



**Registration of a Charge**

Company name: **BIRD BOX ENTERTAINMENT LIMITED**

Company number: **10014374**



X83HDSJ5

Received for Electronic Filing: **16/04/2019**

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**Details of Charge**

Date of creation: **29/03/2019**

Charge code: **1001 4374 0002**

Persons entitled: **CLOSE LEASING LIMITED**

Brief description:

**Contains fixed charge(s).**

**Contains floating 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 THE ELECTRONIC COPY INSTRUMENT  
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION  
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **SARAH EDWARDS**



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

Company number: 10014374

Charge code: 1001 4374 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th March 2019 and created by BIRD BOX ENTERTAINMENT LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 16th April 2019 .

Given at Companies House, Cardiff on 17th April 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



Close Brothers  
Leasing

**Dated** 29th MARCH 2019

**BIRD BOX ENTERTAINMENT LIMITED**

**AND**

**CLOSE LEASING LIMITED**

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**DEBENTURE**

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**ADDLESHAW GODDARD**



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This Debenture is made on

29th MARCH

2019

**Between**

- (1) **Bird Box Entertainment Limited** (registered in England with number 10014374) whose registered office is at 123 Regents Park Road, London, NW1 8BE (**Chargor**); and
- (2) **Close Leasing Limited** (registered in England with number 6377532) whose registered office is at Olympic Court, Third Avenue, Trafford Park Village, Manchester M17 1AP (**Lender**).

**It is agreed**

**1 Definitions and interpretation**

**1.1 Definitions**

In this Deed:

**365Flix** means 365Flix International, LLC of 360 Central Avenue, Suite 800, St. Petersburg, FL, 33701, USA

**Account** has the meaning given to it in clause 3.4(j) (First fixed charges)

**Authorisation** means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration, or any other similar permission

**Blocked Account** means each account designated as a blocked account by the Chargor and the Lender from time to time in writing

**Business Day** means a day (other than a Saturday, Sunday or bank holiday) on which banks are open for general business in London

**CA2006** means the Companies Act 2006

**Chattels** has the meaning given to it in clause 3.4(d) (First fixed charges)

**Cost of Funds** means the cost of borrowing to the Lender or any member of the Lender's Group of Companies to enable it to fund the transactions related to the Secured Obligations

**Debts** has the meaning given to it in clause 3.4(h) (First fixed charges)

**Default** means an Event of Default or any event or circumstance which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default

**Distribution Agreement** means the IFTA international multiple rights distribution agreement made between 365Flix and SPI dated 7 January 2019

**Environmental Law** means any applicable law or regulation which relates to:

- (a) the pollution or protection of the environment
- (b) harm to or the protection of human health
- (c) the conditions of the workplace or



- (d) any emission or substance capable of causing harm to any living organism or the environment

**Event of Default** has the meaning given in the Loan Agreement

**Finance Document** means the Loan Agreement, this Deed any document governing or evidencing the terms of the Secured Obligations and any other document designated as a Finance Document by the Lender and the Chargor

**Financial Indebtedness** means any indebtedness for or in respect of:

- (a) monies borrowed
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with the generally accepted accounting principles in the United Kingdom, be treated as a finance or capital lease
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis)
- (f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value as at the relevant date on which Financial Indebtedness is calculated (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account)
- (g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution
- (h) any amount of any liability under an advance or deferred purchase agreement if (a) one of the primary reasons behind entering into the agreement is to raise finance or (b) the agreement is in respect of the supply of assets or services and payment is due more than 60 Business Days after the date of supply
- (i) any amount raised under any other transaction (including any forward sale or purchase agreement and any sale and leaseback arrangement) having the commercial or economic effect of a borrowing and
- (j) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (i)

**Fixtures** means in respect of any Secured Property, all fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery now or at any time after the date of this Deed on that Secured Property

**Floating Charge Assets** means all the assets and undertaking from time to time subject to the floating charge created under clause 3.5 (Floating charge)



**Goldfinch** means Goldfinch Science Fiction Limited (company number 11066313)

**Goldfinch Assignment** means the security assignment made between 365Flix (as assignor), the Chargor (as assignee) and Goldfinch dated 7 January 2019 assigning the right to receive US\$400,000 of the Guarantee Payment to the Chargor

**Goldfinch Loan Agreement** means the loan agreement made between the Chargor (as lender) and Goldfinch (as borrower) dated 7 January 2019 for a term loan of US\$400,000.00;

**Guarantee Payment** means sum of US\$425,000.00 specified in section III (*Financial Terms*) of the Distribution Agreement, which is payable by SPI by an instalment of US\$25,000 on execution of the Distribution Agreement and a further instalment of US\$400,000 payable within 30 days of Notice of Initial Delivery (as defined in the Distribution Agreement)

**Group of Companies** means any companies which are members of the same group of companies for the purposes of the provisions for group relief contained in Part 5 of the Corporation Tax Act 2010

**Insurance Policies** means all policies of insurance present and future in which the Chargor has an interest

**Intellectual Property** means:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, topography rights, domain names, moral rights, inventions, confidential information, knowhow and any other associated or similar intellectual property rights and interests anywhere in the world (which may now or in the future subsist), and in each case whether registered or unregistered and
- (b) the benefit of all applications, rights to apply for and rights to use such assets (including, without limitation, any licences and sub-licences of the same granted by it or to it) of the Chargor (which may now or in the future subsist)

**Investments** means any shares, stocks, debenture security, securities, bonds and investments of any type (other than the Subsidiary Shares) whatever, including but not limited to, negotiable instruments, certificates of deposit, eligible debt securities, interests in collective investment schemes, or other investments referred to in section 22 of, and as defined in Part II of schedule 2 to, the Financial Services and Markets Act 2000 and Part III of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, whether certificated or uncertificated, physical or dematerialised, registered or unregistered, held by the Chargor or by a trustee or clearance system or nominee

**Loan Agreement** means the loan agreement made between the Chargor and the Lender dated on or about the date of this Deed

**Occupational Lease** means a lease of a Secured Property in respect of which the Chargor is landlord

**Participating Member State** means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union

**Party** means a party to this Deed



**Planning Acts** means the Town and Country Planning Acts 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004 and any regulations or subordinate legislation made under any of the foregoing and any other statute or regulation governing or controlling the use or development of land and buildings

**Premises** means any building on a Secured Property

**Properties** mean the properties listed in schedule 1 (Properties)

**Receiver** means any receiver, manager or administrative receiver appointed by the Lender in respect of the Chargor or any of the Secured Assets

**Related Rights** means, in respect of any Investment or Subsidiary Share:

- (a) all monies paid or payable in respect of that Investment or Subsidiary Share (whether as income, capital or otherwise);
- (b) all shares, investments or other assets derived from that Investment or Subsidiary Share; and
- (c) all rights derived from or incidental to that Investment or Subsidiary Share

**Relevant Agreements** means:

- (a) the Goldfinch Loan Agreement;
- (b) the Goldfinch Assignment;
- (c) the Distribution Agreement (insofar as the same has been assigned to the Chargor pursuant to the Goldfinch Assignment);
- (d) the notice of assignment from 365Flix to SPI dated January 2019 notifying SPI that the Guarantee Payment has been assigned to the Chargor and the acknowledgement thereto from SPI to the Chargor; and
- (e) each other agreement designated as a Relevant Agreement by the Lender and the Chargor in writing from time to time

