



Registration of a Charge

Company name: **INGENIOUS DISTRIBUTION SERVICES LIMITED**

Company number: **05041357**



X49D6IG8

Received for Electronic Filing: **11/06/2015**

Details of Charge

Date of creation: **10/06/2015**

Charge code: **0504 1357 0001**

Persons entitled: **THE FYZZ FACILITY LIMITED**

Brief description:

Contains fixed charge(s).

Contains floating charge(s) .

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by:

LEE AND THOMPSON LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5041357

Charge code: 0504 1357 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 10th June 2015 and created by INGENIOUS DISTRIBUTION SERVICES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 11th June 2015 .

Given at Companies House, Cardiff on 12th June 2015

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

CHARGE OVER BANK ACCOUNT

THIS DEED is dated 10 June 2015

Parties

- (1) **The Fyzz Facility Limited**, a company incorporated under the laws of England and Wales (Company Number: 07380091) whose registered office is at 94 Cleveland Street, London W1T 6NW (the **Lender**); and
- (2) **Ingenious Distribution Services Limited**, a limited liability company registered in England and Wales with registered number 05041357 and registered office at 15 Golden Square, London W1F 9JG (the **Chargor**).

Background

- A The Lender has agreed pursuant to the Loan Agreement to provide the Borrower with a loan and the Lender has agreed to prove surety and demonstrate availability of funds by paying the Deposit to the Security Account in anticipation of the same being utilised as a loan facility by the Borrower in accordance with the terms of the Loan Agreement.
- B This charge provides security which the Chargor has agreed to give the Lender for the repayment of the Deposit to the Lender in an Event of Default or in an event described in clause 8 herein.

Agreed terms

1 Definitions and interpretation

- 1.1 The definitions and rules of interpretation in this clause apply in this charge.

Borrower means Dog With A Bone Productions Limited, a limited liability company registered in England and Wales with registered number 08648172 and registered office at 15 Golden Square, London W1F 9JG.

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

Collateral Sum means the amount from time to time equal to the Deposit, less any sums drawdown by the Borrower therefrom in accordance with the Loan Agreement, plus any sums received from an Unpaid Distribution Agreement against which the Borrower has borrowed from the Lender.

Costs means all costs, charges, expenses and liabilities of any kind including, without limitation, costs and damages in connection with litigation, professional fees, disbursements and any value added tax charged on such costs.

Deposit means the sum of US\$541,417 to the extent paid to the Security Account by the Lender together with all other rights and benefits accruing to or arising in connection with the Security Account (including, but not limited to, entitlements to interest).

Encumbrance means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

Event of Default means any event under clause 3.4 of the Loan Agreement.

Film means the feature film provisionally entitled "Six Days".

Loan Agreement means the loan agreement dated on or about the date of this Deed between the Borrower and the Lender in respect of the Film.

Loan Fee has the meaning given to it in the Loan Agreement.

Financial Collateral shall have the meaning given to that expression in the Financial Collateral Regulations.

Financial Collateral Regulations means the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003/3226).

Receiver means a receiver of any or all of the Deposit appointed under clause 8.5.

Secured Liabilities means all present and future monies, obligations and liabilities owed by the Chargor and the Borrower to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity whatsoever, under or in connection with the Loan Agreement or this charge (including, without limitation, those arising under clause 10.4(b)) together with all interest (including, without limitation, default interest) and fees (including, without limitation, the Loan Fee) accruing in respect of such monies or liabilities.

Security Account means account numbers [REDACTED] with sort code [REDACTED] in the name IDSL Six Days USD with Barclays Bank plc as this account may be renumbered or redesignated from time to time and all rights of the Chargor in relation to such account.

Security Financial Collateral Arrangement shall have the meaning given to that expression in the Financial Collateral Regulations.

Security Period means the period starting on the date of this charge and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

Unpaid Distribution Agreement has the meaning given to it in the Loan Agreement.

- 1.2 A third party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or to enjoy the benefit of, any term of this charge except for the Borrower.
- 1.3 The perpetuity period applicable to all trusts declared by this charge shall be 80 years.

2 Covenant to pay

The Chargor shall, on demand, pay to the Lender and discharge the Secured Liabilities when they become due.

