



**Registration of a Charge**

Company name: **BIRD BOX ENTERTAINMENT LIMITED**

Company number: **10014374**

Received for Electronic Filing: **07/08/2019**



X8BCE40I

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**Details of Charge**

Date of creation: **07/08/2019**

Charge code: **1001 4374 0003**

Persons entitled: **CLOSE LEASING LIMITED**

Brief description:

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

Certified by: **SARAH EDWARDS**



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

Company number: 10014374

Charge code: 1001 4374 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th August 2019 and created by BIRD BOX ENTERTAINMENT LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 7th August 2019 .

Given at Companies House, Cardiff on 8th August 2019

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 7<sup>th</sup> AUGUST 2019

**CLOSE LEASING LIMITED  
BIRD BOX ENTERTAINMENT LIMITED**

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**ACCOUNT ASSIGNMENT**

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This Deed is made on

7<sup>th</sup> AUGUST 2019

**Between**

- (1) **Bird Box Entertainment Limited** (No. 10014374) whose registered office is at Goldfinch Entertainment, 123 Regents Park Road, London, England, NW1 8BG (**Assignor**); and
- (2) **Close Leasing Limited** (No. 06377532) whose registered office is at Olympic Court Third Avenue, Trafford Park Village, Manchester, M17 1AP (together with its successors and assigns, the **Assignee**).

**Whereas**

- (A) The Assignee has entered into an SPA with the Assignor dated on or about the date of this Deed.
- (B) In consideration of the Assignee agreeing to enter into the SPA, the Assignor has agreed to execute this Deed in favour of the Assignee.

**It is agreed**

**1 Definitions and interpretation**

- 1.1 In this Deed, unless the context otherwise requires, the following expressions shall have the following meanings:

**Account** means the account in the Assignor's name with the Account Bank numbered 20013980, sort code 301393 and designated Bird Box Entertainment Limited

**Account Bank** means Arbuthnot Latham & Co., Limited

**Approved Budget** shall have the meaning given to such term in the SPA

**Approved Production Schedule** shall have the meaning given to such term in the SPA

**Assigned Assets** means:

- (a) the Account
- (b) the Balance
- (c) the debts represented by the Balance
- (d) all rights, benefits and proceeds of the Balance
- (e) all other rights and benefits accruing to or arising in connection with the Account or the Balance

**Authorisations** means an authorisation, consent, permission, approval, resolution, licence, exemption, filing, notarisation or registration

**Balance** means all monies from time to time credited to, and for the time being standing to the credit of, the Account including all interest from time to time accrued thereon and shall include, where the context requires, any portion of the relevant amount

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

**Contract** has the meaning given to such term in the SPA

**Event of Default** means any event or circumstance specified as an event of default under any Finance Document, including but not limited to any Seller Event of Default and/or Production Company Event of Default

**Finance Documents** means the SPA, the Contract, the Production Company Security Agreement and any other document governing or evidencing the terms of the Secured Liabilities

**Production Company Event of Default** has the meaning given to such term in the SPA

**Production Company Security Agreement** has the meaning given to such term in the SPA

**Project** has the meaning given to such term in the SPA

**Receiver** means any receiver, manager or administrative receiver appointed by the Assignee in respect of the Assignor or any of the Assigned Assets

**Secured Liabilities** means all monies and liabilities now or after the date of this Deed due, owing or incurred by the Assignor to the Assignee whatsoever, in any manner and in any currency or currencies and whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing on such monies and liabilities and all costs, charges and expenses incurred by the Assignee

**Security** means a mortgage, charge, pledge, lien, assignment or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect

**Security Period** means the period commencing on the date of this Deed and ending on the date on which the Assignee is satisfied that the Secured Liabilities due to the Assignee have been irrevocably and unconditionally satisfied, paid and discharged to the Assignee in full and all facilities made available by the Assignee to the Assignor have been cancelled

**Seller Event of Default** has the meaning given to such term in the SPA

**SPA** means the master sale and purchase agreement between the Assignor and the Assignee dated on or about the date of this Deed, under which the Assignee agrees to purchase certain contract rights from the Assignor

**Tax** means all present and future taxes, levies, imposts, duties or charges in the nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same)

1.2 Unless otherwise defined in this Deed a term defined in the Facility Agreement has the same meaning when used in this Deed or any notices, acknowledgements or other documents issued under or in connection with this Deed.

