

# ARTICLES OF ASSOCIATION

Version from September 2011.



## **I. General Provisions**

### **§ 1**

1. The name of the Company established in 1875 as the partnership "Gebr. Helfmann", and converted into a joint stock company in 1896 shall be:

HOCHTIEF Aktiengesellschaft

2. The registered office of the Company shall be in Essen, Germany.

### **§ 2**

1. The object of the Company shall be the management of a group of companies active, without limitation, in the following areas:
  - a) the performance of all kinds of construction work for their own account and for the account of third parties;
  - b) the acquisition, sale or other use and the letting of land and buildings and the performance of services in relation to buildings;
  - c) the performance of all auxiliary activities relating to the construction trade, including, without limitation, the purchasing, manufacture and utilization of construction material, plant and equipment;
  - d) the design and planning of and the performance of design calculations for works;
  - e) the construction and operation of all types of plants relating to environmental engineering;
  - f) the construction and operation of facilities designed for passenger and freight transport;
  - g) the conclusion and administration of insurance contracts related to construction activities;
  - h) the acquisition and administration of participating interests in airport companies and the acquisition of franchises for the construction and/or operation of airports or individual components of airports or the performance of services at airports;
  - i) the development and marketing of information and internet technology related to construction and the performance of services connected therewith;
  - j) the utilization of patents and other industrial property rights in all areas pursuant to the object of the Company.
  - k) the acquisition, construction and/or operation of infrastructure systems of all types including traffic infrastructure systems (for example, roads, tunnels, bridges, ports, air traffic and other traffic control systems) and social infrastructure systems (for example, schools, universities, leisure facilities) and the acquisition of concessions for the acquisition, construction and/or operation of such infrastructure systems and the performance of services in connection with such infrastructure systems).
2. The Company shall be entitled to be active itself in the fields listed in paragraph (1) of this Section 2. The Company shall be entitled, either alone or in partnership with others, to carry out all business and take all measures which may be related directly or indirectly to the object of the Company or which may be deemed to serve the object of

the Company. The Company shall also be entitled – also for investment purposes – to found all types of other companies, purchase and sell or acquire interests in other companies and to place such companies under joint management, to limit itself to the administration of its participating interest in such companies or to dispose of its interest in such companies. The Company shall be entitled to spin off or transfer its business in whole or in part to other companies in its group.

### **§ 3**

1. Public notices of the Company shall be published in the Electronic Federal Gazette (Elektronischer Bundesanzeiger), unless otherwise required by law.
2. The financial year of the Company shall be the calendar year.

## **II. Share Capital and Shares**

### **§ 4**

1. The share capital of the Company shall be EUR 197,119,997.44 (one hundred and ninetyseven million one hundred nineteen thousand nine hundred and ninety-seven euros and forty-four euro cents).
2. The share capital shall be divided into 76,999,999 no-par-value shares.
3. In the event of an increase in the share capital, the Company may resolve to distribute its profit in a manner other than that laid down in § 60 of the Joint Stock Companies Act.
4. The share capital will be conditionally increased by up to EUR 49,280,000.00, divided into up to 19,250,000 no-par-value bearer shares (conditional capital). The conditional capital increase will only be implemented to the extent that the bearers or creditors of option or conversion rights or those with an obligation to convert/exercise options from warrant-linked or convertible bonds, profit participation rights or participating bonds (or a combination of these instruments) issued against cash contribution that were issued or guaranteed by HOCHTIEF Aktiengesellschaft or a subordinate Group company of HOCHTIEF Aktiengesellschaft on or before May 11, 2016 as a result of the authorization of the Executive Board by way of the resolution by the General Shareholders' Meeting passed on May 12, 2011 actually use their option or conversion rights or, to the extent that they are obliged to convert/exercise their options, fulfill their obligation to convert/exercise their options or to the extent that HOCHTIEF Aktiengesellschaft exercises an option to grant shares of HOCHTIEF Aktiengesellschaft in whole or in part instead of payment of the cash amount due provided no cash compensation is granted or treasury shares or shares of another listed company are used for servicing in each case. New shares are issued at the option or conversion price to be determined in each case according to the authorization resolution detailed above. The new shares participate in profits from the start of the fiscal year in which they are created. The Executive Board is authorized, subject to the approval of the Supervisory Board, to determine the further details of the conditional capital increase.

5. The Executive Board is authorized, subject to the approval of the Supervisory Board, to increase the share capital on or before May 10, 2015 by issuing new, no-par-value bearer shares against cash and/or non-cash contributions, on one or several occasions, up to a total of EUR 35,840,002.56 (authorized capital I). In so doing, the shareholders must be granted subscription rights. However, the Executive Board is authorized, subject to the approval of the Supervisory Board, to exclude shareholders' subscription rights up to an amount when using this authorization once or several times that is not more than 10% of the share capital on the date this authorization becomes effective and—if this value is lower—the share capital which exists on the date this authorization is exercised, in order to issue the new shares against cash contributions at an issuing price which is not significantly lower than the stock market price of the shares of the company which are already listed on the date the issuing amount is finally determined. Treasury shares are added to this 10% threshold if these are sold during the term of this authorization until the subscription right-free issue of the new shares pursuant to Section 186 (3) Sentence 4 AktG under exclusion of subscription rights within the meaning of Section 186 (3) Sentence 4 AktG. In addition, the 10% threshold described above must also include the shares which are issued to service debentures with conversion and/or option rights or obligations attached to them to the extent that the debentures are issued based on the authorization of the General Shareholders' Meeting on May 11, 2010 (agenda item 8) with corresponding application of Section 186 (3) Sentence 4 AktG excluding shareholders' subscription rights. In addition, the Executive Board is authorized, subject to the approval of the Supervisory Board, to exclude subscription rights of shareholders up to an amount that is not more than 20% of the share capital on the date this authorization becomes effective and—if this value is lower—the share capital which exists on the date this authorization is exercised, to the extent that the capital increased against non-cash contributions is used to acquire companies, parts of companies or equity participations in companies or other assets. In addition, the Executive Board is authorized, subject to the approval of the Supervisory Board, to exclude fractions from the shareholders' subscription rights. In addition, the Executive Board is authorized, subject to the approval of the Supervisory Board, to exclude subscription rights to the extent that this is necessary to grant the holders of warrants or convertible bonds or warrant-linked or convertible profit participation rights or warrantlinked or convertible participating bonds that were issued by the company or a subordinate Group company subscription rights to new shares in the same amount that they would have been due after exercising their option or conversion rights or after fulfillment of the option or conversion obligations. The authorizations to exclude subscription rights contained in the preceding paragraphs are limited to a total amount that is not more than 20% of the share capital on the date this authorization becomes effective and—if this value is lower—the share capital which exists on the date this authorization is exercised. Treasury shares are added to this 20% threshold if these are sold during the term of this authorization until the subscription right-free issue of the new shares pursuant to Section 186 (3) Sentence 4 AktG under exclusion of subscription rights. In addition, the 20% threshold described above must also include the shares which are issued to service debentures with conversion and/or option rights or obligations attached to them to the extent that

they are issued based on the authorization of the General Shareholders' Meeting on May 11, 2010 (agenda item 8) excluding shareholders' subscription rights. The content of the share rights and the further conditions of the share issue including the issuing amount will be decided by the Executive Board subject to the approval of the Supervisory Board.

6. The Executive Board is authorized, subject to the approval of the Supervisory Board, to increase the share capital on or before May 11, 2016 by issuing new no-par-value bearer shares against cash and/or non-cash contributions, on one or several occasions, up to a total of EUR 23,296,000.00 (authorized capital II). In so doing, the shareholders must be granted subscription rights.

However, the Executive Board is authorized, subject to the approval of the Supervisory Board, to exclude shareholders' subscription rights up to an amount when using this authorization once or several times that is not more than 10% of the share capital on the date this authorization becomes effective and—if this value is lower—the share capital which exists on the date this authorization is exercised, in order to issue the new shares against cash contributions at an issuing price which is not significantly lower than the stock market price of the shares of the company which are already listed on the date the issuing amount is finally determined. Treasury shares are added to this 10% threshold if these are sold during the term of this authorization until the subscription right-free issue of the new shares pursuant to Section 186 (3) Sentence 4 AktG under exclusion of subscription rights within the meaning of Section 186 (3) Sentence 4 AktG. In addition, the 10% threshold described above must also include the shares which are issued to service debentures with conversion and/or option rights or obligations attached to them to the extent that the debentures are issued based on the authorization of the General Shareholders' Meeting on May 12, 2011 (agenda item 8) with corresponding application of Section 186 (3) Sentence 4 AktG excluding shareholders' subscription rights. In addition, the Executive Board is authorized, subject to the approval of the Supervisory Board, to exclude subscription rights of shareholders up to an amount that is not more than 10% of the share capital on the date this authorization becomes effective and—if this value is lower—the share capital which exists on the date this authorization is exercised, to the extent that the capital increased against non-cash contributions is used to acquire companies, parts of companies or participating interests in companies or other assets. In addition, the Executive Board is authorized, subject to the approval of the Supervisory Board, to exclude fractions from the shareholders' subscription rights. The Executive Board is similarly authorized, subject to the approval of the Supervisory Board, to exclude subscription rights to the extent that this is necessary to grant the holders of warrants or convertible bonds or warrant-linked or convertible profit participation rights or warrant-linked or convertible participating bonds that were issued by the company or a subordinate Group company subscription rights to new shares in the same amount that they would have been due after exercising their option or conversion rights or after fulfillment of the option or conversion obligations. The content of the share rights and the further conditions of the share issue including the issuing amount will be decided by the Executive Board subject to the approval of the Supervisory Board.

**§ 5**

1. The shares in the Company shall be bearer shares.
2. The shareholders shall not be entitled to documentary evidence of the shares held.
3. The form and wording of the share certificates, dividend warrants and renewal coupons shall be determined by the Executive Board.

**III. Organization of the Company****§ 6**

The Company shall have the following organs:

- A) The Executive Board (Vorstand)
- B) The Supervisory Board (Aufsichtsrat)
- C) The General Shareholders' Meeting (Hauptversammlung)

**A. Executive Board****§ 7**

1. The Executive Board shall consist of at least 3 (three) members.
2. The Executive Board shall issue its own standing orders.

**§ 8**

1. Two members of the Executive Board acting jointly or one member of said Board and a person holding official power of attorney for the company (Prokurist), acting jointly, shall be entitled to act on behalf of the company.
2. The Company may also be jointly represented by two persons holding official power of attorney for the company (Prokuristen).

**B. Supervisory Board****§ 9**

1. The Supervisory Board shall consist of such number of members as may be prescribed by law.
2. The Supervisory Board shall appoint the members of the Executive Board and shall determine their number.
3. The members of the Supervisory Board shall hold office until the end of the General Shareholders' Meeting at which they are discharged from responsibility for the fourth financial year after commencement of their period of office, not counting the financial year in which their period of office commenced.
4. The shareholders in General Shareholders' Meeting shall be entitled to appoint deputies simultaneously with the Supervisory Board members to be elected by them. A deputy member shall become a member of the Supervisory Board, if the Supervisory Board member to whom he was appointed deputy resigns his office prior to the expiration of his period of office, and shall hold office until the end of the General Shareholders' Meeting at which a by-election is held, always provided that the period of office of any deputy member who so becomes a member of the Supervisory Board

shall end at the latest on the date when the period of office of the member of said Board to which he was appointed deputy would have ended.

5. By-elections shall be held for the remainder of the period of office of any member of the Supervisory Board who resigns prior to the end of his period of office.

#### **§ 10**

Any member of the Supervisory Board shall be entitled to resign from office by giving four weeks' written notice.

#### **§ 11**

1. Subsequent to the General Shareholders' Meeting at which the Supervisory Board members representing the shareholders have been newly elected, the Supervisory Board shall, at a meeting for which no special invitation shall be required, elect, in accordance with the provisions of the Codetermination Act, from among its members a Chairman and a Deputy Chairman for the duration of its period of office. At said meeting, the eldest member of the Supervisory Board shall preside.
2. Should the Chairman of the Supervisory Board or his Deputy resign his office prior to the expiration of his period of office, the Supervisory Board shall, upon the request of any member of the Supervisory Board, promptly elect a new Chairman or Deputy Chairman as the case may be prior to other resolutions.

#### **§ 12**

1. Meetings of the Supervisory Board shall be convened by the Chairman in writing, by fax or by electronic media with at least two weeks' notice. In urgent cases the Chairman of the Supervisory Board may appropriately shorten this notice and also convene meetings orally or by phone. The agenda of any meeting shall be submitted with the invitation to the meeting. Proposals for resolutions on matters on the agenda of any meeting shall be disclosed before the meeting to enable any members of the Supervisory Board who are absent from the meeting to vote in writing on such proposals.
2. Resolutions on matters on the agenda which have not been notified to the members in good time shall not be passed without the approval of all the members of the Supervisory Board. In any such case, the Chairman of the Supervisory Board shall grant any Supervisory Board members who are absent from the meeting a reasonable period of time for contesting any resolution so adopted and such resolution shall not become effective unless it is not contested by any absent Supervisory Board member within said period.
3. Any resolution of the Supervisory Board may also be passed outside a Supervisory Board meeting by votes cast orally, by telephone, by letter, fax, by e-mail or other commonly used electronic media, in particular by video conference if the Chairman has requested voting in such manner. The members of the Supervisory Board shall not have a right to object. For any resolution passed outside meetings the Chairman of the Supervisory Board must sign the records and immediately forward them to all members.

**§ 13**

1. For the purpose of passing resolutions, one half of the total number of members of the Supervisory Board shall constitute a quorum. Absent members of the Supervisory Board may vote on any resolution in writing. A written vote shall also be accepted if this vote is cast by fax or using electronic media.
2. If members representing the shareholders and members representing the employees do not participate in equal numbers in voting on any resolution or the Chairman does not participate in voting on any resolution, voting on said resolution may be postponed at the request of two Supervisory Board members. Voting on any resolution so postponed shall not be postponed again at the request of a minority.
3. The members of the Executive Board shall attend the meetings of the Supervisory Board unless the Supervisory Board otherwise determines in any specific case.

**§ 14**

1. Resolutions of the Supervisory Board shall be passed by a simple majority of the votes cast, except where any other majority is required by law. If the numbers of votes cast by the members of the Supervisory Board for and against any resolution are equal, a second vote on said resolution shall be taken at the same meeting, unless the Chairman of the Supervisory Board orders an adjournment by a period not exceeding two weeks. § 29, para. 2 of the Codetermination Act shall apply.
2. The Chairman of the Supervisory Board shall determine the procedure, course and mode of voting.
3. Minutes shall be made of each meeting of the Supervisory Board and signed by the Chairman of said meeting.

**§ 15**

The Supervisory Board shall be entitled to make amendments to these Articles of Association which affect only the wording thereof.

**§ 16**

1. Immediately after the election of the Chairman of the Supervisory Board and his deputy, the Supervisory Board shall form a committee for the purpose of performing the task laid down in § 31, para. 3, sentence 1 of the Codetermination Act. Said committee shall consist of the Chairman of the Supervisory Board, his deputy and two further members, one of whom shall be elected by the Supervisory Board members representing the shareholders by a majority of the votes cast and one of whom shall be elected by the Supervisory Board members representing the employees by a majority of the votes cast.
2. The Supervisory Board shall be entitled to constitute additional committees of its members. In particular it may assign to a committee of the Supervisory Board authorization to conclude, amend and terminate employment contracts with the members of the Executive Board.
3. The provisions of Articles 11 to 14 hereinabove shall apply mutatis mutandis to committees of the Supervisory Board to the extent permitted by law.

**§ 17**

Declarations of intent by the Supervisory Board or its committees shall be made by the Chairman on behalf of the Supervisory Board.

**§ 18**

1. Each member of the Supervisory Board shall receive a fixed fee of EUR 12,000.00 per calendar year plus a fee of EUR 2,000 per meeting attended. In addition, members of the Supervisory Board shall receive reimbursement of their expenses including any value added tax which may be payable on their remuneration.
2. In addition to remuneration under Para (1) of this § 18, each member of the Supervisory Board shall be entitled to EUR 500.00 for each EUR 0.01 by which the net profit distributed exceeds EUR 0.10 per share.
3. The Chairman of the Supervisory Board shall receive three times the amount of the annual payments laid down in paragraphs (1) and (2) of this Article 18, his deputy and the chairman of any committee of the Supervisory Board shall be paid twice the amount of said annual payments and the other members of such committees shall be paid one and a half times the amount of said annual payment. Any member of the Supervisory Board who holds more than one of these positions at any time shall receive the appropriate payment for the position to which the highest payment is attached. Persons who are members of the Supervisory Board for only part of any financial year shall receive a pro rata share of the remuneration for the financial year concerned calculated on the basis of the duration of their membership.
4. The Company shall be entitled to conclude for the members of the Supervisory Board a liability insurance contract at normal market conditions covering them against their statutory liability in connection with their activities as Supervisory Board members.

**§ 19**

The Executive Board shall be entitled, in accordance with the directives of the Supervisory Board, to appoint individual persons as expert consultants on important matters and to determine their fees.

**C. General Shareholders' Meeting****§ 20**

1. The general shareholders' meetings of the Company shall be held at the place where the registered office of the Company is located or another city in the Federal Republic of Germany with a population of more than 100,000.
2. The General Shareholders' Meeting shall be convened with the period allowed by law.
3. The transmission of notifications pursuant to Section 125 (1) of the German Stock Corporations Act (AktG) is limited by Section 125 (2) Sentence 2 AktG and Section 128 (1) Sentence 2 AktG to electronic means of communication provided the prerequisites of Section 30b (3) No. 1 d of the German Securities Trading Act (WpHG) are satisfied.

**§ 21**

1. Only shareholders who register with the company and submit proof of entitlement shall be entitled to attend and vote at a General Shareholders' Meeting.
2. Such registrations shall be sent to the company (at the address stated in the notice of the General Shareholders' Meeting) at least six days before the General Shareholders' Meeting. The notice convening the General Shareholders' Meeting can provide for a shorter period of time (stated in days). The day of receipt is not counted.
3. Registration and proof of entitlement must be made in text form and in the German or English language. Shareholders may demonstrate their entitlement by submitting a special confirmation of the shareholding in text form issued by the bank holding their custody account. Proof of entitlement must refer to 0:00 hours of the 21st day before the meeting and must reach the company at the address provided in the notice at least six days before the meeting. The notice convening the General Shareholders' Meeting can provide for a shorter period of time (stated in days). The day of receipt is not counted.
4. The Executive Board can allow shareholders to participate in the General Shareholders' Meeting without being present at its location and without a proxy and to exercise all or some of their rights wholly or in part by electronic means of communication. The Executive Board can also allow shareholders not attending the General Shareholders' Meeting to cast their votes in writing or by electronic means of communication (absentee vote).

**§ 22**

1. Each General Shareholders' Meeting shall be chaired by the Chairman of the Supervisory Board or any other Supervisory Board member representing the shareholders elected by the members of the Supervisory Board.
2. The Chairman shall determine the procedure, course and mode of voting, and in particular shall be entitled to have the votes for elections to the Supervisory Board cast for lists of candidates.
3. The company shall be entitled but not obligated to cause audio or video transmissions to be made of any General Shareholders' Meeting; such transmissions may also be made in a form which is accessible to the general public without any restrictions. The Chairman of the General Shareholders' Meeting shall decide on any such transmissions and on the type and scope thereof.
4. The chairman of the meeting shall be entitled to set reasonable limits on the time available to shareholders for speaking and asking questions. Without limitation, the chairman of the meeting shall be entitled, either at the beginning of a General Shareholders' Meeting or during such meeting, to set reasonable time limits for the duration of the entire meeting, individual agenda items or speeches made or questions asked by individual shareholders."

**§ 23**

1. Resolutions at general shareholders' meetings shall be passed by a simple majority of the votes cast unless otherwise required by law.
2. Each shareholder shall be entitled to one vote for each share held by him.
3. Where the law, apart from a majority of votes, requires a majority of the share capital represented at any General Shareholders' Meeting for passing a resolution, a simple majority shall be sufficient except where any other majority is required by law.
4. If in an election an overall majority is not reached in the first ballot, a second ballot shall take place between the two persons having reached the highest number of votes. If an equal number of votes is cast for both candidates in any such second ballot, the decision shall be taken by lot.
5. Voting rights may also be exercised by proxies. If the shareholder authorizes more than one person, the company can reject one or several of them. Proxies shall be granted, canceled and substantiated to the company in text form; this does not affect Section 135 of the German Stock Corporations Act. The notice convening the meeting can include a simplification of the form. Proof of authorization can be sent by electronic means of communication to be stipulated in the notice.
6. The General Shareholders' Meeting shall also be entitled to resolve that dividends be paid in kind.