

26,620

AT EDINBURGH the Thirty first day of August
Nineteen hundred and eighty seven the Deed hereinafter
reproduced was presented for registration in the Books
of the Lords of Council and Session for preservation and
is registered in the said Books as follows:-

HUNTERFIELD GOTHENBURG TAVERN TRUST



BACKGROUND

The Trustees of the late COLONEL ROBERT DUNDAS of Arniston conveyed properties in Gorebridge in the County of Midlothian, in 1911 to the ARNISTON COAL COMPANY LIMITED and in 1924 to PETER MILLIGAN and OTHERS, as Trustees for THE ARNISTON GOTHENBURG PUBLIC HOUSE COMMITTEE (also known as ARNISTON PUBLIC HOUSE IMPROVEMENT COMMITTEE) respectively. Hunterfield Tavern, built on the area first conveyed, and Dundas Hall, built on the other area, have, since they were built and opened, been run as a Tavern and as a Public Hall and latterly as a Picture House respectively, having been managed, along with a house, which was also built on the land to accommodate the Tavern Manager, by a Committee of local people, some connected and latterly leased by them to a tenant licensee in the case of the Tavern with Arniston Coal Company Limited and others not so connected that Committee being The Arniston Gothenburg Public House Committee or Arniston Gothenburg Public House Improvement Committee.

GOTHENBURG SYSTEM

It is clear that throughout the whole period, Hunterfield Tavern and the other properties have been managed on what may be described as a 'Gothenburg' system, the whole profits from the trading and use of the land and buildings having been applied for the benefit of the community of Gorebridge and district and particularly the Hunterfield area of Gorebridge which is locally known as Arniston.

MORE RECENT CHANGES

Arniston Coal Company Limited became part of the Association of Lothian Coal Owners which was later nationalised and, the local pits having closed, the connection with the coal industry has almost ceased. The Manager's house was sold in or about Nineteen hundred and eighty one and Dundas Hall was sold in or about Nineteen hundred and eighty three and the proceeds of sale have been held invested by the Committee/

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Committee for the same purposes as the properties sold. The Committee instead of managing the Tavern through an employee Manager, have now granted a lease to a Tenant licence-holder to run the Tavern as a business.

LACK OF CONSTITUTION

There has never at any time been a formal constitution for the Committee managing or leasing Hunterfield Tavern and the other properties. Some quite severe difficulties were experienced some years ago in the management and those difficulties were exacerbated by the absence of a Constitution, which has also given rise to taxation and other problems at the present time. It is clear to the present Committee that it is now desirable that there should be a formal Constitution to regulate the administration of the Committee and the management or leasing of Hunterfield Tavern and other assets and that it is appropriate that a Trust should be constituted to attend to the said management or leasing and to carry out the purposes for which the Committee was formed.

FORMAL CONSTITUTION

There follows therefore a statement of a Constitution the terms of which have been approved by the Court of Session by an Interlocutor dated Twenty ninth January Nineteen hundred and eighty seven granted in petition Charles Henry Billings and Others, Petitioners and which shall from the date of the said Interlocutor therefore be the Constitution of the Trust, namely:-

Name

(One) The Trust shall be called the "HUNTERFIELD
GOTHENBURG TAVERN TRUST" and is hereinafter
referred to as "the Trust".

Objects

(Two) The objects of the Trust shall be

(a)/

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- (a) to manage the property known as Hunterfield Tavern, 119 Hunterfield Road, Gorebridge, Midlothian, or any subsequently acquired additional or substituted tavern or public house to see to its repair, maintenance and insurance and to let it to a Tenant or Tenants on whatever terms the Trustees shall think fit or to manage it through a representative or employee manager provided that it shall be used by the Tenant or Tenants or be managed only as a Public House or Tavern for the sale of wines, spirits and other drinks, as a cafe or restaurant, for the sale of any other commodities as an ancillary activity and as the Trustees (as hereinafter defined) may from time to time determine, for the sale and supply of food and drink and for such suitable public entertainments, amusements and functions as may conveniently be arranged in conjunction with, or as ancillary to, the use as a Public House or Tavern.
- (b) to apply the free profits of the letting or management of said Public House or Tavern and all investment income, gifts and donations and other income from whatever source obtained by the Trustees for the benefit of the people of Gorebridge and the surrounding district and without prejudice to the foregoing generality in particular to promote the following objects, namely:- education or training of children, youths and adults, the study, exposition and practice of the arts, painting, sculpture, literature, music and drama, the provision of facilities for recreation and other leisure-time/

