

MR01

Particulars of a charge



**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.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

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

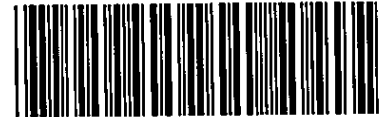
☐ **What this form is NOT for**  
You may not use this form to  
register a charge where there is no  
instrument. Use form MR0

For further information, please  
refer to our guidance at  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge. If the form is 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. The instrument must be scanned and placed on the public record.



A18 12/12/2013 #110  
COMPANIES HOUSE

THURSDAY

**1 Company details**

Company number 0 7 6 5 2 7 2 8  
Company name in full PHP Assetco (2011) Limited

7 For official use

→ **Filing 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 d0 d2 m1 m2 y2 y0 y1 y3

**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 Barclays Bank plc (the "Lender")

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

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**Description**

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

**Continuation page**

Please use a continuation page if you need to enter more details

Description

N/A

5

**Fixed charge or fixed security**

Does the instrument include a fixed 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 chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ **Yes**

☐ **No**

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**Trustee statement ①**

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

☐

① This statement may be filed after the registration of the charge (use form MR06)

9

**Signature**

Please sign the form here

Signature

Signature



X For and on behalf of Shepherd and Wedderburn X  
LLP (acting on behalf of the Lender)

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

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Particulars of a charge



**Presenter information**

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name **Anthea Duncan**

Company name **Shepherd and Wedderburn LLP**

Address **1 Exchange Crescent**

**Conference Square**

Post town **Edinburgh**

County/Region

Postcode **E H 3 8 U L**

Country **UK**

DX **DX 551970 Edinburgh 53**

Telephone **0131 228 9900**



**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](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto: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](http://www.companieshouse.gov.uk)**

De



**FILE COPY**

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

Company number: 7652728

Charge code: 0765 2728 0007

The Registrar of Companies for England and Wales hereby certifies that a charge dated 2nd December 2013 and created by PHP ASSETCO (2011) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th December 2013

Given at Companies House, Cardiff on 16th December 2013



**Companies House**



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

- (1) PHP ASSETCO (2011) LIMITED
- (2) BARCLAYS BANK PLC as Security Agent

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Assignment in Security - Rental Income

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relating to subjects at 4 Nether Liberton Lane, Edinburgh EH16 5TY

We hereby certify that, save for material redacted pursuant to s 859G of the Companies Act 2006, this is a true copy of the original

Signed 

Date 4.12.13

For and on behalf of Shepherd and Wedderburn LLP

**Eversheds LLP**  
3-5 Melville Street  
Edinburgh  
EH3 7PE

Tel 0845 498 0370  
Fax 0845 498 0371  
Int +44 131 476 8370  
DX ED24  
www.eversheds.com

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Not a contract. This document is for information only.  
 It does not constitute an offer or a contract.  
 It is not intended to be used as a contract.

This document is not intended to be used as a contract.  
 It is not intended to be used as a contract.  
 It is not intended to be used as a contract.

## **ASSIGNATION by**

- (1) **PHP ASSETCO (2011) LIMITED**, a company incorporated under the Companies Acts (Registered Number 07652728) and having its Registered Office at Ground Floor, Ryder Court, 14 Ryder Street, London SW1Y 6QB (the "**Assignor**"),

in favour of

- (2) **BARCLAYS BANK PLC** in its capacity as Security Agent.

## **1 INTERPRETATION**

### **1.1 Expressly defined terms**

In this Assignment the following words and phrases have the specified meanings

**"Agent"** means Barclays Bank plc, acting in its capacity as facility agent appointed under clause 18 of the Facility Agreement, or such other or agent as may from time to time be appointed in that capacity pursuant to clause 18.13 of the Facility Agreement

**"Applicable Undertakings"** means those undertakings set out in clauses 14.2 (*Authorisations*), 14.3 (*Compliance with laws*), 14.6 (*Disposals*) and 14.9 (*Change of business*) of the Facility Agreement in each case so far as applicable to the Assignor

**"Companies Acts"** means the Companies Act 2006.

**"Delegate"** means any delegate, agent, attorney or trustee appointed by the Security Agent.

**"Discharge Date"** means the date upon which all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and all relevant commitments of the Secured Parties cancelled

**"Enforcement Party"** means the Security Agent or a Delegate.

**"Establishment"** means, in relation to the Assignor, an establishment as that term is defined in relation to a debtor in Article 2 (h) of the EC Regulation

**"Facility Agreement"** means a facility agreement dated 25 March 2013 between, amongst others, Primary Health Investment Properties (No. 4) Limited as Borrower and Barclays Bank plc as Original Lender and Security Agent (as amended by a deed of amendment dated 17 May 2013) as subsequently varied and/or amended

**"Leases"** means the leases affecting the Property more particularly described in Part 1 of the Schedule

**"Party"** means a party to this Assignment

**"Property"** means ALL and WHOLE the subjects at 4 Nether Liberton Lane, Edinburgh EH16 5TY registered in the Land Register of Scotland under Title Number MID54822



**"Secured Assets"** means the assets assigned or otherwise the subject of any security created by or pursuant to this Assignment and includes any part or parts of such assets

**"Secured Obligations"** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor and each grantor of Security to the Secured Parties (or any of them) under each or any of the Finance Documents together with all costs, charges and expenses incurred by any Secured Party in connection with the protection, preservation or enforcement of its respective rights under the Finance Documents or any other document evidencing or securing any such liabilities

**"Secured Parties"** means each Finance Party and any Receiver or any Delegate and **"Secured Party"** means any of the Secured Parties

**"Security"** means a standard security, floating charge, assignment in security, mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect

**"Security Agent"** means Barclays Bank Plc acting in its capacity as security agent for the Secured Parties (including itself) in relation to the Security Documents for the purpose of and in accordance with the terms of the Finance Documents or such other or additional security agent or agents as may from time to time be appointed in that capacity in accordance with the Finance Documents

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

**"Tenants"** means the tenants under the Leases and their successors whomsoever

## 1 2 **Definitions contained in the Facility Agreement**

Unless such term is expressly defined in this Assignment (where the definition in this Assignment shall prevail) or some other contrary indication appears, each term used in this Assignment which is defined in the Facility Agreement shall have the same meaning as in the Facility Agreement

## 1 3 **Construction**

In this Assignment.

### 1 3.1 any reference to

1.3.1 1 **"assets"** includes present and future properties, revenues, rights and interests of every kind and reference to an **"asset"** includes any part or parts of such asset,

1 3 1 2 **"guarantee"** includes any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to pay any deposit on behalf of, or make an investment in, or loan to, any person or to purchase assets of any person, where, in each case, such obligation is assumed in order

to maintain or assist the ability of such person to meet its indebtedness,

- 1 3 1 3 **"indebtedness"** includes any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent,
- 1.3.1 4 **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality),
- 1 3 1 5 **"regulation"** includes any regulation, rule, official directive, request or guideline (in each case, whether or not having the force of law but if not having the force of law, one with which is customary to comply) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation,
- 1 3 1 6 **"set-off"** includes analogous rights and obligations in jurisdictions other than Scotland; and
- 1 3 1 7 the **"Assignor"**, the **"Security Agent"** or any **"Chargor"**, **"Party"** or **"Obligor"**, or any of the **"Secured Parties"**, shall be construed so as to include its successors in title, permitted assigns and permitted transferees,
- 1 3 2 where something (or a list of things) is introduced by the word **"including"**, or by the phrase **"in particular"**, or is followed by the phrase **"or otherwise"**, the intention is to state an example (or examples) and not to be exhaustive (and the same applies when other similar words or phrases are used);
- 1 3 3 unless this Assignment expressly states otherwise or the context requires otherwise, (a) each reference in this Assignment to any provision of any statute or of any subordinate legislation means, at any time, the relevant provision as in force at that time (even if it has been amended or re-enacted since the date of this Assignment) and (b) each reference in this Assignment to any provision of any statute at any time includes any subordinate legislation made pursuant to or in respect of such provisions as in force at such time (whether made before or after the date of this Assignment and whether amended or re-enacted since the date of this Assignment),
- 1 3 4 each reference to this Assignment (or to any other agreement, instrument or deed) means, at any time, this Assignment (or as applicable such other agreement, instrument or deed) as amended, novated, supplemented, extended, or restated, at that time, provided that the relevant amendment, novation, supplement, extension, substitution or restatement does not breach any term of this Assignment or of any of the Finance Documents,
- 1 3 5 the index and Clause and Schedule headings are for ease of reference only,

1 3.6 an Event of Default is "**continuing**" if it has not been remedied or waived, and

1.3.7 Without prejudice to the operation of any applicable term of the Facility Agreement or any other Finance Document, the provisions of clauses 6 3 (*Interest on overdue amounts*), 10 4 (*Currency*), 15 1 to 15 15 (inclusive) (*Property covenants*), 23 1 (*Change of currency*), 30 1 (*Notices*), 30 3 (*Effectiveness*), 30 4 (*Electronic communication*) and 23 (*Amendments and waivers*) of the Facility Agreement shall apply (mutatis mutandis) to this Assignment as if set out in this Assignment in full and as if any reference in any such clause to "this Agreement" were a reference to "this Assignment"

## 2 **OBLIGATION TO PAY**

The Assignor hereby, as primary obligor and not merely as surety, undertakes to the Security Agent that it will pay, discharge and perform the Secured Obligations on demand and in the manner provided in the Finance Documents

## 3 **ASSIGNATION IN SECURITY**

### 3 1 **Assignment in security**

The Assignor, as a continuing security for the payment, discharge and performance of the Secured Obligations assigns to the Security Agent all its rights, title and interest in the Rental Income and all sums paid or payable and any other consideration given in money or money's worth for the disposal of an interest in all or part of the Property and the right to make demand for and receive the same

### 3 2 **Intimation of assignment**

The Assignor shall promptly on and from the date of signing of this Assignment give intimation of the assignment in the terms of this Assignment by sending an intimation in the form set out in Part 2 of the Schedule (*Form of intimation to Tenants*) duly completed to each of the tenants who enter into leases or licences in respect of the Property at any time (including the Tenants) and the Assignor shall procure that within 14 days of the date of its receiving such request each such tenant delivers an acknowledgement to the Security Agent in the form of the acknowledgement of intimation contained in the intimation set out in Part 2 of the Schedule (*Form of intimation to Tenants*)

### 3 3 **Exercise of rights and obligations under Leases**

3 3.1 Whilst no Event of Default exists and is continuing the Security Agent shall permit the Assignor to exercise its rights under any of the Leases to which it is party, provided that the exercise of those rights in the manner proposed would not result in an Event of Default

3 3 2 Where an Event of Default exists and is continuing the Assignor shall exercise its rights under any of the Leases in accordance with the instructions of the Security Agent

3 3 3 The Assignor shall at all times remain liable to perform all the obligations assumed by it under the Leases and the Security Agent shall assume no obligation of any kind whatsoever under the Leases, nor be under any liability whatsoever in the event of any failure by the

Assignor to perform its obligations under the Leases and the Assignor will at all times indemnify the Security Agent from and against any demands, claims, damages, costs or expenses arising from or in relation to the Leases or any such failure by the Assignor.

**3.4 Continuing security**

All the security granted or created by this Assignment is to be a continuing security which shall remain in full force and effect notwithstanding any intermediate payment or settlement of account or other matter or thing whatsoever and in particular the intermediate satisfaction by the Assignor or any other person of the whole or any part of the Secured Obligations

**4 FURTHER ASSURANCE**

The Assignor shall

- 4 1 promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require) in favour of the Security Agent or its nominee(s) (a) to perfect the Security created or intended to be created or evidenced by this Assignment or for the exercise of any rights, powers and remedies of the Security Agent provided by or pursuant to this Assignment, (b) to confer on the Security Agent or the Finance Parties Security over any property or assets of the Assignor located in Scotland or any other jurisdiction equivalent or similar to the Security intended to be created, or expressed to be created, by this Assignment, and/or (c) to facilitate the realisation of the assets which are, or are intended to be, the subject of this Assignment, and
- 4 2 take all such action as is available to it (including making all filings and registrations and the payment of all fees and Taxes) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent by or pursuant to this Assignment

**5 NEGATIVE PLEDGE AND DISPOSAL RESTRICTIONS**

- 5 1 During the Security Period, the Assignor shall not create, extend, or permit to subsist, any Security over any of the Secured Assets, nor may it (a) sell, transfer or otherwise dispose of any of its assets on terms that they are or may be leased to or re-acquired by any of the Obligors or by any other member of the Group, (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms, (c) enter into any arrangement under which money, debts or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts, or (d) enter into any other preferential arrangement having a similar effect to any of the arrangements or transactions previously described in this Clause 5 1, in any case in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset
- 5 2 Clause 5 1 does not apply to any Security which is a Permitted Security Interest

**6 REPRESENTATIONS AND WARRANTIES**

- 6 1 The Assignor represents and warrants to the Security Agent on the date of this Assignment in the terms of the Repeating Representations, in each case as if

expressly set out in this Assignment and so far as applicable to the Assignor or the Secured Assets of the Assignor. Each of the Repeating Representations is made by reference to the facts and circumstances existing at the date of this Assignment or, where deemed pursuant to Clause 6.3 to be repeated at a later date, by reference to the facts and circumstances existing at each such later date.

6.2 The Assignor further represents and warrants as follows

6.2.1 **Commercial benefit** - It enters into this Assignment in good faith and for the purposes of the promotion of the success of its business and has given due consideration to the terms and conditions of the documents evidencing the Secured Obligations and of this Assignment and has satisfied itself that there are reasonable grounds for believing that by executing this Assignment it will derive commercial benefit

6.2.2 **Priority of Security** - Subject to the Legal Reservations, the Security created by this Assignment constitutes first priority Security over the assets which are expressed to be subject to such Security and those assets are not subject to any other Security.

6.3 Each of the Repeating Representations and each of the further representations and warranties set out in Clause 6.2 (other than that at Clause 6.2.1 (*Commercial benefit*), which is not repeated) shall be deemed to be repeated on each day during the Security Period on which representations and warranties set out in clause 12 (*Representations*) of the Facility Agreement are, or are deemed to be, made or repeated

7 **UNDERTAKINGS**

Throughout the Security Period, the Assignor undertakes to the Security Agent in the terms of the Applicable Undertakings, in each case so far as applicable to the Assignor or the Secured Assets of the Assignor (as if expressly set out in this Assignment) and also in the terms of the following provisions of this Clause 7

7.1 **Perform** - It will at all times comply with the terms (express or implied) of this Assignment and all other Finance Documents

7.2 **Not jeopardise Security** - It will not do or omit to do anything, or allow anything to be done or omitted, the result of which may be in any way to depreciate, jeopardise or otherwise prejudice the value to the Security Agent of the Security created by this Assignment or the priority of its ranking as expressed in this Assignment

7.3 **Observe covenants** - It will observe and perform all covenants and stipulations from time to time on its part to be performed or observed and affecting any of the assets owned by it or in which it has an interest or the way in which it uses or benefits from such assets

7.4 **Observe laws** - It will not do or omit to do or allow anything to be done in relation to the Secured Assets which would infringe any laws affecting (whether directly or indirectly) the Secured Assets and will comply with all notices, orders, injunctions and mandatory proposals served on it, issued or made by any local or other authority or governmental agency, or by its landlords relating to any of the Secured Assets or its use of them, and will serve within any relevant time limit any counter-notice necessary or desirable to preserve the value of any such Secured Assets

- 7 5 **Effect registrations** - It will effect all registrations, make all filings or applications and pay all Taxes, rents, fees or dues necessary to keep in full force and effect, and where necessary to renew or extend, all the Secured Assets and such Chargor's right to make full use and enjoy the full benefit of the Secured Assets.
- 7 6 **Proceedings** - At its own cost and expense, it will use its best endeavours to enforce, institute, continue or defend all proceedings affecting the Secured Assets, their state or condition or continued use or value so as to preserve to the fullest extent the value to the Security Agent of the Security created by this Assignment
- 7 7 **Retention of documents** - The Security Agent may retain any document delivered to it until the Discharge Date and if, for any reason, the Security Agent ceases to hold any such document before such time, it may, by notice to the Assignor, require that the relevant document be redelivered to it and the Assignor shall immediately comply (or procure compliance) with such notice.
- 7 8 **Power to remedy** - If the Assignor fails to comply with any of the undertakings set out or referred to in Clauses 7.1 (*Perform*) to 7 7 (*Retention of documents*) inclusive, it will allow (and irrevocably authorises) the Security Agent and/or such persons as the Security Agent nominates to take on behalf of the Assignor such action (including the making of payments) as is necessary to protect any relevant assets against the consequences of such failure to comply and/or to ensure compliance with such covenants and undertakings
- 7 9 **Indemnity** - It will indemnify the Security Agent and will keep the Security Agent indemnified against all costs, Taxes, losses and liabilities incurred by the Security Agent as a result of any default by the Assignor in the performance of any of the obligations expressed to be assumed by it in this Assignment and in connection with the exercise by the Security Agent of its rights contained in clause 7 8 (*Power to remedy*) All sums the subject of this indemnity will be payable by the Assignor to the Security Agent on demand

## 8 **ENFORCEABILITY**

The security granted or created by or pursuant to this Assignment shall become enforceable immediately upon and at any time after the occurrence of an Event of Default which is continuing.

## 9 **ENFORCEMENT OF SECURITY**

- 9 1 At any time after the security granted or created by or pursuant to this Assignment has become enforceable the Security Agent shall be entitled (but shall not be obliged), without any notice to the Assignor or otherwise and whenever the Security Agent thinks fit, to exercise all rights and powers in relation to the Secured Assets which could have been exercised by the Assignor prior to the security hereby granted or created pursuant hereto becoming enforceable including all powers to take possession of or sell or otherwise dispose of the Secured Assets or any part thereof as if the Security Agent was the absolute owner of the same and pending any such sale or other disposal to receive and to apply in or towards satisfaction of the Secured Obligations any Rental Income or profits or benefits or property of any kind derived from the Secured Assets or accruing by virtue of the exercise of such rights or powers
- 9 2 No Enforcement Party will be liable to the Assignor for any expense, loss, liability or damage incurred by the Assignor arising out of the exercise by such

Enforcement Party of its rights or powers or any attempt or failure to exercise those rights or powers, except for any expense, loss, liability or damage arising from its gross negligence, fraud or wilful misconduct.

- 9 3 The Assignor may not take any proceedings against any officer, employee or agent of any Enforcement Party in respect of any claim it might have against such Enforcement Party or in respect of any act or omission of any kind by that officer, employee or agent in relation to this Assignment

## 10 APPLICATION OF PROCEEDS

### 10 1 Recoveries

The proceeds arising from the exercise of the powers of the Security Agent will, subject to any claims ranking in priority to the Secured Obligations, be applied by or at the direction of the Security Agent in or towards discharging or satisfying, in the following order of priority

10 1 1 any costs, charges, expenses and liabilities of or incurred by any Enforcement Party in the exercise of any of its powers including all rents, Taxes, rates and outgoings whatsoever affecting the Secured Assets, the cost of executing necessary or proper repairs to the Secured Assets, and the payment of annual sums or other payments, and the interest on all principal sums, having priority to the Secured Obligations,

10 1 2 the remaining Secured Obligations, in accordance with the provisions of the Finance Documents; and

10 1 3 the claims of those persons entitled to any surplus

### 10 2 Right of appropriation

The Security Agent is entitled to appropriate money and/or assets to Secured Obligations in such manner or order as it thinks fit and any such appropriation shall override any appropriation by the Assignor

- 10 3 **No set-off by Assignor** – The Assignor shall not exercise any right of set-off or counterclaim it might have in respect of any payment due to the Security Agent under this Assignment

- 10 4 **Security Agent's rights of set-off** - The Security Agent may, at any time after this Assignment has become enforceable, and without notice (a) combine or consolidate all or any of the Assignor's then existing accounts with, and liabilities to, the Security Agent, (b) set-off or transfer any sums standing to the credit of any one or more of such accounts, and/or (c) set-off any other matured obligation owed by the Security Agent to the Assignor, in or towards satisfaction of any of the Secured Obligations, and if any amount is in a different currency from the amount against which it is to be set-off, the Security Agent may convert either amount (or both) at any reasonable time and at any reasonable rate. The Security Agent shall notify the Assignor in writing that any such transaction has taken place.

- 10 5 **Suspense Account** - The Security Agent may, at any time, credit to an interest bearing suspense account any money received by it under this Assignment, to be held for so long as and on such terms as the Security Agent may determine pending its application towards discharging the Secured Obligations

10 6 **New account** - If the Security Agent receives notice of a subsequent mortgage or charge relating to the Secured Assets, it will be entitled to close any account and to open a new account in respect of the closed account. If the Security Agent does not open such new account, it will in any event be treated as if it had done so at the time when it received such notice.

10 7 **Time deposit** - Without prejudice to the provisions of Clause 10 4 (*Security Agent's rights of set-off*), if at any time the Assignor has made a deposit with the Security Agent on terms that it will be repaid on a specified date (a "**Time Deposit**") then: (a) if the Security Agent has made any demand under Clause 2 (*Obligation to pay*), it may vary the terms of such Time Deposit so that it becomes repayable immediately or on any other date before such specified date; or (b) if an Event of Default has arisen which is continuing but no amount of Secured Obligations has fallen due before such specified date, the Security Agent may renew such Time Deposit for such further maturity as the Security Agent in its absolute discretion determines.

10 8 **Calculations** - The Security Agent's calculation of any amount payable by the Assignor under this Assignment at any time will be conclusive (unless it has made an obvious mistake).

## 11 **RETROCESSION**

On the Discharge Date (but subject to clause 15 7 (*Avoidance of settlements and other matters*)) the Security Agent shall at the request and cost of the Assignor retrocede and re-assign to the Assignor (or as the Assignor directs) the Assignor's whole right, title, interest and benefit in and to the Secured Assets.

## 12 **PROTECTION OF THIRD PARTIES**

12 1 **No duty to enquire** - A buyer from, or other person dealing with, any Enforcement Party will not be concerned to enquire whether any of the powers which such Enforcement Party has exercised or purported to exercise has arisen or become exercisable and may assume that it is acting in accordance with this Assignment.

12 2 **Receipt conclusive** - The receipt of the Security Agent shall be an absolute and conclusive discharge to a purchaser of the Secured Assets and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Security Agent.

## 13 **PROTECTION OF SECURITY AGENT**

### 13 1 **Receipts**

The Security Agent shall not be obliged to account to the Assignor, nor to any other person, for anything other than its own actual receipts which have not been distributed or paid to the person entitled (or who the Security Agent, acting reasonably, believes to be entitled) in accordance with the requirements of this Assignment.

### 13 2 **Exclusion of liability**

13 2 1 No Enforcement Party will be liable to the Assignor for any expense, loss liability or damage incurred by the Assignor arising out of the exercise of its rights or powers or any attempt or failure to exercise



those rights or powers, except for any expense, loss, liability or damage arising from its gross negligence, fraud or wilful misconduct

- 13.2.2 The Assignor may not take any proceedings against any officer, employee or agent of any Enforcement Party in respect of any claim it might have against such Enforcement Party or in respect of any act or omission of any kind by that officer, employee or agent in relation to this Assignment

**14 POWER OF ATTORNEY**

**14 1 Grant of power**

The Assignor irrevocably appoints the Security Agent and any person nominated for the purpose by the Security Agent (in writing, signed by an officer of the Security Agent) severally to be the attorney of the Assignor (with full power of substitution and delegation) for the purposes set out in clause 14.2 below.

**14 2 Extent of power**

The power of attorney granted in clause 14 1 above allows the Security Agent or such nominee, in the name of the Assignor, on its behalf to.

- 14 2.1 perfect the security given by the Assignor under this Assignment, and

- 14 2 2 execute, seal and deliver (using the Assignor's seal where appropriate) any document or do any act or thing which the Assignor may, ought or has agreed to execute or do under this Assignment but has failed to do or which the Security Agent or such nominee may in their absolute discretion consider appropriate in connection with the exercise of any of the rights, powers authorities or discretions of the Security Agent under, or otherwise for the purposes of, this Assignment.

**14 3 Ratification**

The Assignor undertakes to the Security Agent to ratify and confirm all acts or things made, done or executed by any attorney exercising or purporting to exercise the powers conferred in accordance with this clause 14

**15 OTHER MISCELLANEOUS PROVISIONS**

**15 1 Powers, rights and remedies cumulative**

The powers, rights and remedies provided in this Assignment are in addition to (and not instead of), powers, rights and remedies under law

**15 2 Exercise of powers, rights and remedies**

If an Enforcement Party fails to exercise any power, right or remedy under this Assignment or delays its exercise of any power, right or remedy, this does not mean that it waives that power, right or remedy. If an Enforcement Party exercises, or partly exercises, a power, right or remedy once, this does not mean that it cannot exercise such power right or remedy again, fully or in part

**15 3 Discretion**

- 15 3 1 The Security Agent may decide

15 3 1 1 whether and, if so, when, how and to what extent (i) to exercise its rights under this Assignment and (ii) to exercise any other right it might have in respect of the Assignor (or otherwise), and

15 3.1.2 when and how to apply any payments and distributions received for its own account under this Assignment,

and the Assignor has no right to control or restrict the Security Agent's exercise of this discretion.

15 3 2 No provision of this Assignment will interfere with the Security Agent's right to arrange its affairs as it may in its absolute discretion decide (nor oblige it to disclose any information relating to its affairs), except as expressly stated

#### 15 4 **Information**

The Assignor authorises the holder of any prior or subsequent Security to provide to the Security Agent, and the Security Agent to receive from such holder, details of the state of account between such holder and the Assignor

#### 15.5 **No assignment by Assignor**

The Assignor may not assign, novate or otherwise deal with its rights or obligations under or interests in this Assignment, except with the prior written consent of the Security Agent

#### 15 6 **Transfer by Security Agent**

15 6 1 Save as otherwise provided in the Facility Agreement, the Security Agent may at any time assign, novate or otherwise deal with any rights or obligations under or interests in this Assignment

15 6 2 The Security Agent may disclose any information about the Assignor, the Secured Assets and/or this Assignment to any person to whom it proposes to assign or novate or transfer (or has assigned, novated or transferred) any rights or obligations under or interests in this Assignment, or with whom it proposes to enter into (or has entered into) any other dealings in relation to any such rights, obligations or interests

15 6 3 Any person to whom the benefit of all such rights and obligations has been transferred, subject to such obligations, may enforce this Assignment in the same way as if it had been a Party.

#### 15 7 **Avoidance of settlements and other matters**

15 7 1 If, at any time, there has been a release, settlement or discharge of the Assignor's obligations under this Assignment and, as a consequence of any insolvency proceedings (or analogous proceedings) or for any other reason, (a) any payment made to any person in respect of any of the Secured Obligations is required to be repaid and/or (b) any such payment or any Security (or other right) held by the Security Agent in respect of any of the Secured Obligations (whether under this Assignment or otherwise) is void, is set aside or is otherwise affected, then the Assignor's obligations under this

Assignment shall continue in effect as if there had been no such release, settlement or discharge and as if the relevant payment had not been made and/or (as applicable) the relevant Security (or other right) had not been held by the Security Agent, and accordingly (but without limiting the Security Agent's other rights under this Assignment) the Security Agent shall be entitled to recover from the Assignor the value which the Security Agent has placed upon such Security or the amount of any such payment as if such payment, settlement or discharge had not occurred

- 15.7.2 If the Security Agent, acting reasonably, considers that any amount paid by the Assignor in respect of the Secured Obligations is capable of being avoided or ordered to be refunded or reduced for the reasons set out in clause 15.7.1, then for the purposes of this Assignment such amount shall not be considered to have been irrevocably paid

#### **15.8 Waiver of immunity**

To the extent that the Assignor may be entitled in any jurisdiction to claim for itself or its assets immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process of any kind wherever it might originate or to the extent that in any such jurisdiction there may be attributed to the Assignor or its assets such immunity (whether or not claimed), it hereby irrevocably agrees not to claim and hereby irrevocably waives such immunity to the fullest extent permitted by the laws of such jurisdiction.

#### **16 COMMUNICATIONS**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Assignment is

- 16.1 in the case of the Assignor and the Security Agent those given for it in clause 30.2 of the Facility Agreement,
- 16.2 in the case of each Delegate, those notified in writing to the Security Agent (whether in that capacity or in any other capacity) by Delegate (or by the Security Agent on its behalf) as soon as practicable after its appointment,

or any substitute address, fax number or department or officer as the relevant person may notify to the Agent (or as the Agent may notify to the other Parties, if a change is made by the Agent) by not less than 5 Business Days' notice

#### **17 GOVERNING LAW**

##### **17.1 Governing law**

This Assignment and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in all respects in accordance with the law of Scotland

##### **17.2 Jurisdiction**

For the benefit of the Security Agent, the Assignor irrevocably agrees that the Court of Session in Edinburgh is to have jurisdiction to settle any disputes which

may arise out of or in connection with this Assignment and that, accordingly, any suit, action or proceedings arising out of or in connection with this Assignment ("**Proceedings**") may be brought in that Court and for no other purpose the Assignor irrevocably prorogates the jurisdiction of that Court. The Assignor irrevocably waives any objection to Proceedings in that Court on the grounds of venue or on the ground that the Proceedings have been brought in an inconvenient forum.

**18 THIS ASSIGNATION**

**18.1 Finance Documents**

The Agent and the Assignor designate this Assignment as a Finance Document

**18.2 Conflicts**

If there is any conflict between the provisions of the Facility Agreement and the provisions of this Assignment, the provisions of the Facility Agreement shall prevail.

**18.3 Partial invalidity**

18.3.1 If, at any time, any provision of this Assignment is or is found to have been illegal, invalid or unenforceable in any respect under the law of any jurisdiction, this does not affect the legality, validity or enforceability of the other provisions of this Assignment, nor the legality, validity or enforceability of the affected provision under the law of any other jurisdiction

18.3.2 If any Party is not bound by this Assignment (or any part of it) for any reason, this does not affect the obligations of each other Party under this Assignment (or under the relevant part)

**18.4 Other security**

This Assignment is in addition to, and does not operate so as in any way to prejudice or affect, or be prejudiced or affected by, any other security or guarantee which the Security Agent may now or at any time after the date of this Assignment hold for or in respect of the Secured Obligations

18 5 **Ownership of this Assignment**

This Assignment is the property of the Security Agent

**IN WITNESS WHEREOF** these presents consisting of this and the 13 preceding pages together with the schedule annexed are executed as follows

SUBSCRIBED for and on behalf of  
**PHP Assetco (2011) Limited**

at GREENER HOUSE, LONDON

on 29 NOVEMBER 2013

by PHILIP JOHN HOLLAND  
Print Full Name,

one of its Directors,

before this witness

CARLO ROCCO  
Print Full Name

Address  
[REDACTED]

[REDACTED]  
Director

[REDACTED]  
Witness

SUBSCRIBED for and on behalf of  
**Barclays Bank plc**

at 1 Churchill Place, London

on 2 December 2013

by Niv Kazimirov  
Print Full Name,

acting by its duly authorised  
attorney

before this witness

Gordon McMillan  
Print Full Name

Address  
[REDACTED]

[REDACTED]  
Attorney

[REDACTED]  
Witness

**This is the Schedule referred to in the foregoing Assignment by PHP Assetco (2011) Limited in favour of Barclays Bank plc as Security Agent**

**SCHEDULE**

**Part 1 - Leases**

- 1 Lease between Liberton Properties Limited and Mayfield Medical Practice consisting of the GP Partnership of Dr Michael Ferguson, Dr Alex Connan, Dr Ramon McDermott, Dr Ann Comiskey, Dr Linda Bertram, Dr Lorna Taylor and Dr Helen Clare Miller as individuals and as partners of the foresaid firm as it may be constituted from time to time dated 30 October and 6 November 2007 and registered in the Books of Council and Session on 26 March 2009 as subsequently varied and/or amended

## SCHEDULE

### Part 2 - Form of Intimation to Tenants

To [*insert address of tenant for service of notices as per the Lease*]

Dated [date]

Dear Sirs

[*here identify relevant lease*] between [*Assignor*] and [*name of tenant*] [*"Lease"*]  
[ ] [*"Property"*]

We [ ], a [company incorporated under the Companies Acts in Scotland] (registered number [ ]) and having its registered office at [ ] hereby give notice that by an Assignment in Security in respect of Rental Income dated [ ] (the "**Assignment**") granted by the Assignor in favour of Barclays Bank plc (the "**Security Agent**") (a copy of which document is attached), it assigned by way of security to the Security Agent all rights, title and interest in and to all present and future monies received, receivable or recoverable by way of rent (but excluding value added tax or similar taxes payable thereon) in connection with the letting of the Property, by the Assignor from you and your successors as tenants under the Lease. Terms defined in the Assignment shall, where the context requires, have the same meaning in this Notice of Assignment.

We further intimate and irrevocably and unconditionally instruct and authorise you that:

- (a) you should continue to deal with the Assignor in relation to the Lease (and, for the avoidance of any doubt, continue to make any payments due in connection with the Lease to the Assignor in accordance with paragraph (c) below) until you receive written notice from the Security Agent that an Event of Default has occurred. Thereafter the Assignor will cease to have any right to deal with you in relation to the Lease and therefore from that time you should deal only with the Security Agent,
- (b) notwithstanding the foregoing the Assignor shall continue to be liable for the performance and discharge of all obligations under the Lease in accordance with its terms and the Security Agent shall be under no obligation of any kind in respect of the Lease or such obligations,
- (c) you should continue to pay all sums due from you under the Lease to [*insert current rent account details*] unless the Security Agent (after the occurrence of an Event of Default) specifies otherwise to you in writing; and
- (d) the provisions of this intimation may only be revoked with the written consent of the Security Agent.

Please sign and return the enclosed copy of this intimation to the Security Agent (with a copy to us)

The provisions of this intimation are governed by Scots law

Yours faithfully

for and on behalf of

[ ]

To **Barclays Bank plc**

Copy to. [ ]


We hereby acknowledge receipt of the above intimation

Signed

for and on behalf of [*name of Tenant*]

Dated [*date*]

Signed  *Niv Kaziwirov*  
(Attorney)  
**Barclays Bank plc**

Signed  (Director)  
**PHP Assetco (2011) Limited**