

PRIVATE COMPANY LIMITED BY SHARES

COMPANIES HOUSE
EDINBURGH

06 JAN 2020

FRONT DESK

WRITTEN RESOLUTION
OF
ELGIN INFRASTRUCTURE LIMITED
COMPANY NUMBER: SC366432

(the Company)

By written resolution passed by the members of the Company on 3 January 2020
the following resolution was passed as a special resolution:

"THAT the articles of association in the form attached to this resolution be adopted as the articles of association of the Company in place, and to the exclusion, of its existing articles of association."


Director

MONDAY



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SCT

06/01/2020

#71

COMPANIES HOUSE

11 December 2019
EUW/EUW/101023.00143/68010376.3

The Companies Act 2006

Private Company Limited By Shares

Dated 3 January 2020

New Articles of Association

of

Elgin Infrastructure Limited

(incorporated in Scotland under registered number SC366432)

(Adopted by special Resolution passed on 3 January 2020)

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PRELIMINARY

1 Model Articles

- 1.1 The articles of association of the Company (the **Articles**) shall comprise the regulations contained herein together with the regulations contained in Schedule 3 to the Companies (Model Articles) Regulations (SI 2008/3229) (the **Regulations**), save insofar as they are excluded or modified by, or are inconsistent with, the regulations contained herein.
- 1.2 The whole of Regulations 5(2), 6(2), 9, 10, 11, 13(3), 14, 16, 19, 20, 21, 23(2), 23(3), 23(4), 25(1), 25(3)(b), 26(3)(a), 28, 30, 32, 33, 34, 36, 37(4), 37(5), 37(7), 37(8), 39, 40, 42, 43(2), 46(2)(a), 50, 52(2)(b), 63(5), 64, 67(3), 70(5), 70(6), 70(7), 80, 81, 85 and 86 shall not apply to the Company.

2 Definitions and interpretation

- 2.1 In these Articles the following expressions shall have the following meanings:

Act means the Companies Act 2006.

Allotment Notice shall be as defined in Article 4.1. Allotment Shares shall be as defined in Article 4.1. Articles shall be as defined in Article 1.1.

Auditors means the auditors of the Company from time to time.

Available Profits means profits available for distribution within the meaning of the Act.

Board means the board of directors of the Company (or any duly authorised committee thereof) from time to time.

Business Day means any day other than a Saturday, Sunday or English bank or public holiday.

Cobalt means Cobalt Project Investments Limited, a company incorporated and registered in England (with registered number 08647103) whose registered office is at One Park Row, Leeds LS1 5AB.

Cobalt Default Event means any of the events set out in clause 3.2 of the Shareholders' Agreement.

Cobalt Director means a Director appointed by Cobalt pursuant to the Shareholder's Agreement.

Cobalt Related Entity means each member of Dalmore Group, any Dalmore Fund and any participators and investors in any Dalmore Fund.

Company's website means any website operated or controlled by the Company which contain information about the company.

Dalmore Fund means any fund, partnership, investment vehicle or other entity (whether corporate or otherwise) established in any jurisdiction and which is either (a) managed or advised by any member of the Dalmore Group or (b) utilised for the purpose of allowing Dalmore Group employees and former employees to participate directly or indirectly in the growth in the value of the Company.

Dalmore Group means Dalmore and each of its subsidiary undertakings, any parent undertaking of Dalmore and any subsidiary undertakings of such parent undertaking.

Dalmore means Dalmore Capital Limited (registered in England and Wales with number 06849002) whose registered office is at 1 Park Row, Leeds LS1 5AB.

Default Event means an Ednaston Default Event or a Cobalt Default Event.

Defaulting Shareholder means any Shareholder in relation to whom a Default Event has occurred or who is a Non-Complying Shareholder.

Director Conflict shall be as defined in Article 15.4.

Director means a director of the Company from time to time.

Ednaston means Ednaston Project Investments Limited (registered in England and Wales with number 12350953) whose registered office is at 1 Park Row, Leeds LS1 5AB.

Ednaston Default Event means any of the events set out in clause 3.1 of the Shareholders' Agreement.

Ednaston Director means a Director appointed by Ednaston pursuant to the Shareholders' Agreement.

Ednaston Entity means each member of Dalmore Group, any Dalmore Fund and any participators and investors in any Dalmore Fund.

Encumbrance means a mortgage, charge, pledge, lien, option, restriction, right of first refusal, right of pre-emption, third party right or interest or other encumbrance or security interest of any kind.

Excluded Notice means a notice to a Defaulting Shareholder under Article 8.3 or a notice to appoint or remove a Director under Article 12.

Fund Manager means a person whose principal business is to make, manage or advise upon investments.

Fund means a fund, undertaking, syndicate or other entity whose principal business is to make investments and whose business is managed by a Fund Manager.

Fund Participant shall be as defined in Article 8.6.

group means in relation to any undertaking, each subsidiary undertaking of the undertaking, the undertaking's parent undertaking and each subsidiary undertaking of that parent undertaking and, in the case of any Ordinary Shareholder's group, **undertaking** shall include any entity or investment vehicle formed or incorporated in any jurisdiction and such a vehicle or entity will be a subsidiary undertaking of a parent undertaking if the parent undertaking has a majority economic interest.

Group means the Company and any company which is a subsidiary undertaking of the Company from time to time and references to **Group Company** and **members of the Group** shall be construed accordingly.

In electronic form means in a form specified by section 1168(3) of the Act and otherwise complying with the requirements of section 1168 of that Act.

Issue Price means the price at which the relevant Share is issued, being the aggregate of the amount paid up or credited as paid up in respect of the nominal value thereof and any share premium thereon.

Key Reserved Matters shall be as defined in the Shareholders' Agreement.

Loan Note Instrument means the loan note instrument dated 29 January 2010 constituting £31,172,504 nominal value loan notes in the Company.

Loan Notes means the loan notes issued and outstanding pursuant to the Loan Note Instrument.

Non-Accepting Shareholder shall be as defined in Article 4.2.

Non-Complying Shareholder shall be as defined in Article 8.3.

Non-Defaulting Shareholders means the holders of Ordinary Shares from time to time other than a Defaulting Shareholder.

Non-Transferring Shareholder shall be as defined in Article 10.1.

Ordinary Shares means the ordinary shares of £1 each in the capital of the Company.

Permitted Transferee means any person to whom a Share or loan note is transferred in accordance with Article 9 (Permitted Transfers).

Related Entity means, in the case of an Ednaston Related Entity, another Ednaston Related Entity and, in the case of a Cobalt Related Entity, another Cobalt Related Entity

Relevant Shares shall be as defined in Article 8.3.

Reserved Matters shall be as defined in the Shareholders' Agreement.

Response Notice shall be as defined in Article 10.3.

Sale Agreement shall be as defined in Article 10.4.

Sale Price shall be as defined in Article 10.1.

Sale Shares shall be as defined in Article 10.1.

Second Offer Period shall be as defined in Article 4.2.

Share means any share in the capital of the Company from time to time.

Shareholder Communication means any notice, resolution, document or information which the Company wishes or is required to communicate with Shareholders or other persons.

Shareholder means any holder of any Share from time to time.

Shareholders' Agreement means the shareholders' agreement dated on around the date of adoption of these articles and made between (1) the Company, (2) Cobalt and (3) Ednaston, as amended and novated from time to time.

Situation Conflict shall mean a direct or indirect interest of a director that conflicts, or may possibly conflict, with the interests of the Company other than a Transaction Conflict or a situation which could not reasonably be regarded as likely to give rise to a conflict of interest. For these purposes a conflict of interest shall include both a conflict of interest and a conflict of duties.

Statutes means the Act and the Electronic Communications Act 2000 (including any subordinate legislation made under them).

Subscription Price shall be as defined in Article 4.1.

Total Transfer Condition means a condition that unless all the Shares specified in a Transfer Notice are sold under Article 10, none shall be sold.

Transaction Conflict means a direct or indirect conflict of interest of a director which arises in relation to an existing or proposed transaction or arrangement within the Company.

Transfer Notice shall be as defined in Article 10.1.

Transferring Shareholder shall be as defined in Article 10.1.

website communication means the publication of a Shareholder Communication on the Company's website in accordance with Part 4 of Schedule 5 of the Act.

- 2.2 Unless the context otherwise requires, words and expressions defined in or having a meaning provided by the Act shall have the same meaning in these Articles.
- 2.3 Unless the context otherwise requires, references in these Articles to:
- (a) any of the masculine, feminine and neuter genders shall include other genders;
 - (b) the singular shall include the plural and vice versa;
 - (c) a person shall include a reference to any natural person, body corporate, unincorporated association, partnership, firm or trust;
 - (d) any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified, consolidated, re-enacted or replaced.
- 2.4 The headings in these Articles are for convenience only and shall not affect their meaning.
- 2.5 In construing these Articles, general words introduced by the word "other" shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things and general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words.

3 Share capital

The share capital of the Company at the date of adoption of these Articles is divided into 9,376,000 Ordinary Shares.

4 Issues of Shares

- 4.1 No Shares may be allotted by the Company unless they are first offered to all Shareholders pro rata to their existing shareholding (save where a Shareholder is a Defaulting Shareholder, in which case the Board (in its absolute discretion) may, but shall not be obliged to, offer the Allotment Shares to such Defaulting Shareholder). If the Company proposes to allot any Shares, it shall forthwith give notice in writing of such proposal to each Shareholder (the **Allotment Notice**). Each Allotment Notice shall specify the relevant Shareholder's pro rata entitlement (the **Allotment Shares**) and the price per Share at which the Company proposes to allot the Allotment Shares (the **Subscription Price**).
- 4.2 Each Shareholder shall have a period of 15 Business Days after service of the Allotment Notice within which to accept the offer of Allotment Shares. To the extent a Shareholder (the **Non-Accepting Shareholder**) does not accept their offer of Allotment Shares, the Company shall be deemed to have offered the relevant Allotment Shares to the other Shareholder at the Subscription Price, such offer to remain open for acceptance for at least 10 Business Days from the date on which the Non-Accepting Shareholder rejected their offer (the **Second Offer Period**). Any Allotment Shares which have not been accepted at the expiry of the Second Offer Period shall be at the disposal of the Board who may allot, grant options over or otherwise dispose of such Allotment Shares to any person and on any terms provided the price per Share and other terms offered to such a person shall not be more favourable than the price and terms offered to the Shareholders in the Allotment Notice.
- 4.3 Any allotment of Allotment Shares shall be made as soon as practicable following acceptance of the offer by all Shareholders or by the end of the period ending 1 month from the expiry of the Second Offer Period (whichever is earlier).
- 4.4 Articles 4.1 and 4.2 will also apply (with the necessary amendments) to the grant of any right or option to subscribe for Shares.
- 4.5 No new class of Shares may be allotted without the written consent of Shareholders holding 75% of the Ordinary Shares.
- 4.6 Section 561 of the Act is excluded and accordingly shall not apply to the allotment of equity securities by the Company.

SHARE RIGHTS

5 Dividend rights

Subject to the Board recommending payment of the same and to applicable law, any Available Profits which the Company may determine to distribute in respect of any financial year shall be distributed amongst the holders of Ordinary Shares pro rata according to the number of Ordinary Shares held by the relevant Shareholder at the relevant time.

6 Return of capital rights

- 6.1 The rights as regards return of capital attaching to each class of Shares shall be as set out in this Article.
- 6.2 On a return of capital on liquidation or otherwise (except on a redemption or purchase by the Company of any Shares), the surplus assets of the Company remaining after the payment of its liabilities shall be distributed amongst the holders of the Ordinary Shares *pari passu* according to the amount paid up or credited as paid up on each such Share.

7 Voting rights

- 7.1 The voting rights attached to each class of Shares shall be as set out in this Article:
- (a) on a written resolution, every Shareholder holding one or more Ordinary Shares on the date on which the resolution is circulated as required by the Act shall, subject to sections 289 and 290 of the Act, have one vote for each Ordinary Share held by them;
 - (b) on a resolution to be passed at a general meeting of the Company on a show of hands, every qualifying person (as defined in section 318(3) of the Act) present shall, subject to section 323(4) of the Act, have one vote; and
 - (c) on a resolution to be passed at a general meeting of the Company on a poll, every Shareholder holding one or more Ordinary Shares, who (being an individual) is present in person or by proxy or (being a corporation) is present by a duly authorised representative or by proxy, shall have one vote for each Ordinary Share of which they are the holder.
- 7.2 If at any time a Default Event has occurred, then new shares in the Company may be issued, including shares ranking ahead of or *pari passu* with a Defaulting Shareholder's Shares, without the consent of a Defaulting Shareholder.
- 7.3 The provisions of Article 7.2 shall continue for so long as the Default Event subsists.
- 7.4 For the avoidance of doubt, the provisions in Article 7.2 shall enable the Non-Defaulting Shareholders to consent to the holding of a general meeting of the Company on short notice pursuant to the Act on the basis that the Non-Defaulting Shareholders would be the only Shareholders who would be entitled to attend and vote at the general meeting.

TRANSFERS

8 Transfers of shares and Loan Notes

- 8.1 Any person who holds, or who becomes entitled to any Share shall not, without the written consent of the holders of 75% of the Ordinary Shares, effect a transfer of any Shares except in accordance with Article 9 (Permitted Transfers) or Article 10 (*Pre-Emption Rights*).
- 8.2 Any purported transfer of Shares which is not in accordance with these Articles (including any transfer of the beneficial interest in any Share by a nominee to a third party to whom a transfer would not be permitted under Article 9 (*Permitted Transfers*)) is void and the Company shall refuse to register any such transfer but may not otherwise refuse to register any transfer of Shares.

8.3 To ensure that a particular transfer of Shares is permitted under these Articles, the Company may ask the transferor, or the person named as transferee in any transfer lodged for registration, to give the Company any information and evidence that the Board reasonably think is necessary or relevant. If that information or evidence is not furnished to the satisfaction of the Board within 10 Business Days after the request, the Board may notify the relevant Shareholder (the **Non-Complying Shareholder**) that a breach of the transfer provisions of these Articles is deemed to have occurred, whereupon:

- (a) the Company shall refuse to register any transfer of the Relevant Shares (otherwise than with the written consent of the holders of 75% of the Ordinary Shares);
- (b) the Relevant Shares shall cease to confer on the holder thereof (or any proxy thereof) any rights:
 - (i) to vote (whether on a show of hands or on a poll and whether exercisable at a general meeting of the Company or at any separate meeting of the class in question); or
 - (ii) to receive dividends or other distributions (other than the Issue Price of the Relevant Shares upon a return of capital)

otherwise attaching to the Relevant Shares or to any further Shares issued pursuant to the exercise of a right attaching to the Relevant Shares or in pursuance of an offer made to the holder thereof.

The rights referred to in Article 8.3(b) may be reinstated by the Board (with the consent of the holders of 75% of the Ordinary Shares) at any time. The expression "Relevant Shares" shall mean the Shares which the Non-Complying Shareholder holds or to which they are entitled and any Shares formerly held by them which have been transferred in breach of Article 8.1 or in accordance with Article 9 (*Permitted Transfers*).

8.4 Each Shareholder hereby irrevocably appoints any Director as their agent to execute, complete and deliver any form of transfer or other document required to give effect to the provisions of these Articles for and on their behalf.

8.5 The references in Articles 8.2 and 8.3 to the transfer of a Share shall mean the transfer of either or both of the legal and beneficial ownership in such Share and/or the grant of an option to acquire either or both of the legal and beneficial ownership in such Share and the following shall be deemed (but without limitation) to be a transfer of a Share:

- (a) any direction (by way of renunciation or otherwise) by a Shareholder entitled to an allotment or issue of any Share that such Share shall be allotted or issued to some person other than them;
- (b) any sale or other disposition of any legal or equitable interest in a Share (including any voting right attached thereto) and whether or not by the registered holder thereof and whether or not for consideration or otherwise and whether or not effected by an instrument in writing; and
- (c) any grant of a legal or equitable Encumbrance over any Share.

8.6 Notwithstanding the wording of Article 8.5, any transfer by any partner, unitholder, shareholder, or other participant in, or operator, manager or custodian of, any Fund (a **Fund Participant**) (or by any trustee or nominee for any such Fund Participant) of any interest in

such Fund to any person who is, or as a result of such transfer becomes, a Fund Participant, shall not, and shall not be deemed to, be a transfer of Shares for any purpose under these Articles.

- 8.7 The provisions of Article 8 (*Transfers of Shares and Loan Notes*), Article 9 (*Permitted Transfers*) and Article 10 (*Pre-emption Rights*) shall apply mutatis mutandis to any proposed transfer of any Loan Notes.

9 Permitted Transfers

- 9.1 Notwithstanding the provisions of Article 8 (*Transfer of Shares*), if a transfer is permitted under this Article 9 then it may be made and shall be registered without any restriction or condition other than those in, or contemplated by, these Articles. Article 10 (*Pre-Emption Rights*) will not apply to such a transfer.
- 9.2 A Shareholder may transfer any Share to another undertaking in that Shareholder's group. If a Shareholder ceases to be in the same group as the entity which originally held their Shares then they must immediately transfer their Shares to an undertaking in such original entity's group.
- 9.3 Any Shareholder which is an Ednaston Related Entity may transfer Shares to another Ednaston Related Entity. If a Shareholder ceases to be an Ednaston Related Entity then it must immediately transfer its Shares to another Ednaston Related Entity.
- 9.4 Any Shareholder which is a Cobalt Related Entity may transfer Shares to another Cobalt Related Entity. If a Shareholder ceases to be a Cobalt Related Entity then it must immediately transfer its Shares to another Cobalt Related Entity.
- 9.5 A Shareholder which is a Fund may transfer any Shares to:
- (a) any participant in the Shareholder (but only in connection with the dissolution of the Shareholder or the distribution of the Shareholder's assets in the normal course of operating the Shareholder);
 - (b) any other Fund managed by:
 - (i) the Shareholder's Fund Manager; or
 - (ii) another undertaking in that Fund Manager's group; or
 - (c) the Shareholder's Fund Manager or another undertaking in that Fund Manager's group; or
 - (d) where another Fund is a participant in the Shareholder, a participant in that other Fund.
- 9.6 A Shareholder which is a Fund Manager may transfer any Shares to:
- (a) any participant in the Fund in respect of which the Shares are held (but only connection with the dissolution of the Fund or any distribution of the Fund's assets in the normal course of operating the Fund); or
 - (b) another Fund Manager which manages the Fund in respect of which the shares are held.

- 9.7 A Shareholder holding Shares as a result of a transfer made after the date of the adoption of these Articles by a person in relation to which such Shareholder was a Permitted Transferee may at any time transfer any Share to the person which originally transferred such Shares to it (or to any other Permitted Transferee of such original transferor).
- 9.8 Any transfer between persons which is permitted under Articles 9.2 to 9.6 may be made to or by the nominee of those persons.
- 9.9 A Shareholder must, if requested by the Board, immediately tell the Company on whose behalf they hold their Shares.
- 9.10 Any Share may be transferred to any person with the consent in writing of the holders of 75% of the Ordinary Shares and subject to such conditions and/or restrictions as may be specified in the relevant consent.

10 Pre-emption rights

- 10.1 Any Shareholder (a **Transferring Shareholder**) which wishes to transfer (or desires to enter into an agreement to transfer) any Shares (the **Sale Shares**) other than pursuant to Article 8 (*Transfer of Shares*) or Article 9 (*Permitted Transfers*) shall forthwith give the Company and the other Shareholder (the **Non-Transferring Shareholder**) notice in writing of that fact (a **Transfer Notice**).
- 10.2 The Transfer Notice shall state the number of Sale Shares which the Transferring Shareholder wishes to transfer, to whom the Transferring Shareholder wishes to transfer the Sale Shares and the price per Share at which the Transferring Shareholder wishes to transfer the Sale Shares (the **Sale Price**).
- 10.3 The Non-Transferring Shareholder shall have a period of 30 days from receipt of the Transfer Notice to send a written notice to the Transferring Shareholder and the Company stating whether or not it (or one of its Related Entities) intends to purchase the Sale Shares at the Sale Price (the **Response Notice**).
- 10.4 If the Response Notice states that the Non-Transferring Shareholder (or one of its Related Entities) wishes to buy the Sale Shares at the Sale Price, then completion of the sale of the Sale Shares shall take place not later than 60 days from receipt by the Transferring Shareholder of the Response Notice. The Transferring Shareholder shall procure that at completion the Non-Transferring Shareholder (or the relevant Related Entity) acquires good title to the Sale Shares free from all Encumbrances.
- 10.5 If the Non-Transferring Shareholder either (i) fails to send a Response Notice or (ii) states in the Response Notice that it does not wish to acquire the Sale Shares at the Sale Price or (iii) defaults (or the relevant Related Entity defaults) in relation to its obligation to complete the purchase of the Sale Shares under Article 10.4, then the Transferring Shareholder shall be entitled to sell the Sale Shares to a third party at a price which is not less than the Sale Price at any time during the period of 3 months from (as applicable) (i) 31 days after receipt by the Non-Transferring Shareholder of the Transfer Notice or (ii) receipt of a Response Notice stating that the Non-Transferring Shareholder does not wish to acquire the Sale Shares at the Sale Price or (iii) the date of default under Article 10.4.
- 10.6 If at any time before completion of the sale of the Sale Shares the Transferring Shareholder notifies the Company and the Non-Transferring Shareholder in writing that it wishes either to sell the Sale Shares at a price which is less than the Sale Price (the **Revised Sale Price**)

and/or vary the number of Sale Shares which it wishes to transfer, the Transferring Shareholder will be deemed to have served a new Transfer Notice (a **New Transfer Notice**) as at such date. The New Transfer Notice shall be deemed to be identical to the Transfer Notice save that the price at which the Sale Shares are to be sold shall be the Revised Sale Price and/or it shall be deemed to be in respect of the revised number of Sale Shares which the Transferring Shareholder wishes to transfer (as the case may be). The provisions of Articles 10.3 to 10.6 (inclusive) shall apply in relation to such New Transfer Notice.

- 10.7 A Transfer Notice or a New Transfer Notice may contain a Total Transfer Condition. A Total Transfer Condition shall be binding on the Company, the Transferring Shareholder and the Non-Transferring Shareholder (or the relevant Related Entity).
- 10.8 A Transferring Shareholder may withdraw a Transfer Notice or a New Transfer Notice at any time prior to service of a Response Notice by the Non-Transferring Shareholder and, if so withdrawn, the relevant Transfer Notice or New Transfer Notice (as the case may be) shall forthwith be deemed never to have been served and shall cease to be of any effect.

SHAREHOLDER MEETINGS

11 Proceedings of Shareholders

- 11.1 No business shall be transacted at any general meeting unless a quorum of Shareholders is present at the time when the meeting proceeds to business and, subject to Article 11.2, for its duration. Two persons entitled to vote upon the business to be transacted, each being a Shareholder or a proxy for a Shareholder or a duly authorised representative of a corporation, shall be a quorum (provided that, for so long as any Ednaston Related Entity holds not less than 20% of the issued Ordinary Shares and no Ednaston Default Event has occurred, at least one proxy or duly authorised representative of Ednaston must be present and, for so long as Cobalt holds not less than 20% of the issued Ordinary Shares and no Cobalt Default Event has occurred, at least one proxy or duly authorised representative of Cobalt must be present).
- 11.2 If within half an hour from the time appointed for the meeting a quorum is not present, or if during a meeting a quorum ceases to be present for a period exceeding 10 minutes, the meeting shall stand adjourned to the same day in the next week, at the same time and place, or to such other time and place as the Shareholders present may decide and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Shareholder or Shareholders present shall constitute a quorum.
- 11.3 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 duly demanded. Subject to the provisions of the Act, a poll may be demanded at any general meeting by the chairman, or by any Shareholder present in person or by proxy and entitled to vote or by a duly authorised representative of a corporation which is a Shareholder entitled to vote.
- 11.4 An instrument appointing a proxy and any authority under which it is executed or a copy of such authority certified notari ally or in some other way approved by the Board must be delivered to the registered office of the Company:
- (a) In the case of a general meeting or an adjourned meeting, not less than 48 hours before the time appointed for the holding of the meeting or to the place of the meeting at any time before the time appointed for the holding of the meeting; and

- (b) subject to Article 11.5, in the case of a proxy notice given in relation to a poll, before the end of the meeting at which the poll was demanded.

In calculating when a proxy notice is to be delivered, no account is to be taken of any part of a day that is not a Business Day. A notice revoking the appointment of a proxy must be given in accordance with the Act.

- 11.5 When a poll has been demanded it shall be taken immediately following the demand.
- 11.6 Directors may attend and speak at general meetings, whether or not they are members.

DIRECTORS

12 Number of Directors

- 12.1 Subject to the terms of the Shareholders' Agreement, the number of Directors (excluding alternate directors) shall not be less than two in number (provided always that at least one Director shall be an Ednaston Director and one Director shall be a Cobalt Director) nor more than 6.
- 12.2 Each of Cobalt and Ednaston has the right to appoint and remove Directors to the Board in accordance with the terms of the Shareholders' Agreement.
- 12.3 In addition to any rights which they may have under the Shareholders' Agreement, the holders of not less than 90% of the Ordinary Shares in issue from time to time shall be entitled to appoint any person or persons to the Board and to remove any Director from the Board for any reason whatsoever and to appoint another person or persons in his/her place PROVIDED that, where a Default Event has occurred, the Defaulting Shareholder shall immediately cease to have any rights under this Article 12.3 and the reference "holders of not less than 90% of the Ordinary Shares" shall, for so long as the Default Event is subsisting, be deemed to be a reference to "holders of not less than 90% of the Ordinary Shares held by Non-Defaulting Shareholder(s)". Each such appointment and removal shall be made by notice in writing served on the Company and shall take effect on the date specified in the notice.

13 Alternate directors

- 13.1 A Director (other than an alternate director) may appoint any other person whomsoever (including another Director), to be an alternate director and may remove from office an alternate director so appointed.
- 13.2 A person who holds office only as an alternate director shall, if his/her appointer is not present, be counted in the quorum.
- 13.3 Any Director who is appointed an alternate director shall be entitled to vote at a meeting of the Board on behalf of the Director so appointing him/her in addition to being entitled to vote in his/her own capacity as a Director and, subject to the provisions of Article 14, shall also be considered as two Directors for the purpose of making a quorum of Directors unless he/she is the only individual present.

14 Proceedings of Directors

General

- 14.1 The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit provided that meetings of the Board shall be held at least once in every three calendar months (or such lesser frequency as may be agreed in writing by an Ednaston Director and a Cobalt Director). Any two Directors (one of whom shall be an Ednaston Director and the other shall be a Cobalt Director) shall constitute a quorum (save where an Ednaston Default Event has occurred (in which case a quorum shall be two Cobalt Directors) or when a Cobalt Default Event has occurred (in which case a quorum shall be two Ednaston Directors)) and a quorum of Directors must be present throughout all meetings of the Board. The Board may elect one of its members to act as chairman for each Board meeting but such chairman shall not have a second or casting vote in the case of an equality of votes.
- 14.2 In relation to each resolution which is proposed at a meeting of the Board, any of the Cobalt Directors (and/or any alternates of the Cobalt Directors) present at the meeting shall be entitled in aggregate to exercise three votes, irrespective of the number of Cobalt Directors (and/or any alternates of the Cobalt Directors) present at the meeting and any of the Ednaston Directors (and/or any alternates of the Ednaston Directors) present at the meeting shall be entitled in aggregate to exercise three votes, irrespective of the number of Ednaston Directors (and/or any alternates of the Ednaston Directors) present at the meeting.
- 14.3 Meetings of the Board shall be convened in writing on not less than 10 Business Days' notice (or such other period as may be agreed in writing by an Ednaston Director and a Cobalt Director). Notices of Board meetings shall state the time and place of the meeting and shall enclose an agenda and copies of any appropriate supporting papers.
- 14.4 Notice of every meeting of the Board shall be given to each Director at any address supplied by him/her to the Company for that purpose. Notice shall be given to a Director whether or not he/she is present in the United Kingdom.
- 14.5 Any Director may waive notice of any meeting either prospectively or retrospectively and, if he/she does so, it shall be no objection to the validity of the meeting that notice was not given to him/her.
- 14.6 Any Director or alternate director may validly participate in a meeting of the Board through the medium of conference telephone or similar form of communication equipment provided that all persons participating in the meeting are able to hear and speak to each other throughout such meeting. A person so participating shall be deemed to be present in person at the meeting and shall accordingly be counted in a quorum and be entitled to vote. Subject to the Act, all business transacted in such manner by the Board or a committee of the Board shall for the purpose of these Articles be deemed to be validly and effectively transacted at a meeting of the Board or a committee of the Board notwithstanding that a quorum of Directors is not physically present in the same place. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.
- 14.7 If at any time an Ednaston Default Event has occurred, then the Ednaston Directors shall immediately lose the right to vote at any meeting of the Board. Such right shall continue to be suspended for so long as the Ednaston Default Event subsists.

- 14.8 If at any time a Cobalt Default Event has occurred, then the Cobalt Directors shall immediately lose the right to vote at any meeting of the Board. Such right shall continue to be suspended for so long as the Cobalt Default Event subsists.

15 Directors' conflicts of interest

- 15.1 Without prejudice to Articles 15.2 and 15.3, if a Situation Conflict arises, the Board may authorise it and the continuing performance by the relevant Director of his/her duties as a director of the Company for the purposes of section 175 of the Act by a resolution of the Board made in accordance with that section and these Articles. At the time of the authorisation, or at any time afterwards, the Board may impose any limitations or conditions or grant the authority subject to such terms which (in each case) they consider appropriate. Any authorisation may be revoked or varied at any time in the discretion of the Board. The director interested in the matter under consideration shall not be counted in the quorum at the part of the meeting of the Board authorising a Situation Conflict.
- 15.2 A Director shall be authorised for section 175 of the Act to act or continue to act as a director of the Company or any committee of the Board notwithstanding that at any time he/she:
- (a) is or may be an employee, consultant, director, member or other officer of a Group Company or be otherwise interested (including by holding of shares, securities or loan notes or options to acquire shares, securities or loan notes) in any Group Company;
 - (b) is or may be remunerated in respect of any position (other than the office of Auditor) in any Group.
- 15.3 A Director appointed to (or nominated for appointment to) the Board or any committee of the Board shall be authorised for the purposes of sections 173(2) and 175 of the Act to act or continue to act as a director of the Company notwithstanding that at any time he:
- (a) is or may be an employee, consultant, director, member or other officer of, hold shares or other securities or be otherwise interested in whether directly or indirectly (in the case of an Ednaston Director) an Ednaston Related Entity (or any portfolio company of any Ednaston Related Entity) or (in the case of a Cobalt Director) a Cobalt Related Entity (or any portfolio company of any Cobalt Related Entity);
 - (b) is or may be taken to have, through previous or existing dealings, a commercial relationship with (in the case of an Ednaston Director) an Ednaston Related Entity (or any portfolio company of any Ednaston Related Entity) or (in the case of a Cobalt Director) a Cobalt Related Entity (or any portfolio company of any Cobalt Related Entity);
 - (c) is or may be a director or other officer of, or be employed by, or otherwise interested or involved in other entities in which (in the case of an Ednaston Director) an Ednaston Related Entity (or any portfolio company of any Ednaston Related Entity) or (in the case of a Cobalt Director) a Cobalt Related Entity (or any portfolio company of any Cobalt Related Entity), has or may potentially have an interest from time to time;
 - (d) is a representative of any of the Shareholders and a Director may have any other interest authorised by the holders of not less than 75% of the Ordinary Shares in issue at that time giving notice in writing to the Company provided that he/she has disclosed the nature and extent of such interest to the Board (either at a meeting of

the Board or by notice in writing to the Company marked for the attention of the Directors) in so far as he/she is able to do so without breaching any duty of confidentiality to any third party. A Director shall not be in breach of the duties he/she owes to the Company as a result of any Situation Conflict which arises from the relationships contemplated by this Article, including in relation to proposals for acquiring, financing or otherwise promoting the business of (whether in competition with the Company or not) any such entity referred to in Article 15.3(d).

- 15.4 In the circumstances contemplated by Article 15.3 or where a Director has a Transaction Conflict (together a **Director Conflict**) and notwithstanding any other provision of these Articles, each Director affected shall:
- (a) be entitled to receive any documents or other information in relation to matters to which the Director Conflict relates;
 - (b) not be excluded from any part of meetings of the Board or any committee of the Board at which matters to which the Director Conflict relates are discussed (other than whether the Board is authorising a Situation Conflict pursuant to Article 15.1 which relates to that Director);
 - (c) be entitled to vote (and form a part of the quorum) at any meeting referred to in Article 15.4(b);
 - (d) be entitled to take such additional steps as he/she considers desirable for the purpose of managing a Director Conflict including:
 - (i) complying with any procedures laid down from time to time by the Board for the purpose of managing conflicts of interest generally;
 - (ii) declaring to the other Directors the nature and extent of his/her interest in the Director Conflict;
 - (iii) absenting himself/herself from those parts of the meetings of the Board or a committee of the Board at which matters to which the Director Conflict relates are discussed; and
 - (iv) not reviewing documents or other information in relation to matters to which the Director Conflict relates and/or arranging for such documents or information to be reviewed by a professional adviser to ascertain the extent to which it might be appropriate for him/her to have access to such documents or information;
 - (e) not, by reason of his/her office, be accountable to the Company for any remuneration or benefit which he/she derives from any other directorship, consultancy, membership, office, employment, relationship or his/her interest in or involvement with (in the case of an Ednaston Director) an Ednaston Related Entity (or any portfolio company of any Ednaston Related Entity) or (in the case of a Cobalt Director) a Cobalt Related Entity (or any portfolio company of any Cobalt Related Entity) or with any entity referred to in Article 15.3(c); and
 - (f) subject to prior consultation with the Ordinary Shareholders, be entitled to disclose to (in the case of an Ednaston Director) any Ednaston Related Entity (or any portfolio company of any Ednaston Related Entity) or (in the case of a Cobalt Director) any

Cobalt Related Entity (or any portfolio company of any Cobalt Related Entity), any proposed investor (direct or indirect) in the Group, any lender or proposed lender to the Group or (for the purposes of facilitating a sale of Shares, an exit or a refinancing) any proposed purchaser, underwriter, sponsor or broker any information relating to any Group Company or any other undertaking promoted by the Company or in which the Company has an interest,

and any information which a Director obtains, other than in his/her capacity as a director of the Company, which is confidential in relation to a person or entity other than the Company, need not be disclosed to or used for the benefit of the Company and in particular the director shall not be in breach of the general duties he/she owes to the Company by virtue of sections 171 to 177 of the Act as a result.

- 15.5 Save as otherwise specified in these Articles or the Act and subject to any limitations, conditions or terms attaching to any authorisation given (whether such authorisation has been given either by the Board for the purposes of section 175(4)(b) of the Act or by the Shareholders under Article 15.3(d), a director may vote on, and be counted in the quorum in relation to any resolution relating to a matter in which he/she has, or can have:

- (a) a Situation Conflict; and/or
- (b) Transaction Conflict.

16 Retirement by rotation

The Directors shall not be liable to retire by rotation.

MISCELLANEOUS

17 The seal

In addition to its powers under section 44 of the Act, the Company may have a seal and the Directors shall provide for the safe custody of any such seal. If there is a seal, the Directors shall determine who may sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by at least one authorised person in the presence of a witness who attests his/her signature. For the purposes of this Article, an authorised person is any Director, the Company Secretary (if any) or any person authorised by the Directors for the purpose of signing documents to which the seal is applied.

18 Indemnity and insurance

- 18.1 Subject to the Act but without prejudice to any indemnity to which they may otherwise be entitled, every director or other officer or auditor of any Group Company may be indemnified out of the assets of the Company against all costs, charges, losses, expenses and liabilities incurred by him/her in the execution of his/her duties or in relation to them including any liability incurred by him/her:

- (a) in defending any proceedings, whether civil or criminal, or investigations or actions taken or proposed by a regulatory authority in which judgment or ruling is given in his/her favour or in which he/she is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his/her part; or

- (b) in connection with any application in which relief is granted to him/her by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of any Group Company.

18.2 The Company may:

- (a) buy and maintain insurance against any liability falling on its directors, alternate directors or other officers or auditors which arises out of their respective duties to any Group Company or in relation to its affairs Scheme; and
- (b) lend money to any director or other officer of a Group Company to meet the costs of defending any proceedings referred to in Article 18.1.

19 Notices

19.1 Subject to the specific terms of these Articles, any notice to be given to or by any person pursuant to these Articles (other than a notice calling a meeting of the Board or a committee thereof) shall be in writing.

19.2 Any Shareholder Communication may be served by the Company on, or supplied by the Company to, a Shareholder or other person personally or by sending it by first-class post in a pre-paid envelope addressed to such Shareholder or other person at its postal address (as appearing in the Company's register of members in the case of Shareholders) or (except in the case of Excluded Notices and share certificates) by sending or supplying it in electronic form or by website communication in accordance with Articles 19.4 or 19.5. Excluded Notices shall be sent to or served upon the relevant person as required by these Articles in hard copy and delivered personally or sent by first-class post in a pre-paid envelope and shall not be sent in electronic form.

19.3 In the case of a Shareholder Communication (including an Excluded Notice) sent by post, proof that an envelope containing the communication was properly addressed, pre-paid and posted shall be conclusive evidence that it was sent and it shall be deemed to be given or received at the expiration of 48 hours after the envelope containing it was posted. In calculating the period of hours for the purposes of this Article, no account shall be taken of Sundays or Bank Holidays.

19.4 Subject to the provisions of the Statutes, any Shareholder Communication (except an Excluded Notice or a share certificate) will be validly sent or supplied by the Company to a person if sent or supplied in electronic form provided that person has agreed (generally or specifically) (or, if the person is a company and is deemed by the Statutes to have agreed) that the communication may be sent or supplied in that form and:

- (a) the Shareholder Communication is sent in electronic form to such address as may for the time being be notified by the relevant person to the Company (generally or specifically) for that purpose or, if that relevant person is a company, to such address as may be deemed by a provision of the Statutes to have been so specified; and
- (b) that person has not revoked the agreement.

19.5 Subject to the provisions of the Statutes, any Shareholder Communication (except an Excluded Notice or a share certificate) will be validly sent or supplied by the Company to a person if it is made available by means of a website communication where that person has

agreed, or is deemed by the Statutes to have agreed (generally or specifically) that the communication may be sent or supplied to him/her in that manner and:

- (a) that person has not revoked the agreement;
- (b) the person is notified in a manner for the time being agreed for the purpose between the person and the Company of:
 - (i) the presence of the Shareholder Communication on the Company's website; the address of that website; and
 - (ii) the place on that website where the Shareholder Communication may be accessed and how it may be accessed; and
- (c) the Shareholder Communication continues to be published on the Company's website throughout the period specified in the Act, provided that if it is published on the website for part but not all of such period, the Shareholder Communication will be treated as published throughout that period if the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the Company to prevent or avoid.

19.6 When any Shareholder Communication is sent by the Company in electronic form, it shall be deemed to have been given on the same day as it was sent to the address supplied by the Shareholder, and in the case of the provision of a Shareholder Communication by website communication, it shall be deemed to have been received when it was first made available on the website or, if later, when the recipient received (or is deemed to have received) notice of the fact that it was available on the website pursuant to Article 19.5(b).

19.7 Where in accordance with these Articles a Shareholder or other person is entitled or required to give or send to the Company a notice in writing (other than an Excluded Notice), the Company may, in its absolute discretion, (or shall, if it is deemed to have so agreed by any provision of the Statutes) permit such notices (or specified classes thereof) to be sent to the Company in such electronic form and at such address as may from time to time be specified (or be deemed by the Statutes to be agreed) by the Company (generally or specifically) for the purpose, subject to any conditions or restrictions that the Board may from time to time prescribe (including as to authentication of the identity of the person giving or sending such notice to the Company).

19.8 A Shareholder who has not supplied to the Company either a postal or an electronic address for the service of notices shall not be entitled to receive notices from the Company. If, on three consecutive occasions, a notice to a Shareholder has been returned undelivered, such Shareholder shall not thereafter be entitled to receive notices from the Company until it shall have communicated with the Company and supplied in writing to the office a new postal or electronic address for the service of notices. For these purposes, a notice shall be treated as returned undelivered if the notice is sent by post and is returned to the Company (or its agents) or, if sent in electronic form, if the Company (or its agents) receive(s) notification that the notice was not delivered to the address to which it was sent.

19.9 In the case of joint holders of a Share, all Shareholder Communications shall be sent or supplied to the joint holder who is named first in the register, and a Shareholder Communication so sent or supplied shall be deemed sent or supplied to all joint holders. Any provision of this Article 19 which refers to anything agreed, notified or specified by a member shall be deemed to have been validly agreed, notified or specified, notwithstanding any

provisions of the Statutes, if agreed, notified or specified by only one and not all of the joint holders of any Shares held in joint names.