

BYE-LAWS
OF
THE BERMUDA OPTIMIST DINGY ASSOCIATION

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BYE-LAWS

of

The Bermuda Optimist Dinghy Association

INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 In these Bye-Laws, unless the context otherwise requires:

Auditor: means the person or firm for the time being appointed as auditor of the Company;

Bermuda: means the Islands of Bermuda;

Board: means the Directors of the Company or the Directors present at a meeting of Directors at which there is a quorum;

Class I Director: means a Director appointed or elected under these Bye-Laws in accordance with the provisions of Bye-Law 12.1.

Class II Director: means a Director appointed or elected under these Bye-Laws in accordance with the provisions of Bye-Law 12.1.

Companies Acts: means every Bermuda statute from time to time in force concerning companies insofar as the same applies to the Company;

Company: means the company incorporated in Bermuda under the name of The Bermuda Optimist Dinghy Association on February 20, 2019

Director: means such person or persons appointed or elected to the Board from time to time pursuant to these Bye-Laws;

Honorary Members: has the meaning as is set out in Bye-Law 3;

Indemnified Person: means any Director, Officer, member of a committee duly constituted under these Bye-Laws and any liquidator, manager or trustee for the time being acting in relation to the affairs of the Company, and his heirs, executors and administrators;

Member: means a member of the Company including a Sailing Member, Supporting Member and Honorary Member as determined and defined by the Members from time to time;

Officer: means a person appointed by the Board pursuant to these Bye-Laws but shall not include the Auditor;

Register: means the Register of Members of the Company maintained by the Company in Bermuda;

Registered Office: means the registered office of the Company which shall be at such place in Bermuda as the Board shall from time to time determine;

Resolution: means a resolution of the Members passed in a general meeting or adopted by resolution in writing, in accordance with the provisions of these Bye-Laws;

Sailing Member: has the meaning as is set out in Bye-Law 3;

Seal: means the common seal of the Company and includes any authorised duplicate thereof;

Secretary: means the individual or the company appointed by the Board to perform any of the duties of the Secretary and includes a temporary or assistant or deputy Secretary;

Supporting Member: has the meaning as is set out in Bye-Law 3; and

these Bye-Laws: means these Bye-Laws in their present form.

- 1.2 For the purposes of these Bye-Laws, a corporation which is a Member shall be deemed to be present in person at a general meeting if, in accordance with the Companies Acts, its authorised representative is present.
- 1.3 For the purposes of these Bye-Laws, a corporation which is a Director shall be deemed to be present in person at a Board meeting if an officer, attorney or other person authorised to attend on its behalf is present, and shall be deemed to discharge its duties and carry out any actions required under these Bye-Laws and the Companies Acts, including the signing and execution of documents, deeds and other instruments, if an officer, attorney or other person authorised to act on its behalf so acts.
- 1.4 Words importing only the singular number include the plural number and vice versa.
- 1.5 Words importing only the masculine gender include the feminine and neuter genders respectively.
- 1.6 Words importing persons include companies, associations, bodies of persons, whether corporate or not.
- 1.7 Words importing a Director as an individual shall include companies, associations and bodies of persons, whether corporate or not.
- 1.8 A reference to writing shall include typewriting, printing, lithography, photography and electronic record.

- 1.9 Any words or expressions defined in the Companies Acts in force at the date when these Bye-Laws or any part thereof are adopted shall bear the same meaning in these Bye-Laws or such part (as the case may be).

REGISTERED OFFICE

2. REGISTERED OFFICE

- 2.1 The Registered Office shall be at such place in Bermuda as the Board shall from time to time appoint.

MEMBERS

3. MEMBERS

- 3.1 The subscribers to the memorandum of association of the Company and such other persons as are admitted to membership in accordance with the Bye-Laws shall be Members of the Company. No person shall be admitted as a Member of the Company unless he is approved by the Directors. Every person who wishes to become a Member shall deliver to the Company an application for membership in such form as the Directors require to be executed by him.
- 3.2 Subject to Bye-Law 3.1 above, Officers of the Company shall recommend persons to the Board for admittance as either Sailing Members or Supporting Members. Honorary Members shall be selected in accordance with the provisions of Bye-Law 3.4(c) below.
- 3.3 Membership in the Company shall be renewed on an annual basis and will automatically terminate if not renewed within three (3) days from the end date of such membership.
- 3.4 There shall be three types of Members:
- (a) **Sailing Members** which shall consist of children who are 15 years of age or less in the year for which membership is granted, who wish to sail in an Optimist Dinghy in Bermuda. The Sailing Members shall not themselves be entitled to vote at meetings of the Association;
 - (b) **Supporting Members** which shall be over the age of fifteen and shall have paid annual dues to the Company. The supporting members shall be entitled to vote at general meetings of the Company; and
 - (c) **Honorary Members** which shall be persons over the age of fifteen who are recognised for the special contribution they have made to the Company and to the furtherance and development of the Optimist sailing class in Bermuda. Honorary Members shall be nominated by the Board and presented to the membership for a majority vote at general meetings of the Members entitled to vote for ratification. Annual dues are waived for Honorary Members. Honorary Members shall be entitled to vote at meetings of the

Association. The term for Honorary Membership and their total numbers shall be determined by the Board.

- 3.5 A Member may at any time withdraw from the Company by giving at least seven (7) clear days' notice to the Company. Membership shall not be transferable and shall cease, in the case of an individual, on death, and in any other case, upon cessation of trading.
- 3.6 All Members by accepting membership to the Company agree to be bound by the Bye-Laws of the Company.

REGISTER OF MEMBERS

4. REGISTER OF MEMBERS

- 4.1 The Secretary shall establish and maintain the Register at the Registered Office in the manner prescribed by the Companies Acts. Unless the Board otherwise determines, the Register shall be open to inspection in the manner prescribed by the Companies Acts between 10:00 a.m. and 12:00 noon on every working day.

GUARANTEE FUND

5. GUARANTEE FUND

- 5.1 The liability of the Members is limited.
- 5.2 Every Member of the Company undertakes to contribute to the assets of the Company in the event of the same being wound up while he is a Member, or within one year after he ceases to be a Member, for payment of the Company's debts and liabilities contracted before he ceases to be a Member and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributors amongst themselves, such an amount as may be required not exceeding BMD100.00 in total.

REGISTER OF DIRECTORS AND OFFICERS

6. REGISTER OF DIRECTORS AND OFFICERS

The Secretary shall establish and maintain a register of the Directors and Officers of the Company as required by the Companies Acts. That is to say it shall file such register with the Registrar of Companies, but shall not otherwise disclose such register to any person except with the consent of the Board.

GENERAL MEETINGS AND RESOLUTIONS IN WRITING

7. GENERAL MEETINGS AND RESOLUTIONS IN WRITING

- 7.1 The Board shall convene and the Company shall hold general meetings as annual general meetings in accordance with the requirements of the Companies Acts at such times and places

as the Board shall appoint. The Board may, whenever it thinks fit, and shall, when required by the Companies Acts, convene general meetings other than annual general meetings which shall be called special general meetings.

- 7.2 Subject to Bye-Law 7.1, an annual general meeting of the Company shall be held within three (3) months of the end of the preceding year. The Secretary by written notice or in electronic form shall circulate notice of and the agenda for each annual general meeting of the Company.
- 7.3 Except in the case of the removal of Auditors or Directors, anything which may be done by resolution of the Members in a general meeting may be done by resolution in writing, signed by the Members who at the date of the notice of the resolution in writing represent the majority of votes that would be required if the resolution had been voted on at a meeting of the Members. Such resolution in writing may be signed by the Member or its proxy, or in the case of a Member that is a corporation (whether or not a company within the meaning of the Companies Acts) by its representative on behalf of such Member, in as many counterparts as may be necessary.
- 7.4 Notice of any resolution in writing to be made under this Bye-Law shall be given to all the Members who would be entitled to attend a meeting and vote on the resolution. The requirement to give notice of any resolution in writing to be made under this Bye-Law to such Members shall be satisfied by giving to those Members a copy of that resolution in writing in the same manner as that required for a notice of a general meeting of the Company at which the resolution could have been considered, except that the length of the period of notice shall not apply. The date of the notice shall be set out in the copy of the resolution in writing.
- 7.5 The accidental omission to give notice, in accordance with this Bye-Law, of a resolution in writing to, or the non-receipt of such notice by, any person entitled to receive such notice shall not invalidate the passing of the resolution in writing.
- 7.6 For the purposes of this Bye-Law, the date of the resolution in writing is the date when the resolution in writing is signed by, or on behalf of, the Member who establishes the majority of votes required for the passing of the resolution in writing and any reference in any enactment to the date of passing of a resolution is, in relation to a resolution in writing made in accordance with this Bye-Law, a reference to such date.
- 7.7 A resolution in writing made in accordance with this Bye-Law is as valid as if it had been passed by the Company in general meeting. A resolution in writing made in accordance with this Bye-Law shall constitute minutes for the purposes of the Companies Acts and these Bye-Laws.
- 7.8 At each annual general meeting the regular order of business shall be as follows:
- (a) Reading of Minutes of the previous meeting.
 - (b) Matters arising from the minutes.
 - (c) Reading of communications.

- (d) Presentation of Financial Statements.
- (e) Reports of Committees.
- (f) Election of Members and Officers of the Association.
- (g) Any Other Business.

8. NOTICE OF GENERAL MEETINGS

8.1 An annual general meeting shall be called by not less than 10 days' notice in writing and a special general meeting shall be called by not less than 10 days' notice in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, day and time of the meeting, and, the nature of the business to be considered. Notice of every general meeting shall be given in any manner permitted by these Bye-Laws to all Members and every Director.

Notwithstanding that a meeting of the Company is called by shorter notice than that specified in this Bye-Law, it shall be deemed to have been duly called if it is so agreed:

- (a) in the case of a meeting called as an annual general meeting, by all the Members entitled to attend and vote thereat;
- (b) in the case of any other meeting, by a majority in number of the Members having the right to attend and vote at the meeting, being a majority together not less than ninety-five per cent (95%) of the total voting rights at the meeting of all Members.

8.2 The accidental omission to give notice of a meeting or (in cases where instruments of proxy are sent out with the notice) the accidental omission to send such instrument of proxy to, or the non-receipt of notice of a meeting or such instrument of proxy by, any person entitled to receive such notice shall not invalidate the proceedings at that meeting.

8.3 The Board may cancel or postpone a meeting of the Members after it has been convened and notice of such cancellation or postponement shall be served in accordance with these Bye-Laws upon all Members entitled to notice of the meeting so cancelled or postponed setting out, where the meeting is postponed to a specific date, notice of the new meeting in accordance with this Bye-Law.

9. PROCEEDINGS AT GENERAL MEETINGS

9.1 No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business, but the absence of a quorum shall not preclude the appointment, choice or election of a chairman, which shall not be treated as part of the business of the meeting. Save as otherwise provided by these Bye-Laws, at least ten (10) Members or ten percent (10%) of the Members of the Company present in person or by proxy and entitled to vote shall be a quorum for all purposes.

- 9.2 If within five (5) minutes (or such longer time as the chairman of the meeting may determine to wait) after the time appointed for the meeting, a quorum is not present, the meeting, if convened on the requisition of Members, shall be dissolved. In any other case, it shall stand adjourned to such other day and such other time and place as the chairman of the meeting may determine and at such adjourned meeting one Member present in person or by proxy and entitled to vote shall be a quorum. The Company shall give not less than ten (10) days' notice of any meeting adjourned through want of a quorum and such notice shall state that the one Member present in person or by proxy and entitled to vote shall be a quorum.
- 9.3 A meeting of the Members may be held by means of such telephone, electronic or other communication facilities (including, without limiting the generality of the foregoing, by telephone, or by video conferencing) as to permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and participation in such a meeting shall constitute presence in person at such meeting.
- 9.4 Each Director shall be entitled to attend and speak at any general meeting of the Company.
- 9.5 The Board may choose one of their number to preside as chairman at every general meeting. If there is no such chairman, or if at any meeting the chairman is not present within five (5) minutes after the time appointed for holding the meeting, or is not willing to act as chairman, the Directors present shall choose one of their number to act or if only one Director is present he shall preside as chairman if willing to act. If no Director is present, or if each of the Directors present declines to take the chair, the persons present and entitled to vote shall elect one of their number to be chairman.
- 9.6 The chairman of the meeting may, with the consent by resolution of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. When a meeting is adjourned for three (3) months or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as expressly provided by these Bye-Laws, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

10. **VOTING**

- 10.1 Save where a greater majority is required by the Companies Acts or these Bye-Laws, any question proposed for consideration at any general meeting shall be decided on by a simple majority of votes cast.

At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands or by a count of votes received in the form of electronic records. A declaration by the chairman that a resolution has, on a show of hands or count of votes received as electronic records, been carried or carried unanimously or by a particular majority or not carried by a

particular majority or lost shall be final and conclusive, and an entry to that effect in the minute book of the Company shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded for or against such resolution.

- 10.2 On a show of hands every Member present (whether in person or by proxy) and entitled to vote shall have one vote.
- 10.3 In the case of an equality of votes at a general meeting the chairman of such meeting shall not be entitled to a second or casting vote and the resolution shall fail.
- 10.4 A Member who is a patient for any purpose of any statute or applicable law relating to mental health or in respect of whom an order has been made by any Court having jurisdiction for the protection or management of the affairs of persons incapable of managing their own affairs may vote, whether on a show of hands or by electronic record, by his receiver, committee, *curator bonis* or other person in the nature of a receiver, committee or *curator bonis* appointed by such Court and such receiver, committee, *curator bonis* or other person may vote by proxy, and may otherwise act and be treated as such Member for the purpose of general meetings.
- 10.5 If:
- (a) any objection shall be raised to the qualification of any voter; or,
 - (b) any votes have been counted which ought not to have been counted or which might have been rejected; or,
 - (c) any votes are not counted which ought to have been counted,

the objection or error shall not vitiate the decision of the meeting or adjourned meeting on any resolution unless the same is raised or pointed out at the meeting or, as the case may be, the adjourned meeting at which the vote objected to is given or tendered or at which the error occurs. Any objection or error shall be referred to the chairman of the meeting and shall only vitiate the decision of the meeting on any resolution if the chairman decides that the same may have affected the decision of the meeting. The decision of the chairman on such matters shall be final and conclusive.

PROXIES AND CORPORATE REPRESENTATIVES

11. PROXIES AND CORPORATE REPRESENTATIVES

- 11.1 The instrument appointing a proxy or corporate representative shall be in writing executed by the appointor or his attorney authorised by him in writing or, if the appointor is a corporation, either under its Seal or executed by an officer, attorney or other person authorised to sign the same.

- 11.2 Any Member may appoint a proxy or (if a corporation) representative for a specific general meeting, and adjournments thereof, or may appoint a standing proxy or (if a corporation) representative, by serving on the Company at the Registered Office, or at such place or places as the Board may otherwise specify for the purpose, a proxy or (if a corporation) an authorisation. Any standing proxy or authorisation shall be valid for all general meetings and adjournments thereof or resolutions in writing, as the case may be, until notice of revocation is received at the Registered Office or at such place or places as the Board may otherwise specify for the purpose. Where a standing proxy or authorisation exists, its operation shall be deemed to have been suspended at any general meeting or adjournment thereof at which the Member is present or in respect to which the Member has specially appointed a proxy or representative. The Board may from time to time require such evidence as it shall deem necessary as to the due execution and continuing validity of any standing proxy or authorisation and the operation of any such standing proxy or authorisation shall be deemed to be suspended until such time as the Board determines that it has received the requested evidence or other evidence satisfactory to it.
- 11.3 Notwithstanding Bye-law 11.2, a Member may appoint a proxy which shall be irrevocable in accordance with its terms and the holder thereof shall be the only person entitled to vote the relevant shares at any meeting of the shareholders at which such holder is present. Notice of the appointment of any such proxy shall be given to the Company at its Registered Office, and shall include the name, address, telephone number and electronic mail address of the proxy holder. The Company shall give to the proxy holder notice of all meetings of Members of the Company and shall be obliged to recognise the holder of such proxy until such time as the holder notifies the Company in writing that the proxy is no longer in force.
- 11.4 Subject to Bye-Law 11.2 and 11.3, the instrument appointing a proxy or corporate representative together with such other evidence as to its due execution as the Board may from time to time require, shall be delivered at the Registered Office (or at such place as may be specified in the notice convening the meeting or in any notice of any adjournment or, in either case or the case of a resolution in writing, in any document sent therewith) prior to the holding of the relevant meeting or adjourned meeting at which the person named in the instrument proposes to vote or, in the case of a resolution in writing, prior to the effective date of the resolution in writing and in default the instrument of proxy or authorisation shall not be treated as valid.
- 11.5 Subject to Bye-Law 11.2 and 11.3, the decision of the chairman of any general meeting as to the validity of any appointments of a proxy shall be final.
- 11.6 Instruments of proxy or authorisation shall be in any common form or in such other form as the Board may approve and the Board may, if it thinks fit, send out with the notice of any meeting or any resolution in writing forms of instruments of proxy or authorisation for use at that meeting or in connection with that resolution in writing. The instrument of proxy shall be deemed to confer authority to speak at the meeting and to vote on any amendment of a resolution in writing or amendment of a resolution put to the meeting for which it is given as the proxy thinks fit. The instrument of proxy or authorisation shall, unless the contrary is stated therein, be valid as well for any adjournment of the meeting as for the meeting to which it relates.

