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CHWP000

COMPANIES FORM No. 466(Scot)

## Particulars of an instrument of alteration to a floating charge created by a company registered in Scotland

# 466

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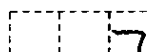
Pursuant to section 410 and 466 of the Companies Act 1985

Please complete  
legibly, preferably  
in black type, or  
bold block lettering

\* insert full name  
of company

To the Registrar of Companies  
(Address overleaf - Note 5)

For official use



Company number

SC340484

Name of company

\* Cyberhawk Innovations Limited

Date of creation of the charge (note 1)

22 March 2019

Description of the instrument creating or evidencing the charge or of any ancillary document which has been altered (note 1)

Floating Charge (the "Floating Charge")

Names of the persons entitled to the charge

Magnesium Capital Nominees Limited as Security Trustee

Short particulars of all the property charged

All monies and liabilities (whether actual or contingent) which are now or may at any time hereafter be due, owing or payable, or expressed to be due, owing or payable to the Security Trustee or any Noteholder, in each case from or by the Obligors under the terms of any Finance Document, including, without prejudice to the foregoing generality, all obligations to indemnify the Security Trustee.

WHOLE ASSETS OF THE COMPANY

Presenter's name address and  
reference (if any):

Burness Paull LLP, Union Plaza, 1  
Union Wynd, Aberdeen, AB10  
1DQ GRE/3033/00006/EMAC

For official use (02/06)  
Charges Section

TUESDAY



\*S831RK8P\*  
SCT 09/04/2019 #136  
COMPANIES HOUSE

Names, and addresses of the persons who have executed the instrument of alteration (note 2)

Please see Paper Apart 1 for all parties

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in black type, or  
bold block lettering***

Date(s) of execution of the instrument of alteration

Dates of execution: 21 and 22 March 2019

Date of delivery: 22 March 2019

A statement of the provisions, if any, imposed by the instrument of alteration prohibiting or restricting the creation by the company of any fixed security or any other floating charge having, priority over, or ranking pari passu with the floating charge

**3. Obligors Undertakings**

Prior to the Senior Discharge Date, each Obligor will not and will procure that none of its subsidiaries will:

3.4 create or permit to subsist any Security over any of its assets for any of the Subordinated Debt.

Please see the Paper Apart for defined terms

Short particulars of any property released from the floating charge

N/A

The amount, if any, by which the amount secured by the floating charge has been increased

N/A

A statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges

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bold block lettering*

## 2. Ranking of Security

2.2 Existing and future security conferred by the Bank Security Documents shall:

2.2.1 rank in all respects prior to existing and future security conferred by the Subordinated Security Documents over the same assets, regardless of order of registration, notice, execution or otherwise;


2.2.2 secure all the Bank Debt in priority to the Subordinated Debt, regardless of the date upon which the Bank Debt arises, regardless of whether the Bank is obliged to advance moneys included in the Bank Debt, and regardless of any intermediate discharge of the Bank Debt in whole or in part.

Please see Papers Apart 1 and 2 for defined terms

Continuation of the statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges

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legibly, preferably  
in black type, or  
bold block lettering***

Signed  Date 8 April 2019

On behalf of ~~[company]~~ [chargee] for and on behalf of  
Burness Paul LLP

**Notes**

1. A description of the instrument e.g. "Instrument of Charge" "Debenture" etc as the case may be, should be given. ☐ delete as appropriate  
For the date of creation of a charge see section 410(5) of the Companies Act.
2. In accordance with section 466(1) the instrument of alteration should be executed by the company, the holder of the charge and the holder of any other charge (including a fixed security) which would be adversely affected by the alteration.
3. A certified copy of the instrument of alteration, together with this form with the prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of execution of that instrument.
4. A certified copy must be signed by or on behalf of the person giving the certification and where this is a body corporate it must be signed by an officer of that body.
5. The address of the Registrar of Companies is: Companies Registration Office, 139 Fountainbridge, Edinburgh EH3 9FF DX 235 Edinburgh

**This is the Paper Apart referred to in the foregoing Form 466 in respect of Cyberhawk Innovations Limited**

**Company Number:**

## **PAPER APART 1 - DEFINITIONS**

Save as otherwise provided herein, words and expressions defined in the Instrument shall have the same meaning when used in this Paper Apart.

**“Bank Debt”** means all present and future monies and liabilities (including without limitation all sums of principal, interest and expenses) whether actual or contingent and whether owed solely or jointly and whether as principal debtor, guarantor, cautioner, surety, indemnifier or otherwise (or the equivalent in any other relevant jurisdiction) of the Obligors (or any of them) to the Bank; and in whatever manner and on any account;

**“Bank Security Documents”** means any document or deed for the time being granted by any Obligor in favour of the Bank creating or purporting to create an Encumbrance as security for the payment and discharge of any part of the Bank Debt;

**“Encumbrance”** means any mortgage, standard security, charge (whether fixed or floating) assignment, assignation, pledge, encumbrance, guarantee, hypothecation, security interest, title retention, or other preferential right having the effect of creating security;

**“Instrument”** means the intercreditor deed dated 22 March 2019 among Clydesdale Bank PLC as Bank, Magnesium Capital Nominees Limited as Security Trustee, the Obligors (as defined therein), Cyberhawk Innovations Limited and Cyberhawk Holdings Limited;

**“Loan Notes”** means the £6,689,400 subordinated secured loan notes due 31 December 2028 issued by the Parent to the Noteholders pursuant to the Subordinated Loan Note Instrument;

**“Noteholder”** means each of the Subordinated Creditors other than the Security Trustee;

**“Obligors”** means the Original Obligors and any other company which enters into a deed of accession pursuant to which they agree to become an Obligor under this Deed;

**“Original Subordinated Creditors”** means the Security Trustee and the parties listed as Obligors in Paper Apart 2;

**“Original Obligors”** means Cyberhawk Holdings Limited and Cyberhawk Innovations Limited;

**“Parent”** means Cyberhawk Holdings Limited;

**“Security Trust Deed”** means the security trust deed dated 22 March 2019 entered into among the Noteholders and Magnesium Capital Nominees Limited;

**“Senior Discharge Date”** means the first date on which all the Bank Debt has been fully and finally discharged to the satisfaction of the Bank, whether or not as the result of an enforcement, and the Bank is under no further obligation to provide financial accommodation to any Obligor;

**“Subordinated Creditors”** means the Original Subordinated Creditors and any other person who enters into a deed of accession pursuant to which they agree to become a Subordinated Creditor under the Instrument;

**“Subordinated Debt”** means all present and future liabilities of the Obligors to the Subordinated Creditors under the Subordinated Finance Documents whether absolute, contingent or otherwise, whether or not matured, whether or not liquidated, and whether or not owed solely or jointly by the Obligors or to the Subordinated Creditors solely or jointly;

