



Registration of a Charge

Company name: **Hanway Distribution Limited**

Company number: **08896679**



X6I8BR5M

Received for Electronic Filing: **31/10/2017**

Details of Charge

Date of creation: **27/10/2017**

Charge code: **0889 6679 0003**

Persons entitled: **NATIONAL BANK OF CANADA**

Brief description:

Contains fixed charge(s).

Contains floating charge(s) .

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

**CHARGING INSTRUMENT SIGNED BY OR ON BEHALF OF THE
CHARGOR.**

Certified by:

DENTONS UKMEA LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 8896679

Charge code: 0889 6679 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 27th October 2017 and created by Hanway Distribution Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 31st October 2017 .

Given at Companies House, Cardiff on 2nd November 2017

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**

CHARGE AND DEED OF ASSIGNMENT

DATE:

27 OCTOBER 2017

PARTIES:

NATIONAL BANK OF CANADA, a Canadian bank duly constituted under the *Bank Act* (Canada), having a branch located at 600 de la Gauchetière Street West, Ground Floor, Montreal, Quebec, H3B 4L2, Canada.

Attention: [REDACTED]
Telecopier: [REDACTED]
Email: [REDACTED]

(« **NBC** »)

– **AND** –

HANWAY DISTRIBUTION LIMITED, a company incorporated under the laws of England and Wales (Company No. 8896679), having its registered office located at 24 Hanway Street, London, W1T 1UH, England.

Attention: [REDACTED]
Email: [REDACTED]

(the « **Chargor** »)

RECITAL:

In order to induce NBC to enter into the Facility Agreement in favour of the Borrower and in consideration of the advances which NBC has made or shall make thereunder to the Borrower, subject to all the terms and conditions thereof, which the Chargor acknowledges hereunder shall be of benefit to it as facilitating the production of the Film and in Chargor's role as a distributor of the Film, the Chargor has agreed to enter into this Charge and Deed of Assignment (the "**Charge**") in favour of NBC to secure the obligations of the Borrower toward NBC, present and future, pursuant to the Facility Agreement and the obligations of the Chargor hereunder.

OPERATIVE PROVISIONS:

1 Interpretation

1.1 In this Charge:

- 1.1.1 "Acts"** means the Law of Property Act 1925, the Insolvency Act 1986 and the Enterprise Act 2002 (or any statutory modification or re-enactment of those acts for the time being in force);
- 1.1.2 "Assets"** means all the Film related property of the Chargor to be charged, assigned, licensed to and/or held in trust for NBC pursuant to Section 2 of this Charge;
- 1.1.3 "Borrower"** means Earthlings Productions Inc.;
- 1.1.4 "DRAA"** means the distribution rights acquisition agreement for the Film pursuant to which the Chargor has been assigned the Rights;

