



**Registration of a Charge**

Company name: **ICON HEALTH & FITNESS (HOLDINGS) LIMITED**

Company number: **02982628**



X4BJ985K

Received for Electronic Filing: **13/07/2015**

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**Details of Charge**

Date of creation: **10/07/2015**

Charge code: **0298 2628 0008**

Persons entitled: **BANK OF AMERICA, N.A.**

Brief description: **LAND: FIRST LEGAL MORTGAGE OVER ALL REAL PROPERTY (AS SUCH TERM IS DEFINED IN THE DEBENTURE) SITUATED IN ENGLAND AND WALES NOW BELONGING TO THE COMPANY, SEE CLAUSE 3.1 OF THE DEBENTURE. BY WAY OF FIRST FIXED EQUITABLE CHARGE ALL REAL PROPERTY (AS SUCH TERM IS DEFINED IN THE DEBENTURE) NOW BELONGING TO THE COMPANY AND ALL REAL PROPERTY ACQUIRED BY THE COMPANY FROM TIME TO TIME, SEE CLAUSE 3.2(A) OF THE DEBENTURE. INTELLECTUAL PROPERTY: FIRST FIXED CHARGE GRANTED BY THE COMPANY OVER ALL ITS INTELLECTUAL PROPERTY (AS SUCH TERM IS DEFINED IN THE DEBENTURE), SEE CLAUSE 3.2(C) OF THE DEBENTURE.**

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or undertaking of the company).**

**Contains negative pledge.**

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**Authentication of Form**

## Authentication of Instrument

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

Certified by: **NORTON ROSE FULBRIGHT LLP**



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

Company number: 2982628

Charge code: 0298 2628 0008

The Registrar of Companies for England and Wales hereby certifies that a charge dated 10th July 2015 and created by ICON HEALTH & FITNESS (HOLDINGS) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 13th July 2015 .

Given at Companies House, Cardiff on 14th July 2015

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 10 July 2015

**ICON HEALTH & FITNESS (HOLDINGS) LIMITED**

**as Chargor**

**and**

**BANK OF AMERICA, N.A.**

**as Agent**

**DEBENTURE**

I certify that, save for material  
redacted pursuant to s.859G  
of the Companies Act 2006,  
this copy instrument is a correct copy  
of the original instrument.

**NORTON ROSE FULBRIGHT**

Sign & Dated .....

*Norton Rose Fulbright LLP*  
*13 July 2015*

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THIS DEBENTURE is dated 10 July 2015:

**BETWEEN**

- (1) **ICON HEALTH & FITNESS (HOLDINGS) LIMITED** a company incorporated under the laws of England and Wales with registered number 02982628 (the **Chargor**); and
- (2) **BANK OF AMERICA, N.A.** as Agent and trustee for the Secured Parties on the terms and conditions set out in the Credit Agreement (the Agent which expression shall include any person for the time appointed as Agent for the purpose of and in accordance with the Credit Agreement).

**BACKGROUND:**

- (A) By the Credit Agreement (as defined below), the Lenders have agreed to make available certain loans and letters of credit on the terms and conditions contained in the Credit Agreement.
- (B) It is a term of the Credit Agreement that the Chargor enter into this Debenture.
- (C) It is intended that this Debenture takes effect as a deed notwithstanding the fact that parties hereto may execute this Debenture under hand.

**IT IS AGREED** as follows:

**1 Definitions and Interpretation**

**1.1 Definitions**

In this Debenture, unless otherwise defined or provided for in this Debenture, words and expressions shall have the same meanings as is given to them in the Credit Agreement. In addition, the following definitions apply:

**Borrower** means Icon Health & Fitness, Inc., a Delaware corporation with state registered number 2423252 having its registered office at 1013 Centre Road, Wilmington, DE.

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

**Charged Property** means the property, assets and income mortgaged or charged to the Agent (whether by way of legal mortgage, fixed or floating charge) by or pursuant to this Debenture and each and every part of such property, assets and income.

**Company** means ICON Health and Fitness Limited, a company incorporated under the laws of England and Wales with registered number 02995785.

**Credit Agreement** means the second amended and restated credit agreement of even date between, among others, the Borrower, HF Holdings Inc., certain Lenders and the Agent.

**Credit Parties** means HF Holdings Inc. and the Borrower and each other Obligor as defined in the Credit Agreement.

**Default Rate** means 2 per cent higher than the Base Rate as such term is defined in the Credit Agreement.

**Delegate** means any delegate, agent, attorney or co-trustee appointed by the Agent.

**Environmental Claim** means any claim, proceeding, final notice or investigation by any person in respect of any Environmental Law which, if adversely determined, would result in a material impairment of the rights and remedies of the Secured Parties under this Debenture or the ability of the Chargor to perform its obligations under this Debenture.

**Environmental Law** means any applicable law or regulation which relates to:

- (a) the pollution or protection of the environment;
- (b) harm to the protection of human health;
- (c) the conditions of the workplace; or
- (d) any emission or substance capable of causing harm to any living organism or the environment.

**Environmental Permits** means any permit or other authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of the Chargor conducted on or from the properties owned and used by the Chargor.

**Fixtures** means any fixtures, fittings (including trade fixtures and fittings), fixed plant and machinery and apparatus.

**Floating Charge Property** has the meaning given to that term in Clause 4.1 (*Creation of Floating Charge*).

**Group** means HF Holdings Inc., the Borrower and each of their respective Subsidiaries.

**Insurances** means all contracts and policies of insurance of any kind now and from time to time taken out by or on behalf of the Chargor or (to the extent of its interest) in which it now, or from time to time, has an interest and all relating proceeds, claims of any kind, returns of premium and other benefits.

**Intellectual Property** means:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, know-how and other intellectual property rights and interests, whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets,

which the Chargor now, or from time to time, owns or (to the extent of its interest) in which it now, or from time to time, has an interest.

**Legally Mortgaged Property** has the meaning given to that term in Clause 3.1 (*Legal Mortgages*).

**Loan Documents** shall have the same meaning as is attributed to such term in the Credit Agreement.

**Party** means a party to this Debenture,

**Plant and Machinery** means any plant, machinery, office equipment, computers, vehicles and other chattels now, or from time to time owned by the Chargor or (to the extent of its interest) in which it now, or from time to time, has an interest.

**Real Property** means freehold and leasehold property situated in England and Wales (including, without limitation, the freehold and leasehold property listed in Schedule 1 (*Legally Mortgaged Property*)) and other real property anywhere in the world (in each case including any estate or interest therein, all proceeds of sale thereof, all rights from time to time attached or relating thereto and all Fixtures from time to time in or on such property).

**Receiver** means a receiver or a receiver and manager or, where permitted by law, an administrative receiver of the whole or any part of the Charged Property and such expression shall include any appointee made under a joint and/or several appointment.

**Secured Obligations** means the actual, contingent, present and/or future Secured Obligations (as defined in the Credit Agreement) of the Chargor, including, without limitation, the obligations and liabilities of the Chargor to any of the Secured Parties under or pursuant to the Loan Documents (including this Debenture).

**Secured Parties** means the Agent, any Receiver or Delegate, the Lenders and each co-agent or sub-agent appointed by the Agent from time to time pursuant to the terms of the Credit Agreement and each other Secured Party identified in the Credit Agreement as a Secured Party and Secured Party shall mean any one of them.

**Securities** means:



- (a) all securities and investments of any kind (including the Shares and all stocks, shares, debentures, bonds, notes, loan capital, units, depositing receipts, commercial paper and certificates of deposit);
- (b) all warrants, options or other rights to subscribe for, purchase or otherwise acquire securities or investments; and
- (c) all other rights attaching and relating to securities or investments and all other securities or investments from time to time deriving from investments or such rights,

(including, without limitation, the Securities listed in Schedule 2 (Shares)) in each case now, or from time to time, owned by the Chargor or (to the extent of its interest) in which it now, or from time to time, has an interest.

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

**Shares** means the issued shares in the companies (including the Company) that are listed and described in Schedule 2 (*Shares*).

## 1.2 Clause Headings

Clause headings are for convenience of reference only and shall not affect the construction of this Debenture.

## 1.3 Interpretation

in this Debenture (unless otherwise provided):

- (a) references to Clauses and Schedules are to be construed as references to the Clauses of, and Schedules to, this Debenture;
- (b) references to this Debenture or to any other document or agreement are to be construed as references to this Debenture or that document or agreement as is in force for the time being and as amended, varied, supplemented, substituted or novated from time to time;
- (c) words importing the singular shall include the plural and vice versa;
- (d) references to a person shall be construed so as to include that person's assigns, transferees or successors in title and shall be construed as including references to an individual, firm, partnership, joint venture, company, corporation, unincorporated body of persons or any state or any agency thereof;
- (e) references to any statute or statutory provision include any statute or statutory provision which amends, extends, consolidates or replaces the same, or which has been amended,

extended, consolidated or replaced by the same, and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant statute;

- (f) references to liability or liabilities are to be construed to include all liabilities and obligations whether actual, contingent, present or future and whether incurred solely or jointly;
- (g) the words other and otherwise shall not be construed *ejusdem generis* with any foregoing words where a wider construction is possible; and
- (h) the words **including** and **in particular** shall be construed as being by way of illustration or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any foregoing words.

#### **1.4 The Agent**

For the avoidance of doubt, references to the Agent in this Debenture are to it acting in its capacity as security trustee for the Secured Parties appointed under the terms of the Credit Agreement.

#### **1.5 Rights of Third Parties**

A person who is not a Secured Party has no right under the Contract (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Debenture.

### **2 Undertaking to pay**

The Chargor shall pay its Secured Obligations when due in accordance with the terms of the Loan Documents.

### **3 Legal mortgages, fixed charges and assignments**

#### **3.1 Legal Mortgages**

The Chargor, with full title guarantee, as continuing security for the payment of the Secured Obligations charges in favour of the Agent (as agent and trustee for the Secured Parties) by way of first legal mortgage all Real Property situated in England and Wales (including that described in Schedule I (*Legally Mortgaged Property*) now belonging to it (the **Legally Mortgaged Property**).

#### **3.2 Fixed Charges**

The Chargor, with full title, guarantee, as continuing security for the payment of the Secured Obligations, charges, in favour of the Agent (as agent and trustee for the Secured Parties):

- (a) by way of first fixed equitable charge all Real Property now belonging to it and all Real Property acquired by it from time to time (other than the Legally Mortgaged Property);
- (b) by way of first fixed charge all its Securities (including, without limitation, that described in Schedule 2 (*Shares*));
- (c) by way of first fixed charge all its Intellectual Property (including, without limitation, that described in Schedule 3 (*Intellectual Property*));
- (d) by way of first fixed charge all its goodwill (both present and future).

## 4 Floating charge

### 4.1 Creation of Floating Charge

The Chargor, with full title guarantee, as continuing security for the payment of the Secured Obligations hereby charges in favour of the Agent (as agent and trustee for the Secured Parties) by way of floating charge the whole of its undertaking and all its property, assets and rights, whatsoever and wheresoever, present and future, other than any property or assets from time to time or for the time being effectively mortgaged, charged or assigned to the Agent under Clause 3 (collectively the **Floating Charge Property**).

### 4.2 Qualifying Floating Charge

- (a) The floating charge created by the Chargor pursuant to Clause 4.1 (*Creation of Floating Charge*) is a **qualifying floating charge** for the purposes of paragraph 14.2(a) of Schedule B1 to the Insolvency Act 1986.
- (b) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to this Deed and the Agent may appoint an Administrator to the Chargor pursuant to that paragraph.

