

MR01

Particulars of a charge

A fee is payable with this form
Please see 'How to pay' on the
last page

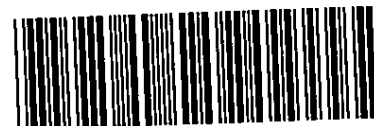
You can use the WebFiling service to file this form online
Please go to www.companieshouse.gov.uk

183546/13

☒ **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 there is
an instrument. Use form MR08

WEDNESDAY



A36G2R08

A15

23/04/2014

#212

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.

1 Company details

Company number 0 3 6 9 3 5 2 4

Company name in full Mercia Healthcare Limited

2 For official use

→ **Filling in this form**
Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date d1 d7 m0 m4 y2 y0 y1 y4

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 Bank of Scotland plc (**Security Trustee**)

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

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Description

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

Continuation page

Please use a continuation page if you need to enter more details

Description

Not applicable

5

Fixed charge or fixed security

Does the instrument include a fixed 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

6

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 chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ Yes

☐ No

CHFP025

04/13 Version 1.0

✓

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Particulars of a charge

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Trustee statement ①

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

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

9

Signature

Please sign the form here

Signature

Signature

X Addleshaw Goddard LLP

X

This form must be signed by a person with an interest in the charge

MR01

Particulars of a charge



Presenter information

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name **HUSSAA/331247-8**

Company name **Addleshaw Goddard LLP**

Address **Milton Gate**

60 Chiswell Street

Post town **London**

County/Region

Postcode

E	C	1	Y		4	A	G
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Country **United Kingdom**

DX **47 London**

Telephone **020 7606 8855**



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 or email 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



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3693524

Charge code: 0369 3524 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 17th April 2014 and created by MERCIA HEALTHCARE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd April 2014

Given at Companies House, Cardiff on 29th April 2014



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED 17 April 2014

MERCIA HEALTHCARE LIMITED

(1)

- and -

BANK OF SCOTLAND PLC
(as Security Trustee)

(2)

GUARANTEE AND SECURITY ASSIGNMENT

WE HEREBY CERTIFY THAT THIS IS
A TRUE COPY (AS REDACTED) OF
THE ORIGINAL

ADDLESHAW GODDARD LLP

DATE 22.04.14
ADDLESHAW GODDARD LLP

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THIS GUARANTEE AND SECURITY ASSIGNMENT made the 17 day of April 2013

BETWEEN:

- (1) **MERCIA HEALTHCARE LIMITED**, a company incorporated in England and Wales (registered number 3693524) and whose registered office is at St Martins House, 1 Gresham Street, London EC2V 7BX (the "Company"), and
- (2) **BANK OF SCOTLAND PLC** as Security Trustee (as defined below)

WITNESSES as follows

1. INTERPRETATION

- 1.1 **Definitions** In this Deed, words or expressions defined in the Facilities Agreement (as defined below) shall, unless otherwise defined below, bear the same meaning in this Deed and, in addition, in this Deed, so far as the context admits, the following expressions have the following meanings -

"Ancillary Liabilities" in relation to any debt or liability means -

- (a) all amounts outstanding in connection with any restructuring, novation, deferral or extension of any of that debt (excluding always any debt or liability owing to a Beneficiary by a novatee which in accordance with the provisions of a Direct Agreement takes a novation of the rights and obligations of the Company under a Project Contract),
- (b) any further or additional advance which may be made under any agreement supplemental to the relevant facilities agreement or other document evidencing the debt in question plus all interest, fees and costs relating thereto,
- (c) any claims, damages or restitution in the event of a rescission of any such liabilities or otherwise in connection with the relevant facilities agreement or other document evidencing the debt in question (excluding any claims, damages or restitution arising out of the gross negligence or wilful default of the Lenders' Entity),
- (d) any claim against the Company or any other relevant person, arising by reason of any recovery by the Company or that relevant person of any payment or discharge in respect of that debt (excluding any claim arising out of the gross negligence or wilful default of the Lenders' Entity), and
- (e) any amounts (such as post-insolvency interest) which would be included in any of the above but for any discharge, non-provability, unenforceability or disallowance of the same in any insolvency or other proceedings,

"Beneficiaries" together the Agent, the Arrangers, the Security Trustee, the Technical Bank, the Banks, each Hedging Counterparty, and each Lenders' Entity and "Beneficiary" shall be construed accordingly;

"Charged Property" the property and assets charged or assigned or purported to be charged or assigned pursuant to clause 3 (*Assignment*) or Clause 7 (*Further Assurance*),

"this Deed" this guarantee and security assignment,

"Document Claims" all of the Company's present and future right, title, interest and benefit in, under and to the Documents, and any sums payable to the Company pursuant to all representations, warranties, undertakings and indemnities to, agreements with and security to be provided in favour of the Company in respect of or pursuant to the Documents; and any rights of abatement or set-off and all other rights of recovery under or pursuant to any of the Documents, and any net proceeds of any claims, awards and judgments which may at any time be received or receivable by the Company pursuant to any of the Documents,

"Documents" those documents detailed in Schedule I and any other document designated as such by the Security Trustee and any one of them shall be a **"Document"**,

"Enforcement Date" the date upon which the Security Trustee shall first enforce any part of the security hereby created in accordance with the terms of the Intercreditor Agreement and/or this Deed,

"Enforcement Event" any of the events set out in clause 11.1;

"Facilities Agreement" the Facilities Agreement dated 16 April 1999 and made between the Company (1), the Parent (2), the Arrangers (3), the Agent (4), the Security Trustee (5), the Technical Bank (6) and the Underwriters (7),

"Guarantor" the Company in so far only as it covenants under Clauses 2.1(b) and (c) (*Covenant to Pay*) to pay or discharge money due or owing from or liabilities of a Lenders' Entity or the Parent to the Beneficiaries and indemnifies the Lenders' Entity under Clause 2.1(d) (*Covenant to Pay*) in respect of all other liabilities of the Lenders' Entity and **"Guarantee"** shall be construed accordingly,

"Lenders' Entity" any person (including the Security Trustee) who, pursuant to, or by operation of the terms of any Direct Agreement, exercises any power to step-in and/or assume any rights or obligations of the Company under or in relation to a Project Contract (excluding always any person which in accordance with the provisions of a Direct Agreement takes a novation of the rights and obligations of the Company under a Project Contract);

"Parent" Mercia Healthcare (Holdings) Limited, a company incorporated under the laws of England and Wales with registered number 3693526, whose registered office is at St Martins House, 1 Gresham Street, London EC2V 7BX,

"Principal" the Parent and/or a Lenders' Entity in so far only as the Parent or such Lenders' Entity owes money or has incurred liabilities to a Beneficiary and references to **"the Principal"** shall be taken as references to the Parent or such Lenders' Entity, as appropriate,

"Project Contract" each of the Project Agreement, the Building Contract, each Service Contract and each agreement between the Company and a member of the Professional Team,

"Receiver" has the meaning attributed to it by Clause 11.1 (*Appointment of a Receiver*),

"Recoveries" any moneys received by the Security Trustee or by the Receiver under this Deed on or after the Enforcement Date,

"Secured Sums" all money and liabilities covenanted and/or guaranteed to be paid or discharged and/or indemnified by the Company under Clause 2.1 (*Covenant to Pay*),

"Security Trustee" Bank of Scotland PLC in its capacity as security trustee for the Beneficiaries and includes reference to any replacement or additional security trustee appointed pursuant to the relevant provisions of the Facilities Agreement and/or the Intercreditor Agreement,

"Senior Bank Document" each facility agreement or other agreement pursuant to which any of the Banks provides financial facilities or accommodation of any nature in connection with the Project (including interest rate, indexation or currency swap, floor or collar transactions or any similar interest, indexation, currency or hedge transaction or derivative transaction) to a Lenders' Entity,

"Senior Discharge Date" the date on which all of the following are satisfied:

