

SAZERAC OF IRELAND UNLIMITED COMPANY

AND

HAZELWOOD DEMESNE LIMITED

COMMON DRAFT TERMS OF MERGER

- (1) **SAZERAC OF IRELAND UNLIMITED COMPANY** a private unlimited company originally incorporated on 22 June 2016 under the laws of Ireland and converted to an unlimited company on 22 June 2021 with registration number 584838 and having its registered address at 21 Gilford Road, Sandymount, Dublin, D04H668, Ireland ("**SIUC**" or "**Successor Company**"); and
- (2) **HAZELWOOD DEMESNE LIMITED**, a private company limited by shares incorporated on 18 September 2014 under the laws of Ireland with registration number 549794 and having its registered address at Lough Gill Distillery, Hazelwood, Carns, Co Sligo, F91Y820, Ireland ("**Hazelwood**" or "**Transferor Company**").

PURSUANT TO the provisions of the Companies Act 2014:

1. Interpretation

1.1 Definitions

In these Common Draft Terms of Merger, unless the context otherwise requires or unless otherwise specified:

"Act"	means the Companies Act 2014;
"Assets"	means all assets owned by the Transferor Company as at the Effective Date;
"Business Day"	means a day (other than a Saturday or Sunday) on which clearing banks are generally open for business in Ireland;
"Common Draft Terms"	means these Common Draft Terms of Merger;
"Directors' Explanatory Report"	means a report prepared by the directors of each Merging Company explaining the implications of the Merger as provided for by Section 467 of the Act;
"Effective Date"	means 23.59 hrs on _____ 202__;
"Expert"	means a person or persons appointed by merging companies to produce an Expert Report pursuant to Section 468(1) of the Act;
"Expert Report"	means a report prepared by one or more persons to examine the common draft terms of merger and to report on those terms to the shareholders of the relevant merging companies, pursuant to Section 468(1) of the Act;
"Liabilities"	means all the liabilities of the Transferor Company as at the Effective Date;
"Merger"	means the proposed domestic merger of the Transferor Company into the Successor Company, upon the terms and subject to the conditions set out in these Common Draft Terms, by which all the Assets

and the Liabilities of the Transferor Company shall pass to the Successor Company as of the Effective Date, following which the Transferor Company will be dissolved without going into liquidation;

"Merger by Absorption"

means an operation whereby a company acquires the assets and the liabilities of its wholly-owned subsidiary, subsequent to which the subsidiary ceases to exist, as defined by Section 463(2) of the Act;

"Merging Companies"

means SIUC (the Successor Company) and Hazelwood (the Transferor Company), and **"Merging Company"** shall mean either or one of them as the context so requires;

"Pre-Merger Acts and Formalities"

means those requirements set out in the Act and more particularly provided for in Clause 5 of these Common Draft Terms;

"Successor Company"

means SIUC following the Merger; and

"TUPE Regulations"

means the Transfer of Undertakings (Protection of Employment) Regulations (as amended).

1.2 Interpretation Generally

In these Common Draft Terms, unless the context otherwise requires or unless otherwise specified:

- 1.2.1 any reference to any statute or statutory provision shall be construed as a reference to that statute or provision as extended, modified, amended, replaced or re-enacted from time to time (whether before or after the date of these Common Draft Terms) and all statutory instruments, regulations and orders from time to time made thereunder or deriving validity therefrom (whether before or after the date of these Common Draft Terms);
- 1.2.2 all references to Clauses and Schedules are to Clauses of and Schedules to these Common Draft Terms;
- 1.2.3 headings are for convenience only and shall not affect the interpretation of these Common Draft Terms;
- 1.2.4 words such as "hereto", "hereof" and other words commencing with "here" shall unless the context clearly indicates to the contrary refer to the whole of these Common Draft Terms and not to any particular section, clause or paragraph hereof;
- 1.2.5 in construing these Common Draft Terms, general words introduced by the word "other" shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things and general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words and any reference to the word "include" or "including" is to be construed without limitation;
- 1.2.6 any reference to "Common Draft Terms" or any other document or to any specified provision of these Common Draft Terms or any other document is to these Common Draft Terms, that document or that provision as in force for the time being and as amended

from time to time in accordance with the terms of these Common Draft Terms or that document;

1.2.7 "writing" or any similar expression includes transmission by email; and

1.2.8 if any action or duty to be taken or performed under any of the provisions of these Common Draft Terms would fall to be taken or performed on a day which is not a Business Day such action or duty shall be taken or performed on the Business Day next following such day.

1.3 Schedules

The contents of the Schedules form an integral part of these Common Draft Terms and shall have as full effect as if they were incorporated in the body of these Common Draft Terms and the expressions "these Common Draft Terms" and "the Common Draft Terms" as used in any of the Schedules shall mean these Common Draft Terms and any reference to "these Common Draft Terms" shall be deemed to include the Schedules.

2. Preliminary

2.1 Transferor Company

2.1.1 Details regarding the company name, registered number, registered address, date of incorporation, authorised share capital, issued share capital and names of directors and company secretary of the Transferor Company, as at the date of these Common Draft Terms, are set out in Schedule 1 of these Common Draft Terms.

2.1.2 As the Transferor Company is a private company limited by shares, there is full compliance with the requirement of Section 462(b) of the Act that at least one of the merging companies is a private company limited by shares.

2.1.3 The sole shareholder of the Transferor Company at the date of these Common Draft Terms is SIUC (the Successor Company).

2.1.4 The Transferor Company shall participate in the Merger as a transferor company as such term is employed in the relevant provisions of the Act.

2.2 Successor Company

2.2.1 Details regarding the company name, registered number, registered address, date of incorporation, authorised share capital, issued share capital and names of directors and company secretary of the Successor Company, as at the date of these Common Draft Terms, are set out in Schedule 2 of these Common Draft Terms.

2.2.2 The Successor Company is a private unlimited company with share capital, however there is full compliance with the requirement of Section 462(b) of the Act that at least one of the merging companies be a private company limited by shares as the Transferor is such.

2.2.3 As of the date of these Common Draft Terms, the shareholders of SIUC are set out in Schedule 3 of these Common Draft Terms.

2.2.4 SIUC shall participate in the Merger as the Successor Company, as such term is employed in the relevant provisions of the Act and will continue to exist under the name SIUC Limited following the Effective Date.

2.3 Merger

- 2.3.1 As at the Effective Date, the Transferor Company will merge into SIUC upon the terms and subject to the conditions set out in these Common Draft Terms, with SIUC being the Successor Company. SIUC shall thereby become the successor of the Transferor Company.
- 2.3.2 As a consequence of the Merger, the ownership, title and the possession of the Assets and the Liabilities will pass to SIUC, by operation of the Act. SIUC will become entitled to the Assets of the Transferor Company and shall assume, carry out, perform and complete the Liabilities. All other rights and obligations of the Transferor Company shall pass from the Transferor Company to SIUC on the Effective Date.
- 2.3.3 As a consequence of the Merger, the business of the Transferor Company shall move to the Successor Company and therefore all employees of the Transferor Company shall cease to be employed by it and shall also move to and become employees of the Successor Company, by operation of law, subject to and in accordance with the TUPE Regulations.
- 2.3.4 Following the Merger, the Transferor Company shall be automatically dissolved without going into liquidation.
- 2.3.5 Each Merging Company shall do, sign or execute, or procure to be done, signed or executed all such other acts, deeds, documents and things as may be necessary or desirable in respect of the Merger and the transfer of the Assets and the Liabilities to the Successor Company pursuant to these Common Draft Terms.
- 2.3.6 All relevant information in relation to each Merging Company is contained in these Common Draft Terms.

2.4 Merger by Absorption

- 2.4.1 The Transferor Company is a wholly owned subsidiary of SIUC. Therefore, the Merger will be effected as a Merger by Absorption.
- 2.4.2 As the Merger is to be effected as a Merger by Absorption, no shares or other consideration will be issued, given or paid as consideration for the transfer to SIUC of the Assets and the Liabilities on the Effective Date.

3. Successor Company

3.1 Rights Conferred on the Shareholder

No special rights, such as profit distribution or share subscription rights, are held in respect of the Transferor Company by any party, other than in the capacity of shareholder, as a result of which right, such party is entitled to receive either an equivalent right in the Successor Company or compensation therefor. Consequently no special rights will be conferred by the Successor Company on any such party.

3.2 Expert Report

Pursuant to Section 468(2)(a) of the Act, there is no requirement to obtain an Expert Report in connection with the Merger as the Merger is being effected as a Merger by Absorption.

3.3 No Advantages Granted to Experts or Directors of the Merging Companies

3.3.1 No special advantages will be granted to any directors or to managers, other members of the administrative, management, supervisory or controlling bodies or organs of the Merging Companies nor to any auditors assisting in the Merger.

3.3.2 As stated in Clause 3.2 hereof, the appointment of an Expert is not required and, as such, there will be no special advantages granted to any experts.

3.4 Constitution of Successor Company

The Constitution of SIUC, as the Successor Company, is attached at Schedule 4 of these Common Draft Terms. The Constitution of SIUC shall not be amended in connection with the Merger.

4. Accounting

4.1 Financial statements of Merging Companies

4.1.1 The annual statutory Financial Statements of the Transferor Company, being its most recent statutory Financial Statements for the year ended 31 December 2021 together with the Management Accounts made up to 31 October 2022, have been used to establish the terms and conditions of the Merger.

4.1.2 The annual statutory Financial Statements of the Successor Company, being its most recent statutory Financial Statements for the year ended 30 June 2022, together with Management Accounts made up to 31 October 2022 have been used to establish the terms and conditions of the Merger.

4.2 Merger Financial Statement

4.2.1 Section 469(1) of the Act requires, subject to a limited number of exceptions, that where (a) the latest statutory financial statements of any of the merging companies relate to a financial year ended more than 6 months before the date of the common draft terms of merger; and (b) the summary approval procedure is not being employed to effect the merger, then, if that company is availing of the exemption from the requirement to hold a general meeting provided by Section 473(6) of the Act, that company shall prepare a merger financial statement in accordance with the provisions of Section 469 of the Act.

4.2.2 While the latest statutory Financial Statements of the Transferor Company relate to a financial year ended more than 6 months before the date of the Common Draft Terms, Section 469(6) of the Act expressly provides that no merger financial statement is required to be prepared where all of the holders of shares conferring the right to vote at general meetings of the Merging Companies have agreed that Section 469 of the Act shall not apply. The holders of shares conferring the right to vote at general meetings of both the Merging Companies have consented in writing that Section 469 of the Act shall not apply to the Merger.

4.3 Accounts Date

From the Effective Date, the transactions of the Transferor Company will be treated for accounting purposes as being those of SIUC and the financial information pertaining to the Transferor Company will be incorporated in the annual statutory Financial Statements of the Successor Company made up to 30 June 2023.

4.4 Information on the Valuation of the Assets and the Liabilities

4.4.1 For the purposes of Section 466(2)(h) of the Act, the appraisal of the Assets and the Liabilities of the Transferor Company to be transferred to the Successor Company has been carried out based on the book value of the Assets and the Liabilities of the Transferor Company, which, for these purposes, is understood to be the value included in the financial accounting records of the Transferor Company as at 31 October 2022.

4.4.2 The directors of the Transferor Company have noted the value of the Assets and Liabilities of the Transferor Company as referred to in Clause 4.1.1 above.

5. Pre-Merger Procedure

5.1 Directors' Explanatory Report / Experts Report / Merger Financial Statement

5.1.1 Section 467(1) of the Act provides that in the case of a Merger by Absorption, a Directors' Explanatory Report is not required to be prepared, and the directors of each of the Merging Companies is satisfied that such a report is not necessary in the given circumstances.

5.1.2 In accordance with Section 468(2) of the Act, an Expert Report is not required to be prepared as the Merger is being effected as a Merger by Absorption.

5.1.3 In accordance with Section 469(6)(a) of the Act, the shareholders having the right to attend and vote at general meetings of the Merging Companies have agreed that a merger financial statement shall not be required.

5.2 Registration and Publication

5.2.1 Following the approval of these Common Draft Terms, a copy of these Common Draft Terms, as approved in writing by the boards of the Merging Companies, and a Form DM1 (*Notice of delivery of Common Draft Terms of Merger*) shall be delivered to the Registrar of Companies.

5.2.2 Following the approval of these Common Draft Terms, a copy of these Common Draft Terms, as approved in writing by the boards of the Merging Companies, shall be published on the website of each of the Merging Companies for at least 30 days.

5.3 Inspection

In accordance with Section 471(1) of the Act, from 21 November 2022 and for at least 30 days prior to the date of the passing of the special resolution by SIUC as prescribed by Section 473(2) of the Act and as referred to in Clause 5.4.1 below, the Common Draft Terms (as approved in writing by the boards of directors of both Merging Companies) and the statutory Financial Statements of each Merging Company for the previous 3 financial years shall be made available for inspection free of charge at the registered office of the relevant Merging Company by any member of the relevant Merging Company between 9.00am and 5.00pm on a Business Day.

5.4 Shareholder Approval

5.4.1 Following:

- (a) the approval in writing of these Common Draft Terms by the directors of each Merging Company; and

(b) the expiry of the 30-day inspection period referred to in Clause 5.3 above,

the proposal to effect the Merger shall be put to the shareholders entitled to attend and vote at general meetings of the Successor Company to be approved by means of a written special resolution.

5.4.2 Pursuant to Section 473(6)(a) of the Act, the Transferor Company, being a transferor company within the meaning of the Act, is not required to approve the Merger by means of a special resolution.

6. Operation of the Merger

6.1 From the Effective Date, in accordance with Section 480(3) of the Act, the following effects shall take place:

6.1.1 all of the Assets and the Liabilities of the Transferor Company will be transferred to the Successor Company (SIUC) by operation of law;

6.1.2 the Transferor Company (Hazelwood) will be dissolved without going into liquidation;

6.1.3 all legal proceedings pending by or against the Transferor Company shall be continued with SIUC as a party in substitution for the Transferor Company;

6.1.4 every contract, agreement or instrument to which the Transferor Company is a party shall, notwithstanding anything to the contrary contained in that contract, agreement or instrument (including a lease, conveyance, transfer, charge or any other instrument relating to real property), be read and have effect as if.

(a) SIUC had been a party thereto instead of the Transferor Company,

(b) for any reference (however worded and whether express or implied) to the Transferor Company, there were substituted a reference to SIUC;

(c) any reference (however worded and whether express or implied) to the directors, officers, representatives or employees of the Transferor Company, or any of them:

(i) were, respectively, a reference to the directors, officers, representatives or employees of SIUC or to such director, officer, representatives or employees of SIUC as SIUC nominates for that purpose, or

(ii) in default of such nomination, were, respectively, a reference to the director, officer, representative or employee of SIUC who corresponds as nearly as may be to the first-mentioned director, officer, representative or employee;

6.1.5 every contract, agreement or instrument to which the Transferor Company is a party will become a contract, agreement or instrument between SIUC and the counterparty with the same rights, and subject to the same obligations, liabilities and incidents (including rights or setoff), as would have been applicable thereto if that contract, agreement or instrument had continued in force between the Transferor Company and the counterparty;

6.1.6 any money due and owing (or payable) by (or to) the Transferor Company under or by virtue of any such contract, agreement or instrument as is mentioned in Clause 6.1.5 shall

become due and owing (or payable) by (or to) SIUC instead of the Transferor Company;
and

6.1.7 an offer or invitation to treat made to or by the Transferor Company before the Effective Date shall be read and have effect, respectively, as an offer or invitation to treat made to or by SIUC.

7. Miscellaneous Provisions

7.1 Survival of Obligations

The provisions of these Common Draft Terms which shall not have been performed at the Effective Date shall, to the extent possible and to the extent that this does not contravene the legal rules governing the Merger, remain in full force and effect notwithstanding the Effective Date.

7.2 Binding on Successors

These Common Draft Terms shall be binding upon and enure to the benefit of the respective Merging Companies hereto and their respective personal representatives, successors and permitted assigns.

7.3 Counterparts

7.3.1 This Common Draft Terms may be executed in any number of counterparts, each of which shall be deemed an original, and which together have the same effect as if each party had signed the same document. No counterpart shall be effective until each party has executed and delivered at least one counterpart.

7.3.2 Transmission of a copy (including in a PDF, JPEG, TIF or GIF format) of an executed signature page of a counterpart, by email or hand, shall take effect as delivery of an original executed counterpart of this Agreement. If this method of transmission is adopted, without prejudice to the validity of such Agreement, each party shall provide the others with the original of such page as soon as reasonably practicable after delivery.

7.4 Electronic Signatures

7.4.1 The Parties consent to the execution by or on behalf of the other Party of the Common Draft Terms by electronic signature (including for the avoidance of doubt by DocuSign), provided that such manner of execution is permitted by law.

7.4.2 The Parties agree that an executed copy of the Common Draft Terms may be retained in electronic form and acknowledge that such electronic form shall constitute an original of the Common Draft Terms and may be relied upon as evidence of that document.

7.5 Governing Law and Jurisdiction

This Agreement and any dispute, claim or obligation (whether contractual or non-contractual) arising out of or in connection with it, its subject matter or formation shall be governed by Irish law. The parties irrevocably agree that the Irish courts shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with this Agreement, its subject matter or formation.

SCHEDULE 1

Transferor Company

Company Name	Company Number	Registered address	Date of Incorporation	Authorised Share Capital	Issued Share Capital	Directors and Company Secretary
Hazelwood Demesne Limited	549794	Lough Gill Distillery, Hazelwood, Carns, Co Sligo, F91Y820, Ireland	18 September 2014	N/A	€3,088,757.84	George Roberts Kent Broussard

SCHEDULE 2

Successor Company

Company Name	Company Number	Registered address	Date of Incorporation	Authorised Share Capital	Issued Share Capital	Directors and Company Secretary
Sazerac of Ireland Unlimited Company	584838	21 Gilford Road, Sandymount, Dublin, D04H668, Ireland	22 June 2016	€1,000	100	Christopher Skinger Christopher Ritchie George Roberts Michael Randles

SCHEDULE 3

Shareholders of the Successor Company

Name	Share Class	Number of Shares Held
Sazerac Investments Holdings Inc.	Ordinary	

SCHEDULE 4

Constitution of the Successor Company as Adopted on 22 June 2021

Signature Page of Common Draft Terms of Merger

**EXECUTED and DELIVERED as a DEED by
SAZERAC OF IRELAND UNLIMITED COMPANY**

in the presence of:

Witness Signature: _____

Witness Name: _____

Email Address: _____

Witness Occupation: _____

I confirm that I was physically present with the signatory when they signed this document.

CHRISTOPHER SKINGER
Executing as true and lawful attorney for
and on behalf of SAZERAC OF IRELAND
UNLIMITED COMPANY

**EXECUTED and DELIVERED as a DEED by
HAZELWOOD DEMESNE LIMITED**

in the presence of:

Witness Signature: _____

Witness Name: _____

Email Address: _____

Witness Occupation: _____

I confirm that I was physically present with the signatory when they signed this document.

GEORGE ROBERTS
Executing as true and lawful attorney for
and on behalf of HAZELWOOD
DEMESNE LIMITED