### 4.3 Conversion of Floating Charge by notice

If, at any time:

- (a) any Event of Default has occurred and is continuing; or
- (b) the Agent believes that any asset of the Chargor is in danger of being seized or sold under any form of distress, execution or other similar process; or
- (c) the Agent believes that it is necessary in order to do so to protect the priority of the security created under this Debenture,

then without prejudice to the provisions of Clause 4.4 (*Automatic Conversion of Floating Charge*) the Agent may, by notice in writing to the Chargor, convert the floating charge granted

by it under this Debenture into a fixed charge in relation to the assets specified in such notice (which assets need not be exclusively those assets which are in danger of seizure or sale) and the Agent shall further be entitled (but not bound) to take possession of or appoint a Receiver of such assets.

#### **4.4 Automatic Conversion of Floating Charge**

If:

- (a) the Chargor takes any steps to create any security interest in breach of Clause 10.1 (*Negative Pledge*) over any of the Floating Charge Property; or
- (b) any person levies any distress, execution, sequestration, attachment or other process against any of the Floating Charge Property,

then in the absence of any notice or other action by the Agent pursuant to Clause 4.3 (*Conversion of Floating Charge by notice*), the floating charge over the relevant Charged Property shall automatically operate as a fixed charge immediately upon the occurrence of such event.

### **5 Further assurance and additional obligations**

#### **5.1 Further Assurance**

The Chargor shall, at the request of the Agent and at the cost of the Chargor, forthwith do all acts and things and execute in favour of the Agent, or as it may direct, such further or other legal assignments, transfers, mortgages, charges, securities and other deeds and documents as the Agent may require, in such form as the Agent may require, in order to:

- (a) protect, preserve, perfect or improve the security intended to be conferred on the Agent by or pursuant to this Debenture; or
- (b) to facilitate the realisation of all or any of the Charged Property and exercise all of the rights and powers conferred on the Agent, any Receiver or any delegate or either of the same for the purpose thereof or in connection therewith.

#### **5.2 Additional Obligations**

The obligations of the Chargor under this Clause shall be in addition to and not in substitution for the covenants for further assurance deemed to be included herein by virtue of the Law of Property (Miscellaneous Provisions) Act 1994.

## **6 Real property**

### **6.1 Acquisition of Real Property**

The Chargor shall, in relation to any Real Property acquired or to be acquired:

- (a) notify the Agent promptly upon such acquisition or upon its agreement to acquire such Real Property; and
- (b) immediately on request of the Agent and at the Chargor's cost, execute a legal mortgage in favour of the Agent (as agent and trustee for the Secured Parties) in such form as the Agent may require.

### **6.2 Registration of Security at HM Land Registry**

The Chargor shall, in relation to any of its Real Property in England and Wales, promptly (and in any event within two months) following the execution of this Debenture:

- (a) apply to HM Land Registry to register the first legal mortgage or first fixed charge created by Clause 3.2(a) or 3.2(b), as the case may be, of Clause 3.2 (*Fixed Charges*);
- (b) submit to HM Land Registry the duly completed Form RX1 requesting a restriction against the registered title in the following terms:

"except under an order of the Registrar no disposition by the proprietor of the land is to be registered or noted without the written consent of the proprietor for the time being of the Debenture dated 2015 between ICON Health & Fitness (Holdings) Limited and Bank of America, N.A. (as Agent (as agent and trustee for the Secured Parties (as defined therein)))";

- (c) request a notice to be registered against the title of such Real Property that under the provision of this Debenture the Secured Parties are under an obligation to make available further advances; and
- (d) pay all appropriate registration fees.

### **6.3 Registration of Unregistered Real Property**

The Chargor shall, in relation to any of its Real Property in England and Wales not already registered at HM Land Registry and where required pursuant to the provisions of the Land Registration Act 2002, promptly and in any event within two months of the requirement to register being triggered:

- (a) apply to HM Land Registry for first registration of that Real Property and registration of the relevant Chargor as proprietor of that Real Property;
- (b) apply to HM Land Registry to register the first legal mortgage or first fixed charge created by Clause 3.2(a) or 3.2(b), as the case may be, of Clause 3 (*Legal Mortgages, Fixed Charges and Assignments*);
- (c) submit to HM Land Registry the duly completed Form RX 1 requesting a restriction against the title in the form set out in Clause 6.2(b) of Clause 6.2 (*Registration of Security at HM Land Registry*); and
- (d) pay all appropriate registration fees.

#### **6.4 Deposit of Deeds**

The Chargor shall immediately after the execution of this Debenture (or as the Agent directs) deposit with the Agent all deeds, certificates and other documents (if any) constituting or evidencing title to its Real Property comprised within the Charged Property or any part thereof.

#### **6.5 Undertakings relating to Real Property**

The Chargor undertakes with the Agent (as agent and trustee for the Secured Parties) that it shall:

- (a) observe and perform all covenants and stipulations from time to time affecting its Real Property or the mode of user or enjoyment of the same including all Environmental Laws;
- (b) obtain, maintain and ensure compliance with all requisite Environmental Permits;
- (c) implement procedures to monitor compliance with and to prevent liability under any Environmental law;
- (d) promptly upon becoming aware of the same, inform the Agent in writing of:
  - (i) any Environmental Claim against it which is current, pending or threatened; and
  - (ii) any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against it;
- (e) observe and perform all covenants reserved by or contained in any lease, agreement for lease or tenancy agreement under which any part of the Real Property may be held;
- (f) indemnify the Agent (and as a separate covenant any Receiver appointed by it) against all existing and future rents, taxes, rates, duties, fees, renewal fees, charges, assessments,

impositions and outgoings whatsoever in relation to the Real Property or any part thereof or by the owner or occupier thereof.

- (g) not without the prior consent in writing of the Agent enter into any onerous or restrictive obligations affecting any Real Property or make any structural or material alteration thereto or do or suffer to be done on any such property anything which is a **development** as defined in section 55 of the Town and Country Planning Act 1990 nor do or suffer or omit to be done any act, matter or thing whereby any provision of any Act of Parliament order or regulation from time to time in force affecting any such property is infringed;
- (h) not without the consent of the Agent vary, surrender, cancel, assign or otherwise dispose of or permit to be forfeited any leasehold interest forming part of the Real Property or agree any rent review;
- (i) not without the prior written consent of the Agent part with possession of the whole or any part of, or confer on any other person any right or licence to occupy, or grant any licence to assign or sub-let any Real Property; and
- (j) not without the prior written consent of the Agent allow any person other than itself to be registered under the Land Registration Acts 1925 to 2002 as proprietor of the Real Property or any part thereof or create or permit to arise any overriding interest (as specified in section 70(1) of the Land Registration Act 1925) affecting such property.

## **7 Securities**

### **7.1 Acquisition of Securities**

The Chargor shall notify the Agent promptly upon the acquisition of, or agreement to acquire, any Securities and shall charge by way of first fixed charge such acquired Securities in favour of the Agent (as agent and trustee for the Secured Parties), provided, however, the percentage of the aggregate of such acquired Securities so charged shall not exceed sixty-five percent (65%) of the Capital Stock of the Company.

### **7.2 Deposit of Deeds**

The Chargor shall, within 30 Business Days after the execution of this Debenture, deposit with the Agent all deeds, certificates and other documents (if any) constituting or evidencing title to any of its Shares together with stock transfer forms and other transfers of such Shares executed in blank, as the Agent requires.

### **7.3 Voting prior to enforcement**

Subject to Clause 7.4 (*Voting after enforcement*), the Chargor shall be entitled to exercise or direct the exercise of the voting and other rights attached to any Securities as it seems fit, provided that:

- (a) such exercise does not breach the term of any Loan Document; and
- (b) such exercise of, or failure to exercise, those rights would not, or would not reasonably be likely to, have an adverse effect on the value of the relevant Securities or the Charged Property and would not, or would not reasonably be likely to otherwise prejudice the interests of any Secured Party under any Loan Documents.

#### **7.4 Voting after enforcement**

At any time while an Event of Default is continuing:

- (a) the Agent or the Receiver shall be entitled to exercise or direct the exercise of the voting and other rights attached to any Securities in such manner as it or he sees fit as proxy for and in the name of the Chargor; and
- (b) the Chargor shall comply or procure the compliance of any directions of the Agent or the Receiver in respect of the exercise of those rights and shall promptly execute and/or deliver to the Agent or the Receiver such forms of proxy as it or he requires with a view to enabling such person as it or he selects to exercise those rights.

#### **7.5 Undertaking relating to Securities**

The Chargor hereby undertakes with the Agent (as agent and trustee for the Secured Parties) that it shall:

- (a) duly and promptly pay (or, in respect of Securities of which the Agent is the legal owner, pay to the Agent on demand amounts in respect of) all calls, instalments or other payments which may be made or become due in respect of any of the Securities as and when the same from time to time become due (and if the Chargor does not do so, the Agent may make such payments on behalf of the Chargor);
- (b) comply promptly with any notice served on it under the Companies Act 2006;
- (c) not (without the prior consent in writing of the Agent or save to the extent permitted under the Loan Documents):
  - (i) permit any person other than the Chargor or the Agent (or its nominee) to be registered as holder of the Securities or any part thereof; or



- (ii) permit any reorganisation of share capital, any alteration of rights in respect of any class of shares in the company whose shares are changed or the amendment of any provision of the memorandum of association or articles of association of that company;
- (d) not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the interest of the Agent in, or the value to the Agent and/or the Secured Parties of, the Securities and use its best endeavours not to permit a variation of any rights attaching to any of the Securities; and
- (e) so long as all Securities are secured in favour of the Agent(as agent and trustee for the Secured Parties) pursuant to this Debenture, including any additional Securities that may be secured in the future, the percentage of Securities charged in respect of the Secured Obligations shall not exceed sixty-five percent (65%) of its Capital Stock.

## **7.6 Communications**

The Chargor shall promptly deliver to the Agent a copy of each circular, notice, report, set of accounts or other documents received by it or its nominee in connection with any Securities as the Agent requires.

## **8 Intellectual Property**

### **8.1 Acquisition of Intellectual Property**

The Chargor shall promptly notify the Agent of its acquiring, or its agreement to acquire, any Intellectual Property.

### **8.2 Undertakings relating to Intellectual Property**

The Chargor shall take all necessary action to safeguard, maintain in full force and effect and preserve its ability to enforce its present and future ownership and rights in connection with all Intellectual Property used in, or necessary for the conduct of, its business from time to time, including:

- (a) paying all renewal fees and other outgoings relating to all registered Intellectual Property held by it;
- (b) performing and complying with all laws and obligations to which it is subject as registered proprietor, beneficial owner, user, licensor or licensee of any such Intellectual Property;
- (c) registering all Intellectual Property where necessary in order to preserve and/or validate the Intellectual Property rights or interest of the Chargor; and

- (d) commencing the prosecution of infringement actions where appropriate against third parties where failure to do so would invalidate the Intellectual Property or interest or rights of the Chargor in any Intellectual Property.

### **8.3 Granting of Licences**

The Chargor shall not grant any exclusive registered user agreement or licence in relation to any of its Intellectual Property.

### **8.4 Deposit of Deeds**

The Chargor shall promptly execute and/or deliver to the Agent such documents relating to its Intellectual Property as the Agent requires.

## **9 Insurance**

### **9.1 Undertakings relating to Insurances**

The Chargor shall:

- (a) cause all buildings, trade and other fixtures and all Plant and Machinery and all stock in trade forming part of the Charged Property to be insured and to be kept insured in such insurance office, in such amounts and against such risks as the Agent may require from time to time, but otherwise in such insurance office of repute as shall have been selected by the Chargor or with Lloyd's underwriters on the equivalent basis as insurances are maintained by prudent companies carrying on businesses comparable with that of the Chargor and on a comparable scale as regards the property and assets insured, the insured risks and the classes of risk to be covered and the amount of the insurance cover;
- (b) procure that the interest of the Agent(as agent and trustee for the Secured Parties) in all parts of the Charged Property that are for the time being insured are noted on the relevant policies; and
- (c) duly and punctually pay all premiums and other moneys due and payable under all Insurances and promptly upon request by the Agent produce to the Agent the premium receipts or other evidence of the payment thereof.

### **9.2 Reimbursement**

If default shall be made by the Chargor in complying with Clause 9.1 (*Undertakings relating to Insurances*) the Agent may but shall not be obliged to effect or renew any such insurance either in its own name or in its name and that of the Chargor jointly or in the name of the Chargor with an endorsement of the Agent's interest. Any such fees or other sums paid by the Agent on so

effecting or renewing any such insurance shall be reimbursed by the Chargor to the Agent on demand and until so reimbursed shall bear interest at the Default Rate from time to time from the date of payment to the date of reimbursement (after as well as before any judgment).

### **9.3 Deposit of Deeds**

The Chargor shall promptly deliver to the Agent copies of all policy documents and other contracts of Insurance relating to any Charged Property and such other documents relating to the Insurances as the Agent requires.

## **10 General undertakings**

### **10.1 Negative Pledge**

The Chargor covenants that it shall not, nor shall it agree or purport to, create or permit to subsist any Security whether in any such case ranking in priority to or *pari passu* with or after the security created by this Debenture save to the extent permitted or required under the Credit Agreement.

### **10.2 Restrictions on Disposals**

The Chargor covenants that it shall, not nor shall it agree or purport to (other than in the ordinary course of business), sell, discount, factor, transfer, lease, lend or otherwise dispose of, whether by means of one or a number of transactions related or not and whether at one time or over a period of time, the whole or any part of its undertaking or assets.

### **10.3 Protection of Assets**

The Chargor shall keep or cause to be kept all its Charged Property (other than Real Property) in good working order and condition, ordinary wear and tear excepted and keep all Real Property in the same state of repair and condition as at the date of its acquisition.

### **10.4 Access**

The Chargor shall permit the Agent, its officers, employees and agents (on reasonable notice) free access at all reasonable times to view the state and condition of any of its Charged Property.

### **10.5 No fixing**

The Chargor shall not fix or permit the affixing of any Charged Property to any of its Real Property which is not itself a Charged Property.

### **10.6 No other Prejudicial Conduct**

The Chargor shall not do, or permit to be done, anything which could or would reasonably be likely to prejudice the Security created under this Debenture.

#### **10.7 Centre of main interests and establishments**

For the purposes of The Council of European Union Regulation No. 1346/2000 on Insolvency Proceedings (the **Regulations**), the Chargor covenants that its, and that of each of its European Subsidiaries, centre of main interest (as that term is used in Articles 3(1) of the Regulations) is situated in its relevant European jurisdiction of incorporation as at the date of this Debenture and the Credit Agreement and has no "establishment" (as that term is used in Article 2(h) of the Regulations) in any other jurisdiction.

### **11 Powers of the Agent**

#### **11.1 Powers of Mortgagee**

At any time after the Agent shall have served notice on the Chargor demanding payment or discharge by the Chargor of all or any of the Secured Obligations in accordance with Clause 10.01 (*Remedies upon Default*) of the Credit Agreement, or if requested by the Chargor, the Agent may exercise without further notice and without any of the restrictions contained in section 103 of the Law of Property Act 1925, whether or not it shall have appointed a Receiver, all the powers conferred on mortgagees by the Law of Property Act 1925 and all the powers and discretions conferred by this Debenture.

#### **11.2 Statutory Powers of Leasing not Exercisable**

The statutory powers of leasing, letting, entering into agreements for leases or lettings and accepting and agreeing to accept surrenders of leases conferred by sections 99 and 100 of the said Act shall not be exercisable by the Chargor in relation to any part of the Charged Property without the prior written consent of the Agent.

#### **11.3 Agent's Powers to Lease**

In addition to any statutory powers the Agent shall have power after serving the notice referred to in Clause 11.1 (*Powers of Mortgagee*) to lease or make agreements for leases at a premium or otherwise and accept surrenders of leases and generally without any restriction on the kinds of leases and agreements for leases that the Agent may make and generally without the necessity for the Agent to comply with any restrictions imposed by or the other provisions of sections 99 and 100 of the Act. The Agent may delegate such powers to any person and no such delegation shall preclude the subsequent exercise of such powers by the Agent itself or preclude the Agent from making a subsequent delegation thereof to some other person and any such delegation may be revoked.

#### **11.4 Restriction on Consolidating Mortgages to be Excluded**

The restriction on the right of consolidating mortgage securities contained in section 93 of the Law of Property Act 1925 shall not apply to this Debenture.

#### **11.5 No Liability as Mortgagee in Possession**

So far as permitted by law, neither the Agent nor any Receiver or Administrator shall by reason of it or any Receiver or Administrator entering into possession of any part of the Charged Property when entitled so to do be liable to account as mortgagee in possession or be liable for any loss or realisation or for any default or omission for which a mortgagee in possession might be liable.

### **12 Appointment of receiver or administrator**

#### **12.1 Appointment**

At any time after the Agent shall have served notice on the Chargor demanding the payment or discharge by the Chargor of all or any of the Secured Obligations or if requested by the Chargor the Agent may (a) appoint one or more persons to be a Receiver or Receivers of the Charged Property or any part of the Charged Property or (b) appoint one or more persons to be an administrator of the Chargor.

#### **12.2 Renewal of Receivers**

Subject to section 45 of the Insolvency Act 1986, the Agent may (a) remove any Receiver previously appointed hereunder, and (b) appoint another person or other persons as Receiver or Receivers, either in the place of a Receiver so removed or who has otherwise ceased to act or to act jointly with a Receiver or Receivers previously appointed hereunder.

#### **12.3 Receivers and Administrators to act Jointly**

If at any time and by virtue of any such appointment(s) any two or more persons shall hold office as Receivers or administrators, as the case may be, of the same assets or income, such Receivers or administrators, as the case may be, may act jointly and/or severally so that each one of such Receivers or administrators, as the case may be, shall be entitled (unless the contrary shall be stated in any of the deed(s) or other instrument(s) appointing them) to exercise all the powers and discretions hereby conferred on Receivers or administrators, as the case may be, individually and to the exclusion of the other or others of them.

#### **12.4 Appointment, etc, in Writing**

Every such appointment or removal, and every delegation, appointment or removal by the Agent in the exercise of any right to delegate its powers or to remove delegates herein contained, may be made in writing under the hand of any manager or other officer of the Agent.

#### **12.5 Powers of Receiver**

Every Receiver shall have:

- (a) all the powers conferred by the Law of Property Act 1925 on mortgagees in possession and receivers appointed under that Act;
- (b) all the powers specified in Schedule I of the Insolvency Act 1986; and
- (c) all the powers of the Secured Parties hereunder.

#### **12.6 Sale by Receiver or Agent**

In making any sale or other disposal of any of the Charged Property in the exercise of their respective powers, the Receiver or the Agent, as the case may be, may accept, as and by way of consideration for such sale or other disposal, cash, shares, loan capital or other obligations, including without limitation consideration fluctuating according to or dependent upon profit or turnover and consideration the amount whereof is to be determined by a third party. Any such consideration may be receivable in a lump sum or by instalments.

#### **12.7 Application of Proceeds**

All moneys received by any Receiver appointed under this Debenture shall be applied in the following order:

- (a) in the payment of the costs, charges and expenses of and incidental to the Receiver's appointment and the payment of his remuneration;
- (b) in the payment and discharge of any outgoings paid and liabilities incurred by the Receiver in the exercise of any of the powers of the Receiver;
- (c) in providing for the matters (other than the remuneration of the Receiver) specified in the first three paragraphs of section 109(8) of the Law of Property Act 1925;
- (d) in or towards payment of any debts or claims which are required by law to be paid in preference to the Secured Obligations but only to the extent to which such debts or claims have such preference;
- (e) in or towards the satisfaction of the Secured Obligations in the order set out in the Credit Agreement; and

(f) any surplus shall be paid to the Chargor or other person entitled thereto.

The provisions of this Clause and Clause 12.9 (Remuneration of Receiver) shall take effect as and by way of variation and extension to the provisions of section 109(8) of the Law of Property Act 1925, which provisions as so varied and extended shall be deemed incorporated herein.

#### **12.8 Receiver to act as agent**

Every Receiver of the Chargor shall be the agent of the Chargor which shall be solely responsible for his acts and defaults and for the payment of his remuneration.

#### **12.9 Remuneration of Receiver**

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Agent (or, failing such agreement, to be conclusively fixed by the Agent) commensurate with the work and responsibilities involved upon the basis of charging from time to time adopted in accordance with his current practice or the current practice of his firm and without being limited to the maximum rate specified in section 109(6) of the Law of Property Act 1925.

### **13 Power of Attorney**

#### **13.1 Grant of Power of Attorney**

The Chargor hereby irrevocably appoints the following, namely:

- (a) the Agent;
- (b) each and every person to whom the Agent shall from time to time have delegated the exercise of the power of attorney conferred by this Clause 13; and
- (c) any Receiver appointed hereunder and for the time being holding office as such;

jointly and also severally to be its attorney or attorneys and in its name and otherwise on its behalf to do all acts and things and to sign, seal, execute, deliver, perfect and do all deeds, instruments, documents, acts and things which may be required for carrying out any obligation imposed on the Chargor by or pursuant to this Debenture, for carrying any sale, lease or other dealing by the Agent or such Receiver into effect, for conveying or transferring any legal estate or other interest in land or other property or otherwise howsoever, for getting in the Charged Property, and generally for enabling the Agent and the Receiver to exercise the respective powers conferred on them by or pursuant to this Debenture or by law. The Agent shall have full power to delegate the power conferred on it by this Clause, but no such delegation shall preclude the subsequent exercise of such power by the Agent itself or preclude the Agent from

making a subsequent delegation thereof to some other person; any such delegation may be revoked by the Agent at any time.

#### **13.2 Powers of Attorney Act 1971**

The power of attorney hereby granted is as regards the Agent, its delegates and any such Receiver (and as the Chargor hereby acknowledges) granted irrevocably and for value as part of the security constituted by this Debenture to secure proprietary interests in and the performance of obligations owed to the respective donees within the meaning of the Powers of Attorney Act 1971.

### **14 Financial collateral**

To the extent that any part of this Debenture constitutes a “financial collateral arrangement” (as defined in the Financial Collateral Arrangements (No.2) Regulations 2003 (as amended by the Financial Collateral Arrangements (No.2) Regulations 2003 (Amendment) Regulations 2009) (the **Financial Collateral Regulations**)) the Agent shall have the right:

- (a) (after the occurrence of an Event of Default which is continuing) to use and dispose of any part of the Charged Assets which constitutes “financial collateral” (as defined in the Financial Collateral Regulations (**Financial Collateral**)), in which case the Agent shall comply with the requirements of the Financial Collateral Regulations as to obtaining “equivalent financial collateral” (as defined in the Financial Collateral Regulations); and
- (b) (at any time after this Debenture becomes enforceable) to appropriate any part of the Charged Property which constitutes Financial Collateral in or towards satisfaction of the Secured Obligations in accordance with the Financial Collateral Regulations.

### **15 Protection of purchasers**

No purchaser or other person dealing with the Agent or its delegate or any Receiver or Administrator appointed hereunder shall be bound to see or enquire whether the right of the Agent or such Receiver or Administrator to exercise any of its or his powers has arisen or become exercisable or be concerned with notice to the contrary, or be concerned to see whether any such delegation by the Agent shall have lapsed for any reason or been revoked.

### **16 Saving provisions**

#### **16.1 Reinstatement**

If any payment by any Credit Parties or any discharge given by a Secured Party (whether in respect of the obligations of any Credit Parties or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:



- (a) the liability of the Chargor shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- (b) the Agent (as agent and trustee for the Secured Parties) shall be entitled to recover the value or amount of that security or payment from the Chargor as if the payment, discharge, avoidance or reduction had not occurred.

## **16.2 Waiver of Defences**

The obligations of the Chargor under this Debenture will not be affected by an act, omission or thing which, but for this Clause 16.2, would reduce, release or prejudice any of its obligations under this Debenture (without limitation and whether or not known to it or any Secured Parties), including:

- (a) any time, waiver or consent granted to, or composition with, any Credit Parties or other person;
- (b) any unenforceability, illegality or invalidity of any obligation of any person under any Loan Document or any other document or security; or
- (c) the release of any other Credit Parties or any other person under the terms of any composition or arrangement with any creditor or any member of the Group;
- (d) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against or security over assets of, any Credit Parties or 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;
- (e) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members of the Group or status of an Credit Parties or any other person;
- (f) any amendment (however fundamental) or replacement of a Loan Document or any other document or security;
- (g) any insolvency or similar proceedings.

## **16.3 Immediate Recourse**

The Chargor waives any right it may have of first requiring the Agent (or any other Secured Party) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Chargor under this Debenture. This waiver applies irrespective of any law or any provision of a Loan Document to the contrary.

#### **16.4 Appropriations**

Until all Secured Obligations have been irrevocably paid in full and none of the Secured Parties has any continuing obligations in relation to the facilities, each Secured Party (or the Agent acting on its behalf) may:

- (a) refrain from applying or enforcing any other monies, securities or rights held or received by that Secured Party (or the Agent acting on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Chargor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any monies received from the Chargor or on account of the Chargor's liability under this Debenture.

#### **16.5 Deferral of Chargor's Rights**

Until all amounts which may be or become payable by the Credit Parties under or in connection with the Loan Documents have been irrevocably paid in full, unless the Agent otherwise directs, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under the Loan Documents;

- (a) to be indemnified by an Credit Parties;
- (b) to claim any contribution from any other guarantor of any Credit Parties' obligations under the Loan Documents; and/or
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Loan Documents or of any other guarantee or security taken pursuant to, or in connection with, the Loan Documents by any Secured Party.

#### **16.6 Additional Security**

The Security set out in this Debenture is in addition to and is not in any way prejudiced by any other security now or subsequently held by any Secured Party (other than as provided by the Credit Agreement).

### **17 Consolidation of accounts and set-off**

In addition to any general lien or similar rights to which they may be entitled by operation of law, each of the Secured Parties shall have the right at any time after an Event of Default has occurred and is continuing and without notice to the Chargor to combine or consolidate all or any of the Chargor's then existing accounts with, and liabilities to, each of such Secured Parties

and to set off or transfer any sum or sums standing to the credit of any one or more of such accounts in or towards satisfaction of any of the liabilities of the Chargor to each of such Secured Parties on any other account or in any other respect. The liabilities referred to in this Clause may be actual, contingent, primary, collateral, several or joint liabilities, and the accounts, sums and liabilities referred to in this Clause may be denominated in any currency.

## **18 Retention of security**

The Agent shall be entitled to retain any of the Charged Property after as well as before the payment, discharge or satisfaction of the Secured Obligations for a period of six months from the date of the final discharge of the Secured Obligations, if the Agent (acting reasonably) believes that any such payment, discharge or satisfaction may be the subject of an action for repayment under the Insolvency Act 1986 (as amended). If at any time within the period of six months after such payment, discharge or satisfaction a petition shall be presented to the court or any action or legal procedure shall be commenced or other step taken (including without limitation the presentation of a petition or the filing or service of a notice) by or against the Borrower or the Chargor with a view to the appointment of an administrator in respect of the Borrower or the Chargor or for the winding up of the Borrower or the Chargor or any analogous procedures shall be commenced by or against the Borrower or the Chargor the Agent shall be at liberty to continue to retain the Charged Property for and during such further period as the Agent may determine. The Chargor agrees that in such event such security shall be deemed to have continued to have been held as security for the payment and discharge to the Agent of all the Secured Obligations.

## **19 Currency**

For the purpose of or pending the discharge of any of the Secured Obligations the Agent may, in its sole discretion, convert any moneys received, recovered or realised in any currency under this Debenture (including the proceeds of any previous conversion under this Clause) from their existing currency of denomination into any other currency at such rate or rates of exchange and at such time as the Agent thinks fit.

## **20 Application**

The Chargor shall not have any rights in respect of the application by the Secured Parties of any sums received, recovered or realised by the Agent under this Debenture.

## **21 Notices**

The provisions of Section 14 (*Notices and Communications*) of the Credit Agreement shall be incorporated into this Debenture as if set out in full in this Debenture. All notices and other

communications made or required to be given pursuant to this Debenture shall be in writing. In addition, all notices to the Chargor shall be addressed as follows:

ICON Health & Fitness (Holdings) Limited  
c/o Cobbetts LLP  
58 Mosley Street  
Manchester  
M2 3HZ

Attention: Company Secretarial Unit

Facsimile No.: 0845 404 2424

or to such other registered office of the Chargor from time to time.

## **22 New accounts**

If the Agent or any other Secured Party receives or is deemed to be affected by notice whether actual or constructive of any subsequent charge or other interest affecting any part of the Charged Property and/or the proceeds of sale of any Charged Property, then each of the Secured Parties may open a new account or accounts with the Chargor. If any of the Secured Parties does not open a new account or accounts it shall nevertheless be treated as if it had done so at the time when the notice was, or was deemed to be, received and as from that time all payments made to the Secured Parties shall be credited or be treated as having been credited to the new account or accounts and shall not operate to reduce the amount for which this Debenture is security.

## **23 Continuing security**

The security constituted by this Debenture shall be continuing and shall not be considered as satisfied or discharged by any intermediate payment or settlement of the whole or any part of the Secured Obligations and shall be binding until all the Secured Obligations have been discharged in full to the satisfaction of the Agent and all of the Secured Parties have ceased to have any obligation whether actual or contingent to make any credit or accommodation available to the Chargor.

## **24 Change of parties**

### **24.1 Assignment and transfer by Secured Parties**

The Secured Parties shall have a full and unfettered right to assign or otherwise transfer the whole or any part of the benefit of this Debenture to any person to whom all or any part of its

rights, benefits and obligations under the Credit Agreement are assigned or transferred in accordance with the provisions of the Credit Agreement.

#### **24.2 Assignment and transfers by the Chargor**

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

### **25 Other indemnities**

#### **25.1 Currency indemnity**

(a) If any sum due from the Chargor under the Loan Documents (a **Sum**), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the **First Currency**) in which that Sum is payable into another currency (the **Second Currency**) for the purpose of:

- (i) making or filing a claim or proof against the Chargor; or
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Chargor shall as an independent obligation, within three Business Days of demand, indemnify the Secured Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

(b) The Chargor waives any right it may have in any jurisdiction to pay any amount under the Loan Documents in a currency or currency unit other than that in which it is expressed to be payable.

#### **25.2 Indemnity by the Chargor**

The Chargor hereby agrees to indemnify the Agent, the other Secured Parties, any Receiver and any Administrator against all losses, actions, claims, costs, charges, expenses and liabilities incurred by the Agent, the other Secured Parties, any Receiver and any Administrator (including any substitute delegate attorney as aforesaid) in relation to this Debenture or the Secured Obligations or occasioned by any breach by the Chargor of any of its covenants or obligations under this Debenture. The Chargor shall so indemnify the Agent, the other Secured Parties, any Receiver and any Administrator on demand and shall pay interest on the sum demanded at the Default Rate from time to time from the date on which the same were demanded by the Agent, any other Secured Party, or any Receiver or any Administrator, as the

case may be, and any sum so demanded together with any interest, shall be a charge upon the Charged Property in addition to the moneys hereby secured.

## **26 Remedies cumulative etc.**

### **26.1 Cumulative Rights**

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

### **26.2 Failure to Exercise not to act as a Waiver**

No failure on the part of the Agent to exercise, or delay on its part in exercising, any of its respective rights, powers and remedies provided by this Debenture or by law (collectively the **Rights**) shall operate as a waiver thereof, nor shall any single or partial waiver of any of the Rights preclude any further or other exercise of that one of the Rights concerned or the exercise of any other of the Rights,

## **27 Provisions severable**

Every provision contained in this Debenture shall be severable and distinct from every other such provision and if at any time any one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining such provisions shall not in any way be affected thereby.

## **28 Agent's Certificate**

A certificate by an officer of the Agent as to any sums payable hereunder to the Secured Parties or any of them shall (save in the case of manifest error) be conclusive and binding upon the Chargor for all purposes.

## **29 Amendments**

No amendments or waiver of any provision of this Debenture and no consent to any departure by the Chargor therefrom shall in any event be effective unless the same shall be in writing and signed or approved in writing by the Agent, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given.

## **30 Tacking**

For the purposes of Section 94(1) of the Law of Property Act 1924 and Section 49 of the Land Registration Act 2002, the Secured Parties are obliged to make further advances to the

Chargors under the Loan Documents. Each Secured Party shall comply with its obligations under the Loan Documents (including any obligation to make further advances).

### **31 Amendments to loan documents**

This Debenture shall remain in full force and effect notwithstanding any amendments or variations from time to time of the Loan Documents and all references to the Loan Documents herein shall be taken as referring to the Loan Documents as amended or varied from time to time (including, without limitation, any increase in the amount of the Secured Obligations).

### **32 Counterparts**

This Debenture may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Debenture. Transmission by fax or email of an executed counterpart of this Debenture shall be deemed to constitute due and sufficient delivery of such counterpart.

### **33 Law**

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

### **34 Enforcement**

#### **34.1 Jurisdiction of English courts**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Debenture (including a dispute regarding the existence, validity or termination of this Debenture or any non-contractual obligation arising out of or in connection with this Debenture) (a **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 34.1 is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

This Debenture has been entered into as a deed on the date stated at the beginning of this Debenture.

**Schedule 1**  
**Legally Mortgaged Property**

None at the date of this Debenture.



**Schedule 2**  
**Shares**

Number of shares or amount of stock	Description of stocks, shares or other securities
14,247,929	ordinary share(s) of £1 each in the Company

**Schedule 3**  
**Intellectual Property**

None at the date of this Debenture.

**CHARGOR**

**EXECUTED as a Deed by  
ICON HEALTH & FITNESS  
(HOLDINGS) LIMITED**

  
Director

In the presence of:



Signature of witness

*John K. Hulbert*

Name of witness



Address of witness

*Lawyer*

Occupation of witness

**THE AGENT**

**SIGNED for and on behalf of  
BANK OF AMERICA, N.A.  
By:**

)  
)  
) .....  
Authorised Signatory

**CHARGOR**

**EXECUTED as a Deed by** )  
**ICON HEALTH & FITNESS** )  
**(HOLDINGS) LIMITED** ) Director

In the presence of:

..... Signature of witness  
..... Name of witness  
..... Address of witness  
.....  
..... Occupation of witness

**THE AGENT**

**SIGNED for and on behalf of** )  
**BANK OF AMERICA, N.A.** )  
By: **Gregory A. Kress** )  
**Senior Vice President** )  
**BANK OF AMERICA, N.A.** )  
Authorized Signatory

