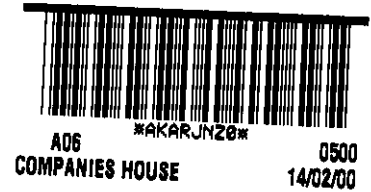


No. 3297769

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**The Companies Acts 1985-1989**

Private Company Limited by Shares



**NEW ARTICLES OF ASSOCIATION**

(Adopted by Special Resolution passed on 28<sup>th</sup> January 2000)

of

**BREWLAB LIMITED**

Incorporated on 31<sup>st</sup> December 1996

**INTERPRETATION**

1 In these Articles if not inconsistent with the subject or context:-

**Act** means the Companies Act 1985 as amended or re-enacted from time to time

**A Shares and B Shares** mean the A shares of £1.00 each and the B Shares of £1.00 each of the Company

**Table A** means Table A in the schedule to the Companies ( Table A-F) Regulations 1985 as amended by the Companies ( Table A to F) ( Amendment) Regulations 1985

**TABLE A**

2 The regulations contained in Table A apply to the Company except in so far as they are excluded by or inconsistent with these Articles.

3 Any proposed amendments to or variations of these Articles or of the Memorandum of Association of the Company shall be deemed to be a variation of the rights attached to the A Shares and the B Shares.

4 Regulations 2. 8. 17. 23. 24. 32. 33. 39. 40. 41. 42. 43. 50. 64. 73 to 80 inclusive. 88. 89. 91. 94 to 97 and 118 of Table A do not apply to the Company.

**SHARE CAPITAL**

5 The Company does not have power to issue share warrants to bearer.

- 6 The provisions of section 89(1) of the Act do not apply to the Company.
- 7 the authorised share capital of the Company ( at the date of adoption of these Articles) is £11,000 divided into 800 'A' Shares of £1.00 each, 200 'B' Shares of £1.00 each and £10,000 Preference Shares.
- 8 The A Shares and B Shares constitute different classes of shares for the purposes of the Act but except as expressly provided in these Articles confer upon the holders the same rights and rank pari passu in all respects.
- 9 Rights of the Preference Shares
- 9.1 As to income:
- 9.1.1 Each Preference Share shall confer on its holder the right to receive, in priority to the transfer of any sum to reserves or any rights of the holders of any other class of shares in the Company and payable without any resolution of the directors or of the Company, a Preference Dividend at the rate of 8 per cent per annum on the amount of the paid up nominal capital. The Preference Dividend shall accrue from day to day and be paid half-yearly on 31 January and 31 July in each year in respect of the half-year ending on those dates. The first payment shall be made on 31 July 2000 and shall be calculated from the date of adoption of these Articles up to that date.
- 9.1.2 Any amount not paid shall be carried forward and, subject to the provisions of the Act, be payable in priority to the Preference Dividend payable on any later date. The Company shall pay, on the date of actual payment, an amount of interest calculated from the date the dividend should have been paid ( within six monthly rests on the due dates for payment of the Preference Dividend) at the rate of 8 per cent from time to time on the amount not paid.
- 9.2 As to capital:
- 9.2.1 On a winding up or other return of capital (but not on the redemption or the purchase by the Company of its own shares) the assets of the Company available for distribution amongst its members shall be applied, in priority to any payment to the holders of any other class shares of the Company, in paying to the Preference Shareholders:  
first, the nominal amounts paid up on the Preference Shares;  
secondly, a sum equal to any arrears of the Preference Dividend, together with interest calculated in accordance with Article 9.1.2, down to the date of return of capital to be payable irrespective of whether or not that dividend has been declared or earned; and  
thirdly, a sum equal to any accrual of the Preference Dividend from the last half yearly payment date to the date of return of capital irrespective of whether or not that dividend has been declared or earned.
- 9.2.2 The Preference Shares shall not confer any further right of participation in the profits or assets of the Company.
- 9.3 As to redemption:
- 9.3.1 The Company shall redeem for cash at par each Preference Share on the 1<sup>st</sup> February 2005 ('the Redemption Date')
- 9.3.2 Upon the Redemption Date the paid up nominal capital on the Preference Shares to be redeemed, together with:  
(a) the amount of the Preference Dividend accrued to the Redemption Date;  
(b) any arrears of Preference Dividend; and  
(c) any interest calculated in accordance with Article 9.1.2  
shall become a debt due and payable by the Company to the Preference Shareholders.
- 10 Unissued shares shall be allotted only as follows:-
- (i) every allotment shall be of four times the number of A Shares than B Shares;

- (ii) on the occasion of each allotment the A Shares and the B Shares shall be allotted at the same price ( not being at a discount) and on the same terms as to date for payment;
- (iii) no shares of either class shall be issued otherwise than to members holding shares of the same class without the prior written consent of all the other members;
- (iv) as between holders of shares of a class the shares of that class being allotted shall be allotted in proportion to their then existing holdings of shares of that class or in such other proportions between them as all the members holding shares of that class agree in writing;
- (v) the maximum amount of relevant securities ( as defined by section 80(2) of the Act) which the directors may allot grant options or subscriptions or conversion rights over or otherwise deal with dispose of pursuant to this article shall be authorised but as yet unissued share capital of the Company at the date of adoption of these Articles. The authority conferred on the director by this article shall expire on the day preceeding the fifth anniversary of the date of adoption of these Articles.

11 The Company may by special resolution:-

- (a) increase its share capital by new shares of such amount as the resolution prescribes;
- (b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- (c) subject to the provisions of the Act, sub-divide its shares, or any of them, into shares of smaller amount and the resolution may determine that, as between the shares resulting from the sub-division, any of them may have any preference as compared with the other; and
- (d) cancel shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any persons and diminish the amount of its share capital by the amount of the shares so cancelled.

12 Except as provided in article 9 the directors have no power to issue unissued shares and shall not allot grant options or subscription or conversion rights over or otherwise dispose of them.

13

The Company shall have a first and paramount lien on every 'A' and 'B' Share for all moneys (whether presently payable or not) called or payable at a fixed time and in respect of that share. The Company shall also have a first and paramount lien on all 'A' and 'B' Shares registered in the name of any person ( whether solely or jointly with others) for all moneys owing to the Company from him or his estates either alone or jointly with any other person whether as a member or not and whether such moneys are presently payable or not. The directors may at any time declare any 'A' or 'B' Share to be wholly or partly exempt from the provisions of this article. The Company's lien on such share shall extend to any amount payable in respect of it.

### **TRANSFER OF SHARES**

- 14 The instrument of transfer of any share shall be executed by or on behalf of the transferor. In the case of a partly-paid share the instrument of transfer must also be executed by or on behalf of the transferee. The transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the register of members in respect of it.
- 15 The directors may from time to time require any members to provide the Company with such information and evidence as they may reasonably think fit to ensure compliance with article

16. If the member fails to provide such information or evidence in respect of any shares registered in its name to the reasonable satisfaction of such directors within 14 days of their request the directors may serve a notice on member stating that the member shall not, in relation to all shares held by the member, be entitled to be present or to vote either in person or by proxy at any general meeting of the Company or any meeting of any class of shares in the Company in relation to the proposed transfer and that any director who would not have appointed without that member's votes or those of its parent shall not be entitled to vote at any board meeting of the Company in relation to the proposed transfer until such evidence or information has been provided.

#### **PRE-EMPTION RIGHTS OVER SHARES**

- 16.1 Save as provided in article 16.11 no transfer of any shares or any interest in shares shall be made unless and until the provisions of this article 16 are complied with in respect of the transfer.
- 16.2 Save as provided in article 16.11 no member shall be entitled to transfer any of its shares for a period of 3 years from the date of adoption of these Articles without prior written consent of all the other members.
- 16.3 No member will be entitled to transfer any of its shares unless by a transfer of its entire legal and beneficial interest in shares of the Company without the prior written consent of all the other members.
- 16.4 Any member proposing to transfer shares or any interest in shares otherwise than in accordance with article 16.11 ("the vendor") must give notice in writing ("the Transfer Notice") to the Company of its proposal.
- 16.5 If in relation to any member:-
  - 16.5.1 any encumbrancer takes possession of the whole or part of his undertaking or assets:
  - 16.5.2 any distress execution sequestration or other process is levied or enforced upon or sued out against his property and is undischarged within 7 days of being levied:
  - 16.5.3 he makes an application to the court for a voluntary arrangement pursuant to Section 253 of the Insolvency Act 1986 or enters into some other scheme or arrangement with his creditors or is unable to pay his debts within the meaning of Section 268 of the insolvency Act 1986;
  - 16.5.4 a petition is presented for his bankruptcy whether by himself or by some other party so entitled pursuant to the Insolvency Act 1986:
  - 16.5.5 it becomes insolvent or has a receiver appointed over all or any part of its assets or has a petition presented or resolution passed for winding up;
  - 16.5.6 an order is made by a court of competent jurisdiction for his detention or for the appointment of any person to exercise powers within respect of his property:
  - 16.5.7 he dies; or
  - 16.5.8 it is dissolved:

then that members will be deemed to have served a Transfer Notice ( without specifying a price per share) in respect of its entire holding immediately prior to the relevant event specified in this article 16.5

- 16.6 If the person holding a majority of the B Shares in the Company serves a Transfer Notice or is deemed to have served a Transfer Notice pursuant to Article 16.5 then each other person holding B Shares will be deemed to have served a Transfer Notice ( without specifying a price per share) in respect of their entire holding immediately prior to the person holding a majority of the B Shares in the Company serving or being deemed to have served a Transfer Notice.
- 16.7 Every Transfer Notice will specify the number and class of shares to be transferred will be accompanied by the certificate for the vendor's shares and will constitute the Company agent for the sale of the shares in accordance with this article 16 at a price to be determined in accordance with article 16.9
- 16.8 Within 21 days of receipt of a Transfer Notice or if the sale price has not been agreed or determined (as the case may be) in accordance with article 16.9 then 5 days from the date of such agreement or determination the Company will give notice in writing of the Transfer Notice specifying the sale price and the number of shares to be transferred (an "Offer Notice") to all appropriate members in accordance with the following provisions:-
- 16.8.1 an Offer Notice will be first served on the holders of all remaining shares of the same class as those comprised in the Offer Notice (other than holders who have served or are deemed to have served a Transfer Notice) ("the First Offer"). The First Offer will be limited to a period of 21 days ("the First Period") from the date of the Offer Notice and if not accepted in writing by the relevant holders within such time it will be deemed to have been declined by such holders. The First Offer will give the holders to which it is made the right to claim shares in addition to their due proportion if any other holders of such class do not accept their due proportion. If any such holders do not accept their due proportion then the unaccepted shares will be distributed amongst those holders claiming additional shares in proportion or as nearly as may be to their said holdings (but no holder will be bound to take more shares than they are prepared to take). If the number of shares comprised in The Transfer Notice is insufficient to enable them to be offered pro rata to all the holders holding shares of such class then any remaining shares will be offered individually to such holders by the drawing of lots and the provisions of this article 17 will apply accordingly.
- 16.8.2 if by the expiry of the First Period there shall remain unaccepted shares the subject of the First Offer the Company shall be entitled to offer such unaccepted shares to all the shareholders of the Company other than shareholders who have served or are deemed to have served a Transfer Notice and those shareholders who were party to the First Offer and their shares will rank pari passu as if the same constituted one class of shares and will be offered in proportion as nearly as may be to their said holdings ("the Second Offer"). The Second Offer will be limited to a period of 21 days ("the Second Period") from the date of the Offer Notice and if not accepted in writing by the relevant shareholders within such time be deemed to be declined by such shareholders. The Second Offer will give the shareholders to which it is made the right to claim shares offered in addition to their due proportion if any other shareholders do not accept their due proportion. If any such shareholders do not accept their due proportion then the unaccepted shares shall be distributed amongst those shareholders claiming additional shares in proportion or as nearly as may be to their said holdings (but no shareholders shall be bound to take more shares than they are prepared to take). If the number of shares comprised in the Transfer Notice is insufficient to enable them to be offered pro rata to all the shareholders then any remaining shares shall be offered individually to such shareholders by the drawing of lots and the provision of this article 16 clause will apply accordingly.
- 16.8.3 if at the expiry of the Second Period all the shares which are subject of the First Offer of the Second Offer have not been accepted the Company will be entitled to offer such unaccepted shares to a third party at any price not being lower than the sale price ("the Third Offer"). Such Second Offer will be limited to a period of 21 days ("the Third Period") from the date of expiry of the Second Period and if not accepted within such time will be deemed to be declined.

18.8.4 if within the First Period or the Second Period or the Third Period (as the case may be) pursuant to Offer Notices made in such periods a transferee or transferees is/are found for the shares offered for sale of any of them the Company will give notice thereof to the Vendor which will be bound upon payment of the appropriate sale price to transfer the shares to the relevant transferee or transferees.

16.9 The sale price of the shares comprised in any Offer Notice will be either the price agreed between the Vendor and the holders of the remaining shares within 21 days of the service of the Transfer Notice or (as the case may be) the date when the Transfer Notice is deemed to have been served or in default of agreement (and in any case where a Transfer Notice is deemed to be served under article 16.5) such price as an independent accountant appointed jointly by the Vendor and the holders of the remaining shares or failing agreement by the parties or where the Vendor has ceased to exist, appointed by the President for the time being of the Sunderland Law Society, certifies in writing to be the fair value per share taking into account (where relevant)

16.9.1 the aggregate consideration which in his opinion a willing buyer would offer to a willing seller on the open market for the whole of the issued share capital of the Company

16.9.2 the past and current performance of the Company

16.9.3 the Company's apparent future prospects

16.9.4 the rights attached to the class of shares, which is the subject of the Transfer Notice

And the value per share will not be discounted or enhanced by reference to the number of shares referred to in the Transfer Notice. In so certifying the accountant will be considered to be acting as an expert and not as arbitrator with regard to his determination. Upon receipt of notice of such certification of the accountant the Vendor may (save that it may not do so if a Transfer Notice is deemed to be served under article 16.5) at its sole discretion by notice in writing within 5 days of such receipt withdraw any Transfer Notice notwithstanding that the holders of the remaining shares have already given written notice of acceptance of shares under the First Offer. The reasonable costs of the accountant will be borne by the Vendor.

16.10 If the Vendor after having become bound to transfer its shares makes default in transferring them the Company may receive the purchase money tendered by the relevant transferee and the Vendor will be deemed to have appointed any one director or the secretary of the Company as its agent to execute a transfer of the shares which are the subject of the Transfer Notice to the transferee and upon the execution of such transfer the Company will hold the purchase money in trust for the Vendor. The receipt of the Company for the purchase money will be a good discharge to the transferee and after its name has been entered on the register of members in purported exercise of the power conferred by this clause the validity of the proceedings will not be questioned by any person.

16.11 If the Company does not find a transferee before the expiry of the Third Period in accordance with this article 16 of all the shares comprised in the Transfer Notice it will notify the Vendor in writing which will be at liberty within a period of 3 months from receipt of such notification to transfer all such remaining shares to any one person at the sale price agreed or determined in accordance with article 16.9 provided that the holders of the remaining shares must approve of the proposed transferee and if they do not so approve the transfer will not be permitted.

16.12 Notwithstanding the above provisions of this article 16 each member which is a corporation shall be entitled at any time to transfer their entire legal and beneficial interest in shares of the Company to a corporation which in relation to the member is a subsidiary of the member or the holding company of the member as defined in section 736 of the Act amended by section

144(1) of the Companies Act 1989 or a subsidiary of the same holding company as the member.

### **General meeting**

- 17 No business shall be transacted at any general meeting unless the requisite quorum is present. Two members present in person or by proxy (or in the case of a corporate member by a duly authorised representative) shall be a quorum for all purposes provided that whilst the issued share capital of the Company is divided into A and B Shares no quorum will be present unless one holder of an A Share and one holder of a B Share is present. Where all the holders of a class have waived in writing the quorum requirement in relation to that class the waiver shall be effective for the meeting or particular business or otherwise as specified in the waiver.
- 18 If within half an hour from the time appointed for a general meeting a quorum is not present the meeting shall stand adjourned to the same day (or if that day is a holiday to the next following working day) in the next week but one and at the same time and place or to such other date time and place as the directors determine (not being more than 30 days after the date appointed for the general meeting unless agreed by the holders of not less than nine tenths in nominal value of the shares entitled to vote at the meeting). If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum
- 19 Where a meeting is adjourned under article 17 for 10 days or more not less than 7 days' notice of the adjourned meeting shall be given as in the case of an original meeting.
- 20 The chairman, if any, of the board of directors or in his absence some other director nominated by the shareholders holding a majority of A shares shall preside as chairman of the meeting. If no director is willing to act as chairman, or if no director is present within fifteen minutes after the time appointed for holding the meeting the shareholders holding a majority of A Shares shall choose a shareholder to be the chairman and in the absence of any such shareholder, provided a quorum is present, the shareholders present shall choose one of their number to be chairman.
- 21 In the case of an equality of votes at a general meeting the chairman shall be entitled to a casting vote in addition to any other vote it may have.

### **Appointment and removal of Directors**

- 22 The directors shall unless otherwise determined by written agreement of all the shareholders of the Company be not less than four nor more than six in number.
- 23 Subject to article 22 the holders of a majority of the A Shares may from time to time appoint any persons to be directors but not more than four persons shall at any time hold office by virtue of an appointment under this article. Each director appointed under this article is designated an A director.

- 24 Each A director may at any time be removed from office by the holders of a majority of the A Shares.
- 25 Subject to article 22 the holders of a majority of the B Shares may from time to time appoint any persons to be directors but not more than two persons shall at any one time hold office by virtue of an appointment under this article. Each director appointed under this article is designated a B director and may not be appointed without the prior written approval of the holders of a majority of the A Shares.
- 26 Each B director may at any time be removed from office by the holders of a majority of the B Shares.
- 27 An appointment or removal shall be made in writing under the hands of those in whom the power of appointment or removal is vested or their duly authorised agents and shall take effect from the date on which notice in writing of it is lodged at the registered office of the Company or delivered to the secretary or to a meeting of the directors.

### **Powers and duties of Directors**

- 28 Subject to the provisions of the Act a director may contract with and participate in the profits of any contract or arrangement with the Company as if he were not a director. A director may vote in respect of the contract or arrangement where he has previously disclosed his interest to the Company or in respect of his appointment to any office or place of profit under the Company. He may also be counted in the quorum at any meeting at which the matter is considered.

### **Alternative Directors**

- 29 Any alternate director shall be entitled at any meeting of the directors or any committee of the directors to one vote for every director whom he represents in addition to his own vote (if any) as a director, but he shall count as only one for the purpose of determining whether a quorum is present.

### **Disqualification of Directors**

- 30 Regulation 81 of Table A shall be amended by substituting the following paragraphs [c] and (e)
- [c] becomes in the opinion of all his co-directors incapable by reason of mental disorder of discharging his duties as a director, or
- [e] he is otherwise duly removed from office



A director shall not be required to vacate his office or be ineligible for re-election and no person shall be ineligible for appointment as a director by reason only of his attaining or having attained any particular age.

### **Proceedings of Directors**

- 31 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 by not less than seven clear days' notice such notice to specify a full agenda of the business to be transacted at the meeting. It shall not be necessary to give notice of a meeting to a director who is absent from the United Kingdom. At any meeting of the directors matters shall be decided by a majority vote. In the case of an equality of votes the chairman of the board of directors shall have a second or casting vote.
- 32 The quorum necessary for the transaction of business at any meeting of the directors shall be four directors or their alternates. Regulation 89 of Table A shall be amended accordingly.

### **Chairman**

- 33 The holders of a majority of the A shares shall have the right from time to time to appoint and remove any director appointed by them as chairman of the board of directors and of the Company. If such chairman is unable to attend any meeting of the Board holders of the majority of the A shares shall be entitled to appoint another director to act as chairman in his place at such meeting.

### **Capitalisation of profits**

- 34 The words "*special resolution*" shall be substituted for the words "*ordinary resolution*" in regulation 100 of Table A. On any occasion when shares are allotted and distributed credited as fully paid under the provisions of regulation 110 of Table A (as amended by this article) the shares allotted to holders of A Shares shall be or be designated A Shares and the shares allotted to holders of B Shares shall be or be designated B Shares.

### **Notices**

- 35 Any notice required by these Articles to be given by the Company may be given by any visible form on paper including telex facsimile and electronic mail. A notice communicated by immediate transmission shall be deemed to be given at the time it is transmitted to the person to whom it is addressed. Regulations 11 and 112 of Table A shall be amended accordingly.

## Indemnity

- 36 Subject to the provisions of the Act but without prejudice to any indemnity to which a director may otherwise be entitled every director secretary auditor or other officer of the Company is entitled to be indemnified by the Company against all losses and liabilities sustained or incurred by him in the execution of his duties or in the exercise of his powers or otherwise in connection with his office including any liability incurred by him (a) in defending any proceedings whether civil or criminal in which judgement is given in his favour or in which he is acquitted or which are otherwise disposed of without any finding or admission of any material breach of duty on his part; or (b) in connection with any application in which relief is granted to him by the court from liability in respect of any act or omission done or alleged to be done by him as an officer or employee of the Company. The Company may purchase and maintain for any person to whom this article applies insurance against any liability in respect of which he is entitled to be indemnified.

*dated* 28 January 2000