

THE COMPANIES ACTS 1985 AND 1989  
PRIVATE COMPANY LIMITED BY SHARES  
MEMORANDUM OF ASSOCIATION  
of  
TRANSPORT EDINBURGH LIMITED

1 The Company's name is "TRANSPORT EDINBURGH LIMITED"

2 The Company's registered office is to be situated in Scotland.

3 The Company's objects are:

- 3.1
- (a) to promote, support and/or effect the development, procurement and implementation of projects defined or referred to in an integrated transport strategy as determined and varied from time to time by The City of Edinburgh Council (a local authority constituted in terms of the Local Government etc (Scotland) Act 1994 and its statutory successors whomsoever);
  - (b) to carry on, promote or develop any trade or business in the field of transport required in connection with the aforementioned integrated transport strategy;
  - (c) the promotion of the integration of all modes of public transport (including but not limited to buses, trams and heavy rail);
  - (d) to promote a local transport strategy for Edinburgh including projects which are connected to, support or are relevant to such strategy;
  - (e) to pursue sustained growth in the use of public transport generally and forge and strengthen relationships between Edinburgh and regional transport networks;
  - (f) to carry on for profit, directly or indirectly, whether by itself or through subsidiary, associated or allied companies or firms in the United Kingdom or elsewhere in all or any of its branches any business, undertaking, project or enterprise of any description whether of a private or public character and all or any trades, processes and activities connected therewith or ancillary or complementary thereto; and
  - (g) to promote the interests of any company which is for the time being a subsidiary, holding company or subsidiary of any holding company of the Company or any undertaking which is for the time being a subsidiary undertaking of the Company

or of any holding company of the Company in any manner whatever and, in particular, by paying or discharging the liabilities thereof or giving any undertaking to do so, by giving any indemnity or guarantee in respect of such liabilities and by giving any security or charge for any such indemnity or guarantee or for the payment of money or performance of obligations by any such company or undertaking as aforesaid, either with or without consideration and whether or not any benefit flows to the Company other than the promotion of such interests as aforesaid to the intent that the promotion of the interests of any such company or undertaking as aforesaid shall be an object and not a power of the Company,

- 3.2 to become a party to the Development Partnering and Operating Franchise Agreement entered into between TIE Limited (formerly having the name Transport Initiatives Edinburgh Limited) (Company Number SC230949) and TransDev Edinburgh Tram Limited (Company Number SC267598) dated 14 May 2004 in relation to the development of a tram network in Edinburgh;
- 3.3 to be a party to the construction, equipment supply, operation, maintenance and funding arrangements (whether contractual or otherwise) relative to the aforementioned tram network (including, without prejudice to the generality of the foregoing, to receive revenue in relation thereto);
- 3.4 to manufacture, develop, process, refine, repair, purchase, sell, export, import, deal in or let on hire all kinds of goods, substances, articles, services and material (tangible or intangible) of any kind;
- 3.5 to purchase, take on lease, hire or otherwise acquire, and to sell, let or otherwise dispose of in whole or in part, any lands, interests in lands, buildings, plant and machinery, stock-in-trade, business concerns and any other heritable or moveable, real or personal property and to construct, alter, demolish, manage and maintain any of the foregoing;
- 3.6 to borrow or raise money or accept money on deposit and to secure the payment of money or the observance of obligations in such manner as the Directors shall think fit and for such purposes as to mortgage or otherwise charge in any manner whatsoever permitted in any jurisdiction in which the Company has assets or carries on business and in particular by way of fixed charge or floating charge over the whole or part of the undertaking and all or any of the property and assets (both present and future), and the uncalled capital of the Company and to create, issue and accept securities;
- 3.7 to draw, make, accept, endorse, discount, execute, issue, negotiate and deal in promissory notes, bills of exchange, shipping documents, documentary credits and other negotiable or transferable instruments and to buy, sell and deal in currencies, commodities, options, traded options (financial or commodity) and other financial instruments;
- 3.8 to lend or advance money or give credit to such persons and companies and on such terms (including as to security) as may be thought fit and to deposit money with any bank, deposit taker or other financial organisation;
- 3.9 to guarantee and/or give security for the payment of money by, or the performance of contracts and obligations by, or the payment or repayment of principal, interest, dividends

and premiums on, and any other monies due in respect of, securities or obligations by, the Company or by any other person or company, including any company which shall at the time be the holding company of the Company or another subsidiary of such holding company or a subsidiary of the Company and any undertaking which shall at the time be a subsidiary undertaking of the Company or of any holding company of the Company or of any subsidiary of the Company or any holding company of the Company notwithstanding the fact that the Company may not receive any consideration or benefit from entering into any such guarantee or security;

