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COMPANIES FORM No. 395

Particulars of a mortgage or charge

395

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

COMPANIES HOUSE

Pursuant to section 395 of the Companies Act 1985

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

For official use

Company number

016423 / 195

041111

3788573

Name of company

* Mimosa Healthcare Limited (the "Company")

Date of creation of the charge

3 April 2007

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

A debenture (the "Debenture")

Amount secured by the mortgage or charge

All Indebtedness now or in the future due, owing or incurred by the Company to each Secured Finance Party (the "Secured Liabilities")

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

The Governor and Company of the Bank of Scotland
The Mound
Edinburgh

Presentor's name address and reference (if any)

Halliwells LLP
1 Threadneedle Street,
London
EC2R 8AY

For official Use
Mortgage Section

New
print



PMO 13/04/07 1827
COMPANIES HOUSE
PGL8Z00X
LD3 19/04/2007 424
COMPANIES HOUSE
L8Y3X0U9
LD3 13/04/2007 405
COMPANIES HOUSE
L97QY001

Time critical reference

Short particulars of all the property mortgaged or charged

See Schedule one 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)

Signed **HALLIWELLS LLP**

Date **18/04/07**

On behalf of [company] **MIMOSA HEALTHCARE LIMITED**

Mimosa Healthcare Limited

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 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 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 situated 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 CF14 3UZ

SCHEDULE ONE

- 1 1 The Company with full title guarantee charges to the Bank as a continuing security for the payment or discharge of the Secured Liabilities -
- 1 1 1 by way of legal mortgage, all Land in England and Wales now vested in it as described beside the Company in Schedule 2 of the Debenture (Land to be Mortgaged) together with all Land in England and Wales now vested in it and not registered at the Land Registry,
- 1 1 2 by way of fixed charge -
- 1 1 2 1 all other Land which is now, or in the future becomes, its property,
- 1 1 2 2 all interests and rights in or relating to Land or the proceeds of sale of Land now or in the future belonging to it,
- 1 1 2 3 all plant and machinery now or in the future attached to any Land which, or an interest in which, is charged by it under the preceding provisions of this paragraph 1 1,
- 1 1 2 4 all rental and other income and all debts and claims now or in the future due or owing to it under or in connection with any lease, agreement or licence relating to Land,
- 1 1 2 5 all Specified Investment Securities which are now, or in the future become, its property,
- 1 1 2 6 all Derivative Rights now or in the future accruing in respect of its Specified Investment Securities,
- 1 1 2 7 where Specified Investment Securities are held in a Relevant System, all its rights against the operator of the Relevant System or any participant in respect of such Specified Investment Securities,
- 1 1 2 8 all insurance or assurance contracts or policies now or in the future held by or otherwise benefiting it which relate to Fixed Charge Assets or which are now or in the future deposited by it with the Bank, together with all its rights and interests in such contracts and policies (including the benefit of all claims arising and all money payable under them including any refund of premiums),
- 1 1 2 9 all its goodwill and uncalled capital for the time being,
- 1 1 2 10 all other Intellectual Property presently belonging to it, including, to the extent of its interest, any Intellectual Property to which it is not absolutely entitled or to which it is entitled together with others,
- 1 1 2 11 all Intellectual Property that may be acquired by or belong to it in the future, including, to the extent of its interest, any such Intellectual Property to which it is not absolutely entitled or to which it is entitled together with others,
- 1 1 2 12 the benefit of all agreements and licences now or in the future entered into or enjoyed by it relating to the use or exploitation of any Intellectual Property in any part of the world,

- 1 1 2 13 all its rights now or in the future in relation to trade secrets, confidential information and know how in any part of the world,
 - 1 1 2 14 all its rights and causes of actions in respect of infringement(s) (past, present or future) of the rights referred to paragraphs 1 2 10 to 1 2 14 inclusive,
 - 1 1 2 15 all trade debts now or in the future owing to it and all proceeds thereof and the benefit of all rights relating thereto,
 - 1 1 2 16 all other debts now or in the future owing to it, excluding those arising on fluctuating accounts with other members of the Group,
 - 1 1 2 17 the benefit of all instruments, guarantees, charges, pledges and other security and all other rights and remedies available to it in respect of any Fixed Charge Asset,
 - 1 1 2 18 all its interests and rights (if any) now or in the future in or to any pension fund,
 - 1 1 2 19 all rights, money or property accruing or payable to it now or in the future under or by virtue of a Fixed Charge Asset except to the extent that such rights, money or property are for the time being effectively charged by fixed charge under the foregoing provisions of this paragraph 1 1,
 - 1 1 2 20 the benefit of all licences, consents and authorisations held in connection with its business or the use of any Asset and the right to recover and receive all compensation which may be payable in respect of them, and
 - 1 1 2 21 the Care Agreements
- 1 2 The Company with full title guarantee charges to the Bank as security for the payment of all Secured Liabilities -
- 1 2 1 by way of floating charge all its Assets except to the extent that such Assets are for the time effectively charged by any fixed charge contained in paragraph 1 1 above including any Assets comprised within a charge which is reconverted under paragraph 1 9 below provided that the Company shall not create any Security over any such Asset (whether having priority over, or ranking pari passu with or subject to, this floating charge) or take any step referred to in paragraphs 1 7, 1 8 and 1 9 inclusive below in respect to any such Asset, and the Company shall not, without the consent of the Bank, sell, transfer, part with or dispose of any such Asset except by way of sale in the ordinary course of its business or as otherwise expressly permitted by any of the other Finance Documents
- 1 3 The Company with full title guarantee and by way of fixed charge assigns absolutely in favour of the Bank (subject to the right of the Company to redeem such assignment upon payment or discharge in full of the Secured Liability)
- 1 3 1 all the right, title and interest of the Company in and to any interest rate hedging arrangements entered into by any person,
 - 1 3 2 (in so far as they are capable of being assigned by way of security) all the right, title and interest of the Company in and to any agreement to which each Company is a party except to the extent that it is subject to any fixed charge created under any other provision of the Debenture,
 - 1 3 3 the Company's present and future rights, title, benefit and in relation to the Land vested in it and (to the fullest extent assignable or capable of

assignment) all its right, title, benefit and interest in and to all rents and other income receivable by the Company in relation to the Land vested in it and all rights, title and benefit arising out of or in all present and future contracts (including insurance policies), deeds, undertakings, agreements, rights, warranties, securities, covenants, guarantees, bonds and indemnities of any nature now or at any time enjoyed by the Company and relating to the Land vested in it and in all monies from time to time payable thereunder,

- 1 3 4 any authorisation, consent, approval, resolution, licence, exceptions, filing, notarisation or registration maintained by the Company, and
- 1 3 5 its interest in the Deposit Account
- 1 3 6 to the extent that any such right, title and interest as is referred to in this paragraph 1 3 (albeit excluding this paragraph 1 3 6) is not assignable or capable of assignment, the assignment thereof purported to be effected by such paragraph shall operate as an assignment of any and all compensation, damages, income, profit or rent which the Company may derive therefrom or be awarded or entitled to in respect thereof, in each case as a continuing security for the payment or discharge in full of the Secured Liabilities
- 1 4 Any fixed Security created by the Company and subsisting in favour of the Bank shall (save as the Bank may otherwise declare at or after the time of its creation) have priority over the floating charge created by Paragraph 1 2
- 1 5 Any Security created in the future by the Company (other than any Security in favour of the Bank and any Permitted Security) shall be expressed to be subject to the Debenture and shall rank in order of priority behind the charges created by the Debenture
- 1 6 The Company shall, on the Bank's written demand, execute and deliver to the Bank at the cost of the Company and in such form as the Bank (acting reasonably for so long as no Event of Default is continuing) may require
 - 1 6 1 a legal mortgage of any Land in England and Wales now or in the future belonging to it,
 - 1 6 2 a fixed charge over any interest, not capable of being charged by way of legal mortgage, in any Land now or in the future belonging to it,
 - 1 6 3 a legal assignment or other fixed security over all or any of its Intellectual Property Rights or Receivables,
 - 1 6 4 a legal or equitable charge (at the Bank's option) over all or any of its Investment Securities and/or Derivative Rights,
 - 1 6 5 a chattel mortgage over such of its chattels, plant, machinery, computers and/or other equipment as the Bank may specify,
 - 1 6 6 a fixed charge or other fixed security over any Asset which is subject to a floating charge under the Debenture,
 - 1 6 7 where any Asset is situated outside England and Wales, such fixed security under the law of the place where the Asset is situated as the Bank may require, and
 - 1 6 8 such other documents as the Bank may in its discretion (such discretion to be exercised reasonably prior to any Event of Default) think fit further to secure the payment of the Secured Liabilities, or to perfect the Debenture (including

filing forms 395 with companies house), or to vest title to any Asset in itself or its nominee or any purchaser

- 1 7 The Company shall not create or permit to subsist any Security over any of its Assets save as expressly permitted by the terms of any Finance Document
- 1 8 Save as expressly permitted by the terms of any Finance Document the Company shall not
 - 1 8 1 sell, transfer or otherwise dispose of any of its Assets on terms whereby they are or may be leased to or re-acquired by the Company or any other member of the Group,
 - 1 8 2 sell, transfer or otherwise dispose of any of its receivables on recourse terms,
 - 1 8 3 enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts, or
 - 1 8 4 enter into any other preferential arrangement having a similar effect,
 - 1 8 5 in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset other than Permitted Financial Indebtedness
- 1 9 Paragraphs 1 7 and 1 8 above do not apply to Permitted Security

In this document the following terms shall have the following meanings:

"Additional Guarantor" means a company which becomes an additional guarantor in accordance with Clause 28 (Changes to the Obligors) of the Facility Agreement,

"Agent" means the Governor and Company of the Bank of Scotland, The Mound, Edinburgh Scotland, EC1 1YZ,

"Arranger" means the Governor and Company of the Bank of Scotland, The Mound, Edinburgh Scotland, EC1 1YZ,

"Assets" means in relation to the Company, all its undertakings, property, assets, revenues and rights of every description, or any part of them,

"Bank" means the Governor and Company of the Bank of Scotland, The Mound, Edinburgh Scotland, EC1 1YZ,

"Borrower" means Mimosa Healthcare Holdings Limited,

"Care Agreements" means the care agreements between the Company and (amongst others) local authorities, health authorities and/or national care standards authorities for the provision of residential and nursing care services to residents,

"Deposit Account" means the account referred to in Clause 11 1 (Designation of Account) of the Facility Agreement;

"Derivative Rights" means all dividends, interest or distributions and all other rights and benefits of an income nature accruing at any time in respect of any Investment Securities,

"Event of Default" means any event or circumstance specified as such in Clause 26 (Events of Default) of the Facility Letter,

“Facility Agreement” means the facility agreement dated on or about the date of the Debenture between the Borrower, the companies listed in Part 1 of Schedule 1 (together with the Borrower as Original Guarantors), The Governor and Company of the Bank of Scotland (as Agent, Arranger, Original Lender and Security Trustee) and the financial institution listed in Part 3 of Schedule 1 thereto (as Hedging Counterparty) (as amended from time to time),

“Finance Documents” means, but is not limited to, the Facility Agreement, the Working Capital Facility Agreement, any Security Document, Fee Letter, Accession Letter and Hedging Arrangement Document and any other documents designated as such by the Agent and the Borrower and “Finance Documents” means any of them,

“Fixed Charge Asset” means an Asset for the time being comprised within a mortgage or fixed charge created by Paragraph 1 1 above,

“Floating Charge Asset” means an Asset for the time being comprised within the floating charge created by Paragraphs 1 4 and 1 5 but, if it is also a Fixed Charge Asset, only in so far as concerns that floating charge,

“Guarantor” means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 28 (Changes to the Obligors) of the Facility Agreement,

“Group” means the Company and its Subsidiaries together with all the Group Companies from time to time,

“Hedging Arrangements” means any interest hedging arrangements entered into by the borrower and hedging counterparty pursuant to Clause 8 3 (Hedging) of the Facility Agreement,

“Hedging Counterparty” means

- (a) the financial institution listed in Schedule 1 Part 3 as hedging counterparty, or
- (b) any Lender that becomes counterparty to any Hedging Arrangement,

“Hedging Document” means any document between the borrower and the Hedging Counterparty relating to the Hedging Arrangements,

“Indebtedness” means any obligation and liability whatsoever for the payment or repayment of money in any currency, whether present or future, actual or contingent, joint or several, whether incurred as principal or surety or in any other way whatever, and including principal, interest, commission, fees and other charges on a full indemnity basis,

“Intellectual Property” means in relation to the Company, all its patents registered and unregistered trade marks business names, know how and all other intellectual property rights whether arising through ownership, licence or use and whether registered subject to registration or otherwise and, in each case, rights of a similar or corresponding character and any extensions and renewals of, and any applications for, such rights,

“Investment Securities” means all shares, stocks, debentures, debenture stock, bonds and other investments (as listed in Part U, Schedule 2 of the Financial Services and Markets Act 2000), including for the avoidance of doubt, the entire issued share capital of the Borrower where certified or uncertified and whether in registered or bearer form, including all depositary interests representing any of them and including all rights and benefits of a capital nature accruing at any time in respect of any Investment Securities by way of redemption, repayment, substitution, exchange, bonus or preference, option, rights or otherwise,

“Land” includes freehold and leasehold, and any other estate in, land or (outside England and Wales) immovable property and in each case all buildings and structures upon and all things affixed to land (including trade and tenant’s fixtures),

“Lenders” means

(a) any Original Lender, and;

(b) any bank, financial institution, trust, fund or other entity which has become a party in accordance with Clause 27 (Charges to the Lenders),

which in each case has not ceased to be a party in accordance with the terms of the Facility Agreement

"Obligors" means a Borrower or a Guarantor,

"Original Guarantor" means those parties listed as original guarantors in Schedule 1 Part 1 (the Original Obligors) of the Facility Agreement,

"Original Lender" means the Governor and Company of the Bank of Scotland, The Mound, Edinburgh Scotland, EC1 1YZ,

"Permitted Financial Indebtedness " means

(a) the Facility,

(b) borrowings between Group Companies,

(c) indebtedness arising under a Hedging Arrangement,

(d) trade indebtedness incurred in the ordinary course of business,

(e) trade indebtedness contested in good faith by any of the Obligors, and

(f) indebtedness subject to the terms of the intercreditor deed,

"Permitted Security" means

(a) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances,

(b) any lien arising by operation of law and in the ordinary course of trading, or

(c) Security constituted within the Finance Documents, and

(d) any security subject to the terms of an intercreditor deed,

"Receivables" means in relation to the Company, all sums of money receivable by it now or in the future consisting of or payable under or derived from any Asset described in Paragraph 1 1,

"Relevant System" has the meaning given to that term by the Uncertified Securities Regulations 2001 and includes the CREST system and also any other system or facility (whether established in the United Kingdom or elsewhere) providing means for the deposit of, and clearance of transactions in, Investment Securities,

"Security" includes any existing or future mortgage, charge, pledge, lien, assignment, bond, indemnity or other security interest securing any obligation of any person or any other arrangement or agreement having similar effect,

"Security Trustee" means the Governor and Company of the Bank of Scotland acting as security agent and trustee of the Secured Finance Parties and includes any successor appointed by the Secured Finance Parties pursuant to the Finance Documents,

"Secured Finance Parties" means the Agent, the Arranger, the Security Trustee, the Lenders and the Hedging Counterparty and their respective successors and assigns,

"Specified Investment Securities" means, in relation to the Company, all Investment Securities

- (a) which now or in the future represent a holding in a Subsidiary of the Company or an undertaking which is its subsidiary undertaking,
- (b) which are now or in the future held in the name of the Bank or its nominee or to its order, or
- (c) the certificates for which are now or in the future deposited by the Company with the Bank or which, if uncertificated, are held in an escrow or other account in favour of the Bank and its nominee

"Subsidiary" means

- (a) a subsidiary within the meaning of section 736 of the Companies Act 1985, and
- (b) unless the context otherwise requires a subsidiary undertaking within the meaning of Section 258 of the Companies Act 1985

FILE COPY



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No 03788573

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 3rd APRIL 2007 AND CREATED BY MIMOSA HEALTHCARE LTD FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO EACH SECURED FINANCE PARTY WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 13th APRIL 2007

GIVEN AT COMPANIES HOUSE, CARDIFF THE 24th APRIL 2007

Handwritten signature



Companies House

— for the record —



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES