

Certified as a true and correct  
copy of the original

Date: 27.8.2004..

Name: Alex Campbell

Position: Secretary

A. Campbell

**MGN GAS NETWORKS (SENIOR FINANCE) LIMITED**

(the "Company")

Registered Number: 5149493

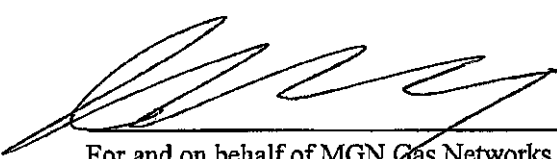
Written resolution of the sole member of the Company in lieu of a general meeting passed on 27 August 2004 pursuant to regulation 53 of Table A which forms part of the Company's Articles of Association.

We, the undersigned, being the sole member of the Company entitled to attend and vote, hereby  
**RESOLVE:**

THAT the Articles of Association of the Company be replaced with the new Articles of Association, a copy of which is annexed hereto, with immediate effect.

THAT Graeme Bevans, Lord Gus Macdonald and Wayne Leamon (having consented to act) be and are hereby appointed Directors of the Company with immediate effect.

THAT the purported appointment of Bruno Guilmette as a Director of the Company, by written board resolutions passed on 6 August 2004, was void and of no effect and he is not (and never was a Director of the Company).

  
For and on behalf of MGN Gas Networks (Junior Finance) Limited

(Authorised Signatory)



No. 5149493

**THE COMPANIES ACT 1985**

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**COMPANY LIMITED BY SHARES**

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**NEW**

**ARTICLES OF ASSOCIATION**

of

**MGN GAS NETWORKS (SENIOR FINANCE) LIMITED**

(adopted by Special Resolution passed on

27<sup>th</sup> August 2004)

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THE COMPANIES ACT 1985

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COMPANY LIMITED BY SHARES

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NEW  
ARTICLES OF ASSOCIATION

-of-

MGN GAS NETWORKS (SENIOR FINANCE) LIMITED  
(adopted by Special Resolution passed on 27 August 2004)

1. INTERPRETATION

1.1 Definitions

In these Articles the following words and expressions shall have the following meaning unless the context otherwise requires:

"**the Act**" means, subject to paragraph 1.3 of this Article, the Companies Act 1985;

"**Acquisition**" means the acquisition by the Company from the Vendor of the entire issued share capital of DNCo;

"**Acquisition Completion Date**" means date of Completion of the Acquisition;

"**Articles**" means these articles of association;

"**Associate**" means, from time to time:

- (a) with respect to each Ordinary Shareholder (except DAF Custodian), a member of that Ordinary Shareholder's Group or a partnership or limited partnership which that Ordinary Shareholder Controls or a substantial multi-party fund or entity under management or joint management of a member of that Ordinary Shareholder's Group; and
- (b) with respect to both Macquarie and Macquarie Lux also includes any shareholders of MEIF Luxembourg, any limited partners of MEIF, any substantial multi-party fund or entity under management of a member of the Macquarie Group and any member of the Group of any entity within this paragraph (b) (but not including investors in any substantial multi-party fund or entity under management of any member of the Macquarie Group other than the limited or general partners of MEIF); and
- (c) in the case of DAF Custodian (or any replacement thereof) includes any trustee of DAF Custodian and any custodian, sub-custodian or nominee of any

custodian of any trustee of DAF Custodian (or their respective replacements) or a substantial multi-party fund or entity under management of DAFML;

**"Board"** means the board of directors of the Company, as from time to time constituted;

**"Board Reserved Matter"** means any matter that under the terms of a Relevant Agreement requires the approval of 75% of the votes cast by Directors;

**"Business Day"** means a day (excluding Saturdays) on which banks generally are open in London for the transaction of normal banking business;

**"Company"** includes any body corporate;

**"Conflict"** means, from time to time, as regards any interest of the Company:

- (a) in relation to any Ordinary Shareholder, where any member of the Ordinary Shareholder's Group has a direct financial interest in the outcome of a decision of the Ordinary Shareholders other than any interest in respect of Ordinary Shares;
- (b) in relation to any Director, where
  - (A) the Director has a direct financial interest in the outcome of a decision of the Board; or
  - (B) in respect of the Ordinary Shareholder who appointed that Director or participated in the appointment of that Director, the Ordinary Shareholder's Group or any Associate of that Ordinary Shareholder (but, for this purpose, in the case of Macquarie and Macquarie Lux, the definition of Associate shall not include the limited partners of MEIF) has a direct financial interest in the outcome of a decision of the Board other than any interest in respect of Ordinary Shares;

**"Control"** means, from time to time:

- (a) in the case of a body corporate, the right to exercise more than 50% of the votes exercisable at any meeting of that body corporate, together with the right to appoint more than half of its directors; and
- (b) in the case of a partnership or limited partnership, the right to exercise more than 50% of the votes exercisable at any meeting of partners of that partnership or limited partnership (and, in the case of a limited partnership, Control of each of its general partners); and
- (c) in the case of any other person, the right to exercise a majority of the voting rights or otherwise to control that person by virtue of provisions contained in its Memorandum or Articles of Association or, as the case may be, Certificate of Incorporation or Bye-laws, Statutes or other constitutional documents or any contract or arrangement with any other persons;

**"DAF Custodian"** means J.P. Morgan Nominees Australia Limited in its capacity as nominee for the custodian for DAFML and whose registered office is at Level 35, 259 George Street, Sydney, New South Wales, Australia 2000;

**"DAFML"** means Development Australia Fund Management Limited in its capacity as trustee of the Infrastructure Unit of the pooled superannuation trust known as Development Australia Fund and whose registered office is at Level 29, Casselden Place, 2 Lonsdale Street, Melbourne 3000, Victoria, Australia;

**"director"** means, from time to time, a director of the Company;

**"DNCo"** means the company which, immediately prior to the Acquisition Completion Date, will be the owner of a gas distribution network;

**"Equity Underwriters"** means Macquarie, DAFML (limited in its capacity as Equity Underwriter to the amount subscribed by DAFML above £45 million of Loan Notes and Shares) and AMP;

**"Group"** means:

- (a) except for DAF Custodian, from time to time in respect of a body corporate, that body corporate and any other body corporate which is its holding company or subsidiary and any other body corporate which is a subsidiary of any such holding company; or
- (b) in the case of DAF Custodian, DAFML and any holding company or subsidiary of DAFML and any other body corporate which is a subsidiary of any such holding company;

**"Macquarie"** means Macquarie Bank Limited, a company incorporated under the laws of the State of the Australian Capital Territory, Australia and whose registered office is at Level 5, 25 National Circuit, Forest, ACT 2603, Australia;

**"Macquarie Lux"** means Macquarie Luxembourg Gas S.à.r.l., a company incorporated in Luxembourg and whose registered office is at 5 rue Guillaume Kroll, Luxembourg L-1882, Luxembourg;

**"MEIF"** means Macquarie European Infrastructure Fund LP;

**"MEIF Luxembourg"** means MEIF Luxembourg Holdings S.A., a company incorporated in Luxembourg and whose registered office is at 398, Route d'Esch, Luxembourg L-1471, Luxembourg;

**"Macquarie Investment Management (UK) Limited"** means a wholly owned subsidiary of Macquarie that specialises in the management of infrastructure investments;

**"Ordinary Shares"** means the ordinary shares of 100p each in the capital of the Company;

**"Ordinary Shareholder"** means a holder of Ordinary Shares;

**"Relevant Agreement"** means any agreement to which Ordinary Shareholders (in their capacity as Ordinary Shareholders in the Company) are parties relating to the business and affairs of the Company;

**"Shareholder Reserved Matter"** means any of the following matters:

- (A) any alteration to the Memorandum or Articles of Association of the Company;
- (B) save as provided in any Relevant Agreement, the issue of any securities of the Company or the grant of any option or other right to subscribe for such securities or convert into such securities;
- (C) giving authority to the Directors for a period exceeding five years to issue Ordinary Shares or other securities of the Company;
- (D) disposal of any shares or other securities of any subsidiaries;
- (E) reorganisation of the share capital of the Company or any member of the Company's Group;
- (F) variation of the rights attaching to the Ordinary Shares or the proposal or implementation of any scheme of arrangement;
- (G) the taking of any step to have the Company or any member of the Company's Group wound up or liquidated whether for the purposes of amalgamation or reconstruction or otherwise unless a licensed insolvency practitioner shall have advised that the relevant entity is required to be wound up by reason of having become insolvent;
- (H) participation by the Company's Group in any business other than as provided by a Relevant Agreement;
- (I) the termination of any appointment of Macquarie Investment Management (UK) Limited as a consultant to the Company or any member of its Group;
- (J) the incurring by the Company or by any member of the Company's Group of any financial indebtedness prohibited by any Relevant Agreement;
- (K) the commencement by any member of the Company's Group of any non-regulated business prohibited by any Relevant Agreement; and
- (L) any other matters as provided by a Relevant Agreement from time to time;

**"Table A"** means Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 in force at the date of the adoption of these Articles; and

**"Vendor"** means Transco plc (registered in England with number 2006000) whose registered office is at 1-3 Strand, London WC2N 5EM.

## 1.2 Same meanings as in the Act

Save as provided in Article 1.1 and unless the context otherwise requires, words or expressions contained in these Articles bear the same meaning as in the Act.

## 1.3 Statutory modification

In these Articles a reference to any statute or provision of a statute includes a reference to any statutory modification or re-enactment of it and to any subordinate legislation made under it in each case for the time being in force.

## 1.4 Number, gender and person

In these Articles, unless the context otherwise requires:

- (A) words in the singular include the plural, and vice versa;
- (B) words importing any gender include all genders; and
- (C) a reference to a person includes a reference to a company and to an unincorporated body of persons.

#### **1.5 Miscellaneous interpretation**

In these Articles:

- (A) references to writing include references to typewriting, printing, lithography, photography and any other modes of representing or reproducing words in a legible and non-transitory form;
- (B) references to "executed" includes any mode of execution;
- (C) references to "other" and "otherwise" shall not be construed *eiusdem generis* where a wider construction is possible;
- (D) references to a power are to a power of any kind, whether administrative, discretionary or otherwise; and
- (E) references to a committee of the directors are to a committee established in accordance with these Articles, whether or not comprised wholly of directors.

#### **1.6 Headings**

*Headings are inserted for convenience only and do not affect the construction of these Articles.*

#### **1.7 Time Periods**

If a period of time is specified as from a given day, or from the day of an act or event, it shall be calculated exclusive of that day.

#### **1.8 Articles and Regulations**

In these Articles a reference to an Article is to a clause of these Articles and a reference to a Regulation is to a regulation in Table A.

### **2. TABLE A**

- 2.1 The regulations contained in Table A shall apply to the Company save in so far as they are varied or excluded by or are inconsistent with these Articles.
- 2.2 Regulations 24, 57, 62, 64 to 69 (inclusive), 73 to 82 (inclusive), 88, 89, 93 to 97 (inclusive) and 101 and 118 in Table A shall not apply to the Company.

### **3. ALLOTMENT OF SHARES**

- 3.1 Pursuant to Section 80 of the Act, the directors are generally and unconditionally authorised to exercise any power of the Company to allot and grant rights to subscribe for or convert securities into shares of the Company up to the amount of the



authorised share capital with which the Company is incorporated at any time or times during the period of five years from the date of incorporation and the directors may, after that period, allot any shares or grant any such rights under this authority in pursuance of an offer or agreement so to do made by the Company within that period. The authority hereby given may at any time (subject to the said Section 80) be renewed, revoked or varied by ordinary resolution of the Company in general meeting.

- 3.2 Sections 89(1) and 90(1) to (6) (inclusive) of the Act, in their application to allotments by the Company of equity securities, are hereby excluded.

#### **4. TRANSFER OF SHARES**

- 4.1 Regulation 23 in Table A shall apply to the Company as if the instrument of transfer of any share shown in the Memorandum of Association to have been taken by a subscriber to it need not be executed by or on behalf of the transferee, even where the share is not fully paid.
- 4.2 The directors may in their absolute discretion, and without giving any reason, decline to register any transfer of any share, whether or not fully paid.

#### **5. PROCEEDINGS AT GENERAL MEETINGS**

- 5.1 Where the Company has only one member, regulation 40 in Table A shall apply to the Company as if reference to two persons were a reference to one and the word "each" were omitted.

#### **6. DELIVERY OF PROXIES**

- 6.1 The appointment of a proxy and (if required by the directors) any authority under which the proxy is appointed or a copy of the authority, certified notarially or in some other manner approved by the directors, shall be deposited or received at the office (or at such other place or address, including an address for the purpose of receiving electronic communications, or delivered to such person, as may be specified or agreed by the directors) at or before the time for holding the meeting or adjourned meeting at which the person named in the appointment of proxy proposes to act or, in the case of a poll taken subsequently to the date of the meeting or adjourned meeting, at or before the time appointed for the taking of the poll, and an appointment of proxy which is not so deposited, received or delivered shall be invalid.

#### **7. BOARD OF DIRECTORS**

##### **7.1 Number of Directors**

Unless otherwise determined by ordinary resolution the number of directors (other than alternate directors) shall not be subject to any maximum but shall not be less than one.

##### **7.2 Chairman**

Subject to any Relevant Agreement, the directors may appoint a Chairman to the Board. Regulation 91 shall be modified accordingly.

##### **7.3 Remuneration**

Subject to any Relevant Agreement, no director shall be entitled to any remuneration, but each director shall be entitled to the refund of any reasonable expenses incurred in the performance of his duties as a director.

#### **7.4 Alternate Directors**

- 7.4.1 Subject to any Relevant Agreement, any director (other than an alternate director) may, with the approval of the Board in accordance with Article 8.2.2 (with the Directors acting reasonably) from time to time appoint any person (including any other Director) to be an alternate director of the Company and to attend and vote in his place, and may at any time remove from office any alternate director so appointed by him, and appoint another person in his place. Any appointment of an alternate director may provide for two or more persons in the alternative to act as an alternate director.
- 7.4.2 Any such appointment or removal shall be by notice to the Company signed by the director making or revoking the appointment and shall take effect upon service on the Company at its registered office or in any other manner approved by the directors.
- 7.4.3 An alternate director shall ipso facto cease to be an alternate director if his appointor ceases for any reason to be a director.
- 7.4.4 An alternate director shall be entitled to receive notices of all meetings of directors, and to attend, to be counted in the quorum for and to vote as a director (with the same designation as the director appointing him) at any such meeting at which the director appointing him is not personally present and generally to perform all functions of his appointor as a director in the absence of such appointor including, without prejudice to the generality of the foregoing, power to sign any written resolution.
- 7.4.5 A director acting as an alternate shall have one vote at meetings of the Board for each director for whom he acts as alternate but he shall only count as one person for the purpose of determining whether a quorum is present.
- 7.4.6 Save as otherwise provided in these Articles, an alternate director shall not have power to act as a director nor shall he be deemed to be a director for the purposes of these Articles.

#### **7.5 Alternate director responsible for own acts**

An alternate director shall be deemed to be an officer of the Company and shall alone be responsible for his own acts and defaults and the director so appointing him shall not be responsible for the acts and defaults of an alternate director so appointed.

#### **7.6 Delegation to committees**

The directors may, by means of a resolution passed with the approval of all the directors delegate any of their powers to a committee of the Board consisting of at least one director together with such other person or persons as determined

unanimously by the Board and otherwise on such terms as the Board may unanimously determine from time to time. Regulation 72 shall be modified accordingly.

## **8. PROCEEDINGS OF DIRECTORS**

### **8.1 Quorum**

8.1.1 No business shall be transacted at any meeting of the Board unless a quorum is present at the time when the meeting proceeds to business and remains present during the transaction of business.

8.1.2 Up to and including the Acquisition Completion Date, the quorum necessary for the transaction of the business of the Board shall be the presence of three Directors. Should such quorum not be constituted at any Board meeting the relevant meeting shall be adjourned for two days and at the adjourned meeting the necessary quorum shall be the presence of any two Directors.

8.1.3 Following the Acquisition Completion Date the quorum necessary for the transaction of the business of the Board shall be the present of five Directors. Should such quorum not be constituted at any Board meeting the relevant meeting shall be adjourned for seven days and at the adjourned meeting the necessary quorum shall be the presence of any two Directors.

### **8.2 Voting**

8.2.1 In respect of a resolution arising at any meeting of the Board on a Board Reserved Matter the approval of more than 75% of the votes cast shall be required.

8.2.2 All other questions arising at any meeting of the Board shall be decided by a majority of votes.

### **8.3 Matters to be submitted to the Board**

Subject to Article 8.7, all Board Relevant Matters and all other such matters which the Board shall from time to time request (not including Shareholder Reserved Matters) must be submitted to the Board for approval in accordance with Article 8.2.

### **8.4 Conflict of interests**

A director shall not be entitled to vote at any meeting of directors or of a committee of directors on any resolution concerning a matter in relation to which he has a Conflict and he shall not count in the quorum in respect of any such resolution.

### **8.5 Regulation of meetings**

8.5.1 The Chairman of the Board, or any other two directors, may, and the secretary, on the requisition of the Chairman of the Board or any other two directors, shall, at any time convene a meeting of the Board.

8.5.2 There shall not be more than 3 months between any 2 consecutive meetings of the Board.

8.5.3 A minimum of fourteen days' notice of meetings of the Board, accompanied by details of the venue for such meeting and an agenda of the business to be transacted (together with where practicable all papers to be circulated or presented to the same), shall be given to all the directors. Where the Chairman of the Board determines that urgent business has arisen, notice of meetings of the Board may be reduced to five Business Days.

8.5.4 Subject to Article 8.4 and Article 7.4.5, each director shall be entitled to one vote and in the case of an equality of votes no person, including without limitation the Chairman of the Board, shall have a second or casting vote.

#### **8.6 Meetings by Conference Facilities**

A meeting of the directors may consist of a conference between directors some or all of whom are in different places provided that each director who participates in the meeting is able:

8.6.1 to hear each of the other participating directors addressing the meeting; and

8.6.2 if he so wishes, to address each of the other participating directors simultaneously,

whether directly, by conference telephone or by any other form of communication equipment or by a combination of such methods. A quorum shall be deemed to be present if those conditions are satisfied in respect of at least the number and designation of directors required to form a quorum. A meeting held in this way shall be deemed to take place at the place where the largest group of directors is assembled or, if no such group is readily identifiable, at the place from where the chairman of the meeting participates at the start of the meeting.

#### **8.7 Signed resolutions**

A resolution or other consent executed or approved in writing by a majority (or in the case of a Board Reserved Matter, three-quarters) of the directors who would have been entitled to vote thereon had the same been proposed at a meeting of the Board shall be as valid and effective for all purposes (provided that all Directors have been given notice of such resolutions as proposed and adopted) as a resolution passed at a meeting of the Board duly convened and held and may consist of several documents in the like form, each signed by one or more of the directors.

### **9. APPOINTMENT, RETIREMENT AND REMOVAL OF DIRECTORS**

9.1 Subject to any Relevant Agreement, a member or members holding a majority in nominal value of the issued ordinary shares in the Company may appoint any person who is willing to act to be a director, either to fill a vacancy or as an additional director, and may remove from office any director however appointed. Any such appointment or removal shall be effected by an instrument in writing signed by the member or members concerned or, in the case of a corporate member, signed by one of its directors on its behalf, and shall take effect on lodgement at the registered office.

- 9.2 The directors may appoint any person who is willing to act to be a director, either to fill a vacancy or as an additional director.
- 9.3 The Company may by ordinary resolution appoint any person who is willing to act to be a director, either to fill a vacancy or as an additional director and, without prejudice to the provisions of the Act, may by ordinary resolution remove a director from office.
- 9.4 The removal of a director under Article 9.1 or 9.3 shall be without prejudice to any claim the director may have for breach of any contract of service between him and the Company.
- 9.5 No person shall be disqualified from being or becoming a director by reason of his attaining or having attained the age of 70 or any other age.

## **10. SEAL**

- 10.1 If the Company has a seal it shall only be used with the authority of the directors or of a committee of directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a director and by the secretary or a second director.
- 10.2 The obligation under regulation 6 of Table A relating to the sealing of share certificates shall apply only if the Company has a seal.
- 10.3 The Company may exercise the powers conferred by Section 39 of the Act with regard to having an official seal for use abroad, and such powers shall be vested in the directors.

## **11. INDEMNITY**

- 11.1 Every director or other officer or auditor of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted or in connection with any application under Section 144 or Section 727 of the Act in which relief is granted to him by the Court, and no director or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the execution of the duties of his office or in relation thereto. But this article shall only have effect insofar as its provisions are not avoided by Section 310 of the Act.
- 11.2 The directors shall have power to purchase and maintain for any director, officer or auditor of the Company insurance against any liability as is referred to in Section 310(1) of the Act.

Peregrine Secretarial Services Limited  
Level 1  
Exchange House  
Primrose Street  
London EC2A 2HS

Dated the [ ] day of [ ] 20[ ]

Karma Lhamo Cosgrove  
24 Talma Gardens  
Twickenham  
Middlesex  
TW2 7RD