



Registration of a Charge

Company name: **THE HIBERNIAN FOOTBALL CLUB LIMITED**
Company number: **SC005323**

Received for Electronic Filing: **16/07/2019**



Details of Charge

Date of creation: **09/07/2019**
Charge code: **SC00 5323 0019**
Persons entitled: **BYDAND SPORTS, LLC**
Brief description: **ALL AND WHOLE THOSE THREE AREAS OF GROUND COMPRISING
(1) THAT AREA OF GROUND AT EAST MAINS, ORMISTON, TRANET
EXTENDING TO 26 HECTARES, BEING THE SUBJECTS REGISTERED IN
THE LAND REGISTER OF SCOTLAND UNDER TITLE NUMBER ELN12780
AND FOR MORE DETAILS PLEASE REFER TO THE INSTRUMENT.**
Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT
TO S. 859G OF THE COMPANIES ACT 2006 THE ELECTRONIC
COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION
FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5323

Charge code: SC00 5323 0019

The Registrar of Companies for Scotland hereby certifies that a charge dated 9th July 2019 and created by THE HIBERNIAN FOOTBALL CLUB LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 16th July 2019 .

Given at Companies House, Edinburgh on 17th July 2019

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

Morton Fraser LLP
Quartermile Two
2 Lister Square
Edinburgh
EH3 9GL

CERTIFIED A TRUE COPY
For and on behalf of
Morton Fraser LLP
Date : 09/07/2019

C/M/S/

Law . Tax

STANDARD SECURITY

by

THE HIBERNIAN FOOTBALL CLUB LIMITED

(as Chargor)

in favour of

BYDAND SPORTS, LLC

(as Lender)

CMS Cameron McKenna Nabarro Olswang LLP
Saltire Court
20 Castle Terrace
Edinburgh
EH1 2EN

THIS STANDARD SECURITY is granted

By:

- (1) **THE HIBERNIAN FOOTBALL CLUB LIMITED**, a limited company incorporated in Scotland under company number SC005323 and having its registered office at Easter Road Stadium, 12 Albion Place, Edinburgh, EH7 5QG (the “**Chargor**”);

In favour of:

- (2) **BYDAND SPORTS, LLC**, a limited liability company incorporated in Delaware whose registered office is at 251 Little Falls Drive, Wilmington, County of New Castle, Delaware 19808, United States of America as lender (the “**Lender**”).

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

Definitions

- 1.1 Unless a contrary indication appears (a) words or expressions defined in the Loan Agreement, and the Floating Charge shall have the same meaning in this Standard Security; (b) words and expressions which are defined in the 1970 Act or in the Standard Conditions (as in each case amended by the Loan Agreement and/or the Floating Charge) shall be deemed to be so defined for the purpose of this Standard Security, and each and every provision of this Standard Security shall be separately given the fullest effect permitted by law;
- 1.2 In this Standard Security, the following words and expressions shall have the following meanings:

“**1970 Act**”: The Conveyancing and Feudal Reform (Scotland) Act 1970 as amended;

“**Floating Charge**”: the Floating Charge between the Chargor and the Lender dated on or about the date of this Standard Security;

“**Loan Agreement**”: the Loan Agreement made between, amongst others, the Chargor and the Lender dated on or about the date of this Standard Security;

“**Party**”: a party to this Standard Security;

“**Secured Liabilities**”: means all present and future indebtedness, moneys, obligations and liabilities of the Chargor to the Lender under the Loan Agreement, together with all Expenses and all interest under clause 2 of the Loan Agreement;

“**Security**” shall have the meaning ascribed to it in the Floating Charge;

“**Security Subjects**”: ALL and WHOLE those three areas of ground comprising (1) that area of ground at East Mains, Ormiston, Tranent extending to 26 hectares, being the subjects registered in the Land Register of Scotland under Title Number ELN12780; (2) that area of ground to the south of Oaklea, East Mains, Ormiston EH35 5NG, being the subjects registered in the Land Register of Scotland under Title Number ELN13695; and (3) that area of ground lying to the east of the road from Tranent to Ormiston extending to 6.1 hectares, being the subjects registered in the Land Register of Scotland under Title Number ELN9207;

“Standard Conditions”: the Standard Conditions specified in Schedule 3 to the 1970 Act and **“Standard Condition”** means such of them as the context shall require or permit; and

“Standard Security”: this standard security, as from time to time amended, restated, supplemented, novated, varied and or replaced and any document made pursuant or supplemental hereto.

Construction

- 1.3 Any reference in this Standard Security to:
- 1.3.1 the **“Lender”**, the **“Chargor”** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
 - 1.3.2 **“assets”** includes present and future properties, revenues and rights of every description;
 - 1.3.3 **“indebtedness”** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - 1.3.4 a **“person”** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
 - 1.3.5 a **“regulation”** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
 - 1.3.6 a provision of law is a reference to that provision as amended or re-enacted; and
 - 1.3.7 an Event of Default which is **“continuing”** is an Event of Default which is continuing unwaived by the Lender.
- 1.4 Clause and schedule headings are for ease of reference only.
- 1.5 Any reference in this Standard Security to **“this Standard Security”** shall be deemed to be a reference to this Standard Security as a whole and not limited to the particular clause, schedule or provision in which the relevant reference appears and to this Standard Security as amended, novated, assigned, supplemented, extended, substituted or restated from time to time and any reference in this Standard Security to a **“clause”** or a **“schedule”** is, unless otherwise provided, a reference to a clause or a schedule of this Standard Security.
- 1.6 Any reference in this Standard Security to the Loan Agreement or any other agreement or other document shall be construed as a reference to the Loan Agreement or that other agreement or document as the same may have been, or may from time to time be, restated, varied, amended, supplemented, substituted, novated or assigned (however fundamentally), whether or not as a result of any of the same:
- 1.6.1 there is an increase or decrease in any facility made available under the Loan Agreement or other agreement or document or an increase or decrease in the period for which any facility is available or in which it is repayable;

- 1.6.2 any additional, further or substituted facility to or for such facility is provided;
 - 1.6.3 any rate of interest, commission or fees or relevant purpose is changed;
 - 1.6.4 the identity of the parties is changed;
 - 1.6.5 the identity of the providers of any security is changed;
 - 1.6.6 there is an increased or additional liability on the part of any person; or
 - 1.6.7 a new agreement is effectively created or deemed to be created.
- 1.7 Unless the context otherwise requires, words denoting the singular number only shall include the plural and vice versa.
- 1.8 Where any provision of this Standard Security is stated to include one or more things, that shall be by way of example or for the avoidance of doubt only and shall not limit the generality of that provision.
- 1.9 Any change in the constitution of the Lender or its absorption of or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person shall not in any way prejudice or affect its rights under this Standard Security.

Third Party Rights

- 1.10 Unless expressly provided to the contrary in this Standard Security (including, but without limitation, this Standard Security does not confer on any person other than the Parties any right to enforce or otherwise invoke any term of this Standard Security under the Contract (Third Party Rights) (Scotland) Act 2017 or otherwise.
- 1.11 Notwithstanding any term of this Standard Security, the consent of any person who is not a Party is not required to rescind or vary this Standard Security at any time.

Conflict with Finance Documents

- 1.12 This Standard Security is subject to the terms of the Loan Agreement and the Floating Charge (including without limitation any conflict between any defined term in this Standard Security and any defined term in the Loan Agreement and/or the Floating Charge, as applicable) and in the event of any conflict or inconsistency between any provision of this Standard Security and the Loan Agreement and/or the Floating Charge, the Loan Agreement and/or the Floating Charge, as applicable, will prevail.

2. PERSONAL BOND

The Chargor undertakes to the Lender that it shall pay, perform and discharge the Secured Liabilities as and when the same fall due for payment, performance or discharge in accordance with their terms or, in the absence of any such express terms, on demand

3. GRANT OF STANDARD SECURITY

In security of the payment and discharge of the Secured Liabilities in the manner provided the Chargor HEREBY GRANTS a standard security in favour of the Lender over the Security Subjects; And the Standard Conditions and any lawful variation thereof operative for the time being shall apply.

4. VARIATION TO STANDARD CONDITIONS

The Chargor agrees that (1) the Standard Conditions shall be varied in so far as lawful and applicable by the Loan Agreement and the Floating Charge, under declaration that (a) in the event of there being any inconsistency between the Standard Conditions and the Loan Agreement or the Floating Charge, or (b) where there is an obligation in the Standard Conditions which is either more onerous than an equivalent obligation or is not contained in the Loan Agreement or Floating Charge, the terms of the Loan Agreement and/or the Floating Charge as applicable shall in so far as permitted by the 1970 Act prevail; and (2) for the purposes of Standard Condition 9, the debtor shall in addition be held to be in default if and for so long as an Event of Default occurs and is continuing.

5. INCORPORATION OF LOAN AGREEMENT AND FLOATING CHARGE

In so far as applicable and permitted by law, the whole terms, undertakings, obligations, powers, rights and provisions of and contained in the Loan Agreement and/or the Floating Charge are held to be incorporated in and shall be deemed to form part of this Standard Security and repeated mutatis mutandis but so that each reference therein to the Charged Property or Real Property shall be read as a reference to the Security Subjects and shall be in addition to the obligations of the Chargor specified herein.

6. CONTINUING SECURITY

This Standard Security shall be a continuing security for the Lender, notwithstanding any intermediate payment or settlement of accounts or other matter whatever and shall be in addition to and shall not prejudice or be prejudiced by any right of set-off, combination, lien, plea in compensation or other rights exercisable by the Lender against the Chargor or any security, guarantee, indemnity and/or negotiable instrument now or in the future held by the Lender.

7. NEGATIVE PLEDGE

The Chargor shall not create or extend or permit to arise or subsist any Security (other than any Security constituted by this Standard Security) over the whole or any part of the Security Subjects other than with the prior written consent of the Lender or as permitted under the Loan Agreement.

8. FURTHER ASSURANCES

8.1 The Chargor shall promptly do all such acts and execute all such documents (including assignments in security, transfers, mortgages, charges, pledges, standard securities, notices and instructions) as the Lender may reasonably specify (and in such form as the Lender may reasonably require in favour of the Lender or its nominee(s)) to:

8.1.1 perfect the security created or intended to be created in respect of the Security Subjects;

8.1.2 confer on the Lender Security over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the security intended to be conferred by or pursuant to this Standard Security;

- 8.1.3 facilitate the exercise of any rights, powers and remedies of the Lender provided by or pursuant to this Standard Security or by law; and/or
- 8.1.4 facilitate the realisation of the assets which form part of, or are intended to form part of, the Security Subjects.

Necessary Action

- 8.2 The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any security conferred or intended to be conferred on the Lender by or pursuant to this Standard Security.

9. POWER OF ATTORNEY***Appointment and Powers***

- 9.1 The Chargor irrevocably appoints the Lender to be its attorney and in its name, on its behalf and to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:
 - 9.1.1 carrying out any obligation imposed on the Chargor by this Standard Security; and/or
 - 9.1.2 enabling the Lender to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on it or him by or pursuant to this Standard Security or by law (including the exercise of any right of an owner of the Security Subjects).

Ratification

- 9.2 The Chargor shall ratify and confirm whatever any attorney does or purports to do pursuant to its appointment under clause 9.1 (*Appointment and Powers*).

10. FORBEARANCE, SEVERABILITY, VARIATIONS AND CONSENTS***Delay etc***

- 10.1 All rights, powers and privileges under this Standard Security shall continue in full force and effect, regardless of the Lender exercising, delaying in exercising or omitting to exercise any of them.

Severability

- 10.2 No provision of this Standard Security shall be avoided or invalidated by reason only of one or more other provisions being invalid or unenforceable.

Illegality, invalidity, unenforceability

- 10.3 Any provision of this Standard Security which is or becomes illegal, invalid or unenforceable shall be ineffective only to the extent of such illegality, invalidity and unenforceability, without invalidating the remaining provisions of this Standard Security.

Variations

- 10.4 No variation of this Standard Security shall be valid and constitute part of this Standard Security, unless such variation shall have been made in writing and signed by the Lender and the Chargor.

Consents

- 10.5 Save as otherwise expressly specified in this Standard Security, any consent of the Lender may be given absolutely or on any terms and subject to any conditions as the Lender may determine in its entire discretion.

11. **CERTIFICATE**

- 11.1 Any certificate or determination by the Lender of a rate or amount under this Standard Security is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

12. **FINANCE DOCUMENT**

This Standard Security is a Finance Document.

13. **GOVERNING LAW**

This Standard Security and any non-contractual obligations arising out of or in connection with it are governed by Scots law.

14. **JURISDICTION**

- 14.1 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Standard Security (including a dispute relating to the existence, validity or termination of this Standard Security or any non-contractual obligation arising out of or in connection with this Standard Security) (a “**Dispute**”).
- 14.2 The Parties agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- 14.3 This Clause 14 is for the benefit of the Lender only. As a result, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

15. **WARRANTICE**

The Chargor grants warrandice.

16. CONSENT TO REGISTRATION

The Chargor consents to the registration of this Standard Security for preservation: IN WITNESS WHEREOF these presents consisting of this and the preceding 6 pages are subscribed as follows:-

SUBSCRIBED for and on behalf of)
the said THE HIBERNIAN FOOTBALL)
CLUB LIMITED

acting by: LEEANN DEMPSTER)

Director

in the presence of:)

Name of witness:

ANDY LOWE

Signature:

Address:

c/o 1-4 ATHOLL CRESCENT

EDINBURGH

Occupation:

LAWYER

all together at EDINBURGH

on the 13th day of JULY 2019