- 1.1.5 **"Encumbrance"** means any mortgage, charge, assignment for the purpose of security, pledge, lien, right of set-off, arrangement for retention of title, or hypothecation or trust arrangement for the purpose of, or which has the effect of, granting security, or other security interest of any kind whatsoever and any agreement, whether expressed to be conditional or otherwise, to create any of the same or any agreement to sell or otherwise dispose of any asset on terms whereby such asset is or may be leased to or re-acquired or acquired by the person so agreeing or disposing;
- 1.1.6 **"Event of Default"** means any event that, with the passage of time, would constitute a breach by the Borrower of one of its obligations or covenants toward NBC pursuant to the Facility Agreement and/or a breach by the Chargor of one of its obligations or covenants toward NBC hereunder;
- 1.1.7 **"Facility Agreement"** means the Credit Agreement dated as of October 17, 2017 made by NBC in favour of the Borrower, as it may be modified, amended or restated from time to time;
- 1.1.8 **"Film"** means the feature film presently entitled "*The Hummingbird Project*" produced by the Borrower and Belga Productions SPRL (the **"Belgian Producer"**);
- 1.1.9 **"Hanway Territory"** shall have the meaning given in the DRAA;
- 1.1.10 **"Indebtedness"** means (i) the Borrower's present and future indebtedness and other liabilities and obligations to NBC pursuant to and in connection with the Facility Agreement, and (ii) the Chargor's present and future indebtedness and other liabilities and obligations to NBC pursuant to this Charge, whether present, future, actual or contingent and whether or not matured or accrued due and whether incurred solely, severally or jointly with any other person and whether in sterling or in any other currency, together with interest, commission, reasonable bank charges and any other reasonable costs, charges and legal expenses (on a full indemnity basis) charged or incurred by NBC and including those arising from NBC perfecting or enforcing or attempting to enforce this Charge or any other security (and its rights thereunder) held by NBC from time to time in respect of such indebtedness or other liabilities;
- 1.1.11 **"Interparty Agreement"** means the interparty agreement to be entered into on or after the date of this Charge among, inter alia, NBC, the Chargor, the Borrower, the Belgian Producer and Film Finances Canada Ltd.;
- 1.1.12 **"NBC"** shall include, unless the context otherwise requires, NBC's successors and assigns and all its branches from time to time, whether in Canada or otherwise;
- 1.1.13 **"Prohibited Encumbrance"** means any Encumbrance granted to a third party, except for the Permitted Encumbrances;
- 1.1.14 **"Permitted Encumbrances"** means the charges, security agreements and mortgages and assignments of copyright in relation to the Film as permitted and as set forth under the terms of the Interparty Agreement;
- 1.1.15 **"Receiver"** means a receiver or manager or administrator (whether appointed pursuant to the Enterprise Act 2002 or otherwise) or administrative receiver appointed by NBC either solely or jointly (and if more than one on the basis that they may act jointly and severally) under or by virtue of this Charge or any other security interest of NBC or NBC's statutory powers which term includes any plural or substitute receiver(s) of all or any of the Assets;

1.1.16 "Rights" means all of the Chargor's present or after-acquired proprietary, statutory, contractual and common law rights throughout the Hanway Territory, whether as owner, maker, author or otherwise in and to the Film and any other videotape, film and any sound recordings made in the course of the production of the Film and all underlying literary, dramatic, lyrical, musical, artistic and other material including, without limitation, the format, all titles, trademarks, designs and logos used in or in connection with the Film (collectively, the **"Source Material"**) and to the extent owned or controlled by the Chargor, without prejudice to the generality of the foregoing, (i) exclusive and irrevocable right in the Hanway Territory to distribute, reproduce, exhibit, licence and otherwise exploit and deal in and with the Film and any and all parts of the Film by all methods and means in any and all media systems and processes now known or in the future devised, including the proceeds thereof; (ii) all rights of copyright throughout the world in the original screenplay of the Film and in all other literary, artistic, dramatic and musical works created or to be created for and whether or not used and/or contained in the Film and in respect of the music all rights throughout the world to synchronise the same with and incorporate the same in the Film and to exploit the music and the Source Material independently of the Film; (iii) all ancillary publishing, spin-off and merchandising rights of every kind and nature in or to the Film including, but not limited to, novelization and publishing rights and commercial tie-ups and sponsorship; and (iv) all rights of the Chargor pursuant to any agreement, arrangement or contract made with any person, firm or company in connection with or relating to the production or distribution of the Film.

1.1.17 "Security Period" means the period beginning on the date of this Charge until all of the Indebtedness has been unconditionally and irrevocably discharged in full and NBC has no further obligations to make any loans pursuant to the Facility Agreement;

1.2 Section headings are for ease of reference only.

1.3 NBC's rights of recourse under this Charge shall be limited to the proceeds of realisation of the Assets. All agreements, covenants, representations, warranties and indemnities (whether as to payment or otherwise) herein contained shall be construed accordingly.

1.4 The covenants implied by Sections 2(1) and 3(1) of the *Law of Property (Miscellaneous Provisions) Act 1994 (UK)* shall apply to all assignments created under this Charge.

2 Security

2.1 In consideration of NBC entering into the Facility Agreement and making available to the Borrower the sums thereunder, the Chargor hereby covenants to pay or discharge to NBC the Indebtedness.

2.1.1 As continuing security for the payment and discharge of the Indebtedness and for the performance of the obligations of the Chargor under this Charge, the Chargor hereby charges to NBC, with full title guarantee in accordance with the *Law of Property (Miscellaneous Provisions) Act 1994 (UK)* and (to the extent applicable) by way of present assignment of future copyright pursuant to Section 91 of the *Copyright Design and Patents Act 1988 (UK)*, by way of fixed charge, all of its property and revenues of every kind relating to the Film, present and future, tangible and intangible, including without limitation all of its physical assets relating to the Film, the Rights and its rights, title and interests in and to the Film, save to the extent such are effectively assigned pursuant to Section 2.2.1;

2.2 As further continuing security for the payment and discharge of the Indebtedness and for the performance of the obligations of the Chargor under this Charge, the Chargor:

- 2.2.1 with full title guarantee in accordance with the *Law of Property (Miscellaneous Provisions) Act 1994 (UK)* and (to the extent applicable) by way of present assignment of future copyright pursuant to Section 91 of the *Copyright Design and Patents Act 1988 (UK)*, assigns absolutely to NBC by way of security to the extent capable of such assignment all the Chargor's property and revenues relating to the Film, including, without limitation, its rights, title and interest in and to the Film and the Rights throughout the Hanway Territory including, without limitation, all rights, choses in action and claims now and in the future belonging to the Chargor with respect to its property in the Film and the Rights, to hold the same unto NBC absolutely (where any of the rights assigned are executory this assignment shall be a present assignment of future rights);
- 2.2.2 undertakes to hold on trust for NBC absolutely the entire interest of the Chargor's property in the Film and the Rights not the subject of Section 2.2.1 above together with the entire benefit thereof; and
- 2.2.3 charges by way of floating charge any and all of the Chargor's property, rights and interest in the Film and the Rights, if and to the extent that the fixed charge may fall for any reason to operate as a fixed charge. Paragraph 14 of Schedule B1 of the *Insolvency Act 1986* (incorporated by Schedule 16 of the *Enterprise Act 2002*) shall apply to any floating charge created pursuant to this Charge.
- 2.2.4 charges by way of first fixed charge to NBC the Chargor's right, title and interest in and to:
- (a) all the Chargor's property present and future, tangible and intangible in the Film;
 - (b) the Film (as presently existing and to be created or acquired);
 - (c) the proceeds of all policies of insurance now or in the future taken out by or at the request of the Chargor in respect of the Assets, including the Film and the Rights;
 - (d) all sums from time to time standing to the credit of the Chargor in those accounts opened by the Chargor (or on its behalf) and in its name relating to the Film.
- 2.3 NBC may, by notice to the Chargor, convert the floating charge created by this Section into a fixed charge as regards any of the Chargor's rights and/or assets specified in that notice if:
- 2.3.1 an Event of Default occurs; or
 - 2.3.2 NBC considers those rights or assets to be in danger of being sold or seized under any form of distress, attachment, execution or other legal process, or to be otherwise in jeopardy.
- 2.4 The floating charge created under this Section will automatically convert into a fixed charge over all of the Chargor's rights and assets if:
- 2.4.1 an administrator is appointed; or
 - 2.4.2 NBC receives notice of an intention to appoint an administrator;
 - 2.4.3 the Chargor creates, agrees to create or permits to subsist any Encumbrance on, over or with respect to, the rights or assets secured by floating charge under this Section or any part of it, or attempts to do so; or

- 2.4.4 any person levies, or attempts to levy, any distress, attachment, execution or other legal process against the rights or assets secured by the floating charge under this Section, or any part of it.

2.5

- 2.5.1 Subject to the rights of NBC under any agreement entered into between the Chargor and NBC in relation to the Film, NBC licenses to the Chargor, until the occurrence of an Event of Default, the Rights solely to enable the Chargor to distribute the Film (but not otherwise);
- 2.5.2 Upon the occurrence of an Event of Default, the licence from NBC in favour of the Chargor pursuant to this Section 2.5 shall immediately and automatically terminate and the Chargor shall cease to have any right to deal with the Rights;
- 2.5.3 At any time on or following an Event of Default NBC may exercise or otherwise deal with the Rights and any discretions relating to them by giving notice to the Borrower and the Chargor to that effect; and
- 2.5.4 At any time on or following an Event of Default and until NBC has given notice to the Borrower and the Chargor under Section 2.5.3, the Chargor shall exercise and otherwise deal with the Rights and any discretions relating to them only in accordance with NBC's instructions subject to the terms of the Interparty Agreement.

3 Covenants

3.1 The Chargor shall not:

- 3.1.1 Except for the Permitted Encumbrances, create or permit to subsist any Encumbrance on the Assets; and/or
- 3.1.2 Subject to the terms of the Interparty Agreement, except with the prior written consent of NBC, sell, transfer or otherwise dispose of the Assets.
- 3.1.3 The Chargor shall promptly notify NBC of any meeting to discuss, or any proposal or application for the appointment of a Receiver or similar official in respect of the Chargor or any of the Assets and, if any such official is appointed, of his appointment.

3.2 The Chargor warrants, undertakes and agrees with NBC as follows:

- 3.2.1 that it is wholly-owned by Hanway Films Limited having its registered office located at 24 Hanway Street, London, W1T 1UH, England;
- 3.2.2 that it is the sole, absolute legal owner of the Assets and that none of the Assets is the subject of any mortgage, charge, lien, pledge, encumbrance or security interest other than the Permitted Encumbrances;
- 3.2.3 that the execution of this Charge by the Chargor will not violate, conflict with or cause a breach of any agreement, instrument, charge or mortgage previously executed by the Chargor that may have any material effect on the Facility Agreement;
- 3.2.4 that it has acquired the Rights.

- 3.2.5 further to Sections 3.1 and 3.1.3 above, not, without the prior written consent of NBC, to sell, transfer, dispose of or part with possession or control of or attempt to sell, transfer or dispose of the Assets or any part of them or any interest in them, nor directly or indirectly create or permit to exist or be created any mortgage, charge, lien, pledge, encumbrance or security interest upon or in the Assets or any part of them, other than the Permitted Encumbrances;
- 3.2.6 to maintain or procure that the physical materials forming part of the Assets, are maintained in good and serviceable condition (fair wear and tear excepted) and not to permit the same to be used, handled or maintained other than by persons properly qualified and trained;
- 3.2.7 not, without the prior written consent of NBC, to make any modification or permit any modification to be made to the Film or the Rights if such modification may have an adverse effect on the security of NBC whether under this Charge or otherwise;
- 3.2.8 subject to the terms of the Interparty Agreement, promptly to pay or procure the payment of all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Film and the Rights or any part of any of them, and on demand to procure evidence of payment to NBC;
- 3.2.9 to obtain or cause to be obtained all necessary certificates, licences, permits and authorizations from time to time required for the distribution of the Film and the protection of the physical materials forming part of the Assets and the Rights and not to do or permit to be done any act or omission whereby the Film or its production, distribution, broadcast or exhibition would contravene any relevant rules and regulations for the time being in force;
- 3.2.10 immediately to notify NBC of any material loss, theft, damage or destruction to the physical materials forming part of the Assets and/or any material uncured breach of the Rights or any part of them upon becoming aware of such loss, theft, damage or destruction;
- 3.2.11 as far as the Chargor is able, to give NBC such information concerning the location, condition, use and operation of the physical materials forming part of the Assets as NBC may reasonably require, and to permit any persons designated by NBC at all reasonable times to inspect and examine the physical materials forming part of the Assets and the records maintained in connection with them at its sole cost and during normal business hours provided such inspection shall not interfere with the production of the Film;
- 3.2.12 immediately to notify NBC in writing if it becomes aware of any claims made by a third party with respect to the Assets;
- 3.2.13 to do all in its respective powers to protect and preserve the Assets;
- 3.2.14 not to allow any counterclaim or set-off or other equity in respect of any sum payable in relation to the Assets, including the Film and/or the Rights;
- 3.2.15 that it will do or permit to be done each and every act or thing which NBC may from time to time reasonably require for the purpose of perfecting this Charge;
- 3.2.16 that it shall procure that all sums charged or assigned by Chargor to NBC hereunder shall be paid to NBC or as NBC may direct from time to time;

3.2.17 that the Charge and any other agreement entered into by the Chargor in respect of the Film are within the scope of the business of the Chargor.

