

57296/130

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COMPANIES FORM No. 395

395

Particulars of a mortgage or charge

Please do not write in this margin

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

Pursuant to section 395 of the Companies Act 1985



CHFP025

To the Registrar of Companies
For official use

1 1

03075197

Please complete legibly, preferably in

Name of company

*Insert full name of

Living with Care Limited (the **Chargor**)

Date of creation of the charge

27 November 2003

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

Debenture (the **Debenture**) made between (1) the **Chargor** and (2) The Royal Bank of Scotland plc as agent and trustee for the Beneficiaries (the **Security Trustee** which expression shall include all successor agents appointed from time to time)

Amount secured by the mortgage or charge

The actual, contingent, present and/or future obligations and liabilities of the **Chargor** under or pursuant to the Guarantee Documents, including the Debenture (the **Secured Obligations**)

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

The Royal Bank of Scotland plc of 280 Bishopsgate, London EC2M 4BR (the **Security Trustee**)

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

Denton Wilde Sapte
One Fleet Place
London
EC4M 7WS

CAT/GUS 70102.00036
6496165.01

For official use

Mortgage Section

Post room



LD3
COMPANIES HOUSE

0262
12/12/03

Time critical reference

Please return
via
CH London Counter

Short particulars of all the property mortgaged or charged

1 Mortgages, fixed charges and floating charge

- 1.1 The Chargor, with full title guarantee, as continuing security for the payment of the Secured Obligations, charged in favour of the Security Trustee (as security trustee and agent for the Beneficiaries):
- 1.1.1 by way of legal mortgage all estates or interests in the Legally Mortgaged Property;
- 1.1.2 by way of fixed charge all estates or interests in any freehold, leasehold and other immovable property as at the date of the Debenture or at any time during the continuance of the security belonging to the Chargor (other than the Legally Mortgaged Property) and the proceeds of sale thereof and all buildings and trade and other fixtures from time to time on any such property belonging to or charged to the Chargor;
- 1.1.3 by way of fixed charge all its title, rights and interests in all plant, machinery, vehicles, computers and office and other equipment legally and beneficially owned by the Chargor both present and future;

Particulars as to commission allowance or discount (note 3)

Nil

Signed Denton Wilde Sapte

Date 5 December 2003

On behalf of ~~[company]~~ mortgagee/chargee 1

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as
approp
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NOTES

- 1 The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395). If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398). A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the Registrar. The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body. A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No. 398 is submitted.
- 2 A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage" or "Legal charge", etc, as the case may be, should be given.
- 3 In this section there should be inserted the amount or rate per cent. of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his:
- (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or
- (b) procuring or agreeing to procure subscriptions, whether absolute or conditional,
- for any of the debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered.
- 4 If any of the spaces in this form provide insufficient space the particulars must be entered on the prescribed continuation sheet.
- 5 Cheques and Postal Orders are made payable to **Companies House**.
- 6 The address of the Registrar of Companies is:-

- 1.1.4 by way of fixed charge all book debts and other debts as at the date of the Debenture and from time to time due or owing to the Chargor (the **Debts**) and all moneys which the Chargor receives in respect thereof together with all rights relating thereto including any security and remedies therefor;
- 1.1.5 by way of fixed charge all balances standing to the credit of any current, deposit or other account of the Chargor (the **Bank Accounts**) with the Security Trustee or any other Beneficiary or with other bankers, financial institutions or similar third parties (the **Credit Balances**);
- 1.1.6 by way of fixed charge all stocks, shares, debentures, bonds, notes and loan capital of:
- 1.1.6.1 any Subsidiary; and
- 1.1.6.2 any other body corporate;
- and all rights to subscribe for, redeem, convert other securities into or otherwise acquire any of the same which may as at the date of the Debenture or thereafter belong to the Chargor, together with all dividends, interest and other income and all other rights of whatsoever kind deriving from or incidental to any of the foregoing;
- 1.1.7 by way of fixed charge the goodwill of the Chargor and its uncalled capital in existence as at the date of the Debenture or thereafter;
- 1.1.8 by way of fixed charge all copyrights, patents, patent applications, licences, trade marks, tradenames, know-how and inventions or other rights of every kind deriving therefrom as at the date of the Debenture or thereafter belonging to the Chargor and all fees, royalties and other rights of every kind deriving from such copyrights, patents, trade marks, tradenames, know-how and inventions;
- 1.1.9 by way of assignment by way of security all of the Chargor's rights, title and interest as at the date of the Debenture or in the future in (save where the Chargor is prevented from assigning the same under the terms of any agreement and where the Chargor has used all reasonable endeavours to procure that consent to assignment is provided):
- 1.1.9.1 the rights under the appointment of any managing agent of the Legally Mortgaged Property;
- 1.1.9.2 the benefit of all covenants, agreements, Tenancy Agreements, undertakings, security or obligations entered into or to be entered into by the Chargor and of all other guarantees, indemnities, licences, deeds, rent deposit agreements, or other deeds or documents supplemental or collateral in respect of any of the aforesaid;
- 1.1.9.3 the benefit of all rights and claims to which the Chargor is as at the date of the Debenture or may thereafter become entitled in relation to the Legally Mortgaged Property (including those against all persons who as at the date of the Debenture or may at any time be in occupation of the Legally Mortgaged Property under any Tenancy Agreement or licence or otherwise and all guarantors and sureties for the obligations of such persons);
- 1.1.9.4 the benefit of all guarantees, warranties and representations given or made at the date of the Debenture or thereafter by and any rights or remedies against all or any of the designers, builders, contractors, professional advisers, sub-contractors, manufacturers, suppliers and installers of any fixtures in relation to the Legally Mortgaged Property;
- 1.1.9.5 the Chargor's interest in every insurance policy and all benefits in respect of them effected in respect of the Charged Property;
- 1.1.9.6 the benefit of all other agreements, contracts, deeds, undertakings, guarantees, warranties or other documents entered into by or given to the Chargor as at the date of the Debenture or at any time thereafter in respect of the Charged Property and all documents in existence as at the date of the Debenture or at any time thereafter

necessary to enable the Security Trustee to perfect the same and all the proceeds of any payment of any claims, awards or judgments paid or payable to the Chargor under or in respect of the Charged Property (including but without limitation all liquidated and ascertained damages payable to the Chargor under the Charged Property) and all the rights or remedies of the Chargor as at the date of the Debenture or thereafter in existence arising under the Charged Property;

1.1.9.7 all Hedging Agreements including without limitation and all proceeds paid or payable thereunder;

1.1.9.8 the benefit of all Acquisition Agreements and Project Documents entered into by the Chargor as at the date of the Debenture or at any time thereafter;

1.1.9.9 all payments, repayments and refunds of VAT due or owing by HM Customs and Excise to the Chargor;

(collectively referred to as the **Assigned Assets**)

1.1.10 by way of floating charge the whole of the Chargor's undertaking and all its property, assets and rights, whatsoever and wheresoever, present and future, other than any property or assets from time to time or for the time being effectively mortgaged, assigned or charged to the Security Trustee by way of fixed charge by this paragraph.

1.2 To the extent that any right, title or interest described in Clause 3.1(i) of the Debenture is not assignable or capable of assignment, the assignment purported to be effected by Clause 3.1(i) of the Debenture shall operate as:

- (a) in the case of insurances, an assignment of any and all proceeds of insurances received by the Chargor; and
- (b) in the case of the other Assigned Assets as assignment of any and all damages, compensation, remuneration, profit, rent, income or other benefit which the Chargor may derive or be awarded or entitled to in respect of the relevant Assigned Assets

in each case as continuing security for the payment, discharge and performance of the Secured Obligations.

1.3 The security constituted by or pursuant to the Debenture shall be in addition to and shall be independent of every bill, note, guarantee, mortgage, pledge or other security which the Security Trustee or any other Beneficiary may at any time hold in respect of any of the Secured Obligations and it was declared by the Debenture that no prior security held by the Security Trustee or any other Beneficiary over the Charged Property or any part thereof should merge in the security created by the Debenture or pursuant to the Debenture.

2 Negative pledge

The Chargor undertook that it would not create or permit to subsist any Security over any of its assets or any assets other than:

- 2.1 any lien arising by operation of law and in the ordinary course of trading;
- 2.2 any Security entered into pursuant to any Guarantee Document;
- 2.3 any lien arising under any Finance Leases with an aggregate value of no more than £500,000 in total;
- 2.4 any set off or netting agreement (including any guarantee given in connection with that arrangement) entered into with the Agent and the Group in the ordinary course of banking business;
- 2.5 any other Security notified to the Agent to which the Agent (acting on instructions of the Majority Lenders) has given its prior written consent in writing.

3 Definitions

- 3.1 **Accession Letter** has the meaning given to it in the Facility Agreement;
- 3.2 **Acquisition Agreement** has the meaning given to it in the Facility Agreement;
- 3.3 **Agent** means The Royal Bank of Scotland plc of 135 Bishopsgate, London, EC2M 3UR as agent on behalf of the other Finance Parties;
- 3.4 **Arranger** means The Royal Bank of Scotland plc of 280 Bishopsgate, London, EC2M 4RB;
- 3.5 **Beneficiary** means all and each Finance Party and the Overdraft Bank and **Beneficiaries** shall be construed accordingly;
- 3.6 **Borrower** means Barchester Healthcare Limited, a company incorporated in England with number 2792285;
- 3.7 **Charged Property** means the property, assets and income of the Chargor mortgaged, assigned or charged to the Security Trustee (whether by way of legal mortgage, assignment, fixed or floating charge) by or pursuant to the Debenture and each and every part thereof;
- 3.8 **Charging Group Companies** means the Borrower and each Guarantor which has entered into a Security Document;
- 3.9 **Facility Agreement** means the Facility Agreement dated on or about the date of the Debenture and made between (i) the Borrower, (ii) various other companies as Original Guarantors (as such term is defined in the Facility Agreement) including the Chargor, (iii) the Original Lenders, and (iv) The Royal Bank of Scotland plc as the Arranger, the Agent, the Security Trustee, the Overdraft Bank and the Issuing Bank;
- 3.10 **Fee Letter** has the meaning given to it in the Facility Agreement;
- 3.11 **Finance Document** means the Facility Agreement, the Subordination Agreement, any Fee Letter, any Hedging Agreement, any Accession Letter, any Transfer Certificate or any Security Document and any other document designated as such by the Agent and the Borrower;
- 3.12 **Finance Lease** means any lease hire agreement, credit sale agreement, hire purchase agreement, conditional sale agreement or instalment sale and purchase agreement which should be treated in accordance with SSAP21 (or any successor to SSAP21) as a finance lease or in the same way as a finance lease;
- 3.13 **Finance Party** means the Agent, the Arranger, the Issuing Bank, the Security Trustee or a Lender (but shall not include the Overdraft Bank);
- 3.14 **Group** means the Borrower and each of its respective Subsidiaries for the time being, and a Group Company means anyone of them;
- 3.15 **Guarantee Document** means each Finance Document and each Overdraft Document, and **Guarantee Documents** means all such documents;
- 3.16 **Guarantor** means an Original Guarantor or an Additional Guarantor (as those terms are defined in the Facility Agreement) under the Facility Agreement, and Guarantors shall mean all of them;
- 3.17 **Hedging Agreement** has the meaning given to it in the Facility Agreement;
- 3.18 **Issuing Bank** means The Royal Bank of Scotland plc of 280 Bishopsgate, London EC2M 4RB as issuing bank;
- 3.19 **Legally Mortgaged Property** means the property described in the Schedule hereto, the proceeds of sale thereof and all buildings and trade and other fixtures on any such property belonging to or charged to the Chargor;

3.20 **Lender** means:

- (a) any Original Lender; and
- (b) any bank, financial institution, trust, fund or other entity which has become a party to the Facility Agreement in accordance with the terms of the Facility Agreement,

which in each case has not ceased to be a party to the Facility Agreement in accordance with the terms of the Facility Agreement but shall not include the Overdraft Bank;

3.21 **Majority Lenders** has the meaning given to it in the Facility Agreement;

3.22 **Original Lender** means each and any of The Royal Bank of Scotland plc, 280 Bishopsgate, London EC2M 4RB, and AIB Group (UK) p.l.c.;

3.23 **Overdraft Bank** means The Royal Bank of Scotland plc of 280 Bishopsgate, London EC2M 4RB as overdraft bank;

3.24 **Overdraft Documents** means the Overdraft Letter and any other documents from time to time setting out the terms of the Overdraft Facility and designated as such by the Overdraft Bank and the Borrower;

3.25 **Overdraft Facility** means means the overdraft facility made available by the Overdraft Bank to the Charging Group Companies pursuant to the Overdraft Letter including any new overdraft facility made available by the Overdraft Bank to any member of the Group from time to time;

3.26 **Overdraft Letter** means the overdraft facility letter dated 25 September 2003 between the Overdraft Bank and the Borrower in relation to the provision of the Overdraft Facility;

3.27 **Project Documents** has the meaning given to it in the Facility Agreement;

3.28 **Properties** means all freehold and leasehold properties listed in Schedule 10 to the Facility Agreement and any Acquisition Properties (as such term is defined in the Facility Agreement) acquired after the date of the Facility Agreement and Property shall mean any of them;

3.29 **Security** means a mortgage, charge, pledge, lien, assignment by way of security, right of set-off, retention of title provision, trust or flawed asset arrangement (for the purpose of, or which has the effect of, granting security) or other security interest securing any obligation of any person or any other agreement or arrangement in any jurisdiction having a similar effect;

3.30 **Security Documents** means (i) each debenture in the agreed form executed or to be executed in favour of the Security Trustee including the Debenture; (ii) each Standard Security; (iii) the Subordination Agreement; (iv) the Security Interest Agreement; (v) each Supplemental Debenture; and (iv) any other guarantee or document, evidencing, or acknowledging security in respect of any of the obligations and liabilities of the Charging Group Companies under any Financing Document;

3.31 **Security Interest Agreement** means a security interest agreement pursuant to which a security interest in the entire issued share capital of Avalon (Guernsey) Limited, a company incorporated in Guernsey under registration number 32295, is granted in favour of the Security Trustee by Barchester Healthcare Homes Limited, a company incorporated in England under registration number 02849519, in accordance with the Security Interest (Guernsey) Law 1993;

3.32 **Standard Security** means a standard security in the agreed form executed or to be executed by a Charging Group Company under the terms of the Facility Agreement in relation to any Property situated in Scotland;

3.33 **Subordination Agreement** means the subordination agreement made or to be made between (1) the Borrower, (2) the Grove Limited, a company incorporated in Jersey with company number 74757, (3) the Security Trustee and (4) the Agent;

- 3.34 **Subsidiary** means a subsidiary within the meaning of Section 736 of the Act and for the purposes of financial statements undertaking within the meaning of section 258 of the Act;
- 3.35 **Supplemental Debenture** has the meaning given to it in the Facility Agreement;
- 3.36 **Tenancy Agreement** means any lease, underlease, sub-lease, licence, agreement, option, occupation agreement or any other document to which the Chargor is a party governing the use or occupation of the Legally Mortgaged Property or any part of the Legally Mortgaged Property;
- 3.37 **Transfer Certificate** has the meaning given to it in the Facility Agreement.

SCHEDULE

The Legally Mortgaged Property

Description

Title No.

All and whole the property known as
Bloomfield (formerly known as Paulton
Hospital) Salisbury Road, Paulton

ST147967

FILE COPY



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 03075197

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 27th NOVEMBER 2003 AND CREATED BY LIVING WITH CARE LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO THE ROYAL BANK OF SCOTLAND PLC (THE SECURITY TRUSTEE) ON ANY ACCOUNT WHATSOEVER UNDER THE TERMS OF THE AFOREMENTIONED INSTRUMENT CREATING OR EVIDENCING THE CHARGE WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 12th DECEMBER 2003.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 16th DECEMBER 2003.

LC
SR



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



Companies House

— for the record —