

Company Number: 2850597

THE COMPANIES ACTS 1985 AND 1989

PUBLIC COMPANY LIMITED BY SHARES

- NEW -

ARTICLES OF ASSOCIATION

-of-

MERCURY TAVERNS PLC

(as adopted by Special Resolution
dated *25th April* April 1996)



INDEX

<u>CLAUSE:</u>	1.	INTERPRETATION
	2.	TABLE A
	3.	PRELIMINARY
	4.	SHARE CAPITAL
	5.-7.	INCOME AND CAPITAL
	8.-10.	ALLOTMENT OF SHARES
	11.	VARIATION OF RIGHTS
	12.-13.	LIENS
	14.-16.	TRANSFER OF SHARES
	17.	TRANSMISSION OF SHARES
	18.	NOTICES
	19.	VOTING
	20.	GENERAL MEETINGS
	21.-23.	PROCEEDINGS AT GENERAL MEETINGS
	24.-25.	ALTERNATE DIRECTORS
	26.-30.	APPOINTMENT AND RETIREMENT OF DIRECTORS
	31.	DISQUALIFICATION AND REMOVAL OF DIRECTORS
	32.-34.	DIRECTORS' APPOINTMENT AND INTERESTS
	35.	DIRECTORS' GRATUITIES AND PENSIONS
	36.-37.	PROCEEDINGS OF DIRECTORS
	38.	BORROWING POWERS
	39.	INDEMNITY

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INTERPRETATION

1.1 In these Articles these words have the following meanings:-

"accounting period"	each period ending on an accounting reference date of the Company for which the Company is required to produce audited financial statements pursuant to the Act
"the Act"	the Companies Act 1985 as amended by the Companies Act 1989
"Ordinary Shares"	ordinary shares of £1 each in the capital of the Company
"the Auditors"	the auditors from time to time appointed by the Company
"the Board"	the directors of the Company

	present at a meeting of the board of directors or a committee of directors duly convened and held
"the Capitalisation Agreement"	an agreement dated 17 November 1995 between the Company (1) AR Sanders and others (2) and Natwest Ventures Investments Limited and others (3)
"the Company"	Mercury Taverns PLC
"deferred shares"	deferred shares of £1 each in the share capital of the Company
"dividend arrears"	the arrears of dividends on preferred shares, redeemable preferred shares and preference shares which have from time to time fallen due for payment and not been paid, together with interest on such arrears payable pursuant to Article 5.3.3
"dividend date"	the date upon which a cumulative dividend first becomes due for payment pursuant to Article 5.1
"the Expert"	an independent firm of chartered accountants appointed pursuant to Article 16.17
"Family Trusts"	in relation to any Member, trusts, under which the beneficiaries or potential beneficiaries are exclusively the Member concerned and/or one or more of his Privileged Relations
"flotation"	the listing of any of the Company's equity share capital on the Official List of the London Stock Exchange or the grant of permission to deal in such shares on the Unlisted Securities Market or any other recognised market for securities
"Loan Facility"	the short term loan facility made available to the Company in accordance with the Subscription Agreement

"Market Capitalisation Value"

the aggregate value of all ordinary shares, preferred shares and redeemable preferred shares as at the date of sale or flotation and calculated on the basis of conversion pursuant to article 7 of all such relevant shares into ordinary shares by reference to :-

(i) in relation to a flotation, the offer price, tender price or placing value (as appropriate); or

(ii) in relation to a sale, the price per ordinary share paid upon such sale (and if part of the price for the ordinary shares on such sale is not payable in cash or is a variable amount then the value shall be determined by the Expert)

"Member"

a holder of shares

"Murray Johnstone Group"

all or any investments, trusts or investment companies or funds managed or advised by Murray Johnstone Limited (or any holding or subsidiary of a holding company of Murray Johnstone Limited) and a "member of the Murray Johnstone Group" shall have a corresponding meaning

"Net Profits"

the consolidated net profits of the Company and its subsidiaries as shown by the audited consolidated financial statements of the Company for an accounting period prepared on the basis of generally accepted accounting principles and practices and calculated:-

(i) before making any provision for the payment of any dividends on any shares or for any other distribution or the transfer of any sum to reserves

(ii) before deducting the amount of any dividend declared and paid in respect of any

shares or interest on the Loan Facility (excluding default interest on late payment) in the period to which the financial statements relate

(iii) before the deduction of any corporation tax or other taxation on profits and gains

(iv) after there have been deducted any interest charged on or payable by the Group (other than interest payable on the redemption of any preference shares or the payment of any dividend)

(v) after taking into account any exceptional items

(vi) before taking into account any extraordinary items

(vii) before the amortisation of any goodwill arising on the acquisition of any company or business

and in the event of dispute as to the amount of the Net Profits the matter may be referred to the Expert for final determination (acting as experts and not arbitrators)

"the Offer Notice"

a notice offering shares for sale to the Members pursuant to Article 16.4

"the Participating Dividend"

a cumulative participating net cash dividend payable in accordance with Article 5.1.4

"preference shares"

cumulative redeemable preference shares of £1 each in the share capital of the Company

"preferred shares"

cumulative convertible participating preferred ordinary shares of £1 each in the share capital of the Company

"the Prescribed Price"

the price per share specified in the Transfer Notice for the shares to be sold or (if no

	price is specified or if the Transfer Notice is issued in accordance with Article 16.12) certified by the Expert pursuant to Article 16.3 or calculated in accordance with Article 16.12 (as appropriate)
"Privileged Relation"	the spouse and every child stepchild adopted child or other lineal descendant or ancestor of a person who is a Member immediately following the date of the adoption of these Articles or any brother or sister half brother half sister (whether by adoption or otherwise) or parent of such a Member
"the Proposing Transferor"	a Member proposing to dispose of shares
"Purchaser"	a Member willing to purchase shares comprised in a Transfer Notice
"redeemable preferred shares"	cumulative convertible redeemable preferred ordinary shares of £1 each in the share capital of the Company
"redemption date"	the date fixed for the redemption of the preference shares
"sale"	the acquisition by any person other than Members at the date of the adoption of these articles of shares carrying in excess of 50% of the votes entitled to be cast at general meetings of the Company or the disposal by the Company of the whole or substantially the whole of its assets and undertaking or of the whole or substantially the whole of its holding of shares in a subsidiary carrying on the whole or substantially the whole of the undertaking of the Group
"shares"	shares in the capital of the Company including any beneficial interest in shares

