



**Registration of a Charge**

Company name: **ELYSIUM HEALTHCARE (ACORN CARE) LIMITED**

Company number: **03147293**

Received for Electronic Filing: **17/12/2018**



---

**Details of Charge**

Date of creation: **14/12/2018**

Charge code: **0314 7293 0018**

Persons entitled: **WILMINGTON TRUST (LONDON) LIMITED**

Brief description: **LEASEHOLD PROPERTY KNOWN AS THE WOODHOUSE, LOCKWOOD ROAD, CHEADLE, STOKE-ON-TRENT, ST10 4QU AND ALL THE OTHER PLOTS OF LAND LISTED IN THE INSTRUMENT. FOR MORE DETAILS PLEASE REFER TO THE INSTRUMENT**

**Contains fixed charge(s).**

**Contains negative pledge.**

---

**Authentication of Form**

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

---

**Authentication of Instrument**

Certification statement: **EXCEPT FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006, I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL  
INSTRUMENT.**

Certified by:

**ALLEN & OVERY LLP**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 3147293

Charge code: 0314 7293 0018

The Registrar of Companies for England and Wales hereby certifies that a charge dated 14th December 2018 and created by ELYSIUM HEALTHCARE (ACORN CARE) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 17th December 2018 .

Given at Companies House, Cardiff on 18th December 2018

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**

## **SUPPLEMENTAL LEGAL MORTGAGE**

**DATED** 14 DECEMBER **2018**

**THE PERSONS LISTED IN SCHEDULE 1  
AS CHARGORS**

**IN FAVOUR OF**

**WILMINGTON TRUST (LONDON) LIMITED AS SECURITY AGENT**

**ALLEN & OVERY**

**Allen & Overy LLP**

## CONTENTS

Clause	Page
1. Definitions and Interpretation.....	1
2. Covenant to Pay.....	4
3. Common Provisions .....	4
4. Mortgage of Material Property.....	4
5. Provisions as to Security and Perfection .....	5
6. Further Assurance.....	5
7. Enforcement of Security.....	6
8. Extension of Powers and Right of Appropriation .....	6
9. Appointment of Receiver or Administrator.....	7
10. Powers of Receivers .....	8
11. Application of Proceeds .....	11
12. Protection of Purchasers .....	11
13. Power of Attorney .....	11
14. Effectiveness of Security.....	12
15. Prior Security Interests .....	15
16. Subsequent Security Interests.....	16
17. Suspense Accounts .....	16
18. Release of Security.....	16
19. Clawback.....	16
20. Set-Off.....	17
21. Assignment & Changes to the Parties .....	17
22. Discretion and Delegation .....	17
23. Governing Law.....	17
24. Jurisdiction .....	18

### Schedule

1. The Chargors .....	19
2. Material Property.....	20
Execution Page to Legal Mortgage .....	1

**THIS LEGAL MORTGAGE** is made by way of deed on 14 DECEMBER 2018

**BY:**

- (1) **THE CHARGORS** listed in Schedule 1 (each person being a "**Chargor**"); and
- (2) **WILMINGTON TRUST (LONDON) LIMITED** as trustee for each of the Secured Parties under and as defined in the Intercreditor Agreement (the "**Security Agent**").

**BACKGROUND:**

- (A) Each Chargor enters into this Deed in connection with the Secured Debt Documents.
- (B) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

**IT IS AGREED** as follows:

## **1. DEFINITIONS AND INTERPRETATION**

### **1.1 Definitions**

In this Deed:

"**Acceleration Event**" has the meaning given to that term in the Intercreditor Agreement.

"**Administration Event**" means the occurrence of an Event of Default under Clause 28.6 (Insolvency), Clause 28.7 (Insolvency Proceedings) and/or Clause 28.8 (Creditors' Process) of the Senior Facilities Agreement in respect of a Chargor, or any analogous provision under any Secured Debt Document.

"**Charged Assets**" means all 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 the Security Agent by or pursuant to this Deed.

"**Collateral Rights**" means all rights, powers and remedies of the Security Agent provided by or pursuant to this Deed or by law.

"**Debtor**" has the meaning given to that term in the Intercreditor Agreement.

"**Event of Default**" has the meaning given to that term in the Intercreditor Agreement.

"**Final Discharge Date**" has the meaning given to that term in the Intercreditor Agreement.

"**Intercreditor Agreement**" means the intercreditor agreement dated 11 April 2018 between, among others, Elysium Healthcare Holdings 2 Limited as Parent, J.P. Morgan Securities Plc and Jefferies Finance LLC as Arrangers, and J.P. Morgan Europe Limited as Senior Agent and Wilmington Trust (London) Limited as Security Agent.

"**Material Property**" means, in respect of each Chargor, the leasehold interest in the properties named opposite that Chargor in Schedule 2 (Material Property) .

**"Receiver"** means a receiver, receiver and manager or, where permitted by law, an administrative receiver and that term will include any appointee made under a joint or several appointment.

**"Related Rights"** means all income paid or payable on the Material Property and all rights, monies or property accruing or offered at any time in relation to such Material Property whether by way of redemption, substitution, exchange or otherwise.

**"Secured Debt Documents"** has the meaning given to that term in the Intercreditor Agreement.

**"Secured Obligations"** has the meaning given to that term in the Intercreditor Agreement.

**"Secured Parties"** has the meaning given to that term in the Intercreditor Agreement.

**"Security Period"** means the period beginning on the date of this Deed and ending on the Final Discharge Date.

**"Senior Facilities Agreement"** means the senior multicurrency term and revolving facilities agreement dated 4 April 2018 between, amongst others, Elysium Healthcare Holdings 2 Limited as Parent, J.P. Morgan Securities Plc and Jefferies Finance LLC as Arrangers, J.P. Morgan Europe Limited as Agent and Wilmington Trust (London) Limited as Security Agent.

## **1.2 Terms defined in the Intercreditor Agreement**

Capitalised terms defined in the Intercreditor Agreement have, unless expressly defined in this Deed, the same meaning in this Deed.

## **1.3 Construction**

In this Deed:

- (a) the rules of construction contained in clause 1.2 (Construction) of the Intercreditor Agreement shall apply to the construction of this Deed, or in any notice given under or in connection with this Deed;
- (b) any reference to the **"Security Agent"**, the **"Secured Parties"** or a **"Chargor"** shall be construed so as to include its or their (and any subsequent) successors in title, permitted assigns and permitted transferees in accordance with their respective interests and, in the case of the Security Agent, any person for the time being appointed as Security Agent in accordance with the Secured Debt Documents;
- (c) **"this Security"** means any security created by this Deed;
- (d) a reference to any matter or circumstance being permitted is to be construed as a reference to any matter or circumstance which is not expressly prohibited;
- (e) references in this Deed to any Clause or Schedule shall be to a Clause or Schedule contained in this Deed; and
- (f) the Parties intend that this document shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

#### **1.4 Third Party Rights**

- (a) Unless expressly provided to the contrary in a Secured Debt Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Rights Act**") to enforce or to enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of any Secured Debt Document, the consent of any person who is not a party to this Deed is not required to rescind or vary this Deed at any time.
- (c) Any Receiver, or any delegate of the Security Agent or any Receiver, may, subject to this Clause 1.4 and the Third Parties Rights Act, rely on any Clause of this Deed which expressly confers rights on it.

#### **1.5 Material Property**

- (a) A reference in this Deed to a mortgage or charge of any leasehold property includes:
  - (i) all buildings, fixtures and fittings from time to time on or forming part of that property and belonging to a Chargor and all Related Rights; and
  - (ii) the benefit of any covenants for title given or entered into by any predecessor in title of a Chargor in respect of that property or any moneys paid or payable in respect of those covenants.
- (b) The terms of the Secured Debt Documents are incorporated into this Deed to the extent required for any purported disposition of any Material Property contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

#### **1.6 Separate Security**

Clause 4 (*Mortgage of Material Property*) shall be construed as creating a separate and distinct mortgage over each leasehold interest set out in Schedule 2 to this Deed and the failure to create an effective mortgage (whether arising out of this Deed or any act or omission by any party) over any one leasehold interest shall not affect the nature or validity of the mortgage imposed on any other leasehold interest.

#### **1.7 Security Agent assumes no obligation**

- (a) The Security Agent shall not be under any obligation in relation to the Charged Assets as a consequence of this Deed and each Chargor shall at all times remain liable to perform all obligations in respect of the Charged Assets.
- (b) The Security Agent executes this Deed in the exercise of the powers and authority conferred and vested in it under the Intercreditor Agreement for and on behalf of the Secured Parties for which it acts. It will exercise its powers and authority under this Deed in the manner provided for in the Intercreditor Agreement and, in so acting, the Security Agent shall have the protections, immunities, rights, indemnities and benefits conferred on it under the Intercreditor Agreement as if set out herein (and without prejudice to any additional rights or protections set out herein).

- (c) Notwithstanding any other provision of this Deed, in acting under and in accordance with this Deed the Security Agent is entitled to seek instructions from the relevant Secured Parties in accordance with the provisions of the Intercreditor Agreement at any time.
- (d) References herein to the Security Agent acting reasonably or properly or any similar or analogous reference must be read in accordance with clause 19 of the Intercreditor Agreement.

## **2. COVENANT TO PAY**

Each Chargor covenants with the Security Agent that it shall, on demand of the Security Agent pay, discharge and satisfy their Secured Obligations in accordance with the terms of the Secured Debt Documents.

## **3. COMMON PROVISIONS**

### **3.1 Common provisions as to all Security**

- (a) All the Security constituted by or pursuant to this Deed is:
  - (i) created in favour of the Security Agent;
  - (ii) continuing security for the payment and discharge of all the Secured Obligations; and
  - (iii) created with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (b) If the rights of a Chargor under a document cannot be secured without the consent of a party to that document:
  - (i) that Chargor must notify the Security Agent promptly;
  - (ii) this Security will secure all amounts which that Chargor may receive, or has received, under that document but exclude the document itself; and
  - (iii) unless the Security Agent otherwise requires, that Chargor must use reasonable endeavours to obtain the consent of the relevant party to that document being secured under this Deed, provided that if that Chargor has not been able to obtain acknowledgement of any such notice, any obligation to comply with this Clause 3.1(b)(iii) shall cease after 20 Business Days following the date of service of the relevant notice.
- (c) The Security Agent holds the benefit of this Deed on trust for the Secured Parties.

## **4. MORTGAGE OF MATERIAL PROPERTY**

Each Chargor charges, by way of first legal mortgage, its Material Property.

## **5. PROVISIONS AS TO SECURITY AND PERFECTION**

### **5.1 Negative pledge and restrictions on dealings**

Except as permitted by the Secured Debt Documents, no Chargor shall at any time during the Security Period create or permit to subsist any Security over all or any part of the Charged Assets or dispose of any part of the Charged Assets.

### **5.2 No implied covenants for title**

The covenants set out in sections 3(1) and 3(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 4 (*Mortgage of Material Property*).

### **5.3 Deposit of title deeds**

Each Chargor shall, on the request of the Security Agent:

- (a) promptly deposit with the Security Agent (or procure the deposit of) all original deeds, leases, certificates and other documents constituting or evidencing title to the Material Property which that Chargor (having used its best endeavours to locate and obtain all such title documents) has under its possession or control; and
- (b) at any time thereafter, deposit with the Security Agent (or procure the deposit of) any further such original deeds, leases, certificates and other documents relating to the Material Property, promptly upon coming into possession of any of those items.

### **5.4 Application to the Land Registry**

Each Chargor hereby consents to an application being made to the Land Registry to enter the following restriction in the Proprietorship Register of any registered land at any time forming part of the Material Property:

"No transfer or charge of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [●] in favour of [●] referred to in the charges register or their conveyancer."

### **5.5 Further advances**

- (a) Subject to the terms of the Secured Debt Documents, each Lender is under an obligation to make further advances to the Chargors and that obligation will be deemed to be incorporated in this Deed as if set out in this Deed.
- (b) Each Chargor consents to an application being made to the Land Registry to enter the obligation to make further advances on the Charges Register of any registered land forming part of the Material Property.

## **6. FURTHER ASSURANCE**

- (a) Subject to the Agreed Security Principles, each Chargor shall at its own expense promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, registrations, notices, consents and instructions) as the Security Agent or a Receiver

may reasonably specify (and in such form as the Security Agent or the Receiver may reasonably require) in favour of the Security Agent, the Receiver or its nominee(s):

- (i) to perfect the Security created or intended to be created under or evidenced by this Deed (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of this Deed) or for the exercise of any rights, powers and remedies of the Security Agent or the Secured Parties provided by or pursuant to the Secured Debt Documents or by law;
  - (ii) to confer on the Security Agent or confer on the Secured Parties, Security over any property and assets of that Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Deed (and having regard to the Agreed Security Principles); and/or
  - (iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created or expressed to be created in favour of the Security Agent or Secured Parties by or pursuant to this Deed.
- (b) Subject to the Agreed Security Principles, each Chargor shall take all such reasonable action as is available to it (including making all filings and registrations and obtaining any consents) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Secured Parties by or pursuant to this Deed.

## **7. ENFORCEMENT OF SECURITY**

### **7.1 Enforcement**

Any time after the occurrence of an Acceleration Event, the Security created by or pursuant to this Deed is immediately enforceable and the Security Agent may, without notice to the Chargors or prior authorisation from any court, in its absolute discretion:

- (i) enforce all or any part of that Security (at the times, in the manner and on the terms it thinks fit and dispose of all or any part of the Charged Assets (at the times, in the manner and on the terms it thinks fit (including whether for cash or non-cash consideration)); and
- (ii) whether or not it has appointed a Receiver, exercise all or any of the rights, powers, authorities and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Deed) on mortgagees and by this Deed on any Receiver or otherwise conferred by law on mortgagees or Receivers.

## **8. EXTENSION OF POWERS AND RIGHT OF APPROPRIATION**

### **8.1 Extension of powers**

The power of sale or other disposal conferred on the Security Agent and on any Receiver by this Deed shall operate as a variation and extension of the statutory power of sale under section 101 of the Law of Property Act 1925 and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on the date of this Deed.

## **8.2 Restrictions**

The restrictions contained in sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Deed or to the exercise by the Security Agent of its right to consolidate all or any of the Security created by or pursuant to this Deed with any other Security in existence at any time or to its power of sale, which powers may be exercised by the Security Agent without notice to the Chargors on or at any time after this Deed has become enforceable in accordance with Clause 7 (Enforcement of Security).

## **8.3 Power of leasing**

- (a) The statutory powers of leasing may be exercised by the Security Agent at any time on or after this Deed has become enforceable in accordance with Clause 7 (Enforcement of Security) and the Security Agent and any Receiver may make any lease or agreement for lease, accept surrenders of leases and grant options on such terms as it shall think fit, without the need to comply with sections 99 and 100 of the Law of Property Act 1925.
- (b) For the purposes of sections 99 and 100 of the Law of Property Act 1925, the expression "Mortgagor" will include any encumbrance deriving title under a Chargor and neither section 99(18) nor section 100(12) of the Law of Property Act 1925 will apply.
- (c) Section 99 of the Law of Property Act 1925 shall not apply so as to confer on a Chargor any additional right to make leases over and above as is permitted pursuant to the remaining terms of this Deed and the terms of the other Secured Debt Documents.

## **9. APPOINTMENT OF RECEIVER OR ADMINISTRATOR**

### **9.1 Appointment and removal**

After the Security created by or pursuant to this Deed has become enforceable in accordance with Clause 7.1 (Enforcement) or if a Chargor so requests the Security Agent in writing at any time, the Security Agent may by deed or otherwise (acting through an authorised officer of the Security Agent):

- (a) without prior notice to the Chargors:
  - (i) appoint one or more persons to be a Receiver of the whole or any part of the Charged Assets; or
  - (ii) appoint two or more Receivers of separate parts of the Charged Assets; or
  - (iii) remove (so far as it is lawfully able) any Receiver so appointed; or
  - (iv) appoint another person(s) as an additional or replacement Receiver(s); or
  - (v) appoint one or more persons to be an administrator of a Chargor pursuant to paragraph 14 of Schedule B1 of the Insolvency Act 1986; and
- (b) following notice to the Chargors, appoint one or more persons to be an administrator of a Chargor pursuant to paragraph 12 of Schedule B1 of the Insolvency Act 1986, where permitted by law.

No Secured Party will incur any liability (to any Chargor or to any other person) by reason of the appointment of a Receiver or for any acts, defaults or liabilities of the Receiver.

## **9.2 Capacity of Receivers**

- (a) Each person appointed to be a Receiver pursuant to Clause 9.1 (Appointment and removal) shall be:
  - (i) entitled to act individually or together with any other person appointed or substituted as Receiver;
  - (ii) for all purposes deemed to be the agent of the relevant Chargor; and
  - (iii) entitled to remuneration for his services at a rate to be fixed by the Security Agent from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925).
- (b) For the avoidance of doubt, no Receiver shall at any time act as agent for the Security Agent.
- (c) The relevant Chargor shall be solely responsible for the acts, omissions, defaults and liabilities of the Receiver, and shall be responsible for the payment and remuneration of the Receiver.

## **9.3 Statutory powers of appointment**

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Security Agent under the Law of Property Act 1925 (as extended by this Deed) or otherwise and such powers shall remain exercisable from time to time by the Security Agent in respect of any part of the Charged Assets.

# **10. POWERS OF RECEIVERS**

## **10.1 General**

- (a) Every Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of the relevant Chargor) have and be entitled to exercise, in relation to the Charged Assets in respect of which he was appointed, and as varied and extended by the provisions of this Deed (in the name of or on behalf of the relevant Chargor or in his own name and, in each case, at the cost of the relevant Chargor) (as appropriate):
  - (i) all the powers conferred by the Law of Property Act 1925 on mortgagors, mortgagees in possession and receivers appointed under that Act;
  - (ii) all the rights, powers and discretions of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
  - (iii) all the powers and rights of an absolute owner and power to do or omit to do anything which the relevant Chargor itself could do or omit to do; and

- (iv) the rights, power to do all things (including bringing, enforcing or defending or abandoning any action, suit or proceedings in the name or on behalf of the relevant Chargor) and discretions which seem to the Receiver to be incidental or conducive to:
  - (A) any of the functions, powers, authorities or discretions conferred on or vested in him;
  - (B) the exercise of the Collateral Rights (including realisation of all or any part of the assets in respect of which that Receiver was appointed); or
  - (C) bringing to his hands any assets of the relevant Chargor forming part of Charged Assets.
- (b) A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of the relevant Chargor or relating in any way to any Charged Asset.
- (c) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing it states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

## **10.2 Possession**

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

## **10.3 Carry on business**

A Receiver may carry on any business of the relevant Chargor in any manner the Receiver thinks fit.

## **10.4 Employees**

- (a) A Receiver may appoint and discharge managers, officers, agents, accountants, servants, workmen and others for the purposes of this Deed upon such terms as to remuneration or otherwise as the Receiver thinks fit.
- (b) A Receiver may discharge any person appointed by the relevant Chargor (in respect of the Charged Assets only).

## **10.5 Borrow money**

A Receiver may raise and borrow money either unsecured or on the security of any Charged Assets of the relevant Chargor either in priority to this Security or otherwise and generally on any terms and for whatever purpose which the Receiver thinks fit.

## **10.6 Sale of assets**

- (a) A Receiver may sell, exchange, convert into money and realise any Charged Asset by public auction or private contract and generally in any manner and on any terms which the Receiver thinks fit.
- (b) The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be

payable in a lump sum or by instalments spread over any period which the Receiver thinks fit.

- (c) Fixtures, other than landlord's fixtures, which are Charged Assets may be severed and sold separately from the property containing them without the consent of the relevant Chargor.

#### **10.7 Leases**

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

#### **10.8 Receipts**

A Receiver may give a valid receipt for any monies and execute any assurance or thing which may be proper or desirable for realising any Charged Asset.

#### **10.9 Subsidiaries**

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

#### **10.10 Lending**

A Receiver may lend money or advance credit to any customer of the relevant Chargor.

#### **10.11 Protection of assets**

A Receiver may:

- (a) effect any repair or insurance and do any other act which the relevant Chargor might do in the ordinary conduct of its business to protect or improve any Charged Asset;
- (b) commence and/or complete any building operation; and
- (c) apply for and maintain any planning permission, building regulation approval or any other authorisation,

in each case as the Receiver thinks fit.

#### **10.12 Other powers**

A Receiver may:

- (a) do all other acts and things which the Receiver may consider desirable or necessary for realising any Charged Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law;
- (b) exercise in relation to any Charged Asset all the powers, authorities and things which the Receiver would be capable of exercising if the Receiver were the absolute beneficial owner of that Charged Asset; and

- (c) use the name of the relevant Chargor for any of the above purposes.

## **11. APPLICATION OF PROCEEDS**

Unless otherwise determined by the Security Agent or a Receiver, any moneys received by the Security Agent or that Receiver after this Deed has become enforceable must be applied by the Security Agent in accordance with clause 16 (Application of Proceeds) of the Intercreditor Agreement.

## **12. PROTECTION OF PURCHASERS**

### **12.1 Consideration**

The receipt of the Security Agent or any Receiver shall be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Charged Assets or making any acquisition, the Security Agent or any Receiver may do so for such consideration (whether cash or non-cash), in such manner and on such terms as it thinks fit.

### **12.2 Protection of purchasers**

No purchaser or other person dealing with the Security Agent or any Receiver shall be bound to inquire whether the right of the Security Agent or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Security Agent or such Receiver in such dealings.

## **13. POWER OF ATTORNEY**

### **13.1 Appointment and powers**

Subject to Clause 14.2 (Cumulative rights), each Chargor by way of security irrevocably appoints the Security Agent and any Receiver severally to be its attorney and in its name, on its behalf and as its act and deed to:

- (a) execute, deliver and perfect a charge by way of legal mortgage (a "**Legal Charge**") over any Material Property not already the subject of a registrable Legal Charge; and
- (b) execute, deliver and perfect all other documents and do all things which the attorney may reasonably consider to be required for:
  - (i) carrying out any obligation imposed on a Chargor by this Deed or any other agreement binding on a Chargor to which the Security Agent is party (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Charged Assets and perfecting and/or releasing the Security created or intended to be created in respect of the Charged Assets); and
  - (ii) enabling the Security Agent and any Receiver to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Deed or by law (including, on or after the date upon which this Deed has become enforceable in accordance with Clause 7 (Enforcement of Security), the exercise of any right of a legal or beneficial owner of the Charged Assets).

### **13.2 Use of powers**

The Security Agent and any Receiver shall only be able to exercise a power of attorney under this Deed after:

- (a) the occurrence of an Acceleration Event; or
- (b) a Chargor has failed to comply with the terms of Clause 5 (Provisions as to Security and Perfection) and Clause 6 (Further Assurance) within 21 days of being notified of such failure (with a copy of such notice being served on the Company) and being requested to comply.

### **13.3 Ratification**

Each Chargor shall ratify and confirm all things done and all documents executed by any attorney in the proper exercise of all or any of his powers.

## **14. EFFECTIVENESS OF SECURITY**

### **14.1 Continuing security**

- (a) The Security created by or pursuant to this Deed shall remain in full force and effect as a continuing security for the Secured Obligations unless and until discharged by the Security Agent in writing.
- (b) No part of the Security from time to time intended to be constituted by this Deed will be considered satisfied or discharged by an intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

### **14.2 Cumulative rights**

- (a) The Security created by or pursuant to this Deed and the Collateral Rights shall be cumulative, in addition to and independent of every other Security which the Security Agent or any Secured Party may at any time hold for the Secured Obligations or any other obligations or any rights, powers and remedies provided by law, and shall operate as an independent security notwithstanding any receipt, release or discharge endorsed on or given in respect of or under any such other Security.
- (b) No prior Security held by the Security Agent (whether in its capacity as trustee or otherwise) or any of the other Secured Parties over the whole or any part of the Charged Assets shall merge into the Security constituted by this Deed.

### **14.3 No prejudice**

The Security created by or pursuant to this Deed and the Collateral Rights shall not be prejudiced by:

- (a) any unenforceability or invalidity of any other agreement or document;
- (b) any time or indulgence granted to a Chargor or any other person, or the Security Agent (whether in its capacity as trustee or otherwise) or any of the other Secured Parties;
- (c) any variation of the terms of the trust upon which the Security Agent holds the Security; or
- (d) any other thing which might otherwise prejudice that Security or any Collateral Right.

#### **14.4 Remedies and waivers**

- (a) No failure on the part of the Security Agent to exercise, nor any delay on its part in exercising, any Collateral Right, shall operate as a waiver of that Collateral Right or constitute an election to affirm this Deed.
- (b) No election to affirm this Deed on the part of the Security Agent shall be effective unless it is in writing.
- (c) No single or partial exercise of any Collateral Right shall preclude any further or other exercise of that or any other Collateral Right.

#### **14.5 No liability**

None of the Security Agent, its nominee(s) or any Receiver shall be liable:

- (a) to account as a mortgagee or mortgagee in possession; or
- (b) for any loss arising by reason of taking any action permitted by this Deed or any neglect or default in connection with the Charged Assets or taking possession of or realising all or any part of the Charged Assets,

except in the case of gross negligence, fraud or wilful misconduct upon its part.

#### **14.6 Partial invalidity**

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Deed nor of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby and, if any part of the Security intended to be created by or pursuant to this Deed is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the Security.

#### **14.7 Waiver of defences**

The obligations assumed, and the Security created, by the Chargors under this Deed, and the Collateral Rights, will not be affected by any act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under, or the Security created by, this Deed (without limitation and whether or not known to a Chargor or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Debtor or other person;
- (b) the release of any other Debtor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (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 Debtor 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 Debtor or any other person;
- (e) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatever nature, and whether or not more onerous) or replacement of a Secured Debt Document or any other document or Security or of the Secured Obligations;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Secured Debt Document or any other document or Security or of the Secured Obligations; and
- (g) any insolvency, resolution or similar proceedings.

#### **14.8 Chargors' intent**

Without prejudice to the generality of Clause 14.7 (Waiver of defences), each Chargor expressly confirms that it intends that the Security created under this Deed, and the Collateral Rights, shall extend from time to time to any (however fundamental and of whatsoever nature, and whether or not more onerous) variation, increase, extension or addition of or to any of the Secured Debt Documents and/or any facility or amount made available under any of the Secured Debt Documents for the purposes of or in connection with any of the following:

- (a) acquisitions of any nature;
- (b) increasing working capital;
- (c) enabling investor distributions to be made;
- (d) carrying out restructurings;
- (e) refinancing existing facilities;
- (f) refinancing any other indebtedness;
- (g) making facilities available to new borrowers;
- (h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and
- (i) any fees, costs and/or expenses associated with any of the foregoing.

#### **14.9 Immediate recourse**

Each Chargor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or Security or claim payment from any other person before claiming from that Chargor under this Deed. This waiver applies irrespective of any law or any provision of this Deed to the contrary.

#### **14.10 Deferral of rights**

- (a) Until the end of the Security Period, no Chargor will exercise any rights which it may have by reason of performance by it of its obligations under this Deed:

- (i) to be indemnified by an Debtor;
  - (ii) to claim any contribution from any guarantor of any Debtor 's obligations under this Deed;
  - (iii) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Secured Party under this Deed or of any other guarantee or Security taken pursuant to, or in connection with, this Deed by any Secured Party;
  - (iv) to bring legal or other proceedings for an order requiring any Debtor to make any payment, or perform any obligation, in respect of which any Debtor has given a guarantee, undertaking or indemnity under any Secured Debt Document;
  - (v) to exercise any right of set-off against any Debtor; and/or
  - (vi) to claim or prove as a creditor of any Debtor in competition with any Secured Party.
- (b) If a Chargor receives any benefit, payment or distribution of any kind in relation to such rights it shall hold that benefit, payment or distribution on trust for the Secured Parties to the extent necessary to enable all amounts which may be or become payable to any Secured Party by the Debtors under or in connection with this Deed to be repaid in full and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with Clause 11 (Application of Proceeds).

#### **14.11 Tacking**

Each Lender must perform its obligations under the Secured Debt Documents (including any obligation to make available further advances).

#### **14.12 Time deposits**

Without prejudice to any right of set-off any Secured Party may have under any other Secured Debt Document or otherwise, if any time deposit matures on any account a Chargor has with any Secured Party within the Security Period when:

- (a) this Security has become enforceable; and
- (b) no Secured Obligation is due and payable,

that time deposit will automatically be renewed for any further maturity which that Secured Party considers appropriate.

### **15. PRIOR SECURITY INTERESTS**

- (a) In the event of any action, proceeding or step being taken to exercise any powers or remedies conferred by any prior ranking Security against any of the Charged Assets or in case of exercise by the Security Agent or any Receiver of any power of sale under this Deed, the Security Agent may redeem such prior Security or procure the transfer thereof to itself.
- (b) The Security Agent may settle and agree the accounts of the prior Security and any accounts so settled and agreed will be conclusive and binding on the Chargors.

- (c) All principal monies, interest, costs, charges and expenses of and incidental to any redemption or transfer will be paid by the relevant Chargor to the Security Agent on demand together with accrued interest thereon calculated in accordance with the default interest provisions of the Secured Debt Documents.

## **16. SUBSEQUENT SECURITY INTERESTS**

If the Security Agent (acting in its capacity as trustee or otherwise) or any of the other Secured Parties at any time receives or is deemed to have received notice of any subsequent Security, assignment or transfer affecting all or any part of the Charged Assets which is not permitted under the terms of any Secured Debt Document, all payments thereafter by or on behalf of a Chargor to the Security Agent (whether in its capacity as trustee or otherwise) or any of the other Secured Parties will (in the absence of any express contrary appropriation by that Chargor) be treated as having been credited to a new account of that Chargor and not as having been applied in reduction of the Secured Obligations at the time that notice was received.

## **17. SUSPENSE ACCOUNTS**

- (a) All monies received, recovered or realised by the Security Agent under this Deed (including the proceeds of any conversion of currency) may in the discretion of the Security Agent be credited to any interest bearing suspense or impersonal account(s) maintained with any account bank, building society or other person which the Security Agent considers appropriate for so long as it may think fit (the interest being credited to the relevant account) pending their application from time to time at the Security Agent's discretion, in or towards the discharge of any of the Secured Obligations, provided that as soon as the Security Agent has received the full amount of all monies owed to them under this Deed, all funds standing to the credit of such suspense or impersonal account(s) must be immediately applied towards the discharge of the Secured Obligations.
- (b) Save as provided herein no party will be entitled to withdraw any amount at any time standing to the credit of any suspense or impersonal account referred to above.

## **18. RELEASE OF SECURITY**

- (a) Upon the expiry of the Security Period, the Security Agent shall, at the request and cost of the Chargors, release and cancel the Security constituted by this Deed and procure the reassignment to the Chargors of the property and assets assigned to the Security Agent pursuant to this Deed, in each case subject to paragraph (b) below and without recourse to, or any representation or warranty by, the Security Agent or any of its nominees.
- (b) Notwithstanding paragraph (a) above, if a Chargor is permitted to dispose, lease, licence or otherwise dispose of any Charged Asset under the terms of the Secured Debt Documents, the Security Agent shall do all such things as reasonably requested, in accordance with the Secured Debt Documents, to release all Security over such Charged Asset immediately before completion of such disposal, lease or license.

## **19. CLAWBACK**

If the Security Agent considers that any amount paid or credited to any Secured Party is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws, the liability of the Chargors under this Deed and the Security constituted by that document will continue and such amount will not be considered to have been irrevocably discharged.

## **20. SET-OFF**

Each Chargor authorises the Security Agent (but the Security Agent shall not be obliged to exercise such right), on or after this Deed has become enforceable in accordance with Clause 7 (Enforcement of Security), to set off against the Secured Obligations any amount or other obligation (contingent or otherwise) owing by the Security Agent to that Chargor and apply any credit balance to which that Chargor is entitled on any account with the Security Agent in accordance with Clause 11 (Application of Proceeds) (notwithstanding any specified maturity of any deposit standing to the credit of any such account).

## **21. ASSIGNMENT & CHANGES TO THE PARTIES**

### **21.1 No assignments or transfers by the Chargors**

No Chargor may assign any of its rights or transfer any of its rights or obligations under this Deed.

### **21.2 Assignments and transfers by the Security Agent**

- (a) The Security Agent may assign and transfer all or any of its rights and obligations under this Deed in accordance with the terms of the Intercreditor Agreement.
- (b) The Security Agent shall be entitled to disclose such information concerning the Chargors and this Deed as the Security Agent considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by any applicable law.

## **22. DISCRETION AND DELEGATION**

### **22.1 Discretion**

Any liberty or power which may be exercised or any determination which may be made under this Deed by the Security Agent or any Receiver may, subject to the terms and conditions of the Secured Debt Documents, be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

### **22.2 Delegation**

Each of the Security Agent and any Receiver shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Deed (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude the subsequent exercise, any subsequent delegation or any revocation of such power, authority or discretion by the Security Agent or the Receiver itself.

## **23. GOVERNING LAW**

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

## **24. JURISDICTION**

### **24.1 English Courts**

The courts of England have exclusive jurisdiction to settle any dispute (a "**Dispute**") arising out of, or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or the consequences of its nullity or any non-contractual obligations arising out of or in connection with this Deed).

### **24.2 Convenient Forum**

The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes between them and, accordingly, that they will not argue to the contrary.

### **24.3 Exclusive Jurisdiction**

This Clause 24 (Jurisdiction) is for the benefit of the Security Agent only. As a result of and notwithstanding Clause 24.1 (English Courts), it does not prevent the Security Agent from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law the Security Agent may take concurrent proceedings in any number of jurisdictions.

**THIS DEED** has been executed as, and is intended to take effect as, a deed by the Chargors and has been signed by the Security Agent on the date written on the first page of this Deed.

**SCHEDULE 1**  
**THE CHARGORS**

<b>Name and Company Number of Chargor</b>	<b>Jurisdiction</b>
Elysium Healthcare (Acorn Care) Limited (03147293)	England and Wales
Elysium Healthcare (Farndon) Limited (05255132)	England and Wales
Stanley House Limited (05755615)	England and Wales

**SCHEDULE 2**

**MATERIAL PROPERTY**

<b>Name of Chargor</b>	<b>Description of Material Property</b>	<b>Interest</b>	<b>Details</b>
Elysium Healthcare (Acorn Care) Limited (03147293)	The Woodhouse, Lockwood Road, Cheadle, Stoke-On-Trent (ST10 4QU), Woodhouse Farm, Lockwood Road, Cheadle, Stoke-On-Trent (ST10 4QU) and Woodhouse Cottage, Lockwood Road, Cheadle, Stoke-On-Trent (ST10 4QU)	Leasehold	Lease between (1) Link Corporate Trustees (UK) Limited and (2) the Chargor dated 14 <sup>th</sup> December 2018 and currently undergoing registration at the Land Registry.
Elysium Healthcare (Farndon) Limited (05255132)	Farndon Unit Residential Care Home, Farndon Road, Newark NG24 4SW	Leasehold	Lease between (1) Link Corporate Trustees (UK) Limited and (2) the Chargor dated 14 <sup>th</sup> December 2018 and currently undergoing registration at the Land Registry.
Stanley House Limited (05755615)	Stanley House, Bosbury, Ledbury HR8 1HB	Leasehold	Lease between (1) Link Corporate Trustees (UK) Limited and (2) the Chargor dated 14 <sup>th</sup> December 2018 and currently undergoing registration at the Land Registry.

**EXECUTION PAGES TO LEGAL MORTGAGE**

**THE CHARGORS**

EXECUTED as a DEED by:

**ELYSIUM HEALTHCARE  
(ACORN CARE) LIMITED**  
acting by a director in the presence  
of:

[REDACTED UNDER s859G OF  
THE COMPANIES ACT 2006]

Signature of witness:

[REDACTED UNDER  
s859G OF THE  
COMPANIES ACT 2006]

Name (in BLOCK CAPITALS): **SOPHIE STUART**

Address:

[REDACTED UNDER s859G OF THE COMPANIES ACT 2006]

EXECUTED as a DEED by:

**ELYSIUM HEALTHCARE  
(FARNDON) LIMITED** acting by  
a director in the presence of:

[REDACTED UNDER s859G  
OF  
THE COMPANIES ACT 2006]

Signature of witness:

[REDACTED UNDER s859G  
OF  
THE COMPANIES ACT 2006]

Name (in BLOCK CAPITALS): SOPHIE STUART

Address:

[REDACTED UNDER s859G OF THE COMPANIES ACT 2006]

EXECUTED as a DEED by:  
**STANLEY HOUSE LIMITED**  
acting by a director in the presence  
of:

Signature of witness:

[REDACTED UNDER  
s859G OF THE  
COMPANIES ACT 2006]

[REDACTED UNDER s859G OF  
THE COMPANIES ACT 2006]

Name (in BLOCK CAPITALS): *SOPHIE STUART*

Address:

[REDACTED UNDER s859G OF THE COMPANIES ACT  
2006]

**THE SECURITY AGENT**

EXECUTED as a DEED by

**WILMINGTON TRUST (LONDON)  
LIMITED**

Signature of witness: \_\_\_\_\_

[REDACTED UNDER  
s859G OF THE  
COMPANIES ACT 2006]

[REDACTED UNDER  
s859G OF THE  
COMPANIES ACT 2006]

Sajada Afzal  
Vice President

Name (in BLOCK CAPITALS): **Ekoue Kangni  
Vice President**

Address:

[REDACTED UNDER  
s859G OF THE  
COMPANIES ACT 2006]