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leisure-time occupation, cultural and recreational activities of all kinds and the care of or provision of recreation for, aged, infirm, incapacitated, handicapped or needy persons. Those objects shall, as far as possible, and primarily be promoted within (but not exclusively within) the area of Gorebridge and the surrounding district. The Trustees shall also promote, assist and encourage, by grants of money or otherwise, any association, club or organisation of a voluntary character operating within the said Gorebridge and the surrounding district and having as its purpose or one of its main purposes the promotion of the above mentioned objects or any one or more of them. The Trustees shall take care that the funds of the Trust shall be applied in supplement of and not in substitution for any benefit which may be provided or available from public funds. The Trustees may themselves see to the distribution and application of such funds or may transfer and gift those funds to any trust, organisation, or person or body of persons who, in the reasonable opinion of the Trustees is able and is bound or can be safely accepted as being bound to apply the funds in promoting the foregoing objects to at least as great an extent as the Trust.

Management/

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Management

(Three)

The management of the Trust and its property and assets including the Hunterfield Tavern and other items detailed in the Schedule annexed shall be in the hands of the Trustees who have as at the date of the said Interlocutor taken over from the former Committee. The Trustees shall be known as the "Hunterfield Gothenburg Tavern Trustees" and are hereinafter referred to as "the Trustees". The following persons shall be the Trustees, namely:-

- (a) Mrs. Althea Dundas-Bekker, residing at Arniston House, Gorebridge, Midlothian or her heir or successor as owner of Arniston Estates or owner and sole occupier (with his or her family) of Arniston House or her nominee or the nominee of such heir or successor;
- (b) One member of Midlothian District Council as may be nominated by the said Council;
- (c) The Manager for the time being of the Gorebridge Branch of the Bank of Scotland and his successor from time to time whom failing one person nominated by the Bank of Scotland; and
- (d) Three local residents who shall in the first instance be CHARLES HENRY BILLINGS, residing at Forty three Main Street, Gorebridge, Midlothian, THOMAS KUTNIK, residing at Eighty five Barleyknowe Crescent, Gorebridge, Midlothian, and PETER RUSSELL WEBB, residing at Thirty Hogarth Avenue, Gorebridge, Midlothian (the said Charles Henry Billings, Thomas Kutnik and Peter Russell Webb and their successors as hereinafter provided, in their capacities as Trustees being hereinafter/

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hereinafter called "the local Trustees")
(DECLARING that, until such time as the appointments of all other of the Trustees have been duly made and accepted, the said Charles Henry Billings, Thomas Kutnik and Peter Russell Webb and such of the others of the Trustees as have been appointed from time to time, shall, as interim Trustees have full power and authority to exercise all the powers of the Trustees);

Tenure of Office

(Four) The tenure of office of the Trustees shall be as follows, namely:-

- (a) The said Mrs. Althea Dundas-Bekker, Charles Henry Billings, Thomas Kutnik and Peter Russell Webb shall each hold office until his or her death or resignation;
- (b) The said Manager of the Gorebridge Branch of the Bank of Scotland shall hold office so long as he shall remain in the post of Manager;
- (c) The person (if any) nominated by the said Bank in place of the said Manager shall hold office for no more than three years from the date of nomination or until earlier death or resignation and shall at the termination of any one period of office be eligible for fresh nomination for a further period of office.

(d)/

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- (d) The said Councillor shall hold office so long as he shall remain in office as a Councillor and in any event shall hold office for no more than three years from the date of nomination or election or until earlier death or resignation and shall at the termination of any one period of office be eligible for fresh nomination for a further period of office.

