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THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION
OF
FRESHWATER SPIRITS COMPANY LTD
SC662401

THURSDAY



(Adopted on 15 DECEMBER 2020)

PRELIMINARY

1. INTERPRETATION

1.1. In these Articles, unless the context otherwise requires:

Act: means the Companies Act 2006;

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);

Articles: means the Company's articles of association for the time being in force;

Asset Sale means the disposal by the Company of all or substantially all of its undertaking and assets;

business: means the business of the blending and the sale of whiskies, and the curation of events, experiences and other activities to promote and generate engagement in whiskies;

business day: means any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in Edinburgh are generally open for business;

Conflict: has the meaning given to it in article 8.1;

Controlling Interest means an interest in shares giving to the holder or holders control of the Company within the meaning of section 1124 of CTA;

eligible director: means a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter);

Founders: means Edmund Harvey-Jamieson, Peter Allison, Duncan McRae and Nicholas Ravenhall;

Model Articles: means the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles;

Proceeds of Sale means the consideration payable (including any deferred consideration) whether in cash or otherwise to those Shareholders selling Shares under a Share Sale;

Relevant Majority means the approval of Shareholders holding in aggregate 80% or more of the Shares;

Share Sale means the sale of (or the grant of a right to acquire or to dispose

of) any of the shares in the capital of the Company (in one transaction or a series of transactions) which will result in the purchaser of those shares (or grantee of that right) and persons Acting in Concert with him together acquiring a Controlling Interest in the Company, except where following completion of the sale the shareholders and the proportion of shares held by each of them are the same as the shareholders and their shareholdings in the Company immediately prior to the sale;

shares: means the ordinary shares of £0.000025 each in the capital of the Company having the rights set out in these articles of association, or any of them where the context so requires; and

Shareholders: means the persons holding Share from time to time (also referred to interchangeably as **members** in these Articles).

- 1.2. Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles will have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act will have the same meanings in these Articles.
- 1.3. Any reference to any provision of any enactment or other statutory provision in these Articles will be deemed to include a reference to any statutory modification or re-enactment of that provision for the time being in force.
- 1.4. A reference in these Articles to an "article" is a

reference to the relevant article of these Articles unless expressly provided otherwise.

1.5. Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of:

1.5.1. any subordinate legislation from time to time made under it; and

1.5.2. any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.

1.6. Any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression will be construed as illustrative and will not limit the sense of the words preceding those terms.

1.7. The Model Articles will apply to the Company, except insofar as they are modified or excluded by these Articles.

1.8. Articles 7, 8, 9(1), 11(2) and (3), 13, 14(1) to (4) (inclusive), 17(2), 18, 44(2), 49, 52 and 53 of the Model Articles will not apply to the Company and in the event of any inconsistency between the provisions of these Articles and the provisions of the Model Articles these Articles will prevail.

1.9. In article 25(2)(c) of the Model Articles, the words “evidence, indemnity and the payment of a reasonable fee” will be deleted and replaced with the words “evidence and indemnity”.

1.10. Article 29 of the Model Articles will be amended by the insertion of the words “, or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under article 28(2),” after the words “the transmittee’s name”.

1.11. Articles 31(a) to (d) (inclusive) of the Model Articles will be amended by the deletion in:

1.11.1. Articles 31(a) to (c) of the words “either” and “or as the directors may otherwise decide” and

1.11.2. Article 31(d) of the words “either” and “or by such other means as the directors decide”.

OBJECTS, AND DIRECTORS’ POWERS AND

DECISION MAKING

2. OBJECTS AND DIRECTORS TO TAKE DECISIONS COLLECTIVELY

2.1. The objects of the Company are to promote the success of the Company:

2.1.1. for the benefit of its members as a whole; and

2.1.2. through its business and operations, to have a material positive impact on (a) society and (b) the environment, taken as a whole.

2.2. A Director must act in the way he or she considers, in good faith, most likely to promote the success of the Company in achieving the objects set out in article 2.1 above, and in doing so shall have regard (amongst other matters) to:

2.2.1. the likely consequences of any decision of the Directors in the long term and the impact any such decision may have on any affected stakeholders;

2.2.2. the interests of the Company's employees;

2.2.3. the need to foster the Company's business relationships with suppliers, customers and others;

2.2.4. the impact of the Company's operations on the community and the environment and on affected stakeholders;

2.2.5. the desirability of the Company maintaining a reputation for high standards of business conduct and the impact this has on affected stakeholders; and

2.2.6. the need to act fairly as between members of the Company,

(together, the matters referred to above shall be defined for the purposes of this article as the **Stakeholder Interests** and each a **Stakeholder Interest**).

2.3. For the purposes of a Director's duty to act in the way he or she considers, in good faith, most likely to promote the success of the Company, a Director shall not be required to regard the benefit of any particular Stakeholder Interest or group of Stakeholder Interests as more important than any other.

- 2.4. Nothing in this article express or implied, is intended to or shall create or grant any right or any cause of action to, by or for any person (other than the Company).
- 2.5. The Directors of the Company shall, for each financial year of the Company, prepare and circulate to its members an impact report. The impact report shall contain a balanced and comprehensive analysis of the impact the Company's business has had, in a manner proportionate to the size and complexity of the business. The impact report shall contain such detail as is necessary to enable the members to have an understanding of the way in which the Company has promoted its success for the benefit of its members as a whole and, through its business and operations, sought to have a material positive impact on society and the environment, taken as a whole. If the Company is also required to prepare a strategic report under the Companies Act 2006, the Company may choose to publish the impact report as part of its strategic report and in accordance with the requirements applying to the strategic report.
- 2.6. The general rule about decision making by directors is that any decision of the directors must be either a majority decision at a meeting or a decision taken in accordance with article 3.
- 2.7. If the Company only has one director for the time being the general rule does not apply, and the director may (for as long as he remains the sole director) take decisions without regard to any of the provisions of the Articles relating to directors' decision making.

3. UNANIMOUS DECISIONS

- 3.1. A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other in writing that they share a common view on a matter.
- 3.2. Such a decision may take the form of a resolution in writing, where each eligible director has signed one or more copies of it or to which each eligible director has otherwise indicated agreement in writing.
- 3.3. A decision may not be taken in accordance with this article if the eligible directors would not have formed

a quorum at such a meeting.

4. CALLING A DIRECTORS' MEETING

Any director may call a directors' meeting by giving not less than 2 business days' notice of the meeting (or such lesser notice as all the directors may agree) to the directors or by authorising the Company secretary (if any) to give such notice.

5. QUORUM FOR DIRECTORS' MEETINGS

- 5.1. Subject to articles 5.2, 5.3 and 10.1, the quorum for the transaction of business at a meeting of directors is any 3 eligible directors.
- 5.2. For the purposes of any meeting (or part of a meeting) held pursuant to article 8 to authorise a director's conflict, if there is only 1 or 2 eligible directors in office other than the conflicted director(s), the quorum for such meeting (or part of a meeting) will be 1 or 2 eligible directors respectively.
- 5.3. If within 30 minutes of the time appointed for a meeting of the directors there is no quorum present the Directors present shall adjourn the meeting to a place and time not less than 3 business days later and shall procure that notice of such adjourned meeting is given to each Director in accordance with these Articles. If at such adjourned meeting a quorum is not present within 30 minutes from the time appointed for the adjourned meeting (or such longer period as the Chairman may allow) then the quorum shall be any one Director.
- 5.4. Meetings of the directors may be held by telephone or other means of electronic communications.

6. CASTING VOTE

No Director will have a second or casting vote on any decision.

7. TRANSACTIONS OR OTHER ARRANGEMENTS WITH THE COMPANY

- 7.1. Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act and provided he has

declared the nature and extent of his interest in accordance with the requirements of the Act, a director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company:

- 7.1.1. may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;
- 7.1.2. will be an eligible director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such contract or proposed contract in which he is interested;
- 7.1.3. will be entitled to vote at a meeting of directors (or of a committee of the directors) or participate in any unanimous decision, in respect of such contract or proposed contract in which he is interested;
- 7.1.4. may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm will be entitled to remuneration for professional services as if he were not a director;
- 7.1.5. may be a director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested; and
- 7.1.6. will not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such contract, transaction or arrangement will be liable to be avoided on the grounds of any such interest or benefit nor will the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.

8. DIRECTORS' CONFLICTS OF INTEREST

8.1. The directors may, in accordance with the requirements set out in this article, authorise any matter or situation proposed to them by any director which would, if not authorized, involve a director breaching his duty under section 175 of the Act to avoid conflicts of interest (**Conflict**).

8.2. Any authorisation under this article will be effective only if:

8.2.1. the matter in question will have been proposed by any director for consideration at a meeting of directors in the same way that any other matter may be proposed to the directors under the provisions of these Articles or in such other manner as the directors may determine;

8.2.2. any requirement as to the quorum at the meeting of the directors at which the matter is considered is met without counting the director in question; and

8.2.3. the matter was agreed to without his voting or would have been agreed to if his vote had not been counted.

8.3. Any authorisation of a Conflict under this article may (whether at the time of giving the authorisation or subsequently):

8.3.1. extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised;

8.3.2. be subject to such terms and for such duration, or impose such limits or conditions as the directors may determine; and

8.3.3. be terminated or varied by the directors at any time.

This will not affect anything done by the director prior to such termination or variation in accordance with the terms of the authorisation.

8.4. In authorising a Conflict the directors may decide (whether at the time of giving the authorisation or subsequently) that if a director has obtained any information through his involvement in the Conflict otherwise than as a director of the Company and in

respect of which he owes a duty of confidentiality to another person, the director is under no obligation to:

8.4.1. disclose such information to the directors or to any director or other officer or employee of the Company; or

8.4.2. use or apply any such information in performing his duties as a director;

where to do so would amount to a breach of that confidence.

8.5. Where the directors authorise a Conflict they may (whether at the time of giving the authorisation or subsequently) provide, without limitation, that the director:

8.5.1. is excluded from discussions (whether at meetings of directors or otherwise) related to the Conflict;

8.5.2. is not given any documents or other information relating to the Conflict; and

8.5.3. may or may not vote (or may or may not be counted in the quorum) at any future meeting of directors in relation to any resolution relating to the Conflict.

8.6. Where the directors authorise a Conflict:

8.6.1. the director will be obliged to conduct himself in accordance with any terms imposed by the directors in relation to the Conflict; and

8.6.2. the director will not infringe any duty he owes to the Company by virtue of sections 171 to 177 of the Act provided he acts in accordance with such terms, limits and conditions (if any) as the directors impose in respect of its authorisation.

8.7. A director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director), to account to the Company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorized by the directors or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to

that authorisation) and no contract will be liable to be avoided on such grounds.

9. RECORDS OF DECISIONS TO BE KEPT

Where decisions of the directors are taken by electronic means, such decisions will be recorded by the directors in permanent form, so that they may be read with the naked eye.

10. NUMBER OF DIRECTORS

- 10.1. Unless otherwise determined by ordinary resolution, there will be no maximum number of directors and the minimum number of directors will be one. When the Company has a sole director that director shall have authority to exercise all the powers and discretions expressed to be vested in the directors generally by law and by these Articles and these Articles (including the Model Articles) shall be modified accordingly.
- 10.2. Each Founder will have the right, whilst he holds not less than 5% of the Shares, to appoint himself as a Director of the Company, always subject to the provisions of these Articles and any applicable statutory or other provision having legal effect.
- 10.3. Notwithstanding any other provision of these Articles, the Shareholders will exercise their voting rights, (where applicable both in their capacities as shareholders in, and as directors of, the Company), to ensure that the Founders will be appointed as the Directors of the Company subject to any applicable statutory or other provision having legal effect.
- 10.4. Notwithstanding any other provisions of these Articles, the Shareholders will exercise their voting rights, (where applicable both in their capacities as shareholders in, and as directors of, the Company), to ensure that no person other than the Founders will be appointed as a Director of the Company without the approval of a Relevant Majority.

11. TERMINATION OF DIRECTOR'S APPOINTMENT

- 11.1. A person shall cease to be a director as soon as:
 - 11.1.1. a bankruptcy order is made against that person or a composition is made with that person's creditors generally in satisfaction of that person's debts; or

11.1.2. notification is received by the Company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms.

12. SECRETARY

The directors may appoint any person who is willing to act as the secretary for such term, at such remuneration and upon such conditions as they may think fit and from time to time remove such person and, if the directors so decide, appoint a replacement, in each case by a decision of the directors.

13. SHARES

13.1. In accordance with section 567(1) of the Act, sections 561 and 562 of the Act will not apply to an allotment of equity securities (as defined in section 560(1) of the Act) made by the Company.

13.2. No equity securities (as defined in Section 560(1) of the Act) may be allotted without the prior written unanimous consent of the Shareholders.

14. CLASS RIGHTS

The rights attaching to the Shares will be as set out in this Article.

Income

14.1. The profits of the Company available for distribution and which the directors determine to distribute in respect of any financial year will be applied first in paying to the holders of the Shares a dividend for such year on each Share of an amount or amounts determined by the directors. Dividends will, if declared, be paid out of the distributable profits of the Company on dates determined by the directors.

Voting

14.2. Each holder of the Shares will be entitled to receive notice of, attend and vote at all General Meetings of the Company and to vote on all written resolutions of the Company. Each such holder will, subject to the provisions of these Articles, on a show of hands have one vote, and on a poll one vote for each Share of which he is the holder.

15. VARIATION OF CLASS RIGHTS

Whenever the capital of the Company is divided into different classes of Shares the special rights attached to any class may be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up with the consent in writing of the members holding a majority of the shares comprising that class but not otherwise. For the avoidance of doubt, the issue or allotment of further Shares will not constitute a variation of the special rights attaching to any of the Shares.

16. LIQUIDATION DISTRIBUTION

On a distribution of assets on a liquidation or a return of capital (other than a conversion, redemption or purchase of Shares) the surplus assets of the Company remaining after payment of its liabilities (which for the avoidance of doubt shall include all accrued but unpaid dividends (**Total Return Amount**) shall be distributed to Shareholders (to the extent that the Company is lawfully permitted to do so) in proportion to their respective Shareholdings.

17. EXIT PROVISIONS

17.1. On a Share Sale the Proceeds of Sale shall be distributed in the same manner as set out in article 16 and the Directors shall not register any transfer of Shares if the Proceeds of Sale are not so distributed save in respect of any Shares not sold in connection with that Share Sale provided that if the Proceeds of Sale are not settled in their entirety upon completion of the Share Sale:

17.1.1. the Directors shall not be prohibited from registering the transfer of the relevant Shares so long as the Proceeds of Sale that are settled have been distributed in the order of priority set out in article 16; and

17.1.2. the Shareholders shall take any action required to ensure that the Proceeds of Sale in their entirety are distributed in the order of priority set out in article 16.

17.2. On an Asset Sale the surplus assets of the Company remaining after payment of its liabilities

shall be distributed (to the extent that the Company is lawfully permitted to do so) in the same manner as set out in article 16 provided always that if it is not lawful for the Company to distribute its surplus assets in accordance with the provisions of these Articles, the Shareholders shall take any action required (including, but without prejudice to the generality of this article 17.2, actions that may be necessary to put the Company into voluntary liquidation so that Article 16 applies).

- 17.3. In the event of an Exit approved by with the prior written consent of a Relevant Majority (the **Proposed Exit**), all Shareholders shall consent to, vote for, raise no objections to and waive any applicable rights in connection with the Proposed Exit (**Actions**). The Shareholders shall be required to take all Actions with respect to the Proposed Exit as are required by such Relevant Majority to facilitate the Proposed Exit. If any Shareholder fails to comply with the provisions of this Article, the Company shall be constituted as the agent of each defaulting Shareholder for taking such actions as are necessary to effect the Proposed Exit and the Directors may authorise an officer or member to execute and deliver on behalf of such defaulting Shareholder the necessary documents and the Company may receive any purchase money due to the defaulting Shareholder in trust for each of the defaulting Shareholders.

DECISION MAKING BY SHAREHOLDERS

18. POLL VOTES

- 18.1. A poll may be demanded at any general meeting by any qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting.
- 18.2. Article 44(3) of the Model Articles will be amended by the insertion of the words "A demand so withdrawn will not invalidate the result of a show of hands declared before the demand was made." as a new paragraph at the end of that article.

19. PROXIES

- 19.1. Article 45(1)(d) of the Model Articles will be deleted and replaced with the words "is delivered to the company in accordance with the articles not less than 48 hours before the time appointed for holding

the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate.”

- 19.2. Article 45(1) of the Model Articles will be amended by the insertion of the words “and a proxy notice which is not delivered in such manner will be invalid, unless the directors, in their discretion, accept the notice at any time before the meeting.” As a new paragraph at the end of that article.

ADMINISTRATIVE ARRANGEMENTS

20. MEANS OF COMMUNICATION TO BE USED

- 20.1. Any notice, document or other information will be deemed served on or delivered to the intended recipient:

20.1.1. if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 24 hours after it was posted (or 5 business days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least 5 business days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provided);

20.1.2. if properly addressed and delivered by hand, when it was given or left at the appropriate address;

20.1.3. if properly addressed and sent or supplied by electronic means, 1 hour after the document or information was sent or supplied; and

20.1.4. if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.

For the purposes of this article, no account will be

taken of any part of a day that is not a working day.

- 20.2. In proving that any notice, document or other information was properly addressed, it will be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the Act.

DIRECTORS' INDEMNITY AND INSURANCE

21. INDEMNITY

- 21.1. Subject to article 23.2, but without prejudice to any indemnity to which a relevant office is otherwise entitled:

21.1.1. each relevant officer will be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer:

21.1.1.1. in the actual or purported execution and/or discharge of his duties, or in relation to them; and

21.1.1.2. in relation to the Company's (or any associated Company's) activities as trustee of an occupational pension scheme (as defined in section 235(6) of the Act);

including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment 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, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's (or any associated company's) affairs; and

21.1.2. the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 21.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such

expenditure.

21.2. This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

22. INSURANCE

22.1. The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any relevant loss.

22.2. In this article 22 and article 21:

22.2.1. a **relevant officer** means any director or other officer of the Company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act));

22.2.2. a **relevant loss** means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the Company, any associated company or any pension fund or employees' share scheme of the Company or associated company; and

22.2.3. companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

SPECIAL PROVISIONS

23. SHARE TRANSFERS

23.1. Where there is any conflict between this Article and any other provisions of these Articles and/or the Model Articles, the provisions of this Article will apply.

23.2. The Directors must decline to register the transfer of any Share unless it is properly made in accordance with (a) the unanimous consent of the Shareholders, (b) the provisions of this article 23 or (c) the provisions of article 24, in which event they will be required to approve and register such transfer.

23.3. Any Share or interest therein may be transferred

free of restrictions under these Articles by any Founder to a member of that Founder's family (being that Founder's spouse, parents, siblings, children and grandchildren) or to any trust or family investment company (**FIC**) or the benefit of any member(s) of that Founder's family.

23.4. In this Article 23:

23.4.1. **Relevant Event** means any holder of shares:

23.4.1.1. notifying the Directors in writing that he wishes to transfer all of his Shares;

23.4.1.2. dying;

23.4.1.3. being injured or becoming critically ill in such a way that it is no longer possible for such member to participate in the business;

23.4.1.4. being sequestered;

23.4.1.5. becoming of unsound mind

23.4.1.6. becoming an Early Leaver, or

23.4.1.7. becoming a Bad Leaver.

23.4.2. **Early Leaver** means any holder of shares ceasing to work in the business for whatever reason within three years of the date of adoption of these Articles (save pursuant to a sale by all of the members of the Company's entire issued share capital).

23.4.3. **Bad Leaver** means any holder of shares ceasing to work in the business as a result of gross misconduct, fraud, dishonesty or otherwise acting in a manner which a Relevant Majority considers to be harmful to the interests, reputation and/or prospects of the Company.

23.5. Upon the happening of any Relevant Event the member in question (**Leaver**) (or his executor, trustee, curator or other legal representative) (**Legal Representative**) will be deemed to have immediately given a transfer notice for the sale of all shares then held or beneficially owned by him (**Transfer Shares**) at the value specified in Article 23.8, which transfer notice will not under any circumstances be revocable unless the other members unanimously agree otherwise in writing.

23.5.1. Where the Leaver has previously transferred some or all of his Shares to a member of that Founder's family or to any trust or FIC for the benefit of any member(s) of that Founder's family pursuant to Article 23.3, the family member(s), family trust(s) or FIC(s) in question will also be deemed upon the happening of any Relevant Event to have immediately given a transfer notice for the sale of all Shares then held or beneficially owned by such family member(s), family trust(s) or FIC(s) (and the term **Transfer Shares** will be interpreted accordingly) at the value specified in Article 23.8, which transfer notice will not under any circumstances be revocable unless the other members unanimously agree otherwise in writing.

23.6. For the purpose of this article 23.6, the **fair value** will be such price as may be agreed between the Transferor (or his Legal Representative) and the Directors within 1 month before or 1 month after service of the transfer notice, or failing such agreement, as may be determined by an independent Chartered Accountant or firm of Chartered Accountants, experienced in the valuation of shares in private companies, (such independent Chartered Accountant(s) to be appointed by mutual agreement of the Transferor and the Directors failing which to be nominated by the President for the time being of the Institute of Chartered Accountants of Scotland on the application of either of them) to be in his or their opinion (acting as an expert and not as an arbiter) the fair value of the Transfer Shares having regard to the fair value of the business of the Company as a going concern and as between a willing vendor and a willing purchaser. He or they will calculate the fair value of the Transfer Shares on the following basis namely:

23.6.1. by determining the sum which a willing purchaser would offer to a willing vendor for the whole of the issued equity share capital of the Company;

23.6.2. by dividing such sum by the total number of shares in issue, and multiplying the result by the number of the Transfer Shares;

23.6.3. without applying any discount for a minority holding; and

23.6.4. ignoring any suspension of voting rights pursuant to this Article.

23.7. The certificate of the said Chartered Accountant(s) as to such value will be final and binding on all concerned. The fees and expenses of the said Chartered Accountant(s) in respect of such determination will be borne equally by the Transferor and the Company.

23.8. Upon the fair value being so agreed or determined as aforesaid, the Company will have the option to purchase (ie buyback) the Transfer Shares at:

23.8.1. the fair value; or

23.8.2. in the case of the Leaver being an Early Leaver, 50% of the fair value; or

23.8.3. in the case of the Leaver being a Bad Leaver, £0.000025 per Share,

provided always that the Company has sufficient reserves and is lawfully liable to purchase the Transfer Shares at that time.

23.9. If the Company is not willing to purchase the Transfer Shares as aforesaid, the Directors will forthwith offer the Transfer Shares at the value specified in Article 23.8 to the Shareholders (other than the Leaver) on a proportionate basis (**Recipients**).

23.10. The Company will invite the Recipients to state in writing within 14 days from the date of the notice whether or not they are willing to purchase the Transfer Shares offered to them (and whether they would be willing to purchase any Transfer Shares which the other Recipients have declined to purchase (if any)).

23.11. If pursuant to the foregoing provisions of this Article:

23.11.1. the Company is willing to purchase the Transfer Shares or the Recipients are willing to purchase the Transfer Shares (in either case a **Buyer**) they will give notice thereof to the Transferor and the Transferor will be bound to transfer the Transfer Share to the

Buyer upon receipt of payment of the value specified in Article 23.8; or

23.11.2. the Company is not willing to purchase the Transfer Shares and the Recipients are not willing to purchase the Transfer Shares (**Unsold Shares**), any person who has become entitled to the Unsold Shares in consequence of the Relevant Event will be entitled to elect at any time thereafter to be registered himself as the holder of the Unsold Shares (but so that such election will not give rise to any obligation to serve a transfer notice in respect of the Unsold Shares) or if no person has become entitled to the Unsold Shares in consequence of the Relevant Event they may be transferred by the Transferor to any third party approved by the Directors at the value specified in Article 23.8.

23.12. If the Transferor makes default in so transferring the Transfer Shares as aforesaid the Directors will if so required by the Buyer under the foregoing provisions receive and give a good discharge for the purchase money on behalf of the Transferor, and will authorise some person (who will be deemed for that purpose to be the attorney of the Transferor) to execute transfers of the Transfer Shares (and any other documents or resolutions which require to be executed by the Transferor) in favour of the Buyer and will enter the name of the Buyer in the Register of Members as the holder of such Transfer Shares. The validity of such acts will not be capable of challenged by any person.

23.13. The voting rights attaching to any share which are the subject of article 23.6 will be suspended from the date of the Relevant Event until the date of entry in the register of members of the Company or another person as the holder of those shares.

23.14. For the purpose of ensuring that a transfer of Shares is duly authorized hereunder, or that no circumstances have arisen whereby a transfer notice is required to be given hereunder the Directors may require any member or his trustee in bankruptcy or the legal personal representatives of a deceased member or any person named as transferee in any transfer lodged for registration to furnish to the Company such information and

evidence as the Directors may think fit acting reasonably regarding any matter they deem relevant to such purpose. Failing such information or evidence being furnished to the satisfaction of the Directors within a reasonable time after such request the Directors will be entitled to refuse to register the transfer in question or (in case no transfer is in question) to require by notice in writing that a transfer notice be given in respect of the Shares concerned, and they may likewise so require if any such information or evidence discloses that a transfer notice ought to be given in respect of any Shares. If the Directors do so require and the transfer notice is not duly given within one month from the date of its being so required such notice will be deemed to have been given at the expiration of the said period and the provisions of these Articles will take effect accordingly.

24. DRAG ALONG

24.1. If the holders of a Relevant Majority (**Selling Shareholders**) wish to transfer all of their Shares (**Sellers' Shares**) to a bona fide arm's length purchaser (**Proposed Purchaser**), the Selling Shareholders may require all other Shareholders (**Called Shareholders**) to sell and transfer all their shares to the Proposed Buyer (or as the Proposed Buyer directs) in accordance with the provisions of this Article (**Drag Along Option**).

24.2. The Selling Shareholders may exercise the Drag Along Option by giving written notice to that effect (**Drag Along Notice**) at any time before the transfer of the Sellers' Shares to the Proposed Buyer. The Drag Along Notice shall specify:

24.2.1. that the Called Shareholders are required to transfer all their Shares (Called Shares) pursuant to this Article;

24.2.2. the person to whom the Called Shares are to be transferred;

24.2.3. the consideration payable for the Called Shares which shall, for each Called Share, be an amount equal to the price per share offered by the Proposed Buyer for the Sellers' Shares; and

24.2.4. the proposed date of the transfer.

24.3. Once issued, a Drag Along Notice shall be irrevocable. However, a Drag Along Notice shall lapse if, for any reason, the Selling Shareholders have not sold the Sellers' Shares to the Proposed Buyer within 60 days of serving the Drag Along Notice. The Selling Shareholders may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.

24.4. No Drag Along Notice shall require a Called Shareholder to agree to any terms except those specifically set out in this Article.

24.5. Completion of the sale of the Called Shares shall take place on the Completion Date. Completion Date means the date proposed for completion of the sale of the Sellers' Shares.

24.6. The rights of pre-emption set out in these Articles shall not apply to any transfer of shares to a Proposed Buyer (or as it may direct) pursuant to a sale for which a Drag Along Notice has been duly served.

24.7. Within 10 days of the Selling Shareholders serving a Drag Along Notice on the Called Shareholders, the Called Shareholders shall deliver stock transfer forms for the Called Shares, together with the relevant share certificates (or a suitable indemnity for any lost share certificates) to the Company. On the Completion Date, the Company shall pay the Called Shareholders, on behalf of the Proposed Buyer, the amounts they are due for their shares pursuant to this Article to the extent that the Proposed Buyer has put the Company in the requisite funds. The Company's receipt for the price shall be a good discharge to the Proposed Buyer. The Company shall hold the amounts due to the Called Shareholders pursuant to this Article in trust for the Called Shareholders without any obligation to pay interest.

24.8. To the extent that the Proposed Buyer has not, on the Completion Date, put the Company in funds to pay the consideration due pursuant to this Article, the Called Shareholders shall be entitled to the return of the stock transfer forms and share certificates (or suitable indemnity) for the relevant

Called Shares and the Called Shareholders shall have no further rights or obligations under this Article in respect of their Shares.

- 24.9. If any Called Shareholder does not, on completion of the sale of the Called Shares, execute transfer(s) in respect of all of the Called Shares held by it, the defaulting Called Shareholder shall be deemed to have irrevocably appointed any person nominated for the purpose by the Selling Shareholders to be his agent and attorney to execute all necessary transfer(s) on his behalf, against receipt by the Company (on trust for such holder) of the consideration payable for the Called Shares, to deliver such transfer(s) to the Proposed Buyer (or as they may direct) as the holder thereof. After the Proposed Buyer (or its nominee) has been registered as the holder, the validity of such proceedings shall not be questioned by any such person. Failure to provide a share certificate shall not impede the registration of shares under this Article.

AUDIT REGULATIONS

25. DISCLOSURE OF INTEREST IN SHARES

- 25.1. A member shall make notification to the Company in writing of any interest held by any other person in some or all of the Company's shares that, the member holds; or of any change in any interest held, including cessation of any interest.
- 25.2. A person who acquires any interest in the shares of the Company shall make notification to the Company in writing of that interest and of any subsequent change in that interest, including cessation of an interest.
- 25.3. Notification under articles 25.1 and 25.2 must be made within the period of 2 days next following the day on which the obligation to notify arises.
- 25.4. The notification must identify the member who holds the shares, the number of shares held by that member, the number of shares in which the interest is held, the identity of the person holding the interest and the nature of the interest.
- 25.5. Where the notification is of the cessation of an interest in the shares, the notification shall state the

identity of any new holder of an interest in those shares.

26. The Company may by notice in writing require a member or any other person appearing to it to hold or to have held an interest in the shares of the Company, within such reasonable time as may be specified in the notice, to:

26.1. provide details of any interest held currently and/or held within the previous three years; and

26.2. provide, where a person has previously held an interest in the Company's shares, particulars of the identity of any person who subsequently held that interest.

27. Where:

27.1. notice is served by the Company under article 26 on a member or any other person appearing to it to be interested in shares held by a member and that member (or other person) fails to give the Company any information requested by the notice within the time specified in it; and/or

27.2. an application for audit registration is refused or audit registration is proposed to be, or has been, withdrawn by the Recognised Supervisory Body and the Company is notified that the grounds upon which such decision was made consisted of or included any matters relating to any person who holds shares in the Company or who has an interest in shares,

then the Directors may, by resolution, direct that the holder of the shares in question shall not be entitled in respect of any shares held by him to vote either personally or by proxy at a General Meeting of the Company or at a meeting of the holders of any class of shares of the Company or to exercise any other right conferred by membership in relation to General Meetings of the Company or meetings of the holders of any class of shares of the Company.

28. The Directors may, by resolution, revoke a direction:

28.1. made under article 27.1 if they are satisfied that the relevant facts about the shares in

· question have been disclosed to the Company;

28.2. made under article 27.2 if the decision therein referred to has been rescinded, revoked or has otherwise ceased to have effect;

28.3. made under either article 27.1 or 27.2 if they are satisfied that the shares in question are to be transferred for valuable consideration and the Directors have approved the transfer.