

Declaration by the directors of a holding company in relation to assistance for the acquisition of shares

155(6)b

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* Westminster Health Care (UK) Limited

Jon Hather of 79 Doods Road, Reigate, Surrey, RH2 0NT

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



481
16/11/2006

The assistance is for the purpose of ~~XXXXXX~~ [reducing or discharging a liability incurred for the purpose of that acquisition]. † (note 1)

Please do not write in this margin

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

The number and class of the shares acquired or to be acquired is: 1,740,000 'A' Ordinary
of 10p each, 180,000 Ordinary of £1 each and 78,500 'B' Ordinary of £1 each

The assistance is to be given to: (note 2) Barchester Healthcare Limited (Company
number 2792285) whose registered office is Suite 201, The Chambers, Chelsea
Harbour, London, SW10 0XF

The assistance will take the form of:

Please see the Schedule attached

The person who [has acquired] ~~XXXXXX~~ † the shares is:
Barchester Healthcare Limited

† delete as appropriate

The principal terms on which the assistance will be given are:

Please see the attached Schedule

The amount (if any) by which the net assets of the company which is giving the assistance will be reduced by giving it is Nil

The amount of cash to be transferred to the person assisted is £ Nil

The value of any asset to be transferred to the person assisted is £ Within 8 weeks

The date on which the assistance is to be given is Within 8 weeks

~~X~~We have formed the opinion, as regards this company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts. (note 3)

(a) ~~X~~We have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date]* (note 3)

(b) ~~XXXXXX We have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date]* (note 3) XXXXXX~~

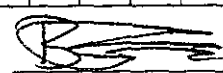
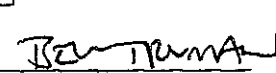
And ~~X~~we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at BERWIN LEIGHTON PAISNER
ADELAIDE HOUSE
LONDON BRIDGE
LONDON EC4R 9HA

Declarants to sign below



Day Month Year
on 05 07 2006

before me  

A Commissioner for Oaths or Notary Public or Justice of the Peace or a Solicitor having the powers conferred on a Commissioner for Oaths.

NOTES

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should be shown.
- 3 Contingent and prospective liabilities of the company are to be taken into account - see section 156(3) of the Companies Act 1985.
- 4 The auditors report required by section 156(4) of the Companies Act 1985 must be annexed to this form.
- 5 The address for companies registered in England and Wales or Wales is:-

The Registrar of Companies
Companies House
Crown Way
Cardiff
CF14 3UZ

or, for companies registered in Scotland:-

The Registrar of Companies
Companies House
37 Castle Terrace
Edinburgh
EH1 2EB

SCHEDULE TO FORM 155(6)(b)

Westminster Health Care (UK) Limited (the Company)

Company Number 03738097

Words and expressions used in this schedule shall have the meaning given to them in the document to which they relate to (each as defined herein). References to clauses and defined terms are to be construed as references to clauses and definitions in the relevant document.

1 The form of financial assistance

The assistance will take the form of:

- 1.1 the execution, delivery and performance of a guarantee as the same may be amended, varied, supplemented or substituted from time to time (the **Bridge Guarantee**) by the Company in favour of each Beneficiary under the bridge facility agreement to be made between, amongst others, Barchester Healthcare Limited as Borrower and certain subsidiaries of Grove Limited as original guarantors, The Royal Bank of Scotland plc in its capacity as Arranger, Agent, Security Trustee and the Original Lenders (as those terms are defined therein) (the **Bridge Facility Agreement**) pursuant to which the Company guarantees that it shall on demand pay all moneys at any time due or owing by each Obligor to each Beneficiary pursuant to the terms of any of the Guarantee Documents (as each term is defined in the Bridge Facility Agreement);
- 1.2 the execution, delivery and performance of a guarantee as the same may be amended, varied, supplemented or substituted from time to time (the **Opco Guarantee**) by the Company in favour of each Finance Party under a facility agreement between, amongst others, Barchester Healthcare Homes Limited as Borrower, those companies listed therein as original guarantors, The Royal Bank of Scotland plc in its various capacities (the **Opco Facility Agreement**) pursuant to which the Company guarantees that it shall on demand pay all moneys at any time due or owing by the Obligors to each Finance Party pursuant to the terms of any of the Finance Documents (as each term is defined in the Opco Facility Agreement). The Opco Facility Agreement provides for facilities of £87,000,000. It is anticipated that the amount of the Opco facilities may, in the future, be increased including by the provision of a facility in an amount to be determined, which may be used to fund the

development of real estate and/or capital expenditure of any kind (the "**Additional Borrowing**");

- 1.3 the execution, delivery and performance of a guarantee as the same may be amended, varied, supplemented or substituted from time to time (the **Tax and Costs Facility Guarantee**) by the Company in favour of Bluehood Limited under a loan agreement between, amongst others, Barchester Holdco (Jersey) Limited as funder and Bluehood Limited as borrower pursuant to which the Company undertakes that it will guarantee the loan facility to Bluehood Limited in order that Bluehood Limited can meet any tax or costs liability (as each term is defined therein);
- 1.4 the execution and delivery of a debenture by the Company in favour of The Royal Bank of Scotland plc as Security Trustee on behalf of the Beneficiaries (the **PropCo Debenture**) to which the Company grants fixed and floating charges over all of its properties, assets and undertakings in favour of the Security Trustee as continuing security for the Secured Obligations which shall include the obligations and liabilities of the Company to the Beneficiaries under or pursuant to any of the Guarantee Documents (as defined in the Bridge Facility Agreement) and also to secure the obligations under the Tax Deed and Covenant (as defined in the Propco Debenture);
- 1.5 the execution and delivery of a debenture by the Company in favour of The Royal Bank of Scotland plc as Security Trustee on behalf of the Beneficiaries (the **Opco Debenture**) to which the Company grants fixed and floating charges over all of its properties, assets and undertakings in favour of the Security Trustee as continuing security for the Secured Obligations which shall include the obligations and liabilities of the Company to the Beneficiaries under or pursuant to any of the Guarantee Documents, including the Opco Debenture (as each term is defined in the Opco Debenture);
- 1.6 the execution and delivery of a subordination agreement by the Company in favour of The Royal Bank of Scotland plc as Security Trustee on behalf of the Finance Parties (the **Propco Subordination Agreement**) under which the Company subordinates its rights (the **Junior Liabilities**) to the Senior Liabilities and any payments and receipt of any amount of the Junior Liabilities until the Security Trustee is satisfied that the Senior Liabilities have been irrevocably paid or discharged in full (as each term is defined in the Subordination Agreement);
- 1.7 the execution and delivery of an intercreditor and subordination agreement relating to the Bridge Facility Agreement and the Opco Facility Agreement by the Company in favour of, amongst others, The Royal Bank of Scotland plc in its various capacities (the **Intercreditor and subordination agreement**) under which the Company agrees that the Intra-Group

Liabilities and the Investor Liabilities are postponed and subordinated to the Liabilities owed by the Obligors to the Senior Creditors;

- 1.8 the execution and delivery of an upstream intra-group loan facility agreement granted by the Company and other members of the group of companies of which it is a member in favour of certain companies representing its holding companies (the **Intra-Group Loan Agreement**);
- 1.9 the execution and delivery of a substitution agreement between Barchester Healthcare Limited as tenant, Bluehood Limited as owner, the Company and others as guarantors and The Royal Bank of Scotland plc as Security Trustee under which, subject to the terms contained therein, a property can be transferred to a member of the Barchester Group in consideration of the transfer by a member of the Barchester Group of a replacement property on the terms set out therein (the "**Substitution Agreement**");
- 1.10 the execution and delivery of a trust agreement between The Royal Bank of Scotland of Scotland plc as Security Trustee, The Royal Bank of Scotland in its various capacities as agent, the Company, the Bridge Obligors and the Propco Obligors under which the terms upon which the Security Trustee will hold the Transaction Security on trust for the Secured Parties (as each term is defined therein) (the "**Propco Trust Agreement**");
- 1.11 the execution and delivery of a trust agreement between The Royal Bank of Scotland of Scotland plc as Security Trustee, The Royal Bank of Scotland in its various capacities as agent, the Company and the Opco Obligors under which the terms upon which the Security Trustee will hold the Transaction Security on trust for the Secured Parties (as each term is defined therein) (the "**Opco Trust Agreement**");

- 1.12 indemnity provisions under the Finance Documents (as that term is defined in each of the Bridge Facility Agreement and the Opco Facility Agreement); and
- 1.13 various representations, warranties and undertakings under the Finance Documents (as that term is defined in each of the Bridge Facility Agreement and the Opco Facility Agreement),
- and by the performance of any other acts or the execution of any other documents ancillary or otherwise relating to the documents set out in paragraphs 1.1 to 1.12 above.

2 The principal terms of the financial assistance

The principal terms on which the assistance will be given are:

- 2.1 under the terms of the Bridge Guarantee (terms in this paragraph shall have the same meaning given to them in the Bridge Facility Agreement (unless otherwise defined)):
- 2.1.1 the Company, jointly and severally, irrevocably and unconditionally:
- 2.1.1.1 guarantees to each Beneficiary punctual performance by each other Obligor of all that Obligor's obligations under the Guarantee Documents;
- 2.1.1.2 undertakes with each Beneficiary that whenever another Obligor does not pay any amount when due under or in connection with any Guarantee Document, that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- 2.1.1.3 indemnifies each Beneficiary immediately on demand against any cost, loss or liability suffered by that Beneficiary if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which that Beneficiary would otherwise have been entitled to recover.
- 2.1.2 The Bridge Guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Obligor under the Guarantee Documents, regardless of any intermediate payment or discharge in whole or in part.
- 2.1.3 If any payment by an Obligor or any discharge given by a Beneficiary (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:

- 2.1.3.1 the liability of each Obligor shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- 2.1.3.2 each Beneficiary shall be entitled to recover the value or amount of that security or payment from each Obligor, as if the payment, discharge, avoidance or reduction had not occurred.
- 2.1.4 The obligations of each Guarantor under the Guarantee will not be affected by an act, omission, matter or thing which would reduce, release or prejudice any of its obligations under the Bridge Guarantee (without limitation and whether or not known to it or any Beneficiary) including:
 - 2.1.4.1 any time, waiver or consent granted to, or composition with, any Obligor or other person;
 - 2.1.4.2 the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
 - 2.1.4.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
 - 2.1.4.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
 - 2.1.4.5 any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature) or replacement of a Guarantee Document or any other document or security;
 - 2.1.4.6 any unenforceability, illegality or invalidity of any obligation of any person under any Guarantee Document or any other document or security; or
 - 2.1.4.7 any insolvency or similar proceedings.
- 2.1.5 Each Guarantor waives any right it may have of first requiring any Beneficiary (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under the Guarantee. This waiver applies irrespective of any law or any provision of a Guarantee Document to the contrary.

- 2.1.6 Until all amounts which may be or become payable by the Obligor under or in connection with the Guarantee Documents have been irrevocably paid in full, each Beneficiary (or any trustee or agent on its behalf) may:
- 2.1.6.1 refrain from applying or enforcing any other moneys, security or rights held or received by that Beneficiary (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and
 - 2.1.6.2 hold in an interest-bearing suspense account any money received from any Guarantor or on account of any Guarantor's liability under the Guarantee.
- 2.2 Under the Opco Guarantee (terms defined in this paragraph shall have the same meaning given to them in the Opco Facility Agreement (unless otherwise defined)):
- 2.2.1 Each Guarantor, jointly and severally, irrevocably and unconditionally:
 - 2.2.1.1 guarantees to each Finance Party punctual performance by each other Obligor of all of that Obligor's obligations under the Finance Documents including in respect of the Additional Borrowing;
 - 2.2.1.2 undertakes with each Finance Party that whenever another Obligor does not pay any amount when due under or in connection with any Finance Document, that Guarantor shall immediately on demand by the Security Trustee pay that amount as if it was the principal Obligor; and
 - 2.2.1.3 indemnifies each Finance Party immediately on demand by the Security Trustee against any cost, loss or liability suffered by that Finance Party if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which that Finance Party would otherwise have been entitled to recover.
 - 2.2.2 The guarantee is a continuing guarantee and shall extend to the ultimate balance of sums payable by any Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.
 - 2.2.3 If any payment by an Obligor or any discharge given by a Finance Party (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:

- 2.2.3.1 the liability of each Obligor shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- 2.2.3.2 each Finance Party shall be entitled to recover the value or amount of that security or payment from each Obligor, as if the payment, discharge, avoidance or reduction had not occurred.
- 2.2.4 The obligations of each Guarantor will not be affected by an act, omission, matter or thing which would reduce, release or prejudice any of its obligations (without limitation and whether or not known to it or any Finance Party) including:
 - 2.2.4.1 any time, waiver or consent granted to, or composition with, any Obligor or other person;
 - 2.2.4.2 the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any Obligor;
 - 2.2.4.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
 - 2.2.4.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
 - 2.2.4.5 any amendment (however fundamental) or replacement of a Finance Document or any other document or security;
 - 2.2.4.6 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
 - 2.2.4.7 any insolvency or similar proceedings.
- 2.2.5 Each Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under the Guarantee. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

- 2.2.6 Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:
- 2.2.6.1 refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and
- 2.2.6.2 hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of any Guarantor's liability under the Guarantee.
- 2.3 Under the Tax and Costs Facility (terms in this paragraph shall have the same meaning given to them in the Tax and Costs Facility (unless otherwise defined)):
- 2.3.1 The Company shall provide a guarantee to Bluehood Limited and will undertake to provide funding by way of loan or otherwise to Bluehood Limited on the due date for payment an amount equal to any Tax Liability and/or; on behalf of and at the direction of Bluehood Limited apply an amount otherwise to be made available by loan in making a payment direct to the relevant tax authority; and or surrender to Bluehood Limited (to the extent permitted by law) an amount equal to all or part of the income, profit or gain to which the tax liability relates.
- 2.4 Under the Propco Debenture (terms in this paragraph shall have the same meaning given to them in the Propco Debenture (unless otherwise defined)):
- 2.4.1 the Company charges with full title guarantee, in favour of the Trustee as trustee for the Secured Parties with the payment and discharge of the Secured Obligations (as defined in the Bridge Facility Agreement), by way of first fixed charge (which so far as it relates to land in England and Wales vested in each Chargor at the date of the PropCo Debenture (or, if later, the date on which such Chargor accedes as party to the PropCo Debenture) shall be a charge by way of legal mortgage) all the Chargor's right, title and interest from time to time in and to each of the following assets (subject to obtaining any necessary consent to such mortgage or fixed charge from any third party):
- (a) the Real Property;

- (b) the Tangible Moveable Property;
- (c) the Accounts;
- (d) the Intellectual Property;
- (e) any goodwill and rights in relation to the uncalled capital of each Chargor;
- (f) any rent deposits and all Related Rights;
- (g) the Investments;
- (h) the Shares, all dividends, interest and other monies payable in respect of the Shares and all other Related Rights (whether derived by way of redemption, bonus, preference, option, substitution, conversion or otherwise); and
- (i) all Monetary Claims and all Related Rights other than any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) pursuant to the PropCo Debenture.

2.4.2 The Company assigns and agrees to assign absolutely with full title guarantee to the Trustee as trustee for the Secured Parties as security for the payment and discharge of the Secured Obligations all the Chargor's right, title and interest from time to time in and to each of the following assets (subject to obtaining any necessary consent to that assignment from any third party):

- (a) the proceeds of any Insurance Policy and all Related Rights
- (b) all rights and claims in relation to any Assigned Account;
- (c) the Specific Contracts;
- (d) rents payable under the Opco Leases and all Related Rights; and
- (e) any Rental Income and all Related Rights.

2.4.3 Each Chargor with full title guarantee charges in favour of the Trustee as trustee for the Secured Parties with the payment and discharge of the Secured Obligations by way of first floating charge all present and future assets and undertaking of that Chargor (collectively referred to as the **Floating Charge Property**).

2.5 Under the Opco Debenture (terms in this paragraph shall have the same meaning given to them in the Opco Debenture (unless otherwise defined)):

2.5.1 The Company charges with full title guarantee, in favour of the Trustee as trustee for the Secured Parties 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 each Chargor at the date of the PropCo Debenture (or, if later, the date on which such Chargor accedes as party to the PropCo Debenture) shall be a charge by way of legal mortgage) all the Chargor's right, title and interest from time to time in and to each of the following assets (subject to obtaining any necessary consent to such mortgage or fixed charge from any third party):

- (a) the Real Property;
- (b) the Tangible Moveable Property;
- (c) the Accounts;
- (d) the Intellectual Property;
- (e) any goodwill and rights in relation to the uncalled capital of each Chargor;
- (f) any rent deposits and all Related Rights;
- (g) the Investments;
- (h) the Shares, all dividends, interest and other monies payable in respect of the Shares and all other Related Rights (whether derived by way of redemption, bonus, preference, option, substitution, conversion or otherwise); and
- (i) all Monetary Claims and all Related Rights other than any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) pursuant to the PropCo Debenture.

2.5.2 The Company assigns and agrees to assign absolutely with full title guarantee to the Trustee as trustee for the Secured Parties as security for the payment and discharge of the Secured Obligations all the Chargor's right, title and interest from time to time

in and to each of the following assets (subject to obtaining any necessary consent to that assignment from any third party):

- (a) the proceeds of any Insurance Policy and all Related Rights
- (b) all rights and claims in relation to any Assigned Account;
- (c) the Specific Contracts;
- (d) rents payable under the Opco Leases and all Related Rights; and
- (e) any Rental Income and all Related Rights.

2.5.3 Each Chargor with full title guarantee charges in favour of the Trustee as trustee for the Secured Parties with the payment and discharge of the Secured Obligations by way of first floating charge all present and future assets and undertaking of that Chargor (collectively referred to as the Floating Charge Property).

2.6 Under the Subordination Agreement (terms in this paragraph shall have the same meaning given to them in the Subordination Agreement):

2.6.1 Except as provided in the Subordination Agreement, the rights of the Junior Creditors in respect of the Junior Liabilities are subordinated to the Senior Liabilities and accordingly payment and receipt of any amount of the Junior Liabilities is not permitted until the end of the Subordination Period.

2.6.2 The Company jointly and severally gives the undertakings set out in the Subordination Agreement to the Security Trustee and acknowledges that the Finance Parties have entered into the Finance Documents in full reliance upon those undertakings. The undertakings given by the Company will remain in force until the end of the Subordination Period and include:

2.6.2.1 The Company, shall not, without the prior written consent of the Security Trustee:

- (a) except for any Permitted Payments, make any payment (whether in respect of principal interest or otherwise) on account of all or any of the Junior Liabilities (whether by way of cash, loan or otherwise);

- (b) redeem, purchase or otherwise acquire, or grant Security in respect of, all or any of the Junior Liabilities;
- (c) take, or permit to be taken, any action or step with a view to the winding-up, receivership or administration of an Obligor;
- (d) except for any Permitted Payments, repay or prepay any, or pay any interest, fees or commissions (but without prejudice to the accrual thereof) on, or by reference to, all or any of the Junior Liabilities; or
- (e) take or omit to take any action or step whereby the subordination of all or any of the Junior Liabilities might be terminated, impaired or adversely affected.

2.6.2.2 The Company shall not, without the prior written consent of the Security Trustee:

- (a) except for Permitted Payments, receive any payment (whether in respect of principal, interest or otherwise) made by any Obligor of all or any of the Junior Liabilities (whether by way of cash, loan or otherwise);
- (b) assign, transfer or otherwise dispose of, or make demand for or accept Security in respect of, all or any of the Junior Liabilities or all or any rights which it may have against any Obligor in respect of all or any part of the Junior Liabilities;
- (c) take, or permit to be taken, any action or step to commence or continue any proceedings against any Obligor, or save in respect of requesting and receiving Permitted Payments take any action in respect of, all or any of the Junior Liabilities (including, without limitation, the exercise of any right of set-off, counterclaim or lien);
- (d) take, or permit to be taken, any action or step with a view to the winding-up, receivership or administration of any Obligor; or
- (e) take or omit to take any action or step whereby the subordination of all or any of the Junior Liabilities might be terminated, impaired or adversely affected.

- 2.6.2.3 If an Obligor makes any payment in cash or in kind on account of, or for the purchase or other acquisition of, all or any part of the Junior Liabilities; or the Company receives all or any amount in cash or in kind of the Junior Liabilities by way of payment, repayment, prepayment, set-off or in any other manner; or on account of the enforcement of any Security or payment under any guarantee for any of the Junior Liabilities in contravention of the Subordination Agreement, then in cases where the Company actually receives the amount discharged or purported to be discharged hold the same upon trust for the Security Trustee for application in or towards payment of all the Senior Liabilities and will promptly pay the same to the Security Trustee; and in cases where the Company does not, for any reason, actually receive the amount discharged or purported to be discharged promptly pay an amount equal to that discharged or purported to be discharged to the Security Trustee for application in or towards payment of all the Senior Liabilities.
- 2.6.2.4 The Subordination Agreement will apply in respect of the Senior Liabilities notwithstanding any intermediate payment in whole or in part of the Senior Liabilities.
- 2.6.2.5 The subordination effected by, and the obligations of each Junior Party to the Security Trustee under, the Subordination Agreement will not be affected by any act, omission or circumstances which might operate to release or otherwise exonerate all or any of the Junior Parties from their respective obligations under the Subordination Agreement or affect such obligations including, without limitation, and whether or not known by any Junior Party or any other person:
- (a) any Security or right of any Finance Party in respect of the Senior Liabilities;
 - (b) any time or indulgence granted by the Security Trustee to any Junior Party or to any other person or any variation, amendment, novation, supplement or extension of the terms of any Finance Document or any Security in respect of the Senior Liabilities;
 - (c) any arrangement or compromise between the Security Trustee and any Junior Party or any other person;
 - (d) any dealing with, exchange, release or invalidity of any Finance Document or any Security in respect of the Senior Liabilities;

- (e) any omission on the part of the Security Trustee to enforce any of its rights against any Obligor or any other person or any Security in respect of the Senior Liabilities;
- (f) the winding-up, dissolution or administration of any Junior Party or any other person or any change in its status, function or control;
- (g) any of the obligations of any Junior Party or any other person under any Finance Document to which it is a party being or becoming illegal, invalid or unenforceable;
- (h) any action taken or purported to be taken under Clause 12 (*Further assurance*) of the Subordination Agreement (whether or not any such action is authorised by such Clause); or
- (i) any other fact or circumstances whatsoever and whether or not similar to any of the foregoing which could or might in any way diminish any Junior Party's or any other person's obligations or the rights of the Security Trustee under the Subordination Agreement.

2.7 Under the Intra-Group Loan Agreement (terms in this paragraph shall have the same meaning given to them in the Intra-Group Loan Agreement):

- 2.7.1 The Company will provide a term loan to Barchester Healthcare Limited in order that Barchester Healthcare Limited repay an existing inter-company loan to Grove Limited;
- 2.7.2 The loan shall be made in one amount in an amount as set out in the Inter-Company Loan Agreement;
- 2.7.3 The Company shall receive Interest on the loan at a rate of 7% per annum on terms as set out in the Inter Company Loan Agreement;
- 2.7.4 The rights of the Company under the Inter-company loan agreement shall be subordinated in favour of The Royal Bank of Scotland plc and no repayment of the loan shall be made unless as expressly provided in the Finance Documents (as defined in the Bridge Facility Agreement and Opco Facility Agreement).

2.8 Under the Substitution Agreement (terms in this paragraph shall have the same meaning given to them in the Substitution Agreement)

2.8.1 The Owner may at any time Substitute a Property subject to, and in accordance with the other provisions of the Substitution Agreement and the Tax Deed and Costs Indemnity.

2.8.2 No Substitution shall be permitted pursuant to the above paragraph if:

2.8.2.1 there is a subsisting Forfeiture Event; or

2.8.2.2 there is a subsisting Event of Default; or

2.8.2.3 the Substitution would cause the Substitution Threshold to be exceeded; or

2.8.2.4 the Security is not satisfied in the case of a Substitution involving a Property located in Scotland or Jersey, as to the adequacy or effectiveness of its Security after the Substitution.

2.8.3 If a Substitution Event occurs in respect of a Property, the Owner must substitute it in accordance with the terms of the Substitution Agreement.

2.8.4 If the Owner requires a Substitution or within 3 months of a Substitution Event occurring, the Owner shall identify the Outgoing Property and an Incoming Property which the Owner reasonably considers will satisfy the Substitution Criteria, and shall give written notice of them to the Security Trustee (a "**Substitution Notice**").

2.8.5 Each Substitution Notice shall be accompanied by those items as set out in the Substation Agreement.

2.8.6 Within 10 Business Days of receiving a Substitution Notice and the accompanying items set out in the agreement, the Security Trustee shall provide the Owner with confirmation that the Security Trustee is satisfied that each of the Legal Conditions Precedent have been satisfied or, if they have not been so satisfied, details of such lack of satisfaction.

2.8.7 On such date (being a Business Day) (the "**Completion Date**") as the Owner and the Tenant shall agree and subject to each of the Substitution Criteria having been satisfied in the manner described in the Substitution Agreement:

2.8.7.1 the Tenant, the Owner and the Company and others as guarantors shall enter into a surrender of part of OpCo Lease in relation to the Outgoing Property in

- the same form as the form of Surrender of Part annexed to the Substitution Agreement for a peppercorn;
- 2.8.7.2 the relevant member of the Barchester Group will transfer and the Owner will accept such transfer of the Incoming Property for a peppercorn;
- 2.8.7.3 the Owner will grant to the Tenant and the Tenant will accept, and each Guarantor will enter into (in order to guarantee the observance and performance by the tenant of its covenants in it), a Supplemental Lease of the Incoming Property in the same form as the form of the Supplemental Lease annexed to the Substitution Agreement for a term equal to the then residue of the contractual term of years of the Outgoing Lease; and
- 2.8.7.4 the Security Trustee will release its Security over the Outgoing Property and the Owner shall be free to transfer the Outgoing Property and retain any sum paid by the transferee.
- 2.8.8 The Sale Conditions shall apply to the sale and purchase of any property in England or Wales or the grant of any lease pursuant to the terms of the Substitution Agreement.
- 2.8.9 The Company as a guarantor will covenant with the Security Trustee, as a primary obligation, that the Tenant shall, at all times during the continuance of the Substitution Agreement, duly perform and observe its obligations under the Substitution Agreement.
- 2.8.10 The Company as a guarantor will further covenant with the Security Trustee, as a primary obligation, that it shall be liable (whether before or after any disclaimer by a liquidator or trustee in bankruptcy) for the fulfilment of all the obligations of the Tenant under the Substitution Agreement and agrees that the Security Trustee may proceed against each Guarantor as if each Guarantor was named as the Tenant in the Substitution Agreement.
- 2.8.11 The Company as a guarantor will waive any right to require the Security Trustee to proceed against the Tenant or to pursue any other remedy whatsoever which may be available to the Security Trustee before proceeding against any Guarantor.
- 2.8.12 The Company, as a guarantor, will further covenant with the Security Trustee that it shall:
- 2.8.12.1 not claim in any liquidation, bankruptcy, composition or arrangement of the Tenant in competition with the Security Trustee and shall remit to the Security

- Trustee the proceeds of all judgments and all distributions it may receive from any liquidator, trustee in bankruptcy, nominee or supervisor of the Tenant;
- 2.8.12.2 hold for the benefit of the Security Trustee all security and rights it may have over assets of the Tenant whilst any liabilities of the Tenant or any Guarantor to the Security Trustee remain outstanding; and
- 2.8.12.3 not exercise any right or remedy in respect of any amount paid or any liability incurred by it in performing or discharging its obligations contained in the Substitution Agreement, or claim any contribution from any other guarantor.
- 2.8.12.4 the Company as a guarantor shall not be entitled to participate in any security held by the Security Trustee in respect of the Tenant's obligations to the Security Trustee under the Substitution Agreement or to stand in the place of the Security Trustee in respect of any such security until all the obligations of the Tenant and each Guarantor to the Security Trustee under the Substitution Agreement have been performed or discharged.
- 2.8.13 None of the following, or any combination of them, shall release, determine, discharge or in any way lessen or affect the liability of any Guarantor as principal obligor under the Substitution Agreement or otherwise prejudice or affect the rights of the Security Trustee:
- 2.8.13.1 any neglect, delay or forbearance of the Security Trustee enforcing the performance or observance of any of the obligations of the Tenant under the Substitution Agreement;
- 2.8.13.2 any extension of time given by the Security Trustee to the Tenant;
- 2.8.13.3 any variation of the terms of the Substitution Agreement;
- 2.8.13.4 any change in the constitution, structure or powers of either the Tenant, any Guarantor or the Security Trustee or the liquidation, administration or bankruptcy (as the case may be) of the Tenant or any Guarantor;
- 2.8.13.5 any legal limitation, or any immunity, disability or incapacity of the Tenant (whether or not known to the Security Trustee);
- 2.8.13.6 any other act, omission, matter or thing whatsoever as a result of which, but for this provision, a Guarantor would be exonerated either wholly or partly (other than a release executed and delivered as a deed by the Security Trustee).

- 2.8.14 The guarantee shall enure for the benefit of the successors and assigns of the Security Trustee without the necessity for any assignment.
- 2.8.15 If any term of the guarantee or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable the same shall be severable and the remainder of the guarantee or the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term and provision of the guarantee shall be valid and be enforced to the fullest extent permitted by law.
- 2.9 Under the terms of the Propco Trust Agreement (terms in this paragraph shall have the same meaning given to them in the Propco Trust Agreement):
- 2.9.1 The Trustee declares that it shall hold the Transaction Security on trust for the Secured Parties on the terms contained in the Propco Trust Agreement;
- 2.9.2 The Parties to the Agreement agree that the Trustee shall have only those duties, obligations and responsibilities expressly specified in the Agreement or in the Security Documents;
- 2.9.3 The Secured Parties shall not have any independent power to enforce, or have recourse to, any of the transaction Security or to exercise any rights or powers arising under the Security Documents except through the Trustee;
- 2.9.4 If any Obligor (including the Company) receives a sum which, pursuant to any of the Finance Documents should have been paid to the Trustee, that sum shall promptly be paid by the Obligor to the Trustee for application in accordance with the Propco Trust Agreement;
- 2.9.5 Each Obligor (including the Company) shall jointly and severally indemnify the Trustee and every Receiver against all costs, claims, losses and expenses (including legal fees) and liabilities whether or not reasonably foreseeable.
- 2.10 Under the terms of the Opco Trust Agreement (terms in this paragraph shall have the same meaning given to them in the Opco Trust Agreement):
- 2.10.1 The Trustee declares that it shall hold the Transaction Security on trust for the Secured Parties on the terms contained in the Opco Trust Agreement;

- 2.10.2 The Parties to the Agreement agree that the Trustee shall have only those duties, obligations and responsibilities expressly specified in the Agreement or in the Security Documents;
 - 2.10.3 The Secured Parties shall not have any independent power to enforce, or have recourse to, any of the transaction Security or to exercise any rights or powers arising under the Security Documents except through the Trustee;
 - 2.10.4 If any Obligor (including the Company) receives a sum which, pursuant to any of the Finance Documents should have been paid to the Trustee, that sum shall promptly be paid by the Obligor to the Trustee for application in accordance with the Opco Trust Agreement;
 - 2.10.5 Each Obligor (including the Company) shall jointly and severally indemnify the Trustee and every Receiver against all costs, claims, losses and expenses (including legal fees) and liabilities whether or not reasonably foreseeable.
- 2.11 Under the Intercreditor and Subordination Agreement (terms defined in this paragraph shall have the same meaning as given to them in the Intercreditor and Subordination Agreement):
- 2.11.1 Each of the Parties agree that the Intra-Group Liabilities and the Investor Liabilities are postponed and subordinated to the Liabilities owed by the Obligors to the Senior Creditors;
 - 2.11.2 The Obligors may pay, repay, redeem or acquire the Senior Liabilities at any time in accordance with the terms of the Senior Finance Documents;
 - 2.11.3 The Obligors may not pay, repay, redeem or acquire the Investor Liabilities at any time unless that action is permitted under Clause 7 of the Intercreditor and Subordination Agreement or if the prior consent of the Majority Senior Creditors is obtained;
 - 2.11.4 The Intra-Group Lenders may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of the Intra-Group Liabilities unless the prior consent of the Majority Creditors is obtained;
 - 2.11.5 No Intra-Group Lender shall make any amendment to any document evidencing the terms of any Intra-Group Liabilities unless the prior consent of the Majority Senior Creditors is obtained.



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SW10 0XF

Our ref ag/715

5 July 2006

Dear Sirs

Auditors' report to the directors of Westminster Health Care (UK) Limited (the "Company") pursuant to Section 156(4) of the Companies Act 1985

We have examined the attached statutory declaration of the directors dated 5 July 2006 in connection with the proposal that Westminster Health Care (NH) Limited, the Company's subsidiary, should give financial assistance for the purpose of reducing or discharging a liability incurred in respect of the purchase of Westminster Health Care Holdings Limited.

This report is made solely to the Company's directors as a body in accordance with section 156(4) of the Companies Act 1985. Our work has been undertaken so that we as the Company's auditors might state to the Company's directors those matters we are required to state to them in a report under section 156(4) of that Act and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Company and the company's directors as a body for our work under section 156(4) of that Act or for this report.

We have enquired into the state of the Company's affairs in order to review the bases for the statutory declaration.

We are not aware of anything to indicate that the opinion expressed by the directors in their declaration as to any of the matters mentioned in Section 156(2) of the Companies Act 1985 is unreasonable in all the circumstances.

Yours faithfully

KPMG LLP

KPMG LLP