

MR01

Particulars of a charge



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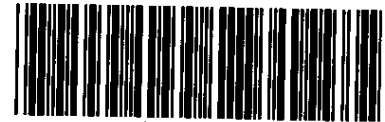
A fee is payable with this form
Please see 'How to pay' on the last page.

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☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument.

☐ **What this form is NOT for**
You may not use this form to
register a charge where there is
an instrument. Use form MR08.

FRIDAY



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29/11/2019

#219

COMPANIES HOUSE

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge. If delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery.



You **must** enclose a certified copy of the instrument with this form. This will be scanned and placed on the public record. **Do not send the original.**

1 Company details

Company number S C 5 3 0 1 2 3

Company name in full Red Sky Productions Limited

For official use

→ Filling in this form

Please complete in typescript or in
bold black capitals.

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date d2 d1 m1 m1 y2 y0 y1 y9

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge.

Name Creative Scotland

Name

Name


Name

If there are more than four names, please supply any four of these names then
tick the statement below.

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge.

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Particulars of a charge

4	Brief description	Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.	Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument". Please limit the description to the available space.
Brief description			
5	Other charge or fixed security	Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
6	Floating charge	Is the instrument expressed to contain a floating charge? Please tick the appropriate box. <input checked="" type="checkbox"/> Yes Continue <input type="checkbox"/> No Go to Section 7 Is the floating charge expressed to cover all the property and undertaking of the company? <input checked="" type="checkbox"/> Yes	
7	Negative Pledge	Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
8	Trustee statement ¹	You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge. <input type="checkbox"/>	¹ This statement may be filed after the registration of the charge (use form MR06).
9	Signature	Please sign the form here. Signature  FIONA PIPER, DAVIDSON CHARLTON STEWART LLP SOLICITOR TO CHARGE This form must be signed by a person with an interest in the charge.	

MR01

Particulars of a charge



Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name **Fiona Piper**

Company name **Davidson Chalmers Stewart LLP**

Address **163 Bath Street**

Post town **Glasgow**

County/Region

Postcode **G 2 4 S Q**

Country

DX

Telephone



Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register.
- ☐ You have included a certified copy of the instrument with this form.
- ☐ You have entered the date on which the charge was created.
- ☐ You have shown the names of persons entitled to the charge.
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8.
- ☐ You have given a description in Section 4, if appropriate.
- ☐ You have signed the form.
- ☐ You have enclosed the correct fee.
- ☐ Please do not send the original instrument; it must be a certified copy.



Important information

Please note that all information on this form will appear on the public record.



How to pay

A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House.'



Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:

For companies registered in England and Wales:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ.
DX 33050 Cardiff.

For companies registered in Scotland:

The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF.
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post).

For companies registered in Northern Ireland:

The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG.
DX 481 N.R. Belfast 1.



Further information

For further information, please see the guidance notes on the website at www.gov.uk/companieshouse or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.gov.uk/companieshouse



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 530123

Charge code: SC53 0123 0001

The Registrar of Companies for Scotland hereby certifies that a charge dated 21st November 2019 and created by RED SKY PRODUCTIONS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 29th November 2019.

Given at Companies House, Edinburgh on 29th November 2019



Companies House



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

Certified a true copy of the original document


Fiona Margaret Piper

Date 28.11.19
Davidson Chalmers Stewart LLP
163 Bath Street, Glasgow G2 4SQ

DATED 21. November 2019

(1) RED SKY PRODUCTIONS LTD

(2) CREATIVE SCOTLAND

CHARGE AND DEED OF ASSIGNATION IN RESPECT OF THE PROGRAMME PROVISIONALLY ENTITLED "CAN JIMMY SAVE THE BEES?"

Ref No CS [] -27284

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THIS CHARGE AND DEED OF ASSIGNATION

BETWEEN:

1. **RED SKY PRODUCTIONS LTD**, a company registered in Scotland with registered number SC530123 and having its registered office at Four Winds Pavilion, Pacific Quay, Glasgow G51 1DZ (the "**Chargor**"); and
2. **CREATIVE SCOTLAND**, a public body established by the Public Services Reform (Scotland) Act 2010 and having its place of business at The Lighthouse, Mitchell Lane, Glasgow, G1 3NU (the "**Chargee**").

RECITALS

- A. Pursuant to the CS Agreement, the Chargee has agreed to make available the Investment to the Chargor.
- B. In consideration of the Chargee agreeing to provide the Investment and pay the Investment Sum, the Chargor has agreed to execute this Charge and Deed of Assignment as security for the payment, satisfaction and discharge of the Secured Liabilities and has determined that it is in its commercial interests to do so.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. **Interpretation**

- 1.1 In this Charge and Deed of Assignment capitalised terms shall have the meanings set out in the Schedule and in the list of parties above (as applicable).
- 1.2 In this Charge and Deed of Assignment: (a) any reference to the parties includes a reference to their respective successors in title and permitted assigns; (b) any reference to a person includes any body corporate, unincorporated association, partnership or other legal entity; (c) the singular includes the plural and vice versa; (d) words imparting gender include the other gender; (e) Clause headings are for convenience only and shall not be taken into account in the construction or interpretation of this Charge and Deed of Assignment; (f) references to a "Clause" are references to a clause of this Charge and Deed of Assignment; (g) any references to an agreement, deed, instrument or document is to the same as amended, modified, supplemented or restated from time to time; (h) references to "copyright", "films", "sound recordings", "copies of films and sound recordings" and to all other rights therein mentioned shall (where the context requires or admits) be construed in accordance with the Copyright, Designs and Patents Act, 1988 (as amended); and (i) notwithstanding the foregoing, wherever in this Charge and Deed of Assignment the word "Programme" is used and the soundtrack is not expressly referred to, such word shall be deemed and construed to include the soundtrack of the Programme.

