For and on behalf of the Scottish Ministers</p>
Before this witness: -  ... " <i>Alistair Brown</i> " .....(sign)  ... " <i>Alistair Brown</i> " ..... (print name)  ... " <i>Room 3B 77</i> " ..... (address)  ... " <i>Victoria Quay</i> " .....  ... " <i>Edinburgh EH6 6QQ</i> " .....

Dated: "9 September"

2008