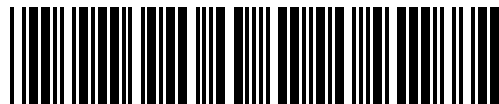




**Registration of a Charge**

Company Name: **AVIDITY GROUP HOLDINGS LIMITED**

Company Number: **SC295046**



Received for filing in Electronic Format on the: **15/10/2021**

XAF60SNM

**Details of Charge**

Date of creation: **29/09/2021**

Charge code: **SC29 5046 0009**

Persons entitled: **LLOYDS BANK PLC AS SECURITY AGENT**

Brief description: **N/A**

**Contains fixed 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: **ALLAN LEAL, EDINBURGH**



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

Company number: 295046

Charge code: SC29 5046 0009

The Registrar of Companies for Scotland hereby certifies that a charge dated 29th September 2021 and created by AVIDITY GROUP HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 15th October 2021 .

Given at Companies House, Edinburgh on 15th October 2021

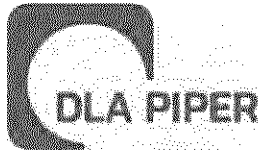
The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



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



I CERTIFY THAT, SAVE FOR THE  
MATERIAL REDACTED PURSUANT TO  
s.859G OF THE COMPANIES ACT 2006,  
THIS IS A TRUE, COMPLETE AND  
CORRECT COPY OF THE EXECUTED  
ORIGINAL INSTRUMENT  
DATE: 15 OCTOBER 2021 *AM L*  
SIGNED \_\_\_\_\_  
DLA PIPER SCOTLAND LLP

**DATED** 29th September **2021**

**(2) AVIDITY GROUP HOLDINGS LIMITED**  
**as Chargor**

**- and -**

**(2) LLOYDS BANK PLC**  
**as Security Agent**

## **CHARGE OVER SHARES**

relating to

shares held in Experience Wave Limited and Standout Field Marketing Limited

*This Charge over Shares is subject to and has the benefit of an Intercreditor Agreement dated 21 October 2015 and made between, among others (1) Avidity Group Acquisitions Limited (formerly known as "TMGL Acquisitions Limited"), (2) the Security Agent and (3) the Secured Parties (as each such term is defined in this Deed.)*

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**THIS CHARGE OVER SHARES** is made on

29th September 2021

**BETWEEN:**

- (1) **AVIDITY GROUP HOLDINGS LIMITED**, a company incorporated in Scotland (registered number SC295046) whose registered office is at 16 Charlotte Square, Edinburgh, Scotland EH2 4DF (the "**Chargor**"); and
- (2) **LLOYDS BANK PLC**, incorporated in England (registered number 00002065) whose registered office is at 25 Gresham Street, London EC2V 7HN as agent and security trustee for the Secured Parties (as defined below) and its successor(s) as such security agent (the "**Security Agent**").

**IT IS AGREED:**

## **1. DEFINITIONS AND INTERPRETATION**

### **1.1 Definitions**

In this Deed (a) terms defined in, or construed for the purposes of, the Facilities Agreement (as defined below) have the same meanings when used in this Deed (unless the same are otherwise defined in this Deed) and (b) at all times the following terms have the following meanings:

**"Act"** means the Law of Property Act 1925;

**"Charged Investments"** means the Charged Securities and all present and future Related Rights accruing to all or any of the Charged Securities;

**"Charged Securities"** means:

- (a) the securities specified in the schedule (*The Initial Charged Securities*);
- (b) any other stocks, shares, debentures, bonds or other securities of the Company now or in future owned (legally or beneficially) by the Chargor or in which the Chargor has an interest at any time; and
- (c) any Related Rights which are constituted by any stocks, shares, debentures, bonds, warrants, coupons, negotiable instruments, certificates of deposit or other securities or "*investments*" (as defined in part II of schedule II to the Financial Services and Markets Act 2000 as in force at the date of this Deed) now or in future owned (legally or beneficially) by the Chargor or in which the Chargor has an interest at any time;

**"Default Rate"** means the rate of interest determined in accordance with clause [14.3] of the Facilities Agreement;

**"Delegate"** means any delegate, sub-delegate, agent, attorney or co-trustee appointed by the Security Agent or by a Receiver;

**"Facilities Agreement"** means the senior term and revolving facilities agreement originally dated 21 October 2015 and made between (1) Avidity Group Acquisitions Limited (formerly known as "TMGL Acquisitions Limited") as Company, (2) the Company as Original Borrower, (3) the companies listed in part 1 of schedule 1 to it as Original Guarantors, and (4)

Lloyds Bank Plc and HSBC Bank Plc as Arrangers, (5) the banks and financial institutions listed in part 2 of schedule 1 to it as Original Lenders, (6) Lloyds Bank Plc as Agent, (7) the Security Agent and (8) Lloyds Bank Plc as Issuing Bank, pursuant to which the Original Lenders agreed to make certain facilities available to the Borrower, as amended and restated pursuant to an amendment and restatement agreement dated 19 November 2020 between, among others, the Company and Lloyds Bank Plc;

**"Finance Documents"** means each *"Finance Document"* as that term is defined in the Facilities Agreement;

**"Finance Party"** means any *"Finance Party"* as such term is defined in the Facilities Agreement;

**"Party"** means a party to this Deed;

**"Receiver"** means any receiver or receiver and manager or administrative receiver appointed by the Security Agent under this Deed;

**"Related Rights"** means, in relation to any Charged Security:

- (a) all dividends, distributions and other income paid or payable on the relevant Charged Security or on any asset referred to in paragraph (b) of this definition; and
- (b) all rights, monies or property accruing or offered at any time in relation to such Charged Security whether by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise;

**"Relevant Company"** means each company listed in the Schedule (*The Initial Charged Securities*), whose entire issued share capital is charged pursuant to this Deed;

**"Secured Obligations"** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever) of each Obligor or other member of the Group to the Security Agent and/or the other Secured Parties (or any of them) under or pursuant to the Finance Documents;

**"Secured Parties"** has the meaning given to that term in the Intercreditor Agreement;

**"Security Assets"** means all property and assets from time to time mortgaged, charged or assigned (or expressed to be mortgaged, charged or assigned) by or pursuant to this Deed; and

**"Security Period"** means the period beginning on the date of this Deed and ending on the date on which:

- (a) all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full; and
- (b) no Secured Party has any further commitment, obligation or liability under or pursuant to the Finance Documents.

## 1.2 Interpretation

- (a) Unless a contrary indication appears, in this Deed the provisions of clause 1.2 (*Interpretation*) of the Facilities Agreement apply to this Deed as though they were

set out in full in this Deed, except that references to "*this Agreement*" will be construed as references to this Deed.

- (b) Unless a contrary indication appears, any reference in this Deed to:
  - (i) the "**Chargor**", the "**Security Agent**" or any other "**Secured Party**" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;
  - (ii) "**this Deed**", the "**Facilities Agreement**", any other "**Finance Document**" or any other agreement or instrument is a reference to this Deed, the Facilities Agreement, such other Finance Document or such other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the obligations of any member of the Group or provides for further advances); and
  - (iii) "**Secured Obligations**" includes obligations and liabilities which would be treated as such but for the liquidation, administration or dissolution of or similar event affecting any member of the Group.
- (c) Each undertaking of the Chargor (other than a payment obligation) contained in this Deed:
  - (i) must be complied with at all times during the Security Period; and
  - (ii) is given by the Chargor for the benefit of the Security Agent and each other Secured Party.
- (d) If the Security Agent reasonably considers that an amount paid by the Chargor to a Secured Party under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of such member of the Group, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
- (e) The singular includes the plural and vice versa.
- (f) The Parties intend that this document shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

### **1.3 Inconsistency between this Deed and the Intercreditor Agreement**

If there is any conflict or inconsistency between any provision of this Deed and any provision of the Intercreditor Agreement, or if any provision of this Deed is more onerous than the equivalent provision in the Intercreditor Agreement, the provision of the Intercreditor Agreement shall prevail.

### **1.4 Trust**

All Security and dispositions made or created, and all obligations and undertakings contained in this Deed to, in favour of, or for the benefit of, the Security Agent are made, created and

entered into in favour of the Security Agent as trustee for the Secured Parties from time to time on the terms of the Intercreditor Agreement.

### **1.5 Third party rights**

Save as expressly provided to the contrary in this Deed, 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.

## **2. COVENANT TO PAY**

- 2.1 The Chargor as principal obligor and not merely as surety covenants in favour of the Security Agent that it will pay and discharge the Secured Obligations from time to time when they fall due in accordance with the terms of the Finance Documents.
- 2.2 Every payment by the Chargor of a Secured Obligation which is made to or for the benefit of a Secured Party to which that Secured Obligation is due and payable in accordance with the Finance Document under which such sum is payable to that Secured Party shall operate in satisfaction to the same extent of the covenant contained in clause 2.1.

## **3. GRANT OF SECURITY**

### **3.1 Nature of security**

All Security and dispositions created or made by or pursuant to this Deed are created or made:

- (a) in favour of the Security Agent;
- (b) with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994; and
- (c) as continuing security for payment of the Secured Obligations.

### **3.2 Charged Investments**

The Chargor charges and agrees to charge all of its present and future right, title and interest in and to the following assets which are at any time owned by the Chargor, or in which it from time to time has an interest:

- (a) by way of first fixed charge the Charged Securities referred to in the schedule (*The Initial Charged Securities*); and
- (b) by way of first fixed charge all other Charged Securities (not charged by clause 3.2(a)),

in each case, together with (i) all Related Rights from time to time accruing to those Charged Securities, and (ii) all rights which the Chargor may have at any time against any clearance or settlement system or any custodian in respect of any Charged Investments.

#### **4. CONTINUING SECURITY**

##### **4.1 Continuing security**

The Security is continuing and will extend to the ultimate balance of the Secured Obligations regardless of any intermediate payment or discharge in whole or in part. This Deed shall remain in full force and effect as a continuing security for the duration of the Security Period.

##### **4.2 Additional and separate security**

This Deed is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security which the Security Agent and/or any other Secured Party may at any time hold for any Secured Obligation.

##### **4.3 Right to enforce**

This Deed may be enforced against the Chargor without the Security Agent and/or any other Secured Party first having recourse to any other right, remedy, guarantee or Security held by or available to it or any of them.

#### **5. LIABILITY OF THE CHARGOR RELATING TO SECURITY ASSETS**

Notwithstanding anything contained in this Deed or implied to the contrary, the Chargor remains liable to observe and perform all conditions and obligations assumed by it in relation to the Security Assets. The Security Agent is under no obligation to perform or fulfil any such condition or obligation or to make any payment in respect of such condition or obligation.

#### **6. REPRESENTATIONS**

##### **6.1 General**

The Chargor makes the representations and warranties set out in this clause 6 to the Security Agent and to each other Secured Party.

##### **6.2 Ownership of Security Assets**

- (a) The Chargor is the sole legal and beneficial owner of all the Security Assets.
- (b) The Chargor is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (c) Subject to the Legal Reservations:
  - (i) the obligations expressed to be assumed by the Chargor in this Deed are legal, valid, binding and enforceable obligations; and
  - (ii) (without limiting the generality of paragraph (i)), this Deed creates the security interests which it purports to create and those security interests are valid and effective.
- (d) The Chargor has the power to own its assets and carry on its business as it is being conducted.

- (e) The Chargor has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed.
- (f) The Chargor has taken all necessary corporate action to authorise the execution and delivery of this Deed and the performance of its obligations hereunder.
- (g) The entry into and performance by the Chargor of, and the transactions contemplated by, this Deed do not and will not conflict with:
  - (i) any law or regulation applicable to it in any material respect;
  - (ii) its constitutional documents; or
  - (iii) any agreement or instrument binding upon it or constitute a default or termination event (however described) under any such agreement or instrument in each case where it would (or would be reasonably likely to) have a Material Adverse Effect.
- (h) All Authorisations required or desirable:
  - (i) to enable the Chargor lawfully to enter into, exercise its rights and comply with its obligations in this Deed; and
  - (ii) to make this Deed admissible in evidence in its Relevant Jurisdictions,

have been obtained or effected and are in full force and effect.
- (i) Other than in respect of Permitted Security the Chargor has not, save as provided in the Intercreditor Agreement, granted or created any other Security, charge or encumbrance over the Security Assets or any interest therein, or agreed, conditionally or unconditionally, to do so.
- (j) The Chargor has not entered into any agreement or granted any option to sell or otherwise dispose of the Security Assets or any interest therein, or agreed, conditionally or unconditionally, to do so.
- (k) The information contained in the Schedule is complete and accurate in all respects.

### **6.3 Time when representations made**

- (a) All the representations and warranties in this clause 6 are made by the Chargor on the date of this Deed and are also deemed to be made by the first day of each Interest Period under the Facilities Agreement.
- (b) Each representation or warranty deemed to be made after the date of this Deed shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

## **7. UNDERTAKINGS BY THE CHARGOR**

### **7.1 Negative Pledge and Disposals**

The Chargor undertakes to the Security Agent that it shall:

- (a) not sell, transfer, lend or otherwise dispose of, or grant or create any option, right of pre-emption, warrant or other right to subscribe for, purchase or otherwise acquire, the Security Assets or any interest therein or agree, conditionally or unconditionally, to do so;
- (b) not take or omit to take any action which would prejudice the security constituted pursuant to this Deed or impair the value of the Security Assets and shall, at its own cost, promptly take all action which is at any time necessary or which the Security Agent may request, to protect the value of the interests of the Chargor and the Security Agent in the Security Assets;
- (c) not, save in accordance with paragraph 7.1(d) below, vary or abrogate any of the rights attached to the Security Assets or take or omit to take any action which would have that result; and
- (d) take such action as the Security Agent may reasonably request in respect of any proposed consolidation, subdivision, reorganisation, arrangement, conversion, exchange, repayment or takeover offer affecting or relating to the Security Assets or any of them or any proposal made for varying or abrogating any rights attaching to the Security Assets or any of them.

Each of the undertakings given by the Chargor in this Deed remain in force from the date of this Deed until the end of the Security Period.

### **7.2 Charged Investments - protection of security**

- (a) The Chargor shall, immediately upon execution of this Deed or (if later) as soon as is practicable after its acquisition of any Charged Securities, by way of security for the Secured Obligations:
  - (i) deposit with the Security Agent (or as the Security Agent may direct) all certificates and other documents of title or evidence of ownership to the Charged Securities and their Related Rights; and
  - (ii) execute and deliver to the Security Agent:
    - (A) instruments of transfer in respect of the Charged Securities (executed in blank and left undated); and/or
    - (B) such other documents as the Security Agent shall require to enable it (or its nominees) to be registered as the owner of or otherwise to acquire a legal title to the Charged Securities and their Related Rights (or to pass legal title to any purchaser).
- (b) The Chargor shall:
  - (i) promptly give notice to any custodian of any agreement with it in respect of any Charged Investment in the form required by the Security Agent; and

- (ii) use its reasonable endeavours to ensure that the custodian acknowledges that notice in the form required by the Security Agent.
- (c) The Chargor shall promptly pay all calls or other payments which may become due in respect of its Charged Investments.
- (d) Without limiting its obligations under clause 7.3(e), the Chargor shall comply with all requests for information within its knowledge relating to a Security Asset which are made under section 793 of the Companies Act 2006 or which could be made under section 793 if the Company was a public limited company or under any similar provision contained in the articles of association or other constitutional documents of the Company relating to the Security Assets and, if it fails to do so, the Security Agent may provide such information as it may have on behalf of the Chargor.

### **7.3 Security Assets generally**

The Chargor shall:

- (a) notify the Security Agent within 14 days of receipt of every material notice, order, application, requirement or proposal given or made in relation to the Security Assets by any competent authority, and (if required by the Security Agent):
  - (i) immediately provide it with a copy of the same; and
  - (ii) either (A) comply with such notice, order, application, requirement or proposal or (B) make such objections to the same as the Security Agent may require or approve;
- (b) pay all rates, calls, payments and other outgoings owed by it in respect of the Security Assets;
- (c) comply with:
  - (i) all obligations in relation to the Security Assets under any present or future regulation or requirement of any competent authority or any Authorisation; and
  - (ii) all covenants and obligations affecting any Security Asset (or its manner of use),

where failure to do so has or is reasonably likely to have a Material Adverse Effect;
- (d) not, except with the prior written consent of the Security Agent, enter into any onerous or restrictive obligation affecting any Security Assets (except as expressly permitted by the Facilities Agreement);
- (e) provide the Security Agent with all information which it may reasonably request in relation to the Security Assets; and
- (f) not do, cause or permit to be done anything which may to a material extent depreciate, jeopardise or otherwise prejudice the value or marketability of any Security Asset (or make any omission which has such an effect).

## **8. RIGHTS AND OBLIGATIONS IN RESPECT OF CHARGED INVESTMENTS**

### **8.1 Before Event of Default**

- (a) Unless an Event of Default is continuing, the Chargor shall be entitled to:
  - (i) receive and retain all dividends, distributions and other monies paid on or derived from the Charged Securities; and
  - (ii) exercise all voting and other rights and powers attaching to the Charged Securities, provided that it must not do so in a manner which:
    - (A) has the effect of changing the terms of the Charged Securities (or any class of them) or of any Related Rights unless permitted by the Finance Documents; or
    - (B) is prejudicial to the interests of the Security Agent and/or the other Secured Parties under this Deed.
- (b) At any time following the occurrence of an Event of Default which is continuing, the Security Agent may complete the instrument(s) of transfer for all or any Charged Securities on behalf of the Chargor in favour of itself or such other person as it may select.
- (c) At any time when any Charged Securities are registered in the name of the Security Agent or its nominee, the Security Agent shall be under no duty to:
  - (i) ensure that any dividends, distributions or other monies payable in respect of such Charged Securities are duly and promptly paid or received by it or its nominee;
  - (ii) verify that the correct amounts are paid or received; or
  - (iii) take any action in connection with the taking up of any (or any offer of any) Related Rights in respect of or in substitution for such Charged Securities.

## **9. POWER TO REMEDY**

### **9.1 General power to remedy**

If at any time the Chargor does not comply with any of its obligations under this Deed, the Security Agent (without prejudice to any other rights arising as a consequence of such non-compliance) shall be entitled (but not bound) to rectify that default. The Chargor irrevocably authorises the Security Agent and its employees and agents by way of security to do all things (including entering into the property of the Chargor) which are necessary or desirable to rectify that default.

### **9.2 Mortgagee in possession**

The exercise of the powers of the Security Agent under this clause 9 shall not render it or any other Secured Party liable as a mortgagee in possession.

**9.3 Monies expended**

The Chargor shall pay to the Security Agent on demand any monies which are expended by the Security Agent in exercising its powers under this clause 9, together with interest at the Default Rate from each date on which those monies were expended by the Security Agent (both before and after judgment) until payment in full.

**10. WHEN SECURITY BECOMES ENFORCEABLE****10.1 When enforceable**

This Security shall become immediately enforceable upon the occurrence of an Event of Default and shall remain so for so long as such Event of Default is continuing.

**10.2 Statutory powers**

The power of sale and other powers conferred by section 101 of the Act (as amended or extended by this Deed) shall be immediately exercisable upon and at any time after the occurrence of any Event of Default and for so long as such Event of Default is continuing.

**10.3 Enforcement**

After this Security has become enforceable, the Security Agent may in its absolute discretion enforce all or any part of this Security in such manner as it sees fit.

**11. ENFORCEMENT OF SECURITY****11.1 General**

For the purposes of all rights and powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed. Sections 93 and 103 of the Act shall not apply to the Security.

**11.2 Powers of Security Agent**

At any time after the Security becomes enforceable (or if so requested by the Chargor by written notice at any time), the Security Agent may without further notice (unless required by law):

- (a) appoint any person (or persons) to be a receiver, receiver and manager or administrative receiver of all or any part of the Security Assets and/or of the income of the Security Assets; and/or
- (b) appoint or apply for the appointment of any person who is appropriately qualified as administrator of the Chargor; and/or
- (c) exercise all or any of the powers conferred on mortgagees by the Act (as amended or extended by this Deed) and/or all or any of the powers which are conferred by this Deed on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver; and/or
- (d) exercise (in the name of the Chargor and without any further consent or authority of the Chargor) any voting rights and any powers or rights which may be exercised by

any person(s) in whose name any Charged Investment is registered or who is the holder of any of them.

### **11.3 Redemption of prior mortgages**

At any time after the Security has become enforceable, the Security Agent may:

- (a) redeem any prior Security against any Security Asset; and/or
- (b) procure the transfer of that Security to itself; and/or
- (c) settle and pass the accounts of the holder of any prior Security and any accounts so settled and passed shall be conclusive and binding on the Chargor.

All principal, interest, costs, charges and expenses of and incidental to any such redemption and/or transfer shall be paid by the Chargor to the Security Agent on demand.

### **11.4 Privileges**

- (a) Each Receiver and the Security Agent is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers when such receivers have been duly appointed under the Act, except that section 103 of the Act does not apply.
- (b) To the extent that the Security Assets constitute "*financial collateral*" and this Deed and the obligations of the Chargor under this Deed constitute a "*security financial collateral arrangement*" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)) each Receiver and the Security Agent shall have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.
- (c) For the purpose of clause 11.4(b), the value of the financial collateral appropriated shall be such amount as the Receiver or Security Agent reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

### **11.5 No liability**

- (a) Neither the Security Agent, any other Secured Party nor any Receiver shall be liable (i) in respect of all or any part of the Security Assets or (ii) 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 its or his respective powers (unless such loss or damage is caused by its or his gross negligence or wilful misconduct).
- (b) Without prejudice to the generality of clause 11.5(a), neither the Security Agent, any other Secured Party nor any Receiver shall be liable, by reason of entering into possession of a Security 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 be liable.

## **11.6 Protection of third parties**

No person (including a purchaser) dealing with the Security Agent or any Receiver or Delegate will be concerned to enquire:

- (a) whether the Secured Obligations have become payable;
- (b) whether any power which the Security Agent or the Receiver is purporting to exercise has become exercisable;
- (c) whether any money remains due under any Finance Document; or
- (d) how any money paid to the Security Agent or to the Receiver is to be applied.

## **12. RECEIVER**

### **12.1 Removal and replacement**

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

### **12.2 Multiple Receivers**

If at any time there is more than one Receiver of all or any part of the Security Assets and/or the income of the Security Assets, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

### **12.3 Remuneration**

Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Security Agent (or, failing such agreement, to be fixed by the Security Agent).

### **12.4 Payment by Receiver**

Only monies actually paid by a Receiver to the Security Agent in relation to the Secured Obligations shall be capable of being applied by the Security Agent in discharge of the Secured Obligations.

### **12.5 Agent of Chargor**

Any Receiver shall be the agent of the Chargor. The Chargor shall (subject to the Companies Act 2006 and the Insolvency Act 1986) be solely responsible for his acts and defaults and for the payment of his remuneration. No Secured Party shall incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

### **13. POWERS OF RECEIVER**

#### **13.1 General powers**

Any Receiver shall have:

- (a) all the powers which are conferred on the Security Agent by clause 11.2 (*Powers of Security Agent*);
- (b) all the powers which are conferred by the Act on mortgagees in possession and receivers appointed under the Act;
- (c) (whether or not he is an administrative receiver) all the powers which are listed in schedule 1 of the Insolvency Act 1986; and
- (d) all powers which are conferred by any other law conferring power on receivers.

#### **13.2 Additional powers**

In addition to the powers referred to in clause 13.1 (*General powers*), a Receiver shall have the following powers:

- (a) to take possession of, collect and get in all or any part of the Security Assets and/or income in respect of which he was appointed;
- (b) to manage the Security Assets and the business of the Chargor as he thinks fit;
- (c) to redeem any security and to borrow or raise any money and secure the payment of any money in priority to the Secured Obligations for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- (d) to sell or concur in selling or otherwise disposing of all or any part of the Security Assets in respect of which he was appointed without the need to observe the restrictions imposed by section 103 of the Act and, without limitation:
  - (i) the consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party); and
  - (ii) any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit;
- (e) to carry out any sale or other disposal of all or any part of the Security Assets by conveying, transferring, assigning or leasing the same in the name of the Chargor and, for that purpose, to enter into covenants and other contractual obligations in the name of, and so as to bind, the Chargor;
- (f) to take any such proceedings (in the name of the Chargor or otherwise) as he shall think fit in respect of the Security Assets and/or income in respect of which he was appointed (including proceedings for recovery of rent or other monies in arrears at the date of his appointment);

- (g) to enter into or make any such agreement, arrangement or compromise as he shall think fit;
- (h) to insure, and to renew any insurances in respect of, the Security Assets as he shall think fit (or as the Security Agent shall direct);
- (i) to appoint and employ such managers and officers and engage such professional advisers as he shall think fit (including, without prejudice to the generality of the foregoing power, to employ his partners and firm); and
- (j) to form one or more Subsidiaries of the Chargor and to transfer to any such Subsidiary all or any part of the Security Assets;
- (k) to:
  - (i) give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary or desirable for the realisation of any Security Asset;
  - (ii) exercise in relation to each Security Asset all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Security Assets; and
  - (iii) use the name of the Chargor for any of the above purposes.

#### **14. APPLICATION OF PROCEEDS AND INTERCREDITOR AGREEMENT**

##### **14.1 Application after Security Assets enforceable**

All monies received by the Security Agent or any Receiver under or in connection with this Deed or the Security Assets after the Security has become enforceable shall (subject to the rights and claims of any person having a security ranking in priority to the Security and subject to the Intercreditor Agreement) be applied in the following order:

- (a) **first**, in satisfaction of, or provision for, all costs, charges and expenses incurred, and payments made, by the Security Agent, any other Secured Party or any Receiver or Delegate and of all remuneration due to the Receiver in connection with this Deed or the Security Assets;
- (b) **secondly**, in or towards the satisfaction of the remaining Secured Obligations in accordance with clause 14.2 (*Appropriation, Intercreditor Agreement and suspense account*); and
- (c) **thirdly**, in payment of any surplus to the Chargor or other person entitled to it.

##### **14.2 Appropriation, Intercreditor Agreement and suspense account**

- (a) Subject to the Intercreditor Agreement and clause 14.1 (*Application after Security Assets enforceable*), the Security Agent shall apply all payments received in respect of the Secured Obligations in reduction of any part of the Secured Obligations in any order or manner which it may determine.
- (b) Any such appropriation shall override any appropriation by the Chargor.

- (c) All monies received, recovered or realised by the Security Agent under or in connection with this Deed may at the discretion of the Security Agent be credited to a separate interest-bearing suspense account for so long as the Security Agent determines (with interest accruing thereon at such rate (if any) as the Security Agent usually grants for accounts of that size and nature) without the Security Agent having any obligation to apply such monies and interest or any part of it in or towards the discharge of any of the Secured Obligations.

## **15. SET-OFF**

- (a) The Security Agent and each other Secured Party may (but shall not be obliged to) set off any matured obligation due from the Chargor and unpaid (whether under the Finance Documents or which has been assigned to the Security Agent or such Secured Party by the Chargor) against any matured obligation owed by the Security Agent or such other Secured Party to the Chargor, regardless of the place of payment, booking branch or currency of either obligation.
- (b) At any time after the Security under this Deed has become enforceable (and in addition to its rights under clause 15(a)), the Security Agent and each other Secured Party may (but shall not be obliged to) set-off any contingent liability owed by the Chargor under any Finance Document against any obligation (whether or not matured) owed by the Security Agent or such other Secured Party to the Chargor, regardless of the place of payment, booking branch or currency of either obligation.
- (c) If the obligations are in different currencies, the Security Agent or such other Secured Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.
- (d) If either obligation is unliquidated or unascertained, the Security Agent or such other Secured Party may set-off in an amount estimated by it in good faith to be the amount of that obligation.

## **16. DELEGATION**

Each of the Security Agent and any Receiver may delegate by power of attorney (or in any other manner) to any person, any right, power or discretion exercisable by them under this Deed upon any terms (including power to sub-delegate) which it may think fit. Neither the Security Agent nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

## **17. FURTHER ASSURANCES**

### **17.1 Further action**

The Chargor shall, at its own expense, immediately do all acts and execute all documents as the Security Agent or a Receiver may reasonably specify (and in such form as either the Security Trustee or any Receiver may reasonably require) for:

- (a) creating, perfecting or protecting the Security over the Security Assets intended to be created by this Deed; and
- (b) facilitating the realisation of any Security Asset;

- (c) facilitating the exercise of any right, power or remedies exercisable by the Security Agent, any other Secured Party, or any Receiver or any Delegate in respect of any Security Asset or provided by or pursuant to the Finance Documents or by law; or

this includes:

- (i) the re-execution of this Deed;
- (ii) the execution of any legal mortgage, charge, transfer, assignment, assignation or assurance of any Security Asset, whether to the Security Agent or to its nominee; and
- (iii) the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Security Agent may think expedient.

## **17.2 Specific security**

Without prejudice to the generality of clause 17.1 (*Further action*), the Chargor will immediately upon request by the Security Agent execute any document contemplated by that clause over any Security Asset which is subject to or intended to be subject to any fixed security under this Deed.

## **18. POWER OF ATTORNEY**

The Chargor, by way of security, irrevocably appoints the Security Agent, each Receiver and any Delegate to be its attorney to take any action whilst an Event of Default is continuing which the Chargor is obliged to take under this Deed, including under clause 17 (*Further assurances*). The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause.

## **19. CURRENCY CONVERSION**

All monies received or held by the Security Agent under this Deed may be converted from their existing currency into such other currency as the Security Agent considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the Agent's Spot Rate of Exchange. The Chargor shall indemnify the Security Agent against all costs, charges and expenses incurred in relation to such conversion. Neither the Security Agent nor any Receiver shall have any liability to the Chargor in respect of any loss resulting from any fluctuation in exchange rates after any such conversion.

## **20. CHANGES TO THE PARTIES**

### **20.1 The Chargor**

The Chargor may not assign or transfer any of its rights or obligations under this Deed.

### **20.2 Security Agent**

The Security Agent may assign or transfer all or any part of its rights under this Deed pursuant to the resignation or removal of the Security Agent in accordance with the Intercreditor Agreement. The Chargor shall, immediately upon being requested to do so by

the Security Agent, enter into such documents as may be necessary or desirable to effect such assignment or transfer.

## **21. MISCELLANEOUS**

### **21.1 New accounts**

- (a) If the Security Agent or any other Secured Party receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent Security (other than a Permitted Security) affecting any Security Asset and/or the proceeds of sale of any Security Asset or any guarantee under the Finance Documents ceases to continue in force, it may open a new account or accounts for the Chargor. If it does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received such notice.
- (b) As from that time all payments made to the Security Agent or such other Secured Party will be credited or be treated as having been credited to the new account and will not operate to reduce any amount of the Secured Obligations.

### **21.2 Tacking**

- (a) Each Finance Party shall perform its obligations under the Facilities Agreement (including any obligation to make available further advances).
- (b) This Deed secures advances already made and further advances to be made.

### **21.3 Articles of association**

The Chargor certifies that the Security does not contravene any of the provisions of its articles of association.

### **21.4 Protective clauses**

- (a) The Chargor is deemed to be a principal debtor in relation to this Deed. The obligations of the Chargor under, and the security intended to be created by, this Deed shall not be impaired by any forbearance, neglect, indulgence, extension or time, release, surrender or loss of securities, dealing, amendment or arrangement by any Secured Party which would otherwise have reduced, released or prejudiced this Security or any surety liability of the Chargor (whether or not known to it or to any Secured Party).
- (b) Clause 23 of the Facilities Agreement (*Guarantee and indemnity*) apply in relation to this Deed as if references to the obligations referred to in such clauses respectively were references to the obligations of the Chargor under this Deed.

## **22. NOTICES**

22.1 The provisions of clause 34 of the Facilities Agreement (*Notices*) (other than clauses 34.3(c), 34.6 (*Electronic communication*) and 34.7 (*Use of websites*)) is incorporated into this Deed as if fully set out in this Deed.

22.2 The address of its parties for the purposes of this clause 22 are:

The Security Agent:

Address: Lloyds Bank, 3<sup>rd</sup> Floor, 11 Earl Grey Street, Edinburgh, EH3 9BN

For the attention of: Scott Deatcher

The Pledgor:

Address: Avidity Group Limited, 74 Waterloo Street, Glasgow, G2 7DJ

For the attention of: Michelle Jordan, Finance Director

or such other address in the United Kingdom as may be notified in writing from time to time by the relevant party to the others.

## **23. CALCULATIONS AND CERTIFICATES**

Any certification of or determination by a Finance Party or the Security Agent specifying the amount of any Secured Obligation due from the Chargor (including details of any relevant calculation thereof) is, in the absence of manifest error, conclusive evidence against the Chargor of the matters to which it relates.

## **24. PARTIAL INVALIDITY**

All the provisions of this Deed are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any 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.

## **25. REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of the Security Agent (or any other Secured Party), 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 are cumulative and not exclusive of any rights or remedies provided by law.

## **26. AMENDMENTS AND WAIVERS**

Any provision of this Deed may be amended only if the Security Agent and the Chargor so agree in writing and any breach of this Deed may be waived before or after it occurs only if the Security Agent so agrees in writing. A waiver given or consent granted by the Security Agent 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.

## **27. COUNTERPARTS**

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures (and seals, if any) on the counterparts were on a single copy of this Deed.

**28. RELEASE****28.1 Release**

Upon the expiry of the Security Period (but not otherwise) the Security Agent shall, at the request and cost of the Chargor, take whatever action is necessary to release or re-assign (without recourse or warranty) the Security Assets from the Security.

**28.2 Reinstatement**

Where any discharge (whether in respect of the obligations of the Chargor or any security for those obligations or otherwise) is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is avoided or must be restored on insolvency, liquidation or otherwise (without limitation), the liability of the Chargor under this Deed shall continue as if the discharge or arrangement had not occurred. The Security Agent may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

**29. GOVERNING LAW**

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

**30. ENFORCEMENT**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including an 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) (a "**Dispute**").
- (b) The Parties agrees 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 30 is for the benefit of the Finance Parties and Secured Parties only. As a result, no Finance Party or Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties and Secured Parties may take concurrent proceedings in any number of jurisdictions.

**IN WITNESS** of which this Deed has been duly executed by the Chargor as a deed and duly executed by the Security Agent and has been delivered by the Chargor.

**SCHEDULE: THE INITIAL CHARGED SECURITIES**

<b>Name of company in which shares are held</b>	<b>Class of shares held</b>	<b>Number of shares held</b>	<b>Issued share capital</b>
Standout Field Marketing Limited (CRN: 07960792)	A Ordinary shares of £1.00 each  B Ordinary shares of £1.00 each	199  1	199 A Ordinary shares of £1.00 each and 1 B Ordinary share of £1.00
Experience Wave Limited (CRN: 04400611)	A Ordinary shares of £1.00 each  B Ordinary shares of £1.00 each	51  49	51 A Ordinary shares of £1.00 each and 49 B Ordinary shares of £1.00 each

EXECUTION PAGE

THE CHARGOR

Executed as a deed by **AVIDITY GROUP** )  
**HOLDINGS LIMITED** acting by: )

Director **Michelle Jordan** 

Witness signature 

Witness name: **Sandy Gardner**

Witness address: 

THE SECURITY AGENT

Signed by **John Togher** for )  
and on behalf of **LLOYDS BANK PLC:** )  
)

Signature 