

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

**155(6)b**

LD4 \*LS3URFMS\* 195  
COMPANIES HOUSE 22/05/2006

The assistance is for the purpose of ~~XXXXXXX~~ [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: 789,300 A ordinary shares  
3,200,000 B ordinary shares and 240,000 deferred shares

The assistance is to be given to: (note 2) Paragon BidCo Limited (company number 5752534)  
whose registered office is at Garrick House, 2 Queen Street, Lichfield,  
Staffordshire WS13 6QD

The assistance will take the form of:

See paragraph 1 of Appendix B

The person who [has acquired] ~~XXXXXXX~~ † the shares is:  
Paragon BidCo Limited

† delete as appropriate

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

See paragraph 2 of Appendix B

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 £ See paragraph 3.1 of Appendix B

The value of any asset to be transferred to the person assisted is £ NIL



## **Appendix A**

### **Names and addresses of Directors:**

Nigel Keef Moreton  
Swan Farm  
Mill Lane  
Lower Stonnall  
Staffordshire WS9 9HN

Douglas John Quinn  
Netherhayton Cottage  
Thrift Wicket Lane  
Haytons Bent  
Ludlow  
Shropshire SY8 2AU

## Appendix B

### 1 Form which assistance will take

#### 1.1 In this Statutory Declaration the following expressions have, unless otherwise defined, the following meanings:

**"Accession Letter"** means an accession letter between a company and Paragon Holdco 2 Limited (the **"Parent"**) and Dresdner Bank AG, Niederlassung Luxemburg as agent (the **"Agent"**);

**"Acquisition"** means the acquisition by Paragon BidCo Limited (**"Paragon BidCo"**) of the entire issued share capital of Paragon Healthcare Group Limited;

**"Acquisition Obligations"** means the obligations described in paragraph 3 of the Company Accession Letter that the Company only has after it has completed the necessary financial assistance procedures and delivered the Company Guarantee Increase Deed to the Agent;

**"Bank Accounts"** means all current, deposit or other accounts with any bank or financial institution in which the Company now or in the future has an interest and (to the extent of its interest) all balances now or in the future standing to the credit of those accounts;

**"Book Debts"** of the Company means all book and other debts of any nature, and all other rights to receive money (excluding Bank Accounts), now or in the future due, owing or payable to it and the benefit of all related negotiable instruments, rights, Security, guarantees and indemnities of any kind;

**"Charged Assets"** means the assets from time to time subject, or expressed to be subject, to the Charges or any part of those assets;

**"Charges"** means all or any of the Security created or expressed to be created by or pursuant to the Debenture;

**"Chargor"** means the Company, Paragon Healthcare Group Limited, PHG Management Limited, Milbury Care Services Limited, Voyage Limited, Paragon Healthcare Limited, Opportunities UK Limited and Headwind Limited;

**"Company"** means Milbury Community Services;

**"Company Accession Letter"** means the accession letter dated 4 April 2006 between the Company, the Parent and the Agent;

**"Company Guarantee Increase Deed"** means the guarantee increase deed to be entered into between the Company, the Parent and the Agent;

**"Debenture"** means the debenture dated 4 April 2006 between, amongst others, the Company and others as chargors and Dresdner Bank AG London Branch as the security trustee (the **"Security Trustee"**);

**"Facilities Agreement"** means the facilities agreement dated 3 April 2006 between, amongst others, the Parent, Paragon BidCo, the Agent and the Security Trustee;

**"Finance Document"** means the following documents, each as further defined in the Facilities Agreement (unless otherwise specified in this Appendix B): the Facilities Agreement, any Accession Letter (including the Company Accession Letter), the Fee Letter, any Compliance Certificate, any Hedging Agreement, the Intercreditor Agreement,

any Resignation Letter, any Selection Notice, any Transaction Security Document, any Utilisation Request, the Commitment Letter, any Guarantee Increase Deed (including the Company Guarantee Increase Deed) and any other document designated as a "Finance Document" by the Agent and the Parent;

**"Finance Party"** means the Agent, Dresdner Bank AG London Branch as mandated lead arranger and bookrunner, the Security Trustee or any lender or hedge counterparty under the Facilities Agreement;

**"General Contracts"** means any contract or agreement including any contract or other document relating to or in any way connected with the appointment of any managing agent of any Real Property;

**"Guarantor"** means Paragon BidCo, PHG Management Limited, Paragon Healthcare Group Limited, Paragon Healthcare Limited, Headwind Limited, Voyage Limited, Milbury Care Services Limited, Opportunities UK Limited and Milbury Community Services or a company that accedes as a guarantor to the Facilities Agreement, unless that party has ceased to be a guarantor;

**"Guarantee Increase Deed"** means the guarantee increase deed to be entered into between a company, the Parent and the Agent;

**"Insurances"** of the Company means all contracts and policies of insurance of any kind now or in the future taken out by or on behalf of it or (to the extent of its interest) in which it now or in the future has an interest;

**"Intellectual Property"** of the Company means all patents, designs, copyrights, topographies, trade marks, trading names, rights in confidential information and know-how, and any associated or similar rights, which it now or in the future owns or (to the extent of its interest) in which it now or in the future has an interest (in each case whether registered or unregistered and including any related licences and sub-licences of the same granted by it or to it, applications and rights to apply for the same);

**"Intercreditor Agreement"** means the intercreditor agreement dated 3 April 2006 between, amongst others, the Parent, Paragon BidCo, the Agent and the Security Trustee;

**"Intra-Group Loan Agreement"** means the loan agreement to be entered into between the Company and the Intra-Group Loan Borrowers;

**"Intra-Group Loan Borrowers"** means the Company, Paragon BidCo, Paragon Healthcare Group Limited, PHG Management Limited, Paragon Healthcare Limited, Headwind Limited, Voyage Limited, Milbury Care Services Limited and Opportunities UK Limited.

**"Investments"** of the Company means:

- (i) securities and investments of any kind (including shares, stock, debentures, units, depositary receipts, bonds, notes, commercial paper and certificates of deposit);
- (ii) warrants, options or other rights to subscribe for, purchase or otherwise acquire securities and investments;
- (iii) all rights relating to securities and investments which are deposited with, or registered in the name of, any depositary, custodian, nominee, clearing house or system, investment manager, chargee or other similar person or their nominee, in

each case whether or not on a fungible basis (including rights against any such person); and

- (iv) all other rights attaching or relating to securities or investments and all cash or other securities or investments in the future deriving from Investments or such rights,

in each case now or in the future owned by it or (to the extent of its interest) in which it now or in the future has an interest;

**"Liabilities"** means all present and future moneys, debts and liabilities due, owing or incurred by the Company to any Finance Party under or in connection with any Finance Document (in each case, whether alone or jointly or jointly and severally with any other person, whether actually or contingently and whether as principal, surety or otherwise);

**"Obligor"** means a Guarantor, Paragon BidCo or a company that accedes as a borrower under the Facilities Agreement, unless that party has ceased to be a borrower;

**"Real Property"** means freehold and leasehold property in England and Wales and other real property anywhere in the world (in each case including any estate or interest therein, all rights from time to time attached or relating thereto and all fixtures from time to time therein or thereon);

**"Receiver"** means an administrative receiver, receiver and manager or other receiver appointed in respect of the Charged Assets;

**"Related Rights"** means, in relation to any asset, all or any:

- (i) proceeds of sale of all or any part of that asset;
- (ii) rights under any licence, agreement for sale, agreement for purchase, or agreement for lease in respect of that asset;
- (iii) rights, benefits, claims, contracts, guarantees, warranties, representations (including given by manufacturers, suppliers, installers or any other third party or other person), remedies, security, indemnities or covenants for title in respect of that asset; and
- (iv) moneys, claims and proceeds paid or payable in respect of that asset (including any sums of money, claims or proceeds deriving from or in relation to any court or arbitration, order, judgment or award);

**"Security"** means any Security Interest created, evidenced or conferred by or under or pursuant to the Debenture; and

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

- 1.2 The Acquisition was financed, in part, by the Facilities Agreement. The Company acceded as a guarantor to the Facilities Agreement and the Intercreditor Agreement pursuant to the Company Accession Letter which contained certain limitations (to prevent the giving of unlawful financial assistance) in relation to the giving of guarantees and indemnities prior to the whitewash being undertaken. In addition, the Company entered into the Debenture, itself containing limitations (to prevent the giving of unlawful financial assistance) in relation to its respective liabilities under the Finance Documents prior to the whitewash being

undertaken. Further, the Facilities Agreement requires the Company to enter into the Guarantee Increase Deed and the Intra-Group Loan Agreement. Following the whitewash procedure, the Company will provide certain financial assistance as described in paragraph 1.3 for the purpose of reducing or discharging the liabilities incurred in respect of the Acquisition.

- 1.3** The financial assistance referred to in paragraph 1.2 will take the form of execution, delivery and performance of the Company of (which includes all notices, certificates and any other documents required under the following):

**1.3.1** the Company Guarantee Increase Deed (as it relates to the guarantee of the Company under the Facilities Agreement, obligations under the Intercreditor Agreement and security provided in respect of its obligations under the Finance Documents pursuant to the Debenture); and

**1.3.2** the Intra-Group Loan Agreement.

## **2 Principal terms of the assistance**

- 2.1** By executing the Company Guarantee Increase Deed (pursuant to which the Company confirms and acknowledges that the obligations under the Facilities Agreement and the Intercreditor Agreement are extended to include, without limitation, the Acquisition Obligations with effect from the date of the Company Guarantee Increase Deed), the Company will, among other things:

**2.1.1** in relation to the Facilities Agreement:

- (i) together with each Guarantor, jointly and severally and irrevocably and unconditionally:
  - (a) guarantee to each Finance Party punctual performance by each other Obligor of all that Obligor's obligations under the Finance Documents;
  - (b) undertake with each Finance Party that whenever an Obligor does not pay any amount when due under or in connection with any Finance Document, it shall immediately on demand pay that amount as if it were the principal obligor in respect of that amount; and
  - (c) indemnify each Finance Party immediately on demand 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;
- (ii) make a number of representations and warranties to each Finance Party; and
- (iii) undertake to comply with certain undertakings, including an undertaking not to create or allow to exist any Security Interest on any of its assets or to dispose of any of its assets (subject to certain exceptions);

**2.1.2** in relation to the Debenture:



- (i) covenant to the Security Trustee to pay all Liabilities when due in accordance with its terms or, if they do not specify a time for payment, immediately on demand by the Security Trustee;
- (ii) as security for the payment of all Liabilities, charge in favour of the Security Trustee (as trustee for the Finance Parties):
  - (a) by way of first legal mortgage, all Real Property in England and Wales now belonging to it;
  - (b) by way of first fixed equitable charge, all other Real Property now belonging to it and all Real Property acquired by it in the future; and
  - (c) by way of first fixed charge, to the extent not effectively assigned under Clause 5 (*Assignment*) in the Debenture, all its present and future:
    - (I) Book Debts;
    - (II) Bank Accounts;
    - (III) Investments;
    - (IV) uncalled capital and goodwill;
    - (V) Intellectual Property;
    - (VI) beneficial interest in any pension fund and any Related Rights;
    - (VII) plant and machinery (except that mortgaged or charged by paragraphs (a) and (b) and Related Rights;
    - (VIII) rights, title and interest under any General Contract;
    - (IX) benefit of all present and future Authorisations held in connection with its business or the use of any Charged Asset specified in any other sub-paragraph of this paragraph and the right to recover and receive all compensation which may be payable in respect of them;
    - (X) future easements and other rights at any time vested in, or conferred on, each Chargor in connection with or otherwise for the benefit of the Charged Assets;
    - (XI) Insurances;
    - (XII) all rights, title and interest under each Hedging Agreement (as defined in the Facilities Agreement); and
    - (XIII) all rights, title and interest under each Permitted Development Document (as defined in the Facilities Agreement) and any other agreement relating to the development and refurbishment of Real Property;
  - (d) by way of first floating charge the undertaking of the Company and all its assets, both present and future (including assets expressed to

be charged as described in paragraph (c) or assigned under the Clause 5 of the Debenture);

- (iii) undertake to do all such acts or execute all such documents as the Security Trustee reasonably requires to:
  - (a) perfect or protect the Charges or the priority of the Charges; or
  - (b) facilitate the realisation of the Charged Assets or the exercise of any rights vested in the Security Trustee or any Receiver,
 including executing any transfer, conveyance, change, assignment or assurance of the Charged Assets (whether to the Security Trustee or its nominees or otherwise) making any registration and giving any notice, order or direction; and
- (iv) undertake not to create or permit to subsist any Security over any Charged Assets, nor do anything else prohibited by Clause 23.15 (*Negative Pledge*) of the Facilities Agreement, except as permitted by that clause.

**2.1.3** in relation to the Intercreditor Agreement, be bound by the terms and payment regulations and to agree to the arrangements thereunder. The Intercreditor Agreement is the mechanism which sets out the priority of security between the parties thereto and the Company acknowledges the priority of security between the parties and the subordination of their respective rights as creditors.

**2.2** By executing the Intra-Group Loan Agreement, the Company will among other things, grant a loan facility to the Intra-Group Loan Borrowers on the terms and conditions thereof, enabling the Intra-Group Loan Borrowers to utilise loans made thereunder in order to assist the Intra-Group Loan Borrowers to comply with their obligations under the Facilities Agreement (including without limitation, repayment of principal and payment of interest), pay the fees and expenses incurred in connection with the Acquisition and fund any dividend payments.

### **3 Further information**

**3.1** The amount of cash to be transferred to the person assisted is any amounts lent under the Intra-Group Loan Agreement from time to time.

**3.2** The date on which the assistance is to be given is any date prior to eight weeks from the date of this Statutory Declaration.



**KPMG LLP**  
2 Cornwall Street  
Birmingham B3 2DL  
United Kingdom

Tel +44 (0) 121 232 3000  
Fax +44 (0) 121 232 3500  
DX 709850 Birmingham 26

The Directors  
PHG Management Limited  
Garrick House  
2 Queen Street  
Lichfield  
WS13 6QD.

17 May 2006

Dear Sirs

**Auditors' report to the directors of PHG Management Limited ("the company")  
pursuant to Section 156(4) of the Companies Act 1985**

We have examined the attached statutory declaration of the directors dated 17 May 2006 in connection with the proposal that Milbury Community Services, of which this company is a holding company, should give financial assistance for the purchase of the entire issued share capital of Paragon Healthcare Group 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

Registered auditor