

Company Number: SC304643

The Companies Act 2006

Private Company Limited by Shares

Written Resolution

of

Argyll Limited (the "Company")

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COMPANIES HOUSE

13 JANUARY 2009

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that the resolution below is passed as a special resolution ("Special Resolution"):

Special Resolution

That new articles of association of the Company in the form of the annexed draft be adopted in substitution for the existing articles of association of the Company.

Agreement

Please read the notes at the end of this document before signifying your agreement to the Special Resolution.

The undersigned, being entitled to vote on the above Special Resolution on 13 January 2009 hereby irrevocably agree to the Special Resolution.

Signed by DAVID FRASER SUTHERLAND

For and on behalf of Tulloch Limited

Date:

15
19 JANUARY 2009

Notes

1. If you agree to the Special Resolution, please indicate your agreement by signing and dating this document where indicated above and returning it to the Company using one of the following methods:
 - By hand: delivering the signed copy to Harper Macleod LLP, The Ca'd'oro, 45 Gordon Street, Glasgow G1 3PE; or

- Post: returning the signed copy by post to Harper Macleod LLP, The Ca'd'oro, 45 Gordon Street, Glasgow G1 3PE.
2. If you do not agree to the Special Resolution, you do not need to do anything: you will not be deemed to agree if you fail to reply.
 3. Once you have indicated your agreement to the Special Resolution, you may not revoke your agreement.
 4. Unless by 10 FEBRUARY 2009 sufficient agreement has been received for the Special Resolution to pass, they will lapse. If you agree to the Special Resolution, please ensure that your agreement reaches us before or during this date.
 5. In the case of joint holders of shares, only the vote of the senior holder who votes will be counted by the Company. Seniority is determined by the order in which the names of the joint holders appear in the register of members.
 6. If you are signing the document on behalf of a person under a power of attorney or other authority please send a copy of the relevant power of attorney or authority when returning this document.

The Companies Acts 1985 and 2006

Private Company Limited by Shares

Articles of Association

of

Argyll Limited (the "Company")

1 Preliminary

- 1.1 The regulations constituting Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 as amended by the Companies (Tables A to F) (Amendment) Regulations 2007 (SI 2007/2541) and the Companies (Tables A to F) (Amendment) (No. 2) Regulations 2007 (SI 2007/2826), and as otherwise amended prior to the adoption of these Articles as they relate to a private company limited by shares (**Table A**) shall apply to Argyll Limited (the **Company**) except in so far as they are excluded or varied by these Articles.
- 1.2 Words and expressions defined in Regulation 1 of Table A have the same meanings in these Articles where the context admits.
- 1.3 Regulations 2, 3, 8, 24, 35, 41, 46, 54, 64, 66, 76-79, 84-86, 94-96, 98 and 118 of Table A do not apply to the Company.
- 1.4 The Company is a private company and no shares or debentures of the Company may be offered to the public.
- 1.5 **Companies Acts** means the Companies Act 1985 and the Companies Act 2006 as amended and in force from time to time.

2 Share capital

- 2.1 The share capital of the Company is £1,000 divided into 1,000 shares of £1.00 each.
- 2.2 Subject to the Companies Acts and without prejudice to the rights attached to any existing shares, any share may be issued with or have attached to it such rights or restrictions as the Company may by special resolution determine.
- 2.3 In accordance with and subject to the provisions of Part V of the Companies Act 1985 the Company may:
 - (a) issue shares that are to be redeemed or are liable to be redeemed at the option of the Company or holder;

- (b) purchase its own shares (including any redeemable shares); or
- (c) make a payment in respect of the redemption or purchase of any of its own shares as authorised by these Articles otherwise than out of distributable profits of the Company or the proceeds of a fresh issue of shares.

3 **Lien**

The Company shall have a first and paramount lien on all shares whether fully paid or not registered (whether as sole registered holder or as one of two or more joint holders) in the name of any person indebted or under liability to the Company for all moneys presently payable by him or his estate to the Company. The directors may at any time declare any share to be wholly or in part exempt from the provisions of this article.

4 **Transfer of shares**

4.1 The directors may in their absolute discretion and without giving any reason refuse to register the transfer of any share, whether or not it is a fully paid share, which is not made in accordance with the provisions of article 4.2 and, if appropriate, article 4.3.

4.2 The shares in the capital of the Company shall only be transferred in accordance with the provisions of this article:

- (a) a member (a **seller**) wishing to transfer shares (the **transfer shares**) shall give notice in writing (a **transfer notice**) to the directors specifying the details of the proposed transfer including, the number of shares to be transferred, the price per share of the shares to be transferred and the identity (if any) of the proposed transferee;
- (b) if the directors do not agree to the price per share proposed, the seller and the directors shall endeavour to agree a price per share and if they fail to agree a price per share within 21 days of the transfer notice being served by the seller, a chartered accountant (the **Accountant**) appointed by agreement between the seller and the directors, failing such agreement, appointed by the President of the Institute of Chartered Accountants of Scotland shall determine the certified value of the transfer shares in accordance with articles 4.2(i) and 4.2(j) and give a notice in writing specifying such certified value to the seller and the directors, at which time the seller shall be entitled to revoke the transfer notice by notice in writing given to the directors within 7 days of receipt of the notice specifying the certified value;
- (c) the transfer shares shall first be offered to the members of the Company (the **members**) in proportion to their existing holdings of shares (the **initial offer**) and at the price per share agreed by the seller and the directors or at the certified value;
- (d) the initial offer shall be made by written notice (**offer notice**) from the directors specifying the number and price of the transfer shares and shall invite each member to state in writing within a period not being less than 21 days whether they are willing to accept any transfer shares and if so the maximum number of transfer shares they are willing to accept, which shall not be more than that offered to them;
- (e) at the expiration of the time specified for acceptance in the offer notice the directors shall allocate the transfer shares to or amongst the members who shall

have notified to the directors their willingness to take any of the transfer shares but so that no member shall be obliged to take more than the maximum number of shares notified by him under article 4.2(d);

- (f) if any transfer shares remain unallocated after the initial offer the directors shall make a further offer (**further offer**) in writing (**further offer notice**) on the same terms as the initial offer to members who shall have expressed their willingness to purchase the transfer shares and if there is more than one member to whom this article applies then the further offer shall be pro rata to their existing holdings of shares;
- (g) at the expiration of the time specified for acceptance in the further offer notice the directors shall allocate the transfer shares to or amongst the members who shall have notified to the directors their willingness to take any of the transfer shares but so that no member shall be obliged to take more than the maximum number of shares notified by him under article 4.2(f);
- (h) if any transfer shares remain unallocated after the further offer, subject to the provisions of this article 4.2, the directors shall be entitled to dispose of these transfer shares to such persons on such terms and in such manner as they think fit save that these transfer shares shall not be disposed of on terms which are more favourable to their transferees than the terms on which they were offered to the members;
- (i) the certified value (the **certified value**) for the transfer shares is that proportion of the amount the Accountant considers (acting as expert and not as arbiter) to be the value of the entire issued share capital of the Company that the transfer shares bear to the entire issued share capital of the Company. The Accountant's decision on certified value shall, save in the case of manifest error be final and binding on the seller and the directors; and
- (j) in determining the certified value the Accountant shall rely on the following assumptions:
 - (i) the transfer shares shall be valued on a going concern basis as between a willing seller and a willing buyer and no discount in respect of a minority interest or premium in respect of a majority interest shall be applied;
 - (ii) the shares are sold free of all restrictions, liens, charges and other encumbrances; and
 - (iii) the sale takes place on the date the Accountant was requested to determine the certified value.

4.3 If the Company finds a purchaser or purchasers for all or any of the transfer shares under the terms of article 4.2 the seller shall be bound upon receipt of the price payable for such shares to transfer the transfer shares (or such of the same for which the Company shall have found a purchaser or purchasers) to such person or persons. If the seller defaults in transferring the transfer shares the Company shall if so required by the person or persons willing to purchase such transfer shares receive and give a good discharge for the purchase money on behalf of the seller and shall authorise an officer of the Company (or such other person as the Company may at its discretion consider

appropriate) to execute transfers of the transfer shares in favour of the purchaser or purchasers and shall enter the names of the purchaser or purchasers in the Register of Members as the holder of such of the transfer shares as shall have been transferred to them.

5 Proceedings at general meetings

5.1 If a quorum is not present within half an hour of the time appointed for a general meeting, the meeting is adjourned to such day and at such time and place as the directors may determine and if a quorum is not present within half an hour from the time appointed for the adjourned meeting the meeting is dissolved.

5.2 A poll may be demanded at any general meeting by any member present in person or by proxy and entitled to vote.

6 Votes of Members

Subject to any rights or restrictions attached to any shares and to any other provisions of these Articles, on a show of hands every member present in person or by proxy shall have one vote, unless the proxy is himself a member entitled to vote and on a poll every member present in person or by proxy shall have one vote for every share of which he is the holder.

7 Number of Directors

Unless otherwise determined by ordinary resolution, the number of directors is not subject to any maximum. The minimum number of directors is one.

8 Alternate Directors

8.1 An alternate director may act as alternate director to more than one director and is entitled at a meeting of the directors or of a committee of the directors to one vote for every director that he acts as alternate director for in addition to his own vote (if any) as a director of the Company, but an alternate director counts as only one director in determining whether a quorum is present.

8.2 An alternate director is entitled to receive notice of all meetings of directors and of all meetings of committees of directors of which his appointor is a member; to attend and vote at any such meeting at which the director appointing him is not personally present; and generally to perform all the functions of his appointor as a director in his appointor's absence. But it is not necessary to give notice of such a meeting to an alternate director who is absent from the UK.

8.3 Unless otherwise determined by ordinary resolution of the Company, an alternate director is not entitled to receive any remuneration from the Company, save that he may be paid by the Company such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice to the Company direct.

9 Powers of Directors

9.1 Subject to article 9.2, the directors are generally and unconditionally authorised for the purposes of section 80 of the Companies Act 1985 for a period of five years from the date of incorporation of the Company to allot all or any of the unissued shares of the Company. The maximum aggregate nominal amount of shares that may be allotted is £1,000. This authority may be varied or revoked by ordinary resolution of the Company.

9.2 The unissued shares in the capital of the Company shall only be allotted in accordance with the provisions of this article:

- (a) all shares to be allotted (**offer shares**) shall first be offered to the members of the Company (**the members**) in proportion to their existing holdings of shares (**initial offer**);
- (b) the initial offer shall be made by written notice (**offer notice**) from the directors specifying the number and price of the offer shares and shall invite each member to state in writing within a period not being less than 28 days whether they are willing to accept any offer shares and if so the maximum number of offer shares they are willing to take;
- (c) at the expiration of the time specified for acceptance in the offer notice the directors shall allocate the offer shares to or amongst the members who shall have notified to the directors their willingness to take any of the offer shares but so that no member shall be obliged to take more than the maximum number of shares notified by him under article 9.2(b);
- (d) if any offer shares remain unallocated after the initial offer the directors shall make a further offer (**further offer**) in writing (**further offer notice**) on the same terms as the initial offer to members who shall have expressed their willingness to purchase the offer shares and if there is more than one member to whom this article applies then the further offer shall be pro rata to their existing holdings of shares;
- (e) at the expiration of the time specified for acceptance in the further offer notice the directors shall allocate the offer shares to or amongst the members who shall have notified to the directors their willingness to take any of the offer shares but so that no member shall be obliged to take more than the maximum number of shares notified by him under article 9.2(d);
- (f) if any offer shares remain unallocated after the further offer, subject to the provisions of this article and section 80 of the Companies Act 1985 the directors shall be entitled to dispose of these shares to such persons on such terms and in such manner as they think fit save that these shares shall not be disposed of on terms which are more favourable to their subscribers than the terms on which they were offered to the members; and
- (g) the provisions of sections 89(1) and 90(1) to (5) inclusive of the Companies Act 1985 shall have effect only to the extent that they are not inconsistent with this article.

10 Appointment and Retirement of Directors

10.1 No person shall be appointed a director at any general meeting unless:

- (a) he is recommended by the directors; or
- (b) not less than 14 or more than 35 clear days before the date appointed for the meeting, notice executed by a member qualified to vote at the meeting has

been given to the Company of the intention to propose that person for appointment stating the particulars which would, if he were so appointed, be required to be included in the Company's register of directors together with notice executed by that person of his willingness to be appointed.

- 10.2 Not less than seven nor more than 28 clear days before the date appointed for holding a general meeting notice shall be given to all who are entitled to receive notice of the meeting of any person who is recommended by the directors for appointment as a director at the meeting or in respect of whom notice has been duly given to the Company of the intention to propose him at the meeting for appointment as a director. The notice shall give particulars of that person which would, if he were so appointed, be required to be included in the Company's register of directors.
- 10.3 Subject as aforesaid the Company may by ordinary resolution appoint a person who is willing to act to be a director either to fill a vacancy or as an additional director.
- 10.4 The directors may appoint a person who is willing to act to be a director, either to fill a vacancy or as an additional director, provided that the appointment does not cause the number of directors to exceed any maximum number of directors that may be fixed by ordinary resolution.
- 10.5 The holder or holders of not less than half in nominal value of the shares giving the right to attend and vote at general meetings of the Company may remove a director from office and appoint a person to be a director. The removal or appointment is effected by notice to the Company signed by or on behalf of the holder or holders. The removal or appointment takes effect immediately on deposit of the notice in accordance with the articles or on such later date (if any) specified in the notice.

11 Directors' Appointments and Interests

Subject to the provisions of the Companies Acts, the directors may appoint one or more of their number to the office of managing director or to any other executive office under the Company and may enter into an agreement or arrangement with any director for his employment by the Company or for the provision by him of any services outside the scope of the ordinary duties of a director. Any such appointment, agreement or arrangement may be made on such terms as the directors determine and they may remunerate any such director for his services as they think fit. Any appointment of a director to an executive office shall terminate (unless the terms of his appointment provide otherwise) if he ceases to be a director but without prejudice to any claim for damages for breach of the contract of service between the director and Company.

12 Proceedings of Directors

- 12.1 A person may participate in a meeting of the directors or of a committee of directors by means of electronic communication provided that throughout the meeting all persons participating in the meeting are able to communicate interactively and simultaneously with all other parties participating in the meeting (notwithstanding accidental disconnection of the means of electronic communication during the meeting). A person participating in a meeting in this manner shall be deemed present in person at the meeting and shall be entitled to vote and be counted in the quorum.
- 12.2 The board may authorise any matter proposed to it by a director at a board meeting which would, if not so authorised, involve a breach of duty by that director under section 175 of the Companies Act 2006, including, without limitation, any matter which

relates to a situation in which a director has, or could have, a direct or indirect interest which conflicts, or possibly may conflict, with the interests of the Company.

- 12.3 The director in question seeking authorisation in respect of such a conflict of interest must declare to the board at a board meeting the nature and extent of his interest in that conflict of interest as soon as reasonably practicable.
- 12.4 Any authorisation under article 12.2 shall be effected in the same way that any other matter may be proposed to and resolved upon by the board in accordance with these Articles and will be effective only if:
- (a) it is given in accordance with the Companies Acts;
 - (b) any requirement as to the quorum at the meeting at which the matter is considered is met without counting the director in question or any other director interested in the matter under consideration; and
 - (c) the matter was agreed to without their voting or would have been agreed to if their votes had not been counted.
- 12.5 The board may give any authorisation under article 12.2 upon such terms and for such duration and may impose such limits or conditions as it thinks fit and may vary or terminate any such authorisation at any time.
- 12.6 No declaration of interest shall be required by a director in relation to an interest:
- (a) that cannot reasonably be regarded as likely to give rise to a conflict of interest;
 - (b) of which the director in question is not aware;
 - (c) in relation to any matter that has been authorised by the board;
 - (d) if, or to the extent that, the other directors are already aware of such interest (and, for this purpose, the other directors are treated as being aware of anything of which they ought reasonably to be aware); or
 - (e) if, to the extent that, it concerns the terms of his service contract (as defined in section 227 of the Companies Act 2006) that have been or are to be considered by a meeting of the directors, or by a committee of directors appointed for the purpose of these Articles.
- 12.7 A director shall be under no duty to the Company with respect to any information which he obtains or has obtained otherwise than as a director of the Company and in respect of which he owes a duty of confidentiality to another person. In particular, the director shall not be in breach of the general duties he owes to the Company by virtue of sections 171 to 177 of the Companies Act 2006 because he:
- (a) fails to disclose any such information to the board or to any director or other officer or employee of the Company; and/or
 - (b) does not use or apply any such information in performing his duties as a director of the Company.

However, to the extent that his relationship with that other person gives rise to a conflict of interest or possible conflict of interest, this article applies only if the existence of that relationship has been authorised by the board pursuant to article 12.2.

- 12.8 A director who is in any way, directly or indirectly, interested in a proposed transaction or arrangement with the Company shall declare the nature and extent of his interest to the other directors at a board meeting before the Company enters into the transaction or arrangement in accordance with the Companies Act 2006.
- 12.9 A director who is in any way, directly or indirectly, interested in a transaction or arrangement that has been entered into by the Company shall declare the nature and extent of his interest to the other directors at a board meeting as soon as is reasonably practicable, unless the interest has already been declared under article 12.8 above in accordance with the Companies Act 2006.
- 12.10 If a declaration made under articles 12.8 or 12.9 above proves to be, or becomes, inaccurate or incomplete, a further declaration must be made under articles 12.8 or 12.9, as appropriate.
- 12.11 A director need not declare an interest in proposed or existing transactions or arrangements with the Company where articles 12.6(a), 12.6(b), 12.6(d) or 12.6(e) apply.
- 12.12 Subject to the provisions of the Companies Acts and provided that he has declared to the board at a board meeting the nature and extent of any direct or indirect interest of his in accordance with this article 12 or where article 12.11 applies and no declaration of interest is required, a director notwithstanding his office:
- (a) may be a party to, or otherwise be interested in, directly or indirectly, any transaction or arrangement with the Company or in which the Company is directly or indirectly interested;
 - (b) may act by himself or through his firm or limited partnership in a professional capacity for the Company or hold any other office or place of profit with the Company (otherwise than as auditor) in conjunction with his office of director, and in any such case on such terms as to remuneration, for such period and otherwise as the board may decide;
 - (c) may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise be interested in, any body corporate in which the Company is directly or indirectly interested; or
 - (d) be or become a director of any other company in which the Company does not have an interest and which cannot reasonably be regarded as giving rise to a conflict of interest at the time of his appointment as a director of that other company.
- 12.13 Save as otherwise provided by these Articles, a director shall not vote on or be counted in the quorum in relation to a resolution of the board or committee of the board concerning a matter in which he has a direct or indirect interest which is, to his knowledge, a material interest (otherwise than by virtue of his interest in shares or debentures or other securities of or otherwise in or through the Company), but this

prohibition does not apply to any resolution where that interest cannot reasonably be regarded as likely to give rise to a conflict of interest.

12.14 If a question arises at a meeting as to the materiality of a director's interest (other than the interest of the chairman of the meeting) or as to the entitlement of a director (other than the chairman) to vote or be counted in a quorum, and the question is not resolved by his voluntarily agreeing to abstain from voting or being counted in the quorum, the question shall be referred to the chairman and his ruling in relation to the director concerned is conclusive and binding on all concerned.

12.15 The Company may by ordinary resolution suspend or relax the provisions of this article 12 to any extent. Subject to the Companies Acts, the Company may by ordinary resolution ratify any transaction or arrangement not properly authorised by reason of a contravention of this article 12.

13 Indemnity

13.1 Subject to the Companies Acts, but without prejudice to any indemnity to which a director may otherwise be entitled, each director or other officer of the Company (other than any person (whether an officer or not) engaged by the Company as auditor) shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a director or other officer of the Company or any company that is a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006) in the actual or purported execution and/or discharge of his duties, or in relation thereto including any liability incurred by him in defending any civil or criminal proceedings, in which judgement is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's affairs.

13.2 The Company may buy and maintain insurance against any liability falling upon its directors or other officers which arises out of their respective duties to the Company, or in relation to its affairs.