



Registration of a Charge

Company Name: **FUSION LIFESTYLE**

Company Number: **05324416**



XCWPWYBN

Received for filing in Electronic Format on the: **12/02/2024**

Details of Charge

Date of creation: **12/02/2024**

Charge code: **0532 4416 0011**

Persons entitled: **NATIONAL WESTMINSTER BANK PLC**

Brief description: **LEASEHOLD INTEREST IN FROME LEISURE CENTRE, BATH ROAD, FROME BA11 2HQ AND ALL OTHER LAND DETAILED IN THE SCHEDULE TO THE DEED. FOR FURTHER INFORMATION PLEASE SEE THE CHARGING INSTRUMENT.**

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT 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:

T MORSLEY TLT LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5324416

Charge code: 0532 4416 0011

The Registrar of Companies for England and Wales hereby certifies that a charge dated 12th February 2024 and created by FUSION LIFESTYLE was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th February 2024 .

Given at Companies House, Cardiff on 15th February 2024

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**


THIS IS AN IMPORTANT DEED. YOU SHOULD TAKE LEGAL ADVICE BEFORE SIGNING

Borrower: Fusion Lifestyle **Registered No:** 05324416 (and charity number 1107737)

Bank: National Westminster Bank Plc

1. Borrower's Obligations

The Borrower will pay to the Bank from time to time, when due, all the Borrower's Obligations. The **Borrower's Obligations are all the Borrower's liabilities to the Bank (present, future, actual or contingent** and whether incurred alone or jointly with another, and including all sums due in respect of the **Loan Agreement** between the Borrower and the Bank of 12 November 2020, as extended and amended from time to time and most recently by an agreement of even date herewith, and include:

- 1.1 **Interest** at the rate charged by the Bank, calculated both before and after demand or judgment on a daily basis and compounded according to agreement, or, in the absence of agreement, quarterly on the days selected by the Bank.
- 1.2 any costs and expenses the Bank or a receiver properly incurs (on a full indemnity basis and with Interest from the date of payment) in connection with:
 - 1.2.1 the **Charged Property** charged by Clause 2. References to Charged Property include any part of it.
 - 1.2.2 taking, perfecting, protecting, enforcing or exercising any power under this Deed.

In this Deed, **Transaction Documents** and **Event of Default** have the meanings given to them in the Loan Agreement and **continuing** shall be construed as set out in the Loan Agreement.

1.2.3 Existing Security

- a) the Borrower and the Bank agree that the debenture dated 12 November 2020 (the **Existing Debenture**) shall continue in full force.
- b) **References herein to "full title guarantee" are qualified by and subject to the** security created by the Existing Debenture.
- c) The negative pledge covenant contained herein is qualified by and subject to the security created by the Existing Debenture.
- d) The Borrower shall not be in breach of any provision of the Transaction Documents solely on account of it purporting to grant first ranking Security under this Deed after the Existing Debenture has been granted.

2. Charge

The Borrower, as a continuing security for the payment of the Borrower's Obligations and with full title guarantee, gives to the Bank:

- 2.1 a fixed charge:
 - 2.1.1 over the property of the Borrower detailed in the Schedule (*Security*) to this Deed.
 - 2.1.2 **all the goodwill of the Borrower's business.**
 - 2.1.3 any uncalled capital.
 - 2.1.4 all stock, shares and other securities held by the Borrower at any time in any Subsidiary and all income and rights relating to those stocks, shares and securities.

A **Subsidiary** is an entity controlled, directly or indirectly, by the Borrower or by a Subsidiary of the Borrower (and **control** means the ability to appoint or remove directors or exercise the majority of voting rights, alone or with the agreement of others).

- 2.1.5 all intellectual property, licences, claims, insurance policies, proceeds of any insurance and any other legal rights.
- 2.1.6 the benefit of any hedging arrangements, futures transactions or treasury instruments.
- 2.2 a floating charge over all the other property, assets and rights of the Borrower owned now or in the future which are not subject to an effective fixed charge under this Deed or under any other security held by the Bank.

3. Restrictions

The Borrower will not, without the Bank's consent (not to be unreasonably withheld or delayed):

- 3.1 permit or create any mortgage, standard security, charge or lien on the Charged Property, other than the Existing Debenture or the security which is permitted in accordance with the Loan Agreement.
- 3.2 dispose of the Charged Property charged by Clause 2.1, provided always that the Borrower may:
 - 3.2.1 in the ordinary course of business, (i) sublease (part only), or (ii) part with or share possession or occupation of any leasehold interest held by the Borrower in accordance with the terms of any relevant lease and/or permitted use, without the Bank's consent.
 - 3.2.2 deal with the proceeds of insurance in accordance with Clause 4.2.
- 3.3 other than in the ordinary course of business, dispose of, surrender, assign, sublease, part with or share possession or occupation of any of the Charged Property charged by Clause 2.2.
- 3.4 call on, or accept payment of, any uncalled capital.
- 3.5 deal with its book and other debts, except by collecting them in the ordinary course of its business. In particular, the Borrower will not realise its book and other debts by means of invoice discounting or factoring arrangements.

4. Property Undertakings

- 4.1 The Borrower will:
 - 4.1.1 permit the Bank at any time to inspect the Property charged by Clause 2.1.1.
 - 4.1.2 subject to Clause 4.2, keep all Charged Property of an insurable nature comprehensively insured (including if requested by the Bank, terrorism cover) to the Bank's reasonable satisfaction for its full reinstatement cost. In default, the Bank may arrange insurance at the **Borrower's expense**.
 - 4.1.3 apply all proceeds of any insurance of the Charged Property in accordance with Clause 4.2, and otherwise, subject to Clause 4.2, the Borrower will apply the proceeds in making good the relevant loss or damage, or:
 - (a) prior to the occurrence of an Event of Default which is continuing, as the Bank and the Borrower may agree; and
 - (b) **after the occurrence of an Event of Default which is continuing, to reduce the Borrower's Obligations.**
 - 4.1.4 Upon the occurrence of an Event of Default which is continuing, where required by the Bank and where permitted by any third party for whose benefit insurance is held, deposit with the Bank all insurance policies (or copies where the Bank agrees), and all deeds and documents of

title relating to the Charged Property, to the extent not previously deposited with the Bank in accordance with the terms of the Existing Debenture.

- 4.1.5 subject to Clause 4.3, keep the Charged Property in good condition.
- 4.1.6 save for development at City Hall and City Pool, Newcastle upon Tyne with a cost of around £100,000, not **without the Bank's consent, carry out any development on** or make any alterations to any land which require planning permission or approval under building regulations.
- 4.1.7 pay all the money the Borrower receives in respect of book and other debts into an account with the Bank. The Bank may specify the relevant account.
- 4.2 The Bank acknowledges that, **in the ordinary course of the Borrower's business**, the Borrower operates a number of sites on behalf of third parties. In respect of certain of those sites, the Borrower has been granted a lease to enable the Borrower to operate the site. Consequently, the Borrower does not always maintain insurance of Charged Property (as a third party may maintain that insurance) and the Borrower may be obliged to pay the proceeds of certain insurance policies to third parties or use the proceeds as directed by third parties. Proceeds of **public liability and employers' liability** insurance policies would always be paid to the third party **for whose benefit the insurance is held. The Bank agrees that the Borrower's obligations** in respect of insurance under the Transaction Documents shall be subject to any obligations that the Borrower may have to a third party in respect of insurance and, if the Borrower complies in all material respects with its obligations to third parties in relation to insurance, it shall also be deemed to have complied with its obligations in respect of insurance under the Transaction Documents.
- 4.3 Where the Charged Property is a leasehold interest, material compliance with the terms of the relevant lease shall be deemed to be compliance with any equivalent obligations in respect of that lease under the Transaction Documents. Charged Property which is the subject of any lease shall be kept substantially in the condition required under that lease.

5. Conversion of Floating Charge to Fixed Charge

- 5.1 Upon the occurrence of an Event of Default which is continuing, the Bank may by notice convert the floating charge on any of the Charged Property into a fixed charge. Following this notice, the Borrower will not dispose of the affected Charged Property **without the Bank's consent**.
- 5.2 The floating charge will become a fixed charge if an administrator of the Borrower is appointed.

6. Investigating Accountants

- 6.1 Upon the occurrence of an Event of Default which is continuing, the Bank may require the Borrower to appoint a firm of accountants to review its financial affairs.
- 6.2 **Any review required in accordance with Clause 6.1 will take place within 7 days of the Bank's request** (or longer if the Bank agrees). The firm, and the terms of reference, must be approved by the Bank. The Borrower (and not the Bank) will be responsible for the firm's reasonable fees and expenses, but the Bank may make payment and the Borrower will repay the Bank on demand.

7. Possession and Exercise of Powers

- 7.1 The Bank does not have an immediate right to possession of the Charged Property or its income (and will not be considered to be taking possession if it enters to inspect or repair the Charged Property). The Borrower will continue in possession until the Bank takes possession.
- 7.2 Upon the occurrence of an Event of Default which is continuing, the Bank may take possession and enforce this Deed.
- 7.3 Any purchaser or third party dealing with the Bank or a receiver may assume that the Bank's powers have arisen and are exercisable without proof that demand has been made.
- 7.4 The Bank will not be liable to account to the Borrower for any money not actually received by the Bank.

8. Appointment of Receiver or Administrator

Upon the occurrence of an Event of Default which is continuing, the Bank may appoint or remove a receiver or receivers of the Charged Property, or appoint an administrator of the Borrower. If **the Bank appoints a receiver, the Bank may fix and pay the receiver's fees and expenses. The receiver will be the Borrower's agent** and the Borrower (and not the Bank) will be responsible for the acts, defaults and remuneration of the receiver.

9. Powers of the Bank and Receivers

9.1 Upon the occurrence of an Event of Default which is continuing, the Bank or any receiver may:

9.1.1 **carry on the Borrower's business.**

9.1.2 enter, take possession of, and/or generally manage the Charged Property.

9.1.3 complete any unfinished works or carry out any new works of building, reconstruction, maintenance or repair on any land.

9.1.4 purchase any land or other property and purchase, grant or release any interest in or right over land or the benefit of any covenants affecting that land. References to land or Property include land or property that is purchased by the Bank or a receiver under this power.

9.1.5 sell, lease, surrender or accept surrenders of leases, charge or deal with the Charged Property without restriction, including disposing of any fixtures separately from the land.

9.1.6 complete any transactions by executing any deeds or documents in the name of the Borrower.

9.1.7 take, continue or defend any proceedings and enter into any arrangement or compromise.

9.1.8 insure the Charged Property and any works, arrange indemnity and other similar insurance, and obtain bonds and give counter-indemnities and other security in connection with this.

9.1.9 call up any uncalled capital with all the powers conferred by the Borrower's articles of association.

9.1.10 employ advisers, consultants, managers, agents, workmen and others.

9.1.11 purchase or acquire materials, tools, equipment, furnishing, goods or supplies.

9.1.12 do any acts which the Bank or a receiver considers to be incidental or beneficial to the exercise of their powers.

9.2 A receiver may borrow and secure the repayment of any money, in priority to the Borrower's Obligations.

9.3 Joint receivers may exercise their powers jointly or separately.

9.4 A receiver will first apply any money received from the Charged Property towards the repayment **of all money that the receiver has borrowed and secondly in payment of the receiver's fees and expenses.** The receiver will then apply any remaining money received as required by law.

9.5 The Bank may exercise any of its powers even if a receiver has been appointed.

9.6 Upon the occurrence of an Event of Default which is continuing, the Bank may exercise any rights attached to charged stock, shares and other securities as it considers necessary to preserve the value of, or realise, that Charged Property. Otherwise the Bank will only exercise those rights as instructed by the Borrower.

9.7 Upon the occurrence of an Event of Default which is continuing, the Bank may set off any amount due from the Borrower against any amount owed by the Bank to the Borrower. The Bank may exercise this right, without prior notice, both before and after demand. For this purpose, the Bank may convert an amount in one currency to another, using its market rate of exchange at the relevant time.

- 9.8 Following the enforcement of the security constituted by this Deed, any credit balance with the Bank will not be repayable, or capable of being disposed of, charged or dealt with by the **Borrower, until the Borrower's Obligations, both before and after demand, have** been paid in full. The Bank allowing the Borrower to make withdrawals will not waive this restriction in respect of future withdrawals.

10. Application of Payments

- 10.1 Following the enforcement of the security constituted by this Deed, the Bank may apply any payments received for the Borrower to reduce any of the Borrower's Obligations, as the Bank decides.
- 10.2 If the Bank receives notice of any charge or other interest affecting the Charged Property, the Bank may suspend the operation of the Borrower's **account(s) and open a new account or accounts**. Regardless of whether the Bank suspends the account(s), any payments received by the Bank for the Borrower after the date of that notice will be applied first to repay the **Borrower's Obligations arising after** that date.

11. Preservation of Other Security and Rights and Further Assurance

- 11.1 This Deed is in addition to any other security or guarantee for the Borrower's Obligations held by the Bank now or in the future. The Bank may consolidate this Deed with any other security so that they have to be redeemed together, but it will not merge with or prejudice any other **security or guarantee or any of the Bank's other rights**.
- 11.2 On request, the Borrower will execute any deed or document, or take any other action **reasonably required by the Bank, to perfect or enhance the Bank's security under this Deed**.

12. Power of Attorney

- 12.1 Subject to Clause 12.2, to give effect to this Deed and secure the exercise of any of their powers, **the Borrower irrevocably appoints the Bank, and separately any receiver, to be the Borrower's attorney (with full power of substitution and delegation), in the Borrower's name to sign or execute** any documents, deeds and other instruments, or to take, continue or defend any proceedings.
- 12.2 The power of attorney at Clause 12.1 may only be exercised by the Bank upon the occurrence of an Event of Default which is continuing.

13. Consents, Notices and Demands

- 13.1 All consents, notices and demands must be in writing.
- 13.2 The Bank may deliver a notice or demand to the Borrower at its registered office or at the contact details last known to the Bank.
- 13.3 A notice or demand signed by an official of the Bank will be effective at the time of personal delivery; on the second business day after posting; or, if by fax, at the time of sending, if sent before 6.00 p.m. on a business day, or otherwise on the next business day. A **business day** is a weekday other than a national holiday.
- 13.4 A notice from the Borrower to the Bank will be effective on receipt.

14. Transfers

The Bank may allow any person to take over any of its rights and duties under this Deed. The Borrower authorises the Bank to give that person or its agent any financial or other information about the Borrower. References to the Bank include its successors.

15. Charities Act 2011

- 15.1 The land charged is held by the Borrower, a non-exempt charity, and this mortgage is not one falling within section 124(9) of the Charities Act 2011, so that the restrictions imposed by section 124 of that Act apply.
- 15.2 The directors of the Borrower, being the persons who have the general control and management of its administration certify that:
 - 15.2.1 they have power under the provisions establishing the charity and regulating its purposes and administration to effect this mortgage; and
 - 15.2.2 they have obtained and considered such advice as is mentioned in section 124(2) of the Charities Act 2011.

16. Counterparts

This Deed may be entered into by any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute one agreement.

17. Law

- 16.1 English law applies to this Deed and the English courts have exclusive jurisdiction.
- 16.2 For the benefit of the Bank, the Borrower irrevocably submits to the jurisdiction of the English courts and irrevocably agrees that a judgment or ruling in any proceedings in connection with this Deed in those courts will be conclusive and binding on the Borrower and may be enforced against the Borrower in the courts of any other jurisdiction.

The Schedule Security

The Leases

Frome Leisure Centre Lease	A lease dated 1 June 2015 between the Borrower and Mendip District Council relating to Frome Leisure Centre, Bath Road, Frome BA11 2HQ
Shepton Mallet Lido Lease	A lease dated 1 June 2015 between the Borrower and Mendip District Council relating to Shepton Mallet Lido, Shaftgate Avenue, Shepton Mallet, Somerset, BA4 5YA
Wells Leisure Centre Lease	A lease dated 1 June 2015 between the Borrower and Mendip District Council relating to Wells Leisure Centre, Charter Way, Wells
Strode Swimming Pool and Fitness Centre Lease	A lease dated 1 June 2015 between the Borrower and Mendip District Council relating to Strode Swimming Pool and Fitness Centre, Strode Road, Street, Somerset, BA16 0AS
Tor Sports and Leisure Centre Lease	A lease dated 1 June 2015 between the Borrower and Mendip District Council relating to Tor Sports and Leisure Centre, 7 Street Road, Glastonbury, Somerset BA6 9EF

The Contracts

Council Agreement	The operating agreement between the Borrower and Mendip District Council relating to the properties leased to the Borrower under the leases described at section 1 (<i>The Leases</i>) above.
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Debenture - Signature page

Executed and Delivered as a deed by
Fusion Lifestyle

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[Redacted Signature]
Director

Signed by the Director in the presence of:

Witness' signature

[Redacted Signature]
2CEB34E0C9544H...

Witness' name in full

Siobhan Herron
[Redacted Name]

Address

NHS Manager

Occupation

Date 12 February 2024

You must date
the document

Signed for the Bank

[Redacted Signature]
F56B2708104741E
Authorised Signatory of National Westminster Bank Plc
Address: 250 Bishopsgate, London EC2M 4AA
Email: [Redacted Email]
Attention: Andrew Green

Charities Act certification:

The directors of the Borrower, being the persons who have the general control and management of its administration certify that:

- 15.2.1 they have power under the provisions establishing the charity and regulating its purposes and administration to grant and effect this mortgage; and
- 15.2.2 they have obtained and considered such advice as is mentioned in section 124(2) of the Charities Act 2011.

[Redacted Signature]
6F95F0D39383421...

Director

[Redacted Signature]
8335FD066EA347F...

Director