- 11.7 A vote given in accordance with the terms of an instrument of proxy or authorisation shall be valid notwithstanding the previous death or unsoundness of mind of the principal, or revocation of the instrument of proxy or of the corporate authority, provided that no intimation in writing of such death, unsoundness of mind or revocation shall have been received by the Company at the Registered Office (or such other place as may be specified for the delivery of instruments of proxy or authorisation in the notice convening the meeting or other documents sent therewith) at least one hour before the commencement of the meeting or adjourned meeting, or the day before the effective date of any resolution in writing at which the instrument of proxy or authorisation is used.
- 11.8 Subject to the Companies Acts, the Board may at its discretion waive any of the provisions of these Bye-Laws related to proxies or authorisations and, in particular, may accept such verbal or other assurances as it thinks fit as to the right of any person to attend, speak and vote on behalf of any Member at general meetings or to sign resolutions in writing.

BOARD OF DIRECTORS

12. APPOINTMENT AND REMOVAL OF DIRECTORS

- 12.1 Each Director will be designated by Resolution as either a Class I Director or a Class II Director. There is no distinction in the voting or other powers and authorities of Directors of different classes; the classifications are solely for the purposes of the retirement by rotation provisions set out in Bye-Laws 12.4 and 12.5. The Board shall from time by resolution determine the respective numbers of Class I Directors and Class II Directors.
- 12.2 The parent or legal guardian of a Sailing Member is not permitted to be appointed as a Director.
- 12.3 Upon resignation or termination of office of any Director, if a new Director shall be appointed to the Board (in accordance with these Bye-Laws) he will be designated to fill the vacancy arising and shall, for the purposes of these Bye-Laws, constitute a member of the class of Directors represented by the person that he replaces.
- 12.4 Each Class I Director shall (unless his office is vacated in accordance with these Bye-Laws) serve initially until the conclusion of the Annual General Meeting of the Company held in the calendar year of 2019 and subsequently shall (unless his office is vacated in accordance with these Bye-Laws) serve for two-year terms, each concluding at the second Annual General Meeting after the Class I Directors were last appointed or reappointed.
- 12.5 Each Class II Director shall (unless his office is vacated in accordance with these Bye-Laws) serve initially until the conclusion of the Annual General Meeting of the Company held in the calendar year of 2020 and subsequently shall (unless his office is vacated in accordance with these Bye-Laws) serve for two-year terms, each concluding at the second Annual General Meeting after the Class II Directors were last appointed or reappointed.

- 12.6 Any Director retiring at an Annual General Meeting will be eligible for reappointment and will retain office until the close of the meeting at which he retires or (if earlier) until a Resolution is passed at that meeting not to fill the vacancy or the resolution to reappoint him is put to a vote at the meeting and is lost.
- 12.7 If the Company, at the meeting at which a Director (of any class) retires by rotation or otherwise, does not fill the vacancy, the retiring Director shall, if willing to act, be deemed to have been reappointed unless at the meeting it is resolved not to fill the vacancy or unless a resolution for the reappointment of the Director is put to the meeting and lost.
- 12.8 No person other than a Director retiring by rotation shall be appointed a Director at any general meeting unless:
- (a) he is recommended by the Board or any committee of the Board; or
 - (b) he is nominated by a group of not less than ten (10) Members who are entitled to vote on the election of Directors.
- 12.9 The number of Directors shall be at least three (3) and not more than five (5) or such numbers in excess thereof as the Company by Resolution may from time to time determine and, subject to the Companies Acts and these Bye-Laws, the Directors shall be elected or appointed by the Company by Resolution and shall serve in accordance with Bye-Laws 12.3 and 12.4. All Directors, upon election or appointment (except upon re-election at an annual general meeting), must provide written acceptance of their appointment, in such form as the Board may think fit, by notice in writing to the Registered Office within thirty (30) days of their appointment.
- 12.10 In the event that there shall be, at any time and whether through lapse of term, death, resignation, retirement or otherwise, no Directors in office, the Members entitled to vote at a general meeting where Directors would be elected or appointed may unanimously give notice to the Secretary appointing one or more Directors to serve until the termination of the next annual general meeting. If no such appointment is made within seven (7) days of the cessation of the active service of the last remaining Director on the Board, the Secretary shall forthwith call a general meeting for the purpose solely of electing or appointing a Director or Directors, to serve for such term as the Company by Resolution may determine, or in the absence of such determination, until the next annual general meeting following their appointment. Any Director appointed pursuant to this Bye-Law shall provide written acceptance of their appointment by notice in writing to the Registered Office within thirty (30) days of their appointment.
- 12.11 The Company may by Resolution increase the maximum number of Directors. Any one or more vacancies in the Board not filled by the Members at any general meeting of the Members shall be deemed casual vacancies for the purposes of these Bye-Laws. Without prejudice to the power of the Company by Resolution in pursuance of any of the provisions of these Bye-Laws to appoint any person to be a Director, the Board, so long as a quorum of Directors remains in office, shall

have power at any time and from time to time to appoint any person to be a Director so as to fill a casual vacancy.

12.12 The Company may in a special general meeting called for that purpose remove a Director, provided notice of any such meeting shall be served upon the Director concerned not less than fourteen (14) days before the meeting and he shall be entitled to be heard at that meeting. Any vacancy created by the removal of a Director at a special general meeting may be filled at the meeting by the election of another Director in his place or, in the absence of any such election, by the Board.

12.13 The Resolution appointing any Director must designate that Director as a Class I Director or Class II Director.

13. **RESIGNATION AND DISQUALIFICATION OF DIRECTORS**

The office of a Director shall be vacated upon the happening of any of the following events:

13.1 if he resigns his office by notice in writing delivered to the Registered Office or tendered at a meeting of the Board;

13.2 if he becomes of unsound mind or a patient for any purpose of any statute or applicable law relating to mental health and the Board resolves that his office is vacated;

13.3 if he becomes bankrupt under the laws of any country or compounds with his creditors;

13.4 if he is prohibited by law from being a Director or, in the case of a corporate Director, is otherwise unable to carry on or transact business; or

13.5 if he ceases to be a Director by virtue of the Companies Acts or is removed from office pursuant to these Bye-Laws.

14. **FEES AND REMUNERATION**

14.1 Subject to these Bye-Laws, all income and property of the Company shall be applied solely towards the promotion of its objects as set out in the memorandum of association of the Company and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise howsoever by way of profit, to the Members of the Company.

14.2 No Director, managing director, joint managing director, assistant managing director or Officer of the Company, by whatever title named, shall receive compensation from the Company for their services rendered.

15. **DIRECTORS' INTERESTS**

- 15.1 A Director may act by himself or his firm in a professional capacity for the Company (other than as Auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director.
- 15.2 Subject to the provisions of the Companies Acts, a Director may notwithstanding his office be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested; and 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 interested.
- 15.3 So long as, where it is necessary, he declares the nature of his interest at the first opportunity at a meeting of the Board or by writing to the Directors as required by the Companies Acts, a Director shall not by reason of his office be accountable to the Company for any benefit which he derives from any office or employment to which these Bye-Laws allow him to be appointed or from any transaction or arrangement in which these Bye-Laws allow him to be interested, and no such transaction or arrangement shall be liable to be avoided on the ground of any interest or benefit.
- 15.4 Subject to the Companies Acts and any further disclosure required thereby, a general notice to the Directors by a Director or Officer declaring that he is a director or officer or has an interest in a person and is to be regarded as interested in any transaction or arrangement made with that person, shall be a sufficient declaration of interest in relation to any transaction or arrangement so made.

POWERS AND DUTIES OF THE BOARD

16. **POWERS AND DUTIES OF THE BOARD**

- 16.1 Subject to the provisions of the Companies Acts and these Bye-Laws, the Board shall manage the business of the Company and may pay all expenses incurred in promoting and incorporating the Company and may exercise all the powers of the Company. No alteration of these Bye-Laws and no such direction shall invalidate any prior act of the Board which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Bye-Law shall not be limited by any special power given to the Board by these Bye-Laws and a meeting of the Board at which a quorum is present shall be competent to exercise all the powers, authorities and discretions for the time being vested in or exercisable by the Board.
- 16.2 The Board may exercise all the powers of the Company except those powers that are required by the Companies Acts or these Bye-Laws to be exercised by the Members.
- 16.3 The Board may from time to time appoint one or more of its body to be a managing director, joint managing director or an assistant managing director or to hold any other employment or executive office with the Company for such period and upon such terms as the Board may

determine, subject to Bye-law 14.2, and may revoke or terminate any such appointments. Any such revocation or termination as aforesaid shall be without prejudice to any claim for damages that such Director may have against the Company or the Company may have against such Director for any breach of any contract of service between him and the Company which may be involved in such revocation or termination.

- 16.4 The affairs of the Company shall be conducted on behalf of the Members by the Board who shall be solely responsible for fulfilling the intent of objects of the Company (as is set out in the Memorandum of Association of the Company) and reporting back to the Members of their actions and activity at each annual general meeting.
- 16.5 Notwithstanding the provisions of Bye-Law 17, the duties of the Board shall include, but not be limited to: -
- (a) managing the affairs of the Company;
 - (b) protecting the interests of the Sailing Members;
 - (c) promoting regular sailing and fair competition by the Sailing Members;
 - (d) promoting the continuing sailing endeavours of the Sailing Members at the cessation of their eligibility as Sailing Members;
 - (e) prescribing such rules regulating the affairs and conduct of the Company as may, in their judgement, become necessary.
 - (f) acting as liaison between the Membership and the local sailing clubs, regional and international governing bodies.
 - (g) taking all steps necessary to maintain the Company's status as a registered charity with the office of the Registrar General.

In each instance in furtherance of the participation by Sailing Members of the Company in the Optimist sailing class.

- 16.6 Notwithstanding the provisions of Bye-Law 17, the Board shall solely be responsible for carrying out and implementing the objects of the Company, as is set out in its Memorandum of Association, and the duties set out in Bye-Law 16.5.

17. **DELEGATION OF THE BOARD'S POWERS**

- 17.1 The Board may by power of attorney appoint any company, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the Board, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board under these Bye-Laws) and for such period and subject to such conditions as it may think fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney and of such attorney as the Board may think fit, and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in him. Such

attorney may, if so authorised by the power of attorney, execute any deed, instrument or other document on behalf of the Company.

- 17.2 The Board may entrust to and confer upon any Director, Officer or, without prejudice to the provisions of Bye-Law 17.3, other person any of the powers, authorities and discretions exercisable by it upon such terms and conditions with such restrictions as it thinks fit, and either collaterally with, or to the exclusion of, its own powers, authorities and discretions, and may from time to time revoke or vary all or any of such powers, authorities and discretions but no person dealing in good faith and without notice of such revocation or variation shall be affected thereby.
- 17.3 The Board may delegate any of its powers, authorities and discretions to one or more committees, consisting of such person or persons (whether a member or members of its body or not) as it thinks fit. Any committee so formed shall, in the exercise of the powers, authorities and discretions so delegated, and in conducting its proceedings, conform to any regulations which may be imposed upon it by the Board. If no regulations are imposed by the Board, the proceedings of a committee with two (2) or more members shall be, as far as is practicable, governed by the Bye-Laws regulating the proceedings of the Board. There shall be established at all times time a Sailor Development Committee and Fundraising Committee of the Company.

18. **PROCEEDINGS OF THE BOARD**

- 18.1 The Board may meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit. Questions arising at any meeting shall be determined by a majority of votes. In the case of an equality of votes, the motion shall be deemed to have been lost. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Board.
- 18.2 Notice of a meeting of the Board may be given to a Director by word of mouth or in any manner permitted by these Bye-Laws. A Director may retrospectively waive the requirement for notice of any meeting by consenting in writing to the business conducted at the meeting.
- 18.3 The quorum necessary for the transaction of the business of the Board may be fixed by the Board and, unless so fixed at any other number, shall be two (2) persons. Any Director who ceases to be a Director at a meeting of the Board may continue to be present and to act as a Director and be counted in the quorum until the termination of the meeting if no other Director objects and if otherwise a quorum of Directors would not be present.
- 18.4 A Director who to his knowledge is in any way, whether directly or indirectly, interested in a contract or proposed contract, transaction or arrangement with the Company and has complied with the provisions of the Companies Acts and these Bye-Laws with regard to disclosure of his interest shall be entitled to vote in respect of any contract, transaction or arrangement in which he is so interested and if he shall do so his vote shall be counted, and he shall be taken into account in ascertaining whether a quorum is present.

- 18.5 So long as a quorum of Directors remains in office, the continuing Directors may act notwithstanding any vacancy in the Board but, if no such quorum remains, the continuing Directors may act only for the purpose of calling a general meeting.
- 18.6 The Board may choose one of their number to preside as chairman at every meeting of the Board. If there is no such chairman, or if at any meeting the chairman is not present within five (5) minutes after the time appointed for holding the meeting, or is not willing to act as chairman, the Directors present may choose one of their number to be chairman of the meeting.
- 18.7 The meetings and proceedings of any committee consisting of two (2) or more members shall be governed by the provisions contained in these Bye-Laws for regulating the meetings and proceedings of the Board so far as the same are applicable and are not superseded by any regulations imposed by the Board.
- 18.8 A resolution in writing signed by all the Directors or members of a committee for the time being entitled to receive notice of a meeting of the Board or committee shall be as valid and effectual as a resolution passed at a meeting of the Board or, as the case may be, of such committee duly called and constituted. Such resolution may be contained in one document or in several documents in the like form each signed by one or more of the Directors or members of the committee concerned.
- 18.9 A meeting of the Board or a committee appointed by the Board may be held by means of such telephone, electronic or other communication facilities (including, without limiting the generality of the foregoing, by telephone or by video conferencing) as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously and participation in such a meeting shall constitute presence in person at such meeting. Such a meeting shall be deemed to take place where the largest group of those Directors participating in the meeting are physically assembled, or, if there is no such group, where the chairman of the meeting then is.
- 18.10 All acts done by the Board or by any committee or by any person acting as a Director or member of a committee or any person duly authorised by the Board or any committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any member of the Board or such committee or person acting as aforesaid or that they or any of them were disqualified or had vacated their office, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director, member of such committee or person so authorised.

OFFICERS

19. OFFICERS

- 19.1 The Officers of the Company, who may or may not be Directors, may be appointed by the Board at any time. Any person appointed pursuant to this Bye-Law shall hold office for such period and upon such terms as the Board may determine and the Board may revoke or terminate any such

appointment. Any such revocation or termination shall be without prejudice to any claim for damages that such Officer may have against the Company or the Company may have against such Officer for any breach of any contract of service between him and the Company which may be involved in such revocation or termination. Save as provided in the Companies Acts or these Bye-Laws, the powers and duties of the Officers of the Company shall be such (if any) as are determined from time to time by the Board.

- 19.2 The Officers of the Company must be Members who are eligible to vote. The Officers of the Company shall have full authority to conduct the affairs of the Company throughout their elected term of office.
- 19.3 The provisions of these Bye-Laws as to resignation and disqualification of Directors shall mutatis mutandis apply to the resignation and disqualification of Officers.
- 19.4 Subject to the provisions of Bye-Law 19.1, the Officers of the Company shall consist of a President, Vice President, Secretary, Treasurer and a Chairman from each committee named in Bye-Law 17.3.
- 19.5 The President of the Company or any Director shall preside as chairman at general meetings of the Company. The President of the Company shall be a member of all committees and generally perform the duties of a president.
- 19.6 The Vice President shall support the President in the conduct of the affairs of the Company and shall provide cover for the President in his absence, including, for the avoidance of doubt, attending and presiding over general meetings of the Company.
- 19.7 The Secretary shall be responsible for all official documents, papers and records of the Company and the dissemination of communications to all members. The Secretary shall keep minutes of all general meeting, serve notices and conduct the correspondence of the Company.
- 19.8 The Treasurer shall keep all paper and electronic records of all financial transactions of the Company. The Treasurer shall collect all monies due or payable to the Company and shall record and deposit such monies for safe keeping. The Treasurer shall make any payments required for the purposes of the Company and present an audited statement of the Company's financial position at the annual general meeting.

MINUTES

20. MINUTES

- 20.1 The Board shall cause minutes to be made and books kept for the purpose of recording:
 - (a) all appointments of Officers made by the Board;

- (b) the names of the Directors and other persons (if any) present at each meeting of the Board and of any committee; and
- (c) all proceedings at meetings of the Company, of the Board and of committees appointed by the Board or the Members.

SECRETARY

21. SECRETARY

- 21.1 The Secretary (including one or more deputy or assistant secretaries) shall be appointed by the Board at such remuneration (if any) and upon such terms as it may think fit and any Secretary so appointed may be removed by the Board. The duties of the Secretary shall be those prescribed by the Companies Acts together with such other duties as shall from time to time be prescribed by the Board.
- 21.2 A provision of the Companies Acts or these Bye-Laws requiring or authorising any thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in the place of, the Secretary.
- 21.3 The assignment of a sail number and registry of boats shall be maintained by the Secretary and shall be available for viewing at all reasonable times.

THE SEAL

22. THE SEAL

- 22.1 The Board may authorise the production of a common seal of the Company and one or more duplicate common seals of the Company, which shall consist of a circular device with the name of the Company around the outer margin thereof and the country and year of registration in Bermuda across the centre thereof.
- 22.2 Any document required to be under seal or executed as a deed on behalf of the Company may be:
 - (a) executed under the Seal in accordance with these Bye-Laws; or
 - (b) signed or executed by any person authorised by the Board for that purpose, without the use of the Seal.
- 22.3 The Board shall provide for the custody of every Seal. A Seal shall only be used by authority of the Board or of a committee constituted by the Board. Subject to these Bye-Laws, any instrument to which a Seal is affixed shall be attested by the signature of:
 - (a) a Director; or

- (b) the Secretary; or
- (c) any one person authorised by the Board for that purpose.

RECORD DATES

23. RECORD DATES

Notwithstanding any other provisions of these Bye-Laws, the Company may by Resolution or the Board may fix any date as the record date for the purpose of identifying the persons entitled to receive notices of any general meeting and to vote at any general meeting. Any such record date may be on or at any time before or after any date on which such notice is despatched.

ACCOUNTING RECORDS

24. ACCOUNTING RECORDS

- 24.1 The financial year of the Company shall be during the period of September 1st of one year to August 31st of the following year. Financial statements for the financial period shall be presented to the Members at each annual general meeting of the Company.
- 24.2 The Board shall cause to be kept accounting records sufficient to give a true and fair view of the state of the Company's affairs and to show and explain its transactions, in accordance with the Companies Acts.
- 24.3 The records of account shall be kept at the Registered Office or at such other place or places as the Board thinks fit, and shall at all times be open to inspection by the Directors, PROVIDED that if the records of account are kept at some place outside Bermuda, there shall be kept at an office of the Company in Bermuda such records as will enable the Directors to ascertain with reasonable accuracy the financial position of the Company at the end of each three (3) month period. No Member (other than an Officer of the Company) shall have any right to inspect any accounting record or book or document of the Company except as conferred by law or authorised by the Board or by Resolution.
- 24.4 A copy of every balance sheet and statement of income and expenditure, including every document required by law to be annexed thereto, which is to be laid before the Company in general meeting, together with a copy of the Auditors' report, shall be sent to each person entitled thereto in accordance with the requirements of the Companies Acts.

AUDIT

25. AUDIT

Auditors shall be appointed and their duties regulated in accordance with the Companies Acts, any other applicable law and such requirements not inconsistent with the Companies Acts as the Board may from time to time determine.

SERVICE OF NOTICES AND OTHER DOCUMENTS

26. SERVICE OF NOTICES AND OTHER DOCUMENTS

26.1 Any notice or other document (including but not limited to any notice of a general meeting of the Company, any instrument of proxy and any document to be sent in accordance with Bye-Law 24.4) may be sent to, served on or delivered to any Member by the Company

- (a) personally;
- (b) by sending it through the post (by airmail where applicable) in a pre-paid letter addressed to such Member at his address as appearing in the Register;
- (c) by sending it by courier to or leaving it at the Member's address appearing in the Register;
- (d) where applicable, by sending it by email or facsimile or other mode of representing or reproducing words in a legible and non-transitory form or by sending an electronic record of it by electronic means, in each case to an address or number supplied by such Member for the purposes of communication in such manner; or
- (e) by publication of an electronic record of it on a website and notification of such publication (which shall include the address of the website, the place on the website where the document may be found, and how the document may be accessed on the website) by any of the methods set out in paragraphs (a), (b), (c) or 26.2(d) of this Bye-Law, in accordance with the Companies Acts.

26.2 Any notice or other document shall be deemed to have been served on or delivered to any Member by the Company

- (a) if sent by personal delivery, at the time of delivery;
- (b) if sent by post, forty-eight (48) hours after it was put in the post;
- (c) if sent by courier or facsimile, twenty-four (24) hours after sending;
- (d) if sent by email or other mode of representing or reproducing words in a legible and non-transitory form or as an electronic record by electronic means, twelve (12) hours after sending; or
- (e) if published as an electronic record on a website, at the time that the notification of such publication shall be deemed to have been delivered to such Member,

and in proving such service or delivery, it shall be sufficient to prove that the notice or document was properly addressed and stamped and put in the post, published on a website in accordance with the Companies Acts and the provisions of these Bye-Laws, or sent by courier, facsimile,

email or as an electronic record by electronic means, as the case may be, in accordance with these Bye-Laws.

Each Member and each person becoming a Member subsequent to the adoption of these Bye-Laws, by virtue of its application for membership or continued membership in the Company, as applicable, shall be deemed to have acknowledged and agreed that any notice or other document may be provided by the Company by way of accessing them on a website instead of being provided by other means.

- 26.3 Any notice or other document delivered, sent or given to a Member in any manner permitted by these Bye-Laws shall, notwithstanding that such Member is then dead or bankrupt or that any other event has occurred, and whether or not the Company has notice of the death or bankruptcy or other event, be deemed to have been duly served or delivered unless his name shall, at the time of the service or delivery of the notice or document, have been removed from the Register, and such service or delivery shall for all purposes be deemed as sufficient service or delivery of such notice or document.
- 26.4 Save as otherwise provided, the provisions of these Bye-Laws as to service of notices and other documents on Members shall *mutatis mutandis* apply to service or delivery of notices and other documents to the Company or any Director or Officer pursuant to these Bye-Laws.

WINDING UP

27. WINDING UP

The Company shall exist until a decision is taken, by not less than a two-thirds majority vote at a general meeting of the Members, to terminate it. If upon the winding up or dissolution of the Company there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the Members of the Company, but shall be given or transferred to the Bermuda Sailing Association or, if the Bermuda Sailing Association is no longer in existence, to some other charitable body or bodies having objects similar to those of the Company and which shall prohibit the distribution of its or their income and property to an extent at least as great as that imposed on the Company under or by virtue of these Bye-Laws and the Companies Acts, such body or bodies to be determined by the Members of the Company at or before the time of dissolution, and if and so far as effect cannot be given to such provision, then to some other charitable body.

INDEMNITY

28. INDEMNITY

- 28.1 Subject to the proviso below, every Indemnified Person shall be indemnified and held harmless out of the assets of the Company against all liabilities, loss, damage or expense (including but not limited to liabilities under contract, tort and statute or any applicable foreign law or regulation and all reasonable legal and other costs and expenses properly payable) incurred or suffered by

him by or by reason of any act done, conceived in or omitted in the conduct of the Company's business or in the discharge of his duties and the indemnity contained in this Bye-Law shall extend to any Indemnified Person acting in any office or trust in the reasonable belief that he has been appointed or elected to such office or trust notwithstanding any defect in such appointment or election PROVIDED ALWAYS that the indemnity contained in this Bye-Law shall not extend to any matter which would render it void pursuant to the Companies Acts.

- 28.2 No Indemnified Person shall be liable to the Company for the acts, defaults or omissions of any other Indemnified Person.
- 28.3 To the extent that any Indemnified Person is entitled to claim an indemnity pursuant to these Bye-Laws in respect of amounts paid or discharged by him, the relevant indemnity shall take effect as an obligation of the Company to reimburse the person making such payment or effecting such discharge.
- 28.4 Each Member and the Company agree to waive any claim or right of action he or it may at any time have, whether individually or by or in the right of the Company, against any Indemnified Person on account of any action taken by such Indemnified Person or the failure of such Indemnified Person to take any action in the performance of his duties with or for the Company PROVIDED HOWEVER that such waiver shall not apply to any claims or rights of action arising out of the fraud of such Indemnified Person or to recover any gain, personal profit or advantage to which such Indemnified Person is not legally entitled.
- 28.5 The Company shall advance moneys to any Indemnified Person for the costs, charges, and expenses incurred by the Indemnified Person in defending any civil or criminal proceedings against them, on condition and receipt of an undertaking in a form satisfactory to the Company that the Indemnified Person shall repay such portion of the advance attributable to any claim of fraud or dishonesty if such a claim is proved against the Indemnified Person.

ALTERATION OF BYE-LAWS

29. **ALTERATION OF BYE-LAWS**

These Bye-Laws may be amended from time to time by resolution of the Board, but subject to approval by two-thirds majority vote of the Members of the Company at a general meeting.

CHARITABLE STATUS

30. **CHARITABLE STATUS**

- 30.1 As at the effective date of these Bye-Laws the Company is registered as a charity under the Charities Act 2014.
- 30.2 The Members shall, by Resolution, determine whether the Company shall relinquish its charitable status.