3 Grant of security

- 3.1 As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Lender, by way of first fixed charge, the Deposit.
- 3.2 As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor charges by way of a first floating charge the Deposit to the extent not otherwise effectively charged under this Deed.
- 3.3 Except as provided below, the Lender may by notice to the Chargor convert the floating charge created by the Chargor under this Deed into a fixed charge as regards any of the Deposit specified in that notice if:
 - (a) an Event of Default has occurred and is continuing; or
 - (b) the Lender acting reasonably considers the Deposit to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.
- 3.4 The floating charge created under this Deed may not be converted into a fixed charge solely by reason of:
 - (a) the obtaining of a moratorium; or
 - (b) anything done with a view to obtaining a moratorium,under section 1A of the Insolvency Act 1986.

3.5 The floating charge created under this Deed will (in addition to the circumstances which the same will occur under general law) automatically convert into a fixed charge over all of the Chargor's Deposit:

- (a) if an administrator is appointed or the Lender receives notice of an intention to appoint an administrator; or
- (b) on the convening of any meeting of the members of the Chargor to consider a resolution to wind up the Chargor (or not to wind the Chargor up).

4 Liability of the Chargor

4.1 The Chargor's liability under this charge in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is or becomes wholly or partially illegal, void or unenforceable on any ground; or
- (b) the Lender renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- (c) any other act or omission, which but for this clause 4.1 might have discharged, or otherwise prejudiced or affected, the liability of the Chargor.

4.2 Notwithstanding anything to the contrary in this Deed or any other agreement in respect of the Film, the Chargor's obligations to the Lender under this charge and any other agreement to which it is a party are limited to payments out of the Collateral Sum.

5 Representations and warranties

The Chargor represents and warrants to the Lender the following on the date of this charge:

- (a) the Chargor holds the Deposit upon the terms of this charge;
- (b) the Deposit is free from any Encumbrance other than the Encumbrances created by this charge;
- (c) the Chargor has not received or acknowledged notice of any adverse claim by any person in respect of the Deposit or any interest in it, save for the interest of the Borrower in accordance with the Loan Agreement;
- (d) there is no breach of any law or regulation which materially adversely affects the Deposit;
- (e) no Encumbrance expressed to be created under this charge is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Chargor or otherwise; and
- (f) the entry into this charge by the Chargor does not and will not constitute a breach of any agreement or instrument binding on the Chargor or its assets.

6 Covenants

The Chargor undertakes the following to the Lender:

- (a) the Chargor shall not make any withdrawals from the Deposit without the prior consent of the Lender and the Borrower;
- (b) the Chargor shall not at any time, except with the prior written consent of the Lender and the Borrower create, purport to create or permit to subsist any Encumbrance on, or in relation to, the Deposit other than this charge;
- (c) the Chargor shall promptly on becoming aware of any of the same give the Lender notice in writing of any breach of;

- (i) any representation or warranty set out in clause 5; and
- (ii) any covenant set out in this clause 6; and
- (d) the Chargor, at its own cost, shall prepare and execute such further legal or other mortgages, charges or transfers (containing a power of sale and such other provisions as the Lender may reasonably require) in favour of the Lender as the Lender, in its absolute discretion, requires from time to time over all or any part of the Deposit and give all notices, orders and directions which the Lender may require, in its absolute discretion for perfecting, protecting or facilitating the realisation of its security over the Deposit.

7 Powers of the Lender

The Lender shall have the following powers:

- (a) the Lender shall be entitled (but shall not be bound) to remedy a breach at any time by the Chargor of any of its obligations contained in this charge and the Chargor irrevocably authorises the Lender and its agents to do all such things as are necessary or desirable for that purpose; and
- (b) the rights of the Lender under paragraph (a) are without prejudice to any other rights of the Lender under this charge. The exercise of those rights shall not make the Lender liable to account as a mortgagee in possession.

8 Enforcement

8.1 Enforcement

The security constituted by this charge shall be immediately enforceable in any of the following circumstances:

- (a) any of the Secured Liabilities are not paid or discharged when the same ought to be paid or discharged by the Chargor (whether on demand, at scheduled maturity, or by acceleration or otherwise, as the case may be); or
- (b) the Chargor is in breach of any of its obligations under this charge and that breach (if capable of remedy) has not been remedied to the satisfaction of the Lender within 14 days of notice by the Lender to the Chargor to remedy the breach; or
- (c) the Chargor:
 - (i) becomes unable to pay its debts as they fall due (and/or the value of the Chargor's assets is less than the amount of its liabilities, taking into account the Chargor's contingent and prospective liabilities); or
 - (ii) commences negotiations with any one or more of its creditors with a view to the general readjustment or rescheduling of its indebtedness; or
 - (iii) makes a general assignment for the benefit of, or a composition with, its creditors; or
- (d) the Chargor passes any resolution or takes any corporate action, or a petition is presented or proceedings are commenced, or any action is taken by any person for its winding-up, dissolution, administration or re-organisation or for the appointment of a receiver, administrative receiver, administrator, trustee or similar officer of it or of any or all of its revenues or assets; or
- (e) a distress, execution, attachment or other legal process is levied, or enforced on or sued against all or any part of the assets of the Chargor and remains undischarged for seven days; or
- (f) any event occurs in relation to the Chargor that is analogous to those set out in paragraph (c), paragraph (d) or paragraph (e) under any law of another jurisdiction; or
- (g) any representation, warranty or statement made or deemed to be made by the Chargor under this charge is or proves to have been incorrect or misleading in any material respect when made or deemed to be made; or

(h) an Event of Default occurs,

and in any such event (whether or not the event is continuing), without prejudice to any other rights of the Lender, the powers of sale under the Law of Property Act 1925 shall immediately be exercisable and the Lender may, in its absolute discretion, enforce all or any part of the security created by this charge as it sees fit.

8.2 Power of sale

At any time after this charge has become enforceable, the Lender and any Receiver may (without prejudice to any other right which the Lender or the Receiver may have) without further notice to the Chargor exercise the power to sell or otherwise dispose of the whole or any part of the Deposit.

8.3 Protection of third parties

No purchaser, mortgagee or other person dealing with the Lender or any Receiver shall be concerned:

- (a) to enquire whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged, or whether the power the Lender or a Receiver is purporting to exercise has become exercisable; or
- (b) to see to the application of any money paid to the Lender or any Receiver.

8.4 No liability as mortgagee in possession

Neither the Lender nor any Receiver shall be liable to account as mortgagee in possession in respect of the Deposit, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, the Deposit for which a mortgagee in possession might be liable as such.

8.5 Appointment of Receiver

- (a) At any time after the security constituted by this charge has become enforceable, or at the request of the Chargor, the Lender may, without further notice:
 - (i) appoint under seal or by writing under hand of a duly authorised officer of the Lender, any one or more person or persons to be a receiver of all or any part of the Deposit; and
 - (ii) from time to time under seal or in writing under hand of a duly authorised officer of the Lender, remove any person appointed to be Receiver and may, in a similar manner, appoint another in his place.

Where more than one person is appointed Receiver, they shall have power to act separately (unless the appointment by the Lender specifies to the contrary).

- (b) The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the Law of Property Act 1925 and the remuneration of the Receiver shall be a debt secured by this charge which shall be due and payable immediately upon its being paid by the Lender.

8.6 Power of sale additional

- (a) The powers of sale and appointing a Receiver conferred by this charge shall be in addition to all statutory and other powers of the Lender under the Insolvency Act 1986, the Law of Property Act 1925 or otherwise, and shall be exercisable without the restrictions contained in Sections 103 and 109 of the Law of Property Act 1925 or otherwise.
- (b) The power to appoint a Receiver (whether conferred by this charge or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Deposit.

8.7 Agent of the Chargor

Any Receiver appointed by the Lender under this charge shall be the agent of the Chargor and the Chargor shall be solely responsible for his acts and remuneration, as well as for any defaults committed by him.

8.8 Powers of Receiver

Any Receiver appointed by the Lender under this charge shall, in addition to the powers conferred on him by the Law of Property Act 1925 and the Insolvency Act 1986, have the power to do all such acts and things as an absolute owner could do in the management of the Deposit.

8.9 Order of application of proceeds

All monies received by the Lender or a Receiver in the exercise of any enforcement powers conferred by this charge shall be applied:

- (a) first in paying all unpaid fees, costs and other liability incurred by or on behalf of the Lender (and any Receiver, attorney or agent appointed by it);
- (b) second in paying the remuneration of any Receiver (as agreed between the Receiver and the Lender);
- (c) third in or towards discharge of the Secured Liabilities in such order and manner as the Lender determines; and
- (d) finally in paying any surplus to the Chargor or any other person entitled to it.

8.10 Appropriation

Neither the Lender nor any Receiver shall be bound (whether by virtue of section 109(8) of the Law of Property Act 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

8.11 Suspense account

All monies received by the Lender or a Receiver under this charge may, at the discretion of the Lender or Receiver, be credited to any suspense or securities realised account and shall bear interest at such rate, if any, as may be agreed in writing between the Lender and the Chargor, and may be held in such account for so long as the Lender or Receiver thinks fit.

8.12 Power of attorney

By way of security, the Chargor irrevocably appoints the Lender and every Receiver separately to be the attorney of the Chargor and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things which:

- (a) the Chargor is required to execute and do under this charge; and/or
- (b) any attorney may deem proper or desirable in exercising any of the powers, authorities and discretions conferred by this charge or by law on the Lender or any Receiver.

8.13 Ratification of acts of attorney

The Chargor ratifies and confirms, and agrees to ratify and confirm, anything which any of its attorneys may do in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in clause 8.12.

8.14 Right of appropriation

To the extent that the Collateral Sum constitutes Financial Collateral and this charge and the obligations of the Chargor hereunder constitute a Security Financial Collateral Arrangement, the Lender shall have the right, at any time after this charge has become enforceable, to appropriate all or any of that part of the Collateral Sum in or towards the payment and/or discharge of the Secured Liabilities in such order as the Lender in its absolute discretion may from time to time determine. The value of the Collateral Sum appropriated in accordance with this clause shall be, in the case of cash, the amount of cash appropriated. The Chargor agrees that the method of valuation provided for in this clause is commercially reasonable for the purposes of the Financial Collateral Regulations.

9 Release

Subject to clause 10.4, on the expiry of the Security Period (but not otherwise), the Lender shall, at the request and cost of the Chargor, take whatever action is necessary to release the Collateral Sum from the security constituted by this charge.

10 Miscellaneous

- 10.1 No party may assign any of its rights, or transfer any of its obligations, under this charge or enter into any transaction which would result in any of those rights or obligations passing to another person.
- 10.2 This charge shall be in addition to, and independent of, every other security or guarantee which the Lender may hold for any of the Secured Liabilities at any time. No prior security held by the Lender over the whole or any part of the Deposit shall merge in the security created by this charge.
- 10.3 This charge shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lender discharges this charge in writing.
- 10.4 Any release, discharge or settlement between the Chargor and the Lender shall be deemed conditional on no payment or security received by the Lender in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:
- (a) the Lender or its nominee may retain this charge and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Deposit, for such period as the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund; and
 - (b) the Lender may recover the value or amount of such security or payment from the Chargor subsequently as if such release, discharge or settlement had not occurred.
- 10.5 No failure or delay on the part of the Lender to exercise any right nor any partial exercise of any right shall or shall be deemed to operate as a waiver, nor shall any waiver by Lender of any breach of any provision in this Deed be deemed to be a continuing waiver or a waiver of any preceding or succeeding breach of the same or any other provision.
- 10.6 Any accounts which the Lender maintains in connection with the Secured Liabilities shall be conclusive evidence of the matters to which they relate save in respect of manifest error.
- 10.7 The restriction on the right of consolidation contained in section 93 of the Law of Property Act 1925 shall not apply to this charge.
- 10.8 If any one or more provisions of this Deed shall be adjudged to be illegal, invalid or unenforceable the legality, validity and enforceability of the remaining provisions shall not be affected or impaired.
- 10.9 This Deed may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

11 Notices

- 11.1 All notices or communications of any kind to be given under or in connection with this Deed shall be in writing and, unless otherwise stated, may be made by electronic mail, letter or facsimile. Any such notice will be deemed to be given as follows:
- (a) if by electronic mail, when actually received in a readable form;
 - (b) if by letter, when delivered by hand to that party's address or when posted by UK first class post on the second business day following the business day on which it was posted or when posted by any other means on the seventh business day following the business day on which it was posted; and
 - (c) if by facsimile, when transmitted, save where receipt has not been confirmed.

11.2 The addresses and facsimile numbers of the parties are as follows:

Chargor

Ingenious Distribution Services Limited
15 Golden Square
London W1F 9JG
Attn: Company Secretary

Fax: +44 20 7319 4001

Lender

The Fyzz Facility Limited
94 Cleveland Street
London W1T 6NW
Attn: Directors

Email: wayne@thefyzz.com

The email address of the parties are as notified between the parties from time to time.

12 Governing Law

You agree that this Deed shall be governed by and construed in accordance with English law. You also agree that the Courts of England shall have exclusive jurisdiction to resolve any dispute which may arise out of or in connection with this Deed.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

**Executed and delivered as a Deed by
Ingenious Distribution Services
Limited**

Signature of director or duly authorised
attorney: _____

Name of director/attorney: _____

SEBASTIAN SPEIGHT

Signature of witness: _____

Name of witness: _____

SEAN O'KEEFE

**Executed and delivered as a Deed by The Fyzz
Facility Limited**

Signature of director: _____

Name of director: _____

WAYNE MARC GODFREY

Signature of witness: _____

Name of witness: _____

JASMIN MORRISON.