

# M

## COMPANIES FORM No. 395

### Particulars of a mortgage or charge

# 395

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

CHFP025

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

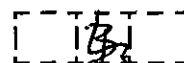
\*insert full name of Company

Pursuant to section 395 of the Companies Act 1985

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

For official use

Company number



3966451

Name of company

\* Affinity Healthcare Limited (the "Company")

Date of creation of the charge

24 December 2004

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

A deed of accession to a debenture dated 24 December 2004 between (1) Ingleby (1640) Limited (2) Ingleby (1620) Limited and (3) Duke Street Capital V Limited (as security trustee) (the "Debenture")

Amount secured by the mortgage or charge

The "Secured Liabilities", being

(a) all present and future obligations and liabilities whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity whatsoever, owed by any Chargor to the Investors on any account whatsoever including without limitation under the DDBs, the Counter-Indemnity, the Investment Agreement and under the Debenture and owed by any Chargor to the Managers or to the Trusts under the DDBs and the Debenture.

(b) interest at such rate as shall be agreed by the Security Trustee and the Chargors from time to time (and in the absence of such agreement, in accordance with normal practice at the time of the Security Trustee);

(c) any legal and other costs, charges and expenses (on a full and unqualified indemnity basis) in connection

See continuation sheet

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

Duke Street Capital V Limited (Company number 04071494) whose registered office is at Almack House, 28 King Street, London, SW1Y 6XA (as security trustee) (the "Security Trustee")

Postcode SW1Y 6XA

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

Wragge & Co LLP  
55 Colmore Row  
Birmingham  
B3 2AS

1889742/CGB/AXS1

Time critical reference

For official Use  
Mortgage Section

Post room



A07  
COMPANIES HOUSE

0369  
13/01/05

Short particulars of all the property mortgaged or charged

Subject to the terms of the Prior Security and the Intercreditor Deed, the Company with full title guarantee charges with the payment of the Secured Liabilities and so that the charge created shall be continuing security:

1.1 as a fixed charge (and in the case of the assets charged under paragraph 1.1(a) below, a charge by way of legal mortgage):

(a) the present and future estates and interest in the freehold and leasehold property of the Company including the Properties;

(b) all buildings and fixtures (including trade fixtures) fixed plant and machinery from time to time on the property charged under paragraph 1.1(a). For this purpose plant and machinery shall be deemed to be fixed:

(i) if it rests upon the property and cannot be lifted and removed from it without the use of lifting equipment; or

(ii) if the plant and machinery is annexed by any means to the property and notwithstanding that:

(A) it may be removed from it without occasioning any material damage thereto;

(B) it would as between a landlord and his tenant constitute a tenant's or trade fixture which (subject to any express term of the tenancy to the contrary) such tenant would be entitled to remove on the termination of the tenancy;

See continuation sheet

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Particulars as to commission allowance or discount (note 3)

Nil

Signed *Wragge & Co LLP*

Date *12/1/05*

On behalf of ~~XXXXXX~~ [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 CF14 3UZ

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**Particulars of a mortgage or charge  
(continued)**

Please do not  
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Continuation sheet No 1  
to Form No 395 and 410 (Scot)

Please complete  
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bold block lettering

Company Number

3966451

Name of Company

Affinity Healthcare Limited (the "Company")

Limited\*

\* delete if  
inappropriate

Description of the instrument creating or evidencing the mortgage or charge (continued) (note 2)

with the preparation and enforcement of the Debenture; and

(d) any expenses and charges arising out of or in connection with the acts or matters referred to in clause 7 of the Debenture,

excluding any obligation which, if it were so included, would result in the Debenture contravening Section 151 of the Companies Act 1985.

## DEFINITIONS

**"Acceding Chargors"** means the Company, Middleton St George Healthcare Limited (Company Number 3864079), Cheadle Royal Healthcare Limited (Company Number 3254624), Cheadle Royal Hospital Limited (Company Number 3417741), Healthcare England Limited (Company Number SC224907) and Healthcare Scotland Limited (Company Number SC196089);

**"Bank"** means The Royal Bank of Scotland plc and its successors, permitted assigns and transferees;

**"Batchelor Trust"** means the trust constituted by the Life Interest Trust Deed of Settlement executed by Philip Batchelor (as Settlor) and Philip Batchelor, John Ward and Stephen Hemsley (as Trustees) dated 25 November 2004;

**"Chargors"** means the Initial Chargors and any company which accedes to the terms of the Debenture pursuant to the terms of a duly executed Deed of Accession (as defined in the Debenture), including initially the Acceding Chargors (each being a **"Chargor"**);

**"Counter-indemnity"** means the counter-indemnity dated 24 December 2004 and made between Ingleby (1620) Limited and the Security Trustee in respect of the liability of the Investors and the Security Trustee under a Guarantee Facility Agreement dated 24 December 2004 and made (inter alia) between the Investors and the Bank;

**"DDBs"** means the deep discounted bonds issued from time to time by Ingleby (1620) Limited (or any Group Company) to the Investors and to the Managers or to the Trusts;

**"Group"** means Ingleby (1620) Limited, Ingleby (1640) Limited, and any subsidiary or holding company from time to time;

**"Group Company"** means each and any body corporate in the Group;

**"Initial Chargors"** means Ingleby (1640) Limited (Company Number 5305312) and Ingleby (1620) Limited (Company Number 5236108);

**"Investment Agreement"** means the agreement dated 24 December 2004 between (amongst others) Ingleby (1620) Limited (1) Ingleby (1640) Limited (2) the Managers (3) and the Investors (4);

**"Investors"** means the Investors defined as such in the Investment Agreement;

**"Managers"** means Philip Batchelor and John Ward;

**"Trusts"** means the Batchelor Trust and the Ward Trust;

**"Ward Trust"** means the trust constituted by the Life Interest Trust Deed of Settlement executed by John Ward (as Settlor) and John Ward, Stephen Hemsley and Philip Batchelor (as Trustees)

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Names, addresses and descriptions of the mortgagees or persons entitled to the charge (continued)

Please complete  
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- (C) it would as between a seller and buyer be a chattel which (subject to any express provision to the contrary) the seller would be entitled to remove prior to completion;
- (D) it was annexed to the property by the Company for the purpose of its enjoyment as a chattel; or

(iii) if it has at any time been treated as fixed plant and machinery in any balance sheet of the Company,  
provided that the tenants' fixtures will be charged only if and to the extent the Company can do so;

(c) all its right, title, interest and benefit in and to the Collections Account, all monies standing to the credit of the Collections Account, all interest accrued on monies standing to the credit of the Collections Account and all rights of such Chargor to the repayment of any of the above;

(d) all the Receivables;

(e)

- (i) all present and future stocks, shares and other interests of the Company including loan capital indebtedness or liabilities on any account or in any manner owing to the Company; and
- (ii) the full benefit of all stocks, shares and securities (in which the Company has any beneficial interest) which or the certificates of which are at any time lodged with the Security Trustee or held by it or its agents or transferred to or registered in its names or its agents or nominees; and
- (iii) all rights in respect of or incidental to the securities described at paragraph 1.1 (e) (i) and (ii) above; and
- (iv) all stocks, shares, rights, moneys or property accruing or offered at any time by way of conversion, redemption, bonus, preference option or otherwise, to or in respect of any of the Principal Securities, including all dividends, interest and other income payable in connection with the Principal Securities;

(f) the Intellectual Property Rights;

(h) the goodwill and the uncalled capital of the Company both present and future; and

1.2 as a floating charge:

- (a) the undertaking and all property and assets of the Company both present and future including (without prejudice to the generality of the foregoing) heritable property and all other property and assets in Scotland; and
- (b) the assets described in paragraph 1.1 (if and insofar as either all or part of any fixed charge on such assets may for any reason be ineffective as a fixed charge, or any assets or part of an asset may be released from a fixed charge either in writing by the Security Trustee or pursuant to the provisions of paragraphs 7(a) or (b) of Schedule 5 of the Debenture).

#### NEGATIVE PLEDGE

The Company shall not without the prior written consent of the Security Trustee:

- (a) create or permit to subsist any Security Interest on the whole or any part of its present or future property, assets or revenues except for Permitted Security Interests; or
- (b) save as permitted by the Financial Facilities, in the circumstances where the arrangement or transaction is entered into primarily as a method of raising debt or of financing the acquisition of an asset:
  - (i) sell or otherwise dispose of any of its assets on terms whereby they are or may be leased to re-acquired by it;

See continuation sheet

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## Particulars of a mortgage or charge (continued)

Please do not  
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Continuation sheet No 2  
to Form No 395 and 410 (Scot)

Please complete  
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Company Number

3966451

Name of Company

Affinity Healthcare Limited (the "Company")

Limited\*

\* delete if  
inappropriate

Description of the instrument creating or evidencing the mortgage or charge (continued) (note 2)

4

**Please complete  
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Names, addresses and descriptions of the mortgagees or persons entitled to the charge (continued)

Please complete  
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- (ii) sell or otherwise dispose of any of its receivables on recourse terms; or
- (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set off or made subject to a combination of accounts.

Paragraph 14 of schedule BI of the Insolvency Act 1936 shall apply to any floating charge created by the Debenture

#### DEFINITIONS

**"Collections Account"** means the account at the Bank, in the name of the Company, or such other specially designated accounts as the Security Trustee may from time to time direct, together with all additions to or renewals or replacements thereof (in whatever currency).

**"Financial Facilities"** means the senior term loan A facility, the senior term loan B facility, the working capital facilities, capital expenditure facilities and the mezzanine facilities made available to Ingleby (1620) Limited, Ingleby (1640) Limited and the Group including any agreements relating or supplemental to such facilities.

**"Intellectual Property Rights"** means the Company's present and future inventions, know-how, patents, trademarks, service marks, designs, business names, confidential information, computer software, computer programmes and systems, topographical or similar rights, copyrights and other intellectual property rights and any interests (including by way of licence) in any of the foregoing, in each case whether registered or not, and shall include (without limitation) applications for registrations and all materials in respect of the foregoing.

**"Intercreditor Deed"** means the agreement dated 24 December 2004 to be entered into between (1) the Senior Facility Agent (2) the Security Agent (3) the Original Senior Lender (4) the Original Ancillary Lender (5) the Senior Mezzanine Agent (6) the Original Senior Mezzanine Lender (7) the Junior Mezzanine Agent (8) the Original Junior Mezzanine Lender (9) the Investors and (10) the Original Obligors, Intra-Group Creditors and Intra-Group Debtors (each as defined therein).

**"Permitted Security Interests"** means

- (a) a lien or right of set-off arising in the normal course of trading or by operation of law securing obligations not more than thirty days overdue;
- (b) any conditional sale or title retention arising under any contract for the purchase of goods in the normal course of trading securing obligations not more than thirty days overdue;
- (c) any Security Interest created or permitted to subsist with the prior written consent of the Security Trustee;
- (d) any Security Interest permitted pursuant to the Financial Facilities.
- (e) any rights of set-off, netting or combination of account agreed by the Company with its bankers in the ordinary course of its cash management arrangements.

**"Principal Securities"** means the rights and securities described in paragraphs 1.1 (e) (i) to (iii) (inclusive) above.

**"Prior Security"** means all and any Security Interest securing the Financial Facilities.

**"Properties"** means

- (a) the freehold property known as Cheadle Royal Hopsital, Wilmslow Road, Cheadle registered at HM Land Registry under the number GM746141
- (b) the freehold property known as Middleton St John, Darlington, registered at HM Land Registry under the number DU116478, DU103025, DU98630 and DU139094

See continuation sheet

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## Particulars of a mortgage or charge (continued)

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Continuation sheet No 3  
to Form No 395 and 410 (Scot)

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Company Number

3966451

Name of Company

Affinity Healthcare Limited (the "Company")

Limited\*

\* delete if  
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Description of the instrument creating or evidencing the mortgage or charge (continued) (note 2)

4

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Names, addresses and descriptions of the mortgagees or persons entitled to the charge (continued)

Please complete  
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**"Receivables" means**

- (a) all present and future book and other debts, rentals, royalties, fees, VAT and monetary claims and all other amounts recoverable or receivable by the Company from other persons or due or owing to the Company (whether actual or contingent and whether arising under contract or in any other manner whatsoever);
- (b) the benefit of all rights and remedies relating to any of the above including, without limitation, claims for damages and other remedies for non-payment, all entitlements to interest, negotiable instruments, guarantees, indemnities, Security Interests, reservations of property rights, rights of tracing and unpaid vendor's liens and similar and associated rights; and
- (c) all proceeds of any of the above.

**"Security Interest"** means any mortgage, charge, pledge, lien, retention of title or any other security interest whatsoever or any other agreement or arrangement having the effect of conferring security, howsoever created or arising.

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## Particulars of a mortgage or charge (continued)

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Continuation sheet No \_\_\_\_\_  
to Form No 395 and 410 (Scot)

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Company Number

3966451

Name of Company

Affinity Healthcare Limited (the "Company")

Limited\*

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Description of the instrument creating or evidencing the mortgage or charge (continued) (note 2)

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Names, addresses and descriptions of the mortgagees or persons entitled to the charge (continued)

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## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 03966451

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEED OF ACCESSION TO A DEBENTURE DATED THE 24th DECEMBER 2004 AND CREATED BY AFFINITY HEALTHCARE LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM ANY CHARGOR TO THE INVESTORS UNDER THE TERMS OF THE AFOREMENTIONED INSTRUMENT CREATING OR EVIDENCING THE CHARGE WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 13th JANUARY 2005.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 18th JANUARY 2005.

A handwritten signature in dark ink, appearing to be 'MP' or similar, located in the bottom left corner of the page.



*Companies House*  
— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES