

# 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**

# 395

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

[1][2]

4331148

Name of company

\* NUPPP Nominees Limited (jointly with NUPPP (GP) Limited as joint chargor)

Date of creation of the charge

13 February 2002

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

Debenture creating fixed and floating charges (the "Debenture")

Amount secured by the mortgage or charge

The Secured Liabilities (as defined in the Debenture) being the aggregate of all present and future obligations and liabilities of the Borrower and the Chargor to the Security Trustee and the Secured Parties (or any of them) under the Debenture and under the Term Loan Agreement and/or any Senior Finance Documents and/or any deed or document supplemented thereto, whether actual, contingent, sole, joint and/or several or otherwise, including without limitation, all obligations to indemnify the Security Trustee and the Secured Parties.

See Paper Apart 2 for definitions

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

The Governor and Company of the Bank of Scotland, The Mound, Edinburgh, as agent and Security Trustee for itself and the Secured Parties (acting through its joint capacities as the "Security Trustee" and the "Agent").

Postcode EH1 1YZ

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

McGrigor Donald  
Princes Exchange  
1 Earl Grey Street  
EDINBURGH  
EH3 9AQ

RSHK/MGW/00008B.001473

Time critical reference  
NUPPPNOM2

For official Use  
Mortgage Section

Post room

SCT SVNDM8UB 0138  
COMPANIES HOUSE 05/03/02

See Paper Apart 1

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

*McGregor-Dodd*

Date 4 March, 2002

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 CF14 3UZ

**NUPPP NOMINEES LIMITED (jointly with NUPPP (GP) Limited as joint chargor (Company Number 4331148)**

**Paper Apart 1 to Form M395 – Short Particulars of all the property mortgaged or charged**

All terms used in this Form M395 shall have the same meaning as that given to them in Paper Apart 2 and the Debenture and this Paper Apart 1.

**1 FIXED SECURITY**

**1.1 Mortgage**

Each of the Borrower, the Chargor and GP Limited with full title guarantee charged (to the extent of their respective interests) in favour of the Security Trustee, as security for the payment and discharge of the Secured Liabilities, by way of first legal charge:

**1.1.1 Mortgaged Property:** the Mortgaged Property; and

**1.1.2 Investments:** all its present and future Investments in any subsidiary of the Borrower, the Chargor, or GP Limited.

**1.2 Assignment by way of Security**

To the extent not validly and effectively charged by way of first legal charge pursuant to Clause 2.1 (*Mortgage*) of the Debenture, each of the Borrower, the Chargor and GP Limited assigned and agreed to assign absolutely with full title guarantee to the Security Trustee, as security for the payment and discharge of the Secured Liabilities, the benefit of all of its right, title and interest to, in and under all present and future:

**1.2.1 Chattels:** chattels hired, leased or rented by it (in the case of the Borrower excluding personal chattels) to any person together in each case with the benefit of the related hiring, leasing or rental contract and any guarantee, indemnity or other Security for the performance of the obligations of any person under or in respect of such contract;

**1.2.2 Insurance Policies:** Insurances and all proceeds paid or payable thereunder;

**1.2.3 Charged Agreements:** Charged Agreements, including all monies payable to it and any claims, awards and judgements in favour of, or received or receivable by it thereunder, but so that the Security Trustee shall not in any circumstances incur any liability whatsoever in respect of any of the foregoing;

**1.2.4 Rental Income:** Rental Income and the right to make demand for and receive the same;

**1.2.5 Rights and Claims:** the benefit to it of all rights and claims to which it is now or may in the future become entitled in relation to the Mortgaged Property including (but without limitation) all rights and claims of it against all persons who now or who at any time have been or may become lessees, sub-lessees, licensees or occupiers in relation to the Mortgaged Property and all guarantors and sureties for the obligations of any such person; and

**1.2.6 Guarantees, warranties etc:** the benefit to it of all guarantees, warranties and representations give or made by, and any rights or remedies to which it is now or may in the future be entitled against, all or any professional advisers and contractors in relation to any of the Mortgaged Property and any other person now or from time to time under contract with or under a duty to it including (without limitation) the right to prosecute in the name of

it any proceedings against any such person in respect of any act, omission, neglect, default, breach of contract or breach of duty whether relating to the design construction inspection or supervision of the construction of any of the said buildings or to the quality or fitness for use of such plant machinery fixtures fittings and other items or otherwise and the benefit of all sums recovered in any proceedings against all or any of such persons;

