

57078

The Companies Acts 1862

The Companies Act 1985

COMPANY LIMITED BY SHARES

MEMORANDUM OF ASSOCIATION

of

JAMES BURROUGH DISTILLERS LIMITED

(As adopted by Special Resolution passed
13th February, 1991)



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1. The name of the Company is "SEAGER EVANS & CO., LIMITED".* ** ***
 2. The Registered Office of the Company will be situate in England.
 3. The objects for which the Company is established are:
 - (1) To acquire and take over as a going concern the business of distillers, rectifiers and wine and spirit merchants, heretofore carried on at the Mill Bank Distillery, No. 2 Grosvenor Road, in the City of Westminster, under the style or firm of "Seager Evans & Co.", and all or any of the assets and liabilities of the proprietors of the said business in relation to the same respectively, and with a view thereto, to adopt and make binding on this Company and carry into effect with or without modification the agreements referred to in Clause 3 of the Articles of Association of this Company.
 - (2) To carry on the business of distillers, rectifiers, grain distillers, wine and
- * The name of the Company was changed to LONG JOHN INTERNATIONAL LIMITED pursuant to a Special Resolution passed on 21st April, 1971.
- ** The name of the Company was changed to JAMES BURROUGH DISTILLERS PLC on 30th June, 1988.
- *** The name of the Company was changed to JAMES BURROUGH DISTILLERS LIMITED by Special Resolution passed on 13th February, 1991.

spirit merchants, and ale, beer and porter merchants, in all their respective branches.

- (3) To carry on all or any of the businesses of brewers, maltsters, corn merchants, hop merchants, malt factors, coopers and bottlers, bottle makers, bottle stopper makers, manufacturers of aerated and mineral waters, and other drinks, licensed victuallers, hotel keepers, ice merchants, tobacconists, hop growers, farmers, yeast dealers, grain sellers, and dryers, finings manufacturers, and isinglass merchants.
- (4) To lend or advance money to such persons or companies, and on such terms, and for such purposes, and either with or without security as may seem expedient, and to receive money on deposit at interest or otherwise, and generally to carry on business as bankers, and also to carry on all kinds of guarantee business, and all kinds of agency business, and to undertake and carry out trusts of all kinds.
- (5) To buy, sell, manufacture and deal in (whether wholesale or retail) commodities of all kinds which can conveniently be dealt in by the Company in connection with any of its objects.
- (6) To carry on any other business, whether manufacturing or otherwise, which may seem to the Company capable of being conveniently carried on in connection with any of the above specified businesses or calculated directly or indirectly to enhance the value of or render profitable any of the Company's property or rights.
- (7) To lay out land for building purposes, and to build on, improve, let on building lease, advance money to persons building, or otherwise develop the same in such manner as may seem expedient to advance the Company's interests.
- (8) To apply for, purchase or otherwise acquire any patents, brevets d'invention, concessions and the like conferring an exclusive or non-exclusive or limited right to use, or any secret or other

information as to any invention which may seem capable of being used for any of the purposes of the Company, or the acquisition of which may seem calculated directly or indirectly to benefit this Company, and to use, exercise, develop, grant licences in respect of or otherwise turn to account the property rights and information so acquired.

- (9) To purchase or otherwise acquire and undertake all or any part of the business, property, and liabilities of any person or Company carrying on any business which this Company is authorised to carry on, or possessed of property suitable for the purpose of the Company.
- (10) To construct, carry out, maintain, improve, manage, work, control, and superintend any roads, ways, tramways, railways, branches, or sidings, bridges, reservoirs, canals, docks, wharves, watercourses, hydraulic works, gas works, electric works, factories, warehouses, and other works and conveniences, which may seem directly or indirectly conducive to any of the Company's objects, and contribute to subsidise or otherwise assist, or take part in such maintenance, management, working control and superintendence.
- (11) To enter into any arrangement with any government or authorities supreme, municipal, local or otherwise, and to obtain from any such government or authority all rights, concessions and privileges that may seem conducive to the Company's objects or any of them.
- (12) To enter into partnership or into any arrangement for sharing profits, union of interest, joint adventure, reciprocal concessions or co-operation with any person or company carrying on, or engaged in, or about to carry on or engage in any business or transaction which the Company is authorised to carry on or engage in any business or transaction capable of being conducted so as directly or indirectly to benefit this Company, and to take or otherwise acquire and hold shares or stock in or securities of, and to subsidise or otherwise assist any such Company, and to sell,

hold, re-issue, with or without guarantee, or otherwise deal with such shares or securities.

- (13) Generally to purchase, take on lease, or in exchange, hire or otherwise acquire any real or personal property, any rights or privileges, which the Company may think necessary or convenient with reference to any of these objects or capable of being profitably dealt with in connection with any of the Company's property or rights for the time being, and in particular any land, buildings, easements, licences, patents, machinery, ships, barges, rolling stock, plant, and stock-in-trade.
- (14) To establish and support, or to aid in the establishment and support of associations, institutions, or conveniences calculated to benefit employes or ex-employes of the Company, or its predecessors in business, or the dependents or connections of such persons and to grant pensions and allowances, and to make payments towards insurance and to subscribe or guarantee money for charitable or benevolent objects or for any exhibition or for any public, general, or useful object.
- (15) To sell or dispose of the undertaking of the Company or any part thereof for such consideration as the Company may think fit, and in particular for shares, debentures or securities of any other company having objects altogether or in part similar to those of this Company.
- (16) To promote any company or companies for the purpose of acquiring all or any of the property, rights and liabilities of the Company, or for any other purpose which may seem directly or indirectly calculated to benefit this Company.
- (17) To invest and deal with the moneys of the Company not immediately required upon such securities, and in such manner as may from time to time be determined.
- (18) To obtain any Provisional Order or Act of Parliament for enabling the Company to carry any of its objects into effect, or

for effecting any modification of the Company's constitution or for any other purpose which may seem expedient, and to oppose any proceedings or applications which may seem calculated directly or indirectly to prejudice this Company.

- (19) To raise or borrow or secure the payment of money in such manner and on such terms as may seem expedient and in particular by the issue of debentures or debenture stock, whether perpetual or otherwise, and charged or not charged upon the whole or any part of the property of the Company, both present and future, including its uncalled capital, and to redeem, purchase or pay off any such securities, and to issue such debentures or debenture stock in consideration of property or money or of services to the Company, satisfaction of debts, or obligations of the Company, or such other consideration as to the Company shall seem fit.
- (19A) To guarantee support and secure by personal covenant or by mortgaging or charging all or any part of the undertaking property and assets present and future (including uncalled capital) of the Company or by both such methods as may seem expedient the performance of the obligations of and the payment of the principal of and dividends or interest and premiums on and any other moneys payable in respect of any stocks shares debentures debenture stock or other securities or any borrowing of any company which is for the time being the Company's holding company as defined by Section 154 of the Companies Act, 1948 or another subsidiary as defined by the said Section of the Company's holding company.
- (20) To draw, accept, indorse, discount, execute and issue bills of exchange, promissory notes, debentures, bills of lading and other negotiable or transferable instruments or securities.
- (21) To remunerate any parties for services rendered or to be rendered in placing or assisting to place any shares in the Company's capital or any debentures, debenture stock or other securities of the Company or

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The Companies Acts 1862 to 1898

The Companies Act 1985

A PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

JAMES BURROUGH DISTILLERS LIMITED



(As adopted by Special Resolution passed
13th February, 1991)

1. PRELIMINARY

- (1) The Regulations contained or incorporated in Table A of the Companies (Tables A to F) Regulations 1985 (such Table being hereinafter called "Table A") shall apply to the Company save in so far as they are excluded or varied hereby and such Regulations (save as so excluded or varied) and the Articles hereinafter contained shall be the regulations of the Company.
- (2) In these Articles of Association "the Act" means the Companies Act 1985 including any statutory re-enactment or modification for the time being in force.

2. SHARE CAPITAL

At the date of the adoption of these Articles the authorised capital of the Company is £5,000,000 divided into 10,000,000 Ordinary Shares of £0.50 each.

3. ALLOTMENT OF SHARES

- (1) Subject to Article 4 hereof the Directors may allot, grant options over, or otherwise deal with or dispose of any relevant securities (as defined by section 80(2) of the Act) of the Company to such persons and generally on such terms and conditions as the Directors think proper.
- (2) The general authority conferred by paragraph (1) of this Article shall be conditional upon due compliance with Article 4 hereof and shall extend to all relevant securities of the Company from time to time unissued during the period of such authority. The said authority

will expire on that date which is the fifth anniversary of the date upon which the resolution adopting these Articles was passed unless renewed, varied or revoked by the Company in general meeting.

(3) The Directors shall be entitled under the general authority conferred by paragraph (1) of this Article to make at any time before the expiry of such authority any offer or agreement which will or might require relevant securities of the Company to be allotted after the expiry of such authority.

4. ALLOTMENT TO MEMBERS

(1) Subject to any direction to the contrary that may be given by the Company in general meeting all shares authorised pursuant to Article 3 hereof to be allotted shall be offered to the members in proportion to the existing shares held by them and such offer shall be made by notice in writing specifying the number of the shares to which the member is entitled and limiting a time (being not less than 21 days) within which the offer if not accepted will be deemed to have been declined, and after the expiry of such time or upon receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the Directors may, subject to these Articles, allot or otherwise dispose of the same to such person and upon such terms as they think most beneficial to the Company. The Directors may in like manner dispose of any such shares as aforesaid which, by reason of the proportion borne by them to the number of persons entitled to any such offer as aforesaid or by reason of any other difficulty in apportioning the same, cannot in the opinion of the Directors be conveniently offered in manner hereinbefore provided.

(2) Section 89(1) of the Act shall not apply to any allotment of shares in the Company.

5. LIEN

The Company shall have a first and paramount lien on every share (whether or not it is a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share and the Company shall also have a first and paramount lien on all shares (whether fully paid or not) standing registered in the name of any member whether solely or one of two or more joint holders for all moneys presently payable by him or his estate to the Company; but the Directors may at any time declare any share to be wholly or in part exempt from the provisions of this Article. The Company's lien (if any) on a share shall extend to all dividends payable thereon.

6. REDEEMABLE SHARES

Subject to the provisions of the Act and any regulations made thereunder:-

(a) any shares may be issued on the terms that they are to be redeemed or are liable to be redeemed at the option of the Company or the shareholder on such terms and in such manner as the Company may by ordinary resolution determine;

(b) the Company may purchase any of its shares on such terms as may be authorised by the Company by special resolution before the Company enters into the contract for such purchase with power for the Company by special resolution to vary revoke or from time to time renew such authority;

(c) subject to approval by the Company by special resolution any payment in respect of a redemption or purchase of shares made pursuant to this Article may be made otherwise than out of distributable profits of the Company or the proceeds of a fresh issue of shares.

7. TRANSFER OF SHARES

The Directors may in their absolute discretion and without assigning any reason therefor, decline to register any transfer of any share whether or not it is a fully paid share.

8. GENERAL MEETINGS

(1) Every notice convening a General Meeting shall comply with the provisions of Section 372(3) of the Act as to giving information to Members in regard to their right to appoint proxies; and notices or any other communications relating to any General Meeting which any Member is entitled to receive shall be sent to the Auditor for the time being of the Company.

(2) A Director who is not a member of the Company shall be entitled to attend, speak at and propose or second resolutions at General Meetings.

9. QUORUM

(1) The quorum for the transaction of business at any General Meeting shall be two Members present in person.

(2) Regulation 41 in Table A shall be read and construed as if the words, "and if at the adjourned Meeting a quorum is not present within half an hour from the time appointed for the Meeting the Meeting shall be dissolved", were added at the end.

10. VOTING AND POLLS

At any General Meeting, a Resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by any one Member present in person or by proxy and entitled to vote.

11. RESOLUTIONS IN WRITING

Subject to any statutory provisions for the time being in force a resolution in writing by all the Members for the time being entitled to receive notice of and to attend and vote at General Meetings (or being corporations entitled to do so by their duly authorised representative) shall be as valid and effective as if the same had been passed at a General Meeting of the Company duly convened and held. Any such resolution may consist of several documents in the like form, each signed by one or more of the Members or their attorneys and signature in the case of a corporate body which is a Member shall be sufficient if made by a Director thereof or by its duly appointed attorney.

12. APPOINTMENT AND REMOVAL OF DIRECTORS

(1) Regulation 64 in Table A shall not apply to the Company.

(2) Unless and until otherwise determined by an Ordinary Resolution of the Company there shall be no maximum number of Directors and the minimum number of Directors shall be one. In the event of the minimum number of Directors fixed by or pursuant to these Articles being one, a sole Director shall have authority to exercise all the powers and discretions by Table A or these Articles expressed to be vested in the Directors generally and Regulations 89 and 90 in Table A and Article 19 hereof shall be modified accordingly.

13. (1) The Directors shall not be subject to retirement by rotation and Regulations 73 to 77 inclusive of Table A shall not apply to the Company.

(2) Regulation 78 in Table A shall be ended at the words "as an additional director" and the succeeding words shall not apply to the Company.

(3) Regulation 79 in Table A shall be ended at the words "maximum number of directors" and the succeeding sentence shall not apply to the Company.

14. So long as Hiram Walker-Allied Vintners Limited (in this Article referred to as "Hiram") is the holding company (as defined in section 736 of the Act) of the Company Hiram may appoint any person to be Director and remove any Director from office. Every such appointment or removal shall be in writing and signed by or on behalf of Hiram and shall take effect upon receipt at the registered office of the Company.

15. The Directors shall have the power from time to time by resolution to appoint any one or more persons to the office of divisional director of the Company and the following provisions with regard to any such appointment or appointments shall have effect:

- (1) The appointment, tenure of office, remuneration (if any) and scope of the duties of a divisional director shall be determined from time to time by the Directors with full power to make such arrangements as they think fit; and the Directors shall have the right to enter into any contracts on behalf of the Company or transact any business of any description without the knowledge or approval of a divisional director, except that no act shall be done that would impose any personal liability on any divisional director except with his full knowledge and consent.
- (2) The Directors may also from time to time remove any divisional director from office and if they so decide appoint another in his place, but any such removal shall take effect without prejudice to the rights of either party under any agreement between the divisional director and the Company.
- (3) The appointment of a person to be a divisional director may be in place of or in addition to his employment by the Company in any other capacity but unless otherwise expressly agreed between him and the Company the appointment as divisional director shall not affect the terms and conditions of his employment by the Company in any other capacity whether as regards duties, remuneration, pension or otherwise. The office as a divisional director shall be vacated if he becomes of unsound mind or bankrupt or makes any arrangement or composition with his creditors generally, or becomes prohibited by law from being concerned or taking part in the management of the Company, or if he resigns his office or is removed from office by a resolution of the board.
- (4) A divisional director shall not be or be deemed to be a Director of the Company within the meaning of the word as used in the Act or these Articles and no divisional director shall be entitled to attend or be present at any meetings of the board or of any committee of Directors

unless the Directors shall require him to be in attendance.

- (5) A divisional director shall attend meetings of the Directors and of any committee of the Directors whenever called upon to do so and shall at all times be ready to give the Directors the benefit of his knowledge, experience and advice.

16. ALTERNATE DIRECTORS

A Director shall have power to nominate in writing any other Director or any other person to act as an alternate Director in his place during his absence from the place where meetings are held or inability for any reason to act as such Director, and on such appointment being made, the alternate Director shall (except as regards remuneration and the power to appoint an alternate) be subject in all respects to the terms and conditions existing with reference to the other Directors, and each alternate Director, while so acting, shall exercise and discharge all the powers and duties of the Directors whom he represents, provided that unless otherwise agreed by all the Directors for the time being of the Company, nothing in this Article shall enable a Director appointed to an executive office to delegate to an alternate Director any of the special powers authorities or responsibilities vested in him by virtue of his executive office. An alternate Director shall not be entitled to attend or vote at any meeting of the Board at which the Director who appointed him is present. A Director may at any time in writing revoke the appointment of any alternate Director appointed by him, and appoint another person in his place, and if a Director making such an appointment as aforesaid shall cease to be a Director the person appointed by him shall thereupon cease to have any power or authority as an alternate Director. An alternate Director shall look for his remuneration (if any) to the Director appointing him and not to the Company and Regulations 65 to 69 inclusive in Table A shall be modified accordingly.

17. NO AGE LIMIT

No persons shall be disqualified under Section 293 of the Act from being appointed or elected or re-appointed or re-elected a Director in accordance with these Articles, by reason of his attaining or having attained the age of 70 years or any other age, nor shall any Director be liable to vacate his office by reason of his attaining the age of 70 years or any other age.

18. INTEREST IN CONTRACTS

- (1) Subject to his complying with the provisions of Section 317 of the Act, a Director may vote in respect of any contract or arrangement in which he is interested and be counted in the quorum present at any meeting at which any such contract or arrangement is proposed or

considered, and if he shall so vote, his vote shall be counted.

(2) Regulation 94 of Table A shall not apply to the Company.

19. PROCEEDINGS OF DIRECTORS

The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their Meetings as they think fit, provided always that, at any time when there are two or more Directors of the Company the quorum for a Meeting of Directors shall be not less than two. Questions arising at any Meeting shall subject as therein otherwise provided, be decided by a majority of votes, and in case of an equality of votes the Chairman shall not have a second or casting vote.

20. RESOLUTIONS OF DIRECTORS

(1) A resolution in writing signed by all the Directors for the time being entitled to receive notice of a meeting of the Directors shall be as valid and effective as if it had been passed at a meeting of the Directors duly called and constituted and may consist of several documents in the like form each signed by one or more of the Directors. A resolution signed by an alternate Director need not also be signed by his appointor and, if it is signed by a Director who has appointed an alternate Director, it need not be signed by the alternate Director in that capacity.

(2) A resolution agreed upon by Directors (not being less than the number of Directors required to form a quorum of the Directors) shall be valid and effectual whether or not it shall be passed at a meeting of the Directors duly convened and held.

(3) For the purposes of determining whether there exists the quorum fixed by or in these Articles as that necessary for the transaction of the business of the Directors there shall be counted in the quorum (i) in the case of a Resolution agreed by the Directors in telephonic communication all such Directors and (ii) in the case of a meeting of Directors, in addition to the Directors present at the meeting any Director in telephonic communication with such meeting.

21. BORROWING POWERS

The Directors may exercise all the powers of the Company to borrow money without limit as to amount and upon such terms and in such manner as they think fit, and, subject to Section 80 of the Act if applicable, to grant any mortgage, charge or standard security over its undertaking, property and uncalled capital, or any part thereof, and to issue debentures, debenture stock, and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

22. PENSION SCHEMES

The Directors may:-

(a) establish and maintain, or procure the establishment and maintenance of, any non-contributory or contributory pension or superannuation schemes or funds for the benefit of, and may make or give or procure the making or giving of loans, donations, gratuities, pensions, allowances or emoluments (whether in money or money's-worth) to, or to trustees on behalf of, any persons who are or were at any time in the employment or service of the Company, or of any company which is a subsidiary of the Company, or is allied to or associated with the Company or with any such subsidiary, or who are or were at any time Directors or officers of the Company or of any such other company as aforesaid, and to the wives, husbands, widows, widowers, families and dependants of any such persons;

(b) establish and subsidise or subscribe to any institutions, associations, clubs or funds calculated to be for the benefit of, or to advance the interests and well being of the Company, or of any such other company as aforesaid, or of any such persons as aforesaid;

(c) make payments for or towards the insurance of any such persons as aforesaid;

(d) pay, subscribe or guarantee money to or for any charitable or benevolent objects, or for any exhibition, or for any public, general or useful object; and

(e) do any of the matters aforesaid either alone or in conjunction with any such other company as aforesaid.

Subject always, if the Act shall so require, to particulars with respect to the proposed payment being disclosed to the Members of the Company and to the payment being approved by the Company, any Director shall be entitled to participate in and retain for his own benefit any such donation, gratuity, pension, allowance or emolument.

23. INDEMNITY

(1) Every Director or other officer of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under Sections 144 or 727 of the Act in which relief is granted to him by the Court, and

no Director or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the execution of the duties of his office or in relation thereto. But this Article shall only have effect in so far as its provisions are not avoided by Section 310 of the Act.

(2) Accordingly, Regulation 118 in Table A shall not apply to the Company.

24. WINDING UP

If the Company shall be wound up the assets remaining after payment of the debts and liabilities of the Company and the costs of the liquidation shall first be applied in repaying to the Members the amounts paid or credited as paid on the Shares held by them respectively, and the balance (if any) shall be distributed among the Members in proportion to the number of Shares held by them respectively: provided always that the provisions hereof shall be subject to the rights of the holders of Shares (if any) issued upon special conditions.