



**Registration of a Charge**

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

Company number: **SC005323**



X4D2174Q

Received for Electronic Filing: **04/08/2015**

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**Details of Charge**

Date of creation: **29/07/2015**

Charge code: **SC00 5323 0017**

Persons entitled: **H.F.C. HOLDINGS LIMITED**

Brief description: **N/A**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT  
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION  
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **PINSENT MASONS LLP**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 5323

Charge code: SC00 5323 0017

The Registrar of Companies for Scotland hereby certifies that a charge dated 29th July 2015 and created by THE HIBERNIAN FOOTBALL CLUB LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th August 2015 .

Given at Companies House, Edinburgh on 6th August 2015

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

**(1) THE HIBERNIAN FOOTBALL CLUB LIMITED**  
**as Company**

in favour of

**(2) H.F.C. HOLDINGS LIMITED**  
**as Lender**

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**DEPOSIT ACCOUNT SECURITY**

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## CASH COLLATERAL ACCOUNT SECURITY by

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

in favour of

- (2) **H.F.C. HOLDINGS LIMITED**, a company incorporated in Scotland (registered number SC132607) and having its registered office at Maidencraig House, 192 Queensferry Road, Edinburgh, EH4 2BN (the "**Lender**")

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

In this Security unless the context requires otherwise:-

"Accounts"	means each of the Company's bank accounts specified in Part 1 of the Schedule
"Account Bank"	means the bank with which the Accounts are held, specified in Part 1 of the Schedule
"Event of Default"	means each of: <ul style="list-style-type: none"><li>(a) the occurrence of an Event of Default (as defined in the Loan Agreement);</li><li>(b) the exercise by the Lender of its rights under clause 16 (<i>Set Off</i>) of the Loan Agreement in respect of one or more of the Accounts and some or all of the Funds; and</li><li>(c) a failure to discharge any of the other Secured Obligations when due</li></ul>
"Funds"	means all sums which are now or may at any time hereafter be deposited in or otherwise standing to the credit of the Accounts, whether comprising principal or interest accrued or accruing
"Loan Agreement"	means the agreement so called dated on or about the date of this Security entered into among the Company and the Lender
"Schedule"	means the Schedule in two Parts annexed as relative to this Security
"Secured Obligations"	means all or any monies, liabilities and obligations, whether actual or contingent and whether owed jointly or severally or as principal debtor, guarantor, cautioner, surety or otherwise, which are now or may at any time hereafter (whether before or at any time after demand) be or become due in any manner by the Company to the Lender, including under the Loan Agreement, and including all or any monies, liabilities and obligations due by the Company under this Security
"this Security"	means these presents (including the Schedule) as amended, supplemented, novated, extended or restated from time to

time

**1.2 Loan Agreement definitions**

In this Security, unless the context requires otherwise terms defined in clause 1.1 (*Definitions*) of the Loan Agreement shall have the same meaning in this Security.

**1.3 Interpretation**

The provisions of clause 1.2 (*Construction*) of the Loan Agreement shall apply *mutatis mutandis* to this Security as if set out in full herein.

**1.4 Headings**

The table of contents and the headings in this Security are included for convenience only and shall be ignored in construing this Security.

**1.5 Conflict**

If there is any conflict between the provisions of this Security and the provisions of the Loan Agreement, the provisions of the Loan Agreement shall prevail.

**2. SECURITY**

**2.1 Security**

In security for the payment and discharge of the Secured Obligations the Company hereby pledges and assigns the Accounts and the Funds (and its whole right, title and interest, past, present and future therein) to the Lender and irrevocably authorises it to hold them as cash cover and collateral, specifically appropriated for that purpose, on the terms and conditions specified in this Security.

**2.2 Intimation**

Immediately after the execution of this Security, the Company shall intimate its terms to the Account Bank, and procure its acknowledgement, in (or as near as may be) the form set out in Part 2 of the Schedule.

**2.3 Prohibition of other securities etc**

Unless the Lender otherwise agrees in writing, the Company shall not assign or create or permit any form of security or lien to arise over or except only as permitted by the terms of the Loan Agreement otherwise deal with the Funds or any part thereof or make withdrawals from or receive the Funds or any part thereof until the Secured Obligations have been fully and unconditionally paid or discharged.

**3. PROTECTION OF SECURITY**

**3.1 Continuing security**

This Security shall be a continuing security notwithstanding any intermediate payment or satisfaction of the Secured Obligations and shall remain in force until the Secured Obligations have been fully and unconditionally settled and discharged.

**3.2 No prejudice**

This Security shall be in addition to and shall not in any way prejudice or be prejudiced by any other security, right or remedy which the Lender may now or at any time hereafter hold for all or any part of the Secured Obligations.

### **3.3 No waiver**

Failure or delay on the part of the Lender in exercising any right, power or discretion under or pursuant to this Security shall not operate as a waiver thereof, nor will any single or partial exercise of any such right, power or discretion preclude any other or further exercise thereof. The rights, powers and discretions contained in this Security are in addition to and not substitution for any right of set-off, compensation, retention, combination of accounts, lien or other right or remedy provided by law.

### **3.4 Severability**

The provisions of this Security shall be severable and distinct from one another and if at any time one or more of such provisions is or becomes or is declared void, invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Security shall not in any way be affected or impaired thereby.

### **3.5 Non impairment**

The Company agrees that none of its obligations or the Lender's rights, powers and discretions under this Security shall be reduced, discharged or otherwise adversely affected by:-

- 3.5.1 any variation, extension, discharge, compromise, dealing with, exchange or renewal of any security or any right or remedy which the Lender may have now or in the future from or against the Company or any other person in respect of any of the Secured Obligations; or
- 3.5.2 any failure, act or omission by the Lender or any other person in taking up, perfecting or enforcing any security or guarantee from or against the Company or any other person in respect of the Secured Obligations; or
- 3.5.3 any increase in or waiver or discharge of any of the Secured Obligations or any termination, amendment, variation, supplement, restatement, novation or replacement of the Loan Agreement; or
- 3.5.4 any grant of time, indulgence, waiver or concession to the Company or any other person; or
- 3.5.5 any of the administration, receivership, liquidation, winding-up, insolvency, bankruptcy, incapacity, limitation, disability, discharge by operation of law or any change in the constitution, name or style of the Company or any other person; or
- 3.5.6 any invalidity, illegality, unenforceability, irregularity or frustration of any of the Secured Obligations; or
- 3.5.7 any renumbering of any Account or its being transferred to another branch or department of the Account Bank; or
- 3.5.8 anything done or omitted by the Lender or any other person which but for this provision might operate to exonerate or discharge or otherwise reduce or extinguish the liability of the Company under this Security.

### **3.6 Further assurance**

The Company shall promptly after being requested to do so by the Lender do all such acts and things and execute and deliver all such documents, as the Lender may require for perfecting or protecting the security created by or pursuant to this Security in respect of the Funds and the Accounts or its priority or for facilitating the realisation or application of the Funds and the exercise of the rights, powers and discretions conferred on the Lender under this Security.

### **3.7 New accounts**

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At any time after the Lender has received or is deemed to be affected by notice (whether actual or constructive) of the creation of any subsequent security charge or encumbrance over or affecting any part of the Secured Assets or the proceeds of realisation, the Lender may open a new account or accounts with the Company. If the Lender does not open a new account or accounts it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received such notice and as from that time all payments made to the Lender shall be credited or be treated as having been credited to the new account or accounts and shall not operate to reduce the amount covered by this Security.

#### **4. POWER OF ATTORNEY**

##### **4.1 Appointment**

The Company hereby irrevocably appoints the Lender as its attorney on its behalf and in its name or otherwise, at such times and in such a manner as the attorney may think fit:-

4.1.1 to do anything which the Company is obliged to do (but has not done) under this Security including, without limitation, to execute further securities, transfers or assignments of and other instruments relating to, the Funds and/or the Accounts; and

4.1.2 generally to exercise all or any of the rights, powers and discretions conferred on the Lender in relation to the Funds and/or the Accounts under this Security.

##### **4.2 Ratification**

The Company hereby ratifies and confirms and agrees to ratify and confirm whatever its attorney may do or purport to do in the exercise or purported exercise of the power of attorney given by the Company under this Clause.

#### **5. REPRESENTATIONS AND WARRANTIES**

##### **5.1 Representations and warranties**

The Company represents and warrants to the Lender that:-

5.1.1 it is duly incorporated and validly existing under the law of Scotland;

5.1.2 it has the power to grant this Security and perform its obligations hereunder;

5.1.3 it has taken all necessary corporate action to authorise the execution and delivery of this Security and the performance of its obligations hereunder;

5.1.4 the grant of this Security and the performance of its obligations hereunder will not contravene any law, regulation or agreement to which the Company is a party or by which it is bound, or cause any limitation on any of the powers of the Company however imposed, or the right or ability of the directors to exercise any of such powers, to be exceeded;

5.1.5 all authorisations required for the creation, performance, validity and enforceability of this Security by the Company have been obtained and are in full force and effect;

5.1.6 it has not, save as permitted under the Loan Agreement, granted or agreed to grant or permit any other assignment or form of security, lien, charge or encumbrance over the Accounts or the Funds.

#### **6. ENFORCEMENT**

##### **6.1 Powers**



At any time after the occurrence of an Event of Default which is continuing, the Lender shall be entitled, without notice to the Company, either in its own name or in the name of the Company or otherwise and in such manner and upon such terms and conditions as it thinks fit, to realise and/or deal with the Accounts and the Funds as follows:-

- 6.1.1 to withdraw and/or appropriate or apply the Funds in whole or part in or towards payment or satisfaction of the Secured Obligations;
- 6.1.2 to instruct or permit the Account Banks to combine or consolidate any or all of the Accounts with any other account(s) of the Company with the Account Bank;
- 6.1.3 to instruct or permit the Account Banks to set off or apply the Funds in or towards payment or satisfaction of the Secured Obligations; and
- 6.1.4 generally, without prejudice to the other provisions of this Clause, to exercise all the rights powers and discretions in respect of the Accounts and the Funds it would be entitled to exercise if it were the absolute owner of the Accounts and the Funds, and to do all acts and things it may consider necessary or expedient for the realisation of the Funds and their appropriation or application in or towards payment or satisfaction of the Secured Obligations, or as may be incidental to the exercise of any of the rights, powers and discretions conferred on the Lender under this Security.

## **6.2 Application of proceeds**

All monies realised or otherwise arising from the enforcement of this Security shall (subject to Clause 6.3 (*Monies on Suspense Account*)) be applied by the Lender in the following order:-

- 6.2.1 in or towards payment or satisfaction of all costs and expenses incurred by the Lender under or in connection with this Security;
- 6.2.2 in or towards payment or satisfaction of the remaining Secured Obligations in such order as the Lender shall in its absolute discretion decide; and
- 6.2.3 in payment of any surplus to the Company or any other person entitled thereto.

## **6.3 Monies on suspense account**

Nothing in this Security shall limit the right of the Lender (and the Company acknowledges that the Lender is so entitled) if and for so long as the Lender in its discretion shall consider it appropriate, to place all or any monies arising from the enforcement of this Security into a suspense account or accounts (which may be with the Lender), without any obligation to apply the same or any part thereof in or toward the discharge of the Secured Obligations, provided that if the aggregate of such monies so placed to the credit of such suspense account or accounts shall equal or exceed the Secured Obligations, the Lender shall, subject always to Clause 7 (*Discharge*), forthwith apply the same towards settlement of the Secured Obligations.

## **6.4 Balance**

The rights powers and discretions conferred on the Lender under this Clause are subject only to its obligation to account to the Company for any balance of the Funds remaining in its hands after the Secured Obligations have been fully and unconditionally paid or satisfied.

## **7. DISCHARGE**

### **7.1 Discharge**

When the Lender confirms in writing to the Company that the Secured Obligations have been fully and unconditionally paid or satisfied the Lender shall at the Company's request, and at its expense, discharge this Security. Any payment, realisation or appropriation in respect of the Secured Obligations which in the reasonable opinion of the Lender is liable to be avoided or otherwise

invalidated or adjusted by law, including any enactment or rule of law relating to insolvency, shall not be regarded as having been irrevocably effected until the expiry of the period during which it may be challenged on any such ground.

## **7.2 Avoidance of payments**

The Lender's right to recover the Secured Obligations in full shall not be affected or prejudiced by any payment, realisation or appropriation which is avoided or otherwise invalidated or adjusted by law, including any enactment or rule of law relating to insolvency, or by any release or discharge given by the Lender on the faith of any such payment, realisation or appropriation.

## **7.3 Retention of Security**

If any payment, realisation or appropriation in respect of the Secured Obligations is, in the Lender's reasonable opinion, liable to be avoided or otherwise invalidated or adjusted by law, including any enactment or rule of law relating to insolvency, the Lender shall be entitled to retain this Security undischarged until the expiry of the period during which it may be challenged on any such ground.

## **8. LIABILITY OF LENDER OR DELEGATE**

### **8.1 Delegation**

The Lender may delegate any right, power or authority exercisable by it under this Security to such person, on such terms and conditions (including power to sub-delegate) and in such manner as it thinks fit, but such delegation shall not preclude the Lender from itself exercising any such right, power or authority.

### **8.2 Liability**

The Lender or any delegate shall not in any circumstances be liable to the Company or any other person for any losses, damages, liabilities or expenses arising from or in connection with the application or enforcement of this Security or any realisation, appropriation or application of the Funds or from any act, default or omission of the Lender or delegate or his/her or its officers, employees or agents in relation to the Funds or the Accounts or otherwise in connection with this Security, except to the extent caused by the wilful neglect or default of the Lender or delegate or his/her or its officers, employees or agents.

## **9. MISCELLANEOUS**

### **9.1 Non compliance by the Company**

If the Company fails to make any payment or fulfil any obligation due by it under or pursuant to this Security, the Lender shall be entitled to do so on its behalf and in its name (or in its own name as it considers expedient) and/or to take such action to remedy or mitigate the consequences of such failure as it considers expedient, and the amount of any such payment and/or the costs incurred in fulfilling such obligation or mitigating the consequences of such failure, shall be repayable by the Company on demand, together with interest at the default interest rate which is applicable under the Loan Agreement and shall constitute Secured Obligations.

### **9.2 Currency conversion**

9.2.1 Irrespective of the currency (whether Sterling or otherwise) in which all or part of the Secured Obligations or the Funds from time to time is/are expressed, the Lender shall be entitled at any time and without prior notification to the Company to convert the amount(s) in question into such other currency (whether Sterling or otherwise) as the Lender may from time to time consider appropriate: any such conversion shall be effected at the spot market rate of exchange reasonably selected by the Lender prevailing at the time of such conversion.

- 9.2.2 If by reason of any applicable law or regulation, or pursuant to any judgement, decree or order against the Company, or in respect of the liquidation or other insolvency of the Company, or for any other reason, any payment under or in connection with this Security is due or made in a currency (the "**payment currency**") other than the currency in which it is expressed to be due under or in connection with this Security (the "**contractual currency**") then to the extent that the amount of such payment actually received by the Lender when converted into the contractual currency at the applicable rate of exchange falls short of the amount due under or in connection with this Security, the Company shall as a separate and independent obligation indemnify and hold the Lender harmless against the amount of such shortfall.
- 9.2.3 For these purposes "**applicable rate of exchange**" means the rate at which the Lender is able on or about the date of such payment to purchase, in accordance with its usual practice, the contractual currency with the payment currency, and shall take into account (and the Company should be liable for) any premium and other costs of exchange, including taxes and duties incurred by reason of such exchange.

### 9.3 **Assignment**

- 9.3.1 The Lender may at any time (without notice or consent) assign the benefit of this Security or any of its rights or obligations hereunder to any person.
- 9.3.2 The Company may not assign, transfer or otherwise deal with the benefit or burden of this Security or any of its rights or obligations hereunder.

### 9.4 **Certificate**

A certificate signed by any authorised signatory on behalf of the Lender shall, save in the case of manifest error, conclusively constitute the amount of the Secured Obligations at the relevant time for all purposes of this Security.

### 9.5 **Entire agreement**

This Security constitutes the entire agreement and understanding of the parties and supersedes any previous agreement between the parties relating to the subject matter of this Security.

### 9.6 **Non-reliance**

Each of the parties acknowledges and agrees that in entering into this Security it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) of any person (whether a party to this Security or not) other than as expressly set out in this Security.

### 9.7 **Amendments**

No amendment or variation of this Security shall be effective unless it is in writing and signed by or on behalf of each of the parties.

### 9.8 **Expenses**

The Company shall indemnify the Lender on demand against all liabilities, costs, charges and expenses properly and reasonably incurred by the Lender (including the fees and expenses of any legal advisers employed by the Lender and where appropriate any VAT) in connection with the preparation and execution of this Security (and any further security taken by the Lender hereunder) and the enforcement or preservation of the Lender's rights under this Security, together with interest at the default rate of interest payable under the Loan Agreement, which shall accrue daily and be compounded quarterly, from the date of demand until settlement, and the amount thereof shall be a Secured Obligation.

## 10. **NOTICES**

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## 10.1 Notices and deemed receipt

Any demand or notice to be given under this Security shall be in writing signed by or on behalf of the party giving it and shall be served by delivering it personally or sending it by pre-paid recorded delivery or registered post or by facsimile to the address and for the attention of the relevant party set out in Clause 10.2 (or as otherwise notified by that party thereunder). Any such notice shall be deemed to have been received:-

10.1.1 if delivered personally, at the time of delivery;

10.1.2 in the case of pre-paid recorded delivery or registered post, 24 hours from the date of posting; and

10.1.3 in the case of facsimile, at the time of transmission, where in order to prove transmission it shall be sufficient to produce confirmation of uninterrupted transmission by a transmission report,

Provided that if deemed receipt occurs before 10am on a Business Day the notice shall be deemed to have been received at 10am on that day and if deemed receipt occurs after 5pm on a Business Day, or on a day which is not a Business Day, the notice shall be deemed to have been received at 10am on the next Business Day.

## 10.2 Addresses for notices

The addresses and facsimile numbers of the parties for the purposes of Clause 10 are:-

### The Lender

Address: Maidencraig House  
192 Queensferry Road  
Edinburgh  
EH4 2BN

For the attention of: The Directors

Fax number: n/a

### The Company

Address: Easter Road Stadium  
12 Albion Place  
Edinburgh  
EH7 5QG

For the attention of: The Finance Director

Fax number: n/a

For the attention of: The Finance Director

or such other address or facsimile number in the United Kingdom as may be notified in writing from time to time by the relevant party to the other.

## 10.3 No electronic service

For the avoidance of doubt no demand or notice given under this Security shall be validly given if sent by e-mail.

11. **GOVERNING LAW**


This Security shall be governed by and construed in accordance with the law of Scotland and in so far as not already subject thereto the parties irrevocably submit to the non-exclusive jurisdiction of the Scottish Courts.

**IN WITNESS WHEREOF** these presents consisting of this and the 8 preceding pages and the Schedule in two parts are executed as follows:-

SUBSCRIBED for and on behalf of  
**THE HIBERNIAN FOOTBALL CLUB LIMITED**

at EDINBURGH  
on the 29<sup>th</sup> day of July 2015

by:-

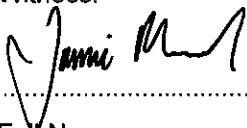
  
LEFANN DEMPSTER

Director

Full Name

before this witness

Witness:



Full Name:

JAMIE MANNICK

Address:

1/0 Easter Road Stadium  
12 Arden Park  
Edinburgh EH7 5QF

## SCHEDULE

This is the Schedule referred to in the foregoing Deposit Account Security by The Hibernian Football Club Limited dated 29<sup>th</sup> July 2015 in favour of H.F.C Holdings Limited

### PART 1

#### THE ACCOUNTS AND ACCOUNT BANK

Name of Account		Number of Account	Bank and sort code where Account held
Business Account	Reserve	10386673	Santander UK plc 09-02-22
Corporate Account	Bonus	10386686	Santander UK plc 09-02-22

**PART 2**

**FORM OF INTIMATION AND ACKNOWLEDGEMENT**

**[To be printed on letterhead of The Hibernian Football Club Limited and signed in duplicate]**

To:

Santander UK plc  
5th Floor  
The Capital Building  
12-13 St Andrew Square  
Edinburgh  
EH2 2AF

Attention: Kirsty Johnston

Date: 2015

Dear Sirs

**Accounts:**

**Business Reserve Account, Account Number 10386673, Sort Code 09-02-22**

**Corporate Bonus Account, Account Number 10386686, Sort Code 09-02-22**

We hereby give notice that by a Deposit Account Security by us in favour of H.F.C Holdings Limited (the "Lender") dated the      day of July 2015 (the "Security") we have pledged and assigned the above numbered accounts (the "Accounts") and all sums now or at any time hereafter standing to the their credit, to the Lender, in security of the Secured Obligations, as defined in the Security. A copy of the Security is annexed to this notice.

We hereby authorise and instruct you to release such information regarding the Accounts as may be requested by the Lender, including, but not limited to, the balances on the Accounts from time to time.

For the avoidance of doubt, you are not required to notify the Lender in respect of any deposits into, or withdrawals from, the Accounts unless requested to do so by the Lender.

Please confirm that you have not received notice of any other assignation or security charge or encumbrance in respect of the said accounts and sums and that all claims or rights of set off, counterclaim, deduction, lien, retention or combination of accounts, in respect of the said account and sums are excluded.

Please acknowledge receipt of this notice of intimation by signing and returning the enclosed duplicate.

Yours faithfully

For and on behalf of The Hibernian Football Club Limited

..... Director/Authorised Signatory

..... Full Name

To:

The Hibernian Football Club Limited  
Easter Road Stadium  
12 Albion Place  
Edinburgh  
EH7 5QG

Attn: The Finance Director

Date: 2015

Dear Sirs

**Business Reserve Account, Account Number 10386673, Sort Code 09-02-22**

**Corporate Bonus Account, Account Number 10386686, Sort Code 09-02-22**

We, Santander UK plc, hereby acknowledge receipt of the notice of intimation of which this is a duplicate.

We confirm that we have not received notice of any other assignation or security charge or encumbrance in respect of the said Accounts and sums and that all claims or rights of set off, counterclaim, deduction, lien, retention or combination of accounts in respect of the said Accounts and sums are excluded.

Yours faithfully

For and on behalf of Santander UK plc

..... Authorised Signatory

..... Full Name