- (a) all Secured Sums have been discharged and satisfied in full, and
- (b) the Available Amount under the Facilities Agreement has been reduced to zero and no Beneficiary is under any further or additional commitment to provide any funding or other banking accommodation of any nature to the Company under any of the Senior Finance Documents (but, for the avoidance of doubt, excluding any such further or additional commitments expressly excluded from the scope of this subparagraph (b) by agreement between the Company and the relevant Beneficiary), and
- (c) all step-in undertakings (howsoever described) from time to time issued by any Beneficiary under any Direct Agreement and all indemnities, undertakings and other obligations from time to time granted or assumed by any Beneficiary under or pursuant to any Senior Finance Document or otherwise in respect of the Project have been unconditionally discharged and/or released or unconditionally expired, and
- (d) none of the events described in clauses 20.1(d) - 20.1(i) (inclusive) of the Facilities Agreement has occurred and is continuing in respect of the Company and the Agent is satisfied that the Company is not unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 at such date or immediately thereafter, and
- (e) if there is reason to believe at the time at which a payment is applied in or towards satisfaction of the Secured Sums that any person is entitled to challenge the legality or validity of that payment, a period of 7 months has elapsed from the date of the payment (where the Relevant Time under section 240 of the Insolvency Act 1986 is 6 months) or a period of 25 months has elapsed from the date of the payment (where the Relevant Time under section 240 of the Insolvency Act 1986 is 24 months) and within that 7 or 25 month period
 - (i) no petition has been presented for an order for the winding-up of the Company (other than one which is frivolous or vexatious and is discharged within 14 days) or for the making of an administration order in respect of the Company,
 - (ii) the Company has not commenced voluntary winding-up, and
 - (iii) no analogous proceedings to those referred to in paragraphs (i) and (ii) above have commenced in respect of the Company,

provided that if within the 7 or 25 month period any of the events referred to in paragraphs (i) to (iii) above occurs, the Senior Discharge Date shall be postponed for such further period as the Security Trustee may reasonably determine,

"Senior Finance Documents" the Facilities Agreement, the Intercreditor Agreement, each of the Security Documents and each notice or acknowledgement of assignment given pursuant to the Security Documents, each Senior Bank Document, the Fees Letters, each Hedging Agreement, each Transfer Certificate, each agreement entered into pursuant to a Direct Agreement under or pursuant to which a Lenders' Entity exercises any power to step in and/or

assume any rights or obligations of the Company under or in relation to a Project Contract and any other documents designated as such by the Agent and the Company,

"Trust" Wye Valley National Health Service Trust (formerly Hereford Hospitals National Health Service Trust) or any permitted successor trust into which the Trust may be merged or to which the Secretary of State or the Trust itself transfers the assets and liabilities of the Trust

1.2 **Interpretation:** In this Deed, unless the context otherwise requires -

- (a) references to this Deed, any other Senior Finance Document or to any other document shall include references to this Deed and its Schedules, any other Senior Finance Document or to such other document as amended, varied, supplemented, replaced, novated and/or restated in any manner from time to time,
- (b) references to any person shall, where relevant, be deemed to be references to or to include, as appropriate, their respective lawful permitted successors, assigns or transferees,
- (c) references to Clauses, paragraphs and Schedules shall be construed as references to Clauses and paragraphs of, and Schedules to, this Deed,
- (d) references to any enactment shall be deemed to include references to such enactment as re-enacted, amended or extended and any subordinate legislation made under it,
- (e) references to a "person" shall include any individual, company, corporation, firm, partnership, joint venture association, organisation, institution, trust or agency, whether or not having a separate legal personality,
- (f) references to one gender shall include all genders, and references to the singular shall include the plural and vice versa,
- (g) headings and sub-headings are inserted for convenience only and shall be ignored in construing this Deed,
- (h) references to "including" and "in particular" shall not be construed restrictively but shall mean "including, but not limited to" and "in particular, but without prejudice to the generality of the foregoing" respectively,
- (i) references to "law" shall include any present or future common law, statute, statutory instrument, treaty, regulation, directive, order, decree, other legislative measure, code, circular, notice, demand, or injunction, including those with which it is customary for persons to whom it is directed to comply, even if compliance is not mandatory,
- (j) references to "writing" include facsimile transmission legibly received and e-mail which is properly encrypted or authenticated in accordance with a procedure to be agreed between the Agent and the Company, except in relation to any certificate, forecast, report, notice, resolution or other document which is expressly required by this Agreement to be signed, and "written" has a corresponding meaning, and
- (k) any consent or approval required from the Security Trustee and/or any of the Beneficiaries by the Company under this Deed must be obtained in writing and shall be of no effect if it is not in writing

2. COVENANT TO PAY

2.1 Covenant to Pay The Company hereby -

- (a) covenants that it will on demand in writing made to it by the Security Trustee pay or discharge to the Security Trustee all money and liabilities (including all Ancillary Liabilities) now or in the future due or owing by the Company to the Beneficiaries (or any of them) under or pursuant to the Senior Finance Documents,
- (b) covenants and guarantees that it will on demand in writing made to it by the Security Trustee pay or discharge to the Security Trustee all money, debt and liabilities (including all Ancillary Liabilities) now or in the future due or owing by any Lenders' Entity to the Beneficiaries (or any of them) under or pursuant to the Senior Bank Documents (except for any liabilities incurred by such Lenders' Entity solely as guarantor for the Company),
- (c) covenants and guarantees that it will on demand in writing made to it by the Security Trustee pay or discharge to the Security Trustee all money and liabilities (including all Ancillary Liabilities) now or in the future due or owing by the Parent to the Beneficiaries (or any of them) under or pursuant to each of the Senior Finance Documents (except for any liabilities incurred by the Parent solely as guarantor for the Company), and
- (d) agrees to keep each Lenders' Entity indemnified from and against all money and liabilities (including all Ancillary Liabilities) now or in the future due or owing by that Lenders' Entity under or pursuant to a Direct Agreement or any agreement entered into in connection with a Direct Agreement and under which the Lenders' Entity exercises any power to step-in and to assume any rights or obligations of the Company under or in relation to a Project Contract (provided that, in calculating the amount of such liabilities, credit shall be given for any sums received by such Lenders' Entity from the Trust in reduction or discharge of such liabilities),

in each case whether on or after such demand, whether actually or contingently, whether solely or jointly with any other person, whether as principal or surety and whether or not the relevant Beneficiary was an original party to the relevant transaction and so that interest shall be computed and compounded in accordance with the relevant Senior Finance Document (after as well as before any demand or judgment)

2.2 **Terms of Guarantee:** The guarantees contained in Clauses 2.1(b) and (c) (*Covenant to Pay*) and the indemnity contained in Clause 2.1(d) (*Covenant to Pay*) are given by the Company subject to, and with the benefit of, the provisions set out in the Third Schedule

2.3 **Demands from Security Trustee:** No demand may be made under this Deed unless the right to demand payment of any amount which is secured hereunder and which is due or owing under any Senior Finance Document has arisen, so that such amount is due and payable. The making of one demand under this Deed will not preclude the Security Trustee making any further demands

2.4 **Third Parties:** Any third party dealing with the Security Trustee or any Receiver appointed under this Deed shall not be concerned to see or enquire as to the validity of any demand under this Deed.

2.5 **Terms of Indemnity:** The Company undertakes to pay all amounts due from it under Clause 2.1(d) (*Covenant to Pay*) direct to the Security Trustee and not to the relevant Lenders' Entity.

3. ASSIGNMENT

3 1 **Assignment:** The Company with full title guarantee hereby assigns and agrees to assign to the Security Trustee as continuing security for the payment, discharge and performance of the Secured Sums the Document Claims together with the benefit of all powers and remedies for enforcing the same

3 2 **Notices relating to the Assignment:** The Company shall sign notices of the assignments constituted by Clause 3 1 (*Assignment*) of this Deed in the form set out in the Second Schedule or in such form as may otherwise be agreed on the date hereof and -

- (a) forthwith deliver them or procure their delivery to the recipient so indicated in the relevant notice of assignment (the "Recipient"); and
- (b) use its reasonable endeavours to procure the immediate execution and delivery to the Security Trustee by the Recipient of the acknowledgement of such notice of assignment

The Security Trustee shall countersign those notices of assignment signed by the Company and which are presented to it for countersignature

3 3 **Representations:** The Company on the date of this Deed hereby represents, warrants and covenants to and with the Security Trustee in respect of the Document Claims (the "Assigned Assets") -

- (a) that it is the sole and beneficial owner of all its right, title and interest in respect of the Assigned Assets and that its rights in respect of the same are free from any Encumbrance, save for Permitted Encumbrances;
- (b) that there has been no waiver, release, variation, cancellation or termination of, or of any of its rights under, any of the Assigned Assets, and
- (c) that the Documents are all in full force and effect and that there is no default under them

3 4 **Future Security Subject to this Deed:** Without prejudice to Clause 6 1 (*Negative Pledge and other Restrictions*), any Encumbrance created in the future by the Company (except those in favour of the Security Trustee) shall be expressed to be subject to this Deed and shall rank in order of priority behind the charges created by this Deed

3 5 **Service of Further Notices of Assignment:** The Security Trustee confirms that until the occurrence of an Enforcement Event the Security Trustee shall not without the consent of the Company serve notice on a Recipient (as defined in clause 3 2(a)) changing the payment instructions set out in the initial Notice of Assignment served on the Recipient

4. TITLE DOCUMENTS AND VOTING RIGHTS

4 1 **Deposit of Title Deeds and other Documents:** Except as otherwise expressly agreed by the Security Trustee, the Company shall deposit with the Security Trustee, and the Security Trustee shall be entitled to retain, all deeds and documents of title relating to all assets assigned under Clause 3 1 (*Assignment*)

5. TREATMENT OF RECEIVABLES

- 5.1 All amounts received by the Company shall be dealt with solely in accordance with the terms of the Facilities Agreement and the Intercreditor Agreement. The Company shall, pending any payment into any Project Account, hold all money so received (and which is to be paid into a Project Account) upon trust for the Security Trustee and shall not, without the prior written consent of the Security Trustee, charge, factor, discount, assign, postpone, subordinate, release or waive its rights in respect of any amount payable to it in favour of any other person or purport to do so.

6. NEGATIVE PLEDGE AND OTHER RESTRICTIONS

- 6.1 **Negative Pledge and other Restrictions:** The Company shall not, without the prior written consent of the Security Trustee -

- (a) create, or agree to create, or permit to arise or subsist, any Encumbrance (including any security conferring power to convert a floating charge into a fixed charge in relation to any of its Charged Property) over any of its Charged Property other than Permitted Encumbrances,
- (b) assign all or any part of the benefit of or any interest in or proceeds of any Project Document,
- (c) except as provided under the Security Documents, consent to any assignment of any of the Documents (other than the Senior Finance Documents) or any part thereof or of any benefit, obligation or interest therein or thereunder by any other party thereto save for -
 - (i) transfers which are effected in accordance with the provisions of the Facilities Agreement and the Intercreditor Agreement (to the extent not prohibited elsewhere in the Finance Documents and/or the Shareholders' Agreement), and
 - (ii) transfers by the Trust under, and as expressly contemplated in, the Project Agreement,

7. FURTHER ASSURANCE

- 7.1 **Further Assurance:** The Company shall on demand by the Security Trustee in writing execute and deliver to the Security Trustee at the cost of the Company and in such form as the Security Trustee may require for the protection or perfection of the security intended to be conferred on the Security Trustee by or pursuant to this Deed or the priority of the security created hereunder, (a) such further or other legal or other assignments, transfers, mortgages, charges or securities (b) all transfers, conveyances, assignments and assurances of the assets subject to the security created hereunder and give all notices, orders and directions which the Security Trustee may think expedient for facilitating the realisation of the assets subject to the security created by this Deed or the exercise of any rights vested in the Security Trustee or any Receiver including a legal assignment of or other fixed security over all or any of the Documents or the Document Claims not already assigned or charged under this Deed and the Company shall in addition ensure that it sends a notice of assignment in the form set out in the relevant part of the Second Schedule addressed to the relevant party and use all reasonable endeavours to ensure that such notice of assignment is duly acknowledged.

- 7.2 **Notices of Assignment under Clause 3.1 (Assignment):** Without prejudice to the other provisions of this Deed, the Company shall as soon as possible following the execution of any

agreement or instrument entered into in connection with or pursuant to any of the Documents to which the Company is or hereafter becomes, a party or under which it has or at any time hereafter directly or indirectly acquires benefits give notices of the assignment in Clause 3.1 (*Assignment*) substantially in the form set out in the Second, Third or Fourth Schedule, as the case may be and shall use all reasonable endeavours to procure that each Recipient to whom any such notice is given shall promptly duly sign and return the form of acknowledgement thereon

8. CONTINUING SECURITY

8.1 Continuing Security: This Deed shall be a continuing security to the Security Trustee and the Beneficiaries, notwithstanding any intermediate payment or settlement of account or any other matter whatever, and shall be in addition to and shall not prejudice or be prejudiced by any right of lien, set-off, combination or other rights exercisable by the Security Trustee or any of the Beneficiaries against the Company or any security, guarantee, indemnity and/or negotiable instrument now or in the future held by the Security Trustee or any Beneficiary

8.2 No discharge: Without prejudice to the generality of Clause 8.1 (*Continuing Security*), this Deed shall not be affected in any way by -

- (a) any time, indulgence, concession, waiver or consent given to the Company or any other person whether by the Security Trustee, any Beneficiary or any other person,
- (b) the illegality, invalidity or unenforceability of, or any defect in any provision of any agreement or document relating to the Secured Sums or any security or guarantee (including this Deed) or any rights, remedies or obligations of any of the parties under or in connection with any such agreement or document whether on the grounds of ultra vires, not being in the interests of the Company or any other person, not having been duly authorised, executed or delivered by the Company or any other person or for any other reason whatsoever, or
- (c) the enforcement or absence of enforcement or (except to the extent of the relevant release) the release of any security or guarantee (including this Deed) or any amendment to or change in any security or guarantee (including this Deed), the terms of any Secured Sums or liability the discharge of which is, directly or indirectly, guaranteed or otherwise secured by the Company or any agreement or document relating to any of the foregoing

8.3 Avoidance of Payments: Any settlement, discharge or release between (a) the Company and (b) the Security Trustee, any or all of the Beneficiaries or any Receiver (the "relevant person") shall be conditional upon no security or payment granted or made to the relevant person by the Company or any other person being avoided or reduced by virtue of any provisions or enactments relating to bankruptcy, insolvency or liquidation for the time being in force and, in the event of such security or payment being so avoided or reduced, the Security Trustee shall be entitled to recover on behalf of the relevant person the value or amount of such security or payment from the Company and from the Charged Property subsequently as if such settlement, discharge or release had not occurred

9. CONSOLIDATION OF MORTGAGES

9.1 Section 93: Section 93 of the Law of Property Act 1925, dealing with the consolidation of mortgages, shall not apply to this Deed

10. POWER OF SALE

- 10 1 **Statutory Power of Sale to arise on Enforcement:** Section 103 of the Law of Property Act 1925 shall not apply to this Deed, but the statutory power of sale shall (as between the Security Trustee and a purchaser from the Security Trustee) arise on, and be exercisable at any time after, the execution of this Deed. However, the Security Trustee shall not exercise such power of sale until the payment of all or part of the Secured Sums has been demanded, or a Receiver has been appointed, but this provision shall not affect a purchaser or require him to ask whether a demand or appointment has been made.
- 10 2 **Third Parties not to be concerned with Validity of Demand:** No person dealing in good faith and for value with the Security Trustee or any Receiver, its agents or brokers, shall be concerned to enquire whether this Deed has become enforceable, or whether any power exercised or purported to be exercised has become exercisable, or whether any Secured Sums remain due upon this Deed which are recoverable from the Company, or as to the necessity or expediency of any stipulations and conditions subject to which the sale of any Charged Property shall be made, or otherwise as to the propriety or regularity of the sale of any Charged Property, or to see to the application of any money paid to the Security Trustee or such Receiver, or its agents or brokers, and each such dealing shall be deemed to be within the powers hereby conferred and to be valid and effectual accordingly.

11. APPOINTMENT AND POWERS OF A RECEIVER

11 1 Appointment of a Receiver: At any time -

- (a) if so directed or requested in accordance with the Facilities Agreement, or
- (b) after the occurrence of a Default, or
- (c) if so requested by the Company,

the Security Trustee may appoint by writing any person or persons to be a receiver and manager or receivers and managers (the "Receiver" which expression shall unless the context otherwise requires, include the plural and any substituted receiver and manager or receivers and managers) of all or any of the Charged Property.

- 11 2 **Powers of Receivers (Joint and Several or Several):** Where more than one Receiver is appointed, they shall have power to act separately unless the Security Trustee shall in the appointment specify to the contrary.
- 11 3 **Remuneration of Receiver:** The Security Trustee may from time to time determine the remuneration of the Receiver.
- 11 4 **Removal of Receiver:** The Security Trustee may (subject to Section 45 of the Insolvency Act 1986) remove the Receiver from all or any of the Charged Property of which he is the Receiver.
- 11 5 **Further Appointment:** Such an appointment shall not preclude the Security Trustee from making any subsequent appointment of a Receiver over all or any of the Charged Property over which an appointment has not previously been made by the Security Trustee or in respect of which any Receiver previously appointed has been removed or otherwise has ceased to act or consents to the appointment.

