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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

Please do not  
write in  
this margin

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

2

SC536157

Name of company

\* The Halo Kilmarnock Limited

Date of creation of the charge (note 1)

11 September 2019

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

Bond and Floating Charge

Names of the persons entitled to the charge

Scottish Enterprise

Short particulars of all the property charged

The whole of the property (including uncalled capital) which is or may be from time to time while the charge is in force comprised in the property and undertaking of the Company

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

MGES/SCO92.479  
Brodies LLP  
58 Morrison Street  
Edinburgh  
EH3 8BP

For official use (02/06)

Charges Section

Post room

THURSDAY



\*SBCMPGDV\*

SCT

15/09/2022

#143

COMPANIES HOUSE

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

- Scottish Enterprise, Atrium Court, 50 Waterloo Street, Glasgow, G2 6HQ ("SE")  
- Barclays Bank UK plc, 1 Churchill Place, London, England, E14 5HP ("Barclays Bank UK")  
- Barclays Bank plc, 1 Churchill Place, London, England, E14 5HP ("Barclays Bank")  
- Barclays Security Trustee Limited, 1 Churchill Place, London, England, E14 5HP ("Subordinated Security Trustee")  
The Halo Kilmarnock Limited, c/o Anderson Strathern LLP, George House, 50 George Square, Glasgow, Scotland, G2 1EH (the "Company")

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

Date(s) of execution of the instrument of alteration

SE: 18 August 2022; Barclays Bank UK plc: 25 August 2022 ; Barclays Bank plc: 30 August 2022;  
Subordinated Security Trustee: 30 August 2022; the Company: 18 August 2022

Date of delivery of instrument of alteration: 7 September 2022

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

Clause 5.1.1 of the instrument of alteration: At any time on or before the Senior Discharge Date, the Company will not, except with the prior written consent of SE create, or permit to subsist, any Security over any of its assets, or any guarantee, for any of the Subordinated Debt (other than the Subordinated Security Document) (as all capitalised terms are defined below).

Clause 6.1.1 of the instrument of alteration: At any time on or before the Senior Discharge Date, the Subordinated Secured Parties will not, except with the prior written consent of SE, receive or permit to subsist, any Security over any asset of the Company or any guarantee, for any of the Subordinated Debt (other than the Subordinated Security Document).

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

Clause 3.2 of the instrument of alteration: The Creditors agree that, subject to Clause 9 (Application of Enforcement Proceeds) of the instrument of alteration: (1) the Senior Security Interests rank and shall rank in priority to the Subordinated Security Interests; and (2) the Subordinated Security Interests are and shall be postponed to, and rank after, the Senior Security Interests.

Defined terms:

"Creditors": SE and the Subordinated Secured Parties.

"Liabilities": all present or future monies, obligations or liabilities, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity together with any interest, fees, cost, expenses or other charges.

"Security": any mortgage, standard security, charge (whether fixed or floating), pledge, assignment in security, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

"Senior Debt": means all Liabilities that are or may become payable or owing by the Company to SE that are secured by any Senior Security Interest.

"Senior Discharge Date": means the date on which SE notifies the Subordinated Secured Parties and the Company in writing that it is satisfied that all of the Senior Debt has been unconditionally and irrevocably paid and discharged in full, whether or not as the result of an enforcement, and all commitments of SE to the Company have been cancelled.

"Senior Security Document": means the documents referred to in Part 1 of the Schedule to the instrument of alteration and any other document entered into at any time by the Company creating any guarantee, indemnity, Security or other assurance against financial loss in favour of SE as security for any of the Senior Debt.

"Senior Security Interests": any Security in favour of SE created by a Senior Security Document.

"Subordinated Creditor": Barclays Bank UK and Barclays Bank.

"Subordinated Debt": means all Liabilities that are or may become payable or owing by the Company to the Subordinated Secured Parties that are secured by any Subordinated Security Interest.

"Subordinated Secured Parties": the Subordinated Creditors and the Subordinated Security Trustee, and each a "Subordinated Secured Party".

"Subordinated Security Document": the document referred to in Part 2 of the Schedule to the instrument of alteration and any other document entered into, in accordance with the instrument of alteration, at any time by the Company creating any guarantee, indemnity, Security or other assurance against financial loss in favour of a Subordinated Secured Party as security for any of the Subordinated Debt.

"Subordinated Security Interests": any Security in favour of a Subordinated Secured Party created by a Subordinated Security Document.

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 Mr Shaw Date 13/09/2022

On behalf of ~~{company}~~ [chargee] []

**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



**FILE COPY**

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

COMPANY NO. 536157  
CHARGE CODE SC53 6157 0002

**I HEREBY CERTIFY THAT PARTICULARS OF AN INSTRUMENT  
OF ALTERATION DATED 7 SEPTEMBER 2022 WERE DELIVERED  
PURSUANT TO SECTION 466 OF THE COMPANIES ACT 1985  
ON 15 SEPTEMBER 2022**

**THE INSTRUMENT RELATES TO A CHARGE CREATED ON 11  
SEPTEMBER 2019**

**BY THE HALO KILMARNOCK LIMITED**

**IN FAVOUR OF  
SCOTTISH ENTERPRISE**

**GIVEN AT COMPANIES HOUSE, EDINBURGH 15 SEPTEMBER  
2022**



**Companies House**



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



Certified a true copy save for  
the material redacted pursuant to  
s859G of the Companies Act 2006



**Brodies LLP**  
**Solicitors**

**Date: 13 September 2022**  
**Ref: SCO92.479**

**RANKING AGREEMENT**

between

**SCOTTISH ENTERPRISE**  
(as Senior Creditor)

**BARCLAYS BANK UK PLC**  
and  
**BARCLAYS BANK PLC**  
(as Subordinated Creditors)

**BARCLAYS SECURITY TRUSTEE LIMITED**  
(as Subordinated Security Trustee)

and

**THE HALO KILMARNOCK LIMITED**  
(as Company)

**Brodies LLP**  
**58 Morrison Street**  
**Edinburgh EH3 8BP**  
**T: 0131 228 3777**  
**F: 0131 228 3878**  
**Ref: MPST/MGES/SCO92.479**



**ENLIGHTENED THINKING**

For the purposes of the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015, this Agreement is delivered on 7 September 2022

**BETWEEN:**

- (1) **SCOTTISH ENTERPRISE**, established under the Enterprise and New Towns (Scotland) Act 1990 and having its principal place of business at Atrium Court, 50 Waterloo Street, Glasgow, G2 6HQ ("SE" or "Senior Creditor");
- (2) **BARCLAYS BANK UK PLC**, a public limited company incorporated in England and Wales with registered number 09740322 and whose registered office is at 1 Churchill Place, London, England, E14 5HP ("Barclays Bank UK");
- (3) **BARCLAYS BANK PLC**, a public limited company incorporated in England and Wales with registered number 01026167 and whose registered office is at 1 Churchill Place, London, E14 5HP (together with Barclays Bank UK the "Subordinated Creditors", and each a "Subordinated Creditor");
- (4) **BARCLAYS SECURITY TRUSTEE LIMITED**, a private limited company incorporate in England and Wales with registered number 10825314 and whose registered office is at 1 Churchill Place, London, E14 5HP (the "Subordinated Security Trustee"); and
- (5) **THE HALO KILMARNOCK LIMITED**, a private limited company incorporated in Scotland with registered number SC536157 and having its registered office at c/o Anderson Strathern LLP, George House, 50 George Square, Glasgow, Scotland, G2 1EH (the "Company").

**IT IS AGREED** as follows:

**1 Definitions and Interpretation**

**1.1** The following definitions apply in this Agreement:

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Glasgow and Edinburgh.

"**Creditor**" means the Senior Creditor and the Subordinated Secured Parties.

"**Liabilities**" means all present or future monies, obligations or liabilities, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity together with any interest, fees, cost, expenses or other charges.

"**Receiver**" means a receiver, receiver and manager or administrative receiver appointed by SE or the Subordinated Security Trustee pursuant to the provisions of its Security Documents.

"**Schedule**" means the schedule annexed as relative to this Agreement.