4 Receiver

4.1 Until the expiry of the Security Period, the security created by this Charge shall become immediately enforceable without notice on the happening of an Event of Default or at any time thereafter. Upon this Charge becoming enforceable:

- (a) NBC may in its absolute discretion enforce all or any part of the security constituted by this Charge in any manner as it sees fit, and without liability for any loss (whether or not due to negligence) or any costs of any kind;
- (b) NBC's obligations under the Facility Agreement shall immediately cease (without prejudice to the NBC's rights thereunder); and
- (c) the entire amount of the Indebtedness then outstanding shall be immediately due and repayable.

4.2 At any time after the security constituted by this Charge shall have become enforceable due to an Event of Default (or if so requested by the Chargor) and/or at any time after any breach or non-observance by the Chargor of the covenants and warranties contained in Section 3 above, NBC may:

- (a) sell, call in, collect, convert into money or otherwise deal with or dispose of the Assets or any part thereof on an instalment basis or otherwise and generally in such manner and upon such terms as NBC may think fit;
- (b) exercise all of the powers set out in the *Law of Property Act 1925 (UK)* and in Schedule 1 to the *Insolvency Act 1986 (UK)* and any other powers conferred upon NBC by this Charge or otherwise conferred by statute or common law on mortgagees;
- (c) if requested by the Chargor appoint one or more persons to be (an) administrator(s) of the Chargor pursuant to the *Insolvency Act 1986*; and/or
- (d) appoint (in writing either under hand or as a Charge) a Receiver over all or any part of the Assets upon such terms as NBC thinks fit, remove the Receiver and appoint another in his place, and exercise any or all of the powers which a Receiver could exercise provided that NBC may not appoint an administrative receiver (as defined in section 29(2) *Insolvency Act 1986*) if NBC is prohibited from doing so by section 72A *Insolvency Act 1986* and no exception to the prohibition on appointing an administrative receiver applies.

4.3 NBC may from time to time determine the remuneration of the Receiver and may remove the Receiver and appoint another in his place.

4.4 The Receiver shall, subject to the terms of the Acts, be the Chargor's agent and shall have all powers conferred by the Acts. The Chargor alone shall be responsible for the Receiver's acts and omissions and for the Receiver's remuneration. In particular, but without limiting any general powers or NBC's power of sale, the Receiver shall have power:

- 4.4.1 to take possession of, collect and get in all or any part of the Assets and for that purpose to take any proceedings in the Chargor's name or otherwise as he shall think fit;

- 4.4.2 to carry on or concur in carrying on the Chargor's business in relation to the Film and raise money from NBC or others on the security of all or any part of the Assets;
 - 4.4.3 to take, continue or defend any proceedings that may arise in respect of the Assets and make any arrangement or compromise of such proceedings which NBC or he shall think fit;
 - 4.4.4 to make and effect all repairs, improvements and insurances to the Assets as may be necessary;
 - 4.4.5 to appoint managers, officers and agents for any of the above purposes, at such salaries as the Receiver may determine;
 - 4.4.6 to do all other acts and things which he may consider to be incidental or conducive to any of the above powers.
- 4.5 Any moneys received under this Charge shall be applied (subject to the Acts):
- 4.5.1 first, in satisfaction of all costs, charges and expenses properly and validly incurred and payments properly made by NBC or the Receiver and of the remuneration of the Receiver;
 - 4.5.2 secondly, in or towards satisfaction of the Indebtedness in such order as NBC shall determine; and
 - 4.5.3 thirdly, the surplus (if any) shall be paid to the Chargor or any other person specified by the Chargor.

5 Miscellaneous

5.1 Section 93 of the Law of Property Act 1925 shall not apply to this Charge.

5.2 The Chargor at its expense shall at any time on NBC's request promptly execute and deliver to NBC any other or further mortgage, charge or other instrument conferring a fixed charge and/or granting a legal mortgage on the Assets and/or assigning the physical materials forming part of the Assets or the Rights to NBC by way of security as NBC may, at its discretion, think fit for securing the Indebtedness.

5.2.1 This Charge shall be:

5.2.2 a continuing security to NBC, notwithstanding any settlement of account or other matter or thing whatever;

5.2.3 without prejudice and in addition to any other security for the Indebtedness (whether by way of mortgage, equitable charge or otherwise) which NBC may hold; and

5.2.4 in addition to any rights, powers and remedies at law.

5.3 Section 103 of the Law of Property Act 1925 shall not apply. The statutory power of sale shall be exercisable at any time after the execution of this Charge. NBC shall not exercise its power of sale until an Event of Default has occurred by the Chargor which continues unremedied but this provision shall not affect a purchaser or put him on inquiry whether such an Event of Default has occurred.

5.4 No failure or delay on NBC's part in the exercise of any of its rights, powers and remedies (in this Section 5 "right(s)") under this Charge or at law shall operate or be construed as a waiver. No waiver of any of NBC's rights shall preclude any further or other exercise of that right or of any other right.

5.5 NBC may give time or other indulgence to the Chargor or make any other arrangement, variation or release with any person in respect of the Indebtedness or any other security or guarantee for the Indebtedness without derogating from the Chargor's liabilities or NBC's rights under this Charge.

5.6 The Chargor shall, on demand by NBC, execute and deliver all transfers, mandates, assignments, deeds or other documents as NBC may require to perfect its rights under this Charge or to give notice hereof to any person and to give effect to any sale or disposal of any of the Assets and otherwise give effect to the intent of this Charge.

5.7 Waiver of defences

The obligations of the Chargor under this Charge and the security created by this Charge will not be affected by any act, omission or thing which, but for this Sub-Section, would reduce, release or prejudice any of its obligations under this Charge in whole or in part, including (whether or not known to the Chargor or to any other person):

- (a) any time or waiver granted to, or composition with, the Chargor or any other person by NBC;
- (b) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against the assets of the Chargor or any other person, or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security, or NBC from time to time dealing with, exchanging, varying, realising, releasing or failing to perfect or enforce any of the same;
- (c) any incapacity or lack of powers, authority or legal personality, or dissolution or change in the status of the Chargor or any other person;
- (d) any variation (however fundamental) or replacement of the Facility Agreement;
- (e) any partial or total unenforceability, illegality or invalidity of any obligation or any person under the Facility Agreement or any other document or security on any ground whatsoever, to the intent that the Chargor's obligations under this Charge shall remain in full force and this Charge shall be construed accordingly, as if there were no unenforceability, illegality or invalidity;
- (f) any postponement, discharge, reduction, non-provability or other similar circumstance affecting any obligation of the Chargor under the Facility Agreement resulting from any insolvency, liquidation or dissolution proceedings or from any law, regulation or order so that each such obligation shall for the purposes of the Chargor's obligations under this Charge be construed as if there were no such circumstance; or
- (g) the winding-up or administration of the Chargor;
- (h) any change in the constitution of the Chargor;
- (i) any amalgamation, merger or reconstruction that may be effected by NBC with any other person or any sale or transfer of the whole or any part of the property, assets and undertaking of NBC to any other person;
- (j) the existence of any claim, set-off or other right which the Chargor may have at any time against NBC or any other person;

- (k) the making or absence of any demand for performance of the Indebtedness on the Chargor or any other person, whether by NBC or any other person;
- (l) any arrangement, moratorium or compromise entered into by NBC with the Chargor or any other person; or
- (m) any other thing done or omitted to be done by NBC or any other person or any other dealing, matter or thing which, but for this provision might operate to prejudice or alter the liability of the Chargor for the Indebtedness

6 Power of attorney

With effect from the date this Charge becomes enforceable, by way of security, the Chargor hereby irrevocably appoints NBC and any Receiver jointly and severally as its attorney, with full power of delegation, for it and in its name and on its behalf and as its act and deed or otherwise, to seal, deliver and otherwise perfect any deed, assurance, agreement, instrument or act which may be required or may be deemed proper for any of the above purposes.

7 Release and Reassignment

7.1 Any release, settlement or discharge between NBC and the Chargor shall be conditional upon no security, disposition or payment to NBC by the Chargor or any other person pursuant to the Facility Agreement or this Charge being avoided, set aside, reduced or ordered to be refunded by virtue of any statutory provision relating to the insolvency or liquidation for the time being in force or for any reason whatsoever. If the same is so avoided, set aside, reduced or ordered to be refunded, NBC shall be entitled to recover the value or amount of any such security or payment from the Chargor subsequently as if such settlement or discharge had not occurred, and the Chargor assigns and charges the Assets on *mutatis mutandis* the items of Section 2 with any liability, actual or contingent, under this Section.

7.2 NBC shall be entitled to retain this Charge for the duration of the Security Period.

7.3 Subject to and without prejudice to Section 7.1 above, once NBC in its sole and unfettered discretion is satisfied that all the Indebtedness has been paid and discharged in full and all facilities which might give rise to the Indebtedness has been terminated, and NBC is satisfied that it has no further obligations whether actual or contingent to make any credit or other accommodation available to the Borrower under the Facility Agreement, then NBC shall, at the request and cost of the Chargor, promptly execute and do all such acts and things as may be reasonably necessary to release the Assets from the assignments mortgagees and charges contained in this Charge and reassign all of the Chargor's rights in and to the Assets assigned pursuant to this Charge.

7.4 NBC may redeem any prior Prohibited Encumbrance and may settle and prove the accounts of the beneficiary of that prior Prohibited Encumbrance, and accounts so settled and provided shall be conclusive and binding on the Chargor and the money so paid shall be a receivership expense and be secured by this Charge.

8 Costs

All costs of NBC and the Receiver resulting from any unremedied breach or non-observance by the Chargor of any provisions of this Charge shall be recoverable from the Chargor as a debt, may be debited to any account of the Chargor, shall bear interest at the rate per annum applicable under the Facility Agreement and shall be charged on the Assets.

9 Indemnity

The Chargor indemnifies and agrees to keep indemnified NBC and the Receiver and any of their managers, contractors, agents, officers or employees for whose liability, actions or omissions NBC or, as the case may be, the Receiver may be answerable, from and against all actions, claims, proceedings, demands, liabilities and expenses now or hereafter brought against, suffered or incurred by any or arising from or as a result of:

- (a) the execution, or purported execution, of any of the powers, authorities or discretions vested in NBC or the Receiver pursuant hereto and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Assets;
- (b) any breach by the Chargor of any covenants or other obligations to NBC under this Charge;
- (c) the enforcement of the provisions of this Charge; or
- (d) any action, claim or proceeding relating to any of the above;
- (e) and NBC and the Receiver may retain and pay all sums in respect of the same out of any monies received under the powers hereby conferred. The Chargor's liability to NBC under this Section shall form part of the Indebtedness.

10 Severance

If at any time any provision in this Charge is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Charge shall not be impaired.

11 Notices

Any demand, notice or other communication by any party to any other may be delivered personally to the Chargor or sent to the Chargor by post or by email at its address and/or email address set out above or as may be notified by the Chargor to NBC or such other address or /or email address notified in writing to NBC. Any such notice, demand or other communication shall be deemed to have been received by the Chargor five (5) days after posting (where sent by international post) or immediately upon such delivery (where delivered personally) and, if by email immediately upon such delivery, subject to the sender not receiving a non-delivery report), also provided that where in the case of delivery by hand or transmission by email such delivery occurs after 5:00 p.m. (local time) on a business day or on a day which is not a business day, it shall be deemed to occur at 9.30 a.m. (local time) on the next following business day.

12 Third Party Rights

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

13 Law

This Charge and any non-contractual obligations relating hereto shall be governed by and construed in accordance with English law and the parties hereto agree to the non-exclusive submission to the courts of England and Wales.

ATTESTATION:

Executed and unconditionally delivered as a deed

By the Chargor, Hanway Distribution Limited, acting by Jan Arno Spielhoff, a Director in the presence of

NAME
TITLE

WIT

Name: IVAN KELAVA
Address: [REDACTED]
Occupation: BUSINESS AFFAIRS EXECUTIVE

Executed and unconditionally delivered as a deed

By NBC, National Bank of Canada, acting by Julie Prud'homme, a duly authorized signatory in the presence of:

NAME: Julie Prud'homme
TITLE: Authorized Signatory

WITNESS

Name:
Address:
Occupation: