

ANTICIPATED ACQUISITION BY GARDNER AEROSPACE HOLDINGS LIMITED OF NORTHERN AEROSPACE LIMITED

Initial Enforcement Order made by the Competition and Markets Authority pursuant to paragraph 2(2) of schedule 7 of the Enterprise Act 2002 (the Act)

Whereas:

- (a) The Secretary of State for Business, Energy and Industrial Strategy having given an intervention notice (**the Notice**) to the Competition and Markets Authority (CMA) pursuant to section 42(2) of the Act relating to potential arrangements in progress or in contemplation which, if carried into effect, could result in Gardner Aerospace Holdings Limited (**Gardner Aerospace**) and Northern Aerospace Limited (**Northern Aerospace**) ceasing to be distinct;
- (b) The Notice being in force and the matter to which it relates having not been finally determined under Chapter 2 of Part 3 of the Act;
- (c) the CMA wishes to ensure that no action is taken pending final determination of any reference under sections 45 of the Act which might prejudice that reference or impede the taking of any action under Part 3 of the Act which might be justified by the Secretary of State's decisions on the reference;

Now for the purposes of preventing pre-emptive action in accordance with paragraph 2(2) of schedule 7 to the Act, the CMA makes the following order addressed to each of Shaanxi Ligeance Mineral Resources Co. Limited (**SLMR**), Gardner Aerospace Holdings Limited (**Gardner Aerospace**), Better Capital PCC Limited (**Better Capital**) and Northern Aerospace Limited (**Northern Aerospace**) (Order).

Commencement, application and scope

1. This Order commences on the commencement date: 18 June 2018.
2. This Order applies to each of SLMR and Gardner Aerospace and Better Capital and Northern Aerospace (**the Addressees**).

3. Notwithstanding any other provision of this Order, no act or omission shall constitute a breach of this Order, and nothing in this Order shall oblige any of the Addressees to reverse any act or omission, in each case to the extent that it occurred or was completed prior to the commencement date.

Management of the SLMR and Northern Aerospace businesses until determination of proceedings

4. Except with the prior written consent of the CMA, each of the Addressees shall not, during the specified period, take any action which might prejudice a reference of the transaction under section 45 of the Act or impede the taking of any action under the Act which may be justified by the Secretary of State's decisions on such a reference, including any action which might:
 - (a) lead to the integration of the Northern Aerospace business with the SLMR business;
 - (b) transfer the ownership or control of the SLMR business or the Northern Aerospace business or any of their subsidiaries; or
 - (c) otherwise impair the ability of the Northern Aerospace business or the SLMR business to compete independently in any of the markets affected by the transaction.
5. Further and without prejudice to the generality of paragraph 4 and subject to paragraph 3, the Addressees shall at all times during the specified period procure that, except with the prior written consent of the CMA:
 - (a) the Northern Aerospace business is carried on separately from the SLMR business and the Northern Aerospace business's separate sales or brand identity is maintained;
 - (b) the Northern Aerospace business and the SLMR business are maintained as a going concern and sufficient resources are made available for the development of the Northern Aerospace business and the SLMR business, on the basis of their respective pre-merger business plans;
 - (c) except in the ordinary course of business, no substantive changes are made to the organisational structure of, or the management responsibilities within, the Northern Aerospace business or the SLMR business;
 - (d) the nature, description, range and quality of goods and/or services supplied in the UK by each of the two businesses are maintained and preserved;

- (e) except in the ordinary course of business for the separate operation of the two businesses:
 - (i) all of the assets of the Northern Aerospace business and the SLMR business are maintained and preserved, including facilities and goodwill;
 - (ii) none of the assets of the Northern Aerospace business or the SLMR business are disposed of; and
 - (iii) no interest in the assets of the Northern Aerospace business or the SLMR business is created or disposed of;
- (f) there is no integration of the information technology of the Northern Aerospace or SLMR businesses, and the software and hardware platforms of the Northern Aerospace business shall remain essentially unchanged, except for routine changes and maintenance;
- (g) the customer and supplier lists of the two businesses shall be operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Northern Aerospace business will be carried out by the Northern Aerospace business alone and for the avoidance of doubt the SLMR business will not negotiate on behalf of the Northern Aerospace business (and vice versa) or enter into any joint agreements with the Northern Aerospace business (and vice versa);
- (h) all existing contracts of the Northern Aerospace business and the SLMR business continue to be serviced by the business to which they were awarded;
- (i) no changes are made to key staff of the Northern Aerospace business or SLMR business;
- (j) no key staff are transferred between the Northern Aerospace business and the SLMR business;
- (k) all reasonable steps are taken to encourage all key staff to remain with the Northern Aerospace business and the SLMR business; and
- (l) no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses shall pass, directly or indirectly, from the Northern Aerospace business (or any of its employees, directors, agents or affiliates) to the SLMR business (or any of its employees, directors, agents or affiliates), or vice versa, except where

strictly necessary in the ordinary course of business (including for example, where required for compliance with external regulatory and/or accounting obligations or for due diligence, integration planning or the completion of any merger control proceedings relating to the transaction) and on the basis that, should the transaction be prohibited, any records or copies (electronic or otherwise) of such information that have passed, wherever they may be held, will be returned to the business to which they relate and any copies destroyed.

Compliance

6. The Addressees shall each procure that each of their subsidiaries complies with this Order as if the Order had been issued to each of them.
7. The Addressees shall provide to the CMA such information or statement of compliance as it may from time to time require for the purposes of monitoring compliance by the Addressees and their subsidiaries with this Order. In particular, on 2 July 2018 and subsequently every two weeks (or, where this does not fall on a working day, the first working day thereafter) the Chief Executive Officers of the Addressees or other persons of the Addressees as agreed with the CMA shall, on behalf of each of the Addressees, provide a statement to the CMA in the form set out in the Annexes to this Order confirming compliance with this Order.
8. At all times, the Addressees shall each actively keep the CMA informed of any material developments relating to the Northern Aerospace business or the SLMR business, which includes but is not limited to:
 - (a) details of key staff who leave or join the Northern Aerospace business or the SLMR business;
 - (b) any interruption of the Northern Aerospace or SLMR business (including without limitation its procurement, production, logistics, sales and employee relations arrangements) that has prevented it from operating in the ordinary course of business for more than 24 hours;
 - (c) all substantial customer volumes won or lost or substantial changes to the customer contracts for the Northern Aerospace or SLMR business including any substantial changes in customers' demand; and
 - (d) substantial changes in the Northern Aerospace or SLMR business's contractual arrangements or relationships with key suppliers.

9. If any of the Addressees has any reason to suspect that this Order might have been breached it shall immediately notify the CMA and any monitoring trustee that any of the Addressees may be directed to appoint under paragraph 11.
10. The CMA may give directions to a specified person or to a holder of a specified office in any body of persons (corporate or unincorporated) to take specified steps for the purpose of carrying out, or ensuring compliance with, this Order, or do or refrain from doing any specified action in order to ensure compliance with the Order. The CMA may vary or revoke any directions so given.
11. The Addressees shall comply in so far as they are able with such directions as the CMA may from time to time give to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with this Order.

Interpretation

12. The Interpretation Act 1978 shall apply to this Order as it does to Acts of Parliament.
13. For the purposes of this Order:

'the Act' means the Enterprise Act 2002;

'an affiliate' of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on from time to time and any enterprise that the second person carries on from time to time would be regarded as being under common control for the purposes of section 26 of the Act;

'Better Capital' means Better Capital PCC Limited, Heritage Hall, Le Marchant Street, St Peter Port, Guernsey, GY1 4HY, company number 2005714;

'business' has the meaning given by section 129(1) and (3) of the Act;

'commencement date' means 18 June 2018;

'control' includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise;

'Gardner Aerospace' means Gardner Aerospace Holdings Limited, Unit 9 Victory Park, Victory Road, Derby, England, DE24 8ZF, company number 07978111;

'key staff' means staff in positions of executive or managerial responsibility and/or whose performance affects the viability of the business;

'Northern Aerospace' means Northern Aerospace Limited, Unit 24 Number One Industrial Estate, Consett, County Durham, England, DH8 6SR, company number 10130324;

'the Northern Aerospace business' means the business of Northern Aerospace and its subsidiaries carried on as at the commencement date;

'the ordinary course of business' means matters connected to the day-to-day supply of goods and/or services by Northern Aerospace or SLMR and does not include matters involving significant changes to the organisational structure or related to the post-merger integration of Northern Aerospace and SLMR;

'SLMR' means Shaanxi Ligeance Mineral Resources Co. Limited, 70 Weiyang Road West Xianyang, Shaanxi, 712021 China, Shenzhen Stock Exchange number 000697;

'the SLMR business' means the business of SLMR and its subsidiaries, including Gardner Aerospace, carried on as at the commencement date;

'specified period' means the period beginning on the commencement date and terminating in accordance with paragraph 2 of Schedule 7 of the Act;

'subsidiary', unless otherwise stated, has the meaning given by section 1159 of the Companies Act 2006;

'the transaction' means the transaction by which Gardner Aerospace and Northern Aerospace will cease, or have ceased to be distinct within the meaning of section 23 of the Act;

'the two businesses' means the SLMR business and the Northern Aerospace businesses;

unless the context requires otherwise, the singular shall include the plural and vice versa.

Jennifer Halliday
Director, Mergers

Compliance statement for SLMR/Gardner Aerospace

I [insert name] confirm on behalf of SLMR/Gardner Aerospace that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) SLMR/Gardner Aerospace has complied with the Order made by the CMA in relation to the transaction on 18 June 2018 (the Order).
 - (b) SLMR/Gardner Aerospace's subsidiaries have also complied with this Order.
2. Subject to paragraph 3 of the Order, and except with the prior written consent of the CMA:
 - (a) No action has been taken by SLMR/Gardner Aerospace that might prejudice a reference of the transaction under section 45 of the Act or impede the taking of any action which may be justified by Secretary of State's decision on such a reference, including any action which might:
 - (i) lead to the integration of the Northern Aerospace business with the SLMR business;
 - (ii) transfer the ownership or control of the SLMR business or the Northern Aerospace business or any of their subsidiaries; or
 - (iii) otherwise impair the ability of the Northern Aerospace business or the SLMR business to compete independently in any of the markets affected by the transaction.
 - (b) The Northern Aerospace business has been carried on separately from the SLMR business and the Northern Aerospace business's separate sales or brand identity has been maintained.
 - (c) The Northern Aerospace business and the SLMR business have been maintained as a going concern and sufficient resources have been made available for the development of the Northern Aerospace business and the SLMR business, on the basis of their respective pre-merger business plans.
 - (d) No substantive changes have been made to the organisational structure of, or the management responsibilities within, the Northern Aerospace

business or the SLMR business, except in the ordinary course of business.

- (e) The nature, description, range and quality of goods and/or services supplied in the UK by the Northern Aerospace business and the SLMR business have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the two businesses:
 - (i) all of the assets of the Northern Aerospace business and the SLMR business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
 - (ii) none of the assets of the Northern Aerospace business or the SLMR business have been disposed of; and
 - (iii) no interest in the assets of the Northern Aerospace business or the SLMR business has been created or disposed of.
- (g) There has been no integration of the information technology of the Northern Aerospace or SLMR businesses, and the software and hardware platforms of the Northern Aerospace business have remained essentially unchanged, except for routine changes and maintenance.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Northern Aerospace business have been carried out by the Northern Aerospace business alone and, for the avoidance of doubt, the SLMR business has not negotiated on behalf of the Northern Aerospace business (and vice versa) or entered into any joint agreements with the Northern Aerospace business (and vice versa).
- (i) All existing contracts of the Northern Aerospace business and the SLMR business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to key staff of the Northern Aerospace business or the SLMR business.
- (k) No key staff have been transferred between the Northern Aerospace business and the SLMR business.

- (l) All reasonable steps have been taken to encourage all key staff to remain with the Northern Aerospace business and the SLMR business.
- (m) Except as permitted by the Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses, has passed, directly or indirectly, from the Northern Aerospace business (or any of its employees, directors, agents or affiliates) to the SLMR business (or any of its employees, directors, agents or affiliates), or vice versa.
- (n) Except as listed in paragraph (o) below, there have been no:
 - (i) key staff that have left or joined the Northern Aerospace business or the SLMR business;
 - (ii) interruptions of the Northern Aerospace business or the SLMR business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
 - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the Northern Aerospace business or the SLMR business; or
 - (iv) substantial changes in the Northern Aerospace or SLMR business's contractual arrangements or relationships with key suppliers.
- (o) *[list of material developments]*

3. SLMR/Gardner Aerospace and its subsidiaries remain in full compliance with the Order and will continue actively to keep the CMA informed of any material developments relating to the Northern Aerospace or the SLMR business in accordance with paragraph 9 of the Order.

Interpretation

4. Terms defined in the Order have the same meaning in this compliance statement.

FOR AND ON BEHALF OF SLMR/Gardner Aerospace

Signature

Name

Title

Date

Compliance statement for Better Capital/Northern Aerospace

I [insert name] confirm on behalf of Better Capital/Northern Aerospace that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) Better Capital/Northern Aerospace has complied with the Order made by the CMA in relation to the transaction on 18 June 2018 (the Order).
 - (b) Better Capital/Northern Aerospace's subsidiaries have also complied with this Order.
2. Subject to paragraph 3 of the Order, and except with the prior written consent of the CMA:
 - (a) No action has been taken by Better Capital/Northern Aerospace that might prejudice a reference of the transaction under section 45 of the Act or impede the taking of any action which may be justified by the Secretary of State's decision on such a reference, including any action which might:
 - (i) lead to the integration of the Northern Aerospace business with the SLMR business;
 - (ii) transfer the ownership or control of the SLMR business or the Northern Aerospace business or any of their subsidiaries; or
 - (iii) otherwise impair the ability of the Northern Aerospace business or the SLMR business to compete independently in any of the markets affected by the transaction.
 - (b) The Northern Aerospace business has been carried on separately from the SLMR business and the Northern Aerospace business's separate sales or brand identity has been maintained.
 - (c) The Northern Aerospace business and the SLMR business have been maintained as a going concern and sufficient resources have been made available for the development of the Northern Aerospace business and the SLMR business, on the basis of their respective pre-merger business plans.

- (d) No substantive changes have been made to the organisational structure of, or the management responsibilities within, the Northern Aerospace business, except in the ordinary course of business.
- (e) The nature, description, range and quality of goods and/or services supplied in the UK by the Northern Aerospace business have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the two businesses:
 - (i) all of the assets of the Northern Aerospace business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
 - (ii) none of the assets of the Northern Aerospace business have been disposed of; and
 - (iii) no interest in the assets of the Northern Aerospace business has been created or disposed of.
- (g) There has been no integration of the information technology of the Northern Aerospace or SLMR businesses, and the software and hardware platforms of the Northern Aerospace business have remained essentially unchanged, except for routine changes and maintenance.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Northern Aerospace business have been carried out by the Northern Aerospace business alone and, for the avoidance of doubt, the SLMR business has not negotiated on behalf of the Northern Aerospace business (and vice versa) or entered into any joint agreements with the Northern Aerospace business (and vice versa).
- (i) All existing contracts of the Northern Aerospace business and the SLMR business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to key staff of the Northern Aerospace business.

- (k) No key staff have been transferred between the Northern Aerospace business and the SLMR business.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the Northern Aerospace business.
- (m) Except as permitted by the Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses, has passed, directly or indirectly, from the Northern Aerospace business (or any of its employees, directors, agents or affiliates) to the SLMR business (or any of its employees, directors, agents or affiliates), or vice versa.
- (n) Except as listed in paragraph (o) below, there have been no:
 - (i) key staff that have left or joined the Northern Aerospace business;
 - (ii) interruptions of the Northern Aerospace business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
 - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the Northern Aerospace business; or
 - (iv) substantial changes in the Northern Aerospace business's contractual arrangements or relationships with key suppliers.
- (o) *[list of material developments]*
- (p) Better Capital/Northern Aerospace and its subsidiaries remain in full compliance with the Order and will continue actively to keep the CMA informed of any material developments relating to the Northern Aerospace or the SLMR business in accordance with paragraph 9 of the Order.

Interpretation

3. Terms defined in the Order have the same meaning in this compliance statement.

FOR AND ON BEHALF OF Better Capital/Northern Aerospace

Signature

Name

Title

Date