**Relevant Parties** means each of the persons who has entered into or executed a Relevant Agreement

**Relevant Policies** means all Insurance Policies (other than policies in respect of third party liability) together with all monies payable in respect of those policies

**Secured Assets** means all of the assets and undertaking of the Chargor the subject of any Security created by, under or supplemental to, this Deed in favour of the Lender

**Secured Obligations** means all monies and liabilities now or after the date of this Deed due, owing or incurred by the Chargor to the Lender whatsoever, in any manner and in any currency or currencies and whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing on such monies and liabilities and all costs, charges and expenses incurred





by the Lender, except for any obligation which, if it were included here, would constitute unlawful financial assistance, or its equivalent in any other jurisdiction

**Secured Property** means at any time the Properties and all other freehold, leasehold or commonhold property which is subject to any Security created by, under or supplemental to, this Deed

**Security** means a mortgage, charge, pledge, lien, assignment or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect

**Security Period** means the period beginning on the date of this Deed and ending on the date on which the Lender is satisfied that the Secured Obligations have been irrevocably and unconditionally satisfied in full and all facilities made available by the Lender to the Chargor have been cancelled

**SPI** means SPI International B.V. of De Cuserstraat 93, Floors 2 & 3, 1081 CN Amsterdam, The Netherlands

**Subsidiary** means a subsidiary undertaking within the meaning of section 1162 of the CA2006 and any company which would be a subsidiary undertaking within the meaning of section 1162 of the CA2006 but for any Security subsisting over the shares in that company from time to time

**Subsidiary Shares** means all shares present and future held by the Chargor in its Subsidiaries (including those listed in schedule 2 (Subsidiary Shares))

**Treasury Transaction** means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price

**VAT** means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature

## 1.2 Interpretation

- (a) Unless a contrary indication appears, a reference in this Deed to:
- (i) the Lender, the Chargor, any Party or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
  - (ii) **assets** includes present and future properties, revenues and rights of every description (including any right to receive such revenues);
  - (iii) 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 or restated (however fundamentally) or replaced;
  - (iv) **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;
  - (v) 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;

- (vi) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but if not having the force of law, then being a type with which persons to which it applies customarily comply) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
  - (vii) 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 Deed;
  - (viii) a time of day is a reference to London time;
  - (ix) **sterling** and £ shall be construed as a reference to the lawful currency of the United Kingdom;
  - (x) **US Dollar** and \$ shall be construed as a reference to the lawful currency of the United States of America;
  - (xi) **euro** and € shall be construed as a reference to the single currency of Participating Member States; and
  - (xii) **dispose** includes any sale, lease, licence, transfer or loan.
- (b) Clause and schedule headings are for ease of reference only.
  - (c) Any word importing the singular shall include the plural and vice versa.
  - (d) A Default (other than an Event of Default) is **continuing** if it has not been remedied or waived and an Event of Default is **continuing** if it has not been waived, in both cases, to the satisfaction of the Lender.
  - (e) Any certificate provided by a director of the Chargor pursuant to the terms of this Deed shall be given without incurring any personal liability.
  - (f) A term defined in this Deed has the same meaning when used in any notices, acknowledgements or other documents issued under or in connection with this Deed.

### 1.3 Third party rights

- (a) Unless expressly provided to the contrary in any Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed or any other Finance Document issued or entered into under or in connection with it.
- (b) Unless expressly provided to the contrary in any Finance Document the consent of any person who is not a Party is not required to rescind or vary this Deed or any other Finance Document entered into under or in connection with it.

### 1.4 Administration



- (a) Any reference in this Deed, or any other Finance Document entered into under or in connection with it, to the making of an administration order shall be treated as including a reference to the appointment of an administrator under paragraph 14 (by the holder of a qualifying floating charge in respect of the Chargor's assets) or 22 (by the Chargor or the directors of the Chargor) of Schedule B1 to the Insolvency Act 1986 or any steps taken toward such order or appointment.
- (b) Any reference in this Deed or any other Finance Document entered into under or in connection with it, to making an application for an administration order by petition shall be treated as including a reference to making an administration application to the court under Schedule B1 to the Insolvency Act 1986, appointing an administrator under paragraph 14 or 22 of that Schedule, or giving notice under paragraph 15 or 26 of that Schedule of intention to appoint an administrator or any steps taken towards such application or notice.

## **1.5 Incorporated terms**

The terms of the Finance Documents and of any side letters relating to the Finance Documents and the Secured Obligations are incorporated into this Deed to the extent required for any purported disposition of any Secured Assets contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

## **2 Covenant to pay**

The Chargor covenants with the Lender to pay and discharge the Secured Obligations when they become due for payment and discharge.

## **3 Charging provisions**

### **3.1 General**

All Security created by the Chargor under clauses 3.2 to 3.5 inclusive is:

- (a) a continuing security for the payment and discharge of the Secured Obligations;
- (b) granted with full title guarantee;
- (c) granted in respect of all the right, title and interest (if any), present and future, of the Chargor in and to the relevant Secured Asset; and
- (d) granted in favour of the Lender.

### **3.2 First legal mortgages**

The Chargor charges by way of first legal mortgage the Properties and all Premises and Fixtures on each of the Properties.

### **3.3 Assignments**

- (a) The Chargor assigns:
  - (i) the Relevant Agreements (including but not limited to the right to receive the Guarantee Payment and all other sums payable and to become payable to the Chargor under the Relevant Agreements); and



- (ii) the Relevant Policies to which is a party.
- (b) The Chargor shall remain liable to perform all its obligations under the Relevant Agreements and the Relevant Policies.

### 3.4 First fixed charges

The Chargor charges by way of first fixed charge:

- (a) all interests and estates in any freehold, leasehold or commonhold property now or subsequently owned by it and, in each case, the Premises and Fixtures on each such property;
- (b) the proceeds of sale of its Secured Property and all licences to enter on or use any Secured Property;
- (c) the benefit of all other agreements, instruments and rights relating to its Secured Property;
- (d) all plant, machinery, vehicles, computers, office and other equipment, all furniture, furnishings, equipment and tools and any removals or replacement of them, (together **Chattels**) present and future and the benefit of all contracts, licences, warranties, maintenance contracts relating to them and any renewals and replacements of them;
- (e) the Subsidiary Shares together with all Related Rights;
- (f) the Investments together with all Related Rights;
- (g) the Relevant Policies and any other insurance policies from time to time in which the Chargor has an interest and all proceeds of them;
- (h) all book and other debts due to the Chargor and their proceeds (both collected and uncollected) (together **Debts**) and all rights, guarantees, security or other collateral in respect of the Debts (or any of them) and the benefit of any judgment or order to pay a sum of money and all rights to enforce the Debts (or any of them);
- (i) all monies from time to time standing to the credit of each Blocked Account;
- (j) all monies from time to time standing to the credit of each account held by the Chargor with any bank, building society, financial institution or other person other than any Blocked Account (each an **Account**);
- (k) all its Intellectual Property;
- (l) all its goodwill and uncalled capital;
- (m) the benefit of all Authorisations held or utilised by it in connection with its business or the use of any of its assets and the right to recover and receive compensation payable in respect of any of them;
- (n) its rights under any hedging agreement or any other Treasury Transaction; and
- (o) to the extent that any assignment in clause 3.3 is ineffective as an assignment, the assets referred to in that clause.



### 3.5 Floating charge

The Chargor charges by way of first floating charge all its assets and undertaking wherever located both present and future other than any assets effectively charged by way of legal mortgage or fixed charge or assigned under clauses 3.2, 3.3 or 3.4.

### 3.6 Qualifying floating charge

This Deed contains a qualifying floating charge and paragraph 14 of Schedule B1 of the Insolvency Act 1986 applies to the floating charge created by or under this Deed.

### 3.7 Conversion of floating charge to a fixed charge

The Lender may at any time by notice in writing to the Chargor convert the floating charge created under clause 3.5 into a fixed charge as regards any Floating Charge Asset as it shall specify in the notice if:

- (a) an Event of Default is continuing; or
- (b) in the opinion of the Lender that Floating Charge Asset is in danger of being seized or any legal process or execution is being enforced against that Floating Charge Asset.

### 3.8 Automatic conversion of floating charge to a fixed charge

If (unless permitted in writing by the Lender or expressly permitted under the terms of any Finance Document):

- (a) the Chargor creates or attempts to create any Security over any of its Floating Charge Assets;
- (b) any person levies or attempts to levy any distress, attachment, execution or other legal process against any Floating Charge Asset; or
- (c) any corporate action, legal proceedings or other procedures or steps are taken for the winding up, dissolution, administration or reorganisation of the Chargor,

the floating charge created by this Deed will automatically and immediately without notice be converted into a fixed charge over the relevant assets or, in the circumstances described in clause 3.8(c), over all of the Floating Charge Assets.

### 3.9 Small company moratorium

Where the Chargor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 to the Insolvency Act 1986, then the obtaining of a moratorium, including any preliminary decision, or investigation in terms of paragraph 43 of Schedule A1 to the Insolvency Act 1986 shall not cause the floating charge created by this Deed to crystallise into a fixed charge, nor cause restrictions which would not otherwise apply to be imposed on the disposal of its property and assets by the Chargor.

## 4 Continuing security

- 4.1 The Security constituted by this Deed shall be continuing security and shall remain in full force and effect regardless of any intermediate payment or discharge by the Chargor or any other person of the whole or any part of the Secured Obligations.

#### 4.2 Recourse

The Security constituted by this Deed:

- (a) is in addition to any other Security which the Lender may hold at any time for the Secured Obligations (or any of them); and
- (b) may be enforced without first having recourse to any other rights of the Lender.

#### 5 Representations

- 5.1 The Chargor makes the representations and warranties set out in this clause 5 to the Lender on the date of this Deed. Such representations and warranties are deemed to be made by the Chargor on each day during the Security Period and are deemed to be made by reference to the facts and circumstances existing at that date.
- 5.2 The Security created or expressed to be created under this Deed has or will have first ranking priority and it is not subject to any prior ranking or pari passu ranking Security.
- 5.3 It has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.
- 5.4 It is the sole legal and beneficial owner of the respective assets over which it purports to grant Security.
- 5.5 The Chargor further represents and warrants in relation to each Relevant Agreement (such representations and warranties to be deemed to be repeated in accordance with clause 5.1 above):
  - (a) that it is fully valid and enforceable against each of the Relevant Parties thereto;
  - (b) that all the requirements of all relevant enactments or regulations for the time being in force have been complied with in relation to the Relevant Agreement and in relation to any contract or guarantee or indemnity given in connection therewith;
  - (c) that no right of action is vested in the Relevant Parties therein named in respect of any misrepresentation, breach of condition, breach of warranty or other express or implied term;
  - (d) that the Chargor has no knowledge of any fact which would or might prejudice or affect any right power or ability of the Lender to enforce any term or terms thereof;
  - (e) that the Chargor is the sole legal and beneficial owner of the Relevant Agreement free and clear from any lien, charge, encumbrance or other third party interest whatsoever; and
  - (f) that the Relevant Agreement is in a form which has been inspected and approved by the Lender in writing.
- 5.6 For the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (**Regulation**), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in England and Wales and it has no "establishment" (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction.

#### 6 Negative pledge



6.1 The Chargor shall not create or permit to subsist any Security over any of its assets.

6.2 The Chargor shall not:

- (a) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by it;
- (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
- (c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
- (d) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

## **7 Restrictions on disposals**

7.1 The Chargor shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any Secured Assets.

7.2 Clause 7.1 does not apply to any disposal which is permitted by the Lender in writing or expressly permitted under the terms of any Finance Document.

## **8 Further assurance**

8.1 The Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Lender may reasonably specify (and in such form as the Lender may reasonably require) in favour of the Lender or its nominee(s):

- (a) to create, perfect, protect and maintain the Security created or intended to be created under or evidenced by this Deed or for the exercise of any rights, powers and remedies of the Lender provided by or pursuant to this Deed or by law;
- (b) to confer on the Lender Security over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Deed; and/or
- (c) (if an Event of Default is continuing) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created by or under this Deed.

8.2 The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Lender by or pursuant to this Deed.

8.3 Any document required to be executed by the Chargor under this clause 8 will be prepared at the cost of the Chargor.

## **9 Undertakings**



The Chargor undertakes to the Lender in accordance with this clause 9. The undertakings in this clause 9 shall remain in force during the Security Period. Save to the extent that the provisions of this clause 9 are inconsistent with or conflict with terms of the Loan Agreement or any other Finance Document entered into between the Chargor and the Lender from time to time, the Chargor will comply with the terms of this clause 9.

#### **9.1 Proceeds of Relevant Agreements**

All of the proceeds of the Relevant Agreements received by the Chargor (including but not limited to any monies in respect of the Guarantee Payment) shall be deemed to have been received by it for and on behalf of and as trustee for the Lender and the Chargor shall pay the same to the Lender forthwith upon receipt by the Chargor.

#### **9.2 Notices of assignment of Relevant Agreements**

- (a) The Chargor shall give notice in the form specified in Part 1 (Form of notice of assignment) of Schedule 3 to Goldfinch on or before the date of this Deed. The Chargor shall ensure that Goldfinch acknowledges that notice in the relevant form specified in Schedule 3 forthwith on the date of this Deed.
- (b) The Chargor shall give notice in the form specified in Part 2 (Form of notice of assignment) of Schedule 3 to SPI on or before the date of this Deed. The Chargor shall ensure that SPI acknowledges that notice in the relevant form specified in Schedule 3 forthwith on the date of this Deed.

#### **9.3 Undertakings in relation to Relevant Agreements**

The Chargor shall:

- (a) perform all its obligations devolving on it by contract or otherwise under the Relevant Agreements, and the Chargor shall perform all its obligations under any other agreement or arrangement made between the Chargor and any Relevant Party from time to time;
- (b) not without the previous written consent of the Lender make nor agree to any variation, supplement, waiver, release, termination or novation in respect of any of the Relevant Agreements or any of the Chargor's rights thereunder;
- (c) not at any time hereafter do or omit to do any act matter or thing which might in any way prejudice or adversely affect the Chargor's rights under any of the Relevant Agreements or any of the Lender's rights hereunder;
- (d) upon request supply in writing to the Lender all information required in relation to the Relevant Agreements provided the Chargor is in possession of the information requested;
- (e) issue invoices to the Relevant Parties named in the Relevant Agreements for the sums payable thereunder promptly upon such sums falling due for payment and provide certified copies of such invoices to the Lender on request;
- (f) not at any time terminate any Relevant Agreement and not make nor agree to any reduction in the instalments or other sums payable under any of the Relevant Agreements, in each case without the prior written consent of the Lender;





- (g) ensure that each of the Relevant Agreements is completed upon a form which has been inspected and approved by the Lender in writing;
- (h) at the Chargor's own expense, institute continue or defend all such proceedings in connection with the Relevant Agreements or any part thereof as the Lender may require; and
- (i) maintain proper accounts in the names of the Relevant Parties showing the amounts paid by and due from such Relevant Parties under the Relevant Agreements and shall permit full inspection and audit of such accounts by the Lender when required and will further permit the Lender or any person authorised by it to take such copies of the said accounts and such extracts therefrom as it may require.

#### **9.4 Insurance Policies**

The Lender may give notice to each insurer under each Relevant Policy that the Chargor has assigned to the Lender all its right, title and interest in that Relevant Policy at any time after the occurrence of an Event of Default.

#### **9.5 Blocked Accounts**

The Lender may give notice to each financial institution at which a Blocked Account is held (if such financial institution is not the Lender) that the Chargor has created a fixed charge over the balance standing to the credit of that Blocked Account.

#### **9.6 Real property**

##### **(a) Access**

It will permit the Lender and such person or persons as the Lender shall nominate at all reasonable times and on reasonable notice to enter on any part of its Secured Property.

##### **(b) Repair**

(i) It shall keep its Secured Property in good and substantial repair and condition and decorative order.

(ii) It shall repair any defect or damage to any of its Secured Property promptly and if it fails to do so the Lender may, but shall not be obliged to, do so.

##### **(c) Outgoings**

It will punctually pay and indemnify the Lender and any Receiver against all present and future rents, rates, taxes, assessments and outgoings of whatsoever nature imposed on or payable in respect of its Secured Property or any part of it or payable by the owner or occupier of it.

#### **9.7 Leases**

##### **(a) Lease and covenant compliance**

It shall:



- (i) perform all the terms on its part contained in any lease or agreement for lease under which it holds an interest in a Secured Property or to which any of its Secured Property is subject;
- (ii) properly perform (and indemnify the Lender and each Receiver for any breach of) any covenants and stipulations of whatsoever nature affecting any of its Secured Property;
- (iii) not make any election or take any other action so as to alter the treatment of any Occupational Lease for the purposes of value added tax;
- (iv) not, without the prior written consent of the Lender, serve notice on any former tenant under any Occupational Lease under section 17(2) of the Landlord and Tenant (Covenants) Act 1995 or on any guarantor of any such former tenant under section 17(3) of that act; and
- (v) immediately notify the Lender of any notice received by it under section 146 of the Law of Property Act 1925 or any proceedings commenced or steps taken against it for the forfeiture of any lease under which it holds an interest in a Secured Property.

**(b) Landlord's consent**

If under the terms of any lease under which it holds an interest in any Secured Property, the Chargor is not permitted to charge its interest in such Secured Property without the consent of the landlord;

- (i) it undertakes promptly to make an application for landlord's consent to the creation of the fixed charge contained in clause 3.4 (First fixed charges) and any charge to be created under clause 8 (Further assurance), shall use all reasonable endeavours to obtain such consent as soon as possible and shall keep the Lender informed of the progress of its negotiations with such landlord;
- (ii) subject to clause 9.2(b)(iii):
  - (A) no breach of any representation in the Finance Documents shall occur by virtue of the Chargor's failure to have obtained such landlord's consent; and
  - (B) if the landlord indicates in writing that it proposes to commence, or commences an action of forfeiture of the lease, the Lender shall release from such fixed charge, the Chargor's interest in the lease;
- (iii) clause 9.2(b)(ii) shall only apply where the Chargor has complied with its obligations under clause 9.2(b)(i)9.7(b)(i), but the landlord has not given the consent requested of it;
- (iv) upon receipt by the Lender of evidence in writing of the consent of the landlord to the creation and existence of the fixed charge over the Chargor's interest in such lease, clause 9.2(b)(ii) shall cease to apply in respect of the relevant Secured Property.

**(c) No variation to lease**



It shall not without the prior written consent of the Lender alter or vary or agree to alter or vary the terms of any lease under which it holds any Secured Property or any lease to which any Secured Property is subject.

**(d) No surrender or termination**

It shall not without the prior written consent of the Lender surrender or otherwise terminate any lease under which it holds a Secured Property or terminate, forfeit or accept a surrender of any lease to which any Secured Property is subject.

**(e) Compliance by tenants**

It shall use reasonable endeavours to procure that each tenant under an Occupational Lease complies with the terms of that Occupational Lease.

**(f) Lease or right to occupy**

It will not without the prior written consent of the Lender:

- (i) grant any lease or tenancy or exercise any other power of leasing of the whole or part of any Secured Property; or
- (ii) grant any person any contractual licence or the right to occupy any Secured Property or part with possession of it.

**(g) Forfeiture**

It shall not do or permit anything which may render any lease or agreement for lease under which it holds an interest in a Secured Property, or to which the Secured Property is subject, liable to forfeiture or otherwise determinable.

**9.8 Subsidiary Shares and Investments**

**(a) On the later of:**

- (i) the date of this Deed; and
- (ii) the date of acquisition of those Subsidiary Shares, Investments or Related Rights

It shall:

- (A) deliver to the Lender all certificates of title and other documents of title or evidence of ownership in respect of its Subsidiary Shares or Investments and the Related Rights; and
- (B) deliver to the Lender such transfer documents (with the transferee left blank) or any other documents as the Lender may require or otherwise request in respect of those Subsidiary Shares, Investments and Related Rights.

**9.9 Insurance**

- (a) It shall effect and maintain, in a form and amount and with an insurance company or underwriters acceptable to the Lender, such insurance on and in respect of its



business and its assets as the Lender considers a prudent company carrying on the same or substantially similar business as the Chargor would effect.

- (b) It shall promptly pay all premiums and do all other things necessary to keep all of the policies of insurance in which it has an interest in full force and effect.
- (c) It shall ensure that:
  - (i) the name of the Lender be noted on each policy of insurance as mortgagee and first loss payee;
  - (ii) each policy of insurance shall contain a standard mortgagee clause whereby, among other things, the insurance shall not be vitiated or avoided as against a mortgagee notwithstanding that it could otherwise be so against the Chargor; and
  - (iii) each policy of insurance shall contain a provision to the effect that the insurance shall not be invalidated as against the Lender for non-payment of any premium due without the insurer first giving to the Lender not less than 14 days' written notice.
- (d) It shall not do or permit to be done anything to render the insurance void or voidable.
- (e) If the Chargor shall be in default of effecting or maintaining insurances or in producing any such policy or receipt to the Lender on demand, the Lender may take out or renew such insurances in any sum which the Lender may think expedient and all monies expended and costs incurred by the Lender under this provision shall be for the account of the Chargor.
- (f) Subject to any statutory or contractual restriction arising before the date of this Deed, at the option of the Lender any proceeds of insurance shall be applied towards the repayment of the Secured Obligations.
- (g) Subject to clause 9.4(f) above with the prior written consent of the Lender, all proceeds of insurance shall be applied towards replacing or reinstating the property in respect of which the proceeds are received.
- (h) It shall procure that there is given to the Lender copies of the insurances in which it has an interest, and such other information in connection with them as the Lender may reasonably require. It will notify the Lender in writing of all renewals, material variations and cancellations of policies made or, to its knowledge of it, threatened or pending.

#### **9.10 General**

It shall not do or cause or permit to be done anything which may in any way materially depreciate, jeopardise or otherwise prejudice the value to the Lender of the Security created by or under this Deed.

#### **10 Power to remedy**

- 10.1 If the Chargor fails to comply with any of the undertakings set out in clause 9 (Undertakings), it shall allow and irrevocably authorises the Lender and/or such persons as it shall nominate to take such action on its behalf as shall be necessary to ensure that it complies with those undertakings.



- 10.2 If the Chargor fails to perform any obligation or other covenant affecting the Secured Property or other Secured Asset, the Chargor shall permit the Lender or its agents and contractors:
- (a) to enter on the Secured Property;
  - (b) to comply with or object to any notice served on the Chargor relating to the Secured Property or other Secured Asset; and
  - (c) to take any action the Lender may reasonably consider expedient to prevent or remedy any breach of any such term or to comply with or object to any such notice.
- 10.3 The Chargor shall within 3 Business Days of demand indemnify the Lender against any cost, loss or liability incurred by it in taking any of the steps referred to in this clause 10.

## **11 Security power of attorney**

The Chargor, by way of security, irrevocably and severally appoints the Lender, each Receiver and any of their delegates or sub-delegates to be its attorney to take any action which the Chargor is obliged to take under this Deed. The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause 11.

## **12 Enforcement of security**

### **12.1 When security is enforceable**

On the occurrence of any Event of Default which is continuing, the Security created by and under this Deed is immediately enforceable.

### **12.2 Acts of enforcement**

The Lender may, at its absolute discretion, at any time after the Security created by or under this Deed is enforceable:

- (a) enforce all or any part of the Security created by or under this Deed in any manner it sees fit;
- (b) exercise its rights and powers conferred upon mortgagees by the Law of Property Act 1925, as varied and extended by this Deed, and rights and powers conferred on a Receiver by this Deed, whether or not it has taken possession or appointed a Receiver to any of the Secured Assets;
- (c) appoint a Receiver to all or any part of the Secured Assets;
- (d) appoint an administrator in respect of the Chargor and take any steps to do so;
- (e) exercise its power of sale under section 101 of the Law of Property Act 1925 (as amended by this Deed); or
- (f) if permitted by law, appoint an administrative receiver in respect of the Chargor.

### **12.3 Right of appropriation**

To the extent that the Security created by this Deed constitutes a "security financial collateral arrangement" and the Secured Assets constitute "financial collateral" for the purpose of the



Financial Collateral Arrangements (No 2) Regulations 2003 (**Regulations**), the Lender shall have the right on giving prior notice to the Chargor, at any time after the Security becomes enforceable, to appropriate all or any part of those Secured Assets in or towards discharge of the Secured Obligations. The Parties agree that the value of the appropriated Secured Assets shall be, in the case of cash, the amount of cash appropriated and, in the case of Subsidiary Shares and Investments, determined by the Lender by reference to any publicly available market price and, in the absence of which, by such other means as the Lender (acting reasonably) may select including, without limitation, an independent valuation. For the purpose of Regulation 18(1) of the Regulations, the Chargor agrees that any such determination by the Lender will constitute a valuation "in a commercially reasonable manner".

#### **12.4 Statutory powers - general**

- (a) For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the Law of Property Act 1925 and section 93 of the Law of Property Act 1925 do not apply to the Security constituted by or under this Deed.
- (c) The statutory powers of leasing conferred on the Lender are extended so that, without the need to comply with any provision of section 99 or section 100 of the Law of Property Act 1925, the Lender is empowered to lease and make agreements for lease at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it may think fit.
- (d) Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 and the Insolvency Act 1986 on mortgagees and Receivers.

#### **12.5 Contingencies**

If the Lender enforces the Security constituted by or under this Deed at a time when no amounts are due to the Lender but at a time when amounts may or will become so due, the Lender (or the Receiver) may pay the proceeds of any recoveries effected by it into an interest bearing suspense account.

#### **12.6 Mortgagee in possession - no liability**

Neither the Lender nor any Receiver will be liable, by reason of entering into possession of a Secured Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might otherwise be liable.

#### **12.7 Redemption of prior mortgages**

At any time after the Security created by or under this Deed has become enforceable, the Lender may, at the sole cost of the Chargor (payable to the Lender on demand):

- (a) redeem any prior form of Security over any Secured Asset; and/or
- (b) procure the transfer of that Security to itself; and/or
- (c) settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which once so settled and passed shall be conclusive and binding on the Chargor.

## **13 Receiver**

### **13.1 Appointment of Receiver**

#### **(a)**

- (i) At any time after any Security created by or under this Deed is enforceable, the Lender may appoint a Receiver to all or any part of the Secured Assets in accordance with clause 12.2(c) (Acts of enforcement).
- (ii) At any time, if so requested in writing by the Chargor, without further notice, the Lender may appoint a Receiver to all or any part of the Secured Assets as if the Lender had become entitled under the Law of Property Act 1925 to exercise the power of sale conferred under the Law of Property Act 1925.

(b) Any Receiver appointed under this Deed shall be the agent of the Chargor and the Chargor shall be solely responsible for his acts or defaults and for his remuneration and liable on any contracts or engagements made or entered into by him and in no circumstances whatsoever shall the Lender be in any way responsible for any misconduct, negligence or default of the Receiver.

(c) Where the Chargor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 to the Insolvency Act 1986:

- (i) obtaining a moratorium; or
- (ii) anything done with a view to obtaining a moratorium including any preliminary decision or investigation in terms of paragraph 43 of Schedule A1 to the Insolvency Act 1986,

shall not be grounds for appointment of a Receiver.

### **13.2 Removal**

The Lender may by written notice remove from time to time any Receiver appointed by it (subject to the provisions of section 45 of the Insolvency Act 1986 in the case of an administrative receiver) and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated.