1.3 In this Deed:

- (a) any reference to any **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description and any substitutes thereof, unless the context otherwise requires;
- (b) any reference to the Account includes any substitutes, renewals, redesignations and renumberings of the same from time to time;
- (c) any reference, express or implied, to any enactment includes references to any amendment, re-enactment, and/or legislation subordinate to that enactment and/or any permission of whatever kind given under that enactment;
- (d) section, clause and schedule headings are inserted for convenience only and shall not affect the construction of this Deed and unless otherwise specified, all references to clauses, sections, schedules and appendices are to clauses of, and sections, schedules and appendices to, this Deed;
- (e) any obligation to commit or not to commit any act or thing shall be deemed to include a like obligation to procure or not to permit any such act or thing;
- (f) a time of day is a reference to London time;
- (g) any reference to, and the definition of, any document (including this Deed) is a reference to such document as it may be amended, extended, restated, novated, supplemented, modified and replaced (in whole or in part);
- (h) any reference to any party or person includes any person deriving title from it or any successor, transferee or assignee;
- (i) any reference to a **person** includes any individual, firm, company, corporation, partnership, firm, joint venture, association, organisation, trust, government, state or state agency (in each case, whether or not having a separate legal personality); and
- (j) save where the context requires otherwise, words in the singular shall import the plural and vice versa.

1.4 This Deed is intended to take effect as a deed notwithstanding the fact that any party to this Deed may only execute this Deed under hand.

## **2 Covenant to pay**

The Assignor hereby covenants for the benefit of the Assignee to duly and punctually pay and discharge in full all of the Secured Liabilities as and when the same shall become due, owing or payable and whether at maturity, upon acceleration or otherwise in accordance with the Finance Documents.

## **3 Charging provisions**

### **3.1 Assignment**

As a continuing security for the payment and discharge of the Secured Liabilities, the Assignor with full title guarantee hereby assigns absolutely and agrees to assign absolutely to the Assignee all of its right, title and interest in and to the Assigned Assets.

### **3.2 Fixed charge**

To the extent not validly and effectively assigned pursuant to clause 3.1 and as a continuing security for the payment of the Secured Liabilities the Assignor charges in favour of the Assignee by way of first fixed charge and with full title guarantee all its benefits, rights, titles, claims and interests in and to the Assigned Assets together with all present and future claims, causes of action, payments and proceeds in respect thereof.

#### **4 Operation of the Account and application of Assigned Assets**

- 4.1 The Assignor shall open the Account on the date of this Deed, if not already opened, and shall continue to maintain the Account until the expiry of the Security Period. The Assignor shall immediately send a notice to the Account Bank in the form appearing in Schedule 1 and undertakes to procure that the Account Bank as soon as reasonably practicable acknowledges such notice in the form appearing in Schedule 2. The Assignor undertakes that it will not amend or change the instructions given to the Account Bank in such notice or give any other instructions to the Account Bank with respect to the Assigned Assets which are inconsistent with the notice or with any of the other terms of this Deed.
- 4.2 Upon the occurrence of an Event of Default, the Assignee may, without prior notice, apply all or any part of the Assigned Assets in or towards satisfaction of any of the Secured Liabilities (and for such purpose the Assignee may require the Account Bank to immediately pay to the Assignee all sums then standing to the credit of the Account and give such other instructions to the Account Bank as the Assignee considers appropriate). The Assignee shall not be obliged to exercise any of its rights under this clause 4.2, which shall be without prejudice and in addition to any right of set off, combination of accounts, lien or other rights to which the Assignee is at any time otherwise entitled (whether by operation of law, contract or otherwise).
- 4.3 The Assignee shall be entitled (but not obliged) at any time and from time to time to apply all or any of the Assigned Assets in accordance with the provisions of this Deed.
- 4.4 All monies received by the Assignee pursuant to this Deed following an Event of Default shall be paid or applied by the Assignee in the following order of priority:
- (a) in satisfaction of all costs, charges and expenses incurred, or payments made, by the Assignee in connection herewith;
  - (b) in or towards satisfaction of the Secured Liabilities (and in such order as the Assignee shall specify);
  - (c) as to the surplus (if any), to the person or persons entitled thereto.
- 4.5 If the Assignee (acting reasonably) believes that any amount paid by the Assignor or any other person in respect of the Secured Liabilities is capable of being avoided or set aside for any reason, then for the purposes of this Deed, such amount shall not be considered to have been paid.
- 4.6 Any settlement, discharge or release between the Assignor and the Assignee shall be conditional upon no Security or payment to or for the Assignee by the Assignor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any law relating to bankruptcy, insolvency or liquidation or otherwise.
- 4.7 Upon the Assignee confirming that the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full to the Assignee and that the Security Period has ended, and provided that no Event of Default has occurred, the Assignee may at its absolute discretion authorise the reassignment of the Assigned Assets to the Assignor.



## **5 Representations and Warranties**

5.1 The Assignor makes the representations and warranties set out in this clause 5.1 to the Assignee. The representations and warranties so set out are made on the date of this Deed and are deemed to be repeated by the Assignor daily throughout the Security Period with reference to the facts and circumstances then existing:

- (a) to the best of the Assignor's knowledge, information and belief all financial and other information given by it to the Assignee in connection with this Deed, including the negotiation thereof, is true and there are no other facts or considerations the omission of which would render any such information misleading in a materially adverse manner;
- (b) the Assignor has full power and authority to enter into this Deed to which it is a party and the execution of this Deed to which it is a party has been duly authorised by all necessary corporate action;
- (c) the Assignor has and will at all times maintain all Authorisations required to enable it to perform its obligations under this Deed and in relation to the Secured Liabilities;
- (d) except pursuant to this Deed, the Assignor is the sole, lawful and beneficial owner of all the Assigned Assets free from any Security;
- (e) the Assignor has and will at all times have the necessary power to enable it to enter into and perform the obligations expressed to be assumed by it under this Deed and in relation to the Secured Liabilities;
- (f) this Deed constitutes the Assignor's legal, valid, binding and enforceable obligations and is an effective and enforceable security over the Assigned Assets and every part of them;
- (g) neither the entering into nor the performance of this Deed shall conflict with the Assignor's constitutional documents or constitute or give rise to any breach of or default under any agreement, law, regulation or order by which it is bound;
- (h) the Assignor is not required to make any deduction for or on account of Tax from any payment it may make under this Deed and no stamp or registration duty or similar Tax or charge is payable in its jurisdiction of incorporation in respect of this Deed;
- (i) all necessary Authorisations to enable and entitle the Assignor to enter into this Deed have been obtained and are in full force and effect and will remain in such force and effect at all times during the subsistence of the security constituted by this Deed; and
- (j) this Deed is an effective and enforceable security over the Assigned Assets and every part of them.

5.2 The rights and remedies of the Assignee in relation to any misrepresentation or breach of warranty on the part of the Assignor shall not be prejudiced by any investigation by or on behalf of the Assignee into the affairs of the Assignor, by the performance of this Deed or by any other act or thing which may be done or omitted to be done by the Assignee under this Deed and which would or might, but for this clause 5.2, prejudice such rights and remedies.

## **6 Undertakings**

6.1 The Assignor shall not, otherwise than:

- (a) in favour of the Assignee; and
- (b) with the prior written consent of the Assignee and in accordance with and subject to any conditions which the Assignee may attach to such consent,

(i) create, grant, incur, or permit to subsist any other Security of whatsoever nature over the whole or any part of the Assigned Assets; (ii) sell, assign, transfer or otherwise dispose of the whole or any part of the Assigned Assets; (iii) permit or agree to any variation of the rights attaching to the Assigned Assets; or (iv) do or cause or permit to be done anything which may in any way materially depreciate, jeopardise or otherwise prejudice the value to the Assignor of the Security created by or under this Deed.

6.2 The Assignor shall promptly and fully perform and discharge its obligations under the Finance Documents to which it is a party with all reasonable care and diligence and generally act in such a manner to ensure its compliance with all its obligations under the Finance Documents to which it is a party.

6.3 The Assignor undertakes that where the Assignee withdraws any sums from the Account, the Assignor shall solely use such sums for purposes relating exclusively to the relevant Project and in accordance with the relevant Approved Budget and/or the relevant Approved Production Schedule.

## **7 Power of attorney**

The Assignor hereby irrevocably appoints the Assignee to be the attorney of the Assignor and in the Assignor's name and on its behalf and as its act and deed to sign, seal, execute, deliver, register in its name, perfect and do all such documents and things as may be, or as the Assignee may reasonably consider to be, requisite for carrying out any obligations imposed on the Assignor under this Deed. The Assignor hereby undertakes (to the extent to which it can lawfully do so) to ratify and confirm all things done and documents executed by the Assignee in the exercise of the power of attorney conferred by this clause and the exercise by the Assignee of such power shall be conclusive evidence of its right to exercise the same.

## **8 Enforcement of security**

### **8.1 When security is enforceable**

On the occurrence of any Event of Default, which is continuing or as otherwise set out in clauses 4.2 or 4.3, the Security created by and under this Deed is immediately enforceable.