Further Appointments

- (Five) (a) On the death or resignation of any of the local Trustees the vacancy thus created shall be filled by such person resident within Gorebridge and the surrounding district as may be nominated by the remaining Trustees.
- (b) In the event of the said Councillor ceasing to hold office as Councillor or on his death or resignation, the vacancy thus created shall be filled by another member of Midlothian District Council as may be nominated by said Council.
- (c) On appointment a new Manager of the Gorebridge branch of the Bank of Scotland shall at once take the place of his predecessor or displace any person nominated by the Bank of Scotland during a period when there was no such Manager.
- (d)/

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- (d) In the event that the Trustees are reasonably satisfied that it is impossible to appoint any one or more of the Trustees (other than the local Trustees) provided according to the arrangements detailed above, they shall have power to nominate in his or their place or places a person resident within Corebridge and the surrounding district.

Tenure of such further Appointees

- (Six) Persons so nominated by the remaining Trustees as the local Trustees or to replace other Trustees shall hold office for a period of no more than five years from the date of appointment or until earlier death or resignation and shall at the end of any period of office be eligible for fresh nomination for a further period of office.

Disqualification

- (Seven) Any person holding office as a Trustee who has or acquires directly or indirectly by himself or herself or through a connected person an interest, other than as a paid employee, in any licensed premises or licensed business other than Hunterfield Tavern or such other additional or substituted tavern or public house as abovementioned or, other than as merely a member, in the management of any club registered under the Licensing (Scotland) Acts within/

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within Gorebridge and the surrounding district shall be and become, from the time when he or she acquires such an interest, disqualified from being a Trustee. If the reason for such disqualification be removed before the end of his or her period of tenure of office he or she will automatically be reinstated as a Trustee. In the event of a Trustee becoming disqualified, and during such period as a Trustee may be disqualified or if a Trustee dies or resigns or is otherwise removed before the end of his or her period of office, it shall be competent for the remaining Trustees to assume another person to act in the place of the Trustee who was disqualified or removed, such assumed Trustee to hold office for a period of no more than five years or until earlier death or resignation or during such period as the disqualification endures or until the end of the period of tenure of office of the Trustee whose place he or she has taken, whichever shall be the shortest.

Election of Office Bearers

(Right) The Chairman and Vice-Chairman of and the Clerk to the Trustees and, if so desired, a Treasurer, shall be elected annually (or at such other shorter intervals or periods as necessary and convenient) by the Trustees according to arrangements which they may determine.

Conditions/

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Conditions

(Nine)

- (a) In the event of a Trustee being sequestrated, becoming bankrupt or granting a Trust Deed for creditors or becoming insane then, provided that the other Trustees after reasonable enquiry are reasonably satisfied that such is the case, the other Trustees may resolve that such affected Trustee has, with effect from the date of such resolution or from any earlier date which shall seem appropriate to the other Trustees, ceased to hold office as Trustee. The vacancy thus arising shall be dealt with as in the case of a vacancy arising because of disqualification, death or resignation as aforesaid.
- (b) The Trustees shall meet at some suitable place within Gorebridge and the surrounding district at least twice yearly for the despatch of business and the Clerk shall keep Minutes of the Trustees' Meetings. The Minutes of one meeting shall be submitted for approval by the Trustees and signature by the Chairman (or, in his absence the Vice-Chairman) at the earliest opportune meeting thereafter. If a meeting is called by written notice sent to the last known addresses of all the Trustees and giving fourteen days' notice of the place and date of the meeting and the business to be despatched then the quorum at such meeting shall be three. In the absence of the Chairman/

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Chairman or Vice-Chairman within ten minutes after the appointed time of meeting a Chairman for the meeting may be elected by those present from among their number. If a meeting takes place without such prior notice the quorum at such meeting shall be five and in that event the presence of the Chairman or the Vice-chairman shall be essential. The Chairman and (when the Chairman is absent and the Vice-chairman takes his place and only then) the Vice-chairman shall have a deliberative vote and in addition in the event of equality of voting an additional casting vote.

