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in black type, or
bold block lettering

*insert full name
of Company

COMPANIES FORM No. 395

Particulars of a mortgage or charge

A fee of £10 is payable to Companies House in respect
of each register entry for a mortgage or charge.

Pursuant to section 395 of the Companies Act 1985

To the Registrar of Companies
(Address overleaf - Note 6)

For official use

Company number



3693526

Name of company

* Mercia Healthcare (Holdings) Limited ("Company")

Date of creation of the charge

16 April 1999

Description of the instrument (if any) creating or evidencing the charge (note 2)

Guarantee and Debenture dated 16 April 1999 between Mercia Healthcare (Holdings) Limited and De Nationale Investeringsbank NV (as Security Trustee) (the "Debenture").

Amount secured by the mortgage or charge

See Part II of the attached Schedule.

Names and addresses of the mortgagees or persons entitled to the charge

De Nationale Investeringsbank NV , London Branch, 22 Eastcheap, London
(the "Security Trustee")

Postcode EC3M 1EU

Presentor's name address and
reference (if any):

Lovell White Durrant
65 Holborn Viaduct
London
EC1A 2DY

A6/MJK/JG/K0792.00017

Time critical reference

For official Use
Mortgage Section



395

Short particulars of all the property mortgaged or charged

As specified in Parts III, IV and V of the attached Schedule.

NB. The attached Schedule contains covenants by and restrictions on the Company which protect and further define the charges and which must be read as part of the charges created.

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

Particulars as to commission allowance or discount (note 3)

N/A

Signed

Carol White Dwyer

Date

28 April 1999

On behalf of [company] [mortgagee/chargee] †

A fee of £10 is payable to Companies House in respect of each register entry for a mortgage or charge. (See Note 5)

† delete as appropriate

Notes

- 1 The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395). If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398). A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the registrar. The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body. A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No. 398 is submitted.
- 2 A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage" or "Legal charge", etc, as the case may be, should be given.
- 3 In this section there should be inserted the amount or rate per cent. of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his;
 - (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or
 - (b) procuring or agreeing to procure subscriptions, whether absolute or conditional,for any of the debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered.
- 4 If any of the spaces in this form provide insufficient space the particulars must be entered on the prescribed continuation sheet.
- 5 Cheques and Postal Orders are to be made payable to **Companies House**.
- 6 The address of the Registrar of Companies is:-
Companies House, Crown Way, Cardiff CF4 3UZ

SCHEDULE TO FORM 395 FOR GUARANTEE AND DEBENTURE

Part I

Definitions

In this Form 395 and this Schedule, the following words and expressions shall have the following meanings:

"Account Bank" Midland Bank Plc and any successor bank approved by the Agent;

"Agent" De Nationale Investeringsbank NV and includes any successor agent appointed under the terms of the Facilities Agreement;

"Agreed Terms" for any document, the form of that document initialled by or on behalf of the Agent and Project Co or, if there is no such form, the form determined by the Agent after consultation with Project Co and its advisers;

"Ancillary Liabilities" in relation to any debt or liability means:-

- (a) all amounts outstanding in connection with any restructuring, novation, deferral or extension of any of that debt (excluding always any debt or liability owing to a Beneficiary by a novatee which in accordance with the provisions of a Direct Agreement takes a novation of the rights and obligations of Project Co under a Project Contract);
- (b) any further or additional advance which may be made under any agreement supplemental to the relevant facilities agreement or other document evidencing the debt in question plus all interest, fees and costs relating thereto;
- (c) any claims, damages or restitution in the event of a rescission of any such liabilities or otherwise in connection with the relevant facilities agreement or other document evidencing the debt in question (excluding any claims, damages or restriction arising out of the gross negligence or wilful default of the Lender's Entity);
- (d) any claim against the Company or any other relevant person, arising by reason of any recovery by the Company or that relevant person of any payment or discharge in respect of that debt (excluding any claim arising out of the gross negligence or wilful default of the Lender's Entity); and
- (e) any amounts (such as post-insolvency interest) which would be included in any of the above but for any discharge, non-provability, unenforceability or disallowance of the same in any insolvency or other proceedings;

"Arrangers" together De Nationale Investeringsbank NV, Bankgesellschaft Berlin AG, and Dexia Project & Public Finance International Bank, and each an "Arranger";

"Assets" all the present, future or contingent undertaking, property, assets, rights and revenues of the Company (including any rights to receive revenue and uncalled capital), whatever and wherever in the world, present and future, and includes each or any of them;

"Bank Accounts" each current, deposit or other accounts at the Debenture Date or thereafter held by the Company with any bank or other financial institution and all balances at the Debenture Date or thereafter standing to the credit of any such account, but excluding the Parent Distributions Account and all balances now or hereafter standing to the credit of the Parent Distributions Account;

"Banks" before any transfer under clause 24.3 (*Assignment and Transfer*) of the Facilities Agreement, the Underwriters and, thereafter, the Underwriters and the Transferee(s) to whom any such transfer has been made (but, in each case, only for so long as it has any rights or obligations under the Finance Documents);

"Beneficiaries" together the Agent, the Arrangers, the Security Trustee, the Technical Bank, the Banks, each Hedging Counterparty, and each Lenders' Entity and **"Beneficiary"** shall be construed accordingly;

"Building Contract" the building contract in the Agreed Terms between Project Co and the Building Contractor relating to the Project and identified as the Building Contract;

"Building Contract Direct Agreement" the agreement in the Agreed Terms between Project Co (1), the Building Contractor (2), the Works Performance Guarantors (3), the Security Trustee (4) and the Agent (5) identified as the Building Contract Direct Agreement;

"Building Contractor" Alfred McAlpine Construction Limited (company no 247624) and Haden Young Limited (company no 215402) in the form of an unincorporated joint venture or such substitute as may be appointed by Project Co in accordance with the terms of the Project Agreement and the Facilities Agreement;

"Charged Property" the property and Assets charged or assigned or purported to be charged or assigned pursuant to Clause 3 (*Charging Clause*) or Clause 7 (*Further Assurance*) of the Debenture;

"Charterhouse" Charterhouse Project Equity Investments Limited or such other member of the Charterhouse Group as holds shares in the Company;

"Charterhouse Group"

- (a) CCF Charterhouse Plc and any company which is its Subsidiary or Holding Company of CCF Charterhouse Plc or a Subsidiary of such Holding Company; and
- (b) any unit trust, investment fund, partnership, other fund or other entity of which any entity referred to in sub-paragraph (a) of this definition is the general partner, trustee, the principal manager (either directly or indirectly); and
- (c) any nominee or trustee of any entity falling within sub-paragraph (a) or (b) of this definition acting in such capacity (whether on a change of nominee or trustee or otherwise); and
- (d) the holder of units in, partners, members or investors in any unit trust, investment fund, partnership or other fund referred to in this definition, but only to the extent that such holder becomes a holder as a result of a transfer to it which is a distribution in specie on a winding up of the trust, fund or partnership in question;

"Charterhouse Parent" CCF Charterhouse Plc;

"Charterhouse Parent Guarantee" the guarantee in the Agreed Terms given by the Charterhouse Parent in respect of the obligations of Charterhouse to subscribe for Series A: Project Co Subordinated Loan Notes;

"Continuing" in the context of a Default:

- (a) where the underlying circumstances which caused that Default are incapable of remedy, that Default is Continuing, unless and until it has been expressly waived in writing by the Agent and any conditions of such waiver have been fulfilled to the satisfaction of the Agent ; or
- (b) in any other case, that Default is Continuing unless and until either:
 - (i) it has been expressly waived in writing by the Agent and any conditions of such waiver have been fulfilled to the satisfaction of the Agent; or
 - (ii) the underlying circumstances which caused that Default have been remedied to the satisfaction of the Agent, and in the case of the late delivery of a document which is subsequently satisfactorily delivered, or the withdrawal or settlement of a claim the existence or pursuance of which constituted a Default, that Default is not Continuing once the underlying circumstances no longer apply;

"Debenture Date" means the 16 April 1999

"Default" an Event of Default or a Potential Event of Default;

"Direct Agreements" each of the Lenders' Direct Agreement, the Building Contract Direct Agreement and the Service Contract Direct Agreements;

"Distributions Account" has the meaning given in clause 4.1 (*Account Opening*) of the Intercreditor Agreement;

"Encumbrance" any mortgage, pledge, lien, hypothecation, charge, assignment, deed of trust or deposit by way of security or any other agreement or arrangement (whether conditional or not and whether relating to existing or to future assets), having the effect of providing a security or preferential treatment to a creditor (including set off, flawed asset, sale and lease-back, title retention, defeasance or reciprocal fee arrangements) or any agreement or arrangement to give any form of security or preferential treatment to a creditor;

"Enforcement Date" the date upon which the Security Trustee shall first enforce any part of the security created under the Debenture in accordance with the terms of the Intercreditor Agreement and/or the Debenture;

"Equity Subscription Agreement" the equity subscription agreement dated 16 April 1999 between the Shareholders, Alfred McAlpine Plc, the Company, Project Co, the Agent and Security Trustee relating to, inter alia, the investment by the Shareholders in the share capital of the Company and in the subordinated debt of Project Co and the investment by the Company in the share capital of Project Co;

"Event of Default" any of the events specified in clause 20.1 (*Demand on Default*) of the Facilities Agreement;

"Exempted Assets" means all balances standing to the credit of the Parent Distribution Account and all monies due to be paid into the Parent Distribution Account in accordance with the Intercreditor Agreement;

"Facilities Agreement" the Facilities Agreement dated 16 April 1999 and made between Project Co (1), the Company (2), the Arrangers (3), the Agent (4), the Security Trustee (5), the Technical Bank (6) and the Underwriters (7);

"Fees Letters" each of the letters dated 16 April 1999 from the Arrangers, the Agent and the Technical Bank, as the case may be, to Project Co and countersigned by Project Co setting out the fees payable under clause 21.1 (*Arrangement Fee*) of the Facilities Agreement (the **"Arrangers' Fees Letter"**), clause 21.3 (*Agency Fee*) of the Facilities Agreement (the **"Agent's Fees Letter"**) and clause 21.4 (*Technical Bank Fee*) of the Facilities Agreement (the **"Technical Bank's Fees Letter"**);

"Finance Documents" the Facilities Agreement, the Intercreditor Agreement, the Security Documents and any notice or acknowledgement of assignment given pursuant to the Security Documents, the Fees Letters, the Hedging Agreements, any Transfer Certificate and any other document designated as such by the Agent and Project Co;

"Finance Parties" the Banks, the Agent, the Hedging Counterparty, the Security Trustee and the Technical Bank;

"Floating Charge Assets" insofar only as concerns the floating charge created by Clause 3.1(i) (*Charging Clause*) of the Debenture, Assets from time to time comprised within it;

"Gardner Merchant Composite Guarantee" means the composite deed of guarantee dated 16 April 1999 between Project Co (1) the Trust (2), the Security Trustee (3), WS Atkins Facilities Management Limited (4), Philips Electronics UK Limited (5) and Gardner Merchant Services Group Limited (6);

"Hedging Agreement" the ISDA Master Agreement and confirmation issued thereunder entered into on 16 April 1999 between Project Co (1) and any Hedging Counterparty (2) and any other interest rate management agreement entered into by Project Co under clause 14.8 (*Hedging Agreements*) of the Facilities Agreement and, where the context permits or requires, any such agreement entered into subsequently;

"Hedging Counterparty" any Bank in its capacity as a counterparty under any Hedging Agreement;

"Holding Company" shall have the same meaning as in s.736 of the Act;

"Indebtedness" at any time, any obligation for the payment or repayment of money, whether present or future, actual or contingent;

"Intellectual Property Rights" all patents, utility models, trade marks (including, but not limited to, the Trade Marks), service marks (and all goodwill associated with them), rights in passing off, all brands and trade names, all copyrights (including copyright in computer software) and rights in the nature of copyright, design rights and registered designs, all documented trade secrets and know-how and all other intellectual property rights now or in the future owned or enjoyed by the Company, including the right to submit any applications for the protection of the foregoing in any part of the world and the benefit of all agreements, licences and permissions now or in the future entered into or enjoyed by the Company relating to the use or exploitation of any such rights, and includes each or any of them;

"Intercreditor Agreement" the intercreditor deed dated 16 April 1999 between, amongst others, Project Co, the Company, the Agent, the Security Trustee, the Shareholders, Alfred McAlpine Plc, the Hedging Counterparty and the Sponsors (as defined therein);

"Land" includes freehold and leasehold land and (outside England and Wales) immovable property and in each case all buildings and structures upon and all things affixed to Land (including trade and tenant's fixtures);

"Lenders' Direct Agreement" the agreement in the Agreed Terms between Project Co (1), the Trust (2), the Security Trustee (3) and the Agent (4) and identified as the Lenders' Direct Agreement;

"Lenders' Entity" any person (including the Security Trustee) who, pursuant to, or by operation of the terms of any Direct Agreement, exercises any power to step-in and/or assume any rights or obligations of Project Co under or in relation to a Project Contract (excluding always any person which in accordance with the provisions of a Direct Agreement takes a novation of the rights and obligations of Project Co under a Project Contract);

"Letter of Credit Bank" Midland Bank Plc in respect of the Shareholder Letter of Credit securing the obligations of Alfred McAlpine Construction Limited, National Westminster Bank Plc in respect of the Shareholder Letter of Credit securing the obligations of WS Atkins Plc, Natexis Banque in respect of the Shareholder Letter of Credit securing the obligations of Gardner Merchant Services Group Limited and any bank or financial institution approved by the Finance Parties which issues a Shareholder Letter of Credit in relation to Charterhouse pursuant to clause 14.38 (*Charterhouse Parent Guarantee*) of the Facilities Agreement;

"Parent Distributions Account" account number 31853279 in the Company's name held with the Account Bank at Poultry and Princes Street, London, sort code 40-05-30, and designated Distribution account, as the same may from time to time with the prior written consent of the Agent be renumbered or redesignated and includes any successor, substituted or additional account into which all amounts to be paid by Project Co to the Company which are not prohibited under the Intercreditor Agreement shall be paid;

"Parent Document Claims" all of the Company's present and future right, title, interest and benefit in, under and to the Parent Documents; and any sums payable to the Company pursuant to all representations, warranties, undertakings and indemnities to, agreements with and security to be provided in favour of the Company in respect of or pursuant to the Parent Documents; and any rights of abatement or set-off, and all other rights of recovery under or pursuant to any of the Parent Documents; and any net proceeds of any claims, awards and judgments which may at any time be received or receivable by the Company pursuant to any of the Parent Documents;

"Parent Documents" those documents detailed in the First Schedule to the Debenture, repeated as Part V of this Schedule and any other document designated as such by the Security Trustee and any one of them shall be an **"Parent Document"**;

"Permitted Encumbrances" Encumbrances arising under or in respect of:

- (a) any lien or right of set off arising by operation of law in the ordinary course of business;
- (b) the Security Documents;
- (c) subject to the priority of the Security Documents, in respect of unpaid Tax or arising under an attachment or similar process or out of judgments or awards whilst the Tax or other amount concerned is being contested by Project Co in good faith on reasonable grounds;
- (d) a retention of title on normal commercial terms imposed by a supplier of materials and equipment to the Company in the ordinary course of its business; and
- (e) any other Encumbrance approved from time to time by the Agent;

"Potential Event of Default" any event or the existence of any circumstances which, with the giving of notice, the lapse of time, any determination of materiality, the satisfaction of any applicable condition, or any combination is likely to cause an Event of Default;

"Professional Team" WS Atkins Consultants Limited of WS Atkins House, Birchwood Boulevard, Birchwood, Warrington WA3 7WA and the Commissioning Manager (as defined in the Project Agreement) and any replacement or substitute therefor appointed by or on behalf of Project Co or the Building Contractor in accordance with clause 41.6 (*new members of professional team*) of the Project Agreement;

"Project" the carrying out of the Design (as defined in the Project Agreement) and the Works (as defined in the Project Agreement) and the provision of the Services (as those terms are defined in the Project Agreement) in accordance with the terms of the Total Contract;

"Project Agreement" the agreement dated 16 April 1999 between the Trust and Project Co and identified as the Project Agreement;

"Project Co" Mercia Healthcare Limited, company number 3693524, whose registered office is at Alfred McAlpine House, King Edward Road, Knutsford, Cheshire, WA16 0BY;

"Project Co Debenture" the guarantee and debenture dated 16 April 1999, made by Project Co in favour of the Security Trustee under which, amongst other things, Project Co creates fixed and floating charges over its property and assets;

"Project Contract" each of the Project Agreement, the Building Contract, each Service Contract and each agreement between Project Co and a member of the Professional Team;

"Project Co Shares" all shares in the share capital of Project Co, of whatever class or denomination, from time to time owned or held by the Company;

"Receivables" all sums of money receivable by the Company now or in the future consisting of or payable under or derived from any of its Assets and **"Receivable"** shall be construed accordingly (but excluding all balances standing to the credit of the Parent Distribution Account and all monies due to be paid into the Parent Distribution Account in accordance with the Intercreditor Agreement whether at the Debenture Date or from time to time in the future);

"Secured Sums" all money and liabilities covenanted and/or guaranteed to be paid or discharged by the Company under Clause 2.1 (*Covenant to Pay*) of the Debenture;

"Securities" all stocks, shares, debentures, loan notes and loan stocks issued by any company or person and all securities, debt obligations and other investments (whether or not marketable), including all interests in investment funds, in each case now or in the future owned at law or in equity by the Company and all rights, remedies and benefits relating or attaching thereto (including, for the avoidance of doubt, any subscription and pre-emption rights) and all money payable in respect of any of them, whether by way of conversion, redemption, bonus, option, dividend, distributions, interest or otherwise, and including any of the foregoing owned by the Company in any other company including any of the foregoing owned in Project Co;

"Security Documents" the Project Co Debenture, the Debenture, the Gardner Merchant Composite Guarantee, the Direct Agreements, the Shareholder Letters of Credit and the Charterhouse Parent Guarantee and shall include any substituted or additional security entered into by Project Co or any other person in favour of the Security Trustee and securing (directly or indirectly) Senior Debt;

"Security Trustee" De Nationale Investeringsbank NV in its capacity as security trustee for the Beneficiaries and includes reference to any replacement or additional security trustee appointed pursuant to the relevant provisions of the Facilities Agreement and/or the Intercreditor Agreement;

"Senior Bank Document" each facility agreement or other agreement pursuant to which any of the Banks provides financial facilities or accommodation of any nature in connection with the Project (including interest rate, indexation or currency swap, floor or collar transactions or any similar interest, indexation, currency or hedge transaction or derivative transaction) to a Lenders' Entity;

"Senior Debt" the indebtedness of the Company under the Facilities Agreement and the Finance Documents;

"Senior Finance Documents" the Facilities Agreement, the Intercreditor Agreement, each of the Security Documents and each notice or acknowledgement of assignment given pursuant to the Security Documents, each Senior Bank Document, the Fees Letters, each Hedging Agreement, each Transfer Certificate, each agreement entered into pursuant to a Direct Agreement under or pursuant to which a Lenders' Entity exercises any power to step in and/or assume any rights or obligations of Project Co under or in relation to a Project Contract and any other documents designated as such by the Agent and Project Co;

"Series A: Project Co Subordinated Loan Notes" means the loan notes created by the loan note instrument dated 16 April 1999 in the form set out in Part I of Schedule 3 of the Equity Subscription Agreement;

"Service Contract" each agreement in the Agreed Terms between Project Co and a Service Provider and identified as a Service Contract;

"Service Contract Direct Agreement" each agreement in the Agreed Terms between Project Co (1), a Service Provider (2), the relevant Services Performance Guarantor (if any) (3), the Security Trustee (4) and the Agent (5) and identified as a Service Contract Direct Agreement;

"Service Provider" WS Atkins Facilities Management Limited, Gardner Merchant Limited and Philips Electronics UK Limited or such substitute as may be appointed for the time being pursuant to a replacement of a Service Contract pursuant to the terms of the Project Agreement and the Facilities Agreement;

"Services Performance Guarantors" in respect of W S Atkins Facilities Management Limited, W S Atkins Plc and in respect of Gardner Merchant Limited, Gardner Merchant Services Group Limited;

"Shareholder Letter of Credit" each letter of credit issued by a Letter of Credit Bank in favour of the Security Trustee in the Agreed Terms;

"Shareholders" Alfred McAlpine Construction Limited, WS Atkins Plc, Gardner Merchant Services Group Limited and Charterhouse Project Equity Investments Limited or such other persons who may become shareholders of the Company from time to time and **"Shareholder"** means any of them and, if the persons providing Subordinated Debt to Project Co are not such shareholders, shall be construed in addition to apply to the providers of the Subordinated Debt;

"Shareholders Agreement" the shareholders' agreement in Agreed Terms dated 16 April 1999 between the Shareholders, Alfred McAlpine Plc, Project Co and the Company;

"Sponsor" Alfred McAlpine Plc, WS Atkins Plc and Gardner Merchant Services Group Limited in its capacity as sponsor;

"Sterling" or **"£"** the lawful currency for the time being of the United Kingdom;

"Subordinated Debt" Indebtedness of Project Co owed under the Subordinated Finance Documents;

"Subordinated Finance Documents" the Shareholders Agreement, each Shareholder Letter of Credit, the Charterhouse Parent Guarantee, the Subordinated Loan Note Instruments, the Equity Subscription Agreement and any other document under which indebtedness for borrowed money is made available to Project Co by the Company, the Shareholders or persons who are connected to the Shareholders;

"Subordinated Loan Note Instruments" has the meaning given in the Intercreditor Agreement;

"Subsidiary":

- (a) a subsidiary as defined in s 736 of the Act; and
- (b) for the purposes of any information or financial covenants, a subsidiary undertaking as defined in s 258 of the Act;

and **"wholly owned Subsidiary"** has the meaning given to it in s 736(2) of the Act;

"Taxes" all taxes, levies, imposts, duties, charges, fees, deductions and withholdings imposed or levied by any governmental, fiscal or other competent authority in the UK from time to time (and includes any penalty payable in connection with any failure by the Company to pay, or delay by the Company in paying, any of the same) and **"Tax"** and **"Taxation"** shall be construed accordingly;

"Technical Bank" Bankgesellschaft Berlin AG or any successor bank appointed under the terms of the Facilities Agreement;

"Total Contract" the externally financed development agreement comprising (as one contract) the Project Agreement, the Underlease dated 16 April 1999 between the Trust and Project Co, and the Headlease dated 16 April 1999 between Project Co and the Trust;

"Trade Marks" all registered trade marks and all brand, trade and/or business names owned by the Company from time to time; and

"Transfer Certificate" a certificate substantially in the form set out in Schedule XII (*Form of Transfer Certificate*) of the Facilities Agreement signed by a Transferee and a Bank;

"Transferee" a bank or other financial institution to which a Bank seeks to transfer or has transferred all or part of its rights and obligations under the Facilities Agreement in accordance with clause 24.3 (*Assignment and Transfer*) of the Facilities Agreement;

"Trust" Hereford Hospitals National Health Service Trust or any permitted successor trust into which the Trust may be merged or to which the Secretary of State or the Trust itself transfers the assets and liabilities of the Trust;

"Underwriters" the banks and financial institutions listed in Schedule 1 to the Facilities Agreement;

"Works Performance First Guarantor" Alfred McAlpine Plc (company no 1367044);

"Works Performance Guarantors" the Works Performance First Guarantor and the Works Performance Second Guarantor;

"Works Performance Second Guarantor" Balfour Beatty Limited (company no 101073);

Part II

Amount secured by Mortgage or Charge

Under clause 2.1 of the Debenture, the Company:-

- (a) covenanted that it will on demand in writing made to it by the Security Trustee pay or discharge to the Security Trustee all money and liabilities (including all Ancillary Liabilities) at the Debenture Date or in the future due or owing by the Company to the Beneficiaries (or any of them) under or pursuant to the Senior Finance Documents;
- (b) covenanted and guaranteed that it will on demand in writing made to it by the Security Trustee pay or discharge to the Security Trustee all money and liabilities (including all Ancillary Liabilities) at the Debenture Date or in the future due or owing by Project Co or any Lenders' Entity to the Beneficiaries (or any of them) under or pursuant to each of the Senior Finance Documents (except for any liabilities incurred by Project Co or such Lenders' Entity solely as guarantor for the Company);

in each case, whether on or after such demand, whether actually or contingently, whether solely or jointly with any other person, whether as principal or surety and whether or not the relevant Beneficiary was an original party to the relevant transaction and so that interest shall be computed and compounded in accordance with the relevant Senior Finance Document (after as well as before any demand or judgment).

Part III

Particulars of Property Mortgaged or Charged

1. By clause 3.1(*Charging Clause*) of the Debenture the Company with full title guarantee charged to the Security Trustee with the payment or discharge of all Secured Sums:-
 - (a) by way of first legal mortgage, all freehold and leasehold Land in England and Wales at the Debenture Date vested in the Company and registered at H.M. Land Registry (if any), including all that described in Part I of the Sixth Schedule of the Debenture, if any;
 - (b) by way of first legal mortgage, all freehold and leasehold Land in England and Wales at the Debenture Date vested in the Company and not registered at H.M. Land Registry

(if any), including all that described in Part II of the Sixth Schedule of the Debenture, if any;

- (c) by way of first fixed charge, all Land at the Debenture Date being or in the future becoming the property of the Company (except Land charged pursuant to the charges referred to in the preceding paragraphs);
 - (d) by way of first fixed charge, all plant and machinery of the Company at the Debenture Date or in the future attached to any Land which, or an interest in which, is charged under the charges referred to in the preceding paragraphs and all its rights and interests under all present and future agreements for the purchase, maintenance or use of plant and machinery so attached;
 - (e) by way of first fixed charge, all Securities;
 - (f) by way of first fixed charge, all the goodwill and uncalled capital for the time being of the Company;
 - (g) by way of first fixed charge, all Intellectual Property Rights of the Company excluding (but only to the extent that and for so long as it is not capable of being validly charged by way of fixed charge) the benefit of any present or future agreement, licence or permission relating to such rights;
 - (h) by way of first fixed charge, the benefit of all negotiable instruments, guarantees, bonds, debentures, legal or equitable charges and all other security, reservation of proprietary rights, rights of tracing, unpaid vendor's liens and all other rights and remedies at the Debenture Date or in the future available to the Company as security for any Receivable or for the performance by any third party of any obligation at the Debenture Date or in the future owed to it; and
 - (i) by way of floating charge all Assets at the Debenture Date or in the future owned by the Company except to the extent that such Assets are for the time being effectively charged by any fixed charge referred to in the preceding paragraphs or effectively assigned to the Security Trustee under Clause 3.2 (*Assignment*) of the Debenture, including any Assets specified in any notice reconverting a charge under Clause 3.8 (*Decrystallisation of Floating Charge*) of the Debenture but so that the Company shall not create any mortgage or any fixed or floating charge or other Encumbrance over any Floating Charge Asset (whether having priority over, or ranking pari passu with or subject to, this floating charge) or take any other step referred to in Clause 6.1 (*Negative Pledge and other Restrictions*) of the Debenture with respect to any Floating Charge Asset and the Company shall not, without the prior written consent of the Security Trustee, sell, transfer, part with or dispose of any Floating Charge Asset except to the extent permitted by the Finance Documents and in the ordinary course of its business.
2. Under clause 3.2 of the Debenture the Company with full title guarantee assigned and agreed to assign to the Security Trustee as continuing security for the payment, discharge and performance of the Secured Sums:-
- (a) the Parent Document Claims together with the benefit of all powers and remedies for enforcing the same;
 - (b) all interests in Land or the proceeds of sale of Land at the Debenture Date or in the future belonging to the Company which have not already been charged or assigned

pursuant to the charges and assignments referred to in the preceding paragraphs and all licences at the Debenture Date or in the future held by the Company to enter upon, use or exploit Land and the benefit of all options, easements, agreements for lease and other agreements relating to the acquisition, use, exploitation or disposal of Land to which the Company is or may in the future become entitled;

- (c) all rental and other income and all debts and claims at the Debenture Date or in the future due or owing to the Company under or in connection with any lease, agreement or licence relating to Land;
- (d) all of its right, title and interest, present and future, in and to the benefit of all contracts and policies of insurance and assurance (if any) at the Debenture Date or in the future held by or otherwise benefiting the Company and charged by way of first fixed charge in favour of the Security Trustee, all moneys which are or may become payable under such contracts and policies so assigned (including the benefit of all claims arising and all returns of premiums);
- (e) all its present and future right, title and interest in and to the Bank Accounts and all money at any time standing to the credit of any Bank Account, including the proceeds of all Receivables of the Company, and all rights and remedies attaching to such Bank Accounts (including the right to receive interest); and
- (f) all Receivables, book and other debts at the Debenture Date or in the future owing to the Company and all its rights and claims against third parties, present and future, capable of being satisfied by the payment of money (except rights and claims effectively charged or assigned under the charges or assignments referred to in the preceding paragraphs.

Part IV

Covenants and Restrictions

1. By clause 3.5 of the Debenture the Company agreed that floating charge created by the Company in Clause 3.1(i) (*Charging Clause*) of the Debenture may be crystallised into a fixed charge by notice in writing by the Security Trustee to the Company given:-
 - (a) at any time whilst a Default is Continuing; or
 - (b) if in the opinion of the Security Trustee acting reasonably the security over any Charged Property is in jeopardy or that such Charged Property is in danger of seizure.

Such crystallisation shall take effect over such Floating Charge Assets or class or classes of Floating Charge Assets as shall be specified in the notice. If no Floating Charge Assets are so specified, it shall take effect over all Floating Charge Assets. It was agreed that the crystallisation of the floating charge under Clause 3.5 of the Debenture shall not, of itself, constitute a Default under the Facilities Agreement, but the provision is be without prejudice to the rights of the Security Trustee under the Debenture if a Default occurs under the Facilities Agreement whether or not following the issue of a notice under Clause 3.5 of the Debenture Provided always that the floating charge over the Exempted Assets shall not be converted into a fixed charge where notice is given only in relation to clause 3.5(b) of the Debenture.

2. By clause 3.6 of the Debenture the Company agreed that if the Company, without the Security Trustee's prior written consent, resolves to take or takes any step to charge (whether by way of

fixed or floating charge) or otherwise encumber any of its Floating Charge Assets or to create a trust over any Floating Charge Asset or to dispose of any Floating Charge Asset except by way of sale or other disposition permitted by the Finance Documents and in the ordinary course of the Company's business, or if any person resolves to take or takes any step to levy any distress, execution, sequestration or other process against any Floating Charge Asset, then the floating charge created by Clause 3.1(i) (*Charging Clause*) of the Debenture shall be automatically crystallised (without the necessity of notice) into a fixed charge over such Floating Charge Asset instantly on the occurrence of such event.

3. By clause 3.8 of the Debenture the Company agreed that any charge by the Company which has crystallised under Clause 3.5 (*Crystallisation of Floating Charge*) of the Debenture or Clause 3.6 (*Automatic Crystallisation*) of the Debenture may, by notice in writing given at any time by the Security Trustee to the Company, be reconverted into a floating charge in relation to the Assets or class or classes of Assets specified in such notice.
4. By clause 3.11 of the Debenture the Company agreed that without prejudice to Clause 6.1 (*Negative Pledge and other Restrictions*) of the Debenture, any Encumbrance created in the future by the Company (except those in favour of the Security Trustee) shall be expressed to be subject to the Debenture and shall rank in order of priority behind the charges created by the Debenture.
5. By clause 5 of the Debenture the Company agreed that all amounts received by the Company shall be dealt with solely in accordance with the terms of the Facilities Agreement and the Intercreditor Agreement. Save for amounts due to be paid into the Parent Distribution Account, the Company agreed that it shall, pending any payment into any Bank Account, hold all other amounts received (and which are to be paid into any Bank Account) upon trust for the Security Trustee and shall not, without the prior written consent of the Security Trustee, charge, factor, discount, assign, postpone, subordinate, release or waive its rights in respect of any amount payable to it in favour of any other person or purport to do so. The Company shall forthwith give notice to the Account Bank in the form set out in the Fifth Schedule of the Debenture and use all reasonable endeavours to ensure that the Account Bank acknowledges such notice.
6. By clause 6.1 of the Debenture the Company agreed that it shall not, without the prior written consent of the Security Trustee:-
 - (a) create, or agree to create, or permit to arise or subsist, any Encumbrance (including any security conferring power to convert a floating charge into a fixed charge in relation to any of its Assets) over any of its Assets other than the Permitted Encumbrances;
 - (b) except as provided under the Security Documents assign all or any part of the benefit of or any interest in or proceeds of or revenues derived from any Parent Document or sell, transfer, lend, license or otherwise dispose or part with possession of, by one or more transactions and whether related or not, the whole or any part of its Assets, except that, prior to the occurrence of a Default, Clause 6.1(b) of the Debenture shall not apply to the application of cash as permitted by the Intercreditor Agreement;
 - (c) except as provided under the Security Documents consent to any assignment of any of the Parent Documents (other than the Senior Finance Documents) or any part thereof or of any benefit, obligation or interest therein or thereunder by any other party thereto save for transfers permitted under the terms of the Intercreditor Agreement;
 - (d) permit any person other than the Company, the Security Trustee or its nominee to be registered as holder of any Securities or any part thereof; or

- (e) do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise materially prejudice the market value of the Securities or their value to the Security Trustee or the Beneficiaries.
7. By clause 7.1 of the Debenture the Company agreed that it shall on demand by the Security Trustee in writing execute and deliver to the Security Trustee at the cost of the Company and in such form as the Security Trustee may require for the protection, improvement or perfection of the security intended to be conferred on the Security Trustee by or pursuant to the Debenture or the priority of the security created hereunder, (a) such further or other legal or other assignments, transfers, mortgages, charges or securities (b) all transfers, conveyances, assignments and assurances of the Assets subject to the security created hereunder and give all notices, orders and directions which the Security Trustee may think expedient for facilitating the realisation of the Assets subject to the security created by the Debenture or the exercise of any rights vested in the Security Trustee or any Receiver including:-
- (a) a valid legal mortgage, standard security or other hypothecation (as appropriate) of any Land at the Debenture Date or in the future belonging to the Company;
 - (b) a valid fixed charge over any interest, not capable of being charged by way of legal mortgage, in any Land at the Debenture Date or in the future belonging to the Company;
 - (c) a legal assignment of or other fixed security over all or any Receivables or claims;
 - (d) a legal charge over all or any of its Securities from time to time;
 - (e) a chattel mortgage over such chattels, plant, machinery, computers and/or other equipment of the Company as the Security Trustee may specify;
 - (f) a fixed charge or other fixed security over or an assignment of any Floating Charge Assets;
 - (g) where any Asset is situated outside England and Wales, such fixed security under the law of the place where the Asset is situated as the Security Trustee may require;
 - (h) such other security over such of the Company's Assets subject to a fixed charge as shall be specified in such demand (whether generally or specifically and whether for the purpose of obtaining legal title to the relevant Assets, creating security which is effective under the laws of a foreign jurisdiction or otherwise);
 - (i) such other documents as the Security Trustee may in its discretion think fit further to secure the payment of the Secured Sums or to perfect the Debenture, or to vest title to any Asset in itself or its nominee or any purchaser in each case;
 - (j) a legal assignment of or other fixed security over all or any Intellectual Property Rights or such further documents as may be necessary to perfect and register the charges and assignments hereby created or purported to be created of or over any Intellectual Property Rights. This includes the perfection and registration of such charges and any assignments in any foreign jurisdiction and where the efficacy of such charges or assignments in any foreign jurisdiction is dependent on the execution of a different document, the preparation, execution and (where relevant) registration of such document provided that such document shall be on terms no more onerous than the terms of the Debenture save where this is necessary for the efficacy of the foreign charge or assignment;
 - (k) a legal assignment of or other fixed security over all or any of the Parent Documents or the Parent Document Claims not already assigned or charged under the Debenture and the

Company shall in addition ensure that it sends a notice of assignment in the form set out in the relevant part of the Fourth Schedule of the Debenture addressed to the relevant party and use all reasonable endeavours to ensure that such notice of assignment is duly acknowledged; and

- (l) a legal assignment of or other fixed security over all or any rights, claims or remedies of the Company against any third party and the Company shall in addition ensure that it sends a notice of such assignment in the form required by the Security Trustee addressed to the relevant party and use all reasonable endeavours to ensure that such notice of assignment is duly acknowledged.
8. By clause 9.3 of the Debenture the Company agreed that it shall not, without the prior written consent of the Security Trustee, seek to charge, factor, discount, assign, encumber or sell or otherwise dispose or compromise, compound, discharge, postpone, release, set-off, settle or subordinate any of its Receivables or waive its rights of action in connection with them, or do or omit to do anything which may delay or prejudice their full recovery.
9. By clause 11.1 of the Debenture the Company agreed that it shall not, without the prior written consent of the Security Trustee, exercise any power of leasing or accepting surrenders of leases of, any Land, nor (save where obliged to do so by law) extend, renew or vary any lease or tenancy agreement or give any licence to assign or underlet.
10. By clause 11.2 of the Debenture the Company agreed that it shall not part with possession (except on the determination of any lease, tenancy or licence granted to it) of any Land or share the occupation of it with any other person, or agree to do so, without the prior written consent of the Security Trustee.

Part V

The Documents

Each dated 16 April 1999 unless otherwise stated:

1. Shareholders Agreement between Alfred McAlpine Construction Limited, WS Atkins PLC, Gardner Merchant Services Group Limited and Charterhouse Project Equity Investments Limited (as Shareholders) (1), Alfred McAlpine PLC (2), Project Co (3) and the Company (4).
2. Equity Subscription Agreement between Alfred McAlpine Construction Limited, WS Atkins PLC, Gardner Merchant Services Group Limited and Charterhouse Project Equity Investments Limited (as Shareholders) (1), Alfred McAlpine PLC (2), Project Co (3) the Company (4), De Nationale Investeringsbank NV (as Agent) (5) and De Nationale Investeringsbank NV (as Security Trustee) (6).
3. Any other document under which indebtedness for borrowed money is made available to Project Co by the Company or to the Company by the Shareholders or persons who are connected with the Shareholders.

FILE COPY



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

Pursuant to section 401(2) of the Companies Act 1985

COMPANY No. 03693526

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT GUARANTEE & DEBENTURE DATED THE 16th APRIL 1999 AND CREATED BY MERCIA HEALTHCARE (HOLDINGS) LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO DE NATIONALE INVESTERINGSBANK NV (THE "SECURITY TRUSTEE") ON ANY ACCOUNT WHATSOEVER UNDER OR PURSUANT TO THE SENIOR FINANCE DOCUMENTS (AS DEFINED) WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 29th APRIL 1999.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 4th MAY 1999.



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



COMPANIES HOUSE

HC026B