



Registration of a Charge

Company name: **THE HALO KILMARNOCK LIMITED**

Company number: **SC536157**



X8EV90OJ

Received for Electronic Filing: **27/09/2019**

Details of Charge

Date of creation: **13/09/2019**

Charge code: **SC53 6157 0001**

Persons entitled: **SCOTTISH ENTERPRISE**

Brief description: **ALL AND WHOLE THE TWO AREAS OF GROUND BEING 9.32 HECTARES LYING TO THE WEST OF HILL STREET, KILMARNOCK REGISTERED IN THE LAND REGISTER OF SCOTLAND UNDER TITLE NUMBER AYR113846.**

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:

BRODIES LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 536157

Charge code: SC53 6157 0001

The Registrar of Companies for Scotland hereby certifies that a charge dated 13th September 2019 and created by THE HALO KILMARNOCK LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th September 2019 .

Given at Companies House, Edinburgh on 27th September 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**

STANDARD SECURITY

by

THE HALO KILMARNOCK LIMITED

(as Chargor)

in favour of

SCOTTISH ENTERPRISE

(as Lender)

**Security Subjects: two areas of 9.32 hectares lying to the west of Hill Street, Kilmarnock
(Title Number AYR113846)**

CERTIFIED A TRUE
COPY SAVE FOR THE
MATERIAL REDACTED
PURSUANT TO S859G
OF THE COMPANIES
ACT 2006


BRODIES LLP
Solicitors

26/09/2019

Ref: MKES/SC92.184

BRODIES LLP
15 Atholl Crescent
Edinburgh EH3 8HA
T: 0131 228 3777
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Ref: MPST/WGJK/SCO92.184

For the purposes of the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015, this Standard Security is delivered on 11 SEPTEMBER 2019

STANDARD SECURITY BY

- (1) **THE HALO KILMARNOCK LIMITED**, a company incorporated in Scotland with registered number SC536157 and having its registered office at c/o Macdonald Henderson Limited, 94 Hope Street, Glasgow, Scotland, G2 6PH (the "Chargor");

in favour of

- (2) **SCOTTISH ENTERPRISE**, established under the Enterprise and New Towns (Scotland) Act 1990 and having its principle place of business at Atrium Court, 50 Waterloo Street, Glasgow G2 6HQ (the "Lender").

CONSIDERING THAT:

- (A) the Lender has agreed to make a loan facility available to the Chargor under the Facility Agreement (as defined below);
- (B) one of the conditions precedent to the availability of the facility referred to in paragraph (A) above is that the Chargor grants to the Lender this Standard Security.

NOW IT IS HEREBY AGREED AND DECLARED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Standard Security:

"Facility Agreement" means the facility agreement between the Chargor and the Lender dated on or around the date of this Standard Security;

"Secured Liabilities" means any and all monies and obligations due, owing or incurred by the Chargor to the Lender in any manner and in any currency or currencies, whether present or future, actual or contingent, incurred alone or jointly with any other person and whether as principal, guarantor, cautioner or surety including interest, costs, charges and expenses incurred by the Lender in respect of those monies or obligations;

"Security Subjects" means ALL and WHOLE the two areas of ground being 9.32 hectares lying to the west of Hill Street, Kilmarnock registered in the Land Register of Scotland under Title Number AYR113846; and

"Standard Conditions" has the meaning given to that term in Clause 4 (*Standard Conditions*).

1.2 Interpretation

- 1.2.1 Capitalised terms defined in the Facility Agreement have, unless expressly defined in this Standard Security, the same meaning in this Standard Security.
- 1.2.2 The provisions of clause 1.2 (*Construction*) of the Facility Agreement apply to this Standard Security as though they were set out in full in this Standard Security *mutatis mutandis* except that references to the Facility Agreement are to be construed as references to this Standard Security.
- 1.2.3 A Finance Document or other document includes (without prejudice to any prohibition on amendments) all amendments however fundamental to that Finance Document or other document, including any amendment providing for any increase in the amount of a facility or any additional facility.

1.3 Third Party Rights

A person who is not a party to this Standard Security has no right under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or enjoy the benefit of any term of this Standard Security.

2 COVENANT TO PAY

The Chargor undertakes to the Lender that it will pay or discharge to the Lender all the Secured Liabilities on demand in writing when the Secured Liabilities become due for payment or discharge (whether by acceleration or otherwise).

3 CHARGE

The Chargor hereby in security of the Secured Liabilities grants a standard security in favour of the Lender over the Security Subjects.

4 STANDARD CONDITIONS

The standard conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970, and any lawful variation thereof operative for the time being (the "Standard Conditions") shall apply and the Chargor agrees that the Standard Conditions shall be varied to the effect that:

- 4.1 the insurance to be effected in terms of Standard Condition 5(a) shall provide cover to the extent of the reinstatement value of the Security Subjects and not their open market value;
- 4.2 in addition to the events of default specified in Standard Condition 9, the Chargor shall be deemed to be in default for the purposes of Standard Condition 9(1)(b) where an Event of Default has occurred and is continuing.

4.3 wherever and to the extent that the Standard Conditions are inconsistent with the terms of the Facility Agreement, the terms of the Facility Agreement shall prevail and that to such extent the Standard Conditions shall be varied by the terms of the Facility Agreement; and

4.4 the Chargor shall develop the Security Subjects in accordance with the terms of the Facility Agreement.

5 NEGATIVE PLEDGE

The Chargor agrees that it shall be prohibited from granting or creating subsequent to the date of execution of this Standard Security any floating security or any other fixed charge over the Security Subjects or any part or parts of them, other than (i) in favour of the Lender or in favour of another person and with the prior written consent of the Lender, and/or (ii) Permitted Security.

6 NOTICE OF SUBSEQUENT CHARGE

If the Lender receives notice of any subsequent charge or other interest affecting all or any part of the Security Subjects the Lender may open a new account or accounts in the name of the Chargor and, if or insofar as the Lender does not open a new account or accounts, it shall nevertheless be treated as if it had done so at the time when it receives such notice and as and from that time all payments made by the Chargor to the Lender shall, notwithstanding any instructions by the Chargor to the contrary, be credited or treated as having been credited to the new account or accounts and shall not operate to reduce the amount due by the Chargor to the Lender at the time the notice was received.

7 APPLICATION OF ENFORCEMENT PROCEEDS

7.1 All monies received by the Lender under or by virtue of this Standard Security following enforcement of the security hereby granted or of any security interest constituted pursuant hereto shall be applied, subject to the claims of any creditors ranking in priority to or pari passu with the claims of the Lender under this Standard Security, in the order and manner specified by the Facility Agreement notwithstanding any purported appropriation by the Chargor.

7.2 Nothing contained in this Standard Security shall limit the right of the Lender (and the Chargor acknowledges that the Lender is so entitled) if and for so long as the Lender, in its discretion, shall consider it appropriate, to place all or any monies arising from the enforcement of the security interest hereby granted or any security created pursuant to this Standard Security into a suspense account, without any obligation to apply the same or any part thereof in or towards the discharge of any of the Secured Liabilities.

8 PROTECTION OF SECURITY

8.1 The security created by, and any security interest constituted pursuant to, this Standard Security shall be a continuing security notwithstanding any settlement of account or other matter or thing whatsoever and in particular (but without prejudice to the generality of the foregoing) shall not be

considered satisfied by an intermediate repayment or satisfaction of part only of the Secured Liabilities and shall continue in full force and effect until total and irrevocable satisfaction of all the Secured Liabilities.

- 8.2 The security created by, and any security interest constituted pursuant to, this Standard Security shall be in addition to and shall not in any way prejudice or be prejudiced by any collateral or other security, right or remedy which the Lender may now or at any time hereafter hold for all or any part of the Secured Liabilities.
- 8.3 No failure on the part of the Lender to exercise and no delay on its part in exercising any right, remedy, power or privilege under or pursuant to this Standard Security or any other document relating to or securing all or any part of the Secured Liabilities will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The rights and remedies provided in this Standard Security and any such other document are cumulative and not exclusive of any right or remedies provided by law.
- 8.4 Each of the provisions in this Standard Security shall be severable and distinct from one another and if at any time any one or more of such provisions is or becomes or is declared null and void, invalid, illegal or unenforceable in any respect under any law or otherwise howsoever, the validity, legality and enforceability of the remaining provisions of this Standard Security shall not in any way be affected or impaired by that occurrence.
- 8.5 Neither the security created by, nor any security interest constituted pursuant to, this Standard Security nor the rights, powers, discretions and remedies conferred upon the Lender by this Standard Security or by law shall be discharged, impaired or otherwise affected by reason of:
 - 8.5.1 any present or future security, guarantee, indemnity or other right or remedy held by or available to the Lender being or becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Lender from time to time exchanging, varying, realising, releasing or failing to perfect or enforce any of the same; or
 - 8.5.2 the Lender compounding with, discharging or releasing or varying the liability of, or granting any time, indulgence or concession to, the Chargor or any other person or renewing, determining, varying or increasing any accommodation or transaction in any manner whatsoever or concurring in accepting or varying any compromise, arrangement or settlement or omitting to claim or enforce payment from the Chargor or any other person; or
 - 8.5.3 any act or omission which would not have discharged or affected the liability of the Chargor had it been a principal debtor instead of cautioner or by anything done or omitted which but for this provision might operate to exonerate the Chargor from the Secured Liabilities; or

8.5.4 any legal limitation, disability, incapacity or other similar circumstance relating to the Chargor.

9 OWNERSHIP

The Chargor warrants to the Lender on the date of delivery of this Standard Security that it is the registered proprietor of the Security Subjects over which it purports to grant Security.

10 FURTHER ASSURANCE

The Chargor shall execute and deliver any further instruments and documents and do all such assurances, acts and things as the Lender may require for perfecting or protecting the security created by or pursuant to this Standard Security over the Security Subjects or (following the occurrence of an Event of Default which is continuing) for facilitating the realisation of such assets and the exercise of all powers, authorities and discretions conferred on the Lender by this Standard Security and shall give all notices orders and directions which the Lender may think expedient for the purposes specified in this Clause 10.

11 SET-OFF

11.1 Following the occurrence of an Event of Default which is continuing, the Chargor authorises the Lender to apply any credit balance (then due) to which the Chargor is at any time entitled on any account or accounts with the Lender towards satisfaction of the Secured Liabilities. If such balances are in different currencies, the Lender may convert either balance at the market rate of exchange for the purpose of the set-off.

11.2 The Lender shall not be obliged to exercise its rights under this Clause 11, which shall be without prejudice and in addition to any right of set-off, compensation, combination of accounts, lien or other right to which it is at any time otherwise entitled (whether by operation of law, contract or otherwise).

12 MANDATE AND ATTORNEY

12.1 The Chargor hereby irrevocably appoints the Lender to be its mandatary and attorney for it and on its behalf and in its name or otherwise and as such to create or constitute any deed, or to make any alteration or addition or deletion in or to, any documents which the Lender may require for perfecting or protecting the title of the Lender to the Security Subjects or for vesting any of the Security Subjects in the Lender or its nominees or any purchaser and to re-deliver the same thereafter and otherwise generally to sign, seal and deliver and perfect any fixed security, floating charge, transfer, disposition, assignation, security and/or assurance or any writing, assurance, document or act which may be required or may be deemed proper by the Lender on or in connection with any sale, lease, disposition, realisation, getting in or other enforcement by the Lender of all or any of the Security Subjects.

12.2 The appointment effected under Clause 12.1 shall take effect immediately, but the powers conferred shall only become exercisable upon the occurrence of an Event of Default which is continuing or if the Chargor does not fulfil any of its obligations under Clause 10 (*Further Assurance*) within 10 Business Days of notice from the Lender to do so.

12.3 The Chargor hereby ratifies and confirms and agrees to ratify and confirm whatever any such mandatary or attorney shall do in the exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this Clause 12.

13 NOTICES

All notices, requests, demands and other communications to be given under this Standard Security shall be given and/or be deemed to be given in the same manner as notices to be given under the Facility Agreement and the terms of clause 28 (*Notices*) of the Facility Agreement shall apply mutatis mutandis to this Standard Security as though that clause were set out in full in this Standard Security.

14 INDEMNITY

The Lender and every attorney, manager, agent or other person appointed by the Lender in connection with this Standard Security shall be entitled to be indemnified out of the Security Subjects in respect of all liabilities and expenses incurred by it in the execution or purported execution of any of the powers, authorities or discretions vested in it pursuant to this Standard Security and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Security Subjects and the Lender may retain and pay all sums in respect of the same out of any monies received under the powers conferred by this Standard Security.

15 AVOIDANCE OF PAYMENTS

Any amount which has been paid by the Chargor to the Lender and which is, in the opinion of the Lender, capable of being reduced or restored or otherwise avoided, in whole or in part, in the liquidation or administration of the Chargor shall not be regarded as having been irrevocably paid for the purposes of this Standard Security.

16 LIABILITY OF LENDER

The Lender shall not in any circumstances be liable to the Chargor or any other person for any losses, damages, liabilities or expenses arising from or in connection with the application or enforcement of this Standard Security or any realisation, appropriation or application of the Security Subjects or from any act, default or omission of the Lender, or its officers, employees or agents in relation to the Security Subjects or otherwise in connection with this Standard Security, except to the extent caused by the fraud, gross negligence, wilful neglect or default of the Lender or its officers, employees or agents.

17 THIRD PARTY PROTECTION

17.1 No person (including a purchaser) dealing with the Lender or its or his agents will be concerned to enquire:

17.1.1 whether the Secured Liabilities have become payable;

17.1.2 whether any power which the Lender is purporting to exercise has become exercisable or is being properly exercised;

17.1.3 whether any money remains due under the Finance Documents; or

17.1.4 how any money paid to the Lender is to be applied

18 ASSIGNATION OF RIGHTS/OBLIGATIONS

18.1 The Lender may at any time assign or transfer any of its rights and/or obligations under this Standard Security.

18.2 The Chargor may not assign or transfer any of its rights and/or obligations under this Standard Security.

19 RELEASE

Once the Secured Liabilities have been paid or discharged in full, the Lender shall, at the request and reasonable cost of the Chargor, take any action which is necessary to release the security created (or expressed to be created) by this Standard Security and execute and deliver such further deeds and documents as the Chargor may reasonably require to give effect to this Clause 19.

20 COUNTERPARTS

20.1 This Standard Security 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 Standard Security.

20.2 Where executed in counterparts:

20.2.1 this Standard Security will not take effect until each of the counterparts has been delivered; and

20.2.2 where any counterpart is being held as undelivered, delivery will take place only when the date of delivery is agreed between the parties after execution of this Standard Security.

21 GOVERNING LAW AND JURISDICTION

- 21.1 This Standard Security and any non-contractual obligations arising out of or in connection with it are governed by Scots law.
- 21.2 The Scottish courts have exclusive jurisdiction to settle any dispute arising out of or in connection with this Standard Security (including a dispute relating to non-contractual obligations arising from or in connection with this Standard Security or a dispute regarding the existence, validity or termination of this Standard Security) (a "Dispute").
- 21.3 The Parties agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly no party to this Standard Security will argue to the contrary.
- 21.4 This Clause 21 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 (while taking account of the provisions of Clause 21.3 above).

22 WARRANTICE AND CONSENT TO REGISTRATION

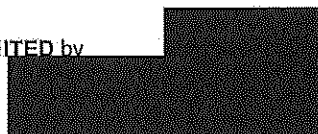
- 22.1 The Chargor hereby grants warrantice.
- 22.2 A certificate signed by any official, manager or equivalent account officer of the Lender shall, in the absence of manifest or proven error, conclusively determine the Secured Liabilities at any relevant time. The Chargor hereby consents to the registration of this Standard Security and of any such certificate for preservation and, on and after the enforcement of the security hereby granted, execution: **IN WITNESS WHEREOF** these presents consisting of this, the preceding 7 pages are executed as follows and are delivered for the purposes of the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015 on the date set out on page 1 of this Standard Security:

THE CHARGOR

For and on behalf of THE HALO KILMARNOCK LIMITED by



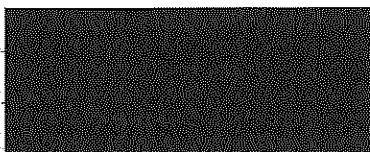
signature of witness



signature of director/authorised signatory

FRASER MORRISON
full name of above (print)

MARIE STEWART MACLEOD
full name of above (print)



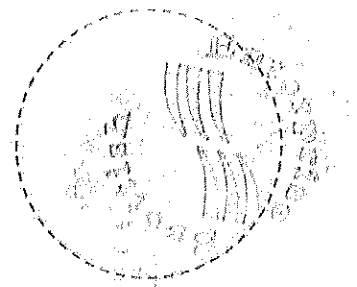
Address of witness

11/09/2019
date of signing

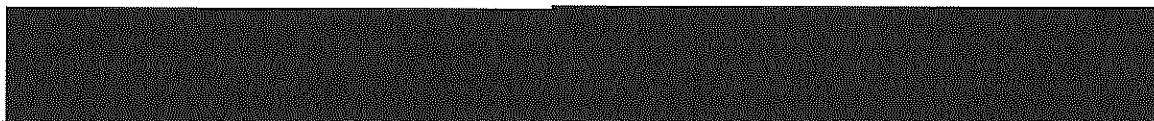
GLASGOW
place of signing

THE LENDER

Sealed with the common seal of SCOTTISH ENTERPRISE



and subscribed for and on behalf of SCOTTISH ENTERPRISE by:

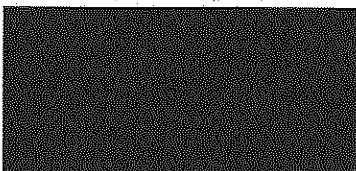


signature of witness

signature of authorised signatory

GAIL FULTON
full name of above (print)

CATHERINE MARY CONR
full name of above (print)



Address of witness

11 September 2019
date of signing

GLASGOW
place of signing