

# MR01

## Particulars of a charge



Companies House

A fee is payable with this form  
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You can use the WebFiling service to file this form online  
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☒ **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 the  
instrument Use form MR01



LD3 28/07/2014 #38  
COMPANIES HOUSE

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. This will be  
scanned and placed on the public record. Do not send the original

### 1 Company details

Company number 09084066

Company name in full Spire Healthcare Group plc

For official use

→ Filing 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 23/07/2014

### 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 HSBC Corporate Trustee Services (UK) Limited  
(the "Security Agent")

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

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## 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"

Please limit the description to the available space

Brief description

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## 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

☒ Yes

☐ No

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## Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☐ Yes Continue

☒ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ 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

☒ Yes

☐ No

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Trustee statement<sup>1</sup>

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

☐

<sup>1</sup> This statement may be filed after the registration of the charge (use form MR06)

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## Signature

Please sign the form here

Signature

Signature

X *Clifford Chance LLP* 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 Hannah Fitzwilliam (70-40578190)

Company name Clifford Chance LLP

Address 10 Upper Bank Street

Post town London

County/Region

Postcode E 1 4 5 J J

Country United Kingdom

DX 149120 Canary Wharf 3

Telephone +44(0)20 7006 1000



### 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 £13 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.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)



**FILE COPY**

## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 9084066

Charge code: 0908 4066 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 23rd July 2014 and created by SPIRE HEALTHCARE GROUP PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 28th July 2014.

DX

Given at Companies House, Cardiff on 4th August 2014



**Companies House**



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

**IN THE CENTRAL LONDON COUNTY COURT**

**Before: District Judge Hart**

**Dated: 15 June 2016**

**IN THE MATTER OF SPIRE HEALTHCARE GROUP PLC**

**AND**

**IN THE MATTER OF THE COMPANIES ACT 2006**

**B E T W E E N:**

**HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**

**Claimant**

**-and-**

**(1) SPIRE HEALTHCARE GROUP PLC**

**(2) REGISTRAR OF COMPANIES (ENGLAND AND WALES)**

**Defendants**

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**Order**

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**UPON** the Claimant's claim dated 10 June 2016

**AND UPON** reading the evidence

**AND UPON** hearing Counsel for the Claimant

**AND UPON** the Court being satisfied that the instrument relating to the charge dated 23 July 2014 made by the First Defendant and delivered to the Second Defendant on 28 July 2014 (the "**Charge**") was the wrong instrument delivered to the registrar and that the instrument may be supplemented pursuant to section 859N of the Companies Act 2006

**AND UPON** the Court being satisfied that there has been a misstatement in the Particulars of the Charge in the section entitled "Names of persons, security agents or



trustees entitled to the charge", that this misstatement was accidental and that it is just and equitable to grant relief pursuant to section 859M of the Companies Act 2006

**IT IS ORDERED** that

- 1 Upon delivery of a copy of this Order to the Second Defendant, the instrument relating to the Charge as contained in the statutory register of charges be supplemented with the attached Unilateral Deed of Confirmation entered into by the First Defendant
- 2 Upon delivery of a copy of this Order to the Second Defendant, the statutory register of charges for the First Defendant relating to the Charge be rectified by deleting the words "HSBC Corporate Trustee Services (UK) Limited (the "Security Agent")" in the section entitled "Names of persons, security agents or trustees entitled to the charge" and substituting the words "HSBC Corporate Trustee Company (UK) Limited (the "Security Agent")" in their place.

**AND IT IS HEREBY ORDERED** that

- 1 Time for service on the Registrar of Companies be abridged,
- 2 The Registrar of Companies do have permission to apply at any time prior to the registration of this Order, and
3. The Claimant shall notify the Registrar of Companies of paragraph 2 above not later than the time of delivery of this Order to the Registrar of Companies.



**Claim No. 904/2016**

**IN THE CENTRAL LONDON  
COUNTY COURT**

**IN THE MATTER OF SPIRE  
HEALTHCARE GROUP PLC  
AND**

**IN THE MATTER OF THE  
COMPANIES ACT 2006**

**B E T W E E N:**

**HSBC CORPORATE TRUSTEE  
COMPANY (UK) LIMITED**

**Claimant**

**-and-**

**(1) SPIRE HEALTHCARE GROUP  
PLC  
(2) REGISTRAR OF COMPANIES  
(ENGLAND AND WALES)**

**Defendants**

---

**ORDER**

---

**Clifford Chance LLP  
10 Upper Bank Street  
London E14 5JJ**

**Ref: Matthew Scully  
Tel: +44 (0)20 7006 1000  
Fax: +44 (0)20 7006 5555  
DX: 149120 Canary Wharf 3**

**Solicitors for the Claimant**

**C L I F F O R D  
C H A N C E**

**CLIFFORD CHANCE LLP**

EXECUTION VERSION

DATED 23 JULY 2014

**SPIRE HEALTHCARE GROUP PLC  
AS THE CHARGOR**

**IN FAVOUR OF**

**HSBC CORPORATE TRUSTEE SERVICES (UK) LIMITED  
AS THE SECURITY AGENT**

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**SECURITY OVER SHARES  
AGREEMENT**

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We hereby certify that, save for material redacted pursuant to s 859G of the Companies Act 2006, this is a true copy of the original

Signed Clifford Chance LLP

Date 25/7/14  
Clifford Chance LLP  
10 Upper Bank Street  
London E14 5JL



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**THIS AGREEMENT** is made by way of deed on 23 July 2014

**BETWEEN:**

- (1) **Spire Healthcare Group plc** registered in England and Wales with company number 09084066 (the "**Chargor**"), and
- (2) **HSBC Corporate Trustee Services (UK) Limited** as trustee for the Secured Parties on the terms and conditions set out in the Facilities Agreement (the "**Security Agent**" which expression shall include any person for the time being appointed as trustee or as an additional trustee for the purpose of and in accordance with the Facilities Agreement)

**RECITALS:**

- (A) Further to a Facilities Agreement (as defined below) the Original Lenders have agreed to make a facility (the "**Facility**") available to the Original Borrower(s)
- (B) It is a condition precedent to the Facility being made available that the Chargor enters into this Agreement
- (C) It is intended by the parties to this Agreement that this document will take effect as a deed despite the fact that a party may only execute this Agreement under hand
- (D) The Security Agent is acting under and holds the benefit of the rights conferred upon it in this Agreement on trust for the Secured Parties

**IT IS AGREED** as follows

**1 DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Agreement

"**Acceleration Event**" means the giving of notice pursuant to Clause 26.14 (*Acceleration*) of the Facilities Agreement

"**Charged Portfolio**" means the Shares and the Related Assets

"**Collateral Rights**" means subject always to the provisions of Clause 4 in relation to the exercise of voting rights all rights, powers and remedies of the Security Agent provided by this Agreement or by law

"**Facilities Agreement**" means the Facilities Agreement dated 11 July 2014 between Spire Group Healthcare plc as the company, the Original Borrowers, the Original Guarantors (each as defined in the Facilities Agreement), HSBC Bank plc as agent, HSBC Corporate Trustee Services (UK) Limited as security agent and the Original Lenders (as defined in the Facilities Agreement)

**"Pensions Notice"** means a contribution notice or a financial support direction issued by the Pensions Regulator under the Pensions Act 2004

**"Related Assets"** means all dividends, interest and other monies at any time payable in respect of the Shares and all other rights, benefits and proceeds in respect of or derived from the Shares (whether by way of redemption, bonus, preference, option, substitution, conversion, compensation or otherwise) held by, to the order or on behalf of the Chargor at any time

**"Secured Obligations"** means all obligations owing to the Secured Parties or to the Security Agent (whether for its own account or as trustee for the Secured Parties) by the Chargor under or pursuant to the Finance Documents and the Hedging Agreements including any liability in respect of any further advances made under the Finance Documents and the Hedging Agreements, whether present or future, actual or contingent (and whether incurred by the Chargor alone or jointly, and whether as principal or surety or in some other capacity) except for any obligation or liability which, if it were included, would cause that obligation or liability or any of the Security in respect thereof, to be unlawful or prohibited by any applicable law

**"Security"** means the security created under or pursuant to or evidenced by this Agreement

**"Shares"** means any stocks, shares, debentures and other security listed in the Schedule (*Shares*)

## **1.2 Terms defined in other Finance Documents**

Unless defined in this Agreement or the context otherwise requires, a term defined in the Facilities Agreement, or in any other Finance Document has the same meaning in this Agreement or any notice given under or in connection with this Agreement

## **1.3 Construction**

Clause 1.2 (*Construction*) of the Facilities Agreement will apply as if incorporated in this Agreement or in any notice given under or in connection with this Agreement

## **1.4 Third Party Rights**

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement

# **2 COVENANT TO PAY AND CHARGE**

## **2.1 Covenant to Pay**

The Chargor covenants with the Security Agent to discharge each of the Secured Obligations on their due date in accordance with their respective terms

## **2.2 Charge**

The Chargor charges the Charged Portfolio with full title guarantee and by way of first fixed charge, in favour of the Security Agent, as continuing security for the payment and discharge of the Secured Obligations

## **3 DEPOSIT OF CERTIFICATES, RELATED RIGHTS AND RELEASE**

### **3.1 Deposit of certificates**

The Chargor will, as soon as reasonably practicable (and in any event within 3 Business Days), upon the execution of this Agreement (or upon coming into possession of the Chargor at any time) deposit (or procure there to be deposited) with the Security Agent all certificates and other documents of title to the Shares, and stock transfer forms (executed in blank by or on behalf of the Chargor) in respect of the Shares

### **3.2 Related Assets**

The Chargor shall, promptly upon the accrual, offer or issue of any Related Assets (in the form of stocks, shares, warrants or other securities) in which the Chargor has a beneficial interest, procure the delivery to the Security Agent of (a) all certificates and other documents of title representing those Related Assets and (b) such duly executed blank stock transfer forms or other instruments of transfer in respect of those Related Assets as the Security Agent may reasonably require

### **3.3 Release**

Upon the Security Agent being satisfied that the Secured Obligations have been irrevocably paid or discharged in full, and the Security Agent and the Secured Parties having no further actual or contingent obligations to make advances or provide other financial accommodation to the Chargor or any other person under the Facilities Agreement or any Hedging Agreement, the Security Agent shall, at the request and cost of the Chargor release all the security granted by this Agreement without recourse to, and without any representations or warranties by, the Security Agent or any of its nominee(s)

## **4 VOTING RIGHTS AND DIVIDENDS**

### **4.1 Dividends prior to an Acceleration Event**

Prior to the occurrence of an Acceleration Event, the Chargor shall be entitled to receive all dividends, interest and other monies arising from the Charged Portfolio

### **4.2 Dividends after an Acceleration Event**

Upon the occurrence of an Acceleration Event, the Security Agent may, at its discretion, (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor) apply all dividends, interest and other monies arising from the Charged Portfolio as though they were the proceeds of sale under this Agreement

#### **4 3 Voting rights prior to Security Agent Notice**

Prior to the giving of notice pursuant to Clause 4 4 (*Voting rights after Security Agent Notice*), the Chargor shall be entitled to exercise all voting rights in relation to the Charged Portfolio

#### **4 4 Voting rights after Security Agent Notice**

Subject to Clause 4 5 upon the occurrence of an Acceleration Event, the Security Agent may (but without having any obligation to do so) give notice to the Chargor (with a copy to the Agent) that this Clause 4 4 will apply With effect from the giving of that notice the Security Agent may, at its discretion, (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor)

- (a) exercise (or refrain from exercising) any voting rights in respect of the Charged Portfolio, and
- (b) exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Charged Portfolio including the right, in relation to any company whose shares or other securities are included in the Charged Portfolio, to concur or participate in
  - (i) the reconstruction, amalgamation, sale or other disposal of such company or any of its assets or undertaking (including the exchange, conversion or reissue of any shares or securities as a consequence thereof),
  - (ii) the release, modification or variation of any rights or liabilities attaching to such shares or securities, and
  - (iii) the exercise, renunciation or assignment of any right to subscribe for any shares or securities,

in each case in the manner and on the terms the Security Agent thinks fit, and the proceeds of any such action shall form part of the Charged Portfolio

#### **4 5 Waiver of voting rights by Security Agent**

- (a) The Security Agent may, in its absolute discretion and without any consent or authority from the other Secured Parties or the Chargor, at any time, by notice to the Chargor (which notice shall be irrevocable), with a copy to the Agent, elect to give up the right to exercise (or refrain from exercising) all voting rights and powers in respect of the Charged Portfolio conferred or to be conferred on the Security Agent pursuant to Clause 4 4 and the other Secured Parties unconditionally waive any rights they may otherwise have to require the Security Agent not to make such election or to require the Security Agent to indemnify, compensate or otherwise make them good for any losses, costs or liabilities incurred by any of them in relation to or as a consequence of the Security Agent making such election

- (b) Once a notice has been issued by the Security Agent under paragraph (a) of this Clause 4.5, on and from the date of such notice the Security Agent shall cease to have the rights to exercise or refrain from exercising voting rights and powers in respect of the Charged Portfolio conferred or to be conferred on it pursuant to Clause 4.4 or any other provision of this Agreement and all such rights will be exercisable by the Chargor. The Chargor shall be entitled on and from the date of such notice, to exercise all voting rights and powers in relation to the Charged Portfolio subject only to the proviso contained in Clause 5.2(d).

## **5 CHARGOR'S REPRESENTATIONS AND UNDERTAKINGS**

### **5.1 Representations**

The Chargor makes the following representations and warranties to the Security Agent and acknowledges that the Security Agent has become a party to this Agreement in reliance on these representations and warranties.

#### **(a) *Ownership of Shares***

It is the sole legal and beneficial owner of the Charged Portfolio free and clear of all security interests save as created by this Agreement and has not sold or disposed of or granted any options or pre-emption rights in respect of any of its right, title and interest, in the Charged Portfolio (other than as permitted under the Finance Documents) and all of the Shares are validly issued, fully paid and are not subject to any options to purchase, pre-emption rights or similar rights or other restrictions upon disposal which would operate to restrict in any way their disposal by the Security Agent should it come to enforce its security over the Charged Portfolio contained in this Agreement.

#### **(b) *Centre of main interests and establishments***

- (i) It has its "centre of main interests" (as that term is used in Article 3(1) of the Council of the European Union Regulation No 1346/2000 on Insolvency Proceedings (the "**Regulation**")) in England or Wales.
- (ii) It has no "establishment" (as that term is used in Article 2(h) of the Regulation) in any jurisdictions other than England or Wales.

#### **(c) *Repetition***

The representations set out in Clauses (a) (*Ownership of Shares*) and (b) (*Centre of main interests and establishments*) above are deemed to be made by the Chargor by reference to the facts and circumstances then existing on the date of this Agreement.

## 5.2 Undertakings

### (a) *Authorisations*

The Chargor shall promptly

- (i) obtain, comply with and do all that is necessary to maintain in full force and effect, and
- (ii) supply certified copies to the Security Agent of,

any Authorisation required under any law or regulation of any relevant jurisdiction to enable it to perform its obligations under this Agreement and to ensure the legality, validity, enforceability or admissibility in evidence in any relevant jurisdiction of this Agreement

### (b) *Disposals and Negative pledge*

The Chargor shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntarily or involuntarily, to sell, lease, transfer or otherwise dispose of the whole or any part of the Charged Portfolio and will not create or permit to subsist any security interest on any part of the Charged Portfolio or otherwise deal with any part of the Charged Portfolio, save as may be permitted under the Finance Documents

### (c) *Calls on Shares*

The Chargor undertakes to pay all calls or other payments when due in respect of any part of the Charged Portfolio. If the Chargor fails to make any such payment the Security Agent may make that payment on behalf of the Chargor and any sums so paid by the Security Agent shall be reimbursed by the Chargor on demand together with interest on those sums. Such interest shall be calculated from the due date up to the actual date of payment (after, as well as before, judgment) in accordance with the provisions of the Facilities Agreement.

### (d) *Voting Rights*

Save as may be permitted under the Finance Documents, the Chargor shall not exercise (and shall procure that any nominee acting on its behalf does not exercise) its voting rights and powers in relation to the Charged Portfolio in any manner, or otherwise permit or agree to, or concur or participate in any (i) variation of the rights attaching to or conferred by all or any part of the Charged Portfolio (ii) increase in the issued share capital of any company whose shares are charged pursuant to this Agreement (iii) exercise, renunciation or assignment of any right to subscribe for any shares or securities or (iv) reconstruction, amalgamation, sale or other disposal of any company or any of the assets of any company (including the exchange, conversion or reissue of any shares or securities as a consequence thereof) whose shares are charged under this Agreement, which in the reasonable

opinion of the Security Agent would materially prejudice the value of, or the ability of the Security Agent to realise, the security created by this Agreement provided that the proceeds of any such action shall form part of the Charged Portfolio

## **6 FURTHER ASSURANCE**

### **6 1 Covenant for Further Assurance**

Subject to the Agreed Security Principles, the Chargor will promptly at its own cost do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)) for the purpose of exercising the Collateral Rights or perfecting the Security created or intended to be created in respect of the Charged Portfolio (which may include the execution by the Chargor of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, the Charged Portfolio) or for the exercise of the rights, powers and remedies of the Security Agent provided by or pursuant to this Agreement or by law in each case in accordance with the rights vested in it under this Agreement

### **6 2 Prescribed Wording**

The following covenants shall be implied in respect of any action taken by the Chargor to comply with its obligations under Clause 6 1

- (a) the Chargor has the right to take such action in respect of the Charged Portfolio, and
- (b) the Chargor will at its own cost do all that it reasonably can to give the Security Agent or its nominee the title and/or rights that it purports to give

## **7 POWER OF ATTORNEY**

### **7 1 Appointment and powers**

The Chargor by way of security irrevocably appoints the Security Agent and any Receiver severally to be its attorney and in its name, on its behalf and as its act and deed to, following an Event of Default which is continuing, execute, deliver and perfect all documents and do all things which the attorney may consider to be required for

- (a) carrying out any obligation imposed on the Chargor by this Agreement or any other agreement binding on the Chargor to which the Security Agent is a party (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Charged Portfolio), and
- (b) enabling the Security Agent to exercise, or delegate the exercise of, all or any of the Collateral Rights,



- (c) enabling any Receiver to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Agreement or by law

## **7.2 Ratification**

The Chargor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers

## **8 SECURITY ENFORCEMENT**

### **8.1 Time for Enforcement**

On and at any time after the occurrence of an Acceleration Event (as long as it is continuing) or if the Chargor requests the Security Agent to exercise any of its powers under this Agreement or if a petition or application is presented for the making of an administration order in relation to the Chargor or if any person gives written notice of its intention to appoint an administrator of the Chargor or files such a notice with the court, the security created by or pursuant to this Agreement is immediately enforceable and the Security Agent may, without notice to the Chargor or prior authorisation from any court, in its absolute discretion

- (a) secure and perfect its title to all or any part of the Charged Portfolio (including transferring the Charged Portfolio into the name of the Security Agent or its nominees),
- (b) enforce all or any part of the Security (at the times, in the manner and on the terms it thinks fit) and take possession of and hold, sell, or otherwise dispose of all or any part of the Charged Portfolio (at the time, in the manner and on the terms it thinks fit (including whether for cash or non-cash consideration), and
- (c) whether or not it has appointed a Receiver, exercise all or any of the powers, authorisations and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Agreement) on chargees and by this Agreement on any Receiver or otherwise conferred by law on chargees or Receivers

### **8.2 Power of sale**

- (a) The power of sale or other disposal conferred on the Security Agent and on the Receiver by this Agreement shall operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on execution of this Agreement
- (b) The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Agreement or to the exercise by the Security Agent of its right to consolidate all or any of the Security created by or pursuant to this Agreement with any other security in existence at any time or to its power of sale

### 8 3 Chargee's liability

Neither the Security Agent nor any Receiver will be liable to account as mortgagee or mortgagee in possession in respect of the Charged Portfolio or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever in connection with the Charged Portfolio for which a mortgagee or mortgagee in possession might as such be liable

### 8 4 Right of Appropriation

To the extent that any of the Charged Portfolio constitutes "financial collateral" and this Agreement and the obligations of the Chargor hereunder 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 (SI 2003 No 3226), as amended, (the "**Regulations**") the Security Agent shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations and may exercise such right to appropriate upon giving written notice to the Chargor. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be the market price of the Shares determined by the Security Agent by reference to a public index or by such other process as the Security Agent may select, including independent valuation. The parties agree that the method of valuation provided for in this Agreement shall constitute a commercially reasonable method of valuation for the purposes of the Regulations

### 8 5 Statutory powers

The powers conferred by this Agreement on the Security Agent are in addition to and not in substitution for the powers conferred on mortgagees and mortgagees in possession under the Law of Property Act 1925, the Insolvency Act 1986 or otherwise by law and in the case of any conflict between the powers contained in any such Act and those conferred by this Agreement the terms of this Agreement will prevail.

## 9 RECEIVERS AND ADMINISTRATORS

### 9 1 Appointment and removal

At any time after having been requested to do so by the Chargor or after this Agreement becomes enforceable in accordance with Clause 8 (*Security Enforcement*), the Security Agent may by deed or otherwise (acting through an authorised officer of the Security Agent), without prior notice to the Chargor

- (a) appoint one or more persons to be a Receiver of the whole or any part of the Charged Portfolio,
- (b) appoint one or more Receivers of separate parts of the Charged Portfolio respectively,
- (c) remove (so far as it is lawfully able) any Receiver so appointed, and
- (d) appoint another person(s) as an additional or replacement Receiver(s)

## **9 2 Capacity of Receivers**

Each person appointed to be a Receiver pursuant to Clause 9 1 (*Appointment and removal*) will be

- (a) entitled to act individually or together with any other person appointed or substituted as Receiver;
- (b) for all purposes deemed to be the agent of the Chargor which shall be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver shall at any time act as agent for the Security Agent, and
- (c) entitled to remuneration for his services at a rate to be fixed by the Security Agent from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925)

## **9 3 Statutory powers of appointment**

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Security Agent under the Law of Property Act 1925 (as extended by this Agreement) or otherwise and such powers shall remain exercisable from time to time by the Security Agent in respect of any part of the Charged Portfolio

## **9 4 Powers of Receivers**

Every Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of the Chargor) have and be entitled to exercise, in relation to the Charged Portfolio in respect of which he was appointed, and as varied and extended by the provisions of this Agreement (in the name of or on behalf of the Chargor or in his own name and, in each case, at the cost of the Chargor)

- (a) all the powers conferred by the Law of Property Act 1925 on mortgagors and on mortgagees in possession and on receivers appointed under that Act,
- (b) all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver),
- (c) all the powers and rights of an absolute owner and power to do or omit to do anything which the Chargor itself could do or omit to do,
- (d) the power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Agreement or any of the Finance Documents (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise any subsequent delegation or any revocation of such power, authority or discretion by the Receiver itself, and

- (e) the power to do all things (including bringing or defending proceedings in the name or on behalf of the Chargor) which seem to the Receiver to be incidental or conducive to
  - (i) any of the functions, powers, authorities or discretions conferred on or vested in him,
  - (ii) the exercise of any rights, powers and remedies of the Security Agent provided by or pursuant to this Agreement or by law (including realisation of all or any part of the Charged Portfolio), or
  - (iii) bringing to his hands any assets of the Chargor forming part of, or which when got in would be, Charged Portfolio

#### **9 5 Consideration**

The receipt of the Security Agent or any Receiver shall be a conclusive discharge to a purchaser and, in making any sale or disposal of any of the Charged Portfolio or making any acquisition, the Security Agent or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit

#### **9 6 Protection of purchasers**

No purchaser or other person dealing with the Security Agent or any Receiver shall be bound to inquire whether the right of the Security Agent or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Security Agent or such Receiver in such dealings

#### **9 7 Discretions**

Any liberty or power which may be exercised or any determination which may be made under this Agreement by the Security Agent or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons

### **10 EFFECTIVENESS OF COLLATERAL**

#### **10 1 Collateral Cumulative**

The collateral constituted by this Agreement and the Collateral Rights shall be cumulative, in addition to and independent of every other security which the Security Agent or any other Secured Party may at any time hold for the Secured Obligations or any rights, powers and remedies provided by law. No prior security held by the Security Agent or any other Secured Party over the whole or any part of the Charged Portfolio shall merge into the collateral constituted by this Agreement

#### **10 2 No Waiver**

No failure to exercise, nor any delay in exercising, on the part of the Security Agent, any right or remedy under this Agreement shall operate as a waiver of any such right or remedy or constitute an election to affirm this Agreement/or the Facilities

Agreement/or any Finance Document. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy of the Security Agent. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

#### **10.3 Illegality, Invalidity, Unenforceability**

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

#### **10.4 No liability**

None of the Security Agent, its nominee(s) or any receiver appointed pursuant to this Agreement shall be liable by reason of (a) taking any action permitted by this Agreement or (b) any neglect or default in connection with the Charged Portfolio or (c) the taking possession or realisation of all or any part of the Charged Portfolio, except in the case of gross negligence or wilful default upon its part.

#### **10.5 Implied Covenants for Title**

- (a) The covenants set out in Sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 2.2 (*Charge*).
- (b) It shall be implied in respect of Clause 2.2 (*Charge*) that the Chargor is charging the Charged Portfolio free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

#### **10.6 Continuing security**

- (a) The Security from time to time constituted by this Agreement is a continuing security and will remain in full force and effect as a continuing security until released or discharged by the Security Agent.
- (b) No part of the Security from time to time constituted by this Agreement will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

#### **10.7 Immediate recourse**

The Chargor waives any right it may have of first requiring the Security Agent or a Secured Party to proceed against or enforce any other rights or Security or claim payment from any person before claiming from the Chargor under this Agreement. This waiver applies irrespective of any law or any provision of this Agreement to the contrary.

#### **10 8 Avoidance of Payments**

Notwithstanding Clause 3 3 (*Release*) if the Security Agent considers that any amount paid or credited to it is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws the liability of the Chargor under this Agreement and the security constituted by this Agreement shall continue and that amount shall not be considered to have been irrevocably paid

#### **10 9 No prejudice**

The Security created by or pursuant to this Agreement and the rights, powers and remedies of the Security Agent provided by or pursuant to this Agreement or by law shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Chargor or any other person by the Security Agent or any other Secured Party or by any variation of the terms of the trust upon which the Security Agent holds the Security or by any other thing which might otherwise prejudice the Security or any rights, powers and remedies of the Security Agent provided by or pursuant to this Agreement or by law

#### **11 RETENTION OF AGREEMENT**

The Security Agent may retain this Agreement, the Security constituted by or pursuant to this Agreement and all documents relating to or evidencing ownership of all or any part of the Charged Portfolio for a period of seven months after any discharge in full of the Secured Obligations Provided that if at any time during that seven month period a petition or application is presented for an order for the winding-up of, or the making of an administration order in respect of, the Chargor or any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Chargor or files such a notice with the court or the Chargor commences to be wound-up voluntarily or any analogous proceedings are commenced in respect of it, the Security Agent may continue to retain such Security and such documents for such further period as the Security Agent may determine and the Security and such documents shall be deemed to have continued to be held as security for the Secured Obligations

#### **12 INDEMNITY**

The Chargor shall, notwithstanding any release or discharge of all or any part of the security, indemnify the Security Agent, its attorneys and any Receiver against any action, proceeding, claims, losses, liabilities and costs which it may sustain as a consequence of any breach by the Chargor of the provisions of this Agreement, the exercise or purported exercise of any of the rights and powers conferred on them by this Agreement, the service on it of any Pensions Notice or otherwise relating to the Charged Portfolio

#### **13 APPLICATION OF PROCEEDS**

All moneys received or recovered and any non-cash recoveries made or received by the Security Agent or any Receiver pursuant to this Agreement or the powers conferred by it shall (subject to the claims of any person having prior rights thereto

and by way of variation of the provisions of the Law of Property Act 1925) be applied first in the payment of the costs, charges and expenses incurred and payments made by the Receiver, the payment of his remuneration and the discharge of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of his powers, and thereafter shall be applied by the Security Agent (notwithstanding any purported appropriation by the Chargor) in accordance with paragraph 26 (*Order of application*) of Schedule 13 (*Security Agent*) of the Facilities Agreement.

## **14 OTHER SECURITY INTERESTS**

### **14 1 Redemption or transfer**

In the event of any action, proceeding or step being taken to exercise any powers or remedies conferred by any prior ranking security in case of exercise by the Security Agent or any Receiver of any power of sale under this Agreement the Security Agent may redeem such prior security or procure the transfer thereof to itself

### **14 2 Accounts**

The Security Agent may settle and pass the accounts of the prior security and any accounts so settled and passed will (subject to manifest error) be conclusive and binding on the Chargor

### **14 3 Costs of redemption or transfer**

All principal monies, interest, costs, charges and expenses of and incidental to any redemption or transfer will be paid by the Chargor to the Security Agent on demand together with accrued interest thereon (after as well as before judgment) at the rate from time to time applicable to unpaid sums specified in the Facilities Agreement from the time or respective times of the same having been paid or incurred until payment thereof (after as well as before judgment)

### **14 4 Subsequent Interests**

If the Security Agent at any time receives notice of any subsequent mortgage, assignment, charge or other interest affecting all or any part of the Charged Portfolio, all payments made by the Chargor to the Security Agent or any of the Secured Parties after that time shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations as at the time when the Security Agent received notice.

## **15 CALCULATIONS AND CERTIFICATES**

### **15 1 Accounts**

In any litigation or arbitration proceedings arising out of or in connection with this Agreement, the entries made in the accounts maintained by the Security Agent are *prima facie* evidence of the matters to which they relate

## **16 CURRENCY INDEMNITY**

If any sum (a "**Sum**") owing by the Chargor under this Agreement or any order or judgment given or made in relation to this Agreement 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 in any court of other tribunal,
- (c) enforcing any judgment given or made in relation to this Agreement, or
- (d) applying the Sum in satisfaction of any Secured Obligations,

the Chargor shall indemnify the Security Agent 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 the Security Agent at the time of such receipt of such Sum.

## **17 ASSIGNMENT**

### **17 1 Permitted Successors**

This Agreement shall be binding upon and shall inure to the benefit of each party and its direct or subsequent legal successors, permitted transferees and assigns

### **17 2 Security Agent Successors**

This Agreement shall remain in effect despite any amalgamation or merger (however effected) relating to the Security Agent; and references to the Security Agent shall include any assignee or successor in title of the Security Agent and any person who, under the laws of its jurisdiction of incorporation or domicile, has assumed the rights and obligations of the Security Agent under this Agreement or to which, under such laws, those rights and obligations have been transferred

### **17 3 Disclosure**

The Security Agent shall be entitled to disclose such information concerning the Chargor or any other person and this Agreement as the Security Agent considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by applicable law.

## **18 WAIVERS AND COUNTERPARTS**

### **18 1 Waivers**

No waiver by the Security Agent of any of its rights under this Agreement shall be effective unless given in writing



**18 2 Counterparts**

This Agreement 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 Agreement

**19 LAW**

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

**20 ENFORCEMENT**

**20 1 Jurisdiction of English Courts**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or the consequences of its nullity) or any non-contractual obligations arising out of or in connection with this Agreement (a "**Dispute**")
- (b) The parties agree that the courts of England are the most appropriate and convenient courts to settle disputes and accordingly no party will argue to the contrary
- (c) This Clause 20 is for the benefit of the Security Agent only. As a result and notwithstanding Clause 20 1(a), it does not prevent the Security Agent from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

**THIS AGREEMENT** has been signed on behalf of the Security Agent and executed as a deed by the Chargor and is delivered by it on the date specified above

**THE SCHEDULE**  
**Shares**

**Name of Chargor:**

Spire Healthcare Group plc

**Issued Shares:**

Spire Healthcare Finance Limited

**Number of Shares:**

~~30,221,906,361~~ 52,500,000,101

**Certificates held:**

4 (Numbers 2, 3, 4 and 5)

**EXECUTION PAGE**

**Chargor**

**EXECUTED as a DEED** )  
**by SPIRE HEALTHCARE GROUP PLC** )

**Director**

Name *SIMON GORDON*

in the presence of

 .....

Signature of witness

*Michael Blau* .....

Name of witness

 .....

Address of witness

**Security Agent**

For and on behalf of  
**HSBC CORPORATE TRUSTEE SERVICES (UK) LIMITED**

By:

Name:

Title:

**EXECUTION PAGE**

**Chargor**

**EXECUTED as a DEED** )  
**by SPIRE HEALTHCARE GROUP PLC** )

**Director**

**Name:**

**in the presence of**

.....

**Signature of witness**

.....

**Name of witness**

.....

**Address of witness**

.....

.....

**Security Agent**

**For and on behalf of**  
**HSBC CORPORATE TRUSTEE SERVICES (UK) LIMITED**

**By:**



**Name:** THOMAS MCKAY

**Title:** Authorised Signatory