

# M

CHFP025

Please do not  
write in  
this margin

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

\*insert full name  
of Company

## COMPANIES FORM No. 395

### Particulars of a mortgage or charge

A fee of £13 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

[2111]

05797091

Name of company

\* EUROPEAN CARE (SOUTH) LIMITED (the "Chargor")

Date of creation of the charge

20 December 2007

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

5 Please see Part A of the attached Paper Apart

Amount secured by the mortgage or charge

4 Please see Part B of the attached Paper Apart

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

T Please see Part C of the attached Paper Apart

Postcode

Presentor's name address and  
reference (if any)

Needleman Treon Solicitors  
Meridien House  
42 Upper Berkeley Street  
London, W1H 5QJ

Ref ST / KH

Time critical reference

For official Use (06/2005)  
Mortgage Section

Post room

SATURDAY



\*A0QY8W35\*

A28

05/01/2008

438

COMPANIES HOUSE

Short particulars of all the property mortgaged or charged

Please see Part D of the attached Paper Apart

Please do not  
write in  
this margin

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

97  
- 95

Particulars as to commission allowance or discount (note 3)

None

Signed

*Niedelman Neor*

Date

*4 January 2008*

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

*A fee 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 A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge Cheques and Postal Orders must be made payable to **Companies House**
- 6 The address of the Registrar of Companies is **Companies House, Crown Way, Cardiff CF14 3UZ**

This is the Paper Apart referred to in the foregoing Form M395 in respect of European Care (South) Limited (Company Number 05797091) dated 4<sup>th</sup> January 2008.

**PART A DESCRIPTION OF THE INSTRUMENT (IF ANY) CREATING OR EVIDENCING THE CHARGE**

Debenture dated 20<sup>th</sup> December 2007 (including fixed and floating charges) (the “Deed”) and made between (1) the Chargor, and (2) Esquire Realty (Trelena) Limited (Company Number 44748) a company incorporated in Guernsey and having its registered office at Frances House, St Peter Port, Sir William Place, Guernsey, Channel Islands GY1 4HQ (“ERTL”)

**PART B AMOUNT SECURED BY THE MORTGAGE OR CHARGE**

All present and future indebtedness, monies, obligations and liabilities of the Chargor to ERTL under the Lease in whatever currency denominated, whether actual or contingent, whether owed jointly or severally or as principal or as surety or in some other capacity and whether or not ERTL was an original party to the relevant transaction and in whatever name or style, including all interest and fees for which the Chargor may be or become liable to ERTL, together with all Expenses and all interest referred to in the paragraph headed “Interest” below (together the “Secured Liabilities”)

***Interest***

The Chargor covenants with ERTL to pay interest (to the extent not otherwise payable) on any amounts due under the paragraph immediately above from day to day until full discharge (whether before or after judgment, liquidation, winding-up or administration of the Chargor) at the Default Rate, provided that, in the case of any Expense, such interest shall accrue and be payable as from the date on which the relevant Expense arose without the necessity for any demand being made for payment

***Expenses***

The Chargor will immediately on demand pay to ERTL the amount of all reasonable costs and expenses (including legal fees) incurred by it or any Receiver or Delegate in connection with the negotiation, preparation, printing, execution and perfection of the Deed and any other documents referred to in the Deed and any amendment, waiver, consent or suspension of rights (or any proposal for any of the foregoing) requested by or on behalf of the Chargor and relating to the Deed

The Chargor will immediately on demand pay to ERTL the amount of all costs and expenses (including legal fees) incurred by it or any Receiver or Delegate in connection with the enforcement of, or the defence, protection and/or preservation of, the security constituted by the Deed or any of the rights, powers and remedies of ERTL or any Receiver or Delegate provided by or pursuant to the Deed or by law

***Stamp Taxes***

The Chargor will pay, and immediately on demand indemnify, ERTL against any liability it incurs in respect of, any stamp, registration and similar tax which is or becomes payable in connection with the entry into, performance or enforcement, of the Deed, the security constituted by the Deed or any judgment given in connection with the Deed

***General Indemnity***

The Chargor shall, notwithstanding the release or discharge of all or any part of the security constituted by the Deed, indemnify ERTL and every Receiver and Delegate against any cost, loss, liability or damage incurred by any of them as a result of

- a) any default or delay by the Chargor in the performance of any of its obligations in the Deed (including, without limitation, any arising from any actual or alleged breach by any person of any Environment Laws or Environment Licences),
- b) the taking, holding, protection or enforcement of the security constituted by the Deed, and
- c) the exercise of any of the rights, powers, discretions and remedies vested in ERTL and each Receiver and Delegate by the Deed or by law in respect of the Security Assets

### ***Currency Indemnity***

If any sum (a “Sum”) owing by the Chargor under the Deed or any order or judgment given or made in relation to the Deed has to be converted from the currency (the “**First Currency**”) in which such Sum is payable into another currency (the “**Second Currency**”) for the purpose of

- a) making or filing a claim or proof against the Chargor,
- b) obtaining an order or judgment or decree in any court or other tribunal,
- c) enforcing any order or judgment or decree given or made in relation to the Deed, or
- d) applying the Sum in satisfaction of any of the Secured Liabilities,

the Chargor shall indemnify ERTL from and against any loss suffered or incurred as a result of any discrepancy between (a) the rate of exchange used for such purpose to convert such Sum from the First Currency into the Second Currency and (b) the rate or rates of exchange available to ERTL at the time of such receipt of such Sum

### ***Value Added Tax***

Any cost or expense referred to in paragraphs headed “Expenses”, “Stamp Taxes”, “General Indemnity” and “Currency Indemnity” above is exclusive of any value added tax or any other tax which might be chargeable in connection with that cost or expense. If any value added tax or other tax is so chargeable, it shall be paid by the Chargor at the same time as it pays the relevant cost or expense

## **PART C NAMES AND ADDRESSES OF THE MORTGAGEES OR PERSONS ENTITLED TO THE CHARGE**

**ESQUIRE REALTY (TRELENA) LIMITED** (Company Number 44748) a company incorporated in Guernsey and having its registered office at Frances House, St Peter Port, Sir William Place, Guernsey, Channel Islands GY1 4HQ

## **PART D SHORT PARTICULARS OF ALL THE PROPERTY MORTGAGED OR CHARGED**

### **Fixed Security**

#### ***Charges***

The Chargor, as security for the payment, performance and discharge of all the Secured Liabilities, charges in favour of ERTL by way of a first legal mortgage all of the Chargor’s right, title and interest in and to the freehold, commonhold and leasehold property now vested in it (including, but not limited to, the freehold, commonhold and leasehold property (if any) specified in Schedule 1 (*Real Property*) of the Deed, namely

Name of Chargor	Document	Date	Parties	Description
European Care (South) Limited	Lease	On or about the date of the Deed	The Chargor (1) European Care Ltd (Company Number 03856015) (2) ERTL (3)	All that leasehold interest in Trelana Nursing Home, Poughill Bude Cornwall EX23 9EL

The Chargor, as security for the payment, performance and discharge of all the Secured Liabilities, charges in favour of ERTL by way of first fixed charge all of the Chargor's right, title and interest in and to the following assets, both present and future

**Other real property** - all estates or interests in any freehold, commonhold or leasehold property (other than such property effectively mortgaged under the paragraph above),

**Licences on land** - all licences held by it to enter upon or use land and/or to carry on the business carried on upon that land and all agreements relating to land to which it is a party or otherwise entitled,

**Rights as tenant** – where any Mortgaged Property is leasehold property, any right or interest arising by virtue of any enfranchising legislation (including, but not limited to, the Leasehold Reform Act 1967 and the Leasehold Reform Housing and Urban Development Act 1993 but excluding Part II of the Landlord and Tenant Act 1954) which confers upon a tenant of property whether individually or collectively with other tenants of that or other properties the right to acquire a new lease of that property or to acquire, or require the acquisition by a nominee of, the freehold or any intermediate reversionary interest in that property;

**Rental income** - any amounts owing to it by way of rent, licence fee, service charge, dilapidations, ground rent and/or rent charge in respect of any Mortgaged Property or Premises,

**Fixed or other plant and machinery** - all fixed and other plant and machinery, computers, vehicles, office equipment and other chattels in its ownership or possession (but excluding any of those items to the extent that they are part of its stock in trade),

**Insurances** - all Insurances, including all claims, the proceeds of all claims and all returns of premium in connection with Insurances.

**Book debts** - all book debts and all other debts or monetary claims (including all choses in action which may give rise to a debt or monetary claim), all proceeds thereof and, in each case, any cheque, bill, note, negotiable instrument or other document representing the same,

**Bank accounts and deposits** - all moneys from time to time deposited in or standing to the credit of any bank account with any bank or financial institution (including, without limitation, any rent deposit given to secure liabilities in relation to land and any retention or similar sum arising out of a construction contract or any other contract (and, in each case, any cheque bill, note negotiable instrument or other document representing the same),

**Securities** - all Securities and their Related Rights,

**Goodwill and uncalled capital** – all of its goodwill and uncalled capital,

**Intellectual property** - all Intellectual Property,

**Business licences** - all licences, consents and authorisations (statutory or otherwise) held in connection with its business or the use of any Security Asset and the right to recover and receive all compensation which may be payable in respect of them,

**Contracts** – each of the Specified Contracts, together with

- a) all contracts, guarantees, appointments, warranties and other documents to which it is a party or in its favour or of which it has the benefit relating to any letting, development, sale, purchase or the operation of any Mortgaged Property or Premises,
- b) all agreements entered into by it or of which it has the benefit under which credit of any amount is provided to any person,
- c) all contracts for the supply of goods and/or services by or to it or of which it has the benefit (including, without limitation, any contracts of hire or lease of chattels), and
- d) any currency or interest swap or any other interest or currency protection, hedging or financial futures transaction or arrangement entered into by it or of which it has the benefit (whether entered into with Lloyds TSB Bank plc or any other person),

including, in each case, but without limitation, the right to demand and receive all moneys whatsoever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatsoever accruing to or for its benefit arising from any of them

### **Floating Charge**

#### ***Creation of Floating Charge***

The Chargor, as security for the payment, performance and discharge of all the Secured Liabilities, charges in favour of ERTL by way of a first floating charge all of the Chargor's undertaking and all its other property, assets and rights whatsoever (including, without limitation, the Scottish Property), all the stock in trade of the Chargor and the property, assets and rights not otherwise validly and effectively mortgaged, charged or assigned (whether at law or in equity) by way of fixed security referred to above

The provisions of paragraph 14 of schedule B1 to the Insolvency Act 1986 shall apply to such floating charge

#### ***Conversion by Notice***

ERTL may by notice in writing at any time to the Chargor convert the floating charge created by the Chargor pursuant to the Deed with immediate effect into a fixed charge (either generally or specifically) as regards any of the Chargor's assets specified in the notice if

- a) the security constituted by the Deed becomes enforceable, or
- b) ERTL reasonably considers that any of the Security Assets may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process or that it is desirable to do so in order to protect or preserve the security constituted by the Deed

#### ***Automatic Conversion***

Notwithstanding the paragraph above headed "Conversion by Notice" and without prejudice to any law which may have a similar effect, the floating charge created by the Chargor by the Deed will

automatically be converted (without notice) with immediate effect into a fixed charge as regards all of the undertaking and assets subject to that floating charge if

- a) the Chargor creates or attempts to create any Security over any of the Security Assets (except as expressly permitted by the terms of the Deed),
- b) any person levies or attempts to levy any distress, execution, attachment or other process against any of the Security Assets, or
- c) a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of, or appointment of a judicial factor to, the Chargor

The Chargor shall not create or extend or permit to arise or subsist any Security (other than any Security constituted by the Security Documents) over the whole or any part of the Security Assets, except with the prior written consent of ERTL

The Chargor shall not (and shall not agree to) sell, factor, discount, transfer, assign, lease, part with possession or otherwise dispose of the whole or any part of the Security Assets (whether in a single transaction or in a series of transactions whether related or not), except for any disposal in the ordinary course of trading (as conducted by the Chargor at the date of the Deed) or as otherwise expressly permitted by the terms of the Facility Agreement or the Deed

Please note that the Deed contains the following provisions (amongst others)

