

MR01

Particulars of a charge

566139/13

Laserform

A fee is payable with this form.
Please see 'How to pay' on the
last page

You can use the WebFiling service to file this form online.
Please go to www.companieshouse.gov.uk

☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument

☒ **What this form is NOT for**
You may not use this form to
register a charge where there is n
instrument Use form MR08

FRIDAY



S450U3SB

SCT

10/04/2015

#246

COMPANIES HOUSE

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge. If delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery

☒ You **must** enclose a certified copy of the instrument with this form. This will be scanned and placed on the public record. **Do not send the original.**

1

Company details

Company number 0 5 8 7 2 1 2 1

Company name in full Embrace (Kler) Limited

For official use

→ **Filling in this form**

Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2

Charge creation date

Charge creation date 0 8 0 4 2 0 1 5

3

Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge

Name Barclays Bank plc

Name

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge

MR01

Particulars of a charge

4

Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument

Please submit only a short description if there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"

Please limit the description to the available space

Brief description

ALL and WHOLE the tenant's interest in the subjects known as and forming Tyneholm Stables Nursing Home, Pentcaitland, Tranent EH34 5DJ, registered in the Land Register of Scotland under Title Number ELN12660 together with (One) the whole buildings and erections thereon (Two) the fittings and fixtures therein and thereon (Three) the parts, privileges and pertinents thereof (Four) the whole rights common, mutual and exclusive effecting thereto and (Five) the Chargor's whole right, title and interest, present and future, therein and thereto

5

Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☐ Yes

☒ No

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☐ Yes Continue

☒ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge?
Please tick the appropriate box

☒ Yes

☐ No

8

Trustee statement ¹

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

¹ This statement may be filed after the registration of the charge (use form MR06)

9

Signature

Please sign the form here

Signature

Signature

X S S L L X

for and on behalf of Burness Paull LLP

This form must be signed by a person with an interest in the charge

MR01

Particulars of a charge



Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name DAVID HARRIS

Company name BURNES PAULL LLP

Address 120 BOTHWELL STREET

Post town GLASGOW

County/Region

Postcode G 2 7 J L

Country

DX GW154 GLASGOW

Telephone 0141 248 4933



Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register
- ☐ You have included a certified copy of the instrument with this form
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy



Important information

Please note that all information on this form will appear on the public record.



How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House'



Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:

For companies registered in England and Wales:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland:

The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland:

The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1



Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5872121

Charge code: 0587 2121 0012

The Registrar of Companies for England and Wales hereby certifies that a charge dated 8th April 2015 and created by EMBRACE (KLER) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th April 2015

Dx

Given at Companies House, Cardiff on 22nd April 2015



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

EXECUTION VERSION

Burness Paull


EMBRACE (KLER) LIMITED
as Chargor

and

BARCLAYS BANK PLC
as Security Agent for the Secured Parties

STANDARD SECURITY
in respect of leasehold subjects at Tyneholm Stables Nursing Home, Pencaitland, East
Lothian EH34 5DJ

Certified a true copy
Edinburgh 31.03.15


for and on behalf of Burness Paull LLP

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INSTRUMENT

by

- (1) **EMBRACE (KLER) LIMITED**, a company incorporated in England and Wales under the Companies Acts with registered number 05872121 and having its registered office at Part Ground Floor and First Floor, 2 Parklands Building, Parklands, Rubery, Birmingham B45 9PZ (the “Chargor”)

in favour of

- (2) **BARCLAYS BANK PLC**, a company incorporated in England and Wales under the Companies Acts with registered number 01026167 and having its registered office at 1 Churchill Place, London, E14 5HP as security trustee for the Secured Parties (“Security Agent”) which term shall include any person appointed as security trustee or as an additional trustee in accordance with the terms of the Intercreditor Agreement.

NOW IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Instrument:

“Event of Default” has the meaning given to it in the Facilities Agreement;

“Facilities Agreement” means the facilities agreement between the Parent as Original Borrower, the Parent, the Chargor and others as Original Guarantors; Barclays Bank PLC as Arranger, Barclays Bank PLC as Original Lender; and Barclays Bank PLC as Agent and Security Agent and dated on or about the date of the Chargor’s execution of this Instrument under which the Lenders agree to make available to the Borrower a term loan and revolving credit facility;

“Finance Document” has the meaning given to it in the Facilities Agreement;

“Finance Parties” has the meaning given to it in the Facilities Agreement;

“Intercreditor Agreement” has the meaning given to it in the Facilities Agreement;

“Obligor” has the meaning given to it in the Facilities Agreement,

“Parent” means Embrace Group Limited (registered in England with number 08948604);

“Secured Obligations” means all monies and liabilities now or after the date of this Instrument due, owing or incurred by all Obligor, or by 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 unlawful financial assistance, or its equivalent in any other jurisdiction;

"Security" has the meaning given to it in the Facilities Agreement; and

"Security Subjects" means ALL and WHOLE the tenant's interest in the subjects known as and forming Tyneholm Stables Nursing Home, Pentcailand, Tranent EH34 5DJ, registered in the Land Register of Scotland under Title Number ELN12660 together with (One) the whole buildings and erections thereon (Two) the fittings and fixtures therein and thereon (Three) the parts, privileges and pertinents thereof (Four) the whole rights common, mutual and exclusive effeiring thereto and (Five) the Chargor's whole right, title and interest, present and future, therein and thereto.

1.2 Construction

- 1.2.1 Capitalised terms defined in the Facilities Agreement have, unless expressly defined in this Instrument, the same meaning in this Instrument.
- 1.2.2 The provisions of clause 1.2 (Construction) of the Facilities Agreement apply to this Instrument as though they were set out in full in this Instrument except that references to the Facilities Agreement are to be construed as references to this Instrument
- 1.2.3 A Finance Document or other document includes (without prejudice to any prohibition on amendments) all amendments however fundamental to that Finance Document or other document, including any amendment providing for any increase in the amount of a facility or any additional facility.
- 1 2 4 If the Security Agent considers that an amount paid to it or any Finance Party is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Instrument.

2 BOND

The Chargor undertakes to the Security Agent for itself and as trustee for the Secured Parties that it will pay or discharge to the Security Agent all the Secured Obligations on demand in writing when the Secured Obligations become due for payment or discharge in accordance with the terms of the Finance Documents.

3 CHARGING PROVISIONS

3 1 General

The Security created by the Chargor under Clause 4 is:

- 3.1.1 a continuing security for the payment and discharge of the Secured Obligations;
- 3.1.2 granted with absolute warrandice,
- 3 1 3 granted in respect of all the right, title and interest (if any), present and future, of the Chargor in and to the Security Subjects,
- 3 1 4 granted in favour of the Security Agent as security agent for the Finance Parties;
- 3.1.5 granted pursuant to clause 24.32 (Further Assurance) of the Facilities Agreement.

4 CHARGE

The Chargor hereby in security of the Secured Obligations grants a standard security in favour of the Security Agent over the Security Subjects.

5 CONTINUING SECURITY

5 1 Continuing security

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

5 2 Recourse

The Security constituted by this Instrument:

- 5 2.1 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
- 5 2 2 may be enforced without first having recourse to any other rights of any Finance Party.

6 STANDARD CONDITIONS

6.1 The Standard Conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970, and any lawful variation thereof operative for the time being, shall apply and the Chargor agrees that the Standard Conditions shall be varied to the effect that:

6.1.1 subject to Clause 6.2, the Chargor shall not create or permit to subsist any Security over the Security Subjects;

6.1.2 the insurance to be effected in terms of Standard Condition 5(a) shall provide cover to the extent of the reinstatement value of the Security Subjects and not their open market value, and

6.1.3 wherever and to the extent that the provisions of this Instrument (including the Standard Conditions) are inconsistent with the terms of the Facilities Agreement, the terms of the Facilities Agreement shall prevail and that to such extent the provisions of this Instrument (including the Standard Conditions) shall be varied by the terms of the Facilities Agreement.

6.2 Clause 6.1.1 does not apply to any Security or arrangement which is expressly permitted pursuant to clause 24.14(c) (Negative pledge) of the Facilities Agreement.

7 ENFORCEMENT

Upon the occurrence of an Event of Default, which is continuing, and the Security Agent giving due notice to the Chargor that this Standard Security is enforceable

7.1 the Chargor, shall be held to be in default within the meaning of Standard Condition 9(1)(b) of the Standard Conditions; and

7.2 the Security Agent shall be able to take warrant of ejection against the Chargor, for the purposes of obtaining possession of the Security Subjects.

8 HERITABLE CREDITOR IN POSSESSION - NO LIABILITY

Without prejudice to the obligation to take all reasonable steps to ensure that the price at which all or any part of the Security Subjects are sold is the best that can be reasonably obtained and provided such steps have been taken, the Security Agent will not be liable, by reason of entering into possession of the Security Subjects, to account as heritable creditor in possession or for any loss on realisation or for any default or omission for which a heritable creditor in possession might otherwise be liable.

9 SECURITY POWER OF ATTORNEY

9.1 The Chargor, by way of security, irrevocably appoints the Security Agent and any of its delegates or sub-delegates to be its attorney to:

9.1.1 (if no Default or Event of Default is continuing) take any action which the Chargor is obliged to take under this Instrument and which the Chargor has not taken themselves within the time period reasonably requested by the Security Agent, and

9.1.2 (if a Default or Event of Default is continuing) take any action which the Chargor is obliged to take under this Instrument

9.2 The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this Clause 9.

10 DELEGATION

10.1 The Security Agent 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 under this Instrument 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 may think fit.

10.2 The Security Agent will not be liable or responsible to the 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.

11 APPLICATION OF MONIES

11.1 All monies received by the Security Agent under this Instrument shall be applied in accordance with the Intercreditor Agreement.

11.2 The Security Agent may place any money received, recovered or realised pursuant to this Instrument 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

12 REMEDIES AND WAIVERS

12.1 No failure to exercise, nor any delay in exercising, on the part of the Security Agent, any right or remedy under this Instrument shall operate as a waiver or any such right or remedy or constitute an election to affirm this Instrument. No election to affirm this Instrument on the part of the Security Agent 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 Instrument are cumulative and not exclusive of any rights or remedies provided by law.

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

13 PROTECTION OF THIRD PARTIES

- 13.1 No person (including a purchaser) dealing with the Security Agent or its agents has an obligation to enquire of the Security Agent or others:

13.1.1 whether the Secured Obligations have become payable;

13.1.2 whether any power purported to be exercised has become exercisable;

13.1.3 whether any Secured Obligations or other monies remain outstanding;

13.1.4 how any monies paid to the Security Agent shall be applied, or

13.1.5 the status, propriety or validity of the acts of the Security Agent.

- 13.2 The receipt of the Security Agent 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.

- 13.3 In Clauses 13.1 and 13.2 “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 Security Subjects or any part of them.

14 ADDITIONAL SECURITY

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

15 SETTLEMENTS CONDITIONAL

- 15.1 If the Security Agent (acting reasonably) believes that any amount paid by the 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 Instrument, such amount shall not be considered to have been paid.

- 15.2 Any settlement, discharge or release between the Chargor and any Finance Party shall be conditional upon no Security or payment to or for that Finance Party by the 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

16 SUBSEQUENT SECURITY

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

17 NOTICES

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

18 INVALIDITY

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

19 ASSIGNMENT

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

20 ENFORCEMENT

20.1 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Instrument (including a dispute relating to the existence, validity or termination of this Instrument or any non-contractual obligation arising out of or in connection with this Instrument) (a "**Dispute**").

20.2 The Chargor confirms that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly the Chargor will not will argue to the contrary.

20.3 This Clause 20 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.

21 CERTIFICATES AND DETERMINATIONS

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

22 CONSENT TO REGISTRATION

The Chargor hereby consents to the registration of this Instrument and of any such certificate for preservation and execution. IN WITNESS WHEREOF these presents consisting of this and the preceding 7 pages are executed as follows:

THE CHARGOR

SUBSCRIBED for and on behalf of
the said EMBRACE (KLER) LIMITED

at 50 New Bond Street, London

on 26/03/2015

by DAVID MANSON

Print Full Name



Director

before this witness

JENNIFER RAWLINS

Print Full Name



Witness

Address

Pinsent Masons LLP
3 Colmore Circus
Birmingham
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