### **8.2 Acts of enforcement**

The Assignee may, at its absolute discretion, at any time after the Security created by or under this Deed is enforceable:

- (a) enforce all or any part of the Security created by or under this Deed in any manner it sees fit;
- (b) exercise its rights and powers conferred upon mortgagees by the Law of Property Act 1925, as varied and extended by this Deed, and rights and powers conferred on a Receiver by this Deed, whether or not it has taken possession or appointed a Receiver to any of the Assigned Assets;
- (c) appoint a Receiver to all or any part of the Assigned Assets; or

- (d) exercise its power of sale under section 101 of the Law of Property Act 1925 (as amended by this Deed).

### **8.3 Right of appropriation**

To the extent that the Security created by this Deed constitutes a "security financial collateral arrangement" and the Assigned Assets constitute "financial collateral" for the purpose of the Financial Collateral Arrangements (No 2) Regulations 2003 (**Regulations**), the Assignee shall have the right on giving prior notice to the Assignor, at any time after the Security created by or under this Deed becomes enforceable, to appropriate all or any part of those Assigned Assets in or towards discharge of the Secured Liabilities. The parties agree that the value of the appropriated Assigned Assets shall be, in the case of cash, the amount of cash appropriated. For the purpose of Regulation 18(1) of the Regulations, the Assignor agrees that the method of valuation provided for in this clause 8.3 constitutes a valuation "in a commercially reasonable manner".

### **8.4 Contingencies**

If the Assignee enforces the Security constituted by or under this Deed at a time when no amounts are due to the Assignee under the Finance Documents but at a time when amounts may or will become so due, the Assignee (or the Receiver) may pay the proceeds of any recoveries effected by it into an interest bearing suspense account.

### **8.5 Mortgagee in possession - no liability**

Neither the Assignee nor any Receiver will be liable, by reason of entering into possession of an Assigned Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might otherwise be liable.

### **8.6 Redemption of prior mortgages**

At any time after the Security created by or under this Deed has become enforceable, the Assignee may, at the sole cost of the Assignor (payable to the Assignee on demand):

- (a) redeem any prior form of Security over any Assigned Asset; and/or
- (b) procure the transfer of that Security to itself; and/or
- (c) settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which once so settled and passed shall be conclusive and binding on the Assignor.

## **9 Statutory powers - general**

- 9.1 For the purposes of all powers implied by statute, the Secured Liabilities shall be deemed to have become due and payable on the date hereof.
- 9.2 Section 93 of the Law of Property Act 1925 (restricting the right of consolidation) shall not apply to this Deed or the security constituted by it.
- 9.3 Section 103 of the Law of Property Act 1925 (restricting the power of sale) shall not apply to this Deed or the security constituted by it.
- 9.4 Each Receiver and the Assignee is entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 and the Insolvency Act 1986 on mortgagees and Receivers when such Receivers have been duly appointed under the relevant Act.

## **10 Receiver**

### **10.1 Appointment of Receiver**

#### **(a)**

- (i) At any time after any Security created by or under this Deed is enforceable, the Assignee may appoint a Receiver to all or any part of the Assigned Assets in accordance with clause 8.2.
- (ii) At any time, if so requested in writing by the Assignor, without further notice, the Assignee may appoint a Receiver to all or any part of the Assigned Assets as if the Assignee had become entitled under the Law of Property Act 1925 to exercise the power of sale conferred under the Law of Property Act 1925.

(b) Any Receiver appointed under this Deed shall be the agent of the Assignor and the Assignor shall be solely responsible for his acts or defaults and for his remuneration and liable on any contracts or engagements made or entered into by him and in no circumstances whatsoever shall the Assignee be in any way responsible for any misconduct, negligence or default of the Receiver.

(c) Where the Assignor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 to the Insolvency Act 1986:

- (i) obtaining a moratorium; or
- (ii) anything done with a view to obtaining a moratorium including any preliminary decision or investigation in terms of paragraph 43 of Schedule A1 to the Insolvency Act 1986,

shall not be grounds for appointment of a Receiver.

### **10.2 Removal**

The Assignee may by written notice remove from time to time any Receiver appointed by it and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated.

### **10.3 Powers of Receiver**

#### **(a) General**

- (i) In addition to those conferred by the Law of Property Act 1925 on any Receiver appointed under that Act, each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out in this clause 10.3.
- (ii) If there is more than one Receiver holding office at the same time, unless the document appointing him states otherwise, each Receiver may exercise all of the powers conferred on a Receiver under this Deed or under the Insolvency Act 1986 individually and to the exclusion of any other Receivers.
- (iii) A Receiver may, in the name of the Assignor:
  - (A) do all other acts and things which he may consider expedient for realising any Assigned Asset; and

(B) exercise in relation to any Assigned Asset all the powers, authorities and things which he would be capable of exercising if he were its absolute beneficial owner.

(b) **Delegation**

A Receiver may delegate his powers in accordance with clause 11 (Delegation).

(c) **Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings or submit to arbitration or any form of alternative dispute resolution in the name of the Assignor in relation to any Assigned Asset as he considers expedient.

(d) **Possession**

A Receiver may take immediate possession of, get in and collect any Assigned Asset.

(e) **Receipts**

A Receiver may give valid receipts for all monies and execute all assurances and things which may be expedient for realising any Assigned Asset.

(f) **Deal with Assigned Assets**

A Receiver may, without restriction sell or vary the terms of or otherwise dispose of or deal with, all or any part of the Assigned Assets without being responsible for loss and any such sale, variation, disposal or dealing may be made on such terms and for such consideration as the Receiver thinks fit.

(g) **Security**

A Receiver may redeem any prior Security and settle and pass the accounts of the person entitled to the prior Security so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Assignor and the money so paid shall be deemed to be an expense properly incurred by the Receiver.

(h) **Incidental matters**

A Receiver may do all other acts and things including without limitation, signing and executing all documents and deeds as may be considered by the Receiver to be incidental or conducive to any of the matters or powers listed here or granted by law or otherwise incidental or conducive to the preservation, improvement or realisation of the Assigned Assets and to use the name of the Assignor for all the purposes set out in this clause 10.

**10.4 Remuneration**

Sections 109(6) and (8) (Appointment, powers, remuneration and duties of receiver) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed and the Assignee may from time to time fix the remuneration of any Receiver appointed by it.

**11 Delegation**

11.1 The Assignee and any Receiver may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by the Assignee and the Receiver (as appropriate) under this Deed to any person or persons as it shall think fit. Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Assignee and Receiver (as appropriate) may think fit.

11.2 The Assignee and any Receiver will not be liable or responsible to the Assignor or any other person for any losses, liabilities or expenses arising from any act, default, omission or misconduct on the part of any delegate.

## **12 Effectiveness of security**

### **12.1 Security**

The security constituted by this Deed:

- (a) shall be in addition to and shall be independent of every other security which the Assignee may at any time hold for any of the Secured Liabilities;
- (b) shall not merge with any prior security held by the Assignee over the whole or any part of the Assigned Assets; and
- (c) shall remain in full force and effect as a continuing security unless and until the Assignee discharges it in writing and shall not be satisfied by any intermediate payment or satisfaction of any of the Secured Liabilities.

### **12.2 Assignee's rights and immediate recourse**

The Assignee's rights under this Deed are in addition to and not in substitution for any other security which the Assignee may now or at any time in the future hold for all or any of the Secured Liabilities, and may be enforced without the Assignee first having recourse to any other security or guarantee and without taking any steps or proceedings against any person, and the Assignor waives any right it may have to require the Assignee to enforce any such security or guarantee or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing the security created by this Deed.

### **12.3 No prejudice**

Nothing contained in this Deed is intended to, or shall operate so as to, prejudice or affect any bill, note, guarantee, mortgage, debenture, pledge, charge or other security of any kind whatsoever which the Assignee may have for the Secured Liabilities or any of them or any right, remedy or privilege of the Assignee under this Deed.

### **12.4 Preservation of rights**

The rights of the Assignee under this Deed and the security hereby constituted shall not be affected by any act, omission, matter or thing which, but for this provision, might operate to impair, affect or discharge such rights and security, in whole or in part, including without limitation, and whether or not known to or discoverable by the Assignor, the Assignee or any other person:

- (a) any time or waiver granted to or composition with the Assignor or any other person; or

- (b) the taking, variation, compromise, renewal or release of or refusal or neglect to perfect or enforce any rights, remedies or securities against the Assignor or any other person; or
- (c) any legal limitation, disability, incapacity or other circumstances relating to the Assignor or any other person; or
- (d) any amendment or supplement to any of the Finance Documents or to any other document or security; or
- (e) the dissolution, amalgamation, reconstruction or reorganisation of the Assignor or any other person; or
- (f) the unenforceability, invalidity or frustration of any obligations of the Assignor or any other person under any of the Finance Documents, or under any other document or security.

#### 12.5 **New Account**

If the Assignee receives any notice of any subsequent Security affecting any part of the Assigned Assets, it may open a new account with the Assignor (and, if it does not open a new account, it shall nevertheless be treated as if it had done so at the time of notice), and any liability of the Assignor under this Deed at the time of notice shall remain regardless of payments into or out of the new account.

### 13 **Protection of third parties**

13.1 No person (including a purchaser) dealing with the Assignee or a Receiver or its or his agents has an obligation to enquire of the Assignee, Receiver or others:

- (a) whether the Secured Liabilities have become payable;
- (b) whether any power purported to be exercised has become exercisable;
- (c) whether any Secured Liabilities or other monies remain outstanding;
- (d) how any monies paid to the Assignee or to the Receiver shall be applied; or
- (e) the status, propriety or validity of the acts of the Receiver or Assignee.

13.2 The receipt by the Assignee or any Receiver shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Assignee or any Receiver.

13.3 In clauses 13.1 and 13.2, **purchaser** includes any person acquiring, for money or monies worth, any lease of, or Security over, or any other interest or right whatsoever in relation to, the Assigned Assets or any of them.

### 14 **Remedies, time or invalidity**

#### 14.1 **Remedies etc cumulative**

The rights, powers and remedies provided by this Deed are cumulative and are not, nor are they to be construed as, exclusive of any powers and remedies provided by law.

**14.2 No waiver**

No failure on the part of the Assignee to exercise, or delay on the part of the Assignee in exercising any of the rights, powers and remedies provided by this Deed or by law shall operate as a waiver thereof, nor shall any single or partial waiver preclude any further or other exercise of any such rights, powers and remedies.

**14.3 Provisions severable**

Each of the provisions contained in this Deed shall be severable and distinct from one another and if at any time any one or more of such provisions is or becomes invalid, illegal or unenforceable under the laws of any jurisdiction, the validity, legality and enforceability of each of the remaining provisions of this Deed under the laws of any jurisdiction shall not in any way be affected, prejudiced or impaired thereby.

**14.4 No variation**

The terms and conditions of this Deed shall not be varied otherwise than by an instrument in writing signed by both parties.

**15 Assignment**

15.1 The Assignor may not assign, transfer or in any way dispose of or deal with any of its rights under this Deed without the Assignee's prior written consent.

15.2 The Assignee shall be entitled to assign, transfer, sell or otherwise dispose of all or any part of its interest in this Deed, whether outright or by way of security, and the whole or any part of its obligations under this Deed to any person without the consent of the Assignor.

**16 Notices**

16.1 All notices under this Deed shall be in writing and all certificates, notices or written instructions to be given under the terms of this Deed shall be served by sending the same by first class post, facsimile or by hand, or leaving the same at:

**Assignee**

Address: Olympic Court Third Avenue, Trafford Park Village, Manchester,  
M17 1AP

Attention: Sarah Edwards

Copy to: ♦

**Assignor**

Address: 123 Regents Park Road Road, London, NW1 8BG

Attention: Kirsty Bell / Philip McKenzie

Facsimile No: ♦

16.2 A party to this Deed may change its nominated address or facsimile number by prior notice to the other parties.



16.3 Notices given by post shall be effective upon the earlier of actual receipt and two (2) Business Days after mailing. Notices delivered by hand shall be effective upon delivery. Notices given by facsimile shall be deemed to have been received where there is confirmation of uninterrupted transmission by a transmission report and where there has been no telephonic communication by the recipient to the senders (to be confirmed in writing) that the facsimile has not been received in legible form:

- (a) within two (2) hours after sending, if sent on a Business Day between the hours of 9.00am and 4.00pm; or
- (b) by 11.00am on the next following Business Day, if sent after 4.00pm on a Business Day but before 9.00am on that next following Business Day.

## **17 Expenses and indemnity**

Immediately upon demand the Assignor shall pay all costs and expenses (including, without limitation, legal fees) incurred in connection with this Deed by the Assignee (including in relation to preservation or enforcement of rights), or any attorney, manager, agent or other person appointed by the Assignee in connection with this Deed or by statute, and keep each of them indemnified against any failure or delay in paying the same.

## **18 Further assurance**

18.1 The Assignor shall, at its own expense and at the Assignee's request, take whatever action and do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Assignee may specify (and in such form as the Assignee may require) in favour of the Assignee or its nominee(s):

- (a) to create, perfect, protect and maintain the security created or intended to be created under or evidenced by this Deed or for the exercise of any rights, powers and remedies of the Assignee provided by or pursuant to this Deed or by law;
- (b) to confer on the Assignee security over any of the Assigned Assets located in any jurisdiction equivalent or similar to the security intended to be conferred by or pursuant to this Deed; and/or
- (c) to facilitate the realisation of the Assigned Assets, including facilitating the realisation of any Assigned Asset or the exercise of any right, power or discretion exercisable, by the Assignee or any of its or delegates or sub-delegates in respect of any Assigned Asset, including the execution of any transfer, conveyance, assignment or assurance of any property whether to the Assignee or to its nominees, and the giving of any notice, order or direction and the making of any registration, which in any such case, the Assignee may think expedient.

18.2 The Assignor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any security conferred or intended to be conferred on the Assignee by or pursuant to this Deed.

18.3 Any document required to be executed by the Assignor under this clause 18 will be prepared at the cost of the Assignor.

**19 Notice of second charge**

If the Assignee receives notice that the Assignor has assigned, charged or otherwise disposed of any interest in the Assigned Assets or any of them or has attempted to do so, the Assignee shall be entitled to rule off the Account and open new accounts in its books (which shall for the purposes of this Deed be regarded as the Account). If, despite being entitled to do so, the Assignee does not open a new account or accounts, it shall nevertheless be deemed to have done so at the time the Assignee received such notice and as from that time all payments made by the Assignor to the Assignee shall, in the absence of any express appropriation by the Assignee, be treated as having been accredited to such new account(s).

**20 Set-off**

The Assignee may, and is irrevocably authorised, without prior notice to the Assignor at any time or times without restriction to exercise in relation to the Assigned Assets or any part of it all rights of consolidation or combination of accounts or set off the whole or any part of the Assigned Assets (whether or not then matured or payable) against any or all of the Secured Liabilities then due and payable.

**21 Suspense account**

All monies received, recovered or realised by the Assignee in the exercise of any powers conferred by this Deed may, in the Assignee's discretion, be accredited by it to any suspense or impersonal account and may be held in such account so long as the Assignee thinks fit pending the application from time to time of such monies (and any interest thereon) in or towards the discharge of the Secured Liabilities.

**22 Effect of insolvency**

If the Assignee considers that any amount paid by the Assignor in respect of the Secured Liabilities is capable of being avoided or set aside on the liquidation or administration of the Assignor or otherwise, then for the purposes of this Deed such amount shall not be considered to have been paid.

**23 Certificates etc**

A certificate, determination, notification or opinion of the Assignee as to any amount payable under this Deed will be prima facie evidence thereof except in the case of manifest error.

**24 Contracts (Rights of Third Parties) Act 1999**

A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed. This does not affect any right or remedy of a third party which exists or is available apart from that Act.

**25 Counterparts**

This Deed may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same document and either party may enter into this Deed by executing a counterpart.

## **26 Governing law**

This Deed (and any non-contractual obligations arising out of or in connection with it) is governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

## **27 Enforcement**

### **27.1 Jurisdiction of English courts**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed (**Dispute**)).
- (b) The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.
- (c) This clause 27 is for the benefit of the Assignee. As a result, the Assignee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Assignee may take concurrent proceedings in any number of jurisdictions.

**Executed as a deed** by the parties or their duly authorised representatives but not delivered until the date of this Deed.

## Schedule 1

### Form of Notice of Assignment

[On Assignor's headed notepaper]

To: Arbuthnot Latham & Co., Limited  
Of: Arbuthnot House

7 Wilson Street

London

EC2M 2SN

[Date]

Dear Sirs

We refer to the Account Assignment dated ♦ (**Account Assignment**) entered into between ourselves and Close Leasing Limited (**Assignee**) and the account opened with you which is numbered 20013980 with sort code 301393 and is designated with "Bird Box Entertainment Limited" (**Account**).

We give you notice that the Account and all moneys from time to time credited to and for the time being standing to the credit of the Account together with all interest from time to time accrued on the Account (together with the debts represented thereby) have been assigned to the Assignee.

We irrevocably and unconditionally instruct and authorise you (notwithstanding any previous instructions whatsoever which we may have given to you to the contrary):

- 1 to disclose to the Assignee such information relating to the Account as the Assignee may, at any time and from time to time, request you to disclose to it;
- 2 to hold to the order of the Assignee all sums from time to time standing to the credit of the Account;
- 3 at any time and from time to time upon receipt by you of instructions in writing from the Assignee to release sums credited to the Account to the Assignee and to act in accordance with such instructions; and
- 4 to comply with the terms of any written notice, statement or instructions in any way relating or purporting to relate to the Account Assignment and/or the Account which you receive at any time and from time to time from the Assignee,

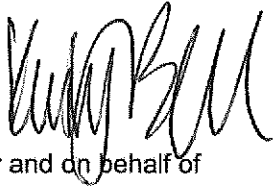
in each case, without any reference to or further authority from us and without any inquiry by you as to the justification for such disclosure, instructions, notice or statement or the validity of them.

The instructions and authorisations which are contained in this letter shall remain in full force and effect until the Assignee gives you notice in writing revoking them and we shall not be permitted to give you any instructions with respect to the Account and/or any sums standing to the credit of the Account without the prior written consent of the Assignee.

This letter, and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in accordance with the laws of England and we irrevocably submit to the exclusive jurisdiction of the English courts to settle any matter or dispute arising out of or in connection with this letter.

Would you please acknowledge receipt of this letter and your acceptance of the instructions and authorisations contained in it by signing the attached form of acknowledgement and returning it to the Assignee at Olympic Court Third Avenue, Trafford Park Village, Manchester, M17 1AP and marking it for the attention of Sarah Edwards.

Yours faithfully



For and on behalf of

**Bird Box Entertainment Limited**

## Schedule 2

### Form of Acknowledgement

[On Account Book headed paper]

To: CLOSE LEASING LIMITED

Of: Olympic Court Third Avenue, Trafford Park Village, Manchester, M17 1AP marked for the attention of Sarah Edwards

[Date]

Dear Sirs,

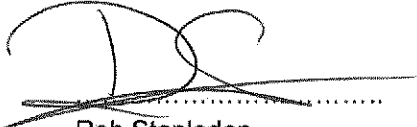
We, Arbuthnot Latham & Co., Limited acknowledge receipt of a letter (a copy of which is attached) dated ♦ and addressed to us by Bird Box Entertainment Limited (**Assignor**) regarding the account mentioned in such letter (the **Account**) and the account assignment executed by the Assignor in your favour mentioned in such letter (**Account Assignment**). In consideration of your agreement that the Assignor may deposit moneys in the Account from time to time (and also for the sum of £1.00 paid by you to us, receipt of which is hereby acknowledged), we acknowledge and confirm that:

- 1 we accept the instructions and authorisations contained in such letter and we undertake to act in accordance with and comply with the terms of such letter;
- 2 we do not have, and will not make or exercise, any claims or demands, any rights of counterclaim, rights of set-off or any other equities against the Assignor in respect of the Account and/or the debt represented by the sum standing to the credit thereof or any part thereof;
- 3 we have not, as at the date of this acknowledgement, received any notice that any third party has or will have any right or interest whatsoever in or has made or will be making any claim or demand or taking any action whatsoever against the Account and/or the debt represented by sums standing to the credit thereof or any part thereof and we undertake that, in the event of us receiving any notice at any time that any person or entity other than yourselves or the Assignor has or will have any such right or interest or has or will be making any such claim or demand or taking any such action, we will promptly give written notice of the terms of such right or interest, claim or demand or action to both yourselves and the Assignor; and
- 4 the provisions of this letter will not be affected by any of the following:
  - (a) any variation of your security or in the amounts due from the Assignor to you;
  - (b) the appointment of a liquidator, administrator or receiver in respect of the whole or any part of the assets of the Assignor;
  - (c) any time, waiver or indulgence granted to the Assignor or to any other person;
  - (d) the release of any security taken by you from the Assignor or any other person; or
  - (e) any other act, omission, event or circumstance which, but for this letter, might operate to affect the relative priorities of your security.

This acknowledgement, and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in accordance with the laws of England.

Yours faithfully

For and on behalf of  
Arbuthnot Latham & Co., Limited




Rob Stapledon


Director, Commercial Banking

SIGNATORIES TO THE ACCOUNT ASSIGNMENT

The Assignor

Executed as a deed by  
**Bird Box Entertainment Limited**  
acting by a director in the presence of

)   
) .....  
) Director

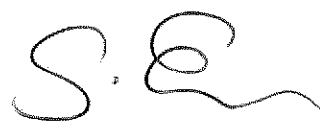
  
.....  
Signature of witness

Name WICK EHOVAR

Address SPADGATE HOUSE  
102 QUAYSIDE, NEWCASTLE UPON TYNE  
NE1 3DX

The Assignee

Signed by S. EDWARDS  
duly authorised for and on behalf of  
**Close Leasing Limited**

)   
) .....  
) (Authorised Signatory)