**“Subordinated Finance Documents”** means the Subordinated Loan Note Instrument and the Subordinated Security Documents;

**“Subordinated Loan Note Instrument”** means the loan note instrument entered into by the Parent on 22 March 2019 pursuant to which the Parent has issued the Loan Notes to the Noteholders;

**“Subordinated Security”** means any Encumbrance under or pursuant to the Subordinated Security Documents;

**“Subordinated Security Documents”** means:

- (a) the floating charge created 22 March 2019 by the Parent in favour of the Security Trustee over all of its assets and undertaking (including uncalled capital);
- (b) the floating charge created 22 March 2019 by the Company in favour of the Security Trustee over all of its assets and undertaking (including uncalled capital);
- (c) the cross guarantee dated 22 March 2019 by the Company and the Parent in favour of the Security Trustee in respect of all monies and liabilities of any Obligor to any Subordinated Creditor;
- (d) the Security Trust Deed; and
- (e) all other document or deed from time to time granted by the Obligors in favour of the Security Trustee (or any other Subordinated Creditor) as security for the payment and discharge of any part of the Subordinated Debt;

**“subsidiary”** and **“holding company”** shall have the meanings given to them in Section 1159 of the Companies Act and **“subsidiaries”** shall mean all or any of them, as appropriate.

## PAPER APART 2 – EXECUTING PARTIES

Name	Registered Number	Registered Office
<b><u>SECURITY TRUSTEE</u></b>		
Magnesium Capital Nominees Limited	113739878	5 <sup>th</sup> Floor, 6 St. Andrew Street, London, United Kingdom, EC4A 3AE
<b><u>ORIGINAL OBLIGORS</u></b>		
Cyberhawk Innovations Limited	SC340484	Kinburn Castle, St Andrews, Fife, KY16 9DR
Cyberhawk Holdings Limited (formerly known as Gray Magpie Limited)	SC623602	50 Lothian Road, Festival Square, Edinburgh, EH3 9WL
<b><u>BANK</u></b>		
Clydesdale Bank PLC (trading as both Clydesdale Bank and Yorkshire Bank)	SC001111	30 St Vincent Place, Glasgow, G1 2HL
<b><u>ORIGINAL SUBORDINATED CREDITORS</u></b>		
Christopher Jervis Fleming	N/A	c/o Burness Paull LLP, Union Plaza, 1 Union Wynd, Aberdeen, AB10 1DQ
Philip Alexander Buchan	N/A	c/o Burness Paull LLP, Union Plaza, 1 Union Wynd, Aberdeen, AB10 1DQ
Patrick Saracco	N/A	c/o Burness Paull LLP, Union Plaza, 1 Union Wynd, Aberdeen, AB10 1DQ

David McIntyre	N/A	c/o Burness Paull LLP, Union Plaza, 1 Union Wynd, Aberdeen, AB10 1DQ
Malcolm Connolly	N/A	c/o Burness Paull LLP, Union Plaza, 1 Union Wynd, Aberdeen, AB10 1DQ
Nick Stewart	N/A	c/o Burness Paull LLP, Union Plaza, 1 Union Wynd, Aberdeen, AB10 1DQ





**FILE COPY**

**CERTIFICATE OF THE REGISTRATION  
OF AN ALTERATION TO A FLOATING CHARGE**

COMPANY NO. 340484  
CHARGE CODE SC34 0484 0007

I HEREBY CERTIFY THAT PARTICULARS OF AN INSTRUMENT  
OF ALTERATION DATED 22 MARCH 2019 WERE DELIVERED  
PURSUANT TO SECTION 466 OF THE COMPANIES ACT 1985  
ON 9 APRIL 2019

THE INSTRUMENT RELATES TO A CHARGE CREATED ON 22  
MARCH 2019

BY CYBERHAWK INNOVATIONS LIMITED

IN FAVOUR OF  
MAGNESIUM CAPITAL NOMINEES LIMITED (11373978) (AS  
SECURITY TRUSTEE)

GIVEN AT COMPANIES HOUSE, EDINBURGH 15 APRIL 2019

FILED  
JAN 10 2019



We  
care  
about  
here



Certified as a true copy of  
the original subject to the  
exclusion of personal  
information permitted by  
Section 859G of the Companies Act 2006

*Alan Chares*  
.....  
Addleshaw Goddard LLP

## **INTERCREDITOR DEED**

among

**Clydesdale Bank PLC (trading as both  
Clydesdale Bank and Yorkshire Bank)**

**Magnesium Capital Nominees Limited  
as security trustee, CYB Mixer LLP,  
Christopher Jervis Fleming, Philip  
Alexander Buchan, Patrick Saracco,  
David McIntyre, Malcolm Connolly and  
Nick Stewart**

and

**Cyberhawk Innovations Limited and  
Cyberhawk Holdings Limited**

Date of Delivery: 22 March 2019

## INTERCREDITOR DEED

Dated 22 March 2019  
among

**Name:** Magnesium Capital Nominees Limited

**Company Number:** 11373978

**Registered Office:** 5th Floor 6 St. Andrew Street, London, United Kingdom, EC4A 3AE

as security trustee for itself and each other Subordinated Creditor pursuant to the Security Trust Deed (the "Security Trustee") (and, together with the entities listed in Schedule 2, the "Original Subordinated Creditors").

**Name:** Cyberhawk Innovations Limited

**Company Number:** SC340484

**Registered Office:** Kinburn Castle, St Andrews, Fife, KY16 9DR

("the Company") (and, together with the companies listed in Schedule 1, "the Original Obligors")

**Name:** Clydesdale Bank PLC (trading as both Clydesdale Bank and Yorkshire Bank)

**Company Number:** SC001111

**Registered Office:** 30 St Vincent Place, Glasgow, G1 2HL

**Details for Notices:**

Address: Business Lending Services, 20 Merrion Way, Leeds LS2 8NZ

Fax: 0113 807 2448 (CB) / 0113 807 2359 (YB)

Reference:

("the Bank")

### BACKGROUND

The Bank has agreed to provide the Bank Debt to the Obligors and the Subordinated Creditors have agreed to provide the Subordinated Debt to the Obligors. The Bank and the Subordinated Creditors have agreed to enter into this Deed to regulate the priority and subordination arrangements in respect of the Bank Debt and the Subordinated Debt. By entry into this Deed each Obligor acknowledges the priority and subordination arrangements between the Creditors and undertakes and covenants to the Creditors as set out in this Deed.

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**Other defined terms used in this Intercreditor Deed are as set out in Clause 22.**

## **1. Priority of Debt**

- 1.1 The Bank consents to the creation and/or subsistence of the Subordinated Debt and each Subordinated Creditor consents to the creation and/or subsistence of the Bank Debt.
- 1.2 Each of the Creditors and the Obligors agree and acknowledge that:
  - 1.2.1 the Bank Debt shall rank in priority to the Subordinated Debt in all respects;
  - 1.2.2 the Subordinated Debt shall be subordinate in right of payment to the Bank Debt.
- 1.3 Each Subordinated Creditor agrees that the Bank Debt will rank in priority to the Subordinated Debt and the other provisions of this Deed will continue to apply notwithstanding any of the following events and irrespective of whether or not the Subordinated Creditor has received notice of them:
  - 1.3.1 any amendment, variation, restatement, novation or replacement of the Bank Debt;
  - 1.3.2 any increase in or refinancing of the Bank Debt; or
  - 1.3.3 any further advances of the Bank Debt, regardless of whether the Bank is obliged to advance such moneys.

## **2. Ranking of Security**

- 2.1 The Bank consents to the creation and/or subsistence of the Subordinated Security granted on or prior to the date of this Deed and each Subordinated Creditor consents to the creation and/or subsistence of the Bank Security.
- 2.2 Existing and future security conferred by the Bank Security Documents shall:
  - 2.2.1 rank in all respects prior to existing and future security conferred by the Subordinated Security Documents over the same assets, regardless of order of registration, notice, execution or otherwise;
  - 2.2.2 secure all the Bank Debt in priority to the Subordinated Debt, regardless of the date upon which the Bank Debt arises, regardless of whether the Bank is obliged to advance moneys included in the Bank Debt, and regardless of any intermediate discharge of the Bank Debt in whole or in part.
- 2.3 The Subordinated Creditors shall co-operate with the Bank with a view to reflecting the priority of the security conferred by the Bank Security Documents in any register or with any filing or registration authority and in giving notice to insurers, debtors liable for receivables subject to the Bank Security and other persons.
- 2.4 So long as the Bank Security Documents are in force, the Bank shall be entitled to the deposit of any title deeds, share certificates or other title documents, certificates or paper in respect of any assets subject to the security conferred by the Bank Security Documents in priority to the entitlement of the Subordinated Creditors. The Bank has no responsibility to any Subordinated Creditor to require or maintain such deposit.
- 2.5 Nothing in this Deed shall affect the status of the Security as continuing security, nor shall the ranking of the Security contained in this clause 2 be affected by any of, or any combination of any of, the following:

- 2.5.1 the nature of the various securities comprised in the Security and the order of their execution, notice or registration; or
- 2.5.2 any provision contained in any of the Security; or
- 2.5.3 the respective date (or dates) on which any person received notice of the existence or creation of the Security; or
- 2.5.4 the respective date (or dates) on which monies may be, or have been, advanced or become owing or payable or secured under the Security; or
- 2.5.5 any fluctuation from time to time in the amount of the monies secured by the Security (which shall be continuing security in favour of the respective Creditors) and in particular, without limitation, any reduction to nil of the monies so secured; or
- 2.5.6 the existence at any time of a credit balance on any current or other account of the any Obligor; or
- 2.5.7 the appointment of any liquidator or receiver, administrator or other similar officer either in respect of any Obligor or over all or any part of the assets of any Obligor.

### **3. Obligors Undertakings**

Prior to the Senior Discharge Date, each Obligor will not and will procure that none of its subsidiaries will:

- 3.1 pay, prepay, repay or make any distribution in respect of any of the Subordinated Debt in cash or in kind; or
- 3.2 purchase, acquire or permit any person to purchase or acquire any of the Subordinated Debt; or
- 3.3 discharge any of the Subordinated Debt by set-off or any right of combination of accounts; or
- 3.4 create or permit to subsist any Security (except the Subordinated Security created pursuant to the Subordinated Security Documents entered into on or prior to the date of this Deed) over any of its assets for any of the Subordinated Debt; or
- 3.5 amend, vary, waive, supplement or replace any of the Subordinated Finance Documents in a way which:
  - 3.5.1 would change the date, amount or method of payment of the Subordinated Debt; or
  - 3.5.2 could reasonably be expected to materially and adversely affect the interests of the Bank; or
- 3.6 lend or give credit to any Subordinated Creditor; or
- 3.7 do or omit to do anything as a result of which the subordination contemplated by this Deed may be impaired.

### **4. Undertakings of the Subordinated Creditors**

Prior to the Senior Discharge Date, no Subordinated Creditor will:

- 4.1 demand or receive payment, prepayment or repayment of, or any distribution in respect of (or on account of), any of the Subordinated Debt in cash or in kind or apply any money or property in discharge of any Subordinated Debt; or
- 4.2 discharge the Subordinated Debt by set-off or any right of combination of accounts, retention, compensation or balancing of accounts in bankruptcy, (excluding for the avoidance of doubt any mandatory set-off under applicable insolvency laws); or
- 4.3 except for the Subordinated Security Documents granted on or prior to the date of this Deed, permit to subsist or receive any Security or any guarantee or other assurance against financial loss for, or in respect of, any of the Subordinated Debt; or
- 4.4 amend, vary or release any term of the Subordinated Finance Documents or the Subordinated Debt Documents in a way which:
  - 4.4.1 would change the date, amount or method of payment of the Subordinated Debt; or
  - 4.4.2 could reasonably be expected to materially and adversely affect the interests of the Bank; or
- 4.5 take any action to enforce the Subordinated Finance Documents or recover the Subordinated Debt; or
- 4.6 declare payable or accelerate the Subordinated Debt or any part thereof; or
- 4.7 exercise any rights or pursue any remedy in respect of any breach of covenant, misrepresentation or non-observance of the terms or conditions of any Subordinated Finance Document; or
- 4.8 petition for (or take any other step or action which may lead to) the liquidation, administration, dissolution or the instigation of any other insolvency proceeding in relation to any Obligor; or
- 4.9 claim or rank as a creditor in the insolvency, winding up, bankruptcy or liquidation of any Obligor; or
- 4.10 sell or transfer any of the Subordinated Debt (except in accordance with Clause 21); or
- 4.11 take or omit to take any action whereby the ranking and/or the subordination set out in this Deed is impaired,

save that nothing in this Clause 4 (and nothing in Clause 8) shall prevent any Subordinated Creditor from taking any action falling which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of the Subordinated Debt, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable prescription or limitation periods.

## **5. Preservation of Subordinated Debt**

As between the Obligors and the Subordinated Creditors, the Subordinated Debt shall remain owing or due and payable from the Obligors, and interest and default interest shall accrue on missed payments in accordance with the terms of the Subordinated Finance Documents relating to the Subordinated Debt, despite any term of this Deed that might postpone, subordinate or prevent payment of the Subordinated Debt.

## **6. Turnover**

At any time prior to the Senior Discharge Date, if:

- 6.1 any Subordinated Creditor receives a payment (including by way of set-off) or distribution in cash or in kind of, or on account of the Subordinated Debt; or
- 6.2 any Subordinated Creditor receives the proceeds of any enforcement of any security confirmed by the Subordinated Security Documents or payment under any guarantee for any Subordinated Debt,

that Subordinated Creditor will hold the same on trust for the Bank and will forthwith pay or transfer it to the Bank for application towards the Bank Debt.

## **7. Subordination on Insolvency**

- 7.1 On the occurrence of an Insolvency Event, the Subordinated Debt is subordinate in right of payment to the Bank Debt.
- 7.2 Following the occurrence of an Insolvency Event, at any time prior to the Senior Discharge Date:
  - 7.2.1 the Bank may and is irrevocably authorised on behalf of the Subordinated Creditors (and any of them as the case may be) to:
    - 7.2.1.1 claim, enforce and prove for the Subordinated Debt;
    - 7.2.1.2 file claims and proofs, give receipts and take all such proceedings and do all such things as it sees fit to recover the Subordinated Debt; and
    - 7.2.1.3 receive all distributions on the Subordinated Debt for application towards the Bank Debt.
  - 7.2.2 if and to the extent that the Bank is not entitled to claim, enforce, prove, file claims or proofs, or take proceedings for the Subordinated Debt, the Subordinated Creditors will do so promptly on request by the Bank.
- 7.3 Following the occurrence of an Insolvency Event, at any time prior to the Senior Discharge Date:
  - 7.3.1 the Subordinated Creditors (or any of them as the case may be) will hold all payments and distributions in cash or in kind received or receivable by them in respect of the Subordinated Debt following the occurrence of such Insolvency Event on trust for the Bank for application towards the Bank Debt;
  - 7.3.2 the Subordinated Creditors (or any of them as the case may be) will promptly following demand by the Bank, pay an amount equal to any Subordinated Debt received by them following the occurrence of such Insolvency Event to the Bank for application towards the Bank Debt;
  - 7.3.3 the Subordinated Creditors (or any of them as the case may be) will promptly direct the trustee in bankruptcy, liquidator, assignee or other person distributing the assets of the Company or their proceeds to pay distributions in respect of the Subordinated Debt directly to the Bank;
  - 7.3.4 if the Bank receives any distribution otherwise than in cash in respect of the Subordinated Debt it may realise the distribution as it sees fit and the



Bank Debt shall only be reduced by the distribution to the extent that the realisation proceeds are applied towards the Bank Debt; and

7.3.5 on request by the Bank, the Subordinated Creditors will undertake any actions requested by the Bank to give effect to this Clause 7.3.

7.4 If the Bank receives any payment required to be paid by the Subordinated Creditors (or any of them) under this Deed or paid in respect of the Subordinated Debt in a currency other than the currency of the Bank Debt, the Bank may convert the currency received into the currency of the Bank Debt at the prevailing spot selling rate of exchange for the Bank as conclusively determined by the Bank and the Bank Debt shall not be considered to be reduced by the payment until and except to the extent that the proceeds of conversion are applied towards the Bank Debt (which the Bank undertakes promptly to do following such conversion provided the amount of the payment received (together with all other payment received by it in respect of the Bank Debt) is equal to or exceeds the total amount of the Bank Debt).

7.5 If for any reason a trust in favour of, or a holding of property for the Bank under this Deed is invalid or unenforceable, the Subordinated Creditors (or any of them as the case may be) will pay and deliver to the Bank for application against the Bank Debt an amount equal to the payment, receipt or recovery in cash or in kind (or its value, if in kind) which the Subordinated Creditors (or any of them as the case may be) would otherwise have been bound to hold on trust for or as the property of the Bank.

## **8. Restrictions on Enforcement by the Subordinated Creditors**

8.1 Prior to the Senior Discharge Date, no Subordinated Creditor will, save as and to the extent permitted under clause 4, (except with the prior written consent of, or as directed by, the Bank):

8.1.1 accelerate any of the Subordinated Debt, nor otherwise declare any of the Subordinated Debt prematurely payable on a default or otherwise; or

8.1.2 enforce any of the Subordinated Debt by execution or otherwise or enforce any of the Subordinated Finance Documents; or

8.1.3 have any right to enforce all or any of the Subordinated Finance Documents; or

8.1.4 petition for (or vote in favour of any resolution for) or initiate or support or take any steps with a view to any insolvency, liquidation, reorganisation, administration or dissolution proceedings or any voluntary arrangement or assignment for the benefit of creditors or any similar proceedings involving any Obligor, whether by petition, convening a meeting, voting for a resolution or otherwise; or

8.1.5 exercise the remedy of foreclosure in respect of any asset the subject of Security created pursuant to any Security Document; or

8.1.6 claim or rank as a creditor in the insolvency, winding up, bankruptcy or liquidation of any Obligor in respect of the Subordinated Debt; or

8.1.7 otherwise exercise any remedy for the recovery of any of the Subordinated Debt;

8.2 The Subordinated Creditors will immediately notify the Bank on their becoming aware of the occurrence of an event of default (however described) under the Subordinated Finance Documents.

## **9. Enforcement by the Bank**

- 9.1 The Bank may refrain from enforcing the Bank Security for as long as it sees fit.
- 9.2 If the Bank enforces the Bank Security:
  - 9.2.1 the Subordinated Creditors shall not be entitled to possession of any assets subject to the Bank Security or to appoint or maintain a receiver in possession of such assets;
  - 9.2.2 the Bank shall (in the absence of the appointment of an administrator, a liquidator, a receiver or an administrative receiver) conduct in its sole discretion any sale of assets covered by the Bank Security;
  - 9.2.3 if pursuant to an enforcement, the Bank sells any asset subject to the Subordinated Security, or if any Obligor sells such asset at the request of the Bank after an event of default in respect of the Bank Debt, the Security Trustee, acting on behalf of the Subordinated Creditors, shall on such sale release its Security over that asset if the proceeds are to be applied towards the Bank Debt; and
  - 9.2.4 the Bank may enforce the Bank Security in such manner as it sees fit, shall not be responsible to the Subordinated Creditors (or any of them) for any failure to enforce or to maximise the proceeds of any enforcement (save as a direct result of its fraud, gross negligence or wilful misconduct), and may cease any such enforcement at any time.

## **10. Proceeds of Enforcement**

Subject to the rights of any preferential creditor and notwithstanding the terms of the Security Documents, the net proceeds of enforcement of the Security (together with any sums paid to the Bank pursuant to Clauses 6 and 7) shall be paid to and applied by the Bank (or any administrator, liquidator, receiver or administrative receiver) in accordance with this Deed in the following order of priority, in each case, until such amounts have been repaid and discharged in full:

- 10.1 first, in payment of all costs and expenses incurred by or on behalf of the Bank in connection with such enforcement;
- 10.2 second, in or towards discharge of the Bank Debt;
- 10.3 third, once the Bank Debt has been fully discharged, in or towards the Subordinated Debt; and
- 10.4 fourth, after the Subordinated Debt has been fully discharged, to the Obligors or any other person entitled to it.