- 3.10 to invest and deal with the funds of the Company not immediately required in such investments or securities and in such manner as may from time to time be determined by the Directors;
- 3.11 to subscribe for, underwrite, purchase or otherwise acquire securities of any company, fund or trust and to deal with and dispose of the same;
- 3.12 to acquire and hold all or any part of the undertaking, property, business or assets of any person or company, to undertake, whether as part of the consideration for such acquisition or otherwise, all or any of the liabilities of such person or company and to deal with and dispose of all or any of the foregoing as the Directors may consider appropriate;
- 3.13 to amalgamate or enter into partnership or joint venture or profit and/or loss sharing arrangement with any person or company;
- 3.14 to make experiments in connection with any business or proposed business of the Company, and to apply for or otherwise acquire and protect, prolong, renew, experiment upon, test and improve in any part of the world any inventions, patents, patent rights, brevets d'invention, trade marks, service marks, trade or brand names, designs, industrial designs, copyright, moral rights, licences, concessions, protections or similar rights which may appear likely to be advantageous or useful to the Company, and to use and manufacture under or grant licences or privileges in respect of the same, and to expend money thereon;
- 3.15 to insure against losses, damages, risks and liabilities of all kinds which may affect the Company and to purchase and maintain for any officer of the Company or the auditors of the Company insurance against any liability as is mentioned in section 310 of the Companies Act 1985;
- 3.16 to issue and allot securities of the Company for cash or in payment or part payment for any property purchased or otherwise acquired by the Company or any services rendered to the Company or as security for any obligation or amount or for any other purpose;
- 3.17 to pay out of funds of the Company all expenses which the Company may lawfully pay of, or incidental to, the formation and registration of or the raising of money for the Company or the issue of any securities, or the application to any recognised investment exchange for listing for, or dealing in, any or all of its securities, including brokerage and commissions for obtaining applications for or taking, placing or underwriting or procuring the underwriting of securities or rights of the Company;
- 3.18 to grant or procure the grant of donations, gratuities, pensions, annuities, allowances, or other benefits, including benefits on death, to any directors, officers or employees or

former directors, officers or employees of the Company or any company which at any time is or was a subsidiary or a holding company of the Company or another subsidiary of a holding company of the Company or otherwise associated with the Company or of any predecessor in business of any of them, and to the relations or dependants of any such persons, and to other persons whose service or services have directly or indirectly been of benefit to the Company or whom the Directors of the Company consider have any moral claim on the Company or to their relations, connections or dependants, and to establish or support any funds, trusts, insurances or schemes (including in particular but without detracting from the generality of the foregoing any trust or scheme relating to the grant of any option over, or other interest in, any share in the capital of the Company or of any other company, or in any debenture or security of any corporation or company (including the Company) and including the provision of financial assistance as described in section 153(4)(b) and (bb) of the Companies Act 1985) or any associations, institutions, clubs or schools, or to do any other thing likely to benefit any such persons or otherwise to advance the interests of such persons or the Company or its members, and to subscribe, guarantee or pay money for any purpose likely, directly or indirectly, to further the interests of such persons or the Company or its members or for any national, charitable, benevolent, education, social, public, general use object;

- 3.19 to compensate for loss of office any directors or other officers of the Company and to make payments to any persons whose office, employment or duties may be terminated by virtue of any transaction in which the Company is engaged
- 3.20 to promote or establish or concur in promoting or establishing any other company for the purpose of purchasing or taking over all or any of the properties, rights and liabilities of the Company or carrying on any business or operations which the Company is authorised to carry on or for any other purpose which may, directly or indirectly, benefit or advance the objects or interests of the Company and to acquire and hold as investments of the Company or otherwise deal with as may be considered fit any securities of any such company;
- 3.21 to sell or otherwise dispose of the whole or any part of the undertaking, property and assets of the Company either together or in portions;
- 3.22 to distribute among the members in specie any property of the Company, or any proceeds of sale or disposal of any property of the Company, but so that no distribution amounting to a reduction of capital be made except with the sanction (if any) for the time being required by law;
- 3.23 to do all or any of the above things in any part of the world, and either as principals, agents, trustees, contractors or otherwise and either alone or in conjunction with others, and either by or through agents, sub-contractors, trustees, subsidiaries or otherwise;
- 3.24 to carry on any other activity and do anything of any nature which may seem to the Directors capable of being conveniently carried on or done by the Company in connection with the above, or may seem to the Company calculated directly or indirectly to benefit the Company;
- 3.25 to exercise all powers which would be available to the Company under section 3A of the Companies Act 1985 if its object was to carry on business as a general commercial company;

3.26 to do all such things as in the opinion of the Directors are or may be incidental or conducive to the above objects or any of them;

3.27 And it is hereby declared that for the purposes of this Clause:

- (a) the word "company" in this clause shall (except where referring to the Company) be deemed to include any person or partnership or other body of persons, whether incorporated or not incorporated, and whether formed, incorporated, resident or domiciled in the United Kingdom or elsewhere;
- (b) "Directors" shall mean the directors of the Company from time to time;
- (c) "associated companies" shall mean any two or more companies if one has control of the other or others, or any person has control of both or all of them;
- (d) "securities" shall include any fully, partly or nil paid or no par value share, stock, unit, debenture or loan stock, deposit receipt, bill, note, warrant, coupon, right to subscribe or convert, or similar right or obligation;
- (e) "and" and "or" shall mean "and/or";
- (f) "other" and "otherwise" shall not be construed eiusdem generis where a wider construction is not possible;
- (g) words importing the singular only shall include the plural and vice versa; words importing any gender shall include the other genders; and words importing natural persons shall include corporations and vice versa; and
- (h) the objects specified in each paragraph of this clause shall, except if at all where otherwise expressed, be in no way limited or restricted by reference to or inference from the terms of any other paragraph or the name of the Company or the nature of any business carried on by the Company or the order in which such objects are stated, but may be carried out in as full and ample a manner and shall be construed in as wide a sense as if each of the said paragraphs defined the objects of a separate and independent company.

4. The liability of the members is limited.

5. The Company's share capital is £1000 divided into 1000 Shares of £1 each.

THE COMPANIES ACT 1985 AND 1989  
PRIVATE COMPANY LIMITED BY SHARES  
ARTICLES OF ASSOCIATION  
of  
TRANSPORT EDINBURGH LIMITED  
PRELIMINARY

1. The Regulations contained 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 1985 ("Table A") so far as not excluded or modified by the following Articles shall apply to the Company.
2. Regulations 5, 8, 33, 64, 73 to 76 inclusive, 80, 91, 94, 95 and 118 of Table A shall not apply to the Company and the following Regulations thereof shall be modified:

Regulation 6 by the deletion of the words "sealed with the seal" and the substitution of the words "executed in terms of section 36B of the Act";

Regulation 24 by the addition of the words "(in their absolute discretion and without assigning any reason therefor)" between the words "may" and "refuse" and the deletion of the words "which is not" and the substitution of the words "whether or not it is";

Regulation 32 by the deletion of paragraph (a) and the consequential re-lettering of the subsequent paragraphs and the addition to the original paragraph (b) of the words "but so that any such consolidation and/or division shall not result in any member becoming entitled to fractions of a share";

Regulation 40 by the addition at the end of the second sentence of the words "provided that if the Company shall have only one member, one member present in person or by proxy shall be a quorum";

Regulation 46 by the deletion of paragraphs (a) to (d) inclusive and the substitution of the words "by the chairman or by any person present entitled to vote upon the business to be transacted";

Regulation 54 by the addition of the words "or by proxy" between the words "vote", and "shall" and the words "fully paid" between the words "every" and "share";

Regulation 66 by the addition of the words "(subject to his giving the Company an address within the United Kingdom at which notice may be served upon him)" between the words "shall" and "be";

Regulation 72 by the addition of the words "Any committee shall have power, unless the Directors direct otherwise, to co-opt as a member or members of the committee for any specific purposes any person, or persons, not being a Director of the Company" at the end;

Regulation 77 by the deletion of the words "other than a director retiring by rotation at the meeting"

Regulation 79 by the deletion of the words "A director so appointed shall hold office only until the next following annual general meeting and shall not be taken into account in determining the directors who are to retire by rotation at the meeting. If no reappointed at such annual general meeting, he shall vacate office at the conclusion thereof."