- (c) It shall be the duty of the Clerk or his deputy to write to or otherwise seek and request from the various persons, parties, the Council and others before-mentioned, nominations or re-nominations of Trustees and he shall commence such seeking not less than two months before the expected date of arising of the vacancy or vacancies among the Trustees to be filled.
- (d) An excerpt of a Minute of a meeting of the Trustees shall, if signed by the Clerk to the Trustees and the Chairman of the Trustees be sufficient evidence of any matters competently resolved or confirmed or stated therein.

Trustees' /

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Trustees' Powers and Duties

(Ten) The Trustees shall have all the powers, privileges and immunities competent to gratuitous trustees from time to time under the statutory and common law of Scotland. In addition and without prejudice to that generality they shall have power (a) to act as landlords, property owners and in particular but without prejudice to that generality, to act as landlords of premises occupied as a public house or tavern or for other uses as earlier described. The Trustees may to the extent that landlords normally do, take an interest in the way in which the business is carried on in the premises let by them and be involved in the relative business arrangements. In particular, but without prejudice to the foregoing generality, the Trustees may for the protection of the value of the property, if it seems advisable, seek to hold the public house licence or any other licences or permissions in their names or in the name of any one of them as nominee as may be decided by them; (b) to manage through a representative or employee manager premises occupied as a public house or tavern or for other uses as earlier described; (c) to apply capital or income of the Trust or to borrow money for the purpose of repairing, improving, developing or extending the buildings belonging to them including the purchase of land for that purpose or in that connection; and (d) to buy or sell heritable property, to grant security thereon, to make, realise, deposit, uplift or invest money, securities and other investments, to employ accountants, auditors, surveyors, factors, builders, contractors of all/

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all kinds, solicitors, stockbrokers and all necessary advisers and agents and to pay them the usual professional remuneration as well as paying from the assets of the Trust the whole costs of setting up or formally constituting the Trust and of administering the same. The Trustees shall not be responsible for the actings, neglects, or defaults of each other or of any accountants, stockbrokers, solicitors or other advisers, contractors or agents or others as aforesaid appointed by them but each shall be liable only for his or her own actings, neglects or defaults. The Trustees shall have power to carry forward any part of the income of the Trust arising from property letting, development or sale or investment or otherwise and they shall not be bound to expend the whole of the said income in the year in which it arises, if in the bona fide exercise of their discretion, they consider that the objects of the Trust or any of them would be better served by carrying forward the said income or any part of it from one year to another, even over a number of years in succession.

Accounts

(Eleven)

The accounts of the Trust shall be made up annually and shall be audited by Chartered Accountants or other suitably qualified persons appointed on an annual basis by the Trustees. The audited accounts shall be prepared by the Treasurer, if appointed, whom failing they shall be obtained by the Clerk to the Trustees and placed before the Trustees annually not more than nine months after the last day of the period to which they relate. The Trustees shall/

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shall consider and have the accounts amended if required to meet their requirements, shall approve the accounts and shall as they may decide, distribute the income or the surplus income or apply the same to fulfilment of any of the purposes of the Trust or allocate the same or part thereof to reserves or invest the same for later distribution application or allocation. The Trustees shall prepare or obtain preparation of an abbreviated form of the said accounts setting out the amount of the surplus and the disposal thereof, such abbreviated form to be approved by the auditors whether it is prepared by them or not and, with a short report by the Trustees advertised by publication in a newspaper which has a high level of circulation in Gorebridge and the surrounding district and copies shall also be displayed prominently in the Hunterfield Tavern or other suitable place where they may be seen by customers.

Rights and Obligations

(Twelve) All rights, liabilities and obligations which, immediately prior to the coming into force of this constitution might have been regarded as rights, liabilities and obligations of the Committee referred to in the background statement at the beginning hereof or which might be rights, liabilities and obligations of the individual members of the Committee arising solely out of their involvement in the Committee or in the ownership and management of the property and assets of the Trust shall as from the date of coming into force of this constitution/

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constitution be held to have vested in and belong to the Trust and the Trustees and shall be enforceable by them in the case of rights and, in the case of liabilities and obligations, shall forthwith rest upon and be binding upon and enforceable against the Trustees in their capacity as such Trustees or against the estate comprised in the Trust only.

Property and Investments

(Thirteen) As the title to the heritable property specified in the Schedule annexed stands in the names of Trustees for the said Committee all of whom are now deceased it is hereby declared by and with the authority of the Court of Session that the said Charles Henry Billings, Thomas Kutnik and Peter Russell Webb as the members of the said Committee at the date immediately prior to the granting of the said Interlocutor have right as successors of the said deceased Trustees in trust for the said Committee to the said heritable property which was last vest in the late David Hamilton Mackintosh Jack, British Linen Bank, latterly of Two hundred and one Bruntsfield Place, Edinburgh, the late James Jack, latterly of Rowanbrae, Eskbank, Dalkeith, and the late William Weir, Manager, latterly of Hunterfield Tavern, Gorebridge, whose title thereto is recorded in the Division of the General Register of Sasines for the County of Midlothian on Fifteenth October Nineteen hundred and forty eight. The said Charles Henry Billings, Thomas Kutnik and Peter Russell Webb shall have power and shall be bound to make up the title in their names as Trustees foresaid accordingly and immediately to/

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to grant conveyance of the said subjects to the Chairman and Vice-chairman of the Trustees and the Clerk to the Trustees as soon as they are appointed and to their successors in office and to deliver such Disposition all at the expense of the Trustees. The Trust shall accordingly be bound to take the title to that property and similarly the title to all property heritable and moveable and all investments in the names of the Chairman and Vice-chairman of the Trustees and the Clerk to the Trustees for the time being as Holding Trustees for the Hunterfield Gothenburg Tavern Trust, apart from any certificate, licence or permit or other property or investment which may require to be in name of an individual as to which the Trustees shall determine in whose name such certificate, licence or permit or other property or investment shall be taken on their behalf. The Trustees shall, however, have power to direct that the title to any property or securities may, if they so wish, be taken alternatively in the name of a Bank Nominee Company approved by the Trustees. It shall be the duty of the Trustees to use their best endeavours to have the title to the heritable and moveable assets of the Trust made over and transferred to the names of the said Chairman and Vice-chairman of and Clerk to the Trustees without regard to the way in which the same was previously vested in the Committee and the Trustees shall pay out of the funds of the Trust all the outlays and expenses of transferring and completing such titles.

Dissolution/

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Dissolution

(Fourteen) In the event that the Trustees shall find after all reasonable investigation that it has become in their reasonable opinion impossible to continue to manage the affairs of the Trust or to fulfill the purposes of the Trust then it shall be in the power of the Trustees to choose such organisation as may in their view most closely resemble in its administration and purposes the Hunterfield Gothenburg Tavern Trust and they may convey to such organisation the said property and assets or the proceeds of their realisation and, provided that the final accounts are audited and advertised as above specified, the Trustees shall within one year of the transfer of such heritable property and other assets be regarded as fully discharged and relieved of their responsibilities as the Trustees and the said Hunterfield Gothenburg Tavern Trust shall be regarded as having been dissolved unless within that period claims have been validly intimated against the said Hunterfield Gothenburg Tavern Trust or the Trustees in which case, the Trustees shall be discharged only on the settlement and discharge of such claims. For the avoidance of doubt it is specified that at no time during the administration of the Trust or on dissolution may any part of the heritable or moveable property or assets of the Trust be given or transferred to any of the Trustees or any connected persons for their own personal use and benefit but shall at all times be applied for the purposes of the Trust or such other organisation as may have been chosen by the Trustees as having reasonably similar objects as aforesaid.

Consent/

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Consent to Registration

(Fifteen) And we, the said Charles Henry Billings, Thomas Kutnik and Peter Russell Webb consent to registration of these presents for preservation IN WITNESS WHEREOF these presents typewritten on this and the seventeen preceding pages together with the Schedule annexed hereto are executed as follows, namely:-

THEY ARE SUBSCRIBED by us, the said
CHARLES HENRY BILLINGS, THOMAS KUTNIK
and PETER RUSSELL WEBB, all together at
day of *Sept. 11th* on the *20th*
August Nineteen hundred and
eighty seven before these witnesses, namely:-

Signature.....*M. E. Bruce*.....Witness

Full Name.....HELEN JEAN BRUCE.....

Address.....24 COWAN ROAD.....

.....EDINBURGH EH11 1RH.....

Occupation.....LOCAL GOVERNMENT OFFICER.....

Signature.....*S. J. Bennett*.....Witness

Full Name.....K. S. E. MOORE BENNETT.....

Address.....1, HILLSIDE CRES. STN.....

.....GOREBRIDGE.....

Occupation.....PART-TIME ATTENDANT,
GOREBRIDGE LEISURE CENTRE

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SCHEDULE referred to in the foregoing Statement of the Constitution of Hunterfield Gothenburg Tavern Trust.

HERITABLE PROPERTY

ALL and WHOLE (First) the dominium directum of and (Second) the dominium utile of ALL and WHOLE that area or piece of ground part of the estate of Arniston situated at or near Hunterfield in the Parish of Newbattle and County of Edinburgh (now Midlothian), extending to two hundred and forty nine decimal or one thousandth parts of an acre or thereby described in Feu Charter granted by the Trustees of Colonel Sir Robert Dundas of Arniston, Baronet, in favour of Arniston Coal Company Limited dated Eighteenth and Nineteenth October and First November and recorded in the Division of the General Register of Sasines for the County of Edinburgh on Ninth November all in the year Nineteen hundred and eleven; TOGETHER WITH the public house known as the Hunterfield Gothenburg Public House or Hunterfield Tavern, One hundred and nineteen Hunterfield Road, Gorebridge and all other buildings and erections on the said area or piece of ground; TOGETHER ALSO WITH (One) the whole parts, privileges and pertinenta effairing thereto; (Two) the rights, common, mutual and otherwise; and (Three) the fittings and fixtures in and upon the said subjects so far as belonging to the proprietors; UNDER EXCEPTION of ALL and WHOLE the dominium utile of that piece of ground lying on the southwest side of the public road leading from Edinburgh to Gorebridge at Hunterfield lying in the Parish of Newbattle and County of Midlothian, being the subjects more particularly described in, disposed by and shown delineated and tinted pink on the plan annexed to Feu Charter by the Trustees for the Arniston Gothenburg Public House Committee in favour of Thomas Mowatt Allan dated Eleventh March and recorded in the said Division of the General Register of Sasines on Tenth April both in the year Nineteen/

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Nineteen hundred and sixty three; TOGETHER WITH (One) the whole buildings and other erections thereon known as One hundred and seventeen A Hunterfield Road, aforesaid; (Two) the parts, privileges and pertinents and all rights effeairing thereto; and (Three) the fixtures and fittings therein and thereon;

Approximate Value £60,000.00

MOVABLE PROPERTY

- | | | |
|--|---------------|------------|
| (1) Furnishings within the said Hunterfield Tavern so far as belonging to the Committee. | approximately | £1,400.00 |
| (2) Sum at credit of Current Account Number 00131049 with Bank of Scotland, Gorebridge in name of Arniston Public House Improvement Committee | approximately | £ 66.00 |
| (3) Sum at Credit of the Deposit Account No. 02022375 with the Bank of Scotland, Gorebridge in name of Arniston Public House Improvement Committee | approximately | £4318.00 |
| (4) Sum at credit of the Account No. DLTD6496 with Abbey National Building Society, Dalkeith in name of Arniston Improvement Committee | approximately | £4569.00 |
| (5) Sum at credit of National Savings Account No. 138061571 | approximately | £31,700.00 |

[Signature]

T. G. K. K. K.

W. Webb

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