

# M

CHFP025

Please do not  
write in  
this margin

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

\*insert full name  
of Company

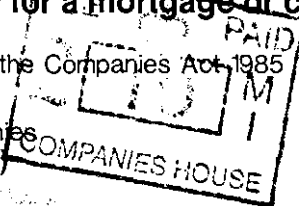
## COMPANIES FORM No. 395

### Particulars of a mortgage or charge

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

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



For official use

Company number

[21575]

3287957

Name of company

\* NHP Securities No.3 Limited having its registered office at 6 Broad  
Street Place, Blomfield Street, London EC2M 7JH (the "Company")

Date of creation of the charge

16 August 1999

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

A debenture (the "Debenture") dated 16 August 1999 and made between the  
Company and The Governor and Company of the Bank of Scotland (the  
"Security Trustee") as trustee for the Beneficiaries.

See Schedule 1 attached for definitions.

Amount secured by the mortgage or charge

See Schedule 2 attached.

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

The Governor and Company of the Bank of Scotland having its registered  
address at Telford House, 3 Mid New Cultins, Edinburgh as Security  
Trustee for and on behalf of the Beneficiaries.

Postcode EH11 4DH

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

Clifford Chance  
200 Aldersgate Street  
London  
EC1A 4JJ

London-2/410750/01

Time critical reference

For official Use  
Mortgage Section

Post room



Short particulars of all the property mortgaged or charged

See Schedule 3 attached.

Please do not  
write in  
this margin

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

Particulars as to commission allowance or discount (note 3)

None

Signed



Date 18<sup>th</sup> August 1999

On behalf of [company] [mortgagee/chargee] †

A fee of £10 is  
payable to  
Companies House  
in respect of each  
register entry for a  
mortgage or  
charge.  
(See Note 5)

† delete as  
appropriate

## Notes

- 1 The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395). If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398). A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the registrar. The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body. A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No. 398 is submitted.
- 2 A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage" or "Legal charge", etc, as the case may be, should be given.
- 3 In this section there should be inserted the amount or rate per cent. of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his;
  - (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or
  - (b) procuring or agreeing to procure subscriptions, whether absolute or conditional,for any of the debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered.
- 4 If any of the spaces in this form provide insufficient space the particulars must be entered on the prescribed continuation sheet.
- 5 Cheques and Postal Orders are to be made payable to **Companies House**.
- 6 The address of the Registrar of Companies is:-  
Companies House. Crown Way. Cardiff CF4 3UZ

## SCHEDULE 1

### Definitions

1. In this Form 395:

**"Agent"** means The Governor and Company of the Bank of Scotland.

**"Arranger"** means Morgan Guaranty Trust Company of New York.

**"Beneficiaries"** means the Security Trustee, the Arranger, the Agent, the Initial Beneficiaries and each other person from time to time party to the Facility Agreement pursuant to an assignment or transfer made in accordance with the Facility Agreement provided that such other person shall have executed and delivered to the Security Trustee either an accession undertaking which has been countersigned by the Security Trustee or a transfer certificate which has been countersigned by the Agent.

**"Cash Collection Account"** means the account in the name of the Company designated as such, held with a bank acceptable to the Agent and charged to the Security Trustee for the Beneficiaries as security for the obligations of the Company under the Facility Documents in accordance with the terms of the Debenture.

**"Charged Investments"** means all Investments from time to time charged in favour of, or assigned (whether at law or in equity) to, the Security Trustee by or pursuant to the Debenture.

**"Charged Property"** means, subject to any contrary indication, the undertaking, property and assets of the Company from time to time charged in favour of, or assigned (whether at law or in equity) to, the Security Trustee by or pursuant to the Security Documents.

**"Claims"** means the book and other debts, and monetary claims referred to in Clause 1.1.2 (other than those referred to in Clause 1.1.2(d)) of Schedule 3 attached hereto or deriving from the Insurance Policies or the Charged Investments.

**"Deed of Priority"** means the deed of priority dated 16 August 1999 between The Governor and Company of the Bank of Scotland, the Company and NHP.

**"Documents"** means:

- (i) any Lease and any agreement to enter into any Lease;

- (ii) any contract under which the Company agrees to acquire a Nursing Home or an estate or interest in any other Real Property or agrees to lease, sell, transfer or otherwise make any disposal of any such property or interest; and
- (iii) any document under which the Company takes any security interest in the property, revenues or assets of any other person;

in each case whether such was in existence at the time the Debenture was entered into or comes into existence at any time thereafter.

**"Enforcement Event"** means any of the following events:

- (i) a failure by the Company to pay any of the Secured Obligations on the due date for payment thereof; or
- (ii) the occurrence of an event of default pursuant to the terms of the Facility Agreement.

**"Existing Loan Notes"** means £147,657,800 loan notes issued by the Company to NHP.

**"Facility Agreement"** means the facility agreement dated 16 August 1999 between, *inter alia*, the Company as borrower and The Governor and Company of the Bank of Scotland as agent.

**"Facility Documents"** means the Facility Agreement, the Security Documents, the Subordination Deed, any transfer certificates and all other agreements, deeds, notices, letters, statements or certificates entered into, made or given by any member of the Group pursuant to the terms thereof or otherwise in connection therewith in existence at the relevant time.

**"Guarantee"** means a guarantee dated 16 August 1999 in respect of obligations of the Company under the Facility Agreement from time to time, in form and substance satisfactory to the Agent and issued by NHP in favour of the Security Trustee.

**"Health Authority"** means a Health Authority in England and Wales or a Health Board in Scotland.

**"Hedging Agreements"** means any agreement entered into by the Company pursuant to the terms of the Facility Agreement.

**"Initial Beneficiaries"** means the financial institutions named in Schedule 4 attached hereto.

**"Insurance Policies"** means the policies of insurance details of which are set out in Schedule 5 attached hereto and any other policies of insurance in which the Company may at the time the Debenture was entered into or thereafter have an interest.

**"Investments"** means stocks, shares, debentures and other securities together with all rights to and relating to stocks, shares, debentures or other securities and any other assets, rights or interests falling within any paragraph in Part I of Schedule 1 to the Financial Services Act 1986 as in force at the date the Debenture was entered into but so that the exceptions in the notes to paragraphs 2 and 5 and note (1) to paragraph 8 of that Part shall not apply.

**"Lease"** means each lease of a Nursing Home entered into or to be entered into by the Company as landlord and the relevant operator of that Nursing Home as lessee in relation to the Real Property.

**"Loan Notes"** means the Existing Loan Notes and any loan note issued by the Company to NHP from time to time pursuant to the terms of the Facility Agreement, each such loan note being in form and substance satisfactory to the Agent;

**"NHP"** means NHP Plc (Company number 2798607) having its registered office at 6 Broad Street Place, Blomfield Street, London EC2M 7JH.

**"Nursing Home"** means a nursing home or a residential home which is required to be the subject of registration by a Health Authority under the Relevant Act and which forms part of the Real Property subject to the security constituted by the Security Documents.

**"Real Property"** means all estates and other interests in freehold, feuhold, heritable, leasehold and other immovable property wheresoever situate, specified or referred to in Schedule 6 attached hereto and in all buildings, trade and other fixtures, fixed plant and machinery from time to time on any such freehold, feuhold, heritable, leasehold and other immovable property.

**"Relevant Act"** means:-

- (a) in the case of a Nursing Home located in England or Wales, the Registered Homes Act 1984; and
- (b) in the case of a Nursing Home located in Scotland, the Nursing Homes Registration (Scotland) Act 1938.

**"Scottish Charged Property"** means all of the undertaking, property and assets of the Company, present and future, which is from time to time situated in Scotland and all contractual and other rights and other incorporeal moveable property of the Company present and future which is governed by Scots law or the creation of security over which is governed by Scots law.

**"Scottish Real Property"** means all Real Property situated in Scotland or governed by Scots law now or hereafter vested in or belonging to the Company.

**"Secured Obligations"** means all sums and liabilities covenanted to be paid and discharged by the Company in as set out in Schedule 2 attached hereto.

**"Security Documents"** means the Debenture, each Standard Security, each Supplemental English Charge, the Security Trust Agreement, the Deed of Priority, the Guarantee and any other guarantee, security or other documentation entered into or to be entered into in connection therewith by the Company.

**"Security Trust Agreement"** means the agreement dated 16 August 1999 between the Security Trustee and the Beneficiaries whereby, *inter alia*, the trust of the Security Trustee's interest in the Charged Property is constituted and pursuant to which, *inter alia*, the rights of the Beneficiaries in such trust are regulated.

**"Share"** means share in the share capital of the Company and includes stock (except where a distinction between shares and stock is express or implied), pursuant to Section 744 of the Companies Act 1985.

**"Special Accounts"** means such separate and denominated account or accounts with the Security Trustee or such other bank or banks as may from time to time be specified in writing by the Security Trustee as the account or accounts into which the proceeds of the getting in or the realisation of the Claims are to be paid.

**"Standard Security"** means in respect of any Real Property situated in Scotland, the standard security (in the form of the pro-forma standard security with such amendments as the Agent may approve or require) granted in relation to such Real Property as security for the obligations of the Company under the Facility Agreement.

**"Subordination Deed"** means the subordination deed dated 16 August 1999 between NHP and the Security Trustee in respect of the Loan Notes;

**"Successor"** in relation to any person means an assignee or successor in title of such person or any person who, under the laws of its jurisdiction of incorporation or domicile, has assumed the rights and obligations of such first-mentioned person or to whom under such laws the same have been transferred.

**"Supplemental English Charge"** means in respect of any Real Property situated in England and Wales, the supplemental charge (in the form of the pro-forma supplemental English charge with such amendments as the Agent may approve or require) granted in relation to such Real Property as security for the obligations of the Company under the Facility Agreement.

The **"Security Trustee"**, the **"Company"**, the **"Agent"** or the **"Beneficiaries"** shall be construed so as to include its or their respective Successors, and any Successor of such a Successor in accordance with their respective interests.

## SCHEDULE 2

### Amount Secured by the Mortgage or Charge

1. In the Debenture the Company has covenanted with the Security Trustee as trustee for the Beneficiaries that:
  - (a) it shall discharge each and every liability which the Company may at the time the Debenture was entered into or thereafter, have to the Security Trustee (whether for its own account or as trustee for the Beneficiaries) or any of the other Beneficiaries (and whether solely or jointly with one or more persons and whether as principal or as surety) under or pursuant to the Facility Documents (including the Debenture) including any liability in respect of any further advances made thereunder and pay to the Security Trustee when due and payable every sum (of principal, interest or otherwise) at the time the Debenture was entered into or thereafter owing, due or incurred by the Company to the Security Trustee (whether for its own account or as trustee for the Beneficiaries) or any of the other Beneficiaries in respect of any such liabilities, provided that:
    - (i) there shall be excluded from the foregoing covenant any liability or sum which would, but for this proviso, cause such covenant or the security which would otherwise be constituted by the Debenture for such liability or sum to constitute unlawful financial assistance prohibited by Section 151 of the Companies Act 1985; and
    - (ii) every payment by the Company of any sum in respect of the liabilities therein covenanted to be discharged by the Company to or for the account of the Beneficiary to whom the same is due and payable which is made in accordance with the terms of the Facility Document under which such sum is payable to such Beneficiary shall operate in satisfaction *pro tanto* of such covenant;
  - (b) if the Company fails to pay any of such sums on the due date for payment thereof the Company shall pay interest on such sums (after as well as before any judgment) from the due date until the date of payment calculated on a daily basis at the rate and in the manner agreed in the Facility Document under which such sums are payable in respect thereof.

**SCHEDULE 3**

**Short Particulars of the Property Charged**

**1. FIXED AND FLOATING CHARGES**

**1.1 In the Debenture the Company:**

**1.1.1 FIXED CHARGES**

has charged with full title guarantee in favour of the Security Trustee as trustee for the Beneficiaries with the payment and discharge of the Secured Obligations by way of first fixed charge (which so far as it relates to land in England and Wales vested in the Company at the date the Debenture was entered into shall be a charge by way of legal mortgage) each of the following, namely:

**(a) Land**

the Real Property other than Scottish Real Property;

**(b) Accounts with the Security Trustee**

all rights and claims to which the Company is at the time the Debenture was entered into or may thereafter become entitled in relation to all monies at the date the Debenture was entered into or at any time thereafter standing to the credit of any bank accounts (including the Cash Collection Account and any Special Accounts) opened or maintained with the Security Trustee together with all rights relating or attaching thereto (including the right to interest); and

**(c) Goodwill**

all goodwill at the date the Debenture was entered into or at any time thereafter belonging to the Company; and

**1.1.2** has further charged with full title guarantee to the Security Trustee as trustee for the Beneficiaries (unless such shall not be capable of assignment and subject to any necessary consents to any such charge being forthcoming) all the Company's right, title and interest (if any) in and to each of the following:

**(a) Property Rights**

all rights and claims to which the Company was at the date the Debenture was entered into or may thereafter become entitled in relation to the Real Property including those against any manufacturer, supplier or installer of such property, any builder, contractor or professional



adviser engaged in relation to any such property and any lessee, sub-lessee or licensee of any of the Real Property and any guarantor or surety for the obligations of such person but excluding those in relation to the Documents;

(b) **Insurance**

all rights and claims to which the Company was at the date the Debenture was entered into or may thereafter become entitled in relation to the proceeds of any of the Insurance Policies so far as they relate to the Real Property (and for the avoidance of doubt excluding such proceeds as may be payable to third parties under the Company's public liability insurance);

(c) **Debts**

all present and future book and other debts and monetary claims at the date the Debenture was entered into or at any time thereafter due or owing to the Company which are not otherwise subject to a fixed charge or assigned (whether at law or in equity) to the Security Trustee by or pursuant to the Debenture and all rights relating thereto including any security or remedies therefor;

(d) **Accounts with another bank**

all rights and claims to which the Company was at the date the Debenture was entered into or may thereafter become entitled in relation to all monies at the date the Debenture was entered into or at any time thereafter standing to the credit of any bank accounts (including any Special Accounts) opened or maintained with a bank other than the Security Trustee and all rights relating or attaching thereto (including the right to interest);

(e) **Investments**

all Investments to which the Company was at the date the Debenture was entered into or may thereafter become entitled;

(f) **Uncalled Capital**

all rights and claims to which the Company was at the date the Debenture was entered into or may thereafter become entitled in relation to its uncalled capital;

(g) **The Documents**

rights and claims to which the Company was at the date the Debenture was entered into or may thereafter become entitled under or in respect of

the Documents (other than documents relating to Scottish Real Property) to the extent that such Documents relate specifically to the Real Property;

(h) **Section 238, 239 and 244 orders**

all rights to which the Company was at the date the Debenture was entered into or may thereafter become entitled in respect of the proceeds of any order of the court made pursuant to sections 238(3), 239(3) or 244 of the Insolvency Act 1986; and

(i) **Hedging Agreements**

all rights and claims to which the Company was at the date the Debenture was entered into or may thereafter become entitled under or in respect of any Hedging Agreement.

1.1.3 **FLOATING CHARGE**

has charged with full title guarantee in favour of the Security Trustee as trustee for the Beneficiaries with the payment and discharge of the Secured Obligations by way of first floating charge:

- (a) the whole of the Company's undertaking, property and assets, present and future, other than the Scottish Charged Property and any assets for the time being effectively charged to the Security Trustee by way of fixed charge or effectively assigned (whether at law or in equity) to the Security Trustee or otherwise subject to an effective fixed security in favour of the Security Trustee; and
- (b) the Scottish Charged Property.

2. **THE DEPOSITS**

All monies at the date the Debenture was entered into or at any time thereafter standing to the credit of any bank accounts (whether deposit or current accounts or otherwise howsoever designated) opened or maintained by the Company with the Security Trustee (including the Cash Collection Account and any Special Accounts) and all or any rights and benefits relating thereto shall be incapable of assignment (and each deposit of any such monies shall be made on such terms accordingly) and the Company shall not purport to assign or (save with the consent of the Security Trustee) otherwise dispose of any interest in any such monies or any such rights and benefits.

3. **RIGHTS ATTACHING TO THE CHARGED INVESTMENTS**

- 3.1 Subject to Clause 3.2, all rights and powers conferred by statute or otherwise upon an absolute owner thereof shall:

- 3.1.1 with respect to any Shares charged by or pursuant to the Debenture and registered in the name of the Security Trustee or its nominee(s), be exercised as the Company may direct; and
  - 3.1.2 with respect to any Shares agreed to be charged by or pursuant to the Debenture and registered in the name of the Company or its nominee(s), be exercised by the Company.
- 3.2 With respect to the Company's rights and powers relating to any of the Charged Investments:
  - 3.2.1 such rights shall not be exercised in any manner which in the opinion of the Security Trustee is inconsistent with the security intended to be conferred on the Security Trustee by or pursuant to the Debenture or the Security Trust Agreement;
  - 3.2.2 the Company shall not, without the prior written consent of the Security Trustee, by the exercise of any of such rights or otherwise, permit or agree to any variation of the rights attaching to or conferred by any of the Charged Investments, participate in any rights issue, elect to receive or vote in favour of receiving any dividends other than in the form of cash or participate in any vote concerning a members voluntary winding-up or a compromise or arrangement pursuant to Section 425 of the Companies Act 1985; and
  - 3.2.3 after the occurrence of an Enforcement Event (and without any consent or authority on the part of the Company) the Security Trustee and its nominee(s) may at the Security Trustee's discretion (in the name of the Company or otherwise) exercise or cause to be exercised in respect of any of the Charged Investments any voting rights or rights to receive dividends, interest, principal or other payments of money, as the case may be, forming part of the Charged Investments and all other powers and rights conferred on or exercisable by the bearer or holder thereof.

**4. FURTHER ASSURANCE**

The Debenture contains covenants for further assurance.

**5. NEGATIVE PLEDGE**

The Debenture contains a negative pledge clause.

**SCHEDULE 4**

**Initial Beneficiaries**

Morgan Guaranty Trust Company of New York

Dresdner Bank AG London Branch

The Governor and Company of the Bank of Scotland

**SCHEDULE 5**

**Insurance Policies**

<b>Insurer</b>	<b>Policy No.</b>	<b>Insured Risks</b>	<b>Date of Policy and Duration of Cover</b>
Norwich Union	9602 NHP05662	Damage to property, loss of rent, engineering cover on lifts/hoists, property owners liability	6 <sup>th</sup> February 1999 for 12 months

**SCHEDULE 6****Real Property**

<b>Description</b>	<b>Title Number</b>
1. White House Rest Home, Newcastle	TY123368 & TY329372
2. Coniscliffe Rest Home, Newcastle	TY58231 TY99539 TY92323 TY34193 & TY771
3. Stockton Lodge Care Home, Stockton	CE88151
4. Knavesmire Nursing Home, York	NYK13771
5. Leeming Garth Care Home, Leeming	WYK141980
6. Tenlands Nursing Home, Ferryhill	DU127335
7. Jack Dormand Care Home, Horden	DU131444
8. Lothian House Care Home, Spennymoor	DU145459
9. Beaconsfield Care Home, Barnard Castle	DU214633
10. Highfield Care Home, Yarm	CE101718
11. Brooklands Nursing Home, Grimsby	HS265060
12. Chaseview Care Home, Burntwood	SF254167
13. Pelham Grove Nursing Home, Liverpool	LA30802
14. Worsley Lodge Nursing Home, Manchester	GM170378
15. Knowsley Manor Nursing Home, Liverpool	MS386831
16. Roxburgh Rest Home, Liverpool	MS256603
17. Holmwood Nursing Home, Sheffield	SYK347111

FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 03287957

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 16th AUGUST 1999 AND CREATED BY NHP SECURITIES NO. 3 LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND UNDER OR PURSUANT TO THE FACILITY DOCUMENTS INCLUDING THE DEBENTURE WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 19th AUGUST 1999.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 24th AUGUST 1999.

VC  
P



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



C O M P A N I E S H O U S E