

MR01

Particulars of a charge

1044 50/46
Oyez



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Please see 'How to pay' on the last page.

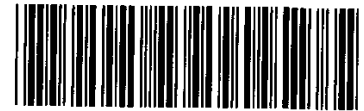
☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument.

☒ **What this form is NOT for**
You may not use this form to
register a charge where
instrument. Use form M

For further information, please
refer to our guidance at:

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge. If delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery.

☒ You **must** enclose a certified copy of the instrument with this form scanned and placed on the public record. **Do not send the original.**



A03 25/04/2020 #187
COMPANIES HOUSE

1 Company details

Company number 06099220

Company name in full BRAMPTON VIEW LIMITED

For official use

Filling in this form
Please complete in typescript or in
bold black capitals.
All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date 01/04/2020

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge.

Name MEDICX HEALTH (FOUR) LIMITED

Name

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below.

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge.

MR01

Particulars of a charge

4	Brief description	
	Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.	Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".
Brief description	THE LEASEHOLD TITLE CREATED UNDER THE TERMS OF THE LEASE OUT OF ALL THOSE PREMISES KNOWN AS BRAMPTON VIEW, BRAMPTON LANE, NORTHAMPTON NN6 8GH AND AS REGISTERED AT THE LAND REGISTRY WITH TITLE NUMBER NN306737. FOR MORE DETAILS PLEASE REFER TO THE INSTRUMENT.	Please limit the description to the available space
5	Other charge or fixed security	
	Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
6	Floating charge	
	Is the instrument expressed to contain a floating charge? Please tick the appropriate box. <input checked="" type="checkbox"/> Yes Continue <input type="checkbox"/> No Go to Section 7 Is the floating charge expressed to cover all the property and undertaking of the company? <input type="checkbox"/> Yes	
7	Negative Pledge	
	Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
8	Trustee statement ¹	
	You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge. <input type="checkbox"/>	¹ This statement may be filed after the registration of the charge (use form MR06).
9	Signature	
	Please sign the form here.	
Signature	Signature X <i>Forster Ltd</i> X	
	This form must be signed by a person with an interest in the charge.	

MR01

Particulars of a charge

Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name
Company name Forsters LLP
Address 31 Hill Street
London
Post town
County/Region
Postcode W 1 J S L S
Country
DX DX 82998 Mayfair
Telephone 020 7963 8333

Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.

Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register.
- ☐ You have included a certified copy of the instrument with this form.
- ☐ You have entered the date on which the charge was created.
- ☐ You have shown the names of persons entitled to the charge.
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8.
- ☐ You have given a description in Section 4, if appropriate.
- ☐ You have signed the form.
- ☐ You have enclosed the correct fee.
- ☐ Please do not send the original instrument; it must be a certified copy.

Important information

Please note that all information on this form will appear on the public record.

How to pay

A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House.'

Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:

For companies registered in England and Wales:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ.
DX 33050 Cardiff.

For companies registered in Scotland:

The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF.
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post).

For companies registered in Northern Ireland:

The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG.
DX 481 N.R. Belfast 1.

Further information

For further information, please see the guidance notes on the website at www.gov.uk/companieshouse or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.gov.uk/companieshouse

NO. 2034/2019

IN THE CENTRAL LONDON COUNTY COURT

BUSINESS AND PROPERTY WORK

BEFORE DISTRICT JUDGE MAUGER

IN THE MATTER OF BRAMPTON VIEW LIMITED (Company number: 6088220)

and

IN THE MATTER OF THE COMPANIES ACT 2006

BETWEEN:

MEDICX HEALTH (FOUR) LIMITED

Claimant

-and-

(1) BRAMPTON VIEW HEALTHCARE LIMITED

(2) REGISTRAR OF COMPANIES

Defendants

ORDER

UPON the application by Claim filed on 21 November 2019 of MediX Health (Four) Limited
"the Claimant"

AND UPON a paper determination pursuant to the Protocol for Insolvency and Companies
work in Central London dated 24 March 2020 relating to Covid 19

AND UPON reading the evidence

AND UPON the Court being satisfied that the misstatement on the statutory register of
charges to the effect that the "First Debenture" (hereinafter mentioned together with
prescribed particulars thereof) has been satisfied (when, in fact, it remains outstanding) was
accidental or due to inadvertence or some other sufficient cause and/or that it is just and
equitable to grant relief

AND UPON the Court being satisfied that the omission to deliver to the Registrar of Companies pursuant to Section 859A of the Companies Act 2006 (the "Act") the Supplemental Debenture hereinafter mentioned together with the prescribed particulars thereof was accidental or due to inadvertence or some other sufficient cause and/or that it is just and equitable to grant relief

IT IS ORDERED THAT:

1. Pursuant to Section **873** of the said Act, the misstatement on the statutory register of charges in respect of a debenture dated 5 January 2012 and made between the First Defendant (then known as Avery Homes Northampton Limited) of the one part and the Claimant of the other part of the leasehold land and property with title number NN306737 (the "First Debenture") be rectified such that the status of the First Debenture is stated to be "outstanding" instead of "satisfied".
2. Pursuant to Section **859F** of the Act that the time for registration in the manner required by Section **859A** of the said Act a debenture dated 10 April 2013 and made between the Claimant of the one part and the First Defendant (then known as Avery Homes Northampton Limited) of the other part of the leasehold land and property with title number NN306737 (the "Supplemental Debenture") be extended to 11 May 2020.
3. The Claimant do deliver an unsealed copy of this Order to the Registrar of Companies, the Court being unable to send sealed copies at this time. For the avoidance of doubt this order is effective immediately.
4. This Order is without prejudice to the rights of any person acquired during the period between (i) the date on which it was stated on the statutory register of charges that the First Debenture had been satisfied and the date of rectification pursuant to this Order; and (ii) the date of the creation of the Supplemental Debenture and the date of its actual registration.

District Judge S. Mauger

Dated: 20th April 2020



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6088220

Charge code: 0608 8220 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 10th April 2013 and created by BRAMPTON VIEW LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 25th April 2020.

12/

Given at Companies House, Cardiff on 1st May 2020



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

- (1) AVERY HOMES NORTHAMPTON LIMITED
- (2) MEDICX HEALTH (FOUR) LIMITED

Supplemental Debenture to a debenture dated 5 January 2012

For and on behalf of the Company
Signed and sealed in presence of
12/12/2015
[Signature]
Attestation of the Secretary of the Company

Eversheds LLP
Eversheds House
70 Great Bridge Water Street
Manchester
M1 5ES

Tel: 0845 497 9797
Fax: 0845 497 8888
Int: +44 161 831 8000
DX: 14344 Manchester
www.eversheds.com

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THIS SUPPLEMENTAL DEED is made on 10 April

2013

BETWEEN

- (1) **AVERY HOMES NORTHAMPTON LIMITED** (Company registration number 06088220) whose registered office is at 15 Basset Court, Loake Close, Grange Park, Northampton NN4 5EZ (the "**Chargor**"); and
- (2) **MEDICX HEALTH (FOUR) LIMITED** incorporated and registered in Guernsey with number 53392 whose registered office is at Ogier House, St Julian's Avenue, St. Peter Port, Guernsey, GY1 1WA c/o MedicX Adviser Limited at 5 Godalming Business Centre, Woolsack Way, Godalming, Surrey GU7 1XW (the "**Secured Party**").

WHEREAS

- A. Pursuant to the terms of a debenture dated 5 January 2012 and made between the Secured Party and the Chargor (as defined therein) (the "**Debenture**"), the Chargor charged in favour of the Secured Party, all their interests and undertaking.
- C. The Secured Party has agreed to amend certain provisions of the Debenture.
- D. This Deed is entered into for the purposes of supplementing the Debenture.

THIS DEED WITNESSES as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1 The terms and expressions defined in the Debenture shall have the same meaning in this Deed (including the recitals) unless otherwise defined or the context otherwise requires.
- 1.2 The provisions of clause 1 (*Interpretation*) of the Debenture shall apply, mutatis mutandis, to this Deed.

2. AMENDMENTS TO DEBENTURE

- 2.1 The Debenture shall be amended by:
 - 2.1.1 amending the definition of "Distributable Earnings" to read as follows:
 - 2.1.1.1 "means the earnings of the Chargor after deduction of (i) all liabilities relating to the Business expended in the normal course of business which, for the avoidance of doubt, shall not include interest on the debt of the Parent Group; and (ii) a figure of £100,000 per annum which may be used towards (A) payment of any management fees; and/or (B) payments of interest on the debt of the Parent Group but before the payment of dividends.";
 - 2.1.2 amending the definition of "Intellectual Property" to read as follows:
 - 2.1.2.1 "means any of the following in which the Chargor has an interest, but only to the extent of the Chargor's interest:

(a) any registered intellectual property right in any territory or jurisdiction, including, without limitation, patents, trade marks, service marks, registered designs, and any similar right in any territory or jurisdiction and any applications or right to apply for any of the above; (b) any invention, copyright, design right or performance right; (c) any trade secrets, know-how and confidential information; and (d) the benefit of any agreement or licence for the use of any such right.”; and

2.1.3 the addition of a new definition as follows:

2.1.3.1 “**Parent Group**” means the ultimate owner of the entire issued share capital of the Chargor and its associated and subsidiary companies.”

3. **DEBENTURE AND SUPPLEMENTAL DEED**

3.1 The terms and conditions of the Debenture and this Deed shall be read and construed as one and all references to the Debenture shall be deemed to incorporate the provisions contained in this Deed.

3.2 For the avoidance of doubt, except as supplemented by the terms of this Deed, the terms and conditions of the Debenture shall continue to apply and remain in full force and effect.

4. **EXPENSES**

The Chargor agrees to pay to the Secured Party on demand all reasonable costs, charges and expenses and other sums properly incurred by the Secured Party in connection with the preparation negotiation and registration of this Deed.

5. **GOVERNING LAW AND JURISDICTION**

This Deed and all non-contractual obligations arising out of, or in connection with it, shall be governed by and construed in accordance with the laws of England and the parties hereto hereby irrevocably submit to the non-exclusive jurisdiction of the English courts.

This Deed is made and delivered as a Deed on the date given on page 1.

EXECUTION

The Chargor

Executed as a deed by **AVERY HOMES**)
NORTHAMPTON LIMITED acting by a)
director in the presence of:)

Witness signature:

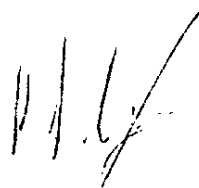
Witness name:

Address:

Occupation:

The Secured Party

Executed as a deed by **MEDICX**)
HEALTH (FOUR) LIMITED acting by)
a director in the presence of:)



Steve de Jersey
Director

Witness signature:



Witness name: **JEFFREY NICOLLE**

Address: **06141 HOME, ST JULIAN'S AVENUE, ST PETER PORT,**
GUERNSEY, GY1 1HA

Occupation:

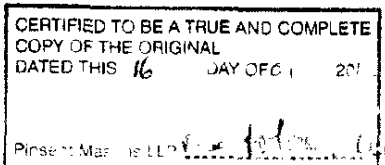
MANAGER

DATED 5 January 2011/2

(1) AVERY HOMES NORTHAMPTON LIMITED
(as Chargor)

(2) MEDICX HEALTH (FOUR) LIMITED
(as the Secured Party)

DEBENTURE



Pinsent Masons

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THIS DEBENTURE is made on

5 January 2012

2011

BETWEEN:-

- (1) **AVERY HOMES NORTHAMPTON LIMITED** (Company Number 06088220) whose registered office is at 15 Bassett Court, Loake Close, Grange Park, Northampton NN4 5EZ (the "**Chargor**"); and
- (2) **MEDICX HEALTH (FOUR) LIMITED** (incorporated in Guernsey with no. 53392) whose registered office is at Ogier House, St. Julian's Avenue, St. Peter Port, Guernsey, GY1 1WA c/o Medicx Adviser Limited of 5 Godalming Business Centre, Woolsack Way, Godalming, Surrey GU7 1XW (the "**Secured Party**").

THIS DEED WITNESSES as follows:-

1. **INTERPRETATION**

1.1 **Definitions**

In this Debenture:-

"Account"	means any account opened or maintained by the Chargor at any bank or financial institution;
"Accounting Period"	means the year or part of a year ending on 31 December or on such other date as may from time to time be notified by the Landlord to the Tenant;
"Accounting Policies"	means the accounting policies and accounting practices used in the preparation of the annual audited accounts of the Chargor;
"Business"	means the ordinary trading activities of the Chargor in providing care to the elderly or other persons in need of residential care at the Premises;
"Business Day"	any day (other than a Saturday, Sunday or public holiday) on which clearing banks in the City of London are open for the transaction of normal banking business;
"Capital Repayment"	means such sum as shall exceed 5% of the Principal Rent and which may become payable in accordance with Clause 3.5 hereto
"Charged Property"	means all the assets and undertaking of the Chargor which from time to time are, or purport to be, the subject of the security created in favour of the Secured Party by or pursuant to this Debenture;
"Chargor's Accountants"	means the accountants of the Chargor from time to time;
"Distributable Earnings"	means the earnings of the Chargor after deduction of (i) all liabilities relating to the Business expended in the normal course of business; and (ii) a £1,000 per bed per annum management fee but before payment of dividends;
"Distribution"	means the distribution by the Chargor of Distribution Earnings;
"EBITDARM"	means in respect of the Premises, the profits from the Business before making any deduction or adjustment for interest or other finance charges, taxation, depreciation, amortisation or rent and

	prior to allocation of head office costs or capital expenditure;
"EBITDARM Minimum Threshold"	means where the EBITDARM is at least 1.1 times the annual Principal Rent calculated pursuant to the provisions of Schedule 2;
"EBITDARM Minimum Threshold Period"	means six consecutive Test Days;
"EBITDARM Statement"	means the EBITDARM statement as prepared and agreed in accordance with Schedule 2;
"EBITDARM Test"	means: <ul style="list-style-type: none"> (a) On the Initial Test Date the annual EBITDARM for the immediately preceding 12 months is at least 1.4 times the annual Principal Rent; (b) On each subsequent Test Date the annual EBITDARM for the immediately preceding 12 months and the projection for 12 months ahead shall be at least 1.45 times the annual Principal Rent;
"Enforcement Action"	means:- <ul style="list-style-type: none"> (a) the acceleration of any Secured Liabilities or any declaration that any Secured Liabilities are prematurely due and payable or payable on demand; (b) the taking of any steps to enforce or require the enforcement of this Debenture (including the crystallisation of any floating charge); (c) the making of any demand against the Chargor in relation to any guarantee, indemnity or other assurance against loss in respect of any Secured Liabilities; (d) the exercise of any right of set-off against the Chargor in respect of any Secured Liabilities excluding any right of set off under a netting arrangement with the Chargor's clearing bank; (e) the suing for, commencing or joining of any legal or arbitration proceedings against the Chargor to recover any Secured Liabilities; or (f) the petitioning, applying or voting for, or the taking of any steps which may lead to any administration, winding-up, insolvency or dissolution of or in relation to the Chargor;
"Enforcement Date"	means the date on which the Secured Party first takes Enforcement Action;
"Fixed Plant and Equipment"	means all plant, machinery or equipment of the Chargor of any kind which does not for any reason constitute a Fixture, but is now or at any time directly or indirectly attached by any means and for any purpose to any land or building, whether or not it is removable or intended to form part of the land or building;

"Fixtures"	means all things of any kind now or at any time affixed to the Land for any purpose, including, without limitation, trade and tenants fixtures;
"Group"	means the Chargor and each of its subsidiaries;
"Initial Test Date"	means 1 January 2013;
"Insurances"	means any policy of insurance or assurance in which the Chargor has an interest and all claims and rebates of premium under any such policy;
"Intellectual Property"	<p>means any of the following in which the Chargor has an interest:-</p> <ul style="list-style-type: none"> (a) any registered intellectual property right in any territory or jurisdiction, including, without limitation, patents, trade marks, service marks, registered designs, and any similar right in any territory or jurisdiction and any applications or right to apply for any of the above; (b) any invention, copyright, design right or performance right; (c) any trade secrets, know-how and confidential information; and (d) the benefit of any agreement or licence for the use of any such right;
"Land"	means any estate (including the Premises), right or interest in or over land, whether legal or equitable, and wherever the land is situated including, without limitation, any buildings and Fixtures on the Land, and the benefit of any covenants or rights owed to any person or enforceable by him by virtue of the ownership possession or occupation of land but for these purposes "Land" excludes heritable property situated in Scotland;
"Lease"	means a lease dated 2 June 2011 entered into between the Secured Party and the Chargor relating to the Premises;
"Lease Documents"	<p>means:-</p> <ul style="list-style-type: none"> (a) the Lease; (b) any document expressly stated to be supplemental and ancillary to the Lease; and (c) any document designated as a Lease Document by the Secured Party and the Chargor;
"Loose Plant and Equipment"	means, in relation to the Chargor, all plant, machinery, equipment and motor vehicles now or at any time owned by the Chargor as a capital asset which is not Fixed Plant and Equipment;
"LPA"	means the Law of Property Act 1925;
"Monetary Claims"	means all book and other debts and monetary claims now or in the future owing to the Chargor (whether alone or jointly with

any other person), whenever payable and whether liquidated or unliquidated, certain or contingent including, without limitation, credit balances on any Account, and together with all cheques, bills of exchange, negotiable instruments, credits and securities at any time given in relation to, or to secure payment of, any such debt;

"Notice of Charge"	means a notice of charge in such form as may be specified by the Secured Party;
"Permitted Circumstances"	means any reduction in EBITDARM attributable to damage to the Premises caused by an Insured Risk (as defined in the Lease) or an Uninsured Risk;
"Premises"	means the premises known as Brampton View, Boughton Lane, Chapel Brampton, Northampton NN6 8GH as more particularly described in the Lease and as registered at the Land Registry with title number NN306737;
"Principal Rent"	has the meaning given to it in the Lease;
"Quarter Day"	means has the meaning given to it in the Lease;
"Receiver"	means any receiver, receiver and manager or administrative receiver of the whole or any part of the Charged Property;
"Rental Income"	means the Principal Rent payable by the Chargor to the Secured Party in accordance with the terms of the Lease;
"Related Rights"	means in relation to any Charged Property: <ul style="list-style-type: none"> (a) the proceeds of sale of any part of that Charged Property; (b) all rights under any licence, agreement for sale or agreement for lease in respect of that Charged Property; (c) all rights, benefits, claims, contracts, warranties, remedies, security, indemnities or covenants for title in respect of that Charged Property; and (d) any moneys and proceeds paid or payable in respect of that Charged Property;
"Secured Liabilities"	means all present and future liabilities and obligations of the Chargor to the Secured Party (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever and whether or not the Secured Party was the original creditor in respect thereof) under the Lease Documents including (without limitation) interest, commission, costs, charges and expenses charged by the Secured Party at rates agreed between it and the Chargor from time to time;
"Secured Accountants"	Party's means the accountants of the Secured Party from time to time;
"Securities"	means all the right, title and interest of the Chargor, now or in the future, in any:-

- (a) stocks, shares, bonds, debentures, loan stocks, or other securities issued by any person;
- (b) warrants, options or other rights to subscribe, purchase or otherwise acquire any stocks, shares, bonds, debentures, loan stocks or other securities or investments issued by any person; and
- (c) units or other interests in any unit trust or collective investment scheme; and

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

"Test Date" means (i) the Initial Test Date (ii) 1 January 2014 and (iii) every Quarter Day after 1 January 2014 PROVIDED THAT if on the Initial Test Date the Chargor fails to achieve the EBITDARM Test the Test Date shall be every Quarter Day following the Initial Test Date;

"Uninsured Risk" means at any time such (if any) of the Insured Risks against which the Secured Party shall not insure or fully insure;

- (a) because cover is not obtainable on reasonable terms from a reputable insurance company in the United Kingdom insurance market; or
- (b) by reason of any condition exclusion or limitation which may be imposed by the Secured Party's insurers but does not include any excess provision;

"Working Hours" means 9:30 am (London time) to 5:30 am (London time) on a Business Day

1.2 Incorporation of terms

Unless the context otherwise requires or unless defined in this Debenture, all words and expressions defined or whose interpretation is provided for in the Lease Documents shall have the same meanings in this Debenture.

1.3 Interpretation

In this Debenture, unless the context otherwise requires:-

- 1.3.1 words importing the singular shall include the plural and vice versa and reference to any gender includes the other gender;
- 1.3.2 the term **"assets"** includes all property, rights and revenues whatsoever, and wheresoever, present and future;
- 1.3.3 references to a **"guarantee"** include an indemnity or any other form of surety;
- 1.3.4 all references to documents include all variations and replacements of such documents and supplements to such documents;
- 1.3.5 all references to a party include references to its personal representatives, permitted assigns and transferees and its successors in title;
- 1.3.6 references to persons include bodies corporate, unincorporated associations and partnerships; and

- 1.3.7 words and phrases defined in the Companies Act 2006 have the same meanings in this Debenture but the word "**company**" includes any body corporate.

1.4 Statutes and headings

In this Debenture:-

- 1.4.1 any reference to any statute or statutory instrument includes any enactment replacing or amending it or any instrument, order or regulation made under it and also includes any past statutory provisions (as from time to time modified or re-enacted) which such provision has directly or indirectly replaced; and
- 1.4.2 headings are for reference purposes only and shall not affect the construction of anything in this Debenture.

1.5 Clauses and Schedules

In this Debenture references to "**Clauses**" are to the clauses or sub-clauses of this Debenture and references to the "**Schedule**" are to the schedule to this Debenture. The Schedule shall be treated as an integral part of this Debenture and references to this Debenture shall include the Schedule.

2. COVENANT TO PAY

The Chargor covenants that it will on demand of the Secured Party pay and discharge any or all of the Secured Liabilities when due.

3. EBITDARM OBLIGATIONS AND DISTRIBUTION

3.1 The Chargor shall provide the Secured Party:-

- 3.1.1 Not less than 14 days prior to the commencement of each Accounting Period with a 12 month financial forecast for the Business (the "**Annual Budget**") including details of projected income, broken down expenditure, occupancy, EBITDARM, capital expenditure, fees, resident mix, staffing information (where the EBITDARM Test has not been achieved and including but not limited to details of the staff rota and hourly rates of pay), rent cover, cash flow, monthly head office central costs and a brief analysis together with commentary on any significant variances to the previous Annual Budget; and
- 3.1.2 Not more than 20 working days after each Test Date management accounts for the Business for the preceding Quarter with statements of income, broken down expenditure, occupancy, EBITDARM, capital expenditure, fees, resident mix, staffing information (where the EBITDARM Test has not been achieved and including but not limited to details of the staff rota and hourly rates of pay), rent cover, cash flow and monthly head office central costs, comparisons against the Annual Budget and a brief analysis together with commentary on any significant variances to the previous management accounts; and
- 3.1.3 Not less than 14 days prior to each Test Date with a rolling 12 month forecast of EBITDARM.

3.2 Following the Initial Test Date the Chargor shall not make a Distribution if:

- 3.2.1 the Chargor fails the EBITDARM Test on any Test Date; or
- 3.2.2 the obligations at Clause 3.1 above have not been complied with.

3.3 Any restriction pursuant to Clause 3.2 shall continue until the Chargor has both (i) passed the EBITDARM Test on two consecutive Test Days and (ii) there are no outstanding obligations under Clause 3.1 above.

- 3.4 If for any EBITDARM Minimum Threshold Period the Chargor has failed to achieve the EBITDARM Minimum Threshold (save where this has been caused by the Permitted Circumstances) the Chargor shall pay to the Secured Party in cleared funds as the Secured Party shall direct within 10 Business Days of the relevant Test Date;
- 3.4.1 on the initial failure to achieve the EBITDARM Minimum Threshold, the Distributable Earnings accrued during the EBITDARM Minimum Threshold Period together with any further Distributable Earnings accrued pursuant to Clause 3.2 where the Chargor has failed the EBITDARM Test and the provisions of Clause 3.5 have not been operated; and
- 3.4.2 on any subsequent failure to achieve the EBITDARM Minimum Threshold on any Test Date, the Distribution for the immediately preceding quarter.
- 3.5 If on any Test Date the EBITDARM Test has not been achieved, the Chargor can elect and provide the Secured Party with at least 10 Business Days notice of its intention to make a Capital Repayment PROVIDED THAT such Capital Repayment is to be limited such that actual EBITDARM as at the Test Date does not exceed 1.6 times X (or such other higher multiple as determined by the Secured Party acting reasonably) and upon receipt in cleared funds of such Capital Repayment by the Secured Party, the Principal Rent effective from the date of payment, shall be reduced by utilising the following formula:-

$$X = Y - (A \times B)$$

Where: X = Revised Principal Rent

Y = Principal Rent

A = Capital Repayment

B = The lower of 7.25% and the net initial yield adopted by the Secured Party's retained surveyors (save in the case of manifest error) calculated as at the preceding Test Date;

The Secured Party will within 3 Business Days of demand provide to the Chargor the net initial yield properly determined by the Secured Party's retained surveyor calculated as at the preceding Test Date.

4. CHARGES

4.1 Mortgages and Fixed Charges

As a continuing security for payment of the Secured Liabilities, the Chargor with full title guarantee charges to the Secured Party all its right, title and interest from time to time in each of the following assets:-

- 4.1.1 by way of legal mortgage all Land which is described in Schedule 1 (if any) and all other Land now vested in the Chargor;
- 4.1.2 by way of fixed charge all other Land now vested in the Chargor (to the extent not effectively charged by Clause 4.1.1) and all Land acquired by the Chargor after the date of this Debenture;
- 4.1.3 by way of fixed charge:-
- (a) the Securities;
 - (b) the Intellectual Property;
 - (c) the Monetary Claims;
 - (d) the Fixed Plant and Equipment;

- (e) the Loose Plant and Equipment;
- (f) the Accounts;
- (g) the Insurances;
- (h) the Related Rights under or in connection with the Securities, the Accounts, the Insurances, the Intellectual Property, the Monetary Claims, the Fixed Plant and Equipment and the Loose Plant and Equipment; and
- (i) its present and future goodwill and uncalled capital.

4.2 Floating Charge

As continuing security for payment of the Secured Liabilities, the Chargor with full title guarantee charges by way of floating charge the whole of the Chargor's undertaking and assets, present and future and wherever situated, which are not for any reason effectively charged (whether in law or equity) by way of fixed security by this Debenture, including, without limitation, any heritable property of the Chargor situated in Scotland.

4.3 Trust

If or to the extent that for any reason the assignment or charging of any Charged Property is prohibited, the Chargor shall hold it on trust for the Secured Party.

4.4 Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 will apply to any floating charge created by this Debenture.

5. CRYSTALLISATION OF FLOATING CHARGE

5.1 Crystallisation: By Notice

The Secured Party may at any time by notice in writing to the Chargor convert the floating charge created by Clause 4.2 (*Floating Charge*) with immediate effect into a fixed charge as regards any property or assets specified in the notice if:-

- 5.1.1 the Enforcement Date has occurred;
- 5.1.2 the Secured Party considers that any of the Charged Property may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process; or
- 5.1.3 the Secured Party considers that it is necessary in order to protect the priority of the Security created by or pursuant to this Debenture.

5.2 Crystallisation: Automatic

The floating charge created by Clause 4.2 (*Floating Charge*) will automatically be converted (without notice) with immediate effect into a fixed charge as regards all of the undertaking and assets subject to the floating charge if:-

- 5.2.1 the Chargor creates or attempts to create any Security (other than as permitted pursuant to the terms of the Lease Documents) over any of the Charged Property; or
- 5.2.2 any person levies or attempts to levy any distress, execution or other process against any of the Charged Property; or

- 5.2.3 any step is taken (including the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or Receiver in respect of the Chargor, over all or any part of its assets, or if such person is appointed.

5.3 Crystallisation: Moratorium where directors propose voluntary arrangement

The floating charge created by Clause 4.2 (*Floating Charge*) may not be converted into a fixed charge solely by reason of:

- 5.3.1 the obtaining of a moratorium; or
- 5.3.2 anything done with a view to obtaining a moratorium under Schedule A1 to the Insolvency Act 1986.

6. PERFECTION OF SECURITY

6.1 Notices of Charge

The Chargor shall, on or at any time after the Enforcement Date, deliver to the Secured Party (or procure delivery of) Notices of Charge duly executed by, or on behalf of, the Chargor:-

- 6.1.1 in respect of the Insurances, on the date of this Debenture and promptly upon purchasing any further Insurance after the date of this Debenture;
- 6.1.2 in respect of each Account, on the date of this Debenture and promptly upon the opening of any further Account after the date of this Debenture; and
- 6.1.3 in respect of any other asset which is the subject of a charge pursuant to Clause 4.1.3, promptly upon the request of the Secured Party from time to time,

and in each case shall use all reasonable endeavours to procure that each notice is acknowledged by the party to whom such Notice of Charge is addressed.

6.2 Delivery of Documents of Title

The Chargor shall upon the execution of this Debenture (or, if later, upon receipt or entitlement thereof), deposit with the Secured Party and the Secured Party during the continuance of this security shall be entitled to hold all deeds, certificates and other documents of title relating to Land, the Securities and the Insurances. In the case of the Securities, the Chargor shall also deliver such stock transfer forms or other instruments of transfer (stamped and executed in blank by the Chargor) as the Secured Party may request.

6.3 Application to the Land Registry

The Chargor and the Secured Party apply to the Land Registry for the following to be entered into on the register of the title to any Land now or in the future owned by the Chargor:-

- 6.3.1 a restriction in the following terms:
- "No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [*insert date of charge*] in favour of MedicX Health (Four) Limited referred to in the charges register, or if appropriate, signed on such proprietor's behalf by an authorised signatory of MedicX Health (Four) Limited (Form P)".
- 6.3.2 a notice that the Secured Party is under an obligation to make further advances on the terms and subject to the conditions of the Lease Documents and the security created by

the charge dated *[insert date]* in favour of MedicX Health (Four) Limited has been created for the purpose of securing such further advances.

7. FURTHER ASSURANCE

7.1 General

The Chargor shall, at its own expense, at any time when required by the Secured Party, execute and deliver to the Secured Party:-

- 7.1.1 a valid legal mortgage of any Land now or in the future owned by the Chargor;
- 7.1.2 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 the Chargor;
- 7.1.3 a legal assignment or other fixed Security over all or any of the Charged Property;
- 7.1.4 where any of its assets are situated outside England and Wales, such fixed security (or such security in that jurisdiction most closely akin to fixed security) under the law of the place where the asset is situated as the Secured Party may require; and
- 7.1.5 a notice to any third party of any of the charges or assignments created by or pursuant to this Debenture;

in each case, in the Secured Party's standard form or such other form as the Secured Party may require.

7.2 Other acts

Without prejudice to Clause 7.1 (*General*), the Chargor shall, at its own expense, at any time when required by the Secured Party, do and concur in all acts or things as the Secured Party may deem necessary for the purpose of the creation, perfection, protection or maintenance of any of the Security intended to be created by this Debenture over all or any of the Charged Property or to facilitate the enforcement of that Security, or the exercise of any powers or discretions intended to be vested in the Secured Party or any Receiver by this Debenture.

8. RESTRICTIONS ON DEALING

8.1 Negative Pledge

The Chargor undertakes that it shall not, at any time during the subsistence of this Debenture, create or permit to subsist any Security over all or any part of the Charged Property, except as expressly permitted under the terms of the Lease Documents.

8.2 Disposals

The Chargor undertakes that they shall not (and shall not agree to) at any time during the subsistence of this Debenture, except as expressly permitted under the terms of the Lease Documents, sell, transfer, assign, lease or hire out, factor, discount, licence, lend, part with its interest in or otherwise dispose of any of the Charged Property or permit the same to occur, or agree to do any of the foregoing, provided that, until:-

- 8.2.1 the floating charge created by Clause 4.2 (*Floating Charge*) is converted into a fixed charge; or
- 8.2.2 the occurrence of the Enforcement Date,

the Chargor may hold, enjoy and deal with, in accordance with the Lease Documents, the Charged Property which is not at the relevant time expressed to be subject to a fixed charge or mortgage.

9. SECURITIES

9.1 Securities: After Enforcement Date

After the occurrence of the Enforcement Date, the Secured Party may at its discretion (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor):-

- 9.1.1 exercise (or refrain from exercising) any voting rights in respect of the Securities;
- 9.1.2 apply all dividends, interest and other monies arising from the Securities in accordance with Clause 14 (*Application of Moneys*);
- 9.1.3 transfer the Securities into the name of such nominee(s) of the Secured Party as it shall require; and
- 9.1.4 exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Securities,

in each case, in such manner and on such terms as the Secured Party may think fit, and the proceeds of any such action shall form part of the Charged Property.

9.2 Securities: Payment of Calls

The Chargor shall pay when due all calls or other payments which may be or become due in respect of any of the Securities which are not fully paid (unless reasonably contested), and in any case of default by the Chargor in such payment, the Secured Party may, if it thinks fit, make such payment on behalf of the Chargor in which case any sums paid by the Secured Party shall be reimbursed by the Chargor to the Secured Party on demand and shall carry interest from the date of payment by the Secured Party until reimbursed at the rate notified to the Chargor by the Secured Party.

9.3 Securities: Exercise of Rights

The Chargor shall not exercise any of its respective rights and powers in relation to any of the Securities in any manner which, in the opinion of the Secured Party, would prejudice the effectiveness of, or the ability of the Secured Party to realise, the Security created by or pursuant to this Debenture.

10. MONETARY CLAIMS

10.1 No dealing with Monetary Claims

The Chargor shall not at any time during the subsistence of this Debenture, without the prior written consent of the Secured Party or as permitted pursuant to the terms of the Lease Documents, sell, factor, discount, transfer, assign, lend or otherwise dispose of any of the Monetary Claims or enter into any agreement to do any of the foregoing.

10.2 Proceeds of Monetary Claims

The Chargor shall get in and realise the Monetary Claims in the ordinary course of business and pay the proceeds of those Monetary Claims into an Account.

11. DEMAND AND ENFORCEMENT

11.1 Enforcement

This Debenture shall become enforceable in respect of and against the Chargor:-

- 11.1.1 upon any demand being made by the Secured Party for payment of any of the Secured Liabilities by the Chargor when due and owing under any Lease Document which has not been satisfied within 10 Business Days of the due date;
- 11.1.2 upon the Chargor's failure to comply with Clauses 3.2 and 3.4 of this Debenture;
- 11.1.3 upon any request being made by the Chargor to the Secured Party for the appointment of a Receiver;
- 11.1.4 upon the occurrence of any event causing, or purporting to cause, the floating charge created by this Debenture to become fixed in relation to any Charged Property; or
- 11.1.5 upon the passing of any resolution, or the presentation of a petition, for winding up of the Chargor or the making of an application for an administration order in relation to the Chargor or the taking of any steps in relation to the appointment of an administrator of the Chargor.

11.2 Demand for payment

Any demand for payment, and any other notice to be given by the Secured Party under this Debenture, shall be in writing and may be signed by any authorised signatory on behalf of the Secured Party, and may be made or given to the Chargor at any place of business of the Chargor, or the registered office of the Chargor:-

- 11.2.1 by delivering it to any such place; or
- 11.2.2 by sending it by first class post to any such place (in which case it shall be deemed received at 10.00 am on the next Business Day after posting, and proof of posting shall be proof of delivery); or
- 11.2.3 by sending it by fax to any fax number of the Chargor (in which case it shall be deemed received when sent, and proof of sending shall be proof of receipt).

11.3 Powers on enforcement

At any time after this Debenture has become enforceable, the Secured Party may (without prejudice to any other rights and remedies and without notice to the Chargor) do all or any of the following:-

- 11.3.1 exercise the power of sale under section 101 of the LPA together with all other powers and rights conferred on mortgagees by the LPA, as varied and extended by this Debenture, without the restrictions contained in sections 103 or 109(1) of the LPA; and
- 11.3.2 exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases in relation to any Charged Property, without the restrictions imposed by sections 99 and 100 of the LPA.

12. RECEIVERS

12.1 Appointment

At any time after this Debenture has become enforceable in respect of and against the Chargor, the Secured Party may appoint any person or persons to be a Receiver or Receivers of all or any part of the Charged Property of the Chargor charged under this Debenture or an administrator of the Chargor. An appointment over part only of such Charged Property shall not preclude the Secured Party from making any subsequent appointment over any other part of such Charged Property.

12.2 Appointment in writing

The appointment of a Receiver shall be in writing, and may be signed by any authorised signatory on behalf of the Secured Party. Where more than one person is acting at any time as Receiver, they shall have power to act severally as well as jointly.

12.3 Remuneration

The Secured Party may from time to time determine the remuneration of the Receiver (which shall not be subject to the limit in section 109(6) of the LPA) and may (subject to the application of section 45 of the Insolvency Act 1986) remove any person from office in relation to all or any part of the Charged Property of which he is the Receiver and at any time appoint a further or other Receiver or Receivers over all or any part of such Charged Property.

12.4 Powers

The Receiver shall be the agent of the Chargor (which shall be solely liable for his acts, defaults and remuneration) unless and until the Chargor goes into liquidation from which time he shall act as principal and shall not become the agent of the Secured Party, and the Receiver shall have and be entitled to exercise in relation to the Charged Property all the powers:-

- 12.4.1 conferred by the LPA on mortgagees in possession and on receivers appointed under the LPA;
- 12.4.2 of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986, whether or not the Receiver is an administrative receiver;
- 12.4.3 and rights that an absolute owner would have in relation to any Charged Property; and
- 12.4.4 to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

13. POWER OF ATTORNEY

13.1 Appointment

The Chargor hereby irrevocably and by way of security appoints;

- 13.1.1 the Secured Party (whether or not a Receiver has been appointed); and also
- 13.1.2 (as a separate appointment) each Receiver,

severally as the attorney and attorneys of the Chargor with power to do any act, and execute and deliver any deed or other document, on behalf of and in the name of the Chargor, which the Chargor is required to do or execute under any provision of this Debenture and which the Chargor has failed to do or execute in accordance with the terms of this Debenture, or which the Secured Party in its sole opinion may consider necessary for perfecting the Secured Party's title to any of the Charged Property of the Chargor or enabling the Secured Party or the Receiver to exercise any of its or his rights or powers under this Debenture.

13.2 Ratification

The Chargor ratifies and confirms and agrees to ratify and confirm whatever any such attorney as is mentioned in Clause 13.1 (*Appointment*) shall do or purport to do in the exercise or purported exercise of all or any of the powers, acts or other matters referred to in Clause 13.1 (*Appointment*).

14. APPLICATION OF MONEYS

14.1 Application of moneys

All sums received by virtue of this Debenture by the Secured Party or the Receiver shall, subject to the payment of any claim having priority to this Debenture, be paid or applied in the following order of priority:-

- 14.1.1 first, in or towards satisfaction of all costs, charges and expenses incurred and payments made by the Secured Party, or the Receiver (including, without limitation, legal expenses) and of the remuneration of the Receiver;
 - 14.1.2 secondly, in or towards payment of the Secured Liabilities in such order as the Secured Party may at its discretion require; and
 - 14.1.3 thirdly, as to the surplus (if any), to the person or persons entitled to such surplus,
- and section 109(8) of the LPA shall not apply.

15. PROTECTION OF THIRD PARTIES

15.1 Statutory powers

In favour of any purchaser, the statutory powers of sale and of appointing a Receiver which are conferred upon the Secured Party, as varied and extended by this Debenture, and all other powers of the Secured Party, shall be deemed to arise (and the Secured Liabilities shall be deemed due and payable for that purpose) immediately after the execution of this Debenture.

15.2 Purchasers

No purchaser from or other person dealing with the Secured Party, any person to whom it has delegated any of its powers, or the Receiver shall be concerned to enquire whether any of the powers which they have exercised has arisen or become exercisable, or whether the Secured Liabilities remain outstanding or whether any event has happened to authorise the Receiver to act or as to the propriety or validity of the exercise of any such power, and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters.

15.3 Receipts

The receipt of the Secured Party or the Receiver shall be an absolute and conclusive discharge to a purchaser or any other person dealing with the Secured Party.

16. PROTECTION OF THE SECURED PARTY AND ANY RECEIVER

16.1 No liability

The Secured Party and any Receiver shall not be liable in respect of any loss or damage which arises out of the exercise, or attempted or purported exercise of, or the failure to exercise any of their respective powers under this Debenture.

16.2 Not mortgagee in possession

Without prejudice to any other provision of this Debenture, entry into possession of any Charged Property shall not render the Secured Party or the Receiver liable:

- 16.2.1 to account as mortgagee in possession;
- 16.2.2 for any loss on realisation; or
- 16.2.3 for any default or omission for which a mortgagee in possession might be liable,

and if and whenever the Secured Party or the Receiver enters into possession of any Charged Property it shall be entitled at any time it or he thinks fit to go out of such possession.

16.3 Indemnity

The Chargor shall indemnify and keep indemnified the Secured Party, every Receiver, and any person who acts as the servant, agent, delegate or attorney of any of them, against all claims, costs, expenses and liabilities which they may suffer or incur arising in any way out of the taking or holding of this Debenture, the exercise or purported exercise of any right, power, authority or discretion given by it, or any other act or omission in relation to this Debenture or the Charged Property.

16.4 Currency protection

If any amount due to be paid to the Secured Party is, for any reason, paid in a currency (the "currency of payment") other than the currency in which it was expressed to be payable (the "contractual currency"), the Secured Party may wherever it thinks fit apply the amount of the currency of payment received by it in the purchase, in accordance with its normal practice, of the contractual currency, and if this results in any shortfall below the amount due in the contractual currency, after deducting all taxes, costs and commissions payable in connection with that purchase, the Chargor shall indemnify the Secured Party against the amount of the shortfall.

16.5 Continuing protection

The provisions of this Clause 16 shall continue in full force and effect notwithstanding any release or discharge of this Debenture, or the discharge of any Receiver from office.

17. PROVISIONS RELATING TO THE SECURED PARTY

17.1 Powers and discretions

The rights, powers and discretions given to the Secured Party in this Debenture:-

17.1.1 may be exercised as often as, and in such manner as, the Secured Party thinks fit;

17.1.2 are cumulative, and are not exclusive of any of its rights under the general law; and

17.1.3 may only be waived in writing and specifically, and any delay in exercising, or non-exercise of, any right, is not a waiver of it.

17.2 Certificates

A certificate by an authorised officer of the Secured Party as to any sums payable to the Secured Party under this Debenture shall (save in the case of manifest error) be conclusive and binding upon the Chargor for all purposes.

17.3 Assignment

The Secured Party may assign this Debenture to any successor in title to any of the Secured Liabilities and the Secured Party may disclose any information in its possession relating to the Chargor, its affairs or the Secured Liabilities to any actual or prospective assignee.

17.4 Delegation

The Secured Party may at any time and from time to time delegate by power of attorney or in any other manner to any person or persons all or any of the rights, powers and discretions which are for the time being exercisable by it under this Debenture.

18. PRESERVATION OF SECURITY

18.1 Continuing Security

This Debenture shall be a continuing security to the Secured Party until the sooner of:

- 18.1.1 the lawful assignment of the Lease by the Chargor;
- 18.1.2 the Termination Date (as defined in the Lease); and
- 18.1.3 delivery of a duly executed deed of guarantee, to guarantee the Tenant's obligations under the Lease and addressed to the Secured Party, to include the provisions set out in Schedule 2 of the Lease, by a third party which has not met or exceeded the Asset Requirement (as such term is defined in the Lease).

whereupon the Secured Party shall immediately enter in to all discharges required by the Chargor to release the security created by this Debenture PROVIDED THAT if on the Termination Date there are outstanding Secured Liabilities the Secured Party shall not be obliged to release the Chargor from the security created by this Debenture until the Chargor has fully discharged such Secured Liabilities

18.2 **No Merger**

This Debenture is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security which the Secured Party may at any time hold for any other Secured Liabilities.

18.3 **Waiver of Defences**

Neither the Security created by this Debenture nor the obligations of the Chargor under this Debenture will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice that Security or any of those obligations (whether or not known to it or the Secured Party) including:-

- 18.3.1 any time, waiver or consent granted to, or composition with, the Chargor or other person;
- 18.3.2 the release of the Chargor or any other person under the terms of any composition or arrangement with any person;
- 18.3.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of the Chargor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- 18.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person;
- 18.3.5 any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Lease Document or any other document or Security;
- 18.3.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Lease Document or any other document; or
- 18.3.7 an insolvency, liquidation, administration or similar procedure.

18.4 **Order of Recourse**

This Debenture may be enforced against the Chargor without the Secured Party first having recourse to any other right, remedy, guarantee or Security held by or available to any of them.

18.5 **Suspense Accounts**

The Secured Party may, without prejudice to any other rights it may have, at any time and from time to time place (and keep for such time as it may think prudent) any moneys received, recovered or realised under or by virtue of this Debenture on a separate or suspense account to

the credit either of the Chargor or, at the sole discretion of the Secured Party if any event described in Clause 11.1 has occurred and is continuing, of the Secured Party as the Secured Party shall think fit without any intermediate obligation on the Secured Party's part to apply the same or any part of it in or towards the discharge of the Secured Liabilities.

18.6 New Accounts

If the Secured Party receives notice of any subsequent charge or other security interest affecting any of the Charged Property, the Secured Party shall be entitled to close the Chargor's then *current account or accounts and to open a new account or accounts for the Chargor*. If the Secured Party does not open a new account or accounts immediately on receipt of such notice it shall nevertheless be treated as if it had done so at the time when it received such notice, and as from that time all payments made for the credit of the Chargor shall be credited or be treated as having been credited to such new account or accounts and shall not operate to reduce the amount due from the Chargor to the Secured Party at the time when it received such notice.

18.7 Tacking

For the purposes of section 94(1) of the LPA and section 49(3) of the Land Registration Act 2002 the Secured Party confirms that it shall make further advances to the Chargor on the terms and subject to the conditions of the Lease Documents.

18.8 Reinstatement

If any payment by the Chargor or discharge given by the Secured Party (whether in respect of the obligations of the Chargor or any Security for those obligations or otherwise) is avoided or reduced as a result of insolvency, liquidation, administration or any similar event:-

18.8.1 the liability of the Chargor and the Security created by this Debenture shall continue as if the payment, discharge, avoidance or reduction had not occurred; and

18.8.2 the Secured Party shall be entitled to recover the value or amount of that Security or payment from the Chargor, as if the payment, discharge, avoidance or reduction had not occurred.

19. RELEASE

19.1 Upon the irrevocable and unconditional payment and discharge in full of the Secured Liabilities, the Secured Party shall, or shall procure that its appointees will, at the request and cost of the Chargor:-

19.1.1 release the Charged Property from this Debenture; and

19.1.2 re-assign the Charged Property that has been assigned to the Secured Party under this Debenture.

19.2 Section 93 of the LPA dealing with the consolidation of mortgages shall not apply to this Debenture.

20. MISCELLANEOUS PROVISIONS

20.1 Severability

If any provision of this Debenture is illegal, invalid or unenforceable in any jurisdiction, that shall not affect:-

20.1.1 the validity or enforceability of any other provision, in any jurisdiction; or

20.1.2 the validity or enforceability of that particular provision, in any other jurisdiction.

20.2 Costs, charges and expenses

All costs, charges and expenses incurred or paid by the Secured Party or by the Receiver in the exercise of any power or right given by this Debenture or in relation to any consent requested by the Chargor, or in perfecting or otherwise in connection with this Debenture, the other Lease Documents or the Charged Property, all sums recoverable under Clause 16 (*Protection of the Secured Party and any Receiver*) and all costs of the Secured Party (on an indemnity basis) of all proceedings for the enforcement of this Debenture or for obtaining payment of moneys by this Debenture secured, shall be recoverable from the Chargor as debts and shall bear interest from demand until payment at the rate of two per cent.

20.3 Contracts (Rights of Third Parties) Act 1999

The Secured Party, any Receiver and their respective officers, employees and agents may enforce any term of this Debenture which purports to confer a benefit on that person, but no other person who is not a party to this Debenture has any right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this Debenture.

20.4 Counterparts

This Debenture may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Debenture.

21. NOTICES

21.1 Communications in Writing

Each communication to be made under or in connection with this Debenture shall be made in writing and, unless otherwise stated, shall be made by fax or letter.

21.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) for any communication or document to be made or delivered under or in connection with this Debenture is:

21.2.1 in the case of each Chargor, that identified with its name below; or

21.2.2 in the case of the Secured Party, that identified with its name below,

or any substitute address, fax number, or department or officer as the Chargor may notify to the Secured Party (or the Secured Party may notify to the Chargor, if a change is made by the Secured Party) by not less than five Business Days' notice.

21.3 Delivery

21.3.1 Any communication or document made or delivered by one person to another under or in connection with this Debenture will only be effective:

(a) if by way of fax, when received in legible form; or

(b) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under clause 21.2 (*Addresses*) of this Debentures if addressed to that department or officer.

- 21.3.2 Any communication or document to be made or delivered to the Secured Party will be effective only when actually received by the Secured Party and then only if it is expressly marked for the attention of the department or officer identified with the Secured Party's signature below (or any substitute department or officer as the Secured Party shall specify for this purpose).

21.4 English language

- 21.4.1 Any notice given under or in connection with this Debenture must be in English.
- 21.4.2 All other documents provided under or in connection with this Debenture must be:
- (a) in English; or
 - (b) if not in English, and if so required by the Secured Party or Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

22. GOVERNING LAW

This Debenture and any non-contractual obligations arising out of or in connection with it are governed by English law.

23. GOOD FAITH

Each party shall at all times act diligently and in good faith in its dealings with the other and in relation to this Deed.

24. RELEASE OF EXISTING SECURITY

The Secured Party hereby releases:-

- 24.1 the Chargor from all obligations to the Secured Party arising under or pursuant to the debenture dated 2 June 2011 made between the Chargor and the Secured Party; and
- 24.2 all assets and undertakings of the Chargor subject to the security created in favour of the Secured Party by or pursuant to the debenture dated 2 June 2011 made between the Chargor and the Secured Party

EXECUTED AND DELIVERED AS A DEED by the Chargor and executed by the Secured Party on the date set out at the beginning of this Debenture.

SCHEDULE 1

DETAILS OF LAND

REGISTERED LAND

The leasehold title created under the terms of the Lease out of all those premises known as Brampton View, Brampton Lane, Chapel Brampton, Northampton NN6 8GH and as registered at the Land Registry with title number NN306737.

SCHEDULE 2

EBITDARM TESTING

1. The Chargor shall prepare an EBITDARM Statement on each Test Day, which shall be substantially in the form set out at Part 2 of this Schedule 2 which shall be delivered to the Secured Party. In preparing the EBITDARM Statement the Secured Party shall provide the Chargor with a reconciliation between the amounts set out in the EBITDARM Statement and the amounts set out for the same matters in the consolidated audited accounts of the Chargor.
2. The EBITDARM Statement shall be prepared using and with reference to the Accounting Policies.
3. If (subject to the Secured Party receiving such access, information and explanations as they reasonably require in accordance with Clause 4 below) the Secured Party within the period of five (5) days after delivery of the draft EBITDARM Statement, in accordance with Clause 1 of this Schedule notifies the Chargor in writing (an "Objection Notice") that the Secured Party is not prepared to accept that the draft EBITDARM Statement has been prepared in accordance with this Debenture:-
 - 3.1 the Secured Party shall set out in detail in their Objection Notice their reasons for such non-acceptance and specify the adjustments which, in the Secured Party's opinion, should be made to the draft EBITDARM Statement(s), in order to comply with the requirements of this Debenture; and
 - 3.2 the Secured Party and the Chargor shall use all reasonable endeavours (in conjunction with the Secured Party's Accountants and the Chargor's Accountants) (i) to meet and discuss the objections of the Secured Party contained in the Objection Notice and (ii) to reach agreement upon the adjustments (if any) required to be made to the draft EBITDARM Statement, within a period of four (4) days after receipt of the Objection Notice under this Clause 3.2 of this Schedule 2;
 - 3.3 the Chargor shall give the Secured Party and the Secured Party's Accountants reasonable access at reasonable times during Working Hours to all books and records, accounts and other financial information in its possession relating to Avery Homes Northampton Limited, including access to management and explanations, to the extent that such is reasonably necessary for the purposes of considering the draft EBITDARM Statement or preparing or dealing with a case referred to the Independent Firm pursuant to Clause 5 of this Schedule 2 until the EBITDARM Statement has been agreed or otherwise determined.
4. If the Secured Party is satisfied with the final draft EBITDARM Statement (either as originally submitted or after adjustments agreed between the Chargor and the Secured Party pursuant to Clause 3.2 of this Schedule 2) or if, subject to Clause 3.1 of this Schedule 2, the Secured Party fails to serve a valid Objection Notice on the Chargor within the five (5) day period referred to in Clause 3.1, then the final draft EBITDARM Statement (incorporating any agreed adjustments) shall constitute the EBITDARM Statement for the purposes of this Debenture.
5. If the Chargor and the Secured Party do not reach agreement within four (4) days of the Secured Party's Objection Notice under Clause 3.2, then:-
 - 5.1 in respect of the draft EBITDARM Statement, the parties shall draw up a list of items that have been raised in an Objection Notice and which are in dispute and follow the procedures and timetable for appointing an Independent Firm set out in Clause 5.2 of this Schedule 2. For the avoidance of doubt (subject to Clauses 5.1, 5.2 and 6 of this Schedule 2):-
 - 5.1.1 once the list of items in dispute has been agreed between the parties no further items may be raised as items in dispute and the amounts in dispute shall not be amended unless such amendment is the result of an agreement between the parties in respect of the disputed item; and

- 5.1.2 any review of the draft EBITDARM Statement shall not include any items not included in the Objection Notice served within five (5) days after delivery of the draft EBITDARM Statement; and
- 5.2 in respect of the draft EBITDARM Statement the matters in dispute may be referred on the application of either the Chargor or the Secured Party, for determination by KPMG or such other independent firm of chartered accountants of international standing as shall be agreed by the Secured Party and the Chargor or, failing agreement within four (4) days, appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales on the application of either the Chargor or the Secured Party (the "Independent Firm"). The Secured Party and the Chargor shall use all reasonable endeavours to agree with the Independent Firm the precise terms of reference to apply to its role hereunder as soon as reasonably practicable following a referral to the Independent Firm. The following general terms of reference shall apply in any event:-
- 5.2.1 the Secured Party and Chargor shall each prepare a written statement within three (3) days of the formal appointment of the Independent Firm on the matters in dispute which (together with the relevant documents) shall be submitted to the Independent Firm for determination. Subject to Clause 5.2.3 of this Schedule 2, the matters in dispute shall be limited to the matters specified in the Chargor's Objection Notice as required by Clause 3 of this Schedule 2;
- 5.2.2 at the same time as the Secured Party and Chargor submit their respective written statements to the Independent Firm for determination, each shall deliver to the other a copy of their submission (with all relevant supporting documents);
- 5.2.3 following delivery of their respective submissions, the Secured Party and Chargor shall have the opportunity to comment once only on the other party's submissions by written comment delivered to the Independent Firm not later than three (3) days after the written statement was first submitted to the Independent Firm and copied to the other party pursuant to Clauses 5.2.1 and 5.2.2 of this Schedule 2;
- 5.2.4 any response to a subsequent request by the Independent Firm for information from either the Secured Party or Chargor shall be copied to the other parties at the same time as it is delivered to the Independent Firm and, unless otherwise directed by the Independent Firm, the party receiving a copy of the information may, within three (3) days after receipt of such information, comment once only on the specific information contained in the response to the Independent Firm's subsequent request, and that party shall deliver a copy of such comment to the party who provided the information at the same time as it is delivered to the Independent Firm. Thereafter, neither the Chargor nor the Secured Party nor their respective accountants shall be entitled to make further statements or submissions except insofar as the Independent Firm so requests (in which case it shall, on each occasion, give the other parties (unless otherwise directed) three (3) days to respond to any statements or submissions so made);
- 5.2.5 in giving its determination, the Independent Firm shall state what adjustments (if any) are necessary, solely for the purposes of this Agreement, to the final draft EBITDARM Statement in respect of the matters in dispute in order to comply with the requirements of this Debenture and to determine finally the EBITDARM Statement;
- 5.2.6 the Independent Firm shall determine what assumptions it considers to be reasonable and realistic in the preparation and determination of the EBITDARM Statement;
- 5.2.7 the Independent Firm shall determine (using its own legal advice as appropriate) any question of the legal interpretation of this Debenture but only insofar as it is relevant to the determination of the EBITDARM Statement;

- 5.2.8 the Independent Firm shall act as an expert (and not as an arbitrator) in making any such determination which shall (save in the case of clear or manifest error) be final and binding on the parties;
 - 5.2.9 save in the case of clear or manifest error on the part of the Independent Firm the parties expressly waive, to the extent permitted by law, any rights of recourse to the courts they may otherwise have to challenge the Independent Firm's determination, including any determination under Clauses 5.2.7 or 5.2.8 of this Schedule 2; and
 - 5.2.10 the Secured Party and the Chargor shall each be responsible for their own costs in connection with the preparation and review of the EBITDARM Statement. The Independent Firm shall determine how the fees and expenses of the Independent Firm shall be borne.
6. The Secured Party shall not be deemed to have agreed to the draft EBITDARM Statement nor shall Clauses 5.1.1 and 5.1.2 nor the last sentence of Clause 5.2.1 of this Schedule 2 apply, if the failure of the Secured Party to notify an Objection Notice complying with the provisions of this Agreement is caused by a material breach by the Chargor of its obligations pursuant to Clause 5 of this Schedule 2.

Avery Homes Northampton Limited
EBITDARM Worked Example

Revenue	820,884
Wages	(364,685)
Margin %	55.6%
Food	(26,986)
Other costs (excl management charge)	(89,105)
EBITDARM	340,107
Rent	(217,500)
EBITDARM cover	1.56

The Secured Party

EXECUTED (but not delivered until the)
date hereof) **AS A DEED** on behalf of)
MEDICX HEALTH (FOUR) LIMITED by)
[] and)
[])
being persons, who in accordance with the)
laws of that territory are acting under the)
authority of the partnership)

Authorised Signatory

Steve de Jersey
Director

Authorised Signatory

ROGER LE TISSIER
DIRECTOR