



Registration of a Charge

Company Name: **IMAGINARY FRIENDS LIMITED**

Company Number: **SC424624**



XCIC1Z6G

Received for filing in Electronic Format on the: **14/12/2023**

Details of Charge

Date of creation: **13/12/2023**

Charge code: **SC42 4624 0002**

Persons entitled: **JACQUELINE ARNOTT-RAYMOND**

Brief description:

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.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **DARCY REILLY**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 424624

Charge code: SC42 4624 0002

The Registrar of Companies for Scotland hereby certifies that a charge dated 13th December 2023 and created by IMAGINARY FRIENDS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 14th December 2023 .

Given at Companies House, Edinburgh on 14th December 2023

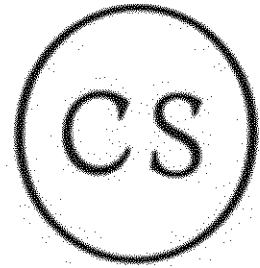
The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



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



DATED 13/12/2023

FLOATING CHARGE

by

IMAGINARY FRIENDS LIMITED

in favour of

JACQUELINE MARGARET ARNOTT-RAYMOND

Curle Stewart Limited
189 St Vincent Street
Glasgow
G2 5QD

Ref: EC/ARNJ17620-00001

FLOATING CHARGE

by

IMAGINARY FRIENDS LIMITED incorporated and registered in Scotland with company number SC424624 whose registered office is at Suite 9, The Garment Factory, 10 Montrose Street, Glasgow, Lanarkshire, Scotland G1 1RE (Chargor);

in favour of

JACQUELINE MARGARET ARNOTT-RAYMOND, residing at 54 Ravenswood Drive, Glasgow G41 3UH (Chargee).

AGREED TERMS

1. Definitions and interpretation

1.1 Definitions

In this bond and floating charge the following definitions and rules of interpretation apply.

Administrator: an administrator appointed to manage the affairs, business and property of the Chargor pursuant to paragraph 14 of Schedule B1 Insolvency Act.

Assets: the whole of the property (including uncalled capital) which is or may be from time to time comprised in the property and undertaking of the Chargor;

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

Buyer: Imaginary Friends Forever Ltd, incorporated and registered in Scotland with company number SC788429 whose registered office is at Suite 9, The Garment Factory, 10 Montrose Street, Glasgow, Lanarkshire, Scotland, G1 1RE.

Costs: 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 Costs.

Deferred Payment: has the meaning as given in the SPA.

Delegate: any delegate, agent, attorney or trustee appointed by the Chargee.

Encumbrance: any mortgage, pledge, lien, charge, assignation by way of security, assignation in security, hypothec, security interest, title retention, preferential right or trust arrangement or any other security agreement or arrangement having the effect of security;

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

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

Guarantee: the guarantee granted by the Chargor in favour of the Chargee in security for the Buyer's obligations to pay certain liabilities pursuant to the SPA.

Insolvency Act: the Insolvency Act 1986.

Properties: all heritable and leasehold properties (whether registered or unregistered) now or in the future (and from time to time) owned by the Chargor, or in which the Chargor holds an interest and **Property** means any of them.

Receiver: a receiver or administrative receiver over any or all of the Assets appointed under this Charge.

Secured Liabilities: all present and future monies, obligations and liabilities owed by the Chargor to the Chargee, whether actual or contingent and whether owed jointly or severally or in any capacity whatsoever of the Chargor owing to the Chargee pursuant to the Guarantee.

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

Security Interest: any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security, hypothecation or other encumbrance, arrangement or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect or any title rights or set-off rights created by agreement.

SPA: the share purchase agreement dated on or around the date of this Floating Charge and entered into between the Buyer and the Chargee in respect of the sale and purchase of the entire issued share capital of the Chargor.

1.2 Interpretation

Unless the context otherwise requires, in this Charge:

- 1.2.1 a reference to a statute or statutory provision includes a reference to any subordinate legislation made under that statute or statutory provision, to any modification, re-enactment or extension of that statute or statutory provision and to any former statute or statutory provision that it consolidated or re-enacted before the date of this Charge;

- 1.2.2 a reference to one gender includes a reference to the other genders;
- 1.2.3 words in the singular include the plural and in the plural include the singular;
- 1.2.4 a reference to a clause or the Schedule is to a clause of, or the Schedule to, this Charge, and references to paragraphs are to paragraphs of the Schedule;
- 1.2.5 a reference to this **Charge** (or any specified provision of it) or any other document shall be construed as a reference to this Charge, that provision or that document as in force for the time being and as amended from time to time;
- 1.2.6 a reference to a **person** shall include a reference to an individual, firm, company, corporation, firm, partnership, joint venture, association, organisation, unincorporated body of persons, or any state or any agency of a person;
- 1.2.7 a reference to an **amendment** includes a supplement, variation, novation or re-enactment (and **amended** shall be construed accordingly);
- 1.2.8 a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- 1.2.9 a reference to the **Chargor** or the **Chargee** shall include its successors, permitted transferees and permitted assigns and where there is more than one party comprised in the Chargor, Chargor means each of them jointly and severally;
- 1.2.10 a reference to **fixed security** is to be construed in accordance with the terms of Section 486 of the Companies Act 1985; and
- 1.2.11 clause, schedule and paragraph headings shall not affect the interpretation of this Charge.

1.3 Insolvency Act 1986

Paragraph 14 of Schedule B1 of the Insolvency Act (as inserted by section 248 of, and Schedule 16 to, the Enterprise Act 2002) applies to the floating charge

created by this Charge (and such floating charge is a qualifying floating charge for the purposes of the Insolvency Act).

1.4 Schedule

The Schedule in two parts forms part of this Charge and shall have effect as if set out in full in the body of this Charge. Any reference to this Charge includes the Schedule.

2. Bond

The Chargor undertakes to the Chargee that it will pay or discharge to the Chargee all of the Secured Liabilities on demand when they become due for payment or discharge.

3. Floating Charge

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor hereby grants to the Chargee a floating charge over the Assets.

4. Ranking

4.1 This Charge shall, subject to Section 464(2) of the Companies Act 1985, rank in priority to any fixed security which shall be created by the Chargor after its execution of this instrument, other than a fixed security in favour of the Chargee, and to any other floating charge which shall be created by the Chargor after its execution of this Charge and, subject as aforesaid, no such fixed security or other floating charge shall rank in priority to or equally with this Charge.

4.2 Except with the prior written consent of the Chargee, the Chargor shall not create, incur, assume or permit to subsist any Encumbrance on all or any part of the Assets.

4.3 In the event that the Chargor grants or creates any fixed security or floating charge in breach of the prohibitions in clause 4.1 and 4.2 or with the consent of the Chargee in accordance with clause 4.2 but with no written agreement of the Chargee as to the ranking of them, this Charge shall rank in priority to that fixed security or floating charge.

4.4 Liability not discharged

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

4.4.1 any security, guarantee, indemnity, remedy or other right held by, or available to, the Chargee that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;

- 4.4.2 the Chargee 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
- 4.4.3 any time, waiver or consent granted to, or composition with the Chargor or any other person;
- 4.4.4 the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of the Chargor;
- 4.4.5 the Chargee failing to realise the full value of any Security held by it;
- 4.4.6 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person or any defective or excessive exercise of the Chargor's powers or authority;
- 4.4.7 any insolvency, bankruptcy, liquidation, administration, winding-up, incapacity, dissolution, limitation, disability, the discharge by operation of law or any similar proceedings in respect of the Chargor or any other person; or
- 4.4.8 any change in the constitution, name or style of the Chargor or any other person, or if the Chargor or such other person is a partnership or other unincorporated organisation, its dissolution or any change in its status or membership.
- 4.4.9 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.

4.5 Immediate recourse

The Chargor waives any right it may have to require the Chargee to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Charge against the Chargor.

- 4.6 The Chargee shall not be obliged, before exercising any of the rights, powers or remedies conferred upon it by or pursuant to this Charge or by law to:
 - 4.5.1 take any action or obtain judgment or decree in any court against the Chargor;
 - 4.5.2 make or file any claim to rank in a winding-up or a liquidation of or other proceedings relating to the Company; or

- 4.5.3 enforce or seek to enforce any other security taken, or exercise any right or pleas available to the Chargee in respect of the Secured Liabilities.
- 4.7 Any settlement or discharge between the Chargor and the Chargee shall be conditional upon no security or payment granted or made to the Chargee by the Chargor or any other person being avoided or reduced by virtue of any provision or enactment relating to administration, bankruptcy, insolvency or liquidation for the time being in force and accordingly (but without prejudice to any other rights of the Chargee) the Chargee shall be entitled to recover from the Chargor the value or amount of such security or payment from the Chargor as if such settlement or discharge had not occurred.

5. Undertakings

- 5.1 The Chargor shall not without the prior written consent of the Chargee:
- 5.1.1 sell, transfer, assign, factor, lease, license or otherwise dispose of all or any of the Assets or its interest in them other than in the ordinary course of trading;
 - 5.1.2 grant any lease of, part with possession or share occupation of, the whole or any part of its Properties or confer any licence, right or interest to occupy or grant any licence or permission to assign, sublet or part with possession of same;
 - 5.1.3 vary, surrender, cancel or dispose of, or permit to be irritated or forfeit, any leasehold interest in any of the Properties;
 - 5.1.4 make any structural or material alteration to or to the user of any of its Properties or do or permit to be done anything which is a "development" within the meaning of the Town and Country Planning Acts from time to time (or any orders or regulations under such Acts) or do or permit to be done any act, matter or thing where to do so would have a material and adverse effect on the value of any of the Properties or on the marketability of any of the Assets.
- 5.2 The Chargor shall:
- 5.2.1 at all times comply with the terms of this Charge and of all agreements relating to the Secured Liabilities;
 - 5.2.2 if and when required by the Chargee, grant in its favour (or as the Chargee directors), such fixed or specific security or charge or assignation over all or any of the Assets as the Chargee may require;
 - 5.2.3 comply in all material respects with the terms of all applicable laws and regulations including (without limitation) all environmental laws, legislation relating to public health, town and country planning,

- control and handling of hazardous substances or waste, fire precautions and health and safety at work;
- 5.2.4 promptly notify the Chargee of the acquisition by the Company of any interest in any heritable, freehold or leasehold property;
- 5.2.5 promptly upon request by the Chargee, deposit with the Chargee all deeds, certificates and documents of title relating to the Assets or any part of them and all policies of insurance and assurance;
- 5.2.6 keep the Assets in good and substantial repair and in good working order and condition, ordinary wear and tear excepted;
- 5.2.7 promptly pay or cause to be paid and indemnify the Chargee and any Receiver against all present and future rent, rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever now or at any time in the future payable in respect of any of its Properties (or any part of them) or by the owner or occupier of them;
- 5.2.8 ensure that all the Assets that are insurable are insured with reputable insurance companies or underwriters to such extent and against such risks as is normal for prudent companies in businesses with similar to those of the Chargor (or as otherwise requested in writing by the Chargee from time to time) and (without limitation to the generality of the foregoing):
- (i) pay all premiums and other money due and payable under all such insurances and provide premium receipts or any other evidence of payment promptly upon request to do so by the Chargee;
 - (ii) ensure that the interest of the Chargee is noted on the policies in respect of such insurances or, at the request of the Chargee, that such policies contain such other provisions for the protection of the Chargee as the Chargee may from time to time require;
- 5.2.9 notify the Chargee immediately if any creditor executes diligence against the Chargor or any distress or execution is levied or enforced against the Company or any third party debt order or freezing order is made and served on the Company;
- 5.2.10 notify the Chargee immediately if any steps (including without limitation, the making of any application or the giving of any notice) are taken by any person (including, without limitation, the Chargor) in relation to the administration, receivership, winding-up or dissolution of the Chargor; and
- 5.2.11 maintain its centre of main interests, for the purposes of the Council Regulation (EC) No 1346/2000 on Insolvency Proceedings, in the United Kingdom.

6. Powers of the Chargee

The Chargee shall have the powers set out in Part 1 of the Schedule (*Power of the Chargee*).

7. Enforcement

7.1 This Charge shall become enforceable if any of the events set out in paragraph 1 of Part 6 of the Schedule (*Enforcement*) occurs. The parties to this Charge agree that the provisions of Part 2 of the Schedule (*Enforcement*) shall apply to this Charge and shall be binding between them.

7.2 Right of appropriation

7.2.1 To the extent that:

- (a) the Assets constitute Financial Collateral; and
- (b) are subject to a Security Financial Collateral Arrangement,

the Chargee shall have the right, at any time after this Charge has become enforceable, to appropriate all or any of those Assets in or towards the payment or discharge of the Secured Liabilities in such order as the Chargee may, in its absolute discretion, determine.

7.2.2 The value of any Assets appropriated in accordance with this clause shall be the price of those Assets at the time the right of appropriation is exercised as listed on any recognised market index, or determined by such other method as the Chargee may select (including independent valuation) or, in the case of cash, shall be the amount of cash appropriated.

7.2.3 The Chargor agrees that Assets that are Financial Collateral may, at the Chargee's option, be held or designated so as to be under the control of the Chargee for all purposes of the Financial Collateral Regulations.

7.2.4 The Chargor agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

8. Costs and indemnity

8.1 Costs

8.1.1 The Chargor shall pay to, or reimburse, the Chargee, any Receiver, any Delegate and any Administrator on demand, on a full indemnity basis,

all Costs incurred by the Chargee, any Receiver, any Delegate or any Administrator in connection with:

- (a) this Charge or the Assets;
- (b) protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Chargee's, Receiver's, Delegate's or Administrator's rights under this Charge;
- (c) suing for, or recovering, any of the Secured Liabilities,

(including, without limitation, the Costs of any proceedings in connection with this Charge or the Secured Liabilities), together with interest on any amount due under clause 8.1.1(b) and clause 8.1.1(c) at the Default Rate in accordance with clause **Error! Reference source not found.**

- 8.1.2 The Chargor shall pay all present and future stamp, registration and similar taxes or charges which may be payable, or determined to be payable, in connection with the execution, delivery, performance or enforcement of this Charge or any judgment or decree given in connection therewith and shall indemnify the Chargee, any Receiver and any Delegate against any and all liabilities, including penalties with respect to, or resulting from, its delay or omission to pay any such stamp, registration and similar taxes or charges.

8.2 Indemnity

The Chargee, any Receiver, any Delegate, any Administrator and their respective employees and agents, shall be indemnified on a full indemnity basis out of the Assets and/or by the Chargor in respect of all actions, liabilities and Costs incurred or suffered in or as a result of:

- 8.2.1 the exercise, or purported exercise, of any of the powers, authorities or discretions vested in them under this Charge;
- 8.2.2 any matter or thing done, or omitted to be done, in relation to the Assets under those powers; or
- 8.2.3 any default or delay by the Chargor in performing any of its obligations under this Charge.

9. Disclosure

The Chargor hereby consents to the disclosure by the Chargee of any information about it or this Charge and the Property and the Secured Liabilities to any insurer

of the Properties or any person to whom disclosure is required by law or to any third party who has or intends to enter into any contractual arrangements relating to the Charge or the Properties or the Secured Liabilities or who assumes any rights in relation to them and any of their advisers.

10. Assignment and transfer

10.1 Assignment by Chargee

At any time, without the consent of the Chargor, the Chargee may assign or transfer the whole or any part of her rights and obligations under this Charge to any other person and in this event the Chargor's existing rights in relation to the same will remain unaffected but its obligations will be owed to the third party instead of the Chargee and the Chargee will be released from its obligations to the Chargor insofar as the third party has assumed the Chargee's obligations. If required to do so the Chargor will enter into any documentation required to effect any transfer of rights.

10.2 Assignment by Chargor

The Chargor may not assign any of its rights, or transfer any of its obligations, under this Charge, or enter into any transaction that would result in any of those rights or obligations passing to another person.

11. Further provisions

11.1 Independent security

This Charge shall be in addition to, and independent of, every other security or guarantee that the Chargee may hold for any of the Secured Liabilities at any time. No prior security held by the Chargee over the whole or any part of the Assets shall merge in the security created by this Charge.

11.2 Continuing security

11.2.1 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 Chargee discharges this Charge in writing.

11.2.2 This Charge shall be in addition to, and without prejudice to and shall not merge with, any other right, remedy, guarantee or Security Interest which the Chargee may at any time hold in respect of any of the Secured Liabilities and this Charge may be enforced against the

Chargor without the Chargee first having recourse to any other right, remedy, guarantee or Security Interest held or available to it.

11.3 Discharge conditional

11.3.1 Any release, discharge or settlement between the Chargor and the Chargee shall be deemed conditional on no right, Encumbrance, disposition or payment received by the Chargee in respect of the Secured Liabilities being avoided, reduced, set-aside or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership, protection from creditors generally or otherwise. Despite any such release, discharge or settlement:

- (a) the Chargee 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 Assets, for such period as the Chargee deems necessary to provide the Chargee with security against any such avoidance, reduction or order for refund; and
- (b) the Chargee 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.

11.3.2 If any claim of the kind referred to in clause 11.3.1 is made against the Chargee under insolvency laws, the Chargee may agree the claim or settle it on any terms it chooses without asking for the Chargor's agreement.

11.3.3 If the Chargee does agree to settle the claim in accordance with clause 11.3.2, the Chargor will be liable under this Charge as if a court order had been made containing the terms the Chargee has agreed.

11.3.4 The Chargor will be responsible for all costs and expenses the Chargee properly incurs in defending any claim of the kind referred to in clause 11.3.

11.4 Certificates

A certificate or determination by the Chargee as to any amount for the time being due to it from the Chargor shall (in the absence of any manifest error) be conclusive evidence of the amount due.

11.5 Rights cumulative

The rights and remedies of the Chargee conferred by this Charge are cumulative, may be exercised as often as the Chargee considers appropriate, and are in addition to its rights and remedies under the general law.

11.6 Variations and waivers

Any waiver or variation of any right or remedy by the Chargee (whether arising under this Charge or under the general law), or any consent given under this Charge, is only effective if it is in writing and signed by the waiving, varying or consenting party, and applies only in the circumstances for which it was given, and shall not prevent the party giving it from subsequently relying on the relevant provision.

11.7 Further exercise of rights

No act or course of conduct or negotiation by, or on behalf of, the Chargee shall, in any way, preclude the Chargee from exercising any right or remedy under this Charge or constitute a suspension or variation of any such right or remedy.

11.8 Delay

No delay or failure to exercise any right or remedy under this Charge shall operate as a waiver of that right or remedy.

11.9 Single or partial exercise

No single or partial exercise of any right or remedy under this Charge shall prevent any further or other exercise of that right or remedy, or the exercise of any other right or remedy under this Charge.

11.10 Partial invalidity

The invalidity, unenforceability or illegality of any provision (or part of a provision) of this Charge under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with any modification necessary to give effect to the commercial intention of the parties.

12. Notices

12.1 Service

Each notice or other communication required to be given under, or in connection with, this Charge shall be:

12.1.1 in writing, delivered personally or sent by pre-paid first-class letter; and

12.1.2 sent:

(a) to the Chargor at:

Address: Suite 9, The Garment Factory, 10 Montrose Street, Glasgow, Lanarkshire, Scotland, G1 1RE

With a copy to: Fraser Morrison, McKee Campbell Morrison Limited, Solicitors, The Hatrack, 144 St Vincent Street, Glasgow G2 5LQ

(b) to the Chargee at:

Address: 54 Ravenswood Drive, Glasgow G41 3UH

With a copy to: Elspeth Curle, Curle Stewart Limited, Solicitors, 189 St Vincent Street, Glasgow G2 5QD

or to such other address or fax number as is notified in writing by one party to the other from time to time.

12.2 Receipt by Chargor

12.2.1 Any notice or other communication that the Chargee gives shall be deemed to have been received:

(a) if sent by fax, when received in legible form;

(b) if given by hand, at the time of actual delivery; and

(c) if posted, on the second Business Day after the day it was sent by pre-paid first-class post.

12.2.2 A notice or other communication given as described in clause 12.2.1(a) or clause 12.2.1(b) on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

12.3 Receipt by Chargee

Any notice or other communication given to the Chargee shall be deemed to have been received only on actual receipt.

13. Governing law and jurisdiction


13.1 Governing law

This Charge and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Scotland.

13.2 Jurisdiction

The parties to this Charge irrevocably agree that, subject as provided below, the courts of Scotland shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, this Charge or its subject matter or formation (including non-contractual disputes or claims): IN WITNESS WHEREOF these presents consisting of this and the 11 preceding pages together with the schedule are subscribed as follows:-

They are SUBSCRIBED for and on behalf of the said IMAGINARY FRIENDS LIMITED at GLASGOW on the 13TH day of DECEMBER 2023 before this witness:


 Witness
JOANNE BURKE Name

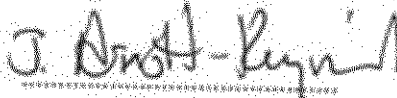

(Director) signature

McKee Campbell Morrison Address
The Hatrack
144 St Vincent Street
Glasgow
G2 5LQ

MARTIN BOOTH
(Director) print full name

They are SUBSCRIBED by the said JACQUELINE MARGARET ARNOTT-RAYMOND at GLASGOW on the 13TH day of DECEMBER 2023 before this witness:

 Witness
JOANNE BURKE Name



McKee Campbell Morrison Address
The Hatrack
144 St Vincent Street
Glasgow
G2 5LQ

This is the schedule in two parts referred to in the foregoing bond and floating charge by IMAGINARY FRIENDS LIMITED in favour of JACQUELINE MARGARET ARNOTT-

RAYMOND dated 13/12/2023:

SCHEDULE

PART 1 - Powers of the Chargee

1. Power to remedy

The Chargee shall be entitled (but shall not be bound) to remedy, at any time, a breach by the Chargor of any of its obligations contained in this Charge, and the Chargor irrevocably authorises the Chargee and its agents to do everything necessary or desirable for that purpose.

2. Exercise of rights

The rights of the Chargee under paragraph 1 of this Part 1 of the Schedule (*Powers of the Chargee*) are without prejudice to any other rights of the Chargee under this Charge.

3. Conversion of currency

3.1 For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Chargee may convert any monies received, recovered or realised by it under this Charge (including the proceeds of any previous conversion under this paragraph 3) from their existing currencies into such other currencies as the Chargee may think fit.

3.2 Any such conversion shall be effected at the Chargee's then prevailing spot selling rate of exchange as determined by the Chargee for such other currency against the existing currency.

3.3 Each reference in this paragraph 3 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

4. New accounts

4.1 If the Chargee receives notice of any subsequent Security Interest, or other interest, affecting all or part of the Assets, the Chargee may open a new account for the Chargor in the Chargee's books. Without prejudice to the Chargee's right to combine accounts, no money paid to the credit of the Chargor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.

- 4.2 If the Chargee does not open a new account immediately on receipt of notice under paragraph 4.1 of this Part 1 of the Schedule (*Powers of the Chargee*), then (unless the Chargee gives express written notice to the contrary to the Chargor) all payments made by the Chargor to the Chargee shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt of the relevant notice by the Chargee.

5. **Chargee's set-off rights**

- 5.1 If the Chargee has more than one account for the Chargor in its books, the Chargee may at any time after (i) the security constituted by this Charge has become enforceable or (ii) the Chargee has received notice of any subsequent Security Interest or other interest affecting all or any part of the Assets:
- 5.1.1 combine or consolidate all or any sums of money now or hereafter standing to the credit of the then existing accounts of the Chargor with the Chargee with the liabilities to the Chargee of the Chargor; and
 - 5.1.2 set-off or transfer, without prior notice, all or any part of the balance standing to the credit of any account to any other account that may be in debit (but the Chargee shall notify the Chargor of the transfer once made) in or towards satisfaction of any of the liabilities of the Chargor to the Chargee on any other account or in any other respect.
- 5.2 The liabilities referred to in this paragraph 5 of Part 1 of the Schedule (*Powers of the Chargee*) may be actual, contingent, primary, collateral, several or joint liabilities, and the accounts, sums and liabilities referred to in this paragraph 5 of Part 1 of the Schedule (*Powers of the Chargee*) may be denominated in any currency. If the amounts concerned are expressed in a different currency then the Chargee may exercise all such rights and is authorised to effect any necessary conversions at the Chargee's then prevailing spot selling rate of exchange as determined by the Chargee.
- 5.3 If the relevant obligation or liability is unliquidated or unascertained the Chargee may set-off the amount it estimates (in good faith) will be the final amount of such obligation or liability once it becomes liquidated or ascertained.

SCHEDULE

PART 2 – Enforcement

1. Enforcement

1.1 This Charge shall become enforceable if:

1.1.1 any of the Secured Liabilities are not paid or discharged when the same are due to be paid or discharged by the Chargor and such default has not been remedied within 14 days of the due date for payment or discharge;

1.1.2 the Chargor is in material breach of any of its obligations under this Charge or under any other agreement between the Chargor and the Chargee and that breach (if capable of remedy) has not been remedied to the satisfaction of the Chargee within 14 days of notice by the Chargee to the Chargor to remedy the breach;

1.1.3 the Chargor:

(a) 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);

(b) commences negotiations with any one or more of its creditors with a view to the general readjustment or rescheduling of its indebtedness; or

(c) makes a general assignment for the benefit of, or a composition with, its creditors;

1.1.4 the Chargor passes any resolution, takes any corporate action, a petition is presented, an application is made or proceedings are commenced, or any action or step is taken by any person for its winding-up, dissolution, sequestration, administration or re-organisation, or for the appointment of a receiver, administrative receiver, administrator, trustee, liquidator or similar officer of it or of any or all of its revenues or assets;

1.1.5 any event occurs in relation to the Chargor that is analogous to those set out in paragraph 1.1.3 or paragraph 1.1.4 of this Part 2 of the Schedule (Enforcement); or

- 1.1.6 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 when made or deemed to be made.

2. Appointment of Receiver

- 2.1 At any time after this Charge has become enforceable, the Chargee (or any Delegate on its behalf) may, without further notice:

- 2.1.1 appoint any one or more person or persons to be a Receiver of all or any part of the Assets (and if any person appointed to be a Receiver shall be removed by a court or shall otherwise cease to act as such, then the Chargee shall be entitled to appoint another person or persons as Receiver or Receivers in his place) in accordance with and to the extent permitted by applicable law. The Chargee may not appoint a Receiver solely as a result of the obtaining of a moratorium or anything done with a view to obtaining a moratorium under Schedule A1 of the Insolvency Act 2000 except with the leave of the court.

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

- 2.3 Subject to Section 58 of the Insolvency Act 1986, the Chargee may from time to time determine the remuneration of the Receiver and may remove the Receiver and appoint another person as Receiver in his place.

- 2.4 The Receiver will be the agent of the Chargor (which will be solely liable for his acts, defaults and remuneration) and will have and be entitled to exercise in relation to the Chargor all of the powers set out in Schedule 2 to the Insolvency Act 1986 and, in addition to such powers, the Receiver will have power:-

- 2.5.1 to promote the formation of a subsidiary or subsidiaries of the Company, including, without limitation, any such subsidiary formed for the purpose of purchasing, leasing, licensing or otherwise acquiring interest in all or any of the assets of the Company;

- 2.5.2 to make any arrangement or compromise which the Chargee or the Receiver may think fit;

- 2.5.3 to sever any fixtures (including trade and tenants fixtures) from the property of which they form part;

- 2.5.4 to exercise all powers, rights and/or obligations under any contract or agreement forming part of the Assets, including, without limitation, all voting and other rights attaching to stocks, shares and other securities owned by the Company;
- 2.5.5 to exercise all powers conferred by the Insolvency Act 1986 on receivers appointed in England and Wales in respect of any of the Assets located in England and Wales;
- 2.5.6 to do all other acts and things as may be considered by the Receiver to be incidental or conducive to the above or otherwise incidental or conducive to the preservation, improvement or realisation of the Assets.

No purchaser, security grantee or other person dealing with a Receiver shall be concerned whether the Secured Liabilities have become payable or enforceable or whether any money remains outstanding under this Charge or shall be concerned with any application of any money paid to the Receiver.

3. Agent of the Chargor

Any Receiver appointed by the Chargee under this Charge shall be the agent of the Chargor, and the Chargor shall be solely responsible for his acts and remuneration, costs, charges and expenses to the Chargee as well as for any defaults committed by him.

4. Order of application of proceeds

4.1 All monies received by the Chargee, a Receiver or any Delegate in the exercise of any enforcement powers conferred by this Charge or any security interest constituted pursuant hereto shall be applied:

- 4.1.1 first, in paying all unpaid fees, costs, charges and expenses and other liability incurred by, or on behalf of, the Chargee (and any Receiver, attorney or agent appointed by it);
- 4.1.2 second, in paying the remuneration of any Receiver or Delegate (as agreed between the Receiver and the Chargee);
- 4.1.3 third, in or towards discharge of the Secured Liabilities in such order and manner as the Chargee determines; and
- 4.1.4 finally, in paying any surplus to the Chargor or any other person entitled to it.

- 4.2 Only monies actually paid by a Receiver to the Chargee in satisfaction or discharge of the Secured Liabilities shall be capable of being applied by the Chargee in satisfaction of the Secured Liabilities.

5. **Suspense account**

All monies received by the Chargee, a Receiver or a Delegate under this Charge may, at the discretion of the Chargee, Receiver or Delegate, be credited to a suspense or securities realised account and be held in such account for so long as the Chargee, Receiver or Delegate thinks fit, and shall bear interest at such rate, if any, as may be agreed in writing between the Chargee and the Chargor without any immediate obligation on the part of the Chargee, Receiver or Delegate to apply such money or any part of such money in or towards the payment or discharge of the Secured Liabilities.

6. **Power of attorney**

- 6.1 By way of security, the Chargor irrevocably appoints the Chargee (whether or not a Receiver or Administrator has been appointed) and also (as a separate appointment) any Receiver and Delegate separately and in each case independently 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 that:

6.1.1 the Chargor is required to execute and do under this Charge; and

6.1.2 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 Chargee, any Receiver or any Delegate.

- 6.2 Each agent and attorney may appoint a substitute or delegate his authority.

7. **Ratification of acts of attorney**

The Chargor ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the exercise or purported exercise of all or any of the powers, authorities and discretions referred to in paragraph 6 of this Part 2 of the Schedule (*Enforcement*).

8. **Appointment of an Administrator**

- 8.1 The Chargee may, without notice to the Chargor, appoint any one or more persons to be an administrator of the Chargor pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act if the security constituted by this Charge becomes enforceable.

- 8.2 Any appointment under this paragraph 8 shall:
- 8.2.1 be in writing signed by a duly authorised signatory of the Chargee; and
 - 8.2.2 take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act, when the requirements of paragraph 18 of that Schedule B1 are satisfied.
- 8.3 The Chargee may, subject to any necessary approval from the court, end the appointment of an Administrator by notice in writing in accordance with this paragraph 8 and appoint a replacement for any Administrator whose appointment ends for any reason under that paragraph.
- 8.4 An Administrator shall have all the powers given to him under the Insolvency Act.