**"Security"** means any mortgage, standard security, charge (whether fixed or floating), pledge, assignation in security, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

**"Security Document"** means any Senior Security Document or any Subordinated Security Document.

**"Senior Debt"** means all Liabilities that are or may become payable or owing by the Company to SE that are secured by any Senior Security Interest.

**"Senior Debt Document"** means: (i) any document or agreement entered into between the Senior Creditor and the Company that evidences the terms of the Senior Debt now or any time in the future including, without limitation, the Senior Facility Agreement; and (ii) any Senior Security Document.

**"Senior Discharge Date"** means the date on which SE notifies the Subordinated Secured Parties and the Company in writing that it is satisfied that all of the Senior Debt has been unconditionally and irrevocably paid and discharged in full, whether or not as the result of an enforcement, and all commitments of SE to the Company have been cancelled.

**"Senior Facility Agreement"** means the facility agreement between SE and the Company dated 11 September 2019 as amended and/or restated from time to time.

**"Senior Security Document"** means the documents referred to in Part 1 of the Schedule and any other document entered into at any time by the Company creating any guarantee, indemnity, Security or other assurance against financial loss in favour of SE as security for any of the Senior Debt.

**"Senior Security Interest"** means any Security in favour of the Senior Creditor created by a Senior Security Document.

**"Subordinated Debt"** means all Liabilities that are or may become payable or owing by the Company to the Subordinated Secured Parties that are secured by any Subordinated Security Interest.

**"Subordinated Debt Document"** means: (i) any document or agreement entered into between a Subordinated Creditor and the Company that evidences the terms of the Subordinated Debt now or any time in the future; and (ii) any Subordinated Security Document.

**"Subordinated Principal"** means, at any time, and in relation to the Subordinated Debt Documents, the then aggregate (without double counting) of:

- (a) the outstanding principal of the Subordinated Debt; and
- (b) the available commitments of the Subordinated Secured Parties to the Company under the Subordinated Debt Documents.

**"Subordinated Principal Limit"** means a total amount not exceeding £250,000 in aggregate.

**"Subordinated Secured Parties"** means the Subordinated Creditors and the Subordinated Security Trustee, and each a **"Subordinated Secured Party"**.

**"Subordinated Security Document"** means the document referred to in Part 2 of the Schedule and any other document entered into, in accordance with this Agreement, at any time by the Company creating any guarantee, indemnity, Security or other assurance against financial loss in favour of a Subordinated Secured Party as security for any of the Subordinated Debt.

**"Subordinated Security Interest"** means any Security in favour of a Subordinated Secured Party created by a Subordinated Security Document.

## 1.2 Interpretation

1.2.1 Unless a contrary indication appears, a reference in this Agreement to:

1.2.1.1 **SE**, a Subordinated Secured Party or the Company, shall be construed so as to include their respective successors in title, assignees and transferees;

1.2.1.2 **assets** includes present and future properties, revenues and rights of every description (including any right to receive such revenues);

1.2.1.3 a Subordinated Debt Document, Senior Debt Document or any other document, agreement or instrument is a reference to that Subordinated Debt Document, Senior Debt Document or other document, agreement or instrument as amended, novated, supplemented or restated (however fundamentally);

1.2.1.4 **guarantee** means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;

1.2.1.5 **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;

1.2.1.6 a **person** includes any individual person, 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), or any other entity or body of any description;

1.2.1.7 a provision of law is a reference to a provision of any treaty, legislation, regulation, decree, order or by-law and any secondary legislation enacted under a power given by that provision, as amended, applied or re-enacted or replaced (whether with or without modification) whether before or after the date of this Agreement; and

1.2.1.8 "£" shall be construed as a reference to the lawful currency of the United Kingdom.

1.2.2 Clause headings are for ease of reference only.

1.2.3 Any word importing the singular shall include the plural and vice versa.

1.3 This Agreement shall be a Subordination Agreement and the Subordinated Secured Parties shall be Subordinated Creditors, in each case for the purposes of the Senior Facility Agreement.

## **2 Consent to Security**

2.1 SE consents to the creation or subsistence (as appropriate) of the Subordinated Security Interests and confirms that the creation or subsistence of the Subordinated Security Interests does not constitute a default (howsoever defined) by the Company under any of the Senior Debt Documents.

2.2 The Subordinated Creditor consents to the creation or subsistence (as appropriate) of the Senior Security Interests confirms that the creation or subsistence of the Senior Security Interests does not constitute a default (howsoever defined) by the Company under any of the Subordinated Debt Documents.

## **3 Ranking**

3.1 The Creditors agree that the Subordinated Debt ranks in point of priority behind the Senior Debt.

3.2 The Creditors agree that, subject to Clause 9 (*Application of Enforcement Proceeds*):

3.2.1 the Senior Security Interests rank and shall rank in priority to the Subordinated Security Interests; and

3.2.2 the Subordinated Security Interests are and shall be postponed to, and rank after, the Senior Security Interests.

3.3 Nothing in this Agreement shall affect the status of the Security Documents as continuing security, nor shall the ranking of the Security specified in Clause 3.1 be affected by any act, omission, transaction, limitation, matter or circumstance whatsoever which but for this provision might operate to affect the relative priorities of the Security constituted by the Security Documents, including, but not limited to:

- 3.3.1 any fluctuation from time to time in the amount of Liabilities secured by a Security Document and in particular, without limitation, any reduction to nil of the Liabilities so secured;
- 3.3.2 the existence at any time of a credit balance on any current or other account of the Company;
- 3.3.3 the date or order or execution, registration, filing or giving of notice of any Security Document;
- 3.3.4 the granting of time or any other indulgence to the Company or any other person; or
- 3.3.5 any provision of a Senior Debt Document or a Subordinated Debt Document or any amendment or supplement to or variation thereof.

#### **4 Alteration of floating charges**

In so far as necessary to give effect to the provisions of this Agreement all floating charges comprised in the Security Documents are hereby varied, and this Agreement shall constitute an instrument of alteration for the purposes of section 466 of the Companies Act 1985.

#### **5 Company Undertakings**

- 5.1 At any time on or before the Senior Discharge Date, the Company will not, except with the prior written consent of SE:
  - 5.1.1 create, or permit to subsist, any Security over any of its assets, or any guarantee, for any of the Subordinated Debt (other than the Subordinated Security Document);
  - 5.1.2 take or omit to take any action which would be likely, directly or indirectly, to result in the ranking and/or priority provided for in Clause 3 (*Ranking*) being prejudiced or impaired in any respect; or
  - 5.1.3 amend, supplement, novate or vary any of the terms applicable to the Subordinated Debt or the Subordinated Security Interests which would:
    - 5.1.3.1 increase the commitments of the Subordinated Secured Parties under any Subordinated Debt Document by an amount that would result in Subordinated Principal exceeding the Subordinated Principal Limit;
    - 5.1.3.2 increase the margin or change the basis on which interest payable is calculated under any Subordinated Debt Document; or
    - 5.1.3.3 amend or vary the nature of any event of default, termination event or other early repayment event under any Subordinated Debt Document.

## 6 Subordinated Secured Party Undertakings

6.1 At any time on or before the Senior Discharge Date, the Subordinated Secured Parties will not, except with the prior written consent of SE:

6.1.1 receive, or permit to subsist, any Security over any asset of the Company, or any guarantee, for any of the Subordinated Debt (other than the Subordinated Security Document);

6.1.2 take or omit to take any action which would be likely, directly or indirectly, to result in the ranking and/or priority provided for in Clause 3 (*Ranking*) being prejudiced or impaired in any respect; or

6.1.3 amend, supplement, novate or vary any of the terms applicable to the Subordinated Debt or the Subordinated Security Interests which would:

6.1.3.1 increase the commitments of the Subordinated Secured Parties under any Subordinated Debt Document by an amount that would result in Subordinated Principal exceeding the Subordinated Principal Limit;

6.1.3.2 increase the margin or change the basis on which interest payable is calculated under any Subordinated Debt Document; or

6.1.4 amend or vary the nature of any event of default, termination event or other early repayment event under a Subordinated Debt Document.

6.2 If SE gives, in respect of a Senior Debt Document and, where it is reasonably practicable to do so, following consultation with the Subordinated Secured Parties, any consent, approval, release or agreement to any amendment (each a "Consent") the Subordinated Secured Parties will:

6.2.1 (or will be deemed to) give a corresponding Consent in equivalent terms in relation to the Subordinated Debt Documents; and

6.2.2 do anything (including executing any document) that SE may reasonably require to give effect to this Clause 6.2

unless giving such a Consent or doing any such a thing would result in a change to the amount, margin or repayment terms of a Subordinated Debt Document.

## 7 Enforcement

7.1 Subject to Clause 7.2, SE may at any time, provided that it gives the Subordinated Security Trustee not less than five Business Days' prior written notice, appoint a Receiver, petition or take any steps

which may lead to any resolution or order being made in connection with the winding up of the Company or take any other steps to enforce the Senior Security Interests.

7.2 SE will not be required to give notice in accordance with Clause 7.1 above if SE considers that any delay from giving notice may prejudice its position as a secured creditor or may otherwise prejudice or adversely affect its interests, and in such an event SE will promptly advise the Subordinated Security Trustee of the action it has taken.

7.3 The Subordinated Secured Parties will, at the request of SE or any Receiver or administrator appointed by SE, join in such documents or otherwise take such action as may be reasonably required by SE or such Receiver or administrator to facilitate the disposal of any asset subject to the Senior Security Documents whether or not there will be any balance of proceeds available to the Subordinated Secured Parties arising from that disposal.

7.4 Subject to Clause 7.5 below, the Subordinated Secured Parties may not appoint a Receiver, petition or take any steps which may lead to any resolution or order being made in connection with the winding up of the Company or take any other steps to enforce the Subordinated Security Interests.

7.5 The Subordinated Secured Parties may accelerate repayment of the Subordinated Debt and/or take any steps to enforce the Subordinated Security Documents if:

7.5.1

7.5.1.1 the Subordinated Secured Parties have given a notice in writing (a "**Barclays Enforcement Notice**") to SE specifying that an event of default (howsoever described under the Subordinated Debt Documents) (a "**Barclays Default**") has occurred and is continuing; and

7.5.1.2 a period (the "**Standstill Period**") of not less than 150 days has elapsed from the date on which the Barclays Enforcement Notice has been received by SE in accordance with Clause 15 (*Notices*) below; and

7.5.1.3 such Barclays Default is continuing at the end of the Standstill Period, or

7.5.2 SE has given its prior written consent; or

7.5.3 the Senior Discharge Date has occurred.

7.6 Without prejudice to:

7.6.1 any of SE's rights under Clauses 7.1 and 7.2; and

7.6.2 any of the Subordinated Secured Parties' rights under Clause 7.5,

during a Standstill Period (as defined in Clause 7.5.1.2), SE and the Subordinated Secured Parties shall consult with each other in good faith and in a collaborative manner to consider what appropriate and reasonable steps may be taken in relation to the Company, the Senior Debt and the Subordinated Debt.

## **8 Compensation**

As between the SE and the Subordinated Secured Parties, it is agreed that in the event of this Agreement being regarded by a Receiver, administrator or liquidator of the Company or any of them as failing to bind him or them in the distribution of the proceeds of sale of the assets of the Company, or any of them, SE and the Subordinated Secured Parties will compensate each other *inter se* to the effect that in so far as the refusal of the Receiver, administrator or liquidator to be bound by these presents shall cause prejudice to SE or the Subordinated Secured Parties each will compensate the other to the extent to which either may be *lucratus* by such prejudice but no further.

## **9 Application of Enforcement Proceeds**

*The priority of the Creditors shall stand (regardless of the order of execution, registration or giving of notice or otherwise) so that all proceeds of enforcement or realisation of all or any of the Security constituted by any of the Security Documents shall, after providing for all reasonable outgoings, costs, charges, expenses and liabilities of enforcement, exercising rights on winding-up and payments ranking in priority as a matter of law, be applied in the following order of priority:*

- 9.1 first, in or towards the discharge of the Senior Debt;
- 9.2 second, once the Senior Debt has been discharged in full, in or towards the discharge of the Subordinated Debt; and
- 9.3 third, after the Senior Debt and Subordinated Debt have been discharged in full, to the Company or any other person entitled to it.

## **10 Restrictions on Assignations**

- 10.1 A Subordinated Secured Party may not assign any of its rights, or transfer any of its rights or obligations, under this Agreement or any Subordinated Debt Document without first requiring the assignee or transferee to execute and deliver to SE an agreement (in a form satisfactory to SE) in which the assignee or transferee agrees to be bound by the terms of this Agreement.
- 10.2 SE may not assign any of its rights, or transfer any of its rights or obligations, under this Agreement or any Senior Debt Document without first requiring the assignee or transferee to execute and deliver to the Subordinated Secured Party an agreement (in substantially the same form, and on substantially the same terms, as this Agreement) in which the assignee or transferee agrees to be bound by the terms of this Agreement.

## **11 Amendments, Waivers and Consents**

- 11.1 No amendment of this Agreement shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).
- 11.2 A waiver of any right or remedy under this Agreement or by law, or any consent given under this Agreement, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- 11.3 A failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this Agreement. No single or partial exercise of any right or remedy provided under this Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this Agreement by a Creditor shall be effective unless it is in writing.

## **12 Counterparts**

- 12.1 This Agreement may be executed in any number of counterparts and by each of the parties on separate counterparts.
- 12.2 If executed in counterparts:
- 12.2.1 this Agreement shall not take effect until both of the counterparts have been delivered;
  - 12.2.2 each counterpart will be held as undelivered for the purposes of The Legal Writings (Counterparts and Delivery) (Scotland) Act 2015 until the parties agree a date ("the agreed date") on which the counterparts are to be treated as delivered; and
  - 12.2.3 the agreed date will be inserted on page 1 of this Agreement.

## **13 Third Party Rights**

A person who is not a party to this Agreement shall not have any rights under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce any term of this Agreement.

## **14 Duration**

This Agreement shall cease to have effect on the Senior Discharge Date.

## **15 Notices**

Any notice, demand or other communication by any party in relation to this Agreement shall be in writing and either:

- 15.1 delivered or sent by post to the address of the party last known to the other party (which last known address for this purpose shall be the relevant party's registered office (in the case of the Subordinated Secured Parties) or principal place of business (in the case of SE)); or
- 15.2 sent by facsimile transmission to the number (if any) given on the party's notepaper or listed in a directory of such numbers as the party's number.

Every notice, demand or other communication shall be treated as received by the party:

- 15.2.1 if sent by post to the address of the party last known to the other party, the day after posting with first class postage prepaid or, if sent by airmail, five working days after posting with airmail postage prepaid;
- 15.2.2 if sent by facsimile transmission:
  - 15.2.2.1 at the time of sending, if sent during normal business hours on a working day to a number used by the party wholly or mainly for business purposes;
  - 15.2.2.2 at the opening of business on the following working day, if sent at some other time to a number used by the party wholly or mainly for business purposes; or
  - 15.2.2.3 at 7 a.m. following transmission, if sent to a number used by the party wholly or mainly for non-business purposes.

## 16 Governing Law and Jurisdiction

- 16.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with Scots law.
- 16.2 Each party irrevocably agrees that, subject as provided below, the courts of Scotland shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims). Nothing in this Clause 16 shall limit the right of SE to take proceedings against a Subordinated Secured Party in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

**IN WITNESS WHEREOF** this Agreement consisting of this and the preceding 10 pages and the Schedule is executed as follows and, if executed in counterpart in terms of the Legal Writings (Counterpart and Delivery) (Scotland) Act 2015, is delivered for the purposes of that Act on the date set out on page 1 of this Agreement.

**For SCOTTISH ENTERPRISE**

signature of authorised signatory (attorney)

SARAH-JANE McARTHUR

full name of above (print)

18 AUGUST 2022

date of signing

GLASGOW

place of signing

**For BARCLAYS BANK UK PLC as Subordinated Creditor**

Signature of director/authorised signatory

full name of above (print)

address of witness

place of signing

# 17 Consent to Registration

The parties consent to the registration of this Agreement for preservation and execution:

IN WITNESS WHEREOF this Agreement consisting of this and the preceding 10 pages and the Schedule is executed as follows and, if executed in counterpart in terms of the Legal Writings (Counterpart and Delivery) (Scotland) Act 2015, is delivered for the purposes of that Act on the date set out on page 1 of this Agreement.

For **SCOTTISH ENTERPRISE**

signature of witness

signature of authorised signatory (attorney)

full name of above (print)

full name of above (print)

date of signing

address of witness

place of signing

For **BARCLAYS BANK UK PLC** as Subordinated Creditor

signature of witness

Signature of director/authorised signatory

KAREN COWILLE  
full name of above (print)



Andrew John Hamee  
full name of above (print)

3 HARDMAN ST  
MANCHESTER  
M3 3HF  
address of witness

25/8/22  
date of signing

Manchester Corporate Office.  
place of signing

## For BARCLAYS BANK PLC as Subordinated Creditor

	
signature of witness	Signature of director/authorised signatory
GORDON MCKEAN	ANDREW HALL
full name of above (print)	full name of above (print)
1-4 CLYDE PLACE LANE,	30TH AUGUST 2022
GLASGOW, G5 8DP	date of signing
address of witness	GLASGOW.
	place of signing

## For BARCLAYS SECURITY TRUSTEE LIMITED as Subordinated Security Trustee

signature of witness	Signature of director/authorised signatory
full name of above (print)	full name of above (print)
	date of signing
address of witness	place of signing



## For THE HALO KILMARNOCK LIMITED

signature of witness	Signature of director/authorised signatory
full name of above (print)	full name of above (print)
	date of signing
address of witness	place of signing

For **BARCLAYS BANK PLC** as Subordinated Creditor

_____ signature of witness	_____ Signature of director/authorised signatory
_____ full name of above (print)	_____ full name of above (print)
_____ _____ address of witness	_____ date of signing
	_____ place of signing

For **BARCLAYS SECURITY TRUSTEE LIMITED** as Subordinated Security Trustee

 signature of witness	 Signature of director/authorised signatory
SHARON DAVIES full name of above (print)	PAUL EMNET full name of above (print)
ONE CHURCHILL PLACE LONDON E14 6HP address of witness	30/8/22 date of signing
	London place of signing

For **THE HALO KILMARNOCK LIMITED**

_____ signature of witness	_____ Signature of director/authorised signatory
_____ full name of above (print)	_____ full name of above (print)
_____ _____ address of witness	_____ date of signing
	_____ place of signing

For **BARCLAYS BANK PLC** as Subordinated Creditor

signature of witness

Signature of director/authorised signatory

full name of above (print)

full name of above (print)

date of signing

address of witness

place of signing

For **BARCLAYS SECURITY TRUSTEE LIMITED** as Subordinated Security Trustee

signature of witness

Signature of director/authorised signatory

full name of above (print)

full name of above (print)

date of signing

address of witness

place of signing

For **THE HALO KILMARNOCK LIMITED**

signature of witness

Signature of director/authorised signatory

*SHEELAGH JANE DUFFIELD*

full name of above (print)

full name of above (print)

18.8.22  
date of signing

address of witness

*York*  
place of signing

**THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING RANKING AGREEMENT BETWEEN SCOTTISH ENTERPRISE, BARCLAYS BANK UK PLC, BARCLAYS BANK PLC, BARCLAYS SECURITY TRUSTEE LIMITED AND THE HALO KILMARNOCK LIMITED**

**SCHEDULE**

**PART 1**

**SENIOR SECURITY DOCUMENTS**

1. *Bond and floating charge by the Company in favour of SE, dated 11 September 2019*
2. *Standard security by the Company in favour of SE, dated 11 September 2019*
3. *Debenture between the Company and SE, dated 11 September 2019*
4. *Bank account charge by the Company in favour of SE, dated 2 October 2019*
5. *Assignment in security by the Company in favour of SE, dated 2 October 2019*
6. *Standard security by the Company in favour of SE, dated 20 August 2021*

**PART 2**

**SUBORDINATED SECURITY DOCUMENT**

1. *Bond and floating charge by the Company in favour of the Subordinated Security Trustee, dated 9 May 2022*