### **13.3 Powers of Receiver**

#### **(a) General**

- (i) In addition to those conferred by the Law of Property Act 1925 on any Receiver appointed under that Act, each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out in this clause 13.3.
- (ii) If there is more than one Receiver holding office at the same time, unless the document appointing him states otherwise, each Receiver may exercise all of the powers conferred on a Receiver under this Deed or under the Insolvency Act 1986 individually and to the exclusion of any other Receivers.
- (iii) A Receiver of the Chargor has all the rights, powers and discretions of an administrative receiver under the Insolvency Act 1986.

(iv) A Receiver may, in the name of the Chargor:

- (A) do all other acts and things which he may consider expedient for realising any Secured Asset; and
- (B) exercise in relation to any Secured Asset all the powers, authorities and things which he would be capable of exercising if he were its absolute beneficial owner.

(b) **Borrow money**

A Receiver may raise and borrow money (either unsecured or on the security of any Secured Asset, either in priority to the security constituted by this Deed or otherwise) on any terms and for whatever purpose which he thinks fit. No person lending that money need enquire as to the propriety or purpose of the exercise of that power or to check the application of any money so raised or borrowed.

(c) **Carry on business**

A Receiver may carry on the business of the Chargor as he thinks fit and, for the avoidance of doubt, a Receiver may apply for such Authorisations as he considers in his absolute discretion appropriate.

(d) **Compromise**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Secured Asset.

(e) **Delegation**

A Receiver may delegate his powers in accordance with clause 14 (Delegation).

(f) **Employees**

For the purposes of this Deed, a Receiver as he thinks appropriate, on behalf of the Chargor or for itself as Receiver, may:

- (i) appoint and discharge managers, officers, agents, accountants, servants, workmen and others upon such terms as to remuneration or otherwise as he may think proper; and
- (ii) discharge any such persons appointed by the Chargor.

(g) **Leases**

A Receiver may let any Secured Asset for any term and at any rent (with or without a premium) which he thinks proper and may accept a surrender of any lease or tenancy of any Secured Assets on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender).

(h) **Legal actions**



A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings or submit to arbitration or any form of alternative dispute resolution in the name of the Chargor in relation to any Secured Asset as he considers expedient.

(i) **Possession**

A Receiver may take immediate possession of, get in and collect any Secured Asset.

(j) **Protection of assets**

A Receiver may, in each case as he may think fit:

- (i) make and effect all repairs and insurances and do all other acts which the Chargor might do in the ordinary conduct of its business be they for the protection or for the improvement of the Secured Assets;
- (ii) commence and/or complete any building operations on the Secured Property or other Secured Asset; and
- (iii) apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence.

(k) **Receipts**

A Receiver may give valid receipts for all monies and execute all assurances and things which may be expedient for realising any Secured Asset.

(l) **Sale of assets**

A Receiver may sell, exchange, convert into monies and realise any Secured Asset by public auction or private contract in any manner and on any terms which he thinks proper. The consideration for any such transaction may consist of cash, debenture or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit. Fixtures and any plant and machinery annexed to any part of the Secured Property may be severed and sold separately from the property containing them without the consent of the Chargor.

(m) **Subsidiaries**

A Receiver may form a Subsidiary of the Chargor and transfer to that Subsidiary any Secured Asset.

(n) **Deal with Secured Assets**

A Receiver may, without restriction sell, let or lease, or concur in selling, letting or leasing, or vary the terms of, determine, surrender or accept surrenders of, leases or tenancies of, or grant options and licences over or otherwise dispose of or deal with, all or any part of the Secured Assets without being responsible for loss or damage, and so that any such sale, lease or disposition may be made for cash payable by instalments, loan stock or other debt obligations or for shares or securities of another company or other valuable consideration. The Receiver may form and promote, or concur in forming and promoting, a company or companies to purchase, lease, licence or otherwise acquire interests in all or any of the Secured Assets or otherwise, arrange for such companies to trade or cease to trade and to purchase, lease, license



or otherwise acquire all or any of the Secured Assets on such terms and conditions whether or not including payment by instalments secured or unsecured as he may think fit.

(o) **Voting rights**

A Receiver may exercise all voting and other rights attaching to the Investments, Subsidiary Shares, Related Rights, and stocks, shares and other securities owned by the Chargor and comprised in the Secured Assets in such manner as he may think fit.

(p) **Security**

A Receiver may redeem any prior Security and settle and pass the accounts of the person entitled to the prior Security so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver.

(q) **Acquire land**

The Receiver may purchase or acquire any land and purchase, acquire or grant any interest in or right over land.

(r) **Development**

A Receiver may implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on, any real property comprised in the Secured Property and do all acts and things incidental to the Secured Property.

(s) **Landlord's obligations**

A Receiver may on behalf of the Chargor and without consent of or notice to the Chargor exercise all the powers conferred on a landlord or a tenant by the Landlord and Tenants Acts, the Rents Acts and Housing Acts or any other legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Secured Property.

(t) **Uncalled capital**

A Receiver may make calls conditionally or unconditionally on the members of the Chargor in respect of uncalled capital.

(u) **Incidental matters**

A Receiver may do all other acts and things including without limitation, signing and executing all documents and deeds as may be considered by the Receiver to be incidental or conducive to any of the matters or powers listed here or granted by law or otherwise incidental or conducive to the preservation, improvement or realisation of the Secured Assets and to use the name of the Chargor for all the purposes set out in this clause 13.

#### 13.4 **Remuneration**

The Lender may from time to time fix the remuneration of any Receiver appointed by it.



## **14 Delegation**

- 14.1 The Lender and any Receiver may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by the Lender and the Receiver (as appropriate) under this Deed to any person or persons as it shall think fit. Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Lender and Receiver (as appropriate) may think fit.
- 14.2 The Lender and any Receiver will not be liable or responsible to the Chargor or any other person for any losses, liabilities or expenses arising from any act, default, omission or misconduct on the part of any delegate.

## **15 Application of monies**

- 15.1 Sections 109(6) and (8) (Appointment, powers, remuneration and duties of receiver) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed.
- 15.2 All monies received by the Lender or any Receiver under this Deed shall be applied in discharge of the Secured Obligations shall be applied to the Secured Obligations in such order as the Lender may determine.
- 15.3 The Lender and any Receiver may place any money received, recovered or realised pursuant to this Deed in an interest bearing suspense account and it may retain the same for such period as it considers expedient without having any obligation to apply the same or any part of it in or towards discharge of the Secured Obligations.

## **16 Remedies and waivers**

- 16.1 No failure to exercise, nor any delay in exercising, on the part of the Lender or any Receiver, 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 provided by law.
- 16.2 A waiver given or consent granted by the Lender under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

## **17 Protection of third parties**

- 17.1 No person (including a purchaser) dealing with the Lender or a Receiver or its or his agents has an obligation to enquire of the Lender, Receiver or others:
- (a) whether the Secured Obligations have become payable;
  - (b) whether any power purported to be exercised has become exercisable;
  - (c) whether any Secured Obligations or other monies remain outstanding;
  - (d) how any monies paid to the Lender or to the Receiver shall be applied; or
  - (e) the status, propriety or validity of the acts of the Receiver or Lender.
- 17.2 The receipt by the Lender or any Receiver shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Lender or any Receiver.



- 17.3 In clauses 17.1 and 17.2, **purchaser** includes any person acquiring, for money or monies worth, any lease of, or Security over, or any other interest or right whatsoever in relation to, the Secured Assets or any of them.

**18 Additional security**

The Security created by or under this Deed is in addition to and is not in any way prejudiced by any guarantee or security now or subsequently held by the Lender.

**19 Settlements conditional**

- 19.1 If the Lender (acting reasonably) believes that any amount paid by the Chargor or any other person in respect of the Secured Obligations is capable of being avoided or set aside for any reason, then for the purposes of this Deed, such amount shall not be considered to have been paid.

- 19.2 Any settlement, discharge or release between the Chargor and the Lender shall be conditional upon no Security or payment to or for the Lender by the Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any law relating to bankruptcy, insolvency or liquidation or otherwise.

**20 Subsequent Security**

If the Lender receives notice of any other subsequent Security or other interest affecting all or any of the Secured Assets it may open a new account or accounts for the Chargor in its books. If it does not do so then, unless it gives express written notice to the contrary to the Chargor, as from the time of receipt of such notice by the Lender, all payments made by the Chargor to the Lender shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations.

**21 Set-off**

The Lender may, set off any matured obligation due from the Chargor (to the extent beneficially owned by the Lender) against any matured obligation owed by the Lender to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

**22 Notices**

**22.1 Communications in writing**

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax or letter.

**22.2 Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed:

- (a) in the case of the Chargor, that identified with its name below; and
- (b) in the case of the Lender, that identified with its name below,



or any substitute address, fax number or department or officer as the Party may notify to the others by not less than 5 Business Days' notice.

### **22.3 Delivery**

(a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective:

- (i) if by way of fax, when received in legible form; or
- (ii) if by way of letter, when it has been left at the relevant address or 3 Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under clause 22.2, if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified with the Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose).

### **23 Invalidity**

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

### **24 Assignment**

The Lender may assign or otherwise transfer all or any part of its rights under this Deed or any Security created by or under it.

### **25 Releases**

Upon the expiry of the Security Period, the Lender shall, at the request and cost of the Chargor, take whatever action is necessary to release and reassign to the Chargor:

- (a) its rights arising under this Deed;
- (b) the Secured Assets from the Security created by and under this Deed,

and return all documents or deeds of title delivered to it under this Deed.

### **26 Currency clauses**

26.1 Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

- (a) any reference in this Deed to, and any obligations arising under this Deed in, the currency of that country shall be translated into, or paid in, the currency or currency



unit of that country designated by the Lender (after consultation with the Chargor); and

- (b) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Lender (acting reasonably).

26.2 If a change in any currency of a country occurs, this Deed will, to the extent the Lender (acting reasonably and after consultation with the Chargor) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the London interbank market and otherwise to reflect the change in currency.

26.3 If a payment is made to the Lender under this Deed in a currency (**Payment Currency**) other than the currency in which it is expressed to be payable (**Contractual Currency**), the Lender may convert that payment into the Contractual Currency at the rate at which it (acting reasonably and in good faith) is able to purchase the Contractual Currency with the Payment Currency on or around the date of receipt of the payment and to the extent that the converted amount of the payment falls short of the amount due and payable the Chargor will remain liable for such shortfall.

## 27 Certificates and determinations

Any certification or determination by the Lender of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

## 28 Indemnity

### Chargor's indemnity

- (a) The Chargor shall promptly indemnify the Lender and every Receiver and Delegate (each an **Indemnified Person**) against any cost, loss or liability together with any associated VAT incurred by any of them as a result of:
  - (i) the taking, holding, protection or enforcement of this Deed;
  - (ii) the exercise of any of the rights, powers, discretions and remedies vested in the Lender and each Receiver and Delegate by this Deed or by law; and
  - (iii) any default by the Chargor in the performance of any of the obligations expressed to be assumed by it in this Deed.
- (b) The Chargor shall indemnify the Lender against any and all costs, losses, liabilities or expenses together with any associated VAT incurred by the Lender arising (directly or indirectly) out of or in connection with:
  - (i) any breach or potential breach of or liability (whether civil and/or criminal) under any Environmental Law;
  - (ii) any responsibility on the part of the Lender in respect of any clean-up, repair or other corrective action; or
  - (iii) the business or any real property of the Chargor.



- (c) The Lender may indemnify itself out in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause and shall have a lien on this Deed and the proceeds of the enforcement of this Deed for all monies payable to it.

## **29 Exclusion of liability**

### **29.1 No liability**

Neither the Lender nor any Receiver shall be liable in respect of all or any part of the Secured Assets or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers unless such loss or damage is caused by its gross negligence or wilful acts of default and recklessness.

### **29.2 Officers and agents**

The Chargor may not take proceedings against any officer, employee or agent of the Lender in respect of any claim it might have against the Lender or in respect of any act or omission of any kind by that officer, employee or agent in relation to this Deed and any officer, employee or agent of the Lender may rely on this clause.

## **30 Fees, costs and expenses**

### **30.1 Transaction expenses**

The Chargor shall promptly on demand pay the Lender the amount of all costs, fees and expenses (including legal fees) together with any associated VAT incurred by it in connection with the negotiation, preparation, printing, execution and perfection of this Deed.

### **30.2 Amendment costs**

If the Chargor requests an amendment, waiver or consent of this Deed, the Chargor shall, within 3 Business Days of demand, reimburse the Lender for the amount of all costs and expenses (including legal fees) together with any associated VAT reasonably incurred by the Lender in responding to, evaluating, negotiating or complying with the request or requirement.

### **30.3 Enforcement and preservation costs**

The Chargor shall, within 3 Business Days of demand, pay to the Lender the amount of all costs, fees and expenses (including legal fees) together with any associated VAT incurred by the Lender in connection with the enforcement of or the preservation of any rights under this Deed and any proceedings instituted by or against the Lender as a consequence of taking or holding the Security created or expressed to be created in favour of the Lender under this Deed or enforcing these rights.

### **30.4 Interest on late payments**

If the Chargor fails to pay any sums due and payable by it under this Deed on its due date for payment then, without limiting the Lender's other rights under this Deed or otherwise, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgement) at a rate of 4% per annum over the Lender's Costs of Funds for monies owing to the Lender by the Chargor, calculated on a daily basis and compounded on a monthly basis from the due date for payment until payment is received by the Owner in cleared funds. Any interest accruing under this clause shall be immediately payable by the Chargor on demand by the Lender.



### **31 Counterparts**

This Deed or any Finance Document entered into under or in connection with this Deed may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Deed or any such Finance Document entered into under or in connection with this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.

### **32 Governing law**

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

### **33 Enforcement**

#### **33.1 Jurisdiction of English courts**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (**Dispute**).
- (b) 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.
- (c) This clause 33 is for the benefit of the Lender. 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.

**This Deed** has been entered into as a deed on the date given at the beginning of this Deed.





**Schedule 1**

**Properties**

**Registered Land**

<b>Chargor</b>	<b>Country and district (or address or description and London borough)</b>	<b>Title number</b>
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**Unregistered Land**



**Schedule 2**

**Subsidiary Shares**

**Chargor**

**Name and registered  
number of Subsidiary**

**Number and class of shares**



**Schedule 3**

**Part 1 – Form of notice of assignment to Goldfinch and acknowledgement**

**Notice of Assignment**

To: Goldfinch Science Fiction Limited  
123 Regents Park Road  
London  
NW1 8DE

Dated: ♦

Dear Sirs,

1. **Loan Agreement made between Bird Box Entertainment Limited (as lender) and Goldfinch Science Fiction Limited (as borrower) dated 7 January 2019 for a term loan of US\$400,000; and**
2. **Security assignment made between 365Flix International, LLC (as assignor), Bird Box Entertainment Limited (as assignee) and Goldfinch Science Fiction Limited dated 7 January 2019,**

**(together the Relevant Agreements)**

We hereby notify you that we have assigned to Close Leasing Limited (registered in England with number 6377532) (**Lender**) all our right, title and interest in and to the Relevant Agreements, including the right to receive any sums payable or to become payable by you under the Agreements.

We hereby irrevocably and unconditionally authorise and instruct you:

1. without notice or reference to, or further authority from us and without enquiring as to the justification or the validity of those instructions, to comply only with any instructions from time to time received by you from the Lender relating to the Relevant Agreements and any rights under or in connection with the Relevant Agreements; and
2. to pay all sums payable by you under the Relevant Agreements directly to the Lender at:

Bank: Lloyds Bank Plc

Account number: [REDACTED]

Sort code: [REDACTED]

IBAN: [REDACTED]

BIC: [REDACTED]

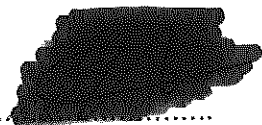
Reference: Close Leasing Limited

or such other account as the Lender may specify from time to time.

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Lender and the other copy to us.

The provisions of this notice (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

Yours faithfully



For and on behalf of  
**Bird Box Entertainment Limited**



**Close Brothers**  
Leasing



**Form of Acknowledgement**

To: Close Leasing Limited (**Lender**)  
Olympic Court  
Third Avenue  
Trafford Park Village  
Manchester  
M17 1AP

To: Bird Box Entertainment Limited  
123 Regents Park Road  
London  
NW1 8BE

Dated ♦

We acknowledge receipt of the notice of assignment (**Notice**) of which the above is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement. We confirm that:

- a) there has been no amendment, waiver or release of any rights or interests in the Relevant Agreements since the date of each Relevant Agreement;
- b) we will not agree to any amendment, waiver or release of any provision of any Relevant Agreement without the prior written consent of the Lender;
- c) We shall act in accordance with the Notice;
- d) we have not received any prior notice of assignment or charge in respect of any Relevant Agreement in favour of any other person;
- e) as at the date of this acknowledgement, we are not aware of any breach by the Chargor of the terms of any Relevant Agreement; and
- f) we do not have and have not claimed or exercised any right or claim against the Chargor or exercised or attempted to exercise any right of set-off, counterclaim or other right relating to any Relevant Agreement.

The provisions of this acknowledgement (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

For and on behalf of:



.....  
**Goldfinch Science Fiction Limited**



## Part 2 – Form of notice of assignment to SPI and acknowledgement

### Notice of Assignment

To: SPI International B.V.  
De Cuserstraat 93  
Floors 2 & 3  
1081 CN Amsterdam  
The Netherlands

Dated: ♦

**IFTA international multiple rights distribution agreement made between 365Flix International, LLC and SPI International B.V. dated 7 January 2019 in relation to the picture "The Intergalactic Adventures of Max Cloud" (Agreement)**

We refer to the above Agreement, and to the notice of assignment which was sent to you in January 2019 (**Prior Notice**) informing you that the right to receive the sum of US\$400,000.00 payable as part of the Minimum Guarantee under the Agreement (**Assigned Sums**) has been assigned to us.

We now notify you that we have assigned to Close Leasing Limited (registered in England with number 6377532) (**Lender**) all our rights, title and interest in and to the receipt of the Assigned Sums.

We hereby irrevocably and unconditionally authorise and instruct you:

1. without notice or reference to, or further authority from us and without enquiring as to the justification or the validity of those instructions, to comply only with any instructions from time to time received by you from the Lender relating to payment of the Assigned Sums payable under the terms of the Agreement and any rights under or in connection therewith; and
2. to pay the Assigned Sums when due and payable under the terms of the Agreement directly to the Lender at:

Bank: [REDACTED]

Account number: [REDACTED]

Sort code: [REDACTED]

IBAN: [REDACTED]

BIC: [REDACTED]

Reference: Close Leasing Limited

or such other account as the Lender may specify from time to time.

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Lender and the other copy to us.

The provisions of this notice (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

Yours faithfully

[REDACTED]  
For and on behalf of  
**Bird Box Entertainment Limited**



**Form of Acknowledgement**

To: Close Leasing Limited (**Lender**)  
Olympic Court  
Third Avenue  
Trafford Park Village  
Manchester  
M17 1AP

To: Bird Box Entertainment Limited  
123 Regents Park Road  
London  
NW1 8BE

Dated ♦

**IFTA international multiple rights distribution agreement made between 365Flix International, LLC and SPI International B.V. dated 7 January 2019 in relation to the picture "The Intergalactic Adventures of Max Cloud" (Agreement)**

We acknowledge receipt of the notice of assignment (**Notice**) of which the above is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement. We confirm that:

- a) there has been no amendment, waiver or release of any rights or interests in connection with the Assigned Sums payable pursuant to the Agreement since the date of the Agreement;
- b) until the Assigned Sums have been paid in full we will not agree to any amendment, waiver or release of any provision of the Agreement without the prior written consent of the Lender;
- c) we shall act in accordance with the Notice, and without prejudice to the generality of the foregoing we shall ensure that the Assigned Sums are paid to the Lender in accordance with the terms of the Notice (or as the Lender shall specify);
- d) we shall pay the Assigned Sums to the Lender in full on the due date specified in the Agreement without any deduction, set-off, counterclaim or withholding;
- e) apart from the Prior Notice, we have not received any other notice of assignment or charge in respect of the Assigned Sums in favour of any other person;
- f) as at the date of this acknowledgement, we are not aware of any breach by the Chargor of the terms of this Agreement;
- g) we do not have and have not claimed or exercised any right or claim against the Chargor or exercised or attempted to exercise any right of set-off, counterclaim or other right relating to the Agreement;
- h) The provisions of this acknowledgement are governed by English law, and we agree to submit to the jurisdiction of the English courts to determine any dispute in relation to this acknowledgement.

For and on behalf of:

.....  
**SPI International B.V**

.....  
(Print full name)

.....  
(Position)



SIGNATURES TO THE DEBENTURE

**Chargor**

Executed as a deed by

**Bird Box Entertainment Limited**

acting by a director in the presence of

)

)

)

Director

[Redacted signature]

Signature of witness

Name [Redacted]

Address [Redacted]

[Redacted address line]

Address:

Facsimile:

Attention:





**Lender**

Signed as a deed by

SARAH EDWARDS  
as attorney for and on behalf of **Close Leasing  
Limited**  
in the presence of

(attorney's signature)

  
Signature of witness

Name

Address

Address:

Facsimile:

Attention: