



Registration of a Charge

Company name: **Embrace Lifestyles (FL) Limited**

Company number: **06536056**



X4YF41TD

Received for Electronic Filing: **12/01/2016**

Details of Charge

Date of creation: **08/01/2016**

Charge code: **0653 6056 0006**

Persons entitled: **BARCLAYS BANK PLC**

Brief description: **EILAT - 106 LOWTHER ROAD, CHARMINSTER, BOURNEMOUTH,
DORSET, BH8 8NS (TITLE NUMBER DT361627)**

Contains fixed 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: **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:

ADDLESHAW GODDARD LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6536056

Charge code: 0653 6056 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 8th January 2016 and created by Embrace Lifestyles (FL) Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th January 2016 .

Given at Companies House, Cardiff on 13th January 2016

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

8 JANUARY

2016
~~2015~~

THE COMPANIES LISTED IN SCHEDULE 1
as Chargors

BARCLAYS BANK PLC
as Security Agent

CHARGE BY WAY OF LEGAL
MORTGAGE

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This Deed is made on

8 JANUARY 2016 ~~2015~~

Between

- (1) **Embrace Group Limited** (registered in England with number 08948604) (**Parent**);
- (2) **The Subsidiaries of the Parent listed in schedule 1** (the **Chargors**); and
- (3) **Barclays Bank PLC** as security trustee for the Secured Parties (**Security Agent**, which term shall include any person appointed as security trustee or as an additional security trustee in accordance with the terms of the Intercreditor Agreement).

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this Deed:

Agreement for Lease means an agreement to grant an Occupational Lease for all or part of any of the Properties

Borrowers means the companies listed in part 1 of schedule 1 of the Facilities Agreement

Debenture means the debenture dated 31 March 2015 and provided by the Chargors (as such term is defined therein) in favour of the Security Agent

Facilities Agreement means the facilities agreement between the Parent as parent, Embrace Limited as borrower, the Parent and others as original guarantors, Barclays Bank PLC as arranger, Barclays Bank PLC as original lender, Barclays Bank PLC as agent and security agent and dated 31 March 2015 under which the Lenders agree to make available to the Borrower a term loan and revolving credit facility

Fixtures means, in respect of any Secured Property, all fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery now or at any time after the date of this Deed on that Secured Property

Lease Document means:

- (a) an Agreement for Lease
- (b) an Occupational Lease or
- (c) any other document designated as such by the Agent and the Parent

Occupational Lease means any lease or licence or other right of occupation or right to receive rent to which any of the Properties may at any time be subject and includes any guarantee of a tenant's obligations under the same

Party means a party to this Deed

Properties has the meaning given to such term in the Facilities Agreement and includes but is not limited to those Properties listed in schedule 1 (Properties)

Receiver means any receiver, manager or administrative receiver appointed by the Security Agent in respect of any Chargor or any of the Secured Assets

Relevant Agreement means:

- (a) each Lease Document
- (b) any guarantee of Rental Income contained in, or relating to, any Occupational Lease
- (c) each other agreement designated as a Relevant Agreement by the Security Agent and the Parent in writing

Rental Income means the aggregate of all amounts paid or payable to or for the account of any Chargor in connection with the letting, licence or grant of other rights of use or occupation of any part of any of the Properties, including each of the following amounts:

- (a) rent, licence fees and equivalent amounts paid or payable
- (b) any sum received or receivable from any deposit held as security for performance of a tenant's obligations
- (c) a sum equal to any apportionment of rent allowed in favour of any Chargor
- (d) any other monies paid or payable in respect of occupation and/or usage of that Property and any fixture and fitting on that Property including any fixture or fitting on that Property for display or advertisement, on licence or otherwise
- (e) any sum paid or payable under any policy of insurance in respect of loss of rent or interest on rent
- (f) any sum paid or payable, or the value of any consideration given, for the grant, surrender, amendment, supplement, waiver, extension or release of any Lease Document
- (g) any sum paid or payable in respect of a breach of covenant or dilapidations under any Lease Document
- (h) any sum paid or payable by or distribution received or receivable from any guarantor of any occupational tenant under any Lease Document
- (i) any Tenant Contributions and
- (j) any interest paid or payable on, and any damages, compensation or settlement paid or payable in respect of, any sum referred to above less any related fees and expenses incurred (which have not been reimbursed by another person) by any Chargor

Secured Assets means the assets and undertaking of any Chargor which are the subject of any Security created by, under or supplemental to, this Deed in favour of the Security Agent

Secured Obligations means, in respect of all Chargors, all monies and liabilities now or after the date of this Deed due owing or incurred by all Obligors or any of them to the Finance Parties (or any of them) under the Finance Documents (or any of them) in any manner and in any currency or currencies and whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together

with all interest accruing on such monies and liabilities and all costs, charges and expenses incurred by any Finance Party under any Finance Document, except for any obligation which, if it were included here, would constitute financial assistance or its equivalent in any other jurisdiction

Secured Property means, at any time, the Properties and all other freehold, leasehold or commonhold property which is subject to any Security created by, under or supplemental to, this Deed

Security Period means the period beginning on the date of this Deed and ending on the date on which the Security Agent is satisfied that the Secured Obligations have been irrevocably and unconditionally satisfied in full and all facilities made available by the Finance Parties (or any of them) under the Finance Documents (or any of them) have been cancelled and all obligations of the Hedge Counterparties under the Hedging Agreement have been terminated

Tenant Contributions means any amount paid or payable to a Chargor by any tenant under a Lease Document or any other occupier of a Property, by way of:

- (a) contribution to:
 - (i) ground rent
 - (ii) insurance premia
 - (iii) the cost of an insurance valuation
 - (iv) a service or other charge in respect of the relevant Chargor's costs in connection with any management, repair, maintenance or similar obligation or in providing services to a tenant of, or with respect to, a Property or
 - (v) a reserve or sinking fund or
- (b) VAT

VAT means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112) and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere

1.2 Interpretation

- (a) Unless otherwise defined in this Deed, a term defined in the Facilities Agreement has the same meaning when used in this Deed or any notices, acknowledgements or other documents issued under or in connection with this Deed.
- (b) In this Deed the term **dispose** includes any sale, lease, licence, transfer or loan.
- (c) Clause 1.2 (Construction) of the Facilities Agreement is incorporated in this Deed as if set out here in full but so that each reference in that clause to **this Agreement** shall be read as a reference to this Deed.

1.3 Third party rights

- (a) Unless expressly provided to the contrary in any Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed or any other Finance Document issued or entered into under or in connection with it but this does not affect any right or remedy of a third party which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999.
- (b) Unless expressly provided to the contrary in any Finance Document the consent of any person who is not a Party is not required to rescind or vary this Deed or any other Finance Document entered into under or in connection with it.

1.4 Administration

- (a) Any reference in this Deed, or any other Finance Document entered into or in connection with it, to the making of an administration order shall be treated as including a reference to the appointment of an administrator under paragraph 14 (by the holder of a qualifying floating charge in respect of a Chargor's assets) or 22 (by a Chargor or the directors of the Chargor) of Schedule B1 to the Insolvency Act 1986 or any steps taken toward such order or appointment.
- (b) Any reference in this Deed or any other Finance Document entered into or in connection with it, to making an application for an administration order by petition shall be treated as including a reference to making an administration application to the court under Schedule B1 to the Insolvency Act 1986, appointing an administrator under paragraph 14 or 22 of that Schedule, or giving notice under paragraph 15 or 26 of that Schedule of intention to appoint an administrator or any steps taken towards such application or notice.

1.5 Incorporated terms

The terms of the Finance Documents and of any side letters relating to the Finance Documents and the Secured Obligations are incorporated into this Deed to the extent required for any purported disposition of any Secured Assets contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

2 Covenant to pay

Each Chargor covenants with the Security Agent, as security agent for the Finance Parties, to pay and discharge the Secured Obligations when they become due for payment and discharge in accordance with the terms of the Finance Documents.

3 Charging provisions

3.1 General

All Security created by a Chargor under clauses 3.2 to 3.4 inclusive is:

- (a) a continuing security for the payment and discharge of the Secured Obligations;
- (b) granted with full title guarantee;

- (c) granted in respect of all the right, title and interest (if any), present and future, of that Chargor in and to the relevant Secured Asset;
- (d) granted in favour of the Security Agent as security agent for the Finance Parties;
- (e) granted pursuant to clause 7 (Further assurance) of the Debenture.

3.2 First legal mortgages

Each Chargor charges by way of first legal mortgage the Properties in respect of which it is named as "Leasehold Proprietor" in schedule 2 (Properties) and all Fixtures on the Properties.

3.3 Assignments

Each Chargor assigns:

- (a) all Rental Income, and all other sums, payable under any Occupational Lease to which it is a party; and
- (b) the Relevant Agreements to which it is a party.

Each Chargor shall remain liable to perform all its obligations under each Occupational Lease to which it is a party and each Relevant Agreement to which it is a party.

3.4 First fixed charges

Each Chargor charges by way of first fixed charge:

- (a) all interests and estates in any freehold, leasehold or commonhold property now or subsequently owned by it (other than any freehold, leasehold or commonhold property effectively charged by way of legal mortgage under clause 3.2) and, in each case, the Fixtures on each such property;
- (b) the proceeds of sale of its Secured Property and all licences to enter on or use any Secured Property;
- (c) the benefit of all other agreements, instruments and rights relating to its Secured Property; and
- (d) to the extent that any legal mortgage in clause 3.2 or any assignment in clause 3.3 is ineffective as a legal mortgage or an assignment (as applicable), the assets referred to in that clause.

3.5 Documents of title

Each Chargor shall:

- (a) immediately upon the execution of this Deed (and on the acquisition by it of any interest in any Secured Assets at any time) deposit with the Security Agent all deeds, certificates and other documents in its possession constituting or evidencing title to the Secured Assets (or otherwise procure that any such deeds, certificates and other documents are held to the order of the Security Agent on terms acceptable to the Security Agent); and

- (b) deposit with the Security Agent at any time after the date of this Deed any further deeds, certificates and other documents constituting or evidencing title to the Secured Assets, promptly upon coming into possession of them (or otherwise procure that any such deeds, certificates and other documents are held to the order of the Security Agent on terms acceptable to the Security Agent).

3.6 Small company moratorium

Where a Chargor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 to the Insolvency Act 1986, then the obtaining of a moratorium, including any preliminary decision, or investigation in terms of paragraph 43 of Schedule A1 to the Insolvency Act 1986 shall not cause restrictions which would not otherwise apply to be imposed on the disposal of its property and assets by that Chargor.

4 Continuing security

4.1 Continuing security

The Security constituted by this Deed shall be continuing security and shall remain in full force and effect regardless of any intermediate payment or discharge by any Chargor or any other person of the whole or any part of the Secured Obligations.

4.2 Recourse

The Security constituted by this Deed:

- (a) is in addition to any other Security which any Finance Party may hold at any time for the Secured Obligations (or any of them); and
- (b) may be enforced without first having recourse to any other rights of any Finance Party.

5 Negative pledge

5.1 No Chargor shall create or permit to subsist any Security over any of the Secured Assets.

5.2 No Chargor shall:

- (a) sell, transfer or otherwise dispose of any of the Secured Assets on terms whereby they are or may be leased to or re-acquired by it; or
- (b) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

5.3 Clauses 5.1 and 5.2 do not apply to any Security or arrangement which is expressly permitted pursuant to clause 24.14(c) (Negative pledge) of the Facilities Agreement.

6 Restrictions on disposals

6.1 No Chargor shall enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to dispose of all or any part of any Secured Assets. This clause 6.1 does not apply to any other disposal which is expressly permitted pursuant to clause 24.15 (Disposals) of the Facilities Agreement.

7 Further assurance

7.1 Each Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require) in favour of the Security Agent or its nominee(s):

- (a) to create, perfect, protect and maintain the Security created or intended to be created under or evidenced by this Deed or for the exercise of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to this Deed or by law;
- (b) to confer on the Security Agent or confer on the Finance Parties Security over any of the Secured Assets of that Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Deed; and/or
- (c) (if an Event of Default is continuing) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created by or under this Deed.

7.2 Each Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Finance Parties by or pursuant to this Deed or for the exercise of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to this Deed or by law, including, but not limited to, the granting of a power of attorney on the same terms as that set out in clause 10 (Security Power of attorney) of this Deed.

7.3 Any document required to be executed by a Chargor under this clause 7 will be prepared at the cost of that Chargor.

8 Land Registry**8.1 Application for restriction**

- (a) In relation to land and buildings comprised within the Secured Assets situated in England and Wales title to which is registered or is to be registered at the Land Registry, each Chargor consents to an application being made to the Chief Land Registrar for registration of a restriction on the register of title of all such present and future registered freehold, leasehold or commonhold property (and any unregistered properties subject to compulsory first registration at the date of this Deed).
- (b) Each Chargor confirms that so far as any of the Secured Property is unregistered, such land is not affected by any disclosable overriding interests within the meaning of the Land Registration Act 2002 or the Land Registration Rules 2003.

8.2 Tacking and further advances

The Lenders are, subject to the terms of the Facilities Agreement, under an obligation to make further advances to the Borrowers and this security has been made for securing such further advances. The Security Agent and the Chargors by this Deed consent to an application being made to the Chief Land Registrar to enter a note of such obligation on the register of title to all present and future registered property of any Chargor comprised within the Secured Assets (and any unregistered properties subject to compulsory first registration at the date of this Deed).

9 Notices of assignments and charges**9.1 Rental Income**

- (a) At any time when a Default or an Event of Default is continuing, each Chargor shall, at the request of the Security Agent, give notice in the form specified in part 1 (Form of notice of assignment) of schedule 3 to each tenant (that is not a party to this Deed), under each Occupational Lease that the Chargor has assigned to the Security Agent all its right, title and interest in the Rental Income and other monies payable under that Occupational Lease.
- (b) The relevant Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice in substantially the form specified in part 2 (Form of acknowledgement) of schedule 3 within 5 Business Days of that notice being given.

9.2 Relevant Agreements

- (a) At any time when a Default or an Event of Default is continuing, each Chargor which is a party to a Relevant Agreement shall, at the request of the Security Agent, give notice in the form specified in part 1 (Form of notice of assignment) of schedule 4 to the other parties (other than a party to this Deed) to each Relevant Agreement (other than an Occupational Lease) that the relevant Chargor has assigned to the Security Agent all its right, title and interest in that Relevant Agreement.
- (b) The relevant Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice in substantially the form specified in part 2 (Form of acknowledgement) of schedule 4 within 5 Business Days of that notice being given.

10 Security power of attorney

Each Chargor, by way of security, irrevocably and severally appoints the Security Agent, each Receiver and any of their delegates or sub-delegates to be its attorney to take any action which the Chargor is obliged to take under this Deed. The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause 10.

11 Enforcement of security**11.1 When security is enforceable**

On the occurrence of any Event of Default which is continuing, the Security created by and under this Deed is immediately enforceable.

11.2 Acts of enforcement

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

- (a) enforce all or any part of the Security created by or under this Deed in any manner it sees fit;
- (b) exercise its rights and powers conferred upon mortgagees by the Law of Property Act 1925, as varied and extended by this Deed, and rights and powers conferred on a

Receiver by this Deed, whether or not it has taken possession or appointed a Receiver to any of the Secured Assets;

- (c) appoint a Receiver to all or any part of the Secured Assets;
- (d) if permitted by law, appoint an administrator in respect of any Chargor and take any steps to do so;
- (e) exercise its power of sale under section 101 of the Law of Property Act 1925 (as amended by this Deed); or
- (f) if permitted by law, appoint an administrative receiver in respect of any Chargor.

11.3 Statutory powers - general

- (a) For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the Law of Property Act 1925 and section 93 of the Law of Property Act 1925 do not apply to the Security constituted by or under this Deed.
- (c) The statutory powers of leasing conferred on the Security Agent are extended so that, without the need to comply with any provision of section 99 or section 100 of the Law of Property Act 1925, the Security Agent is empowered to lease and make agreements for lease at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it may think fit.
- (d) Each Receiver and the Security Agent is entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 and the Insolvency Act 1986 on mortgagees and Receivers.

11.4 Contingencies

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

11.5 Mortgagee in possession - no liability

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

11.6 Redemption of prior mortgages

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

- (a) redeem any prior form of Security over any Secured Asset; and/or
- (b) procure the transfer of that Security to itself; and/or

- (c) settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which once so settled and passed shall be conclusive and binding on the Chargors.

12 Receiver

12.1 Appointment of Receiver

(a)

- (i) At any time after any Security created by or under this Deed is enforceable, the Security Agent may appoint a Receiver to all or any part of the Secured Assets in accordance with clause 11.2(c) (Acts of enforcement).
- (ii) At any time, if so requested in writing by any Chargor, without further notice, the Security Agent may appoint a Receiver to all or any part of the Secured Assets as if the Security Agent had become entitled under the Law of Property Act 1925 to exercise the power of sale conferred under the Law of Property Act 1925.

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

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

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

shall not be grounds for appointment of a Receiver.

12.2 Removal

The Security Agent may by written notice remove from time to time any Receiver appointed by it (subject to the provisions of section 45 of the Insolvency Act 1986 in the case of an administrative receiver) and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated.

12.3 Powers of Receiver

(a) General

- (i) In addition to those conferred by the Law of Property Act 1925 on any Receiver appointed under that Act, each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out in this clause 12.3.
- (ii) If there is more than one Receiver holding office at the same time, unless the document appointing him states otherwise, each Receiver may exercise all of the powers conferred on a Receiver under this Deed or under the Insolvency Act 1986 individually and to the exclusion of any other Receivers.

- (iii) A Receiver of a Chargor has all the rights, powers and discretions of an administrative receiver under the Insolvency Act 1986.
- (iv) A Receiver may, in the name of any Chargor:
 - (A) do all other acts and things which he may consider expedient for realising any Secured Asset; and
 - (B) exercise in relation to any Secured Asset all the powers, authorities and things which he would be capable of exercising if he were its absolute beneficial owner.

(b) Borrow money

A Receiver may raise and borrow money (either unsecured or on the security of any Secured Asset, either in priority to the security constituted by this Deed or otherwise) on any terms and for whatever purpose which he thinks fit. No person lending that money need enquire as to the propriety or purpose of the exercise of that power or to check the application of any money so raised or borrowed.

(c) Carry on business

A Receiver may carry on the business of any relevant Chargor as he thinks fit and, for the avoidance of doubt, a Receiver may apply for such Authorisations as he considers in his absolute discretion appropriate.

(d) Compromise

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of any relevant Chargor or relating in any way to any Secured Asset.

(e) Delegation

A Receiver may delegate his powers in accordance with clause 13 (Delegation).

(f) Employees

For the purposes of this Deed, a Receiver as he thinks appropriate, on behalf of the relevant Chargor or for itself as Receiver, may:

- (i) appoint and discharge managers, officers, agents, accountants, servants, workmen and others upon such terms as to remuneration or otherwise as he may think proper; and
- (ii) discharge any such persons appointed by the relevant Chargor.

(g) Leases

A Receiver may let any Secured Asset for any term and at any rent (with or without a premium) which he thinks proper and may accept a surrender of any lease or tenancy of any Secured Assets on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender).

(h) Legal actions

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

(i) Possession

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

(j) Protection of assets

A Receiver may, in each case as he may think fit:

- (i) make and effect all repairs and insurances and do all other acts which the relevant Chargor might do in the ordinary conduct of its business be they for the protection or for the improvement of the Secured Assets;
- (ii) commence and/or complete any building operations on the Secured Property or other Secured Asset; and
- (iii) apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence.

(k) Receipts

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

(l) Sale of assets

A Receiver may sell, exchange, convert into monies and realise any Secured Asset by public auction or private contract in any manner and on any terms which he thinks proper. The consideration for any such transaction may consist of cash, debenture or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit. Fixtures and any plant and machinery annexed to any part of the Secured Property may be severed and sold separately from the property containing them without the consent of the relevant Chargor.

(m) Subsidiaries

A Receiver may form a Subsidiary of the relevant Chargor and transfer to that Subsidiary any Secured Asset.

(n) Deal with Secured Assets

A Receiver may, without restriction sell, let or lease, or concur in selling, letting or leasing, or vary the terms of, determine, surrender or accept surrenders of, leases or tenancies of, or grant options and licences over or otherwise dispose of or deal with, all or any part of the Secured Assets without being responsible for loss or damage, and so that any such sale, lease or disposition may be made for cash payable by instalments, loan stock or other debt obligations or for shares or securities of another company or other valuable consideration. The Receiver may form and promote, or

concur in forming and promoting, a company or companies to purchase, lease, licence or otherwise acquire interests in all or any of the Secured Assets or otherwise, arrange for such companies to trade or cease to trade and to purchase, lease, licence or otherwise acquire all or any of the Secured Assets on such terms and conditions whether or not including payment by instalments secured or unsecured as he may think fit.

(o) Security

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

(p) Acquire land

The Receiver may purchase or acquire any land and purchase, acquire or grant any interest in or right over land.

(q) Development

A Receiver may implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on, any real property comprised in the Secured Property and do all acts and things incidental to the Secured Property.

(r) Landlord's obligations

A Receiver may on behalf of a Chargor and without consent of or notice to that Chargor exercise all the powers conferred on a landlord or a tenant by the Landlord and Tenants Acts, the Rents Acts and Housing Acts or any other legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Secured Property.

(s) Uncalled capital

A Receiver may make calls conditionally or unconditionally on the members of any relevant Chargor in respect of uncalled capital.

(t) Incidental matters

A Receiver may do all other acts and things including without limitation, signing and executing all documents and deeds as may be considered by the Receiver to be incidental or conducive to any of the matters or powers listed here or granted by law or otherwise incidental or conducive to the preservation, improvement or realisation of the Secured Assets and to use the name of the relevant Chargor for all the purposes set out in this clause 12.

12.4 Remuneration

The Security Agent may from time to time fix the remuneration of any Receiver appointed by it.

13 Delegation

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

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

14 Application of monies

14.1 Sections 109(6) and (8) (Appointment, powers, remuneration and duties of receiver) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed.

14.2 All monies received by the Security Agent or any Receiver under this Deed shall be applied in accordance with the Intercreditor Agreement.

14.3 The Security Agent and any Receiver may place any money received, recovered or realised pursuant to this Deed in an interest bearing suspense account and it may retain the same for such period as it considers expedient without having any obligation to apply the same or any part of it in or towards discharge of the Secured Obligations.

15 Remedies and waivers

15.1 No failure to exercise, nor any delay in exercising, on the part of the Security Agent or any Receiver, any right or remedy under this Deed shall operate as a waiver or any such right or remedy or constitute an election to affirm this Deed. No election to affirm this Deed on the part of the Security Agent or any Receiver shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

15.2 A waiver given or consent granted by the Security Agent or any Receiver under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

16 Protection of third parties

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

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

- 16.2 The receipt of the Security Agent or any Receiver shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Security Agent or any Receiver.
- 16.3 In clauses 16.1 and 16.2 **purchaser** includes any person acquiring, for money or monies worth, any lease of, or Security over, or any other interest or right whatsoever in relation to, the Secured Assets or any of them.

17 Additional security

The Security created by or under this Deed is in addition to and is not in any way prejudiced by any guarantee or security now or subsequently held by any Finance Party.

18 Settlements conditional

- 18.1 If the Security Agent (acting reasonably) believes that any amount paid by a Chargor or any other person in respect of the Secured Obligations is capable of being avoided or set aside for any reason, then for the purposes of this Deed, such amount shall not be considered to have been paid.
- 18.2 Any settlement, discharge or release between a Chargor and any Finance Party shall be conditional upon no Security or payment to or for that Finance Party by that Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any law relating to bankruptcy, insolvency or liquidation or otherwise.

19 Subsequent Security

If the Security Agent or any Finance Party receives notice of any other subsequent Security or other interest affecting all or any of the Secured Assets it may open a new account or accounts for the relevant Chargor in its books. If it does not do so then, unless it gives express written notice to the contrary to the relevant Chargor, as from the time of receipt of such notice by the Security Agent, all payments made by that Chargor to the Security Agent or to any other Finance Party shall be treated as having been credited to a new account of that Chargor and not as having been applied in reduction of the Secured Obligations.

20 Set-off

A Finance Party may, set off any matured obligation due from a Chargor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

21 Notices

Any communication under this Deed or any other Security or Finance Document created by or under this Deed, shall be made and given in accordance with the terms of clause 34 (Notices) of the Facilities Agreement.

22 Invalidity

Clause 36 (Partial invalidity) of the Facilities Agreement shall apply to this Deed as if set out here in full but so that references to the Finance Documents shall be construed as references to this Deed and any Security created by or under it.

23 Assignment

The Security Agent may assign or otherwise transfer all or any part of its rights under this Deed or any Security created by or under it in accordance with the terms of the Finance Documents.

24 Releases

Upon the expiry of the Security Period, the Security Agent shall, at the request and cost of the Chargors, take whatever action is necessary to release and reassign to each relevant Chargor:

- (a) its rights arising under this Deed;
- (b) the Secured Assets from the Security created by and under this Deed,

and return all documents or deeds of title delivered to it under this Deed.

25 Currency clauses

25.1 Clause 33.10 (Change of currency) of the Facilities Agreement shall apply to this Deed as if set out here in full but so that references to the Finance Documents shall be construed as references to this Deed and any Security created by or under it and references to the Obligors shall be construed as references to the Chargors.

25.2 If a payment is made to the Security Agent under this Deed in a currency (**Payment Currency**) other than the currency in which it is expressed to be payable (**Contractual Currency**), the Security Agent may convert that payment into the Contractual Currency at the rate at which it (acting reasonably and in good faith) is able to purchase the Contractual Currency with the Payment Currency on or around the date of receipt of the payment and to the extent that the converted amount of the payment falls short of the amount due and payable the Chargors will remain liable for such shortfall.

26 Certificates and determinations

Clause 35.2 (Certificates and determinations) of the Facilities Agreement shall apply to this Deed as if set out here in full but so that references to the Finance Documents shall be construed as references to this Deed and any Security created by or under it and references to the Finance Parties shall be construed as references to the Security Agent.

27 Counterparts

This Deed or any Finance Document entered into under or in connection with this Deed may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Deed or any such Finance Document entered into under or in connection with this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.

28 Governing law

This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

29 Enforcement

29.1 Jurisdiction of English courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (**Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This clause 29 is for the benefit of the Security Agent. As a result, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

29.2 Service of process

- (a) The Civil Procedure Rules regarding service and deemed service will not apply to any letter or other communication notifying a claim or serving legal proceedings under or in connection with this Deed, which shall instead be served in accordance with this clause 29.2.
- (b) Any letter or other communication notifying a claim or serving legal proceedings under or in connection with this Deed may not be made by way of fax and must be made pursuant to clauses 34 (Notices) of the Facilities Agreement (excluding, for this purpose, clause 34.6 (Electronic communication) of the Facilities Agreement) and/or, as applicable, clause 29.2(c).
- (c) Without prejudice to any other mode of service allowed under this Deed, each Chargor (other than a Chargor incorporated in England and Wales):
 - (i) irrevocably appoints the Parent as its agent for service of process in relation to any proceedings before the English courts in connection with this Deed (and the Parent by its execution of this deed accepts that appointment); and
 - (ii) agrees that failure by an agent for service of process to notify the relevant Chargor of the process will not invalidate the proceedings concerned.
- (d) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Parent (on behalf of all the Chargors) must immediately (and in any event within 5 Business Days of such event taking place) appoint another agent on terms acceptable to the Security Agent. Failing this, the Security Agent may appoint another agent for this purpose.

This Deed has been executed as a deed and delivered on the date given at the beginning of this Deed.

Schedule 1

The Chargors

Name of Chargor	Registration number (or equivalent, if any)	Original Jurisdiction
Embrace Lifestyles (FL) Limited	06536056	England and Wales
Embrace (UK) Limited	03856062	England and Wales
Embrace Lifestyles (NE) Limited	06330418	England and Wales

Schedule 2

The Properties

Part 1 - Registered Land

Address	Leasehold Title	Leasehold Proprietor
Sydmar Lodge – Sydmar Lodge, 201 Hale Lane, Edgware, HA8 9QH	AGL343829	Embrace (UK) Limited
Kibblesworth Lodge – Meadow View Specialist Care Centre, Kibblesworth, Gateshead, NE11 0YJ	TY527782	Embrace Lifestyles (NE) Limited
Eilat – 106 Lowther Road, Charminster, Bournemouth, Dorset, BH8 8NS	DT361627	Embrace Lifestyles (FL) Limited

Part 2 - Unregistered Land

Schedule 3

Occupational Leases

Part 1 - Form of notice of assignment

To: ♦

Dated: ♦

Dear Sirs

The lease described in the attached schedule (the Lease)

We hereby notify you that we have assigned to Barclays Bank PLC (**Security Agent**) as security trustee for itself and certain financial institutions all our right, title and interest in and to the Lease (including all rental income and other monies payable under the Lease).

We hereby irrevocably and unconditionally authorise and instruct you:

- 1 without notice or reference to or further authority from us and without enquiring as to the justification or the validity of those instructions, to comply only with any instructions from time to time received by you from the Security Agent relating to the Lease; and

to pay all sums payable by you under the Lease directly to our account at:

Bank: ♦

Account number: ♦

Sort code: ♦

or such other account as the Security Agent may specify from time to time.

We remain liable to perform all our obligations [as landlord] under the Lease and the Security Agent is under no obligation of any kind whatsoever under the Lease nor under any liability whatsoever in the event of any failure by us to perform our obligations under the Lease.

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Security Agent and the other copy to us.

The provisions of this notice (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

Yours faithfully

.....
for and on behalf of

♦ Limited

Schedule

[Description of Lease]

[Attach form of acknowledgment]

Part 2 - Form of acknowledgement

To: [name of Security Agent]
[address]

To: [name of Chargor] (Chargor)
[address]

We acknowledge receipt of the notice of assignment (**Notice**) of which the above is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement. We confirm that:

- (a) we will not agree to any amendment, waiver or release of any provision of the Lease without the prior written consent of the Security Agent;
- (b) we shall act in accordance with the Notice;
- (c) the Chargor will remain liable to perform all its obligations under the Lease and the Security Agent is under no obligation of any kind whatsoever under the Lease nor under any liability whatsoever in the event of any failure by the Chargor to perform its obligations under the Lease;
- (d) no breach or default on the part of the Chargor of any of the terms of such Lease will be deemed to have occurred unless we have given notice of such breach to the Security Agent specifying how to make good such breach;
- (e) we have made all necessary arrangements for all future payments payable under such Lease to be made [into the Rent Account];
- (f) as at the date of this acknowledgement we have not received any notice of assignment or charge of the Chargor's interest in the Lease in favour of any other person; and
- (g) we do not have and have not claimed or exercised any right or claim against the Chargor or exercised or attempted to exercise any right of set-off, counterclaim or other right relating to the Lease.

The provisions of this acknowledgement (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

For and on behalf of
[Tenant]

Schedule 4

Relevant Agreements

Part 1 - Form of notice of assignment

To: ♦

Dated: ♦

Dear Sirs

The agreement described in the attached schedule (Agreement)

We hereby notify you that we have assigned to Barclays Bank PLC (**Security Agent**) as security agent for itself and certain financial institutions all our right, title and interest in and to the Agreement.

We hereby irrevocably and unconditionally authorise and instruct you:

1 without notice or reference to, or further authority from us and without enquiring as to the justification or the validity of those instructions, to comply only with any instructions from time to time received by you from the Security Agent relating to the Agreement and any rights under or in connection with the Agreement; and

1 to pay all sums payable by you under the Agreement directly to our account at:

Bank: ♦

Account number: ♦

Sort code: ♦

or such other account as the Security Agent may specify from time to time.

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Security Agent and the other copy to us.

The provisions of this notice (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

Yours faithfully

.....
for and on behalf of
♦ Limited

Schedule

Date	Parties	Description
◆	◆	◆

[Attach form of acknowledgment]

Part 2 - Form of acknowledgement

To: [name of Security Agent]
[address]

To: [name of Chargor] (Chargor)
[address]

We acknowledge receipt of the notice of assignment (**Notice**) of which the above is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement. We confirm that:

- (a) there has been no amendment, waiver or release of any rights or interests in the Agreement since the date of the Agreement;
- (a) we will not agree to any amendment, waiver or release of any provision of the Agreement without the prior written consent of the Security Agent;
- (b) we shall act in accordance with the Notice;
- (c) as at the date of this acknowledgement we have not received any notice of assignment or charge of the Chargor's interest in the Agreement in favour of any other person;
- (d) as at the date of this acknowledgement, we are not aware of any breach by the Chargor of the terms of the Agreement; and
- (e) we do not have and have not claimed or exercised any right or claim against the Chargor or exercised or attempted to exercise any right of set-off, counterclaim or other right relating to the Agreement.

The provisions of this acknowledgement (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

For and on behalf of

♦]

SIGNATORIES TO THE DEED

Parent

Executed as a deed by

Embrace Group Limited

acting by a director in the presence of

)

)

) Director

Signature of witness

Name MEENA SAROYAddress 19 CORNWALL GREENBIRMINGHAM, B3 2DT

Chargors

Executed as a deed by

Embrace (UK) Limited

acting by a director in the presence of

)

)

) Director

Signature of witness

Name MEENA SAROYAddress AS ABOVE

Executed as a deed by

Embrace Lifestyles (FL) Limited

acting by a director in the presence of

)

)

) Director

Signature of witness

Name MEENA SAROYAddress AS ABOVE

Executed as a deed by
Embrace Lifestyles (NE) Limited
acting by a director in the presence of

)
)
)
)

Director

Signature of witness

Name

MEENA SARAY

Address

AS ABOVE

The Security Agent

Executed as a deed
by
as duly authorised attorney
for and on behalf of **Barclays Bank PLC**
in the presence of

)
)
)
)
)

Signature of witness

Name

~~MEENA SARAY~~

Address