



**Registration of a Charge**

Company name: **MIDDLESBROUGH FOOTBALL & ATHLETIC COMPANY (1986)  
LIMITED**

Company number: **01947851**

Received for Electronic Filing: **27/06/2019**



X88H5HL4

---

**Details of Charge**

Date of creation: **26/06/2019**

Charge code: **0194 7851 0022**

Persons entitled: **SHAWBROOK BANK LIMITED**

Brief description:

**Contains fixed charge(s).**

**Contains negative pledge.**

---

**Authentication of Form**

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

---

**Authentication of Instrument**

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

Certified by:

**PINSENT MASONS LLP**



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

Company number: 1947851

Charge code: 0194 7851 0022

The Registrar of Companies for England and Wales hereby certifies that a charge dated 26th June 2019 and created by MIDDLESBROUGH FOOTBALL & ATHLETIC COMPANY (1986) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th June 2019 .

Given at Companies House, Cardiff on 28th June 2019

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



**Companies House**



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

**DATED** 26 June **2019**

**(1) MIDDLESBROUGH FOOTBALL & ATHLETIC COMPANY (1986) LIMITED  
(AS CHARGOR)**

**(2) SHAWBROOK BANK LIMITED  
(AS LENDER)**

---

**ACCOUNT CHARGE**

---

## **CONTENTS**

1	DEFINITIONS AND INTERPRETATION	1
2	COVENANT TO PAY	3
3	SECURITY	3
4	SET OFF	3
5	TERMS OF THE DEPOSIT	4
6	REPRESENTATIONS AND WARRANTIES BY THE CHARGOR	4
7	COVENANTS	4
8	FURTHER ASSURANCE	5
9	DEMAND AND ENFORCEMENT	5
10	RECEIVERS	6
11	APPLICATION OF MONEYS	7
12	POWER OF ATTORNEY	8
13	PROTECTION OF THIRD PARTIES	8
14	PROTECTION OF THE LENDER AND ANY RECEIVER	9
15	PROVISIONS RELATING TO THE LENDER	10
16	PRESERVATION OF SECURITY	10
17	RELEASE	12
18	MISCELLANEOUS PROVISIONS	12
19	GOVERNING LAW	13
20	ENFORCEMENT	13
SCHEDULE 1	FORM OF NOTICE OF CHARGE	14
SCHEDULE 2	FORM OF ACKNOWLEDGEMENT	16

THIS DEED is made on 26 June 2019

**BETWEEN**

- (1) **MIDDLESBROUGH FOOTBALL & ATHLETIC COMPANY (1986) LIMITED** a company registered in England and Wales with company number 01947851 whose registered office is at Riverside Stadium, Middlesbrough, TS3 6RS (the "**Chargor**"); and
- (2) **SHAWBROOK BANK LIMITED** a company registered in England and Wales with company number 388466 whose registered office is at Lutea House, The Drive, Warley Hill Business Park, Great Warley, Brentwood, Essex, CM13 3BE (the "**Lender**")

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed:-

- "Account"** means the bank account in the name of the Borrower designated "Middlesbrough Football & Athletic Company (1986) Ltd Discounting Account" held with the Account Bank, sort code: [REDACTED] and account number [REDACTED] (as that account may from time to time be re-designated or re-numbered) and includes:
- (a) any suspense account referred to in Clause 16.5 (*Appropriations*); and
- (b) any new account opened pursuant to Clause 16.6 (*New accounts*)
- "Account Bank"** means Barclays Bank plc
- "Default Interest Rate"** has the meaning given to that term in the Facility Agreement
- "Deposit"** means the balance from time to time standing to the credit of the Account, and all other rights and benefits accruing or arising in connection with the Account (including, but not limited to, any entitlement to interest)
- "Facility Agreement"** means the term facility agreement dated on or about the date of this Deed made between, among others, the Chargor as Borrower and the Lender
- "LPA"** means the Law of Property Act 1925
- "Notice of Charge"** of means a notice of charge in the form set out in Schedule 1 (*Form of Notice of Charge*) of this Deed
- "Party"** means a party to this Deed
- "Receiver"** means any receiver, receiver and manager or administrative receiver of the whole or any part of the Account and the Deposit
- "Regulations"** means the Financial Collateral Arrangements (No. 2) Regulations 2003 (S.I.2003/2336) (as amended by the Financial Collateral Arrangements (No. 2) Regulations 2003 (Amendment))

Regulations 2009 (S.I.2009/2462) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements and "**Regulation**" means any of them

<b>"Secured Liabilities"</b>	means all present and future liabilities expressed to be due, owing or payable by the Chargor to the Lender on any current or other account or otherwise in any manner whatsoever (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently and whether as principal, surety or otherwise)
<b>"Security"</b>	means a mortgage, charge, assignment by way of security, pledge, lien or any other security interest securing any obligation of any other person or any other agreement or arrangement having a similar effect
<b>"Security Documents"</b>	has the meaning given to the term 'Security' in the Facility Agreement
<b>"Security Period"</b>	means the period beginning on the date of this Deed and ending on the date on which the Lender is satisfied that the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full and all facilities which might give rise to Secured Liabilities have terminated

## **1.2 Incorporation of terms**

Unless the context otherwise requires or unless defined in this Deed, all words and expressions defined or whose interpretation is provided for in the Facility Agreement have the same meanings in this Deed.

## **1.3 Interpretation**

The principles of interpretation set out in clauses 1.2 (*Interpretation*) and 1.3 (*Currency symbols and definitions*) of the Facility Agreement shall apply to this Deed insofar as they are relevant to it and in this Deed, unless the context otherwise requires, a reference to a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, restated or replaced (however fundamentally) and includes any increase in, extension of, or change to, any facility made available under that Finance Document or other agreement or instrument and includes any increase in, extension of or change to any facility made available under that Finance Document or other agreement or instrument.

## **1.4 Effect as a deed**

This Deed shall take effect as a deed even if it is signed under hand on behalf of the Lender.

## **1.5 Third party rights**

- 1.5.1 Unless expressly provided to the contrary in this Deed a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or enjoy the benefit of any term of this Deed.
- 1.5.2 Notwithstanding any term of this Deed, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

**2. COVENANT TO PAY**

**2.1 Secured liabilities**

The Chargor covenants that it will on demand pay and discharge any or all of the Secured Liabilities when due.

**2.2 Interest**

The Chargor covenants to pay interest on any sum demanded in accordance with Clause 2.1 (*Secured liabilities*) until payment (both before and after judgment) at the Default Interest Rate.

**3. SECURITY**

**3.1 Charge**

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the charge by way of fixed charge all its present and future right, title and interest in and to the Account and the Deposit.

**3.2 Payment of the Deposit**

Regardless of the terms on which moneys are credited to the Account, the Deposit will not accrue due or be payable to the Chargor until:

3.2.1 the Secured Liabilities have been paid and discharged in full; and

3.2.2 the Lender is not under any obligation to make banking or other facilities available to the Chargor,

and until that time the Chargor shall not request, demand or claim to be entitled to withdraw the Deposit except (without prejudice to the Lender's rights under this Deed) as the Lender may in its absolute discretion from time to time permit.

**3.3 Notice of Charge and Acknowledgment**

The Chargor shall deliver to the Lender the Notice of Charge duly executed by, or on behalf of, the Chargor (and duly acknowledged by the Account Bank in the form set out in Schedule 2 (*Form of Acknowledgement*)) in respect of the Account, on the date of this Deed and promptly upon the opening of any further Account after the date of this Deed.

**4. SET OFF**

**4.1 Rights of Lender**

The Lender may at any time and from time to time without notice to the Chargor take all or any of the following steps:

4.1.1 open a new account in the name of the Chargor and debit that account, or debit an existing account of the Chargor with an amount of up to the Secured Liabilities;

4.1.2 combine or consolidate (regardless of currency and of the terms on which moneys are credited to any of those accounts, and of how the amount of any credits or debits to any of those accounts may be expressed) all or any of the accounts with the Lender in the name of the Chargor or to which the Chargor is beneficially entitled at any of the Lender's branches in any country or territory; and



- 4.1.3 (after taking into account any combination or consolidation of accounts) set off all or any part of the Deposit against all or any of the Secured Liabilities by applying the Deposit in or towards payment of all or any of the Secured Liabilities.

**4.2 Application**

The Lender's rights under Clause 4.1 (*Rights of Lender*) apply:-

- 4.2.1 whether or not any demand has been made under this Deed, or any liability concerned has fallen due for payment;
- 4.2.2 whether or not any credit balance is immediately available or subject to any restriction;
- 4.2.3 irrespective of the currencies in which any balance or liability is denominated, and the Lender may, for the purpose of exercising its rights, elect to convert any sum or liability in one currency into any other at its spot rate applying at or about 11.00am on the date of conversion; and
- 4.2.4 in respect of any Secured Liabilities owed by the Chargor, however arising.

**5. TERMS OF THE DEPOSIT**

**5.1 Interest on the Deposit**

- 5.1.1 Interest accruing on the Deposit shall be paid into the Account at the rate agreed from time to time between the Lender and the Chargor.
- 5.1.2 Until the Security created by this Deed becomes enforceable, interest accruing on the Deposit shall be paid to the Chargor.

**6. REPRESENTATIONS AND WARRANTIES BY THE CHARGOR**

**6.1 Representations and warranties**

The Chargor represents to the Lender that:

- 6.1.1 it is the sole, absolute, legal and beneficial owner of the Account and the Deposit;
- 6.1.2 except pursuant to this Deed, no Security exists on or over the Account or the Deposit; and
- 6.1.3 it is not deemed to be unable to pay its debts for the purpose of Section 123 of the Insolvency Act 1986 (but ignoring any requirement that any matter referred to in that section be proved to the satisfaction of the court), nor will it become so in consequence of entering into the Finance Documents.

**6.2 Repetition**

The representations and warranties set out in this Clause 6 shall survive the execution of this Deed and are deemed to be repeated by reference to the facts and circumstances then existing on the date on which the representations or warranties set out in Clause 6.1 are deemed to be repeated.

**7. COVENANTS**

The covenants in this Clause 7 remain in force from the date of this Deed until the expiry of the Security Period.

**7.1 Third Party Claims**

The Chargor shall promptly inform the Lender of any claim or notice relating to the Account or the Deposit which it receives from any third party.

**7.2 Security**

The Chargor shall not create or permit to subsist any Security over the Account or any of the Deposit, save for any lien arising by way of operation of law and in the ordinary course of business.

**7.3 Disposal**

The Chargor shall not enter into or agree to enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, license, sub-license, transfer or otherwise dispose of the Account or any of the Deposit.

**7.4 Preservation of the Deposit**

The Chargor shall not take any Security in connection with its liability under this Deed from any guarantee of, or provider of Security for, any of the Secured Liabilities.

**8. FURTHER ASSURANCE**

**8.1 Further assurance**

The Chargor shall promptly do whatever the Lender requires:-

8.1.1 to perfect or protect the Security created or expressed to be created by this Deed, or its priority; or

8.1.2 to facilitate the realisation of the Deposit or the exercise of any rights vested in the Lender or any Receiver,

including executing any transfer, conveyance, charge, assignment or assurance of the Account or the Deposit (whether to the Lender or its nominees or otherwise), making any registration and giving any notice, order or direction.

**8.2 Documents**

The Chargor shall promptly execute and/or deliver to the Lender such documents relating to the Account and the Deposit as the Lender requires.

**9. DEMAND AND ENFORCEMENT**

**9.1 Enforcement**

The Security created by this Deed shall become enforceable upon:-

9.1.1 the occurrence of an Event of Default which is continuing;

9.1.2 any request being made by the Chargor to the Lender for the appointment of a Receiver or an administrator, or for the Lender to exercise any other power or right available to it.

## **9.2 Powers on enforcement**

At any time after the Security created by this Deed has become enforceable, the Lender may (without prejudice to any other rights and remedies and without notice to the Chargor) do all or any of the following:-

- 9.2.1 apply the Deposit (whether on or before the expiry of any fixed or minimum period for which it has been placed with the Lender in or towards satisfaction of the Secured Liabilities or any part of them;
- 9.2.2 exercise all the powers and rights which may be exercisable by the beneficial owner of the Account or the Deposit and all other powers and rights conferred on mortgagees by the LPA, as varied and extended by this Deed, without the restrictions contained in sections 103 or 109(1) of the LPA;
- 9.2.3 to the extent that the Deposit constitutes Financial Collateral, as defined in the Regulations, appropriate it and transfer the title in and to it to the Lender insofar as not already transferred, subject to paragraphs (1) and (2) of Regulation 18; and
- 9.2.4 subject to Clause 10.1 (*Method of appointment or removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Account and the Deposit.

## **9.3 Disposal of the Account and the Deposit**

In exercising the powers referred to in Clause 9.2 (*Powers on enforcement*), the Lender or any Receiver may sell or dispose of all or any of the Account or the Deposit at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

## **9.4 Same rights as Receiver**

Any rights conferred by any Finance Document upon a Receiver may be exercised by the Lender or to the extent permitted by law, an administrator, after the Security created by this Deed has become enforceable, whether or not the Lender shall have taken possession or appointed a Receiver of the Account and the Deposit.

## **9.5 Delegation**

The Lender may delegate in any manner to any person any rights exercisable by the Lender under any Finance Documents. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as the Lender thinks fit.

## **10. RECEIVERS**

### **10.1 Method of appointment or removal**

Every appointment or removal of a Receiver, any delegate or any other person by the Lender under this Deed shall be in writing under the hand of any officer or manager of the Lender (subject to any requirement for a court order in the case of the removal of an administrative receiver).

### **10.2 Removal**

The Lender may (subject to the application of section 45 of the Insolvency Act 1986) remove any person from office in relation to all or any part of the Account or the Deposit of which he is the Receiver and at any time (before or after any person shall have vacated office or ceased to act as Receiver in respect of any of the Account or the Deposit) appoint a further or other Receiver or Receivers over all or any part of the Account or the Deposit.

### **10.3 Powers**

Every Receiver shall have and be entitled to exercise all the powers:-

- 10.3.1 of the Lender under this Deed;
- 10.3.2 conferred by the LPA on mortgagees in possession and on receivers appointed under the LPA;
- 10.3.3 of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986, whether or not the Receiver is an administrative receiver;
- 10.3.4 in relation to any of the Account or the Deposit, which he would have if he were its only beneficial owner; and
- 10.3.5 to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

### **10.4 Receiver as agent**

The Receiver shall be the agent of the Chargor (which shall be solely liable for his acts, defaults, remuneration, losses and liabilities) unless and until the Chargor goes into liquidation, from which time he shall act as principal and shall not become the agent of the Chargor.

### **10.5 Joint or several**

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on Receivers by this Deed.

### **10.6 Receiver's remuneration**

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by the Lender and the maximum rate specified in section 109(6) of the LPA shall not apply.

## **11. APPLICATION OF MONEYS**

### **11.1 Application of moneys**

All sums received by virtue of this Deed and/or any other Security Documents by the Lender or any Receiver shall, subject to the payment of any claim having priority to this Deed, be paid or applied in the following order of priority:-

- 11.1.1 **first**, in or towards satisfaction pro rata of, or the provision pro rata for, all costs, charges and expenses incurred and payments made by the Lender, or by any Receiver (including legal expenses) (on a full indemnity basis), together with interest at the Default Interest Rate (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full or other person entitled to it;
- 11.1.2 **secondly**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid fees, commission or remuneration of the Lender or any Receiver;
- 11.1.3 **thirdly**, in or towards payment of the Secured Liabilities in accordance with the Facility Agreement;

11.1.4 **fourthly**, in the payment of the surplus (if any), to the Chargor or any other person entitled to it,

and section 109(8) of the LPA shall not apply.

## **12. POWER OF ATTORNEY**

### **12.1 Appointment**

The Chargor irrevocably and by way of security appoints:-

12.1.1 the Lender (whether or not a Receiver has been appointed);

12.1.2 any delegate or sub-delegate of, or other person nominated in writing by, an officer of the Lender; and

12.1.3 (as a separate appointment) each Receiver,

severally as the Chargor's attorney and attorneys with power to do any act, and execute and deliver any deed or other document, on behalf of and in the name of the Chargor, which the Chargor is required to do or execute (but has failed to do or execute) under any provision of this Deed, or which the Lender in its sole opinion may consider necessary for perfecting its title to any of the Deposit or enabling the Lender or the Receiver to exercise any of its rights or powers under this Deed.

### **12.2 Ratification**

The Chargor ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed pursuant to Clause 12.1 (*Appointment*) does or purports to do in the exercise or purported exercise of all or any of the powers, acts or other matters referred to in Clause 12.1 (*Appointment*).

## **13. PROTECTION OF THIRD PARTIES**

### **13.1 Statutory powers**

In favour of any purchaser, the statutory powers of sale and of appointing a Receiver which are conferred upon the Lender, as varied and extended by this Deed, and all other powers of the Lender, shall be deemed to arise (and the Secured Liabilities shall be deemed due and payable for that purpose) immediately after the execution of this Deed.

### **13.2 Purchasers**

No purchaser from or other person dealing with the Lender, any person to whom it has delegated any of its powers, or the Receiver, shall be concerned:-

13.2.1 to enquire whether any of the powers which the Lender or a Receiver have exercised has arisen or become exercisable;

13.2.2 to enquire whether the Secured Liabilities remain outstanding or whether any event has happened to authorise the Receiver to act; or

13.2.3 as to the propriety or validity of the exercise of those powers,

and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters.

### **13.3 Receipts**

All the protection to purchasers contained in sections 104 and 107 of the LPA, section 42(3) of the Insolvency Act 1986 or in any other applicable legislation shall apply to any person purchasing from or dealing with the Lender, any Receiver or any person to whom any of them have delegated any of their powers.

**14. PROTECTION OF THE LENDER AND ANY RECEIVER**

**14.1 No liability**

None of the Lender, any Receiver or any of their respective officers, employees or delegates, shall be liable in respect of any cost, liability, expense, loss or damage which arises out of the exercise, or attempted or purported exercise of, or the failure to exercise, any of their respective rights under this Deed, including, without limitation:

14.1.1 for any action taken in relation to the Account or the Deposit including the selection of periods for any time deposit or termination of any such period before its due date of maturity; or

14.1.2 for any loss resulting from any fluctuation in exchange rates or in connection with any purchase of currencies,

save, with respect to the Lender or any Receiver only, where that cost, liability, expense, loss or damage arises as a result of their gross negligence or wilful misconduct.

**14.2 Not mortgagee in possession**

Without prejudice to any other provision of this Deed, none of the Lender, any Receiver or any of their respective officers or employees shall be liable or responsible:-

14.2.1 to account as mortgagee in possession;

14.2.2 for any loss on realisation of the Account or the Deposit; or

14.2.3 for any other default or omission for which a mortgagee in possession might be liable.

**14.3 Indemnity**

The Chargor shall indemnify and keep indemnified the Lender, any Receiver and their respective officers, employees and delegates, against all claims, costs, expenses and liabilities incurred by them in respect of all or any of the following:-

14.3.1 any act or omission by any of them in relation to the Account or all or any of the Deposit;

14.3.2 any payment relating to or in respect of the Account or all or any of the Deposit which is made at any time by any of them;

14.3.3 any stamp, registration or similar Tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, this Deed;

14.3.4 exercising or purporting to exercise or failing to exercise any of the rights, powers and discretions conferred on them or permitted under this Deed;

14.3.5 any breach by the Chargor of any of its covenants or other obligations to the Lender,

except in the case of gross negligence or wilful misconduct on the part of that person.

**14.4 Interest**

The Chargor shall pay interest at the Default Rate on the sums payable under this Clause 14 (*Protection of the Lender and any Receiver*) from the date on which the liability was incurred to the date of actual payment (both before and after judgment).

**14.5 Indemnity out of the Deposit**

The Lender, any Receiver and their respective officers, employees and delegates shall be entitled to be indemnified out of the Deposit in respect of the actions, proceedings, demands, claims, costs, expenses and liabilities referred to in Clause 14.3 (*Indemnity*).

**14.6 Continuing protection**

The provisions of this Clause 14 (*Protection of the Lender and any Receiver*) shall continue in full force and effect notwithstanding any release or discharge of this Deed or the discharge of any Receiver from office.

**15. PROVISIONS RELATING TO THE LENDER**

**15.1 Powers and discretions**

The rights, powers and discretions given to the Lender in this Deed:-

- 15.1.1 may be exercised as often as, and in such manner as, the Lender thinks fit;
- 15.1.2 are cumulative, and are not exclusive of any of its rights under the general law; and
- 15.1.3 may only be waived in writing and specifically, and any delay in exercising, or non-exercise of, any right, is not a waiver of it.

**15.2 Trusts**

The perpetuity period for any trusts constituted by this Deed shall be 125 years.

**16. PRESERVATION OF SECURITY**

**16.1 Continuing Security**

This Deed shall be a continuing security to the Lender and shall remain in force until expressly discharged in writing by the Lender notwithstanding any intermediate settlement of account or other matter or thing whatsoever.

**16.2 Additional Security**

This Deed is without prejudice and in addition to, and shall not merge with, any other right, remedy or Security of any kind which the Lender may have now or at any time in the future for or in respect of any of the Secured Liabilities.

**16.3 Waiver of Defences**

Neither the Security created by this Deed nor the obligations of the Chargor under this Deed will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice that Security or any of those obligations (whether or not known to it or the Lender) including:-

- 16.3.1 any time, waiver or consent granted to, or composition with, the Borrower or other person;

- 16.3.2 the release of the Borrower or any other person under the terms of any composition or arrangement with any person;
- 16.3.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of the Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- 16.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Borrower or any other person;
- 16.3.5 any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Finance Document or any other document or Security;
- 16.3.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Finance Document or any other document; or
- 16.3.7 an insolvency, liquidation, administration or similar procedure.

#### **16.4 Immediate recourse**

The Chargor waives any right it may have of first requiring the Lender (or any trustee or agent on its behalf) to proceed against or enforce any other rights of Security or claim payment from any person before claiming from the Chargor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

#### **16.5 Appropriations**

During the Security Period the Lender may:-

- 16.5.1 refrain from applying or enforcing any monies, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities, or, subject to Clause 11 (*Application of moneys*), apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Chargor shall not be entitled to the same; and
- 16.5.2 hold in an interest-bearing suspense account any moneys received from the Chargor on or account of the Secured Liabilities.

#### **16.6 New Accounts**

If the Lender receives notice (whether actual or otherwise) of any subsequent Security over or affecting the Deposit or if a petition is presented or a resolution passed in relation to the winding up of the Chargor, it may open a new account or accounts for the Chargor. If the Lender does not open a new account or accounts immediately it shall nevertheless be treated as if it had done so at the time when the relevant event occurred, and as from that time all payments made by the Chargor to the Lender shall be credited to or be treated as having been credited to the new account or accounts and shall not operate to reduce the Secured Liabilities.

#### **16.7 Tacking**

For the purposes of section 94(1) of the LPA and section 49(3) of the Land Registration Act 2002 the Lender confirms that it shall make further advances to the Chargors on the terms and subject to the conditions of the Finance Documents.



**16.8 Deferral of Chargor's rights**

During the Security Period and unless the Lender otherwise directs, the Chargor shall not exercise any rights which it may have by reason of performance by its obligations under this Deed or the enforcement of the Security created by this Deed to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under any Finance Document or of any guarantee or Security taken pursuant to, or in connection with, the Finance Documents by the Lender.

**17. RELEASE**

**17.1 Release**

Upon the irrevocable and unconditional payment and discharge in full of the Secured Liabilities and the termination of all facilities which might give rise to Secured Liabilities, the Lender shall, or shall procure that its appointees will, at the request and cost of the Chargor release the Account and the Deposit from this Deed.

**17.2 Reinstatement**

If the Lender considers that any amount paid or credited to the Lender under any Finance Document (whether in respect of the obligations of any Obligor or any Security for those obligations or otherwise) is capable of being avoided, reduced or otherwise set aside:-

17.2.1 that amount shall not be considered to have been paid for the purposes of determining whether the Secured Liabilities have been irrevocably and unconditionally paid and discharged; and

17.2.2 the liability of the Chargor and the Security created by this Deed shall continue as if that amount had not been paid or credited.

**17.3 Consolidation**

Section 93 of the LPA dealing with the consolidation of mortgages shall not apply to this Deed.

**18. MISCELLANEOUS PROVISIONS**

**18.1 Severability**

If any provision of this Deed is illegal, invalid or unenforceable in any jurisdiction, that shall not affect:-

18.1.1 the validity or enforceability of any other provision, in any jurisdiction; or

18.1.2 the validity or enforceability of that particular provision, in any other jurisdiction.

**18.2 Amendments and variations**

This Deed shall remain in full force and effect notwithstanding any amendment, restatement, novation or supplementation of the Finance Documents (including any increase in the amount of the Secured Liabilities).

**18.3 Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of the Lender, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of

any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provide by law.

**18.4 Counterparts**

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

**19. GOVERNING LAW**

This Deed, or any non-contractual obligations arising out of or in connection with it, are governed by, and are to be construed in accordance with, English law.

**20. ENFORCEMENT**

**20.1 Jurisdiction of English Courts**

20.1.1 The courts of England have exclusive jurisdiction to settle any Dispute (including a Dispute regarding the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "Dispute").

20.1.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

20.1.3 This Clause 20.1 (*Jurisdiction of English Courts*) is for the benefit of the Lender only. As a result, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

**EXECUTED IN ORIGINALS UNDER HAND (SAVE IN RESPECT OF THE CHARGOR WHO EXECUTES AND DELIVERS AS A DEED) ON THE DATE FIRST ABOVE WRITTEN**

## SCHEDULE 1

### FORM OF NOTICE OF CHARGE

*[Middlesbrough Football & Athletic Company (1986) Limited's headed paper]*

To: Barclays Bank plc  
5 St Ann's Street  
Newcastle Upon Tyne  
NE1 3DX

Attention: Judith Richardson

Date: \_\_\_\_\_ 2019

Dear Sirs

1. We refer to the following bank account which we hold with you (and any replacement account or subdivision or subaccount of that account) (the "**Account**");

Account holder	Account number	Sort code
Middlesbrough Football & Athletic Company (1986) Ltd	██████████	██████████

2. We give you notice that, under a deed dated with the date of this notice between us and Shawbrook Bank Limited (the "**Chargee**"), we have charged by way of fixed charge to the Chargee all of our rights, title and interest from time to time in the Account including, without limitation all money at any time standing to the credit of the Account (whether in sterling or any other currency and whether in addition to or by way of renewal or replacement for any moneys previously deposited or otherwise) together with all interest accruing from time to time in respect of such money.
3. We hereby irrevocably and unconditionally instruct and authorise you (notwithstanding any previous instructions whatsoever which we may have given to you to the contrary):
- 3.1 to disclose to the Chargee, such information relating to the Account and the debt represented thereby as the Chargee may, at any time and from time to time, request you to disclose to it;
- 3.2 to hold to the order of the Chargee all moneys standing to the credit of the Account;
- 3.3 at any time and from time to time upon receipt by you of instructions in writing from the Chargee to release moneys credited to the Account to the Chargee and to act in accordance with such instructions; and
- 3.4 to comply with the terms of any written notice, statement or instructions in any way relating or purporting to relate to the Account and/or the debt represented thereby which you receive at any time and from time to time from the Chargee,
- in each case, without any reference to or further authority from us and without any enquiry by you as to the justification for such disclosure, instructions, notice or statement or the validity of them.

4. The instructions and authorisations which are contained in this notice shall remain in full force and effect until the Chargee gives you notice in writing revoking them and we shall not be permitted to give you any instructions with respect to the Account and/ or any money standing to the credit of the Account without the prior written consent of the Chargee.
5. This notice, and any dispute or claim arising out of or in connection with it, shall be governed by and construed in accordance with English law.

Please acknowledge receipt of this notice and your acknowledgement of the matters and instructions set out above within 5 days of receipt by signing, dating and returning the enclosed copy of this letter directly to the Chargee at Lutea House, The Drive, Warley Hill Business Park, Great Warley, Brentwood, Essex, CM13 3BE marked for the attention of Max Eppel.

Yours faithfully,

.....  
for and on behalf of  
**Middlesbrough Football & Athletic Company (1986) Limited**

## SCHEDULE 2

### FORM OF ACKNOWLEDGEMENT

To:  
**Shawbrook Bank Limited**  
Lutea House,  
The Drive,  
Warley Hill Business Park,  
Great Warley,  
Brentwood,  
Essex  
CM13 3BE

(the "Chargee")

and

**Middlesbrough Football & Athletic Company (1986) Limited**  
Riverside Stadium  
Middlesbrough,  
TS3 6RS

(the "Chargor")

Dear Sirs

Notice of charge dated .....2019 (the "Notice") relating to the creation of security interest by the Chargor in favour of the charge in respect of the account as set out in the Notice.

We refer to the Notice relating to the account, details of which are set out below (the "Account"):

ACCOUNT HOLDER	ACCOUNT NUMBER	SORT CODE
MIDDLESBROUGH FOOTBALL & ATHLETIC COMPANY (1986) LIMITED		

We confirm that:

1. we will block the Account and not permit any further withdrawals by the Chargor unless and until we receive and acknowledge a notice from the Chargee informing us otherwise. Please note that we will not be able to permit withdrawals from the Account in accordance with the instructions of the Chargee unless and until it has provided a list of authorised signatories confirming which persons have authority on behalf of the Chargee to operate the Account and the Account will remain blocked and non-operational until that time;
2. to the best of our knowledge and belief the business team responsible for the Account has not, as at the date of this acknowledgement, received any notice that any third party has any right or interest whatsoever in or has made any claim or demand or taking any action whatsoever against the Account and / or the debts represented thereby, or any part of any of it or them; and
3. We confirm that we are not entitled to combine the Account with any other account or to exercise any right of set-off or counterclaim against money in the Account in respect of any sum owed to us provided that, notwithstanding any term of the Notice:

- a. we shall be entitled at any time to deduct from the Account any amounts to satisfy any of our or the Chargor's obligations and / or liabilities incurred under the direct debit scheme or in respect of other unpaid sums in relation to cheques and payment reversals; and
  - b. our agreement in this Acknowledgement not to exercise any right of combination of accounts, set-off or lien over any monies standing to the credit of the Account in priority to the Chargee, shall not apply in relation to our standard bank charges and fees and any cash pooling arrangements provided to the Chargor; and
4. we will disclose to the Chargee any information relating to the Account which the Chargee may from time to time request us to provide.

We do not confirm or agree to any of the other matters set out in the Notice. Our acknowledgement of the Notice is subject to the following conditions:

1. we shall not be bound to enquire whether the right of any person (including, but not limited to, the Chargee) to withdraw any monies from the Account has arisen or be concerned with (A) the propriety or regularity of the exercise of that right or (B) be responsible for the application of any monies received by such person (including, but not limited to, the Chargee);
2. we shall have no liability to the Chargee relating to the Account whatsoever, including, without limitation, for having acted on instructions of the Chargee which on their face appear to be genuine, which comply with the terms of this notice and which otherwise comply with the Chargee's latest list of signatories held by us or relevant electronic banking system procedures in the case of an electronic instruction, and
3. we shall not be deemed to be a trustee for the Chargor or the Chargee of the Account.

This letter and any non-contractual obligations arising out of or in connection with this letter are governed by the laws of England and Wales.

Yours faithfully

Name:

Position:

For and on behalf of **Barclays Bank PLC**

**The Chargor**

**EXECUTED** as a Deed )  
by **MIDDLESBROUGH FOOTBALL &** )  
**ATHLETIC COMPANY (1986) LIMITED** )  
acting by \_\_\_\_\_ a )  
director/attorney, in the presence of:-

Director/Attorney

Signature of witness:

Name of witness:

Address:

Occupation:

**The Lender**

**SIGNED** for and on behalf of )  
**SHAWBROOK BANK LIMITED** )  
)  
)



MAX EPEL

DIRECTOR - SPORT FINANCE

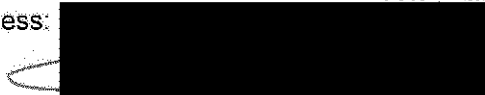
**The Chargor**

EXECUTED as a Deed )  
by MIDDLESBROUGH FOOTBALL & )  
ATHLETIC COMPANY (1986) LIMITED )  
acting by Rosm Bloor a )  
director/attorney, in the presence of:-



Director/Attorney

Signature of witness:



Name of witness:

Graham Jeffroy

Address:

4 Mon London, Riverside, London, SE12 8U

Occupation:

Solicitor

**The Lender**

SIGNED for and on behalf of )  
SHAWBROOK BANK LIMITED )  
)  
)