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|------------------------------|--|
| "the Subscription Agreement" | a subscription agreement dated 25 September 1993 and made between the Company (1), A R Sanders & Others (2) and NatWest Ventures Investments Limited and Murray Ventures PLC (3) |
| "Table A" | the regulations contained in Table A of the Companies (Tables A-F) Regulations 1985 as amended by the Companies (Tables A-F) (Amendment) Regulations 1985 |
| "transfer" | a transfer of any shares, the renunciation of any allotment of shares or any rights to subscribe for or receive an allotment of shares |
| "Transfer Notice" | a written notice served by a Member on the Company indicating his desire to dispose of shares |
-
- 1.2 Words and phrases defined in the Act will have the same meanings in these Articles.
 - 1.3 Where reference is made to a statutory provision this includes all prior and subsequent enactments, amendments and modifications of that provision and any regulations made under it.
 - 1.4 References to the masculine gender include the feminine and neuter and vice versa. Similarly, references to the singular will include the plural and vice versa.
 - 1.5 The headings and index in these Articles are inserted for convenience only and will not affect the construction or interpretation of any of the provisions contained in them.
 - 1.6 References to writing will include typewriting printing lithography photography telex and facsimile messages and any other method of producing words in a legible and permanent mannrr.

TABLE A

2. Except as provided in these Articles Table A will apply to the Company.

PRELIMINARY

- 3.1 The Board may at any time require any Member to furnish them with such information as they may consider necessary to determine whether or not the Company is a close company within the meaning of the Income and Corporation Taxes Act 1988 together with such evidence as they may reasonably require for that purpose.
- 3.2 If a Member does not comply with such requirements the Board may withhold any dividends or other shares registered in the name of that Member (whether solely or jointly with some other person or persons).

SHARE CAPITAL

- 4. The share capital of the Company is £11,030,000 divided into:-
 - 4.1 130,000 ordinary shares;
 - 4.2 716,667 preferred shares;
 - 4.3 86,666 redeemable preferred shares;
 - 4.4 10,096,667 preference shares

INCOME AND CAPITAL

- 5. As regards income the shares have the following rights and are subject to the following restrictions.
 - 5.1 The profits of the Company which are available for lawful distribution in respect of each accounting period will be applied as follows:-
 - 5.1.1 first, in paying to the holders of the preference shares a fixed cumulative cash dividend per annum (net of any withholding tax) of eight pence per share such dividend to be payable in two equal instalments on 30 April and 31 October in each year in respect of the six month period ended on such dates;
 - 5.1.2 secondly, in paying to the holders of the redeemable preferred shares a fixed cumulative cash dividend per annum (net of any withholding tax) of eight pence per share such dividend to be payable in two equal instalments on 30 April and 31 October in each year in respect of the six month period ending on such dates;
 - 5.1.3 thirdly, in paying to the holders of the preferred shares a fixed cumulative cash

dividend per annum (net of any withholding tax) of eight pence per share such dividend to be payable in two equal instalments on 30 April and 31 October in each year in respect of the six month period ended on such dates;

5.1.4 fourthly, in paying to the holders of the preferred shares :-

5.1.4.1 in respect of the accounting period ending on 30 September 1997 a cumulative participating cash dividend (net of any withholding tax) equal to ten per cent of the Net Profits of the Company for that accounting period

5.1.4.2 in respect of each of the accounting periods ending on 30 September 1998 and 30 September 1999 a cumulative participating cash dividend (net of any withholding tax) equal to twenty per cent of the Net Profits of the Company for the accounting period in question; and

5.1.4.3 in respect of each accounting period ending subsequent to 30 September 1999 a cumulative participating cash dividend (net of any withholding tax) equal to thirty per cent of the Net Profits of the Company for the accounting period in question

5.1.5 fifthly, with the prior written consent of the holders of seventy-five per cent of the preferred shares, to the extent that the profits of the Company available for lawful distribution in any accounting period are resolved to be distributed in paying the balance to the holders of the preferred shares the redeemable preferred shares and the ordinary shares to be distributed pari passu as if they constituted one class of share;

5.1.6 the dividend payable pursuant to Article 5.1.4 is to be distributed amongst the holders of the preferred shares pro rata according to the number of shares held by each of them and will be paid within fourteen days of the date upon which the audited accounts of the Company for the relevant accounting period are adopted by the Members of the Company in General Meeting or within ninety days of the end of the accounting period in question (whichever shall be the sooner).

5.2 Unless the Company has insufficient profits lawfully available for distribution to its Members and it is as

a result prohibited from paying dividends by the Act, all dividends payable pursuant to Article 5.1.1 to 5.1.4 (inclusive) will become a debt due from and immediately payable by the Company on the appropriate date for payment as referred to in these Articles notwithstanding that there has not been any recommendation of the directors or resolution of the Members in General Meeting in respect of that dividend provided that if due to delays in the preparation of the audited accounts of the Company the Participating Dividend cannot be calculated by the date it is due for payment then if there are sufficient distributable profits there shall be paid forthwith on the relevant due date an interim dividend in respect of the Participating Dividend of a sum equal to the last Participating Dividend payable.

5.3 If for any reason the Company is unable pursuant to the Act to pay any of the cumulative dividends in full on the appropriate date fixed for payment the following provisions will apply:-

5.3.1 on the dividend date in question the Company will pay to the holders on account of the relevant dividends the maximum sum which is then available to be distributed to the Company pursuant to the Act, such payments on accounts to be made in the order of priority set out in Article 5.1;

5.3.2 on each succeeding dividend date the Company will pay on account of the balance of the relevant dividend (and any interest on it) then outstanding the amount which can then be lawfully paid pursuant to the Act until such time as the relevant dividend (and interest on it) has been paid in full;

5.3.3 the amount of any dividend due to be paid and which is not paid on the relevant dividend date will itself bear interest at a rate 3% above the base lending rate of National Westminster Bank Plc from the relevant dividend date to the actual date of payment;

5.3.4 the payments required to be made pursuant to this Article 5.3 are to be made in the order of priority of the dividends pursuant to these Articles save that upon each instalment of a dividend paid pursuant to Article 5.3.2 there is also to be paid interest on the dividend in accordance with Article 5.3.3;

5.4 Save as provided in these Articles, no dividend will be declared or paid in respect of any accounting reference period of the Company unless and until any arrears, deficiencies or accruals of the cumulative dividends have been paid in full in respect of that and all preceding accounting periods of the Company.

- 5.5 The fixed dividends payable pursuant to Articles 5.1.1, 5.1.2 and 5.1.3 will be deemed to accrue from day to day during each accounting period.
- 5.6 If for any reason the Company in any year prepares its audited financial statements pursuant to the Act to a date not being 30 September then the provisions relating to the payment of the cumulative dividends pursuant to Article 5.1 will apply mutatis mutandis to the actual accounting period of the Company so that the holders of the preference shares and the preferred shares will be entitled to receive (as near as may be) dividends equal to the amount of dividends which would have been paid had the Company continued to make up its financial statements to 30 September. In the event of dispute, the matter is to be referred to the Expert (acting as expert and not arbitrator) for final determination.
- 5.7 No dividend or other distribution will be payable upon the deferred shares.
6. As regards capital the shares have the following rights and are subject to the following restrictions:-
- 6.1 On a return of assets of the Company upon a liquidation or otherwise the surplus assets of the Company remaining after the payment of its liabilities will be applied as follows:-
- 6.1.1 first, in paying to the holders of the preference shares a sum equal to any arrears deficiency or accruals on the dividends payable on those shares and any interest on them calculated down to the date of the return of assets;
- 6.1.2 secondly, in paying to the holders of the preference shares an amount equal to the amount paid or credited as paid on them (including any premium);
- 6.1.3 thirdly, in paying to the holders of the redeemable preferred shares a sum equal to any arrears deficiency or accruals on the dividends payable on those shares and any interest on them calculated down to the date of the return of those assets;
- 6.1.4 fourthly, in paying the holders of the redeemable preferred shares an amount equal to the amount paid or credited as paid up on them (excluding any premium);
- 6.1.5 fifthly, in paying to the holders of the preferred shares a sum equal to any arrears deficiency or accruals on the dividends payable on those shares and any interest on them calculated down to the date of the return of

assets;

- 6.1.6 sixthly, in paying to the holders of the preferred shares an amount equal to the amount paid or credited as paid up on them (including any premium);
- 6.1.7 seventhly, in paying to the holders of the ordinary shares an aggregate amount per share equal to the amount paid or credited as paid up on them (including any premium);
- 6.1.8 eighthly, in paying the balance of such assets to the holders of the preferred shares the redeemable preferred shares and the ordinary shares pari passu as if they constituted one class of share up to an amount of £100,000 per share;
- 6.1.9 ninthly, in paying to the holders of deferred shares the sum of £1 per share; and
- 6.1.10 tenthly, in paying the balance of such assets to the holders of the preferred shares, the redeemable preferred shares and the ordinary shares pari passu as if they constituted a single class of share.

6.2 As regards redemption of the preference shares:-

- 6.2.1 the preference shares will be redeemed at par on the occurrence of the sale or flotation of the Company (whichever shall first occur) such redemption to take effect immediately prior to such sale or flotation;
- 6.2.2 the preference shares will, if not, previously redeemed pursuant to the provisions of these Articles, be redeemed in instalments of 355,000 of such shares (or in relation to the last instalment such lesser number, if relevant, as represents the number of preference shares then in issue) the first instalment of such shares to be redeemed on 31 October 1996 and subsequent instalments to be redeemed on 30 April and 31 October in each subsequent year until all the preference shares shall have been redeemed

6.3 The following provisions will apply to the redemption of the Preference Shares .

- 6.3.1 on each redemption date the Company will pay to each of the holders of preference shares the amount payable in respect of the redemption and following receipt of that amount each such holder of preference shares shall surrender to

the Company the certificate for the shares held by that holder of preference shares which are to be redeemed so that they may be cancelled and (if the share certificate surrendered to the Company includes any shares which are not to be redeemed) the Company shall deliver to the holder a fresh share certificate for the number of shares of which he remains the registered holder;

6.3.2 upon the redemption of the preference shares the Company will pay in respect of each share so redeemed the total of:-

6.3.2.1 £1; and

6.3.2.2 any arrears deficiency or accruals of dividend and any interest on them calculated down to the date of redemption and to be payable whether those dividends have been declared or earned or not;

6.3.3 if the Company fails to make any payment to the holders of preference shares upon the due redemption date it will pay interest on the amount payable pursuant to Article 6.3.2 at a rate 3% above the base lending rate of National Westminster Bank Plc from time to time from the relevant redemption date to the actual date of payment.

6.4 Subject to the provisions of the Act the Preference shares will be redeemed immediately upon:-

6.4.1 the appointment of an administrator or administrative receiver of the whole or any part of the property and assets of the Company or any of its subsidiaries;

6.4.2 the variation of the rights attaching to the preference shares without the prior approval of the holders of those shares obtained in accordance with the provisions of these Articles;

6.4.3 any date fixed by the Company with the prior consent of the holders of 75% in nominal value of the preference shares from time to time obtained in accordance with the provisions of these Articles provided that if any such redemption is a redemption in part only of the preference shares then in issue it will be treated as a redemption of the preference shares last falling due for redemption pursuant to Article 6.2.

7. As regards conversion :-

- 7.1 Upon a flotation or sale the preferred shares and the redeemable preferred shares will if so required by Members holding not less than 75% (seventy-five per cent) in nominal value of such shares by notice in writing served upon the Company convert into ordinary shares on the basis of one ordinary share for each preferred share and one ordinary share for each redeemable preferred share. Each such conversion will take effect on the later of the day following receipt of notice from such Members or immediately prior to such flotation or such sale is completed.
- 7.2 Members holding not less than seventy-five per cent in aggregate of the preferred shares may by notice in writing served upon the Company convert all or some of the preferred shares into ordinary shares on the basis of one ordinary share for each preferred share.
- 7.3 At any time after 30 September 1998 Members holding not less than 75% in aggregate of the redeemable preferred shares may by notice in writing served upon the Company convert all or some of the redeemable preferred shares into ordinary shares on the basis of one ordinary share for each redeemable preferred share.
- 7.4 Each such conversion as referred to in Articles 7.2 and 7.3 shall take effect on the day following receipt of such notice from such Members unless such notice states that conversion is to be effected when any conditions specified in such notice have been fulfilled in which case conversion shall take effect when such conditions have been fulfilled.
- 7.5 Following any conversion in accordance with the Articles each registered holder of preferred shares or redeemable preferred shares (as appropriate) will send to the Company the Share Certificate for the shares held by him which are to be converted. The Company shall issue a Share Certificate to such Members in respect of the appropriate number of ordinary shares and (if appropriate) the number of unconverted preferred shares or redeemable preferred shares of which he remains the holder.
- 7.6 On the date of any conversion of preferred shares or redeemable preferred shares the Company shall pay a dividend to the holders of the preferred shares or redeemable preferred shares as appropriate in respect of the shares converted of a sum equal to any arrears or accruals of any dividends on the preferred shares or redeemable preferred shares calculated on a daily basis until the date of conversion and the Participating Dividend shall be calculated pro rata according to the profits of the Company (and its subsidiaries) for the relevant accounting period to the date of conversion by reference to the management accounts of the Company such amount to be certified by the Auditors (acting as

experts) in the absence of agreement between the Company and such Members.

7.7 If at any time:-

7.7.1 any Dividend Arrears remain outstanding and have not been paid within 14 days of the due date for payment pursuant to the Capitalisation Agreement; and

7.7.2 the Company has insufficient distributable reserves available out of which to pay the Dividend Arrears;

then Members holding not less than 50% in aggregate of the issued preferred shares may by notice in writing served upon the Company require that sufficient ordinary shares are (without further resolution of the Company) converted into deferred shares as are necessary to increase the percentage of the equity share capital of the Company attributable to preferred shares by 1% for each complete £175,000 of the Dividend Arrears which are, at the date of such notice, outstanding by 14 days or more.

7.8 As soon as reasonably practicable after service of notice by Members holding preferred shares pursuant to Article 7.7, the Company shall serve notice upon the holders of ordinary shares specifying:-

7.8.1 the number of ordinary shares to be converted;

7.8.2 the number of ordinary shares held by each Member which are to be converted; and

7.8.3 a date, being no more than 14 days after the date upon which notice is served upon the Company pursuant to Article 7.7, upon which the conversion is to take effect.

On the date specified for the conversion of ordinary shares to take effect, each Member holding ordinary shares shall deliver up to the Company the Share Certificate for the ordinary shares held by him which are to be converted and the Company will issue a replacement Share Certificate to such Member for the balance of the ordinary shares and the deferred shares of which he is then the holder. Unless otherwise agreed by all of the Members holding ordinary shares, the number of ordinary shares held by each Member which are to be converted into deferred shares will be calculated pro rata according to the number of ordinary shares held by each Member at the date upon which notice was served upon the Company pursuant to Article 7.7.

7.9 If there is any dispute as to the number of ordinary shares to be converted pursuant to Article 7.7, the certificate of Lead Investor for the time being (as

defined in and appointed pursuant to the Subscription Agreement) as to the number of ordinary shares to be converted shall be final and binding upon all Members, unless there is an obvious error.

- 7.10 If any Member fails to deliver up to the Company the certificate in respect of any ordinary shares held by him for the purposes of conversion pursuant to Articles 7.7 and 7.8, the Board may (and, if required by the Lead Investor, shall) appoint some person to execute any necessary documentation (including, without limitation, indemnities for lost share certificates) on behalf of and as attorney for the defaulting Member so as to enable the conversion to take effect.

ALLOTMENT OF SHARES

- 8.1 Subject to the provisions of Article 9, and in accordance with Section 80 of the Act, the Board are unconditionally authorised at any time or times during the period expiring on the day prior to the fifth anniversary of the date of the adoption of these Articles:-

8.1.1 to allot relevant securities of the Company (as defined in Section 80 of the Act) up to the amount of the authorised but unissued share capital of the Company at the date of such allotment; and

8.1.2 to make or enter into any offer or agreement which would or might require relevant securities to be allotted after the expiry of such authority.

9. Subject to Section 80 of the Act, the authority given in Article 8.1 may be renewed, revoked or varied by the Company at any time by ordinary resolution. Unless renewed, revoked or varied, such authority shall expire at the end of the period referred to in Article 8.1.

- 9.1 Subject to the provisions of Article 9.2, and without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares, all shares will be issued to such persons, upon such terms and conditions and with such rights, priorities, privileges or restrictions as the resolution creating or issuing them or effecting the increase in the authorised share capital of the Company directs. In the absence of any direction all shares (whether forming part of the existing or any increased capital) will be at the disposal of the Board.

- 9.2 Unless the Company by special resolution otherwise directs, any shares in the capital of the Company which are proposed to be issued will be offered first to the

Members in proportion as nearly as possible to the number of votes entitled to be cast on a poll in respect of equity shares held by each of them respectively (provided that preference shares shall not be treated as equity shares for the purpose of this Article). The offer will be made by notice specifying the number of shares offered and limiting a period (being not less than twenty-one days) within which the offer if not accepted will be deemed to be declined. After the expiration of that period any shares not accepted will be offered, in the same proportions, to the Members who have accepted all shares initially offered to them. This further offer will be made in the same manner as the original offer but will be limited to a period of seven days. Any shares not accepted pursuant to either the original offer or any further offer, or which are not capable (in the sole opinion of the Board) of being offered except by way of fractions, will be at the disposal of the Board, who may issue, grant options over or otherwise dispose of them to such persons and on such terms as they think fit. However shares are not to be disposed of on terms which are more favourable than the terms on which they were offered to the Members.

10. No shares will be issued to any infant bankrupt or person of unsound mind.

VARIATION OF RIGHTS

- 11.1 If the share capital of the Company is divided into different classes then the rights attaching to a class of shares may be modified varied extended abrogated or surrendered only with the prior consent of the holders of not less than 75% in nominal value of the issued shares of that class.
- 11.2 For the purposes of these Articles the consent of the holders of a class of shares may be given by:-
- 11.2.1 a resolution passed at a general meeting of the holders of the shares of that class to which the provisions of these articles relating to general meetings as varied by Article 11.4 will apply as if it were a general meeting; or
- 11.2.2 a written resolution in any form signed by or on behalf of all of the persons registered as holders of shares of that class.
- 11.3 Without prejudice to the generality of any other provision of these Articles:
- 11.3.1 if any class of shares (other than ordinary shares) has preferential rights to receive a dividend or distribution of capital on a winding up or other return of capital then the

conferring otherwise than pursuant to these Articles upon other shares of rights to receive either dividends or a return of capital ranking pari passu with or in priority to the rights attaching to those shares will be deemed to be a variation of the rights of the holders of shares of that class; and

11.3.2 in respect of the preference shares the redeemable preferred shares and the preferred shares the following matters will constitute a variation in the rights of the holders of shares of those classes:-

11.3.2.1 the convening of a meeting to consider the passing of any resolution for the reduction in the share capital of the Company;

11.3.2.2 the convening of a meeting to consider the passing of any resolution to change the status of the Company as a public company limited by shares;

11.3.2.3 the convening of a meeting to consider the passing of any alteration to the Memorandum or Articles of Association of the Company;

11.3.2.4 the convening of a meeting to consider the passing of any resolution to wind up the Company or any of its subsidiaries;

11.3.2.5 the payment of any distribution of income other than the payment of a cumulative dividend payable pursuant to these articles;

11.3.2.6 the distribution of capital other than by way of the redemption of the preference shares or redeemable preferred shares;

11.3.2.7 the removal of the Auditors or the appointment of new auditors of the Company;

11.3.2.8 the change in the accounting reference date of the Company;

11.3.2.9 the removal of a director appointed pursuant to article 30 otherwise than in accordance with the procedure set out in that article;

11.4 For the purposes of these Articles the following

provisions will apply to any general meeting of the holders of any class of shares:-

- 11.4.1 the necessary quorum will be one person at least holding or representing by proxy not less than one-third of the nominal value of the shares of that class;
- 11.4.2 if any meeting is adjourned because no quorum is present then the quorum at the re-convened meeting will be one person holding or representing by proxy shares of that class;
- 11.4.3 any holder of or person representing by proxy shares of that class may demand a poll;
- 11.4.4 on a poll every holder of shares of that class present in person or by proxy will have one vote for each share of which he is registered as the holder.

LIENS

- 12.1 The Company has a first and paramount lien on every share (whether fully paid or not) for all monies (whether presently payable or not) called or payable at a fixed time in respect of that share.
- 12.2 The Company also has a first and paramount lien on all shares (whether fully paid or not) standing registered in the name of any person indebted or under a liability to the Company. This lien will apply to any share of which such person is the sole registered holder or one of several joint holders and will be a first and paramount lien for all monies and liabilities whether presently due and payable or not.
- 12.3 The Board may at any time declare any share to be wholly or in part exempt from the provisions of this Article.
- 12.4 The Company's lien (if any) on a share will extend to any amount payable in respect of it.
- 12.5 Regulation 8 of Table A will not apply to the Company.

13. The purchaser of any shares sold pursuant to Regulation 9 of Table A will not be bound to see to the application of the purchase money. Regulation 10 of Table A will be modified accordingly.

TRANSFER OF SHARES

- 14.1 The Board may in their absolute discretion and without giving any reason decline to register any transfer of any share (whether or not it is a fully paid share) unless:-
- 14.1.1 it is lodged at the registered office of the Company or such place as the Board may appoint;
 - 14.1.2 it is accompanied by the certificate for the shares it represents or an indemnity in respect of a lost certificate in a form reasonably satisfactory to the Board and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer;
 - 14.1.3 it is in respect of only one class of shares;
 - 14.1.4 it is in favour of not more than four transferees; and
 - 14.1.5 it is a transfer made pursuant to or in accordance with the provisions of Articles 15 or 16;
- 14.2 Regulation 24 of Table A will not apply to the Company.
- 15.1 A Member (and any such person as is referred to in Article 15.1) may at any time transfer all or any shares:
- 15.1.1 to another Member holding shares of the same class;
 - 15.1.2 to a Privileged Relation;
 - 15.1.3 to trustees to be held upon Family Trusts;
 - 15.1.4 where shares are held by trustees upon Family Trusts to new trustees of or to persons who are beneficiaries under such trusts;
 - 15.1.5 to any other company which is from time to time a member of the same group of companies as it is without restrictions to price or otherwise;
 - 15.1.6 to any nominee of any of the persons referred to in Articles 15.1.5 or 15.1.7;
 - 15.1.7 where shares are held by an Investor as or on behalf of a fund, manager trustee or investment adviser of any unit trust pension or other investment fund to any other person who is for the time being a replacement or co-manager trustee or investment adviser of such unit trust pension or other investment fund or to a beneficial owner of all or any part of that unit trust pension or investment fund or to any

other investments, trusts or investment companies or Funds managed or advised by such Investor;

15.1.8 where shares are held by any member of the Murray Johnstone Group the shares may be transferred to any other member of the Murray Johnstone Group without restrictions as to price or otherwise;

15.1.9 in the event of any member of the Company which is a member of the Murray Johnstone Group ceasing to be a member of the Murray Johnstone Group, (such member being hereinafter in this article referred to as the "Ex-Member") the Ex-Member shall immediately notify the Company in writing whereupon the Directors shall be entitled, within three months of the date of such notification, by notice in writing to request Murray Johnstone Limited to nominate within thirty days in writing another member of the Murray Johnstone Group who will be prepared to acquire the entire holding of shares in the Company of the Ex-Member. Forthwith upon receipt of such a nomination the Directors shall intimate the same in writing to the Ex-Member who shall be bound within fourteen days of the receipt of such intimation to execute and deliver a transfer in respect of all of its shares in the Company to such member of the Murray Johnstone Group, provided always that the price payable for such shares shall be not less than the Prescribed Price

15.2 If any company to which any shares have been transferred pursuant to Article 15.1.5 (but not 15.1.7) (whether directly or by a series of transfers) for whatever reason ceases to be a company to which the transferor of such shares (or the original transferor in a series of transfers) would be entitled to transfer shares pursuant to Article 15.1.5 then the Board may require that company to transfer the shares transferred to it to the transferor or (as the case may be) the original transferor of those shares at the Prescribed Price to be calculated in accordance with Article 16.3.

15.3 If any person to whom any shares have been transferred pursuant to Articles 15.1.2, 15.1.5 and 15.1.6 (whether directly or by a series of transfers) for whatever reason ceases to be a person to whom the transferor of such shares (or the original transferor in a series of transfers) would be entitled to transfer shares pursuant to such Articles then the Board may require that person to transfer the shares transferred to it to the transferor or (as the case may be) the original transferor of those shares at the Prescribed Price to be calculated in accordance with Article 16.3.

