

THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY SHARES
NEW
ARTICLES OF ASSOCIATION
of
COMPASS BOX DELICIOUS WHISKY LTD.
(the "Company")

(Adopted by a special resolution passed on 20 April 2022)

1. Introduction

- 1.1 The model articles for private companies limited by shares contained or incorporated in Schedule 1 to the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these articles (the "**Model Articles**") shall apply to the Company, save insofar as they are varied or excluded by, or are inconsistent with, the following Articles.
- 1.2 In these Articles and the Model Articles any reference to any statutory provision shall be deemed to include a reference to each and every statutory amendment, modification, re-enactment and extension thereof from time to time.
- 1.3 In these Articles article headings are used for convenience only and shall not affect the construction or interpretation of these Articles.

2. Defined terms

In these Articles the following words and expressions shall have the following meanings:

"Act" means the Companies Act 2006 (as amended from time to time);

"Acting in Concert" has the meaning given to it in The City Code on Takeovers and Mergers published by the Panel on Takeovers and Mergers (as amended from time to time);

"Annual Budget" means the annual budget relating to the Group to be approved by the Board at the beginning of each financial year of the Company;

"Associate" in relation to any person means:

- (i) any person who is an associate of that person and the question of whether a person is an associate of another is to be determined in accordance with section 435 of the Insolvency Act 1986 and (whether or not an associate as so determined); and
- (ii) any member of the same Group.

"Board" means the board of Directors and any committee of the board constituted for the purpose of taking any action or decision contemplated by these Articles;

"Business Day" means a day on which English clearing banks are ordinarily open for the transaction of normal banking business in the City of London (other than a Saturday or Sunday);

"Business Plan" means the acquisition plan of the Group prepared by the Investor, as amended from time to time with the approval of the Board;

"Civil Partner" means in relation to a Shareholder, a civil partner (as defined in the Civil Partnership Act 2004) of the Shareholder;

"Competitor" means any person which operates or manages a business within the alcoholic beverages sector;

"Controlling Interest" means an interest in shares giving to the holder or holders control of the Company within the meaning of section 1124 of the Corporation Tax Act 2010;

"Date of Adoption" means [] April 2022;

"Director(s)" means a director or directors of the Company from time to time;

"Dismissal" means, in relation to a person, dismissal from their employment with the Company:

- (i) due to redundancy;
- (ii) without cause, that is in circumstances where the Company does not have the right to terminate their employment by written notice with immediate effect without paying such employee salary in lieu of an unexpired period of notice; or
- (iii) where such dismissal is unfair, wrongful or constructive dismissal, as agreed with or acknowledged by the Company or as determined by a court or tribunal of competent jurisdiction;

"Employee" means an individual who is employed by or who provides consultancy services to, the Company or any member of the Group;

"Encumbrance" means any mortgage, charge, security, interest, lien, pledge, assignment by way of security, equity, claim, right of pre-emption, option, covenant, restriction, reservation, lease, trust, order, decree, judgment, title defect (including without limitation any retention of title claim), conflicting claim of ownership or any other encumbrance of any nature whatsoever (whether or not perfected other than liens arising by operation of law);

"Fair Value" is as determined in accordance with Article 10.3;

"Family Trusts" means trust(s) under which no immediate beneficial interest in any of the shares in question is for the time being vested in any person other than a Shareholder who is an individual and/or Privileged Relations of that individual;

"Founder Director" means as described in Article 3.1;

"Good Leaver" means a person whose employment with the Company ceases as a result of resignation or termination of employment:

- (i) on the person reaching normal retirement age in accordance with the terms of their employment contract;
- (ii) due to their death; or

- (iii) due to disability or serious illness materially impairing the person's ability to perform their duties under their employment contract;

"Group" means the Company and its subsidiary undertaking(s) (if any) from time to time;

"Investor Director" means any such director of the Company nominated by the Investor as the Investor Director pursuant to Article 3.2;

"Investor" means Caelum Compass Box Holdings Limited and its parent, Caelum Jersey Holdings One Limited;

"a Member of the same Group" means as regards any company, a company which is from time to time a parent undertaking or a subsidiary undertaking of that company or a subsidiary undertaking of any such parent undertaking and any affiliated body corporates of such entities;

"New Securities" means any shares or other securities convertible into, or carrying the right to subscribe for, those shares issued by the Company, in each case that are issued after the Date of Adoption (other than shares or other securities which the Shareholder Majority have agreed (via Shareholder Majority Consent) should be issued without complying with Article 6);

"Ordinary Shareholder" means any holder of Ordinary Shares;

"Ordinary Shares" means the ordinary shares of £1.00 nominal value each in the capital of the Company, from time to time;

"Permitted Transfer" means a transfer of Shares in accordance with Article 9;

"Permitted Transferee" means:

- (a) in relation to a Shareholder who is an individual, any of his Privileged Relations, Trustees or Qualifying Company; and
- (b) in relation to a Shareholder which is an undertaking means any Member of the same Group;

"Privileged Relation" in relation to a Shareholder who is an individual member or deceased or former member means a spouse, Civil Partner, child or grandchild (including step or adopted or illegitimate child and their issue);

"Proposed Purchaser" means a proposed purchaser who at the relevant time has made an offer on arm's length terms;

"Proposed Seller" means any person proposing to transfer any shares in the capital of the Company;

"Public Company Model Articles" means the Model Articles for Public Companies contained in the Companies (Model Articles) Regulations 2008;

"Qualifying Company" means a company in which a Shareholder or Trustee(s) hold the whole of the share capital and which they control;

"Rollover Shareholders" means those Jonathan Driver, John Glaser, Alan Rutherford, Leslie Merinoff, Andrew Merinoff and Tobin Bickley together with their Permitted Transferees;

"Rollover Shareholder Majority" means those Rollover Shareholders holding at least 50.1 per cent. of the Ordinary Shares in the capital of the Company held by the Rollover Shareholders from time to time;

"Rollover Shareholder Majority Consent" means the consent in writing of the Rollover Shareholder Majority;

"Sale of the Company" means either (i) a sale of the Company or any of its direct or indirect parent entities to any Person, whether by merger, consolidation, sale of all or substantially all of its assets or sale of all or a majority of the outstanding equity securities, including the issuance of new securities in connection with one of the foregoing or (ii) the sale, transfer, contribution, redemption, exchange or other disposition of the Shares, whether to the Company, an existing or newly-formed Affiliate of the Company or to a third party, for the purpose of forming a new holding company, in connection with a public offering, in connection with a debt restructuring, in connection with a financing or in connection with a distribution of cash or securities to Shareholders.

