

**SIBA**

**Members' Handbook 2021**

**(Post Board 9.6.21 – Appendix 5 update)**



SIBA aims to ensure that its members' beers are of consistent high quality and is committed to the highest standards of production. The Food Safety & Quality Standard incorporates operational guidelines, acceptance of which is a fundamental tenet of membership.

Membership is conditional upon agreement to abide by the associations Constitution, Rules Members' Charter and business and brewing codes of best practice, as contained in this handbook.

## DEFINITIONS

The definitions set out in this section apply in this Members' Handbook.

“Appointments Committee”	has the meaning given at Rule 1.66;
“Appointment Recommendation”	has the meaning given at Rule 1.67;
“Articles”	the articles of association of SIBA in the form appended hereto as Appendix 1, as amended or superseded from time to time;
“Board”	the board of Directors of a Group Company as constituted from time to time;
“Board Candidate”	has the meaning given at Rule 1.75(b);
“Board Meeting”	a meeting of the Board;
“British Brewer”	has the meaning given at Rule 2.7b;
“Chairman of SIBA”	The Director appointed as the chairman Board (and being referred to in the Articles as the “ <b>Board Chairman</b> ”);
“Constitution”	the Articles and the Rules;
“Directors”	the directors of SIBA;
“Dismissal Recommendation”	has the meaning given at Rule 1.82;
“Elected Directors”	the Directors appointed by either the Members or the Elected Directors in accordance with the Articles and Rules 1.38 to 1.40 and Rules 1.26 to 1.31;
“Executive”	has the meaning given at Rule 1.56;
“Executive Director”	has the meaning given at Rule 1.55;
“Elected Initial Term”	has the meaning given at Rule 1.30;
“Elected Subsequent Term”	has the meaning given at Rule 1.30;
“Independent Brewer”	has meaning given at Rule 2.7c;
“Initial Term”	has the meaning given at Rule 1.78;
“Non-Elected Directors”	has the meaning given in the Articles;
“Non-Executive Directors”	a Director (who is a Non-Elected Director) appointed by the Board as a non-executive

	Director;
“Members”	the Members of SIBA (where or not they are or entitled to be members of SIBA, as a corporate body);
“Policies”	has the meaning given at Rule 1.8;
“Relevant Candidate”	has the meaning given at Rule 1.68;
“Region”	has the meaning given at Rule 1.11
“Regional Chairman”	has the meaning given at Rule 1.20;
“Regional Council”	has the meaning given at Rule 1.16;
“Remuneration Committee”	the remuneration committee appointment is accordance with Rule 1.86;
“Rules”	has the meaning given at Rule 1.6;
“Senior Non-executive Director”	the Director appointed as the chairman of the Executive (being referred to in the Articles as the “ <b>Executive Chairman</b> ”)
“Statutory Duties”	has the meaning given at Rule 1.50;
“Subsequent Term”	has the meaning given at Rule 1.79;
“UK Beer Sales”	as detailed from time to time in the BBPA Statistical Handbook published October 1 <sup>st</sup> annually;
“Vice-chairman of SIBA”	the Director appointed as the vice-chairman of the Board

## SECTION ONE: CONSTITUTION & RULES

### PART ONE: STRUCTURE, CONSTITUTION AND ORGANISATION

#### GENERAL

- 1.1 SIBA is a company limited by guarantee and is run and operated in accordance with this Members Handbook and in particular with its Articles, and according to the Rules (as are herein defined) ("**Constitution**") and the policies set out in the Appendices to this Members Handbook. The Members are required to comply with the provisions of the Members Handbook (as from time to time varied or amended in accordance with the Articles). If there is any conflict between the provisions of the Articles and any other provision of the Members Handbook, the provisions of the Articles take precedence
- 1.2 SIBA's function is to support and further the interest of "**Independent Brewers**".
- 1.3 SIBA's key objectives as set out in its Articles are:

*To carry on business as a trade association, to further the interests of and to represent independent brewers.*
- 1.4 SIBA carries on its business under the direction of the Directors (and particularly the Elected Directors and the Executive Directors) who have been delegated all powers to operate SIBA's operations under Article 13 (in respect of the Directors generally), and Articles 12 and 18 (in respect of the Executive).
- 1.5 The governance structure of SIBA is set out in the Articles and Rules 1.35 to 1.91. The activities of the Directors, the Elected Directors and the Executive Directors are regulated and governed by the Articles and Rules.
- 1.6 The Rules contained in sections 1 and 2 of the Members' Handbook ("**Rules**") have been drawn up by the Elected Directors under the authority of Article 30 of the Articles.
- 1.7 The Rules can be amended and varied by the Elected Directors at any time although the Members may alter, add to or repeal any or all of the Rules by a majority of not less than 75% of the Members attending a General Meeting. The Elected Directors will notify the Members of any amendment or variation to the Rules.
- 1.8 The Rules are deemed to include the policies and procedures set out at Section Two ("**Policies**"). The Elected Directors may amend or vary any of the Policies from time to time or to introduce new Policies in accordance with Rule 1.7.
- 1.9 SIBA may appoint a "**Chairman of SIBA**" who shall act as both the chairman and leader of the Board. That person must be a member of SIBA and shall be nominated and elected by the Elected Directors.
- 1.10 SIBA may appoint a "**Vice-Chairman of SIBA**", that person must be a member of SIBA and shall be nominated and elected by the Elected Directors.

- 1.11 SIBA is divided into eight geographical regions (“**Region**”) each of whom shall maintain and operated a Regional Council. Each Region shall conduct its affairs in accordance with Rules 1.12 to 1.34. Each Region may elect a maximum of three Elected Directors to be appointed to the Board.

## **THE REGIONS**

### General

- 1.12 SIBA’s eight regions are: South East, South West, East, Midlands, Wales and West, North West, North East and Scotland.
- 1.13 Each Region is established as a sub committee of SIBA and forms part of the SIBA organisation. The Regions are not constitutionally or financially independent. A Region must adhere to and follow provisions of the Members’ Handbook (including the Constitution and the Rules) in all of its operations.
- 1.14 Each Region is financially accountable to SIBA and must account to SIBA for all revenue generated or received by it. Each Region must maintain adequate accounting records and make such records available to SIBA on reasonable notice.
- 1.15 Each Member will be assigned to a Region dependent upon the geographical location of its primary business operation.
- 1.16 Each Region shall form a regional council (“**Regional Council**”) and each Full Brewing Member shall be entitled to attend the meetings of the Regional Council to which it is affiliated. Each Full Brewing Member shall have one vote one any resolution at a meeting of that Regional Council.

### Operation of the Regions

- 1.17 Any Provisional Members (whether or not Full Brewing Members) or Associate Members shall be entitled to attend but not vote at a meeting of the Regional Council but may attend (but not vote) at the discretion and invitation of the Regional Chairman.
- 1.18 Each Regional Council shall hold meetings on a regular basis and frequency of meetings of the Regional Council is at the discretion of each Region.
- 1.19 If a Member is dissatisfied with the frequency of Regional Meetings, it shall first raise the issue with the Regional Chairman. If they are still dissatisfied, it may make representations to the Board, including a request for the disbandment of that Region and a transfer of Members to another Region.
- 1.20 A Region must appoint a chairman (“**Regional Chairman**”). Other officers may be appointed as considered appropriate providing that such appointments are not inconsistent with the Constitution.
- 1.21 The Regional Chairman must be a Full Brewing Member or be an individual who represents an organisation which is a Full Brewing Member.
- 1.22 Meetings of a Regional Council shall be called by the Regional Chairman.

- 1.23 Accurate records of meetings of Regional Councils, in the form of minutes, must be taken. Minutes of the previous Regional Council meeting should be circulated no later than with the agenda for the next Regional Council meeting, which itself should be in good time for the Regional Council meeting and in any event no later than 7 clear days prior to the Regional Council meeting. With the agreement and in the presence of the attendees, the Regional Chairman will then sign the minutes as an accurate record.
- 1.24 Resolutions of the Regional Councils proposed at a meeting of the Regional Council shall be decided on a show of hands, with the Regional Chairman being entitled to a casting vote in addition to any other vote, unless before, or on the declaration of, a result of the show of hands a poll is duly demanded by the Regional Chairman or by two voting Members.
- 1.25 If a poll is demanded, two scrutinisers must be elected without dissent. The poll shall take place within 30 days of the meeting. The Regional Chairman is entitled to a casting vote in addition to any other vote.
- 1.26 Regional Council meetings may be held by electronic means (for example, by telephone conference) and any resolutions of a Regional Council may be passed by way of confirmation in writing (including by email) by the Members entitled to vote to the resolution.

#### Appointment of Elected Directors by the Regions

- 1.27 A Region is entitled to elect a maximum of three of its number as Elected Directors of SIBA and to sit on the Board. If one of those Elected Directors is elected as the Chairman of the SIBA, the Region may elect an additional Elected Director. This additional Elected Director will be elected for a term of 12 months from the same date as the Chairman of SIBA is elected.
- 1.28 The Region shall select nominees for appoint as Elected Directors at a meeting of the Regional Council or by a resolution of the members of a Regional Council. The Region must nominate any Member (or representative of a Member) being proposed for election as an Elected Director to the Company Secretary within 14 – 35 clear days of the Annual General Meeting. The appointment of that Member (or representative of a Member) as an Elected Director will be decided by all Members at the Annual General Meeting.
- 1.29 A Region may request the Board to appoint a new Elected Director and (subject to Rule 1.47) remove an existing Elected Director with immediate effect. The Elected Directors shall approve the appointment in accordance with Article 15.
- 1.30 Unless the nomination to appoint an Elected Director is to replace an Elected Director who has resigned or retired or has been removed prior to the expiry of his Elected Initial Term or any Elected Subsequent Term, each Elected Director shall be appointed for an initial term of not more than 3 years (“**Elected Initial Term**”) and may, if re-elected in accordance with the Articles (and with the approval of the relevant Region) serve as an Elected Director for one or more subsequent terms not exceeding 3 years each (“**Elected Subsequent Term**”).



- 1.31 If a nomination to appoint any Elected Director made pursuant to Rule 1.29 is to replace an Elected Director who has retired, resigned or been removed prior to the expiry of his Elected Initial Term or any Elected Subsequent Term, such replacement Elected Director shall be appointed for a period not exceeding the balance of the Elected Initial Term or Elected Subsequent Term (as the case may be) of the Elected Director who has retired, resigned or has been removed and who he/she is replacing.
- 1.32 Upon recommending or requesting the appointment of an Elected Director, the Region shall notify the Board if:
- (a) the appointment is to replace an existing Elected Director who has retired upon the expiry of his Elected Initial Term or any Elected Subsequent Term; or
  - (b) the appointment is to replace an Elected Director who has retired at the end of his Elected Initial Term or any Elected Subsequent Term.

#### Member and Regional Resolutions

- 1.33 A Member who wishes to raise any issue or propose a resolution to be considered by the Board or at an Annual General Meeting must first raise that issue or propose that resolution at a meeting of the Regional Council or by way of a resolution of the Regional Council. Subject to the resolution being passed or the issue being approved for referral to the Board or Annual General Meeting (as the case may be) at a meeting of the Regional Council or by a resolution of the Regional Council, the Elected Directors representing that Region shall propose that resolution or issue for consideration at the relevant meeting of the Board or the Annual General Meeting.
- 1.34 The Elected Directors may propose any issue for consideration or propose any resolution which the Regional Council has determined should be raised or proposed.

### **GOVERNANCE**

#### Structure of Management

- 1.35 The Directors shall be divided into two: (a) the main Board comprising all of the Directors from time to time; and (b) the executive committee comprising the Directors appointed in accordance with Article 20 and Rules 1.55 to 1.68 (“**Executive**”).
- 1.36 The Executive Board shall be responsible for the day to day operation and management of SIBA under the supervision of the Board and the powers delegated to them in accordance with Article 12.4.
- 1.37 The Board in addition to any powers conferred on them under the Articles or under the remaining provision of the Rules, shall be responsible for:
- (a) devising, developing and implementing the strategic direction of SIBA;
  - (b) overseeing the performance of the Executive;
  - (c) monitoring and reviewing the performance of SIBA to ensure compliance with constitutional, strategy, regulatory and statutory compliance;

- (d) approving strategic plans, annual budgets and authorisation limits within which the Executive will operate;
- (e) overseeing the management of the Regions and ensure that Regional operations (including decision making) is undertaken in accordance with the Constitution;
- (f) considering any issues raised by Members at a Regional Council providing that such have been approved in accordance with Rules 1.33 - 1.34; and
- (g) dealing with Membership issues and pursuing initiatives for the benefit of a Member.

#### Elected Directors

- 1.38 There shall be no fewer than three Elected Directors in office from time to time. Each Elected Director shall be appointed as a statutory director of SIBA.
- 1.39 Each Region may be represented by a maximum of three Elected Directors unless one of the Elected Directors is appointed as Chairman of SIBA, in which case the Region can appoint an additional Elected Director in accordance with Rule 1.27. Any person nominated by a Region to be an Elected Director shall be appointed as an Elected Director. The Elected Directors shall be entitled to be remunerated for acting in their capacity as Elected Directors and their remuneration shall be determined in accordance with Rules 1.86 to 1.91 (inclusive)
- 1.40 In accordance with Article 16 and in addition to Rule 1.38 and Rules 1.27 to 1.32, additional Elected Directors may be appointed by SIBA or by the Board. Subject to the provisions of Article 16 and Rules 1.52 to 1.54 (inclusive) an Elected Director so appointed shall be appointed for a term of 3 years.
- 1.41 The power, appointment, retirement, disqualification, removal and all other actions relating to the Elected Directors are regulated by the Articles and Rules 1.49 to 1.54 and Rule 1.29.
- 1.42 The Board shall meet not less than twice annually. Meetings of the Board ("**Board Meeting**") shall be called by the Chairman of SIBA by notice to each Elected Director.
- 1.43 The Board shall conduct its business in accordance with the Articles.
- 1.44 The meeting immediately prior to the Annual General Meeting shall consider nominations for Elected Directors and any resolutions to be submitted.
- 1.45 The Board at a time of their choosing shall nominate a chairman from their number (being the Chairman of SIBA), who will chair Board Meetings and General Meetings and carry out any duties as requested by Board.
- 1.46 The Board at a time of their choosing shall nominate a Vice -Chairman from their number (being the Vice-Chairman of SIBA) who will chair Board Meetings in the absence of the elected Chairman of SIBA.

- 1.47 The Chairman of SIBA may be re-elected twice, thereby allowing a maximum of three years continuous service, but can be considered for re-nomination after a lapse of a period of not less than 12 months. The Region which appointed the Chairman of SIBA as an Elected Director may not request his removal from office as an Elected Director during his term of as the Chairman of SIBA.
- 1.48 The Vice-Chairman of SIBA may be re-elected twice, thereby allowing a maximum of three years continuous service, but can be considered for re-nomination after a lapse of a period of not less than 12 months. The Region which appointed the Vice-Chairman of SIBA as an Elected Director may not request his removal from office as an Elected Director during his term as the Vice-Chairman of SIBA.

#### Elected Directors' Roles and Responsibilities

- 1.49 The primary role of each Elected Director (other than the Chairman of SIBA) is to represent the Region they are appointed by.
- 1.50 The Elected Directors shall comply with the seven statutory duties which apply to the directors as set out in the Companies Act 2006 (including, but not limited to:
- (a) the duty to act within powers;
  - (b) the duty to promote the success of the Company;
  - (c) the duty to exercise independent judgement;
  - (d) the duty to exercise reasonable care skill and diligence;
  - (e) the duty to avoid conflicts of interest;
  - (f) the duty not to accept benefits from third parties nor to make unauthorised profits; and
  - (g) the duty to declare and interest in proposed transactions or arrangements with the Company,
- (together the “**Statutory Duties**”).
- 1.51 In addition to complying with the Statutory Duties, the Elected Directors shall:
- (a) act as an advocate for SIBA;
  - (b) attending Board Meetings and fully participate in the discussions and decision making of the Board;
  - (c) acting independently of their own interests and in the best interests of SIBA and the Region they represent;
  - (d) representing the interests of regional Members to the Board (including championing their interests, promoting their ideas and communicating their concerns to the Board);

- (e) communicating SIBA's national activities and strategies (including commercial and political activities, benefits thereof and strategic issues, arising there from to the Members within their Region;
- (f) taking an active role in the management of meetings of Region Meetings and the decision making processes of the Region to ensure that the activities of their Region is carried on in accordance with the constitution;
- (g) jointly with the co-Elected Directors representing their Region, scheduling organising and attending Regional meetings and any other meetings held by their Region (including the regional AGM, EGMs as deemed necessary, the regional beer competitions and other regional events);
- (h) representing, in good faith, at Regional Meetings any issues or matters determined by the Region they represent as being matters to be discussed at by the Board and acting as an advocate for their Region in respect of such matters;
- (i) jointly with regional co-Elected Directors ensuring distribution to Regional Members of pre- and post-meeting documentation (including Regional Meeting Reports, Operations Reports together with template Agendas, final Agendas, and Minutes);
- (j) offering advice and practical support to the Executive particularly in respect of which the Elected Director has particular expertise;
- (k) maintaining the highest standard of probity and to respect confidential information;
- (l) declaring any relevant personal or professional interests in any matter being discussed by the Board in accordance with SIBA's constitution;
- (m) participating in and providing support in any grievance/disciplinary proceedings if requested to do so by the Chairman of SIBA;
- (n) participating in a number of key/annual SIBA events, including the annual conference, a regional beer festival or an external meeting relating to the planning or improvement of the organisation and/or Board.

#### Termination of Elected Directors Appointment

- 1.52 Each Elected Director shall retire in rotation in accordance with Article 16.
- 1.53 In addition to the circumstances at Articles 16 and 17, Elected Director appointments shall terminate immediately upon that Elected Director ceasing to be a Member or the Member that they represent ceasing to be a Member, unless the Board determine otherwise.
- 1.54 An Elected Director shall cease to be a director of SIBA upon him/her ceasing to be an Elected Director.

#### Executive Directors

- 1.55 Unless otherwise determined by the Board, SIBA shall appoint as executive director, employed by SIBA, a “**Chief Executive**”. In addition, SIBA shall appoint a minimum of one and a maximum of four Directors to act as non-executive Directors of SIBA, (together the “**Non Executive Directors**”).
- 1.56 The Executive shall comprise the Executive Director, the Non-Executive Directors and three Elected Directors.
- 1.57 The Executive shall be responsible for the day to day management of SIBA in accordance with Rules 1.36 and 1.37.
- 1.58 Notwithstanding that he/she may remain an Elected Director, each Elected Director who has been appointed to the Executive shall (unless otherwise agreed by SIBA) retire from his position as a member of the Executive after an initial term of 3 years. Upon retirement of an Elected Director from the Executive, he/she shall (subject to Article 15 and the remaining Rules) remain in office as an Elected Director. The Board shall, upon the retirement of any Elected Director from the Executive, select and approve the appointment of an Elected Director to the Executive as his replacement to serve until the original three year term has ended.
- 1.59 The Executive shall be led by a Senior Non-Executive Chairman being one of the Non-Executive Directors appointed to such office by the Board or in the absence of such person any Elected Director appointed by the Board.
- 1.60 Subject to the recommendations of the Remuneration Committee, the Elected Directors will determine remuneration and terms and conditions applicable to the role of each of the Executive Directors and the Non-Executive Directors. Each of the Executive Directors and the Non-Executive Directors shall be appointed in accordance with the Articles and Rules 1.66 to 1.79.
- 1.61 The Executive Directors and the Non Executives need not be Members.

Roles and Responsibilities of Executive Directors and Non Executive Directors

- 1.62 The Executive will have delegated authority for the operations, deliverables and administration of the SIBA. Such authority will be delegated to it to by the Board.
- 1.63 Specifically, the Executive is responsible for:
- (a) setting strategic direction of SIBA and monitoring management's performance within that framework;
  - (b) ensuring there are adequate resources available to meet SIBA's objectives;
  - (c) approving and monitoring financial reporting and capital management;
  - (d) approving and monitoring the progress of business objectives; and delivering those objectives;
  - (e) ensuring that adequate risk management procedures exist and are implemented;

- (f) ensuring that the SIBA has appropriate corporate governance structures in place, including standards of ethical behaviour and a culture of corporate and social responsibility;
  - (g) ensuring that the Executive is and remains appropriately skilled to meet the changing needs of SIBA; and
  - (h) managing the operations of SIBA's subsidiaries from time to time and, if requested by the Board, act as a director of any subsidiary.
- 1.64 The Board shall determine the manner in which the responsibilities of the Executive shall be apportioned between the members of the Executive and the specific roles and responsibilities applicable to each member of the Executive.
- 1.65 The Executive Directors and the Non-Executive Directors shall comply with the seven Statutory Duties which apply to the directors as set out in the Companies Act 2006.

Appointment and Retirement of Executive Directors and Non Executive Directors.

- 1.66 The appointment of the first Executive Directors and Non Executive Directors shall be approved by the majority of the Elected Directors at a meeting of the Board. The candidates for the first Executive Directors and the Non-Executive Directors shall be selected in such manner as the Board shall determine.
- 1.67 In the event that a vacancy arises for an Executive Director or a Non-Executive Director, or the Board has determined (by a simple majority) that additional Executive Director(s) or Non Executive Director(s) shall be appointed, the Executive Board shall be required to identify a suitable candidate to fill such vacancy and recommend that candidate to the Elected Directors.
- 1.68 The Executive shall take such steps as it shall determine to identify any candidate to be recommended to the Elected Directors for appointment as an Executive or Non Executive Director ("**Relevant Candidate**") (including, where appropriate, engaging relevant recruitment consultants), providing that:
- (a) it shall take all reasonable steps to consider and determine the suitability of the Relevant Candidate, including, but not limited to, undertaking a face to face interviews with any candidate identified;
  - (b) it has considered applications from not less than two candidates; and
  - (c) where applicable, it has complied with all relevant employment legislation.
- 1.69 For the purposes of identifying candidates to be recommended to the Elected Directors as a Relevant Candidate, the Executive may constitute a committee of their number ("**Appointments Committee**"). Any such Appointments Committee shall comprise two Non Executive Directors (being the Executive Chairman and the Chief Executive, unless the vacancy concerned is in relation to either of those roles in which case any Director in their place) and an Elected Director (being the Chairman of SIBA or any Elected Director nominated by him).

- 1.70 A recommendation to the Elected Directors of a Relevant Candidate (“**Appointment Recommendation**”) must be approved by the majority of the Executive or the Appointment Committee (as the case may be) and shall be made in writing including sufficient information for the Elected Directors to make a reasonable assessment of the suitability of the candidate at the next meeting of the Board. Such information shall include, but shall not be limited to:
- (a) a copy of the Relevant Candidate’s CV and any other documentary information or evidence provided by the Relevant Candidate;
  - (b) notes of the interview conducted; and
  - (c) an explanation of the reasons why the Executive consider that the Relevant Candidate to be suitable.
- 1.71 The Elected Directors shall consider any Appointment Recommendation at the next meeting of the Board following it being presented to the Elected Directors. If the Chairman of SIBA determines that the vacancy concerned needs to be filled as a matter of urgency, he/she may elect to call a meeting of the Board on short notice for this purpose.
- 1.72 If the Elected Directors request a representative of the Executive (being either the Executive Chairman or the Chief Executive) shall attend the relevant meeting of the Board to explain any part of the Appointment Recommendation.
- 1.73 The Elected Directors, in their sole discretion and acting by a majority, shall determine whether or not a Relevant Candidate is suitable to fill the vacancy concerned. The Elected Directors shall use their respective reasonable endeavours to agree on the appointment of the Relevant Candidate.
- 1.74 If the Elected Directors approve the Relevant Candidate, such person shall be appointed to fill the vacancy on such terms as the Elected Directors (taking into account the recommendations of the Remuneration Committee) shall determine.
- 1.75 If the Elected Directors determine that the Relevant Candidate is not suitable to fill the relevant vacancy, the Elected Directors shall notify the Executive and either:
- (a) request that the Executive recommend an alternative Relevant Candidate; or
  - (b) elect to identify their own candidate (“**Board Candidate**”) whose appointment shall be referred to the Board for approval.
- 1.76 If the Elected Directors elect to identify a Board Candidate, they shall do so within 4 weeks and shall do so in accordance with Rule 1.67 to 1.75.
- 1.77 The appointment of any Board Candidate shall be approved by the Board and if requested to do so, the Board shall select a successful candidate as between the Relevant Candidate recommended by the Executive and a Board Candidate.

- 1.78 Each of the Executive Directors and the Non-Executive Directors shall serve as Directors for an initial term of not more than 3 years ("**Initial Term**"). Unless re-appointed in accordance with Rule 1.79, each Executive Director and Non-Executive Directors shall retire from office at the end of his Initial Term.
- 1.79 Any Executive Director or Non-Director may, at the end of his Initial Term be re-appointed by the majority of the Board on more than one occasion provided that upon each re-election the term of his appoint does not exceed three years (each a "**Subsequent Term**").

Dismissal of Executive Directors and Non Executive Directors

- 1.80 Without prejudice to the provisions of the Articles and the remaining terms of these Rules in connection with the termination of the appointment of any Director, the Board may terminate the appointment of any Executive Director or Non Executive.
- 1.81 The Board before deciding to terminate the appointment of any Executive Director or Non Executive Director shall:
- (a) take all reasonable steps to consider and determine whether there are reasonable grounds to justify the termination of the relevant Director's appointment taking into account the terms of his appointment; and
  - (b) having due regard to the relevant provisions of employment legislation (including, where appropriate taking legal advice upon the lawfulness of the proposed termination and the proper process to be followed).
- 1.82 The recommendation to terminate the appointment of any Executive Director may be made to the Board by the Executive acting by a majority following a decision at a meeting of the Executive ("**Dismissal Recommendation**").
- 1.83 The or the Executive shall, in determining whether a Dismissal Recommendation shall be made in respect of any Executive Director or Non Executive Director shall:
- (a) take all reasonable steps to consider and determine whether there are reasonable grounds to justify the termination of the relevant Director's appointment taking in to account the terms of his engagement; and
  - (b) have due regard to the relevant provisions of employment legislation.
- 1.84 A Dismissal Recommendation shall be made in writing and include sufficient information to allow the Board to make a reasonable assessment of whether to approve the termination of the appointment of the Director concerned. Such information shall include, but shall not limited to:
- (a) the alleged grounds for dismissal;
  - (b) any evidence supporting the alleged grounds for dismissal.
- 1.85 In deciding whether to approve a Dismissal Recommendation, the Board shall (acting reasonably) consider all of the evidence available to it and if it considers it is appropriate defer the decision to allow it to:



- (a) obtain appropriate legal advice advise on the proposed Dismissal Recommendation;
- (b) carry out its own investigation into the circumstances of the Dismissal Recommendation;
- (c) arrange for representations to be made by or on behalf of the Director concerned; and
- (d) to undertake any other activities which the Board (in its sole discretion) considers are necessary or desirable to allow it to properly decide whether to approve the Dismissal Recommendation.

#### Remuneration Committees

- 1.86 The Board shall establish a remuneration committee to determine the remuneration of the Executive Directors, the Non Executive Directors, the Elected Directors and all employees of SIBA having the terms of reference set out in Rules 1.86 to 1.91 ("**Remuneration Committee**").
- 1.87 The Remuneration Committee shall comprise the Chairman of the Board, an Elected Director, the Chief Executive and the Executive Chairman, providing that:
- (a) where the remuneration of the Chief Executive or the Executive Chairman stands to be determined, he/she shall be replaced by a Non-Executive Director; or
  - (b) where any of the Elected Directors remuneration stands to be determined, the Elected Directors shall be replaced by a Non-Executive Director.
- 1.88 The chairman of the Remuneration Committee shall be appointed from time to time by the Board. A quorum for the Remuneration Committee shall be three.
- 1.89 The Remuneration Committee is authorised by the Board to investigate any activity within its terms of reference, which shall include investigating making recommendations to the Board as to the appropriate level and form of remuneration payable to the Executive Directors, the Non Executive Directors, the Elected Directors and all employees of SIBA.
- 1.90 Meetings of the Remuneration Committee shall be held as required, but not less than once annually. Questions arising at any such meeting shall be determined by a majority of those present and eligible to vote, voting in favour.
- 1.91 A note of the decisions of the Remuneration Committee signed by the chairman of the Remuneration Committee shall be a sufficient record and conclusive evidence of the validity of the Remuneration Committee's decisions. The Secretary shall circulate the minutes of meetings of the Remuneration Committee to all members of the Board.

### SIBA Commercial Services Ltd (“SIBA Commercial”)

- 1.92 SIBA Commercial is a wholly owned subsidiary of SIBA, operated under the direction of a board of directors of SIBA Commercial (“**SIBA Commercial Board**”).
- 1.93 SIBA Commercial role is to operate all commercial activities.
- 1.94 The profits and/or losses of SIBA Commercial shall be used at the sole discretion of the Board, which will distribute funds in the best interests of all Members of SIBA.
- 1.95 Unless otherwise determined by the Board, each of the members of the Executive shall be appointed as directors of SIBA Commercial and the SIBA Commercial Board shall comprise the members of the Executive.
- 1.96 Each member of the SIBA Commercial Board shall comply with their respective Statutory Duties to SIBA Commercial.
- 1.97 Any transactions between SIBA and any Member or trading carried between any Members of SIBA Commercial shall be governed SIBA Commercial’s standard terms and conditions as varied from time to time. The current SIBA Commercial standard terms and conditions are set out at Appendix Five.
- 1.98 Members shall be entitled to participate in any initiatives conducted or carried on by SIBA Commercial (subject to satisfying any participation criteria determined by SIBA or SIBA Commercial). Participation in any such initiatives is subject to the Member’s compliance with the relevant terms and conditions attaching to the initiative concerned.

## **PART TWO: MEMBERS**

### Memberships

- 2.1 All applications for membership must be approved by the Elected Directors in accordance with the Articles. Prospective Members must complete such application process as determined by the Board, including providing any information reasonably requested by the Elected Directors in connection with an application for membership. Membership applications will be considered and processed in accordance with Appendix Six.
- 2.2 Any application for membership by a Prospective Member shall be proposed and seconded by two Full Brewing Members at a Regional Meeting and approved by the Full Brewing Members of that Region prior to approval by the Elected Directors.
- 2.3 SIBA has two main categories of memberships: Full Brewing Members and Associate Members. Only Full Brewing Members shall be entitled to be members of SIBA as a corporate body and be eligible to vote at any Annual General Meeting, General Meeting or on a resolution of the Members passed in accordance with the Articles.
- 2.4 A period of Provisional Membership of not less than 12 months must be served by every new Full Brewing Member. The Rules that apply to Provisional Members are at Rules 2.17 to 2.24.

### Full Brewing Members

- 2.5 A Full Brewing Member of SIBA is a brewer that complies with the Membership Criteria set out at Rule 2.7. If any entity does not comply or ceases to comply with this Rule 2.5 it is ineligible to be a Full Brewing Member unless otherwise determined by the Board.
- 2.6 A reference to “Members” in the Articles is a reference to “Full Brewing Members”. There is no limit to the number of Full Brewing Members.
- 2.7 A Full Brewing Member must comply with the following criteria (“**Membership Criteria**”)
- a) **Small** - Be a manufacturer of beer for commercial sale up to a maximum permitted production volume of 1% of the British Beer market ( as defined by the BBPA in respect of the previous calendar year);
  - b) **British** - Be a UK based sole trader, partnership, limited liability partnership or limited company that is permanently based in the UK and carries out a minimum of 75% of its total beer production in the UK (“**British Brewer**”). For these purposes the UK shall include the Channel Islands and the Isle of Man;
  - c) **Independent** - Not be under the control of or connected with any other entity operating within the UK brewing industry except where as a result of such control or connection the combined entity does not contravene rule 2.7(a) above. For the purposes of interpreting this clause “control” and “connected” are as defined by sections 1122 and 1124 of the Corporation Taxes Act 2010 (“**Independent Brewer**”).
  - d) In the event that a British Brewer is controlled by or connected with another British Brewer (as defined by sections 1122 and 1124 of the Corporation Taxes Act 2010) but the combined production is less than 1% of the British Beer Market it shall be for the Board to decide if the Brewer shall be admitted to membership. In these circumstances, the provisions of Rule 2.9 (enhanced analysis) shall apply even if the combined production volumes are less than 200,000hl If, in accordance with Rule 2.7(d), a Brewer is admitted to membership, only one of the connected brewing entities may become a Full Brewing Member.
  - e) Pay the relevant Subscriptions in accordance with Rule 3.
- 2.8 The Board shall not approve any application for Membership unless the Membership Criteria and the provisions of Rule 2.2 have been satisfied, providing that the Board may in its sole discretion create an additional class of Members.
- 2.9 In the event that a prospective Member’s beer production volumes are above 200,000 hectolitres per annum, their membership application will be subject to enhanced analysis (the form and details of which will be determined by the Board from time to time) to ensure that the prospective Member shares the values and principles set out in the Members’ Charter. In addition, the Board will consult with the relevant Region prior to the approval of such membership application.
- 2.10 Under Article 20, each Full Brewing Member has one vote at General Meetings.

- 2.11 A Full Brewing Member who is unable to attend a General Meeting may appoint a proxy in accordance with the Articles.

#### Associate Members

- 2.12 Associate Members are categorised as either "**Associate Non-Brewing Members**" and "**Associate Retired Members**".
- 2.13 An Associate Non-Brewing Member is a sole trader, partnership or company that has a trading relationship or is otherwise associated with the independent brewing industry but is not itself an Independent Brewer.
- 2.14 An Associate Retired Member is an individual, at one time affiliated by employment with or ownership of a Full Brewing Member or other Associate Member who is invited by the Elected Directors to be an Associate Retired Member. An Associate Retired Members' Membership shall be considered and may be reviewed annually.
- 2.15 Associate Members are not members of SIBA as a corporate body and shall have no voting rights (but are entitled to attend General Meetings of the Members (and Regional Council Meetings)) but shall nonetheless be required to abide by the Rules and the provisions of the Articles
- 2.16 Associate Members are ineligible to stand as Elected Directors.

#### Provisional Members

- 2.17 All new Members who are an Independent Brewer shall be considered a Provisional Member for a period of not less than 12 months following acceptance of their application for membership.
- 2.18 A new Member who has made an application for Membership intending to commence brewing activities (but has not at the date it becomes a Provisional Member commenced brewing activities) shall be considered a Provisional Member until commences brewing activities and for a period of not less than 12 months thereafter.
- 2.19 The period of Provisional Memberships is intended to allow SIBA to evaluate the practices of the Provisional Member. In particular, the Provisional Member must demonstrate that the conduct of its business is in accordance with the principles of the Members' Charter (please see Appendix Two, the Constitution and the constituent sections of the Food Safety & Quality Standard (please see Appendix Three).
- 2.20 A Provisional Member shall be required to have attended at least one Regional Council Meeting before the period of Provisional Membership can be deemed to have been completed.
- 2.21 A Provisional Member are not members of SIBA as a corporate body and shall have no voting rights (but shall be entitled to attend General Meetings and Regional Council Meetings) but shall nonetheless be required to abide by the Rules and the provisions of the Articles.
- 2.22 A Provisional Member shall be ineligible to stand as an Elected Director.

- 2.23 Subject to compliance with Rule 2.20 and 2.25 and in the absence of any substantiated complaint in accordance with Rules 2.36 to 2.43 being received by SIBA, the period of Provisional Membership shall be deemed to have expired been served satisfactorily on the first anniversary of the Provisional Member becoming a Member (in the case of Independent Brewers) or the first anniversary of commencing brewing activities (in the case of Provisional Members who had become Members on the basis of an application intending to brew).
- 2.24 SIBA may terminate the Membership of any Provisional Member by written notice to the Provisional Member at any time during the period of Provisional Membership.

#### Members' Conduct

- 2.25 Members must at all times seek to conduct their businesses in accordance with the Members Handbook and in particular the Rules, the principles stated in the Members' Charter (please see Appendix Two), the Responsible Business Guidelines (please see Appendix Four), and the Food Safety & Quality Standard (please see Appendix Three), as set out in this the Members' Handbook.
- 2.26 In addition no Member shall:
- (a) conduct their business or operations in a way that may bring SIBA into disrepute;
  - (b) use a cask or container belonging to another brewer except with the express permission of the owner; or
  - (c) paint over, label over, grind off or otherwise obscure any colour bands, chime stamps or any other identifying markings of any cask or container other than their own.
- 2.27 Members must inform the Ripon Office of any such temporary or permanent arrangement with the cask or container owner.
- 2.28 Any Member, who acquires second-hand casks by means of private treaty or purchase of liquidated assets, shall at the earliest possible opportunity inform the Membership Office of the purchase, provenance and original colour-banding of the purchased casks.
- 2.29 New Members must decide their colour-banding scheme and register that scheme with the Membership Office within 1 calendar month of them becoming a Member.
- 2.30 All Members must inform the Membership Office of any County Court Judgments (“**CCJ**”) against them. In the case of existing Members they shall inform the Membership Office with 2 days of the registration of any CCJ. Provisional Members shall inform the Membership Office of any CCJs registered within the previous three years as part of the membership application.

- 2.31 Any Member purchasing goods from another Member shall agree to pay for those goods in accordance with the supplier's trading terms and conditions, unless a different arrangement has been agreed, or in the event of a dispute.
- 2.32 Persistent breaches by a Member of another Member's trading terms and conditions will be deemed to be a breach of the Rules.

#### The Members' Charter

- 2.33 The Members' Charter (as set out at Appendix Two) is a statement of the fundamental principles, policies, mutual agreements and respective undertakings that constitute membership of SIBA.
- 2.34 All prospective Members of all Membership categories must affirm agreement to the Members' Charter in its entirety as a requirement of the acceptance of their application to join SIBA.
- 2.35 The content of the Members' Charter shall be decided by the Board, but its content and any amendment thereto proposed at any time shall be subject to ratification by a simple majority of voting Members attending a General Meeting. The current Members Charter is set out at Appendix Two.

#### Complaints Against Members

- 2.36 A complaint regarding a member's conduct may be made to the Board by any individual member or by Elected Directors on behalf of their regional member.
- 2.37 The Board will consider such complaints only if made in writing and supported by verifiable evidence. Such complaints must be sent to the Company Secretary by post, PO Box 136, Ripon, North Yorkshire, HG4 5WW, or email at [companysecretary@siba.co.uk](mailto:companysecretary@siba.co.uk)
- 2.38 The Board will complete the investigation of a complaint within three months of receipt.
- 2.39 To facilitate speedy action and resolution the Board may delegate the investigation of, decision and any action on, complaints to any Elected Directors or to a Board Committee. Such delegation to be reviewed annually. Where investigation and actions are delegated a Report will be submitted annually to the Board by the investigators.
- 2.40 Those charged with carrying out the investigation will consider the complaint in light of the adduced evidence and the findings.
- 2.41 Acting reasonably, the investigators will determine whether the member's conduct is in breach of the Rules or the Constitution.
- 2.42 Where the investigators so decide the member will be subject to disciplinary action, the scope of which may include, but shall not be limited to:
- (a) extension of the member's provisional membership;
  - (b) imposition of a probationary period for a specified duration;
  - (c) the loss of voting rights for a specific period (if a full brewing member);

- (d) exclusion from Beerflex for a specified period;
- (e) termination of SIBA membership

2.43 A Member upon whom disciplinary action is imposed shall have the right to appeal to the Board. Where investigation and actions are delegated a Report will be submitted annually to the Board.

#### Termination of Memberships

2.44 SIBA may terminate the membership of a Member if that Member:

- (a) commits a material breach of the Members Handbook;
- (b) commits persistent breaches of the Members' Handbook or a breach of the Members Handbook which if capable of remedy, the Member fails to remedy the breach within 7 days of receiving notice from the Board requiring that Member to remedying that breach;
- (c) commits a material breach or persistently breaches the supply terms of any other Member or any contract or arrangement with SIBA Commercial.
- (d) fails to pay its Subscription in accordance with Rule 3;
- (e) has had a compliant substantiated against it and the Board have determined that the compliant is sufficiently serious to warranty termination of the Member's membership;
- (f) the Member ceases to satisfy the Membership Criteria;
- (g) is subject to a change of ownership or in the case of a corporate entity, a change of control, unless that Member submits an application for its membership to be renewed following such change of ownership or control and such is approved (in its sole discretion) by the Board.

2.45 The Membership of a Member shall immediately cease if:

- (a) the Member suspends or threatens to suspend payment of its debts or is unable or deemed unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986;
- (b) an encumbrancer takes possession or a receiver is appointed over any of the property or assets of that of the Member;
- (c) the Member commences negotiations with, makes a proposal for or enters into any voluntary compromise or arrangement with all or part of its creditors;
- (d) in the case of a Member which is a corporate entity an application is made or an order is made for the appointment of an administrator;
- (e) in the case of a Member who is a corporate entity, the Member goes into liquidation or a petition is filed, a notice is given, a resolution is passed or an order is made for the winding up of the Member (except for the purposes of amalgamation or reconstruction and in such

manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on SIBA;

- (f) creditor or encumbrancer of a Member attaches or takes possession of or appoints a receiver in respect of the whole or part of its assets and such attachment or process is not discharged within 10 Business Days;
- (g) anything analogous to any of the foregoing under the law of any applicable jurisdiction occurs in relation to a Member;
- (h) a Member suspends or ceases, or threatens to suspend or cease, to carry on all or substantial part of its business; or
- (i) a Member fails to renew its Membership on an annual basis.

### Consequence of Termination

2.46 Upon ceasing to be a Member for any reason:

- (a) the Member shall forfeit all rights to and claim in relation to SIBA's property or funds;
- (b) the Member shall have no right to the return of any part of its Subscription;
- (c) the Member shall not be eligible to participate in any Initiatives run by SIBA and SIBA Commercial;
- (d) the Member shall cease to hold itself out as a Member of SIBA and shall immediately cease to use any logo of SIBA;
- (e) the Member shall be required to sign any document necessary or desirable to give effect to the Member ceasing to be a Member. If a Member refuses to sign any such documentation, the Member shall be deemed to have irrevocably appointed any person nominated for the purpose by the Board to be their agent or attorney to execute all necessary documentation on its behalf.

### **PART THREE: SUBSCRIPTIONS**

- 3.1 Subscriptions are set by the Board on an annual basis and shall be notified to the Members from time to time.
- 3.2 Annual subscriptions are due on and shall be paid by the first day of SIBA's financial year (1<sup>st</sup> October).
- 3.3 Subscriptions are payable pro rata on application to the end of the current financial year and annually thereafter
- 3.4 Subscriptions are payable by Direct Debit without exception.

### Full Brewing Members



- 3.5 Full Brewing Members are sub-divided into Membership bands, according to annual production volumes, as follows:
- LEVEL ONE: Up to 999 hectolitres per annum
  - LEVEL TWO: 1,000 to 4,999hl pa
  - LEVEL THREE: 5,000 to 29,999hl pa
  - LEVEL FOUR: 30,000 to 59,999hl pa
  - LEVEL FIVE: 60,000 to 200,000hl pa
  - LEVEL SIX: 200,000hl pa up to a total production volume of 1% of total UK Beer Sales.
- 3.6 Subscriptions are calculated based on a flat rate per membership band plus a supplement per hectolitre for production in the previous calendar year, as shown in the brewer's Beer Production Account.
- 3.7 It is a legal requirement to maintain a Beer Production Account as explained by and in compliance with HMRC Notice 226, Beer Duty, paragraph 8.9, in order to demonstrate qualification for Small Brewery Relief (Progressive Beer Duty).
- 3.8 Full Brewing Members are required to notify their actual production for the previous calendar year, as recorded in their Beer Production Account, in total and guaranteed confidence, when requested to do so, to the Membership Secretary. Failure to comply will result in a breach of the Members Handbook and the process to terminate membership will be determined by the Board
- 3.9 Any Member who carries out contract brewing for a third party must include these volumes in their Beer Production Account notification.

## **PART ONE: ANTI BRIBERY POLICY**

### **1 Policy Statement**

- 1.1 SIBA is committed to carrying out its business and operations in a fair, honest and ethical manner. This means SIBA takes a zero tolerance approach towards bribery and corruption and expects that its Members do likewise. SIBA is committed to acting professionally and fairly in all of its business dealings and relationships wherever we operate. We will never permit or authorise the offering, making or receiving of a bribe.
- 1.2 There are no exceptions to this policy.
- 1.3 This document sets out our general policy in relation to bribery which all Members need to be aware of and must comply with a condition of Membership to SIBA, including continued Membership.

### **2 Our commitment starts at the top**

- 2.1 The Board and the Elected Directors are committed to this Policy. The Board will regularly review this policy and its implementation.

### **3 Who does this policy apply to?**

- 3.1 This policy applies to all Members. Members are responsible for ensuring that all of their respective compliance directors, managers, employees (whether permanent or on fixed term contracts, full time or part-time), shareholders, partners, members as well as anyone who is not an employee (such as consultants, sub-contractors, agents, representatives) are made aware of this Policy and procure compliance with this Policy.

### **4. Consequences of breaches of the policy for our Members**

- 4.1 Bribery is a crime. If during the course of the operation of a Members' business (whether in connection with any transactions with any Member or SIBA Commercial or otherwise) a Member offers, makes or receives a bribe that Member will be breaking the law.
- 4.2 Bribery carries a sentence of up to 10 years in jail for individuals and any organisations could be subject to an unlimited fine be excluded from tendering from public contracts. This could apply to any Members and SIBA itself. If SIBA is found to have taken part in corruption it could also face damage to its reputation. SIBA therefore takes its legal responsibilities very seriously.
- 4.3 Any Member who offers, makes or receive a bribe to any person (including third parties) is very likely to be subject to disciplinary procedures and will be subject to expulsion from SIBA.

### **5. Business consequences for SIBA where bribery takes place**

- 5.1 If SIBA or any Members are seen to be involved in bribery (or those who work for with or on behalf SIBA or its Members) there can be serious consequences for SIBA and its remaining Members. For example:

- (a) SIBA or its Members may suffer damage to our reputation (including being subject to unfavourable press, TV and social media scrutiny);
- (b) those who do business with SIBA may cancel or not renew contracts with SIBA;
- (c) those who buy goods and services through SIBA may no longer do so;
- (d) if SIBA or a Member is convicted of bribery it may have to pay over whatever amounts received from any business or contracts entered into pursuant to a bribe;
- (e) SIBA or the relevant Member could be stopped from trying to obtain work with some type of contracts with public organisations

## **6. Consequences for those who provide goods and services to SIBA**

- 6.1 If a company or a person who provides goods and/or services to SIBA and has used bribery to do so SIBA will normally wish to stop trading with them. This will include any Member or third party For our agents and others acting on our behalf if they breach this policy, let alone offer, make or receive a bribe, we will wish to terminate our contracts immediately with them.

## **7. Obligations and Responsibilities of SIBA Members under this Policy**

- 7.1 The Members must comply with the terms of this policy in particular it is not acceptable for Members (or someone on behalf of a Member) to:

- (a) give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;
- (b) give, promise to give, or offer a payment, gift or hospitality to a governmental official, agent or representative to facilitate or expedite a routine procedure;
- (c) accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them;
- (d) accept a gift of hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return;
- (e) threaten or retaliate against another person who has refused to commit a bribery offence or who has raised concerns under this policy;
- (f) engage in any activity that might lead to a breach of this policy.

- 7.2 Each Member must ensure that it has read, understand with this policy and shareholders are made aware of this Policy. All Members must comply with this Policy and ensure all employees, directors, shareholders, officers and managers comply with this Policy.

- 7.3 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all Members and all those working for the Members. All Members are required to avoid any activity that might lead to, or suggest, a breach of this policy.

- 7.4 Any Member who breaches this Policy will face disciplinary action, which could result in dismissal for gross misconduct. SIBA and SIBA Commercial reserves the right to terminate their respective contractual relationships with any Member if they breach this policy.

## **8. Recognising what is and what is not a bribe**

- 8.1 Sometimes it is not always easy to recognise a bribe from a legitimate payment needed to be made or is received.
- 8.2 Hospitality, gifts and charitable donations are not normally illegal and are all perfectly acceptable. They are also a normal way of establishing and building contacts and relationships with potential and actual customers as well as suppliers.
- 8.3 This policy does not prohibit normal and appropriate hospitality (given and received) to or from third parties.
- 8.4 We appreciate that the practice of giving business gifts varies depending on the circumstances and what may be normal and acceptable in one circumstance may not be in another. The test to be applied is whether in all the circumstances the gift or hospitality is reasonable and justifiable. The intention behind the gift should always be considered.

## PART TWO: ARBITRATION POLICY

- 1.1 The following arbitration clause defines the procedure open to all Members to use to resolve trading disputes between Members and may be offered to Claimants not members of SIBA where the Respondent is a Member.

### SIBA Arbitration Clause

- 1.2 All disputes arising under or in connection with this contract shall be referred to arbitration under the following SIBA Arbitration Rules.
- 1.3 The Arbitration Tribunal shall consist of three Arbitrators, one to be appointed by  
the Claimant, one to be appointed by the Respondent, and the third to be appointed by the two appointed Arbitrators.
- 1.4 The Arbitrators shall be persons (including those who have retired) with not less than ten years' experience within the brewing industry.
- 1.5 The two party-appointed Arbitrators shall be appointed within 14 days of the parties  
being called upon to do so.
- 1.6 The third member of the Tribunal shall be appointed as soon as practicable and no later than 28 days after the appointment of the two party-appointed Arbitrators. The Tribunal shall be constituted upon the appointment of the third Arbitrator.
- 1.7 Where an Arbitrator has failed to be appointed within the prescribed time limit, then upon application the Board will appoint an Arbitrator to fill the vacancy. At any time prior to an appointment by the Board the party or Arbitrators in default may make such appointment.
- 1.8 The Tribunal may in its sole discretion make such orders and directions as it considers to be necessary for the final determination of the matters in dispute. The Tribunal shall have the widest discretion permitted under the law governing the arbitral procedure when making such orders or directions.
- 1.9 This procedure and any ensuing arbitration shall comply with the Arbitration Act 1996.

# **APPENDIX ONE**

**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY GUARANTEE**

**ARTICLES OF ASSOCIATION**

**of  
SIBA**

**(ADOPTED BY SPECIAL RESOLUTION PASSED ON 15 MARCH 2018)**

**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY GUARANTEE**

**ARTICLES OF ASSOCIATION**

**OF**

**SIBA ("COMPANY")**

**(ADOPTED BY SPECIAL RESOLUTION PASSED ON 15 MARCH 2018)**

**INTRODUCTION**

**1. INTERPRETATION**

1.1 In these Articles, unless the context otherwise requires:

**Act:** means the Companies Act 2006;

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

**Board:** means the board of Directors (as a whole).

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

**Committee:** means a committee of the Directors from time to time constituted in accordance with Article 12.

**Conflict:** means a situation in which a Director has or can have, a direct or indirect interest that conflicts or possibly may conflict, with the interests of the Company;

**Directors:** means the Directors of the Company comprising the Non Elected Directors and the Elected Directors

**Elected Directors:** means a Director of the Company appointed in accordance with Article 15;

**Eligible Director:** means a Director who would be entitled to vote on the matter at a meeting of Directors or Committee (but excluding in relation to the authorisation of a Conflict pursuant to Article 9, any Director whose vote is not to be counted in respect of the particular matter);

**Electronic Platform:** includes without limitation, a software platform or program accessed by a website site address, telephone link or other computer network.

**Executive Board:** means the Committee of the Directors constituted in accordance with Article 12.4;

**Member:** means a member of the Company;

**Model Articles:** means the model articles for private companies limited by guarantee contained in Schedule 2 of the Companies (Model Articles) Regulations 2008 (S/2008/3229) as amended prior to the date of adoption of these Articles and reference to a numbered "**Model Article**" is a reference to that article of the Model Articles.

**Non Elected Director:** means a Director of the Company appointed in accordance with Article 19.

**Rules:** means the rules and bye laws (if any) adopted in accordance with Article 30

**Secretary:** means the secretary of the company or any other person appointed to perform the duties of the Secretary of the Company including a joint assistant or deputy secretary;

- 1.2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall 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 shall have the same meanings in these Articles.
- 1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
- 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:
- (a) any subordinate legislation from time to time made under it; and
  - (b) 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 shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.7 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles.
- 1.8 Model Articles 2, 8, 9(1) and (3), 11(2) and (3), 13, 14(1), (2), (3) and (4), 17(2), 18, 22(2), (3), 30(2), 35, 38 and 39 shall not apply to the Company.
- 1.9 Model Article 7 shall be amended by:
- (a) the insertion of the words "for the time being" at the end of article 7(2)(a); and
  - (b) the insertion in article 7(2) of the words "(for so long as he/she remains the sole Director)" after the words "and the Director may".
- 1.10 Model Article 20 shall be amended by the insertion of the words "(including alternate Directors) and the secretary" before the words "properly incur".

## **2. OBJECT**

The object for which the Company is established is to carry on business as a trade association and to further and to represent the interests of independent brewers ("**Object**").

## **3. POWERS**

- 3.1 Subject to the provisions of the Act and the Articles and to any directions given by special resolution, the business of the Company shall be managed by the Directors who may exercise all the powers of the Company. No alteration of the Articles or no such directions shall invalidate any prior act of the Directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Article 3 shall not be limited by any special power given to the



Directors by the Articles and a meeting of the Directors (or any Committee, including without limit, the Executive Board) at which a quorum is present may (subject to any restrictions set out in these Articles) exercise all the powers exercisable by the Directors.

3.2 In pursuance of the Object, the Company has the power to:

- (a) buy, lease or otherwise acquire and deal with any property real or personal and any rights or privileges of any kind over or in respect of any property real or personal and to improve, manage, develop, construct, repair, sell, lease, mortgage, charge, surrender or dispose of or otherwise deal with all or any part of such property and any and all rights of the Company;
- (b) borrow and raise money in such manner as the Directors shall think fit and secure the repayment of any money borrowed, raised or owing by mortgage, charge, lien or other security on the Company's property and assets;
- (c) invest and deal with the funds of the Company not immediately required for its operations in or upon such investments, securities or property as may be thought fit;
- (d) subscribe for, take, buy or otherwise acquire, hold, sell, deal with and dispose of, place and underwrite shares, stocks, debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any government or authority in any part of the world;
- (e) lend and advance money or give credit on such terms as may seem expedient and with or without security to customers and others, to enter into guarantees, contracts of indemnity and suretyships of all kinds to receive money on deposit or loan upon such terms as the Company may approve and to secure or guarantee the payment of any sums of money or the performance of any obligation by any company, firm or person including any holding company or subsidiary;
- (f) lobby, advertise, publish, educate, examine, research and survey in respect of all matters of law, regulation, economics, accounting, governance, politics and/or other issues and to hold meetings, events and other procedures and co-operate with or assist any other body or organisation in each case in such way or by such means as may, in the opinion of the Directors, affect or advance the principal object in any way;
- (g) pay all or any expenses incurred in connection with the promotion, formation and incorporation of the Company and to contract with any person, firm or company to pay the same;
- (h) enter into contracts to provide services to or on behalf of other bodies;
- (i) provide and assist in the provision of money, materials or other help;
- (j) open and operate bank accounts and other facilities for banking and draw, accept, endorse, issue or execute promissory notes, bills of exchange, cheques and other instruments;
- (k) establish or support any charitable trusts, associations, body corporates or institutions formed for the purpose of the furtherance of all or any part of the Objects.
- (l) co-operate with any established charities, voluntary bodies and statutory authorities in furtherance of the Object or similar charitable purposes and to exchange information and advice with them.
- (m) incorporate subsidiary companies to carry on any trade; and

- (n) do all such other lawful things as are incidental or conducive to the pursuit or to the attainment of any of the Object.

#### **4. NOT FOR DISTRIBUTION**

- 4.1 The income and property of the Company shall be applied solely in promoting the Object.
- 4.2 No dividends or bonus may be paid or capital otherwise returned to the Members, provided that nothing in these Articles shall prevent any payment in good faith by the Company of:
  - (a) reasonable and proper remuneration to any Member, officer or servant of the Company for any services rendered to the Company;
  - (b) any interest on money lent by any Member or any Director at a reasonable and proper rate;
  - (c) reasonable and proper rent for premises demised or let by any Member or Director; or
  - (d) reasonable out-of-pocket expenses properly incurred by any Director or Member.

#### **5. WINDING UP**

On the winding-up or dissolution of the Company, any assets or property that remains available to be distributed or paid to the Members shall not be paid or distributed to such Members but shall be transferred to another body (charitable or otherwise):

- (a) with objects similar to those of the Company; and
- (b) which shall prohibit the distribution of its or their income to its or their members,

such body to be determined by the Members at the time of winding-up or dissolution.

#### **6. GUARANTEE**

The liability of each Member is limited to £25, being the amount that each Member undertakes to contribute to the assets of the Company in the event of its being wound up while he is a Member or within one year after he ceases to be a Member, for:

- (a) payment of the Company's debts and liabilities contracted before he ceases to be a Member,
- (b) payment of the costs, charges and expenses of the winding up, and
- (c) adjustment of the rights of the contributories among themselves.

#### **DIRECTORS**

##### **7. NUMBER OF DIRECTORS**

Unless otherwise determined by ordinary resolution, the number of Directors shall not be subject to any maximum but shall not be less than six of which at least five Directors shall be Elected Directors.

##### **8. UNANIMOUS DECISIONS**

- 8.1 A decision of the Directors (or any Committee) is taken in accordance with this Article 8 when all Eligible Directors indicate to each other by any means that they share a common view on a matter.

8.2 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.

8.3 A decision may not be taken in accordance with this Article 8 if the Eligible Directors would not have formed a quorum at such a meeting of the Directors or Committee (as the case may be).

## **9. DIRECTORS' CONFLICTS OF INTEREST AND TRANSACTIONS WITH THE COMPANY**

9.1 The Directors may, in accordance with the requirements set out in this Article 9, authorise any Conflict proposed to them by any Director which would, if not authorised, involve a Director (an "**Interested Director**") breaching his duty under section 175 of the Act to avoid conflicts of interest.

9.2 Any authorisation under this Article 9 shall be effective only if:

- (a) to the extent permitted by the Act, the matter in question shall have been proposed by any Director for consideration 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;
- (b) any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director; and
- (c) the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted.

9.3 Any authorisation of a Conflict under this Article 9 may (whether at the time of giving the authorisation or subsequently):

- (a) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
- (b) provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the Directors or otherwise) related to the Conflict;
- (c) provide that the Interested Director shall or shall not be an Eligible Director in respect of any future decision of the Directors in relation to any resolution related to the Conflict;
- (d) impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the Directors think fit;
- (e) provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a Director of the Company) information that is confidential to a third party, he/she shall not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs where to do so would amount to a breach of that confidence; and
- (f) permit the Interested Director to absent themselves from the discussion of matters relating to the Conflict at any meeting of the Directors and be excused from reviewing papers prepared by, or for, the Directors to the extent they relate to such matters.

9.4 Where the Directors authorise a Conflict, the Interested Director shall be obliged to conduct himself in accordance with any terms and conditions imposed by the Directors in relation to the Conflict.

- 9.5 The Directors may revoke or vary such authorisation at any time, but this shall not affect anything done by the Interested Director prior to such revocation or variation in accordance with the terms of such authorisation.
- 9.6 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/she derives from or in connection with a relationship involving a Conflict which has been authorised by the Directors in accordance with these Articles or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.
- 9.7 Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act, and provided he/she 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:
- (a) 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;
  - (b) shall be an Eligible Director for the purposes of any proposed decision of the Directors (or committee of Directors) in respect of such existing or proposed transaction or arrangement in which he/she is interested;
  - (c) shall 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 existing or proposed transaction or arrangement in which he/she is interested;
  - (d) may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he/she or his firm shall be entitled to remuneration for professional services as if he/she were not a Director;
  - (e) 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
  - (f) shall not, save as he/she may otherwise agree, be accountable to the Company for any benefit which he/she (or a person connected with him (as defined in section 252 of the Act)) derives from any such transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.

## **10. RECORDS OF DECISIONS TO BE KEPT**

Where decisions of the Directors or any Committee are taken by electronic means, such decisions shall be recorded by the Directors in permanent form, so that they may be read with the naked eye.

## **11. DEATH OR BANKRUPTCY OF SOLE MEMBER DIRECTOR**

In any case where, a Member dies or becomes bankrupt and the Company has no Members and no Directors, the person(s) who is entitled to that membership under Article 24 has the right, by notice in writing, to appoint a natural person (including the

appointor himself), who is willing to act and permitted to do so, to be a Director of the Company.

## **12. COMMITTEES OF DIRECTORS**

- 12.1 The Directors may establish such number of committees of the Directors comprising some or all of the Directors (each a “**Committee**”) as the Directors considers necessary, expedient or desirable for the effective operation and management of the Company. The Directors may delegate any of the powers of the Company vested in the Directors or any of them to any Committee.
- 12.2 Any Committee shall comprise such number of Directors (and such number of Elected Directors and Non Elected Directors) as the Board shall determine providing that each Committee shall comprise at least one Elected Director.
- 12.3 The powers and authorities of any Committee may be varied or revoked by the majority (unless otherwise determined by special resolution) of the Board.
- 12.4 Without prejudice to the rights of the Directors to establish Committees, the Company shall (unless otherwise determined by special resolution) operate and maintain a Committee which shall act as the Executive Board. The Executive Board shall comprise the Non Elected Directors and at least three Elected Directors. The Executive Board shall (subject to the Rules) undertake the management and operation of the day to day operations of the Company and be responsible for any matters not reserved for the decision of the Elected Directors. Subject to the Rules, the Executive Board proceedings shall be governed by Articles 17 to 19.

## **13. PROCEEDINGS OF DIRECTORS**

- 13.1 Any Director may call a meeting of the Board or any Committee by giving not less than 10 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.
- 13.2 Notice of a Directors' meeting shall be given to each Director in writing.
- 13.3 A Director who is absent from the UK and who has no registered address in the UK shall not be entitled to notice of the Directors' meeting.
- 13.4 Meetings of the Directors (as opposed to any Committee) shall take place at least twice in each year, with a period of not more than eight months between any two meetings. The quorum for any meeting (or part of a meeting of the Board, as the case may be) of the Board shall be six Eligible Directors, at least four of whom shall be an Elected Director. If the necessary quorum is not present within 30 minutes from the time appointed for the meeting, or if, during a meeting, such quorum ceases to be present, the meeting shall stand adjourned for five Business Days to the same time and place. If a quorum is not present at any such adjourned meeting within 30 minutes from the time appointed, then any two Eligible Directors shall be capable of forming a quorum at such meeting.
- 13.5 For the purposes of any meeting (or part of a meeting) held pursuant to Article 9 to authorise a Conflict, if there is only one Eligible Director in office other than the Interested Director(s) (defined in Article 9.1), the quorum for such meeting (or part of a meeting) shall be one Eligible Director.
- 13.6 If the total number of Directors in office for the time being is less than the quorum required, the Directors must not take any decision other than a decision:
  - (a) to appoint further Directors; or
  - (b) to call a general meeting so as to enable the Members to appoint further Directors.

- 13.7 Subject to the Rules, the members of the Board may appoint one of their number to be the chairman of the Board ("**Board Chairman**") and may at any time remove them from that office. Unless he/she is unwilling to do so, the Board Chairman shall preside at every meeting of the Board.
- 13.8 Questions arising at any meeting of the Board shall be decided by a majority of votes. If there is an equality of votes, the Board Chairman (or other chairman of the meeting) shall have a second casting vote unless, in respect of a particular meeting (or part of a meeting) in accordance with the Articles, the Board Chairman (or other chairman of the meeting) is not an Eligible Director for the purposes of that meeting (or part of a meeting).
- 13.9 All acts done by a meeting of the Board shall notwithstanding that it be afterwards discovered that there was a defect in the appointment of any Director or that any of them were disqualified from holding office or had vacated office or were not entitled to vote be as valid as if every such person has been duly appointed and was qualified and had continued to be a Director and had been entitled to vote.

## **ELECTED DIRECTORS**

### **14. POWERS OF ELECTED DIRECTORS**

- 14.1 In addition to any powers conferred upon the Elected Directors in accordance with these Articles, the Elected Directors shall be entitled to:
- (a) appoint at least one of their number (determined by the Directors at a meeting of the Board) to any Committee established from time to time and to the board of directors of any subsidiary undertaking of the Company; and
  - (b) appoint any Executive Director or any Elected Director as the Executive Chairman in respect of any meeting of the Executive Board.
- 14.2 Without prejudice to any other provision of these Articles the Elected Directors may appoint one or more sub-committees ("**Elected Director Committees**") consisting of three or more Elected Directors for the purpose of making any enquiry or supervising or performing any function or duty which in the opinion of the Elected Directors would be more conveniently undertaken or carried out by a sub-committee of the Elected Directors provided that all acts and proceedings of such Elected Director Committees shall be fully and promptly reported to the Elected Directors and shall otherwise be subject to the provisions relating to the Elected Director Committees.
- 14.3 All acts done by a meeting of an Elected Director Committee shall notwithstanding that it be afterwards discovered that there was a defect in the appointment of any Elected Director or that any of them were disqualified from holding office or had vacated office or were not entitled to vote as valid as if every such person has been duly appointed and was qualified and had continued to be a Director and had been entitled to vote.

### **15. APPOINTMENT AND RETIREMENT OF ELECTED DIRECTORS**

- 15.1 Unless otherwise determined by the Members (by special resolution) or otherwise provided in the Rules, each Elected Director must be a Member or an appointed representative of a Member.
- 15.2 Unless the terms of his appointment (as determined by the Rules) provide otherwise, at each annual general meeting one third of the Elected Directors who are subject to retirement by rotation or if their number is not three or a multiple of three the number nearest to one third shall retire from office, such that no Elected Director (unless reappointed in accordance with Article 15.4) shall serve an initial term of more than three years. If there is only one Elected Director who is subject to retirement by rotation he/she shall retire. An Elected Director who retires at an annual general

meeting may, if willing to act, be re-appointed. The Elected Directors to retire by rotation shall be those who had been longest in office since their last appointment or re-appointment. In the event that any Elected Directors were last appointed or re-appointed on the same day those to retire shall (unless they otherwise agree amongst themselves) be determined by lot.

- 15.3 If the Company at the annual general meeting at which an Elected Director retired by rotation does not fill the vacancy the retiring Elected Director shall if willing to act be deemed to have been re-appointed unless at that meeting it is resolved not to fill the vacancy or unless a resolution for the reappointment of the Elected Director is put to the meeting and lost.
- 15.4 Subject to Articles 15.5 or 15.6, no person other than an Elected Director retiring by rotation shall be appointed or re-appointed as an Elected Director at any general meeting unless (subject always to Article 15.1):
- (a) he is recommended by the Board; or
  - (b) not less than 10 Business Days before the date appointed by the meeting a notice executed by a Member qualified to vote at that meeting has been given to the Company of the intention to propose that person for appointment or re-appointment stating the particulars which would if he/she were so appointed or re-appointed be required to be included in the Company's register of Directors together with a notice executed by that person of his willingness to be appointed or re-appointed.
- 15.5 Subject always to Article 15.1, the Company may by ordinary resolution appoint any person who is willing to act to be an Elected Director either to fill a vacancy or as an additional Elected Director and may also determine the rotation in which any additional Elected Director are to retire.
- 15.6 Subject always to Article 15.1, the Elected Directors may appoint a person who is willing to act to be an Elected Director either to fill a vacancy or as an additional Elected Director providing that the appointment does not cause the number of Elected Directors to exceed any number fixed by or in accordance with the Articles or the Rules as a maximum number of Elected Directors. An Elected Director so appointed may hold office only until the next following general meeting and shall not be taken into account in determining the Elected Directors who are to retire by rotation at the meeting. If not re-appointed at such general meeting he/she shall vacate office at the conclusion thereof.

## **16. REMOVAL OF ELECTED DIRECTORS**

- 16.1 An Elected Directors shall immediately cease to be a Director if he:
- (a) ceases to be a Director by virtue of any provision in the Act or is otherwise dis-qualified from acting as a Director; or
  - (b) becomes incapable by reason of mental disorder illness or injury or managing and administering his own affairs; or
  - (c) resigns his office by notice to the Company (but only if at least only two Elected Directors remain in office when the notice of resignation is to take effect); or
  - (d) is absent without the permission of the Board from all of the meetings of the Board held within a period of 6 months and the Board resolve that his office be vacated as a result; or
  - (e) ceases to be a Member or an appointed representative of a Member; or
  - (f) the Members appointing them request their removal from office.

## **NON ELECTED DIRECTORS**

### **17. POWERS OF NON ELECTED DIRECTORS**

Notwithstanding any other powers conferred on the Non Elected Directors under these Articles, the Non Elected Directors shall (subject to the Rules) exercise such powers as are necessary to undertake the management of the Company pursuant to Article 12.4 and such other roles or responsibilities that the Board shall determine.

### **18. PROCEEDINGS OF NON ELECTED DIRECTORS**

- 18.1 Subject to the provisions of the Articles and the Rules, the Non Elected Directors may regulate their proceedings as they think fit. Any Director may and a Secretary at the request of any Director shall call a meeting of the Executive Board. It shall not be necessary to give notice of a meeting to any Director who is absent from the UK. Questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes the Chairman shall not have a second or casting vote.
- 18.2 Any decision of the Non Elected Directors must be taken at a meeting of Executive Board in accordance with these Articles or must be a decision taken in accordance with Article 8.
- 18.3 Meetings of the Executive Board shall take place at least four times in each year, with a period of not more than twenty weeks between any two meetings. At least ten Business Days' advance notice in writing of each such meeting shall be given to each member of the Executive Board unless:
- (a) all of the members of the Executive Board unanimously agree in writing to a short period of notice; or
  - (b) the interests of the Company would be likely to be adversely affected to a material extent if the business to be conducted by the Board was not dealt with as a matter of urgency; or
  - (c) the Board unanimously agree in writing that the meeting should be held in shorter notice.
- 18.4 The quorum for any meeting (or part of a meeting, as the case may be) of the Executive Board shall be three members of the Executive Board who are Eligible Directors one of whom shall be an Elected Director. If the necessary quorum is not present within 30 minutes from the time appointed for the meeting, or if, during a meeting, such quorum ceases to be present, the meeting shall stand adjourned for five Business Days to the same time and place. If a quorum is not present at any such adjourned meeting within 30 minutes from the time appointed, then any two members of the Executive Board who are Eligible Directors shall be capable of forming a quorum at such meeting providing one of whom is an Elected Director.
- 18.5 Subject to Article 14.1(b), the members of the Executive Board may appoint one of their number to be the chairman of their meetings ("**Executive Chairman**") and may at any time remove them from that office. Unless he/she is unwilling to do so the Executive Chairman so appointed shall preside at every meeting of the Executive Board at which he/she is present. If there is no Director holding that office or if the Director holding it is unwilling to preside or is not present within 5 minutes after the time appointed for the meeting the Directors present may appoint one of their number to be the Executive Chairman of the meeting. The Executive Chairman shall not have a second or casting vote.
- 18.6 All acts done by a meeting of the Executive Board shall notwithstanding that it be afterwards discovered that there was a defect in appointment of any Director being a member of the Executive Board or that any of them were disqualified from holding office or had vacated office or were not entitled to vote be as valid as if every such



person has been duly appointed and was qualified and had continued to be a Director and had been entitled to vote.

## **19. APPOINTMENT AND REMOVAL OF NON ELECTED DIRECTORS**

- 19.1 The Board (subject to the Rules) shall be entitled to appoint such number of Non Elected Directors as the Board shall from time to time determine. The Board shall be entitled to determine the terms upon which an Non Elected Director is appointed (including, without limit, fixing the remuneration and other benefits to which the Non Elected Directors is entitled to receive).
- 19.2 The Board shall, without prejudice to any rights accrued by an Non Elected Director under the terms of any contract of employment or otherwise, be entitled to remove from office any Non Elected Director appointed pursuant to Article 19.1.
- 19.3 An Non Elected Director shall cease to be a Director immediately upon:
- (a) them ceasing to be employed by the Company;
  - (b) them ceases to be a director by virtue of any provision in the Act or is disqualified from acting as a director;
  - (c) them becoming incapable by reason of mental disorder illness or injury or managing and administering his own affairs;
  - (d) them resigning his office by notice to the Company; or
  - (e) them being absent without the permission of the Board from the meetings of the Board or the Executive Board held within a period of 6 months and the Board resolve that his office be vacated as a result.
- 19.4 The Non Elected Directors shall not be required to retire by rotation and the Non Elected Directors shall not be required to be a Member or an appointed representative of a Member.

## **20. 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.

## **21. APPLICATION FOR MEMBERSHIP**

- 21.1 No person shall become a Member unless they have completed an application for membership in a form approved by the Directors from time to time. A letter shall be sent to each successful applicant confirming their membership of the Company and the details of each successful applicant shall be entered into the Register of Members by the Secretary.
- 21.2 The Board may decline to accept any application for membership and need not give reasons for doing so.
- 21.3 Subject to the Rules, the Board may prescribe criteria for membership of the Company but shall not be obliged to accept persons fulfilling those criteria as Members.
- 21.4 All Members must pay to the Company on becoming a Member such membership and subscription fees as are set out in the Rules or to the extent on set out in the Rules, determined by the Board from time to time.
- 21.5 The Board may, subject to the Rules, establish different classes of Members and set out their respective rights and obligations.

## **22. TRANSFER OF MEMBERSHIP**

- 22.1 Subject to the Rules, a Member may transfer his membership to another person providing such person fulfils the membership criteria set out in these Articles or the Rules by signing an instrument of transfer in any usual form or in any form approved by the Board and depositing such document at the registered office of the Company providing that the Board may in their absolute discretion refuse to register the ultimate transfer of membership to any person of whom they do not approve (subject to compliance with section 771 of the Act).
- 22.2 Subject to Article 22.1, following deposit of the instrument of transfer at the registered office, the Company Secretary shall, as soon as reasonably practicable, register the transferee in the Register of Members of the Company and notify the transferee of the date he/she becomes a Member.
- 22.3 No fee shall be charged for registering the transferee in the Register of Members.
- 22.4 When a Member (being an individual) dies or becomes or if a Member (being a body corporate) goes into receivership, administrative receivership, administration, liquidation or other arrangement for the winding up of a company (if a company), the membership shall automatically pass to the personal representatives, trustee in bankruptcy, supervisor, receiver, administrator or administrative receiver (as appropriate) who may transfer such membership rights in accordance with the procedure set out in Article 22.1.

## **23. EXPULSION OF MEMBERS**

- 23.1 Subject to the Rules, the Board may terminate the membership of any Member without his consent by giving them written notice if, in the reasonable opinion of the Directors:
- (a) he is guilty of conduct which has or is likely to have a serious adverse effect on the Company or bring the Company or any or all of the Members and Directors into disrepute; or
  - (b) he has acted or has threatened to act in a manner which is contrary to the interests of the Company as a whole; or
  - (c) he has failed to observe the terms of these Articles and the Rules.

Following such termination, the Member shall be removed from the Register of Members by the Secretary.

- 23.2 The notice to the Member must give the Member the opportunity to be heard in writing or in person as to why his membership should not be terminated. The Board must consider any representations made by the Member and inform the Member of their decision following such consideration, providing that the Board and the Members shall comply with any procedure set out in the Rules in connection with such.
- 23.3 A Member whose membership is terminated under this Article 23 shall not be entitled to a refund of any subscription or membership fee and shall remain liable to pay to the Company any subscription or other sum owed by them.

## **DECISION MAKING BY MEMBERS**

### **24. VOTES OF MEMBERS**

Subject to the Act, at any general meeting every Member who is present in person (or by proxy) shall on a show of hands have one vote and every Member present in person (or by proxy) shall on a poll have one vote.

## 25. POLL VOTES

- 25.1 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.
- 25.2 Article 30(3) of the Model Articles shall be amended by the insertion of the words "A demand so withdrawn shall 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.

## 26. PROXIES

- 26.1 Article 31 and 32 of the Model Articles shall be deleted in their entirety and be replaced by Articles 26.2 to 26.8.
- 26.2 Proxies may only validly be appointed by:
- (a) a notice in writing delivered to the Company ("**Written Proxy Notice**"); or
  - (b) a notice provided to the Company by an Electronic Platform in such manner as the Board may from time to time determine and which is notified to the Members in the notice of the general meeting (or adjourned meeting) ("**Electronic Proxy Notice**"),
- (each a "**Proxy Notice**").
- 26.3 Each Proxy Notice (whether a Written Proxy Notice or an Electronic Proxy Notice) shall:
- (a) state the name and address of the Member appointing the proxy;
  - (b) identify the person appointed to be that Member's proxy and the general meeting in relation to which that person is appointed;
  - (c) relation to:
    - (i) a Written Proxy Notice, be signed by or on behalf of the Member appointing the proxy, or is otherwise authenticated in such manner as the Directors may determined from time to time;
    - (ii) an Electronic Proxy Notice be authenticated in such manner as the Directors may determined from time to time; and
  - (d) be 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.
- 26.4 The Company may require Proxy Notices to be delivered in a particular form and may specify different forms for different purposes.
- 26.5 Proxy Notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- 26.6 Unless a Proxy Notice indicates otherwise, it must be treated as:
- (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
  - (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.
- 26.7 Any person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid Proxy Notice has been delivered to the Company by or on behalf of that person. Any Proxy Notice delivered on by or on

behalf of a Member shall be deemed to be revoked upon the Member attending the meeting concerned.

26.8 An appointment under a Proxy Notice may be revoked:

- (a) in the case of a Written Proxy Notice, by delivering to the Company notice in writing given by or on behalf of the person by whom or on whose behalf the Proxy Notice was given; or
- (b) in the case of an Electronic Proxy Notice, by delivering to the Company notice of revocation by an Electronic Platform in such manner as the Board may from time to time determine and which is notified to the Members in the notice of the general meeting (or adjourned meeting),

and in either case a notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting (or adjourned meeting) to which it relates or such earlier date as is specified in the notice of the general meeting (or adjourned meeting) to which the proxy appointment relates.

## **27. GENERAL MEETINGS**

27.1 The Company shall hold an annual general meeting each year in addition to any other general meetings in that year. Any annual general meeting shall be specified as such in the notice calling it. Not more than 15 months shall elapse between the date of one annual general meeting of the Company and the next. The annual general meetings shall be held at such times and places as the Board shall appoint. All general meetings other than the annual general meetings shall be called general meetings.

27.2 The Board may call general meetings and on the requisition of the Members pursuant to the provisions of the Act shall resolve to convene a general meeting for a date not later than 8 weeks after receipt of the requisition. If there are not within the UK any Directors to call a general meeting any Directors or any Member may call a general meeting.

## **28. PROCEEDINGS AT GENERAL MEETINGS**

28.1 No business shall be transacted at any general meeting unless a quorum is present. Twenty persons entitled to vote upon the business to be transacted, each being a Member or a duly authorised representative of a Member or a Member organisation shall constitute a quorum.

28.2 If a quorum is not present within half an hour from the time appointed for the general meeting, or if during a general meeting a quorum ceases to be present, the general meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the Directors may determine.

28.3 The Chairman, if any, of the Board or in his absence some other Director nominated by the Board shall reside as Chairman of the meeting, but if neither the Chairman nor such other Director be present within 15 minutes after the time appointed for holding the meeting and willing to act, the Directors present shall elect one of their number to be Chairman and, if there is only one Director present and willing to act, he/she shall be Chairman.

28.4 If no Director is willing to act as Chairman or if no Directors present within 15 minutes after the time appointed for holding the meeting the members present and entitled to vote shall choose one of their number to be Chairman.

28.5 A Director shall notwithstanding that he/she is not a member be entitled to attend and speak at any general meeting.

- 28.6 The Chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for 10 Business Days or more at least 5 Business Days notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted otherwise it shall not be necessary to give such notice.

## **ADMINISTRATIVE ARRANGEMENTS**

### **29. MEANS OF COMMUNICATION TO BE USED**

- 29.1 Any notice, document or other information shall be deemed served on or delivered to the intended recipient:
- (a) if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or five 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 five Business Days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider);
  - (b) if properly addressed and delivered by hand, when it was given or left at the appropriate address;
  - (c) if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and
  - (d) 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 29, no account shall be taken of any part of a day that is not a Business Day.

- 29.2 In proving that any notice, document or other information was properly addressed, it shall suffice to show that the notice, document or other information was addressed to an address permitted for the purpose by the Act.

### **30. RULES**

- 30.1 The Directors may establish rules or bye-laws governing matters relating to Company administration that are required or may be deemed necessary or expedient from time to time for the effective operation and management of the Company ("**Rules**").
- 30.2 Without prejudice to the generality of the foregoing the Directors may by such Rules regulate:
- (a) the omission of Members (including the admission of organisations or body corporates as Members) and the admission criteria to satisfied by Members;
  - (b) the creation of classes of Members and membership available to Members;
  - (c) the rights and privileges of the Members (and each class of Members) and the conditions applicable to the Members and each class of Members;
  - (d) the terms on which Members may resign or have their memberships terminated;

- (e) the membership, entrance and subscriptions payable by Members and any other fees or payments to be made by the Members;
- (f) the conduct of Members of the Company in relation to one another and to the Company's servants;
- (g) the division of Members into groups or sections according to geographic locations ("**Regions**");
- (h) the procedures to be adopted at general meetings of the Members in so far as such procedure is not regulated by the Articles;
- (i) the procedures to be adopted at meetings of Directors (including meetings of the Board, the Executive Board or any other Committees) in so far as such procedure is not regulated by the Articles;
- (j) the procedure for the proper operation of the Regions (including the regularity of regional meetings and the procedures to be adopted at any regional meetings);
- (k) the setting aside any part or parts of the Company's premises at any particular time or for any particular purpose or purposes;
- (l) generally all such matters which are commonly the subject matter of company rules.

30.3 The Company in general meeting shall have power to alter, add to or repeal the Rules providing that any such alterations, additions or repeals are approved by not less than 75% of the Member present and eligible to vote at the general meeting and the Directors shall adopt such reasonable means as they consider sufficient to bring to the notice of the Member all of the Rules which shall be binding on all Members.

30.4 If there is a conflict between the terms of these Articles and any rules established under this Article 30 the terms of these Articles shall prevail.

### **31. INDEMNITY AND INSURANCE**

31.1 Subject to Article 31.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

- (a) each Relevant Officer shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a Relevant Officer in the actual or purported execution and/or discharge of his duties, or in relation thereto 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/she 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 affairs; and
- (b) the Company may provide any Relevant Officer with funds to meet expenditure incurred or to be incurred by them in connection with any proceedings or application referred to in Article 31.1 and otherwise may take any action to enable such Relevant Officer to avoid incurring such expenditure.

31.2 This Article 31 does not authorise any indemnity to the extent that such indemnity would be prohibited or rendered void by any provision of the Act or by any other provision of law and any such indemnity is limited accordingly.

31.3 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.

31.4 In this Article 31:

- (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and
- (b) 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
- (c) a "**Relevant Officer**" means any Director or other officer or former 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), but excluding in each case any person engaged by the Company (or associated company) as auditor (whether or not he/she is also a Director or other officer), to the extent he/she acts in his capacity as auditor).

## APPENDIX TWO: MEMBERS' CHARTER

This charter sets out the policy statements, mutual agreements and respective undertakings that constitute SIBA membership.

- 1. SIBA is the Society of Independent Brewers.** (The acronym "SIBA" is retained in recognition of the Society's foundation as the Small Independent Brewers' Association in 1980.)
- 2. SIBA is recognised by its members as the campaigning, political and representative voice of the independent quality brewing industry.** (An independent brewer is defined in SIBA's Rules and By-Laws. \* Quality brewing is defined in SIBA's Food Safety & Quality Standard.
- 3. The SIBA membership reflects the restructuring of the independent brewing industry since the 1970s, in particular the growth of the micro and local brewing sectors.** (SIBA and its members – micro, local and regional – embody the heart of independent quality brewing.)
- 4. SIBA guarantees an equal voice for each independent brewing member, regardless of company size, through its democratic constitution\* and its strict adherence to the maxim of "one member, one vote."**
- 5. SIBA asserts its commitment to campaign and lobby for an alcohol taxation system that is just and equitable in its treatment of the independent brewing industry.** (All members acknowledge the achievement of SIBA in securing the introduction of Progressive Beer Duty as a measure of fiscal support for smaller brewers. All members offer their support for the principle of PBD and pledge their commitment to its continuation. Any members who wish to see a revision of the terms of PBD undertake to pursue their objectives and argue their case through the internal and democratic processes of SIBA, recognising the Society's role as their trade representative to government and the wider industry.)
- 6. SIBA asserts categorically its faith in the socially responsible integrity of its members' products, as distinctive beers within the premium sector of alcohol beverages, intended for consumption in moderation by discerning adults.** (Members accept their responsibility to promote this image of their beers, in accordance with SIBA's Responsible Business Guidelines. \*)
- 7. SIBA will strive to ensure that all independent brewers have the best and fairest possible opportunity to bring their goods to market.** (All members acknowledge this commitment and undertake to conduct their businesses without compromising the spirit of its intent and with regard to the Responsible Business Guidelines\*, including fair consideration by pub-owning brewers to allow the sale of Guest Beers [through SIBA's Direct Delivery Scheme or otherwise] within their pub estates.)
- 8. SIBA affirms localism and sustainability as embodiments of the ethos of independent brewing.** (SIBA members declare their intention to conduct their businesses, as far as possible, in harmony with the principles of localism and sustainability, as set out in the Responsible Business Guidelines. \*)



9. **SIBA undertakes to provide technical support and audit and training programs, and to encourage competition and reward achievement, in its drive to ensure both product quality and its universal appreciation.** (All members endorse this commitment to quality and confirm their intention at all times to brew their beers in accordance with SIBA's Food Safety & Quality Standard. \*)

\* Indicates reference to details contained within the Members' Handbook

# APPENDIX THREE: FOOD SAFETY AND QUALITY STANDARD

Edition III

IN ASSOCIATION WITH



Institute of Brewing & Distilling

## Introduction

SIBA is the trade association of the independent quality brewing industry, representing those brewers who are proud to be custodians of the finest traditions of British ale and beer.

SIBA members are dedicated to the preservation of the many styles that are indigenous and unique to the British Isles, and of their traditional methods of manufacture, whilst at the same time demonstrating the skill of their craft through creativity, invention and innovation.

SIBA members undertake to:

- a) adopt best practice procedures for the brewing, packaging and supply of their products to their customers;
- b) strive to attain the highest standards of quality, consistency and service.

This Standard is divided into three sections:

### **1. Production and Packaging Procedures**

Contains basic brewing, processing and packaging operating methods, standards and recommendations.

### **2. Quality Assurance and Fault Diagnosis**

Covers the basic checks, minimum standards, and analyses, which need to be carried out to maintain and improve quality, and fault diagnosis charts, particularly with regard to cask beer.

### **3. Auditing and Development**

Incorporates the recommended voluntary auditing process, aimed at assisting the quality process in a practical, educational and realistic manner, particularly suitable to the smaller independent site.

## Notes

- Information, records and access to plant will remain confidential and only available by agreement.

- All members will be expected to adhere to all current legislation, recommendations and practices concerning the purchase and use of raw materials, products, and service, excise regulations, contents control, labelling and storage.  
Every effort must be made to ensure that products are not subject to any hazard.

***NB*** This Standard contains recommendations for good brewing practice. It is **not** a comprehensive catalogue of best practice instructions with any legal authority.

## Section 1: Production and Packaging Procedures

### □ General

- Maintain the necessary records of standards and procedures in a tidy and legible manner. Ensure records are sufficiently accurate to enable product traceability.

### □ Raw Materials

- Ensure production water (liquor) is potable and free from contamination. Carry out periodic checks on flavour, aroma and haze.
- Document any liquor treatment and check periodically.
- Purchase malt, other cereals, cereal products, sugars and syrups, hops and hop products, additives and yeasts from reputable suppliers and maintain records of use, stocks and analyses.
- Store products in clean, dry and secure areas to minimise any risk of contamination.
- Document recipes and control parameters such as times and temperatures to ensure consistency.
- Store detergents, sterilants, acids and cleaning materials safely and in accordance with product recommendations

### □ Operating Practices

- Ensure thorough implementation of all operating practices in a safe manner to prevent risk to personnel and product.
- Document and adhere to operating quantities, times, temperatures, pressures etc. to ensure maintenance of consistency.
- Ensure all plant and equipment is fit for purpose and kept clean and microbiologically sound when necessary.
- Cleanse all plant and casks, kegs and other containers thoroughly and regularly and rinse free of residual matter.
- Maintain records of cleaning.

- Label detergents and sterilants accurately and use according to suppliers' instructions.
- Records of waste disposal are advised. Assurance control of the sale of brewers' grains for animal feed (less than 733 tons per annum) is best achieved through records that ensure safety and traceability.
  
- Specifications**
  - Document final product specifications and acceptable parameters and ranges.
  - Key parameters are ABV, Colour, Haze, Bitterness, OG/PG, CO<sub>2</sub> and Shelf Life.
  - Flavour notes may also be included.
  
- Containers**
  - Label cask, kegs, bottles and other containers correctly and legally to ensure proper rotation and traceability.
  
- Yeast**
  - Ensure selected yeast is fit for purpose and capable of fermenting the product to the required specifications.
  - Take particular care with yeast handling to ensure that it is microbiologically acceptable and is maintained in a scrupulously clean manner.
  - Store yeast containers in temperature controlled conditions.
  - Implement and adhere to a programme of careful yeast washing procedures.
  
- Production Management**
  - Document all brewing, processing and packaging procedures and communicate to all relevant personnel to ensure all operations are carried out to required professional standards.
  - Identify each batch/gyle to ensure traceability throughout the supply chain.
  - Breweries in the UK are required, by law, to assure the safety of co-products (such as brewers grains, trub, surplus yeast and surplus beer) that are fed to animals to be used in the human feed chain. They must comply with the requirements of feed legislation and demonstrate adequate controls throughout the supply chain from the selection of raw materials to the marketing of co-products as feed materials. It is advised that all Breweries are Members of a Feed Assurance Scheme to show due diligence.

**Environmental policy**

- WE WANT TO manage the impacts our business has on the environment

**OUR ROUTES TO ACHIEVING THIS**

- developing and maintaining an understanding of our environmental impacts
- focusing our resources on managing and improving the major impacts
- publishing an environmental policy
- enabling our members to support the policy
- reporting progress on our environmental policy to internal and external stakeholders
- incorporating the environmental policy into our decision making and planning processes
- demonstrating leadership and influencing the behaviour of those whom our business touches

**OUR MAJOR IMPACTS ARE**

- the nature and quantity of waste created by the way we design our products and services, our manufacturing operations, our buildings, our processes and by the goods and services we specify from our suppliers
- the means by which we dispose of the waste we are responsible for creating
- the nature and quantity of energy we use moving raw materials, finished goods and people around and running our various facilities

**OUR OBJECTIVES ARE TO CONTINUALLY**

- reduce the amount of waste we create
- improve the environmental impact of our waste disposal
- optimise our energy efficiency
- optimise the proportion of our energy that comes from sustainable sources

**SOME GUIDING PRINCIPLES**

- be practical and pragmatic; we cannot ever do everything and we cannot do it all at once, but we can continually improve
- measure our performance
- take a consistent approach worldwide

- always be fully compliant with legal requirements
- take into consideration current standards and emerging best practice
- include the environment in our partner dialogues

## **Section 2: Quality Assurance and Fault Diagnosis**

### **1. General**

- Maintain a basic system in place to ensure that all the relevant and required checks can be and are made and are recorded.
- Respond to incidents and any risk areas that are identified. A simple HACCP system is appropriate.
- Have in place a documented product recall procedure to ensure that reaction is properly managed.

### **2. Routine checks**

- Check all products for flavour and aroma and ensure they are true to type and free from defects before despatch.
- Check raw materials physically on receipt from supplier to ensure correctness of type, freedom from defects/contamination and compliance with food standard safety.
- Verify shelf life prediction by forcing samples and taking cask samplings to ensure that products remain true to type throughout the stated shelf life period.
- Carry out routine tests on finings to ensure effective operation on cask-conditioned beers and sufficient compactness of settleable solids. Adjust yeast counts when appropriate.
- Check cask beers for bacterial and wild yeast infection levels. Ensure non-despatch if higher than specification.
- Ensure all ABVs are as stated on pump clips, invoices or other documentary material, are above 1.2%, and are within 0.1% and no greater than 0.2% more than once in any six months. Check by distillation.
- Eliminate contamination by heavy metals and mycotoxins by using ingredient specifications to suppliers which ensure that all supplies are free of such materials.
- Check OG, PG, Colour, Bitterness and pH as often as possible to ensure consistency and conformity to specification
- Monitor infection levels in pitching yeasts. Ensure implementation of remedial action (washing or changing) if bacteria and wild yeast levels high.

### 3. Fault Diagnosis

- A formal procedure for diagnosing faults in fermentation and cask should be in place and staff trained appropriately.

## Section 3: Auditing and Development

### 1. General

- The audit will be voluntary and carried out at the brewer's expense by experienced accredited auditors who have a knowledge of the realistic capabilities of the independent local brewer. (The audit is mandatory for brewers participating in Beerflex.)
- The audit is aimed at helping the brewer to maintain, develop and improve quality and consistency and overcome problem areas in a positive and helpful manner.
- All material, discussion notes and information will remain confidential to the brewer and the auditor. No results will be disclosed without agreement.

### 2. The Audit Process

This procedure is designed to facilitate self-testing prior to an official audit.

- A mutually acceptable date and time will be arranged. The audit will normally take about half a day. The auditor will discuss his plan and what can and cannot be done that day. Time will be allocated for discussion and highlighting of any issues at completion. A written report will be submitted to the brewer.
- The auditor will make an initial accompanied tour of the site to gain an impression of the cleanliness, tidiness and any external and internal environmental factors including drainage and effluent disposal. The layout of the plant and equipment following the brewing and packaging process will be checked.
- A check will be made on the safety and security of material and product storage areas ensuring no possible contamination or deterioration issues.
- General personnel hygiene compliance checks will be made covering non-smoking, washing facilities, food consumption, protective clothing, and presence of animals.
- The cleaning procedures for the plant and equipment including pipework/hosepipes will be checked. Documented cleaning cycles that include times, temperatures, frequency and detergent/sterilant strengths and actual cleaning records will be followed.

- A check will be made to ensure that there are adequate pest/vermin controls in place.
- Records of waste disposal and sale of brewers' grains for animal feed may be checked for safety and traceability and compliance with assurance control requirements.

### 3. Product Control.

- i. The documented product specifications and recipes will be in place and a basic system checked to ensure that they are in available, maintained and up-dated. Recipes and sensitive data do not need to be individually inspected, only that there is a competent system of traceability and data capture.
- ii. The agreed times, temperatures, pressures, strengths and quantities will checked and when possible sampled on the plant. A system will need to be in place to ensure that changes are properly communicated and noted.
- iii. Records of routine analyses of products will be reviewed when possible to ensure consistency and that any remedial action has been taken.
- iv. Records of microbiological control such as yeast counts, infection checks and forcing samples for shelf life tests will be assessed.
- v. Additives and finings additions system will be noted and finings testing checked.
- vi. Where practical the plant and equipment will be physically examined for effectiveness of cleaning.
- vii. The labelling of containers will be examined to ensure legality and correctness.
- viii. When invited the auditor will expect to taste the brewer's product for general comment and adherence to the stated objectives.
- ix. Plant and laboratory equipment will be assessed for fitness for purpose – of appropriate calibration and required accuracy.
- x. Any processing such as pasteurisation or sterile filling for packaging to bottles or kegs or other containers will be checked through.
- xi. Excise Notice 226: - Compliance with the requirements of Excise Notice 226 covering the production, storage and accounting for duty on beer will be checked.



## APPENDIX FOUR: RESPONSIBLE BUSINESS GUIDELINES

Members will at all times conduct their business in a Responsible manner so as not to 'bring SIBA into disrepute' which is a breach of rule 2.25 (a) and can lead to termination of membership.

Members will operate in accordance with the responsible guidelines, many of which reflect but are not limited to the principles of Appendix Two: Members Charter under the following headings

### 1. Financial

Members will plan their whole brewing and any associated sales and / or distribution business operation towards the end of being sustainable and financially sound with the objective of meeting all their financial obligations to suppliers, the exchequer amongst others specifically in respect of Beer Duty, VAT and Payroll Taxes, local taxes and any appropriate levies. Members should have a written Business Plan plus produce Annual Financial Statements which are filed on time with the relevant authorities. Members will be alert to and avoid any practises or situations which might breach the law in respect of Money Laundering.

Members should be aware at all times of their brewery's full unit costs of production in order to ensure that they set sustainable price levels for their products. If necessary, members should seek suitable professional advice to ensure compliance with this provision.

### 2. Members will comply with the requirements of Company Law / Companies House and VAT Registration, where appropriate, including the issue of VAT Invoices

### 3. Quality of Product and Service

Members will endeavour to take all steps necessary to ensure the highest possible quality of their products In accordance with Appendix Three – Food Safety & Quality Standard and of their customer service, dealing promptly with, and rectifying any complaints without delay

### 4. Health and Safety

All Members will comply with the legal requirements for providing and operating a safe working environment for all employees as required by Health & Safety legislation. The minimum requirement is to provide a safe working environment in the actual practices of the Member business. All Member businesses with five or more employees must provide competent written evidence of compliance. The enrolment in the Food Safety & Quality Standard facilitates the creation and maintenance of good and safe practices and, when necessary, written evidence of processes to prioritise minimising risks common to the brewing industry.

### 5. Environmental

Members will carry out their operations in a manner likely to cause the minimum necessary impact on the environment. Over and above minimising the environmental impact of the brewing process, in accordance with Appendix Three – Food Safety & Quality Standard, each member will consider the impact of all parts of their business, including methods of packaging and transport and, ensure that they meet all the legal requirements of legislation enacted to protect the both the urban and rural environments.

6. Corporate Social Responsibility

Members will operate their business in a manner which takes account of the social and environmental impact created by the business and take steps to protect and support the communities which live within them in so far as is reasonably practical.

7. Employment

Members will meet all their obligations under current and any future Employment Legislation including those in respect of Employment Rights, Health & Safety at Work, The Minimum Wage and Pensions. Members will also endeavour to promote employee development with appropriate training.

8. Regulations

Members operate within a highly regulated industry. Members will ensure that they have taken all necessary steps to ensure that they are aware of, and altered to updates of, any and all relevant legislation and regulation and take all necessary steps to comply with the same.

9. GDPR

All Members will comply with SIBA's GDPR policy set out in the Members Toolbox. (search under Tools, Legal & Compliance)

10. Responsible Promotions

Members will adhere to all current and future legislation regarding the promotion and sale of alcohol and adhere to the Portman Group's Code of Practice which can be found at <http://www.portmangroup.org.uk/codes/alcohol-marketing/code-of-practice>

Furthermore, in line with SIBA's Members' Charter, members will only promote their beers as quality, distinctive premium products for consumption by discerning adults.

11. SIBA Competition Policy

As a pre-condition of participation in any SIBA meeting or communication, companies/members acknowledge that their participation is subject to the competition law rules and they agree to comply fully with those laws. Participants agree that they will not use SIBA to, directly or indirectly:

a. Reach or attempt to reach, agreements or understandings with one or more of their competitors that could impact on competition including, but not limited to:

- i. agreeing to fix purchase or selling prices or other trading conditions;
- ii. agreeing to limit or control production, markets, technical development or investment; or
- iii. agreeing to share markets;
- iv. Obtain or attempt to obtain, or exchange or attempt to exchange, confidential or proprietary information regarding any other company other than in the context of a bona fide business;
- v. Further any anticompetitive or collusive conduct, or to engage in other activities that could violate any antitrust or competition law, regulation, rule or directives of any country or otherwise impair full and fair competition.

SIBA reserves the right to minute or have attended by independent legal counsel, such meetings as it considers appropriate.

12. Modern Day Slavery

SIBA & our subsidiary company SIBA Commercial Services Ltd recognise that slavery and human trafficking remains a hidden blight on our global society and wish to identify our responsibility by alerting staff to the risks, however small, in our business and in the wider supply chain.

We are committed to understanding modern slavery risks; and ensuring that there is no modern slavery in our own business and supply chains. Staff are expected and encouraged to report concerns to management, who are expected to act upon them.

The Company will achieve these aims in the following ways (but not limited to):-

- Continually reviewing our practices for checking all employees are paid at least the minimum wage and have the right to work;
- Encouraging the reporting of concerns and the protection of whistle blowers.
- Requiring compliance within our supply chain (contractors, sub-contractors, policies, contracts etc.).
- The company will not knowingly support or deal with any business involved in slavery or human trafficking.
- We have zero tolerance to slavery and human trafficking. We expect all those in our supply chain and contractors to comply with our policy.

#### Supply Chain

Our Modern Day Slavery Policy reflects our commitment to acting ethically and with integrity in all our business relationships and to implementing and enforcing effective policies and controls to ensure slavery and human trafficking is not taking place anywhere in our supply chains.

The requirement to meet all legal obligations in respect of Employment, which includes the requirements of The Modern Slavery Act, is a condition of Membership and of trading with 'Beerflex' as specified in the Membership Handbook.

#### Responsibility

The Chief Executive has overall responsibility for anti-slavery initiatives, compliance and monitoring.

This policy is in accordance with Section 54 of the Modern Slavery Act 2015. This policy applies to all those employed by SIBA Ltd and SIBA Commercial Services Ltd, and to our Members.

On request, if deemed necessary, members should be able to provide SIBA with a written Business Plan and supporting financial documentation to evidence that they operate in a responsible manner.

## APPENDIX FIVE

### SIBA COMMERCIAL SERVICES LIMITED: SUPPLY AGREEMENT RELATING TO THE SUPPLY OF PRODUCTS UNDER THE BEERFLEX SCHEME

#### BACKGROUND

These Terms (as defined below) relate to and govern the sale by SIBA Member Brewers of Products (as defined below) to SIBA Commercial Services Limited (SIBA CS LTD) under the Beerflex Scheme.

#### INTERPRETATION

In these Terms, the following definitions apply in respect of the Supply Agreement:

**Best Brewing Practice:** industry guidelines issued by SIBA from time to time.

**Brewers Price List:** the price list issued by SIBA CS LTD from time to time in respect of the supply of Product, under the Supply Agreement.

**Business Day:** a day (other than a Saturday, Sunday or public holiday) when UK clearing banks in the city of London are open for business

**Containers:** all returnable packaging of any nature, including, but not limited to kegs, bottles, casks, crates, pallets and cases owned by the Supplier.

**Confirmed Order:** an Order which has been accepted by the Supplier in accordance with clause 5.3.

**Contract:** the contract between the Supplier and the SIBA CS LTD for the sale and purchase of the Goods in accordance with these Terms concluded in accordance with clause 5.3.

**Customer:** the person, firm or body corporate who enters into a contract to purchase or places an order to purchase the Goods from SIBA CS LTD.

**Customer Orders:** orders placed by a Customer with SIBA CS LTD.

**Defaulting Customer:** a Customer whose actions or omissions have given rise to an Exceptional Circumstance.

**Deferral Right:** the right of SIBA CS LTD to defer the payment of any invoice in accordance with clause 11.

**Beerflex Scheme:** the scheme operated by SIBA pursuant to which its Members may supply Products via SIBA CS LTD on the basis that such Products are supplied to the Customer.

**Exceptional Circumstance:** any Customer failing and/or delaying in payment (in whole or in part) of any material amount due to SIBA CS LTD for whatever reason.

**Force Majeure Event:** has the following meanings:

- (a) acts of God, flood, earthquake or other natural disaster;
- (b) epidemic or pandemic;
- (c) war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions;

- (d) terrorist attack, civil war, civil commotion or riots;
- (e) nuclear, chemical or biological contamination or sonic boom;
- (f) any law or government order, rule, regulation or direction, or any action taken by a government or public authority, including but not limited to imposing an embargo, export or import restriction, quota or other restriction or prohibition, or failing to grant a necessary licence or consent;
- (g) fire, explosion (other than in each case one caused by a breach of contract by, or assistance of, the party seeking to rely on this clause or companies in the same group as such party) or accidental damage;
- (h) interruption or failure of utility service, including but not limited to electric power, gas or water;
- (i) collapse of building structures, failure of plant machinery, machinery, computers or vehicles.

**Goods:** the goods (or any part of them) set out in the Confirmed Order.

**Insolvency Event:** in respect of the Supplier, the Customer or SIBA CS LTD (as the case may be):

- (a) it suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
- (b) commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (in the case of a company where these events take place for the sole purpose of a scheme for a solvent amalgamation);
- (c) (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with its winding up other than for the sole purpose of a scheme for a solvent amalgamation);
- (d) (being an individual) is the subject of a bankruptcy petition or order;
- (e) a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (f) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or an administrator is appointed;
- (g) (being a company) a floating charge holder over its assets has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over assets;
- (i) any event occurs, or proceeding is taken, in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause (a) to clause (i) (inclusive);
- (j) it suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business;
- (k) (being an individual) he dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation. **Order:** an order for Goods placed by SIBA CS

LTD with the Supplier in accordance with clause 5.

**Products:** the draught and bottled beers the Supplier has agreed to supply to SIBA CS LTD under the Supply Agreement.

**Premises:** the premises of any Customer.

**Proposed Order:** an order for the Goods placed by SIBA CS LTD in accordance with clause 5.1.

**Quality Accreditation:** any requirement to hold any accreditation or comply with any quality standards notified by SIBA to the Supplier from time to time.

**Relevant Part:** the proportion of any Relevant Supplier Invoice which relates to those Goods which a Customer has failed to make payment for and as a result has given rise to an Exceptional Circumstance.

**Relevant Supplier Invoice:** an invoice due from SIDA DDS to the Supplier in respect of Goods where a Customer's failure to pay for such Goods has given rise an Exceptional Circumstance.

**Requisite Licences:** any licences and authorisation required pursuant to the Licensing Act 2003 or any other applicable legislation.

**Shelf Life:** the industry acknowledged shelf life of the Goods or the period of time agreed by the parties as being the shelf life of the Goods being:

- (a) in the case of cask conditioned or fined beer in containers, not less than 23 days; or
- (b) packaged beer, ciders and other drinks, not less than 6 months.

**SIBA:** the Society of Independent Brewers.

**Supplier:** the SIBA Member Brewer who has entered into a Supply Agreement

**Supply Agreement:** the agreement between the Supplier and SIBA CS LTD for the supply of the Products entered into by the acceptance of the Terms.

**Terms:** the terms and conditions set out in this document as amended from time to time in accordance with clause 1.

1.1 In these Terms, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) a reference to a party includes its personal representatives, successors or permitted

assigns.

(c) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

(d) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

(e) a reference to **writing** or **written** includes faxes and e-mails.

## **2. SUPPLY AGREEMENT**

2.1 During the term of the Supply Agreement, the Supplier shall supply and SIBA shall purchase such quantities of Products as are required to satisfy Customer Orders.

2.2 Nothing in the Supply Agreement shall impose an obligation on either:

(a) SIBA CS LTD to purchase a minimum volume of Products;

(b) the Supplier to accept any Order for Products.

2.3 The Supplier agrees that during the Term it will not supply Products directly to the Customer or to any licensees of a Customer for the sale in a Premises;

2.4 The Supply Agreement shall (subject to early termination in accordance with the Terms) be for an initial term of 1 year commencing on the date the Supplier accepts the Terms in accordance with clause 1 and therefore shall continue in force unless and until terminated in by writing by either party giving a minimum of one month's notice.

2.5 Either party may terminate the Supply Agreement on written notice with immediate effect if:

(a) subject to clause 3.6, the other party commits a material breach of the Terms which breach is immediate or (if such breach is remediable) fails to remedy that breach within a period of 20 Business Days after being notified in writing to do so; or

(b) the other party repeatedly breaches the Terms in such a manner as to reasonably justify the opinion that its conduct is consistent with it having the intention or ability to effect to the terms.

2.6 In event that SIBA CS LTD suffers an Insolvency Event, the Supplier shall only be permitted to terminate the Supply Agreement if SIBA CS LTD ceases to make payment to the Supplier in breach of the Terms.

## **3. BASIS OF CONTRACT**

3.1 These Terms apply to the Supply Agreement and any Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3.2 SIBA CS LTD acknowledges that it will not rely upon any representations in respect of the Products made by the Supplier's employees or agents unless such are confirmed in writing.

3.3 The Supplier shall not be liable for any typographical administrative error or admission by the Supplier in any sales literature, quotation, price list or other document issued by the Supplier providing that such errors or omissions are promptly corrected by the Supplier.

#### **4. ORDERS**

4.1 SIBA CS LTD shall submit Orders to the Supplier via SIBA CS LTD's website, electronic data transfer or any other method as determined by SIBA CS LTD from time to time.

4.2 The Order constitutes an offer by SIBA CS LTD to purchase the Goods in accordance with these Terms.

4.3 The Order shall be deemed to be accepted unless the Supplier issues a written rejection of the Order within 1 Business Days of the date of the Order at which point the Contract shall come into existence providing that the Supplier will use all reasonable endeavours to deliver the Goods in response to the Order and within the timescale specified in the Order.

4.4 Each Order will specify:

- (a) the required Delivery Date (being not more than 5 Business Days from the date of the Order (unless otherwise stated)) ("**Scheduled Delivery Date**"); and
- (b) the Premises to which the delivery shall be made (which shall be in the UK mainland unless the Supplier otherwise agreed).

4.5 The minimum delivery quantity for an Order shall be one firkin (9 gallon cask) of any Product to a Premises unless the Supplier otherwise agrees.

4.6 At any time after any Order becomes a Confirmed Order and prior to Delivery, SIBA CS LTD may (without any liability) cancel or amend any Confirmed Order:

- (a) up to 11.00am on the next Business Day following placement of the Order; or
- (b) at any time, if where it has come to the Supplier's attention that:
  - (i) either party has other contracted restrictions forbidding such Confirmed Order; or
  - (ii) complying with the terms of the terms of Order would be in breach of any relevant law, legislation or code of conduct applicable to either party.

#### **5. PRODUCTS**

5.1 The Supplier shall provide SIBA CS LTD with details of all Products available for order under the Supply Agreement together with an accurate description of such Products (including information relating to taste, appearance and package and such other information required by the Customers to list the Products).

#### **6. DELIVERY**

6.1 The Supplier shall deliver the Goods in accordance with these Terms.

6.2 The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note which shows:

- (a) the date of the Order;
- (b) all relevant Customer and Supplier reference numbers;



- (c) the type and quantity of the Goods (including any information required under the Food Labelling Regulations 1996, Food Information Regulations 2014 or any similar legislation or regulation in force from time to time); and
- (d) special storage instructions (if any).

6.3 The Supplier shall deliver the Goods to the Premises set out in the Order ("**Delivery Location**").

6.4 The Goods shall be delivered on the Scheduled Delivery Date. Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location whether or not they are accepted by the Customer ("**Delivery Date**").

6.5 The Supplier shall promptly notify SIBA CS LTD of any shortage of Products. In the event such shortage will impact on the Supplier ability to fulfil any Confirmed Order by no later than 4.00pm on the day preceding the scheduled Delivery Date.

6.6 In the event that the Goods are not delivered on the Scheduled Delivery Date, the Supplier shall notify SIBA CS LTD by no later than 4.00pm on the Scheduled Delivery Date. Where an alternative date for delivery is agreed with the Customer, the Supplier shall deliver the Goods on such alternative Delivery Date.

6.7 The Supplier shall not be liable for any delay or failure to deliver of the Goods that is caused by a Force Majeure Event.

6.8 Where as a result of any delay in delivery or failure to deliver the Customer validly rejects the Goods and/or cancels the Customer Order, the Supplier shall issue a credit note in respect of such Goods. SIBA CS LTD shall be entitled to cancel the contract relating to those Goods.

## **7. QUALITY**

7.1 The Supplier warrants to SIBA CS LTD that on the Delivery Date, and for the lesser duration of:

- (a) the Shelf Life of the Goods; or
- (b) the period of 6 months from the Delivery Date ("**Warranty Period**"), the Goods shall:
  - (i) conform in all material respects with their description;
  - (ii) be of a quality in accordance with Best Brewing Practice;
  - (iii) conform with any Quality Accreditation requirements;
  - (iv) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
  - (v) shall comply with all applicable legislation in force from time to time in connection with the supply of the Products (including, but not limited to, the Consumer Protection Act 1987 and the Food Safety Act 1990).

7.2 If, upon Delivery and following visual inspection by the Customer, the Customer rejects the Goods on the grounds that they do not comply with clause 8.1, the Supplier shall remove the Goods from the Premises and shall immediately notify SIBA CS LTD. If requested, the Supplier shall replace such rejected Goods as soon as reasonably practicable and in any event within 2 Business Days.

7.3 Subject to clause 8.5 if SIBA CS LTD receives notice in writing from the Customer during the Warranty Period and within a reasonable time of discovery that some or all of

the Goods do not comply with the warranty set out in clause 8.1 (such defect being “Ullage”) SIBA CS LTD shall notify the Supplier in writing and (subject to the Supplier being given a reasonable opportunity of testing such Goods and confirming the acceptance of the Ullage) the Supplier shall collect the Ullage from the Premises and replace the defective Goods, or refund the price of the defective Goods in full.

7.4 If the Supplier elects not to inspect the Goods, that the Supplier will be deemed to have accepted the Ullage.

7.5 The Supplier shall not be liable for Goods' failure to comply with the Warranty set out in clause 8.1 in any of the following events:

(a) the Customer makes any further use of or continues to sell such Goods after giving notice in accordance with clause 8.2;

(b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage and maintenance of the Goods or (if there are none) good trade practice regarding the same;

(c) the Customer alters or tampers with such Goods without the written consent of the Supplier;

(d) the defect arises as a result of wilful damage, negligence, or abnormal or storage conditions; or

(e) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

7.6 Except as provided in this clause 8 and subject always to clause 11, the Supplier shall have no liability to SIBA CS LTD in respect of the Goods' failure to comply with the warranty set out in clause 8.1.

7.7 These Terms shall apply to any replacement Goods supplied by the Supplier.

## **8. TITLE AND RISK**

8.1 The risk in the Goods shall pass to SIBA CS LTD on the Delivery Date.

8.2 Title to the Goods shall not pass to SIBA CS LTD until the Supplier has received payment in full (in cash or cleared funds) for the Goods.

8.3 For the avoidance of doubt, title to the Containers shall not pass to SIBA CS LTD or the Customer or any third party and shall remain at all times with the Supplier.

8.4 Until title to the Goods has passed to SIBA CS LTD, SIBA CS LTD shall:

(a) hold the Goods on a fiduciary basis as the Supplier's bailee;

(b) notify the Supplier immediately if it becomes subject to an Insolvency Event; and

(c) use its reasonable endeavours to (so far as it is within its power to do so) to procure that the Customers:

(i) store the Goods and the Containers separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

(ii) store and sell the Goods only by means of suitable equipment and in appropriate conditions, in accordance with best industry practice;

(iii) not remove, deface or obscure any identifying mark on the Containers or any other packaging relating to the Goods;

(iv) maintain the Goods and any Containers in satisfactory condition and in accordance with all applicable rules and regulation whether statutory or otherwise and keep them insured against all risks for their full price from the Delivery Date; but SIBA CS LTD may resell or use the Goods (but for the avoidance of doubt, not the Containers), in the ordinary course of its business and on the basis that its Customers may resell or use the Goods in the ordinary course of their respective businesses.

8.5 If before title to the Goods passes to SIBA CS LTD, it becomes subject to an Insolvency Event, or the Supplier reasonably believes that an Insolvency Event is about to happen and notifies SIBA CS LTD accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Supplier may have, the Supplier may at any time require SIBA CS LTD to deliver up the Goods and any Containers and, if the Customer fails to do so promptly, enter any premises of SIBA CS LTD or of any third party where the Goods and Containers are stored in order to recover them.

## **9. PRICE AND PAYMENT**

9.1 The price for the Goods shall be the price set out in the Brewer's Price List effective as at the Order Capture Date. SIBA CS LTD may vary the Brewer's Price List (either by increasing or decreasing the prices) by giving the Supplier not less than 10 Business Days written notice.

9.2 The price of the Goods is inclusive of excise duty and the costs and charges of packaging, insurance and transport of the Goods.

9.3 The price of the Goods is exclusive of amounts in respect of value added tax ("**VAT**"). SIBA CS LTD shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods.

9.4 SIBA CS LTD shall submit to the Supplier self-billing invoices in respect of any Goods. SIBA CS LTD may submit invoices:

- (a) upon receipt of an Order Confirmation;
- (b) on dispatch of the Goods;
- (c) on or after the Delivery Date; or
- (d) at the end of each month in respect of Goods ordered in that month.

9.5 Subject always to clause 11, SIBA CS LTD shall pay each invoice in full and in cleared funds by the 15<sup>th</sup> of the second month following the month in which the invoice was dated. Payment shall be made to the bank account nominated in writing by the Supplier.

## **10. FAILURE OF CUSTOMERS TO PAY**

10.1 Without prejudice to any other provision of the Supply Agreement, in the event that any Exceptional Circumstance arises SIBA CS LTD may, in its sole discretion and (where reasonably practicable) on giving the Supplier not less than 2 Business Days' notice, defer the payment of up to a maximum of 80% of the Relevant Part of any Relevant Supplier Invoice (and the amount deferred shall be the "**Deferred Proportion**") until such time that the circumstances giving rise to the Exceptional Circumstances have been remedied by the Defaulting Customer ("**Deferral Right**").

10.2 Following SIBA CS LTD exercising any Deferral Right, if any payment is received from a the Defaulting Customer in settlement of the amount which gave rise to the Exceptional Circumstance (whether that represents all or any part of the amount due), SIBA CS LTD shall (acting reasonable and in good faith) apportion the amount received from the Defaulting Customer as amongst the Supplier and any other supplier of SIBA CS LTD in respect of whom SIBA CS LTD has exercised a Deferral Right proportionately. In doing so SIBA CS LTD shall take into account the proportion that the Deferred Proportion bears to the total amount retained by SIBA CS LTD from any other supplier in respect of that Exceptional Circumstance. The amount that SIBA CS LTD determines is due to the Supplier shall be paid to the Supplier as soon as reasonably practicable following it being determined and shall act so as to reduce the amount of the Deferred Proportion.

10.3 If the Exceptional Circumstance is not rectified by the Defaulting Customer, SIBA CS LTD may, subject to clause 11.8, exercise its rights pursuant to clause 11.4.

10.4 Subject to clause 11.8, In the event that SIBA CS LTD suffers a loss or liability by reason that a Customer fails to satisfy (in whole or in part) any invoice issued to the Customer by SIBA CS LTD in circumstances where (by reason of that Customer suffering an Insolvency Event or SIBA CS LTD (acting reasonably and in good faith) determining that such invoice is irrecoverable) (such invoice being a “**Relevant Invoice**”) SIBA CS LTD may in its sole discretion elect that the liability suffered by it in respect of the proportion of the Relevant Invoice which relates to the Goods which were supplied by the Supplier (“**Relevant Proportion**”) be borne as between SIBA and the Supplier such that the Supplier is liable for up to a maximum of 80% of the Relevant Proportion (such being the “**Supplier’s Proportion**”).

10.5 If SIBA CS LTD elects to exercise its rights under 11.4, it shall within 20 Business Days of it either:

- (a) receiving notice of the Insolvency Event relating to the Customer; or
- (b) determining that the Relevant Invoice is irrecoverable,

notify the Supplier in writing of its intention to do so. Upon determination of any amounts owing from the Supplier in respect of the Supplier’s Proportion, SIBA CS LTD shall provide the Supplier with written details of the same together with such information as is reasonably necessary to demonstrate how the amount of the Supplier’s Proportion was calculated. For such purposes, any amount retained by SIBA CS LTD in respect of the Deferral Right shall be taken into account.

10.6 SIBA CS LTD may set off and deduct an amount equal to the Supplier’s Proportion against any amount owing from SIBA CS LTD to the Supplier, including any future invoices issued by the Supplier under the terms of the agreement.

10.7 Notwithstanding the provisions of clause 11.5, the Supplier agrees and covenants to pay to SIBA CS LTD any amount in respect of the Supplier’s Proportion within 5 Business Days of its written demand.

10.8 In the event that SIBA CS LTD has already exercised its Deferral Right in respect of a Relevant Invoice, the amount of the Deferred Proportion retained by SIBA CS LTD in respect of that Relevant Invoice shall be set off so as to reduce or extinguish the Supplier’s liability in respect of any Supplier’s Proportion.

## **11. INDEMNITY AND INSURANCE**

11.1 During this agreement and for a period of one year afterwards the Supplier shall maintain in force the following insurance policies with reputable insurance companies:

- (a) public liability insurance for not less than £10 million per claim; and
- (b) product liability insurance for not less than £2 million for claims arising from any single event and not less than £10 million in aggregate for all claims arising in an year.

The Supplier shall ensure that each insurance policy includes a generic interest clause.

11.2 On taking out and on renewing each policy, the Supplier shall promptly send a copy of the receipt for the premium to SIBA CS LTD. On the SIBA CS LTD's written request, the Supplier shall provide the SIBA CS LTD with copies of the insurance policy certificates and details of the cover provided.

11.3 The Supplier shall indemnify SIBA CS LTD against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by SIBA CS LTD arising out of or in connection with:

- (a) any claim made against the SIBA CS LTD by a third party for death, personal injury or damage to property arising out of, or in connection with, defective Goods, to the extent that the defect in the Goods is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
- (b) arising out of or in connection with any Goods which does not comply with the Consumer Protection Act 1987 or the Food Safety Act 1990 or any other legislation governing the supply of the Products to consumers; and
- (c) arising out of or in connection with any Goods which infringes any copyright, trade mark, trade name or other intellectual property right of any person;
- (d) any claim made against SIBA CS LTD by a third party arising out of, or in connection with, the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Supply Agreement by the Supplier, its employees, agents or subcontractors.

11.4 If a payment due from the Supplier under this clause is subject to tax (whether by way of direct assessment or withholding at its source), SIBA CS LTD shall be entitled to receive from the Supplier such amounts as shall ensure that the net receipt, after tax, to SIBA CS LTD in respect of the payment is the same as it would have been were the payment not subject to tax.

11.5 Nothing in this clause shall restrict or limit the SIDA DDS's general obligation at law to mitigate a loss which it may suffer or incur as a result of a matter that may give rise to a claim under this indemnity.

## **12. FORCE MAJEURE**

12.1 A party, provided that it has complied with the provisions of clause 13.3, shall not be in breach of these Terms nor liable for any failure or delay in performance of any obligations under these Terms (and, subject to clause 13.3, the time for performance of the obligations shall be extended accordingly) arising from a Force Majeure Event.

12.2 The corresponding obligations of the other party or parties will be suspended to the same extent as those of the party first affected by the Force Majeure Event.

12.3 Any party that is subject to a Force Majeure Event shall not be in breach of this agreement provided that:

(a) it notifies the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance within three Business Days of its awareness of the existence of the Force Majeure Event; and

(b) it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.

If the Force Majeure Event prevails for a continuous period of more than 2 months, any party may

terminate this agreement by giving 10 Business Days' written notice to the other party. On the expiry of this notice period, this agreement will terminate. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this agreement occurring prior to such termination.

### **13. SYSTEMS AND EQUIPMENT AND TECHNICAL SALES SUPPORT**

13.1 The Supplier shall at its own cost make all arrangements required for the computerised systems utilised by it in connection with the supply of Products under the Supply Agreement to interface effectively for the purposes of carrying out its obligations under the Supply Agreement with SIBA CS LTD's computerised systems to the extent they are relevant for the purposes of the Supply Agreement.

13.2 SIBA CS LTD shall give reasonable notice in writing to the Supplier of any changes to its computerised systems which will require changes to the Supplier's computerised systems to enable the Supplier to comply with its obligations under clause 14.1.

13.3 SIBA CS LTD shall procure the provision of technical sales support services in accordance with the terms agreed between SIBA CS LTD and its provider.

### **14. PRODUCT RECALL**

14.1 The Supplier will contact SIBA CS LTD as soon as reasonably practicable after it decides that a Product requires recall or if it is seriously considering such a recall and co-operate fully with SIBA CS LTD in identifying the Product at risk.

14.2 In these circumstances, all Products returned will be credited at the price paid by SIBA CS LTD and any costs of recovery from the Premises as reasonably determined by SIBA CS LTD will be borne by the Supplier.

### **15. GENERAL**

#### **15.1 Assignment and subcontracting**

(a) Neither party to the Supply Agreement may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Supply Agreement without the prior written consent of the other party.

(b) SIBA CS LTD may after having given prior written notice to the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Supply Agreement to any membership of its group without the prior written consent of the Supplier.

## 15.2 Notices

(a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post, recorded delivery, commercial courier, or e-mail.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 16.2(a); if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by or e-mail, one Business Day after transmission.

(c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

## 15.3 Severance.

(a) If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

(b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

**15.4 Waiver.** A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

**15.5 Third party rights.** A person who is not a party to the Contract shall not have any rights under or in connection with it.

**15.6 Variation.** Except as set out in these Terms, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by the Supplier.

**15.7 Governing law and jurisdiction.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales

## **APPENDIX SIX: MEMBERSHIP PROCESSING (10.10.18)**

1. An applicant completes an application form supplying the name of the entity, its trading name (if different), the name of the main contact, address, telephone number and email address. In addition, the category of ownership (sole trader, partnership, limited liability partnership, limited company, PLC) is declared together with the name(s) of the sole trader, all partners or directors and also a declaration of all major shareholders (all holdings of 10% or more). STATUS: APPLICANT
2. A search of Companies House will seek to verify the directors and company details only.
3.
  - a. If the APPLICANT has not commenced brewing, an invoice will be issued and paid by the Applicant who will also provide a completed Direct Debit Mandate. STATUS: NOT YET BREWING. NOT YET BREWING may attend regional meetings for information and networking purposes only.
  - b. If the APPLICANT or NOT YET BREWING member has commenced brewing, SIBA must receive the actual or estimated production for the relevant year as submitted to HMRC under Notice 226. A subscription invoice will be issued and paid by the Applicant who will also provide a completed Direct Debit Mandate and a copy of HMRC Brewing License approval with reference number. STATUS: PROVISIONAL
4. The PROVISIONAL application is notified to the Chairman of the appropriate region by the SIBA Operations team as part of the next regional pre-meeting document pack. The Chairman asks the region for approval of those of PROVISIONAL status.
5. In the event of a region requesting further information from a PROVISIONAL member, the Chairman of the region may request such further information and/or request attendance at the next regional meeting by the PROVISIONAL member in order that the region may have the opportunity to receive all information it considers necessary in order to make a recommendation to the Board. In the event of an application from a Level 6 Applicant, the Chair of the Applicant's region, or delegated regional Director, will meet with the Applicant to discuss the application. The Applicant is required to submit a statement supporting their company's past, current and future commitment to the values and principles of SIBA inherent in the SIBA Members' Charter
6. The confirmation of PROVISIONAL status is by the Board who will take regional recommendations into account when making a decision.
7. The Board may delegate to the Ethics and Standards Committee, but the Board's decision is final.
8. PROVISIONAL members must attend a regional meeting within 12 months of application for PROVISIONAL status and a 12 months period also has to have



elapsed to qualify as a FULL BREWING member of SIBA. . The Board may, at its discretion on a case by case basis, waive the requirement of #8 for applicants applying as required by #11

9. A further application, for participation in Beerflex by a PROVISIONAL or FULL BREWING member, is necessary. After the member has been enrolled in the FSQ Certificate (relevant to applications after September 1<sup>st</sup>, 2015) and a regional meeting has been attended by the member (with affirmation from the region), sales from Beerflex can be received by the applicant. FULL BREWING STATUS will not apply until #6, #7 and #8 are complete.
10. In the event that a regional meeting is not scheduled:
  - a. and after enrolment in the FSQ Certificate
  - b. and before the Enterprise Inns Update Deadline
  - c. and not less than seven days prior to the Deadline

an 'email approval request' maybe sent by the Chairman of the region to the regional members. If no objections are returned by the region, the Beerflex applicant is approved, subject to #4, #5, #6, #7 and #8. If the next regional meeting is not attended, the member will be removed from Beerflex and lose all deposits.

11. In the event of a change of the trading name(s) or of control (including mergers and acquisitions) of a sole trader or partnership, or a change of controlling directors of a limited company or insolvency of any entity, a new application form is required to be completed by the member within 45 days of the date SIBA is made aware by whatever means of a change having occurred. A declaration must be made of the names of any persons who influenced or were beneficiaries of the previous member company and are now in any way associated with the company making the new application. The process #1 to #8 applies without exception unless stated. Insolvency is defined as any event falling within clauses 2.44 (a) to 2.44 (h) of SIBA's rules and a statement of the reasons for the insolvency shall also be included in the above declaration. STATUS: PROVISIONAL (WITH BEERFLEX BENEFITS IF APPROPRIATE)
12. After the 45 days has expired, if no new valid application is received, all relevant brands are removed from Beerflex and all other benefits of membership are withheld. STATUS: MEMBERSHIP TERMINATED.
13. In the event that a member is found to have made a material misstatement of fact or to have withheld significant information during any application process, a formal complaint can be made by any FULL BREWING member or the appropriate region to the Board regarding the membership status of the member. The Board may refer the matter back to the region and ask the region to re-determine its recommendation to the Board as per #4 to #5 above. The Board may then decide to accept or rescind membership at its discretion.
14. A member, a meeting of a region and the Board should use the SIBA Responsible Business Guidelines as part of the assessment of the suitability of any application.

