

Company No: 00376920

**THE COMPANIES ACTS 1985 AND 1989  
COMPANY LIMITED BY SHARES**

**WRITTEN RESOLUTION  
OF  
AVERYS OF BRISTOL LIMITED**

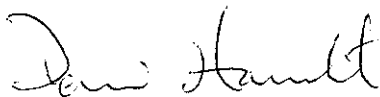
We the undersigned, being all the members of the above company entitled to receive notice of, attend and vote at general meetings of the company hereby, pursuant to the articles of association, unanimously pass the following resolution and agree that it shall have effect as if passed at a general meeting of the company duly convened and held:

**RESOLUTION**

IT IS RESOLVED THAT:

the new Articles of Association of the Company in the form attached hereto and initialled for identification purposes be adopted in substitution for the existing Articles of Association of the Company.

Dated: 30<sup>th</sup> April 2002



Signed by  
for and on behalf of  
DIRECT WINES LIMITED



Signed by Jurgen Fiedler  
for and on behalf of  
HALLGARTEN WINES, LIMITED



**THE COMPANIES ACTS 1985**

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**COMPANY LIMITED BY SHARES**

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**NEW**

**ARTICLES OF ASSOCIATION**

(Adopted by Written Resolution passed on 30<sup>th</sup> April 2002 )

**of**

**AVERYS OF BRISTOL LIMITED**

**1. 1. PRELIMINARY AND INTERPRETATION**

1.1 The regulations contained in Table A ("**Table A**") in the Schedule to the Companies (Tables A to F) Regulations 1985 (as amended at the date of adoption of these Articles) shall apply to the Company save insofar as they are excluded or varied hereby. If there is any inconsistency between these Articles and Table A, the provisions of these Articles shall prevail.

1.2 In these Articles and in the Regulations of Table A that apply to the Company:

**"the Act"**

means the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being in force;

**"Articles"**

means the articles for the time being of the Company;

**"Auditors"**

means the auditors for the time being of the Company;

**"clear days"**

means in relation to a period of notice, that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

**"Directors"**

means the directors for the time being of the Company including where applicable any alternate director;

**“Equity Share Capital”**

shall have the meaning ascribed to such expression by section 744 of the Companies Act 1985;

**“executed”**

includes any mode of execution;

**“Hallgarten”**

means Hallgarten Wines Limited and any person to which it shall transfer its Shares in accordance with the Articles;

**“holder”**

means in relation to Shares the person or persons whose name or names is/are entered in the Register of Members as the holder(s) of Shares;

**“holding company”**

shall have the meaning ascribed to it by section 736 of the Act;

**“Managing Director”**

the managing director (or joint managing directors) of the Company appointed from time to time in that role;

**“Member”**

means in relation to any Shares in the Company the person or persons named for the time being in the register of members as the holder(s) thereof;

**“Office”**

means the registered office for the time being of the Company;

**“seal”**

means the common seal of the Company;

**“Secretary”**

means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary;

**“Shareholder”**

means a Member registered as the holder of Shares;

**“Shares”**

means the ordinary shares in the capital of the Company;

**“subsidiary”**

shall have the meaning ascribed to it by section 736 of the Act;

**“United Kingdom”**

means Great Britain and Northern Ireland;

**“a person of unsound mind”**

means a person who is, or may be, suffering from mental disorder and either:

- 1.2.1 he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1960; or
- 1.2.2 an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs.
- 1.3 Unless the context otherwise requires, words or expressions contained in these Articles and in the Regulations of Table A that apply to the Company bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these Regulations become binding on the Company.
- 1.4 Words importing the singular only shall include the plural and vice versa, words importing the masculine gender shall include the feminine gender and words importing natural persons shall include also corporations.
- 1.5 The headings in these Articles are for convenience only and shall be ignored in construing the language or meaning of the Articles. Regulation 1 of Table A shall not apply.

**2. PRIVATE COMPANY**

The Company is a Private Company within the meaning of section 1 of the Act and accordingly no Shares in or debentures of the Company shall be offered to the public (whether for cash or otherwise) and the Company shall not allot or agree to allot (whether for cash or otherwise) any Shares in or debentures of the Company with a view to all or any of those Shares or debentures being offered for sale to the public.

**3. SHARE CAPITAL**

- 3.1 The Share capital of the Company at the date of adoption of these Articles is the sum of £1,500,000 divided into 1,500,000 Shares of £1 each. The said Shares shall rank pari passu in all respects save as hereinafter provided as regards the appointment of Directors, voting and quorum.
- 3.2 Save with the prior written consent of all Members, no Share may be allotted or issued to any person.

- 3.3 Save with the prior written consent of all Members and subject as hereinafter provided, any unissued Shares (whether forming part of the original Share capital or not) shall, before they are issued, be offered to the Members in proportion, as nearly as may be, to the number of Shares held by them. Such offer shall be made by notice in writing specifying the number of Shares offered and limiting the time (not being less than 21 days) within which the offer may be accepted. Acceptances shall be given to the Company by notice in writing and in such acceptance any Member may state if he is willing to accept any Share in addition to the proportion offered to him. After the expiration of such offer or after the Company shall have received notice of the acceptance or refusal of such offer from every Member (whichever shall be the earlier event) the Directors shall allot the Shares offered to the Members accepting the offer in accordance with such acceptances PROVIDED THAT in the event of competition for any Shares which may not have been accepted by any Member the Directors shall allot the same to the Members applying for additional Shares as nearly as may be (but without increasing the number allotted to any Member beyond the number of additional Shares he may have indicated that he is willing to accept) in proportion to such Member's existing holding of Shares.
- 3.4 The Directors shall not be required to have regard to sections 89(1) and 90(1) to (6) (inclusive) of the Act which sections shall be excluded from applying to the Company.

#### **4. 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 person for all moneys presently payable by him or his estate to the Company, whether he shall be the sole registered holder thereof or shall be one of several joint holders; 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. Regulation 8 of Table A shall not apply.

#### **5. TRANSFER OF SHARES GENERALLY**

- 5.1 No Share in the Company or any interest therein shall be transferred or otherwise disposed of by any Member without the prior written consent of all the other Members.
- 5.2 The Directors may refuse to register the transfer of a Share on which the Company has a lien.
- 5.3 The Directors may refuse to register a transfer unless:
- 5.3.1 it is lodged at the Office or at such other place as the Directors may appoint and is accompanied by the certificate for the Shares to which it relates and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer;

- 5.3.2 it is in respect of only one class of Shares; and
- 5.3.3 it is in favour of not more than four transferees.
- 5.4 No Share shall be transferred to any infant, bankrupt or person of unsound mind.
- 5.5 The provisions of this Article 5 shall apply to any renunciation of the allotment of any Share as they would apply to any transfer of that Share.
- 5.6 Regulation 24 of Table A shall not apply.

## **6. VARIATION OF RIGHTS**

If at any time the Share capital is divided into different classes of Shares, the rights attached to any class may, whether or not the Company is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued Shares of that class, or with the sanction of an Extraordinary Resolution passed at a separate General Meeting of the holders of the Shares of the class. To every such separate General Meeting the provisions of these regulations relating to General Meetings shall apply, but so that the necessary quorum shall be one person holding or representing by proxy one-third of the issued Shares of the class and that any holder of Shares of the class present in person or by proxy may demand a poll.

## **7. NOTICE OF GENERAL MEETINGS**

- 7.1 An Annual General Meeting and an Extraordinary General Meeting called for the passing of a Special Resolution shall be called by at least 21 clear days' notice. All other Extraordinary General Meetings shall be called by at least 14 clear days' notice but a General Meeting may be called by shorter notice if it is so agreed:
  - 7.1.1 in the case of an Annual General Meeting, by all the Members entitled to attend and vote thereat; and
  - 7.1.2 in the case of any other Meeting, by a majority in number of the Members having a right to attend and vote being a majority together holding not less than 95% in nominal value of the Shares giving that right.
- 7.2 The notice shall specify the time and place of the Meeting and the general nature of the business to be transacted and, in the case of an Annual General Meeting, shall specify the Meeting as such.
- 7.3 Subject to the provisions of the Articles and to any restrictions imposed on any Shares, the notice shall be given to all the Members, to all persons entitled to a Share in consequence of the death or bankruptcy of a Member and to the Directors and Auditors.
- 7.4 Regulation 38 of Table A shall not apply.

## **8. PROCEEDINGS AT GENERAL MEETINGS**

- 8.1 No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business and whilst the business of the meeting is being transacted. A quorum shall consist of a Member or Members holding not less than one half in nominal value of the issued Shares present in person or by proxy or (being a corporation) represented in accordance with section 375 of the Act. Regulation 40 of Table A shall not apply.
- 8.2 If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall be dissolved. Regulation 41 of Table A shall not apply.
- 8.3 A poll may be demanded at any General Meeting by the Chairman, or by any Member present in person or by proxy and entitled to vote. Regulation 46 of Table A shall be modified accordingly.
- 8.4 The Chairman of the Board of Directors shall preside at every General Meeting and in the case of an equality of votes, whether on a show of hands or on a poll, the Chairman shall be entitled to a further or casting vote in addition to the votes to which he may be entitled as a Member. Regulation 50 of Table A shall not apply.
- 8.5 Save as hereinafter provided and to any rights or restrictions attached to any Shares, on a show of hands every Member who (being an individual) is present in person or (being a corporation) is present by a duly authorised representative, not being himself a Member entitled to vote, shall have one vote and on a poll every Member shall have one vote for each Share of which he is the holder.

## **9. NUMBER OF DIRECTORS**

The minimum number of Directors shall be two and there shall be no maximum number of Directors unless otherwise expressly agreed in writing by each of the Shareholders. Regulation 64 of Table A shall not apply.

## **10. ALTERNATE DIRECTORS**

- 10.1 Any Director (other than an alternate Director) may appoint any other Director, or any other person willing to act, to be an alternate Director and may remove from office an alternate Director so appointed by him. Save as otherwise provided in the Articles, unless he is already an officer of the Company in his own right, an alternate Director shall not, as such, have any rights other than those mentioned in Sub-Article 10.2 below.
- 10.2 An alternate Director shall be entitled to receive notice of all meetings of Directors and to attend, speak and vote at any such meeting at which the Director appointing him is not personally present but it shall not be necessary to give notice of such a meeting to an alternate Director who is absent from the United Kingdom. A Director present at such meeting and appointed alternate Director for any other Directors entitled to attend and vote

at such meeting shall have an additional vote for each of his appointors absent from the meeting. An alternate Director shall not be entitled to receive any remuneration from the Company for his services as an alternate Director. Without prejudice to the generality of the foregoing, an alternate Director appointed by Hallgarten shall for the purposes of these Articles be deemed to be the Director he represents.

- 10.3 An alternate Director shall cease to be an alternate Director if his appointor ceases to be a Director.
- 10.4 Any appointment or removal of an alternate Director shall be by notice to the Company signed by the Director making or revoking the appointment or in any other manner approved by the Directors.
- 10.5 Without prejudice to Sub-Article 10.2 and save as otherwise provided in the Articles, an alternate Director shall be deemed for all purposes to be a Director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the Director appointing him.
- 10.6 Regulations 65 to 69 (inclusive) shall not apply and Regulation 88 shall be modified accordingly.

## **11. POWERS OF DIRECTORS**

The Directors may sanction the exercise by the Company of all the powers of the Company to make provision for the benefit of persons (including Directors) employed or formerly employed by the Company or any subsidiary of the Company in connection with the cessation or transfer to any person of the whole or part of the undertaking of the Company or any such subsidiary as are contained in section 719 of the Act and section 187 of the Insolvency Act 1986 and, subject to such sanction, the Directors may exercise all such powers of the Company.

## **12. APPOINTMENT AND RETIREMENT OF DIRECTORS**

- 12.1 The Directors of the Company shall not retire by rotation, and Regulations 73 to 77 (inclusive) and 79 of Table A shall not apply and Regulation 78 shall be modified accordingly.
- 12.2 Hallgarten shall be entitled, for so long as Hallgarten remains a Shareholder, at any time and from time to time to appoint one person as a Director and to remove any such Director from office and to appoint any other person in place of any such Director so removed. Every appointment or removal made pursuant to this Sub-Article 12.2 shall be made by notice in writing to the Company signed by or on behalf of Hallgarten. Such notice shall take effect when served or deemed to be served on the Company in accordance with Sub-Article 19.2.

## **13. DISQUALIFICATION AND REMOVAL OF DIRECTORS**

- 13.1 The office of Director shall be vacated if:



- 13.1.1 he ceases to be a Director by virtue of any provision of the Act or he becomes prohibited by law from being a Director; or
  - 13.1.2 he becomes bankrupt or makes any arrangement or composition with his creditors generally; or
  - 13.1.3 he is a person of unsound mind; or
  - 13.1.4 he resigns his office by notice to the Company; or
  - 13.1.5 he is removed from office under section 303 of the Act; or
  - 13.1.6 he is removed from office pursuant to Sub-Article 12.2;
  - 13.1.7 he is a Director appointed pursuant to Sub-Article 12.2 and Hallgarten no longer is a Shareholder of the Company
- and Regulation 81 of Table A shall not apply.
- 13.2 No person shall be disqualified from being or becoming a Director of the Company by reason of his attaining or having attained the age of 70 years or any other age.

#### **14. DIRECTORS' INTERESTS**

Provided that a Director declares his interest in a contract or arrangement or proposed contract or arrangement with the Company in manner provided by section 317 of the Act, he shall be counted in the quorum of any meeting of Directors at which the same is considered and shall be entitled to vote as a Director in respect thereof. Regulation 94 of Table A shall not apply.

#### **15. DIRECTORS' GRATUITIES AND PENSIONS**

Regulation 87 of Table A shall not apply.

#### **16. PROCEEDINGS OF DIRECTORS**

- 16.1 Subject to the provisions of the Articles, the Directors may regulate their proceedings as they think fit. A Director may, and the Secretary at the request of a Director shall, call a meeting of the Directors. Subject as provided in **Article 16.2** not less than five days' notice (or such other period of notice as may be agreed from time to time by the Board) of each meeting of the Board specifying the date, time and place of the meeting and the business to be transacted thereat shall be given to all Directors at the relevant time. All meetings of the members of the Company and of the Board shall take place at the registered office of the Company or at such other location as the Board shall agree. Without prejudice to Article 13 it shall not be necessary to give notice of a meeting to a Director who is absent from the United Kingdom. Questions arising at any meeting of the Directors shall be decided by a majority of the votes. In the case of an equality of votes, the Chairman at any meeting of the Directors shall be entitled to a second or casting vote. Regulation 88 of Table A shall not apply.

- 16.2 Unless otherwise agreed in writing by the Board:
- 16.2.1 meetings of the Directors shall be held not less than half yearly on such dates as they may agree (and failing such agreement on such day as the Chairman shall decide);
  - 16.2.2 a telephone conference call during which a quorum of the Directors for the purposes of the business intended to be conducted at that meeting participates in the call shall be valid as a meeting of the Directors; and
  - 16.2.3 any Director shall by notice to the Company and each other Director be entitled to convene a meeting of the Directors at the registered office of the Company at any reasonable time after the date of such notice.
- 16.3 Unless otherwise agreed by the Board, all Board papers for Board Meetings will be sent to all Directors prior to the relevant Board Meeting and, unless otherwise agreed by the Board, draft minutes of Board Meetings will be sent as soon as practicable after the holding of the relevant meeting.
- 16.4 The quorum for the transaction of the business of the Directors shall (subject to Sub-Article 16.5) be two. Regulation 89 of Table A shall not apply.
- 16.5 The continuing Directors or a sole continuing Director may act notwithstanding any vacancies in their number for the purpose of summoning a General Meeting of the Company or of the holders of any class of shares but for no other purpose. Regulation 90 of Table A shall not apply.
- 16.6 A resolution in writing signed by all the Directors entitled to receive notice of a meeting of the Directors shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held and may consist of several documents in the like form each signed by one or more Directors; but 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. Regulation 93 of Table A shall not apply.
- 16.7 Provided that due notice of such telephone conference call has been given as would be required for notice of a meeting of the Directors, a telephone conference call during which a quorum of the Directors for the purposes of the business intended to be conducted at that meeting participates in the call shall be as valid as a meeting of the Directors so long as all those participating can hear and speak to each other throughout the call.

## **17. DELEGATION OF DIRECTORS' POWERS**

- 17.1 The Directors shall be entitled to delegate any of their powers to a Management Committee which shall be comprised of the Managing Director and other Directors and senior managers of the Company appointed to the Management Committee by the Board from time to time.
- 17.2 The Directors may delegate to any Managing Director or the Management Committee responsibility for the day to day management of the Company, including (but not limited to):

- 17.2.1 all necessary administration services in connection with financial matters affecting the Company and the Business including (without limiting the generality of the foregoing words) the management and supervision of the Company's management and other accounts and bank accounts;
- 17.2.2 all necessary administration and secretarial services in connection with the Company and the Business; and
- 17.2.3 the registration of the Company for Value Added Tax.
- 17.3 Regulation 72 of Table A shall not apply.

## **18. DIVIDENDS**

- 18.1 The Directors may retain the dividends payable upon Shares in respect of which any person is under the provisions as to the transmission of Shares herein contained entitled to become a Member, or which any person under those provisions is entitled to transfer, until such person shall become a member in respect of such Shares or shall duly transfer the same in either case subject to Article 5. Regulation 31 of Table A shall be modified accordingly.
- 18.2 The payment by the Directors of any unclaimed dividend or other moneys payable on or in respect of a Share into a separate account shall not constitute the Company a trustee in respect thereof. Any dividend unclaimed after a period of 12 years from the date when it became due for payment shall be forfeited and cease to remain owing by the Company. Regulation 108 of Table A shall not apply.

## **19. NOTICES**

- 19.1 Any notice given to or by any person pursuant to the Articles shall be in writing except that a notice calling a meeting of the Directors need not be in writing. Any notice given by or on behalf of any person to the Company may be given by leaving the same at or by sending the same by post to the Office or such other place as the Directors may appoint. Regulation 111 of Table A shall not apply.
- 19.2 Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 24 hours after the envelope containing it was posted. Regulation 115 of Table A shall not apply.

## **20. INDEMNITY**

- 20.1 Subject to the provisions of, and so far as may be permitted by, the Act, every Director, Auditor, Secretary or other officer of the Company shall be entitled to be indemnified by the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution and discharge of his duties or in relation thereto including any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the

Company and in which judgment is given in his favour, or the proceedings otherwise disposed of without any finding or admission of any material breach of duty on his part, or in which he is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted by the Court.

- 20.2 Subject to the provisions of and so far as may be permitted by the Act, the Company shall be entitled to purchase and maintain for any such Director, Auditor, Secretary or other officer, insurance against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust in relation to the Company.