15.4 In default of compliance with Articles 15.2 or 15.3 the

Board may appoint some person to execute any necessary instruments of transfer on behalf of and as attorney for the defaulting Member. After the name of the Purchaser has been entered in the register of Members in purported exercise of the powers contained in this Article 15.4 the validity of the proceedings will not be questioned by any person.

16. Except as provided in Article 15 the right to transfer shares is subject to the following restrictions:-

16.1 Before transferring any shares the Proposing Transferor must serve a Transfer Notice on the Company. The Transfer Notice will constitute the Company his agent for the sale of the shares mentioned to any Member or Members. Subject to Article 16.6 a Transfer Notice once given or deemed to be given will not be revocable except with the consent of the Board.

16.2 The consideration for the sale of the shares specified in the Transfer Notice is the Prescribed Price.

16.3 On receipt of any Transfer Notice which does not specify a price per share or in the case of any Transfer Notice issued in accordance with Article 16.12 (which will supersede and replace any previous transfer notice issued by that relevant member) the Company will request the Expert (acting as expert and not as arbitrator) to certify the Prescribed Price. In determining the Prescribed Price the Expert will subject as noted below:-

16.3.1 determine the sum which a willing purchaser would offer to a willing vendor for the entire issued share capital of the Company;

16.3.2 apportion the sum determined between the different classes of shares in the Company then in issue by reference to the privileges and rights attaching to each such class of shares;

16.3.3 divide the sum determined by the number of shares of that class in issue;

16.3.4 make such adjustments (if any) as they consider necessary to allow for any rights which may be outstanding to call for the issue of further shares in the Company.

In determining the Prescribed Price account will not be taken of any premium or discount arising in relation to the size of the holding the subject of the Transfer Notice and no account will be taken of any premium or discount in relation to any restrictions on the transferability of the shares (whether contained in these Articles or elsewhere).

16.4 All the shares included in any Transfer Notice will,

within fourteen days of receipt of the Transfer Notice or in a case falling within Article 16.3 receipt of the Expert's certificate as to the Prescribed Price, be offered by the Company to all Members (other than the Proposing Transferor) holding shares of the same class of shares for purchase at the Prescribed Price. All offers will be made by notice and will specify a time (not being less than thirty days from the date of the notice) within which the offer must be accepted or, in default, will be deemed to have been declined.

- 16.5 If the Members to whom shares are offered pursuant to Article 16.4, within the period specified in the Offer Notice, apply for all or any of the shares, the Company will allocate them (or so many of them as shall be applied for) amongst the Purchasers. In the case of competition the shares will be allocated pro rata according to the number of shares in the Company of the same class as the shares offered in respect of which each of the Purchasers are registered or unconditionally entitled to be registered as holders. No Purchaser will be obliged to take more than the maximum number of shares specified by him in his acceptance.
- 16.6 If the Company, after making offers in accordance with Article 16.4, finds a Purchaser or Purchasers willing to purchase some only of the shares it will within fourteen days of the closing date of the original Offer Notice offer the shares to the Members of the Company holding equity shares of a different class. Such offers will be made in the same manner and on the same terms as offers made pursuant to Article 16.4. The provisions of Article 16.5 will apply mutatis mutandis to the extent that any Members to whom the shares are offered pursuant to this Article 16.6 apply for more than the number of shares offered pursuant to this Article provided that in the event of competition for shares the shares will first be offered to the holders of preferred shares, redeemable preferred shares and ordinary shares pari passu as if they constituted one class of shares.
- 16.7 If the Company, after making offers in accordance with Articles 16.4 and 16.6, find a Purchaser or Purchasers willing to purchase some only of the shares the Company will give notice of that fact to the Proposing Transferor. The notice will be given within seven days of the last date for acceptances under Article 16.6. The Proposing Transferor will then be entitled to revoke his Transfer Notice by notice to the Company within a further fourteen days of receipt of notice from the Company.
- 16.8 If the Company finds a Purchaser or Purchasers willing to purchase the shares (or any of them) it will (following the expiry of the fourteen day period contained in Article 16.7 if applicable) give notice to the Proposing Transferor and he will be bound upon payment of the Prescribed Price to transfer those shares to the respective Purchasers. Every such notice must

state the name and address of each Purchaser and the number of shares agreed to be purchased by him. The purchase will be completed at a place and time to be appointed by the Board.

- 16.9 If any Proposing Transferor, after having become bound to transfer any shares to a Purchaser, makes default in transferring the relevant shares the Board may authorise some person to execute any necessary instruments of transfer on behalf of and as attorney for the Proposing Transferor. The Board may receive the purchase money and will cause the name of the Purchaser to be entered in the Register of Members as the holder of the relevant shares. The purchase money will be held by the Company on trust for the Proposing Transferor. The receipt of the Company for the purchase money will be a good discharge to the Purchaser who will not be bound to see to its application. After the name of the Purchaser has been entered in the register of Members in purported exercise of the powers contained in this Article 16.9 the validity of the proceedings will not be questioned by any person.
- 16.10 During the three months following the expiry of the period specified in the Offer Notice and subject to compliance with the procedures set out above, the Proposing Transferor will be at liberty to transfer to any persons and at any price (not being less than the Prescribed Price) any share for which the Company has not found a Purchaser or Purchasers (as evidenced by notices served by the Company pursuant to Article 16.8). However, if the Proposing Transferor has revoked his Transfer Notice in pursuance of Article 16.7 he will not be entitled to sell under this Article 16.10 some only of the shares comprised in the relevant Transfer Notice. The Board may require to be satisfied that any shares transferred under the provisions of this Article 16.10 are being transferred in pursuance of a bona fide sale at arms length for the consideration stated in the instrument of transfer, without any deduction, rebate or allowance whatsoever to the purchaser, whether direct or indirect.
- 16.11 A person entitled to a share in consequence of the death, bankruptcy, receivership or liquidation of a Member or any person or company in default of an obligation to transfer shares pursuant to Articles 15.2 and/or 15.3 for more than one month will be bound at any time, if and when called on in writing by the Board to do so, to give a Transfer Notice (without specifying a price per share) in respect of all the shares then registered in the name of the deceased, insolvent or defaulting Member. This requirement will not apply if such person is or within ninety days of becoming so entitled transfer the shares held by him to a person who is a person to whom such shares may be transferred pursuant to Article 15. Regulations 30 and 31 of Table A are to take effect accordingly.

16.12 Any Member holding ordinary shares, being also a director or employee of the Company, who ceases for whatever reason to hold such office or be an employee of the Company and any member holding shares as a result of a transfer by such Member pursuant to articles 15.1.2 to 15.1.4 (inclusive), will be bound at any time after such Member ceasing to be a director or employee of the Company if and when called on in writing by the Board or by the Investors so to do to give a Transfer Notice in respect of the shares then registered in the name of such Member and any Member holding shares as a result of a transfer by such Member pursuant to article 15.1.2 to 15.1.4 (inclusive) Provided that :-

16.12.1 where such cessation is by reason of such member's voluntary resignation or where the Member is lawfully dismissed for persistent and material breach of such Member's service contract after having been given due written warning and where such cessation occurs before 25 September 1995 then the Prescribed Price shall be 1 pence per share;

16.12.2 where 16.12.1 applies, such Member shall not be required to serve a Transfer Notice if he has been dismissed by the Company until the expiry of the later of :-

16.12.2.1 a period of three calendar months from the date of such dismissal; and

16.12.2.2 in the event that such Member has served proceedings on the Company claiming that such a dismissal was wrongful or unfair a period of seven days immediately following the expiry of the period allowed for lodging an appeal from a decision by any competent court or tribunal before which such Member has commenced such proceedings.

16.13 In the event that a member required by the Board to serve a Transfer Notice in accordance with article 16.2 fails to do so within fourteen days of the Board calling for such transfer then the Board shall be entitled to issue a Transfer Notice for and on behalf of such Member

16.14 For the purpose of ensuring that a transfer of shares is duly authorised, or that no circumstances have arisen where a Transfer Notice is required to be given, the Board may from time to time require any Member or past Member or the legal personal representatives or trustee in bankruptcy, receiver or liquidator of any Member, or any person named as transferee in any instrument of transfer lodged for registration, to furnish to the

Company such information as they may reasonably think fit regarding any matter which they may deem relevant to such purpose. If such information or evidence is not furnished to the reasonable satisfaction of the Board within a reasonable time after request, they will be entitled to refuse to register the transfer in question or (where no transfer is in question) to require by notice that a Transfer Notice be given in respect of the shares concerned. If such information or evidence discloses that in the reasonable opinion of the Board a Transfer Notice ought to have been given in respect of any shares the Board may by notice require that a Transfer Notice be given in respect of the shares concerned.

- 16.15 In any case where under the provisions of these Articles the Board may require a Transfer Notice to be given in respect of any shares, if a Transfer Notice is not duly given it will be deemed to have been given at the expiry of a period of two weeks from the date of the demand. In any such case all the provisions of these Articles will take effect except that no right of revocation as contained in Article 16.7 will apply.
- 16.16 The restrictions on transfer contained in these Articles will not apply to any transfer approved in writing by all the Members for the time being.
- 16.17 The Expert will be selected either:-
- 16.17.1 by the Company and (where an appointment is for purposes of determining the Prescribed Price) the Proposing Transferor or (for any other purpose) the Members jointly; or
- 16.17.2 if the Company and the Proposing Transferor or the Members (as appropriate) cannot agree as to an appointee within seven days of a request served by any one party on the others so to do, by the President for the time being of the Institute of Chartered Accountants for England and Wales.
- 16.18 The costs of the Expert will be borne by the Proposing Transferor and the Company equally or (where there is no Proposing Transferor) the Company.
- 16.19 The foregoing provisions of these Articles shall not apply to a transfer of any preferred shares, redeemable preferred shares or preference shares if the holders of seventy-five per cent of the preferred shares so direct in writing and the directors shall be obliged to register any such transfer of shares provided that the transferee is either a member of the British Venture Capital Association or is an entity actively engaged in the business of equity investments in businesses.
- 16.20 Notwithstanding any other provision of these Articles no sale or transfer of the legal or beneficial interest in

any shares ("the Specified Shares") in the Company may be made or validly registered without the previous written consent of seventy-five per cent majority of the holders of the preferred shares if as a result of such sale or transfer and registration thereof a Controlling Interest (as hereinafter defined) is obtained in the Company by a company or a person or persons who was or were not a member or members of the Company on the date of adoption of these articles of association unless before the transaction is lodged for registration the Preference Shares have been redeemed in full and the proposed transferee or his nominees has made an offer (stipulated to be open for acceptance for at least twenty-eight days) to purchase all the preferred shares and the redeemable preferred shares at the Specified Price (as hereinafter defined) together with all interest and accruals or arrears or dividends thereon which offer every relevant shareholder shall be bound within twenty-eight days of the making of such offer to him either to accept or reject in writing (and in default of so doing shall be deemed to have rejected the offer)

- 16.20.1 for the purpose of Article 16.20 the expression "a Controlling Interest" shall mean an interest (within the meaning of Schedule 13 Part I and Section 324 of the Act) in shares in a company conferring in the aggregate fifty per cent or more of the total voting rights conferred by all the issued shares in that company
- 16.20.2 the expression "transfer", "transferor" and "transferee" shall include respectively the renunciation of a renounceable letter of allotment, the original allottee and the renouncee under any such letter of allotment
- 16.20.3 the "Specified Price" shall mean a price per share at least pari passu to that offered or paid or payable by the proposed transferee or transferees or his or their nominees for each of the Specified Shares to the holders thereof plus an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the Specified Shares which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the Specified Shares. In the event of disagreement the calculation of the Specified Price shall be referred to the Expert

TRANSMISSION OF SHARES

17. Subject to Article 16.11 a person entitled to a share in consequence of a death, bankruptcy, receivership or liquidation of Member will be bound at any time if and when called upon in writing by the Board to do so, to elect either to be registered himself or to transfer the shares. If such notice is not complied with the Board may withhold all payments in respect of the shares until such time as it is.

NOTICES

- 18.1 Any notice required to be given under these Articles will be in writing and signed by (or by some person duly authorised by) the person giving it. The notice may be served by leaving it at or sending it by recorded delivery or registered post to (in the case of the Company) its registered office for the time being or (in the case of a Member) his registered address within the United Kingdom.
- 18.2 Any notice so served will be deemed to have been received:-
- 18.2.1 in the case of a personal service, upon delivery;
- 18.2.2 in the case of recorded delivery or registered post, forty eight hours from the date of posting.
- 18.3 In the case of notices sent by registered post it will be sufficient in proving service to establish that the envelope containing it was properly addressed stamped and posted.

VOTING

- 19.1 Subject to any special rights restrictions or prohibitions from time to time attached to any class of shares the holders of all shares will be entitled to receive notice of and to attend and speak at general meetings of the Members.
- 19.2 The holders of the Preference Shares will not be entitled to vote at General Meetings of the Company unless at the time of such meeting :-
- 19.2.1 the Company is in arrears in the payment of any money on the redemption of any shares; or
- 19.2.2 the Company is 60 days or more in arrears after the due date for payment in the payment of any

dividend;

- 19.2.3 the rights attaching to the Preference Shares are varied in which case the holders of Preference Shares shall only be entitled to vote in respect of resolutions in respect of the subject matter of such variation or potential variation.
- 19.3 The holders of the deferred shares will not be entitled to receive notice of or to attend or vote at any general meetings of the Company.
- 19.4 Subject to Articles 19.2, 19.3 and 19.5 on a show of hands a Member will have one vote for all shares held by him and on a poll the holders of the preferred shares the redeemable preferred shares and the ordinary shares and where the holders of the preference shares are entitled to vote pursuant to Article 19.1 the holders of the preference shares will be entitled to one vote for each share held by them.
- 19.5 The holders of the preferred shares and the redeemable preferred shares shall be entitled to four votes for each share held by them for such period as there remains any sums owing to the Investors pursuant to the Loan Facility but only if :-
- 19.5.1 the rights attaching to the preferred shares and/or the redeemable preferred shares are varied;
- 19.5.2 the Company is 60 days or more in arrears in the payment of any monies due under the Loan Facility.

GENERAL MEETINGS

- 20.1 The Board may convene general meetings.
- 20.2 On the requisition of Members pursuant to the provisions of the Act the Board will immediately proceed to convene an extraordinary general meeting for a date not later than two months after receipt of the requisition. If there are not for a consecutive period of six weeks or more sufficient directors in the United Kingdom to convene a general meeting any director may do so. If there are no directors of the Company at any time, any member may convene a general meeting.
- 20.3 Regulation 37 of Table A will not apply to the Company.

PROCEEDINGS AT GENERAL MEETINGS

21. If at any adjourned general meeting a quorum is not

present within half an hour from the time appointed for the meeting or, if during such an adjourned meeting, a quorum ceases to be present, one person entitled to be counted in a quorum will be a quorum.

22. A poll may be demanded at any general meeting by any Member present in person or by proxy and entitled to vote. Regulation 46 of Table A will be modified accordingly.

23. An instrument executed for the purposes of Regulation 53 will be deemed to be duly executed if it is sent to or received by the Company in writing over the name of the Member or his attorney or proxy.

ALTERNATE DIRECTORS

24. An alternate director's appointment will determine if by writing under his hand left at or sent to the registered office of the Company he resigns.

25. An alternate director will be reimbursed by the Company such expenses as might properly be reimbursed to him if he were a director.

APPOINTMENT AND RETIREMENT OF DIRECTORS

26. The directors will not retire by rotation. Regulations 73 to 75 (inclusive) and Regulations 80 of Table A will not apply to the Company.

27. Regulations 76 and 77 of Table A will be amended by omitting the words "other than a director retiring by rotation".

28. Regulation 78 of Table A will be amended by omitting the words "and may also determine the rotation in which any additional directors are to retire".

29. Regulation 79 of Table A will be amended by omitting the words "and shall not be taken into account in determining the directors who are to retire by rotation at the meeting".

30. The holders of the majority of the preferred shares from time to time will be entitled to appoint and remove three non-executive directors to the Board and such holders may also nominate the chairman of the Company. The appointment or removal of any such director appointed by the holders of the majority of the preferred shares will be by notice in writing lodged at the registered office of the Company and will take effect immediately

upon such notice being lodged at the registered office.

DISQUALIFICATION AND REMOVAL OF DIRECTORS

31. In addition to the provisions of Regulation 81 of Table A, the office of a director will be vacated if (in the reasonable opinion of the Board) a director is incapable by reason of mental disorder not falling within paragraph (c) of Regulation 81 of Table A or illness or injury or otherwise or managing or administering his affairs and the Board resolve his office be vacated. Regulation 81 of Table A shall be modified accordingly.

DIRECTORS' APPOINTMENT AND INTERESTS

32. The Board may at any time (but without prejudice to any claim for damages which a director may have for breach of any service contract) remove or dismiss a director appointed to any office or terminate any agreement or arrangement made with any director pursuant to Regulation 84 of Table A. Regulation 84 of Table A will be modified accordingly.

33. The last sentence of Regulation 84 of Table A will not apply to the Company.

34. A managing director or other executive director will (without prejudice to any claim for damages they may have for breach of any service contract) be subject to the same provisions as to removal and vacation of office as the other directors of the Company. If he ceases to hold the office of director for any reason, he will immediately cease to be managing director or executive director.

DIRECTORS' GRATUITIES AND PENSIONS

35. Regulation 87 of Table A will be amended by adding the words "or associated company" after the word "subsidiary" wherever it appears in the Regulation.

PROCEEDINGS OF DIRECTORS

36. It will be necessary to give notice of a meeting to a director who is absent from the United Kingdom if such director has notified the Secretary in writing of a method by which he can be contacted for the purpose of serving such a notice. Regulation 88 shall be modified accordingly.

37. Subject to the requirements of the Act no director or alternate director may as a director vote at any meeting of the

Board in respect of any contract or arrangement in which he or any Member by whom he is nominated is interested unless such interest is previously disclosed to the Board. If it is so disclosed, his vote will be counted and he will be reckoned in the quorum present at the meeting. Regulations 94 and 98 (inclusive) of Table A will not apply to the Company.

BORROWING POWERS

38. The Board may exercise all of the powers of the Company to borrow money and to mortgage and charge its property, undertaking and uncalled capital as security for such borrowings. The Board may issue debentures, debenture stock and other securities as security for any debt, liability or obligation of the Company or of its subsidiaries.

INDEMNITY

39. Every director, alternate director, secretary or other officer of the Company will be entitled to be indemnified out of the assets of the Company against all costs, charges, losses, expenses and liabilities which he may sustain or incur in or about the execution of the duties of his office. This indemnity includes any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in favour or in which he is acquitted or in connection with any application under Section 727 of the Act in which relief is granted to him by the Court. No director, alternate director, secretary or other officer will be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the execution of the duties of his office. However, this Article will only have effect insofar as its provisions are not avoided by the provisions of the Act.