Regulation 82 by the addition of the words "by way of Directors' fees" shall be inserted between the words "remuneration" and "as";

Regulation 84 by the addition of the words "Unless the contrary shall be provided in the terms of his appointment" at the beginning of the third sentence;

Regulation 85(c) by the addition of the words ", subject to the terms of any contract of (employment between the Company and the Director," between the words "shall" and "not";

Regulation 89 by the deletion of the first sentence; and

Regulation 115 by the deletion of the number "48" and the substitution of the number "24".

Unless otherwise required by the context of the Articles, words or expressions which are defined in Table A shall have the same meaning in the Articles.

In these Articles the following words and expressions shall (except where the context otherwise requires) have the following meanings:

"**Lothian**" means Lothian Buses plc a company incorporated in Scotland with company number SC096849 and having its registered office at 55 Annandale Street, Edinburgh EH7 4 AZ

"**tie**" means TIE Limited a company incorporated in Scotland with company number SC230949 and having its registered office at City Chambers, High Street, Edinburgh, EH1 2ET

Unless otherwise required by the context of the Articles, words importing the singular only shall include the plural and vice versa; words importing any gender shall include the other genders; and words importing natural persons shall include corporations and vice versa.

### **SHARE CAPITAL**

3. The Company may by Special Resolution increase its share capital by new shares of such amount as the resolution prescribes
4. The Company shall be entitled, but shall not be bound, to recognise in such manner and to such extent as it may think fit any trusts in respect of any of the shares of the Company. Notwithstanding any such recognition, the Company shall not be bound to see to the execution, administration or observance of any trust (whether express, 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 holders of such shares as if they were the absolute owners thereof. For the purposes of this Article, "trust" includes any right in respect of any shares of the Company other than an absolute right thereto in the holder thereof for the time being or such other rights in case of transmission thereof as are mentioned in Table A.

#### **NUMBER OF DIRECTORS**

5. Unless otherwise determined by Special Resolution, the maximum number of Directors shall be twelve and the minimum shall be four.

#### **POWER OF DIRECTORS**

6. The Directors may exercise the voting power conferred by the shares in any other company held or owned by the company in such manner as they think fit, including the exercise thereof in favour of any resolution appointing them or any of their number directors or officers of such other company or voting or providing for the payment of remuneration to the directors or officers of such other company.

#### **PROCEEDINGS OF DIRECTORS**

7. A Director may as a Director vote and be counted as one of a quorum upon a motion in respect of any contract, matter or arrangement which he shall make with the Company or in which he shall be in any way interested provided that he shall first have disclosed the nature of his interest to the Directors.
8. Any Director (including an alternate Director), or member of a committee of the Directors, may participate in a meeting of the Directors, or such committee, by means of a conference telephone or similar communicating equipment whereby all persons participating in the meeting can hear each other and participation in a meeting in this manner shall be deemed to constitute presence in person at such meeting.
9. Every Director who is also a director of tie or Lothian shall be entitled from time to time to make such disclosure to that company about the business and affairs of the Company and its subsidiaries as he shall in his absolute discretion determine.
- 9.1 Any appointment may be on such conditions and terms of office as the Council thinks fit.

#### **QUORUM.**

- 10.1 The quorum necessary for the transaction of business of the Directors shall be no fewer than four.
- 10.2 If a quorum is not present within one hour from the time appointed for a meeting of the directors or if during the meeting such a quorum ceases to be present, the meeting shall be adjourned for seven days; and if a quorum is again not then present at such adjourned meeting four directors including the



chairman shall form a quorum and a resolution will be valid if passed by a majority vote irrespective of which directors vote in favour of it being passed (provided that this shall only be the case for the purpose of the transaction of the business specified in the agenda contained in the notice of the meeting).

### INDEMNITY

- 11 Subject to the provisions of the Act, every Director or other officer of the Company shall be entitled to be indemnified by the Company against all costs, charges, losses, expenses and liabilities which he may sustain or incur in or about the execution and discharge of the duties of his office:
- (a) in defending any proceedings relating to the proper discharge of his functions in relation to the Company, whether civil or criminal, in which decree is given in his favour or in which he is acquitted or which are otherwise disposed of without any finding or admission of any material breach of duty in his part; or
  - (b) in connection with any application under section 144(3) or (4) or section 727 of the Act in which relief is granted to him by the court from liability in respect of any act or omission done or alleged to be done by him as an officer or employee of the Company.