000295/13

In accordance with Sections 859A and 859J of the Companies Act 2006

MR01

Particulars of a charge

Laserform

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

You can use the WebFiling service to file this form online. Please go to www com

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

✗ **What this form is NO**
You may not use this f register a charge wher instrument Use form M

TUESDAY

A4G0BTPF
A06 15/09/2015 #117
COMPANIES HOUSE

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

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

For official use

1 Company details

Company number: 3 9 5 5 4 8 7

Company name in full: WOKING HOSPICE

→ **Filling in this form**
Please complete in typescript or in bold black capitals

All fields are mandatory unless specified or indicated by *

2 Charge creation date

Charge creation date: d2 d8 m0 m8 y2 y0 y1 y5

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

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

Name: WOKING BOROUGH COUNCIL

Name:

Name:

Name:

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

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

MR01
Particulars of a charge

4 Brief description

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

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

Please limit the description to the available space

Brief description

All monies due under the Debenture dated 28th August 2014 made between Woking Hospice (1) and Woking Borough Council (2) secured over all existing properties (as referred to in a Loan Facility Agreement of even date) and future properties (but subject to certain excluded assets, as defined in and included in Schedule 2 to the said Loan Facility Agreement)(For more details please refer to the instrument)

5 Other charge or fixed security

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

[✓] **Yes**

☐ **No**

6 Floating charge

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

[✓] **Yes** Continue

☐ **No** Go to **Section 7**

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

[✓] **Yes**

7 Negative Pledge

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

[✓] **Yes**

☐ **No**

8 Trustee statement ❶

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

☐

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

9 Signature

Please sign the form here

Signature

Signature

X W Jameson. Solicitors for Woking Hospice X

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

MR01
Particulars of a charge

Presenter information

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

Contact name Raymond James

Company name W Davies & Son Limited, Solicitors

Address Acorn House

5 Chertsey Road

Post town Woking

County/Region Surrey

Postcode G U 2 1 5 A B

Country

DX 2903 WOKING

Telephone 01483 744900

Certificate

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

Checklist

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following.

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

Important information

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

How to pay

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

Make cheques or postal orders payable to 'Companies House'

Where to send

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

For companies registered in England and Wales:
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

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

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

Further information

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

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

FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3955487

Charge code: 0395 5487 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 28th August 2015 and created by WOKING HOSPICE was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 15th September 2015

Given at Companies House, Cardiff on 21st September 2015

Companies House

THE OFFICIAL SEAL OF THE REGISTRAR OF COMPANIES

W DAVIES
SOLICITORS
We certify this to be
a true copy of the
original

W. DAVIES
5 Chertsey Road
Woking
Surrey
GU21 5AB
Solicitors

Date 28 AUGUST 2015

DEBENTURE

PARTIES:

[1] WOKING HOSPICE

[2] WOKING BOROUGH COUNCIL

File Ref 10871 0047/TXF

12-14 The Crescent, Taunton, Somerset TA1 4EB
general@djblaw co uk
www djblaw co uk
Tel 01823 279279
Fax 01823 279111

DAVITT JONES BOULD
REAL ESTATE LAW SPECIALISTS

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THIS DEED is dated 28 AUGUST 2015

PARTIES

(1) WOKING HOSPICE incorporated and registered in England and Wales with company number 3955487 and Registered Charity number 1082798 whose registered office is at Hill View Road, Woking, Surrey GU22 7HW (**Borrower**) and

(2) WOKING BOROUGH COUNCIL of Civic Offices, Gloucester Square, Woking, Surrey GU21 6YL (**Lender**)

BACKGROUND

(A) The Lender has agreed, pursuant to the Facility Agreement, to provide the Borrower with loan facilities on a secured basis

(B) Under this deed, the Borrower provides security to the Lender for the loan facilities made available under the Facility Agreement

AGREED TERMS

1 **DEFINITIONS AND INTERPRETATION**

1 1 **Definitions**

The following definitions apply in this deed

Administrator: an administrator appointed to manage the affairs, business and property of the Borrower pursuant to clause 10 9

Book Debts: all present and future book and other debts, and monetary claims due or owing to the Borrower, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Borrower in relation to any of them

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business

Charities Act: Charities Act 2011

Delegate: any person properly appointed by the Lender or any Receiver pursuant to clause 15 and any person appointed as attorney of the Lender, Receiver or Delegate

Designated Account: any account of the Borrower nominated by the Lender as a designated account for the purposes of this deed

Environment: the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media

Environmental Law: all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, and codes of practice in so far as they relate to or apply to the Environment

Equipment: all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property for the time being owned by the Borrower, including any part of it and all spare parts, replacements, modifications and additions but strictly excluding any Equipment within or forming part of any of the Excluded Assets

Event of Default: has the meaning given to that expression in the Facility Agreement

Excluded Assets: shall have the meaning defined in the Loan Facility Agreement and for the avoidance of doubt all equipment licences and other property incidental to or affecting or relating to each Excluded Asset shall comprise part of each Excluded Asset and shall be excluded from any of the general charge provisions included in this Debenture

Financial Collateral: shall have the meaning given to that expression in the Financial Collateral Regulations

Financial Collateral Regulations: the Financial Collateral Arrangements (No 2) Regulations 2003 (*SI 2003/3226*)

Insurance Policy: each contract and policy of insurance effected or maintained by the Borrower from time to time in respect of its assets or business (including, without limitation, any insurances relating to the Properties or the Equipment)

Investments: all present and future certificated stocks, shares, loan capital, securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by the Borrower, including any

(a) dividend, interest or other distribution paid or payable in relation to any of the Investments, and

(b) right, money, shares or property accruing, offered or issued at any time in relation to any of the Investments by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise

Loan Facility Agreement. the loan facility agreement and the reserve loan facility agreement both of even date herewith but completed immediately prior to this Deed and made between the Borrower and the Lender for the provision of the loan facilities on terms reflecting and giving effect to the terms of the Offer Letter which requires the provision by the Borrower of, inter alia, charges over the various Properties as herein provided

LPA 1925: Law of Property Act 1925

Offer Letter· the letter from the Lender to the Borrower and Sam Beare Hospice dated 19 November 2013 as varied by letters of variation from the Lender to the Borrower and Sam Beare Hospice respectively dated 9th June 2014, 23rd July 2014, 21st August 2014, 23rd September 2014, 28th October 2014, 26th November 2014, 21st January 2015, 24th February 2015, 1st April 2015 and 29th May 2015 offering the Facility on the terms respectively specified therein and the expression "Offer Letter" shall include any further Letters of Variation entered into before this deed is completed

Properties· all freehold and leasehold properties (whether registered or unregistered) and all commonhold properties, now or in the future (and from time to time) owned by the Borrower, or in which the Borrower holds an interest (including, but not limited to, the properties specified in Schedule 1), and **Property** means any of them but such expression shall not include the Excluded Assets or any of them

Receiver: a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by the Lender under clause 14

Secured Assets: all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this deed

Secured Liabilities: all present and future monies, obligations and liabilities owed by the Borrower to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Loan Facility Agreement or this deed (including, without limitation, those arising under clause 27 3(b)~~27 3(b)~~), together with all interest (including, without limitation, default interest) accruing in respect of those monies or liabilities

Security Financial Collateral Arrangement: shall have the meaning given to that expression in the Financial Collateral Regulations

Security: any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect

Security Period: the period starting on the date of this deed and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding

Trustee: a director of the Borrower and/or Sam Beare Hospice as the context shall so require

1 2 **Interpretation**

In this deed

(a) clause, Schedule and paragraph headings shall not affect the interpretation of this deed,

(b) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality) and that person's personal representatives, successors, permitted assigns and permitted transferees,

(c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular,

(d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders,

(e) a reference to a party shall include that party's successors, permitted assigns and permitted transferees,

(f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time,

(g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision,

(h) a reference to **writing** or **written** includes fax but not e-mail,

(i) an obligation on a party not to do something includes an obligation not to allow that thing to be done,

(j) a reference to **this deed** (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time,

(k) unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this deed and a reference to a paragraph is to a paragraph of the relevant Schedule,

(l) any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms,

(m) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly),

(n) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description,

(o) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution,

(p) a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been waived,

(q) a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it, and

(r) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation

(s) where in this deed the Lender's consent approval or permission is not to be unreasonably withheld such provision shall also be construed as imposing an obligation on the Lender that such consent approval or permission shall not be unreasonably delayed

(t) where in this deed any payment falls due or any action is required from the Borrower in response to a "demand" or a "requirement" or "notification" from the Lender any such demand and/or requirement and/or notification shall be made in writing

1 3 **Clawback**

If the Lender reasonably considers that an amount paid by the Borrower in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed

1 4 **Nature of security over real property**

A reference in this deed to a charge or mortgage of or over any Property includes

(a) all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) that are situated on or form part of that Property at any time (excluding in the case of any leasehold property any Landlords fixtures and fittings),

(b) the proceeds of the sale of any part of that Property and any other monies paid or payable in respect of or in connection with that Property,

(c) the benefit of any covenants for title given, or entered into, by any predecessor in title of the Borrower in respect of that Property, and any monies paid or payable in respect of those covenants, and

(d) all rights under any licence, agreement for sale or agreement for lease in respect of that Property

1 5 **Law of Property (Miscellaneous Provisions) Act 1989**

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Loan Facility Agreement and of any side letters between any parties in relation to the Loan Facility Agreement are incorporated into this deed

1 6 **Perpetuity period**

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009)

1 7 **Schedules**

The Schedules form part of this deed and shall have effect as if set out in full in the body of this deed Any reference to this deed includes the Schedules

2 **COVENANT TO PAY**

The Borrower shall, on demand, pay to the Lender and discharge the Secured Liabilities when they become due

3 **GRANT OF SECURITY**

3 1 **Legal mortgage**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender, by way of first legal mortgage, each Property specified in Schedule 1

3 2 **Fixed charges**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender by way of first fixed charge

(a) all Properties acquired by the Borrower in the future other than any property falling within the definition of Excluded Assets and the express "Property" shall be construed accordingly and shall not include any properties within the Excluded Assets,

(b) all present and future interests of the Borrower not effectively mortgaged or charged under the preceding provisions of this clause 3 in, or over, freehold or leasehold property,

(c) all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to each Property,

(d) all licences, consents and authorisations (statutory or otherwise) held or required in connection with the Borrower's business or the use of any Secured Asset, and all rights in connection with them,

(e) all its present and future goodwill,

(f) all its uncalled capital,

(g) all the Equipment,

(h) all the Book Debts,

(i) all the Investments,

(j) all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person (including each Designated Account), and

(k) all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy

3 3 **Floating charge**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender, by way of first floating charge, all the undertaking, property, assets and rights of the Borrower at any time not effectively mortgaged, charged or assigned pursuant to clause 3 1 and clause 3 2

3 4 **Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3 3

3 5 **Excluded Property**

The security created by clauses 3 1 and 3 2 shall not apply to Excluded Assets

3 6 **Automatic crystallisation of floating charge**

The floating charge created by clause 3 3 shall automatically and immediately (without notice) be converted into a fixed charge over the assets subject to that floating charge if

(a) the Borrower

(i) creates, or attempts to create, without the prior written consent of the Lender, a Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this deed or the Loan Facility Agreement), or

(ii) disposes, or attempts to dispose of, all or any part of the Secured Assets (other than Secured Assets that are only subject to the floating charge while it remains uncrystallised) save where disposal of them is permitted under the Loan Facility Agreement,

(b) any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets, or

(c) a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Borrower

3 7 **Crystallisation of floating charge by notice**

The Lender may, in its sole discretion, by written notice to the Borrower, convert the floating charge created under this deed into a fixed charge as regards any part of the Secured Assets specified by the Lender in that notice if

(a) an Event of Default occurs and is continuing, or

(b) the Lender considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy

3 8 **Assets acquired after any floating charge has crystallised**

Any asset acquired by the Borrower after any crystallisation of the floating charge created under this deed that, but for that crystallisation, would be subject to a floating charge under this deed, shall (unless the Lender confirms otherwise to the Borrower in writing) be charged to the Lender by way of first fixed charge

4 **LIABILITY OF THE BORROWER**

4 1 **Liability not discharged**

The Borrower's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by

(a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is, or becomes, wholly or partially illegal, void or unenforceable on any ground,

(b) the Lender reasonably renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person, or

(c) any other act or omission that, but for this clause 4 1, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower

4 2 **Immediate recourse**

The Borrower waives any right it may have to require the Lender to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against the Borrower

5 **REPRESENTATIONS AND WARRANTIES**

5 1 **Representations and warranties**

The Borrower makes the representations and warranties set out in this clause 5 to the Lender

5 2 **Ownership of Secured Assets**

The Borrower is the legal and beneficial owner of the Secured Assets

5 3 **No Security**

The Secured Assets are free from any Security other than the Security created by this deed

5 4 **No adverse claims**

The Borrower has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them

5 5 **No adverse covenants**

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affect the Secured Assets

5 6 **No breach of laws**

There is no breach of any law or regulation that materially and adversely affects the Secured Assets

5 7 **No interference in enjoyment**

No facility necessary for the enjoyment and use of the Secured Assets is subject to terms entitling any person to terminate or curtail its use

5 8 **No overriding interests**

Nothing has arisen, has been created or is subsisting, that would be an overriding interest in any Property

5 9 **Avoidance of security**

No Security expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Borrower or otherwise

5 10 **No prohibitions or breaches**

So far as the Borrower is aware the entry into this deed by the Borrower does not, and will not, constitute a breach of any agreements mentioned or referred to in clause 6 13(ii) or any other agreement or instrument binding on the Borrower or its assets

5 11 **Environmental compliance**

So far as the Borrower is aware the Borrower has, at all times, complied in all material respects with all applicable Environmental Law Provided the extent of enquiry made by the Trustees is that of the Chief Executive Officer of the Borrower who has confirmed he is not aware of any of the same

5 12 **Enforceable security**

This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Borrower, and is and will continue to be effective security over all and every part of the Secured Assets in accordance with its terms.

5 13 **Investments**

(a) The Investments are (if applicable) fully paid and are not subject to any option to purchase or similar rights

(b) No constitutional document of an issuer of an Investment, nor any other agreement

(i) restricts or inhibits any transfer of the Investments on creation or enforcement of the security constituted by this deed, or

(ii) contains any rights of pre-emption in relation to the Investments

6 GENERAL COVENANTS

6 1 Negative pledge and disposal restrictions

The Borrower shall not at any time, except with the prior written consent of the Lender

(a) create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this deed,

(b) sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge), or

(c) create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party

6 2 Preservation of Secured Assets

The Borrower shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this deed

6 3 Compliance with laws and regulations

(a) The Borrower shall not, without the Lender's prior written consent, use or permit the Secured Assets to be used in any way contrary to law

(b) The Borrower shall

(i) comply with the requirements of any law and regulation relating to or affecting the Secured Assets or the use of it or any part of them,

(ii) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with

the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset, and

(iii) within a reasonable period of becoming aware of the same effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets

6 4 **Enforcement of rights**

The Borrower shall use its best endeavours to

(a) procure the prompt observance and performance of the covenants and other obligations imposed on the Borrower's counterparties in respect of all agreements mentioned or referred to in clause 6 13(ii) (including each insurer in respect of an Insurance Policy), and

(b) enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets which the Lender may require from time to time

6 5 **Notice of misrepresentation and breaches**

The Borrower shall, promptly on becoming aware of any of the same, give the Lender notice in writing of

(a) any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated, and

(b) any breach of any covenant set out in this deed

6 6 **Insurance**

(a) The Borrower shall insure and keep insured (or where, in the case of any leasehold property, insurance is the responsibility of the landlord under the terms of the lease, either procure that the landlord insures and keeps insured or, if and to the extent that the landlord does not do so, itself insure and keep insured) the Secured Assets to the extent such insurance is available in the commercial insurance market on reasonable terms from time to time against

(i) loss or damage by fire or terrorist acts,

(ii) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Borrower, and

(iii) any other risk, perils and contingencies as the Lender may reasonably require

Any such insurance must be with a reputable insurance company or underwriters, and on reasonable terms , and must be for not less than the replacement value of the Secured Assets and provided in the case of leasehold properties vested in the Borrower subject to the provisions of the Lease

(b) The Borrower shall, if requested by the Lender, produce to the Lender the policy, certificate or cover note relating to the insurance required by clause 6 6(a) (or where, in the case of any leasehold property, that insurance is effected by the landlord, such evidence of insurance as the Borrower is entitled to obtain from the landlord under the terms of the relevant lease)

6 7 **Insurance premiums**

The Borrower shall

(a) promptly pay all premiums in respect of each insurance policy maintained by it in accordance with clause 6 6(a) and do all other things necessary to keep that policy in full force and effect, and

(b) (if the Lender so reasonably requires) produce to the Lender the receipts for or other evidence of payment of all premiums and other payments necessary for effecting and keeping up each insurance policy maintained by it in accordance with clause 6 6(a) (but so that the Borrower shall not be liable where insurance companies do not issue receipts)

6 8 **No invalidation of insurance**

The Borrower shall not knowingly do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any insurance policy maintained by it in accordance with clause 6 6(a)

6 9 **Proceeds of insurance policies**

All monies received or receivable by the Borrower under any insurance policy maintained by it in accordance with clause 6 6(a) (including all monies received or receivable by it under any Insurance Policy) at any time (whether or not the security constituted by this deed has become enforceable) shall

(a) if they are not paid directly to the Lender by the insurers, be held by the Borrower as trustee of the same for the benefit of the Lender (and the Borrower shall account for them to the Lender), and

(b) be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received or, after the security constituted

by this deed has become enforceable and if the Lender so directs, in or towards discharge or reduction of the Secured Liabilities

6 10 **Notices to be given by the Borrower**

The Borrower shall immediately on the execution of this deed (or, if later, the date of acquisition of the relevant Secured Asset)

(a) give notice to the Lender that it has acquired the relevant Secured Asset,

(b) give notice to any bank, financial institution or other person (excluding the Lender) with whom it has an account that it has charged to the Lender its rights and interests under that account under clause 3 2(j)

(c) the Borrower shall obtain the Lender's prior approval of the form of any notice or acknowledgement to be used under this clause 6 10

6 11 **Information**

The Borrower shall

(a) give the Lender such information concerning the location, condition, use and operation of the Secured Assets as the Lender may require and so require in writing,

(b) permit any persons designated by the Lender and any Receiver to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice, and

(c) promptly notify the Lender in writing of any action, claim or demand made by or against it in connection with any Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim or demand, together with, in each case, the Borrower's proposals for settling, liquidating, compounding or contesting any such action, claim or demand and shall, subject to the Lender's prior approval, implement those proposals at its own expense

6 12 **Payment of outgoings**

The Borrower shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to the Lender

6 13 **If Borrower unable to continue Hospice operation**

In the event that whilst this Debenture remains in full force and effect and binds Woking Hospice

(a) the Borrower reasonably believes and/or apprehends and/or

(b) the Lender reasonably believes or apprehends

that the Borrower will not be able to continue operating and running Woking Hospice and the hospice operations and services from the Properties or otherwise, then

(A) if the Borrower so believes and apprehends it will as soon as reasonably practicable thereafter serve notice to this effect upon the Lender and/or

(B) if the Lender so believes and apprehends it may serve notice to this effect on the Borrower

whereupon the following obligations will apply to the Borrower -

(i) The Borrower will so far as it able to do so by law take all reasonable steps as properly and reasonably directed by the Lender to enable the Lender to procure the continued running and provision of such hospice operations and services from the Property (and also the Sam Beare Hospice operations and services if the Lender so wishes) and will cooperate fully with the Lender to the extent it is able by law to do so to enable the Lender to take over the running of the Hospice(s) and the continued provision and running of the Hospice(s) undertaking and operations and services, and

(ii) Without prejudice to the generality of the obligations set out in above it will make available to the Lender details of all relevant contracts and arrangements which relate to affect and apply to the running of the hospice operations and services, including details of all medical and other personnel and staff and the employment contracts or contracts for services and all agency and bank contracts, and all agreements with CCGs or other health providers, and all contracts relating to medical and other equipment machinery apparatus and instruments for diagnosis and treatment of patients and the maintenance thereof and otherwise in relation to the running and provision of the Hospice operations and services

(iii) Will use all reasonable endeavours so far as it is able so to do by law to provide the Lender with such information relating to the Hospices' operations and undertaking as the Lender reasonable requires, and

(iv) Will so far as it is able to do so by law cooperate with and assist the Lender in relation to the assignment and novation to the Lender or other body nominated by the Lender of all such contracts relating to the running of the hospice operations and services as directed by the Lender if and to the extent the Lender so requires

7 PROPERTY COVENANTS

7 1 Maintenance

The Borrower shall keep all buildings and all fixtures on each Property in good and substantial repair and condition

7 2 Preservation of Property, fixtures and Equipment

The Borrower shall not, without the prior written consent of the Lender (not to be unreasonably withheld where such works or alterations are necessary for the continuation or exercise of the operation of the Borrower's undertaking at each Property)

(a) pull down or remove the whole, or any part of, any building forming part of any Property or permit the same to occur,

(b) make or permit any material alterations to any Property, or sever or remove, or permit to be severed or removed, any of its fixtures, or

(c) remove or make any material alterations to any of the Equipment belonging to, or in use by, the Borrower on any Property (except to effect necessary repairs or replace them with new or improved models or substitutes)

7 3 Conduct of the Borrower's undertaking on Properties

The Borrower shall carry on its undertaking on those parts (if any) of the Properties as are used for the purposes of its undertaking in accordance with the standards of good management from time to time current and applicable to its undertaking

7 4 Planning information

The Borrower shall

(a) give full particulars to the Lender of any notice, order, direction, designation, resolution or proposal given or made by any planning authority or other public body or authority (**Planning Notice**) that specifically applies to any Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant Planning Notice, and

(b) (if the Lender so requires) immediately, and at the cost of the Borrower, take all reasonable and necessary steps to comply with any Planning Notice, and make, or join with the Lender in making, any objections or representations in respect of that Planning Notice that the Lender may desire

7 5 **Compliance with covenants and payment of rent**

The Borrower shall

(a) observe and perform all covenants, stipulations and conditions to which each Property, or the use of it, is or may be subjected, and (if the Lender so requires) produce evidence sufficient to satisfy the Lender that those covenants, stipulations and conditions have been observed and performed,

(b) diligently enforce all covenants, stipulations and conditions benefiting each Property and shall not (and shall not agree to) waive release or vary any of the same, and

(c) (without prejudice to the generality of the foregoing) where a Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time, and perform and observe all the tenant's covenants and conditions

7 6 **Payment of rent and outgoings**

The Borrower shall

(a) where a Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time, and

(b) pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed on each Property or on its occupier

7 7 **Maintenance of interests in Properties**

The Borrower shall not, without the prior written consent of the Lender and save as otherwise provided in the Loan Facility Agreement and the other Security deeds

(a) grant, or agree to grant, any licence or tenancy affecting the whole or any part of any Property, or exercise, or agree to exercise, the statutory powers of leasing or of accepting surrenders under sections 99 or 100 of the Law of Property Act 1925, or

(b) in any other way dispose of, surrender or create, or agree to dispose of surrender or create, any legal or equitable estate or interest in the whole or any part of any Property

7 8 **Registration restrictions**

If the title to any Property is not registered at the Land Registry, the Borrower shall procure that no person (other than itself) shall be registered under the Land Registration Acts 1925 to 2002 as proprietor of all or any part of any Property without the prior written consent of the Lender Provided for the avoidance of doubt this shall not apply to any property that is reversionary to any leasehold property vested in the Borrower The Borrower shall be liable for the reasonable and proper costs and expenses of the Lender in lodging cautions against the registration of the title to the whole or any part of any Property from time to time

7 9 **Development restrictions**

The Borrower shall not, without the prior written consent of the Lender (such consent not to be unreasonably withheld)

(a) make or, insofar as it is able, permit others to make any application for planning permission or development consent in respect of the Property, or

(b) carry out, or permit, or suffer to be carried out on any Property any development as defined in the Town and Country Planning Act 1990 and the Planning Act 2008, or change or permit or suffer to be changed the use of any Property

7 10 **Environment**

The Borrower shall

(a) comply with all the requirements of Environmental Law both in the conduct of its general business and in the management, possession or occupation of each Property, and

(b) obtain and comply with all authorisations, permits and other types of licences necessary under Environmental Law

7 11 **No restrictive obligations**

The Borrower shall not, without the prior written consent of the Lender, enter into any onerous or restrictive obligations affecting the whole or any part of any Property, or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of any Property

7 12 **Proprietary rights**

The Borrower shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of any Property without the prior written consent of the Lender

7 13 **Inspection**

The Borrower shall permit the Lender, any Receiver and any person appointed by either of them to enter on and inspect any Property on reasonable prior notice

7 14 **Property information**

The Borrower shall inform the Lender promptly of any acquisition by the Borrower of, or contract made by the Borrower to acquire, any freehold, leasehold or other interest in any property

7 15 **VAT option to tax**

The Borrower shall not, without the prior written consent of the Lender (such consent not to be unreasonably withheld)

(a) exercise any VAT option to tax in relation to any Property, or

(b) revoke any VAT option to tax exercised, and disclosed to the Lender, before the date of this deed

7 16 **Registration at the Land Registry**

The Borrower consents to an application being made by the Lender to the Land Registrar for the following restriction in Form P to be registered against its title to each Property

"No disposition 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 [DATE] in favour of [NAME OF PARTY] referred to in the charges register [or [their conveyancer or specify appropriate details]] "

8 **INVESTMENTS COVENANTS**

8 1 **Nominations**

(a) In the event the Borrower shall hold any Investments from time to time the Borrower shall notify the Lender of the details thereof upon the acquisition of

the same and shall if so and to the extent the Lender shall reasonably so require terminate with immediate effect all nominations it may have made (including, without limitation, any nomination made under section 145 or section 146 of the Companies Act 2006) in respect of any Investments and, pending that termination, procure that any person so nominated

(i) does not exercise any rights in respect of any Investments without the prior written approval of the Lender, and

(ii) immediately on receipt by it, forward to the Lender all communications or other information received by it in respect of any Investments for which it has been so nominated

(b) The Borrower shall not, during the Security Period, exercise any rights (including, without limitation, any rights under sections 145 and 146 of the Companies Act 2006) to nominate any person in respect of any of the Investments

8 2 **Additional registration obligations**

The Borrower shall

(a) obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association (or otherwise) of an issuer, for the transfer of the Investments to the Lender or its nominee, or to a purchaser on enforcement of this deed, and

(b) reasonably procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) under the articles of association, other constitutional document or otherwise to the extent the Borrower is entitled in law so to do of each issuer in any manner that the Lender may reasonably require in order to permit the transfer of the Investments to the Lender or its nominee, or to a purchaser on enforcement of this deed

8 3 **Dividends and voting rights before enforcement**

(a) Before the security constituted by this deed becomes enforceable, the Borrower may retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Investments and, if any are paid or payable to the Lender or any of its nominees, the Lender will hold all those dividends, interest and other monies received by it for the Borrower and will pay them to the Borrower promptly on request, and

(b) Before the security constituted by this deed becomes enforceable, the Borrower may exercise all voting and other rights and powers in respect of the Investments or, if any of the same are exercisable by the Lender of any of its

nominees, to direct in writing the exercise of those voting and other rights and powers provided that

(i) it shall not do so in any way that would breach any provision of the Loan Facility Agreement or this deed or for any purpose inconsistent with the Loan Facility Agreement or this deed, and

(ii) the exercise of, or the failure to exercise, those voting rights or other rights and powers would not, in the Lender's opinion, have an adverse effect on the value of the Investments or otherwise prejudice the Lender's security under this deed

(c) The Borrower shall indemnify the Lender against any loss or liability incurred by the Lender (or its nominee) as a consequence of the Lender (or its nominee) acting in respect of the Investments at the direction of the Borrower

(d) The Lender shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or conferred by any of the Investments that the Lender considers prejudicial to, or impairing the value of, the security created by this deed

8 4 **Dividends and voting rights after enforcement**

After the security constituted by this deed has become enforceable

(a) all dividends and other distributions paid in respect of the Investments and received by the Borrower shall be held by the Borrower on trust for the Lender and immediately paid into a Designated Account or, if received by the Lender, shall be retained by the Lender, and

(b) all voting and other rights and powers attaching to the Investments shall be exercised by, or at the direction of, the Lender and the Borrower shall, and shall procure that its nominees shall, comply with any directions the Lender may give, in its absolute discretion, concerning the exercise of those rights and powers

8 5 **Calls on Investments**

The Borrower shall promptly pay all calls, instalments and other payments that may be or become due and payable in respect of all or any of the Investments The Borrower acknowledges that the Lender shall not be under any liability in respect of any such calls, instalments or other payments

8 6 **No alteration of constitutional documents or rights attaching to Investments**

The Borrower shall not, without the prior written consent of the Lender, amend, or agree to the amendment of

(a) the memorandum or articles of association, or any other constitutional documents, of any issuer of any of the Investments that is not a public company, or

(b) the rights or liabilities attaching to any of the Investments

8 7 **Preservation of Investments**

The Borrower shall ensure (as far as it is able to by the exercise of all voting rights, powers of control and other means available to it) that any issuer that is not a public company shall not

(a) consolidate or subdivide any of its Investments, or reduce or re-organise its share capital in any way,

(b) issue any new shares or stock, or

(c) refuse to register any transfer of any of its Investments that may be lodged for registration by, or on behalf of, the Lender or the Borrower in accordance with this deed

8 8 **Investments information**

The Borrower shall, promptly following receipt, send to the Lender copies of any material notice, circular, report, accounts and any other document received by it that relates to the Investments

9 **EQUIPMENT COVENANTS**

9 1 **Maintenance of Equipment**

The Borrower shall

(a) maintain the Equipment in good and serviceable condition (except for expected fair wear and tear) in compliance with all relevant manuals, handbooks, manufacturer's instructions and recommendations and maintenance or servicing schedules,

(b) at its own expense, renew and replace any parts of the Equipment when they become obsolete, worn out or damaged with parts of a similar quality and of equal or greater value Provided this clause shall not impose on the Borrower any greater liability in respect of any Equipment within any property held under a lease than is imposed by the lease in relation to any such equipment within the leasehold properties, and

(c) not permit any Equipment to be

(i) used or handled other than by properly qualified and trained persons, or

(ii) overloaded or used for any purpose for which it is not designed or reasonably suitable

9 2 **Payment of Equipment taxes**

The Borrower shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Equipment and, on demand, produce evidence of such payment to the Lender

10 **POWERS OF THE LENDER**

10 1 **Power to remedy**

(a) The Lender shall be entitled (but shall not be obliged) reasonably to remedy, at any time, a breach by the Borrower of any of its obligations contained in this deed

(b) The Borrower irrevocably authorises the Lender and its agents to do all things that are necessary or desirable for that purpose

(c) Any monies expended by the Lender in remedying a breach by the Borrower of its obligations contained in this deed shall be reimbursed by the Borrower to the Lender on a full indemnity basis and shall carry interest in accordance with clause 17 1

10 2 **Exercise of rights**

The rights of the Lender under clause 10 1 are without prejudice to any other rights of the Lender under this deed The exercise of any rights of the Lender under this deed shall not make the Lender liable to account as a mortgagee in possession

10 3 **Power to dispose of chattels**

(a) At any time after the security constituted by this deed has become enforceable, the Lender or any Receiver may, as agent for the Borrower, dispose of any chattels found on any Property (but this shall not apply to any chattels within any leasehold property demised to the Borrower which belong to the landlord)

(b) Without prejudice to any obligation to account for the proceeds of any disposal made under clause 10 3(a), the Borrower shall indemnify the Lender

and any Receiver against any liability arising from any reasonable disposal made under clause 10 3(a)

10 4 **Lender has Receiver's powers**

To the extent permitted by law, any right, power or discretion conferred by this deed on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Lender in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver

10 5 **Conversion of currency**

(a) For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Lender may convert any monies received, recovered or realised by it under this deed (including the proceeds of any previous conversion under this clause 10 5) from their existing currencies of denomination into any other currencies of denomination that the Lender may think fit

(b) Any such conversion shall be effected at HSBC Bank Plc's then prevailing spot selling rate of exchange for such other currency against the existing currency

(c) Each reference in this clause 10 5 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency

10 6 **New accounts**

(a) If the Lender receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Lender may open a new account for the Borrower in the Lender's books Without prejudice to the Lender's right to combine accounts, no money paid to the credit of the Borrower in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities

(b) If the Lender does not open a new account immediately on receipt of the notice, or deemed notice, under clause 10 6(a), then, unless the Lender gives express written notice to the contrary to the Borrower, all payments made by the Borrower to the Lender shall be treated as having been credited to a new account of the Borrower and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Lender

10 7 **Lender's set-off rights**

If the Lender has more than one account for the Borrower in its books, the Lender may at any time after

(a) the security constituted by this deed has become enforceable, or

(b) the Lender has received, or is deemed to have received, notice of any subsequent Security or other interest affecting all or any part of the Secured Assets,

transfer, without prior notice, all or any part of the balance standing to the credit of any account to any other account that may be in debit After making any such transfer, the Lender shall notify the Borrower of that transfer

10 8 **Indulgence**

The Lender may, at its discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a party to this deed (whether or not any such person is jointly liable with the Borrower) in respect of any of the Secured Liabilities, or of any other security for them without prejudice either to this deed or to the liability of the Borrower for the Secured Liabilities

10 9 **Appointment of an Administrator**

(a) The Lender may, without notice to the Borrower, appoint any one or more persons to be an Administrator of the Borrower pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this deed becomes enforceable

(b) Any appointment under this clause 10 9 shall

(i) be in writing signed by a duly authorised signatory of the Lender, and

(ii) take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986

(c) The Lender may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 10 9 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified

10 10 **Further advances**

The Lender covenants with the Borrower that it shall perform its obligations to make advances under the Loan Facility Agreement (including any obligation to make available further advances)

11 WHEN SECURITY BECOMES ENFORCEABLE

11 1 Security becomes enforceable on Event of Default

The security constituted by this deed shall be immediately enforceable if an Event of Default occurs

11 2 Discretion

After the security constituted by this deed has become enforceable, the Lender may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets

12 ENFORCEMENT OF SECURITY

12 1 Enforcement powers

(a) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall, as between the Lender and a purchaser from the Lender, arise on and be exercisable at any time after the execution of this deed, but the Lender shall not exercise such power of sale or other powers until the security constituted by this deed has become enforceable under clause 11 1

(b) Section 103 of the LPA 1925 does not apply to the security constituted by this deed

12 2 Extension of statutory powers of leasing

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise the Lender and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of the Borrower, to

(a) grant a lease or agreement to lease,

(b) accept surrenders of leases, or

(c) grant any option of the whole or any part of the Secured Assets with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Borrower, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Lender or Receiver thinks fit without the

need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925

12 3 **Access on enforcement**

(a) At any time after the Lender has demanded payment of the Secured Liabilities or if the Borrower defaults in the performance of its obligations under this deed or the Facility Agreement, the Borrower will allow the Lender or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Lender or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Borrower for, or by any reason of, that entry

(b) At all times, the Borrower must use its best endeavours to allow the Lender or its Receiver access to any premises for the purpose of clause 12 3 (a) (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same

12 4 **Prior Security**

At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security having priority to this deed shall have become exercisable, the Lender may

(a) redeem that or any other prior Security,

(b) procure the transfer of that Security to it, and

(c) settle and pass any account of the holder of any prior Security

Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Borrower All monies paid by the Lender to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Lender, be due from the Borrower to the Lender on current account and shall bear interest at the default rate of interest specified in the Facility Agreement and be secured as part of the Secured Liabilities

12 5 **Protection of third parties**

No purchaser, mortgagee or other person dealing with the Lender, any Receiver or Delegate shall be concerned to enquire

(a) whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged,

(b) whether any power the Lender, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable, or

(c) how any money paid to the Lender, any Receiver or any Delegate is to be applied

12 6 **Privileges**

Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers

12 7 **No liability as mortgagee in possession**

Neither the Lender, any Receiver, any Delegate nor any Administrator shall be liable to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee in possession might be liable as such

12 8 **Conclusive discharge to purchasers**

The receipt of the Lender or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, the Lender, every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit

12 9 **Right of appropriation**

(a) To the extent that

(i) the Secured Assets constitute Financial Collateral, and

(ii) this deed and the obligations of the Borrower under it constitute a Security Financial Collateral Arrangement,

the Lender shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Lender may, in its absolute discretion, determine

(b) The value of any Secured Assets appropriated in accordance with this clause shall be the price of those Secured Assets at the time the right of appropriation is exercised as listed on any recognised market index, or

determined by any other method that the Lender may select (including independent valuation)

(c) The Borrower agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations

13 RECEIVER

13 1 Appointment

At any time after the security constituted by this deed has become enforceable, or at the request of the Borrower, the Lender may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets

13 2 Removal

The Lender may, without further notice (subject to section 45 of the Insolvency Act 1986), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated

13 3 Remuneration

The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this deed, which shall be due and payable immediately on its being paid by the Lender

13 4 Power of appointment additional to statutory powers

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Lender under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise

13 5 Power of appointment exercisable despite prior appointments

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Secured Assets

13 6 **Agent of the Borrower**

Any Receiver appointed by the Lender under this deed shall be the agent of the Borrower and the Borrower shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver The agency of each Receiver shall continue until the Borrower goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lender

14 **POWERS OF RECEIVER**

14 1 **General**

(a) Any Receiver appointed by the Lender under this deed shall, in addition to the powers conferred on him by statute, have the powers set out in clause 14 2 to clause 14 22

(b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver

(c) Any exercise by a Receiver of any of the powers given by clause 14 may be on behalf of the Borrower or himself

14 2 **Repair and develop Properties**

A Receiver may undertake or complete any works of repair, building or development on the Properties and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same Provided this shall take into account the terms of any lease of any Property vested in the Borrower

14 3 **Surrender leases**

A Receiver may grant, or accept surrenders of, any leases or tenancies affecting any Property and may grant any other interest or right over any Property on any terms, and subject to any conditions, that he thinks fit

14 4 **Employ personnel and advisors**

A Receiver may provide services and employ, or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers

on any terms, and subject to any conditions, that he thinks fit A Receiver may discharge any such person or any such person appointed by the Borrower

14 5 **Make VAT elections**

A Receiver may make, exercise or revoke any value added tax option to tax as he thinks fit

14 6 **Remuneration**

A Receiver may charge and receive any proper sum by way of remuneration (in addition to all costs, charges and expenses properly incurred by him) that the Lender may acting reasonably prescribe or agree with him

14 7 **Realise Secured Assets**

A Receiver may collect and get in the Secured Assets or any part of them in respect of which he is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights

14 8 **Manage or reconstruct the Borrower's business**

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Borrower

14 9 **Dispose of Secured Assets**

A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which he is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he thinks fit Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold

14 10 **Sever fixtures and fittings**

A Receiver may sever and sell separately any fixtures or fittings from any Property without the consent of the Borrower (Provided this shall only apply in the case of leasehold property to the extent permitted by the Lease)

14 11 **Sell Book Debts**

A Receiver may sell and assign all or any of the Book Debts in respect of which he is appointed in any manner, and generally on any terms and conditions, that he thinks fit

14 12 **Valid receipts**

A Receiver may give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets

14 13 **Make settlements**

A Receiver may make any arrangement, settlement or compromise between the Borrower and any other person that he may think expedient

14 14 **Bring proceedings**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as he thinks fit

14 15 **Improve the Equipment**

A Receiver may make substitutions of, or improvements to, the Equipment as he may think expedient

14 16 **Insure**

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 18, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Borrower under this deed

14 17 **Powers under the LPA 1925**

A Receiver may exercise all powers provided for in the LPA 1925 in the same way as if he had been duly appointed under the LPA 1925, and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986

14 18 **Borrow**

A Receiver may, for any of the purposes authorised by this clause 14, raise money by borrowing from the Lender (or from any other person) either unsecured or on the security of all or any of the Secured Assets in respect of which he is appointed on any terms that he thinks fit (including, if the Lender consents, terms under which that security ranks in priority to this deed)

14 19 **Redeem prior Security**

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Borrower, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver

14 20 **Delegation**

A Receiver may delegate his powers in accordance with this deed

14 21 **Absolute beneficial owner**

A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights he would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Secured Assets or any part of the Secured Assets

14 22 **Incidental powers**

A Receiver may do any other acts and things

(a) that he may consider desirable or necessary for realising any of the Secured Assets,

(b) that he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law, or

(c) that he lawfully may or can do as agent for the Borrower

15 **DELEGATION**

15 1 **Delegation**

The Lender or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under clause 19 1)

15 2 **Terms**

The Lender and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit

15 3 **Liability**

Neither the Lender nor any Receiver shall be in any way liable or responsible to the Borrower for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate

16 **APPLICATION OF PROCEEDS**

16 1 **Order of application of proceeds**

All monies received by the Lender, a Receiver or a Delegate pursuant to this deed, after the security constituted by this deed has become enforceable, shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority

(a) in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Lender (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed, and of all remuneration due to any Receiver under or in connection with this deed,

(b) in or towards payment of or provision for the Secured Liabilities in any order and manner that the Lender determines, and

(c) in payment of the surplus (if any) to the Borrower or other person entitled to it

16 2 **Appropriation**

Neither the Lender, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities

16 3 **Suspense account**

All monies received by the Lender, a Receiver or a Delegate under this deed

(a) may, at the discretion of the Lender, Receiver or Delegate, be credited to any suspense or securities realised account,

(b) shall bear interest, if any, at the rate agreed in writing between the Lender and the Borrower, and

(c) may be held in that account for so long as the Lender, Receiver or Delegate thinks fit

17 COSTS AND INDEMNITY

17 1 Costs

The Borrower shall, within five Business Days of demand, pay to, or reimburse, the Lender and any Receiver, on a full indemnity basis, all proper costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Lender, any Receiver or any Delegate in connection with

(a) this deed or the Secured Assets,

(b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's, a Receiver's or a Delegate's rights under this deed, or

(c) taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding up or administration of the Borrower) at the rate and in the manner specified in the Loan Facility Agreement

17 2 Indemnity

The Borrower shall indemnify the Lender, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with

(a) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Secured Assets,

(b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed, or

(c) any default or delay by the Borrower in performing any of its obligations under this deed

Any past or present employee or agent may enforce the terms of this clause 17 2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999

18 FURTHER ASSURANCE

18 1 Further assurance

The Borrower shall, at its own expense, take whatever action the Lender or any Receiver may reasonably require for

(a) creating, perfecting or protecting the security intended to be created by this deed,

(b) facilitating the realisation of any Secured Asset, or

(c) facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any Secured Asset,

including, without limitation (if the Lender or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Lender or to its nominee) and the giving of any notice, order or direction and the making of any registration

19 POWER OF ATTORNEY

19 1 Appointment of attorneys

By way of security, the Borrower irrevocably appoints the Lender, every Receiver and every Delegate separately to the extent permitted by the Charities Act to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that

(a) the Borrower is required to execute and do under this deed, or

(b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Lender, any Receiver or any Delegate

19 2 Ratification of acts of attorneys

To the extent permitted by the Charities Act the Borrower ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 19 1

20 RELEASE

Subject to clause 27 3, on the expiry of the Security Period (but not otherwise), the Lender shall, at the request and cost of the Borrower, take whatever action is necessary to

(a) release the Secured Assets from the security constituted by this deed, and

(b) reassign the Secured Assets to the Borrower

21 ASSIGNMENT AND TRANSFER

21 1 Assignment by Lender

(a) At any time, without the consent of the Borrower, the Lender may assign or transfer any or all of its rights and obligations under this deed

(b) The Lender may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Borrower, the Secured Assets and this deed that the Lender considers appropriate

21 2 Assignment by Borrower

The Borrower may not assign any of its rights, or transfer any of its rights or obligations, under this deed

22 SET-OFF

22 1 Lender's right of set-off

The Lender may at any time set off any liability of the Borrower to the Lender against any liability of the Lender to the Borrower, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed If the liabilities to be set off are expressed in different currencies, the Lender may convert either liability at a market rate of exchange for the purpose of set-off Any exercise by the Lender of its rights under this clause 22 shall not limit or affect any other rights or remedies available to it under this deed or otherwise

22 2 No obligation to set off

The Lender is not obliged to exercise its rights under clause 22 1 If, however, it does exercise those rights it must promptly notify the Borrower of the set-off that has been made

23 AMENDMENTS, WAIVERS AND CONSENTS

23 1 Amendments

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative)

23 2 Waivers and consents

(a) A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision

(b) A failure or delay by a party to exercise any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy No election to affirm this deed by the Lender shall be effective unless it is in writing

23 3 Rights and remedies

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law

24 SEVERANCE

24 1 Severance

If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this deed

25 COUNTERPARTS

25 1 Counterparts

(a) This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed

(b) No counterpart shall be effective until each party has executed and delivered at least one counterpart

26 THIRD PARTY RIGHTS

26 1 Third party rights

(a) Except as expressly provided elsewhere in this deed, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed This does not affect any right or remedy of a third party which exists, or is available, apart from that Act

(b) The rights of the parties to rescind or agree any amendment or waiver under this deed are not subject to the consent of any other person

27 FURTHER PROVISIONS

27 1 Independent security

This deed shall be in addition to, and independent of, any other security or guarantee that the Lender may hold for any of the Secured Liabilities at any time No prior security held by the Lender over the whole or any part of the Secured Assets shall merge in the security created by this deed

27 2 Continuing security

This deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lender discharges this deed in writing

27 3 Discharge conditional

Any release, discharge or settlement between the Borrower and the Lender shall be deemed conditional on no payment or security received by the Lender in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise Despite any such release, discharge or settlement

(a) the Lender or its nominee may retain this deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or

any part of the Secured Assets, for any period that the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund, and

(b) the Lender may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred

27 4 **Certificates**

A certificate or determination by the Lender as to any amount for the time being due to it from the Borrower under this deed and the Facility Agreement shall be, in the absence of any manifest error, conclusive evidence of the amount due

27 5 **Consolidation**

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed

28 **NOTICES**

28 1 **Delivery**

Any notice or other communication required to be given to a party under or in connection with this deed shall be

(a) in writing,

(b) delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by fax, and

(c) sent to

(i) the Borrower at

c/o W Davies, Acorn House, 5 Chertsey Road, Woking, Surrey GU21 5AB

Attention SJO/CSD/7306 79

(ii) the Lender at

Woking Borough Council, Civic Offices, Gloucester Square, Woking, Surrey GU21 6YL

Attention Head of Legal and Democratic Services

or to any other address or fax number as is notified in writing by one party to the other from time to time

28 2 **Receipt by Borrower**

Any notice or other communication that the Lender gives to the Borrower shall be deemed to have been received

(a) if delivered by hand, at the time it is left at the relevant address,

(b) if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting, and

(c) if sent by fax, when received in legible form

A notice or other communication given as described in clause 28 2(a) or clause 28 2(c) on a day that is not a Business Day, or after 4 00pm on any Business Day , in the place it is received, shall be deemed to have been received on the next Business Day

28 3 **Service of proceedings**

This clause 28 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution

28 4 **No notice by e-mail**

A notice or other communication given under or in connection with this deed is not valid if sent by e-mail

29 **EXCLUSION OF LIABILITIES**

In the absence of dishonesty or fraud on the part of the Trustees of the Borrower and the Trustees having caused this deed to be duly executed in good faith nothing in this deed shall impose upon such Trustees or any of them any personal liability in respect of the obligations of the Borrower assumed and undertaken in this deed and any claim by the Lender against the Borrower for any breach of the terms of this deed shall be limited to the assets for the time being of the Borrower under the control of its Trustees from time to time

31 **CHARITIES ACT**

Woking Hospice hereby declare as follows -

(a) The Charged Property is vested in Woking Hospice, a company limited by guarantee, incorporated and registered in England and Wales under company

number 4955487 and being a non-exempt charity registered with charity registration number 1082798

(b) The charges over the Properties and other property vested in Woking Hospice created by this deed are not ones falling within Section 124 (9) of the Charities Act so that the restrictions imposed by Section 124 of that Act apply

(c) Woking Hospice certifies that -

(i) the restriction in Section 124 of the Charities Act applies,

(ii) Woking Hospice has power under its Articles to grant this Debenture

(d) Its Trustees have obtained and considered such advice as is mentioned in Section 124 (2) of the Charities Act

32 GOVERNING LAW AND JURISDICTION

Governing law

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it

Schedule 1 Property

Part 1. Registered Property

The Properties referred to and more particularly defined in the Loan Facility Agreement

Part 2. Unregistered Property

None

Part 3. Excluded Property

As defined in and included in Schedule 2 to the Loan Facility Agreement

Executed as a deed by WOKING HOSPICE acting by RHODNEY HAYDN BRAY LOFTING, a director and NIGEL HARDING secretary

SIGNATURE
Director

SIGNATURE
Secretary

THE COMMON SEAL of WOKING BOROUGH COUNCIL was affixed in the presence of

Mayor

Head of Democratic and Legal Services

R,727.

Executed as a deed by WOKING HOSPICE acting by RHODNEY HAYDN BRAY LOFTING, a director and NIGEL HARDING secretary

SIGNATURE
Director

SIGNATURE
Secretary

(Countersigned by DAVID PERRY)

Signature
Chairman

THE COMMON SEAL of
WOKING BOROUGH COUNCIL
was affixed in the presence of :

Mayor

Head of Democratic and Legal Services