

CHFP025

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COMPANIES FORM No. 155(6)a

Declaration in relation to assistance for the acquisition of shares

155(6)a

Drury SA

**Please complete
legibly, preferably
in black type, or
bold block lettering**

**To the Registrar of Companies
(Address overleaf - Note 5)**

For official use

Company number

02689545

Note
Please read the notes
on page 3 before
completing this form

Name of company

* Springs Community Limited

* insert full name
of company

XWe 0 Mr John Craig Hughes
Mr Kenneth Adrian Raymond Wilson

Ø insert name(s) and address(es) of all the directors

For further information on the Directors including addresses see
Schedule 1

† delete as appropriate

~~One or more~~ [all the directors] † of the above company do solemnly and sincerely declare that

The business of the company is

§ delete whichever
is inappropriate

~~XXXXXXXXXX000000000000000000000000XXXXXX0000000000000000XXXXXX0000000000000000XXXXXX~~

[illegible]

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

(c) something other than the above §

The company is proposing to give financial assistance in connection with the acquisition of shares in the

~~XXXXXX~~ [company's holding company Cygnet 2002 Limited by Cygnet Inter-Holdings

Limited

The assistance is for the purpose of [that acquisition] XXXXXXXX XXXXXXXX XXXXXXXX XXXXXXXX XXXXXXXX XXXXXXXX XXXXXXXX XXXXXXXX XXXXXXXX XXXXXXXX

~~XXXXXXXXXXXXXXXXXXXX~~ †

The number and class of the shares acquired or to be acquired is

69,077,391 'A' ordinary shares and 1,050,000 'B' ordinary shares

Presentor's name address and
 reference (if any)
 Berwin Leighton Paisner LLP
 Adelaide House
 London Bridge
 London
 EC4R 9HA

92 Chancery Lane
6056763

For official Use
General Section

MONDAY



A15

AO4SKXW7

10/03/2008

COMPANIES HOUSE

162

The assistance is to be given to (note 2) Cygnat Inter - Holdings Limited
179 Kings Road, Kingston, Surrey, KT2 5JH

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Please complete
legibly, preferably
in black type, or
bold block
lettering

The assistance will take the form of

See Schedule 2

The person who ~~XXXXXXX~~ (will acquire) † the shares is

† delete as
appropriate

Cygnat Inter - Holdings Limited

The principal terms on which the assistance will be given are

See Schedule 3

The amount of cash to be transferred to the person assisted is £ nil

The value of any asset to be transferred to the person assisted is £ Nil

The date on which the assistance is to be given is within 8 weeks of the date hereof

* delete either (a) or (b) as appropriate

[illegible]

Declarants to sign below

A Commissioner for Oaths or Notary Public or Justice of the Peace or a Solicitor having the powers conferred on a Commissioner for Oaths

The Registrar of Companies
37 Castle Terrace
Edinburgh
EH1 2EB

Drum

The assistance is to be given to (note 2) Cygnat Inter - Holdings Limited
179 Kings Road, Kingston, Surrey, KT2 5JH

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See Schedule 2

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Cygnat Inter - Holdings Limited

† delete as
appropriate

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See Schedule 3

The amount of cash to be transferred to the person assisted is £ nil

The value of any asset to be transferred to the person assisted is £ Nil

The date on which the assistance is to be given is within 8 weeks of the date hereof

**Please complete
legibly, preferably
in black type, or
bold block lettering**

* delete either (a) or (b) as appropriate

(a) ~~We~~ We have formed the opinion that the company will be able to pay its debts as they fall due during the year immediately following that date]* (note 3)

[illegible]

And ~~X~~we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835

Declared at

OSBORNE CLARKE
200 PAGE MILL ROAD
SUITE 100
PALO ALTO, CA 94306

Declarants to sign below

Day Month Year
on 2/8/02 2/9/08

before me

A Commissioner for Oaths or Notary Public or Justice of the Peace or a Solicitor having the powers conferred on a Commissioner for Oaths

NOTES

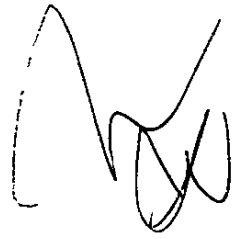
- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given, if a recipient is a company the registered office address should be shown
- 3 Contingent and prospective liabilities of the company are to be taken into account - see section 156(3) of the Companies Act 1985
- 4 The auditors report required by section 156(4) of the Companies Act 1985 must be annexed to this form
- 5 The address for companies registered in England and Wales or Wales is -

The Registrar of Companies
Companies House
Crown Way
Cardiff
CF14 3UZ

or, for companies registered in Scotland -

The Registrar of Companies
37 Castle Terrace
Edinburgh
EH1 2EB

Springs Community Limited
Schedule 1

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a series of loops and a final upward stroke.

Mr John Craig Hughes
41A Lansdowne Crescent
London
W11 2NT

Mr Kenneth Adrian Raymond Wilson
179 Kings Road
Kingston Upon Thames
Surrey
KT2 5JH

Springs Community Limited

Schedule 1

A handwritten signature in black ink, appearing to be 'dmy' or similar, written in a cursive style.

SPP

Mr John Craig Hughes

41A Lansdowne Crescent

London

W11 2NT

Mr Kenneth Adrian Raymond Wilson

179 Kings Road

Kingston Upon Thames

Surrey

KT2 5JH

SCHEDULE 2 TO FORM 155(6)(a)

SPRINGS COMMUNITY LIMITED

("the Company" or referred to as "Springs Community Limited")

Unless otherwise specified, defined terms used in this schedule shall have the meaning given to them in the document to which they relate. References to clauses are references to clauses in the relevant document.

1 The form of financial assistance

The assistance will take the form of:

1.1 the execution, delivery and performance of an accession letter by the Company (the "PropCo Facilities Accession Letter") by which it will accede to the terms of a facilities agreement dated 22 February 2008 between Cynet PropCo Limited (as Borrower), The Royal Bank of Scotland plc (acting as agent for National Westminster Bank plc) (Arranger, Agent and Security Trustee), National Westminster Bank plc as Hedge Counterparty and National Westminster Bank plc, The Governor and Company of the Bank of Ireland, Allied Irish Banks plc and AIB Group (UK) plc (as Original Lenders) (the "PropCo Facilities Agreement"). The PropCo Facilities Agreement provides for facilities of £145,000,000 (the "PropCo Facilities"). Pursuant to the terms of the PropCo Facilities Agreement, Springs Community Limited will provide a guarantee in respect of the PropCo Facilities. The PropCo Facilities shall be used to lend to Cynet Inter-Holdings Limited the purchase considerations which will then be on-lent to Cynet 2002 Limited for the acquisition of the shares of Cynet 2002 Limited and the subsequent acquisition by Cynet Inter-Holdings Limited of Cynet 2002 Limited from Cynet 2008 Limited,

1.2 the execution, delivery and performance of an accession letter (the "OpCo Facilities Accession Letter") by which Springs Community Limited will accede to the terms of a facilities agreement dated 22 February 2008 between Cynet Health Care Limited and Cynet PropCo II Limited (as Original Borrowers), The Royal Bank of Scotland plc (acting as agent for National Westminster Bank plc) (Arranger, Agent and Security Trustee), National Westminster Bank plc, The Governor and Company of the Bank of Ireland, Allied Irish Banks plc and AIB Group (UK) plc (as Original Lenders) (the "OpCo Facilities Agreement"). The OpCo Facilities Agreement provides for facilities of £20,000,000 (the "OpCo Facilities")

Pursuant to the terms of the OpCo Facilities Agreement, Springs Community Limited will provide a guarantee in respect of the OpCo Facilities,

1.3 the execution and delivery of a debenture by Cynet PropCo Limited, Cynet PropCo Holdco Limited, Cynet 2008 Limited, Cynet Inter-Holdings Limited, Cynet 2002 Limited, Cynet Health Care Limited, Cynet PropCo HoldCo II Limited, Cynet PropCo II Limited, Cynet 2000 Limited, Springs Community Limited and Cynet (Bristol) Limited (each a Chargor and together the Chargors) in favour of The Royal Bank of Scotland plc acting as agent for National Westminster Bank plc) as Security Trustee (the "PropCo Debenture") pursuant to which Springs Community Limited will grant fixed and floating charges over all of its properties, assets and undertakings in favour of the Security Trustee to secure the obligations and liabilities under the PropCo Facilities Agreement,

1.4 the execution and delivery of a debenture by the Cynet PropCo Limited, Cynet Health Care Limited, PropCo II Limited, Cynet 2002 Limited, Cynet PropCo HoldCo II Limited, Cynet 2000 Limited, Springs Community Limited, Cynet (Bristol) Limited, Cynet PropCo HoldCo Limited, Cynet 2008 Limited, and Cynet Inter-Holdings Limited (each a Chargor and together the Chargors) in favour of The Royal Bank of Scotland plc acting as agent for National Westminster Bank plc) as Security Trustee (the "OpCo Debenture") pursuant to which Springs Community Limited will grant fixed and floating charges over all of its properties, assets and undertakings in favour of the Security Trustee to secure the obligations and liabilities under the OpCo Facilities Agreement;

1.5 the execution, delivery and performance of an intercreditor and security trust deed between, among others, Cynet 2008 Limited, Cynet PropCo Limited, Cynet PropCo II Limited, Cynet Health Care Limited, Cynet 2002 Limited, Springs Community Limited and the Royal Bank of Scotland plc as agent for National Westminster Bank plc (as Security Trustee and in various other capacities) (the "Intercreditor Deed") under which Springs Community Limited agrees to grant a right and priority of the repayment of liabilities incurred under each of the PropCo Facilities Agreement and the OpCo Facilities Agreement before any indebtedness is repaid to it,

1.6 the execution, delivery and performance of a tax and costs facility deed between Cynet Health Care Limited (as Funder), Cynet PropCo Limited, The Royal Bank of Scotland plc (acting as agent for National Westminster Bank plc) as Security Trustee and Cynet Inter-Holdings Limited, and Cynet 2002 Limited, Cynet Health Care Limited, Cynet PropCo HoldCo II Limited, Cynet PropCo II Limited, Cynet 2000 Limited, Springs Community Limited and Cynet (Bristol) Limited (as Guarantors) (the "Tax and Costs Facility Deed")

Company Number 02689545

SRP

SCHEDULE 2 TO FORM 155(6)(a)

SPRINGS COMMUNITY LIMITED

("the Company" or referred to as "Springs Community Limited")

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Pursuant to the terms of the OpCo Facilities Agreement, Springs Community Limited will provide a guarantee in respect of the OpCo Facilities,

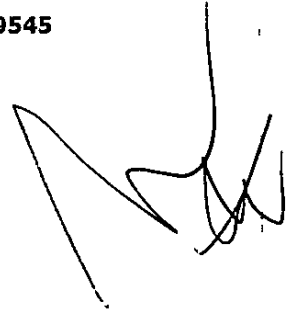
1.3 the execution and delivery of a debenture by Cygnet PropCo Limited, Cygnet PropCo HoldCo Limited, Cygnet 2008 Limited, Cygnet Inter-Holdings Limited, Cygnet 2002 Limited, Cygnet Health Care Limited, Cygnet PropCo HoldCo II Limited, Cygnet PropCo II Limited, Cygnet 2000 Limited, Springs Community Limited and Cygnet (Bristol) Limited (each a Chargor and together the Chargors) in favour of The Royal Bank of Scotland plc acting as agent for National Westminster Bank plc as Security Trustee (the "**PropCo Debenture**") pursuant to which Springs Community Limited will grant fixed and floating charges over all of its properties, assets and undertakings in favour of the Security Trustee to secure the obligations and liabilities under the PropCo Facilities Agreement,

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Company Number 02689545

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SCHEDULE 3

SPRINGS COMMUNITY LIMITED

(the "Company" or referred to as "SPRINGS COMMUNITY")



SPP

SCHEDULE 3

SPRINGS COMMUNITY LIMITED

(the "Company" or referred to as "SPRINGS COMMUNITY")

SCHEDULE 3

All defined terms have the meanings set out in Schedule 4

The principal terms of the financial assistance in respect of those documents to which the Company is a party, are set out below:

FACILITY AGREEMENTS

The satisfaction by PropCo of the conditions precedent under the PropCo Facilities Agreement to enable PropCo to drawdown on that facility and utilize funds available from such drawdown for the purpose of (inter alia) making the loan to CIH pursuant to a PropCo-CIH Inter-Company Loan referred to in more detail below.

1 Under the PropCo Facilities Agreement:

- 1.1 An indemnity from the Company to each PropCo Finance Party against any cost, loss or liability arising out of or as a result of the conversion of any sum from the Company under the PropCo Finance Documents (a "Sum") from one currency to another for the purpose of:
- making or filing a claim or proof against the Company, or
 - obtaining or enforcing an order, judgement or award in relation to any litigation or arbitration proceedings,
- under the PropCo Finance Documents, or any order judgement or award given or made in relation to a Sum which has to be converted.
- 1.2 The Company waives any right it may have in any jurisdiction to pay any amount under the PropCo Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.
- 1.3 The Company shall within five Business Days of demand, indemnify each PropCo Finance Party against any cost, loss or liability incurred by that PropCo Finance Party as a result of.
- 1.3.1 the occurrence of any PropCo Event of Default,
- 1.3.2 a failure by a PropCo Obligor to pay any amount due under a PropCo Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 30 (Sharing Among the Finance Parties) of the PropCo Facilities Agreement;
- 1.3.3 funding, or making arrangements to fund its participation in a PropCo Loan requested by the PropCo Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of the PropCo Facilities Agreement (other than by reason of default or negligence by that PropCo Finance Party alone);
- 1.3.4 a PropCo Loan (or part of a PropCo Loan) not being prepaid in accordance with a notice of prepayment given by the PropCo Borrower;
- 1.3.5 any liability under Environmental Law relating (directly or indirectly) to any Group Property or any other asset owned by a PropCo Obligor not arising from that PropCo Finance Party's own negligence or wilful default; or

- 1.3.6 any litigation commenced by any person against a PropCo Finance Party (other than a Finance Party) arising as a result of any transaction contemplated by the PropCo Finance Documents.
- 1.3.7 The PropCo Borrower shall within five Business Days of demand indemnify each PropCo Finance Party, each Affiliate of a PropCo Finance Party and each officer or employee of a PropCo Finance Party or its Affiliate, against any cost, loss or liability incurred by that PropCo Finance Party or its Affiliate (or officer or employee of that PropCo Finance Party or Affiliate) in connection with or arising out of the Acquisition or the funding of the Acquisition (including but not limited to those incurred in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry concerning the Acquisition), unless such loss or liability is caused by the gross negligence or wilful misconduct of that PropCo Finance Party or its Affiliate (or employee or officer of that PropCo Finance Party or Affiliate). Any Affiliate or any officer or employee of a PropCo Finance Party or its Affiliate may rely on the Clause.
- 1.3.8 The Company shall within 5 Business Days of demand indemnify the PropCo Agent against any cost, loss or liability incurred by the PropCo Agent as a result of:
- (a) investigating any event which it reasonably believes is a Default (as defined in the PropCo Facilities Agreement) (having regard to any information provided by the PropCo Borrower); or
 - (b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.
- 1.3.9 The Company shall within 5 Business Days of demand indemnify the Security Trustee against any cost, loss or liability incurred by the Security Trustee as a result of:
- (a) the taking, holding, protection or enforcement of the Transaction Security,
 - (b) the exercise of any of the rights, powers, discretions and remedies vested in the Security Trustee by the PropCo Finance Documents or by law; and
 - (c) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the PropCo Finance Documents.
- 1.3.10 The Security Trustee may, in priority to any payment to the Finance Parties, indemnify itself out of the assets of the PropCo Obligors which are expressed to be subject to the terms of the Security Documents in respect of, and pay and retain, all sums necessary to give effect to the indemnity in Clause 14.4 of the PropCo Facilities Agreement and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all monies payable to it.
- 1.4 **Guarantee and indemnity**
- The Company, jointly and severally with the other PropCo Guarantors, irrevocably and unconditionally:
- 1.4.1 guarantees to each PropCo Finance Party punctual performance by each other PropCo Obligor of all of that PropCo Obligor's obligations under the PropCo Finance Documents;
- 1.4.2 undertakes with each PropCo Finance Party that whenever another PropCo Obligor does not pay any amount when due under or in connection with any PropCo Finance Document, the Company shall immediately on demand by the Security Trustee pay that amount as if it was the principal PropCo Obligor; and

- 1.4.3 indemnifies each PropCo Finance Party immediately on demand by the Security Trustee against any cost, loss or liability suffered by that PropCo Finance Party if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which that PropCo Finance Party would otherwise have been entitled to recover

1.5 Continuing guarantee

The guarantee is a continuing guarantee and shall extend to the ultimate balance of sums payable by any PropCo Obligor under the PropCo Finance Documents, regardless of any intermediate payment or discharge in whole or in part

1.6 Reinstatement

- 1.6.1 If any payment by any PropCo Obligor or any discharge given by a PropCo Finance Party (whether in respect of the obligations of any PropCo Obligor or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event.

- (a) the liability of the Company shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- (b) each PropCo Finance Party shall be entitled to recover the value or amount of that security or payment from the Company, as if the payment, discharge, avoidance or reduction had not occurred.

1.7 Waiver of defences

- 1.7.1 The obligations of the Company under Clause 17 (*Guarantee and Indemnity*) of the PropCo Facilities Agreement shall not be affected by an act, omission, matter or thing which, but for Clause 17 of the PropCo Facilities Agreement, would reduce, release or prejudice any of its obligations under Clause 17 (*Guarantee and Indemnity*) of the PropCo Facilities Agreement (without limitation and whether or not known to it or any PropCo Finance Party) including:

- (a) any time, waiver or consent granted to, or composition with, any PropCo Obligor or other person;
- (b) the release of any other PropCo Obligor or any other person under the terms of any composition or arrangement with any creditor of any PropCo Obligor;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any PropCo Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any PropCo Obligor or any other person;
- (e) any amendment (however fundamental) or replacement of a PropCo Finance Document or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any PropCo Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

1.8 **PropCo Guarantor Intent**

Without prejudice to the generality of Clause 17.4 (*Waiver of Defences*) of the PropCo Facilities Agreement, the Company expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the PropCo Finance Documents and/or any facility or amount made available under any of the PropCo Finance Documents for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making a PropCo Facility available to new borrowers under the PropCo Facilities Agreement any other variation or extension of the purposes for which any such facility or amount might be made available from time to time, and any fees, costs and/or expenses associated with any of the foregoing.

1.9 **Immediate recourse**

The Company waives any right it may have of first requiring any PropCo Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Company under Clause 17 (*Guarantee and indemnity*) of the PropCo Facilities Agreement. This waiver applies irrespective of any law or any provision of a PropCo Finance Document to the contrary.

1.10 **Appropriations**

1.10.1 Until all amounts which may be or become payable by the PropCo Obligors under or in connection with the PropCo Finance Documents have been irrevocably paid in full, each PropCo Finance Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that PropCo Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no PropCo Guarantor (including the Company) shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from any PropCo Guarantor or on account of any PropCo Guarantor's liability (including the Company) under Clause 17 of the PropCo Facilities Agreement.

1.11 **Deferral of PropCo Guarantors' rights**

1.11.1 Until all amounts which may be or become payable by the PropCo Obligors under or in connection with the PropCo Finance Documents have been irrevocably paid in full and unless the Security Trustee otherwise directs in writing, no PropCo Guarantor (including the Company) shall exercise any rights which it may have by reason of performance by it of its obligations under the PropCo Finance Documents

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

1.11.2 If a PropCo Guarantor (including the Company) receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the

extent necessary to enable all amounts which may be or become payable to the PropCo Finance Parties by the PropCo Obligor under or in connection with the PropCo Finance Documents to be repaid in full on trust for the PropCo Finance Parties and shall promptly pay or transfer the same to the Agent as the Agent may direct for application in accordance with Clause 30 (*Payment mechanics*) of the PropCo Facilities Agreement

1.12 Waiver

- 1.12.1 The Company waives any rights of subrogation, counter-indemnity or claim for contribution which it may have by reason of performance by it of its obligations under any PropCo Finance Document in relation to the rights of the PropCo Finance Parties under the PropCo Finance Documents.

1.13 Tax Indemnity

- 1.13.1 The Company shall (within five Business Days of demand by the PropCo Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines (acting in good faith) shall be or has been (directly or indirectly) suffered for on account of Tax by that Protected Party in respect of a PropCo Finance Document (other than a Hedge Document).

- 1.13.2 The indemnity contained with clause 12.3.1 of the PropCo Facilities Agreement shall not apply:

(a) with respect to any Tax assessed on a PropCo Finance Party:

- (i) under the law of the jurisdiction in which that PropCo Finance Party is incorporated or, if different, the Jurisdiction (or jurisdictions) in which that PropCo Finance Party is treated as resident for Tax purposes; or
- (ii) under the law of the jurisdiction in which that PropCo Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that PropCo Finance Party; or

(b) to the extent a loss, liability or cost

- (i) is compensated for an increased payment under Clause 12.2 (*Tax Gross Up*) of the PropCo Facilities Agreement; or
- (ii) would have been compensated for an increased payment under Clause 12.2 (*Tax Gross Up*) of the PropCo Facilities Agreement but was not so compensated solely because of one of the exclusions in Clause 12.2.4 (*Tax Gross Up*) of the PropCo Facilities Agreement applied.

1.14 Stamp taxes

The Company shall pay and, within five Business Days of demand, indemnify each PropCo Finance Party against any cost, loss or liability each PropCo Finance Party may incur in relation to any stamp duty land tax, stamp duty or other similar registration or documentary taxes or duties payable in respect of, or in order to register or enforce, any PropCo Finance Document (other than any such taxes or duties which are payable on or as a result of any transfer, assignment or novation by any PropCo Finance Party of its rights and obligations under the PropCo Facilities Agreement), save that a PropCo Finance Party may only recover once in respect of the same cost, loss or liability.

1.15 **Value Added Tax**

Where a PropCo Finance Document requires any Party to reimburse a PropCo Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify the PropCo Finance Party against all VAT incurred by the PropCo Finance Party in respect of the costs or expenses to the extent that the PropCo Finance Party reasonably determines that it is not entitled to credit or repayment from the relevant Tax Authority in respect of the VAT.

1.16 **Limitation of liability**

The Company shall indemnify each PropCo Finance Party for all costs and expenses reasonably incurred by that PropCo Finance Party as a result of steps taken by it under Clause 15.1 (*Mitigation*) of the PropCo Facilities Agreement.

1.17 **Pay, rents, charges and outgoings**

The Company shall to the extent not paid by OpCo punctually pay or cause to be paid and indemnify (see clause 23.14 of the PFA).

2 **General Undertakings**

Pursuant to the PropCo Facilities Agreement, the Company has, subject to the satisfaction of the relevant Conditions Precedent (including without limitation, the approval of the acceptance of the terms of the facility in accordance with sections 155 -158 of the Companies Act 1985) agreed to observe the following undertakings.

2.1 **Obtaining and Complying with Authorisations,**

The Company complying with all laws to which it may be subject, if failure so to comply would have a Material Adverse Effect

2.2 **Negative pledge**

2.2.1 The Company not creating or permitting to subsist any Security over the whole or any part of its assets subject to certain exceptions including:

- (a) Security arising under any PropCo Finance Document or the Opco Group Security Documents,
- (b) any lien arising by operation of law and in the ordinary course of trading.

2.3 **Disposals**

2.3.1 The Company not entering into a transaction or transactions to convey, sell, lease, transfer or otherwise dispose of the whole or any part of its assets, without the prior written consent of the Agent (acting on the instruction of all the PropCo Lenders), subject to certain exceptions including disposals arising from

- (a) a Compulsory Purchase, a disposal which is the grant of, or agreement to grant, any Occupational Lease entered in accordance with Clause 23.3 (*Occupational Leases*) of the PropCo Facilities Agreement; or
- (b) which is the disposal of equipment, furnishings, machinery or plant in exchange for other assets of equivalent or better type and quality;

2.3.2 Without prejudice to the provisions of Clause 22.4 1 of the PropCo Facilities Agreement, the PropCo Borrower shall not dispose of a Group Property in order to substitute it for other property without the prior written consent of the Agent (acting on the instructions of all the

PropCo Lenders) and on terms satisfactory to the Agent (acting on the instructions of all the PropCo Lenders).

2.4 Financial Indebtedness

- 2.4.1 The Company shall not, without the prior written consent of the Agent (acting on the instructions of all the PropCo Lenders) permit any Financial Indebtedness to be outstanding to it by, or make any loan or other form of credit available to, any person incurring or have outstanding any Financial Indebtedness to any other person; or paying or discharging (including, without limitation, by way of set-off or combination of accounts), or grant any guarantee, indemnity, bond, letter of credit or other assurance against financial loss in support of, any indebtedness owed by it or any other person.

2.5 Conduct of business

- 2.5.1 The Company having any Subsidiary which is not itself a PropCo Obligor (other than an Excluded Company), or
- 2.5.2 entering into any amalgamation, demerger, merger or corporate reconstruction, or
- 2.5.3 transaction except on an arm's length basis and for full market value, other than subject to the terms of the Intercreditor Deed.
- 2.5.4 The Company incurring or permitting to subsist any liability, obligation or indebtedness (including, without limitation, any right of contribution, indemnity or subrogation) to any member of the Opco Group which is not a Subordinated Creditor.
- 2.5.5 The Company only carrying on the business of conducting the business of acquiring, managing, letting and owning the PropCo Properties and not including liabilities other than those arising under the Transaction Documents.

2.6 Acquisitions

- 2.6.1 Subject to certain exceptions the Company shall not:
- (a) acquire any assets, properties or a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them); or
 - (b) (save in the case of Cygnet 2008) incorporate a company.

2.7 Centre of Main Interests

- 2.7.1 The Company maintaining its Centre of Main Interests in its jurisdiction of incorporation or in England and Wales and not creating any "establishment" in any jurisdiction other than its jurisdiction of incorporation or in England and Wales

2.8 VAT

- 2.8.1 The Company not forming or being treated as a member of any VAT Group or, subject to certain exceptions, being registered or liable to be registered for VAT unless required to be so registered as a result of the leasing by them of any equipment.

2.9 Taxes

- 2.9.1 The Company agreeing to
- (a) maintain its Tax residence solely in the United Kingdom, and shall not be subject to Tax in any other jurisdiction;

- (b) pay all Taxes payable by, or assessed upon, when due;
- (c) not to surrender or waive or dispose of tax losses or tax reliefs available to it without the Agent's prior written consent;
- (d) ensure that no latent corporation tax liability on chargeable gains of the Company is triggered or realised, or procure that any adviser of the Company who is, or may be, a promoter makes disclosure required under Part 7 in respect of any notifiable proposal or arrangements to which any PropCo Loan relates, and

not engage in any course of conduct which gives rise to or might reasonably be expected to cause the Company to become liable to Tax which is primarily the liability of a person who is not a PropCo Obligor

- 2.9.2 The PropCo Borrower shall validly elect jointly with Opco pursuant to section 198 Capital Allowances Act 2001 to fix the amount to be treated as the part of the sale price for the PropCo Properties that is expenditure incurred by the PropCo Borrower on the provision of fixtures at no lower than £6,400,000

2.10 **Hedge arrangements**

The PropCo Borrower shall, maintain Hedge Documents and such Hedge Documents and related documentation shall:

- 2.10.1 be with a Hedge Counterparty;
- 2.10.2 have a term expiring not earlier than the Final Repayment Date and shall reflect (at the time taken out) the amount of each Repayment Instalment in respect of Facility A as set out in Clause 6 (Repayment) of the PropCo Facilities Agreement,
- 2.10.3 have at all times an aggregate notional principal amount not exceeding 110 per cent. of the principal amount of the PropCo Loans;
- 2.10.4 have settlement dates that coincide with the Interest Payment Dates;
- 2.10.5 be based substantially on the form of agreed ISDA document or such other form satisfactory to the Agent;
- 2.10.6 be secured in favour of the Security Trustee in a manner acceptable to the Security Trustee; and
- 2.10.7 otherwise, be in form and substance satisfactory to the PropCo Borrower and the Agent (each acting reasonably).

2.11 **Distributions**

The Company shall not make, declare or pay any distributions or dividends, or interest on unpaid dividends or distributions or fees or expenses or similar or make any payments in respect of Financial Indebtedness owed to or make any loans to any of its members in that capacity save for Permitted Distributions

2.12 **Share capital**

- 2.12.1 The Company agrees not to

- (a) redeem, repurchase, defease, retire or repay any of its share capital, or resolve to do so;

- (b) issue any shares to any person other than shares issued to another PropCo Obligor where any such shares are or immediately become subject to valid and binding fixed Security under a PropCo Finance Document in favour of the Security Trustee; or
 - (c) subscribe for or otherwise acquire any stock or share which is only partly paid up or in respect of, which the company which issued that stock or share has any call or lien
- 2 12 2 The Company shall pay on the same becoming due all calls or other payments which may be or become due in respect of any shares held by it
- 2.13 **Transaction Documents**
- 2.13.1 The Company agrees to promptly exercise its rights and comply with its material obligations under each Transaction Document and not amend or waive any provision of a Transaction Document without the prior written consent of the Agent (not to be unreasonably withheld or delayed) or as otherwise permitted by the PropCo Finance Documents.
- 2.14 **Securitisation and Syndication**
- The PropCo Borrower agrees to and agrees to procure that the PropCo Obligor:
- 2.14.1 assist the PropCo Lenders and provide such information, documents and co-operation as the PropCo Lenders may require in connection with any steps (including facilitating the rating of any PropCo Lender's interest in any of the PropCo Finance Documents by internationally recognised ratings agencies nominated by the relevant PropCo Lender and providing access to tenants and financial information) which such PropCo Lender may wish to take to achieve a successful securitisation (or any similar transaction) of all or part of its rights under the PropCo Finance Documents, whether alone or in conjunction with any other loan or loans;
- 2.14.2 use all reasonable endeavours to take such steps as a PropCo Lender may require to ensure full compliance with the listing rules of any applicable stock exchange that may be applicable as a result of any such securitisation (or similar transaction);
- 2.14.3 use all reasonable endeavours to procure that any Reports and Valuations are also addressed to any relevant person or entity in connection with a securitisation (or similar transaction);
- 2 14 4 co-operate and assist with and provide such information, in each case, as the Arranger may reasonably request in connection with any syndication of the Facilities or any part thereof whether alone or in conjunction with any other loan or loans provided that the minimum participation of any New PropCo Lender in the Facilities will be at least £5,000,000;
- 2.14 5 shall make appropriate senior management available at reasonable times and on reasonable notice to discuss the business and affairs of the PropCo Borrower and any PropCo Obligor at presentations to potential participants in the Facilities or in connection with a securitisation (or similar transaction) of rights under the PropCo Finance Documents and, subject to the terms of any Occupational Lease, organising site visits at such times as the Arranger may reasonably request, and
- 2 14 6 subject to the terms of any Occupational Leases, provide such access to any Group Property as the Arranger may reasonably require

Nothing in Clause 22 15 (*Securitisation and Syndication*) of the PropCo Facilities Agreement shall oblige a PropCo Obligor to incur any cost other than the cost of any management time.

2.15 Pari passu ranking

The Company will ensure that its payment obligations under the PropCo Finance Documents rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

2.16 Ring fencing

2.16.1 Notwithstanding any provision of the PropCo Facilities Agreement to the contrary, the Company shall not.

- (a) make or repay, prepay or pay any other sum in respect of any loan;
- (b) pay any dividend or other distribution,
- (c) make any financial investment in or make any other payment;
- (d) undertake or guarantee any obligations on behalf of or otherwise provide financial support,

to any Excluded Company without the prior written consent of the Agent.

2.17 Planning

2.17.1 The Company agrees to comply with any conditions attached to any planning permissions and comply with any agreement or undertakings relating to or affecting any Group Property if failure to do so would have a Material Adverse Effect and shall not implement any planning permission obtained or enter, or agree to enter into, or amend any agreement or undertaking under Section 106 of the Town and Country Planning Act 1990 or Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 or Sections 38 or 278 of the Highways Act 1980 or any other similar legislation without the prior written consent of the Agent (not to be unreasonably withheld) unless the planning permission or agreement relates to an alteration permitted by Clause 23.11 (*Alterations*).

2.18 Title

2.18.1 The Company agrees to:

- (a) observe and perform all restrictive and other covenants, undertakings, burdens, servitudes, stipulations and obligations now or at any time affecting each Group Property; and
- (b) duly and diligently enforce all restrictive or other covenants, undertakings, burdens, servitudes, stipulations and obligations benefiting each Group Property and not waive, release or vary (or agree to do so) the obligations of any other party thereto,

to the extent failure to do so would have a Material Adverse Effect.

2.18.2 The Company shall promptly take all such steps as may be necessary or desirable to enable the Security expressed to be created by the PropCo Finance Documents to be validly registered at the applicable Land Registry

2.19 Occupational Leases

2.19.1 The Company agrees that it will not without the consent of the Agent

- (a) enter into any agreement for Lease, or grant any new Occupational Lease, other than the grant by the PropCo Borrower of the Opco Lease in the agreed form in relation to the PropCo Properties in accordance with the S&LB Documents and will operate and administer the same on an arms length and diligent basis in accordance with the terms thereof

2.19.2 The Company shall not:

- (a) amend, waive or release any term of any Occupational Lease,
- (b) grant any new contractual licence or right to occupy any part of any of its Group Properties after the date of this Agreement;
- (c) consent to any assignment, assignation or underletting of any tenant's interest under any Occupational Lease (save where required under The Landlord and Tenant (Covenants) Act 1995) so far as such consents are required under the Occupational Lease,
- (d) forfeit, irritate or exercise any right of re-entry or exercise any option or power to break, determine vary or extend, any Occupational Lease; or
- (e) without the prior written consent of the Agent accept or permit the surrender or renunciation of all or any part of any Occupational Lease save to enable a disposal to take place which is otherwise permitted under the PropCo Finance Documents.

2.19.3 The Company agrees not to, without the consent of the Agent, serve any notice on any former tenant under any Occupational Lease under Section 17(2) of The Landlord and Tenant (Covenants) Act 1995 or on any guarantor of any such former tenant under Section 17(3) of that Act.

2.20 Head Leases

The Company shall, in relation to any Head Lease of a Group Property

2.20.1 observe and perform all material covenants, burdens, undertakings, stipulations and obligations on the lessee under the Head Lease;

2.20.2 diligently enforce all material covenants, burdens and undertakings on the part of the lessor under the Head Lease;

2.20.3 not, without the prior written consent of the Agent

- (a) waive, release or vary any material obligation under, or the terms of; or
- (b) exercise any option or power to break, determine or extend,

in each case, the Head Lease,

- (c) not do or permit anything whereby the Head Lease may be forfeited or irritated;
- (d) not agree any increase in the rent payable under the Head Lease without the prior written consent of the Agent (save for any fixed rent uplifts in accordance with the terms of any Head Lease in its form as at the date of the PropCo Facilities Agreement); and
- (e) promptly notify the Agent of any matter or event under or by reason of which any such Head Lease has or may become subject to determination or to the exercise of any right of re-entry or forfeiture or irritancy and:

- (i) provide copies of all correspondence, notices and proceedings relating to any such matter or event; and
- (ii) if so requested by the Agent, apply for relief against forfeiture or irritancy.

2.21 **Environmental compliance**

- 2.21.1 The Company agrees to comply with all Environmental Law and obtain and maintain any Environmental Permits and take reasonably steps in anticipation of legislative changes and not being as or use as or use Hazardous Substance (as defined in the Propco Facilities Agreement) which would not ordinarily be found on premises of the nature and type as the Group Properties.
- 2.21.2 The PropCo Borrower shall inform the Agent in writing as soon as reasonably practicable upon becoming aware of the same:
 - (a) if any material Environmental Claim has been commenced or (to the best of any PropCo Obligor's knowledge and belief) is threatened against any PropCo Obligor; or
 - (b) of any facts or circumstances which shall or are reasonably likely to result in any material Environmental Claim being commenced or threatened against any PropCo Obligor.

2.22 **Insurance**

- 2.22.1 Each guarantor of the PropCo Facilities shall effect and maintain at all times insurance in respect of its Group Property
 - (a) against any loss or damage and such other risks and contingencies as are insured in accordance with sound commercial practice to the full reinstatement value thereof;
 - (b) insurance against the loss of Rental Income or prospective Rental Income in respect of its PropCo Property for a period of not less than three years having regard to any potential increases in Rental Income as a result of rent reviews or contractual rent increases; and
 - (c) insurance against third party and public liability risks
- 2.22.2 Each guarantor of the OpCo Facilities shall effect and maintain at all times insurance in respect of its:
 - (a) property, trade, fittings and equipment forming part of the property against loss or damage by and such other risks and contingencies as are insured in accordance with sound commercial practice to the full reinstatement value thereof
 - (b) in relation to any Development Property for the period from the commencement of a Development up to Practical Completion of that Development, contractors all risk insurance including all risks of loss or damage to the relevant property or the construction works and in addition, a sum which, in the opinion of the Agent is equal to two years' estimated advance loss of profits from the relevant property when the Development is completed (exclusive of service charges and insurance rents); and
 - (c) insurance against third party and public liability risks
- 2.22.3 The Company shall ensure at all times that all Insurance Policies contain

- (a) a mortgagee clause whereby such Insurance Policy shall not be vitiated or avoided as against a mortgagee or security holder in the event of or as a result of any misrepresentation, act, neglect or failure to make disclosure on the part of the insured party (other than the PropCo Finance Parties) or any circumstances beyond the control of any insured party;
- (b) terms prohibiting the insurer from vitiating or avoiding any Insurance Policy as against a mortgagee in the event of any misrepresentation, act, neglect or failure to make full disclosure on the part of the Company or any tenant or other insured party and a waiver of all rights of subrogation against the Company, the PropCo Finance Parties or any Occupational Tenant in respect of any payments made or to be made under any Insurance Policy, and
- (c) terms providing that it shall not be invalidated so far as the Security Trustee is concerned for failure to pay any premium due without the insurer first giving to the Security Trustee not less than 14 days' written notice.

2.22.4 The Company shall:

- (a) provide the Agent with such information and copies of the Insurance Policies and shall notify the Agent of renewals made and material variations or cancellations of Insurance Policies made or, to the knowledge of the Company, threatened or pending;
- (b) not do or permit anything to be done which may make void or voidable any Insurance Policy

2.22.5 The Company shall at all times ensure that each Insurance Policy is in the name of the Company and the Security Trustee on behalf of the PropCo Finance Parties as co-insured, with the Security Trustee named as loss payee for all amounts in excess of £100,000.

2.22.6 If any PropCo Obligor does not comply with its obligations under Clause 23.7 (*Insurance*) of the PropCo Facilities Agreement, the Agent or the Security Trustee may (without any obligation to do so but if it does do so it shall notify the PropCo Borrower) effect or renew any such Insurance Policy on behalf of the Security Trustee (and not in any way for the benefit of any Obligors) and the monies expended by the Security Trustee on so effecting or renewing any such insurance shall be reimbursed by the PropCo Obligors to the Security Trustee on demand.

2.23 Managing Agent

The Company agrees not to enter into a management agreement relating to any Group Property without the prior written consent of the Agent not to be unreasonably withheld.

2.24 Repair and Lifecycle Capital Expenditure

The Company shall repair and maintain and keep in good and substantial repair and condition each Group Property and any machinery and equipment forming part of it and replace the same by items of similar quality and value

2.25 Alterations

2.25.1 The Company shall not, at any time, without the prior written consent of the Agent effect, carry out or permit any Alterations to any Group Property save for certain exemptions.

2.26 Notices

2.26 1 The Company shall promptly give full particulars (and if requested a copy of any written particulars received by the Company) to the Agent of any notice, order, directive, designation, resolution or proposal having application to any Group Property or to the area in which it is situate by any planning authority or other public body or authority under or by virtue of the Planning Acts (as defined in the Opco Facilities Agreement) or any other statutory power or powers conferred by any other law which would give rise to a Material Adverse Effect.

2 26 2 An Agent may at the cost of the PropCo Borrower take all reasonable or expedient steps (in the name of the Company or otherwise) to ensure compliance with any such notice or order where failure by the Company to do so would give rise to a Material Adverse Effect and may at the cost of the PropCo Borrower make such objection or objections or representations against or in respect of any proposal for such a notice or order as the Agent considers expedient

2.27 Pay rents, charges and outgoings

The Company agrees to the extent not paid by Opco punctually pay or cause to be paid and indemnify the Agent and/or the Security Trustee on demand against all existing and future rents, fees, renewal fees, charges, assessments, impositions and outgoings subject to certain exceptions.

2.28 Entry and power to remedy breaches

If the Company fails in certain circumstances to perform any obligation relating to the PropCo Property undertakings pursuant to the PropCo Facilities Agreement, where the Security Trustee enters upon a Group Property to execute such works and take such steps as may, in the opinion of the Security Trustee, be required to remedy or rectify any such failure and do, the fees, costs and expenses properly incurred by the Security Trustee for such works shall be reimbursed by the Company.

2.29 Equipment

The Company shall procure that each Occupational Tenant or each member of the Opco Group that is an operator of a Group Property, owns, and will continue to own the Equipment used by it or any member of the Opco Group for the purposes of the psychiatric services business of the Opco Group, save where already owned by an OpCo Obligor and save that such persons are permitted to hold such Equipment on hire purchase or leasing arrangements with third parties subject to the annual cost of such arrangements not exceeding in aggregate £250,000 per annum (disregarding vehicles) indexed at the end of each calendar year by reference to the retail prices index for that year.

3 Under the OpCo Facilities Agreement:

3.1 An indemnity from the Company to each OpCo Finance Party against any cost, loss or liability arising out of or as a result of the conversion of any sum from the Company under the OpCo Finance Documents (a "Sum") from one currency to another for the purpose of

- (a) making or filing a claim or proof against the Company; or
- (b) obtaining or enforcing an order, judgement or award in relation to any litigation or arbitration proceedings,

under the Opco Finance Documents, or any order judgement or award given or made in relation to a sum which has to be converted

- 3.2 The Company waives any right it may have in any jurisdiction to pay any amount under the OpCo Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.
- 3.3 The Company shall within five Business Days of demand, indemnify each OpCo Finance Party against any cost, loss or liability incurred by that OpCo Finance Party as a result of:
- 3.3.1 the occurrence of any OpCo Event of Default,
 - 3.3.2 a failure by an OpCo Obligor to pay any amount due under an OpCo Finance Document on its due date, including, without limitation, any cost, loss or liability arising as a result of Clause 31 (Sharing among the Finance Parties) of the OpCo Facilities Agreement
 - 3.3.3 funding, or making arrangements to fund, its participation in a Utilisation requested by an OpCo Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of the OpCo Facilities Agreement (other than by reason of default or negligence by that OpCo Finance Party alone);
 - 3.3.4 a Utilisation (or part of a Utilisation) not being prepaid in accordance with a notice of prepayment given by an OpCo Borrower;
 - 3.3.5 any liability under Environmental Law relating (directly or indirectly) to any Property or any other asset owned by an OpCo Obligor not arising from that OpCo Finance Party's own negligence or wilful default;
 - 3.3.6 any litigation commenced by any person against an OpCo Finance Party (other than an OpCo Finance Party) arising as a result of any transaction contemplated by the OpCo Finance Documents
- 3.4 Each OpCo Obligor shall within five Business Days of demand indemnify each OpCo Finance Party, each Affiliate of an OpCo Finance Party and each officer or employee of a Finance Party or its Affiliate, against any cost, loss or liability incurred by that OpCo Finance Party or its Affiliate (or officer or employee of that OpCo Finance Party or Affiliate) in connection with or arising out of the Acquisition or the funding of the Acquisition (including but not limited to those incurred in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry concerning the Acquisition), unless such loss or liability is caused by the gross negligence or wilful misconduct of that OpCo Finance Party or its Affiliate (or employee or officer of that OpCo Finance Party or Affiliate). Any Affiliate or any officer or employee of an OpCo Finance Party or its Affiliate may rely on this Clause 15.2.7 of the OpCo Facilities Agreement.
- 3.4.1 The Company shall within 5 Business Days of demand indemnify the OpCo Agent against any cost, loss or liability incurred by the OpCo Agent as a result of
- (a) investigating any event which it reasonably believes is a Default (as defined in the OpCo Facilities Agreement) (having regard to any information provided the OpCo); or
 - (b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.
- 3.4.2 Each OpCo Obligor shall within 5 Business Days of demand indemnify the Security Trustee against any cost, loss or liability incurred by the OpCo Agent as a result of:
- (a) the taking, holding, protection or enforcement of the Transaction Security;
 - (b) the exercise of any of the rights, powers, discretions and remedies vested in the Security Trustee by the OpCo Finance Documents or by law; and

- (c) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the OpCo Finance Documents.

3.4.3 The Security Trustee may, in priority to any payment to the OpCo Finance Parties, indemnify itself out of the assets of the OpCo Obligors which are expressed to be subject to the terms of the Security Documents in respect of, and pay and retain, all sums necessary to give effect to the indemnity in Clause 15.4 of the OpCo Facilities Agreement and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security.

3.5 **Guarantee and indemnity**

The Company, jointly and severally with the other OpCo Guarantors, irrevocably and unconditionally

3.5.1 guarantees to each OpCo Finance Party punctual performance by each other OpCo Obligor of all of that OpCo Obligor's obligations under the OpCo Finance Documents,

3.5.2 undertakes with each OpCo Finance Party that whenever another OpCo Obligor does not pay any amount when due under or in connection with any OpCo Finance Document, the Company Guarantor shall immediately on demand by the Security Trustee pay that amount as if it was the principal OpCo Obligor; and

3.5.3 indemnifies each OpCo Finance Party immediately on demand by the Security Trustee against any cost, loss or liability suffered by that OpCo Finance Party if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which that OpCo Finance Party would otherwise have been entitled to recover.

3.6 **Continuing guarantee**

3.6.1 The guarantee is a continuing guarantee and shall extend to the ultimate balance of sums payable by any OpCo Obligor under the OpCo Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

3.7 **Reinstatement**

3.7.1 If any payment by any OpCo Obligor or any discharge given by an OpCo Finance Party (whether in respect of the obligations of any OpCo Obligor or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:

- (a) the liability of the Company shall continue as if the payment, discharge, avoidance or reduction had not occurred, and
- (b) each OpCo Finance Party shall be entitled to recover the value or amount of that security or payment from the Company, as if the payment, discharge, avoidance or reduction had not occurred.

3.8 **Waiver of defences**

3.8.1 The obligations of the Company under Clause 18 (*Guarantee and Indemnity*) of the OpCo Facilities Agreement shall not be affected by an act, omission, matter or thing which, but for Clause 18 of the OpCo Facilities Agreement, would reduce, release or prejudice any of its obligations under Clause 18 (*Guarantee and Indemnity*) of the OpCo Facilities Agreement (without limitation and whether or not known to it or any Finance Party) including.

- (a) any time, waiver or consent granted to, or composition with, any OpCo Obligor or other person;
- (b) the release of any other OpCo Obligor or any other person under the terms of any composition or arrangement with any creditor of any OpCo Obligor;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any OpCo Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any OpCo Obligor or any other person;
- (e) any amendment (however fundamental) or replacement of an OpCo Finance Document or any other document or security,
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any OpCo Finance Document or any other document or security, or
- (g) any insolvency or similar proceedings.

3.9 **OpCo Guarantor Intent**

- 3.9.1 Without prejudice to the generality of Clause 18.4 (*Waiver of Defences*) of the OpCo Facilities Agreement, the Company expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the OpCo Finance Documents and/or any facility or amount made available under any of the OpCo Finance Documents for the purposes of or in connection with any of the following. acquisitions of any nature; increasing working capital; enabling investor distributions to be made, carrying out restructurings; refinancing existing facilities, refinancing any other indebtedness; making an OpCo Facility available to new OpCo Obligors any other variation or extension of the purposes for which any such facility or amount might be made available from time to time, and any fees, costs and/or expenses associated with any of the foregoing.

3.10 **Immediate recourse**

- 3.10.1 The Company waives any right it may have of first requiring any OpCo Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Company under Clause 18 (*Guarantee and indemnity*) of the OpCo Facilities Agreement. This waiver applies irrespective of any law or any provision of an OpCo Finance Document to the contrary.

3.11 **Appropriations**

- 3.11.1 Until all amounts which may be or become payable by the OpCo Obligors under or in connection with the OpCo Finance Documents have been irrevocably paid in full, each OpCo Finance Party (or any trustee or agent on its behalf) may
- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that OpCo Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no OpCo Guarantor (including the Company) shall be entitled to the benefit of the same; and

- (b) hold in an interest-bearing suspense account any moneys received from any OpCo Guarantor or on account of any OpCo Guarantor's liability (including the Company) under Clause 18 of the OpCo Facilities Agreement.

3.12 **Deferral of OpCo Guarantors' rights**

3.12.1 Until all amounts which may be or become payable by the OpCo Obligor under or in connection with the OpCo Finance Documents have been irrevocably paid in full and unless the Security Trustee otherwise directs in writing, no OpCo Guarantor (including the Company) shall exercise any rights which it may have by reason of performance by it of its obligations under the OpCo Finance Documents:

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

3.12.2 If an OpCo Guarantor(including the Company) receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the OpCo Finance Parties by the OpCo Obligor under or in connection with the OpCo Finance Documents to be repaid in full on trust for the OpCo Finance Parties and shall promptly pay or transfer the same to the Agent as the Agent may direct for application in accordance with Clause 32 (*Payment mechanics*) of the OpCo Facilities Agreement.

3.13 **Waiver**

3.13.1 The Company waives any rights of subrogation, counter-indemnity or claim for contribution which it may have by reason of performance by it of its obligations under any OpCo Finance Document in relation to the rights of the OpCo Finance Parties under the OpCo Finance Documents.

3.14 **Tax Indemnity**

3.14.1 The Company shall (within five Business Days of demand by the OpCo Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines (acting in good faith) shall be or has been (directly or indirectly) suffered for on account of Tax by that Protected Party in respect of an OpCo Finance Document

3.14.2 The Clause 1.13.1 above shall not apply:

- (a) with respect to any Tax assessed on an OpCo Finance Party.
 - (i) under the law of the jurisdiction in which that OpCo Finance Party is incorporated or, if different, the Jurisdiction (or jurisdictions) in which that OpCo Finance Party is treated as resident for Tax purposes; or
 - (ii) under the law of the jurisdiction in which that OpCo Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that OpCo Finance Party; or

- (b) to the extent a loss, liability or cost:
 - (i) is compensated for an increased payment under Clause 13.2 (*Tax Gross Up*) of the OpCo Facilities Agreement; or
 - (ii) would have been compensated for an increased payment under Clause 13.2 (*Tax Gross Up*) of the OpCo Facilities Agreement but was not so compensated solely because of one of the exclusions in Clause 13.2.4 (*Tax Gross Up*) of the OpCo Facilities Agreement applied

3.15 **Stamp taxes**

The Company shall pay and, within five Business Days of demand, indemnify each OpCo Finance Party against any cost, loss or liability each OpCo Finance Party may incur in relation to any stamp duty land tax, stamp duty or other similar registration or documentary taxes or duties payable in respect of, or in order to register or enforce, any OpCo Finance Document (other than any such taxes or duties which are payable on or as a result of any transfer, assignment or novation by any OpCo Finance Party of its rights and obligations under the PropCo Facilities Agreement), save that an OpCo Finance Party may only recover once in respect of the same cost, loss or liability.

3.16 **Value Added Tax**

Where an OpCo Finance Document requires any Party to reimburse an OpCo Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify the OpCo Finance Party against all VAT incurred by the OpCo Finance Party in respect of the costs or expenses to the extent that the OpCo Finance Party reasonably determines that it is not entitled to credit or repayment from the relevant Tax Authority in respect of the VAT.

3.17 **Limitation of liability**

The Company shall indemnify each OpCo Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 16.1 (*Mitigation*) of the OpCo Facilities Agreement.

3.18 **Pay rents, charges and outgoings**

Each Opco Obligor shall to the extent not paid by OpCo punctually pay or cause to be paid and indemnify the Opco Agent and/or the Security Trustee on demand against all existing and future rents, fees, charges, assessments, impositions and outgoings whatsoever whether imposed by deed, agreement or by statute or otherwise and whether in the nature of capital or revenue and even though of a wholly novel character which now or at any time during the continuance of the security constituted by or pursuant to this Agreement are payable in respect of any Property or any part thereof save to the extent that such existing and future rents, fees, charges, assessments, impositions and outgoings are being contested in good faith and such payment can be lawfully withheld.

4 **General Undertakings**

Pursuant to the OpCo Facilities Agreement, the Company has agreed to observe the following undertakings

4.1 **Obtaining and Complying with Authorisations**

The Company complying in all respects, with all laws to which it may be subject, if failure so to comply would have a Material Adverse Effect

4.2 **Negative pledge**

4.2.1 The Company not creating or permitting to subsist any Security over the whole or any part of its assets subject to certain exceptions including:

- (a) Security arising under any OpCo Finance Document or the PropCo Group Security Documents,
- (b) any lien arising by operation of law and in the ordinary course of trading.

4.3 **Disposals**

The Company not entering into a transaction or transactions to convey, sell, lease, transfer or otherwise dispose of the whole or any part of its assets, without the prior written consent of the Agent (acting on the instruction of all the Lenders) subject to certain exceptions including disposals arising from a Compulsory Purchase, a disposal which is the grant of, or agreement to grant, any Occupational Lease entered in accordance with Clause 24.3 (*Occupational Leases*) of the OpCo Facilities Agreement; or which is the disposal of equipment, furnishings, machinery or plant in exchange for other assets of equivalent or better type and quality

4.4 **Financial Indebtedness**

The Company shall not, without the prior written consent of the Agent (acting on the instructions of all the Lenders) permit any Financial Indebtedness to be outstanding to it by, or make any loan or other form of credit available to, any person, incurring or have outstanding any Financial Indebtedness to any other person, or paying or discharging (including, without limitation, by way of set-off or combination of accounts), or grant any guarantee, indemnity, bond, letter of credit or other assurance against financial loss in support of, any indebtedness owed by it or any other person.

4.5 **Conduct of business**

4.5.1 The Company having any Subsidiary which is not itself an OpCo Obligor or entering into any amalgamation, demerger, merger or corporate reconstruction, or entering into any transaction except on an arm's length basis and for full market value subject to the terms of the Intercreditor Deed.

4.5.2 The Company incurring or permitting to subsist any liability, obligation or indebtedness (including, without limitation, any right of contribution, indemnity or subrogation) to any member of the Opco Group which is not a Subordinated Creditor

4.5.3 Neither PropCo II nor PropCo Holdco II shall trade or carry on any business or incur any liabilities other than:

- (a) conducting the business of acquiring, developing, managing, letting and owning its Properties; and
- (b) liabilities arising under the Transaction Documents

4.5.4 Neither PropCo II nor PropCo Holdco II shall have any employees.

4.6 **Acquisitions**

4.6.1 Subject to certain exceptions, the Company shall not:

- (a) acquire any assets, properties or a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them); or

- (b) (save in the case of Cygnet 2008) incorporate a company.

4.7 Centre of Main Interests

The Company maintaining its Centre of Main Interests in its jurisdiction of incorporation or in England and Wales and not creating any "establishment" in any jurisdiction other than its jurisdiction of incorporation or in England and Wales.

4.8 VAT

The Company not forming or being treated as a member of any VAT Group.

4.9 Taxes

4.9.1 The Company agreeing to:

- (a) maintain its Tax residence solely in the United Kingdom, and shall not be subject to Tax in any other jurisdiction;
- (b) pay all Taxes payable by, or assessed upon, when due,
- (c) not to surrender or waive or dispose of tax losses or tax reliefs available to it without the Agent's prior written consent;
- (d) ensure that no latent corporation tax liability on chargeable gains of the Company is triggered or realised;
- (e) procure that any adviser of the Company who is, or may be a promoter make disclosure required under Part 7 in respect of any notifiable proposal or arrangements to which any OpCo Loan relates, and
- (f) not engage in any course of conduct which gives rise to or might reasonably be expected to cause the Company to become liable to Tax which is primarily the liability of a person who is not an OpCo Obligor

4.9.2 OpCo shall enter into an election under s198 Capital Allowances Act 2001 with PropCo to fix the amount to be treated as the part of the sale price for the OpCo Properties that is expenditure incurred by OpCo on the provision of fixtures at no lower than £6.4million, such election to be entered into within 2 years from 31 October 2007.

4.10 Distributions

The Company shall not make, declare or pay any distributions or dividends, or interest on unpaid dividends or distributions or fees or expenses or similar or make payments in respect of Financial Indebtedness owed to or make any loans to any of its members in that capacity save for Permitted Distributions.

4.11 Share capital

4.11.1 The Company agrees not to.

- (a) redeem, repurchase, defease, retire or repay any of its share capital, or resolve to do so;
- (b) issue any shares to any person other than shares issued to another OpCo Obligor where any such shares are or immediately become subject to valid and binding fixed Security under a OpCo Finance Document in favour of the Security Trustee; or

- (c) subscribe for or otherwise acquire any stock or share which is only partly paid up or in respect of, which the company which issued that stock or share has any call or lien.
- 4 11.2 The Company shall pay on the same becoming due all calls or other payments which may be or become due in respect of any shares held by it.
- 4.12 **Transaction Documents**
- 4.12.1 The Company agrees to promptly exercise its rights and comply with its material obligations under each Transaction Document and not amend or waive any provision of a Transaction Document without the prior written consent of the Agent (not to be unreasonably withheld or delayed) or as otherwise permitted by the OpCo Finance Documents.
- 4.13 **Syndication**
- Opco agrees to and agrees to procure that the OpCo Obligors:
- 4.13.1 co-operate and assist with and provide such information, in each case, as the Arranger may reasonably request in connection with any syndication of the Facilities or any part thereof whether alone or in conjunction with any other loan or loans;
- 4 13.2 shall make appropriate senior management available at reasonable times and on reasonable notice to discuss the business and affairs of the OpCo Obligors and any OpCo Obligor at presentations to potential participants in any Facility, organising site visits at such times as the Arranger may reasonably request; and
- 4 13.3 subject to the terms of any Occupational Leases, provide such access to any Group Property as the Arranger may reasonably require
- 4 14 **Pari passu ranking**
- The Company will ensure that its payment obligations under the Opco Finance Documents rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.
- 4.15 **Ring fencing**
- 4.15.1 Notwithstanding any provision of the OpCo Facilities Agreement to the contrary, the Company shall not:
 - (a) make or repay, prepay or pay any other sum in respect of any loan;
 - (b) pay any dividend or other distribution;
 - (c) make any financial investment in or make any other payment,
 - (d) undertake or guarantee any obligations on behalf of or otherwise provide financial support,
 to any Excluded Company without the prior written consent of the Agent.
- 4.16 **Planning**
- 4 16.1 The Company agrees to comply with any conditions attached to any planning permissions and comply with any agreement or undertakings relating to or affecting any Opco Property if failure to do so would have a Material Adverse Effect and shall not implement any

planning permission obtained or enter, or agree to enter into, or amend any agreement or undertaking under Section 106 of the Town and Country Planning Act 1990 or Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 or Sections 38 or 278 of the Highways Act 1980 or any other similar legislation without the prior written consent of the Agent (such consent not to be unreasonably withheld) unless the planning permission or agreement relates to an Alteration permitted by Clause 24.9 (*Alterations*).

4 17 Title

4.17.1 The Company agrees to:

- (a) 4.17.1.1 observe and perform all restrictive and other covenants, undertakings, burdens, servitudes, stipulations and obligations now or at any time affecting each Property; and
- (b) 4.17.1.2 duly and diligently enforce all restrictive or other covenants, undertakings, burdens, servitudes, stipulations and obligations benefiting each Opco Property and not waive, release or vary (or agree to do so) the obligations of any other party thereto,

to the extent failure to do so would have a Material Adverse Effect

4.17.2 The Company shall promptly take all such steps as may be necessary or desirable to enable the Security expressed to be created by the Opco Finance Documents to be validly registered at the applicable Land Registry.

4 18 Occupational Leases

4 18 1 The Company agrees that it will not without the consent of the Agent enter into any agreement for Lease, or grant any new Occupational Lease.

4 18.2 The Company shall not:

- (a) amend, waive or release any term of any Occupational Lease;
- (b) grant any new contractual licence or right to occupy any part of its OpCo Properties after the date of this Agreement;
- (c) consent to any assignment, assignation or underletting of any tenant's interest under any Occupational Lease (save where required under The Landlord and Tenant (Covenants) Act 1995) so far as such consents are required under the Occupational Lease,
- (d) forfeit, irritate or exercise any right of re-entry or exercise any option or power to break, determine vary or extend, any Occupational Lease, or
- (e) without the prior written consent of the Agent accept or permit the surrender or renunciation of all or any part of any Occupational Lease save to enable a disposal to take place which is otherwise permitted under the OpCo Finance Documents.

4.19 Head Leases

The Company shall, in relation to any Head Lease of a OpCo Property observe and perform all material covenants, burdens, undertakings, stipulations and obligations on the lessee under the Head Lease,

4.19.1 diligently enforce all material covenants, burdens and undertakings on the part of the lessor under the Head Lease;

4.19.2 not, without the prior written consent of the Agent:

- (a) waive, release or vary any material obligation under, or the terms of, or
- (b) exercise any option or power to break, determine or extend,

in each case, the Head Lease,

- (c) not do or permit anything whereby the Head Lease may be forfeited or irritated;
- (d) not agree any increase in the rent payable under the Head Lease without the prior written consent of the Agent (save for any fixed rent uplifts in accordance with the terms of any Head Lease in its form as at the date of the OpCo Facilities Agreement); and
- (e) promptly notify the Agent of any matter or event under or by reason of which any such Head Lease has or may become subject to determination or to the exercise of any right of re-entry or forfeiture or irritancy and:
 - (i) provide copies of all correspondence, notices and proceedings relating to any such matter or event; and
 - (ii) if so requested by the Agent, apply for relief against forfeiture or irritancy.

4.20 **Environmental compliance**

The Company agrees to comply with all Environmental Law and obtain and maintain any Environmental Permits and take reasonable steps in anticipation of legislative changes and not bring or use Hazardous Substance (as defined in the OpCo Facilities Agreement) which would not ordinarily be found on premises of the nature and type as the Group Property

4.21 **Insurance**

4.21.1 Each OpCo Obligor shall effect and maintain all times Insurance

- (a) in respect of the Property against loss or damage by and such other risks and contingencies as are insured in accordance with sound commercial practice to the full reinstatement value thereof
- (b) in relation to any Development Property for the period from the commencement of a Development up to Practical Completion of that Development, contractors all risk insurance including all risks of loss or damage to the relevant property or the construction works and in addition, a sum which, in the opinion of the Agent is equal to two years' estimated advance loss of profits from the relevant property when the Development is completed (exclusive of service charges and insurance rents); and
- (c) insurance against third party and public liability risks.

4.21.2 The Company shall ensure at all times that all Insurance Policies contain

- (a) a mortgagee clause whereby such Insurance Policy shall not be vitiated or avoided as against a mortgagee or security holder in the event of or as a result of any misrepresentation, act, neglect or failure to make disclosure on the part of the insured party (other than the OpCo Finance Parties) or any circumstances beyond the control of any insured party;

- (b) terms prohibiting the insurer from vitiating or avoiding any Insurance Policy as against a mortgagee in the event of any misrepresentation, act, neglect or failure to make full disclosure on the part of the Company or any tenant or other insured party and a waiver of all rights of subrogation against the Company, the OpCo Finance Parties or any Occupational Tenant in respect of any payments made or to be made under any Insurance Policy; and
 - (c) terms providing that it shall not be invalidated so far as the Security Trustee is concerned for failure to pay any premium due without the insurer first giving to the Security Trustee not less than 14 days' written notice.
- 4.21 3 The Company shall:
- (a) provide such information and copies of the Insurance Policies and shall notify the Agent of renewals made and material variations or cancellations of Insurance Policies made or, to the knowledge of the Company, threatened or pending;
 - (b) not do or permit anything to be done which may make void or voidable any Insurance Policy.
- 4 21.4 The Company shall at all times ensure that each Insurance Policy is in the name of the Company and the Security Trustee on behalf of the OpCo Finance Parties as co-insured, with the Security Trustee named as loss payee for all amounts in excess of £100,000
- 4 21.5 If any Opco Obligor does not comply with its obligations under Clause 24.7 (*Insurance*) of the OpCo Facilities Agreement, the Agent or the Security Trustee may (without any obligation to do so but if it does do so it shall notify the OpCo Obligors) effect or renew any such Insurance Policy on behalf of the Security Trustee (and not in any way for the benefit of any OpCo Obligors) and the monies expended by the Security Trustee on so effecting or renewing any such insurance shall be reimbursed by the OpCo Obligors to the Security Trustee on demand.
- 4.22 **Alterations**
- The Company shall not, at any time, without the prior written consent of the Agent effect, carry out or permit any Alterations to any Property save for certain exemptions.
- 4.23 **Pay rents, charges and outgoings**
- The Company agrees to the extent not paid by Opco punctually pay or cause to be paid and indemnify the Agent and/or the Security Trustee on demand against all existing and future rents, fees, renewal fees, charges, assessments, impositions and outgoings subject to certain exemptions.
- 4.24 **Entry and power to remedy breaches**
- If the Company fails in certain circumstances to perform any obligation relating to the OpCo Property undertakings pursuant to the OpCo Facilities Agreement, where the Security Trustee enters upon a OpCo Property to execute such works and take such steps as may, in the opinion of the Security Trustee, be required to remedy or rectify any such failure and do the fees costs and expenses properly incurred by the Security Trustee for such works and taking such steps shall be reimbursed by the Company
- 4 25 **Equipment**
- The Company shall procure that each tenant or each member of the OpCo Group that is an operator of a OpCo Property, owns, and will continue to own, outright the Equipment used by it or any member of the OpCo Group for the purposes of the psychiatric services

business of the OpCo Group, save where already owned by an Opco Obligor and save that such persons are permitted to hold such Equipment on hire purchase or leasing arrangements with third parties subject to the annual cost of such arrangements not exceeding in aggregate £125,000 per annum (disregarding vehicles) indexed at the end of each calendar year by reference to the retail prices index for that year

4.26 Tabley House

4 26 1 OpCo shall.

- (a) provide to the Agent, within 2 Business Days of the date of the OpCo Facilities Agreement, a copy of the completed agreed form TR1 and any other documents relating to the Tabley House Transfer, in form and substance satisfactory to the Agent;
- (b) make a land transaction return to HM Revenue & Customs (together with payment of any applicable stamp duty land tax) within the statutory period and use all reasonable endeavours to answer any requisitions raised by HM Revenue & Customs promptly and properly;
- (c) make an application to the Land Registry (including the relevant form TR1 and any other applicable documentation) for the registration of the Tabley House Transfer as soon as possible after the date of the OpCo Facilities Agreement and within the priority period in favour of the OpCo Lenders, and
- (d) use all reasonable endeavours to complete the registration of the Tabley House Transfer at the Land Registry on each of the proprietorship registers for Tabley House as soon as possible after the date of the OpCo Facilities Agreement.

PROPCO DEBENTURE

4.27 Under the PropCo Debenture

4.27.1 The Company charges with full title guarantee in favour of the Security Trustee by way of first legal mortgage, the Mortgaged Property.

4.27 2 The Company covenants with the Security Trustee to pay, discharge and satisfy the Secured Obligations in accordance with their respective terms.

4 27 3 The Company assigns and agrees to assign absolutely with full title guarantee to the Security Trustee all of its right, title and interest from time to time in and to each of the following assets:

- (a) the Assigned Accounts and the debt or debts represented thereby,
- (b) the Hedge Documents and all proceeds paid or payable thereunder;
- (c) the proceeds of any Insurance Policy and all Related Rights;
- (d) any Rental Income and Disposal Proceeds and the right to make demand for and receive the same;
- (e) any contracts, deeds, leases, licences, undertakings, guarantees, covenants, warranties, representations and other documents entered into by, given to or otherwise benefiting the Company in respect of the Real Property, and
- (f) the Specific Contracts;

- 4.28 The Company charges with full title guarantee in favour of the Security Trustee by way of first fixed charge, all of its rights, title and interest from time to time in and to each of the following assets:
- (a) each of its present and future accounts (other than the Assigned Accounts) with any bank, building society, financial institution or other person and the debt or debts represented thereby,
 - (b) rights to recover any VAT on any supplies made to it relating to the Charged Assets and any sums so recovered;
 - (c) the Intellectual Property;
 - (d) the Investments;
 - (e) book and other debts and Monetary Claims owing to it and any proceeds of those debts and claims and all Related Rights;
 - (f) the Real Property and all Related Rights,
 - (g) the Shares and Related Rights;
 - (h) the Opco Lease and any agreement for Lease permitted under the PropCo Facilities Agreement;
 - (i) the Tangible Moveable Property;
 - (j) each of its present and future interest or currency rate swap, cap, floor, collar or option transactions, all proceeds paid or payable thereunder and all Related Rights,
 - (k) any goodwill, rights and claims in relation to the uncalled capital of the Company;
 - (l) any rent deposits and all Related Rights;
 - (m) stocks, shares, debentures, securities and certificates of deposit, all interests in collective investment schemes and partnerships and all warrants, options and rights to subscribe for any investment whether held by or on behalf of the Company and all Related Rights; and
 - (n) each of the assets which are specified in Clause 3.2 (*Assignment by way of Security*) of the PropCo Debenture
- 4.28.2 The Company with full title guarantee charges in favour of the Security Trustee by way of first floating charge all present and future assets and undertaking of the Company
- 4 28 3 The floating charge created by the PropCo Debenture shall be deferred in point of priority to all fixed Security validly and effectively created by the Company under the PropCo Finance Documents, in each case, in favour of the Security Trustee
- 4 28.4 The PropCo Debenture contains a covenant for further assurances and shall remain in full force and effect notwithstanding any amendments, variations, or novations from time to time of the PropCo Finance Documents or any assignment, transfer, novation of the rights and obligations of any Lender or the Security Trustee

OPCO DEBENTURE

- 4.29 Under the OpCo Debenture

- 4.29.1 The Company covenants with the Security Trustee to pay, discharge and satisfy the Secured Obligations in accordance with their respective terms.
- 4.29.2 The Company charges with full title guarantee in favour of the Security Trustee by way of first legal mortgage, the Mortgaged Property
- 4.29.3 The Company assigns and agrees to assign absolutely with full title guarantee to the Security Trustee all of its right, title and interest from time to time in and to each of the following assets
- (a) any contracts, deeds, leases, licences, undertakings, guarantees, covenants, warranties, representations and other documents entered into by, given to or otherwise benefiting the Company in respect of the Real Property;
 - (b) the proceeds of any Insurance Policy and all Related Rights
 - (c) the Specific Contracts;
 - (d) any Rental Income and Disposal Proceeds and the right to make demand for and receive the same;
 - (e) the Assigned Accounts and the debt or debts represented thereby; and
 - (f) the Collateral Warranties and all proceeds paid or payable thereunder.
- 4.29.4 The Company charges with full title guarantee in favour of the Security Trustee by way of first fixed charge, all of its rights, title and interest from time to time in and to each of the following assets:
- (a) the Real Property and all Related Rights;
 - (b) the Building Contracts, Trade Contracts to which a Warranty Trade Contractor is party, Consultant Appointments to which a Warranty Consultant is party, Specifications, Required Consents, the OpCo Lease and any agreement for Lease permitted under the OpCo Facilities Agreement and any other Development Document and all rights under each Development Document;
 - (c) the Tangible Moveable Property;
 - (d) each of its present and future accounts (other than the Assigned Accounts) with any bank, building society, financial institution or other person (including any replacement account or sub-division or sub-account of that account) and the debt or debts represented thereby;
 - (e) each of its present and future interest or currency rate swap, cap, floor, collar or option transactions, all proceeds paid or payable thereunder and all Related Rights,
 - (f) book and other debts and Monetary Claims owing to it and any proceeds of those debts and claims and all Related Rights;
 - (g) the Intellectual Property;
 - (h) any goodwill, rights and claims in relation to the uncalled capital of the Company;
 - (i) rights to recover any VAT on any supplies made to it relating to the Charged Assets and any sums so recovered;
 - (j) any rent deposits and all Related Rights;

- (k) the Investments,
- (l) the Shares and Related Rights;
- (m) stocks, shares, debentures, securities and certificates of deposit, all interests in collective investment schemes and partnerships and all warrants, options and rights to subscribe for any investment whether held by or on behalf of the Company and all Related Rights; and
- (n) each of the assets which are specified in Clause 3.2 (*Assignment by way of Security*) of the Opco Debenture.

4.29 5 The Company with full title guarantee charges in favour of the Security Trustee by way of first floating charge all present and future assets and undertaking of the Company.

4 29.6 The floating charge created the Opco Debenture shall be deferred in point of priority to all fixed Security validly and effectively created by the Company under the OpCo Finance Documents, in each case, in favour of the Security Trustee.

4 29 7 The Opco Debenture contains a covenant for further assurances and shall remain in full force and effect notwithstanding any amendments, variations, or novations from time to time of the OpCo Finance Documents or any assignment, transfer, novation of the rights and obligations of any Lender or the Security Trustee.

5 **Intercreditor Deed**

5.1 Ranking of Security from the PropCo Debtors

All existing and future Security conferred by the PropCo Debtors on the Finance Parties by the Transaction Security Documents will rank in right and priority in the following order:

5.1.1 first, the PropCo Debt; and

5 1.2 second, the Opco Debt,

regardless of the date or order of registration or execution of the relevant Transaction Security Document.

5 2 **Ranking of Security from the Opco Debtors**

All existing and future Security conferred by the Opco Debtors on the Finance Parties by the Transaction Security Documents will rank in right and priority in the following order:

5.2.1 first, the Opco Debt; and

5.2.2 second, the PropCo Debt,

regardless of the date or order of registration or execution of the relevant Transaction Security Document

5 3 **Exercise of rights**

Upon the occurrence of an Insolvency Event in respect of any Debtor the Security Trustee is authorised by the OpCo Finance Parties and PropCo Finance Parties to:

5 3.1 demand, claim, enforce and prove for;

5.3.2 file claims and and proofs and give receipts and take all proceedings and do all things which the Security Trustee considers reasonably necessary or advisable to recover, and

5.3.3 receive all payments and distributions of any kind whatsoever in respect of or on account of any PropCo Debt, Opco Debt and Subordinated Debt due from the relevant Debtor

5.4 **Voting**

5.4.1 Upon the occurrence of an Insolvency Event in respect of any Debtor, the Security Trustee may exercise all powers of convening meetings, voting and representation in respect of:

(a) the PropCo Debt (except for meetings of the PropCo Finance Parties under the PropCo Finance Documents);

(b) the Opco Debt (except for meetings of the Opco Finance Parties under the Opco Finance Documents);

(c) the Subordinated Debt.

5.5 **Enforcement**

The Security Trustee shall act in relation to the PropCo Security Documents in accordance with the instructions of the Majority PropCo Finance Parties and in relation to the Opco Group Security Documents in accordance with the instructions of the Majority Opco Lenders

5.6 **Application of PropCo Recoveries**

All proceeds of enforcement of the Transaction Security shall be applied in the following order:

5.6.1 first, in payment of unpaid fees, costs and expenses incurred by or on behalf of the Security Trustee (and any receiver, attorney, adviser or agent appointed by it) and the remuneration of the Security Trustee and its advisers and agents, in each case to the extent payable under the [PropCo] Finance Documents;

5.6.2 second, in payment of unpaid costs and expenses incurred by or on behalf of the PropCo Finance Parties in connection with enforcement of the PropCo Finance Documents, to the extent payable thereunder;

5.6.3 third, in payment to the PropCo Agent for application towards unpaid and outstanding PropCo Debt (including such amounts due to the PropCo Agent);

5.6.4 fourth, in payment of unpaid costs and expenses incurred by or on behalf of the Opco Finance Parties in connection with enforcement of the Opco Finance Documents, to the extent payable thereunder;

5.6.5 fifth, in payment to the Opco Agent for application towards unpaid and outstanding Opco Debt (including such amounts due to the Opco Agent);

5.6.6 sixth, in payment of unpaid costs and expenses incurred by or on behalf of the Subordinated Creditors in connection with enforcement of the Subordinated Documents, to the extent payable thereunder;

5.6.7 seventh, in payment to the Subordinated Creditors for application towards unpaid and outstanding Subordinated Debt; and

5.6.8 eighth, in payment of the surplus (if any) to the relevant PropCo Debtors or other persons entitled to it,

and pending that application shall be held on trust by the Security Trustee for the beneficiaries entitled to it.

5.7 Application of Opco Recoveries

All proceeds of enforcement of the Transaction Security shall be applied in the following order:

- 5.7.1 first, in payment of unpaid fees, costs and expenses incurred by or on behalf of the Security Trustee (and any receiver, attorney, adviser or agent appointed by it) and the remuneration of the Security Trustee and its advisers and agents, in each case to the extent payable under the [OpCo] Finance Documents;
- 5.7.2 second, in payment of unpaid costs and expenses incurred by or on behalf of the Opco Finance Parties in connection with enforcement of the Opco Finance Documents, to the extent payable thereunder;
- 5.7.3 third, in payment to the Opco Agent for application towards unpaid and outstanding Opco Debt (including such amounts due to the Opco Agent),
- 5.7.4 fourth, in payment of unpaid costs and expenses incurred by or on behalf of the PropCo Finance Parties in connection with enforcement of the PropCo Finance Documents, to the extent payable thereunder;
- 5.7.5 fifth, in payment to the PropCo Agent for application towards unpaid and outstanding PropCo Debt (including such amounts due to the PropCo Agent);
- 5.7.6 sixth, in payment of unpaid costs and expenses incurred by or on behalf of the Subordinated Creditors in connection with enforcement of the Subordinated Documents, to the extent payable thereunder;
- 5.7.7 seventh, in payment to the Subordinated Creditors for application towards unpaid and outstanding Subordinated Debt; and
- 5.7.8 eighth, in payment of the surplus (if any) to the relevant Opco Debtors or other persons entitled to it,

and pending that application shall be held on trust by the Security Trustee for the beneficiaries entitled to it.]

5.8 Indemnity

The Company indemnifies each Finance Party and Subordinated Creditor upon demand for the amount of any PropCo Turnover Amount or Opco Turnover Amount paid by any Finance Party or Subordinated Creditor, respectively, to the Security Trustee in accordance with Clause 11 of the Intercreditor Deed.

The Company shall indemnify the relevant Finance Party for all losses it may suffer as a result of a Recovering Finance Party making a payment to the Security Trustee under clause 15.2 (*Finance Party recoveries*) or a Finance Party making a payment under Clause 15.3 (*PropCo loss sharing*) or Clause 15.4 (*Opco loss sharing*) of the Intercreditor Deed.

6 PROPCO INTER-COMPANY LOAN AGREEMENT

6.1 Under the PropCo Inter-Company Loan Agreement:

- 6.1.1 PropCo will provide a loan ("the Loan") to Cygnet 2002.

- 6.1.2 The Loan is to be used for.
- (a) the partial repayment by Cygnet 2002 of its liabilities under the Existing Facility Agreement. The remainder of Cygnet 2002's liabilities under the Existing Facility Agreement will be discharged following an inter-company loan to Cygnet 2002 by OpCo; and
 - (b) (following the discharge in full of Cygnet 2002 Limited's liabilities under the Existing Facility Agreement) the funding of a dividend payment in accordance with and set out in step 14.4 of the Steps Plan.
- 6.1.3 PropCo is not obliged to concern itself with any application of the Loan
- 6.1.4 The Loan shall be made in one amount in an amount as set out in the PropCo Inter-Company Loan Agreement;
- 6.1.5 PropCo shall receive Interest on the loan at a rate of 8% per annum on terms as set out in the PropCo Inter Company Loan Agreement;
- 6.1.6 The rights of PropCo under the PropCo Inter-Company Loan Agreement shall be subordinated in favour of The Royal Bank of Scotland plc pursuant to the Intercreditor Deed

7 PROPCO-CIH INTER-COMPANY LOAN AGREEMENT

- 7.1 Under the PropCo-CIH Inter-Company Loan Agreement
- 7.1.1 PropCo will provide an agreed Loan (the "Loan") to CIH.
- 7.1.2 The purpose of the Loan is to enable CIH to on-lend the money to its parent company Cygnet 2008 so that Cygnet 2008 can acquire the entire issued share capital of Cygnet 2002.
- 7.1.3 PropCo is not obliged to concern itself with any application of the Loan.
- 7.1.4 The Loan shall be made in one amount in an amount as set out in the PropCo-CIH Inter-Company Loan Agreement;
- 7.1.5 PropCo shall receive Interest on the loan at a rate of 8% per annum on terms as set out in the PropCo-CIH Inter-Company Loan Agreement;
- 7.1.6 The rights of PropCo under the PropCo-CIH Loan Agreement shall be subordinated in favour of The Royal Bank of Scotland plc pursuant to the Intercreditor Deed.

8 OPCO INTER-COMPANY LOAN AGREEMENT

- 8.1 Under the OpCo Inter-Company Loan Agreement:
- 8.1.1 OpCo will provide an agreed loan (the "Loan") to Cygnet 2002.
- 8.1.2 The Loan is to be used towards partial repayment by Cygnet 2002 of its liabilities under the Existing Facility Agreement. The remainder of Cygnet 2002 Limited's liabilities under the Existing Facility Agreement will be discharged following an inter-company loan to Cygnet 2002 from PropCo.
- 8.1.3 OpCo is not obliged to concern itself with any application of the Loan.

- 8.1.4 The Loan shall be made in one amount in an amount as set out in the Opco Inter-Company Loan Agreement;
- 8.1.5 OpCo shall receive Interest on the loan at a rate of 8% per annum on terms as set out in the Opco Inter Company Loan Agreement;
- 8 1 6 The rights of OpCo under the OpCo Inter-Company Loan Agreement shall be subordinated in favour of The Royal Bank of Scotland plc.

9 **CIH-2002 INTER-COMPANY LOAN AGREEMENT**

- 9 1 Under the CIH-2002 Inter-Company Loan Agreement:
 - 9.1 1 Cygnet 2002 will provide an agreed Loan (the "Loan") to CIH
 - 9.1.2 The purpose of the Loan is to finance the proposed acquisition of the entire issued share capital of Cygnet PropCo Holdco Limited .
 - 9 1.3 Cygnet 2002 is not obliged to concern itself with any application of the Loan
 - 9.1.4 The Loan shall be made in one amount in an amount as set out in the CIH-2002 Inter-Company Loan Agreement;
 - 9.1.5 Cygnet 2002 shall receive Interest on the loan at a rate of 8% per annum on terms as set out in the CIH-2002 Inter-Company Loan Agreement,
 - 9.1.6 The rights of Cygnet 2002 under the CIH-2002 Loan Agreement shall be subordinated in favour of The Royal Bank of Scotland plc pursuant to the Intercreditor Deed.

10 **TAX AND COSTS FACILITY DEED**

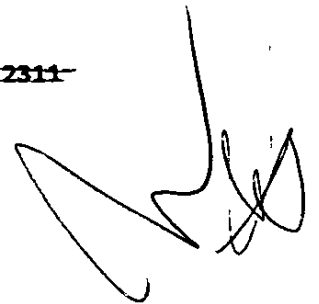
- 10.1 Opco undertakes with PropCo that if and to the extent PropCo does not have sufficient free cash available to it after all obligations then due and payable by PropCo pursuant to the terms of the PropCo Finance Documents have been paid (and for this purpose, "free cash" shall mean monies standing to the credit of the General Account and which, in accordance with the terms of the PropCo Finance Documents, are not to be applied for some other purpose) to meet a Tax Liability in full it will either:
 - 10 1.1 make available whether by way of loan or share subscription (or procure that there shall be made available) to PropCo on the due date for payment (as provided in Clause 6 3 (*Due date for payment*)) of the Tax and Costs Facility Deed) an amount equal to any Tax Liability (or part thereof) in excess of the free cash payable by PropCo, and/or
 - 10 1.2 on behalf of and at the direction of PropCo, apply an amount otherwise to be made available under Clause 2.1.1 of the Tax and Costs Facility Deed in making a payment (or procuring that a payment is made) of the amount of the Tax Liability (or part thereof) in excess of the free cash to the relevant Tax Authority on or prior to the date when payment of the Tax Liability is due to be made,

and any Tax Facility Drawdown made available by:

- (a) Opco (whether to PropCo or to a Tax Authority) pursuant to Clauses 2.1.1 or 2.1.2 of the Tax and Costs Facility Deed by way of a loan shall be made on the terms set out in Clause 2.3 (*Terms of any loan*) of the Tax and Costs Facility Deed; or
- (b) Opco (to a Tax Authority) pursuant to Clause 2.1.2 of the Tax and Costs Facility Deed shall give rise to an inter-company loan between OpCo and PropCo of an

amount equal to the Tax Facility Drawdown and on the terms set out in Clause 2.3 (*Terms of any loan*) of the Tax and Costs Facility Deed.

- 10.2 Opco undertakes with Propco that if Propco does not have sufficient Free Cash (as defined in 9.1 above) available to Propco after it has paid all its obligations under the Finance Documents to meet a Non-Tax Liability Opco will either:
- 10.2.1 make available to Propco a sum equal to the Non-Tax Liability in excess of Free Cash payable by Propco either by way of loan or share subscription; and/or
- 10.2.2 on behalf of and at the direction of Propco, apply an amount otherwise to be made available under Clause 3.1.1 of the Tax and Costs Facility Deed in making a payment (or procuring that a payment is made) in satisfaction of the Non-Tax Liability (or part thereof) on or prior to the date when payment of the Non-Tax Liability is due to be made,
- and any Non-Tax Facility Drawdown made available by:
- (a) Opco (whether to Propco or to any other person) pursuant to Clauses 3.1.1 or 3.1.2 of the Tax and Costs Facility Deed by way of a loan shall be made on the terms set out in Clause 3.3 (*Terms of any loan*) of the Tax and Costs Facility Deed; or
- (b) Opco (to any person) pursuant to Clause 3.1.2 of the Tax and Costs Facility Deed shall give rise to an inter-company loan between Opco and Propco of an amount equal to the Non-Tax Facility Drawdown and on the terms set out in Clause 3.3 (*Terms of any loan*) of the Tax and Costs Facility Deed.
- 10.3 Opco shall indemnify Propco for any loss or liability arising by reason of a breach by Opco of its obligations under the Tax and Cost Facility Deed
- 10.4 Under the Tax Guarantee of the Tax and Cost Facility Deed
- 10.4.1 The Tax Guarantors covenant irrevocably and jointly with Propco that they shall do the following
- (a) guarantee Opco's punctual performance of all its obligations under the Tax and Cost Facility Deed
- (b) where Opco does not pay any amount under the obligations in the Tax Deed, the Tax Guarantors will immediately pay such amount as if they were the principal obligors under the Tax and Costs Facility Deed
- (c) indemnify Propco immediately on demand against any cost, loss or liability suffered by Propco if any obligation guaranteed by it is, or becomes, unenforceable, invalid or illegal.
- 10.4.2 This guarantee will extend to the ultimate balance of sums payable by OpCo or PropCo under the or any Tax Guarantor under the Tax and Costs Facility Deed, regardless of any intermediate payment or discharge in whole or in part



SCHEDULE 4

~~CYGNET PROPCO LIMITED~~

DEFINITIONS

Accession Letter: means a document substantially in the form set out in Schedule 6 (*Form of Accession Letter*) of the Propco Facility Agreement;

Acquisition: the acquisition by Cygnet 2008 of Cygnet 2002 Shares on the terms of the Offer Documents;

Additional Borrower: means a company which becomes an Opco Borrower in accordance with Clause 28.2 (*Additional Borrowers*) of the Opco Facility Agreement;

Additional Chargor: means any person which becomes a Chargor by executing a Deed of Accession (as defined in the Debentures);

Affiliate: means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company;

Agent: means The Royal Bank of Scotland plc acting as agent for National Westminster Bank plc;

Arranger: means The Royal Bank of Scotland plc acting as agent for National Westminster Bank plc,

Alterations: means any development, redevelopment, demolition, reconstruction or structural alteration,

Assigned Account: means each Control Account and any other account that may from time to time be identified in writing as an Assigned Account by the Security Trustee;

Authorisation: means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;

Budgeted Costs: means the itemised budgeted costs and expenses approved by the Agent (including a summary breaking down pre and post start-up losses and capitalised interest) relating to the acquisition of property in connection with and the carrying out and financing of a Development all as set out in the relevant Development Programme;

Building Contract: means, in respect of a Development Property, each building contract, including all documents referred to in that contract, relating to the carrying out of whole of the design and construction of the relevant Development;

Business Day: means a day (other than a Saturday or Sunday) on which banks are open for general business in London,

Centre of Main Interests: means, in relation to a Propco Obligor or an Opco Obligor, the "centre of main interests" for the purposes of the EU Insolvency Regulation of that Obligor,

Certificate of Practical Completion: means, in respect of a Development Property, the Certificate of Practical Completion to be issued by the Certifier (as defined in the Opco Facilities Agreement) in connection with the Practical Completion of the relevant Development;

SCHEDULE 4

~~CONFIDENTIAL~~

DEFINITIONS


SIP

Accession Letter means a document substantially in the form set out in Schedule 6 (*Form of Accession Letter*) of the Propco Facility Agreement;

Acquisition: the acquisition by Cygnet 2008 of Cygnet 2002 Shares on the terms of the Offer Documents,

Additional Borrower: means a company which becomes an Opco Borrower in accordance with Clause 28.2 (*Additional Borrowers*) of the Opco Facility Agreement;

Additional Chargor means any person which becomes a Chargor by executing a Deed of Accession (as defined in the Debentures);

Affiliate: means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company;

Agent: means The Royal Bank of Scotland plc acting as agent for National Westminster Bank plc;

Arranger means The Royal Bank of Scotland plc acting as agent for National Westminster Bank plc;

Alterations: means any development, redevelopment, demolition, reconstruction or structural alteration;

Assigned Account means each Control Account and any other account that may from time to time be identified in writing as an Assigned Account by the Security Trustee,

Authorisation: means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration,

Budgeted Costs: means the itemised budgeted costs and expenses approved by the Agent (including a summary breaking down pre and post start-up losses and capitalised interest) relating to the acquisition of property in connection with and the carrying out and financing of a Development all as set out in the relevant Development Programme;

Building Contract: means, in respect of a Development Property, each building contract, including all documents referred to in that contract, relating to the carrying out of whole of the design and construction of the relevant Development;

Business Day: means a day (other than a Saturday or Sunday) on which banks are open for general business in London;

Centre of Main Interests means, in relation to a Propco Obligor or an Opco Obligor, the "centre of main interests" for the purposes of the EU Insolvency Regulation of that Obligor,

Certificate of Practical Completion: means, in respect of a Development Property, the Certificate of Practical Completion to be issued by the Certifier (as defined in the Opco Facilities Agreement) in connection with the Practical Completion of the relevant Development,

Charged Assets: means each of the assets and undertaking of each Chargor which from time to time are the subject of any Security created or expressed to be created by it in favour of Security Trustee by or pursuant to the Debentures and any Legal Charge;

Chargor: means each of the Original Chargors and Additional Chargors;

CIH: means Cygnet Inter-Holdings Limited;

CIH 2008 Inter-Company Loan Agreement: means the loan agreement in the agreed form dated on or about the date of this Agreement between CIH (as lender) and Cygnet 2008 (as borrower)

CIH Loan Agreement: means the loan agreement in the agreed form dated on or about the date of this Agreement between the Propco Borrower (as lender) and Cygnet 2002 (as borrower) entered into to enable Cygnet 2002 to advance the amount of its drawings thereunder to Cygnet 2008 (pursuant to the Cygnet Loan Agreement) to finance all or part of the Acquisition;

Collateral Warranties means, in respect of a Property, each collateral warranty granted or to be granted by a Main Contractor, a Warranty Contractor and/or by a Warranty Consultant in respect of a Development Document to which it is a party in favour of the Security Trustee;

Compliance Certificate means a compliance certificate provided by the Borrower to the Agent which, as required by the provisions of Clause 19.2 (*Compliance Certificate*) of the Propco Facility Agreement, shall be in either the form set out in Part 1 or Part 2 of Schedule 7 (*Compliance Certificate*) of the Propco Facility Agreement;

Compulsory Purchase means any disposal of the whole or any part of a Group Property made pursuant to a compulsory purchase order or any other exercise by an acquiring authority of statutory powers;

Control Account: means each of the Disposal Proceeds Account, the Receipts Account, the Insurance Proceeds Account, the Rectification Account and the General Account (all as defined in the Propco Facility Agreement);

Consultant Appointment: means, in relation to a Development Property, an agreement for an appointment for a Consultant including all documents referred to in that agreement,

Creditors: means each Finance Party;

Cygnet 2002: means Cygnet 2002 Limited,

Cygnet 2002 Loan Agreement: means the loan agreement in the agreed form dated on or about the date of the Propco Facility Agreement between the Propco Borrower (as lender) and Cygnet 2002 (as borrower) entered into to enable Cygnet 2002 to discharge all liabilities under the Existing Facility Agreement;

Cygnet 2002 Shares: means the entire issued share capital of Cygnet 2002 as at the date of the Propco Facility Agreement;

Cygnet 2008: means Cygnet 2008 Limited,

Cygnet Loan Agreement: means the loan agreement in the agreed form dated on or about the date of the Propco Facility Agreement between CIH (as lender) and Cygnet 2008 (as borrower) entered into to assist Cygnet 2008 to finance the Acquisition;

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Debenture: means any fixed and floating charge debenture entered or to be entered into by an Obligor in favour of the Security Trustee in the agreed form;

Debt: means all or any (as the context requires) of the Secured Debt and the Subordinated Debt,

Debtors: means Cygnet 2002 and each:

- (a) Obligor;
- (b) other member of the Group which has any obligation to any Finance Party under any Finance Document; and
- (c) any other person that is a debtor in respect of any Debt, and shall include each New Debtor;

Development. means the development of a Development Property for the provision of care home accommodation and/or psychiatric services together with ancillary uses as approved in accordance with Clause 4.4 (*Approval*) of the Opco Facilities Agreement including, without limitation, all demolition and clearance operations, all excavations, building and other construction work and all associated drainage and infrastructure works for the comprehensive development of a Development Property in accordance with the relevant Development Documents, the Required Consents and the provisions of the Opco Facilities Agreement;

Development Costs: means the costs and expenses (including any part thereof in respect of or which represents irrecoverable VAT) payable by an Obligor as specified in the relevant Budgeted Costs,

Development Document: means, in respect of a Development Property, each and any

- (a) Building Contract,
- (b) Trade Contract to which a Warranty Trade Contractor is party;
- (c) Consultant Appointment to which a Warranty Consultant is party;
- (d) Collateral Warranty,
- (e) Specifications;
- (f) Required Consents;
- (g) any other document designated as such in writing by the Agent and Propco II under the Opco Facilities Agreement;

each as defined in the Opco Facilities Agreement

Development Loan: means each loan made in relation to the Development Costs

Development Management Agreements: means

Development Programme: means a report addressed to the Finance Parties summarising the proposed development programme and timetable for a Development delivered to and approved by the Lenders in accordance with Clause 4.1 (*Conditions precedent*) of the Opco Facilities Agreement and updated from time to time in accordance with the Opco Facilities Agreement, and which may, in respect of the first Acquisition Loan (as defined in the Opco Facilities Agreement) for a Development Property, consist of an indicative programme only,

pending confirmation as required by Clause 4.2 (*Further Conditions Precedent*) of the Opco Facilities Agreement;

Development Property: means each Property in respect of which a Development Loan is or is to be drawn,

Disposal means the transfer, assignment, assignation, conveyance or sale (including the grant of a lease at a premium) of the Borrower's interest in all or part of any Property;

Disposal Costs: means, in relation to a Disposal, any reasonable direct costs and expenses (including any part of such costs and expenses which represents VAT (other than any amount in respect of VAT included in the calculation of Disposal VAT Liability (as defined in the Propco Facility Agreement) for such Disposal)) incurred by the Borrower to persons who are not members of the Group in connection with the Disposal;

Disposal Proceeds: means all sums paid or payable or any other consideration given or to be given for a Disposal including (without limitation):

- (a) all compensation and damages received for any use or disturbance, blight or compulsory purchase,
- (b) any deposit (other than a deposit held on a stakeholder basis); and
- (c) any amount in respect of or which represents VAT chargeable in respect of any sum referred to above;

Dormant Company: means a member of the Group that is dormant, that does not trade (for itself or as agent for any other person) and does not own, legally or beneficially, any assets (including without limitation, indebtedness owed to it) which in aggregate have a value of £20,000 or more or its equivalent in other currencies;

Environmental Claim: means any claim, proceeding or investigation by any person in respect of any Environmental Law,

Environmental Law: means any law in the United Kingdom which relates to the pollution or protection of the environment (including any building, land, water, air or natural or man-made structure) or harm to or the protection of human health or the health of animals or plants,

Environmental Permits: means any Authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of any member of the Group,

Equipment: means any equipment and movables used by any member of the Group for the purposes of the psychiatric services business;

Event of Default: means a Propco Event of Default or, as the case may be, an Opco Event of Default;

Excluded Company: means each Dormant Company (for so long as it is a Dormant Company as defined hereunder), Stac and Oakdale;

Existing Facility Agreement: means the facility agreement originally dated 31 October 2002 (as amended and restated on 6 May 2006, 31 May 2007) and made between Cygnet 2002 and National Westminster Bank plc;

Facilities Agents: means both of the Propco Agent (until the Propco Discharge Date) and the Opco Agent (until the Opco Discharge Date),

Facilities Agreements: means the Propco Facilities Agreement and the Opco Facilities Agreement;

Fee Letter: means any letter or letters between the Arranger, the Agent and/or the Security Trustee and the Borrower setting out any of the fees referred to in Clause 11 (*Fees*) of the Propco Facility Agreement;

Finance Parties: means the Propco Finance Parties and/or (as applicable) the Opco Finance Parties;

Financial Covenants: means the Propco Financial Covenants and/or (as applicable) the Opco Financial Covenants,

Final Group Structure Chart: means a structure chart for the Group (for these purposes including Cygnet 2008) which shows:

- (a) the legal and beneficial ownership (including any minority interests) of all Obligors and all other members of the Group as at the date of completion of steps 16 and 17 of the Steps Plan; and
- (b) all Financial Indebtedness owed by each Obligor as at that date to any other person (other than pursuant to the Facilities Agreements);

Final Repayment Date: means, in relation to both Facility A and Facility B, 20 January 2015 or, if such date is not a Business Day, the immediately preceding Business Day;

Financial Indebtedness: means any indebtedness for or in respect of:

- (a) monies borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with generally accepted accounting principles applicable to the person concerned, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold or discounted on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and

- (i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above;

Finance Party: means the Propco Finance Parties and/or (as applicable) the Opco Finance Parties and "**Finance Parties**" shall be construed accordingly;

Financial Ratio: means any financial ratio set out in clauses 21.1 to 21.6 of the Propco Facilities Agreement;

General Account: means the account maintained by the Borrower in accordance with Clause 20.1 (*Designation of Control Accounts*) of the Propco Facility Agreement and includes its interest in any replacement account or sub-division or sub-account of that account;

Group. means Cygnet 2008 or (following the release of Cygnet 2008 as a Guarantor pursuant to Clause 26.3.2 (*Release of Obligors*) of the Propco Facility Agreement) CIH and its Subsidiaries from time to time which, save for the purposes of the Financial Ratios and Clause 27.5 (*Business with the Group*) of the Propco Facility Agreement, shall be deemed not to include the Excluded Companies;

Group Property means any Property or Tabley House and "**Group Properties**" shall be construed accordingly;

Grove means Grove Investments UK Limited;

Head Lease: means any lease by virtue of which the Borrower holds an interest in a Property;

Hedge Counterparty: means the Original Hedge Counterparty and any person appointed as a Hedge Counterparty pursuant to Clause 25.6 (*New Hedge Counterparties*) of the Propco Facility Agreement;

Hedge Documents: means.

- (a) an ISDA master agreement, schedule and credit support annex (if any) made between a Hedge Counterparty and the Propco Borrower, and
- (b) each confirmation pursuant to that master agreement relating to a Hedge Transaction,

Hedge Transaction: means any swap, cap, floor, collar, option or other transaction (or any combination) entered into by the Propco Borrower and the Hedge Counterparty in relation to the Propco Facilities.

Holding Company. means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary;

Insolvency Event: means:

- (a) a court making a winding-up order or an order for the dissolution or liquidation of any Debtor or a liquidator, administrator, receiver, manager or equivalent being appointed to any Debtor,
- (b) any Debtor ceasing or suspending generally payment of its debts or announcing an intention to do so or making a general assignment for the benefit of or a composition with its creditors; or

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- (c) any analogous events to these mentioned in (a) and (b) above affecting any Debtor in any jurisdiction;

Insurance Policies: means any policy of insurance or assurance in which a Party may at any time have an interest;

Insurance Proceeds Account means any account opened and maintained by an Opco Borrower in accordance with Clause 21.3 (*Payments into Control Accounts*) of the Opco Facilities Agreement and includes its interest in any replacement account or sub-division or sub-account of that account;

Intellectual Property: means any patents, trade marks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered, the benefit of all applications and rights to use such assets and all Related Rights;

Intercreditor Deed means the intercreditor and security trust deed dated on or about the date of the Propco Facility Agreement and entered into by, among others, Cygnet 2008, Propco, Propco II, Opco and the Agent;

Inter-Company Facility: means the facility referred to in clause 2 of the Inter-Company Loan Agreements;

Interest: means 8% per annum (before as well as after any demand or judgment);

Interest Payment Dates: means

- (a) in relation to any Loan, 20 January, 20 April, 20 July and 20 October in each year; and
- (b) in relation to any Unpaid Sum, the last day of each Interest Period in which that Unpaid Sum falls due;

Interest Period means each period determined in accordance with Clause 9 (*Interest Periods*) of the Propco Facility Agreement and, in relation to an Unpaid Sum, each period determined in accordance with Clause 8.3 (*Default interest*) of the Propco Facility Agreement;

Investments: means:

- (a) any stocks, shares, debentures, securities and certificates of deposit (but not including the Shares),
- (b) all interests in collective investment schemes; and
- (c) all warrants, options and other rights to subscribe or acquire any of the investments described in (a) and (b),

in each case whether held directly by, or to the order of, any Chargor or by any trustee, nominee, fiduciary or clearance system on its behalf and all Related Rights (including all rights against any such trustee, nominee, fiduciary or clearance system);

Lease. means any present or future lease, underlease, sub-lease, licence, tenancy or right to occupy all or any part of a Property and any agreement for the grant of any of the foregoing (excluding any Head Lease);

Legal Charge means each charge by way of legal mortgage entered into by an Obligor over a Property in favour of the Security Trustee in the agreed form;

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Lender: means a Propco Lender or an Opco Lender under the relevant Facilities Agreement;

Main Contractors: means, in respect of a Development Property, such firm or company of project contractors as may be appointed as the main building contractor in accordance with the Opco Facilities Agreement;

Majority Opco Lenders: has the meaning given to Majority Lenders in the Opco Facilities Agreement;

Majority Propco Lenders: has the meaning given to Majority Lenders in the Propco Facility Agreement;

Majority Propco Finance Parties: means, at any time, Propco Finance Parties whose Propco Debt Participations at that time aggregate to more than 66% of the total Propco Debt Participations at that time;

Market Value means in respect of an interest in a Group Property, the market value of that interest (as "Market Value" is defined in the appraisal and valuation standards issued by the Royal Institution of Chartered Surveyors from time to time),

Material Adverse Effect: means a material adverse effect on:

- (a) the ability of the Obligors taken as a whole to perform and comply with their payment obligations under the Finance Documents or any Financial Ratio (as defined in the Propco Facility Agreement);
- (b) the validity or enforceability of the Finance Documents or the rights or remedies of any Finance Party under the Finance Documents, or
- (c) the Market Value of any Group Property;

Material Development: means a Development in respect of which the Budgeted Costs (excluding land acquisition costs) are at least £3,000,000;

Monetary Claims means any book and other debts and monetary claims owing to each Chargor and any proceeds of such debts and claims (including any claims or sums of money deriving from or in relation to any Intellectual Property, any Investment, the proceeds of any Insurance Policy, any court order or judgment, any contract or agreement to which that Chargor is a party and any other assets, property, rights or undertaking of that Chargor);

Mortgaged Property: means the freehold and leasehold property specified in the Schedule to each Legal Charge and any freehold or leasehold property specified in Schedule 2 (*Mortgaged Property*) of the Debentures,

Net Disposal Proceeds. means, in relation to a Disposal, the Disposal Proceeds derived from the Disposal after deducting the Disposal Costs incurred in connection with that Disposal;

New Lender: has the meaning given to it by Clause 27 1 (*Assignment and transfers by the Lenders*) of the Opco Facilities Agreement;

New Obligor: means any person which at any time becomes a New Obligor in accordance with Clause 28 3 (*New Obligors*) of the Opco Facilities Agreement or with Clause 26.2 (*New Obligors*) of the Propco Facility Agreement;

Oakdale means Oakdale Services Limited;

Obligor means generally any person who is a Propco Obligor or an Opco Obligor under the relevant Facilities Agreement

Occupational Lease means each Opco Lease and any other Lease to which an Obligor's interest in a Group Property may be directly subject from time to time;

Occupational Tenant means the tenant under an Occupational Lease;

Offer Documents means the Offering Circular and any other documents designated as "Offer Documents" by the Agent (each as defined in the Propco Facility Agreement) and the Borrower;

Opco means Cygnet Health Care Limited;

Opco Agent means the Agent as defined in the Opco Facilities Agreement;

OpCo Borrower means an Original Borrower or an Additional Borrower;

Opco Debt means all present and future liabilities (actual or contingent) payable or owing by any Debtor (and whether incurred solely or jointly) to any Opco Finance Party under or in connection with the Opco Finance Documents, whether or not matured and whether or not liquidated, together with any Additional Debt relating thereto,

Opco Debtors means each of Cygnet 2002 Limited and its Subsidiaries from time to time other than Stac and, for so long as they are Subsidiaries of Cygnet 2002 Limited, Propco and Propco Holdco,

Opco Discharge Date means the date on which all Opco Debt has been irrevocably and fully paid and discharged and all Commitments of the Opco Finance Parties in relation to all Opco Debt have been cancelled in accordance with the terms of the Opco Facilities Agreement;

Opco Facilities Agreement means the Agreement whereby Opco and Propco II as Original Obligors for Opco Facilities

Opco Facility means either Opco Facility A or Opco Facility B and "**Opco Facilities**" and shall be construed accordingly;

Opco Facility A means the term loan facility made available to the Borrower pursuant to Clause 21.1.1 (*The Facilities*) of the Opco Facility Agreement,

Opco Facility B means the term loan facility made available to the Borrower pursuant to Clause 2.1.2 (*The Facilities*) of the Opco Facility Agreement,

Opco Finance Document means each of:

- (a) the Opco Facilities Agreement;
- (b) each Security Document,
- (c) the Intercreditor Deed;
- (d) each Transfer Certificate
- (e) each Fee Letter;
- (f) each Utilisation Request,

- CONFIDENTIAL**
- (g) each Compliance Certificate;
 - (h) each Accession Letter; and
 - (i) any document designated as such by the Agent and the Opco Borrower;

each as defined in the Opco Facilities Agreement

Opco Finance Parties: means the Finance Parties as defined in the Opco Facilities Agreement;

Opco Group: means Cygnet 2002 and all of its Subsidiaries from time to time;

Opco Group Security Documents: means each document creating or evidencing Security in favour of the Finance Parties as defined in the Opco Facilities Agreement which is permitted by the Intercreditor Deed;

Opco Guarantor: means each New Obligor until such time as it ceases to be a Guarantor in accordance with Clause 28.4 (*Release of Obligors*) of the Opco Facilities Agreement including, for the avoidance of doubt, all of the New Guarantors as defined in and listed in paragraph 3.2 of Schedule 2 Part A of the Opco Facilities Agreement;

Opco Inter-Company Loan Agreement: means the loan agreement in the agreed form between Opco (as lender) and Cygnet 2002 (as borrower) to be used towards partial repayment by Cygnet 2002 Limited of its liabilities under the Existing Facility Agreement;

Opco Lease: means the lease of the Properties between the Borrower (as landlord) and Opco (as tenant), and any supplemental lease, each in agreed form,

Opco Lenders: means the various financial institutions as listed in the Opco Facilities Agreement,

Opco Loan: means a Facility A Loan or a Facility B Loan as defined in the Opco Facility Agreement;

Opco Obligor: means each Opco Borrower and Opco Guarantor;

Opco/Propco Loan Agreement: means the loan agreement in the agreed form between Opco (as lender) and the Borrower (as borrower) documenting the terms of the loan which was created as a result of the transfer of the Properties from Opco to Propco,

Opco Properties: means any present or future freehold, leasehold or other property in which any member of the Opco Group has an interest from time to time and "**Property**" shall be construed accordingly;

Opco Turnover Amount: has the meaning given to it in Clause 11.2 (*Turnover*),

Original Borrowers means in respect of Facility A, Propco II and in respect of Facility B, Opco,

Original Chargor means the person listed in Schedule 1 of the relevant Debenture,

Original Hedge Counter Party. means National Westminster Bank plc

Party: means a party to the Propco Facility Agreement, the Opco Facilities Agreement or to any other Finance Document;

Permitted Distributions: means:

- (a) the payment of a dividend by one member of the Opco Group to another member of the Opco Group or (following the acquisition of the entire issued share capital of Cygnet 2002 by CIH) CIH;
- (b) the declaration of dividends (which are not to be paid) in accordance with the steps set out in the Steps Plan,
- (c) the payment of a dividend by Cygnet 2002 to Cygnet 2008 provided that a corresponding dividend payment is made by Cygnet 2008 to its members or (following the release of Cygnet 2008 as a Guarantor pursuant to Clause 26.3.2 (*Release of Obligors*) of the Propco Facility Agreement) by CIH to Cygnet 2008 in each case, where previously approved in writing by all of the Lenders (acting reasonably) following receipt by the Agent of a Compliance Certificate delivered pursuant to Clause 19.2.2 (*Compliance Certificate*) of the Propco Facility Agreement evidencing that:
 - (i) the EBITDAR ratio for the applicable Relevant Period (each as defined in the Propco Facility Agreement) was not less than 1.75:1; and
 - (ii) the Fixed Charge ratio for the applicable Fixed Charge Relevant Period (each as defined in the Propco Facility Agreement) was not less than 1.9:1,and provided always that any such dividend payment is permitted pursuant to the terms of the Intercreditor Deed; and/or
- (d) the payment of a dividend (which when aggregated with all similar dividends in any financial year of Cygnet 2008 does not exceed £50,000 in aggregate) by Cygnet 2002 or (following the acquisition by CIH of the Cygnet 2002 Shares) CIH to Cygnet 2008 in respect of the reasonable costs and expenses incurred by Cygnet 2008 in preserving its corporate existence and the costs of its professional advisers incurred in connection with matters related to the Group and which in any case, is permitted by the terms of the Intercreditor Deed,

Permitted Option: means a call option agreement entered into in the ordinary course of business of the Opco Group pursuant to which the aggregate of any refundable deposit paid thereunder and all actual and contingent liabilities of the members of the Group do not exceed (when aggregated with the aggregate amount of all other such liabilities and deposits under call options agreements in force at that time) £250,000 at any time;

Practical Completion: means, in relation to a Development Property, the date upon which:

- (a) any costs and expenses incurred by Propco II in connection with the Development to achieve the issue of the Certificate of Practical Completion have been paid in full other than any cost or expense the subject of:
 - (i) a retention made in accordance with the relevant Development Document where the Agent is satisfied that adequate provision has been made for the payment of that cost or expense and the Agent shall, in these circumstances, notify the Project Monitor for the purposes of paragraph (c) below that it is satisfied; or

- (ii) a dispute with any Main Contractor, Trade Contractor or any Consultant (each as defined in the Opco Facilities Agreement) where the Agent (acting reasonably) is satisfied that the dispute is bona fide and is likely to be resolved within a reasonable time period;
- (b) the Certificate of Practical Completion has been issued, and
- (c) the Project Monitor has provided the Agent with a certificate confirming paragraphs (a) and (b) above and that the Development has achieved practical completion in all material respects in accordance with the Development Documents;

Project Monitor: such chartered surveyors or quantity surveyors as may be appointed by the Agent and Propco II in respect of any Material Development;

Propco means Cygnet Propco Limited;

Propco II: means Cygnet Propco II Limited;

Propco Agent: means the Agent as defined in the Propco Facility Agreement;

Propco Borrower: means Propco;

Propco Debt: means all present and future liabilities (actual or contingent) payable or owing by any Debtor (and whether incurred solely or jointly) to any Propco Finance Party under or in connection with the Propco Finance Documents, whether or not matured and whether or not liquidated, together with any Additional Debt relating thereto; for the avoidance of doubt, the Propco Debt shall include the Hedging Debt *pari passu* with all other Propco Debt;

Propco Debtors: means each of Cygnet Inter-Holdings Limited, Propco Holdco, Propco and, until release of the guarantees and security provided by it pursuant to clause 26.3.3 of the Propco Facility Agreement and clause 28.5 of the Opco Facilities Agreement, Cygnet 2002;

Propco Discharge Date: means the date on which (i) all Propco Debt has been irrevocably and fully paid and discharged and all Commitments of the Propco Finance Parties in relation to all Propco Debt have been cancelled in accordance with the terms of the Propco Facility Agreement and (ii) all obligations of the Hedging Counterparties in relation to the Hedging Debt under the Hedging Documents have been terminated in accordance with the terms of the Hedging Agreements,

Propco Facilities Agreement: means the Agreement where

Propco Facility: means either Propco Facility A or Propco Facility B and "**Propco Facilities**" and shall be construed accordingly;

Propco Facility A: means the term loan facility made available to the Propco Borrower pursuant to Clause 21.1.1 (*The Facilities*) of the Propco Facility Agreement;

Propco Facility B: means the term loan facility made available to the Propco Borrower pursuant to Clause 2.1.2 (*The Facilities*) of the Propco Facility Agreement;

Propco Finance Document means each of:

- (a) the Propco Facilities Agreement;
- (b) each Security Document;

- [REDACTED]
- (c) the Intercreditor Deed;
 - (d) each Transfer Certificate
 - (e) each Fee Letter;
 - (f) each Hedge Document
 - (g) the Tax and Costs Facility Deed
 - (h) each Utilisation Request;
 - (i) each Compliance Certificate;
 - (j) each Accession Letter; and
 - (k) any document designated as such by the Agent and the Propco Borrower;

each as defined in the Propco Facilities Agreement

Propco Finance Parties: means the Finance Parties as defined in the Propco Facility Agreement;

Propco Group: means each of Cygnet 2008 (until such time as Cygnet 2008 is released as a Propco Guarantor in accordance with Clause 26.3.2 (*Release of Obligors*) of the Propco Facility Agreement, CIH, Propco Holdco and Propco;

Propco Guarantor: means each New Obligor and each of the New Guarantors (as defined and listed in paragraph 3.2 of Schedule 2 (*Conditions Precedent*) of the Propco Facility Agreement until such time as it ceases to be a Guarantor in accordance with Clause 26.3 (*Release of Obligors*) of the Propco Facility Agreement;

Propco Holdco: means Cygnet Propco Holdco Limited;

Propco Holdco II: means Cygnet Propco Holdco II Limited;

Propco CIH Inter-Company Loan Agreement: means the loan agreement in the agreed form between Propco (as lender) and CIH (as borrower) so that CIH can acquire the Cygnet 2002 Shares;

Propco Inter-Company Loan Agreement: means the loan agreement in the agreed form between Propco (as lender) and Cygnet 2002 (as borrower) to be used for the partial repayment by Cygnet 2002 of its liabilities under the Existing Facility Agreement;

Propco Lenders: means the various financial institutions as listed in the Propco Facilities Agreement;

Propco Loan: means a Facility A Loan or a Facility B Loan as defined in the Propco Facility Agreement;

Propco Obligor: means each of the Propco Borrower and Propco Guarantors;

PropCo Properties: means each of the Borrower's properties listed in Schedule 9 (*Properties*) of the Propco Facility Agreement and "**Propco Property**" shall be construed accordingly,

[REDACTED]

Propco Turnover Amount: has the meaning given to it in Clause 11.1 (*Turnover*);

Properties: means generally any the Propco or Opco Properties

Real Property: means (including as provided in Clause 1.7 (*Real Property*) of the Debentures), the Mortgaged Property and any present or future freehold or leasehold property in which any Chargor has an interest,

Receipts Account: means the account maintained by the Borrower in accordance with Clause 20.1 (*Designation of Control Accounts*) of the Propco Facility Agreement and includes its interest in any replacement account or sub-division or sub-account of that account;

Related Rights: means, in relation to any asset:

- (a) the proceeds of sale of any part of that asset,
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset,
- (c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset, and
- (d) any moneys and proceeds paid or payable in respect of that asset;

Rental Income: means all sums paid or payable to or for the benefit of any Obligor arising from the letting, use or occupation of all or any part of any Property, including, without limitation:

- (a) rents, licence fees and equivalent sums reserved or made payable,
- (b) sums received from any deposit held as security for performance of any tenant's obligations;
- (c) the letting or use of fixtures, fittings and equipment;
- (d) proceeds of insurance in respect of loss of rent or interest on rent;
- (e) receipts from or the value of consideration given for the grant, surrender, renunciation or variation of any Lease,
- (f) any service charge payments;
- (g) proceeds paid for a breach of undertaking or covenant or dilapidations under any Lease in relation to a Property and for expenses incurred in relation to any such breach and which, in the case of a breach of a continuing undertaking or covenant, is not applied towards the remedy of that breach or the payment of those expenses;
- (h) any contribution to a sinking fund paid by a tenant under an Occupational Lease;
- (i) any contribution by a tenant of a Property to ground rent due under any Head Lease,
- (j) any payment from a guarantor or other surety in respect of any of the items listed in this definition;
- (k) interest, damages or compensation in respect of any of the items in the definition; and

- (l) to the extent not already part of the amounts referred to in paragraphs (a) to (k) above, any amount in respect of or which represents VAT;

Repayment Instalment: means, on any date, such amount of the Facility A Loans (as defined in the Propco Facility Agreement) as are required to be repaid on that date under Clause 6 (*Repayment*) of the Propco Facility Agreement;

Reports: means the Financial Due Diligence Report, the Steps Plan, the Tax Model Letter and each Certificate of Title (each as defined in the Propco Facility Agreement),

Required Consents: means, in respect of a Development Property, all planning permissions required for the Development and all approvals of reserved matters or details required thereunder and all other consents, licences, approvals and certificates under the Planning Acts, building regulations, fire safety orders and any other statute or bye-law of any relevant authority and which are necessary for the carrying out, completion and occupation of that Development;

Revised Group Structure Chart: means a structure chart for the Group which shows:

- (b) the legal and beneficial ownership (including any minority interests) of all Obligors and all other members of the Group as at the date of completion of all the steps up to step 15 of the Steps Plan, and
- (b) all Financial Indebtedness owed by each Obligor as at that date to any other person (other than pursuant to the Propco Facility Agreement);

S&LB Documents: means:

- (a) the Opco Lease, and
- (b) the Opco/Propco Loan Agreement;

Secured Obligations. means all present and future obligations and liabilities (whether actual or contingent, whether owed jointly, severally or in any other capacity whatsoever and whether originally incurred by any Obligor or by some other person) of each Obligor to the Finance Parties (or any of them) under each of the Finance Documents except for any obligation or liability which, if it were so included, would cause that obligation or liability or any of the Security in respect thereof, to be unlawful or prohibited by any applicable law;

Security: means a mortgage, standard security, charge (fixed or floating), pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement entered into to create or confer security over any asset;

Security Document. means:

- (a) each Debenture;
- (b) any other document evidencing or creating Security to secure any Secured Obligation, and
- (c) any other document designated as such by the Security Trustee and an Obligor,

Security Trustee: means The Royal Bank of Scotland plc acting as agent for National Westminster Bank plc;

Share: means, in respect of a Chargor, all shares present and future held by it in its Subsidiaries (including those listed in Schedule 3) (*Shares*) of the Debentures;

Specific Contracts: means the Opco Lease, the Cygnet Loan Agreement, the Cygnet 2002 Loan Agreement, the Opco/Propco Loan Agreement, the Tax and Costs Facility Deed and each share purchase, business or asset purchase or property purchase agreement in each case entered into by a Chargor;

Specifications: means, in relation to a Material Development Property, the drawings calculations, plans and specifications for the Development by the Agent;

Stac: means Stac Healthcare Limited;

Steps Plan: means the steps paper produced by KPMG in the agreed form capable of being relied upon by the Finance Parties;

Subordinated Creditor: means any person who is a Subordinated Creditor under (and as defined in) the Intercreditor Deed;

Subordinated Debt: means all present and future liabilities (actual or contingent) payable or owing by any member of the Group (and whether incurred solely or jointly) to any other member of the Group whether or not matured and whether or not liquidated, together in each case with any Additional Debt relating thereto any obligations arising under any express or implied indemnity or right of contribution arising by reason of any Subordinated Creditor being a party to any Opco Lease, business or asset sale agreement with another member of the Group

Subsidiary means a subsidiary within the meaning of Section 736 of the Companies Act 1985 and includes a subsidiary undertaking within the meaning of section 258 of the Companies Act 1985,

Tabley House: means the leasehold property known as Tabley House, Knutsford, Cheshire registered at the Land Registry under title numbers CH331830, CH358522 and CH303671,

Tabley House Transfer: means the transfer of the legal and beneficial interest in Tabley House from Propco to Opco on or about the date of the Propco Facility Agreement;

Tangible Moveable Property means any plant, machinery, office equipment, computers, vehicles and other chattels (excluding any for the time being forming part of each Chargor's stock in trade or work in progress) and all Related Rights.

Tax: means any tax, levy, impost, duty or other charge or withholding of any nature whatsoever (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same) imposed or levied by or on behalf of a Tax Authority and "Taxes", "taxation", "taxable" and comparable expressions shall be construed accordingly;

Tax Authority: means any government, state or municipality or any local, state, federal or other authority, body or official anywhere in the world exercising a fiscal, revenue, customs or excise function (including (without limitation) HM Revenue & Customs and any successors thereto);

Tax and Costs Facility Deed means the tax and costs facility deed in the agreed form entered or to be entered into between, amongst others, the Opco Group as at the date of the Propco Facility Agreement (other than the Excluded Companies) and the Security Trustee and **Tax Deed** shall be construed accordingly;

Tax Facility Drawdown: means payment made available by Propco in accordance with Clause 2.1 (*Undertaking*) of the Tax and Costs Facility Deed,

Tax Guarantee: means the guarantee given under the Tax Deed;

Tax Guarantor: means a guarantor under the Tax Guarantee;

Tax Liability: means any liability of Propco to make an actual payment or increased payment of Tax

Trade Contract: means, in respect of a Development Property, any trade contract entered into with a Trade Contractor;

Trade Contractor: means, in respect of a Development Property, any trade contractor as may be appointed;

Transaction Documents: means:

- (a) each Finance Document,
- (b) each S&LB Document,
- (c) each Head Lease;
- (d) each Offer Document;
- (e) the C2002 Loan Agreement;
- (f) the CIH Loan Agreement;
- (g) the Cygnet Loan Agreement; and
- (h) any other document designated as such by the Agent and the Borrower

Transaction Security: means the Security constituted by the Transaction Security Documents, and

Transaction Security Documents: means the Propco Security Documents and the Opco Security Documents.

Transfer Certificate: means a certificate substantially in the form set out in Schedule 5 (*Form of Transfer Certificate*) of the Propco Facility Agreement or any other form agreed between the Agent and the Borrower,

Unpaid Sum: means any sum due and payable but unpaid by an Obligor under the Finance Documents;

Utilisation: means a utilisation of either Facility A or Facility B in relation to either the Propco or Opco Facilities,

Utilisation Date: means the date of a Utilisation, being the date on which a Loan is to be made,

Utilisation Request means a notice substantially in the form set out in Schedule 3 (*Utilisation Request*) of the Propco Facility Agreement;

Valuation. means a valuation in form and substance satisfactory to the Agent, prepared by and issued by the Valuer and addressed to the Finance Parties (and capable of being addressed to any relevant issuing vehicle or its trustee in a securitisation) valuing the Market Value vacant possession value and trading value of the Obligors' interests in each Property on

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the assumption in the case of each Development Property that Practical Completion has occurred;

Valuer: means GVA Grimley or any other firm of chartered surveyors appointed by the Agent to act as valuer;

VAT: means value added tax as imposed by VATA and legislation and regulations supplemental thereto and includes any other tax of a similar fiscal nature whether imposed in the United Kingdom (instead of or in addition to value added tax) or elsewhere from time to time;

VAT Group: means a group defined under s.43 to 43D of the Value Added Tax Act 1994 and the Value Added Tax (Groups. eligibility) Order 2004,

VAT Recoveries: means all sums (including for the avoidance of doubt any sums which represent interest, repayment, supplement or compensation) received from any Tax Authority by or on behalf of an Obligor in respect of VAT incurred or deemed to be incurred by an Obligor in connection with a Property or a Development;

Warranty Consultants: means such of the Consultants as the Agent shall determine should provide a Collateral Warranty,

Warranty Trade Contractors: means such Trade Contractors as the Agent shall determine should provide a Collateral Warranty;



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The Directors
Springs Community Limited
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TN15 0JR

Contact Ian Brokenshire
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28 February 2008

Dear Sirs

Auditors' report to the directors of Springs Community Limited ("the Company") pursuant to Section 156(4) of the Companies Act 1985

We have examined the attached statutory declaration of the directors of the Company dated 28 February 2008 in connection with the proposal that the Company should give financial assistance, directly or indirectly, for the purchase of all of the Company's holding company's shares

This report has been prepared solely for the Company's directors as a body in accordance with section 156(4) of the Companies Act 1985. Our work has been undertaken so that we, as the Company's auditors, might state to the Company's directors those matters we are required to state to them in an auditors' report under section 156(4) of that Act and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Company and the Company's directors as a body for our work under section 156(4) of that Act or for this report.

We have enquired into the state of the Company's affairs in order to review the bases for the statutory declaration.

We are not aware of anything to indicate that the opinion expressed by the Company's directors in their declaration as to any of the matters mentioned in Section 156(2) of the Companies Act 1985 is unreasonable in all the circumstances.

Yours faithfully


KPMG LLP

Registered Auditor