

MG01s

Particulars of a charge created by a company
registered in Scotland



042743/13
IRIS
LASERFORM

A fee is payable with this form.

We will not accept this form unless you send the correct fee.

Please see 'How to pay' on the last page.



What this form is for

You may use this form to register
particulars of a charge created by a
Scottish company.



What this form is NOT for

You cannot use this form to register
particulars of a mortgage or charge
created by a company in England
and Wales or Northern Ireland. To
this, please use form MG01.

TUESDAY



SCT

S16JGBQ2
10/04/2012
COMPANIES HOUSE

#44

1

Company details

Company number

S C 4 0 0 3 4 2

Company name in full

Aberdeen Community Healthcare Village Limited
(the "Borrower")

For official use

2

→ **Filling in this form**

Please complete in typescript or in
bold black capitals.

All fields are mandatory unless
specified or indicated by *

2

Date of creation of charge

Date of creation

d0 d2 m0 m4 y2 y0 y1 y2

3

Description

Please give a description of the instrument (if any) creating or evidencing the
charge e.g. 'Standard security', 'Floating charge' etc.

Description

Debenture (the "Borrower Debenture")

4

Amount secured

Please give us details of the amount secured by the charge.

Amount secured

All present and future liabilities (actual or
contingent) payable or owing by the Borrower and/or
Holdco to any Finance Party under the Finance
Documents whether or not matured and whether or not
liquidated and whether solely or jointly with one
or more persons and whether as principal debtor or
guarantor or surety (the "Secured Obligations").

Please see continuation sheet for definitions.

Continuation page

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

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5 Mortgagee(s) or person(s) entitled to the charge

Please give the name and address of the mortgagee(s) or person(s) entitled to the charge.

Continuation page

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

Name Aviva Public Private Finance Limited as security trustee for

Address each of the Finance Parties (the "Security Trustee")

Sentinel House, 37 Surrey Street, Norwich

Postcode N R 1 3 N J

Name

Address

Postcode

6 Short particulars of all the property charged

Please give the short particulars of the property charged.

Continuation page

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

Short particulars Please see continuation sheet.

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Statement, in the case of a floating charge, as to any restrictions on power to grant further securities and any ranking provision ①

Please see continuation sheet.

- ① In the case of a floating charge a statement should be given of (1) the restrictions, if any, on the power of the company to grant further securities ranking in priority to, or pari passu with the floating charge; and/or (2) the provisions, if any, regulating the order in which the floating charge shall rank with any other subsisting or future floating charges or fixed securities over the property which is the subject of the floating charge or any part of it.

Continuation page

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

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Particulars as to commission, allowance or discount (if any)

Please insert the amount or rate percent of any commission, allowance or discount paid or made either directly or indirectly by the company to any person on consideration of his:

- subscribing or agreeing to subscribe, whether absolutely or conditionally, or
- procuring or agreeing to procure subscriptions, whether absolute or conditional,

for any debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered.

Commission, allowance or discount

nil

9

Delivery of instrument

A certified copy of the instrument, if any, creating or evidencing the charge, together with this form with the prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of the creation of the charge.

In the case of a charge created out of the United Kingdom (UK), comprising property situated outside the UK, within 21 days after the date on which the copy of the instrument creating it could, in due course of post, and if despatched with due diligence, have been received in the UK. Certified copies of any other documents relevant to the charge should also be delivered.

10

Signature ②

Please sign the form here.

Signature

Signature

X



X

② Signature

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

For and on behalf of Maclay Murray & Spens LLP

CHFP025
03/11 Version 5.0

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Presenter information

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

Contact name MNM/JSW/AVI/6/996

Company name Maclay Murray & Spens LLP

Address Quatermile One

15 Lauriston Place

Post town Edinburgh

County/Region Midlothian

Postcode E H 3 9 E P

Country United Kingdom

DX DX ED137 Edinburgh

Telephone 0131 228 7000



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 deed (if any) with this form.
- ☐ You have entered the date the charge was created.
- ☐ You have supplied the description of the instrument.
- ☐ You have given details of the amount secured by the chargee.
- ☐ You have given details of the mortgagee(s) or person(s) entitled to the charge.
- ☐ You have entered the short particulars of all the property charged.
- ☐ You have signed the form.
- ☐ You have enclosed the correct fee.



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 charge.

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

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6 Short particulars of all the property charged

Please give the short particulars of the property charged.

Short particulars

Fixed charges

The Borrower charges by way of first fixed charge:

- 1 all estates or interests in any Real Property now or hereafter belonging to it;
- 2 all its rights under any agreement relating to the purchase of any freehold or leasehold property;
- 3 all its rights under any occupational lease, licence or other right of occupation;
- 4 all plant, machinery, computers, office equipment or vehicles owned by it and its interests in any plant, machinery or other items in its possession;
- 5 all monies standing to the credit of the Project Accounts and the debts represented by them and all its rights in such accounts;
- 6 all monies standing to the credit of any account (other than a Project Account) maintained by it with any person or (to the extent of its interest) in which it has an interest and the debts represented by them and all its rights in such accounts;
- 7 all of its book debts and other debts, the proceeds of the same and all other moneys due and owing to it and the benefit of all rights, securities and guarantees of any nature enjoyed or held by it in relation to any of the foregoing;
- 8 all its rights under any Treasury Transaction;
- 9 its goodwill;
- 10 its uncalled capital;
- 11 all its right, title and interest in any Investment including all rights which the Borrower may have at any time against any clearance or settlement system or any custodian in respect of any Investment;
- 12 all its right, title and interest in any Intellectual Property Rights belonging to it or (to the extent of its interest) in which it has an interest; and
- 13 the benefit of all licences, consents and authorisations (statutory or otherwise) held by it in connection with its business or the use of any Charged Asset specified in any other sub-paragraph in this paragraph and the right to recover and receive all compensation which may be payable to it in respect of them.

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Exceptions to fixed security

The fixed security from time to time created by the Borrower Debenture does not extend to any asset situated outside England and Wales or the rights to which are governed by any law other than the laws of England and Wales to the extent that and for so long as any such fixed security would be unlawful or ineffective under the laws of the jurisdiction in which such asset is situated.

Assignment by way of security

To the extent not validly and effectively charged by way of first fixed charge pursuant to Clause 3.2 (*Fixed charges*) of the Borrower Debenture, the Borrower assigns and agrees to assign absolutely all of its right, title and interest in:

- 1 each of the Assigned Documents;
- 2 all Insurance Policies taken out by it or on its behalf or (to the extent of its interest) in which it has an interest and the right to all claims and returns of premiums in respect of any such Insurance Policies; and
- 3 the benefit of any other agreement to which it is party, any letter of credit issued in its favour and any bill of exchange or other negotiable instrument held by it.

Floating charge

The Borrower charges by way of first floating charge the whole of its property (including uncalled capital) comprised from time to time in its property and undertaking and all other property, assets and rights of whatever nature and wherever situated which are not otherwise effectively charged or assigned pursuant to the foregoing paragraphs.

Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act applies to the floating charge created by Clause 3.5 (*Floating charge*) of the Borrower Debenture so that the floating charge created by Clause 3.5 (*Floating charge*) of the Deed shall be a "qualifying floating charge" for the purposes of that paragraph.

Automatic crystallisation of floating charge

The floating charge created by Clause 3.5 (*Floating charge*) of the Borrower Debenture shall immediately upon the occurrence of the relevant event convert into a fixed charge in respect of:

any Charged Asset which shall without the prior written consent of the Security Trustee become subject to a fixed charge in favour of any person other than the Security Trustee or as permitted under the Facility Agreement;

any Charged Asset in respect of which any person shall levy, or attempt to levy, any distress, diligence, execution, sequestration or other similar process;

all Charged Assets if an Administrator is appointed by the Security Trustee or the Security Trustee receives notice of an intention to appoint an Administrator; or

all Charged Assets on the convening of any meeting of the members of the Borrower to consider a resolution to wind up the Borrower (or not to wind up the Borrower).

