



**Registration of a Charge**

Company name: **LIFESTYLE CARE MANAGEMENT LIMITED**

Company number: **09662234**

Received for Electronic Filing: **08/02/2018**



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**Details of Charge**

Date of creation: **02/02/2018**

Charge code: **0966 2234 0002**

Persons entitled: **PATIENT PROPERTIES (HOLDINGS) LIMITED**

Brief description: **NOT APPLICABLE.**

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or undertaking of the company).**

**Contains negative pledge.**

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**Authentication of Form**

This form was authorised by: **a person with an interest in the registration of the charge.**

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S. 859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL  
INSTRUMENT.**

Certified by:

**ADDLESHAW GODDARD LLP**



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

Company number: 9662234

Charge code: 0966 2234 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 2nd February 2018 and created by LIFESTYLE CARE MANAGEMENT LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 8th February 2018 .

Given at Companies House, Cardiff on 12th February 2018

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

**ADDLESHAW  
GODDARD**

Dated 2 February 2018

**LIFESTYLE CARE MANAGEMENT LIMITED  
PATIENT PROPERTIES (HOLDINGS) LIMITED**

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**MORTGAGE DEBENTURE**

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This Mortgage Debenture is made on

2 February

2018

**Between**

- (1) **Lifestyle Care Management Limited** (Company No. 9662234) whose registered office is at The Hamlet, Hornbeam Park, Harrogate, North Yorkshire, HG2 8RE (**Company**); and
- (2) **Patient Properties (Holdings) Limited** 44 Esplanade, St Helier, Jersey, JE4 9WG (**Chargee**).

**Charge**

- 1 The Company hereby covenants to pay to the Chargee on demand the sum of one pound (£1) and to pay and discharge on demand the sums due under the Management Support Services Agreement dated 27 June 2017 as amended and varied from time to time and made between Life Style Care (2011) PLC – in administration (1), Robert James Harding and Nicholas Guy Edwards (2), Orchard Care Homes.com Limited (**Orchard**) (3), Company (4) and Hudson Advisors UK Limited (5) (**MSA**) together with interest calculated and compounded (as well after as before any demand made or judgment obtained) at the rate of four per cent per annum above the Base Lending Rate (varying) of The Royal Bank of Scotland plc as published from time to time and compounded quarterly from demand.
- 2 The Company hereby covenants to perform its obligations pursuant to the MSA.
- 3 The Company assigns and agrees to assign with full title guarantee to the Chargee absolutely (subject to a proviso for reassignment on redemption), as continuing security for payment or discharge of all monies obligations and liabilities hereby covenanted to be paid or discharged (together with all costs and expenses howsoever incurred by the Chargee in connection with this Mortgage Debenture on a full indemnity basis), all contractual agreements and insurance policies to which the Company is a party (**Assigned Assets**), to the extent they are freely assignable. To the extent that any Assigned Asset is not assignable, the assignment which this clause 2 purports to effect shall operate as an assignment of all present and future rights and claims of the Company. The Company shall remain liable to perform all its obligations under the Assigned Assets. Immediately upon request by the Chargee the Company shall in respect of each of the Assigned Assets deliver a duly completed notice of assignment to each other party, and shall use its reasonable endeavours to procure that each such party executes and delivers to the Chargee an acknowledgement, in each case in such form as the Chargee shall require.
- 4 The Company with full title guarantee and to the intent that the security created shall rank as a continuing security hereby charges with the payment or discharge of all monies obligations and liabilities hereby covenanted to be paid or discharged (together with all costs and expenses howsoever incurred by the Chargee in connection with this Mortgage Debenture on a full indemnity basis):
  - (a) By way of first legal mortgage all the freehold and leasehold property now vested in or charged to the Company including (without limitation) any property referred to in the Schedule to this Mortgage Debenture (**Legally Mortgaged Property**) and/or the proceeds of sale thereof
  - (b) By way of fixed charge all estates or interests in any freehold and leasehold property (except the Legally Mortgaged Property) now and at any time during the continuance of this security vested in or charged to the Company (**Equitably Charged Property**) and/or the proceeds of sale thereof

- (c) The benefit of all other agreements, licences, instruments and rights relating to the Legally Mortgaged Property and Equitably Charge Property
- (d) By way of fixed charge all fixtures and fittings from time to time attached to any freehold and/or leasehold property of the Company
- (e) By way of fixed charge all plant and machinery vehicles computer and office and other equipment both present and future and the full benefit of all warranties and maintenance contracts for any of the same
- (f) By way of fixed charge all furniture furnishings equipment tools and other chattels of the Company present and future not regularly disposed of in the ordinary course of business
- (g) By way of fixed charge all stocks shares and/or other securities now and at any time during the continuance of this security belonging to the Company either in or issued by any of its subsidiary companies or any other company and all dividends and other rights derived from or attaching to the same
- (h) By way of fixed charge all rents now and from time to time receivable from any lease or other occupation rights granted out of any freehold and/or leasehold property of the Company
- (i) By way of fixed charge all book debts and other debts now and from time to time due or owing to the Company and the proceeds of payment or realisation of each of them until the receipt of the proceeds from time to time into an account in accordance with clause 9
- (j) By way of fixed charge all funds standing to the credit of the Company from time to time on any account with any bank or other financial institution or organisation including all receipts from time to time paid into any account provided that the Chargee may without prejudice to this Mortgage Debenture permit the Company to make withdrawals from time to time
- (k) By way of fixed charge all the goodwill and uncalled capital of the Company present and future
- (l) By way of fixed charge all Intellectual Property Rights choses in action licences and claims of the Company present and future and the insurance policies and proceeds of any insurance from time to time affecting the Legally Mortgaged Property and/or the Equitably Charged Property. **"Intellectual Property Rights"** includes (without limitation) all rights in patents inventions copyrights design rights trademarks service marks database rights confidential information know-how domain names and business names
- (m) By way of floating charge all the undertaking and all property assets and rights of the Company (or which the Company has power to charge) whatsoever and wheresoever present and/or future including those for the time being charged by way of fixed charge pursuant to the foregoing paragraphs if and to the extent that such charges as aforesaid shall fail as fixed charges but without prejudice to any such fixed charges as shall continue to be effective.

5 The costs and expenses in clause 3 shall include (for the avoidance of doubt) all amounts the Chargee may from time to time require to compensate it for its costs and expenses (including

internal management and administrative costs and expenses) incurred in connection with the defending protection and/or enforcement of this Mortgage Debenture and recovery of the liabilities secured by it. A certificate signed by the Chargee as to the amount of such costs and expenses incurred by the Chargee from time to time shall (save for any error manifest on the face thereof) for all purposes be conclusive evidence against and binding upon the Company.

- 6 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge(s) referred to in this Mortgage Debenture.
- 7 The security constituted by this Mortgage Debenture:
  - (i) is in addition to any other security which the Chargee may hold at any time for the obligations secured hereunder (or any of them); and
  - (ii) may be enforced without first having recourse to any other rights of the Chargee.

### Restrictions

- 8 With reference to the Equitably Charged Property and the property charged pursuant to clause 4(g) (the **Charged Securities**) the Company undertakes:
  - (a) To deposit with the Chargee the deeds and documents of title and/or share certificates relating thereto
  - (b) At any time upon request to execute over all or any part thereof a charge by way of legal mortgage and any appropriate transfer or other forms instruments or instructions in favour of the Chargee or its nominee in such form as the Chargee shall require. The Chargee may as it thinks fit exercise any rights attaching to the Charged Securities for the purpose of preserving the value of or realising such assets but otherwise the Chargee will only exercise such rights in accordance with the Company's instructions, until an Event of Default (as defined in clause 20 below) occurs. At any time following the occurrence of an Event of Default which is continuing the Chargee may:
    - (i) receive and retain all dividends, distributions and other monies paid on or derived from the Charged Securities; and
    - (ii) exercise all voting and other rights and powers attaching to the Charged Securities.
- 9 With reference to the Legally Mortgaged Property and the Equitably Charged Property the Company agrees:
  - (a) To keep it in a good state of repair and condition and insured against such risks and in such office and for such amounts as the Chargee may reasonably require or approve and that failure to do so will entitle the Chargee to do so at the expense of the Company and as agent of the Company without thereby becoming a mortgagee in possession;
  - (b) That the statutory power of leasing and/or accepting surrenders of leases conferred on mortgagors shall not be exercised by the Company without the consent in writing of the Chargee but the Chargee may grant or accept surrenders of leases without restriction;

- (c) Not to part with possession of it or any part thereof nor confer upon any person firm company or body whatsoever other than concessionaires any licence right or interest to occupy it or any part thereof without the consent in writing of the Chargee.
- 10 With reference to the book debts and other debts hereby specifically charged the Company:
- (a) Shall until the Chargee (or some other person acting in that behalf for the Chargee) as chargee shall take over such matters as agent and for and on behalf of the Company but at the expense of the Company collect and get in all the book debts and other debts present and future hereby charged and shall hold the monies paid in satisfaction thereof and all securities representing the same for the Chargee as such chargee and shall immediately upon receipt of such monies or securities pay the same into the account designated from time to time in writing by the Chargee which shall until further notice be a designated account domiciled with The Royal Bank of Scotland plc;
  - (b) Shall not without the prior consent in writing of the Chargee sell factor discount or otherwise charge or assign the same in favour of any other person or purport to do so and the Company shall if called upon to do so by the Chargee from time to time execute legal assignments of such book debts and other debts to the Chargee.
- 11 The Company covenants that it shall not without the prior consent in writing of the Chargee:
- (a) Create or permit to arise or subsist any mortgage or charge on (or on any part of) the property assets and rights charged by clause 3
  - (b) Dispose of the whole or except in the ordinary course of business any part of the Company's undertaking or any other asset charged by clause 4(m).
- 12 The Company agrees to effect and maintain such insurances as are normally maintained by prudent companies carrying on similar businesses.
- 13 The Chargee may by notice to the Company convert the floating charge into a fixed charge as regards any property assets and rights specified in the notice. Following such a notice the Company shall not dispose of any such property assets or rights which are included in the notice without the prior written consent of the Chargee.
- 14 The Company covenants that it shall not do or cause or permit to be done anything which may in any way materially depreciate, jeopardise or otherwise prejudice the value to the Chargee of the security created by or under this Mortgage Debenture.

#### **Powers of the Chargee**

- 15 The Chargee may without restriction grant or accept surrenders of leases of the Company's freehold and leasehold property or any part of it.
- 16 The Chargee may under the hand of any officer or agent or by deed appoint or remove a receiver or receivers of the whole or any part of the property and assets charged by this Mortgage Debenture and may fix and pay the fees of a receiver but any receiver shall be deemed to be the agent of the Company and the Company shall be solely responsible for the acts defaults and remuneration of the receiver(s).
- 17 The Chargee may under the hand of any officer or agent appoint an administrator of the Company and the power of appointing an administrator and of making an application for an



administration order shall arise and become exercisable at any time after the date of this Mortgage Debenture.

- 18 All or any of the powers conferred on a receiver by this Mortgage Debenture may be exercised by the Chargee without first appointing a receiver or notwithstanding any appointment.
- 19 The Chargee will not be liable to account to the Company as mortgagee in possession for any money not actually received by the Chargee.
- 20 In addition to any lien or right to which the Chargee may be entitled by law the Chargee may from time to time without notice and both before and after demand set off the whole or any part of the Company's liabilities to the Chargee against any liability the Chargee may have to the Company but the Company shall pay satisfy and discharge its obligations under this Security without any deduction set-off or counterclaim on any account.

#### **Enforcement of security**

- 21 On the occurrence of any Event of Default which is continuing, the security created by and under this Mortgage Debenture is immediately enforceable. **Event of Default** means any of the following events:
  - (a) termination of the MSA;
  - (b) failure by the Company or Orchard to perform any of its obligations under the MSA within 14 days of written notice from the Chargee of such failure (excluding where the obligation requires the Company or Orchard to pay monies to the Chargee);
  - (c) failure by the Company or Orchard to meet any payment obligations pursuant to the terms of the MSA (save where such failure is the result of a technical error);
  - (d) enforcement of the Share Option entered into on or around the date of this Mortgage Debenture and made between the Chargee and Orchard in respect of shares of the Company; or
  - (e) failure to comply with any terms of the Share Option or the Mortgage Debenture within 14 days of written notice from the Chargee of such failure.
- 22 The Chargee may, at its absolute discretion, at any time after the security created by or under this Mortgage Debenture is enforceable:
  - (i) enforce all or any part of the security created by or under this Mortgage Debenture in any manner it sees fit;
  - (ii) exercise its rights and powers conferred upon mortgagees by the Law of Property Act 1925 (**1925 Act**), as varied and extended by this Mortgage Debenture, and rights and powers conferred on a receiver by this Mortgage Debenture, whether or not it has taken possession or appointed a receiver to any of the assets secured under this Mortgage Debenture;
  - (iii) appoint a receiver to all or any part of the assets secured under this Mortgage Debenture;
  - (iv) appoint an administrator in respect of the Company and take any steps to do so;

- (v) exercise its power of sale under section 101 of the 1925 Act (as amended by this Mortgage Debenture); or
- (vi) if permitted by law, appoint an administrative receiver in respect of the Company.

23 The Company hereby acknowledges and confirms:

- (i) For the purposes of all powers implied by statute, the obligations secured under this Mortgage Debenture are deemed to have become due and payable on the date of this Mortgage Debenture.
- (ii) Section 103 of the 1925 Act and section 93 of the 1925 Act do not apply to the security constituted by or under this Mortgage Debenture and the Chargee may exercise its power of sale and all other powers at any time after the date of this Mortgage Debenture.
- (iii) The statutory powers of leasing conferred on the Chargee are extended so that, without the need to comply with any provision of section 99 or section 100 of the 1925 Act, the Chargee is empowered to lease and make agreements for lease at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it may think fit.
- (iv) Each receiver and the Chargee is entitled to all the rights, powers, privileges and immunities conferred by the 1925 Act and the Insolvency Act 1986 on mortgagees and receivers.

24 If the Chargee enforces the security constituted by or under this Mortgage Debenture at a time when no amounts are due to the Chargee but at a time when amounts may or will become so due, the Chargee (or the receiver) may pay the proceeds of any recoveries effected by it into an interest bearing suspense account.

25 Neither the Chargee nor any receiver will be liable, by reason of entering into possession of an asset secured hereunder, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might otherwise be liable.

### Receivers

26 At any time after any security created by or under this Mortgage Debenture is enforceable, the Chargee may appoint a receiver, manager or administrative receiver (**Receiver**) to all or any part of the assets secured hereunder in accordance with clauses 20 and 21 of this Mortgage Debenture.

27 At any time, if so requested in writing by the Company, without further notice, the Chargee may appoint a Receiver to all or any part of assets secured hereunder as if the Chargee had become entitled under the 1925 Act to exercise the power of sale conferred under the 1925 Act.

28 Any Receiver appointed under this Mortgage Debenture shall be the agent of the Company and the Company shall be solely responsible for his acts or defaults and for his remuneration and liable on any contracts or engagements made or entered into by him and in no

circumstances whatsoever shall the Chargee be in any way responsible for any misconduct, negligence or default of the Receiver.