### 1.3 **Fixed Charges**

To the extent not validly and effectively charged by way of first legal charge pursuant to Clause 2.1 (*Mortgage*) of the Debenture (in paragraph 1.1 above) or effectively assigned pursuant to Clause 2.2 (*Assignment by way of Security*) of the Debenture (in paragraph 1.2 above), each of the Borrower, the Chargor and GP Limited charged (to the extent of their respective interests) with full title guarantee in favour of the Security Trustee, as security for the payment and discharge of the Secured Liabilities, by way of first fixed charge, all present and future:

- 1.3.1 **Other Real Property:** rights, title and interest in, to and under the Real Property;
- 1.3.2 **Accounts:** accounts (including for the avoidance of doubt the Borrower Bank Accounts), all monies standing to the credit of each of its present and future accounts (including the Borrower Bank Accounts), cash at bank and credit balances of it with any bank or other person whatsoever and all rights relating or attaching to them (including the right to interest) and the debts represented thereby;
- 1.3.3 **Goodwill:** goodwill;
- 1.3.4 **Uncalled share capital:** rights and claims in relation to the uncalled share capital of it including all present and future calls (whether made by the directors of it or by a Receiver appointed under the Debenture or a liquidator of it);
- 1.3.5 **VAT:** rights to recover VAT on any supplies made to it relating to the Charged Assets and any sums so recovered;
- 1.3.6 **Book and other debts:** book and other debts and monetary claims due or owing to it and all rights relating to such debts including all guarantees, Security or other remedies for or attaching to such debts;
- 1.3.7 **Section 238, 239 and 244 orders:** rights 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;
- 1.3.8 **Investments:** Investments;
- 1.3.9 **Collateral agreements to Real Property:** agreements, contract, deeds, licenses, undertakings, guarantees, covenants, warranties, representations and other documents (including all documents entered into now or in the future so as to enable the Security Trustee to perfect its rights referred to in the Debenture or any such agreement, contract, deed, licence, undertaking, guarantee, covenant, warranty, representation or any other document) entered into by or given to it in respect of the Real Property including all:
  - (a) claims, remedies, awards or judgements paid or payable to it (including, without limitation, all liquidated and ascertained damages payable to it under the above);

(b) guarantees, warranties, bonds and representations given or made by, and any rights or remedies against, any designer, builder, contractor, professional adviser, sub-contractor, manufacturer, supplier or installer of any fixture; and

(c) in each case relating to all or any part of the Real Property;

1.3.10 **Licenses:** licenses held now or in the future in connection with the business carried upon all or any part of the Real Property and also the right to recover and receive all compensation which may at anytime become payable to it under the Licensing Act 1964; and

1.3.11 **Assets which are not assignable:** assets which are specified in Clause 2.2 (*Assignment by way of Security*) of the Debenture.

#### 1.4 **Real Property**

A reference in the Debenture to a mortgage, assignment or charge of any freehold or leasehold property includes:

1.4.1 all buildings and fixtures on that property;

1.4.2 the proceeds of sale of any part of that property;

1.4.3 any licence, agreement for sale or agreement for lease in relation to that property; and

1.4.4 the benefit of any covenants for title given or entered into by any predecessor in title of it in respect of that property or any monies paid or payable in respect of those covenants.

#### 1.5 **Exceptions to fixed Security**

Notwithstanding any other provisions of the Debenture, the fixed Security from time to time constituted under the Debenture does not extend to any asset situated outside England and Wales to the extent that and for so long as any such fixed Security would be unlawful and/or incompetent under the laws of the jurisdiction in which such asset is situated.

## 2 **NEGATIVE PLEDGE**

### 2.1 **Negative Pledge**

None of the Borrower, the Chargor or GP Limited shall create or have any security on or over its assets, (present or future) otherwise than as permitted pursuant to Clause 17.2.4 of the Term Loan Agreement.

**NUPPP NOMINEES LIMITED (jointly with NUPPP (GP) Limited as joint chargor (Company Number 4331148)**

**Paper Apart 2 to Form M395 – Definitions**

In this Form M395 the following terms shall have the following meaning:-

**"Account Bank"** means The Governor and Company of the Bank of Scotland, a company incorporated by Act of Parliament and having its Head Office at the Mound, Edinburgh;

**"Account Bank Agreement"** means the agreement dated 13 February 2002, between the Borrower, NU 3Ps, the Account Bank, the Agent and the Security Trustee;

**"Bank A & OM Direct Agreement"** means the direct agreement dated 13 February 2002 between Mill Properties Limited, the Borrower and the Security Trustee;

**"Bank FM Direct Agreement"** means the direct agreement dated 13 February 2002 between Morley Fund Management Limited, the Security Trustee and the Borrower;

**"Borrower"** means the Norwich Union Public/Private Partnership Fund, a limited partnership registered under the Limited Partnerships Act 1907 with registered number LP5956;

**"Borrower Bank Accounts"** means the Operating Account, the Maintenance Reserve Account, the Compensation Account, the Insurance Proceeds Account, the Deposit Account and the Lock Up Account;

**"Borrower Group Company"** means the Borrower, any of its Subsidiaries for the time being (other than any Excluded Subsidiaries) together with any person signing a Borrower Group Company Accession Deed, being as at the date of the Term Loan Agreement, the Borrower, NU 3Ps, NUPPP Nominees Limited and the following companies:

Mill Bradford Limited (Company No. 3641897)  
 NU Offices for Redcar Limited (Company No. 4048949)  
 NU Local Care Centres (Farnham) Limited (Company No. 4187974)  
 Building a Future (Newham Schools) Limited (Company No. 4126215)  
 Building a Future (Newham Schools) (No. 2) Limited (Company No. 4139687)  
 NU Schools for Redbridge Limited (Company No. 4048932)

**"Borrower Mortgage of Shares"** means the mortgage dated 13 February 2002 given by the Borrower in favour of the Security Trustee, in respect of all the shares, which the Borrower holds in any Borrower Group Company;

**"Charge Over the Securities Account"** means the charge dated 13 February 2002 entered into by the Borrower and Morley Fund Management Limited relating to a securities account held by it with Morley Fund Management Limited and given to the Security Trustee;

**"Charged Assets"** means the assets and undertaking of the Borrower, the Chargor and GP Limited from time to time charged or assigned pursuant to the Debenture by way of fixed and/or floating Security as security for the payment or discharge of all or any of the Secured Liabilities;

**"Charged Agreements"** means:

- 1 A & OM Agreement
- 2 Fund Management Agreement
- 3 Project Specific Documentation comprising:
  - A. Newark
    1. FM Direct Agreement, being the document described at paragraph B.3 of the Project Documents List
    2. Guarantee, being the document described at paragraph B.13 of the Project Documents List
  - B. Bradford
    1. FM Direct Agreement, being the document described at paragraph C.5 of the Project Documents List
    2. Funding and Development Agreement, being the document described at paragraph C.6 of the Project Documents List
  - C. Dudley
    1. Funding and Development Agreement, being the document described at paragraph D.2 of the Project Documents List
    2. Guarantee, being the document described at paragraph D.6 of the Project Documents List
  - D. Newham
    1. Deed of Floating Charge, being the document described at paragraph E.20 of the Project Documents List
    2. Deed of Security Assignment, being the document described at paragraph E.21 of the Project Documents List
    3. Funding and Development Agreement, being the document described at paragraph E.19 of the Project Documents List

**"Chargor"** means together jointly NUPPP (GP) Limited (Company Number 04330905) and NUPPP Nominees Limited (Company Number 04331148);

**"Employer's Agent Collateral Warranties"** means in relation to the Newark, Redcar, Newham, Farnham and Redbridge projects, the collateral warranties dated 13 February 2002, from the relevant employers agent to the Agent and the Security Trustee;

**"Excluded Subsidiaries"** means the Mill NU properties Limited (Registered Number 3600036) and its Subsidiaries, the Pipeline Project Companies, and:

until the Hackney Effective Date, Investors in the Community (Hackney) Limited;

until the Chichester Restructuring Date, the Chichester Project Companies;

until the Brighton Effective Date, NU Library for Brighton Limited; and

such other Subsidiaries of the Borrower as may be designated as such by agreement between the Borrower and the Agent;

**"Fees Letters"** means the fee letter referred to in clause 9.1 of the Term Loan Agreement, and the fee letter from Uberior Infrastructure Investments Limited to the Borrower, both dated 13 February 2002.

**"GP Limited"** means NUPPP (GP) Limited, a company incorporated under the Companies Act with registered number 04330905 and having its registered office at St Helens Street, 1 Undershaft, London, EC39 3DQ;

**"Insurances"** means all insurances effected pursuant to Schedule 8 of the Term Loan Agreement;

**"Investment"** means any:

- 4 stock, share (howsoever described), debenture or other security of whatever nature;
- (a) right, dividend, or other interest (howsoever described) relating to any of the above; and
- (b) other asset, right or interest falling within any paragraph in Part I of Schedule I to the Financial Services Act 1986 (as in force at the date of this Agreement) but so that the exceptions in the notes to paragraphs 2 and 5 and note (1) to paragraph 8 of that Part will not apply;

**"Intercreditor Agreement"** means the subordination agreement dated 13 February between, *inter alia*, the Borrower, NU 3Ps and the Agent and Security Trustee;

**"Legal Charges"** means each document entitled "Legal Mortgage and Assignment" substantially in the Agreed Form to be granted by the Borrower and/or NU 3Ps in respect of, *inter alia*, and, as applicable, the Internal Security Documents and the Head Leases and Sub-Leases and to be completed after the date of this Agreement, in each case in favour of the Security Trustee and in the case of any Legal Charge to be granted by any Limited Recourse Obligor, to contain an express limitation of recourse to the assets thereby secured and to omit a covenant to pay;

**"Mortgaged Property"** means:

Manchester

Leasehold Property:

Lease dated 30 January 2001 and made between The Council of the City of Manchester (1) Norwich Union Public/Private Partnership Fund (2) relating to Site A Temple Primary School Cheetham Hill Manchester as registered at HM Land Registry under title number GM868134 and GM864292;

Redbridge

Leasehold Property

Lease dated 30 January 2002 and made between The Mayor and Burgesses of the London Borough of Redbridge (1) Norwich Union Public/Private Partnership Fund (2) relating to a secondary school on land formerly known as Barley Mow Sports Ground in the London Borough of Redbridge.

Newark



### Leasehold Property

Lease dated 23 June 2000 and made between Central Nottinghamshire Healthcare NHS Trust (1) Norwich Union Public/Private Partnership Fund (2) relating to land on the west of Bowbridge Road, Newark, Nottinghamshire.

Bradford

### Freehold Property:

Land and buildings comprising the Horton Park Community Health Centre Horton Park Avenue Bradford West Yorkshire being the land comprised in title number WYK 690356.

Dudley

### Freehold Property:

Land and buildings comprising the Health Clinic, Library and Social Services building at Ladies Walk, Sedgeley and comprised in title number WM718437 and WM608654 at HM Land Registry;

"**NU 3Ps**" means NU 3Ps Limited (Company Number 3600625);

"**NU 3Ps Debenture**" means the debenture dated 13 February 2002 given by NU 3Ps in favour of the Security Trustee;

"**NU 3Ps Mortgage**" means the mortgage dated 13 February 2002 given by NU 3Ps in favour of the Security Trustee in respect of all the shares which NU 3Ps holds in any Borrower Group Company;

"**Project Documents List**" means the list of documents relating to the Projects, in Agreed Form as it may be amended, supplemented or varied or replaced from time to time;

"**Real Property**" means, including as provided in Clause 2.4 (*Real Property*) of the Debenture:

- (a) any present or future freehold or leasehold property in which the Borrower, the Chargor or GP Limited has an interest; and
- (b) the Mortgaged Property,

unless, in each case, such property ceases to be a Charged Asset;

"**Receiver**" means a receiver or receiver and manager or an administrative receiver as the Security Trustee may specify at any time in the relevant appointment made under this Debenture, which term will include any appointee made under joint and/or several appointment by the Security Trustee;

"**Rental Income**" means the aggregate of all amounts payable to or for the benefit of account of the Borrower and/or the Chargor and/or GP Limited in connection with the letting of a property or any part thereof, including (without duplication or limiting the generality of the foregoing) each of the following amounts:

- (a) rent (and any amount equivalent thereto) payable whether it is variable or not and however or whenever it is described, reserved or made payable;
- (b) any guarantee of any rent however described;
- (c) any increase of rent payable by virtue of an offer falling within the proviso of section 3(1) Landlord and Tenant Act 1927;

- (d) any rent payable by virtue of a determination made by the Court under section 24(A) Landlord and Tenant Act 1954;
- (e) sums received from any deposit held as security for performance of any tenants obligations;
- (f) any other moneys payable in respect of occupation and/or usage of such property and every fixture and fitting therein and any and every fixture thereon for display or advertisement, on licence or otherwise;
- (g) any profits awarded or agreed to be payable as a result of any proceedings taken or claim made for the same;
- (h) any damages, compensation, settlement or expenses for or representing loss of rent or interest thereon awarded or agreed to be payable as a result of any proceedings taken or claim made for the same net of any costs, fees and expenses paid (and which have not been reimbursed to, and which are not recoverable by, the Borrower and/or the Chargor and/or GP Limited from any party) in furtherance of such proceedings so taken or claim so made;
- (i) any moneys payable under any policy of insurance in respect of loss of rent or interest thereon;
- (j) any sum payable or the value of any consideration to be given by or on behalf of a tenant for the surrender or variation of any occupational lease or occupancy agreement; and
- (k) any interest payable on any sum referred to above and any damages, compensation or settlement payable in respect of the same;

but after deducting the following amounts to the extent included above:

- (i) those amounts (if any) (together with any value added or similar taxes charged thereon) due to the Borrower and/or the Chargor and/or GP Limited from any tenants under any occupational lease or other occupiers by way of contribution to insurance premiums and the cost of insurance valuations or by way of service charges in respect of costs incurred or to be incurred by the Borrower and/or the Chargor and/or GP Limited under any repairing or similar obligations or in providing services to such tenant or tenants of such building;
- (ii) any contribution to a sinking fund paid by any tenant or other occupier; and

any value added tax or similar taxes payable on any of the items listed in paragraphs (a)-(k) above;

**"Senior Creditors"** means the Agent, the Arranger, the Account Bank, the Hedging Counterparty, the Security Trustee and the Banks;

**"Secured Parties"** means the Senior Creditors and the Mezzanine Lender;

**"Senior Finance Documents"** means:

- 1) The Term Loan Agreement together with the Project Documents List;
- 2) the Security Documents comprising:

- (a) (i) the Debenture; and (ii) the NU 3Ps Debenture;

- (b) (i) the Borrower Mortgage of Shares; and (ii) the NU 3Ps Mortgage of Shares;
  - (c) (i) the Agreed Form Legal Mortgage Assignment; and (ii) the Mill Legal Mortgage Assignment;
  - (d) the Legal Charges;
  - (e) the Charge over the Securities Account;
- 3) the Intercreditor Agreement;
  - 4) the Account Bank Agreement;
  - 5) the Fees Letters; and
  - 6) all agreements and other documents which the Agent and the Borrower agree to be Senior Finance Documents;

**"Subsidiary"** means a subsidiary as defined in Section 736 of the Companies Act 1985 as amended by the Companies Act 1989;

**"Term Loan Agreement"** means the Term Loan Agreement dated 13 February 2002 between *inter alia* the Borrower, the Chargor, the Security Trustee and the Banks under which the Security Trustee and the Banks agreed to make a credit facility of up to £119,000,000 available to the Borrower.

FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No. 04331148

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 13th FEBRUARY 2002 AND CREATED BY NUPPP NOMINEES LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY AND THE BORROWER TO THE SECURITY TRUSTEE AND THE SECURED PARTIES (OR ANY OF THEM) UNDER THE TERMS OF THE AFOREMENTIONED INSTRUMENT CREATING OR EVIDENCING THE CHARGE WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 5th MARCH 2002.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 11th MARCH 2002.

Post  
XB



*Companies House*

— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES