

EDINBURGH SCHOOLS PARTNERSHIP LIMITED (the "Company")
COMPANY NUMBER : SC206930
WRITTEN RESOLUTION OF THE MEMBERS

We the undersigned, being the only member for the time being of the Company entitled to receive notice of and to attend and vote at general meetings of the Company hereby pass the following Written Resolution and agree that the said Resolution shall, for all purposes, be as valid and effective as if it had been passed at a general meeting of the Company duly convened and held:-

"that

the regulations contained in the document attached to this resolution and signed by the Chairman for the purposes of identification be and are hereby approved and adopted as the new Articles of Association of the Company in substitution for and to the exclusion of the existing Articles of Association of the Company."


ESR (Holdings) Limited

6 April 04
Date

EDINBURGH 13 April 2004
CERTIFIED A TRUE COPY

L Mackenzie

MACROBERTS
SOLICITORS



EDINBURGH 8 April 2004
CERTIFIED A TRUE COPY

A Macleayle, Solicitor



ARTICLES OF ASSOCIATION

of

THE EDINBURGH SCHOOLS PARTNERSHIP LIMITED
(Company Number SC206930)

A Macleayle 6/4/04



THE COMPANIES ACT 1985
PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION¹

of

THE EDINBURGH SCHOOLS PARTNERSHIP LIMITED²

INTERPRETATION

1.1 In these Articles:-

Act means the Companies Act 1985, as amended, replaced and consolidated from time to time, and any reference to a section of the Act includes any section as so amended, replaced or consolidated;

Authority means The City of Edinburgh Council and its statutory successors from time to time;

Business Day means a day, excluding Saturdays and Sundays, on which banks are generally open for business in London and Edinburgh;

Common Terms Agreement means an agreement, with the title, entered into on 15 November 2001 as amended by (a) a supplemental agreement dated 8 January 2003; (b) an amendment and restatement agreement dated 19 December 2003; and (c) an amendment and restatement agreement dated 6 April 2004 between the Company, HoldCo, European Investment Bank and The Governor and Company of the Bank of Scotland (in its various capacities);

Deed of Pledge has the meaning given to the term "Holding Company Share Pledge" in the Common Terms Agreement;

Directors means the directors of the Company from time to time or any duly constituted committee of the directors;

Financing Documents has the meaning given to it in the Project Agreement;

Group Member has the meaning given to it in the Shareholders Agreement;

HoldCo means ESP (Holdings) Limited (no. 206929);

HoldCo Shares means the Ordinary shares of £1 each of HoldCo;

¹ Adopted by resolution dated 14 November 2001 and updated by resolution dated 6 April 2004

² Incorporated as Macrocom (602) Limited on 8 May 2000. Name changed to The Edinburgh Schools Partnership Limited on 9 August 2000.

Project means the design, construction, operation, maintenance and financing of the Project Schools (as defined in the Project Agreement);

Project Agreement means an agreement, with that title, entered into on 8 November 2001 as amended by the Supplemental Agreement and further supplemental agreements dated (a) 13 February 2003; (b) 16 and 19 December 2003; and (c) 6 April 2004 between the Company and the Authority relative to the Project, as amended and supplemented by the Supplemental Agreement or as otherwise amended from time to time;

QMPF means Quayle Munro PFI Fund Limited Partnership, a limited partnership established under the Limited Partnerships Act 1907, having its principal place of business at 8 Charlotte Square, Edinburgh, EH2 4DR, and registered in Scotland under number SL004122;

Qualifying Shareholder means any member holding 15% or more in nominal value of the issued share capital of HoldCo, provided, however, that in determining any percentage of Shares for the purpose of article 6 or whether a member is a Qualifying Shareholder for any purpose of these Articles, the holdings of Group Companies will be aggregated and the Group Member holding the majority in nominal value of Shares held by all such Group Companies, failing which the first such Group Member whose name appears in the register of members of HoldCo, shall be deemed to be the Qualifying Shareholder for these purposes save that for so long as each of Uberior and QMPF are Group Members of the other and are both Shareholders, Uberior will always be deemed to be the Qualifying Shareholder as between Uberior and QMPF, and for so long as each of Uberior and QMPF are Group Members of the other and are both Shareholders QMPF shall not be deemed to be a Qualifying Shareholder irrespective of its percentage shareholding;

Shareholders Agreement means an agreement, with that title, entered into on 15 November 2001 and as amended and restated on or around 6 April 2004 between Equion plc (No. 03576132), Uberior Infrastructure Investments Limited (No. SC186247), Miller Construction (UK) Limited (No. SC209666), QMPF HoldCo and the Company relative to their relationship as shareholders in HoldCo;

Shares means Ordinary Shares of £1 each of the Company;

Supplemental Agreement means the agreement with that title dated 14 November 2001 between the Company and the Authority;

Table A means Table A scheduled to the Companies (Tables A to F) Regulations 1985 as amended by the Companies (Tables A to F) (Amendment) Regulations 1985;

Uberior means Uberior Infrastructure Investments Limited, a company incorporated in Scotland under the Companies Acts (No. SC186247) and having its registered office at 2nd Floor, New Uberior House, 11 Earl Grey Street, Edinburgh, EH3 9BN;

- 1.2 Unless the context otherwise requires, the singular shall include the plural and vice versa and reference to any gender shall include all genders.
- 1.3 Unless the context otherwise requires, expressions defined in the Act shall have the same meanings where used in these Articles.
2. The regulations contained in Table A, insofar as not excluded or varied by or inconsistent with these Articles, shall apply to the Company and be deemed to be incorporated herein.
3. Regulations 24, 41, 50, 57, 64, 73 to 77 inclusive, 79, 80, 89, 90, 94 to 97 inclusive and 101 of Table A shall not apply to the Company. The following regulations of Table A shall be modified:-
 - (a) regulation 1 by the deletion of the words "the seal' means the common seal of the company";

- (b) regulation 6 by the deletion of the words "shall be sealed with the seal" and by the substitution therefor of the words "shall be signed by two Directors or by one Director and the Secretary";
- (c) regulation 18 by the addition of the words "and all expenses of the Company incurred by reason of such non-payment" at the end of the first sentence thereof;
- (d) regulation 40 by the deletion of the second sentence thereof and the substitution therefor of the words "One member present in person or by proxy or being a duly authorised representative of a corporation shall be a quorum.";
- (e) regulation 46 by the deletion of:-
 - (i) the words "two members" where they appear in paragraph (b) and the substitution therefor of the words "one member";
 - (ii) the word "or" at the end of paragraph (b); and
 - (iii) the whole of paragraphs (c) and (d);
- (f) regulation 65 by the deletion of the words "approved by resolution of the directors and" where they appear in that regulation;
- (g) regulation 72 by the deletion of the words "one or more directors" where they appear in the first sentence of that regulation and the insertion in their place of the words "at least one director who is also a director of HoldCo appointed by each Qualifying Shareholder and any director appointed by QMPF";
- (h) regulation 78 by the deletion of the words "and may also determine the rotation in which any additional directors are to retire"; and
- (i) regulation 88 by the deletion of the third, fourth and fifth sentences.

TRUSTS

4. The Company shall not be bound to recognise but shall be entitled to recognise, in such manner and to such extent as it may think fit, any trusts in respect of any Shares. Notwithstanding any such recognition, the Company shall not be bound to see to the execution, administration or observance of any trust, whether expressed, implied or constructive, in respect of any Shares and shall be entitled to recognise and give effect to the acts and deeds of the holders of such Shares as if they were the absolute owners thereof.

TRANSFER OF SHARES

- 5.1 This article 5 shall not apply to any transfer of Shares pursuant to the Deed of Pledge.
- 5.2 No transfer of any Share (nor any interest in any Shares) shall be registered unless the written consent of the Authority (if and to the extent required, by the Project Agreement) and each Qualifying Shareholder of HoldCo is obtained thereto and provided that any such transfer is permitted in terms of the Financing Documents.

DIRECTORS

- 6.1 The minimum number of Directors shall be two.
- 6.2 The Directors of the Company shall at all times be those individuals who are directors of HoldCo, so that:-
- (a) any person on becoming a director of HoldCo shall automatically become, and shall be appointed a Director of the Company; and

- (b) any Director of the Company, on ceasing to be a director of HoldCo, shall cease to be and shall be removed from office as a Director of the Company.
- 6.2 Subject to article 6.3 and to the making of any disclosure, declaration or notification required by the Companies Act 1985, as amended, or by any other relevant and applicable legislation, a Director shall be entitled to vote in respect of any contract or arrangement in which he is interested and shall be taken into account in reckoning the quorum present at the meeting when such contract or arrangement is under consideration.
- 6.3 The quorum for the transaction of all business of the Directors (whether a decision of a full board or of a committee of the Directors) shall subject to Clause 7.6 of the Shareholders Agreement be one Director who is a director of HoldCo appointed by each Qualifying Shareholder and one Director who is a director of HoldCo appointed by QMPF. Subject to Clause 7.3 of the Shareholders Agreement if at any meeting of the Directors (or any committee of directors) a quorum is not present within 30 minutes (or such longer time as all Directors present choose to wait), the meeting shall be reconvened at such time and place as decided by those Directors present (but not less than 4 Business Days later unless such reconvened meeting is to consider a matter requiring urgent deliberation, in which case such meeting shall be reconvened not less than 1 Business Day later, subject to clause 7.4 of the Shareholders Agreement) and notice of the time and place of the reconvened meeting shall be sent to each of the Directors as soon as reasonably possible thereafter. At the reconvened meeting, the Directors present will form a quorum.
- 6.4 Without prejudice to article 6.3 and Clauses 6 and 8 of the Shareholders Agreement, all business of the meeting shall require the approval of the majority of votes of the Directors present in person at the meeting. At any such meeting the votes cast on any resolution by a Director shall be deemed to represent the relevant proportion of all votes cast on such resolution, where the "relevant proportion" is a fraction of the numerator of which is the number of Shares held by such Director and the denominator is the total number of Shares held by all Directors entitled to vote on such resolution. References in this clause 6.4 to Directors shall include any alternate directors present and appointed by Directors.
- 6.5 All or any of the Directors may participate in a meeting of the Directors by means of a conference telephone or any communication equipment which allows all persons participating in the meeting to hear and speak to each other simultaneously or by any other means of communication agreed by all of the members from time to time. A person so participating shall be deemed to be present in person at the meeting and shall be entitled to vote and be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled, or, if there is no such group, where the chairman of the meeting is at the time of the meeting.
- 6.6 The chairman of the Directors shall be the chairman of each meeting. If there is no such chairman, or if he shall not be present within 30 minutes of the start of the meeting the Directors present shall choose one of their number to be chairman for that meeting. The chairman shall not have a casting vote.

BORROWING POWERS

7. The Directors may exercise all the powers of the Company to borrow money, to mortgage or charge its undertaking, property and uncalled capital (or any part thereof) and, subject to section 80 of the Act, to issue debentures, debenture stock and other securities, whether outright or as security for any debt, liability or obligation of the Company or of any third party.