- 29 The Chargee may by written notice remove from time to time any Receiver appointed by it and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated.
- 30 Any Receiver appointed by the Chargee shall be a receiver and manager and shall (in addition to all powers conferred on him by law) have the following powers which in the case of joint receivers may be exercised jointly or severally:
- (a) In addition to those conferred by the 1925 Act on any Receiver appointed under the 1925 Act, each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out in this Mortgage Debenture
  - (b) If there is more than one Receiver holding office at the same time, unless the document appointing him states otherwise, each Receiver may exercise all of the powers conferred on a Receiver under this Mortgage Debenture or under the Insolvency Act 1986 individually and to the exclusion of any other Receivers
  - (c) A Receiver has all the rights, powers and discretions of an administrative receiver under the Insolvency Act 1986
  - (d) A Receiver may, in the name of the Company do all other acts and things which he may consider expedient for realising any asset secured hereunder and exercise in relation to any asset secured hereunder all the powers, authorities and things which he would be capable of exercising if he were its absolute beneficial owner
  - (e) To take possession of and generally manage the property and assets of the Company charged by clause 3 and carry on any business of the Company
  - (f) To borrow any money and secure the payment of any money in priority to the Company's liabilities to the Chargee on any terms and for whatever purpose which he thinks fit. No person lending that money need enquire as to the propriety or purpose of the exercise of that power or to check the application of any money so raised or borrowed
  - (g) A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Company or relating in any way to any assets secured hereunder.
  - (h) A Receiver may delegate his powers in accordance with clause 31.
  - (i) For the purposes of this Mortgage Debenture, a Receiver as he thinks appropriate, on behalf of the Company or for itself as Receiver, may:
    - (i) appoint and discharge managers, officers, agents, accountants, servants, workmen and others upon such terms as to remuneration or otherwise as he may think proper; and
    - (ii) discharge any such persons appointed by the Company.
  - (j) A Receiver may let any asset secured hereunder for any term and at any rent (with or without a premium) which he thinks proper and may accept a surrender of any lease

or tenancy of any asset secured hereunder on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender).

- (k) A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings or submit to arbitration or any form of alternative dispute resolution in the name of the Company in relation to any asset secured hereunder as he considers expedient.
- (l) A Receiver may take immediate possession of, get in and collect any asset secured hereunder.
- (m) A Receiver may, in each case as he may think fit:
  - (i) make and effect all repairs and insurances and do all other acts which the Company might do in the ordinary conduct of its business be they for the protection or for the improvement of the assets secured hereunder;
  - (ii) commence and/or complete any building operations on the any asset secured hereunder; and
  - (iii) apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence.
- (n) A Receiver may give valid receipts for all monies and execute all assurances and things which may be expedient for realising any asset secured hereunder.
- (o) A Receiver may sell, exchange, convert into monies and realise any asset secured hereunder by public auction or private contract in any manner and on any terms which he thinks proper. The consideration for any such transaction may consist of cash, debenture or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit. Fixtures and any plant and machinery annexed to any part of an asset secured hereunder may be severed and sold separately from the property containing them without the consent of the Company.
- (p) A Receiver may form a subsidiary of the Company and transfer to that subsidiary any asset secured hereunder.
- (q) A Receiver may, without restriction sell, let or lease, or concur in selling, letting or leasing, or vary the terms of, determine, surrender or accept surrenders of, leases or tenancies of, or grant options and licences over or otherwise dispose of or deal with, all or any part of any of the assets secured hereunder without being responsible for loss or damage, and so that any such sale, lease or disposition may be made for cash payable by instalments, loan stock or other debt obligations or for shares or securities of another company or other valuable consideration. The Receiver may form and promote, or concur in forming and promoting, a company or companies to purchase, lease, licence or otherwise acquire interests in all or any of the assets secured hereunder or otherwise, arrange for such companies to trade or cease to trade and to purchase, lease, license or otherwise acquire all or any of the assets secured hereunder on such terms and conditions whether or not including payment by instalments secured or unsecured as he may think fit.

- (r) A Receiver may exercise all voting and other rights attaching to stocks, shares and other securities owned by the Company and comprised in the assets secured hereunder in such manner as he may think fit.
  - (s) A Receiver may redeem any prior security and settle and pass the accounts of the person entitled to the prior security so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Company and the money so paid shall be deemed to be an expense properly incurred by the Receiver.
  - (t) A Receiver may purchase or acquire any land and purchase, acquire or grant any interest in or right over land.
  - (u) A Receiver may implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on, any real property comprised in any of the assets secured hereunder and do all acts and things incidental to such assets.
  - (v) A Receiver may on behalf of the Company and without consent of or notice to the Company exercise all the powers conferred on a landlord or a tenant any legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of assets secured hereunder.
  - (w) A Receiver may make calls conditionally or unconditionally on the members of the Company in respect of uncalled capital.
  - (x) A Receiver may do all other acts and things including without limitation, signing and executing all documents and deeds as may be considered by the Receiver to be incidental or conducive to any of the matters or powers listed here or granted by law or otherwise incidental or conducive to the preservation, improvement or realisation of the assets secured hereunder and to use the name of the Company for all the purposes set out in this clause 29.
- 31 The Chargee may from time to time fix the remuneration of any Receiver appointed by it.
- 32 The Chargee and any Receiver may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by the Chargee and the Receiver (as appropriate) under this Mortgage Debenture to any person or persons as it shall think fit. Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Chargee and Receiver (as appropriate) may think fit. The Chargee and any Receiver will not be liable or responsible to the Chargee or any other person for any losses, liabilities or expenses arising from any act, default, omission or misconduct on the part of any delegate.
- 33 Sections 109(6) and (8) (Appointment, powers, remuneration and duties of receiver) of the 1925 Act shall not apply to a Receiver appointed under this Mortgage Debenture.

#### **General**

- 34 All monies received by the Chargee or any Receiver under this Mortgage Debenture shall be applied in discharge of the obligations of the Company secured hereunder shall be applied in such order as the Chargee may determine.
- 35 The Chargee and any Receiver may place any money received, recovered or realised pursuant to this Mortgage Debenture in an interest bearing suspense account and it may

retain the same for such period as it considers expedient without having any obligation to apply the same or any part of it in or towards discharge of the obligations of the Company secured hereunder.

- 36 No failure to exercise, nor any delay in exercising, on the part of the Chargee or any Receiver, any right or remedy under this Mortgage Debenture shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Mortgage Debenture are cumulative and not exclusive of any rights or remedies provided by law. A waiver given or consent granted by the Chargee under this Mortgage Debenture will be effective only if given in writing and then only in the instance and for the purpose for which it is given.
- 37 The security created by or under this Mortgage Debenture is in addition to and is not in any way prejudiced by any guarantee or security now or subsequently held by the Chargee.
- 38 The Chargee may set off any matured obligation due from the Company (to the extent beneficially owned by the Chargee) against any matured obligation owed by the Chargee to the Company, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Chargee may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.
- 39 The Chargee may assign or otherwise transfer all or any part of its rights under this Mortgage Debenture or any security created by or under it. The Chargee may disclose to any actual or proposed assignee or transferee any information in its possession which relates to the Company, its business and assets and this Mortgage Debenture that the Chargee considers appropriate.
- 40 A Receiver shall apply all money he receives in the following order of priority:
- (a) first, in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Receiver or the Chargee under or in connection with this Mortgage Debenture and of all remuneration due to any Receiver under or on connection with this Mortgage Debenture;
  - (b) second, in or towards payment of or provision of the remaining obligations and liabilities secured by this Mortgage Debenture, in any order that the Chargee determines; and
  - (c) third, in payment of any surplus to the Company or other person entitled to it.
- 41 The powers conferred on mortgagees or receivers by the 1925 Act shall apply to this security except in so far as they are expressly or impliedly excluded and where there is any ambiguity or conflict between the powers contained in the 1925 Act and those contained in this security the terms of this security shall prevail.
- 42 If the Chargee receives or is deemed to be affected by notice whether actual or constructive of any subsequent charge or other interest affecting any part of the property hereby charged and/or the proceeds of sale thereof the Chargee may open a new account or accounts with the Company. If the Chargee does not open a new account it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice and as from that time all payments made to the Chargee shall be credited or be treated as having

been credited to the new account and shall not operate to reduce the amount for which this Mortgage Debenture is security.

### **Power of Attorney**

- 43 The Company by way of security hereby irrevocably appoints the Chargee and any person nominated in writing under the hand of the Chargee and every receiver appointed hereunder severally as Attorney of the Company with full power of substitution and delegation for the Company and in its name and on its behalf and as its act and deed to sign or execute and deliver and otherwise perfect any deed assurance agreement instrument or act which may be required or deemed proper for any of the purposes of this security. The Company ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause 42.
- 44 The Company shall from time to time supply to the Chargee such accounts or other information concerning the assets liabilities and affairs of the Company its subsidiary or associated companies as the Chargee may require.

### **Preservation of other Security and Rights and Further Assurance**

- 45 The security from time to time constituted by or pursuant to this Mortgage Debenture shall be in addition to and shall be independent of any other security which the Chargee may now or at any time hold on all or any part of the assets of the Company for or in respect of all or any part of the monies obligations and liabilities hereby covenanted to be paid or discharged and it is hereby declared that no prior security held by the Chargee over the property hereby charged or any part of it shall merge in the security created hereby or pursuant hereto.
- 46 The Company will whenever so requested by the Chargee and at its own expense promptly execute such deeds or documents and take any action required by the Chargee to perfect and protect the security created or intended to be created by this Mortgage Debenture or to facilitate the realisation or recovery thereof or otherwise to enforce or exercise any of the rights of the Chargee hereunder.
- 47 No failure to exercise nor any delay in exercising on the part of the Chargee any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any such right power of privilege preclude any other or further exercise thereof or the exercise of any other power or right.
- 48 The security constituted by this Mortgage Debenture shall be continuing security and shall remain in full force and effect regardless of any intermediate payment or discharge by the Company or any other person of the whole or any part of the obligations secured hereunder.
- 49 The Company shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any security conferred or intended to be conferred on the Chargee by or pursuant to this Mortgage Debenture.

### **Notices**

- 50 A demand or notice hereunder shall be in writing signed by the Chargee or a solicitor or other agent of the Chargee and may be served on the Company by hand or by post or by facsimile machine (fax) and in the case of service by hand either by delivering the same to any officer of the Company at any place or leaving the same addressed to the Company at its registered office or a place of business last known to the Chargee. If such demand or notice is sent by

post or by fax it shall be deemed to have been received if posted on the day following the day on which it was posted and if sent by fax at the time of transmission shall be effective notwithstanding it be returned undelivered. The Chargee may use the last fax number of the Company known to him and transmissions may be proved by production of an activity or transmission report which purports to indicate the transmission of a message to such number.

### **Memorandum and Articles**

- 51 It is hereby certified that this Mortgage Debenture does not contravene any of the provisions of the Company's Memorandum or Articles of Association and has been executed in accordance therewith.

### **Governing Law**

- 52 This Mortgage Debenture shall be governed by and construed in accordance with English Law.

### **Counterparts**

- 53 This Mortgage Debenture may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Mortgage Debenture by e-mail attachment or telecopy shall be an effective mode of delivery.

**In witness** whereof the Company has executed this Mortgage Debenture as a Deed the day and year first before written.



**The Schedule**

(This schedule is intentionally blank)

Executed as a deed by  
**the Company** acting by a director  
in the presence of

)  
)  
)

Director

Signature of witness

Name S. WHELAN

Address Orchard Care Homes, The  
Mamlet, Marroghate, MG2 8RE

Executed as a deed by  
**the Chargee** acting by a director  
in the presence of

)  
)  
)

Director

Signature of witness

Name .....

Address .....

Executed as a deed by )  
**the Company** acting by a director ) .....  
in the presence of ) Director

.....  
Signature of witness

Name .....

Address .....

.....  
Executed as a deed by **Jon Barratt** )  
**the Chargee** acting by a director ) .....  
in the presence of ) Director

.....  
Signature of witness

Name ..... **Robert Scott** .....

Address .....  
44 Esplanade  
St Helier  
Jersey  
JE4 9WG

**This Release** made the ♦ day of ♦ 20♦ between the within-named (Chargee) of the one part and the within-named ♦ of the other part **Witnesses** that the Chargee as Mortgagee hereby releases **all and singular** the property now comprised in or charged by the within-written Deed from all monies secured by and from all claims and demands under the within-written Deed.

**In witness** whereof this Release has been duly executed on behalf of the Chargee the day and year first before written.

Signed as a deed by the Chargee  
in the presence of

) .....  
)  
)