#### ***Deposit of Documents***

The Chargor shall promptly deposit with ERTL (unless already held by its solicitors on behalf of and to ERTL's order or at HM Land Registry for the purpose of registration of the security constituted by the Deed) all deeds, certificates and other documents of title from time to time relating to the Mortgaged Property

#### ***Further Assurance***

The Chargor shall, at its own expense, take whatever action ERTL or any Receiver may reasonably require for

- a) preserving, perfecting or protecting any Security Asset or the security constituted or intended to be constituted by the Deed over any Security Asset.
- b) facilitating the realisation of any Security Asset, and/or
- c) facilitating the exercise of all rights powers and remedies of ERTL or any Receiver or Delegate provided by or pursuant to the Deed or by law in respect of any Security Asset,

including, without limitation the execution of any transfer conveyance, assignment, assignation or assurance of all or any of the assets forming part of, or intended to form part of, the Security Assets (whether to ERTL or to its nominee(s)) and the giving of any notice, order or direction and the making of any registration which, in any such case, ERTL may think expedient

#### ***Legal Mortgage of New Land***

The Chargor shall immediately notify ERTL of any acquisition by it of any freehold, commonhold or leasehold property (or its equivalent) or of any agreement entered into by it or of which it has the benefit for the acquisition of any such property

Without prejudice to the generality of the paragraph above headed "Further Assurance", the Chargor shall, on demand made to it by ERTL and at its own expense, execute and deliver to ERTL, in form and substance acceptable to ERTL, a legal mortgage or standard security (as applicable) in favour of ERTL of all of its right, title and interest in and to any freehold, commonhold or leasehold property (or its equivalent) which becomes vested in it after the date of the Deed



## ***Undertakings***

### ***Insurance***

The Chargor shall insure and keep insured the Security Assets in accordance with the terms of the Lease and otherwise with reputable insurance companies or underwriters to such extent and against such risks as is normal for prudent companies in business similar to those of the Chargor and (without limitation to the generality of the foregoing)

- a) pay all premiums and other money due and payable under all such insurances and provide premium receipts or any other evidence of payment promptly upon request to do so by ERTL, and
- b) ensure that the interest of ERTL is noted on the policies in respect of such insurances or, at the request of ERTL, that such policies contain such other provisions for the protection of ERTL as ERTL may from time to time require

### ***Proceeds of Insurance***

All moneys received or receivable by the Chargor under any Insurances in respect of (where applicable) the Premises or any other Security Assets of an insurable nature shall be paid into a specific account with Lloyds TSB Bank plc as required by ERTL and until so paid shall be held on trust for ERTL

### ***Not Jeopardise Security***

The Chargor shall not do or cause or permit to be done anything which might in any way depreciate, jeopardise or otherwise prejudice the value to ERTL of the security constituted or intended to be constituted by the Deed, except to the extent expressly permitted by the terms of the Deed

### ***Right of Appropriation***

To the extent that any of the Security Assets constitute “**financial collateral**” and the Deed and the obligations of the Chargor under the Deed constitute a “**security financial collateral arrangement**” (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No 2) Regulations 2003 (the “**Regulations**”)), ERTL shall have the right, at any time after the security constituted by the Deed has become enforceable, to appropriate all or any part of such financial collateral in or towards discharge of the Secured Liabilities. For this purpose, the parties agree that the value of such financial collateral shall be (in the case of cash) the amount standing to the credit of each account of the Chargor with ERTL, together with any accrued but unpaid interest, at the time the right of appropriation is exercised and (in the case of Securities) the market price of such Securities determined by ERTL by reference to a public index or by such other process as ERTL may select, including independent valuation. In each case, the parties agree that the manner of valuation provided for in this paragraph shall constitute a commercially reasonable manner of valuation for the purposes of the Regulations

### ***Redemption of Prior Mortgages***

At any time after the security constituted by the Deed has become enforceable, ERTL may

- a) redeem any prior Security against any Security Asset, or
- b) procure the transfer of that Security to itself, or
- c) settle and pass the accounts of the person or persons entitled to such Security (and any accounts so settled and passed shall be conclusive and binding on the Chargor)

All principal moneys, interest, costs, charges and expenses of and incidental to any such redemption or transfer shall be paid by the Chargor to ERTL on demand and shall be secured by the Deed

### ***Set-Off***

Without limiting any other rights conferred on ERTL by law or by any other agreements entered into with the Chargor, ERTL shall have the following rights exercisable by it at any time without notice to the Chargor

- a) the right to set off any matured obligation whatsoever due from the Chargor to ERTL (to the extent beneficially owned by ERTL) against any obligation whatsoever (whether matured or not) owed by ERTL to the Chargor, regardless of the place of payment or currency of either obligation,
- b) the right, where the obligations referred to in the paragraph above are in different currencies, to convert either obligation at such market rate of exchange as ERTL shall reasonably select for the purpose of that set-off, and
- c) the right, where any obligation referred to in the paragraph above is unliquidated or unascertained, to set off in an amount estimated by it in good faith to be the amount of such obligation

ERTL shall not be obliged to exercise any right conferred or acknowledged by this paragraph

**The following definitions and interpretation provisions will apply in relation to this Paper Apart and the foregoing Form M395 and terms as defined in the foregoing Form M395 will apply to this Paper Apart.**

Terms defined in the Facility Agreement shall, unless otherwise defined in the Deed, have the same meanings when used in the Deed and, in addition, the following words and expressions shall have the following meanings

“**Bank**” means Lloyds TSB Bank Plc (Company Number 00002065) a company incorporated in England and Wales under the Companies Acts and having its registered office at 25 Gresham Street, London, EC2V 7HN

“**Bond and Floating Charge**” means the bond and floating charge in the agreed form to be given to the Bank by Esquire Realty (Scotland) Limited (SC284176) as a term of the Facility Agreement

“**Borrowers**” Esquire Realty (Scotland) Limited (SC284176) and Esquire Realty (Trelena) Limited ((Company Number 44748) a company incorporated in Guernsey) and “**Borrower**” means either and/or both of them

“**Charge Over Shares**” means the charge over shares in the agreed form to be given to the Bank by European Care Ltd as a term of the Facility Agreement

“**Competent Environment Authority**” any person having authority under Environment Laws and/or any court or tribunal having jurisdiction in respect of Environment Laws,

“**Default Rate**” means 2 per cent per annum above the Bank’s base rate from time to time,

“**Delegate**” any person appointed by ERTL or any Receiver pursuant to Clause 12.2 (*Delegation*) of the Deed and any person appointed as attorney of ERTL and/or any Receiver or Delegate,

**“Environment Laws”** any and all laws, whether civil, criminal or administrative (including European Community or European Union regulations, directives and decisions, statutes and subordinate legislation, regulations, orders and ordinances, codes of practice, circulars, guidance notes or the like which have the force of law, common law, local laws and bylaws, and/or judgments, notices, orders, decrees, directions, instructions or awards of any Competent Environment Authority) applicable to the Chargor and/or any business (past, present or future) of the Chargor and which have as a purpose or effect the protection of, and/or the mitigation, abatement or prevention of harm or damage to, the environment or property or any living organisms (including man) and/or the provision of remedies in respect of such harm or damage,

**“Environment Licences”** any permit, licence, authorisation, consent, regulation, filing, exemption, approval or the like made or issued pursuant to or under or required by Environment Laws in relation to the business (past, present or future) of the Chargor,

**“Expenses”** all costs (including legal fees), charges, expenses and damages sustained or incurred by ERTL or any Receiver or Delegate at any time in connection with the Security Assets or the Secured Liabilities or in taking, holding or perfecting the Deed or in protecting, preserving, defending or enforcing the security constituted by the Deed and/or in exercising any rights, powers or remedies provided by or pursuant to the Deed (including any right or power to make payments on behalf of the Chargor under the terms of the Deed) or by law in each case on a full indemnity basis,

**“Facility Agreement”** means the term facility agreement between Esquire Realty (Trelena) Limited, Esquire Realty (Scotland) Limited and Lloyds TSB Bank PLC dated on or about the date of the Deed,

**“Finance Document”** has the meaning ascribed to it in the Facility Agreement,

**“Guarantor”** Esquire Realty (Scotland) Limited (SC284176) and Esquire Realty (Trelena) Limited ((Company Number 44748) a company incorporated in Guernsey) and **“Guarantor”** means either and/or both of them,

**“Insurances”** All of the contracts and policies of insurance or assurance (including, without limitation, life policies and the proceeds of them) from time to time taken out by or for the benefit of the Chargor or in which the Chargor from time to time has an interest, together with all bonuses and other moneys, benefits and advantages that may become payable or accrue under them or under any substituted policy,

**“Intellectual Property”**

- (a) all patents, trademarks, service marks, design rights and all other registered or unregistered intellectual property rights
- (b) any applications for intellectual property rights and the benefit of any priority dates attaching to such applications and all benefits deriving from intellectual property rights, including royalties, fees, profit sharing agreements and income from licences,
- (c) all copyrights (including rights in software), source codes, brand names and other similar intellectual property rights,
- (d) all know-how, confidential information and trade secrets, and
- (e) all physical material in which any intellectual property might be incorporated,,

including, without limitation, any of the same specified in Schedule 2 (Specified Intellectual Property) of the Deed (none specified in such schedule as at the date of the Deed),

**“Lease”** means the lease of the Property between the Chargor (1) European Care Ltd (Company Number 03856015) (2) and ERTL (3) dated on or about the date of this Deed,

**“Mortgaged Property”** any freehold, commonhold, heritable, immovable or leasehold property the subject of the security constituted by the Deed and references to any **“Mortgaged Property”** shall include references to the whole or any part or parts of it,

**“Mortgage Debenture”** means the debenture in an agreed form to be given to the Bank by each Obligor as a term of the Facility Agreement,

**“Obligor”** means a Borrower or a Guarantor,

**“Opco Bond and Floating Charge”** means the Opco bond and floating charge in the agreed form to be given by European Care (Combined) Limited as a term of the Facility Agreement,

**“Opco Debenture”** means each Opco debenture in the agreed form to be given by each Opco as a term of the Facility Agreement,

**“Opco Standard Security”** means each standard security in the agreed form to be given by the relevant Opco as a term of the Facility Agreement,

**“Opcos”** means European Care (Combined) Limited and European Care (South) Limited,

**“Premises”** all buildings and erections from time to time situated on or forming part of any Mortgaged Property,

**“Property”** means Trelana Nursing Home, Poughill, Bude, Cornwall EX23 9EL (Title Number CL170545),

**“Receiver”** a receiver, receiver and manager or administrative receiver of the whole or any part or parts of the Security Assets,

**“Related Rights”** in relation to the Securities, all dividends, interest, benefits, property, rights, accretions, moneys, advantages, credits, rebates, refunds (including rebates and refunds in respect of any tax, duties, imposts or charges) and other distributions paid or payable in respect of the Securities, whether by way of bonus, capitalisation, conversion, preference, option, substitution, exchange, redemption or otherwise,

**“Securities”** all stocks, shares, loan notes, bonds, certificates of deposit, depository receipts, loan capital indebtedness, debentures or other securities from time to time legally or beneficially owned by or on behalf of the Chargor, including, without limitation, any of the same specified in Schedule 3 (*Specified Securities*) of the Deed (none specified in such schedule as at the date of the Deed), together with all property and rights of any Chargor in respect of any account held by or for it as participant, or as beneficiary of a nominee or trustee participant, with any clearance or settlement system or depository or custodian or sub-custodian or broker in the United Kingdom or elsewhere,

**“Security Assets”** all the assets of the Chargor which from time to time are the subject of any security created or expressed to be created in favour of ERTL by or pursuant to the Deed,

**“Security Documents”** means

- a) each Opco Debenture,
- b) each Opco Standard Security,
- c) each Opco Bond and Floating Charge,
- d) the Mortgage Debenture,

- e) the Bond and Floating Charge,
- f) the Standard Securities,
- d) Subordination Deed, and
- e) Charge Over Shares,

**"Scottish Property"** means

- (a) such undertaking, property and assets, present and future which is from time to time located in Scotland,
- (b) such undertaking, property and assets, present and future being contractual and other rights (including without limitation incorporeal moveable property) which are governed by the laws of Scotland, and
- (c) such undertaking, property and assets, present and future where the creation and/or enforcement of any security over such undertaking, property and assets is governed by Scottish law,

**"Standard Securities"** means each of the standard securities in the agreed form to be given to the Bank by the relevant Borrower and/or Opco as a term of the Facility Agreement,

**"Subordination Deed"** means a subordination deed in the agreed form to be given to the Bank as a term of the Facility Agreement. and

**"Specified Contracts"** means

- ( ) Debenture by European Care (South) Limited in favour of Esquire Realty (Trelena) Limited dated on or about the date of the Deed,
- ( ) Debenture by European Care (Combined) Limited in favour of Esquire Realty (Scotland) Limited dated on or about the date of the Deed,
- ( ) Bond and floating charge by European Care (Combined) Limited in favour of Esquire Realty (Scotland) Limited dated on or about the date of the Deed,
- ( ) Standard security by European Care (Combined) Limited in favour of Esquire Realty (Scotland) Limited (1) over the lease of subjects known as and forming Abercorn Nursing Home, 184 to 194 Low Waters Road, Hamilton, ML3 7QH, (2) over the lease of subjects known as and forming Avonpark Nursing Home, Lesmahagow Road, Strathaven, (3) over the lease of subjects known as and forming Forefaulds Nursing Home, 33 Blackbraes Road, East Kilbride, Glasgow G74 3JY, and (4) over the lease of subjects known as and forming Mansewood Nursing Home, 19 George Street, Millport Isle of Cumbrae, KA28 0BQ dated on or about the date of the Deed

### ***General Definitions***

Any reference to

- **"ERTL"** and **"Chargor"** shall be construed so as to include its successors, permitted transferees and permitted assignees, whether immediate or derivative,
- the **"assets"** of any person shall include the undertaking, property, revenues, rights and assets (present and future) of whatsoever nature of such person,

- the “**properties**” of any person shall be construed as a reference to the heritable, immovable, freehold, commonhold or leasehold properties of that person at the relevant time and to the whole or any part or parts of them,
- a “**Clause**” or a “**Schedule**” is, unless otherwise provided, a reference to a Clause or a Schedule of the Deed, and
- a “**person**” shall include any person, firm, company, partnership, corporation or unincorporated body of persons or any state or government or any agency or delegate of them

### *Construction*

Any reference to a mortgage, charge or assignment of any asset shall be construed so as to include

- a) the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that asset and all other rights, benefits, claims, contracts, warranties, remedies, security or indemnities in respect of that asset,
- b) the proceeds of sale of any part of that asset and any other moneys paid or payable in respect of or in connection with that asset, and
- c) in respect of any Mortgaged Property, all Premises and all fixtures and fittings (including trade fixtures and fittings and tenants’ fixtures and fittings) from time to time in or on that Mortgaged Property

It is intended that the Deed shall take effect as and be a deed of the Chargor notwithstanding the fact that ERTL may not execute the Deed as a deed

Each term in the Lease is, to the extent not set out in or otherwise incorporated into the Deed, deemed to be incorporated into the Deed insofar as is necessary to comply with section 2 of the Law of Property (Miscellaneous Provisions) Act 1989 but, except where stated otherwise, if there is any conflict between that incorporated term and any other term of the Deed that other term shall prevail

Any reference to the Lease, the Deed or any other agreement or other document shall be construed as a reference to that Lease, the Deed or that other agreement or document as the same may have been, or may from time to time be, restated, varied, amended, supplemented, replaced, substituted, novated or assigned, whether or not as a result of any of the same

- there is an increase or decrease in any facility made available or an increase or decrease in the period for which any facility is available or in which it is repayable,
- any additional, further or substituted facility to or for such facility is provided,
- any rate of interest, commission or fees or relevant purpose is changed,
- the identity of the parties is changed
- the identity of the providers of any security is changed,
- there is an increased or additional liability on the part of any person,
- a new agreement is effectively created or deemed to be created,
- there is an increase or decrease in liability under the Lease or an increase or decrease in the term of, or payments under, the Lease, or

- any additional, further or substituted lease of the Property,

Any reference to “**Deed**” shall be deemed to be a reference to the Deed as a whole and not limited to the particular Clause, Schedule or provision in which the relevant reference appears and to the Deed as the same may from time to time be restated, varied, amended, supplemented, substituted, novated or assigned

References to laws, statutes or statutory provisions shall be construed as referring to such laws, statutes or statutory provisions as respectively replaced, amended, extended, consolidated or re-enacted from time to time and shall include any order, regulation, instrument or other subordinate legislation made under the relevant law, statute or statutory provision

The table of contents and headings in the Deed are inserted for convenience only and have no legal effect

Unless the context otherwise requires, words denoting the singular number only shall include the plural and vice versa

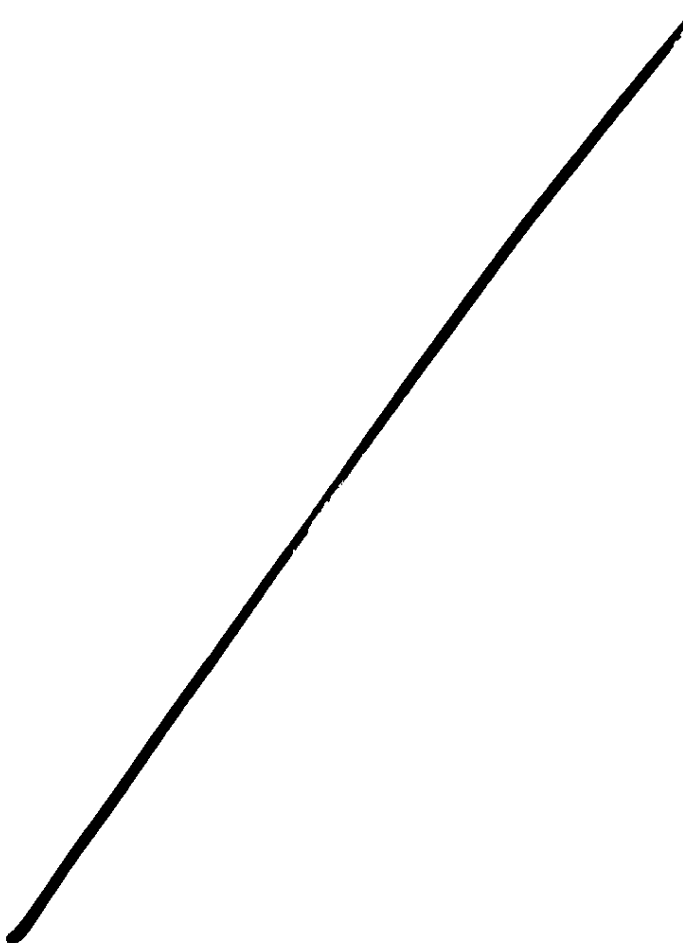
Any change in the constitution of any of the parties to the Deed or their absorption of or amalgamation with any other person or the acquisition of all or part of their undertaking by any other person shall not in any way prejudice or affect their rights under the Deed

Where any provision of the Deed is stated to include one or more things, that shall be by way of example or for the avoidance of doubt only and shall not limit the generality of that provision

Words and expressions not otherwise defined in the Deed shall, where the context permits, shall be read as having those meanings in the Companies Act 1985 as long as those provisions are in force, and shall then be read as having the meanings given to them in the Companies Act 2006

### ***Third Party Rights***

Nothing in the Deed is intended to confer on any person any right to enforce or enjoy the benefit of any provision of the Deed which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999





FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No 05797091

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 20th DECEMBER 2007 AND CREATED BY EUROPEAN CARE (SOUTH) LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO ESQUIRE CARE (TRELENA) LIMITED ON ANY ACCOUNT WHATSOEVER WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 5th JANUARY 2008

GIVEN AT COMPANIES HOUSE, CARDIFF THE 10th JANUARY 2008

THIS CERTIFICATE HAS BEEN  
AMENDED BY AN AMENDING  
CERTIFICATE DATED  
08/02/08.

*Pargels*



*Companies House*

— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

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

COMPANY No 05797091

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 20th DECEMBER 2007 AND CREATED BY EUROPEAN CARE (SOUTH) LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO ESQUIRE REALTY (TRELENA) LIMITED ON ANY ACCOUNT WHATSOEVER WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 5th JANUARY 2008

GIVEN AT COMPANIES HOUSE, CARDIFF THE 8th FEBRUARY 2008

P. Cor-



*Companies House*

— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES