

Montreal in the Province of Lower Canada

Articles of Agreement had made concluded and agreed upon this — day of — in the year four Lord One thousand eight hundred and five By and Between John Gregory, Wm. McGillivray Duncan McGillivray, William Hallowell and Roderick McKenzie of Montreal in the Province of Lower Canada Merchants and Copartners now Composing the House of M^r Tarish Tobish & Comp^y of the ~~One~~ Part. — And John

+ of the ~~House of M^r Tarish Tobish & Comp^y~~ of the ~~Other~~ Part and

Fraser of London, Merchant, Simon McGillivray and John Tulloh also of the same place. Of the ~~Other~~ Part. — Whereas

carrying on a Joint trade and Commerce in London & elsewhere, and for

by ~~articles~~ articles of agreement bearing date the 15th day of March of the year 1791, a certain trading Company or Copartnership was formed by ^{between} Simon M^r Tarish Joseph Tobish and ^{James} Hallowell then Composing the said House or Firm of M^r Tarish Tobish & Co at Montreal aforesaid, of the one part, and the said John Fraser of London Mercht^s of the Other part for the purpose of managing and transacting the trade business and Concerns of the said M^r Tarish Tobish & Co in Europe ^{under the various stipulations & agreements in the 2^d article of Agreement} and for certain ~~other purposes therein mentioned~~ and ^{contained} ~~expressed~~; which said Company ^{or Concern} was to commence ~~on the~~ first day of August then next following, and to continue and be carried on for the space and term of eight years under the firm and denomination of M^r Tarish Fraser & Co; the said Concern to consist of three shares whereof two were to be held and enjoyed by the said M^r Tarish Tobish & Co and the other share by the said John Fraser; ~~and to be established for the purpose of carrying~~

by Simon M^r Tarish John Gregory Wm. McGillivray Duncan McGillivray Wm. Hallowell and Roderick McKenzie then composing the House of M^r Tarish Tobish & Co of the one part the ^{of} John Fraser of the other part

And Whereas the said Company or Copartnership after the expiration of the above period of eight years, was further Continued and prolonged under the same firm of M^r Tarish Fraser & Co for another period of seven years, commencing with the first day of June 1799 and to terminate on the 31st day of May 1806, to consist of the same number of shares and to be held & enjoy^d in the same manner as the ~~preceding~~ Concern carried on for the 8 years preceding — and as the said last mentioned parties

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parties had full and entire confidence in the honor and integrity of each other, they conceived it unnecessary to enter into any form any new articles of Agreement for regulating the business of the said Concern for the said Seven Years, and therefore the said Concern was continued and prolonged as aforesaid upon the authority of two Letters bearing date the thirteenth day of December 1799 and 31st day of May 1800 written by the said Simon M^r Tavish on behalf of himself and the other Partners then composing the said House of M^r Tavish Trobisher and Co at Montreal, to the said John Fraser, proposing, that the business of the said Copartnership should be carried on for the said term of seven years upon the basis and principles established by the aforesaid Articles of Agreement of the 15th day of May 1791, except in so far as affected, altered or amended by the provisions contained in the said Letters, which were approved of and confirmed by the said John Fraser, and ^{it was} by the said parties mutually agreed that they should have the same force and effect in regulating all the business & Concerns of their said Partnership, as articles of Agreement for that purpose drawn up and regularly executed ^{by} between them * ~~and~~ ^{that} the said M^r Tavish Trobisher & Co and the said John Fraser ^{now find} ~~conceiving~~ it essentially necessary to secure and consolidate their Interests in the said Concern and to form a regular and permanent system for the government of the rights and Interests of the parties to their presents & their Successors and for the regulation of the trade and Commerce hereafter to be carried on under this Agreement in such manner as to secure and preserve to them, their Successors, ~~heirs~~ Executors Administrators & assigns the benefits and advantages which may arise and result therefrom; — ~~and~~ ^{and} ~~conceiving~~ ^{and} ~~also~~ ^{intending in this behalf} that their ~~purposes~~ ^{intentions} of the other matters herein after mentioned will be best accomplished by admitting two Junior Partners into the intended Concern, ^{they} ~~we~~ therefore resolved to form new articles of Agreement for another period of seven years, and to admit the said Simon M^r Gillmoray now Clerk to the said M^r Tavish Trobisher & Co, and the said John Tulloh, Clerk to the said M^r Tavish

* And whereas

Fraser & Co. to be Partners in the Copartnership and Concern hereby intended to be established, and to participate in the advantages thereof
Now therefore these Presents Witness that the said John Gregory William McGillivray Duncan McGillivray William Hallowell and Roderick McKenzie of the One part, and the said John Fraser Simon McGillivray and John Tulloh on the other part, do hereby mutually consent promise and agree that from and after the thirty first day of May of the year 1806, they shall ^{well} carry on a joint trade and Commerce at London aforesaid and such other places where the Interest of the parties may require under the name or firm of Messrs Fraser & Co. to be governed and carried on under the following Rules and Regulations - *vizt*

Art. 1st That the said intended Copartnership and Concern shall commence on the first day of June of the year 1806, and shall continue remain and be carried on for the compleat space and term of seven years and end on the 31st day of May of the year 1813 by and between the said parties to these presents and the survivors of them and others who may hereafter be admitted Partners under this Agreement, and shall be distinguished and known by the name or firm of Messrs Fraser & Co.

Art. 2nd That the said Copartnership and Concern shall consist of nine parts or shares, the profits and losses arising from which shall be received, divided, and borne, by, between, and amongst the said parties to these presents in manner following, that is to say, - The said House or firm of Messrs Fraser & Co. shall hold and enjoy four shares, the said John Fraser three shares, the said Simon McGillivray One share, and the said John Tulloh one share -

But it is understood and hereby agreed that the said John Fraser in addition to his said three shares shall be allowed and receive out of the said Concern, the Yearly sum of five hundred pounds for his extraordinary expenses in managing the business and entertaining the Connections of the Concern.

Art. 3^d

And whereas it is probable that the Partners who now compose the said House or firm of M^r Jarvis Tobisher & Co may be altered or changed during the Continuance of the said Concern ~~to be~~ hereby established, either by the death or retiring of any of the said Partners or by the admission of others in their stead, and even that the Firm itself may be changed and another firm substituted in its place (and which change the said M^r Jarvis Tobisher & Co reserve to themselves a right to make) It is therefore expressly stipulated covenanted and agreed by and between the said parties to these presents, and it is their express meaning and intention, that such change or alteration in the persons of the partners or name of the said Firm of the said House of M^r Jarvis Tobisher & Co, shall in nowise affect alter or injure the present Agreement but that the persons who shall or may at any time hereafter during the Continuance of this Copartnership compose the said House or firm of M^r Jarvis Tobisher & Co, or any other firm

[#] and in all transactions ^{relative to the present} that may be adopted in lieu thereof, shall be considered to be the Contracting parties to this Agreement and bound to all ^{the} claims thereof in like manner as the present partners [#] considered as the same firm as that of M^r Jarvis Tobisher & Co, ^{and in every} instance where the name of the said Firm of M^r Jarvis Tobisher & Co shall be used in ^{this} Agreement, it shall be ^{understood to} ^{apply to} ^{and comprehend} the name of such new Firm as ^{or may} shall be so adopted.

And to avoid all doubts and difficulties which may hereafter arise in case of a change of all or any of the present ^{Partners} in the said House or firm of M^r Jarvis Tobisher & Co ~~in the firm that~~ ^{may be adopted in lieu thereof} during the period of this Concern, it is hereby covenanted and agreed, that every new partner who shall or may

may be admitted into the said House of M^r Tavish Frolicher & Co
~~or under whatever other firm it may be distinguished & known~~
and thereby become entitled to enjoy any right share or interest in this
Concern, shall be specially held and bound by the agreement
admitting him a Partner into the said House or firm, to the exact
observance of all the clauses conditions and stipulations mentioned
and contained in this Agreement in the same manner as the parties
hereto - And every new Partner so coming in to the said House or
~~Firm~~ of M^r Tavish Frolicher & Co ~~or under whatever other firm it~~
~~shall be distinguished and known~~ during the continuance of this
Agreement, shall be by the parties hereto considered as entitled to all
the rights profits and advantages arising from this Copartnership
and Concern in like manner as if he had been present and
signed and executed this Agreement as a party thereto -

Art. 4th - That the said John Fraser Simon McGillivray and John Tulloh
shall be the acting and managing Partners of this said Copartnership
and Concern, and shall reside in London - That the business thereof
shall be wholly managed and conducted and all necessary and
proper plans and proceedings thereof formed and executed by them
in the following manner - *viz* - The said John Fraser shall
superintend and conduct the finance and general Correspondence
department, and shall continue to direct and controul as heretofore
all the executive branches of the business - The said Simon
McGillivray shall aid and assist in these branches and be trained
up and instructed by the said John Fraser in the general
knowledge of the present mode of conducting the business of the Concern
in all its branches, that he may thereby become qualified as soon as
possible to assume the principal management thereof in case of the
death of the said John Fraser, or other Cause that may deprive the
Concern of the Assistance of the said John Fraser in the department
allotted to him - And finally that the said John Tulloh shall

keep the books and accounts of the said Partnership and generally
superintend the shipments of Goods, direct the minute and
mechanical branches of the business in the Country House, and assist
if required in any of the other departments — It is nevertheless
hereby understood and agreed that the Partners of the said House of
M^r Jarvis Tobish & Co ~~a and whatever other firm ^{that House} may be called a known~~
shall have a controlling voice and power in directing the proceedings
of the Concern when they shall see fit to exercise the same, and more
especially in every case, question or transaction regarding the said House or
firm of M^r Jarvis Tobish & Co in which they are hereby authorized and
empowered to give such directions as they shall ~~see~~ think fit and proper to the
said other Partners of M^r Jarvis Fraser & Co in London who ~~are~~ hereby ^{bind} bound
and obliged themselves to carry such directions into effect — And further
that any of the Partners of the said House of M^r Jarvis Tobish & Co ~~or of the firm~~
~~that may be adopted in lieu thereof~~, when in England, (being authorized and
empowered by the other Partners of the said House ^{but not otherwise} or firm) shall have a
right ^{whenever they think proper} to interfere in the management of the business ~~whenever they think~~
And in every case each of the parties to these presents and every Partner hereafter
to be admitted a Partner in this Concern shall have free access and admission
to inspect examine copy & cast up at their own will and pleasure & without
any hindrance or denial on the part of any of the other Partners, all the Books
accounts papers writings & other documents of and belonging to the said Partnership
and Concern, but ^{without} removing or carrying away any of the said Books
Accounts papers, writings or other documents from the General
Accounting House of the said Concern, where they must at all
times remain lodged and deposited —

is carried on by
of the said M^r Jarvis Fraser & Co

Art. 5 That the said M^r Jarvis Fraser and Co shall and will at all
times during the Continuance of the Concern hereby established, transact
manage and carry on all the business affairs and Concerns of the said
House of M^r Jarvis Tobish & Co ~~or by whatever other firm it may be~~
~~distinguished and known~~ in the United Kingdoms of Great Britain
and Ireland and when and where it may be necessary or shall be required,

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America

Copartnership

America only excepted - That the Concern now entered into and to be carried on under this Agreement, shall be entirely and exclusively confined to the Agency business of the said House of M^r Jarvis Trobisher & Co ~~or under whatever other firm it may be called or known, to underwriting~~ and to such other matters and things as are by these presents specified and declared - That it shall not be lawful for the said Firm of M^r Jarvis Fraser & Co or any of the Partners thereof, to form any Connection or Concern ~~in trade~~ or enter into any trade Commerce or traffic whatever independent of and unconnected with the Commission business and underwriting as aforesaid without first obtaining the written Consent and Concurrence of the said House of M^r Jarvis Trobisher & Co - That the said M^r Jarvis Fraser & Co shall order, procure and provide all goods wares and Merchandises which shall be required by the said House of M^r Jarvis Trobisher & Co at Montreal, shall ship and ensure the same on similar terms and Conditions and for the same advantages and Commissions that may be customary for the time being in the trade of Canada - That the said M^r Jarvis Fraser & Co shall also manage and transact in Europe, when required, the business and concerns of any Connections or Correspondents from Canada which the said M^r Jarvis Trobisher & Co ~~shall be authorized to do~~ ~~shall be authorized to do~~ may procure or recommend for the benefit and advantage of this Copartnership and Concern upon the same terms and Conditions above stipulated and agreed on - And finally that the said M^r Jarvis Fraser & Co shall and they are hereby permitted and authorized for the benefit and advantage of the said Copartnership and Concern to underwrite and sign Policies of Insurance upon any rate and risk which they shall conceive to be safe and advisable, the profits and losses arising from which shall be enjoyed divided and sustained by between & amongst the parties to these presents in proportion to the shares they hold under this Agreement. It is however specially covenanted and agreed upon that should the Partners of the said ^{House of} M^r Jarvis Trobisher & Co ~~by whatever other firm it may be called~~ ~~or known~~, disapprove of, or see cause to determine, relinquish and discontinue the said Underwriting and Insurance business, and give notice in writing expressive of this determination to the said M^r Jarvis Fraser & Co -

x why "rate"?

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then

then and in that case the said Underwriting and Insurance business shall thereupon be discontinued and relinquished by the said M^r Tavish Fraser and he nor shall it be lawful for them any longer in the name or on behalf or account of this Partnership of Concern to underwrite or sign any Policy of Insurance whatsoever —

Art. 5th It is hereby expressly stipulated and agreed by and between the parties aforesaid that the said House of M^r Tavish Frobisher & Co ~~or by whatever other Firm it may be called or known~~, shall not during the continuance of this Concern make any Consignment from Canada nor give any order for Goods to any person House or Firm in the United Kingdom aforesaid except to the said M^r Tavish Fraser & Co or for the benefit of this Concern, nor shall it be lawful for them to establish or be concerned in any other House or Firm in the said United Kingdom to the prejudice or disadvantage of the Partnership. It is however understood and agreed that the said House of M^r Tavish Frobisher & Co ~~or other Firm to be adopted as aforesaid~~, shall be at liberty and they are hereby authorized to form such new Connections and Correspondents in America as to them shall appear fit or advisable for the procuring additional business to this Concern, which shall be conducted and carried on by the said M^r Tavish Fraser & Co in Europe upon such terms and Conditions as the said M^r Tavish Frobisher & Co can effect and agree upon with such Correspondents for the benefit and advantage of this Partnership of Concern — That the Shipments made by the said House of M^r Tavish Frobisher & Co ~~or other firm aforesaid, and by their said Correspondents and Connections~~ shall be consigned to the said M^r Tavish Fraser & Co in London who shall be entitled, and they are hereby authorized to charge on the same the Customary Commission for the time being in the Trade of Canada. It shall nevertheless be lawful and is hereby consented and agreed to and for the said House of M^r Tavish Frobisher & Co

~~the firm aforesaid~~, to sell in America or to ship and consign
any part or parcel of their Goods produce or returns of their trade
to any foreign Market they see fit and proper, provided always
that the said M^r David Fraser & Co^{ys} shall be allowed the Customary
Commission of 2½ per Cent on the same according to the present
regulation between the said two Houses regarding this matter -
But it is understood and agreed that the said Commission of 2½
per Cent shall not be charged on any shipment ~~made~~ of the returns
^{of the N. W. Co}
~~aforesaid~~ which may be hereafter made from any Port or Harbour on
the North West Coast of America, nor on any grain flour, fish, Oil
provisions or lumber, which may be shipped by the said House of
M^r David Fraser & Co^{ys} ~~or the firm aforesaid~~ from any of the
Atlantic Ports, (except such shipments shall be made to some port or
harbour within the United Kingdom aforesaid,) but that such shipments
shall be subject only to such Commission as may be agreed upon ^{between} the
parties, or as may be customary in similar cases.

Art. 7 That the said parties to these presents shall be faithful just and true
to each other in all their dealings and transactions - That the said
John Fraser Simon Mc Gillivray and John Tulloch shall faithfully and
diligently employ themselves in managing and conducting the business of the
said Copartnership and carrying it on to the greatest benefit and advantage
of all the parties concerned - That a true correct and faithful account shall
be regularly kept of all the dealings and transactions of the said Copartnership
and plain and perfect Entries made in proper Books for that purpose of
every measure and proceeding relating or belonging to the business of the said
Concern, and all such other matters and things written down and
recorded, as are usually entered in Books of account of similar
Copartnerships, together with all such circumstances as may be
necessary for ~~the~~ giving a clear & correct state of the business and
proceedings of the Copartnership. - That the accounts of each year
during the Continuance of this Concern shall be regularly closed
and completed on or about the thirty first day of May, and a

balance struck of the transactions of the year, and as soon -
 afterwards as conveniently may be, a full and complete sett of such
 Accounts shall be forwarded to the said ^{House of} M^r James Fowler & Co
~~at the office of the said~~, to be by them, if found correct, signed and
 confirmed, & thereby become binding on all the parties - That the said
 sett of accounts so to be forwarded shall contain a clear and correct
 detail of the true result and state of the business for the time being,
 comprehending accounts Current, profit and loss and Stock
 accounts, Inventories of Goods and effects remaining on hand
 Outstanding Debts, and all such matters and things as are
 usually included in annual accounts of the same nature, together
 with a regular and faithful balance sheet according to the Custom
 of Merchants - And finally that the said parties to these presents
 shall regularly, and by every convenient opportunity if necessary,
 write to and correspond with each other, giving the earliest information
 of all matters & things which may tend to their mutual benefit and
 advantage or interest or affect the said Copartnership & Concern -

Art. 8.

That all necessary charges and expenses incurred in conducting
 managing and carrying on the said business usually comprehended
 under the denomination of charges of merchandise, shall be -
 generally borne and sustained by the said Copartnership - And
 all losses and bad debts; decay of Goods suits at Law, casualties and
 accidents of every kind, shall also be generally sustained and borne in
 like manner, and paid and deducted out of the gross gain & profits
 of the Concern - That after the deduction of all such charges and
 expenses, or such of them as shall arise or ^{be} incurred, a yearly dividend
 shall be made according ^{& in proportion} to the respective shares held by the said
 parties in this Concern, as hereinbefore established, of all the clear and
 nett residue and surplus of the annual gains or profits of the Concern
 which shall afterwards remain with and be considered a
 growing or accumulating Capital for the -
 benefit

such as wages & expenses of
 Clerks, Servants & Assistants
 Counting House & Ware House
 Rents, Repairs & alterations
 thereof - all taxes, duties
 Parish rates Assessments
 which are shall or may
 be imposed or become payable
 during the continuance of
 this Concern -

benefit of the said Copartnership, and Interest at the rate of five
per Cent per annum shall be allowed to the said parties according
to their respective shares of said Profits, Stock, and Capital. — That
the said M^r Tavish Fraser & Co shall be at liberty and they are
hereby authorized to lay out and invest any part of the said Stock
and Capital which shall not be immediately wanted for carrying
on the said trade on any Government or sufficient Real Security
in England, the profits arising therefrom ~~shall~~ ^{shall} be the joint property of
the Concern, but it is hereby understood and expressly agreed that
neither of the said parties shall be permitted to speculate in the
Funds, nor be concerned in any other ~~enterprise~~ of uncertain
chance or speculation with the monies or effects of the said
Copartnership — That when the future scale and extent of the
business of the said M^r Tavish Fraser & Co shall be permanently
established, and the amount of Stock or Capital required to support and
carry on the same shall be clearly ascertained, then and in that
case the surplus or residue of the said growing stock & Capital
of the said Copartnership over and above the said requisite amount
for carrying on the business, shall be at the disposal of the said
House of M^r Tavish Tobish & Co ~~or by whatever other firm it may
be known or called,~~ if they shall see fit — And it is hereby
covenanted and agreed that neither of the said parties to these
presents shall be entitled to claim ~~or demand~~ ^{or require} out of the said
Joint Stock and Capital or the future profits of the business
more than may be sufficient for ~~their~~ ^{his} maintainance and
support, it being understood that the said Simon M^r Gillmoray
and John Tulloh ~~and each of them~~ shall be and are
hereby limited to the yearly sum of £600 ^{ster} each for their
respective maintainance and support, beyond which amount
neither of them shall be at liberty to appropriate to his own personal
use or benefit, any of the stock profits or property of the Concern —

art. 9th

It is hereby expressly stipulated and agreed by and between the said parties to these presents, that neither of them shall at any time during the Continuance of the said Partnership Concern become bound bail or security for any person or persons whatsoever whereby the Interest of the said Copartnership may in anywise be affected, injured or rendered liable in any manner whatever, without the Consent in writing of all the Partners, nor shall any or either of the said parties willingly or wittingly do or permit or suffer to be done any matter or thing whatsoever, whereby the said Copartnership may sustain any loss or damage or the property thereof be seized attached or taken in execution; but that each and every of the said Parties shall and will at all times save defend and keep harmless the Capital Joint Stock and increase of the said Copartnership and all the trade and business thereof from the separate acts deeds debts and Engagements of the said parties respectively, & also from those of the said House of M^r Tarist Tobin & Co and of from and against all and every Connection that House may ^{hereafter} form in consequence of the present Agreement - And it is hereby further stipulated and agreed that that none of the said parties shall for or on account of the said Copartnership trust or sell on Credit to any improper person or persons, any of the property of the said Concern, nor release or quit or discharge any debt which shall be due or owing to the said Copartnership without the written Consent of all the other Partners, save and except such debts as shall be bona fide paid and brought into the Joint Capital Stock of the Concern - That each and every of the said parties shall be respectively accountable answer for and make good to the said Joint Concern all and every such debt or debts as aforesaid which he or they shall respectively have received ~~or given~~ or acquitted or discharged, it being the true intent and meaning of these presents that the act of One Partner

Partner shall not bind the others except in the ordinary lawful and bona fide transactions of the business carried on by the Concern. It is however understood and agreed that the said House of M^r Tavish Fraser & Co shall be permitted and allowed as heretofore to receive in payment at their Prompts the acceptances of the Fur buyers and others payable at such periods and usances as in their opinion they shall see fit and requisite for the benefit of the Sales by supporting the prices; And that the said House of M^r Tavish Fraser & Co shall be at liberty to renew such acceptances and give the Purchasers such other support and assistance, as they have heretofore been accustomed to give without incurring any responsibility or loss, such accommodations being meant and intended to be made solely to promote the Interest of the Owners of the Goods, and the whole to be therefore at their risk and hazard - And in case any of the said parties to these presents shall give any Note Bond or Security for the payment of any sum or sums of money by the s^d Copartnership (except such Notes Bonds and Accommodations as may be necessary to be given in the Common Course of the business as now carried on,) every such Note Bond or Security, except as aforesaid, shall not ^{be considered as} bind or involve, the ~~present~~ ^{heretofore established} Copartnership nor any of the Partners thereof, but shall be considered as the separate act and deed and on the separate account of the Partner giving the same and be paid by him out of his separate Estate, and every ^{such} Partner shall be held bound if required to indemnify and save harmless the said Concern & his other Partners from and against the payment of any such Note, Bond, or Security, and from and against all such Costs & Damages that may be incurred or arise thereby - And finally that none of the said parties to these presents shall employ any of the Monies goods or effects of the said Concern (except what they respectively may have a right to appropriate to their own use as hereinbefore limited) nor engage the credit thereof in any manner whatever, unless for the account benefit and behoof of the said Copartnership -

Art. 10.

And it is hereby provided and agreed that in case the said Simon
McGillivray ^{and} John Tulloch, ^{or either of them} shall ~~conduct themselves~~ ^{conduct} ~~in such~~
~~negligently or~~ ~~as~~ ~~willfully~~ ~~to~~ ~~injure~~ the Concern or render themselves
unworthy by other improper Conduct or neglect of common business
permitted to remain & continue as Partners in the ~~said~~ ^{the} Concern.
It is therefore hereby provided and agreed, that when such
misconduct or neglect shall appear evident and satisfactorily proved
to the other Partners, such party ~~said~~ ^{so} misconducting himself
may be by the said other Partners deprived of all further right share
and interest in the said Concern and be expelled therefrom, & his said
right share and Interest in the said Concern shall thereupon revert to and
become the property of the said ^{House of} Messrs Tavist Frobisher & Co, ~~or~~ by whatever
other firm ~~that House~~ ^{may be called} ~~thereon~~ to be by them disposed of
in such manner as they shall see fit - And in case of the death
of the said John Fraser before the expiration of this Concern, or
his retiring & withdrawing therefrom, ~~but~~ with the consent of the said
Messrs Tavist Frobisher & Co, ~~without which~~ he cannot be permitted to retire from
the said Concern, it is hereby covenanted and agreed by and between the
said parties, that in either of these Cases, the said Three Shares assigned to the
said John Fraser in this Concern herein before mentioned shall revert
to and become the property of the said House of Messrs Tavist Frobisher
& Co or by whatever other firm that House shall be then known or called, to
be by them used disposed of and applied in such manner and to such
uses as they shall see fit - But if the said Simon McGillivray
and John Tulloch should be by their Partners for the time being
considered Capable and competent to conduct and carry on the business
of the said Copartnership without the admission of any new or
acting partner in the room and stead of the said John Fraser, or any
other assistance whatever, and that they shall be able to assume
the whole management and responsibility of the said business, then and
in that Case, ~~and~~ their conduct shall in other respects be satisfactory
to

to their said other Partners, the said Simon M Gillivray and John
Tulloch shall be entitled to some additional compensation over and
above their respective Shares aforesaid in the said Concern, the
amount of which shall be determined by the said M Tavish Frobisher
& Co - It is however expressly covenanted and agreed by and
between the said parties, that none of the said events changes or
alterations either by the death, retiring, or expulsion of the said John
Fraser, Simon M Gillivray and Tulloch, ^{or of either of them} in manner as aforesaid, the
admitting of any new Active Partner in the said Firm of M Tavish
Fraser & Co shall affect ~~also~~ determine or change the said Copartnership
or the period of its duration, which shall nevertheless be upheld
continued and carried on under all the clauses conditions and
stipulations aforesaid until the full and complete determination of the
said term of Seven Years - And in case of the death of any or
either of the said John Fraser, Simon M Gillivray and John Tulloch
during the Continuance of the said Copartnership, the Share Interest
and proportion of the Partner so dying shall cease and determine, on the
next ensuing day of Settlement of Annual Accounts herein before
mentioned, which shall follow such event, beyond which day the
Interest of party dying shall not be extended in any of the affairs of the
said Concern, save and except ~~the~~ in such transactions which may
have taken place before the death of such Partner, the result of which
at such next ensuing annual ~~meeting~~ Settlement of Accounts, may not
be completely ascertained or realised - And further that on such
annual settlement of accounts next after the decease of any ^{of the} Partners, a
general account and Inventory shall be taken and made of all the
Stock, monies, merchandise debts, ^{credits} and effects of or belonging to the
said Copartnership, also of all the debts and monies due by the
said Copartnership to any person or persons whatsoever, and finally
that a full clear and correct balance and Statement of accounts be
made out as aforesaid, manifesting in a clear and satisfactory manner

the true state and situation of the affairs of the said Concern for
the time being, and exhibiting the true and exact share & proportion
belonging to the deceased Partner of all the Stock Capital and profit
in the said Concern, which share and proportion the Surviving
Partners shall be accountable for and bound to pay or cause to be
paid to the ^{heir} Executors Administrators or assigns of such deceased Partner in
manner and form follows, that is to say, the Heirs Executors Administrators
and assigns of such deceased Partner shall be entitled to claim and
demand of the Surviving Partners, during the part of the Current
Year which may be unexpired at the time of the decease of such Partner
a sum proportionate to his the average rate of living of such deceased
Partner during the two years preceding his death. And the residue and
remainders ^{share of} of the Stock and Capital of such deceased Partner in the said
Concern as ascertained and established on the annual day of settlement
next ensuing after his decease, shall be paid in three equal annual
instalments, each instalment to be ^{only} divided if required into half yearly and
quarterly payments, bearing Interest at the rate of Five per Cent ^{per}
annum from the said next ensuing day of settlement of Accounts
until the whole be paid up. — It is however understood and
agreed that if only two years of the Concern should remain
unexpired on the said next ensuing day of settlement of Accounts
then and in that Case the said Heirs Executors Administrators or assigns
of such deceased Partner shall only be entitled to claim demand
and receive of and from the said Surviving Partners two of the
above Instalments during the said two unexpired years, and
if only one year remain unexpired of the said Copartnership at
the time of the decease of such Partner, ~~the~~ his said Heirs
Executors Administrators & assigns shall only be entitled to claim during that
year one Instalment, and the remaining Instalments in both
Cases that shall remain due and unpaid at the expiration of the
said Concern shall be paid as soon as the business of the Concern
can be conveniently ~~realized~~ wound up and the property ^{thereof} realized, —

I notwithstanding landing it
may be renewed by
the Survivors

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Art. 11

Art. 11th And the said parties to these presents and each and every of them for himself his Heirs Executors Administrators and Assigns, do and doth hereby covenant promise and agree to and with the others and each and every of them, their ~~and~~ Heirs Executors Administrators and Assigns & the Heirs Executors Administrators and Assigns of each and every of them, that if any doubt difficulty or difference Cause of Suit or dispute shall at any time or times here to arise or happen during the Continuance of this Concern between or ~~at~~ all or any of the said parties or their respective Heirs Executors Administrators or Assigns or any other person or persons admitted into this Copartnership as aforesaid, touching the Construction of any clause matter or thing herein contained, or any question doubt difference or dispute regarding the trade & business intended to be carried on by the said Concern or the Accounts thereof and which may not have been satisfactorily decided and determined by and amongst the said parties themselves within One Year after such doubt difficulty or difference shall have arisen, then and in that case every such matter of doubt difficulty or difference shall at the request of any or either of the parties concerned shall be submitted and referred in writing to the decision ~~and award~~ of three indifferent persons as Arbitrators, two of whom to be chosen by the parties between whom the matter of difficulty or difference shall have arisen within One month after such request, and the third to be chosen by the two so named within the space of another month after they shall have been named, And that the Award and determination of the said three Arbitrators or of any two of them ^{in the matters so referred to them, being} set down in writing under their Hands and seals and communicated to the said parties within such reasonable time after the reference so made as shall be agreed on, shall be binding and conclusive on all and every the said parties their Heirs Executors Administrators and Assigns between whom the matter of difficulty & difference ^{had arisen &} exists, and every such award shall be performed executed and complied with by all and every the said parties according to its form and tenor and without any other or further appeal Suit content or delay whatsoever.

Art. 12 And Lastly for the due performance of all and singular the clauses Covenants stipulations and agreements herein before mentioned and contained

and which on the part and behalf of the said Parties Executors Administrators or Assigns are or ought to be done performed with and observed, the said Parties to these parts of them do hereby respectively bind and obligate to the Other in the several sum of £5000 each person or party neglecting failing or refusing observe all severally the articles, Clauses Covenants mentioned and contained to the party or parties perform comply with & observe the same -

In Witness whereof the said Parties to these parts hereof set their respective Hands and seals this day of the first above written -