2. **Consideration**

This Charge and Deed of Assignment is executed in consideration of -

(i) the Chargee agreeing to make available the Investment to the Chargor (which the Chargor acknowledges is of benefit to it by enabling the Programme to be financed and produced);

(ii) the Chargee agreeing to pay to the Chargor the Investment Sum; and

(iii) the payment by the Chargee to the Chargor of £1 (the receipt and adequacy of which is hereby acknowledged by the Chargor).

3. **Covenant to Pay**

The Chargor hereby covenants with the Chargee that it will duly and punctually perform, pay and discharge to the Chargee the Secured Liabilities (as and when they fall due under the CS Agreement).

4. **Charges**

4.1 The Chargor, as owner and as security for the payment, satisfaction and discharge of the Secured Liabilities, charges in favour of the Chargee by way of floating charge all of the Chargor's undertaking, rights and assets, whether now owned or hereafter acquired or created including (without limitation) (i) any assets expressed to be assigned pursuant to Clause 5 to the extent the same are not for the time being effectively assigned by way of security to the Chargee and (ii) the Chargor's right, title and interest (whether now owned or hereafter acquired) in and to the following –

- 4.1.1 all copies made or to be made of the Programme; and
- 4.1.2 any other films and any sound recordings made in the course of the production of the Programme or pursuant to any right acquired in connection with, or arising from, the production of the Programme; and
- 4.1.3 all copies made or to be made of the script and musical scores of the Programme and any sketches and designs produced in connection with the Programme; and
- 4.1.4 all digital files, digital material, physical negative, internegative, interpositive and positive sound and visual material made or to be made incorporating or reproducing all or any part of the Programme; and
- 4.1.5 any agreements for the provision of any goods, services, facilities or finance for the Programme and the benefit of any insurance policy taken out for or in connection with the production or exploitation of the Programme; and
- 4.1.6 the benefit of all revenues accruing to the Chargor or the Chargor's order or on the Chargor's behalf in respect of the broadcast, exhibition, distribution and exploitation of the Programme and/or the Programme Rights and/or the Rights; and
- 4.1.7 the Accounts (including all monies standing to the credit of each Account, all interest accrued on each Account and all debts represented by the foregoing); and
- 4.1.8 all other rights and properties, including physical properties acquired or to be acquired by the Chargor in connection with the Programme; and
- 4.1.9 the proceeds of any or all of the foregoing.

4.2 Paragraph 14, schedule B1 Insolvency Act 1986 (incorporated by schedule 16 Enterprise Act 2002) shall apply to any floating charge created pursuant to this Charge and Deed of Assignment, which floating charge is accordingly a qualifying floating charge for such purposes.

5. Assignment and Trust

5.1 The Chargor, as owner and as security for the payment, satisfaction and discharge of the Secured Liabilities, assigns and agrees to assign absolutely to the Chargee (subject only to the right of re-assignment in favour of the Chargor specified in Clause 23.1.2 hereof), all of the Chargor's right, title and interest (whether now owned or hereafter acquired or created) in and to the following –

- 5.1.1 the Programme Rights and the Rights; and
- 5.1.2 all that copyright in the Programme and any other films and any sound recordings made in the course of the production of the Programme or pursuant to any right acquired in connection with, or arising from, the production of the Programme; and
- 5.1.3 the benefit of all revenues accruing to the Chargor or to the Chargor's order or on the Chargor's behalf in respect of the broadcast, exhibition, distribution and exploitation of the Programme and/or of the Programme Rights and/or of the Rights; and .

- 5.1.4 all those rights of the Chargor in relation to all music composed and sketches and designs made for or used in the production of the Programme including the following -
- (a) the right to adapt the same for the purpose of and to reproduce the same in the form of the Programme and any such other films as are mentioned in Clause 5.1.2 hereof; and
 - (b) the right (except for musical performing rights if the composer is a member of the Performing Rights Society Limited) to perform the same in public by exhibition of the Programme and any such films as aforesaid; and
 - (c) such rights as the Chargor may own to communicate the same to the public by any means; and
- 5.1.5 the benefit of all agreements entered into or to be entered into by the Chargor (or its agent) relating to the Programme with all rights granted and all monies receivable thereunder and any interest thereon and the benefit of all subsisting undertakings, warranties, representations, covenants, agreements and acknowledgements therein contained; and
- 5.1.6 the benefit of any policy of insurance taken out and maintained by the Chargor in connection with the Programme and any and all sums paid or payable thereunder; and
- 5.1.7 the Accounts (including all monies standing to the credit of each Account, all interest accrued on each Account and all debts represented by the foregoing);
- 5.1.8 the Scripts; and
- 5.1.9 the proceeds of any or all of the foregoing.

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

6. Warranty and Negative Pledge

- 6.1 Other than the Security Interests, the Chargor represents, warrants and undertakes that there are and there shall be no charges or other security interests, encumbrance or arrangements having the effect of conferring security interests created by the Chargor or permitted by the Chargor over the Collateral or over any other of the Chargor's property otherwise than in favour of the Chargee or with the Chargee's prior written consent. Notwithstanding anything to the contrary contained herein, if the Chargor charges or otherwise encumbers any of the Collateral in any manner contemplated by this Clause 6.1 the charges created in favour of the Chargee shall rank in priority to such other charges or encumbrances whether they be fixed, floating or otherwise.
- 6.2 The Chargor hereby warrants and undertakes with the Chargee that it is or will be absolutely entitled to the benefit of those properties and of the agreements referred to in Clauses 4 and 5 hereof (as applicable) to which it is a party (subject to the terms of such agreements) and has full power, right and title to assign and/or charge the Collateral and is duly incorporated and validly existing and in good standing under the laws of Scotland and has taken all action necessary to authorise the execution, performance and delivery of this Charge and Deed of Assignment.

7. Licence

- 7.1 The Chargee hereby grants to the Chargor an exclusive licence of all relevant assets subject to the security created under or pursuant to this Charge and Deed of Assignment, revocable only in accordance with Clause 7.2, to produce, complete, deliver, distribute and otherwise exploit the Programme in accordance with the Relevant Agreements.

- 7.2 The Chargee may terminate the licence granted pursuant to Clause 7.1 above upon the happening of an Event of Default which (if capable of being cured) has not been cured in accordance with any cure periods in the CS Agreement after notice thereof to the Chargor.

8. **Default**

On the happening of any Event of Default which (if capable of being cured) has not been cured within any cure periods provided in the CS Agreement at any time thereafter, the floating charge created by Clause 4 shall automatically (save in respect of assets of the Chargor not capable of being so converted under Scottish law) be converted with immediate effect into a fixed charge, the obligation of the Chargee to advance monies under the CS Agreement shall immediately terminate, the security hereby created shall become enforceable and the Secured Liabilities shall immediately become due and payable.

9. **Exercise of Rights**

- 9.1 The Chargee may at any time after the security hereby created shall have become enforceable -

- 9.1.1 without prejudice to any other powers the Chargee may have by law, exercise all of the powers set out in the Insolvency Act 1986 and any other powers the Chargee may have by law and, in addition, all of the powers set out in Clause 9.2 below; and
- 9.1.2 in writing appoint a Receiver over the whole or any part of the Collateral upon customary terms as to remuneration or such reasonable variation thereof and otherwise as the Chargee shall think fit and may from time to time remove any Receiver so appointed and appoint another in his stead; and
- 9.1.3 appoint an administrator of the Chargor.

- 9.2 If a Receiver is appointed he shall be the agent of the Chargor and, without prejudice to any other powers the Receiver may have by law, he shall have all the powers set out in the Insolvency Act 1986 and in addition shall have power -

- 9.2.1 to take possession of, get in or realise the Collateral and to take, enforce, defend or abandon any actions, suits and proceedings in the name of the Chargor or otherwise in relation to the Collateral as he or the Chargee shall think fit;
- 9.2.2 to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor relating in any way to the Collateral or any part thereof;
- 9.2.3 to assign, sell, lease, license (including, but without limitation, by appointing a replacement sales agent or distributor to distribute and exploit the Programme Rights and/or the Rights in place of the Chargor), grant options to sell, deal with or manage or concur in assigning, selling, leasing, licensing, granting options to sell, dealing with or managing and to vary, terminate or accept surrenders of leases, licences or tenancies of any of the Collateral in such manner and generally on such terms and conditions as the Chargee or he shall think fit and to carry any such transactions into effect in the name of and on behalf of the Chargor or otherwise;
- 9.2.4 to take any steps that may be necessary or desirable to effect compliance with all or any of the agreements hereby charged;
- 9.2.5 to exercise all the powers of the Chargor including to carry on manage or concur in carrying on and managing the business of the Chargor in relation to the Programme or any part thereof and the Chargor acknowledges that it shall not seek to prevent the Receiver from so carrying on or managing its business;

- 9.2.6 to raise or borrow any money that may be required upon the security of the whole or any part of the Collateral or without such security;
- 9.2.7 to give valid receipts for all moneys and execute all assurances and things which may be proper or desirable for realising the Collateral;
- 9.2.8 to appoint and discharge advisers, managers, agents, employees, contractors and workmen in relation to the business of the Chargor relating to the Programme at such salaries and for such periods as the Receiver may determine;
- 9.2.9 to make any arrangement or compromise, pay any compensation or incur any obligation and enter into any contracts in relation to the Collateral which the Receiver shall think expedient in the interests of the Chargee;
- 9.2.10 to make, effect and do all maintenance, repairs, developments, reconstructions, improvements, furnishings, equipment, insurances, alterations or additions to or in respect of the Collateral in the interests of the Chargee for maintaining the value of the Collateral in every such case as the Chargee or he shall think fit;
- 9.2.11 to make calls conditionally or unconditionally on the shareholders of the Chargor in respect of the uncalled capital of the Chargor (with the same powers for the purpose of enforcing payment of any calls so made as are by the Articles of Association of the Chargor conferred upon the Chargor or the directors of the Chargor (as the case may be) in respect of calls authorised to be made by them and to make the same in the name of the directors or in that of the Chargor or otherwise and to the exclusion of any other person's power in that behalf);
- 9.2.12 to promote the formation of companies with a view to purchasing, leasing, licensing or otherwise acquiring interests in all or any of the Collateral, to arrange for such companies to trade or cease to trade and to purchase, lease, license or otherwise acquire all or any of the Collateral on such terms and conditions whether or not including payment by instalments secured or unsecured as the Receiver shall think fit;
- 9.2.13 to manage, develop, reconstruct, improve, amalgamate or diversify or concur in managing, developing, reconstructing, improving, amalgamating or diversifying the business of the Chargor in relation to the Programme;
- 9.2.14 to do all such other acts and things as may be considered to be incidental or conducive to any of the matters or powers aforesaid and which he lawfully may or can do; and
- 9.2.15 to exercise all such other power and authority in relation to the Collateral as the Chargee shall think fit and so that the Chargee may in relation to all or any part of the Collateral exercise and confer any powers and authorities which it could exercise and confer if it were the absolute beneficial owner thereof and to use the name of the Chargor for any such purposes,

PROVIDED ALWAYS THAT nothing herein contained shall make the Chargee liable to the Receiver in respect of his remuneration, costs, charges or expenses or otherwise for which together with the Receiver's acts, contracts, defaults and omissions the Chargor alone shall be liable.

9.3 In addition, but without prejudice, to the foregoing remedies if the security hereby created shall become enforceable the Chargee shall be entitled to sell the Collateral or any part or parts thereof or otherwise exploit or turn to account the Collateral for such price and in such manner as the Chargee in its absolute discretion may think fit, without notice to the Chargor or any other formality, all of which are hereby waived by the Chargor. The Chargee shall be entitled to repayment of all costs and charges in connection therewith including all costs fees and charges it may incur as a consequence of the enforcement hereof.

9.4 The Chargee or the Receiver may enforce the security created by this Charge and Deed of Assignment in any order which the Chargee or the Receiver in their or its absolute discretion think(s) fit.

- 9.5 The Chargee may appoint more than one Receiver and in such event any reference in this Charge and Deed of Assignment to a Receiver shall apply to both or all of the Receivers so appointed and the appointment of Receivers so made shall be deemed to be a joint and several appointment and so that the rights, powers, duties and discretion vested in the Receivers so appointed may be exercised by them all jointly or severally by each of them.
- 9.6 The Chargee shall not nor shall the Receiver by reason of the Chargee or the Receiver entering into possession of the Collateral or any part thereof be liable to account as mortgagee in possession or for any default or omission of any nature whatsoever for which a mortgagee in possession might be liable, or be liable for any loss or damage occasioned by or upon realisation or diminution in value happening in or about the exercise of any power conferred hereby or by statute and the Chargor shall have no right or action or claim against the Chargee on the grounds that a better price could or might have been obtained on any such realisation, sale or disposal. The Chargee and the Receiver shall be entitled to all the rights, powers, privileges and immunities conferred by statute on mortgagees and receivers.
- 9.7 If the Chargor shall without the express written agreement of the Chargee thereto create or permit to arise or subsist any encumbrance affecting the Collateral of which the Chargee shall receive notice, actual or constructive, the Chargee may open a new account for the Chargor in respect of the Programme and if the Chargee does not in fact open such new account it shall nevertheless be treated as if it had done so at the time when it received such notice and as from that time all payments made by or on behalf of the Chargor to the Chargee shall be credited or be treated as having been credited to the new account, and such payments shall not operate to reduce the amount due from the Chargor to the Chargee at the said time until such payments may be indefeasibly so applied by the Chargee (but this Clause shall not prejudice any security which apart from this Clause the Chargee would have had but for the discharge by the Chargor of liabilities or obligations incurred after that time).
- 9.8 The Chargee may at any time without prior notice transfer, where the Chargee has more than one account for the Chargor in its books, all or any part of any balance standing to the credit of any such account to any other such account which may be in debt, combine and consolidate all or any of the accounts for the time being of the Chargor with the Chargee and/or in any event set off any monies or other assets which the Chargee may at any time hold for the account of the Chargor against the Chargor's liability under this Charge and Deed of Assignment and without prejudice to any other right of set-off or similar right to which the Chargee may be entitled in law.
- 9.9 All moneys received, recovered or realised by the Chargee under this Charge and Deed of Assignment may at the sole discretion of the Chargee be credited by the Chargee to any suspense or impersonal account pending the application from time to time of such moneys and accrued interest thereon at the rate if any agreed in writing between the Chargor and the Chargee from time to time (as the Chargee shall be entitled to do in their discretion) in or towards the payment of the Secured Liabilities.
- 9.10 The proceeds of any Collateral obtained or disposed of pursuant to this Charge and Deed of Assignment shall be applied as follows –
- 9.10.1 firstly, in payment of any and all expenses and fees (including, but not limited to, reasonable solicitor's fees) incurred by the Chargee in obtaining, taking possession of, removing, insuring, storing and disposing of the Collateral and any and all amounts incurred by the Chargee in connection therewith (including without limitation in connection with any proceedings brought in connection with any administration of the Chargor);
- 9.10.2 secondly, any surplus then remaining shall be applied in the order of priority set out in the CS Agreement.
10. **Indemnity and Interest**
- 10.1 The Chargor indemnifies the Chargee, the Receiver and any administrator appointed by the Chargee in respect of, and agrees to keep the Chargee, the Receiver and any administrator appointed by the Chargee indemnified from and against, all liabilities and expenses properly incurred in the execution or purported execution of any of the powers, authorities or discretion vested in the Chargee, the Receiver or any administrator appointed by the

Chargee pursuant hereto and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted by the Chargor in any way relating to the Collateral and the Chargee, the Receiver and any administrator appointed by the Chargee may retain and pay all sums in respect of the same out of any moneys received under the powers hereby conferred.

- 10.2 Any sums which are payable by the Chargor under this Charge and Deed of Assignment and which are paid by the Chargee or the Receiver or any administrator appointed by the Chargee, shall be repaid by the Chargor on demand together with interest at the Rate from the time of the same having been paid or incurred by the Chargee or, as the case may be, the Receiver or any administrator appointed by the Chargee to the time that payment is made in full by the Chargor (as well after as before judgment or demand therefor), and the payment of any such sum by the Chargee or the Receiver or any administrator appointed by the Chargee shall not constitute the Chargee or the Receiver or any administrator appointed by the Chargee a mortgagee in possession of the Collateral in respect of which such payment is made.

11. **Warranties, Representations and Covenants**

- 11.1 The Chargor hereby covenants and undertakes with the Chargee that it will comply at all times with the terms (express or implied) of this Charge and Deed of Assignment and further covenants and undertakes that it shall so long as the Secured Liabilities have not been indefeasibly paid, satisfied or discharged (as applicable) to the Chargee and until the Chargee has no obligation, actual or contingent, to make further sums available under the CS Agreement –

- 11.1.1 (save to the extent such liability is discharged in accordance with the terms of such contracts and agreements) remain liable under the contracts and agreements (including, without limitation, all Relevant Agreements to which it is a party) charged or assigned or to be charged or assigned hereunder to perform all the obligations assumed by it thereunder and the Chargee shall not be under any obligations or liability under or in respect of any of such contracts and agreements;
- 11.1.2 not require the Chargee to enforce any term of any of the said contracts and agreements against any party (it being acknowledged that in no circumstances shall the Chargee have any obligation so to enforce);
- 11.1.3 duly perform its obligations under the said agreements, notify the Chargee of any material default by itself and institute and maintain all such proceedings (subject to the terms hereof) as may be necessary or expedient to preserve or protect the interest of the Chargee and itself in the said agreements;
- 11.1.4 not exercise any right or power conferred on it by or available to it under the said agreements (including, without limitation, the right of termination) if to do so might adversely affect the position of the Chargee unless and until requested to do so by the Chargee. Thereupon it will exercise such right or power as the Chargee may direct;
- 11.1.5 not accept or make any claim that the said agreements have been frustrated or have ceased to be in full force if to do so might adversely affect the position of the Chargee;
- 11.1.6 not assign or otherwise dispose of any of its rights under the said agreements;
- 11.1.7 do all such things as are necessary to maintain its corporate existence in good standing (including without limitation the filing of all necessary returns); and
- 11.1.8 upon the request of the Chargee give written notice (in such form and to such persons as the Chargee may require) as is necessary to perfect the security hereby created.

- 11.2 The Chargor further warrants, represents, covenants and undertakes with the Chargee that until the Secured Liabilities have been fully and unconditionally paid, satisfied or discharged (as applicable) to the Chargee –

11.2.1 it shall not exercise any right or power conferred on it by or available to it in relation to the copyright in the Programme that might adversely affect the interests of the Chargee unless and until requested to do so by the Chargee. Thereupon it will exercise such right or power as the Chargee may direct; and

11.2.2 it shall not assign or otherwise dispose of any of its copyright in the Programme.

11.3 The Chargor represents and warrants to the Chargee that it is the sole absolute legal and beneficial owner of the Accounts.

11.4 The Chargor hereby repeats in favour of the Chargee the warranties, representations, undertakings and covenants set out in the CS Agreement as if the same were set forth and incorporated herein.

11.5 The Chargor further covenants and undertakes to the Chargee that the Programme will be made in such a way that: (a) it will satisfy the Cultural Test (and in particular be awarded at least 18 (eighteen) points in relation thereto) and be a British Programme; (b) the Chargor will be entitled to receive the UK Tax Credit in respect of the Programme; and (c) the UK Tax Credit Amount shall be not less than the UK Tax Credit Estimated Value.

12. **Nature of Security**

Subject to Clause 23, this Charge and Deed of Assignment shall be a continuing security to the Chargee notwithstanding any settlement of account or other act, omission, matter or thing whatsoever which but for this provision might operate to release or otherwise exonerate the Chargor from its obligations hereunder or affect such obligations or release or diminish the security conferred hereunder. Such security is in addition to, and shall not be merged into, or in any way prejudice any other security interest, charge document or right which the Chargee may now or at any time hereafter hold or have as regards the Chargor or any other person firm or corporation in respect of the Collateral and shall not in any way be prejudiced or affected thereby or by the invalidity thereof or by the Chargee now or hereafter dealing with, exchanging, releasing, modifying or abstaining from perfecting or enforcing any of the same or any rights which it now or hereafter has or by the Chargee giving time for payment or indulgence or compounding with any other person liable and this security shall remain in full force and effect as a continuing security unless and until the Secured Liabilities are discharged in full or the Chargee shall release and discharge this Charge and Deed of Assignment in accordance with Clause 23 hereof. The rights granted to the Chargee hereunder are in addition to, and in no way limit or restrict, the rights granted to the Chargee in the CS Agreement or any other agreement. The exercise by the Chargee of its rights under this Charge and Deed of Assignment shall in no way affect or be in substitution for such other legal or equitable rights and remedies as the Chargee may have against the Chargor or any third party.

13. **Grant of Time or Indulgence**

The security created by this Charge and Deed of Assignment shall not be affected or prejudiced in any way by the Chargee giving time or granting any indulgence or accepting any composition from or compounding with or making any other arrangement with the Chargor or any other person firm or company in respect of the Secured Liabilities or otherwise.

14. **Protection of Third Parties**

14.1 No purchaser from the Chargee and/or the Receiver or other person dealing with the Chargee and/or the Receiver shall be concerned to enquire whether any of the powers which the Chargee or the Receiver have exercised or purported to exercise have arisen or become exercisable or whether the Secured Liabilities remain outstanding or as to the propriety or validity of the exercise or purported exercise of any such power and the title of a purchaser and the position of such a person shall not be prejudiced by reference to any of those matters.

14.2 The receipt of the Chargee or the Receiver shall be an absolute and conclusive discharge to a purchaser and shall relieve such person of any obligation to see to the application of any sums paid to or by the direction of the Chargee or the Receiver.

15. **Waivers, Remedies Cumulative**

The powers which this Charge and Deed of Assignment confers on the Chargee are cumulative and without prejudice to its powers under general law and may be exercised as often as the Chargee deems appropriate. The rights of the Chargee and the Receiver (whether arising under this Charge and Deed of Assignment or under the general law) shall not be capable of being waived or varied otherwise than by an express waiver or variation in writing; and in particular any failure to exercise or any delay in exercising on the part of the Chargee or the Receiver any of such rights shall not operate as a waiver or variation of that or any other such right; any defective or partial exercise of any such right shall not preclude any other or further exercise of that or any other such right; and no act or course of conduct or negotiation on the part of either the Chargee or the Receiver or on its or their behalf shall in any way preclude either the Chargee or the Receiver from exercising any such right or constitute a suspension or variation of any such right.

16. **Governing Law**

This Charge and Deed of Assignment 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 laws of Scotland and the parties hereto submit to the non-exclusive jurisdiction of the Scottish courts.

17. **Further Assurance**

17.1 The Chargor agrees to execute all further documents reasonably required by the Chargee to give effect to or perfect the security hereby created.

17.2 Without limiting the generality of Clause 17.1 hereof in the event that any of the agreements relating to the Programme are executed by the Chargor after the date of this Charge and Deed of Assignment, the Chargor will, at the request of the Chargee and the expense of the Chargor, execute supplementary charges and deeds of assignment in substantially the same form as this Charge and Deed of Assignment and execute all further documents reasonably required by the Chargee to give effect to such security.

18. **Notice of Default**

The Chargor shall give written notice to the Chargee at the address set out against the name of such party at the beginning of this Charge and Deed of Assignment or as shall be notified from time to time to the Chargor hereafter of the occurrence of any Event of Default as soon as such occurrence becomes known to the Chargor.

19. **Power of Attorney**

19.1 The Chargor hereby irrevocably appoints the Chargee and, if any Receiver or an administrator has been appointed, each of the Chargee, the Receiver and any administrator appointed by the Chargee to be an attorney of it in its name and on its behalf to sign, execute and deliver all deeds and documents and do all acts and things which the Chargee, the Receiver or an administrator appointed by the Chargee may reasonably require or reasonably deem necessary for the purpose of exercising any of its powers or for the perfection, protection or realisation of any security hereby constituted. The Chargor hereby acknowledges that such appointment shall be irrevocable (until this Charge and Deed of Assignment is released and reassigned under Clause 23).

19.2 This power of attorney shall terminate without further notice on the release and discharge of this Charge and Deed of Assignment pursuant to Clause 23.1 hereof but subject to Clause 23.2 hereof.

19.3 The Chargor hereby covenants with the Chargee that on request it will ratify and confirm all documents, acts and things and all transactions entered into by the Chargee, the Receiver or an administrator appointed by the Chargee or by the Chargor at the instance of the Chargee, the Receiver or an administrator appointed by the Chargee in the exercise or purported exercise of the aforesaid powers.

20. **Invalidity of any Provision**

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

21. **No Partnership**

Nothing herein shall constitute a partnership or a joint venture between the parties and no party is or shall hold itself out as the agent or partner of the other.

22. **Assignment**

The Chargee shall be entitled to assign, participate, transfer, charge, sub-charge or otherwise grant security over or deal in all or any of its right, title and interest in this Charge and Deed of Assignment.

23. **Release and Reassignment**

23.1 Upon unconditional payment, satisfaction and discharge to the Chargee of the Secured Liabilities in full, the Chargee will, at the written request of the Chargor and at the expense of the Chargor –

23.1.1 release the Collateral charged pursuant to Clause 4 hereof;

23.1.2 re-assign to the Chargor the Collateral assigned pursuant to Clause 5 hereof (but not any sums by then paid to the Chargee and retained to satisfy the Secured Liabilities in respect thereof); and

23.1.3 execute such documents and do such things as the Chargor shall reasonably require to give effect to Clauses 23.1.1 and 23.1.2 hereof.

23.2 Where any release and discharge (whether in respect of the Secured Liabilities 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 repaid on bankruptcy, liquidation or otherwise, the security constituted by this Charge and Deed of Assignment (and the liability of the Chargor in respect thereof) shall continue or shall be reinstated as if there had been no such discharge or arrangement. The Chargee shall be entitled to concede or compromise any claim that any such payment, security or other disposition is liable to avoidance or repayment.

24. **Notices**

24.1 **Manner of giving notices**

Any notice or other information required or authorised by this Charge and Deed of Assignment to be given by either party shall be given by:

24.1.1 delivering it by hand;

24.1.2 sending it by mail, postage prepaid; or

24.1.3 sending it by email transmission,

to the other party at the addresses given in Clause 24.4 or 24.5.

24.2 **Notices sent by hand or by post**

Any notice or other information delivered by hand as provided by Clause 24.1.1 shall be deemed given on the date delivered (if delivered during the business hours of the recipient, or (if not) at the start of the next Business Day thereafter. Any notice or other information sent by post in the manner as provided by Clause 24.1.2 which is not returned to the sender as undelivered shall be deemed to have been given on the seventh day after the envelope containing it was so posted.

24.3 Notices sent by email

Any notice or other information sent by email shall be deemed to have been duly given: (a) four hours after sending, if received during business hours at the place of receipt; or (b) at the start of the next Business Day if the email is received outside business hours at the place of receipt, provided in either case that no failed delivery status notification is received by the sender of such notice or other information.

24.4 Notices to the Chargee

Any notice or other communication required to be given to the Chargee under this Charge and Deed of Assignment shall be sent to the Chargee to the person and at the address detailed at the top of this Charge and Deed of Assignment or such other address, email address and/or for such other attention as may be notified by the Chargee to the Chargor in accordance with this Clause and a copy of such notice shall be sent to Wiggin, LLP, by email to Neil.Gillard@wiggin.co.uk or to such other email address and/or for such other attention as may be notified by the Chargee to the Chargor in accordance with this Clause.

24.5 Notices to the Chargor

Any notice or other communication required to be given to the Chargor under this Charge and Deed of Assignment shall be sent to the Chargor to the person and at the address detailed at the top of this Charge and Deed of Assignment or to such other address, facsimile number and/or for such other attention as may be notified by the Chargor to the Chargee in accordance with this Clause.

24.6 Notice on a Business Day

Any notice or other communication received or deemed given on a day which is not a Business Day or after business hours in the place of receipt shall be deemed received and given on the next Business Day.

24.7 Consent to registration

The Chargor hereby consents to the registration of this Charge and Deed of Assignment for preservation and execution.

25. Counterparts and Delivery

25.1 In accordance with the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015 (the "Act"), this Charge and Deed of Assignment may be executed in counterparts.

25.2 No counterpart shall be effective, notwithstanding its execution, until each party has executed and delivered at least one counterpart in terms of this Clause.

25.3 The parties agree that, if executed in counterpart:

25.3.1 for the purposes of section 2(1) of the Act, each of the parties nominates Kergan Stewart LLP to take delivery of each counterpart of this Charge and Deed of Assignment and thereafter, but in any event within five Business Days of having taken delivery of each counterpart, to circulate a copy of this Charge and Deed of Assignment, as fully executed, to the parties hereto (or their agent). Kergan Stewart LLP shall not be obliged to hold the counterparts pursuant to section 2(3) of the Act;

25.3.2 this Charge and Deed of Assignment shall become effective, notwithstanding the date or dates of execution, on the date when the nominated person has taken delivery of all of the counterparts which shall be confirmed by the nominated person by email sent to all of the parties (or their agent).

25.4 The parties agree that, for the purposes of section 4(4) of the Act, delivery may be made by electronic transmission of a document in PDF or jpeg format.

In Witness whereof this Charge and Deed of Assignment together with the Schedule is executed in counterpart with a delivery date of 21 November 2019 as follows:-

SUBSCRIBED for and on behalf of

RED SKY PRODUCTIONS LIMITED

by [Signature] a director
at Four Winds Pavilion, Pacific Quay Glasgow
on 8th October 2019

JANE ROGERSON Director

in the presence of:

Witness name SUSAN ORIEL
Witness Signature [Signature]
Witness Address 21 Clancarty Road
London SW6 3AH

SUBSCRIBED for and on behalf of

CREATIVE SCOTLAND

by Mark Wilson its duly authorised signatory

at GLASGOW

on 18th NOVEMBER 2019

Mark Wilson Authorised Signatory

in the presence of:

Witness name SARAH BOLDMAN

Witness Signature [Signature]

Witness Address CREATIVE SCOTLAND

GLASGOW

**THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING CHARGE AND DEED OF ASSIGNATION
BETWEEN RED SKY PRODUCTIONS LIMITED AND CREATIVE SCOTLAND**

SCHEDULE

Definitions

Accounts means the Production Account and any other accounts opened by the Chargor in connection with the Programme;

Ancillary Rights means the ancillary rights in the Programme as such term is customarily understood in the UK television industry;

Business Day has the meaning ascribed to it in the CS Agreement;

C4 Agreement means the agreement pursuant to which C4 makes available to the Chargee the C4 Funding (as defined in the CS Agreement);

Collateral means the Chargor's right, title and interest in and to the property charged pursuant to Clause 4 hereof and the property assigned pursuant to Clause 5 hereof;

Conditions Precedent shall have the meaning set out in the CS Agreement;

CS Agreement means the funding agreement dated on or about the date of this Charge and Deed of Assignment entered into by the Chargor and the Chargee relating to the Programme;

Distribution Agreement shall have the meaning set out in the CS Agreement;

Event of Default has the meaning ascribed to it in the CS Agreement;

Investment means the investment made available by the Chargee pursuant and subject to the terms of the CS Agreement;

Investment Sum has the meaning ascribed to the term "CS Funding" in the CS Agreement;

Production Account has the meaning ascribed to that term in the CS Agreement;

Programme means the television series provisionally entitled "Can Jamie Save the Bees?";

Programme Rights means the necessary rights in all underlying material (including without limitation the Scripts and all music for the Programme) to enable the Programme to be produced and exploited;

Rate means 3% per annum above the base rate of the Bank of England;

Receiver means a receiver or administrative receiver (where such an administrative receiver may be appointed) of the Collateral;

Relevant Agreements means this Charge and Deed of Assignment, the CS Agreement, the Distribution Agreement, the C4 Agreement and any other agreements to which a Relevant Party is a party in relation to the Programme;

Relevant Party a party to any of the Conditions Precedent documents or agreements;

Rights means all of the Chargor's rights in and to the following throughout the world for the full period of copyright and thereafter (so far as is possible) in perpetuity (a) all rights to distribute, lease, license, sell or otherwise exploit or deal with the Programme in all media (whether now known or hereafter invented or devised) (b) all rights to exhibit and broadcast the Programme; (c) the Ancillary Rights; (d) all such other rights in and to the Programme or any material on which it is based or which is incorporated in the Programme as are needed for the full exploitation of the rights described in (a), (b) and (c) above; and (e) all rights to distribute, lease, licence, sell or otherwise exploit or deal with any of the rights referred to above;

Scripts means the episode scripts for the Programme referred to in Part 3 (Main Elements) of the CS Agreement;

Secured Liabilities means all or any money and liabilities which shall from time to time (and whether on or at any time after demand) be due, owing or incurred in whatsoever manner to the Chargee by the Chargor in connection with the Investment Sum in relation to the CS Agreement or this Charge and Deed of Assignment or the Programme whether actually or contingently, solely or jointly and whether as principal or surety (or guarantor), including any money and liabilities of the Chargor owed to a third party which have been assigned or novated or otherwise vested in the Chargee and whether pursuant to the CS Agreement or otherwise;

Security Interest means the security interest granted pursuant to this deed;

UK Qualifying Expenditure means expenditure incurred on the pre-production, production and post-production of the Programme which satisfies the requirements of Part 15 of the Corporation Tax Act 2009 (as amended from time to time);

UK Tax Credit means the payable cash element constituting a tax credit pursuant to Part 15 of the Corporation Tax Act 2009 receivable by the Chargor in respect of UK Qualifying Expenditure;

UK Tax Credit Amount means the UK Tax Credit payable in respect of the Programme;

UK Tax Credit Estimated Value means has the meaning ascribed to it in the CS Agreement.