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CHFP041

COMPANIES FORM No. 410(Scot)

Particulars of a charge created by a company registered in Scotland

A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge

410

Please do not write in this margin

Pursuant to section 410 of the Companies Act 1985

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

To the Registrar of Companies
(Address overleaf - Note 6)

For official use

Company number

SC271565

Name of company

** insert full name of compay*

*ROBERTSON HEALTH (GARTNAVEL) LIMITED of 10 Perimeter Road, Pinefield Industrial Estate, Elgin, Morayshire, IV30 6AE (the **"Chargor"**).

Date of creation of the charge (note 1)

25 November 2005

Description of the instrument (if any) creating or evidencing the charge (note 1)

Bond and Floating Charge (the **"Charge"**)

Amount secured by the charge

All present and future obligations and liabilities of the Chargor to the Finance Parties (or any of them) in terms of the Financing Documents, whether actual, contingent, sole, joint and/or several or otherwise, including, without prejudice to the foregoing generality, all obligations to indemnify the Finance Parties (or any of them)(the **"Secured Liabilities"**).

See Paper Apart 1 for definitions.

Names and addresses of the persons entitled to the charge

THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND acting through its office at New Uberior House, 11 Earl Grey Street, Edinburgh, EH3 9BN (the **"Security Trustee"**).

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

Dundas & Wilson CS LLP
Saltire Court
20 Castle Terrace
Edinburgh EH1 2EN

OR/RLG/MPS/BOS001.1967

For official use (06/2005)

Charges Section

Post room

SCT SLOUYAYD 0371
COMPANIES HOUSE 05/12/05

Short particulars of all the property charged

See Paper Apart 2.

Please do not write in this margin

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

Statement, in the case of a floating charge, as to any restrictions on power to grant further securities and any ranking provision (note 2)

See Paper Apart 3.

Particulars as to commission, allowance or discount paid (see section 413(3))

Nil

A fee is payable to Companies House in respect of each register entry for a mortgage or charge. (See Note 5)

Signed [signature] Date 5/12/08

On behalf of ~~[company]~~ [chargee]†

† delete as appropriate

Notes

1. A description of the instrument e.g. "Standard Security" "Floating Charge" etc, should be given. For the date of creation of a charge see section 410(5) of the Act. (Examples - date of signing of an Instrument of Charge; date of recording/registration of a Standard Security; date of intimation of an Assignation.)

2. In the case of a floating charge a statement should be given of (1) the restrictions, if any, on the power of the company to grant further securities ranking in priority to, or pari passu with the floating charge; and/ or (2) the provisions, if any, regulating the order in which the floating charge shall rank with any other subsisting or future floating charges or fixed securities over the property which is the subject of the floating charge or any part of it.

3. A certified copy of the instrument, if any, creating or evidencing the charge, together with this form with the prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of the creation of the charge. In the case of a charge created out of the United Kingdom comprising property situated outside the U.K., within 21 days after the date on which the copy of the instrument creating it could, in due course of post, and if despatched with due diligence, have been received in the U.K. Certified copies of any other documents relevant to the charge should also be delivered.

4. A certified copy must be signed by or on behalf of the person giving the certification and where this is a body corporate it must be signed by an officer of that body.

5. A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge. Cheques and Postal Orders are to be made payable to **Companies House.**

6. The address of the Registrar of Companies is: Companies House, 37 Castle Terrace, Edinburgh EH1 2EB
DX 235 Edinburgh or LP-4 Edinburgh 2

This is Paper Apart 1 applicable to the foregoing Form 410 relating to a Bond and Floating Charge granted by Robertson Health (Gartnavel) Limited in favour of The Governor and Company of the Bank of Scotland on 25 November 2005.

DEFINITIONS:

"Account Bank" means the Governor and Company of the Bank of Scotland or any other person with whom the Project Accounts are maintained under Clause 15 of the Agreement;

"Advance" shall mean the principal amount of each borrowing by the Borrower under the Agreement or the principal amount thereof for the time being outstanding or, as the context may require, each part of such principal amount having a separate Interest Period;

"Agent" means The Governor and Company of the Bank of Scotland;

"Agreed Form" means documents either (i) in a form previously agreed in writing by or on behalf of the Agent and the Borrower, or (ii) in a form substantially as set out in any schedule to any Financing Document, or (iii) if not falling into either of these categories, in form and substance satisfactory to the Agent acting reasonably;

"Agreement" means the loan agreement among *inter alia* the Chargor and the Governor and Company of the Bank of Scotland, as Agent, as Security Trustee and as Account Bank dated on or around the date of the Chargor's execution of the Charge in terms of which the Banks (as defined therein) agree to make a term loan facility of up to £18,800,000 and a debt service reserve facility of up to £1,300,000 available to the Chargor;

"Banks" means The Governor and Company of the Bank of Scotland as initial Bank and any assignee or transferee lender becoming a Bank pursuant to Clause 24.3 of the Agreement (*Assignment and Transfer by the Finance Parties*);

"Board" means Greater Glasgow Health Board of Gartnavel Royal Hospital, 1055 Great Western Road, Glasgow G12 0XH;

"Borrower" means the Chargor;

"Construction Bond" means the performance bond in the Agreed Form dated on or about the Execution Date granted in favour of the Borrower by a financial institution acceptable to the Agent;

"Construction Contract" means the contract dated on or about the Execution Date for the design and construction of the Works entered into or to be entered into between the Borrower and the Construction Contractor;

"Construction Contractor" means Robertson Construction Central Limited (Company No SC249933), or any permitted successor or assignee as the building contractor under the Construction Contract;

"Direct Agreements" means:

(i) the Lenders Board Direct Agreement;

(ii) the Lenders Construction Direct Agreement; and

(iii) the Lenders FM Direct Agreement;

"Encumbrance" means any mortgage, pledge, lien, charge, assignment by way of security, assignation in security, hypothec, security interest, title retention, preferential right or trust arrangement or any other security agreement or arrangement having the effect of security;

"Equipment" means fixed or loose equipment provided by the Board or Project Co where Project Co has the responsibility for maintenance and replacement of the equipment during the life of the Project Agreement in accordance with Part 13 of the Schedule to the Project Agreement;

"**Equity"** means the nominal share capital of the Borrower (including any amount on share premium account) or any part thereof (including, without limitation, ordinary, preference, deferred or redeemable shares whether or not voting rights attach thereto);

"Execution Date" means the date of execution of the Agreement by all parties;

"Facilities" means the hospital, buildings and other facilities, together with all supporting infrastructure (including the Plant and the Group 1 Equipment) and amenities located on the Site as required to enable Project Co to comply with its obligations under the Project Agreement, all as the same may be varied, amended or supplemented from time to time in accordance with the Project Agreement;

"Fee Letters" means each of the letters from the Agent to the Borrower and agreed and acknowledged by the Borrower dated on or about the Execution Date regarding the arrangement and underwriting, non-utilisation and management fees respectively;

"Financing Documents" means:

(i) the Agreement;

(ii) the Security Documents;

(iii) the Direct Agreements;

(iv) the Subordination Agreement;

(v) the Hedging Agreement; and

(vi) the Fees Letter;

and any other agreement, deed, document or letter setting out the terms of or constituting any Indebtedness of the Borrower and/or Holdings to the Banks together with any documents ancillary or relating to all or any of them;

"Finance Parties" means together the Agent, the Security Trustee, the Banks and the Hedging Counterparty;

"FM Contract" means the contract entitled FM Agreement dated on or around the Execution Date between the Borrower and the FM Contractor in relation to the provision of the Services;

"FM Contractor" means Robertson Facilities Management Limited (Company No. SC185956) or any permitted successor or assignee as the provider of the Services pursuant to the FM Contract;

"Hedging Agreement" means the interest rate hedging agreement (including the counter indemnity granted by the Borrower in favour of The Governor and Company of the Bank of Scotland in relation thereto) entered into by the Borrower in respect of the Loan;

"Hedging Counterparty" means a person in its capacity as hedging counterparty with whom the Borrower enters into a Hedging Agreement approved by the Agent, and includes the Governor and Company of the Bank of Scotland as guarantor of the obligations of the Borrower owed to HBOS Treasury Services plc and its successors and assigns in that capacity;

"Holdings" means Robertson Health (Gartnavel) Holdings Limited, a company incorporated under the Companies Acts with registered number SC275430 and having its registered office at 10 Perimeter Road, Pinefield Industrial Estate, Elgin, Morayshire, IV30 6AE;

"Holdings Equity" means the nominal share capital of Holdings (including any amount on share premium account) or any part thereof (including, without limitation, ordinary, preference, deferred or redeemable shares whether or not voting rights attach thereto);

"Holdings Loan Stock" means the £1,419,000 15% Unsecured Subordinated Loan Stock 2035 of Holdings constituted by the Holdings Loan Stock Instrument;

"Holdings Loan Stock Instrument" means the instrument dated on or around the Execution Date by Holdings constituting the Holdings Loan Stock;

"Instrument" means the Charge;

"Interest Period" means any period determined in accordance with Clause 5 of the Agreement (*Interest*) by reference to which interest is to be calculated on each Advance;

"Lenders Board Direct Agreement" means the direct agreement designated Funders Trust Direct Agreement in the Agreed Form among the Board, the Agent and the Borrower dated on or around the Execution Date;

"Lenders Construction Direct Agreement" means the direct agreement in the Agreed Form among the Agent, the Borrower, the Construction Contractor and RGL dated on or around the Execution Date;

"Lenders FM Direct Agreement" means the direct agreement in the Agreed Form among the Agent, the Borrower, the FM Contractor and RGL dated on or around the Execution Date;

"Licence" means the licence in the Agreed Form granted by the Scottish Ministers in favour of Project Co pursuant to Clauses 14.1 and 14.2 of the Project Agreement;

"Loan" means the aggregate amount of all Advances (including capitalised interest) for the time being and from time to time outstanding under the Agreement;

"Loan Stock" means the £1,419,000 15% Unsecured Subordinated Loan Stock 2035 of the Borrower constituted by the Loan Stock Instrument;

"Loan Stock Instrument" means the instrument dated on or around the Execution Date by the Borrower constituting the Loan Stock;

"Permitted Security Interest" means (i) the Security Interests created pursuant to the Security Documents, (ii) Security Interests arising by operation of law, (iii) Security Interests arising under retention of title arrangements in respect of the purchase of goods in the ordinary course of business and (iv) Security Interests granted with the prior written consent of the Agent;

"Plant" means the plant and equipment to be provided and/or maintained by Project Co pursuant to the Project Agreement;

"Project" means the design, construction and financing of the Works and operation and financing of the Facilities and the provision of the Services pursuant to the Relevant Documents;

"Project Accounts" means the accounts referred to and required to be established under the Senior Funders Agreements;

"Project Agreement" means the agreement so entitled dated on or around the Execution Date among the Borrower and the Board in relation to the Project;

"Project Co" means the Chargor;

"Project Documents" means:

(i) the Project Agreement;

(ii) the Licence;

(iii) the Construction Contract;

(iv) the FM Contract;

(v) the RGL Guarantee;

(vi) the Construction Bond;

(vii) the Memorandum and Articles of Association of the Borrower;

(viii) the Memorandum and Articles of Association of Holdings;

(ix) the Loan Stock Instrument;

(x) the Holdings Loan Stock Instrument; and

(xi) the Shareholders Agreement;

"RCP" means Robertson Capital Projects Limited, a company incorporated under the Companies Acts with registered number 227159 and having its registered office at 10 Perimeter Road, Pinefield Industrial Estate, Elgin, Morayshire, IV30 6AE;

"RCP Holder" means RCP or any other RCP Holder as defined in the Shareholders Agreement;

"Relevant Documents" means the Project Documents and the Financing Documents and all other documents which the Borrower and the Agent agree to designate as a Relevant Document;

"RGL" means Robertson Group Limited, a company incorporated under the Companies Acts with registered number 60077 and having its registered office at 10 Perimeter Road, Pinefield Industrial Estate, Elgin, Morayshire, IV30 6AE;

"RGL Guarantee" means the guarantee by RGL dated on or about the Execution Date in favour of the Borrower in respect of *inter alia*, the obligations of the Construction Contractor under the Construction Contract and of the FM Contractor under the FM Contract;

"Scottish Ministers" has the meaning given in section 44 of the Scotland Act 1998;

"Secured Assets" means the whole of the property (including uncalled capital) which is or may be from time to time while the Instrument is in force comprised in the property and undertaking of the Chargor;

"Security Documents" means (i) the security documents to be granted by the Borrower and others to the Security Trustee listed in Clause 12.1 of the Agreement (*Security*) which secure all monies due to and to become due to the Finance Parties and (ii) any other documents from time to time created in the Security Trustee's favour as security for the obligations of the Borrower or Holdings to the Finance Parties or any other obligations of any party in relation to the Project from time to time;

"Senior Funders Agreements" means the Funders Agreements listed in Part 3 of Part 1 of the Schedule to the Project Agreement as at the date of the Project Agreement or as amended, substituted or replaced from time to time in accordance with the terms of the Project Agreement or otherwise with the prior written approval of the Board;

"Service(s)" means the service(s) to be provided and/or procured by Project Co for the Board in accordance with Part 14 of the Schedule to the Project Agreement (*Service Level Specifications*) as subsequently amended or adjusted in accordance with the Project Agreement;

"Shareholders" means each of the RCP Holder and Uberior as providers of Holdings Equity, pursuant to the Shareholders Agreement;

"Shareholders Agreement" means the shareholders agreement dated on or around the Execution Date between the Shareholders, Holdings, the Borrower and the Agent relating to *inter alia* the Shareholders' and/or Stockholders' subscription of Holdings Equity and Holdings Loan Stock and to the subscription of Equity and Loan Stock and the sale of tax losses;

"Site" means the land made available to Project Co for the Project and outlined in red on the plan annexed to Part 7 of the Schedule to the Project Agreement;

"Stockholders" means each of the RCP Holder and The Governor and Company of the Bank of Scotland, pursuant to the Shareholders Agreement;

"Subordination Agreement" means the subordination agreement between the Borrower, the Senior Creditors (as defined therein), the Agent and the Subordinated Creditors (as defined therein) dated on or around the Execution Date;

Uberior means Uberior Infrastructure Investments Limited, a company incorporated under the Companies Acts with registered number 186247 and having its registered office at Level 2, New Uberior House, 11 Earl Grey Street, Edinburgh EH3 9BN; and

"Works" means all design and construction works (whether contemplated by the Construction Contract or otherwise) necessary for the implementation of the Project (and any other works which the Agent agrees should constitute part of the Works).

This is Paper Apart 2 applicable to the foregoing Form 410 relating to a Bond and Floating Charge granted by Robertson Health (Gartnavel) Limited in favour of The Governor and Company of the Bank of Scotland on 25 November 2005.

1. **BOND**

The Chargor undertakes to the Security Trustee that it will pay or discharge to the Security Trustee all the Secured Liabilities in each case when the Secured Liabilities become due for payment or discharge (whether by acceleration or otherwise) in accordance with the provisions of the relevant Financing Document.

2. **FLOATING CHARGE**

The Chargor as security for the payment and discharge of all the Secured Liabilities hereby grants in favour of the Security Trustee a floating charge over the Secured Assets.

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 (incorporated by Schedule 16 to the Enterprise Act 2002) applies to the floating charge created by the Instrument which is accordingly a qualifying floating charge, and the parties agree that the Instrument falls within the exception in Section 72C of the Insolvency Act 1986.

This is Paper Apart 3 applicable to the foregoing Form 410 relating to a Bond and Floating Charge granted by Robertson Health (Gartnavel) Limited in favour of The Governor and Company of the Bank of Scotland on 25 November 2005.

RANKING

1. The floating charge created by the Instrument shall, subject to Section 464(2) of the Companies Act 1985, rank in priority to any fixed security which shall be created by the Chargor after its execution of the Instrument, other than a fixed security in favour of the Security Trustee and to any other floating charge which shall be created by the Chargor after its execution of the Instrument and, subject as aforesaid, no such fixed security or other floating charge shall rank in priority to or equally with the floating charge hereby created by it.

2. Except with the prior written consent of the Security Trustee, the Chargor shall not create, incur, assume or permit to subsist any Encumbrance on all or any part of the Secured Assets except for any Encumbrance being a Permitted Security Interest arising under or pursuant to or expressly permitted by the terms of any Financing Documents.

RJV

FILE COPY

CERTIFICATE OF THE REGISTRATION
OF A CHARGE

Company number 271565

I hereby certify that a charge created by

ROBERTSON HEALTH (GARTNAVEL) LIMITED

on 25 NOVEMBER 2005

for securing ALL SUMS DUE, OR TO BECOME DUE

in favour of
THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND

was delivered pursuant to section 410 of the Companies Act, 1985,
on 5 DECEMBER 2005 given at Companies House, Edinburgh
7 DECEMBER 2005

REGISTRAR OF COMPANIES FOR SCOTLAND

THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

COMPANIES HOUSE