Crystallisation on notice of floating charge

The Security Trustee may at any time:

after the security created by the Borrower Debenture has become enforceable in accordance with Clause 10 (*When security becomes enforceable*) of the Borrower Debenture; or

if the Borrower fails to comply or takes or threatens to take any action which in the reasonable opinion of the Security Trustee is likely to result in it failing to comply with its obligations under Clause 6 (*Restriction on dealings*) of the Borrower Debenture; or

if the Security Trustee (acting reasonably) considers that any of the Charged Assets are in danger of being seized or sold as a result of any legal process, or are otherwise in jeopardy; or

if the Security Trustee (acting reasonably) considers that steps are being taken or have been taken which are likely or intended to lead to the appointment of an Administrator or the presentation of a petition for the winding-up of the Borrower,

by giving notice in writing to that effect to the Borrower convert the floating charge created by Clause 3.5 (*Floating charge*) of the Borrower Debenture into a fixed charge as regards any asset specified in such notice. The conversion shall take effect immediately upon the giving of the notice.

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Short particulars

Restrictions on Dealings

Save as permitted by the Facilities Agreement, the Borrower will not create, or permit to subsist, any Security on any part of the Charged Assets.

DEFINITIONS

"Acceptable Credit Rating" means, in respect of any person, a credit rating for its long-term unsecured and non credit-enhanced debt obligations of A- or higher from Standard & Poor's Rating Services or Fitch Ratings Ltd or A3 or higher from Moody's Investor Services Limited or a comparable rating from an internationally recognised credit rating agency.

"Acceptable Letter of Credit" means means a letter of credit which:

- (a) shall be issued in favour of the Borrower and the Security Trustee by an Approved Bank ;
- (b) has, from time to time, a residual maturity of not less than one (1) month; and
- (c) is in full force and effect

"Account Bank" means Clydesdale Bank plc acting through its branch at 35 Regent Street, London SW1Y 4ND;

"Account Bank Agreement" means the account bank agreement dated 2 April 2012 among the Account Bank, the Borrower and Aviva Public Private Finance Limited as Security Trustee and Lender;

"Approved Bank" means:

- (a) a bank or financial institution which has an Acceptable Credit Rating; or
- (b) any other bank or financial institution approved by the Lender

"Assets" means in relation to the Borrower, all or any part of its business, undertaking, property, assets, revenues (including any right to receive revenues) and uncalled capital wherever situated;

"Assigned Documents" means the documents listed in schedule 1 (Assigned Documents) of the Borrower Debenture (a copy of which is attach to this form MG01) together with any other documents relating to the Project entered into from time to time by the Borrower.

"Authorised Investments" means an investment denominated in Sterling in any of the following:

- (a) freely transferable and marketable debt securities issued by HM Government which constitute direct, primary and unsubordinated obligations having a maturity of less than six months from the date of purchase; or
- (b) bank debt obligations in the form of certificates of deposit, time deposits or banker's acceptances with a bank or financial institution which has a rating for its long-term unsecured and non credit-enhanced debt obligations of "A" or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or "A2" or higher by Moody's Investor Services Limited or a comparable rating from an internationally recognised credit rating agency; or
- (c) other investments agreed between the Borrower and the Lender

"Authority" means Grampian Health Board of Summerfield House, 2 Eday Road, Aberdeen, AB15 6RE;

"Borrower Assignment in Security" means the assignment in security dated 30 March 2012, assigning in security to the Security Trustee the Borrower's rights in respect of certain of the Assets;

"Borrower Equity" means any shares in the issued share capital of the Borrower and the Borrower Loan Notes;

"Borrower Floating Charge" means the bond and floating charge dated 30 March 2012 creating floating security over the Assets of the Borrower in favour of the Security Trustee;

"Borrower Loan Notes" means 13% unsecured loan notes 2038 issued or to be issued by the Borrower pursuant to the Borrower Loan Note Instrument;

"Borrower Loan Note Instrument" means the loan note instrument dated 2 April 2012 constituting the Borrower Loan Notes;

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"Borrower Security Documents" means:

- (a) the Borrower Debenture;
- (b) the Borrower Assignment in Security; and
- (c) the Borrower Floating Charge;

"Building Contractor" means Miller Construction UK Limited a company incorporated in Scotland with registered number SC209666 and having its registered office at Miller House, 2 Lochside View, Edinburgh Park, Edinburgh, EH12 9DH;

"Building Contractor Direct Agreement" means the direct agreement dated 2 April 2012 between the Borrower, the Building Contractor, the Building Contractor Guarantor and the Security Trustee;

"Building Contractor Guarantor" means Miller Corporate Holdings Limited a company incorporated in Scotland with registered number SC288228 and having its registered office at Miller House, 2 Lochside View, Edinburgh Park, Edinburgh, EH12 9DH;

"Charged Assets" means the assets, rights and undertaking of the Borrower from time to time mortgaged, charged or assigned to the Security Trustee by or pursuant to the Borrower Debenture;

"Delegate" means any delegate, agent, attorney or co-trustee appointed by the Security Trustee;

"Direct Agreement" means:

- (a) the Lender's Direct Agreement;
- (b) the Building Contractor Direct Agreement;
- (c) the FM Contractor Direct Agreement; and
- (e) any other agreement or document which the Lender may from time to time designate as a "Direct Agreement" with the consent of the Borrower;

"Facilities Agreement" means the facilities agreement dated 2 April 2012, *inter alia*, the Borrower and Aviva Commercial Finance Limited as Lender and Security Trustee;

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"Finance Documents" means:

- (a) the Facilities Agreement;
- (b) the Security Documents;
- (c) the Intercreditor Deed;
- (d) the Account Bank Agreement;
- (e) the Insurance Account Agreement;
- (f) the Direct Agreements;
- (g) any Acceptable Letter of Credit;
- (h) each other document executed from time to time pursuant to any of the foregoing to which the Borrower and any Finance Party is a party; and
- (i) any other agreement or document which the Lender may from time to time designate as a Finance Document with the prior consent of the Borrower.

"Finance Party" means the Security Trustee, the Original Lender, any New Lender and any Delegate;

"FM Contractor" means Miller Construction UK Limited (trading as "Miller Asset 24") a company incorporated in Scotland with registered number SC209666 and having its registered office at Miller House, 2 Lochside View, Edinburgh Park, Edinburgh, EH12 9DH;

"FM Agreement" means the facilities management contract dated 2 April 2012 between the FM Contractor and the Borrower;

"FM Contractor Direct Agreement" means the direct agreement dated 2 April 2012 between the Borrower, the Security Trustee, the FM Contractor and the FM Contractor Guarantor in respect of the FM Agreement;

"FM Contractor Guarantor" means Miller Corporate Holdings Limited a company incorporated in Scotland with registered number SC288228 and having its registered office at Miller House, 2 Lochside View, Edinburgh Park, Edinburgh, EH12 9DH;

"Granary Building" has the meaning given to it in the Project Agreement.

"Holdco" means HUB NORTH SCOTLAND LIMITED, a company incorporated in Scotland with registered number SC390666 and having its registered office at Miller House, 2 Lochside View, Edinburgh Park, EH12 9DH;

"Holdco Share Pledge" means the share pledge dated 30 March 2012 creating security over Holdco's interest in the Borrower Equity in favour of the Security Trustee;

"Insolvency Act" means the Insolvency Act 1986;

"Insurance Account Agreement" means the "Insurance Proceeds Account Agreement" in respect of the Joint Insurance Account (as defined in the Facilities Agreement), entered into among the Authority, the Borrower, the Security Trustee and the Account Bank dated 2 April 2012, together with the operating mandates in respect of the Joint Insurance Account (as defined in the Facilities Agreement);

"Insurance Policy" means any policy of insurance or assurance in which the Borrower may at any time have an interest;

"Intellectual Property Rights" means:

- (a) all patents, trademarks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, know how and other intellectual property rights and any interests including by way of licence in any of the foregoing in each case whether registered or not; and
- (b) the benefit of all applications for and rights to use any such assets;

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"**Intercreditor Deed**" means the intercreditor deed dated 2 April 2012 between, *inter alios*, the Borrower, Holdco and Aviva Public Private Finance Limited as Lender and Security Trustee;

"**Investments**" means all shares and stock in the capital of any company, debentures, securities, certificates or deposits, interests in collective investment schemes, warrants, options and any other rights to subscribe for or acquire any such investments hereafter owned by the Borrower or in which the Borrower has an interest (including all Authorised Investments) together in all cases with all Related Rights;

"**Lender**" means:

(a) the Original Lender; and/or

(b) any New Lender

which in each case has not ceased to be a Lender in accordance with the terms of the Facilities Agreement;

"**Lender's Direct Agreement**" means the direct agreement dated 30 March 2012 between the Borrower, the Security Trustee and the Authority in respect of the Project Agreement;

"**New Lender**" shall have the meaning given to it in Clause 26.3 (*Assignments and transfers by the Lender*) of the Facilities Agreement;

"**Original Lender**" means Aviva Public Private Finance Limited;

"**Project**" means the financing, design, construction, testing, commissioning, operation, management and maintenance of the Project Facilities or the other parts of the Works pursuant to the terms of the Project Agreement and activities ancillary or related to such purposes as contemplated by Clause 3 (*Purpose*) of the Facilities Agreement.

"**Project Account**" means each Project Account (as defined in the Facilities Agreement) in the name of the Borrower and includes:

(a) if there is a change of Account Bank, any account into which all or part of a credit balance from a Project Account is transferred; and

(b) any account which is a successor to a Project Account on any re-numbering or re-designation of accounts and any account into which all or part of a balance from a Project Account is transferred for investment or administrative purposes;

"**Project Agreement**" means the agreement relating to the design, construction of the Works and the servicing and maintenance of the Project Facilities dated 2 April 2012 between the Borrower and the Authority for the implementation of the Project;

"**Project Facilities**" means the Facilities (as defined in the Project Agreement) and including (for the avoidance of doubt) the Granary Building to the extent that the Borrower has relevant responsibility for it under the Project Agreement;

"**Real Property**" means any present or future freehold or leasehold property in which the Borrower has an interest and includes all buildings and fixtures on that property, the proceeds of sale of any part of that property, any licence, agreement for sale or agreement for lease in relation to that property, the benefit of any covenants for title given or entered into by any predecessor in title of the Borrower in respect of that property and any monies paid or payable in respect of those covenants;

"**Related Rights**" means, in relation to any Investments, all rights derived from those Investments including rights to dividends, interest and other distributions paid or payable after the date of this Deed on all or any of those Investments and all stocks, shares or other securities (and dividends, interest and other distributions thereon) or other rights accruing or offered at any time by way of redemption, bonus, pre-emption or otherwise to or in respect of all or any of those Investments or in substitution or exchange for all or any of the Investments;

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

"**Security Documents**" means:

(a) the Borrower Security Documents;

(b) the Holdco Share Pledge;

(c) all agreements and other documents executed from time to time pursuant to any of the foregoing or otherwise creating or evidencing (or expressing to create or evidence) any security on any of the Assets in respect of the obligations of the Borrower or Holdco under any of the Finance Documents; and

(e) any other agreement or document which the Security Trustee may from time to time designate as a Security Document with the consent of the Borrower;

"**Treasury Transaction**" means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price; and

"**Works**" shall have the meaning attributed to it in the Project Agreement and, for the avoidance of doubt, will include the Granary Works (as defined in the Project Agreement).

Any reference in the Borrower Debenture to the Facilities Agreement, a Finance Document, or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as from time to time amended, novated, supplemented, replaced, extended, or restated in the whole or in part.



FILE COPY

**CERTIFICATE OF THE REGISTRATION
OF A CHARGE**

COMPANY NO. 400342

CHARGE NO. 2

I HEREBY CERTIFY THAT A CHARGE CREATED BY ABERDEEN
COMMUNITY HEALTH CARE VILLAGE LIMITED

ON 2 APRIL 2012

FOR SECURING ALL SUMS DUE OR TO BECOME DUE

IN FAVOUR OF AVIVA PUBLIC PRIVATE FINANCE LIMITED

WAS DELIVERED PURSUANT TO SECTION 878 OF THE
COMPANIES ACT 2006 ON 10 APRIL 2012

GIVEN AT COMPANIES HOUSE, EDINBURGH 12 APRIL 2012



Companies House
— for the record —



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES