

Company Number 03290556

**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**WRITTEN RESOLUTIONS of  
SILVERSEA CRUISES (UK) LIMITED**

(the "Company")

**Circulation Date: 30 January 2017 (the "Circulation Date")**

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COMPANIES HOUSE

All terms defined in the Written Board Resolutions but not in these written shareholder resolutions have the same meaning as in the Written Board Resolutions

Pursuant to Part 13, Chapter 2 of the Companies Act 2006 (the "Act"), the directors of the Company propose that the following resolutions numbered 1 to 4 are proposed to be passed as ordinary resolutions) and the resolution numbered 5 is proposed to be passed as a special resolution) (the "Resolutions") are passed

**ORDINARY RESOLUTIONS**

**1 Approval of Documents**

That it would promote the success of the Company for the benefit of its members as a whole, and be to the further benefit and advantage of the Company to enter into the Documents (to which it is a party) (as defined in the written resolutions of the directors of the Company annexed to this written resolution (the "Written Board Resolutions")), together with any other relevant documents as referred to in paragraph 4 of the Written Board Resolutions (the "Resolution Documents") and the transactions contemplated thereby

**2 Execution of the Documents**

That the Company and its directors are hereby empowered, authorised and directed to approve, negotiate and enter into the Resolution Documents (to which the Company is a party) on such terms as they may, in their absolute discretion, deem fit

**3 Further actions**

That the Company and its directors are hereby empowered, authorised and directed to do all acts and things contemplated by or pursuant to the transactions which are the subject of or envisaged by the Resolution Documents and any other related document to which the Company is or will be a party

**4 Approval of resolutions**

That each of the resolutions of the directors of the Company set out in the Written Board Resolutions is hereby approved

**SPECIAL RESOLUTION**

**5 Adoption of new articles of association**

That the New Articles (as annexed to this written resolution) be adopted in place of the existing articles of association so as to

- (a) disapply, in respect of any transfer of shares undertaken to any bank or institution to which the shares of the Company have been mortgaged or charged by way of security, any pre-emption rights and the directors' ability to refuse to register such transfer, and
- (b) remove the Company's lien over all shares of the Company

*[signature page follows]*



## **AGREEMENT**

WE THE UNDERSIGNED, being the sole member of the Company entitled to vote on the Resolutions on the Circulation Date, HEREBY IRREVOCABLY AGREE to the Resolutions

A handwritten signature in black ink, appearing to be 'J. J. J.', is written over a horizontal line.

Name

**Director of Silversea Cruises (Europe) Limited**

*[Signature Silversea (UK) Ltd shareholder resolution]*





## SILVERSEA CRUISES (UK) LIMITED

(Registered in England and Wales with registered number 03290556)

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### Written resolution of the board of directors of Silversea Cruises (UK) Limited (the "Company")

*This is a written resolution signed by all directors entitled to receive notice of a meeting of directors and, in accordance with the Company's articles of association, this resolution is valid and effective as if passed at a meeting of the board of directors*

**Circulation date: 30 January 2017**

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#### 1 INTERPRETATION

Except for the terms defined in this Written Resolution, terms used in this Written Resolution have the same meanings as in the Revolving Credit Agreement (as defined below)

#### 2 BACKGROUND

- 2 1 Silversea Cruise Finance Ltd (the "**Issuer**"), an indirect parent of the Company, intends to issue USD550,000,000 aggregate principal amount of senior secured notes due 2025 (the "**Notes**") in accordance with the terms of the Offering Memorandum (as defined below) The Notes will be guaranteed on a senior basis by the Issuer, its immediate parent company Silversea Cruise Holding Ltd (the "**Parent Guarantor**") and certain of their subsidiaries, including the Company
- 2 2 In connection with the proposed offering and sale of the Notes, J P Morgan Securities LLC and certain other financial institutions are to act as initial purchasers of the Notes pursuant to the terms of a purchase agreement entered into on 13 January 2017 between, among others, the Initial Purchasers as defined therein, the Issuer, the Company and the other guarantors as named therein relating to the placement of the Notes by the initial purchasers (the "**Purchase Agreement**")
- 2 3 The Issuer (and certain of its subsidiaries, including the Company by way of accession) shall also enter into an English law super senior revolving credit facilities agreement dated on or around 30 January 2017 (the "**Revolving Credit Agreement**") with, amongst others, the Issuer acting as Original Borrower, Bank of America Merrill Lynch International Limited as Agent and Citibank, N A , London Branch acting as Security Agent pursuant to which the Original Lenders shall make available to the Original Borrower a secured US Dollar multicurrency revolving credit facility (the "**Facility**") of an aggregate maximum principal amount of USD40,000,000 (the "**New Financing**")
- 2 4 The Notes will be secured on a senior basis and the Revolving Credit Agreement will be secured on a super senior basis, in each case by security interests over substantially all of the Issuer's and (among other entities) the Company's assets subject to certain exceptions set forth in the Offering Memorandum (the "**Transaction Security**") and the respective rankings

and priorities of the various parties shall be documented in the English law intercreditor agreement dated on or around 30 January 2017 and entered into by, among others, the Issuer as senior secured note issuer, the Citibank N A , London Branch as Intercreditor Agent and Bank of America Merrill Lynch International Limited as Initial Credit Facility Agent (the "**Intercreditor Agreement**")

### 3 **INTERESTS IN PROPOSED TRANSACTIONS**

*The Directors confirm that they have no direct or indirect interest in any way in the proposed transaction or any other arrangements to be considered by this Written Resolution which he is required by section 177 of the Companies Act 2006 (the "2006 Act") and the Company's articles of association to disclose*

### 4 **DOCUMENTS FOR APPROVAL**

The following documents (or the latest drafts thereof) were available to the Directors for their consideration

- 4 1 the draft preliminary offering memorandum, a final offering memorandum and a supplemental offering memorandum in respect of the offering of the Notes (collectively, the "**Offering Memorandum**"),
- 4 2 the New York law governed joinder agreement to the Purchase Agreement (the "**Joinder Agreement**"),
- 4 3 the New York law governed supplemental indenture to the Senior Secured Note Indenture dated on or about 30 January 2017 (including the form of the Notes and documenting the terms and conditions of the Notes) under which the Company would be required to comply with certain covenants (the "**Supplemental Indenture**"),
- 4 4 an accession deed in the form of Schedule 6 to the Revolving Credit Agreement documenting the Company's accession to the Revolving Credit Agreement and the Intercreditor Agreement, respectively (the "**Accession Deed**"),
- 4 5 the Revolving Credit Agreement, to which the Company would accede as a Required Guarantor in accordance with the Accession Deed,
- 4 6 the Intercreditor Agreement, to which the Company would accede as a debtor in accordance with the Accession Deed,
- 4 7 the Purchase Agreement, to which the Company would accede as a guarantor in accordance with the Joinder Agreement,
- 4 8 the Senior Secured Note Indenture, to which the Company would accede as a Guarantor in accordance with the Supplemental Indenture,
- 4 9 the escrow agreement process agent acceptance letter, by which the Company would act as agent for service of process in relation to any proceedings before the English courts in connection with the Escrow Agreement,
- 4 10 the English law power of attorney pertaining to shareholder rights in Canodros C L , a subsidiary of the Company, granted in favour of the Security Agent,



- 4 11 the English law debenture, by which the Company would be a party as a chargor and would secure substantially all of its assets in favour of Citibank, N A , London Branch as Security Agent (as defined therein) (the "**Debenture**"),
- 4 12 the English law general assignment agreement and deed of covenants, by which the Company would be a party as a chargor and would grant security over, *inter alia*, its intercompany receivables and specified relevant contracts to which the Company is a party (the "**Assignment Agreement**"),
- 4 13 a draft of the new articles of association of the Company (the "**New Articles**"), in place of the existing articles of association so as to, among other things (i) disapply, in respect of any transfer of shares undertaken by any bank or institution to which the shares of the Company have been mortgaged or charged by way of security, any pre-emption rights and the directors' ability to refuse to register such transfer, and (ii) remove the Company's lien over all shares of the Company,
- 4 14 a written resolution of the shareholder of the Company approving the transactions contemplated by the Documents (as defined below) and the performance by the Company of its obligations (as applicable) thereunder and approving the New Articles to be adopted as the articles of association of the Company, in substitution for, and to the exclusion of, the existing articles (the "**Shareholder Resolution**"),
- 4 15 a draft formalities certificate to be signed by a Director of the Company in connection with the applicable conditions precedent specified by the Revolving Credit Agreement, and
- 4 16 all other agreements, indentures, deeds, utilisation requests, notices (including in respect of the release, discharge, cancellation and/or pay-off of indebtedness in connection with any of the Company's existing financing or guarantee arrangements), global notes, application letters, letters of undertaking, acknowledgments, statements, notations, powers of attorney, certificates, letters, confirmations, receipts, instruments, approvals, authorisations or other documents that may be ancillary, necessary, required, contemplated by or useful in connection with the execution of the above mentioned documents by the Company and/or the overall transaction,

with the documents at 4 1 to 4 16 above being collectively known as the "**Documents**"

## 5 **CONSIDERATION OF THE DOCUMENTS**

- 5 1 It has, among other things, been noted that the Company would commercially benefit from the circumstances of the Notes issuance and the New Financing. It has been noted that the New Financing would not be made available unless the Company accedes to the Revolving Credit Agreement and that the consummation of the Notes offering and the entering into the Revolving Credit Agreement are conditioned upon each other.
- 5 2 The Director further noted that pursuant to the Revolving Credit Agreement, (i) the Company would be required to make the representations and warranties referred to therein, (ii) the Company would be bound by the undertakings set out therein, and (iii) that the Lenders would be entitled to demand repayment of the Facility if any of the events of default set out in the Revolving Credit Agreement occurred.
- 5 3 The Directors have considered the Shareholder Resolution approving the terms of the Documents and the transactions contemplated thereby and authorising the New Articles to be adopted as the articles of association of the Company, in substitution for, and to the exclusion of, the existing articles.

## 6 KEY CONSIDERATIONS

- 6 1 The Directors have considered the Documents to which the Company shall be a party in the context of promoting the continued success of the Company and the carrying on of its business. The Directors noted that the New Financing made available on the terms of Revolving Credit Agreement presented a good financing opportunity for the Company. The Directors have carefully considered the principal terms and conditions of the Documents (as applicable) and noted that such terms were acceptable to the Company.
- 6 2 The Directors noted in particular that in connection with certain of the Documents, the Company would be required to provide a guarantee and indemnities in respect of certain guaranteed obligations under the Senior Secured Note Indenture, the Purchase Agreement, the Revolving Credit Agreement and the Intercreditor Agreement. The Directors also noted that the Company would be required to grant security over substantially all of its assets in accordance with the terms of the Debenture and the Assignment Agreement, respectively.
- 6 3 The Directors noted that
- 6 3 1 the transfer of an asset or benefit to a shareholder (whether outright or deemed) may constitute an unlawful return on capital if there is a reduction in net assets and there are insufficient distributable reserves available, and
- 6 3 2 the Directors owed duties and obligations to the Company, including a duty to ensure the transactions contemplated by the relevant Documents were likely to promote the success of the Company for the benefit of its members and to act in good faith.
- 6 4 The Directors have considered the proposal for the Company to enter into the Documents to which the Company is required to be a party and the contingent liabilities represented thereby. The Directors have concluded that the relevant guarantees and indemnities were neither certain nor likely to be enforced and that no provision for the Company's liability thereunder was required to be made in the accounts and accordingly no reduction in the net assets of the Company would result from entering into the relevant Documents.
- 6 5 The Directors have further considered the financial position of the Company. The Directors have also considered the net asset position of the Company. It was noted that the value of the Company's assets exceeded the amount of its liabilities (taking into account its contingent and prospective liabilities) and the Directors have formed the view that the Company would be able to meet its debts as they fell due following the entry into (or accession to, as applicable) the Documents. The Directors have concluded that the Company is solvent and will remain solvent after providing the guarantees, indemnities and security interests in accordance with the relevant Documents.
- 6 6 The Directors have approved the form of the Shareholder Resolution and have requested its signature by the members of the Company.
- 6 7 The Directors have considered the matters set out in this written resolution, having regard to their general duty to act, in good faith, in a manner which would be most likely to promote the success of the Company for its members as a whole. In particular, the Directors considered the following duties owed to the Company set out in the 2006 Act
- 6 7 1 section 171, which requires a Director to act in accordance with the company's constitution and to only exercise powers for the purposes for which they are conferred,

- 6 7 2        section 172, which requires a Director to act in a way most likely to promote the success of the company for the benefit of its members as a whole,
  - 6 7 3        section 173, which requires a Director to exercise independent judgement,
  - 6 7 4        section 174, which requires a Director to exercise reasonable care, skill and diligence,
  - 6 7 5        section 175, which requires a Director to avoid situations of conflicts of interest, and
  - 6 7 6        section 176, which requires that a Director not accept a benefit from a third party conferred by reason of his being a Director or his doing or not doing anything as a Director
- 6 8        In light of the considerations set out above, it was concluded that the Company entering into the relevant Documents would promote the success of the Company (and also the success of the Company's wider group)

## 7        **BENEFIT TO THE COMPANY**

After careful consideration of the terms of the Documents and in view of the above, taking account of directors' duties and obligations under Chapter 2 of Part 10 of the 2006 Act, the Directors confirmed that they are of the opinion that it would be in the best interests of the Company and for the purposes of its business, and will promote the Company's success for the benefit of its members and stakeholders as a whole to enter into the Documents to which it is proposed to be party, and all other documents necessary (and to take all steps) to give effect, to the extent applicable, to the matters contemplated by, in particular, the Senior Secured Notes Indenture, the Purchase Agreement, the Debenture, the Assignment Agreement, the Intercreditor Agreement and the Revolving Credit Agreement

## 8        **WRITTEN RESOLUTIONS OF THE DIRECTORS**

- 8 1        Having carefully considered the Revolving Credit Agreement and the matters referred to in Chapter 2 of Part 10 of the 2006 Act we, the undersigned, being the Directors of the Company who would have been entitled to vote upon the following resolutions if they had been proposed at a meeting of the board of Directors of the Company and having regard to the duties owed by Directors (including the matters referred to under Chapter 2 of Part 10 of the 2006 Act), resolve that the following written resolutions shall, in accordance with the Company's articles of association, be as valid and effectual as if they had been passed at a meeting of the board of Directors of the Company duly convened and held
- 8 2        Following due and careful consideration, **IT IS HEREBY RESOLVED** that
- 8.2 1        the terms and conditions of, and the transactions contemplated by, the Revolving Credit Agreement and any documents which may be necessary or desirable to be entered into to give effect to the transactions and matters contemplated by the relevant Documents, and the performance by the Company of its obligations thereunder, be and are approved, subject to such amendments or modifications and additions thereto as any one Director or any person or persons named in a power of attorney (each an "**Authorised Signatory**") shall in his absolute discretion deem appropriate,

8 2 2 any Director or any Authorised Signatory is authorised to execute and deliver the relevant Documents on behalf of the Company subject to such amendments and modifications as the Director or any Authorised Signatory executing or witnessing the same may agree and so that the Director's or any Authorised Signatory's signature on the relevant Document(s) shall be conclusive evidence of the agreement to such amendments or modifications, and if any document needs to be executed as a deed, that the same be executed on behalf of the Company by (i) any two Directors, (ii) any one Director and the Secretary of the Company, (iii) a Director in the presence of a witness, or (iv) any Authorised Signatory in the presence of a witness with such amendments (whether of substance or not) as the Director or Authorised Signatory shall think fit in his absolute discretion, and

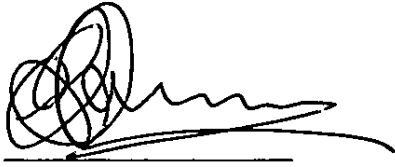
8 2 3 any Director or Authorised Signatory, either singly or with another Director or in the presence of a witness, be and is authorised on behalf of the Company to execute and do all such documents, certificates, notices certifications, acts, arrangements, deeds and things, and to agree and execute all such documents and to make such decisions, as he may consider necessary or desirable in connection with the execution or performance by the Company of the relevant Documents

## 9 APPROVAL

We, being the Directors of the Company, hereby irrevocably agree to the above written resolutions

*[signature page follows]*



A handwritten signature in black ink, featuring a large, stylized initial 'E' followed by a series of loops and a long, horizontal stroke extending to the right.

Ewen Addison Cameron

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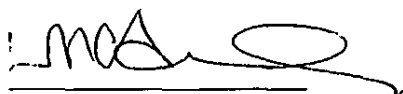
Lisa Michelle McAuley

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Roberto Martinoli

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Ewen Addison Cameron

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Lisa Michelle McAuley

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Roberto Martinoli





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Ewen Addison Cameron

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Lisa Michelle McAuley



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Roberto Martinoli

*[signatures to Silversea (UK) Ltd written board resolutions]*

**THE COMPANIES ACT 2006**  
**A PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**  
  
**Of**  
**SILVERSEA CRUISES (UK) LIMITED**

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**OF**  
**SILVERSEA CRUISES (UK) LIMITED**

*adopted by a special resolution dated 30 January 2017*

**PRELIMINARY**

1. The Model Articles for Private Companies Limited by Shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008 No 3229) (the **Model Articles**) shall apply to the company except in so far as they are excluded or varied hereby
2. Model Articles 13, 14, and 22 do not apply to the company

**INTERPRETATION AND LIMITATION OF LIABILITY**

3. **Defined terms**

- (1) In the articles, unless the context requires otherwise

**alternate** or **alternate director** has the meaning given in article 18 and article 19, respectively,

**articles** means the company's articles of association, as from time to time amended,

**Companies Act** means the Companies Act 2006 including any statutory modification or re-enactment of it for the time being in force,

**company** means Silversea Cruises (UK) Limited,

**eligible director** means a director who is entitled to vote on the relevant matter at a directors' meeting but excluding any director whose vote is not to be counted in respect of the relevant matter, and

**relevant situation** has the meaning given in article 12

- (2) Unless the contrary intention appears, words importing the singular number include the plural number and vice versa, words importing one gender include all genders and words importing persons include bodies corporate and unincorporated associations
- (3) Headings to the articles are inserted for convenience only and shall not affect construction
- (4) Model Article 1 shall be amended accordingly

- (5) References in these articles to paragraphs are to paragraphs of (i) the article in which such reference appears or, as the case may be, (ii) the Model Article referred to in these articles

**4. Liability of members**

The liability of the members is limited to the amount, if any, unpaid on the shares held by them

**UNRESTRICTED OBJECTS**

5. Nothing in these articles shall constitute a restriction on the objects of the company to do (or omit to do) any act and, in accordance with section 31(1) of the Companies Act, the company's objects are unrestricted

**DIRECTORS**

**6. Directors' duties**

- (1) The purposes of the company

- (a) may, if and to the extent that the directors consider it appropriate, and
- (b) shall, if directed by the holders of the majority of the shares by notice in writing to the company,

include promoting the success of the group as a whole or of any one or more members of the group (and in this context **group** means the company, any other body corporate which is its parent undertaking or subsidiary undertaking and any other body corporate which is a subsidiary undertaking of that parent undertaking)

- (2) In the exercise of his duties, a director shall not be restricted by any duty of confidentiality to the company from providing information regarding the company to a parent undertaking of the company but a director who is also a director of any parent undertaking of the company shall owe a strict duty of confidentiality to that parent undertaking in relation to confidential information of the parent undertaking

**7. Unanimous decisions**

- (1) Model Article 8 shall be amended by the deletion of paragraph (3) and the re-numbering of existing paragraph (4) as new paragraph (3)
- (2) Any director may (and if the company has a company secretary, the secretary must, if a director so requests) propose a resolution by giving notice in writing of the proposed resolution to each of the other directors (including alternate directors)
- (3) Any eligible director can sign (by hand or electronic signature) one or more copies of any resolution or document or indicate by electronic mail sent to the company secretary (or, if there is no company secretary, to all directors who received the proposed written resolution) his or her approval of the resolution (which communication shall be deemed to comprise execution of the written resolution and to be effective at the time and on the date sent by the relevant director) The resolution may be contained in one document or in several documents in like form each signed, or deemed to have been signed, by one or more of the directors concerned

**8. Participation in directors' meetings**



Model Article 10(3) shall be amended by inserting after the first sentence, the sentence "In the absence of such a decision, the meeting is deemed to take place at the location from where the chairman participates "

**9. Quorum for directors' meetings**

- (1) At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting
- (2) The quorum for directors' meetings may be fixed from time to time by a decision of the directors, but subject to paragraph (3), it must never be less than two eligible directors, and unless otherwise fixed it is two eligible directors. If and so long as there is a sole director, he may exercise all the powers and authorities vested in the directors by these articles and accordingly the quorum for the transaction of business in these circumstances shall be one
- (3) For the purpose of any directors' meeting (or part of a meeting) held in accordance with article 12 to authorise a director's conflict of interest, if only one eligible director is in office, the quorum is one eligible director
- (4) Model Article 11 shall be amended accordingly

**10. Chairing of directors' meetings**

Model Article 12(4) shall apply as if the word "may" is substituted for the word "must"

**DIRECTORS' INTERESTS**

**11. Directors' interests in relation to transactions or arrangements with the company**

The relevant provisions of the Companies Act (including, without limitation, sections 177 and 182 of the Companies Act) shall apply in relation to declarations of interests in proposed and existing transactions or arrangements with the company

**12. Directors' interests other than in relation to transactions or arrangements with the company**

- (1) If a situation (a **relevant situation**) arises in which a director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company (including, without limitation, in relation to the exploitation of any property, information or opportunity, whether or not the company could take advantage of it, but excluding any situation which cannot reasonably be regarded as likely to give rise to a conflict of interest) the following provisions shall apply if the conflict of interest does not arise in relation to a transaction or arrangement with the company
  - (a) if the relevant situation arises from the appointment or proposed appointment of a person as a director of the company
    - (i) the directors (other than the director, and any other director with a similar interest, who shall not be counted in the quorum at the meeting and shall not vote on the resolution), or
    - (ii) the shareholders (by ordinary resolution or by notice in writing given to the company by the holders of a majority of the shares),



may resolve to authorise the appointment of the director and the relevant situation on such terms as they may determine,

(b) if the relevant situation arises in circumstances other than in paragraph (a)

(i) the directors (other than the director and any other director with a similar interest who shall not be counted in the quorum at the meeting and shall not vote on the resolution), or

(ii) the shareholders (by ordinary resolution or by notice in writing given to the company by the holders of a majority of the shares),

may resolve to authorise the relevant situation and the continuing performance by the director of his duties on such terms as they may determine

(2) Any reference in paragraph (1) to a conflict of interest includes a conflict of interest and duty and a *conflict of duties*

(3) Any terms determined by the directors or the shareholders under paragraphs (1)(a) or (1)(b) may be imposed at the time of the authorisation or may be imposed or varied subsequently by either the directors or the shareholders and may include (without limitation)

(a) whether the interested directors may vote (and be counted in the quorum at any meeting) in relation to any decision relating to the relevant situation,

(b) the exclusion of the interested directors from all information and discussion by the company of the relevant situation, and

(c) (without prejudice to the general obligations of confidentiality) the application to the interested directors of a strict duty of confidentiality to the company for any confidential information of the company in relation to the relevant situation

(4) Any authorisation given under paragraphs (1)(a) or (1)(b) may be withdrawn by either the directors or the shareholders by giving notice (as mentioned in paragraphs 1(a) and 1(b)) to the director concerned

(5) An interested director must act in accordance with any terms determined by the directors or the shareholders under paragraphs (1)(a), (1)(b) or (3), as the case may be

(6) Except as specified in paragraph (1), any proposal made to the directors and any authorisation by the directors in relation to a relevant situation shall be dealt with in the same way as any other matter *may be proposed to and decided by the directors in accordance with the articles*

(7) Any authorisation of a relevant situation given by the directors or the shareholders under paragraph (1) may provide that, where the interested director obtains (other than through his position as a director of the company) information that is confidential to a third party, he will not be obliged to disclose it to the company or to use it in relation to the company's affairs in circumstances where to do so would amount to a breach of that confidence

(8) (a) If the directors make an authorisation under paragraph (1), impose or vary the terms of an authorisation under paragraph (3), or withdraw an authorisation under paragraph (4), they shall, as soon as reasonably practicable, notify the shareholders of this fact and provide, where applicable, any relevant particulars regarding the authorisation or its terms





- (b) If the shareholders make an authorisation under paragraph (1), impose or vary the terms of an authorisation under paragraph (3), or withdraw an authorisation under paragraph (4), they shall, as soon as reasonably practicable, notify the directors of this fact and provide, where applicable, any relevant particulars regarding the authorisation or its terms
- (9) (a) A director shall, as soon as reasonably practicable, declare the nature and extent of his interest in a relevant situation within paragraph (1)(a) or (1)(b) to the other directors and the shareholders
 

Failure to comply with this requirement does not affect the underlying duty to make the declaration of interest
- (b) If a declaration of interest in relation to a relevant situation proves to be, or becomes, inaccurate or incomplete, a further declaration must be made

### **13. Directors' interests generally and voting**

- (1) Subject to the Companies Act and to articles 11 and 12, a director notwithstanding his office
  - (a) may be a party to, or otherwise interested or participate in, any transaction or arrangement with the company or in which the company is otherwise interested, including any such pensions, other benefits, transactions or arrangements as are referred to in article 17
  - (b) may act by himself or his firm in a professional capacity for the company (except as auditor) and he or his firm shall be entitled to remuneration as if he were not a director,
  - (c) may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the company or in which the company is otherwise interested, and
  - (d) shall not, by reason of his office (or of the fiduciary relationship established by holding that office), be accountable to the company for any remuneration, profit or other benefit resulting from any relevant situation authorised under article 12 or any interest permitted under paragraphs (1)(a), (1)(b), or (1)(c), and no contract, transaction or arrangement shall be liable to be avoided on the grounds of any director having an interest authorised under article 12 or permitted under paragraphs (1)(a), (1)(b), or (1)(c)
- (2) Subject to articles 11 and 12 and to any contrary direction from the holders of a majority of the shares, a director shall be entitled to vote on any decision concerning any matter in which he has, directly or indirectly, an interest or a duty
- (3) In the case of an alternate director, an interest of his appointor shall be treated as an interest of the alternate in addition to any interest which the alternate otherwise has
- (4) Subject to the Companies Act, the company may, by ordinary resolution or by notice in writing given to the company by the holders of a majority of the shares, suspend or relax the provisions of this article to any extent or ratify any contract, transaction or arrangement not duly authorised by reason of a contravention of this article
- (5) Where proposals are under consideration concerning the appointment of two or more directors to offices or employments with the company or any body corporate in which the company is interested, the proposals may be divided and considered in relation to each director separately and (provided he

is not otherwise precluded from voting) each of the directors concerned shall be entitled to vote (and to form part of the quorum) in respect of each proposal except that concerning his own appointment

- (6) Subject to paragraph (7), if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting and quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive
- (7) If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting and quorum purposes

**14. Appointment and termination of appointments of directors by majority shareholders**

The holders of the majority of the shares may appoint any person as a director and may remove any director. Any appointment or removal shall be made by notice in writing to the company signed by the holders or on their behalf and shall take effect when it is lodged at the registered office or produced at any directors' meeting. Model Articles 17 and 18 shall be amended accordingly.

**15. Directors' services and remuneration**

- (1) Directors may undertake any services for the company that the directors decide and the company may enter into a contract of service with any director on such terms as the directors think fit
- (2) Any appointment of a director to an executive office shall terminate if he ceases to be a director but without prejudice to any claim to damages for breach of contract of service between the director and the company
- (3) Directors are entitled to such remuneration as the directors determine
  - (a) for their services to the company as directors, and
  - (b) for any other service which they undertake for the company
- (4) Subject to the articles, a director's remuneration may take any form
- (5) Unless the directors decide otherwise, directors' remuneration accrues from day to day
- (6) Model Article 19 shall be amended accordingly

**16. Directors' expenses**

Model Article 20 shall be amended by inserting in the first line the words ", alternate directors and the company secretary (if any)" after the word "directors"

**17. Directors' pensions and other benefits**

The directors may exercise all the powers of the company to

- (a) pay, provide, arrange or procure the grant of pensions or other retirement benefits, death, disability or sickness benefits, health, accident and other insurances or other such benefits,

allowances, gratuities or insurances, including in relation to the termination of employment, to or for the benefit of any person who is or has been at any time a director of the company or in the employment or service of the company or of any body corporate which is or was associated with the company or of the predecessors in business of the company or any such associated body corporate, or the relatives or dependants of any such person. For that purpose, the directors may procure the establishment and maintenance of, or participation in, or contribution to, any pension fund, scheme or arrangement and the payment of any insurance premiums,

- (b) establish, maintain, adopt and enable participation in any profit sharing or incentive scheme including shares, share options or cash or any similar schemes for the benefit of any director or employee of the company or of any associated body corporate, and to lend money to any such director or employee or to trustees on their behalf to enable any such schemes to be established, maintained or adopted, and
- (c) support and subscribe to any institution or association which may be for the benefit of the company or associated body corporate or any directors or employees of the company or associated body corporate or their relatives or dependants or connected with any town or place where the company or an associated body corporate carries on business, and to support and subscribe to any charitable or public object whatsoever

## **ALTERNATE DIRECTORS**

### **18. Appointment and removal of alternates**

- (1) Any director (the **appointor**) may appoint as an **alternate** any other director, or any other person to
  - (a) exercise that director's powers, and
  - (b) carry out that director's responsibilities,in relation to the taking of decisions by the directors in the absence of the alternate's appointor
- (2) Any appointment or removal of an alternate must be effected by notice in writing to the company signed by the appointor, or in any other manner approved by the directors
- (3) The notice must
  - (a) identify the proposed alternate, and
  - (b) in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the director giving the notice

### **19. Rights and responsibilities of alternate directors**

- (1) Subject to the articles, an alternate may act as an **alternate director** to more than one director and has the same rights, in relation to any decision of the directors as the alternate's appointor
- (2) Except as the articles specify otherwise, alternate directors
  - (a) are deemed for all purposes to be directors,
  - (b) are liable for their own acts and omissions,

(c) are subject to the same restrictions as their appointors, and

(d) are not deemed to be agents of or for their appointors,

and, in particular, each alternate director shall be entitled to receive notice of all directors' meetings and of all committee meetings of directors of which his appointor is a member

(3) Subject to the articles, a person who is an alternate director but not a director

(a) may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's appointor is not participating), and

(b) may otherwise participate in a unanimous decision of the directors (but only if his appointor is an eligible director in relation to that decision and is not participating)

No alternate may be counted as more than one director for such purposes

(4) An alternate director is not entitled to receive any remuneration from the company for serving as an alternate director except such part of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the company

## **20. Alternates voting at directors' meetings**

Subject to the articles, a director who is also an alternate director has an additional vote at a directors' meeting on behalf of each appointor who is

(a) not participating in the directors' meeting, and

(b) would have been an eligible director if he were participating in it

No alternate may be counted as more than one director for the purpose of determining whether a quorum is present

## **21. Termination of alternate directorship**

An alternate director's appointment as an alternate terminates

(a) when the alternate's appointor revokes the appointment by notice to the company in writing specifying when it is to terminate,

(b) on the occurrence in relation to the alternate of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a director,

(c) on the death of the alternate's appointor,

(d) when the alternate's appointor's appointment as a director terminates, or

(e) where the directors otherwise decide

**COMPANY NAME**

## **22. Directors' power to change company name**

The directors may change the name of the company

## **SHARES AND DISTRIBUTIONS – SHARES**

### **23. Powers to allot shares**

- (1) In accordance with section 550 of the Companies Act, the directors may exercise any power of the company to allot shares or to grant rights to subscribe for or convert any security into shares with such rights and restrictions as they may determine
- (2) Subject to the articles, but without prejudice to paragraph (1) or to the rights attached to any existing share, the company may issue further classes of shares with such rights or restrictions as may be determined by ordinary resolution
- (3) Sections 561 and 562 of the Companies Act are excluded
- (4) The company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares
- (5) In the event that rights and restrictions attaching to shares are determined by ordinary resolution or by the directors pursuant to this article, those rights and restrictions shall apply, in particular in place of any rights or restrictions that would otherwise apply by virtue of the Companies Act in the absence of any provisions in the articles of a company, as if those rights and restrictions were set out in the articles

### **24. Share certificates**

Model Article 24(5)(a) shall be amended by the insertion of the following words "or official seal and in the case of an official seal, unless otherwise determined by the directors, the certificate does not need to be signed" after the words "common seal"

### **25. Share transfers**

- (1) Model Article 26 shall be amended by the insertion of the following as a new paragraph (6)
  - "(6) Notwithstanding any other provision of these Articles, the directors shall not decline to register any transfer of shares, nor may they suspend registration thereof, where such transfer,
    - (a) is to any bank, financial institution or other person to which shares have been charged by way of security, or to any nominee of such a bank, institution or other person (or a person acting as agent or security trustee for such person) (a "**Secured Institution**"),
    - (b) is delivered to the Company for registration by a Secured Institution or its nominee in order to perfect its security over the shares pursuant to and in accordance with such security, or
    - (c) is executed by a Secured Institution or its nominee pursuant to and in accordance with a power of sale or other power existing under such security,

and the directors shall forthwith register any such transfer of shares upon receipt and furthermore notwithstanding anything to the contrary contained in these Articles no transferor of any shares in the Company or proposed transferor of such shares to a Secured Institution or its nominee and no Secured Institution or its nominee shall (in either such case) be required to offer the shares which are or are to be the subject of any transfer as aforesaid to the shareholders for the time being of the Company or any of them and no such shareholder shall have any right under the articles or otherwise howsoever to require such shares to be transferred to them for any valuable consideration or otherwise. Moreover, any lien on shares which the Company has shall not apply in respect of any shares which have been charged by way of security to a Secured Institution"

**26. Transmittes bound by prior notices**

If a notice is given to a shareholder in respect of shares and a transmittee (or a transferee nominated by such transmittee pursuant to Model Article 28) is entitled to those shares, the transmittee (or transferee) is bound by the notice if it was given to the shareholder before the transmittee's (or transferee's) name has been entered in the register of members. Model Article 29 shall be amended accordingly

**DECISION-MAKING BY SHAREHOLDERS – ORGANISATION OF GENERAL MEETINGS**

**27. Notice of general meeting**

A shareholder present either in person or by proxy, at any general meeting of the company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which the meeting was convened

**28. Chairing general meetings**

Model Article 39(2) shall be amended by the insertion of the following words "(including a proxy or a corporate representative)" after the word "shareholder"

**29. Content of proxy notices**

Model Article 45(1)(d) shall be amended by the insertion of the words "(or adjourned meeting) " after the word "meeting "

**30. Reserve Power**

The holders of the majority of the shares may, by notifying the Directors in writing, direct the Directors to take, or refrain from taking, specified action. No such notice invalidates anything which the Directors have done before the giving of the notice

**ADMINISTRATIVE ARRANGEMENTS**

**31. When a communication from the company is deemed received**

- (1) Any document or information, if sent by first class post, shall be deemed to have been received on the day following that on which the envelope containing it is put into the post, or, if sent by second class post, shall be deemed to have been received on the second day following that on which the envelope containing it is put into the post and in proving that a document or information has been received it shall be sufficient to prove that the letter, envelope or wrapper containing the document or information was properly addressed, prepaid and put into the post

- (2) Any document or information not sent by post but left at a registered address or address at which a document or information may be received shall be deemed to have been received on the day it was so left
- (3) Any document or information, if sent or supplied by electronic means, shall be deemed to have been received on the day on which the document or information was sent or supplied by or on behalf of the company
- (4) If the company receives a delivery failure notification following a communication by electronic means in accordance with paragraph (3), the company shall send or supply the document or information in hard copy or electronic form (but not by electronic means) to the shareholder either personally or by post addressed to the shareholder at his registered address or by leaving it at that address. This shall not affect when the document or information was deemed to be received in accordance with paragraph (3)
- (5) Where a document or information is sent or supplied by means of a website, it shall be deemed to have been received
  - (a) when the material was first made available on the website, or
  - (b) if later, when the recipient was deemed to have received notice of the fact that the material was available on the website
- (6) Every person who becomes entitled to a share shall be bound by every notice in respect of that share which before his name is entered in the register of members was given to the person from whom he derives his title to the share

**32. Notices in writing given to the company by majority shareholders**

Any notice in writing given to the company by the holders of a majority of the shares shall take effect when it is lodged at the registered office or produced to any directors' meeting

**33. Company seals**

Model Article 49 shall be amended by the insertion of the following words at the end of paragraph (1) "or of a committee of the directors" and the insertion of the following new paragraph (5)

- "(5) The company may exercise the powers conferred by the Companies Act with regard to having official seals and those powers shall be vested in the directors. Subject to the Companies Act, any instrument to which an official seal is affixed shall be signed by such persons, if any, and affixed in such manner as the directors may from time to time determine "

## **WINDING UP**

**34. Winding up**

If the company is wound up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Companies Act, divide among the shareholders *in specie* the whole or any part of the assets of the company and may, for that purpose, value any assets and determine how the division shall be carried out as between the shareholders or different classes of shareholders. The liquidator may, with the like sanction, vest the whole or any part of the assets



in trustees upon such trusts for the benefit of the shareholders as he with like sanction determines, but no shareholder shall be compelled to accept any assets upon which there is liability

## **DIRECTORS' INDEMNITY**

### **35. Indemnity**

- (1) Subject to paragraph (5), a relevant director of the company or of an associated company may be indemnified out of the company's assets against
  - (a) any liability incurred by that director in connection with any negligence, default, breach of duty or breach of trust in relation to the company or an associated company,
  - (b) any liability incurred by that director in connection with the activities of the company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act),
  - (c) any other liability incurred by that director as an officer of the company or an associated company
- (2) The company may fund the expenditure of a relevant director of the company or of any associated company for the purposes permitted under the Companies Act and may do anything to enable such relevant director to avoid incurring such expenditure as provided in the Companies Act
- (3) No relevant director of the company or of any associated company shall be accountable to the company or the shareholders for any benefit provided pursuant to this article and the receipt of any such benefit shall not disqualify any person from being or becoming a director of the company
- (4) The powers given by this article shall not limit any general powers of the company to grant indemnities, purchase and maintain insurance or provide funds (whether by way of loan or otherwise) to any person in connection with any legal or regulatory proceedings or applications for relief
- (5) This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Act or by any other provision of law
- (6) In this article
  - (a) companies are **associated** if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and
  - (b) a **relevant director** means any director or former director of the company or of an associated company
- (7) Model Article 52 shall be amended accordingly