

MINUTES OF THE **EXTRAORDINARY GENERAL MEETING OF THE OVERSEAS SCHOOL OF COLOMBO (GUARANTEE) LIMITED** HELD ON 30TH JANUARY 2021 AT 4.00 P.M AT THE MOVENPICK HOTEL, COLOMBO 03 AND BY VIDEO CONFERENCE (VIA ZOOM).

PRESENT : Ms. Amena Arif - Chairman/Member
Ms. Nancy T. Vanhorn - Director/Member
Mr. Rahul Bhan - Director/Member
Mr. Jelmer Jort Kuyvenhoven - Director/Member
Mr. Jonas K. Bridgwater - Director/Member
Ms. Aruni Goonetilleke - Director/Member
Mr. Ari Nathan - Director/Member
Ms. Tiia Jukham - Director/Member
Mr. U. Sudath N. P. Perera - Director/Member
Mr. Raj Omprasadham - Director/Member
Dr. Michelle Kleiss – Head of School

BY INVITATION : Mr. Jivan Goonetilleke, Attorney-at-Law – representing Messrs.
D. L. & F. De Saram
Ms. Heshanthi Madugalle - -do-
Ms. Ishiika De Fonseka - -do-
Mr. Shanaka De Livera – representing De Livera Associates
Ms. Vidya Niyangoda – Head of Administrative Operations
Ms. Natalie Dassanayake – Executive Secretary to Head of School
Ms. Trisha Illangakoon – Admissions and Communications Officer
Ms. Anushka Weragoda – Accounts Officer
Mr. Crishan Fernando - Head of Facility, Security and Transport
Dr. Indrika Senaratna - School Doctor
Ms. Clover Hicks - Assistant Secondary Principal
Mr. Jehan de Silva - Head of Marketing
Mr. Antony Rappai - Head of IT
Ms. Samantha Wood - Assistant Primary Principal
Mr. Jason Grandbois - Primary Principal
Ms. Claire McQuillan - Secondary Principal
Mr. Ajith Nathaniels - Head of Security and Transport
Ms. Geraldine Rasiah

MEMBERS PRESENT : As per list attached herewith.

IN ATTENDANCE : Mrs. S N D Fernando – Company Secretary

Chairman welcomed the members for the virtual Extraordinary General Meeting (EGM) that has been convened to pass a **Special Resolution** to amend the Articles of Association and ERRATA to the Notice circulated on 27th January 2021 regarding Article 13.2.

The **Special Resolution** to amend the Articles of Association and the **ERRATA** to the Notice circulated on 27th January 2021 regarding Article 13.2 were as follows:

1. Insert the following immediately after existing Article 4.3:
“End of enrollment for such purposes in relation to children leaving end of any school year shall be deemed to be the expiry of One (01) week from the last day of such school year.

In the case of children leaving mid-year, end of enrolment shall be the last day of school of such child/ children/ guardian.”

2. Existing Article 4.4 to be repealed and replaced with the following:
“Parents who are employees of the Company/ the School shall not have voting rights within the Company. Such parents may, however, attend General Meetings of the Company. Members otherwise eligible to vote at a General Meeting shall be excluded from doing so if overdue payments of tuition and fees are outstanding.”

3. Delete the 1st sentence of Article 4.5 and replace by the following:
“Any member may be removed from the Company by the Board if in the opinion of the Board they are guilty of engaging in conduct contrary to the values and interests of the Company. Such Resolution for removal shall be passed by a majority of at least three-fourths of the Directors present and voting.”

4. Insert the following immediately after existing Article 7.2:
“Any General Meeting of the Company may be held by physical or virtual/ audio visual conferencing facility as may be deemed practicable to the Board taking into account the prevalent circumstances.”

5. Insert the words “physically or virtually” between the words “present” and “at the time” in the 2nd line in Article 7.2

6. Insert the following immediately after the last sentence in Article 7.7:
“For the avoidance of doubt, electronic signatures shall be deemed valid and effectual for such purposes.”

7. Insertion of the following immediately after the last sentence in Article 8.5:
“For the avoidance of doubt, electronic signatures shall be deemed valid and effectual for such purposes.”

8. Article 9.1 to be repealed and replaced with the following:
“Until otherwise determined by a General Meeting, the number of Directors shall be at least Seven (07) and not more than Nine (09). Seven (07) of the Directors will be elected by the Company membership at the Annual General Meeting. If it is deemed necessary, Two (02) additional Designated Directors may be appointed by the Board from inside or outside of the

Company membership for their ability to provide the Board with specialized expertise provided the total membership (including such Designated Directors) do not exceed Nine (09). Elected Directors shall be conditional upon ratification by the Company membership at the next Annual General Meeting. Such ratification requirement shall not apply to Designated Directors. Directors elected by the Company are elected for Two (02) year terms. Designated Directors shall serve a Two (02) year term and may be re-appointed by the Board for One (01) additional Two (02) year term, subject to the aforementioned ratification process. A Designated Director will be eligible for election as a Director of the Company at any General Meeting on the expiry of his/her Designated Directorship.”

9. Article 9.2 to be deleted and replaced with the following:

“The Board shall have the power at any time to appoint any person eligible under these Articles to be a Director either to fill a vacancy created by the resignation of either an elected or appointed Director. The appointment of such person filling a vacancy shall be ratified and subject to election at a subsequent Annual General Meeting. Although the Board is not required to fill every such vacancy, at no time may the Board allow the number of serving Directors to fall below Seven. Nor shall the total number of Directors at any time exceed the maximum number fixed by these Articles.

Nothing contained herein shall prejudice the rights of such replacing Director to seek election at any subsequent Annual General Meeting for such full Two (02) year term as provided for under Article 9.1.”

10. Inclusion of the following immediately after the last sentence in Article 9.3:

“In considering such nationality requirement, both nationalities of any Dual Citizen shall be considered.”

11. Inclusion of the following immediately after the last sentence in Article 9.7:

“Such notice may even be lodged electronically.”

12. Deletion of the words “for the time being in Sri Lanka” in the first line of Articles 11.2 and inclusion of the following immediately after the last sentence in Article 11.2:

“For the avoidance of doubt, electronic signatures shall be deemed valid and effectual for such purposes.”

13. The existing Article 11.3 to be repealed and replaced with the following:

“The Directors may exercise all such powers of the Company as are not by the Statutes or by these presents required to be exercised by the Company in General Meeting, including power from time to time to make, alter, and repeal all such rules, regulations and Bylaws and fix such fees and employ and dismiss the Head of School and establish Policies regulating the Head of School’s responsibility for the employment of Principals, Teachers, Instructors, and other employees, as they may deem necessary, expedient or convenient for the proper conduct, management, control and direction of any School or Schools conducted by the Company, subject nevertheless to any regulations of these presents, to the provisions of the Act and to such

Regulations being not inconsistent with the aforesaid regulations or provisions of the Act and to such Regulations being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by Ordinary Resolution of the Company. But no regulation so made by the Company shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made: provided however that the Directors shall not without the authority of an Ordinary Resolution of the Company arrange terms for the amalgamation of the Company with any other Company or individual or sell or dispose of the business or undertaking of the Company. The general powers given by this Article shall not be limited or restricted by any special authority or power given to the Directors by any other Article.”

14. The word “one-third” in Articles 13.1 should be replaced with the words “two”:

15. Article 13.3 of the Articles of Association be repealed in its entirety and replaced by the following:

“Elected Directors may serve up to Two (02) consecutive Two (02) year terms and upon the expiry of which they shall be ineligible to hold directorship, whether elected or otherwise, for a period of One (01) year.

Upon the expiry of such One (01) year lay-off period such Director shall be re-eligible to serve as Director for the duration set out therein.”

The **ERRATA** – that the word “three” appearing in line 1 of the existing Article 13.2 be deleted and replaced with the word “two”, the word “and” be deleted in line 2 of the existing Articles 13.2 and clause (c) of the existing Article 13.2 be deleted in full and the existing Articles 13.2 shall read as follows:

13.2 The two elected Directors to retire at the Annual General Meeting comprise:

(a) Any Director whose term expired after the last Annual General Meeting;

(b) Any Director whose term will expire during the year in which the Annual General Meeting is held.

Chairman informed the members that 03 Directors of the Company were attending the EGM in person and the other Directors were participating through the virtual platform. Chairman explained how to use the online platform to vote and for the Q & A sessions. All resolutions will be taken as a single resolution for voting along with the minor amendment to Article 13.2 emailed to all members. Chairman invited the membership to open the forum with their questions.

Question No.1 raised by Mr. Reza Magdon Ismail

Mr. Ismail queried the announcement made at the beginning not to permit recording of the meeting and requested permission to record the proceedings of the meeting so that they have a record of any requests from shareholders and the decisions made by the Chairperson.

Chairman explained that the meeting is being recorded at the backend and any recording done by individuals would in any case not be a complete record as questions raised by others will not be visible to Mr. Ismail or other members.

Question No.2 raised by Mr. David Nigel Bartholomeusz

Mr. Bartholomeusz raised his objections to the Notice and for conducting this meeting as the present Articles don't provide for virtual meetings.

Chairman took note of the objections and clarified that the law of the land prevails under the present circumstances due to the COVID pandemic and the Company is following the guidelines issued by the government.

Mr. Bartholomeusz reiterated that the law of the land cannot prevail as it was the Company's Act that would be applicable for the meeting and that the Articles of the Company have to be followed and they should have a meeting as per Article 6.5 and 7.2 with members/proxies present in person.

Chairman invited Mr. Goonetilleke, Attorney-at-law, representing Messrs. D. L. & F. De Saram, for further clarification. Mr. Goonetilleke clarified that the present Articles do not expressly prohibit the Company from having virtual meetings and in fact they had suggested it to the Board of Directors. The Company could also choose to put it to the house.

Chairman requested Mr. Bartholomeusz to allow other members also to have an opportunity to raise questions. Mr. Bartholomeusz insisted that he was specifically objecting to these proceedings as the Articles do not provide for virtual meeting specifically. Mr. Goonetilleke clarified that most companies don't have provision in their Articles and people may have a difference of opinion / interpretation and in that case it was possible to let the membership decide. Mr. Bartholomeusz insisted that members cannot cure a defect and objected to the Notice, to the meeting itself. Chairman noting Mr. Bartholomeusz's objections explained that they were proceeding based on the legal advice the Board had received.

Question No.3 raised by Mr. Kumar Sangakkara

Mr. Sangakkara referring to an email sent out by the Chairman to the community relating to the Designated Directors (Article 8), said that the draft of this Article contradicted the good intentions of the Chair as stated in her email. Specifically where appointed directors are to serve 1, two year term and the next 2 year term was to be ratified by the membership. The mention of 2 terms violates Chairman's intention. As such the resolution is faulty. Further, this resolution doesn't say how the transition will take place from current to new Articles. It's being done in an adhoc method. It should be incorporated in to the Articles as otherwise it is prejudicial to the membership.

Chairman directed Mr. Sangakkara's query to Mr. Goonetilleke. Mr. Goonetilleke requested Mr. Sangakkara to look at the entirety of the Articles. A Director serves a term of 2 years then another

2 year term. After that they get a 1 year time off. Designated Directors come up for election at an AGM after the first term and the house can then express its view. The Articles cannot make specific provisions for every eventuality. Mr. Sangakkara went on to state that it contradicts Article 15 as well. It contradicts Chairman's goal. Mr. Goonetilleke stated that he was not privy to the email sent by Chairman to the membership and therefore could not comment. The membership has the input and can now decide how to proceed.

Mr. Goonetilleke stated that the ultimate decision lies with the membership and the decision on the Articles is made by the house not the Board of Directors. Mr. Sangakkara reiterated that the resolution was completely faulty in light of Chairperson's intent and communication. Mr. Goonetilleke further clarified that he could not comment on its content.

Chairperson explained that the intent of the Board was clear and apologized if the drafting did not bring this out clearly enough for the membership. This would be addressed with the lawyers and the Company Secretary.

Question No.4 raised by Ms. Hana Sklenarova

Has the Company obtained any directive from the Public Health Authority and asked for any exception for this purpose?

Chairman clarified that no specific exemptions were sought from the PHA and that the Company was following the government guidelines.

Question No.5 raised by Mr. Cyril Jacob

Who were the 3 Board members attending the meeting?

Chair clarified that all directors of the Board were present but 3 were attending in person with the rest available virtually. The attending in person were Chairman Ms. Amena Arif herself, Ms. Nancy T. Vanhorn and Mr. Rahul Bhan.

Question No.6 raised by Ms. Nehi Sinha

Do all Board members come up for election?

Chairman explained that in line with international best practices of governance entire Boards are not brought up for re-election at every AGM. There is a certain number of seats that are put up for rotation at each AGM to ensure a level of continuity on the Board.

Question No.7 raised by Mr. Amendrajith Bandara Pilapitiya

The minimum notice period required for an ERRATA?

Chairman responded that there was no mandatory period defined for that.

Question No.8 raised by Mr. Robert Jukham

Points have been made and duly noted. Let's move forward.

Chairman thanked Mr. Juhkam for his comments.

Question No.9 raised by Mr. Cyril Jacob

Mr. Jacob expressed his appreciation to the Board of Directors for streamlining school governance. The 3 Board members attending the meeting, when were they elected at an AGM?

Chairman was re-elected at the AGM held in 2018. Ms. Nancy T. Vanhorn was re-elected at the AGM held in 2018 and Mr. Rahul Bhan was coming up for re-election at a future date.

Question No.10 raised by Ms. Elsa Raquel Rodriguez Cavallin

Ms. Cavallin communicated that she didn't mind having the AGM virtually as after all safety comes first.

Chairman thanked Ms. Cavallin for her comments.

Question No.11 raised by Mr. David Nigel Bartholomeusz

Mr. Bartholomeusz added that he had few more objections since the Company had decided to proceed. Referring to Mr. Goonetilleke's comment that different persons may have different views is the very reason why the Company should be extremely specific in its Articles. The Notice of the EGM was signed and issued by Ms. S. N. D. Fernando, the Company Secretary. If that is so Article 6 requires Chairman to sign and issue the Notice. Article 8.2 states that calls for any voting should be by show of hand or secret ballot not by this virtual app or any virtual method. Mr. Bartholomeusz explained that he raised these objections because they violate several Articles and complicate the voting with no transparency and without knowing who the voters are when votes are counted. Articles provide differently. And regarding the error, and the ERRATA notice signed by Ms. S. N. D. Fernando is not dated but sent on 27th January 2021. This is not an ERRATA but a change. ERRATA is to correct a typographical error not meant to amend Article 13.2. This can't be done without giving 10 business days. This is not to correct as there is absolutely no mention of Article 13.2 in the original Notice, it is seeking to introduce a new amendment. A proper EGM notice with 10 business days has to be given. To put that into this is incorrect.

Chairman interrupted Mr. Bartholomeusz to draw attention to the fact that there were other members who also had questions and those members were there in person while Mr. Bartholomeusz was attending as a proxy. Mr. Bartholomeusz continued on to state that this was a violation of the Articles, putting Chairman herself and the Directors in great peril and for legal counsel to say that putting it to the house, was not sufficient. Mr. Bartholomeusz declared that he objected to each resolution.

Chairman interrupted again and requested Mr. Bartholomeusz to put further comments in the chat to allow other members to have the floor. Mr. Bartholomeusz requested for a ruling before proceeding as the Notice was bad, voting method unacceptable and ERRATA was bad too.

Chairman clarified that the Company Secretary was acting for and on behalf of the Board and the ERRATA on Article 13.2 circulated addressed an error that had been identified and the meeting will continue.

Question No.12 raised by Mr. Kumar Sangakkara

Mr. Sangakkara clarified that he too had raised these same concerns personally. In light of all these issues Mr. Sangakkara proposed that they postpone the meeting. The purpose of the meeting was to communicate and the lawyers drafting can't be corrected at this meeting.

Chairman agreed that the drafting needs to be corrected/ amended by the lawyers including Article 9.1. Mr. Sangakkara was explicit that the Overseas School being a most prestigious institution cannot do adhoc corrections at a meeting like this. Chairman agreed the intention was for a stronger clearer constitution and that there can be constant improvement.

Question No.13 raised by Mr. Thomas King

Mr. King requested that the meeting proceed.

Question No.14 raised by Mr. Reza Magdon Ismail

Mr. Ismail commenced by stating that there were flaws in the document. There was debate not to proceed with Article 8 and Article 9.1 These amendments can't be done on the fly. These were 14 significant resolutions. We should not do this as we had been debating for an hour on this. Company should acknowledge the errors. Chairman's communication stated that a Director will not serve 3 years and this Article amendment allows so. The new provision for 2 Designated Directors, serving two 2 year terms is a direct contravention from what Chairman had forwarded. Mr. Ismail apologized for being emotionally vested and insisted this shows total disregard for the membership.

Chairman clarified that the Company was not walking away from the ERRATA for Article 13.2 where the Company identified an error and the ERRATA was sent to correct it. A Director serves for a term of 2 years after which term is to be ratified by the membership. Mr. Ismail was free to vote in favour or not for the Articles.

Question No.15 raised by Ms. Gulana Huseynova

Can we please move on, continue and vote.

Question No.15 raised by Ms. Karen Mera

This meeting is being dominated by 3 people like to hear the others....

Question No.16 raised by Mr. Cyril Jacob

Does Mr. Rahul Bhan stand for election at the AGM?

Chairman clarified that only EGM matters will be taken up now and to take it up at the AGM.

Since there were no further Q & A Chairman invited a member to propose the **special resolution** to amend the Articles.

Proposed by Ms. Loiuise Platt and seconded by Ms. Bandita Sijapati the **special resolution** to amend the Articles was voted in the following manner:

For – 127 – 67.55%

Against – 55 – 29.25%

Abstain – 06- 3.20%

Chairman declared that 75% of the votes were required. Therefore, the **special resolution** to amend the Articles was defeated and the resolution was not passed.

Chairman thanked the membership for their comments and participation. There being no other business for which due notice had been given, the EGM was terminated.

.....
Chairperson