



Registration of a Charge

Company Name: **FITNESS FIRST CLUBS LIMITED**

Company Number: **03207791**



Received for filing in Electronic Format on the: **30/03/2023**

XC0ELI4R

Details of Charge

Date of creation: **29/03/2023**

Charge code: **0320 7791 0050**

Persons entitled: **JAYNE ALISON BEST**

Brief description:

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 ELECTRONICALLY EXECUTED ORIGINAL INSTRUMENT.**

Certified by: **ALEXANDRA GREAVES**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3207791

Charge code: 0320 7791 0050

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th March 2023 and created by FITNESS FIRST CLUBS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 30th March 2023 .

Given at Companies House, Cardiff on 3rd April 2023

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**

Security Assignment of Receivables

Fitness First Clubs Limited
as Assignor

Jayne Alison Best
as Assignee

Dated 29 March 2023

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

AJGmeasures

30 March 2023

DLA PIPER UK LLP



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This Assignment of Receivables is made on

29 March

2023

Parties

- (1) **Fitness First Clubs Limited** a company incorporated and registered under the laws of England and Wales with number 03207791 with its registered office at Whelco Place, Enfield Street, Wigan, England, WN5 8DB (the **Assignor**); and
- (2) **Jayne Alison Best** of [REDACTED] (the **Assignee**).

Background

- A Pursuant to clause 4.2.1 of each Debenture (as defined below), the Assignor shall not enter into any transaction to dispose of all or any part of any Security Asset (as defined in each Debenture).
- B The Assignor intends to assign the benefit of the Lease (as defined below) to its parent company, Maddox (the **Disposal**).
- C In consideration of the Assignee permitting the Disposal and waiving any breach of the Debentures which may arise as a result of the Assignor entering into the Disposal, the Assignor has agreed to assign the Receivables to the Assignee on the terms and conditions of this Deed.

It is agreed:

1 Definitions and interpretation

1.1 Definitions

In this Deed the following terms have the following meanings:

2022 Debenture means the composite guarantee and debenture dated 11 August 2022 granted by the Assignor and Maddox in favour of the Assignee;

2022 Facilities Agreement means the committed secured facilities agreement dated 11 August 2022 and made between (1) the Assignee as lender and (2) the Assignor as borrower as amended and supplemented from time to time (including pursuant to an amendment letter dated 30 January 2023);

2023 Debenture means the composite guarantee and debenture dated 30 January 2023 granted by the Assignor and Maddox in favour of the Assignee;

2023 Facilities Agreement the committed secured facilities agreement dated 30 January 2023 and made between (1) the Assignee as lender and (2) the Assignor as borrower as amended and supplemented from time to time;

Act means the Law of Property Act 1925;

Debentures means together, the 2022 Debenture and the 2023 Debenture (and **Debenture** shall mean either one of them);

Debt Documents has the meaning given to that term in the 2023 Facilities Agreement (and **Debt Document** shall mean any one of them);

Event of Default has the meaning given to that term in the 2023 Facilities Agreement;

Facilities Agreements means together, the 2022 Facilities Agreement and the 2023 Facilities Agreement (and **Facilities Agreement** shall mean either one of them);

Lease means the lease dated 13 May 2022 entered into between (1) BNP Paribas Depositary Services (Jersey) Limited and BNP Paribas Depositary Services Limited acting in their capacity as the joint trustees of The 55 BG Unit Trust as landlord and (2) the Assignor as tenant in respect of Unit B, Part Ground Floor and Part Lower Ground Floor and AHU2 Plantroom, 55 Bishopsgate, London, EC2 and all documents supplemental or collateral thereto;

Maddox means Maddox Holdings Limited;

Party means a party to this Deed;

Receivables means all present and future debts, monetary claims and other monies now or in future payable by Maddox to the Assignor under or pursuant to the Side Letter (whether actual or contingent and whether originally owing to the Assignor or purchased or otherwise acquired by it) together with:

- (a) the benefit of all rights, guarantees, Security Interests and remedies relating to any of the foregoing (including, without limitation, negotiable instruments, indemnities, reservations of property rights, entitlements of interest, rights of tracing and unpaid vendor's liens and similar associated rights); and
- (b) all proceeds of any of the foregoing;

Receiver means any receiver, receiver and manager or administrative receiver appointed by the Assignee under this Deed;

Secured Obligations means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever) owed or incurred by the Assignor to the Assignee;

Security means the Security Interests created by or pursuant to this Deed;

Security Interest means any mortgage, pledge, lien, charge, assignment by way of security, hypothecation, security interest, title retention, preferential right or trust arrangement or any other security agreement or arrangement having the effect of security;

Security Period means the period beginning on the date of this Deed and ending on the date on which:

- (a) all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full; and
- (b) the Assignee has no further commitment, obligation or liability under or pursuant to the Debt Documents;

Side Letter means the side letter relating to the assignment of the Lease dated on or around the date of this Deed and entered into by (1) the Assignor and (2) Maddox; and

Tax has the meaning given to that term in the 2023 Facilities Agreement (and Taxes shall be construed accordingly).

1.2 Interpretation

- (a) Unless a contrary indication appears, any reference in this Deed to:
 - (i) the **Assignor, Maddox** or the **Assignee** shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
 - (ii) **this Deed, the Facilities Agreements, any other Debt Document** or any other agreement or instrument shall be construed as a reference to this Deed, the Facilities Agreements, such other Debt Document or such other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the obligations of the Assignor or provides for further advances);
 - (iii) **assets** includes any present and future properties, revenues and rights of every description and includes uncalled capital;
 - (iv) an Event of Default that is **continuing** shall be construed as meaning an Event of Default that has not been waived by the Assignee;
 - (v) **including** or **includes** means including or includes without limitation;
 - (vi) **Secured Obligations** includes obligations and liabilities which would be treated as such but for the liquidation, administration or dissolution of or similar event affecting the Assignor;
 - (vii) a provision of law is a reference to that provision as amended or re-enacted; and
 - (viii) the singular includes the plural and vice versa.
- (b) References to clauses, paragraphs and schedules are to be construed, unless otherwise stated, as references to clauses, paragraphs and the schedule of this Deed and references to this Deed include its schedule.
- (c) Clause and schedule headings are for convenience only and shall not affect the construction of this Deed.
- (d) Each undertaking of the Assignor (other than a payment obligation) contained in this Deed must be complied with at all times during the Security Period.
- (e) If the Assignee reasonably considers that an amount paid by the Assignor to the Assignee under a Debt Document is capable of being avoided or otherwise set aside on the liquidation or administration of the Assignor, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
- (f) The Parties intend that this document shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

1.3 Third party rights

A person who is not a Party shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

2 Waiver

- 2.1 The Assignee permits the Assignor to enter into the documentation required to effect the Disposal and waives any breach which may arise under clause 4.2.1 of each Debenture as a result of the Disposal.
- 2.2 The waiver in clause 2.1 shall be without prejudice to any rights which the Assignee may now or in future have in relation to any other circumstances or matters other than as specifically referred to in this Deed (and whether subsisting at the date of this Deed or otherwise) which rights shall remain in full force and effect.

3 Covenant to pay

The Assignor covenants in favour of the Assignee that it will pay and discharge the Secured Obligations from time to time when they fall due.

4 Grant of security

All Security Interests and dispositions created or made by or pursuant to this Deed are created or made:

- (a) in favour of the Assignee;
- (b) with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994; and
- (c) as continuing security for payment of the Secured Obligations.

5 Security over Receivables

5.1 Assignment of Receivables

The Assignor assigns and agrees to assign absolutely (subject to a proviso for reassignment on redemption) all its present and future right, title and interest in and to all Receivables.

5.2 Fixed charge

To the extent that any asset expressed to be assigned pursuant to clause 5.1 (*Assignment of Receivables*) is not effectively so assigned by that clause, the Assignor charges and agrees to charge by way of first fixed charge all its present and future right, title and interest in and to that asset.

6 Notice to Maddox

Immediately upon execution of this Deed the Assignor shall:

- (a) deliver a duly completed notice of assignment to Maddox; and
- (b) use its best endeavours to procure that Maddox executes and delivers to the Assignee an acknowledgement,

in each case in the respective forms set out in Schedule 1 (*Form of notice to and acknowledgement from*) (or in such other form as the Assignee shall agree).

7 Continuing security

7.1 Continuing security

The Security is continuing and will extend to the ultimate balance of the Secured Obligations regardless of any intermediate payment or discharge in whole or in part. This Deed shall remain in full force and effect as a continuing security for the duration of the Security Period.

7.2 Additional and separate security

This Deed is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security Interest which the Assignee may at any time hold for any Secured Obligation.

7.3 Right to enforce

This Deed may be enforced against the Assignor without the Assignee first having recourse to any other right, remedy, guarantee or Security Interest held by or available to it.

8 Liability of the Assignor relating to Receivables

Notwithstanding anything contained in this Deed or implied to the contrary, the Assignor remains liable to observe and perform all conditions and obligations assumed by it in relation to the Receivables. The Assignee is under no obligation to perform or fulfil any such condition or obligation or to make any payment in respect of any such condition or obligation.

9 Dealings with and realisation of Receivables

9.1 The Assignor shall deal with the Receivables (both collected and uncollected) in accordance with any directions given in writing from time to time by the Assignee.

9.2 The Assignor shall not do or agree to do any of the following without the prior written consent of the Assignee:

- (a) release, exchange, compound, set-off, grant time or indulgence or commute the liability of Maddox in respect of any Receivable (whether by reducing the amount due or extending the time for payment or otherwise); or
- (b) permit any Receivable to be subordinated or postponed or do or permit to be done anything which may delay or prejudice a full recovery thereof; or
- (c) create or permit to subsist any Security Interest on any Receivable other than as created by this Deed (save for any Security Interest created by the Debentures); or
- (d) sell, transfer, lease, lend, assign, charge, factor or discount or in any other manner deal with or dispose of (whether by a single transaction or a number of transactions and whether related or not) the whole or any part of its interest in any Receivable; or
- (e) allow any other third party rights to arise over any part of any Receivable (whether by assignment, trust or otherwise),

or agree or attempt to do so.

9.3 General information

The Assignor shall provide to the Assignee:

- (a) such information as to the amount and nature of the Receivables as the Assignee may from time to time reasonably require (taking into account the requirements of the Debt Documents); and
- (b) any other information which the Assignee may reasonably request in relation to the Receivables.

9.4 Specific information

Immediately upon becoming aware of the same, the Assignor shall inform the Assignee of any claim or notice relating to any Receivable received from any other party.

9.5 No prejudicial action

- (a) The Assignor shall not take or omit to take any action which will reduce or impede recoveries in respect of the Receivables.
- (b) The Assignor shall not do, cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any Receivable (or make any omission which has such an effect).

10 Representations

10.1 General

The Assignor makes the representations and warranties set out in this clause 10 to the Assignee.

10.2 No Security Interests

The Receivables are, or when acquired will be, beneficially owned by the Assignor free from any Security Interest other than as created by this Deed (save for any Security Interest created pursuant to the Debentures).

10.3 No avoidance

This Deed creates the Security Interests which it purports to create and is not liable to be avoided or otherwise set aside on the liquidation or administration of the Assignor or otherwise.

10.4 Ownership of the Receivables

The Assignor is the sole legal and beneficial owner of the Receivables.

10.5 No proceedings pending or threatened

No litigation, arbitration or administrative proceeding has currently been started or threatened in relation to any Receivable.

10.6 Receivables

All Receivables:

- (a) arise from the Side Letter; and
- (b) constitute valid and binding obligations of Maddox.

10.7 Time when representations made

- (a) All the representations and warranties in this clause 10 are made by the Assignor on the date of this Deed and are also deemed to be made by the Assignor each day during the Security Period.
- (b) Each representation or warranty deemed to be made after the date of this Deed shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

11 Undertakings by the Assignor

11.1 Restrictions on dealing

The Assignor shall not do or agree to do any of the following without the prior written consent of the Assignee:

- (a) create or permit to subsist any Security Interest on any Receivable other than as created by this Deed (save for any Security Interest created by the Debentures); or
- (b) sell, transfer, lease, lend, assign, charge, factor or discount or in any other manner deal with or dispose of (whether by a single transaction or a number of transactions and whether related or not) the whole or any part of its interest in any Receivable; or
- (c) allow any other third party rights to arise over any part of any Receivable (whether by assignment, trust or otherwise).

11.2 General dealings with Receivables

The Assignor shall deal with the Receivables (both collected and uncollected) in accordance with this Deed.

11.3 General information

The Assignor shall provide to the Assignee:

- (a) such information as to the amount and nature of the Receivables as the Assignee may from time to time reasonably require (taking into account the requirements of the Debt Documents); and
- (b) any other information which the Assignee may reasonably request in relation to the Receivables.

11.4 Specific Information

Immediately upon becoming aware of the same, the Assignor shall inform the Assignee of any claim or notice relating to any Receivable received from any other party.

11.5 No prejudicial action

- (a) The Assignor shall not take or omit to take any action which will reduce or impede recoveries in respect of the Receivables.
- (b) The Assignor shall not do, cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any Receivable (or make any omission which has such an effect).

12 No obligations of Assignee

Without prejudice to clause 8 (*Liability of the Assignor relating to Receivables*) the Assignee shall not be obliged to:

- (a) enforce any Receivable against Maddox or any other person; or
- (b) make any enquiries as to the nature or sufficiency of any payment received by it pursuant to this Deed.

13 Power to remedy

13.1 Power to remedy

If at any time the Assignor does not comply with any of its obligations under this Deed, the Assignee (without prejudice to any other rights arising as a consequence of such non-compliance) shall be entitled (but not bound) to rectify that default. The Assignor irrevocably authorises the Assignee and its employees and agents by way of security to do all things (including entering the property of the Assignor) which are necessary or desirable to rectify that default.

13.2 Mortgagee in possession

The exercise of the powers of the Assignee under this clause 13 shall not render it liable as a mortgagee in possession.

13.3 Monies expended

The Assignor shall pay to the Assignee on demand any monies which are expended by the Assignee in exercising its powers under this clause 13.

14 When Security becomes enforceable

14.1 When enforceable

This Security shall become immediately enforceable upon the occurrence of an Event of Default and shall remain so for so long as such Event of Default is continuing.

14.2 Statutory powers

The power of sale and other powers conferred by section 101 of the Act (as amended or extended by this Deed) shall be immediately exercisable upon and at any time after the occurrence of any Event of Default and for so long as such Event of Default is continuing.

14.3 Enforcement

After this Security has become enforceable, the Assignee may in its absolute discretion enforce all or any part of the Security in such manner as it sees fit.

15 Enforcement of Security

15.1 General

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. Sections 93 and 103 of the Act shall not apply to the Security.

15.2 Powers of Assignee

- (a) At any time after the Security becomes enforceable, the Assignee may without further notice (unless required by law):
 - (i) (or if so requested by the Assignor by written notice at any time may) appoint any person or persons to be a receiver, receiver and manager or administrative receiver of all or any part of the Receivables and/or of the income of the Receivables; and/or
 - (ii) exercise all or any of the powers conferred on mortgagees by the Act (as amended or extended by this Deed) and/or all or any of the powers which are conferred by this Deed on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver.

15.3 Redemption of prior mortgages

At any time after the Security has become enforceable, the Assignee may:

- (a) redeem any prior Security Interest against any Receivable; and/or
- (b) procure the transfer of that Security Interest to itself; and/or
- (c) settle and pass the accounts of the holder of any prior Security Interest and any accounts so settled and passed shall be conclusive and binding on the Assignor.

All principal, interest, costs, charges and expenses of and incidental to any such redemption and/or transfer shall be paid by the Assignor to the Assignee on demand.

15.4 Privileges

- (a) Each Receiver and the Assignee is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers when such receivers have been duly appointed under the Act, except that section 103 of the Act does not apply.
- (b) To the extent that the Receivables constitute "*financial collateral*" and this Deed and the obligations of the Assignor under this Deed constitute a "*security financial collateral arrangement*" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)) each Receiver and the Assignee shall have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.

- (c) For the purpose of clause 15.4(b), the value of the financial collateral appropriated shall be such amount as the Receiver or Assignee reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

15.5 No liability

- (a) Neither the Assignee nor any Receiver shall be liable:
 - (i) in respect of all or any part of the Receivables; or
 - (ii) for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, its or his respective powers (unless such loss or damage is caused by its or his gross negligence or wilful misconduct).
- (b) Without prejudice to the generality of clause 15.5(a), neither the Assignee nor any Receiver shall be liable, by reason of entering into possession of any Receivable, 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 be liable.

15.6 Protection of third parties

No person (including a purchaser) dealing with the Assignee or any Receiver or its or his delegate or sub-delegate will be concerned to enquire:

- (a) whether the Secured Obligations have become payable; or
- (b) whether any power which the Assignee or Receiver is purporting to exercise has become exercisable; or
- (c) whether any money remains due under any Debt Document; or
- (d) how any money paid to the Assignee or to the Receiver is to be applied.

16 Receiver

16.1 Removal and replacement

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

16.2 Multiple Receivers

If at any time there is more than one Receiver of all or any part of the Receivables and/or the income of the Receivables, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

16.3 Remuneration

Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Assignee (or, failing such agreement, to be fixed by the Assignee).

16.4 **Payment by Receiver**

Only monies actually paid by a Receiver to the Assignee in relation to the Secured Obligations shall be capable of being applied by the Assignee in discharge of the Secured Obligations.

16.5 **Agent of Assignor**

Any Receiver shall be the agent of the Assignor. The Assignor shall (subject to the Companies Act 2006 and the Insolvency Act 1986) be solely responsible for his acts and defaults and for the payment of his remuneration. The Assignee shall incur no liability (either to the Assignor or to any other person) by reason of the appointment of a Receiver or for any other reason.

17 **Powers of Receiver**

17.1 **General powers**

Any Receiver shall have

- (a) all the powers which are conferred by the Act on mortgagees in possession and receivers appointed under the Act;
- (b) all the powers which are listed in schedule 1 of the Insolvency Act 1986; and
- (c) all powers which are conferred by any other law conferring power on receivers.

17.2 **Additional powers**

In addition to the powers referred to in clause 17.1 (*General powers*), a Receiver shall have the following powers:

- (a) to take possession of, collect and get in all or any part of the Receivables and/or income in respect of which he was appointed;
- (b) to manage the Receivables as he thinks fit;
- (c) to redeem any security and to borrow or raise any money and secure the payment of any money in priority to the Secured Obligations for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- (d) to sell or concur in selling, or otherwise disposing of all or any part of the Receivables in respect of which he was appointed without the need to observe the restrictions imposed by section 103 of the Act. The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party). Any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit;
- (e) to carry out any sale, or other disposal of all or any part of the Receivables by conveying, transferring or assigning the same in the name of the Assignor and, for that purpose, to enter into covenants and other contractual obligations in the name of, and so as to bind, the Assignor;
- (f) to take any such proceedings (in the name of the Assignor or otherwise) as he shall think fit in respect of the Receivables and/or income in respect of which he was appointed;

- (g) to enter into or make any such agreement, arrangement or compromise as he shall think fit;
- (h) to appoint and employ such managers and officers and engage such professional advisers as he shall think fit (including, without prejudice to the generality of the foregoing power, to employ his partners and firm);
- (i) to form one or more Subsidiaries of the Assignor, and to transfer to any such Subsidiary all or any part of the Receivables;
- (j) to:
 - (i) give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary or desirable for the realisation of any Receivables;
 - (ii) exercise in relation to the Receivables (or any part of them) all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Receivables; and
 - (iii) use the name of the Assignor for any of the above purposes.

18 Application of proceeds

18.1 Application

All monies received by the Assignee or any Receiver under or in connection with this Deed or the Receivables after the Security has become enforceable shall (subject to the rights and claims of any person having a security ranking in priority to the Security) be applied in the following order:

- (a) **first**, in satisfaction of, or provision for, all costs, charges and expenses incurred, and payments made by the Assignee or any Receiver and of all remuneration due to the Receiver in connection with this Deed or the Receivables;
- (b) **secondly**, in or towards the satisfaction of the remaining Secured Obligations; and
- (c) **thirdly**, in payment of any surplus to the Assignor or other person entitled to it.

18.2 Contingencies

If the Security is enforced at a time when no amounts are due under the Debt Documents (but at a time when amounts may become so due), the Assignee or a Receiver may pay the proceeds of any recoveries effected by it into a blocked suspense account.

19 Set-off

19.1 General

- (a) The Assignee may (but shall not be obliged to) set off any obligation which is due and payable by the Assignor under the Debt Documents and unpaid against any obligation (whether or not matured) owed by the Assignee to the Assignor, regardless of the place of payment, booking branch or currency of either obligation.
- (b) At any time after the Security has become enforceable (and in addition to its rights under clause 19.1(a)), the Assignee may (but shall not be obliged to) set-off any contingent liability owed by the Assignor under any Debt Document against any

obligation (whether or not matured) owed by the Assignee to the Assignor, regardless of the place of payment, booking branch or currency of either obligation.

- (c) If the obligations are in different currencies, the Assignee may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set off.
- (d) If either obligation is unliquidated or unascertained, the Assignee may set off in an amount estimated by it in good faith to be the amount of that obligation.

20 Delegation

Each of the Assignee and any Receiver may delegate, by power of attorney (or in any other manner) to any person, any right, power or discretion exercisable by it under this Deed upon any terms (including power to sub-delegate) which it may think fit. Neither the Assignee nor any Receiver shall be in any way liable or responsible to the Assignor for any loss or liability arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

21 Further assurances

The Assignor shall, at its own expense, promptly take whatever action the Assignee or a Receiver may require for:

- (a) creating, perfecting or protecting the Security Interests intended to be created by this Deed; and
- (b) facilitating the realisation of any Receivable or the exercise of any right, power or discretion exercisable by the Assignee, any Receiver or any of its or their delegates or sub-delegates in respect of any Receivable,

including the execution of any transfer, conveyance, assignment or assurance of any property whether to the Assignee or to its nominees, the giving of any notice, order or direction and the making of any registration, which in any such case, the Assignee may think expedient.

22 Power of attorney

The Assignor, by way of security, irrevocably and severally appoints the Assignee, each Receiver and any of its or their delegates or sub-delegates to be its attorney to take any action which the Assignor is obliged to take under this Deed, including under clause 21 (*Further assurances*). The Assignor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause.

23 Payments

23.1 Payments

Subject to clause 23.2 (*Gross-up*), all payments to be made by the Assignor in respect of this Deed shall be made:

- (a) in immediately available funds to the credit of such account as the Assignee may designate; and
- (b) without (and free and clear of, and without any deduction for or on account of):
 - (i) any set-off or counterclaim; or

- (ii) except to the extent compelled by law, any deduction or withholding for or on account of Tax.

23.2 Gross-up

If the Assignor is compelled by law to make any deduction or withholding from any sum payable under this Deed to the Assignee the sum so payable by the Assignor shall be increased so as to result in the receipt by the Assignee of a net amount equal to the full amount expressed to be payable under this Deed.

24 Stamp duty

The Assignor shall:

- (a) pay all present and future stamp, registration and similar Taxes or charges which may be payable, or determined to be payable, in connection with the execution, delivery, performance or enforcement of this Deed, or any judgment given in connection therewith; and
- (b) indemnify the Assignee and any Receiver on demand against any and all costs, losses or liabilities (including, without limitation, penalties) with respect to, or resulting from, its delay or omission to pay any such stamp, registration and similar Taxes or charges.

25 Costs and expenses

The Assignor shall promptly on demand pay to the Assignee and any Receiver the amount of all costs, charges and expenses (including, (without limitation) legal fees (and any VAT or similar Tax thereon)) incurred by it in connection with the enforcement, exercise or preservation (or the attempted enforcement, exercise or preservation) of any of its respective rights under this Deed or any document referred to in this Deed or the Security (including all remuneration of the Receiver).

26 Indemnity

The Assignor shall indemnify the Assignee any Receiver and any attorney, agent or other person appointed by the Assignee under this Deed and the Assignee's officers and employees (each an **Indemnified Party**) on demand against any cost, loss, liability or expense (however arising) incurred by any Indemnified Party as a result of or in connection with:

- (a) anything done or omitted in the exercise or purported exercise of the powers contained in this Deed;
- (b) the Receivables or the use or holding of them by any person; or
- (c) any breach by the Assignor of any of its obligations under this Deed.

27 Miscellaneous

27.1 Appropriation and suspense account

- (a) The Assignee may apply all payments received in respect of the Secured Obligations in reduction of any part of the Secured Obligations as it thinks fit. Any such appropriation shall override any appropriation by the Assignor.

- (b) All monies received, recovered or realised by the Assignee under, or in connection with, this Deed may at the discretion of the Assignee be credited to a separate interest bearing suspense account for so long as the Assignee determines (with interest accruing thereon at such rate, if any, as the Assignee may determine for the account of the Assignor) without the Assignee having any obligation to apply such monies and interest or any part thereof in or towards the discharge of any of the Secured Obligations.

27.2 New accounts

If the Assignee receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent Security Interest affecting any Receivable and/or the proceeds of sale of any Receivable, it may open a new account or accounts for the Assignor. If it does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received such notice. As from that time all payments made to the Assignee will be credited or be treated as having been credited to the new account and will not operate to reduce any amount of the Secured Obligations.

27.3 Changes to the Parties

- (a) The Assignor may not assign any of its rights under this Deed.
- (b) The Assignee may assign or transfer or grant participations in all or any part of its rights under this Deed in accordance with the 2023 Facilities Agreement. The Assignor shall, immediately upon being requested to do so by the Assignee, enter into such documents as may be necessary or desirable to effect such assignment or transfer.

27.4 Tacking

- (a) The Assignee shall perform its obligations under the Facilities Agreements (including any obligation to make available further advances).
- (b) This Deed secures advances already made and further advances to be made.

27.5 Amendments and waivers

Any provision of this Deed may be amended only if the Assignee and the Assignor so agree in writing and any breach of this Deed may be waived before or after it occurs only if the Assignee so agrees in writing. A waiver given or consent granted by the Assignee 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.

27.6 Calculations and certificates

A certificate of the Assignee specifying the amount of any Secured Obligation due from the Assignor (including details of any relevant calculation thereof) shall be *prima facie* evidence of such amount against the Assignor in the absence of manifest error.

27.7 Waiver, rights and remedies

No failure to exercise, nor any delay in exercising, on the part of the Assignee, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

28 Notices

28.1 Facilities Agreement

Clause 17 of the 2023 Facilities Agreement (*Notices*) (relating to all communications to be made under the 2023 Facilities Agreement) is incorporated into this Deed as if fully set out in this Deed except that references to the 2023 Facilities Agreement shall be construed as references to this Deed. The address and fax numbers of each Party for all communications or documents given under or in connection with this Deed are those notified from time to time by the relevant Party for the purposes of the 2023 Facilities Agreement.

29 Partial invalidity

All the provisions of this Deed are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

30 Release

30.1 Release

Upon the expiry of the Security Period (but not otherwise) the Assignee shall, at the request and cost of the Assignor, take whatever action is necessary to release or re-assign (without recourse or warranty) the Receivables from the Security.

30.2 Reinstatement

Where any discharge (whether in respect of the obligations of the Assignor or any security for those obligations or otherwise) is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is avoided or must be restored on insolvency, liquidation or otherwise (without limitation), the liability of the Assignor under this Deed shall continue as if the discharge or arrangement had not occurred. The Assignee may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

31 Counterparts

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures (and seals, if any) on the counterparts were on a single copy of this Deed.

32 Governing law

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

IN WITNESS of which this Deed has been duly executed by the Assignor as a deed and duly executed by the Assignee and has been delivered on the first date specified on page 1 of this Deed.

Schedule 1 Form of notice to and acknowledgement from Maddox

To: Maddox Holdings Limited

Dated: 2023

ASSIGNMENT OF RECEIVABLES DUE UNDER THE SIDE LETTER DATED [****] 2023 MADE BETWEEN FITNESS FIRST CLUBS LIMITED (ASSIGNOR) AND JAYNE ALISON BEST (ASSIGNEE)

- 1 In this letter, **Side Letter** shall mean the side letter made between the Assignor (**us**) and Maddox Holdings Limited (**you**) dated [****] 2023.
- 2 We give notice that, by an assignment of receivables dated [****] 2023 (the **Assignment**), we have assigned to the Assignee all our present and future right, title and interest in and to all future monetary claims and other monies now or in future payable by you to us under or pursuant to the Side Letter (whether actual or contingent and whether originally owing to the Assignor or purchased or otherwise acquired by it) together with:
 - (a) the benefit of all rights, guarantees, security interests and remedies relating to any of the foregoing (including, without limitation, negotiable instruments, indemnities, reservations of property rights, entitlements of interest, rights of tracing and unpaid vendor's liens and similar associated rights); and
 - (b) all proceeds of any of the foregoing.
- 3 We shall remain entitled to exercise all of our rights, powers and discretions in respect of the Receivables, and you should continue to give notices and make payments in respect of the Receivables to us, unless and until you receive notice from the Assignee to the contrary. In this event, all the rights, powers and discretions will be exercisable by, and notices must be given and payments must be made to, the Assignee or as they direct.
- 4 We irrevocably instruct and authorise you to disclose to the Assignee any information relating to the Receivables requested from you by the Assignee.
- 5 The instructions in this letter may not be revoked or amended without the prior written consent of the Assignee.
- 6 This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 7 Please acknowledge receipt of this letter by sending the attached acknowledgement to the Assignee at [REDACTED] with a copy to us.

Yours faithfully



for and on behalf of



FITNESS FIRST CLUBS LIMITED



Countersigned by



JAYNE ALISON BEST



[On copy]

To: Jayne Alison Best
as Assignee

Copy to: Fitness First Clubs Limited

We acknowledge receipt of the above notice (**Notice**). We confirm and agree to:

- (a) accept the instructions contained in the Notice and agree to comply with the Notice; and
- (b) give notices and make payments in respect of the Receivables as directed in the Notice.


for and on behalf of
Maddox Holdings Limited

Dated: 2023


Signature page

THE ASSIGNOR

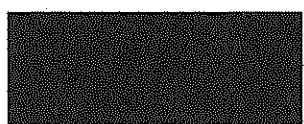
Executed as a deed, but not delivered until the)
first date specified on page 1, by **FITNESS**)
FIRST CLUBS LIMITED by a director in the)
presence of a witness:)

Signature 
DocuSigned by:
CB2312792F794AA...

Name (block capitals) ANTHONY RILEY
Director


Witness signature 
A9C56A89046B492...

Witness name LAURA DAVIES
(block capitals)

Witness address 

THE ASSIGNEE

Signed by **JAYNE ALISON BEST:**)
)

Signature 
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4551A16416AB4C6...