

MR01

Particulars of a charge

149252/13



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

☒ **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 MR08

For further information, please
refer to our guidance at
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 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 must be scanned and placed on the public record



"A2NMAFQ3"

A74

20/12/2013

#68

COMPANIES HOUSE

1 Company details

Company number 08739313
Company name in full Bawtree House (Sutton) Limited

→ **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 01/09/2013

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 Griffin-American Healthcare REIT II, Inc

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

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

(1) By way of legal mortgage

(a) the freehold property known as Bawtree House, 75 Worcester Road, Sutton SM2 6QW registered at the Land Registry with title number SGL548452; and

(b) all other freehold or leasehold property now vested in Bawtree House (Sutton) Limited (the "Company"), and

(2) By way of fixed charge, the Company's interest in any freehold or leasehold property acquired after the date of this charge.

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

MR01

Particulars of a charge

8

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 *Berwinhergilton Panner Ltd* X

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

MR01**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 LLEV/33062 1 33534558

Company name Berwin Leighton Paisner LLP

Address Adelaide House

London Bridge

Post town London

County/Region

Postcode E C 4 R 9 H A

Country

DX 92 LONDON/CHANCERY LN

Telephone +44 (0)20 3400 1000

**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: 8739313

Charge code: 0873 9313 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 19th December 2013 and created by BAWTREE HOUSE (SUTTON) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th December 2013

Given at Companies House, Cardiff on 30th December 2013



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

17

DATED 19 December 2013

BAWTREE HOUSE (SUTTON) LIMITED
as Chargor

GRIFFIN-AMERICAN HEALTHCARE REIT II, INC
as Lender

DEBENTURE
in respect of a development facility agreement

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

Berwin Leighton Paisner LLP

Berwin Leighton Paisner LLP
Adelaide House
London Bridge
London EC4R 9HA



Berwin Leighton Paisner LLP
Adelaide House London Bridge London EC4R 9HA
Tel +44 (0)20 3400 1000 Fax +44 (0)20 3400 1111

Contents

Clause	Name	Page
1	Definitions and Interpretation.....	1
2	Covenant for payment.....	5
3	Security	5
4	Crystallisation of floating charge	7
5	Perfection of security... ..	7
6	Investments.....	9
7	Rights of enforcement.....	10
8	Application of receipts	11
9	Discharge	12
10	General provisions.....	12
11	Law and Jurisdiction	13
Schedule	Name	Page
1	Schedule 1	14
2	Lender's and Receiver's powers.....	15
3	Notices	18
3	Part 1 Notice of assignment or charge of contract	18
3	Part 2 Notice of account assignment	21
Execution Pages		24

DATED ~~18~~ 19 December 2013

PARTIES

- (1) **BAWTREE HOUSE (SUTTON) LIMITED**, a company incorporated in England and Wales with registered number 08739313, having its registered address at Bradbury House, 830 The Crescent, Colchester Business Park, Colchester, Essex, United Kingdom, CO4 9YQ (the "**Chargor**")
- (1) **GRIFFIN-AMERICAN HEALTHCARE REIT II, INC** Incorporated in Maryland, United States of America (the "**Lender**")

BACKGROUND

- (A) The Lender has agreed to advance or to continue to advance monies or otherwise arrange credit or afford other financial facilities to the Borrowers and/or others on the security created by this Deed.
- (B) The Chargor has agreed to charge certain of its assets as security to the Lender as set out in this Deed to secure the payment and discharge of the Liabilities

OPERATIVE PROVISIONS

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed:

"**Act**" means the Law of Property Act 1925.

"**Borrowers**" has the meaning ascribed to that term in the Facility Agreement.

"**Charged Assets**" means each and all of the assets, property, undertaking and other interests from time to time assigned or charged or intended to be assigned or charged by this Deed and the subject matter of each of them.

"**Charged Property**" means any freehold or leasehold property from time to time charged pursuant to this Deed.

"**Development Documents**" means any building contracts, sub-contracts, appointments, collateral warranties and other contracts entered into or to be entered into by the Chargor in respect of each Property.

"**Disposal Proceeds**" means all capital monies or other sums or other consideration paid or payable in respect of the disposal of the Chargor's interest in all or any part of any Property.

"**Facility Agreement**" means a facility agreement dated 8 July 2013 and made between amongst others the Lender (1) and the Borrowers (2) and any agreement entered into under or supplemental to it or amending, restating or novating it

"**Finance Document**" shall have the meaning ascribed to it by the Facility Agreement

"Insurance Policy" means any policy of Insurance in which the Chargor may at any time have an interest relating to any Charged Property

"Investments" means the existing or future interest of the relevant person in:

- (a) the entire issued share capital of the Ivy Road Chargor;
- (b) any stocks, shares, bonds, units or any form of loan or other capital of or in any legal entity; and
- (c) any warrant or other right to acquire any such investment,

In each case, including any income, offer, right or benefit in respect of any such investment.

"Ivy Road Chargor" means Consensus Central Ltd a company incorporated in England and Wales with company number 5602705

"Liabilities" means all monies, obligations and liabilities which shall from time to time (and whether on or at any time after any demand or judgment) be due, owing or incurred from each Obligor to the Lender under the Finance Documents whether actually or contingently and whether solely or jointly with any other person and in whatever style or name and whether as principal or surety.

"Obligor" has the meaning ascribed to that term in the Facility Agreement.

"Occupational Lease" means any lease, agreement for lease, licence or other occupational interest subject to which a Chargor's interest in a Property is held now or in the future including in respect of any lease entered into pursuant to Clause 18.8 of the Facility Agreement and also including any guarantee and rent deposit arrangements entered into under the terms of them.

"Party" means a party to this Deed

"Property" means each property details of which are set out in Schedule 1 (The Properties) including all:

- (a) land, cellars, vaults, underground tunnels, eaves, canopies, structures and the like used or enjoyed in connection with it now or in the future;
- (b) buildings, fixtures (including trade fixtures) and fixed plant and machinery and other structures now or in future on it; and
- (c) easements, access-rights, rights of way, wayleaves and rights attaching to it.

"Purchase Contract" means each and every agreement for the purchase of each Property or for the purchase of the entire issued share capital of the Ivy Road Chargor.

"Receiver" means any one or more receiver, administrator or receiver and manager or administrative receiver appointed by the Lender under this Deed (whether sole, joint and/or several and including any substitute)

"Regulations" means the Financial Collateral Arrangements (No 2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements.

"Related Rights" means, in relation to any asset:

- (a) the proceeds of sale of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset, and
- (d) all monies and proceeds paid or payable in respect of that asset,

both present and future (including all rights against any trustee, nominee, fiduciary or clearing system).

"Relevant Contracts" means each and all of the following both present and future:

- (a) the Development Documents;
- (b) each contract in respect of any disposal of any Charged Asset,
- (c) any managing agent's agreement,
- (d) each Occupational Lease; and
- (e) all other agreements, in which the Chargor has an Interest,

in each case, including any guarantees or sureties entered into in respect of them

"Rent" means all sums paid or payable to or for the benefit of the Chargor arising from the letting, use or occupation of all or any part of any Property, including, without limitation:

- (a) rents, licence fees and equivalent sums reserved or made payable,
- (b) sums received from any deposit held as security for performance of any tenant's obligations;
- (c) proceeds of insurance in respect of loss of rent or interest on rent;
- (d) receipts from or the value of consideration given for the grant, surrender or variation of any Occupational Lease;
- (e) any service charge payments;
- (f) proceeds paid for a breach of covenant or dilapidations under any Occupational Lease in relation to a Property and for expenses incurred in relation to any such breach;
- (g) any contribution to a sinking fund paid by an occupational tenant under an Occupational Lease;
- (h) any payment from a guarantor or other surety in respect of any of the items listed in this definition,

(l) interest, damages or compensation in respect of any of the items in this definition, and

(j) any amount which represents VAT chargeable in respect of any such sum.

"VAT" means:

(a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and

(b) any other tax of similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

1.2 Construction

1.2.1 Unless the contrary intention is expressed, all defined terms in the Facility Agreement have the same meaning here.

1.2.2 The construction provisions set out at clauses 1.2 to 1.7 of the Facility Agreement shall apply equally to this Deed.

1.2.3 If any provision of this Deed shall conflict with any term of the Facility Agreement then the relevant term of the Facility Agreement shall prevail.

1.2.4 The Chargor gives the same representations and undertakings to the Lender as given by the Chargor in clauses 15 (Representations and warranties), 17 (General Undertakings) including clause 17.3 (Negative pledge and disposals) and 18 (Property Undertakings) of the Facility Agreement in each case as if set out in full.

1.2.5 Clause 23 (Payment Mechanics) of the Facility Agreement are incorporated in this Deed in each case as if set out in full and with necessary changes.

1.3 Disposition of Property

The terms of any other Finance Document and of any side letters between the parties to this Deed are incorporated into each Finance Document to the extent required for the purported disposition of any Property contained in any Finance Document to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.4 Negative pledge

The Chargor shall not create or permit to subsist any Security Interest over any of its assets other than the Security Interests created by this Deed or as permitted by the Facility Agreement or as otherwise consented to in writing by the Lender

1.5 Joint and several Chargors

Where two or more persons purport to create a Security Interest over a Charged Asset under this deed then:

(a) they (or such of them as have the joint interest in the relevant Charged Asset) shall be deemed to have jointly mortgaged, charged and/or assigned, as appropriate, their joint interest in the relevant Charged Asset;

- (b) each person shall be deemed to have mortgaged, charged and/or assigned, as appropriate, its individual interest (if any) in the relevant Charged Asset; and
- (c) each person shall be deemed to have confirmed the Security Interest granted by the others.

2 COVENANT FOR PAYMENT

2.1 Covenant to pay

The Chargor covenants with the Lender that it will:

- (a) on demand, pay and discharge each and all of the Liabilities when due; and
- (b) indemnify and keep the Lender indemnified from and against all actions, charges, claims, costs, damages, proceedings and other liabilities occasioned by any breach of any covenants or other obligations of the Chargor to the Lender.

2.2 Survival of obligations

The payment obligations of the Chargor under the Finance Documents shall survive the enforcement of the whole or any part of the Charged Assets.

3 SECURITY

3.1 General

All the security created under this Deed is created in favour of the Lender as continuing security for the payment and discharge of the Liabilities with full title guarantee.

3.2 Mortgage

The Chargor charges by way of legal mortgage:

- (a) each Property described opposite its name in Schedule 1 (The Properties); and
- (b) any other freehold or leasehold property now vested in the Chargor

3.3 Fixed charge

The Chargor charges by way of fixed charge each of the following including all rights of enforcement of the same:

- (a) its interest in any freehold or leasehold property acquired after the date of this Deed;
- (b) all fixtures, fittings, plant, machinery, manuals and other chattels present and future in respect of any Charged Property and all guarantees and warranties in respect of any of them;
- (c) all easements, licences and other rights present or future relating to any Charged Property in which it has an interest;

- (d) any accounts of the Chargor present and future and the debts represented by them (and prior to the occurrence of an Event of Default the Chargor shall be entitled to withdraw monies standing to the credit of the accounts held by it without the prior consent of the Lender);
- (e) the Investments;
- (f) If applicable its uncalled capital,
- (g) Its goodwill; and
- (j) all Related Rights in respect of the above

3.4 **Assignment**

The Chargor assigns absolutely subject to the provisions of Clause 9 (Discharge) each of the following including all rights of enforcement of the same:

- (a) all Rent present and future;
- (b) its interest in any Disposal Proceeds;
- (c) all book debts and other debts present and future payable to the Chargor;
- (d) any other accounts of the Chargor present and future not charged by Clause 3.3 (Fixed charge) and the debts represented by them;
- (e) its interest in the Relevant Contracts;
- (f) all monies payable to it under any Insurance Policies;
- (g) the benefit of the copyright and similar rights vested in it present and future in connection with any Charged Property;
- (h) all causes of action and other rights and remedies in which it has an interest at any time;
- (i) Its interest under any Purchase Contract;
- (j) the benefit of any monies paid or payable to it from time to time by way of compensation, endowment, gift, grant or otherwise;
- (k) its interest from time to time in any VAT recoveries; and
- (l) all Related Rights in respect of the above.

3.5 **Floating charge**

The Chargor charges by way of floating charge all its assets, property and undertaking both present and future.

3.6 **Application of charges**

The charges created under this Deed expressed to be:

- (a) fixed charges, shall only apply to the extent that they create fixed security; and

- (b) floating charges, shall not apply to any Charged Asset which is the subject of any fixed security under this Deed

4 CRYSTALLISATION OF FLOATING CHARGE

4.1 Crystallisation by notice

The Lender may at any time by notice in writing to the Chargor convert the floating charge created by Clause 3.5 (Floating charge) with immediate effect into a fixed charge as regards any Charged Assets specified in the notice if:

- (a) a Default is continuing; or
- (b) the Lender considers that any of the Charged Assets may be in jeopardy or in danger of being seized, attached, charged, taken possession of or sold under any form of legal process.

4.2 Automatic crystallisation

Notwithstanding Clause 4.1 (Crystallisation by notice) and without prejudice to any law which may have a similar effect, the floating charge created by Clause 3.5 (Floating charge) will convert automatically with immediate effect into fixed charges as regards all the assets subject to the floating charge if:

- (a) the Chargor creates or attempts to create any Security Interest (other than Permitted Security) over any Charged Assets,
- (b) any steps are taken (including the giving of notice, the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or receiver in respect of the Chargor over all or any part of its assets, or if such person is appointed;
- (c) any other floating charge over any of the Charged Assets crystallises; or
- (d) in any other circumstances prescribed by law.

5 PERFECTION OF SECURITY

5.1 Insolvency Act

For the purposes of paragraph 43 of schedule A1 to the Insolvency Act 1986 nothing in this Deed shall provide for:

- (a) the obtaining of a moratorium in respect of the Chargor pursuant to section 1A of the Insolvency Act 1986; or
- (b) anything done with a view to obtaining such a moratorium,

to be an event causing the floating charge created by this Deed to crystallise or causing restrictions which would not otherwise apply to being imposed on the disposal of property by the Chargor or a ground for the appointment of a Receiver.

5.2 Further assurance

The Chargor shall execute and do at its own cost and in such form as is reasonably required by the Lender:

- (a) such further additional mortgages, charges, assignments, transfers and conveyances; and
- (b) such assurances, deeds, documents, acts and things,

as the Lender may reasonably require to perfect or protect the security created by this Deed and/or to facilitate or effect any dealing with the Charged Assets in connection with this Deed.

5.3 Notices

5.3.1 The Chargor shall:

- (a) on the date of this Deed serve notice in respect of:
 - (i) each Occupational Lease;
 - (ii) each account charged pursuant to Clause 3 3(d); and
 - (iii) each Insurance Policy;
- (b) on the occurrence of an Event of Default serve a notice in respect of each Charged Asset; and
- (c) on the occurrence of an Event of Default affix or indorse (as appropriate) a notice of the security intended by this Deed on any Charged Asset,

In all cases in the form set out in Schedule 3, Part 1 (Notice of assignment or charge of contract) in respect of contracts and Schedule 3, Part 2 (Notice of account assignment) in respect of accounts charged pursuant to Clause 3 3(d).

- 5 3 2 In the case of Clause 5.3.1(a) and Clause 5.3.1(b) the Chargor shall use all reasonable endeavours to procure that the party to whom the notice is addressed completes and returns to the Lender an acknowledgement in the form of Part B of the relevant notice.

5.4 Restriction

- 5 4 1 The Chargor authorises the Lender to make an application on Form RX1 (or such other form as may be prescribed from time to time) to enter the following restriction against the relevant registered estate:

"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 [•] in favour of [•] referred to in the Charges Register (or its conveyancer)."

- 5 4.2 The Chargor authorises the Lender to apply to the Land Registry to enter the obligation to make further advances on the charges register of the relevant registered estates.

6 INVESTMENTS

6.1 Investment title documentation

Upon execution of this Deed (or immediately upon the acquisition of the relevant Investment if that acquisition follows the date of this Deed) and notwithstanding any other term of the Finance Documents, the Chargor will deposit with the Lender in respect of each Investment:

- (a) all certificates, warrants or other documents of title,
- (b) duly executed undated blank stock transfer forms; and
- (c) forms of waiver of any pre-emption rights and any other documents, consents and monies necessary to enable such transfers to be registered by the Lender.

6.2 Voting prior to a Default

Prior to a Default which is continuing, the Chargor may continue to exercise all voting and other rights (including the right to collect dividends, interest, principal or other payments of money) relating to the Investments provided that such rights are not exercised in a way which (and the Chargor shall not permit anything which):

- (a) jeopardises the security constituted by the Finance Documents;
- (b) varies the rights attaching to the Investments; or
- (c) relates to a participation in a rights issue or to receiving dividends other than in cash or concerns a merger, consolidation, allotment of shares, change to constitutional documents, transfer of ownership (legal or beneficial), insolvency or matters which would otherwise be prohibited by the Finance Documents.

6.3 Voting after a Default

6.3.1 Following a Default which is continuing, the Lender may (without notice to or consent from the Chargor and in the Chargor's name or otherwise) exercise any rights (including the right to collect dividends, interest, principal or other payments of money but excluding the right to vote) in respect of the Investments and may do anything necessary to complete any transfer form in favour of itself or otherwise.

6.3.2 Following a Default which is continuing and the service of notice upon the Chargor, the Lender may (without consent from the Chargor and in the Chargor's name or otherwise) exercise any right to vote in respect of the Investments.

6.4 Obligations

The Chargor shall promptly pay all calls, costs and/or other payments in respect of the Investments and shall give to the Lender, at the time of issue, copies of all information, offers, notices or other materials supplied to the members of the issuers of the Investments and shall advise the Lender promptly of any material occurrence affecting the Investments or any other part of the security granted to the Lender and shall give to the Lender such information as they may reasonably require relating to the Investments

7 RIGHTS OF ENFORCEMENT

7.1 Enforcement

7.1.1 The Liabilities shall be deemed to have become due for the purposes of section 101 of the Act immediately upon the date of this Deed.

7.1.2 The enforcement powers of the Lender in connection with this Deed shall be immediately exercisable:

- (a) upon an Event of Default; or
- (b) at the Lender's discretion, at the request of the Chargor

7.1.3 The restrictions imposed by section 103 of the Act shall not apply to the security created by this Deed.

7.1.4 In addition to all other protection afforded by statute, every purchaser (as defined by section 205 of the Act) or other party dealing with the Lender or any Receiver shall be entitled to assume without enquiry that an Event of Default has occurred, that the Liabilities are outstanding and have become due and that the floating charge created by this Deed has crystallised.

7.2 Lender's and Receiver's powers and rights

7.2.1 The Lender shall have the power:

- (a) to appoint a Receiver of the whole or any part of the Charged Assets and (so far as the law allows) to remove and/or substitute any such appointee;
- (b) to appropriate any Charged Assets in accordance with Clause 7.3 (Right of appropriation); and
- (c) if this Deed contains a qualifying floating charge for the purposes of the Insolvency Act 1986, to appoint an administrator of the Chargor, and paragraph 14 of schedule B1 of the Insolvency Act 1986 shall apply to this Deed.

7.2.2 The Lender (without becoming a mortgagee in possession) and/or any Receiver (without personal liability) shall have the power to exercise:

- (a) all statutory and other powers and rights (including the powers conferred upon an administrative receiver by schedule 1 to the Insolvency Act 1986 whether or not the Lender and/or any Receiver is an administrative receiver), and
- (b) the powers and rights specified in Schedule 2 (*Lender's and Receiver's powers*),

and may exercise them in the name of the Chargor and in such manner and on such terms as the person exercising them shall in its sole absolute discretion consider appropriate.

7.3 Right of appropriation

To the extent that any of the Charged Assets constitutes "financial collateral" and this Deed and the obligations of the Chargor under it constitute a "financial

collateral arrangement" (in each case as defined in, and for the purposes of, the Regulations), the Lender shall have the right to appropriate all or any part of it in or towards discharge of the Liabilities and transfer title in and to it to the Lender. For this purpose, the Parties agree that the value of the financial collateral so appropriated shall be:

- (a) In the case of cash, the amount standing to the credit of each account, together with any accrued but unpaid interest, at the time the right of appropriation is exercised; and
- (b) In the case of Investments, the market price determined by the Lender by reference to a public index or by such other process as the Lender may select, including independent valuation

In each case, the Parties agree that the method of valuation provided for in this Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations

7.4 Receiver as agent

So far as the law allows, a Receiver shall be the agent of the Chargor, who shall be solely liable for his acts, defaults and remuneration, but the Lender shall be entitled to agree the fees and expenses of and the mode of payment to the Receiver

7.5 Further powers

If the Chargor defaults in the observance and performance of any obligation to the Lender, the Lender or its agents (without any of them becoming a mortgagee in possession) may at any time (but shall not be obliged to) do such things as it considers necessary to remedy the default

7.6 Power of attorney

7.6.1 The Chargor by way of security irrevocably appoints the Lender and every Receiver jointly and severally to be its attorney (with full power of substitution) in its name and on its behalf to execute and deliver any documents and do or perfect anything which the Lender and/or the Receiver shall consider appropriate for perfecting, maintaining, preserving, enhancing or enforcing the security created by this Deed and/or the value of any of the Charged Assets and/or for the purpose of enforcing the performance of the Chargor's obligations in connection with this Deed.

7.6.2 The Chargor ratifies and confirms all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of its powers.

8 APPLICATION OF RECEIPTS

8.1 Priority of payment

Subject to sums secured by charges having priority to the charges created by this Deed, all monies received by the Lender and/or any Receiver in the enforcement of this Deed shall (subject as follows) be applied in the following order, in payment:

- (a) **firstly**, of all fees, costs, charges, taxes, liabilities and expenses in relation to any enforcement of this Deed (including in relation to any Receiver whether on its own behalf or on behalf of the Chargor or otherwise),

- (b) **secondly**, (in so far as not contemplated by Clause 8.1(a)) of all fees, costs, charges, taxes, liabilities and expenses and other sums of the Lender in relation to the Finance Documents; and
- (c) **finally**, to the Lender for distribution in accordance with the Facility Agreement.

8.2 **Crediting to suspense account**

The Lender or any Receiver may credit any monies received from the enforcement of this Deed to any suspense account in any manner and for such period as the Lender or that Receiver thinks fit.

9 **DISCHARGE**

- 9.1.1 If the Lender is satisfied that the Liabilities have been unconditionally and irrevocably paid, repaid and discharged in full, the Lender will, at the request and cost of the Chargor, discharge this Deed.
- 9.1.2 No discharge will be of any effect if any security or payment given or made in respect of the Liabilities is rescinded, avoided, reduced or invalidated whether in respect of any Insolvency or otherwise.

10 **GENERAL PROVISIONS**

10.1 **Trust provisions**

The covenants, undertakings and representations made by the Chargor under this Deed are made in favour of the Lender.

10.2 **Immediate recourse**

It shall not be necessary for the Lender before taking any enforcement under this Deed to enforce or seek to enforce any guarantee or other security or other rights whether from or against the Chargor or any other person.

10.3 **Exercise of powers and liability**

- 10.3.1 This Deed is in addition to and will not merge in or in any way be prejudiced or affected by the holding or release by the Lender of any other security at any time held by the Lender
- 10.3.2 The Lender may, at any time after this Deed has become enforceable, redeem or transfer to itself any prior Security Interest against the Charged Assets and may settle and pay the accounts of the prior chargee (which shall be binding on the Chargor). All principal monies, interest, costs, charges and expenses of and incidental to such redemption or transfer shall be paid by the Chargor to the Lender on demand.
- 10.3.3 None of the provisions of this Deed shall be deemed to impose on the Lender or imply on their part any obligation or other liability in relation to the Charged Assets.

10.4 **Tacking**

The Lender must perform its obligations under the Facility Agreement (including any obligation to make further advances).

10.5 New Accounts

On receiving notice that the whole or any part of the Charged Assets has been encumbered by any Security Interest or disposed of.

- (a) the Lender may close the Chargor's then subsisting account and open a new account with the Chargor, and (unless the Lender gives the Chargor written notice otherwise) shall be deemed to have done so,
- (b) all payments made to the Lender after that date will be credited (or be treated as having been credited) to the new account; and
- (c) no money credited or treated as credited to the new account shall reduce the Liabilities.

10.6 Consolidation

The restriction on the right of consolidating mortgage securities contained in section 93 of the Act shall not apply to the security created by this Deed

10.7 Rights of third parties

10.7.1 Unless the right of enforcement is expressly granted, it is not intended that a third party should have the right to enforce a provision of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.

10.7.2 The Parties and any Receiver may rescind, vary, waive, release, assign, novate or otherwise dispose of all or any of their respective rights or obligations under this Deed without the consent of a third party to whom an express right to enforce any of its terms has been provided.

10.8 Effect as a deed

This Deed shall take effect as a deed even if it is signed under hand on behalf of the Lender.

10.9 Counterparts

This Deed may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of this Deed

11 LAW AND JURISDICTION

11.1 Governing law

This Deed and any non-contractual obligations arising out of or in relation to this Deed, shall be governed by English law.

This Deed has been executed as a Deed and delivered on the date stated at the beginning of this Deed.

Schedule 1
The Properties

Chargor	Property
Bawtree House (Sutton) Limited	The freehold property at Bawtree House, 75 Worcester Road, Sutton, SM2 6QW and registered at the Land Registry with title number SGL548452

Schedule 2
Lender's and Receiver's powers

1 Conduct of business

(a) Carry on business

To carry on, manage, develop, reconstruct, amalgamate, diversify and/or conduct the business of the Chargor in all respects and for such purpose to:

- (i) enter upon and take possession, get in, collect or otherwise assume control in respect of all or any of the Charged Assets; and/or
- (ii) acquire any property, chattels, plant, machinery and materials.

(b) Formation of companies

To promote the formation of companies with a view to the same purchasing, leasing, licensing or otherwise acquiring any of the Charged Assets and to arrange for such companies to trade or cease to trade in all cases.

(c) Compromise claims

To compromise any claim relating to the Charged Assets

(d) Borrowing and advancing

To borrow, raise or advance money whether or not in priority to the Liabilities and with or without security.

(e) VAT

To assume and exercise all or any of the power and rights conferred on the Chargor in respect of its value added tax status, liabilities, advantages or arrangements.

(f) Employees

To.

- (i) enter into, adopt and/or terminate any contract of employment; and
- (ii) employ solicitors, architects, surveyors, quantity surveyors, estate agents, contractors, builders, workmen, stockbrokers and others

2 Dealing with the Chargor's assets

(a) Possession

To enter upon and take possession of, get in, use and/or collect any Charged Asset.

(b) Payments

To pay any rent or other outgoings and payments charged on or otherwise relating to the Charged Assets or their ownership, occupation or use.

- (c) Receipts
To give receipts and releases for any sums received.
- (d) Carry on works
To undertake any works, demolition, building, reconstruction, improvement, repair or decoration in respect of any of the Charged Assets which consist of property, buildings, structures, plant, machinery or equipment as it thinks fit and whether or not in accordance with any obligations imposed by the Facility Agreement.
- (e) Assumption of rights
To assume, exercise, cancel and/or vary all or any of the powers and rights conferred on the Chargor under any Charged Asset.
- (f) Insurance
To effect insurances on such terms as it thinks fit
- (g) Planning permissions and consents
To obtain all necessary planning permissions, building regulation approvals and other permissions, consents or licences in relation to any development or use of the Charged Assets.
- (h) Acquisition of property
To acquire any adjoining property and/or easements, interests or estates in property and to grant easements and rights.
- (i) Negotiation
To negotiate and conclude reviews of rent and otherwise deal in relation to the Occupational Leases and the tenants' and guarantors' respective obligations under them

3 Disposals

- (a) Selling
To sell or otherwise realise and deal with, and transfer title to, the Charged Assets, in return for such consideration as it thinks fit and whether or not:
 - (i) for immediate or deferred consideration,
 - (ii) in return for a single payment or instalments; and
 - (iii) for consideration wholly or partly in cash, property or securities in whatever form,and in all cases the terms of which shall bind any subsequent mortgagee.
- (b) Leasing

To grant, create or surrender any lease, tenancy, licence or other agreement relating to the disposal of or other dealing with the Charged Assets on such terms as It thinks fit and.

- (c) with or without any rent, review of rent, fine or premium; and
 - (d) whether absolutely or for a term,
- and in all cases the terms of which shall bind any subsequent mortgagee.

4 **General**

(a) General powers

To do or abstain from doing all such things as It considers necessary or desirable for perfecting, maintaining preserving or enhancing the value of any of the Charged Assets or for or in connection with the enforcement of the security charges created by this Deed or the realisation of any of the Charged Assets, whether or not in accordance with the Facility Agreement, including:

- (i) executing, delivering and completing all or any deeds or other documents;
- (ii) using the name of the Chargor in connection with any of the purposes in this Schedule 2 (*Lender's and Receiver's powers*),
- (iii) commencing, carrying out and completing any acts, matters, proceedings in relation to any Charged Asset as if It were the sole and absolute beneficial owner of the Charged Assets; and
- (iv) obtaining, entering into and maintaining any bonds, covenants, commitments, engagements, guarantees and indemnities or other like arrangements.

(b) General

All its powers and discretions under this Deed shall be:

- (i) exercisable on such terms and conditions and otherwise as it may think fit, and
- (ii) as if it were the absolute and beneficial owner.

**Schedule 3
Notices**

**Part 1
Notice of assignment or charge of contract**

Part A

From: [Details of Chargor] (the "**Chargor**")

To: [Details of Party to Contract]

Date: [•]

Dear Sirs

[Description of Relevant Document] (the "Contract")

We refer to:

- (a) the Contract; and
- (b) [debenture] (the "**Security Deed**") dated [•] made between [•] (the "**Lender**") (1) and [•] and the Chargor (2).

We give you notice that pursuant to the Security Deed, we have [charged/assigned] all of our present and future right, title, interest and benefit in, under and to the Contract (including all [monies] [rent] payable to us under the Contract) to the Lender

We Irrevocably and unconditionally instruct and authorise you [upon receipt of notice from the Lender that an Event of Default has occurred]:

- (a) to make all payments in connection with the Contract as the Lender may direct, and
- (b) that all our rights in connection with the Contract are exercisable by (or with the consent of) the Lender
- (c) to disclose any information relating to the Contract which the Lender may from time to time request.

No amendment, waiver or release of any right or obligation in connection with the Contract and no termination or rescission of the Contract by us shall be effective without the prior written consent of the Lender and in any event no such termination or rescission shall be effective unless you have given notice to the Lender.

Notwithstanding anything in this notice or otherwise we (and not the Lender nor its appointees) shall be liable under the Contract to perform all the obligations assumed by us under it

The instructions and authorisations contained in this letter shall remain in full force and effect until we and the Lender together give you notice in writing revoking them.

This letter shall be governed by and construed in accordance with the laws of England.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning the same to the Lender.

Signed
For and on behalf of the Chargor

Part B - Receipt of notice of assignment or charge of Contract

From: [Details of party to Contract]

To: Lender
[Address]

For the attention of [•]

Date: [•]

We acknowledge receipt of the notice in the above terms. We confirm our acceptance of the instructions and authorisations contained in the notice and further confirm.

- (a) we have not received notice of any previous assignments or charges of or over the Contract; and
- (b) that we agree and will comply with the matters set out in that notice

Signed

For and on behalf of [•]

Part 2
Notice of account assignment
Part A

From. [Details of Chargor] [(the "Chargor")]
To: [Details of provider of the relevant Account]

Date: [•]

Dear Sirs

[Description of relevant Account] (the "Secured Account")

We refer to the:

- (a) the Secured Account (which expression shall include all monies standing to the credit of such account now or in the future),
- (b) a [debenture] (the "**Security Deed**") dated [•] made between [•] (the "**Lender**") (1) and [•] and the Chargor (2).

We give you notice that pursuant to the Security Deed, all of our present and future right, title, interest and benefit in, under and to the Secured Account were assigned to the Lender.

We irrevocably and unconditionally instruct and authorise you [upon receipt of a notice from the Lender that an Event of Default has occurred]:

- (a) not to release any monies from the Secured Account without the prior written consent of the Lender;
- (b) that all our rights in connection with the Secured Account are exercisable by (or with the consent of) the Lender; and
- (c) to disclose any information relating to the Secured Account which the Lender may from time to time request,

and until that time the Chargor shall be entitled to withdraw monies standing to the credit of the accounts without the prior written consent of the Lender

By countersigning this letter you confirm that:

- (a) you do not have, and will not make or exercise, any claims or demands, any rights of counterclaim, rights of deduction, set-off or any other equities against us or the Lender in respect of the Secured Account; and
- (b) no amendment, waiver or release of any right or obligation in connection with the Secured Account and no termination or rescission of the Secured Account by us shall be effective without the prior written consent of the Lender and in any event no such termination or rescission shall be effective unless you have given notice to the Lender.

Notwithstanding anything in this notice or otherwise we (and not the Lender nor its appointees) shall be liable to perform all the obligations assumed by us in respect of the Secured Account.

The instructions and authorisations contained in this letter shall remain in full force and effect until we and the Lender together give you notice in writing revoking them.

This letter shall be governed by and construed in accordance with the laws of England.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning the same to the Lender.

Signed
For and on behalf of the Chargor

Part B - Receipt of notice of account assignment

From: [Details of provider of the relevant Account]

To: [Lender]
[Address]

For the attention of [•]

Date: [•]

[Description of relevant Account]

We acknowledge receipt of the notice in the above terms. We confirm our acceptance of the instructions and authorisations contained in the notice and confirm that:

- (a) we have not received notice of any previous assignments or charges of or over the Secured Account; and
- (b) that we agree and will comply with the matters set out in that notice.

Signed
For and on behalf of [•]

EXECUTION PAGE

Chargor

Executed as a deed by **BAWTREE HOUSE**
(SUTTON) LIMITED
acting by:

)

)

)

Director

Director/Secretary



Lender

Signed as a deed on behalf of **GRIFFIN-**) *Signature(s)*
AMERICAN HEALTHCARE REIT II, INC a)
company incorporated in the state of)
Maryland in the United States of America, by)
, Jeffrey T Hanson, being a person)
who, in accordance with the laws of that)
territory, is acting under the authority of the)
company)



Jeffrey T Hanson
Chief Executive Officer

Authorised signatory