

Company No. 03872646

THE COMPANIES ACT 1985
COMPANY LIMITED BY SHARES
SPECIAL AND ORDINARY RESOLUTIONS

of

MERCHANT INNS PLC

Passed on 25 July 2005



At an extraordinary general meeting of the Company duly convened and held at the offices of Kirkpatrick & Lockhart Nicholson Graham LLP at 110 Cannon Street, London EC4N 6AR on 25 July 2005 the following resolutions were duly passed, resolutions 1, 3 and 5 as special resolutions and resolutions 2 and 4 as ordinary resolutions:

SPECIAL RESOLUTION

1. *That the Articles of Association of the Company be amended by:*

The deletion of Articles 112, 113, 114 and 115; and

the insertion of the following new Articles in their place:

- "112 *Subject as provided in Articles 113 to 114, the Directors may exercise all the powers of the Company to borrow money, and to mortgage or charge its undertaking, property and uncalled capital or any part thereof and, subject to the provisions of section 80 of the Act, to issue debentures and other securities whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party.*
- 113 *The Directors shall restrict the borrowings of the Company and exercise all voting and other rights or powers of control exercisable by the Company at general meetings of its subsidiary undertakings (if any) so as to secure (so far, as regards subsidiary undertakings, as by such exercise they can secure) that the aggregate amount for the time being remaining undischarged of all moneys borrowed by the Group shall not (excluding intra-Group borrowings) at any*

time without the previous sanction of an ordinary resolution of the Company exceed a sum equal to four times the adjusted total of capital and reserves.

114 *For the purpose of Articles 113 to 115:*

The following shall (without limitation and unless otherwise taken into account) be deemed to constitute moneys borrowed:

the principal amount outstanding in respect of any debenture notwithstanding that the same may have been issued in whole or in part for a consideration other than cash;

the principal amount outstanding in respect of any debenture of any member of the Group which is not beneficially owned within the Group;

the principal amount outstanding under any bill accepted by any member of the Group (and not beneficially owned within the Group) or under any acceptance credit opened on behalf of or in favour of any member of the Group other than by another member of the Group (not being an amount outstanding in respect of the purchase of goods in the ordinary course of trading);

the nominal amount of the issued and paid-up preference share capital of any subsidiary undertaking of the Company not beneficially owned within the Group;

the nominal amount of any issued share capital and the principal amount of any moneys borrowed (not being issued share capital or moneys borrowed beneficially owned within the Group) the redemption or repayment whereof is guaranteed or secured by the Company or by any of its subsidiary undertakings; and

any fixed or minimum premium payable on final redemption or repayment of any debentures or other moneys borrowed or share capital in addition to the principal or nominal amount thereof.

Moneys borrowed for the purpose of and actually applied within 6 months in repaying the whole or any part of other moneys borrowed by the Group and for the time being outstanding shall not pending their application for such purpose be deemed to be moneys borrowed; and

Moneys borrowed from bankers or others for the purpose of financing any contract up to an amount not exceeding that part of the price receivable under the contract which is guaranteed or insured by the Export Credit Guarantees Department or any other institution or body carrying on a similar business shall be deemed not to be moneys borrowed.

115 *For the purpose of Articles 112 to 113:*

A. *Subject to sub-paragraphs B. and C. below, the adjusted total of capital and reserves means:*

the nominal amount of the issued and paid up or credited as paid up share capital for the time being of the Company; and

the amount standing to the credit of the consolidated reserves of the Group including share premium account and capital redemption reserve fund (if any) and the amount standing to the credit of the consolidated profit and loss account,

all as shown in consolidation of the most recent audited balance sheets of the Company and its subsidiary undertakings available at the date the calculation falls to be made or, if greater, the audited balance sheets immediately preceding the most recent audited balance sheets but after:

adjusting as may be necessary in respect of any variation in such paid up share capital and reserves since the date of such balance sheets but so far as the profit and loss account is concerned only to take account of:

(i) *any distribution (otherwise than within the Group) paid, recommended or declared and not already provided for as a liability in such balance sheets or being a normal preference or interim dividend payable out of profits since earned; and*

(ii) *any provision made other than out of profits since earned;*

excluding any sum set aside for taxation (other than deferred taxation);

excluding a sum equal to the book value of goodwill other than goodwill arising upon such consolidation (the amount of which so far as previously written off is to be written back); and

deducting if not already deducted any debit balance on profit and loss account.

Share capital allotted shall be treated as issued and any share capital already called up or payable at any future date within the following 12 months shall be treated as already paid up and if the Company proposes to issue any shares for cash and the issue of such shares has been underwritten then such shares shall be deemed to have been issued and the subscription moneys (including any premium) payable in respect thereof within the following 12 months shall be deemed to have been paid up.

In calculating the adjusted total of capital and reserves, any adjustments may be made that the Auditors may certify in their opinion to be appropriate, including in particular adjustments to provide for the carrying into effect of any transaction for the purpose of or in connection with which it requires to be calculated.

B. The certificate of the Auditors as to the amount of the adjusted total of capital and reserves at any time shall be conclusive and binding upon all concerned.

C. No person dealing with the Company or any of its subsidiaries shall by reason of Articles 112 to 114 be concerned to see or inquire whether the borrowing limit is observed, and no debt incurred or security given in excess of such limit shall be invalid or ineffectual unless the lender or the recipient of the security had at the time when the debt was incurred or security given express notice that the limit hereby imposed had been or would thereby be exceeded."

ORDINARY RESOLUTION

2. *That the authorised share capital of the Company be and is hereby increased from £5,300,052.50 to £7,300,052.50 by the creation of 40,000,000 new B Ordinary Shares of 5p each.*

SPECIAL RESOLUTION

3. *That, conditionally upon the passing of the extraordinary resolution contained in the notices of separate class meetings of the holders of (i) the A Ordinary Shares of 50p each in the Company, (ii) the B Ordinary Shares of 5p each in the Company and (iii) the Ordinary Shares of 50p each in the Company:*

(A) the share capital of the Company be subdivided and reclassified as follows:

- (i) *each existing A Ordinary Share of 50p in the capital of the Company in issue as shown in the Register of Members of the Company at the close of business on 25 July 2005 shall be subdivided into 10 shares of 5p each, one of such shares being reclassified as an ordinary share of 5p and 9 of such shares being reclassified as deferred shares of 5p each;*
 - (ii) *each existing Ordinary Share of 50p in the capital of the Company in issue as shown in the Register of members of the Company at the close of business on 25 July 2005 shall be subdivided into 10 shares of 5p each, one of such shares being reclassified as an ordinary share of 5p and 9 of such shares being reclassified as deferred shares of 5p each;*
 - (iii) *each existing B Ordinary Share of 5p in the capital of the Company in issue as shown in the Register of Members of the Company at the close of business on 25 July 2005 shall be reclassified as an ordinary share of 5p;*
 - (iv) *the new ordinary shares of 5p each and the deferred shares of 5p each arising under sub-paragraphs (i), (ii) and (iii) of this resolution shall have the rights set out under the Articles of Association as amended pursuant to paragraph (B) below;*
 - (v) *the authorised and unissued share capital of the Company be altered by: (a) subdividing each Ordinary Share of 50p each into 10 Ordinary Shares of 5p each; and (b) reclassifying each B Ordinary Share of 5p each as an Ordinary Shares of 5p each; and*
- (B) *the existing Articles of Association of the Company shall be amended as follows:*
- (i) *by amending the definition of Ordinary Shares by the deletion of "50p" and the insertion of "5p" and the deletion of the words "and, unless stated otherwise or the context so requires, shall also mean the "B" Ordinary Shares of 5p each in the share capital of the Company";*
 - (ii) *by the insertion of a new definition of Deferred Shares as follows:*

"Deferred Shares" means the deferred shares of nominal value of 5p each in the capital of the Company collectively having the same rights and being subject to the same restrictions as set out in Article 3.2;
 - (vi) *by the deletion of Article 3.2 and 3.3;*

- (vii) *by the inclusion of the following new Article 3.2;*

"The Deferred shares shall have the following rights and shall be subject to the following restrictions:

The Deferred Shares shall:

- (i) not entitle their holders to receive any dividend or other distribution;*
- (ii) not entitle their holders to receive notice of or to attend, speak or vote at any General Meeting of the Company by virtue of or in respect of their holding of such Deferred Shares;*
- (iii) entitle their holders on a return of assets on a winding-up of the Company or otherwise only to the repayment of the capital paid up on such Deferred Shares and only after repayment of the capital paid up on each Ordinary Share in the capital of the Company and the payment of a further £100,000 on each such Ordinary Share.*

The holders of the Deferred Shares shall not be entitled to any further participation in the assets or profits of the Company. Notwithstanding any other provision of the Articles of Association of the Company and unless specifically required by the provisions of the Act, the Company shall not be required to issue any certificates in respect of the Deferred Shares. The Company shall have irrevocable authority at any time:

- (i) to appoint a person on behalf of any holder of Deferred Shares to enter into an agreement to transfer, and to execute a transfer of, the Deferred Shares, for no consideration, to such person (whether or not an officer of the Company) as the Directors may determine as the custodian thereof;*
- (ii) to purchase all of the Deferred Shares then in issue in consideration of an aggregate payment of one penny for all of such shares then redeemed and upon giving 28 days' prior notice to the holders of Deferred Shares as to be redeemed fixing a time and place for redemption; and*
- (iii) in the event of any transfer, purchase or redemption to retain any share certificate relating to such shares. In the event that*

any Deferred Shares are purchased or redeemed as aforesaid, the relevant amount of authorised but unissued share capital arising may be redesignated by the Directors as ordinary share capital. Neither the passing by the Company of any Special Resolution for the cancellation of the Deferred Shares for no consideration by means of a reduction of capital requiring the confirmation of the Court nor the obtaining by the Company nor the making by the Court of any Order confirming any such reduction of capital nor the becoming effective of any such Order shall constitute a variation, modification or abrogation of the rights attaching to the Deferred Shares and accordingly the Deferred Shares may at any time be cancelled for no consideration by means of a reduction of capital effected in accordance with the Act without sanction or consent on the part of the holders of the Deferred Shares."

- (viii) *By the amendment of Article 3.1 to read as follows: "The authorised share capital of the Company at the date these Articles were last amended is £7,300,052.50 divided into 130,970,843 Ordinary Shares of 5p each and 15,030,207 Deferred Shares of 5p each."*

ORDINARY RESOLUTION

4. *That, conditionally upon Resolution 2 being passed, the Directors be generally and unconditionally authorised, pursuant to the provisions of Section 80 of the Companies Act 1985 (as amended) (the "Act"), in substitution for any existing authority pursuant to Section 80 of the Act, to exercise all the powers of the Company to allot relevant securities as defined in Section 80 of the Act, provided that this power shall be limited to the allotment of relevant securities up to an aggregate nominal value of £6,332,981.45; and this authority shall, unless it is (prior to its expiry) duly revoked or varied or renewed, expire on the day falling 18 months after the date of the passing of this resolution or, if earlier, at the conclusion of the Annual General Meeting of the Company to be held in 2006 except that the Company may, before such expiry, make an offer or agreement which would or might require relevant securities to be allotted after such expiry, and the Directors may allot relevant securities pursuant to such an offer or agreement, as if the authority conferred hereby had not expired.*

SPECIAL RESOLUTION

5. *That, conditional upon the passing of resolution 4 above, the Directors be empowered, pursuant to the provisions of Section 95 of the Act, to allot equity securities (as defined in Section 94 of the Act) for cash, pursuant to the authority given to them by resolution*

- 4 above, as if Section 89(1) of the Act did not apply to any such allotment, provided that this power shall be limited to the allotment of equity securities up to an aggregate nominal value of £2,000,000 and this power shall unless it is (prior to its expiry) duly revoked or varied or renewed, expire on the day falling 18 months after the date of the passing of this resolution or, if earlier, at the conclusion of the Annual General Meeting of the Company to be held in 2006 except that the Company may, before such expiry, make an offer or agreement which would or might require equity securities to be allotted after such expiry, and the Directors may allot equity securities pursuant to such an offer or agreement as if the power conferred hereby had not expired.



Chairman