## **11. Consents and releases**

- 11.1 No Subordinated Creditor shall have any remedy against the Bank by reason of any transaction entered into between the Bank or any other person which violates or is a default or in breach of the Subordinated Finance Documents.
- 11.2 Any waiver or consent granted by the Bank in respect of the Bank Debt will also be deemed to have been given by each Subordinated Creditor if any transaction or circumstances would, in the absence of such waiver or consent by each of such parties, constitute a default or breach of any of the Subordinated Finance Documents.

- 11.3 If any asset which is the subject of the Bank Security Documents and the Subordinated Security Documents is to be disposed of at any time prior to the Senior Discharge Date, then the Security Trustee, acting on behalf of each Subordinated Creditor, will on request by the Bank grant such consent, release or discharge as is required to permit such disposal free from any Security.

**12. Subrogation**

- 12.1 If the Bank Debt is wholly or partially paid out of any proceeds received in respect of or on account of the Subordinated Debt owing to the Subordinated Creditors, the Subordinated Creditors shall to that extent be subrogated to the rights of the Bank in respect of the Bank Debt so paid, including all Security for that Bank Debt, but the Subordinated Creditors may not exercise those subrogation rights or receive any payments in respect thereof until the Bank Debt has been irrevocably repaid in full.
- 12.2 To the extent that any subrogation contemplated in Clause 12.1 above does not occur for any reason, as between the Obligors and the Subordinated Creditors, the Subordinated Debt will be deemed not to have been reduced or discharged to the extent of any payment or distribution to the Bank.
- 12.3 Each Obligor hereby agrees that it will not exercise any rights of subrogation in relation to any claim it may have pursuant to this Clause 12, under applicable law or otherwise until the Bank Debt and the Subordinated Debt has been irrevocably repaid in full.

**13. Protection of Subordination**

- 13.1 The subordination provisions in this Deed constitute a continuing subordination and benefit to the ultimate balance of the Bank Debt in whole or in part.
- 13.2 The subordination in this Deed and the obligations of the Subordinated Creditors or the Obligors under this Deed will not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release or prejudice the subordination of any of those obligations in whole or in part, including without limitation:
- 13.2.1 any time or waiver granted to, or composition with, the Obligors or other person;
- 13.2.2 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Obligors or other person in respect of the Bank Debt or under the Subordinated Finance Documents or otherwise or any non-presentment or non-observance of any formality or other requirement in respect of any instruments or any failure to realise the full value of any security; and
- 13.2.3 any unenforceability, illegality or invalidity of any obligation of any of the Obligors or the Security or any other document or security.
- 13.3 The Bank may, at its discretion, credit all monies received by it in respect of the Bank Debt to a suspense account and such monies may (until they are equal to or exceed the total amount of the Bank Debt) be held in such account for so long as the Bank shall think fit without any obligation to apply all or any part of such monies in or towards payment or performance of the Bank Debt.
- 13.4 Until the Senior Discharge Date, no Subordinated Creditor will by virtue of any payment or performance under this Deed:

- 13.4.1 be entitled to any right of contribution or indemnity;
- 13.4.2 claim, rank, prove or vote as creditor of the Obligors or its estate in competition with the Bank;
- 13.4.3 take or receive the benefit of any Security from the Obligors save for a Security governed by this Deed; or
- 13.4.4 accept receipt of, claim or take the benefit of any payment from the Obligors or any surety or indemnifier for the same or exercise any other right, claim or remedy in respect of the Subordinated Debt.

#### **14. Representations and Warranties**

Each Subordinated Creditor and each Obligor represents and warrants to the Bank that:

- 14.1 this Deed is within its powers and has been duly authorised by it;
- 14.2 it has all necessary consents, approvals, authorisations and legal capacity to enter into this Deed;
- 14.3 this Deed constitutes its legal, valid and binding obligations, subject to the application of general legal principles affecting the enforceability of obligations of the type found in this Deed; and
- 14.4 this Deed does not conflict with its constitutional documents (where appropriate).

#### **15. Power of Attorney**

- 15.1 Each of the Subordinated Creditors irrevocably appoints the Bank as its attorney (with full power of substitution and delegation), on its behalf and in its name or otherwise and in such manner as the attorney thinks fit to do anything which it:
  - 15.1.1 has authorised the Bank to do under this Deed; and
  - 15.1.2 is obliged to do but has not done under this Deed for a period of at least 2 Business Days;
- 15.2 Each Subordinated Creditor ratifies, confirms and agrees to ratify and confirm whatever any such attorney shall do in the exercise or purported exercise of the power of attorney granted by it in this Clause 15, save in the case of fraud, gross negligence or wilful misconduct by such attorney.

#### **16. Communications**

Each notice, consent and other communication in respect of this Deed:

- 16.1 will be in writing (which includes by fax);
- 16.2 will be sent to the address or fax number most recently designated for this purpose by the recipient;
- 16.3 given to the Subordinated Creditors and/or the Obligors will be effective when left at, or two Business Days after it is posted to, the relevant address or, in the case of a fax, on receipt by the Bank of a fax confirmation sheet; and
- 16.4 given to the Bank will be effective only on actual receipt by the Business Lending Services Department of the Bank or such other department as may be notified to the Subordinated Creditors and the Obligors from time to time.

**17. Partial Invalidity**

- 17.1 Each provision of this Deed will be valid and enforceable to the fullest extent permitted by law.
- 17.2 If any provision of this Deed shall to any extent be invalid or unenforceable the validity and enforceability of the remaining provisions of this Deed will not in any way be affected. Any invalid and unenforceable provision shall be modified to the extent necessary to make such provision valid and enforceable provided the Bank consents in writing to such modification.

**18. Remedies, Waivers and Consents**

- 18.1 No failure or delay by the Bank in exercising any right, remedy or power under this Deed shall operate as a waiver and no single or partial exercise shall prevent further exercise of any right, remedy or power.
- 18.2 Any waiver and any consent by the Bank under this Deed must be in writing to be effective and may be given subject to such conditions as the Bank thinks fit.

**19. Costs and Expenses**

- 19.1 The Obligors shall promptly following, and in any event with three Business Days of, demand on a full indemnity basis, all costs, charges, expenses and liabilities reasonably and properly incurred by the Bank or any attorney, manager, agent or other person appointed by the Bank in connection with the preparation, negotiation, completion, execution, perfection, modification, amendment, issue of waivers and consents under, assignment, release or discharge of this Deed.
- 19.2 The Obligors shall pay on demand on a full indemnity basis, all costs, charges, expenses and liabilities incurred by the Bank or any attorney, manager, agent or other person appointed by the Bank in connection with any actions, proceedings or claims in respect of this Deed.
- 19.3 Each of the Obligors and the Subordinated Creditors shall pay, on demand, on a full indemnity basis, all costs, charges, expenses and liabilities incurred by the Bank or any attorney, manager, agent or other person appointed by the Bank in connection with the enforcement against the Obligors or the Subordinated Creditors as the case may be of the Bank's rights against it under this Deed.
- 19.4 The costs and expenses referred to above include, without limitation, the fees and expenses of legal advisers and any value added tax or similar tax, and are payable in the currency in which they are incurred.
- 19.5 All amounts payable under this Clause 19 shall bear interest at 6% over the Bank of England Base Rate as it may vary from time to time from the date of demand, computed and compounded monthly.

**20. Currency**

- 20.1 The Bank may convert any monies received under this Deed from their existing currency of denomination into such other currency or denomination as the Bank may think fit.
- 20.2 Any such conversion shall be effected at the prevailing spot selling rate of exchange, for the Bank, as conclusively determined by the Bank, for such other currency against the existing currency.

**21. Assignment, transfer and accession**

- 21.1 This Deed is binding on the permitted successors and assignees of the parties to this Deed.
- 21.2 The Obligors may not assign or transfer all or any of its rights, obligations or benefits under this Deed.
- 21.3 The Parent or the Bank may request that any subsidiary of the Parent becomes an Obligor pursuant to this Deed by executing a Deed of Accession. The parties hereto confirm that any such subsidiary of the Parent who executes a Deed of Accession will become a party hereto as if it had been originally named as an Obligor without the need for further action.
- 21.4 No Subordinated Creditor shall assign or transfer any of its rights, obligations or benefits in respect of the Subordinated Debt (including the Subordinated Security) unless the assignee or transferee executes and delivers to the Bank a Deed of Accession in which the assignee or transferee agrees to be bound by the terms of this Deed. The parties hereto confirm that any assignee or transferee of the Subordinated Debt who executes a Deed of Accession will become a party hereto as if it had been originally named as a Subordinated Creditor without the need for any further action.
- 21.5 The Bank may assign or transfer any of its rights, obligations or benefits in respect of the Bank Debt.

## 22. Interpretation

### 22.1 In this Deed:

**"Bank Debt"** means all present and future monies and liabilities (including without limitation all sums of principal, interest and expenses) whether actual or contingent and whether owed solely or jointly and whether as principal debtor, guarantor, cautioner, surety, indemnifier or otherwise (or the equivalent in any other relevant jurisdiction) of the Obligors (or any of them) to the Bank; and in whatever manner and on any account;

**"Bank Security"** means any Encumbrance under or pursuant to the Bank Security Documents;

**"Bank Security Documents"** means any document or deed for the time being granted by any Obligor in favour of the Bank creating or purporting to create an Encumbrance as security for the payment and discharge of any part of the Bank Debt;

**"Business Day"** means any day (excluding Saturdays, Sundays and bank holidays) on which banks are generally open in the City of London for the transaction of normal banking business;

**"Companies Act"** means the Companies Act 2006, as amended from time to time;

**"Creditors"** means the Bank and the Subordinated Creditors and **"Creditor"** shall mean any one of them;

**"Deed of Accession"** means a deed of accession in the form or substantially in the form of the deed of accession set out in Schedule 3 hereto;

**"Default"** means an event of default however described in any agreement or facility letter between the Bank and any of the Obligors;

**"Encumbrance"** means any mortgage, standard security, charge (whether fixed or floating), assignment, assignation, pledge, encumbrance, guarantee, hypothecation, security interest, title retention or other preferential right having the effect of creating security;

**"Insolvency Event"** means:

- (a) any Obligor fails to pay any amount due to the Bank on its due date for payment;
- (b) (1) any Obligor fails to pay any amount of any indebtedness (other than to the Bank) on its due date for payment (or within any applicable grace period); or (2) any indebtedness (other than to the Bank) of any Obligor is (or is capable of being) declared prematurely due and payable due to the occurrence of an event of default (however described); or (3) any facility for indebtedness (other than to the Bank) offered to any Obligor is withdrawn or cancelled due to the occurrence of an event of default (however described);
- (c) any Obligor is unable or admits an inability to pay its debts or, by reason of actual or anticipated financial difficulties, suspends payment of any of its debts;
- (d) any step is taken with a view to (1) the winding up, dissolution, administration or any analogous procedure in respect of any Obligor including the appointment of a receiver, trustee in bankruptcy, liquidator, administrator or other similar officer of any Obligor or its assets; or (2) the rescheduling of any debts of any Obligor pursuant to a reorganisation, voluntary arrangement or otherwise;
- (e) any steps are taken to enforce any security over the assets of any Obligor;
- (f) any distress, execution, diligence or similar process affects the assets of any Obligor;
- (g) any analogous event, step or circumstances occurs in any relevant jurisdiction;

**"Loan Notes"** means the £6,689,400 subordinated secured loan notes due 31 December 2028 issued by the Parent to the Noteholders pursuant to the Subordinated Loan Note Instrument;

**"Noteholder"** means each of the Subordinated Creditors other than the Security Trustee;

**"Obligors"** means the Original Obligors and any other company which enters into a Deed of Accession pursuant to which they agree to become an Obligor under this Deed;

**"Parent"** means Cyberhawk Holdings Limited (formerly known as Grey Magpie Limited) (company number SC623602);

**"Security"** means the Bank Security and the Subordinated Security;

**"Security Documents"** means the Bank Security Documents and the Subordinated Security Documents;

**"Security Trust Deed"** means the security trust deed dated on or around the date of this Deed entered into among the Noteholders and Magnesium Capital Nominees Limited;

**"Senior Discharge Date"** means the first date on which all the Bank Debt has been fully and finally discharged to the satisfaction of the Bank, whether or not as the result of an enforcement, and the Bank is under no further obligation to provide financial accommodation to any Obligor;

**"Subordinated Creditors"** means the Original Subordinated Creditors and any other person who enters into a Deed of Accession pursuant to which they agree to become a Subordinated Creditor under this Deed;

**"Subordinated Debt"** means all present and future liabilities of the Obligors to the Subordinated Creditors under the Subordinated Finance Documents whether absolute, contingent or otherwise, whether or not matured, whether or not liquidated, and whether or not owed solely or jointly by the Obligors or to the Subordinated Creditors solely or jointly;

**"Subordinated Finance Documents"** means the Subordinated Loan Note Instrument and the Subordinated Security Documents;

**"Subordinated Loan Note Instrument"** means the loan note instrument entered into by the Parent dated on or around the date hereof pursuant to which the Parent has issued the Loan Notes to the Noteholders;

**"Subordinated Security"** means any Encumbrance under or pursuant to the Subordinated Security Documents;

**"Subordinated Security Documents"** means:

- (a) the floating charge created on or around the date hereof by the Parent in favour of the Security Trustee over all of its assets and undertaking (including uncalled capital);
- (b) the floating charge created on or around the date hereof by the Company in favour of the Security Trustee over all of its assets and undertaking (including uncalled capital);
- (c) the cross guarantee dated on or around the date hereof by the Company and the Parent in favour of the Security Trustee in respect of all monies and liabilities of any Obligor to any Subordinated Creditor;
- (d) the Security Trust Deed; and
- (e) all other document or deed from time to time granted by the Obligors in favour of the Security Trustee (or any other Subordinated Creditor) as security for the payment and discharge of any part of the Subordinated Debt;

**"subsidiary"** and **"holding company"** shall have the meanings given to them in Section 1159 of the Companies Act and **"subsidiaries"** shall mean all or any of them, as appropriate;

22.2 without prejudice to any requirement to procure consent to the same the expressions "Company" "Obligors" and "Bank" include their successors, assignees and transferees and "Subordinated Creditor" includes each party who accedes to this Deed as a subordinated creditor by Deed of Accession in accordance with Clause 21;

22.3 without prejudice to any requirement to procure consent to the same, any reference to any document of any kind is to that document as amended, varied, supplemented, novated, restated or substituted from time to time; and



- 22.4 unless expressly provided to the contrary in this Deed, a person who is not a party to this Deed has no right under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or enjoy the benefit of any term of this Deed. The consent of any person who is not a party to this Deed is not required to rescind or vary this Deed or any other agreement entered into under or in connection with it.

**23. Counterparts**

- 23.1 This Deed may be executed in any number of counterparts and by the parties on separate counterparts.
- 23.2 Where executed in counterpart:
- 23.2.1 this Deed shall not take effect until all of the counterparts have been delivered;
- 23.2.2 each counterpart will be held as undelivered until the parties agree a date on which the counterparts are to be treated as delivered; and
- 23.2.3 the parties may choose to evidence the date of delivery of this Deed by inserting this on the front page of this Deed.
- 23.3 If this Deed is not executed in counterparts, this Deed shall be delivered on the date inserted on the front page of this Deed or, if no such date is inserted, the date on which the last party signed this Deed.
- 23.4 The parties to this Deed, in accordance with section 2(1) of the Legal Writings (Counterparts and Delivery)(Scotland) Act 2015 (the "Counterparts Act"), nominate Addleshaw Goddard LLP to take delivery of all counterparts of this Deed. The parties agree that the provisions of section 2(3) of the Counterparts Act shall not apply to any counterpart of this Deed.

**24. Disclosure of Information**

The Bank and the Subordinated Creditors shall be at liberty, from time to time, to disclose to each other information concerning the affairs of the Borrower in such a manner and to such extent as the Creditors shall, from time to time, desire.

**25. Governing Law and Submission to Jurisdiction**

- 25.1 The governing law of this Deed and any non-contractual obligations arising out of or in connection with it is the law of Scotland.
- 25.2 The Company and each Subordinated Creditor irrevocably:
- 25.2.1 submit to the jurisdiction of the Courts of Scotland and any non-contractual obligations arising out of or in connection with it; and

25.2.2 agree that nothing in Clause 25.2.1 prevents the Bank taking proceedings in any other jurisdiction nor shall the taking of proceedings in any jurisdiction preclude the Bank taking proceedings in any other jurisdiction.

IN WITNESS WHEREOF these presents are executed as follows:

This is an important document. You should take independent legal advice before signing and sign only when you fully understand the consequences and if you want to be legally bound.

SUBSCRIBED for and on behalf MAGNESIUM  
CAPITAL NOMINEES LIMITED

place of signing LEEDS

on 21/3/19

by

I.M.L. JONES

Director  
(Print Full Name)

Director

Witness

CATHARINE JONES

Full Name

Address

SUBSCRIBED for and on behalf of CYB MIXER  
LLP

place of signing LEEDS

on 21/3/19

by

I.M.L. JONES  
(Print Full Name) Designated  
Member

[Redacted Signature]

Designated  
Member

[Redacted Signature]

Witness

CATHERINE JONES Full Name

[Redacted Address]  
Address

SUBSCRIBED by CHRISTOPHER JERVIS  
FLEMING

place of signing

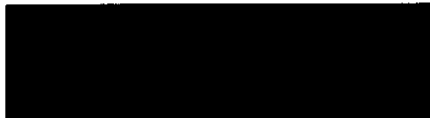
*Livingston*

on 21/3/19

by



Christopher  
Jervis Fleming



Witness

Neil Alistair McWilliam

Full Name

Thornes Law LLP

Whitehall House

33 Yeaman Shore

Address

Dundee

DD1 4BJ

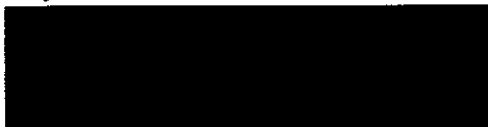
SUBSCRIBED by PHILIP ALEXANDER BUCHAN

place of signing

*Livingston*

on 21/3/19

by



Philip  
Alexander Buchan



Witness

Neil Alistair McWilliam

Full Name

Thornes Law LLP

Whitehall House

33 Yeaman Shore

Address

Dundee

DD1 4BJ

SUBSCRIBED by PATRICK SARACCO

place of signing *Livingston*

on 21/3/19

by CHRISTOPHER FLEMING AS ATTORNEY PURSUANT TO A POWER

*as attorney*  
*af.*

OF ATTORNEY

DATED 6/3/19

Patrick  
Saracco

Witness

Nell Alistair McWilliam  
Thornstone Law LLP

Full Name

Whitehall House  
33 Yeaman Shore

Address

Dundee  
DD1 4BJ

SUBSCRIBED by DAVID MCINTYRE

place of signing *Livingston*

on 21/3/19

David  
McIntyre

*DAVID MCINTYRE*

Witness

Nell Alistair McWilliam  
Thornstone Law LLP

Full Name

Whitehall House  
33 Yeaman Shore

Address

Dundee  
DD1 4BJ

SUBSCRIBED by MALCOLM CONNOLLY *by Bruce Farquhar as attorney pursuant to a power of attorney dated 10 March 2019*  
place of signing **EDINBURGH**  
on **22 MARCH 2019**

[Redacted Signature]

Malcolm  
Connolly

*(Attorney)*

in the presence of:

[Redacted Signature]

Witness

VICTORIA LINDSAY MARGARET MILAN Full Name

[Redacted Address]

Address

SUBSCRIBED by NICK STEWART

place of signing

on

by

\_\_\_\_\_

Nick  
Stewart

in the presence of:

\_\_\_\_\_

Witness

\_\_\_\_\_

Full Name

\_\_\_\_\_

Address

\_\_\_\_\_

SUBSCRIBED by MALCOLM CONNOLLY

place of signing

on

by

\_\_\_\_\_ Malcolm  
Connolly

in the presence of:

\_\_\_\_\_ Witness  
\_\_\_\_\_ Full Name  
\_\_\_\_\_ Address  
\_\_\_\_\_

SUBSCRIBED by NICK STEWART

place of signing

*Leington*

on 21/3/19

by CHRISTOPHER FLEMING AS ATTORNEY PURSUANT TO A POWER OF

\_\_\_\_\_

*as attorney*  
*cf*  
Nick  
Stewart

ATTORNEY DATED 4/3/19

\_\_\_\_\_

Witness

\_\_\_\_\_ Neil Alistair McWilliam Full Name  
Thornons Law LLP  
\_\_\_\_\_ Whitehall House Address  
33 Yeaman Shore  
Dundee  
DD1 4BJ

SUBSCRIBED for and on behalf of CYBERHAWK  
INNOVATIONS LIMITED


place of signing *Levington*

on 21/3/19

by

*Christopher Fleming*  
(Print Full Name) Director

 Director  
(Signature)

 Witness  
Neil Alistair McWilliam  
Thornstone Law LLP Full Name  
Whitehall House  
33 Yeaman Shore Address  
Dundee  
DD1 4BJ

SUBSCRIBED for and on behalf of CYBERHAWK  
HOLDINGS LIMITED

place of signing

on

by

\_\_\_\_\_  
(Print Full Name) Director

\_\_\_\_\_  
(Signature) Director

in the presence of:

\_\_\_\_\_  
Witness  
\_\_\_\_\_  
Full Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_



SUBSCRIBED for and on behalf of CYBERHAWK  
INNOVATIONS LIMITED

place of signing

on

by

\_\_\_\_\_  
(Print Full Name) Director

\_\_\_\_\_  
(Signature) Director

in the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Address

\_\_\_\_\_

SUBSCRIBED for and on behalf of CYBERHAWK  
HOLDINGS LIMITED

place of signing *LEEDS*

on *21/3/19*

by

*I.M.L. SONGS*  
(Print Full Name) Director

 Director

 Witness

*CATHERINE STOLKS*  
Full Name

 Address

**The Bank:**

SIGNED for and on behalf of CLYDESDALE  
BANK PLC by its duly authorised signatory:



\_\_\_\_\_  
Authorised  
Signatory

**This is the Schedule 1 referred to in the foregoing Intercreditor Deed among Clydesdale Bank PLC (trading as both Clydesdale Bank and Yorkshire Bank), the Subordinated Creditors and Obligors**

**SCHEDULE 1**


**COMPANIES**

<b>Name</b>	<b>Registered Number</b>	<b>Registered Office</b>
Cyberhawk Holdings Limited (formerly known as Grey Magpie Limited)	SC623602	50 Lothian Road, Festival Square, Edinburgh. EH3 9WJ

This is the Schedule 2 referred to in the foregoing Intercreditor Deed among Clydesdale Bank PLC (trading as both Clydesdale Bank and Yorkshire Bank), the Subordinated Creditors and Obligors

## SCHEDULE 2

### SUBORDINATED CREDITORS

Name	Registered Number	Address / Registered Office
CYB Mixer LLP	SO306657	50 Lothian Road, Edinburgh, EH3 9WJ
Christopher Jervis Fleming	N/A	
Philip Alexander Buchan	N/A	
Patrick Saracco	N/A	
David McIntyre	N/A	
Malcolm Connolly	N/A	
Nick Stewart	N/A	

This is the Schedule 3 referred to in the foregoing Intercreditor Deed among Clydesdale Bank PLC (trading as both Clydesdale Bank and Yorkshire Bank), the Subordinated Creditors and Obligors

### SCHEDULE 3

#### DEED OF ACCESSION

THIS DEED OF ACCESSION is entered into on [                      ].

By: *[Insert name, registered number and registered office of acceding Subordinated Creditor]* (the "Acceding Subordinated Creditor")/ *[Insert name, registered number and registered office of acceding Obligor]* (the "Acceding Obligor")

in favour of:

Clydesdale Bank PLC (trading as both Clydesdale Bank and Yorkshire Bank) a company registered in Scotland with registered number SC001111 and having its registered office at 30 St Vincent Place, Glasgow, G1 2HL.

This Deed is supplemental to an intercreditor deed among (1) Clydesdale Bank PLC (trading as both Clydesdale Bank and Yorkshire Bank), (2) Magnesium Capital Nominees Limited, CYB Mixer LLP and others as subordinated creditors and (3) Cyberhawk Innovations Limited and Cyberhawk Holdings Limited dated [    ] (the "Intercreditor Deed").

Words and expressions defined in the Intercreditor Deed have the same meaning when used in this Deed.

The [Acceding Subordinated Creditor]/[Acceding Obligor] hereby agrees with each other person who is or who becomes a party to the Intercreditor Deed to become a party to and to be bound by the terms of the Intercreditor Deed as a [Subordinated Creditor]/[Acceding Obligor] from the date of this Deed.

From the date of this Deed the Intercreditor shall be read and construed for all purposes as if the [Acceding Subordinated Creditor]/[Acceding Obligor] had been an original party thereto in the capacity of [a Subordinated Creditor]/[an Obligor].

Address and fax number for notices to the [Acceding Subordinated Creditor]/[Acceding Obligor] for the purposes of Clause 16 of the Intercreditor Deed is:

Address:            [                      ]

Fax:                [                      ]

FAO:               [                      ]

This Accession Deed is governed by Scots law.

IN WITNESS WHEREOF these presents are executed as follows:

**The [Acceding Subordinated  
Creditor]/[Acceding Obligor]:**

SIGNED for and on behalf of

place of signing

on

by

\_\_\_\_\_  
(Print Full Name)

\_\_\_\_\_  
[Authorised  
Signatory]  
[Attorney]

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
[Authorised  
Signatory]  
[Attorney]

in the presence of:

\_\_\_\_\_ Witness

\_\_\_\_\_ Full Name

\_\_\_\_\_ Address

\_\_\_\_\_

(Company No        )

("the Company")

EXTRACT from the minute of a properly convened and quorate meeting of the Board of Directors of the Company at which all appropriate interests were declared held at  
on

- "1. It was explained that the purpose of the meeting was to consider and if thought fit, approve the terms of an Intercreditor Deed to be entered into between, among others, Magnesium Capital Nominees Limited, CYB Mixer LLP and others as subordinated creditors, the Company's bankers Clydesdale Bank PLC ("the Bank") and the Company pursuant to which the Subordinated Debt (as defined therein) would be subordinated to the loan to the Company from the Bank.
2. IT WAS RESOLVED that following consideration of the terms of the Intercreditor Deed and consideration of the matters referred to in section 172(1) of the Companies Act 2006, the Intercreditor Deed and the transactions contemplated by it would promote the success of the Company for the benefit of its members as a whole and the Intercreditor Deed be signed on behalf of the Company by any director in the presence of a witness and delivered to the Bank."

Certified a true extract

\_\_\_\_\_  
Director

Date: