



**Registration of a Charge**

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

Company number: **01947851**

Received for Electronic Filing: **09/07/2019**



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**Details of Charge**

Date of creation: **27/06/2019**

Charge code: **0194 7851 0024**

Persons entitled: **MACQUARIE BANK LIMITED, LONDON BRANCH**

Brief description:

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT 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:

**BIRD & BIRD LLP**



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

Company number: 1947851

Charge code: 0194 7851 0024

The Registrar of Companies for England and Wales hereby certifies that a charge dated 27th 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 9th July 2019 .

Given at Companies House, Cardiff on 10th July 2019

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



**Companies House**



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

**AGREEMENT ON ASSIGNMENT OF RECEIVABLES  
FOR SECURITY PURPOSES OF THE ITA  
CONCERNING MR. MARTEN ELCO DE ROON**

dated 27 June, 2019

between

**MACQUARIE BANK LIMITED, LONDON BRANCH**

Ropemaker Place, 28  
Ropemaker St  
London EC2Y 9HD  
United Kingdom

(the "Assignee")

and

**MIDDLESBROUGH FOOTBALL & ATHLETIC COMPANY (1986) LIMITED**

Riverside Stadium  
Middlesbrough, TS3 6RS  
England  
(company number: 01947851)

(the "Assignor")

I HEREBY CERTIFY THAT THIS IS A  
TRUE COPY OF THE ORIGINAL OF WHICH  
IT PURPORTS TO BE A COPY

(collectively, the "Parties")

THIS 9<sup>th</sup> DAY OF July 20 19

Bird & Bird LLP  
12 New Fetter Lane  
London EC4A 1JP

*Bird & Bird  
LLP*

**"ATALANTA"** shall have the meaning set forth in the Preamble.

**"Agreement"** shall mean this agreement (as amended from time to time, as the case may be) on the assignment of receivables for security purposes.

**"Assignee"** shall have the meaning set forth in the first page of this Agreement.

**"Assignor"** shall have the meaning set forth in the first page of this Agreement.

**"Bank Account"** shall mean the following bank account:

REDACTED

REDACTED

REDACTED

or any other bank account that the Assignee could, at its entire discretion, notify to the Debtor.

**"Debtor"** shall have the meaning set forth in the Preamble.

**"Default"** shall have the meaning given to that term in the Facility Letter.

**"Event of Default"** shall have the meaning given to that term in the Facility Letter.

**"Facility Letter"** shall have the meaning set forth in the Preamble.

**"FIFA Regulations"** shall have the meaning set forth in the Preamble.

**"Finance Documents"** shall have the meaning given to that term in the Facility Letter.

**"ITA"** shall have the meaning set forth in the Preamble.

**"Notification Form"** shall have the meaning set forth in Clause 3.1.

**"Parties"** shall have the meaning set forth in the Preamble.

**"Receivables"** shall mean any and all claims and receivables of the Assignor towards the Debtor, payable in relation to the Fifth Tranche and Sixth Tranche of the Transfer Fee, together with all ancillary and security rights attached thereto, including, for the avoidance of doubt, interest as well as any penalty pursuant to Article 6 paragraph 2 of the ITA in each case applicable to any non-payment when due of the Fifth Tranche or Sixth Tranche of the Transfer Fee.

**"Secured Obligations"** shall have the meaning set forth in the Preamble.

**"Transfer fee"** shall have the meaning set forth in the Preamble.

1.2. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Facility Letter and/or the Finance Documents.

1.3. Furthermore:

- (i) a "person" includes its successors and assigns, and an "affiliate" includes a person under the same ownership or control, direct or indirect, of another person, whether or not wholly-owned;
- (ii) references to any agreement or document are references to that agreement or document as amended, varied, supplemented, substituted or novated from time to time, in accordance with its terms; and
- (iii) words importing the singular shall include the plural and vice versa.

## **2. ASSIGNMENT OF RECEIVABLES**

2.1. For the sole purpose of providing security for the payment of all Secured Obligations, the Assignor hereby undertakes to assign and hereby assigns by way of security assignment (*cession de créances à titre de sûretés*) to the Assignee, and the Assignee hereby accepts and assumes from the Assignor, all its Receivables.

2.2. The Assignor:

- (i) shall notify the Debtor of the Receivables in accordance with Clause 3.1; and
- (ii) undertakes to make any other declaration (including assignments or endorsements) or to do any other act necessary or useful to make the

securities as herein agreed effective and to give the Assignee the full benefit thereof.

### **3. NOTIFICATION OF ASSIGNMENT AND COLLECTION BY THE ASSIGNEE**

- 3.1. The assignment of the Receivables shall be notified to the Debtor by the Assignor immediately upon execution of this Agreement using the irrevocable notification form (the “**Notification Form**”) substantially in the form set out in Schedule 1.
- 3.2. Notwithstanding Clause 3.1 of this Agreement, the Assignee may also make the notification itself, whenever it deems it appropriate.
- 3.3. The Assignor shall indemnify the Assignee for all costs, which the Assignee incurs in the management and collection of the Receivables.

### **4. REPRESENTATIONS AND WARRANTIES OF ASSIGNOR, UNDERTAKINGS OF ASSIGNOR**

- 4.1. The Assignor represents and warrants with the Assignee that:
  - (i) this Agreement creates those security interests it purports to create;
  - (ii) on the date of delivery under this Agreement, the Assignor has full power, authority and legal right to transfer the Receivables pursuant to this Agreement;
  - (iii) the Receivables are free of any encumbrance other than the security interest created hereunder and the Assignor has not assigned, transferred or otherwise disposed of the Receivables assigned hereunder;
  - (iv) there are no agreements or arrangements affecting the Receivables in any way which would or might encumber or otherwise prejudice the right of the Assignee or the Receivables;
  - (v) all information supplied by the Assignor with respect to the Receivables is accurate and complete in all material respects.

The representations and warranties contained in this Article 4.1 are deemed to be made by the Assignor by reference to the facts and circumstances then existing on the date of this Agreement.

- 4.2. The Assignor shall not, at any time during this Agreement, create or agree to create or permit to subsist any security interest over all or part of the Receivables, or sell, transfer or otherwise dispose of the Receivables or any interest therein until this Agreement and the security interest created thereby have terminated and the Receivables are reassigned to the Assignor in accordance with Article 5 of this Agreement.
- 4.3. The Assignor shall at all times during this Agreement take all legal or other actions which are necessary to safeguard all of its or the Assignees' rights under or in respect of the Receivables.
- 4.4. The Assignor shall not (i) grant any extension or renewal of the time of payment of any Receivable, (ii) compromise or settle any dispute, claim or legal proceeding with respect to any Receivable, (iii) release, wholly or partially, any person liable for the payment thereof, or (iv) allow any credit or discount thereon other than pursuant to the Finance Documents and/or with the prior written consent of the Assignee.
- 4.5. The Assignor shall enter into and procure the perfection of such additional assignment agreements and execute such additional documents or instruments, as shall be reasonably required to (i) implement this Agreement and perfect the security interest contemplated hereby; (ii) protect and maintain any rights for the Assignee under this Agreement or the exercise of any rights of the Assignee under this Agreement; and/or (iii) facilitate foreclosure in the Receivables.
- 4.6. The undertakings of the Assignor in this Clause 4 remain in force until the date on which all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full.

## **5. STATUS OF THE ASSIGNMENT – REASSIGNMENT OF RECEIVABLES**

- 5.1. This assignment constitutes a continuing security interest and shall only terminate upon (i) the discharge in full of all Secured Obligations pursuant to their respective terms, regardless of any intermediate payment or discharge, or (ii) the waiver by the Assignee of any and all rights hereunder.
- 5.2. Upon termination of the security interest under this Agreement and unless otherwise agreed between the Parties, the Assignee shall, at the cost of the Assignor, be obligated to reassign the Receivables to the Assignor. The Assignee shall not be



deemed to have made nor shall be obligated to make any representation or warranty with respect to any of the Receivables so reassigned.

- 5.3. A partial discharge of the Secured Obligations does not entitle the Assignor to request a partial reassignment of the Receivables.
- 5.4. This assignment for security purposes shall be independent of any other security interest now or subsequently granted to the Assignee for any of the Secured Obligations.
- 5.5. The security interest constituted by this Agreement shall not be affected in any way by any variation, amendment, restatement, novation, transfer (including by way of novation) extension, compromise or release of any or all of the Secured Obligations or of any security from time to time therefore.

## **6. ENFORCEMENT AND FORECLOSURE**

- 6.1. Upon the occurrence of an Event of Default and at any time during the continuance thereof, the Assignee shall have the right, but not the obligation to enforce the security interest in the Receivables and to foreclose on the Receivables.
- 6.2. The realization of the Receivables pursuant to Clause 6.1 shall take place outside debt enforcement procedures and the Assignee shall in particular be entitled to collect and liquidate all Receivables or to sell any of the Receivables by private sale to a third party and shall allocate the amount received to the Secured Obligations. Further, the Assignee may commence other enforcement proceedings against the Assignor in front of any court of competent jurisdiction, by way of special or general enforcement. In foreclosing in the Receivables as described above, the Assignee enjoys full discretion as to the manner, time and place at which such execution is to take place.
- 6.3. The Assignor waives any right of requesting that the Receivables be realized before foreclosure in any of its other assets or before exercise of any other security, which may have been granted to the Assignee for the Secured Obligations.
- 6.4. No failure on the part of the Assignee to exercise, or any delay on its part in exercising, any of its rights under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of a right under this Agreement preclude any further or other exercise of that or any other such right.

**7. ASSIGNMENT AND TRANSFERS**

Clause 19 of the Facility Letter shall apply mutatis mutandis to this Agreement.

**8. SEVERABILITY**

In the event that one or several terms or provisions of this Agreement shall be or become invalid or unenforceable in whole or in part, this shall not affect the validity or enforceability of any other terms and provisions in any way. In such case the parties shall replace the invalid or unenforceable term or provision by such valid and enforceable terms or provisions the contents of which shall reflect as closely as possible the commercial and legal purpose and intent of the provisions or terms replaced.

**9. NOTICES**

Any notices or other communication to be made under or in connection with this Agreement shall be made in accordance with the provisions of the Facility Letter.

**10. AMENDMENT OF THE AGREEMENT**

Any amendment of this Agreement including this Article 10 shall only be valid if in writing and signed by all parties hereto.

**11. BENEFIT OF AGREEMENT**

This Agreement shall be binding upon and inure to the benefit of each party hereto and its or any subsequent successors, transferees and permitted assigns and any such transfer shall, as of its effective date and subject to Article 7, constitute a valid transfer and assignment of all rights and obligations of the transferring party to such successor, transferee or permitted assigns.

**12. COSTS AND EXPENSES**

Any costs and expenses (including legal fees) arising out of or in connection with the preparation, execution, amendment and enforcement of, or any performance under, this Agreement shall (subject to any applicable cap agreed on the same) be borne by the Assignor.

**13. ENTIRE AGREEMENT**

This Agreement and the documents referred to therein constitute the entire agreements between the Parties relating to the creation of the security contemplated herein. The provisions in this Agreement supersede with regard to the subject matter hereof all previous agreements between the parties relating to the creation of the security contemplated herein.

**14. GOVERNING LAW AND JURISDICTION**

14.1. This Agreement shall in all respects be governed by and construed in accordance with the laws of Switzerland (without regard to conflict law rules).

14.2. All disputes arising out of or in connection with this Agreement shall be submitted to the jurisdiction of the ordinary courts of the Canton of Geneva, the venue being Geneva. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Assignee to bring any legal action or proceedings with respect to this Agreement in any other competent jurisdiction.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement in two originals.

Place / Date:

MACQUARIE BANK LIMITED, LONDON  
BRANCH

Signed in London, POA Ref: #2809 dated 20<sup>th</sup>  
March 2019

REDACTED

REDACTED

**Gianfranco Simionato**  
Executive Director

**Thomas Morgan**  
Associate Director

Place / Date:

MIDDLESBROUGH FOOTBALL &  
ATHLETIC COMPANY (1986) LIMITED  
ACTING BY ITS ATTORNEY  
..... UNDER A POWER  
OF ATTORNEY DATED .....

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IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement in two originals.

Place / Date:

MACQUARIE BANK LIMITED, LONDON  
BRANCH

Place / Date: LONDON, 27 June 2019

MIDDLESBROUGH FOOTBALL &  
ATHLETIC COMPANY (1986) LIMITED  
ACTING BY ITS ATTORNEY  
ROBIN BLOOM ..... UNDER A POWER  
OF ATTORNEY DATED 25 JUNE 2019.

REDACTED

## Schedule 1: Notification Form

## **Schedule 1 – NOTIFICATION FORM**

[ON MIDDLESBROUGH HEADED PAPER]

**Atalanta Bergamasca Calcio**  
**Bergamo**  
**Via Paglia 1/D**  
**Italy**

..... 2019

Dear Sirs

### **International Transfer Agreement concerning Marten de Roon dated 10 August 2017 (the "International Transfer Agreement")**

We refer to the International Transfer Agreement entered into between our Clubs and to Rules 50 and 51 of the Rules of the English Football League for the 2018/2019 season (the "EFL Rules").

We, Middlesbrough Football & Athletic Company (1986) Limited ("MFC"), hereby give notice that pursuant to a Swiss agreement of assignment for security purposes dated on or around the date of this letter (the "**Assignment Agreement**"), and in accordance with Rule 50.1.10 of the EFL Rules, we have assigned to Macquarie Bank Limited, London Branch ("**Macquarie**") any and all our rights to:

- A. the following receivables payable by your club pursuant to the International Transfer Agreement:

<b>Clause of the International Transfer Agreement</b>	<b>Receivable (€)</b>	<b>Due Date</b>
6(e)	2,000,000	31 October 2019
6(f)	2,000,000	1 April 2020

(such receivables together being the "**Receivables**"), noting that pursuant to the terms of the International Transfer Agreement no amounts in respect of solidarity contributions shall be deducted from the amount of any of the Receivables; and

- B. all sums payable to MFC by your Club in respect of any late payment of the Receivables (or any one of them) in accordance with clause 6 of the International Transfer Agreement ("**Default Interest and Penalty Monies**").

We confirm that Macquarie has transferred all monies payable by virtue of the Assignment Agreement to us and the English Football League has waived the requirement to comply with Rule 51.5.1 of the EFL Rules.

Therefore, we hereby give irrevocable notice to you that, contrary to the provisions of the International Transfer Agreement and in accordance with Rule 51.5.2 of the EFL Rules, payment of the Receivables (whenever paid and, notwithstanding any provision of the International Transfer Agreement, whether or not any invoice is presented by MFC in respect of any such amount) and any Default Interest and Penalty Monies should be made to the account details of which are set out below or to any other bank account that Macquarie should notify you from time to time and not to any account detailed in any invoice received from our club in connection with the International Transfer Agreement, or to any other account nominated by us:

REDACTED

REDACTED

—  
(the "Account").

We would be grateful if you would acknowledge and agree the above position by signing this letter in the section below.

This letter 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 the laws of Switzerland.

Yours faithfully

**For and on behalf of**

**MIDDLESBROUGH FOOTBALL & ATHLETIC COMPANY (1986) LIMITED**

Cc: Macquarie Bank Limited, London Branch

.....  
***Form of acknowledgement and agreement***

To: Middlesbrough Football & Athletic Company (1986) Limited ("MFC") and Macquarie Bank Limited, London Branch ("Macquarie")

For the benefit of MFC and Macquarie, we hereby:

- a) acknowledge and agree to the terms of the above letter;
- b) confirm that we acknowledge the irrevocable instruction that Macquarie shall, on behalf of MFC, make any demand for payment to us related to the Receivables and any Default Interest and Penalty Monies under the terms of the International Transfer Agreement;
- c) confirm that we have not claimed or exercised and have no outstanding right to claim or exercise, and will not claim or exercise, any security interest, right of set-off, counter-claim or other right relating to the Receivables, Default Interest and/or Penalty Monies; and
- d) confirm that no amounts in respect of solidarity contributions shall be deducted from the amount of any of the Receivables; and
- e) agree to pay the Receivables and any Default Interest and Penalty Monies to the Account and not to any other account without the prior written consent of Macquarie.

Yours faithfully

**For and on behalf of  
ATALANTA BERGAMASCA CALCIO**

Date: