



**Registration of a Charge**

Company Name: **RED SIXTY ONE LIMITED**

Company Number: **SC235054**



Received for filing in Electronic Format on the: **09/09/2021**

XACP7SB6

**Details of Charge**

Date of creation: **27/08/2021**

Charge code: **SC23 5054 0002**

Persons entitled: **FACTORTECH LIMITED**

Brief description: **(I) ALL INTELLECTUAL PROPERTY RIGHTS (BEING ALL TRADEMARKS, SERVICE MARKS, RIGHTS (REGISTERED OR UNREGISTERED) IN ANY DESIGNS; APPLICATIONS FOR ANY OF THE FOREGOING; TRADE OR BUSINESS NAMES; RIGHTS TO DOMAIN NAMES; COPYRIGHT (INCLUDING RIGHTS IN COMPUTER SOFTWARE) AND TOPOGRAPHY RIGHTS; LENDING AND RENTAL RIGHTS; KNOW HOW; SECRET FORMULAE AND PROCESSES; AND OTHER CONFIDENTIAL AND PROPRIETARY KNOWLEDGE AND INFORMATION; RIGHTS PROTECTING GOODWILL AND REPUTATION; ALL RIGHTS TO CARRY ON ACTIONS FOR PASSING OFF; DATABASE RIGHTS AND RIGHTS UNDER LICENCES AND CONSENTS IN RELATION TO SUCH THINGS AND ALL RIGHTS OR FORMS OF PROTECTION OF A SIMILAR NATURE TO ANY OF THE FOREGOING OR HAVING EQUIVALENT EFFECT ANYWHERE IN THE WORLD RELATING TO THE PROJECT (AS DEFINED IN THE CHARGE) AND ALL SOURCE CODE RELATING TO IT, (II) ALL INTELLECTUAL PROPERTY RIGHTS IN THE PROJECT AND (III) ANY OTHER INTELLECTUAL PROPERTY RIGHTS MADE IN THE COURSE OF THE DEVELOPMENT OF THE PROJECT.**

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or undertaking of the company).**

**Contains negative pledge.**

## **Authentication of Form**

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

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## **Authentication of Instrument**

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

Certified by: **GAVIN BUCHAN**



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

Company number: 235054

Charge code: SC23 5054 0002

The Registrar of Companies for Scotland hereby certifies that a charge dated 27th August 2021 and created by RED SIXTY ONE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 9th September 2021 .

Given at Companies House, Edinburgh on 10th September 2021

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**

## FACTORTECH SECURITY AGREEMENT

**THIS DEED** dated 27th August 2021 and made **BETWEEN:**

- (1) **FACTORTECH LIMITED** a company incorporated in England and Wales under company number 11716176, and with its registered address at 42 Brook Street, London, W1K 5DB ("**Factortech**"); and
- (2) **RED SIXTY ONE LIMITED** a company incorporated in Scotland under company number SC235054, and with its registered address at Exchange Tower, 19 Canning Street, Edinburgh, Scotland, EH3 8EH (the "**Company**").

### BACKGROUND

- (A) Pursuant to the Loan Agreement, Factortech has agreed to make available the Loan to the Company.
- (B) By way of security for the performance and discharge of its obligations under the Loan Agreement, the Company has agreed to execute this Agreement as security for payment, satisfaction and discharge of the Secured Liabilities and has determined that it is in its commercial interests to do so.

### 1. Interpretation

#### 1.1 Definitions

Unless otherwise provided in this Agreement, terms defined in the Loan Agreement shall have the same meaning where used in this Agreement.

In this Agreement, unless the context otherwise requires the following words shall have the following meanings:

"Accounts"	means any bank accounts opened by the Company in connection with the Project or otherwise;
"Agreement"	means this charge in respect of the Charged Assets that is executed and delivered by the Company and Factortech as a deed;
"Charged Assets"	means all the undertaking, goodwill, property, assets and rights of the Company charged pursuant to clause 3.1 ( <i>Fixed Charge</i> ); clause 3.2 ( <i>Floating Charge</i> ), and the property assigned pursuant to clause 3.3 ( <i>Assignment</i> );
"Chattels"	means all plant, machinery, vehicles, computers, office and other equipment, all furniture, furnishings, equipment and tools and any removals or replacement of them;
"Collateral Agreements"	means negotiable and non-negotiable agreements, contracts, guarantees, indemnities and other assurances against financial loss and any other documents or contracts which contain or evidence an obligation (with or without security) to pay, discharge or be responsible directly or indirectly for, any liabilities of any person and includes any document or instrument creating or evidencing an Encumbrance;

<b>"CTA"</b>	means the Corporation Tax Act 2009, as amended by the Finance Act 2003 and as otherwise amended, supplemented or replaced from time to time;
<b>"Default Interest Rate"</b>	has the meaning given to that term in the Loan Agreement;
<b>"disposal"</b>	includes any sale, lease, sub lease, assignment or transfer, the grant of an option or similar right, the grant of any easement, right or privilege, the creation of a trust or other equitable interest in favour of a third party, a sharing or parting with possession or occupation whether by way of licence or otherwise and the granting of access to any other person over any intellectual property, and <b>"dispose"</b> and <b>"disposition"</b> shall be construed accordingly;
<b>"Encumbrance"</b>	means any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, standard security, assignment or assignation by way of security or other security interest of any kind;
<b>"Enforcement Date"</b>	means the date on which Factortech demands the payment or discharge of all or any part of the Secured Liabilities or, if earlier, the date on which a petition for an administration order is presented in relation to the Company;
<b>"Event of Default"</b>	has the meaning given to that term in the Loan Agreement;
<b>"Factortech Collections Account"</b>	has the meaning given to that term in the Loan Agreement;
<b>"Factortech Entitlement"</b>	has the meaning given to that term in the Loan Agreement;
<b>"Floating Assets" Charge</b>	means the assets of the Company from time to time expressed to be charged by this Agreement by way of floating charge;
<b>"Insurances"</b>	means all present and future contracts or policies of insurance (including life policies) in which the Company from time to time has an interest;
<b>"Intellectual Property Rights"</b>	means all trademarks, service marks, rights (registered or unregistered) in any designs; applications for any of the foregoing; trade or business names; rights to domain names; copyright (including rights in computer software) and topography rights; lending and rental rights; know how; secret formulae and processes; and other confidential and proprietary knowledge and information; rights protecting goodwill and reputation; all rights to carry on actions for passing off; database rights and rights under licences and consents in relation to such things and all rights or forms of protection of a similar nature to any of the foregoing or having equivalent effect anywhere in the world relating to the Project and all source code relating to it;

<b>"Loan"</b>	means the sums made available or to be made available by Factortech to the Company pursuant to the Loan Agreement;
<b>"Loan Agreement"</b>	means the loan agreement dated on or about the date of this Agreement entered into between Factortech and the Company as amended, varied or supplemented from time to time;
<b>"Project"</b>	has the meaning given to that term in the Loan Agreement;
<b>"Project Assets"</b>	means the Rights and all other rights and materials with respect to the same or the Project as may be necessary for the production and/or exploitation of the Project;
<b>"Receiver"</b>	means any one or more receivers and/or managers or administrative receivers appointed by Factortech pursuant to this Agreement in respect of the Company or over all or any of the Charged Assets;
<b>"Relevant Agreements"</b>	means the Loan Agreement and all documents defined therein as a Relevant Agreement;
<b>"Rights"</b>	means: (a) all Intellectual Property Rights and all other rights in the Project; (b) the benefit of all contracts and agreements entered into relating to the acquisition of rights by or provision of goods or services in connection with and solely in so far as this relates to the Project including all warranties and indemnities given therein; and (c) the entire remaining benefit of all grants, licences or rights, waivers, consents, covenants, warranties, undertakings and/or representations in all of the licences and agreements solely as necessary for the production and exploitation of the Project;
<b>"Secured Liabilities"</b>	means all monies, obligations and liabilities now or after the date of this Agreement due, owing or incurred by the Company to Factortech 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 Factortech in connection therewith;
<b>"Security Period"</b>	means the period starting on the date of this Agreement and ending on the date on which the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full;
<b>"Tools and Technology"</b>	means any and all software, development tools, libraries, engines, subroutines and technology owned by or licensed to the Company that predate the date of this Agreement, and any modification, adaption or improvement thereto;

<b>"UK Tax Credit"</b>	means the enhanced tax deduction with a payable cash element in respect of surrendered losses to which the Company should be entitled after the date of this Agreement pursuant to Part 13 of the CTA in connection with the research and development activities of the Company in accordance with the Research & Development (Prescribed Activities) Regulations 2004, as the same may be replaced, amended or supplemented from time to time;
<b>"UK Tax Credit Collateral"</b>	means the benefit of the UK Tax Credit and the UK Tax Credit Proceeds and the right to claim and be paid the UK Tax Credit Proceeds and all other rights in connection with the same; and
<b>"UK Tax Credit Proceeds"</b>	means the actual amount of the UK Tax Credit which is received by and/or attributable to the Company in connection with the Project.

- 1.2 The expressions **"Factortech"**, and **"Company"** include, where the context admits, their respective successors, and, in the case of Factortech, its transferees and assignees, whether immediate or derivative. Clause headings are inserted for convenience of reference only and shall be ignored in the interpretation of this Agreement. In this Agreement, unless the context otherwise requires, references to clauses are to be understood as references to the clauses of this Agreement; words importing the plural shall include the singular and vice versa; and references to statutory provisions shall include references to those provisions as replaced, amended or re-enacted from time to time.

## 2. **Covenant to Pay**

The Company hereby covenants with Factortech to pay or discharge to Factortech the Secured Liabilities as and when they fall due under the Loan Agreement or otherwise.

## 3. **Grant of Security**

### 3.1 **Fixed Charge**

The Company with full title guarantee hereby charges to Factortech by way of first fixed charge as a continuing security for the payment and discharge of the Secured Liabilities the following assets, both present and future, from time to time owned by the Company or in which the Company may from time to time have an interest:

#### 3.1.1 **The Project, Revenues and Associated Rights**

- (a) the Project Assets;
- (b) all copies made or to be made of the Project;
- (c) any other projects and Intellectual Property Rights made in the course of the development of the Project or pursuant to any right acquired in connection with, or arising from, the development of the Project;
- (d) all copies made or to be made of any sketches and designs produced in connection with the Project;
- (e) all digital material and sound and visual material made or to be made incorporating or reproducing all or any part of the Project;

- (f) any agreements for the provision of any goods, services, facilities or finance for the Project and the benefit of any Insurances taken out for or in connection with the development of the Project and/or the Rights;
    - (g) the benefit of all revenues accruing to the Company or the Company's order or on the Company's behalf in respect of the Project.
  - 3.1.2 **Intellectual Property Rights**  
all its Intellectual Property Rights;
  - 3.1.1 **Tools and Technology**  
the Tools and Technology;
  - 3.1.2 **Chattels**  
all Chattels present and future and the benefit of all contracts, licences, warranties, maintenances contracts relating to them and any renewals and replacements of them;
  - 3.1.3 **UK Tax Credit**  
the UK Tax Credit Collateral; and all rights and interests (including title) in or over it;
  - 3.1.4 **The Accounts**  
the Accounts (including all monies standing to the credit of each Account, all interest accrued on each Account and all debts represented by the foregoing);
  - 3.1.5 **Benefit of Licences**  
the benefit of all licences, consents and authorisations (statutory or otherwise) held by the Company in connection with its business or the use of any charged asset specified in any other sub-paragraph in this clause 3.1 (*Fixed Charge*) and the right to recover and receive all compensation which may be payable to it in respect of them; and
  - 3.1.6 **Insurances**  
The rights and interest of the Company under all Insurances;
  - 3.1.7 **Disposal proceeds**  
any proceeds of the disposal of any assets referred to in clauses 3.1.1 through 3.1.6 (inclusive) above, in whatever form.
- 3.2 **Floating Charge**  
The Company with full title guarantee (or, in relation to property situated in Scotland, with absolute warrandice), hereby charges to Factortech by way of first floating charge as a continuing security for the payment and discharge of the Secured Liabilities:
  - 3.2.1 its undertaking and all its property, assets and rights whatsoever and wheresoever both present and future, other than any property or assets from time to time effectively charged by way of fixed charge pursuant to clause 3.1 above or otherwise pursuant to this Agreement; and
  - 3.2.2 all its heritable and leasehold property, and other property, assets and rights located in Scotland, or otherwise governed by Scots law (whether or not such property, assets or rights are effectively charged by way of legal mortgage or fixed



charge or assignment pursuant to clause 3.1 (*Fixed Charge*), clause 3.3 (*Assignment*) or otherwise pursuant to this Agreement).

### 3.3 **Assignment**

The Company with full title guarantee and as security for the payment, satisfaction and discharge of the Secured Liabilities, assigns absolutely to Factortech (subject only to the right of re-assignment in favour of the Company specified in clause 11 (*Release and Reassignment*) hereof), all of the Company's right, title and interest (whether now owned or hereafter acquired or created), if any, in and to the following:

- 3.3.1 the Rights and any rights in and to the Project Assets;
- 3.3.2 any and all copyright in the Project and any other projects, games, programmes and any sound recordings made in the course of the development of the Project or pursuant to any right acquired in connection with, or arising from, the development of the Project;
- 3.3.3 the benefit of all revenues accruing to the Company or the Company's order or on the Company's behalf in respect of the exhibition, distribution or exploitation of the Project and/or of the Rights;
- 3.3.4 all those rights of the Company in relation to all music composed and sketches and designs made for or used in the production of the Project;
- 3.3.5 the benefit of all agreements entered into or to be entered into by the Company (or its agent) relating to the Project with all rights granted and all monies receivable thereunder and any interest thereon and the benefit of all subsisting undertakings, warranties, representations, covenants, agreements and acknowledgements therein contained;
- 3.3.6 the benefit of any Insurances taken out and maintained in connection with the Project and any and all sums paid or payable thereunder;
- 3.3.7 the Accounts (including all monies standing to the credit of each Account, all interest accrued on each Account and all debts represented by the foregoing);
- 3.3.8 the UK Tax Credit Collateral; and
- 3.3.9 the proceeds of any or all of the foregoing.

### 3.4 **Trust**

The Company shall hold on trust for Factortech (which trust the Company hereby declares) the Company's entire interest and benefit in and to the Charge Assets or any part thereof which cannot be charged or assigned by the Company together with all proceeds, money and other rights and benefits to which the Company is beneficially entitled in respect of such Charged Assets.

### 3.5 **Restrictions on dealing with Charged Assets (Negative Pledge)**

The Company hereby covenants that it will not without the prior written consent of Factortech:

- (a) create or attempt to create or permit to subsist in favour of any person other than Factortech any Encumbrance on or affecting the Charged Assets or any part thereof; or
- (b) dispose of the Charged Assets or any part thereof or attempt or agree so to do except in the case of stock in trade, which may, subject to the other provisions of this Agreement, be sold at full market value in the usual course of trading as now conducted and for the purpose of carrying on the Company's business.

Notwithstanding anything to the contrary contained herein, if the Company charges or otherwise encumbers any of the Charged Assets in any manner contemplated by this clause 3.5 (*Restrictions on dealing with Charged Assets*) the charges created in favour of Factortech shall rank in priority to such other charges or Encumbrances whether they be fixed, floating or otherwise.

**3.6 Conversion of floating charge**

On the happening of any Event of Default or at any time thereafter, the floating charge created by clause 3.2 (Floating Charge) above shall (other than in respect of any Charged Assets situated in Scotland if and to the extent that a Receiver would not be capable of exercising his powers in Scotland in relation thereto under Section 72 of the Insolvency Act 1986 by reason of automatic conversion) automatically be converted with immediate effect into a fixed charge, the obligation of Factortech to advance monies under any agreement shall immediately terminate, the security hereby created shall become enforceable and the Secured Liabilities shall immediately become due and payable.

**3.7 Exceptions to fixed security**

The fixed security from time to time created by this Agreement does not extend to any assets situated outside England and Wales or the rights to which are governed by any law other than the laws of England and Wales to the extent that and for so long as any such fixed security would be unlawful or ineffective under the laws of the jurisdiction in which such asset is situated.

**4. Undertakings**

**4.1 The Company hereby undertakes with Factortech that during the continuance of this security the Company will:**

**4.1.1 UK Tax Credit Proceeds:**

- (i) direct the payment of all UK Tax Credit Proceeds into the Factortech Collections Account; and
- (ii) deal with the UK Tax Credit Proceeds in accordance with any directions from time to time given in writing by Factortech;

**4.1.2 Project, Project Assets and Rights**

Preserve its rights, title and interest to and in the Project, Project Assets and Rights and not without the consent of Factortech dispose of its rights, title and interest to and in each of the Project, the Project Assets and/or Rights;

**4.1.3 Compliance with covenants etc**

Observe and perform all covenants, and requirements from time to time affecting the Charged Assets whether imposed by law or regulation or by any form of contract or otherwise, carry out all registrations or renewals and generally do all other acts and things necessary to maintain, defend or preserve its right, title and interest to and in the Charged Assets; and

**4.1.4 Not Adversely affect the Charged Assets**

Not exercise any right or power available to it in relation to the Charged Assets that might adversely affect the interest of Factortech unless and until requested to do so by Factortech whereupon the Company will exercise such right or power as Factortech may direct.

**4.2 Representations and Warranties**

The Company hereby repeats in favour of Factortech the representations, warranties, undertakings and covenants set out in the Loan Agreement as if the same were included and incorporated in this Agreement.

**4.3 Power to remedy**

If the Company at any time defaults in complying with any of its obligations contained in this Agreement, Factortech shall, without prejudice to any other rights arising as a consequence of such default, be entitled (but not bound) to make good such default and the Company hereby irrevocably authorises Factortech and its employees and agents by way of security to do all such things (including, without limitation, entering the Company's property) necessary or desirable in connection therewith. Any moneys so expended by Factortech shall be repayable by the Company to Factortech on demand together with interest at the Default Interest Rate from the date of payment by Factortech until such repayment, both before and after judgment and compounded monthly in default of punctual payment. No exercise by Factortech of its powers under this clause 4.3 shall make it liable to account as a mortgagee in possession.

**5. Further Assurance and Power of Attorney**

5.1 The Company shall if and when at any time required by Factortech execute such further Encumbrances and assurances in favour of Factortech and do all such acts and things as Factortech shall from time to time require over or in relation to all or any of the Charged Assets to secure the Secured Liabilities or to perfect or protect the security intended to be created by this Agreement over the Charged Assets or any part thereof or to facilitate the realisation of the same.

5.2 The Company hereby irrevocably appoints Factortech, and if any Receiver or an administrator has been appointed, each of Factortech, the Receiver and any administrator appointed by Factortech to be an attorney of the Company in its name and on its behalf to sign, execute and deliver all deeds and documents and do all acts and things which Factortech may reasonably require or reasonably deem appropriate for the purpose of exercising any of its powers or for the perfection, protection or realisation of any security hereby constituted. The Company hereby acknowledges that such appointment shall be irrevocable until this Agreement is released and the Charged Assets reassigned under clause 11 (*Release and Reassignment*).

5.3 This appointment shall operate as a power of attorney for the purposes of clause 5.2 only, made under Section 10 of the Powers of Attorney Act 1971, such appointment constituting a power coupled with an interest under English law. This power of attorney shall terminate without further notice on the release and discharge of this Agreement pursuant to clause 11 (*Release and Reassignment*), but subject to clause 12 (*Discharge Conditional*).

5.4 The Company hereby covenants with Factortech that on request it will ratify and confirm all documents, acts and things and all transactions entered into by Factortech, the Receiver or an administrator appointed by Factortech or by the Company at the insistence of Factortech, the Receiver or an administrator appointed by Factortech in the exercise of the aforesaid powers.

**6. Certain powers of Factortech: Enforcement**  
**6.1 Powers on enforcement**

At any time on or after the Enforcement Date or if requested by the Company, Factortech may, without further notice, without the restrictions contained in section 103 Law of Property Act 1925 and whether or not a Receiver shall have been appointed, exercise all the powers and discretions conferred by this Agreement on a Receiver either expressly or by reference.

**6.2 Power of Sale**

At any time after the security constituted by this Agreement has become enforceable, Factortech and any nominee of Factortech may (without prejudice to any other right which Factortech may have), without further notice to the Company, exercise the power to sell or otherwise dispose of the whole or any part of the Charged Assets without being answerable for any loss occasioned thereby.

**6.3 Terms of Sale**

Any sale or disposal under clause 6.2 above may be made in such manner, on such terms and for such consideration (whether payable immediately or by instalments) as Factortech shall in its absolute discretion think fit and without liability for loss.

**7. Appointment and Powers of Receiver**

**7.1 Appointment**

At any time on or after the Enforcement Date or if requested by the Company, Factortech may by instrument in writing executed as a deed or under the hand of any director or other duly authorised officer appoint any qualified person to be a Receiver of the Charged Assets or any part thereof. Where more than one Receiver is appointed, each joint Receiver shall have power to act severally, independently of any other joint Receivers, except to the extent that Factortech may specify to the contrary in the appointment. Factortech may (subject, where relevant, to section 45 Insolvency Act 1986) remove any Receiver so appointed and appoint another in his place. In this clause 7 a "**qualified person**" is a person who, under the Insolvency Act 1986, is qualified to act as a receiver of the property of any company with respect to which he is appointed or, as the case may be, an administrative receiver of any such company.

**7.2 Receiver as agent**

A Receiver shall be the agent of the Company and the Company shall be solely responsible for his acts or defaults and for his remuneration.

**7.3 Powers of Receiver**

A Receiver shall have all the powers conferred from time to time on receivers and administrative receivers by statute (in the case of powers conferred by the Law of Property Act 1925, without the restrictions contained in section 103 of that Act) and power on behalf and at the expense of the Company (notwithstanding liquidation of the Company) to do or omit to do anything which the Company could do or omit to do in relation to the Charged Assets or any part thereof. In particular (but without limitation) a Receiver shall have power to do all the acts and things described in Schedule 1 to the Insolvency Act 1986 as if the words "**he**" and "**him**" referred to the Receiver and "**company**" referred to the Company.

**7.4 Remuneration**

Factortech may from time to time determine the remuneration of any Receiver and section 109(6) Law of Property Act 1925 shall be varied accordingly. A Receiver shall be entitled to remuneration appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted by the Receiver in accordance with the current practice of his firm.

**8. Application of Proceeds; Purchasers**

**8.1 Application of proceeds**

All moneys received by Factortech or by any Receiver shall be applied, after the discharge of the remuneration and expenses of the Receiver and any liabilities having priority to the Secured Liabilities, in or towards satisfaction of such of the Secured Liabilities in such order as Factortech in its absolute discretion may from time to time conclusively determine.

**8.2 Protection of purchasers**

No purchaser or other person shall be bound or concerned to see or enquire whether the right of Factortech or any Receiver to exercise any of the powers conferred by this Agreement has arisen or be concerned with notice to the contrary or with the propriety of the exercise or purported exercise of such powers.

**9. Indemnities; Costs and Expenses**

**9.1 Enforcement costs**

The Company hereby undertakes to Factortech to pay on demand all costs, charges and expenses incurred by Factortech or by any Receiver in or about the enforcement, preservation or attempted preservation of any of the security created by or pursuant to this Agreement or any of the Charged Assets on a full indemnity basis, together with interest at the Default Interest Rate from the date on which such costs, charges or expenses are so incurred until the date of payment by the Company (both before and after judgment).

**9.2 No liability as mortgagee in possession**

Neither Factortech nor any Receiver shall be liable to account as mortgagee or heritable creditor in possession in respect of all or any of the Charged Assets or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever for which a mortgagee or heritable creditor in possession may be liable as such.

**9.3 Indemnity from Charged Assets**

Factortech and any Receiver or other person appointed by Factortech under this Agreement and Factortech's officers and employees (each an "**Indemnified Party**") shall be entitled to be indemnified (compensated) out of the Charged Assets in respect of all costs, losses, actions, claims, expenses, demands or liabilities (and all other professional costs and expenses) which may be suffered or incurred by, or made against, any of them at any time relating to or arising directly or indirectly out of or as a consequence of:

- (a) anything done or omitted in the exercise or purported exercise of the powers contained in this Agreement in respect of the Charged Assets; or
- (b) any breach by the Company of any of its obligations under this Agreement; or
- (c) any claim made or asserted against an Indemnified Party which would not have arisen if this Agreement had not been executed and which was not caused by the wilful default of the relevant Indemnified Party.

**10. Independent and Continuing Security**

**10.1 Continuing Security**

This Agreement and the security created by this Agreement shall remain in full force and effect as a continuing security for the Secured Liabilities notwithstanding any settlement of account, or intermediate payment, or other matter or thing, unless and until Factortech discharges this Agreement in writing.

**10.2 Independent Security**

This Agreement and the security created by this Agreement shall be in addition to, and independent of, any other Collateral Agreement, Encumbrance, rights or remedies that Factortech may hold in respect of any of the Secured Liabilities at any time. No prior or future security held by Factortech over the whole or part of the Charge Assets shall merge in the security created by this Agreement.

**11. Release and Reassignment**

11.1 Subject to clause 12 (*Discharge Conditional*) below, on the expiry of the Security Period (but not otherwise), Factortech shall, at the request and cost of the Company, take whatever action is necessary to:

11.1.1 release the Charged Assets from the security constituted by this Agreement; and

11.1.2 reassign the Charged Assets to the Company.

**12. Discharge conditional**

Any release, discharge or settlement between the Company and Factortech shall be deemed conditional on no payment or security received by Factortech 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:

12.1.1 Factortech or its nominee may retain this Agreement and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Charged Assets, for any period that Factortech deems necessary to provide Factortech with security against any such avoidance, reduction or order for refund; and

12.1.2 Factortech may recover the value or amount of such security or payment from the Company subsequently as if the release, discharge or settlement had not occurred.

**13. Miscellaneous**

**13.1 Remedies Cumulative**

No failure or delay by Factortech to exercise any power, right or remedy shall operate as a waiver by Factortech of such power, right or remedy nor shall any single or any partial exercise or waiver of any power, right or remedy preclude Factortech from further exercise or the exercise of any other power, right or remedy.

**13.2 Successors and assigns**

Any appointment or removal of a Receiver under clause 7 (*Appointment and Powers of Receiver*) and any consents under this Agreement may be made or given in writing signed or sealed by any successors or assigns of Factortech and accordingly the Company hereby irrevocably appoints each successor and assign of Factortech to be its attorney in the terms and for the purposes set out in clause 10.

**13.3 Licence**

13.3.1 Factortech hereby grants to the Company an exclusive, royalty-free licence (revocable only in accordance with clause 13.3.2 below) to develop, produce and otherwise exploit the Project.

13.3.2 The licence granted under clause 13.3.1 above shall be terminated automatically without notice upon:

(a) the happening of an Event of Default; or

(b) a release and reassignment pursuant to clause 11 (*Release and Reassignment*).

**13.4 Notices of Charge and Acknowledgement**

The Company must give notice to any relevant third party of this Agreement (and the grant of security herein) in a form approved by Factortech and use commercially reasonable endeavours to procure that each such third party acknowledges such notice in a form approved by Factortech.

**13.5 Invalidity of any Clause**

If at any time any one or more of the provisions or clauses of this Agreement becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions or clauses shall not in any way be affected or impaired thereby.

**13.6 Assignment of Agreement**

Factortech shall be entitled to assign, transfer, charge, sub-charge or otherwise grant security over or deal in any or all of its right, title and interest in this Agreement and/or in or in relation to the Charged Assets.

**13.7 Counterparts**

This Agreement may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which shall be an original but all of which together shall constitute one and the same instrument.

**14. Notices**

Any notice or demand for payment by Factortech under this Agreement shall, without prejudice to any other effective mode of making the same, be deemed to have been properly served on the Company if served on any one of its Directors or on its Secretary or delivered or sent by letter or email to the Company at its registered office or any of its principal places of business for the time being. Any such notice or demand shall be deemed to have been served (in the case of a letter) when delivered, and (in the case of a email) when received in complete and legible form. Any such notice or demand or any certificate as to the amount at any time secured by the Agreement shall, save for manifest error be conclusive and binding upon the Company if signed by an officer of Factortech.

**15. Law**

This Agreement (including any non-contractual disputes arising out of or in connection with it) shall be governed by and shall be construed in accordance with English law and the parties hereto submit to the exclusive jurisdiction of the English courts.

**IN WITNESS** whereof this Agreement has been executed as a deed and is delivered by or on behalf of the parties and takes effect on the date stated at the beginning of this Agreement.

**EXECUTION PAGE FOLLOWS**

SECURITY AGREEMENT  
EXECUTION PAGE

**EXECUTED** and unconditionally delivered as a **DEED** by  
**FACTORTECH LIMITED**  
acting by a Director  
in the presence of:

[Redacted]

**Witness:**

Signature:

[Redacted]

Name:

Address:

*RJ van Kuyk*

Occupation:

[Redacted]

**EXECUTED** and unconditionally delivered as a **DEED** by **RED**  
**SIXTY ONE LIMITED**  
acting by a Director  
in the presence of:

[Redacted]

**Witness:**

Signature:

[Redacted]

Name: Stella Macpherson

Address:

[Redacted]

Occupation:

[Redacted]