"Shareholder" means any holder of any Shares;

"Shareholder Majority" means those Shareholders holding at least 50.1 per cent. of the Ordinary Shares in the capital of the Company from time to time;

"Shareholder Majority Consent" means the consent in writing of the Shareholder Majority;

"Shares" means the Ordinary Shares and any other classes of share in issue by the Company from time to time; and

"Trustees" means the trustee(s) of a Family Trust.

3. The Board

- 3.1 The members of the Board as at the Date of Adoption shall be comprised of three executive directors (being the Chief Executive Officer, the Chief Financial Officer and John Glaser as the "Founder Director"), four non-executive directors (being Alan Rutherford, Phil Jenkins, Rudy Ruiz and Jonathan Driver) and the Investor Director. Board meetings will be held at quarterly intervals, with other ad hoc meetings as may be required. The chairman of the Board as at the Date of Adoption shall be Alan Rutherford.
- 3.2 The Investor shall have the right to appoint and maintain in office one such natural person as the Investor may from time to time nominate as the "Investor Director" of the Company (and as a member of each and any committee of the Board) and to remove any director so appointed and, upon his removal whether by the Investor or otherwise, to appoint another director as the "Investor Director" in his place. The Investor Director shall have weighted voting on all resolutions of the Board (whether by written consent or at a meeting of the Board) and any committee of the Board, such that the Investor Director's vote on each and any resolution shall always constitute the majority of the votes of the Board (or committee of the Board, as relevant) on such resolutions. Article 7 of the Model Articles is modified accordingly.
- 3.3 The Investor shall be entitled to appoint up to three persons to act as observers to the Board, to the board of directors of any Group company and any committee of the Board or board of directors of any Group company established from time to time. The observers shall be entitled to attend and speak at all such meetings and receive copies of all board papers as if they were directors but shall not be entitled to vote on any resolutions proposed at a board meeting.

- 3.4 Appointment and removal of any Investor Director shall be by written notice from the Investor to the Company which shall take effect on delivery at the Company's registered office or at any meeting of the Board or committee thereof. Any Director other than the Investor Director who is an employee of the Company and who ceases to be an employee shall be deemed to have been automatically removed from office from the date their employment ceases, and the resulting vacancy on the Board may be filled by the Board in accordance with this Article 3.
- 3.5 The Company shall send to the Investor Director and each observer appointed pursuant to Article 3.3:
- (a) reasonable advance notice of each meeting of the Board (being not fewer than five Business Days) and each committee of the Board, such notice to be accompanied by a written agenda specifying the business to be discussed at such meeting together with all relevant papers; and
 - (b) as soon as practicable after each meeting of the Board (or committee of the Board) a copy of the minutes.
- 3.6 Save with the prior written consent of the Investor Director, no business shall be transacted at any meeting of the Board (or committee of the Board) save for that specified in the agenda referred to in Article 3.5. Any Director or observer may participate at a meeting by means of teleconference or videoconference, and such participation shall constitute presence at the meeting for all purposes.
- 3.7 The Company will reimburse the Investor Director with the reasonable costs and out of pocket expenses incurred by him in respect of attending meetings of the Company.
- 3.8 The quorum for Directors' meetings shall be two Directors who must include the Investor Director (save that where an interest of the Investor Director is being authorised by other Directors in accordance with section 175(5)(a) of the Act, the Investor Director and any other interested Director shall not be included in the quorum required for the purpose of such authorisation but shall otherwise be included for the purpose of forming the quorum at the meeting). Article 11(2) of the Model Articles shall not apply to the Company.

Matters Approved by Shareholder Majority Consent or Rollover Shareholder Majority Consent

- 3.9 Each of the Shareholders shall exercise all voting rights and powers of control available to him in relation to the Company to procure that, save with Shareholder Majority Consent, the Company shall not effect, and shall not permit any Group company to effect, any of the matters referred to in Schedule 1.
- 3.10 As a separate obligation, severable from the obligations in Article 3.9, the Company agrees that save with Shareholder Majority Consent, it shall not effect, and shall not permit any Group company to effect, any of the matters referred to in Schedule 1.
- 3.11 Each of the Shareholders shall exercise all voting rights and powers of control available to him in relation to the Company to procure that, save with Rollover Shareholder Majority Consent, the Company shall not effect any of the matters referred to in Schedule 2.
- 3.12 As a separate obligation, severable from the obligations in Article 3.12, the Company agrees that save with Rollover Shareholder Majority Consent, it shall not effect any of the matters referred to in Schedule 1.

4. Alternate Directors

Articles 15 and 25 to 27 of the model articles for public companies limited by shares contained in Schedule 3 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) shall apply to the Company.

5. Directors' interests

5.1 Subject to the provisions of the Act, and provided that he has declared to the Directors the nature and extent of his interest, a Director may vote at a meeting of the Directors or of a committee of the Directors on any resolution concerning a matter in which he has an interest, whether a direct or an indirect interest, or in relation to which he has a duty and shall also be counted in reckoning whether a quorum is present at such a meeting. Article 14 of the Model Articles shall not apply to the Company.

5.2 *Specific interests of a Director*

Subject to the provisions of the Act, and provided that he has declared to the Directors the nature and extent of his interest, a Director may (save as to the extent not permitted by law from time to time), notwithstanding his office, have an interest of the following kind:

- (a) where a Director (or a person connected with him) is party to or in any way directly or indirectly interested in, or has any duty in respect of, any existing or proposed contract, arrangement or transaction with the Company or any other undertaking in which the Company is in any way interested;
- (b) where a Director (or a person connected with him) is a director, employee or other officer of, or a party to any contract, arrangement or transaction with, or in any way interested in, any body corporate promoted by the Company or in which the Company is in any way interested;
- (c) where a Director (or a person connected with him) is a Shareholder or a shareholder in, employee, director, member or other officer of, or consultant to, a parent undertaking of, or a subsidiary undertaking of a parent undertaking of, the Company;
- (d) where a Director (or a person connected with him) holds and is remunerated in respect of any office or place of profit (other than the office of auditor) in respect of the Company or body corporate in which the Company is in any way interested;
- (e) where a Director is given a guarantee, or is to be given a guarantee, in respect of an obligation incurred by or on behalf of the Company or any body corporate in which the Company is in any way interested; or
- (f) where a Director (or a person connected with him or of which he is a member or employee) acts (or any body corporate promoted by the Company or in which the Company is in any way interested of which he is a director, employee or other officer may act) in a professional capacity for the Company or any body corporate promoted by the Company or in which the Company is in any way interested (other than as auditor) whether or not he or it is remunerated for this.

6. Allotment of new shares or other securities: pre-emption

6.1 In accordance with section 567(1) of the Act, sections 561 and 562 of the Act do not apply to an allotment of equity securities made by the Company.

- 6.2 Unless otherwise determined by special resolution, any New Securities shall, before they are allotted or granted on any terms, be first offered by the Company in writing to each holder of Ordinary Shares by:
- (a) giving details of the number and subscription price of the New Securities;
 - (b) inviting him to apply for the New Securities at the subscription price (being on no less favourable terms);
 - (c) stating that he will have a period of at least 7 days from the date of the notice in which to apply;
 - (d) stating that, if there is competition among each holder of Ordinary Shares for the New Securities, the New Securities will be allocated to him in proportion (as nearly as may be) to his existing holdings of Ordinary Shares (his **"Proportionate Allocation"**);
 - (e) inviting him to indicate if he is willing to purchase New Securities in excess of his Proportionate Allocation (**"Extra Securities"**) and, if so, the number of Extra Securities.
- 6.3 On expiry of an offer made in accordance with Article 6.2 (or sooner if applications or refusals have been received from each holder of Ordinary Shares and all requisite approvals have been given), the Company shall allot or grant (as the case may be) the New Securities as follows:
- (a) if the total number of New Securities applied for is equal to or less than the New Securities offered, each holder of Ordinary Shares shall be allocated the number applied for by him; or
 - (b) if the total number of New Securities applied for is more than the New Securities offered, each holder of Ordinary Shares shall be allocated his Proportionate Allocation or, if less, the number of New Securities for which he has applied; and
 - (c) applications for Extra Securities shall be allocated in accordance with such applications or, in the event of competition, among those holders of Ordinary Shares applying for Extra Securities in proportion to their Proportionate Allocations but so that no applicant shall be allocated more Extra Securities than he has applied for and so that if there is a surplus, further allocations shall be made on the same basis (and if necessary more than once) until all New Securities have been allocated; and
 - (d) fractional entitlements shall be rounded to the nearest whole number,
- following which the Directors may, subject to these Articles and the Act, allot or grant (as the case may be) such New Securities as have not been taken up in such manner as they think fit, but on terms no more favourable to the subscriber.
- 6.4 No Shares shall be allotted to any Employee, Director, prospective Employee or prospective director of the Company who in the opinion of the Board is subject to taxation in the United Kingdom, unless such person has entered into a joint section 431 Income Tax (Earnings and Pensions) Act 2003 election with the Company if so required by the Company.
- 6.5 The Company may issue Shares which are to be redeemed, or are liable to be redeemed at the option of the Company or the holder. The Directors are not authorised to determine the terms, conditions and manner of redemption unless express authorisation

to do so is given by Shareholder Majority Consent. Article 22(2) of the Model Articles shall not apply to the Company.

- 6.6 Notwithstanding the requirements of this Article 6, if there is a bona fide reason for the Company to issue New Securities without first complying with Articles 6.1 through 6.5, the Company may so issue New Securities without first complying with such Articles. As soon as reasonably practicable following the issue of such New Securities, and in any event no later than 40 Business Days after subscription of the New Securities, the Company shall provide to the other Shareholders the opportunity to subscribe such New Securities as they would have been entitled to had Articles 6.1 through 6.5 been complied with in connection with such issuance. Any such offer shall be at the same price (**Relevant Price**) on the same terms that would have applied under Articles 6.2 and 6.3.

7. Transfers of Shares – general

- 7.1 Reference to the transfer of a Share in these Articles includes the transfer or assignment of a beneficial or other interest in that Share or the creation of a trust or Encumbrance over that Share and reference to a Share includes a beneficial or other interest in a Share.
- 7.2 Except for transfers in accordance with the provisions of Articles 9-12, a Shareholder may not transfer any Shares without the prior written consent of the Board. If a Shareholder purports to transfer a Share otherwise than in accordance with these Articles, such transfer shall be deemed null and void, and the purportedly transferring Shareholder will be deemed immediately to have served a Transfer Notice in respect of all Shares held by him in accordance with Article 9.
- 7.3 The Directors may refuse to register a transfer of a Share if:
- (a) a Shareholder transfers a Share other than in accordance with these Articles; or
 - (b) the transfer is to an Employee, Director or prospective Employee or prospective director of the Company and such person has not entered into a joint section 431 Income Tax (Earnings and Pensions) Act 2003 election with the Company.

Article 26(5) of the Model Articles shall be modified accordingly.

- 7.4 The Directors may, as a condition to the registration of any transfer of Shares, require the transferee to execute and deliver to the Company a deed agreeing to be bound by the terms of any shareholders' agreement in force between some or all of the Shareholders and the Company from time to time.
- 7.5 Articles 27 to 29 of the Model Articles regarding transmission of shares shall not apply to the Company.
- 7.6 Any transfer of a Share by way of sale which is required to be made under Articles 9 to 12 (inclusive) will be deemed to include a warranty that the transferor sells with full title guarantee.
- 7.7 Notwithstanding any provision in these Articles to the contrary, subject to Articles 7.8 and 7.9, neither John Glaser nor any of his Permitted Transferees may, without Shareholder Majority Consent, transfer (other than a transfer (i) to a Permitted Transferee for tax planning purposes or (ii) pursuant to Articles 12 to 14 inclusive):
- (a) any Shares prior to the third anniversary of the Date of Adoption;

- (b) more than [] Shares *[15% of JG rollover shares]* in aggregate during the period from and including the third anniversary of the Date of Adoption up to and excluding the fourth anniversary of the Date of Adoption (such period being **Year 4**);
 - (c) more than [] Shares *[15% of JG rollover shares]*, together with any Shares which were able to be transferred during Year 4 in accordance with paragraph (b) above but which were not transferred during Year 4, in aggregate during the period from and including the fourth anniversary of the Date of Adoption up to and excluding the fifth anniversary of the Date of Adoption (such period being **Year 5**);
 - (d) more than [] Shares *[15% of JG rollover shares]*, together with any Shares which were able to be transferred during Year 5 in accordance with paragraph (c) above but which were not transferred during Year 5, in aggregate during the period from and including the fifth anniversary of the Date of Adoption up to and excluding the sixth anniversary of the Date of Adoption (such period being **Year 6**); and
 - (e) more than [] Shares *[20% of JG rollover shares]*, together with any Shares which were able to be transferred during Year 6 in accordance with paragraph (d) above but which were not transferred during Year 6, in aggregate during the period from and including the sixth anniversary of the Date of Adoption up to and excluding the seventh anniversary of the Date of Adoption.
- 7.8 If John Glaser becomes a Good Leaver, the provisions of Article 7.7 shall automatically cease to apply, save where John Glaser becomes a Good Leaver prior to the third anniversary of the Date of Adoption in which case the provisions of Article 7.7 shall automatically cease to apply with effect from the third anniversary of the Date of Adoption.
- 7.9 If John Glaser's employment with the Company ceases due to his Dismissal, the provisions of Article 7.7 shall automatically cease to apply with effect from such cessation of employment.
- 7.10 Any transfer of Shares by John Glaser or his Permitted Transferees that is permitted pursuant to Articles 7.7(a) to (e) inclusive (excluding any transfer (i) to a Permitted Transferee for tax planning purposes or (ii) pursuant to Articles 12 to 14 inclusive) shall be made in accordance with the provisions of Articles 9 and 10.
- 8. Permitted Transfers**
- 8.1 Subject to Article 7, a Shareholder (the "**Original Shareholder**") may transfer all or any of his or its Shares to a Permitted Transferee without restriction as to price or otherwise.
- 8.2 Shares previously transferred as permitted by Article 8.1 may be transferred by the transferee to the Original Shareholder or any other Permitted Transferee of the Original Shareholder without restriction as to price or otherwise.
- 8.3 Where, upon death of a Shareholder, the persons legally or beneficially entitled to any Shares are Permitted Transferees of that deceased Shareholder, the legal representative of the deceased Shareholder may transfer any Share to those Permitted Transferees without restriction as to price or otherwise.
- 8.4 A transfer of any Shares approved by Shareholder Majority Consent and the Board may be made without restriction as to price or otherwise and each transfer shall be registered by the Directors.

9. Transfers of Shares subject to pre-emption rights

9.1 Save where the provisions of Articles 8, 12 or 13 apply, a Shareholder (other than the Investor) who wishes to transfer Ordinary Shares (a "**Seller**") shall give notice in writing (which cannot be withdrawn save with the consent of the Board) (a "**Transfer Notice**") to the Company (constituting the Company the agent of the Seller) specifying:

- (a) the number of Shares which he wishes to transfer (the "**Sale Shares**");
- (b) if he wishes to sell the Sale Shares to a third party, the name of the proposed transferee and the material terms and conditions of the proposed transfer; and
- (c) the price at which he wishes to transfer the Sale Shares (the "**Transfer Price**").

If a Shareholder is deemed pursuant to the terms of these Articles to have given a Transfer Notice, the price at which he is to transfer the Sale Shares shall be agreed between such Shareholder and the Board, and failing such agreement such price will be deemed to be the Fair Value of such Shares (such deemed price being in this case the Transfer Price).

9.2 Within two months following the receipt of a Transfer Notice (or, in the case where the Transfer Price has not been agreed, the determination of the Transfer Price under Article 10), the Company shall be entitled to elect to purchase (or to have its designee purchase) some or all of the Sale Shares at the Transfer Price and on terms no more favourable to the Seller as those set forth in the Transfer Notice.

9.3 If the Company desires to elect to purchase some or all of the Sale Shares, the Company shall give written notice of such election (an "**Election Notice**") to the Seller prior the end of the two month period described in clause 9.2, which Election Notice shall specify the number of Sale Shares being purchased and the place and time (being not less than 14 nor more than 45 days after the date of such Election Notice) for completion of the transfer of the Sale Shares.

9.4 On service of an Election Notice, the Seller shall, against payment of the Transfer Price, transfer the Sale Shares in accordance with the requirements specified in it.

9.5 If the Seller fails to comply with the provisions of Article 9.4:

- (a) the Investor Director, or some other person nominated by a resolution of the Board, may on behalf of the Seller:
 - (i) complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Company or its designee;
 - (ii) the Company shall receive the Transfer Price and give a good discharge for it and (subject to the transfer being duly stamped) enter its designee in the register of members as the holders of the Sale Shares allocated to it; and
- (b) the Company shall pay the Transfer Price into a separate bank account in the Company's name on trust (but without interest) for the Seller until he has delivered to the Company his certificate(s) for the relevant Shares (or a suitable indemnity).

9.6 If an Election Notice does not relate to all the Sale Shares then, subject to Article 9.7, the Seller may, within 12 weeks after service of the Election Notice, transfer the unsold Sale Shares not included in the Election Notice to any person at a price at least equal to the Transfer Price and on terms no less favourable to the Seller than those specified in the Transfer Notice.

- 9.7 The right of the Seller to transfer Shares under Article 9.6 does not apply if the Board is of the opinion on reasonable grounds that:
- (a) the transferee is a person (or a nominee for a person) who is a competitor with (or an associate (as determined in accordance with section 435 of the Insolvency Act 1986) of a competitor with) the business of the Company or with a subsidiary undertaking of the Company;
 - (b) the sale of the Sale Shares is not bona fide or the price is subject to a deduction, rebate or allowance to the transferee; or
 - (c) the Seller has failed or refused to provide promptly information available to it or him and reasonably requested by the Board for the purpose of enabling it to form the opinion mentioned above.
- 9.8 Any Sale Shares offered under this Article 9 to the Investor as designee of the Company may be accepted in full or part only by a Member of the same Group as the Investor or any other designee of the Investor in accordance with the terms of this Article 9.
- 9.9 No Sale Shares may be transferred pursuant to this Article 9 to any Competitor, save with Shareholder Majority Consent.

10. Valuation of Shares

- 10.1 If a Transfer Price is required to be agreed pursuant to the terms of these Articles and it is not so agreed, then upon service of the Transfer Notice the Board shall appoint an expert valuer in accordance with Article 10.2 (the "**Expert Valuer**") to certify the Fair Value of the Sale Shares, or if the Fair Value has been certified by Expert Valuer within the preceding 12 weeks, such certified Fair Value shall apply.
- 10.2 The Expert Valuer will be any of BDO, Deloitte, Ernst & Young, Grant Thornton, KPMG and PricewaterhouseCoopers, to be agreed between the Board and the Seller or failing agreement within 10 Business Days after the date of service of the Transfer Notice to be nominated by the then President of the Institute of Chartered Accountants in England and Wales on the application of either party and appointed by the Company.
- 10.3 The "**Fair Value**" of the Sale Shares shall be determined by the Expert Valuer on the following assumptions and bases:
- (a) valuing the Sale Shares as on an arm's-length sale between a willing seller and a willing buyer;
 - (b) if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
 - (c) that the Sale Shares are capable of being transferred without restriction;
 - (d) valuing the Sale Shares as a rateable proportion of the total value of all the issued Shares without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent; and
 - (e) reflect any other factors which the Expert Valuer reasonably believes should be taken into account.
- 10.4 The Expert Valuer shall be requested to determine the Fair Value within 20 Business Days of its appointment and to notify the Board and the Seller of its determination. The

Expert Valuer shall act as experts and not as arbitrators and its determination shall be final and binding on the parties (in the absence of fraud or manifest error).

- 10.5 The cost of obtaining the certified Fair Value shall be borne by the Seller and the Company in inverse proportion to the relative success of such parties' proposed Fair Values, as determined by the Expert Valuer.

11. Compulsory transfers – general

- 11.1 A person entitled to a Share in consequence of the bankruptcy of a Shareholder shall be deemed to have given a Transfer Notice in respect of that Share at a time determined by the Directors.
- 11.2 If a Shareholder which is a company, either suffers or resolves for the appointment of a liquidator, administrator or administrative receiver over it or any material part of its assets, the relevant Shareholder (and all its Permitted Transferees) shall be deemed to have given a Transfer Notice in respect of all the Shares held by the relevant Shareholder and its Permitted Transferees save to the extent that, and at a time, the Directors may determine.
- 11.3 If a Permitted Transferee ceases to be a Permitted Transferee of the Original Shareholder, the Permitted Transferee must not later than five Business Days after the date on which the Permitted Transferee so ceases, transfer the Shares held by it to the Original Shareholder or another Permitted Transferee of the Original Shareholder without restriction as to price or otherwise, failing which it will be deemed to have given a Transfer Notice in respect of those Shares.
- 11.4 On the death, bankruptcy, liquidation, administration or administrative receivership of a Permitted Transferee (other than a joint holder) his personal representatives or trustee in bankruptcy, or its liquidator, administrator or administrative receiver must within five Business Days after the date of the grant of probate, the making of the bankruptcy order or the appointment of the liquidator, administrator or the administrative receiver execute and deliver to the Company a transfer of the Shares held by the Permitted Transferee without restriction as to price or otherwise. The transfer shall be to the Original Shareholder if still living (and not bankrupt or in liquidation) or, if so directed by the Original Shareholder, to any Permitted Transferee of the Original Shareholder. If the transfer is not executed and delivered within five Business Days of such period or if the Original Shareholder has died or is bankrupt or is in liquidation, administration or administrative receivership, the personal representatives or trustee in bankruptcy or liquidator, administrator or administrative receiver will be deemed to have given a Transfer Notice.
- 11.5 If a Share remains registered in the name of a deceased Shareholder for longer than one year after the date of his death the Directors may require the legal personal representatives of that deceased Shareholder either:
- (a) to effect a Permitted Transfer of such Shares (including for this purpose an election to be registered in respect of the Permitted Transfer); or
 - (b) to show to the satisfaction of the Directors that a Permitted Transfer will be effected before or promptly upon the completion of the administration of the estate of the deceased Shareholder.

If either requirement in this Article 11.5 shall not be fulfilled to the satisfaction of the Directors a Transfer Notice shall be deemed to have been given in respect of each such Share save to the extent that the Directors may otherwise determine.

11.6 If there is a change in control (as control is defined in section 1124 of the Corporation Tax Act 2010) of any Shareholder (other than the Investor) which is a company, it shall be bound at any time, if and when required in writing by the Directors to do so, to give (or procure the giving in the case of any Permitted Transferee and/or nominee) a Transfer Notice in respect of all the Shares registered in its name, its Permitted Transferee name and their respective nominees' names save that, in the case of the Permitted Transferee, it shall first be permitted to transfer those Shares back to the Original Shareholder from whom it received its Shares or to any other Permitted Transferee of the Original Shareholder before being required to serve a Transfer Notice. For the avoidance of doubt, this Article 11.6 shall not apply to the Investor.

12. **Mandatory Offer on a Change of Control**

12.1 Except in the case of Permitted Transfers, transfers pursuant to Article 11 or transfers with respect to which Article 13 could apply, after going through the pre-emption procedure in Article 9 (if applicable), the provisions of Article 12.2 will apply if one or more Proposed Sellers propose to transfer in one or a series of related transactions any Shares (the "**Proposed Transfer**") which would, if put into effect, result in any Proposed Purchaser (and Associates of his or persons Acting in Concert with him) acquiring a Controlling Interest in the Company.

12.2 A Proposed Seller must, before making a Proposed Transfer procure the making by the Proposed Purchaser of an offer (the "**Offer**") to the other Shareholders to acquire all of the Shares for a consideration per share the value of which is at least equal to the Specified Price (as defined in Article 12.7).

12.3 The Offer must be given by written notice (a "**Proposed Sale Notice**") at least 10 Business Days (the "**Offer Period**") prior to the proposed sale date ("**Proposed Sale Date**"). The Proposed Sale Notice must set out, to the extent not described in any accompanying documents, the identity of the Proposed Purchaser, the purchase price and other terms and conditions of the Offer, the Proposed Sale Date and the number of Shares proposed to be purchased by the Proposed Purchaser (the "**Proposed Sale Shares**").

12.4 If any other holder of Shares is not given the rights accorded him by this Article 12, the Proposed Sellers will not be entitled to complete their sale and the Company will not register any transfer intended to carry that sale into effect.

12.5 If the Offer is accepted by any Shareholder (an "**Accepting Shareholder**") within the Offer Period, the completion of the Proposed Transfer will be conditional upon the completion of the purchase of all the Shares held by Accepting Shareholders.

12.6 The Proposed Transfer is subject to the pre-emption provisions of Article 9 but the purchase of the Accepting Shareholders' shares shall not be subject to Article 9.

12.7 For the purpose of this Article:

(a) the expression "**Specified Price**" shall mean in respect of each Share a sum in cash equal to the highest price per Share offered or paid by the Proposed Purchaser:

(i) in the Proposed Transfer; or

(ii) in any related or previous transaction by the Proposed Purchaser or any person Acting in Concert with the Proposed Purchaser in the 12 months preceding the date of the Proposed Transfer,

plus an amount equal to the Relevant Sum, as defined in (b) below, of any other consideration (in cash or otherwise) paid or payable by the Proposed Purchaser or any other person Acting in Concert with the Proposed Purchaser, which having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the Shares (the **"Supplemental Consideration"**) provided that the total consideration paid by the Proposed Purchaser in respect of the Proposed Transfer is distributed to the Proposed Seller and the Accepting Shareholders; and

(b) **Relevant Sum** = $C \div A$

where: A = number of Shares being sold in connection with the relevant Proposed Transfer;

C = the Supplemental Consideration.

13. Drag-along

- 13.1 If the Investor (the **"Selling Shareholder"**) approves a Sale of the Company (an **"Approved Sale"**) with or to another person (the **"Proposed Purchaser"**), the Selling Shareholder shall have the option (the **"Drag Along Option"**) to require all the other holders of Shares (the **"Called Shareholders"**) to sell and transfer all their Shares (the **"Called Shares"**) to the Proposed Purchaser, or take such other actions (the **"Required Actions"**) as the Proposed Purchaser shall direct in connection with such Approved Sale in accordance with the provisions of this Article 13. In connection with the Approved Sale, Required Actions shall include the following: (A) each Called Shareholder shall be obligated to and agrees that, in such Called Shareholder's capacity as a Shareholder of the Company, such Shareholder will vote, or grant proxies relating to such shares to vote, all of such Shareholder's Called Shares in favor of, consent to, raise no objections to, and waive any dissenters, appraisal or similar rights with respect to, the Approved Sale and will not exercise any right to dissent or seek appraisal rights in respect of the Approved Sale, (B) each Called Shareholder shall take all actions which the Selling Shareholder deems necessary or advisable in the sole judgment of the Selling Shareholder in connection with the consummation of the Approved Sale, including executing, delivering and agreeing to be bound by the terms of any agreement related to the Approved Sale and any other agreement, instrument or certificates necessary to effectuate the Approved Sale, including appointment of a representative to administer the transactions on behalf of all of the Called Shareholders, (C) if the Approved Sale is structured as a transfer of Shares, each Called Shareholder will agree to transfer its Shares and shall deliver at the closing of the Approved Sale its Called Shares, including certificates relating thereto, free and clear of all claims, liens and encumbrances, on the terms and conditions as approved by the Selling Shareholder (it being understood and agreed that each Called Shareholder will only be obligated to transfer the same percentage of its Shares on a fully-diluted basis as the percentage of Shares on a fully-diluted basis proposed to be transferred by the Selling Shareholder in the Approved Sale).
- 13.2 The Selling Shareholder may exercise the Drag Along Option by giving a written notice to that effect (a **"Drag Along Notice"**) to the Company (which the Company shall immediately send to the Called Shareholders) at any time before the transfer of the Selling Shareholders' Shares to the Proposed Purchaser. A Drag Along Notice shall specify that the Called Shareholders are required to transfer all their Called Shares or take the Required Actions under this Article 13, the identity of the Proposed Purchaser, the consideration contemplated by the proposed transaction and the proposed date of transfer.
- 13.3 Drag Along Notices shall be irrevocable but will lapse if for any reason there is not a consummation of the Approved Sale within three months after the date of service of the

Drag Along Notice. The Selling Shareholder shall be entitled to serve further Drag Along Notices following the lapse of any particular Drag Along Notice.

- 13.4 The consideration (in cash or otherwise) for which the Called Shareholders shall be obliged to sell each of the Called Shares or take the Required Actions shall be on terms no less favourable than those obtained by the Selling Shareholder from the Proposed Purchaser.
- 13.5 At least five Business Days prior to the closing of the proposed transaction, the Called Shareholders shall deliver stock transfer forms for their Shares in favour of the Proposed Purchaser or as the Proposed Purchaser shall direct, together with the relevant share certificate(s) (or an indemnity for lost certificate in a form acceptable to the Directors) to the Company, or shall execute and deliver such other documents, and take such other actions as may be advisable in connection with the Required Actions to consummate the proposed transaction. The Company shall hold any amounts it may receive that are due to the Called Shareholders pursuant to the terms of the proposed transaction in trust for the Called Shareholders without any obligation to pay interest.
- 13.6 If the Approved Sale is structured as a transfer of Shares, to the extent that the Proposed Purchaser has not paid to the Called Shareholders, or put the Company in funds to pay, the amounts due pursuant to Article 13.4 on the proposed closing date of the proposed transaction, the Called Shareholders shall be entitled to the return of the stock transfer forms and share certificates (or an indemnity) for the relevant Shares and the Called Shareholders shall have no further rights or obligations under this Article 13 in respect of their Shares. Where the Company is put in funds to pay such amounts, it shall pay the amount due to each Called Shareholder promptly following Completion.
- 13.7 If a Called Shareholder fails to deliver stock transfer forms and share certificates (or an indemnity) for its Shares to the Company (or fails to have taken all other Required Actions) prior to that five Business Day period, any Director is authorised to transfer the Called Shareholder's Shares or take the Required Actions as agent on the Called Shareholder's behalf to the Proposed Purchaser (or its nominee(s)) to the extent the Proposed Purchaser has, at the closing of the proposed transaction, put the Company in funds to pay the amounts due pursuant to Article 13.4 for the Called Shareholder's Shares offered to him. The Board shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Called Shareholder shall surrender his share certificate for his Shares (or provide a suitable indemnity) to the Company, or take all other Required Actions. On surrender of his share certificate or completion of all Required Actions, he shall be entitled to the amount due to him pursuant to Article 13.4 and the Company shall promptly pay such amount to him.
- 13.8 Any transfer of Shares to a Proposed Purchaser (or taking of other Required Actions as they may direct) pursuant to a sale in respect of which a Drag Along Notice has been duly served shall not be subject to the provisions of Article 9.
- 13.9 On any person, following the issue of a Drag Along Notice, becoming a Shareholder pursuant to the exercise of a pre-existing option to acquire shares in the Company or pursuant to the conversion of any convertible security of the Company (a "**New Shareholder**"), a Drag Along Notice shall be deemed to have been served on the New Shareholder on the same terms as the previous Drag Along Notice who shall then be bound to sell and transfer all Shares so acquired to the Proposed Purchaser or take all other Required Actions as the Proposed Purchaser may direct and the provisions of this Article shall apply with the necessary changes to the New Shareholder except that completion of the sale of the Shares or taking of Required Actions shall take place immediately on the Drag Along Notice being deemed served on the New Shareholder.
- 13.10 Notwithstanding anything to the contrary in this Article 13, in connection with an Approved Sale, (A) the Called Shareholders shall not be required to pay any of the costs

and expenses incurred by the Company or the Selling Shareholder and (B) each Called Shareholder shall only be obliged to provide (i) a covenant as to full title guarantee of the Shares held by such Called Shareholder and (ii) representations and warranties relating to such Called Shareholder's authority and capacity to enter into the Approved Sale transaction documents, and the Called Shareholder's due organization (if such Called Shareholder is an entity). The Called Shareholders shall not be obliged to give other warranties or indemnities in connection with an Approved Sale.

14. Tag-along

- 14.1 Except in the case of Permitted Transfers and transfers pursuant to Article 11 or Article 13, after going through the pre-emption procedure in Article 9, if applicable, the provisions of Article 14.2 will apply if any Proposed Seller proposes to transfer any Ordinary Shares; provided, that the Investor may transfer up to 10% of the Shares it holds as of the date hereof without application of the provisions of this Article 14.2 (the **"Proposed Tag Transfer"**).
- 14.2 A Proposed Seller must, before making a Proposed Tag Transfer procure the making by the Proposed Purchaser of an offer (the **"Tag Offer"**) to each other Shareholder to acquire such proportion of Ordinary Shares held by such other Shareholder (rounded down to the nearest whole number) (the **"Tag Shares"**) as is the same as the proportion of Ordinary Shares to be sold by the Proposed Seller pursuant to the Proposed Tag Transfer for the same consideration per share to be paid by the Proposed Purchaser to the Proposed Seller in connection with the Proposed Tag Transfer.
- 14.3 The Offer must be given by written notice (a **"Proposed Tag Sale Notice"**) at least 10 Business Days (the **"Tag Offer Period"**) prior to the proposed sale date (**"Proposed Tag Sale Date"**). The Proposed Tag Sale Notice must set out, to the extent not described in any accompanying documents, the identity of the Proposed Purchaser, the purchase price and other terms and conditions of payment, the Proposed Tag Sale Date and the number of Ordinary Shares proposed to be purchased by the Proposed Purchaser (the **"Proposed Tag Sale Shares"**).
- 14.4 If any other holder of Ordinary Shares is not given the rights accorded him by this Article 14, the Proposed Seller will not be entitled to complete its sale and the Company will not register any transfer intended to carry that sale into effect.
- 14.5 If the Tag Offer is accepted by any Shareholder (a **"Tag Accepting Shareholder"**) within the Tag Offer Period, the completion of the Proposed Transfer will be conditional upon the completion of the purchase of all the Tag Shares held by Accepting Shareholders.
- 14.6 The Proposed Transfer is subject to the pre-emption provisions of Article 9, to the extent applicable to the Proposed Seller, but the purchase of the Accepting Shareholders' shares shall not be subject to Article 9.

15. Purchase of own Shares

Subject to the Act, the Company may purchase its own Shares out of capital otherwise than in accordance with Chapter 5 of Part 18 of the Act, to the extent permitted by section 692(1ZA) of the Act.

16. Partly paid shares and forfeiture

Shares need not be issued as fully paid and the Model Articles shall be interpreted accordingly. Articles 52 to 62 inclusive of the Public Company Model Articles shall apply to the Company. Model Articles 21 and 24(2)(c) shall not apply to the Company.

17. Confidentiality

17.1 Subject to Article 17.2, each of the Shareholders agrees to keep secret and confidential and not to use disclose or divulge to any third party or to enable or cause any person to become aware of (except for the purposes of the Company's business) any confidential information relating to the Company, the Investor or any of its Associates. For the purposes of this Article 17, "confidential information" shall not include any information which:

- (a) is, or which becomes (other than through a breach of the terms of these Articles), available in the public domain;
- (b) is, at the time of disclosure, already known to the receiving party without restriction on disclosure;
- (c) is, or subsequently comes, into the possession of the receiving party without violation of any obligation of confidentiality;
- (d) is independently developed by the receiving party without breach of the terms of these Articles;
- (e) is explicitly approved for release by the written consent of the Company and the Investor; or
- (f) the relevant Shareholder is required to disclose by law, by any regulatory or governmental or other authority with relevant powers to which such Shareholder is subject or submits, whether or not the requirement has the force of law, or by any court order.

17.2 The Investor shall be at liberty from time to time to make such disclosure:

- (a) to any Member of the same Group, and to any employees, directors, officers and representatives of itself and any Member of the same Group for the purposes of, but not limited to, reviewing its existing investment in the Company;
- (b) to any lender to the Company and/or to any shareholder of the Company;
- (c) as shall be required by law or by any regulatory authority to which the Investor is subject;
- (d) to the Company's auditors and/or any other professional advisers of the Company;
- (e) to the Investor's professional advisers and to the professional advisers of any person to whom the Investor is entitled to disclose information pursuant to this Article 17.2;
- (f) to any person who is considering making an investment in the Company or purchasing Shares for the purposes of evaluating any such investment or purchase,

in relation to the business affairs and financial position of the Company as it may in its reasonable discretion think fit, provided that the recipient is subject to an obligation to keep the disclosure confidential on the same basis as is required by the Investor.

Schedule 1

Shareholder Majority Consent Matters¹

1. Any amendment to the accounting policies and practices and/or any deviation from the accounting policies and practices of the Group, in each case which are not set out or anticipated in the Group's accounting manual in force from time to time.
2. Agreeing a new (or amending the existing) Business Plan (or any other strategic or acquisition plan in respect of the Group) or approving any matter which is contrary to the stated objectives set out in the Business Plan (or any other strategic or acquisition plan in respect of the Group).
3. Incur any financial indebtedness (other than trade credit arising in the ordinary and normal course of the business) in breach of the Group's banking facilities or otherwise requiring a waiver or consent under such banking facilities.
4. Create, issue or allow to come into being, any Encumbrance over any assets of any Group company.
5. Provide any guarantee or indemnity in favour of any other entity other than pursuant to or permitted by the Group's banking facilities.
6. Enter into any contract requiring any capital expenditure or capital development costs equal to or in excess of £50,000, or, in any financial year, increasing the aggregate capital spend beyond that previously approved by the Board or set out in the Annual Budget or Business Plan.
7. Acquire any interest in the shares, or instruments convertible into shares, of any other company or dispose of any share, or interest in any share, in the capital of any other company.
8. Acquire the assets and undertaking of any other business entity or dispose of the assets and undertaking of, or any substantial part of, any other company (including any Group company) or merge any Group company or any part of its business with any other person or entity.
9. Grant any option or other right to subscribe for shares in any Group company, create or establish any employee share scheme, or give or make any consent, waiver or exercise of discretion under the terms of any scheme under which options or other rights to subscribe for shares in any Group company are or may be granted.
10. Any change or alteration to the issued share capital of any Group company.
11. Dispose of any fixed or capital asset with a value equal to or in excess of £75,000.
12. Acquire or dispose of, or grant or surrender a lease in respect of, any freehold or leasehold property in excess of £100,000.
13. Acquire (other than in the ordinary course of developing its business in the ordinary and normal course) or dispose of, any intellectual property rights whether absolutely, by way of licence or otherwise.
14. In respect of the Company only, declare or pay any dividend or other distribution.

¹ Note to Draft: List of matters to be aligned with Holdco essential matters and Delegation of Authority document recently provided by Caelum.

15. Enter into any service contract with, or contract for services with, any director of a Group company or any person related to or connected to him, or vary any existing service contract with, or contract for services with, that person.
16. Enter into or modify any transaction, agreement or arrangement with, or for the benefit of, any director of the Group (or any person related or connected to him), any Shareholder of the Group, or any Associate thereof.
17. In respect of the Company only, capitalise any reserves or apply any amount from time to time standing to the credit of the share premium account or capital redemption reserve of the Company for any purpose.
18. Make any loan or advance (other than between Group companies).
19. Make any material change in the nature of the business, enter into any new business line or cease the carrying on of the business of any Group company.
20. Enter into or vary the terms of any material contract (other than contracts of employment) with any Shareholder (or any person related or connected to a Shareholder) or any material contract which is not on an arm's length basis or waive any breach or commence legal proceedings in respect of such a material contract.
21. Enter into any transaction out of the ordinary and normal course of business of any Group company (that is, not being related to the manufacture and distribution of whisky).
22. Make any material change to the level, scope, or extent of the insurance cover of the Group.
23. Make aggregate charitable and/or political contributions.
24. Appoint or remove auditors to any Group company or alter a Group company's accounting reference date.
25. Appoint or remove any director of a Group company other than the Investor Director (which Investment Director is appointed or removed by the Investor).
26. Commence any litigation or other legal proceedings (except actions to recover debts in the ordinary course of business of any Group company) which would have a cost or possible cost to the Group of £50,000 or more.
27. Alter the provisions of the constitution of any Group company or pass any resolution for the winding up of any Group company or enter into any arrangement, compromise or composition with creditors of any Group company.
28. Any significant departure from existing pension or life assurance schemes or practices or the establishment of any new material pension or life assurance scheme.
29. Negotiate or permit the disposal of shares in the Company amounting to a change of control or listing.
30. Approve the Annual Budget and/or any amendment or variation of the Annual Budget approved by the Board.
31. Any hiring, termination or change in the compensation of any officer, executive or senior manager of any Group company.
32. Enter into any agreement or other commitment to do any of the matters referred to above.

Schedule 2

Rollover Shareholder Majority Consent Matters

1. Fundamentally change the nature of the business of the Company away from the alcoholic beverage sector.
2. Alter the provisions of the articles of association of the Company in any way that would disproportionately and significantly negatively affect the rights of the Rollover Shareholders (when compared to the other Shareholders) under any of articles 3.11, 3.12, or 6 to 14 (inclusive) or otherwise vary the rights attaching to any shares in the capital of the Company that would have a disproportionate and significant negative impact on the Rollover Shareholders (when compared to the other Shareholders).
3. Enter into any agreement or other commitment to do any of the matters referred to above.