

**THE COMPANIES ACTS 1985 TO 1989**

**PRIVATE COMPANY LIMITED BY SHARES**

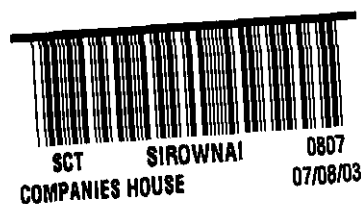
**ARTICLES OF ASSOCIATION**

**of**

**MILLER GADSBY (CASTLE MARINA) LIMITED**

**(Registered No. 4416753)**

**(Adopted by special resolution of the Company  
dated 16 July 2002 and amended by a special resolution of the Company dated 4  
July 2003)**



**THE COMPANIES ACTS 1985 to 1989**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**  
**of**  
**MILLER GADSBY (CASTLE MARINA) LIMITED**  
**CONSTITUTION**

1. The Company is established as a private company within the meaning of Section 1(3) of the Companies Act 1985 (hereinafter referred to as "the Act") in accordance with and subject to the provisions of the Act and of the Memorandum of Association of the Company and of the Regulations contained in Table A, set out in Statutory Instrument 1985 No. 805 as amended by Statutory Instrument 1985 No. 1052 (hereinafter referred to as "Table A") with the exception of Regulations 2, 3, 5, 24, 40, 41, 50, 53, 64 to 69 (inclusive), 73 to 89 (inclusive), 93, 94, 98 and 118 of Table A, and of any other Regulations which are inconsistent with the additions and modifications hereinafter set forth.

**SHARE CAPITAL**

2.
  - 2.1. The share capital of the Company at the date of the adoption of these Articles of Association is £1,000 divided into 500 "A" ordinary shares of £1 each ("A Shares") and 500 "B" ordinary shares of £1 each ("B Shares"). The A Shares and B Shares shall be separate classes of share and shall carry the rights and restrictions set out below in this Article 2.
  - 2.2. The A Shares and the B Shares shall rank *pari passu* in respect of the proportions payable to holders of the A Shares and to holders of the B Shares (a) of sums distributed, whether by way of dividend or other distribution; (b) on any return of capital or (c) on a winding up of the Company.
  - 2.3. The rights attached to each class of shares shall be deemed to be varied by the issue of any further shares and by any alteration to these Articles of Association.
  - 2.4. Save as otherwise provided in these Articles, the A Shares and the B Shares shall rank *pari passu* in all respects.

**CLASS RIGHTS**

- 3.

- 3.1. Whenever the capital of the Company is divided into different classes of shares, the special rights attached to any class may be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up, with the consent in writing of the holders of three fourths of the issued shares of that class, or with the sanction of an Extraordinary Resolution passed at a separate meeting of the holders of the shares of that class but not otherwise. To every such separate meeting all the provisions of these Articles relating to General Meetings of the Company or to proceedings thereat shall, *mutatis mutandis*, apply, except that the necessary quorum shall be one person at least holding or representing by proxy one third in nominal amount of the issued shares of that class (but so that if at any adjourned meeting of such holders a quorum as above defined is not present those Members who are present shall be a quorum), and that the holders of shares of the class shall, on a poll, have one vote in respect of each share of that class held by them respectively.
- 3.2. Without prejudice to the generality of this article the special rights attached to the A Shares and the special rights attached to the B Shares shall be deemed to be varied by:
- (a) The issue of any unissued shares for the time being in the Company's share capital or the issue of such shares or the creation or issue of any new shares, except as expressly permitted by the Articles.
  - (b) The alteration of any rights attaching to any class of share in the capital of the Company.
  - (c) The consolidation, sub-division or conversion any of the Company's shares capital or any class thereof or any alteration of the rights attached thereto.
  - (d) The issue of renounceable allotment letters or permitting any person, firm or company entitled to receive an allotment of shares to nominate another person to receive such allotment.
  - (e) The issue of any debentures or other securities convertible into shares or debentures in the capital of the Company or any share warrants or any options in respect of shares in the capital of the Company.
  - (f) The appointment or dismissal of any director of the Company but without prejudice to the rights conferred on the A Shareholders and the B Shareholders pursuant to a Joint Venture Agreement dated 16 July 2002 between The Miller Group Limited (1) and Mr Peter James Gadsby (2) (the "Joint Venture Agreement") and these Articles to appoint and remove directors.
  - (g) Undertaking any business other than the Project as defined in the Joint Venture Agreement.

- (h) The presentation of any petition or the passing of any resolution to wind up the Company or the presentation of any petition for an administration order or any order having similar effect other than in accordance with the terms of the Joint Venture Agreement.
- (i) The Company ceasing to trade in respect of all or a material part of the Company's business.
- (j) The consolidation or amalgamation of the Company with any company, association, partnership or legal entity.
- (k) The alteration of any of the provisions of the Company's Memorandum or Articles of Association.
- (l) The capitalisation, repayment or other distribution of any amount standing to the credit of any reserve of or the redemption or purchase of any shares of or other reorganisation of the share capital of the Company or any return of the capital of the Company to its shareholders.
- (m) The admission of any person whether by subscription or transfer as a shareholder of the Company other than in accordance with the terms of the Joint Venture Agreement or the Articles.
- (n) The payment of any fees, remuneration or other emoluments to any director of the Company.
- (o) The acquisition, purchase or subscription for any shares, debentures, mortgages or securities (or any interest therein) in any company, trust or other body.
- (p) Without prejudice to any of the foregoing, seeking to pass any resolution of the members of the Company.

### ISSUE OF SHARES

#### 4.

- 4.1. Any shares may be issued on the terms that they are, or at the option of the Company are liable, to be redeemed.
- 4.2. Subject to the provisions of the Act and of every other statute for the time being in force concerning companies and affecting the Company and to any direction to the contrary that may be given by ordinary resolution of the Company and Article 4.3 below, all the unissued shares (including any redeemable shares) of the Company (whether forming part of the existing or any increased capital) shall be at the disposal of the Directors, who may offer, allot, issue, grant options or rights over or otherwise dispose of them to such persons, at such times and for such consideration and upon such terms and

conditions and with such preferred, deferred or other special rights or restrictions whether in regard to dividend, voting, return of capital or otherwise as the Directors may determine, but so that no shares shall be issued at a discount.

- 4.3. The unissued shares in the capital of the Company shall be issued only so that the issued share capital of the Company shall always consist of 50% A Shares and 50% B Shares to be issued at the same time, at the same price and on the same terms.
- 4.4. The Company shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share or any interest in any fractional part of a share or (except only as by these regulations or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder. The Company shall however be entitled to register trustees as such in respect of any shares.

#### **THE SEAL**

- 5.
- 5.1. In Regulation 1 of Table A the words "the common seal of the Company" shall be omitted and the words "any seal for the time being adopted by the Company as its common seal" shall be inserted after the words ""the Seal" means".
- 5.2. In Regulation 6 of Table A the words "or subscribed in accordance with Section 36B of the Act" shall be inserted after the words "sealed with the Seal".

#### **CALLS ON SHARES**

- 6.
- 6.1. In Regulation 12 of Table A the words "save in the case of a call deemed to have been made in terms of Regulation 16 which call shall be irrevocable." shall be inserted after the words "postponed in whole or in part".

#### **FORFEITURE OF SHARES**

- 7.
- 7.1. In Regulation 15 of Table A the words "and all expenses that may have been incurred by the Company by reason of such non-payment" shall be inserted after the word "Act)" and after the words "payment of the interest".
- 7.2. In Regulation 18 of Table A the words "and expenses that may have been incurred by the Company by reason of such non-payment" shall be inserted after the words "may have accrued".

## TRANSFER OF SHARES

8.

8.1. No share of any class shall be transferable except as follows:-

- (a) to a member; or
- (b) with the prior written consent of each of the other members of the Company (which consent shall be deemed given in the event of a transfer in accordance with any provision of these Articles); or
- (c) in the case of any shares registered from time to time in the name of a company, to a Group Company of the transferor provided that if the transferee shall subsequently cease to be a Group Company of the holding company (at the time of the original transfer) of the transferor, the transferee shall be bound to retransfer, prior to such cessation, the relevant shares to the transferor (if it is still a member of the same group as its holding company at the time of the original transfer) or (if not) to another company which remains a Group Company of the holding company (at the time of the original transfer) of the transferor; or
- (d) pursuant to the terms of any security granted by Peter James Gadsby in favour of The Miller Group Limited or any of its Group Companies.

8.2. The Directors shall be required to register any transfer permitted by Article 8.1 and shall decline to register any transfer not so permitted.

8.3. For the purposes of these Articles, "Group Company" means, in respect of any company, a company which is a subsidiary, or a holding company, or a subsidiary of such a holding company, in each case of that company and the definitions of "subsidiary" and "holding company" shall be those set out in Section 736 of the Act.

## GENERAL MEETINGS

9.

9.1. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Save as herein otherwise provided, two members present in person or by proxy or, if corporations, by representatives duly authorised, of whom one must be an A Shareholder and one must be a B Shareholder, shall be a quorum.

9.2. No resolution of the Shareholders shall be validly passed unless approved by all of the Shareholders entitled to vote.

- 9.3. If a quorum is not present within half an hour of the time appointed for a general meeting the meeting, if convened on the requisition of members, shall be dissolved; in any other case it shall stand adjourned to such day and at such time and place as the Directors may determine.
- 9.4. Subject to the provisions of the Act, a resolution in writing signed by all the members of the Company who would be entitled to receive notice of and to attend and vote at a general meeting at which such resolution was to be proposed, or by their duly appointed attorneys or representatives, shall be as valid and effectual as if it had been passed at a general meeting of the Company duly convened and held. Any such resolution may consist of several documents in the like form each signed by one or more of the members or their duly appointed attorneys or representatives and the signature in the case of a corporate body which is a member shall be sufficient if made by a director or the secretary thereof or by its duly appointed attorneys or representatives.
- 9.5. A poll may be demanded at any general meeting by the Chairman or by any member present in person or by proxy or, if a corporation, by any representative duly authorised and entitled to vote. Regulation 46 of Table A shall be construed accordingly.
- 9.6. No resolution not previously approved by the Directors shall be moved by any member other than a Director at a general meeting unless the member intending to move the same shall have left a copy thereof with his name and address at the Registered Office of the Company three clear days prior to such meeting.
- 9.7. A notice of every general meeting shall be given to every member whether or not he shall have supplied to the Company an address within the United Kingdom for the giving of notices and Regulation 112 of Table A shall be construed accordingly.

## DIRECTORS

- 10.
- 10.1. Subject to the provisions of these Articles, the Directors may regulate their proceedings as they think fit. Any Director may, and the Secretary at the request of a director shall, call a meeting of the Directors. It shall not be necessary to give notice of a meeting to a Director who is absent from the United Kingdom unless that Director has given to the Secretary or to the other Directors an address in the United Kingdom for the service of notices of meetings of the Directors.
- 10.2. Unless and until otherwise determined by ordinary resolution of the Company the minimum number of Directors shall be two and the maximum number shall be six.

- 10.3. The holders of 75% by way of nominal value of the issued A Shares shall be entitled, by notice in writing delivered to the Company's registered office or produced at a meeting of the Directors, to appoint up to three persons as Directors (the "A" Directors") and may in the same way remove any Director so appointed and appoint another person in his place under this Article.
- 10.4. The holders of 75% by way of nominal value of the issued B Shares shall be entitled, by notice in writing delivered to the Company's registered office or produced at a meeting of the Directors, to appoint up to three persons as Directors (the "B" Directors") and may in the same way remove any Director so appointed and appoint another person in his place under this Article.
- 10.5. Subject to Article 10.13 and any statutory disqualification, a Director shall not be removed during his term of office except at the instance of the shareholder(s) who appointed him.
- 10.6. If a vacancy in any directorship should occur for whatever reason the party who appointed the director whose position has fallen vacant shall nominate his replacement.
- 10.7. A director shall not be required to hold shares of the Company in order to qualify for office as a Director, but he shall be entitled to receive notice of and attend and speak at all general meetings of the Company or of any class of members of the Company.
- 10.8. Subject to Article 10.19, the quorum for the transaction of the business of the Directors shall be two "A" Directors and one "B" Director then holding office. Subject to Articles 10.9, 10.10 and 10.19 each Director shall have one vote.
- 10.9. If at any Board meeting there are fewer than three A Directors present, then such A Directors as are present shall be entitled to cast an aggregate of three votes. Any additional votes cast in such manner shall be deemed to be cast in the same manner as the votes of such A Directors as are present.
- 10.10. If at any Board meeting there are fewer than three B Directors present, then such B Directors as are present shall be entitled to cast an aggregate of three votes. Any additional votes cast in such manner shall be deemed to be cast in the same manner as the votes of such B Directors as are present.
- 10.11. The Chairman shall not have a casting vote in the event of an equality of votes as regards any matter before the Board of Directors.
- 10.12. Resolutions of the Board of Directors shall not be valid unless approved by both (a) two A Directors and (b) one B Director.
- 10.13. A Director who is in any way whether directly or indirectly interested in a contract or proposed contract or arrangement with the Company shall declare the nature of his interest at a meeting of the Directors in accordance with



Section 317 of the Act. Subject to such disclosure as aforesaid a Director may vote in respect of any contract or proposed contract or arrangement in which he is interested and if he does so vote his vote shall be counted and he may be counted in ascertaining whether a quorum is present at any meeting at which any such contract or proposed contract or arrangement shall come before the Directors for consideration and may retain for his own absolute use and benefit all profits and advantages accruing to him therefrom. For the purposes of this Article:-

- (a) a general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such transaction of the nature and extent so specified; and
- (b) an interest of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

10.14. The office of a Director shall be vacated:-

- (a) if he becomes bankrupt or suspends payment of or compounds with his creditors;
- (b) if he becomes of unsound mind or a patient for the purpose of any statute relating to mental health or otherwise incapacitated;
- (c) if by notice in writing to the Company he resigns his office;
- (d) if he is prohibited by law from being a Director or ceases to be a Director by virtue of the Act or any statutory modification or re-enactment thereof.
- (e) and in the case of a vacancy in any directorship occurring for any reason, the party who appointed the Director whose position has fallen vacant shall nominate his replacement.

10.15. The ordinary remuneration of the Directors shall from time to time be determined by an ordinary resolution of the Company and shall (unless such resolution otherwise provides) be divisible among the Directors as they may agree or, failing agreement, equally except that any Director who shall hold office for part only of the period in respect of which such remuneration is payable shall be entitled only to rank in such division for such proportion of remuneration as relates to the period during which he has held office. The Directors may repay to any Director all such reasonable expenses as he may properly incur in attending and returning from meetings of the Directors or of any committee of the Directors or general meetings of the Company or any

class of members of the Company or otherwise in or about the business of the Company. In the event of any Director necessarily performing or rendering any special duties or services to the Company outside his ordinary duties as a Director the Directors may, if so authorised by an ordinary resolution of the Company, pay such Director special remuneration and such special remuneration may be by way of salary, commission, participation in profits or otherwise as may be arranged.

- 10.16. The Directors shall not be subject to retirement by rotation and accordingly all references in Table A to retirement by rotation shall be disregarded.
- 10.17. A resolution in writing signed by such number and category of Directors as is required to form a quorum for a Directors' meeting shall be as effective as a resolution passed at a meeting of the Directors duly convened and held and may consist of several documents in the like form, each signed by one or more of the Directors.
- 10.18. All or any of the Directors or any committee of the Directors may participate in a meeting of the Directors or that committee by means of a conference telephone or any communication equipment which allows all persons participating in the meeting to hear each other and provided that in the case of a meeting of the Directors, at least both (a) two A Directors and (b) one B Director are so participating and, in the case of a committee, such persons as may be required to constitute a quorum are so participating, such meeting shall be quorate and subject to the provisions of these Articles the meeting shall constitute a meeting of the Directors or a committee of the Directors as the case may be. A person so participating shall be deemed to be present in person at the meeting and shall be entitled to vote or 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 then is.
- 10.19. A quorum at a meeting call for the purpose of approving a share transfer pursuant to Article 8.1(d) (but no other purpose) shall be one "A" Director then holding office. Any "B" Directors then holding office shall be entitled to attend but not vote at any such meeting.

### **BORROWING AND OTHER POWERS**

- 11.
- 11.1. The Directors may exercise all the powers of the Company without limit as to amount to borrow and raise money and to accept money on deposit and to grant any security, mortgage, charge or discharge as they may consider fit for any debt or obligation of the Company or which is binding on the Company in any manner or way in which the Company is empowered so to grant and similarly as they may consider fit to enter into any guarantee, contract of

indemnity or suretyship in any manner or way in which the Company is empowered so to enter into.

### ALTERNATE DIRECTORS

12.

- 12.1. Any Director may at any time by writing under his hand and deposited at the Registered Office, or delivered at a meeting of the Directors, appoint any person to be his alternate Director and may in like manner at any time terminate such appointment. If such alternate Director is not another Director, such appointment, unless previously approved by the Directors, shall have effect only upon and subject to being so approved.
- 12.2. The appointment of an alternate Director shall determine on the happening of any event which if he were a Director would cause him to vacate such office or if his appointor ceases to be a Director (retirement at any general meeting at which the Director is re-elected being for such purpose disregarded).
- 12.3. An alternate Director shall (except when absent from the United Kingdom) be entitled to receive notices of meetings of the Directors and shall be entitled to attend and vote as a Director at any such meeting at which his appointor is not personally present and generally at such meeting to perform all the functions of his appointor as a Director and for the purposes of the proceedings at such meeting the provisions of these Articles shall apply as if he were a Director. If his appointor is for the time being absent from the United Kingdom or temporarily unable to act through ill-health or disability, an alternate Director's signature to any resolution in writing of the Directors shall be as effective as the signature of his appointor. Every person acting as an alternate Director shall have one vote for each Director for whom he acts as alternate (in addition to his own vote if he is also a Director). An alternate Director shall not (save as aforesaid) have power to act as a Director or be deemed to be a Director for the purposes of these Articles.
- 12.4. An alternate Director may be repaid expenses and shall be entitled to be indemnified by the Company to the same extent *mutatis mutandis* as if he were a Director but he shall not be entitled to receive from the Company any remuneration except only such proportion (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct.

### INDEMNITY

13.

- 13.1. Every Director or officer of the Company shall be entitled to be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution or discharge of the duties of his

office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings whether civil or criminal in which judgement is given in his favour or in which he is acquitted or in which the charge is found not proven or in connection with any application under Section 727 of the Act in which relief is granted to him by the Court and no Director or other officer shall be liable for any loss, damage or misfortune which may happen to be incurred by the Company in the execution or discharge of the duties of his office or in relation thereto. But this Article shall only have effect in so far as its provisions are not avoided by Section 310 of the Act.

## INSURANCE

14.

- 14.1. The Directors shall have power to purchase and maintain insurance for or for the benefit of any persons who are or were at any time Directors, Officers, employees or auditors of the Company or any other company which is its holding company or subsidiary. Without prejudice to the generality of Article 25 at a meeting of the Directors where such insurance is under consideration a Director may form part of the quorum and vote notwithstanding any interest he may have in such insurance.