- 11 6 **Status of Receiver:** The Receiver shall be the agent of the Company (which shall be solely liable for his acts, defaults and remuneration) unless and until the Company goes into liquidation, after which he shall act as principal and shall not become the agent of the Security Trustee or the Beneficiaries
- 11 7 **Powers of Receiver:** The Receiver shall have and be entitled to exercise in relation to the Company all the powers set out in Schedules 1 and 2 to the Insolvency Act 1986 and in particular, by way of addition and without limiting such powers (and without prejudice to the powers of the Security Trustee and the Beneficiaries), the Receiver shall have power -
- (a) to take possession of, collect and get in all or any part of the Charged Property of the Company and to take and defend any proceedings (including proceedings for its winding up or proceedings by way of arbitration) in its name or otherwise as he shall think fit,
 - (b) to carry on or concur in carrying on the business of the Company and raise money from any Beneficiary or others without security or on the security of all or any of its Charged Property,
 - (c) not used,
 - (d) to promote the formation of a Subsidiary or Subsidiaries of the Company with a view to such Subsidiary or Subsidiaries purchasing, leasing, licensing or otherwise acquiring interests in all or any of the Charged Property of the Company,
 - (e) not used,
 - (f) not used,
 - (g) not used,
 - (h) to arrange for the purchase, lease, licence or acquisition of all or any Charged Property of the Company by any such Subsidiary on a basis whereby the consideration may be for cash, shares, Deeds, loan stock, convertible loan stock or other securities, shares of profits or sums calculated by reference to profits or turnover or royalties or licence fees or otherwise, whether or not secured on the assets of such Subsidiary and whether or not such consideration is payable or receivable in a lump sum or by instalments over such period as the Receiver may think fit,
 - (i) to make any arrangement or compromise with the Security Trustee or any Beneficiary as he shall think fit,
 - (j) not used,
 - (k) to appoint, hire and employ managers, officers, contractors and agents for the above purposes at such salaries as the Receiver may determine and to discharge any such persons and any such persons appointed, hired or employed by the Company,
 - (l) not used,
 - (m) to redeem any prior Encumbrance and to settle and pass the accounts of the encumbrancer and 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 an expense properly incurred by the Receiver,

- (n) to pay the proper administrative charges of the Security Trustee and/or the Beneficiaries in respect of time spent by their agents and employees in dealing with matters raised by the Receiver or relating to the receivership of the Company,
- (o) not used,
- (p) not used,
- (q) not used,
- (r) to enter into bonds, covenants, guarantees, commitments, indemnities and other obligations or liabilities as the Receiver shall think fit and to make all payments needed to effect, maintain or satisfy the same,
- (s) to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demand with or by any person who is or claims to be a creditor of the Company or relating in any way to the Charged Property,
- (t) to bring, prosecute, enforce, defend and abandon actions, suits and proceedings in relation to the Charged Property or any of the businesses of the Company,
- (u) to make any demand under and in accordance with the Service Performance Guarantees,
- (v) to act as a Lenders' Entity under any Direct Agreement and to do all other acts and things as may be considered by the Receiver to be incidental to or conducive to that action including without limitation entering into and performing any step-in undertaking, and
- (w) to do all such other acts and things as may be considered by the Receiver to be incidental or conducive to any of the above matters or powers or otherwise incidental or conducive to the preservation, improvement or realisation of the relevant Charged Property

11 8 **Third Parties:** Neither the Security Trustee nor any Beneficiary nor the Receiver shall be liable to account as mortgagee in possession or otherwise for any money not actually received by it or him respectively

11 9 **Section 109, Law of Property Act 1925:** Section 109 of the Law of Property Act 1925 shall not apply to this Deed

12. POWER OF ATTORNEY

12 1 **Power of Attorney:** The Company by way of security hereby irrevocably appoints the Security Trustee (whether or not a Receiver has been appointed) and any Receiver separately the attorney of the Company (with full power to appoint substitutes and to delegate), in its name and on its behalf, and as its act and deed or otherwise to execute and deliver and otherwise perfect any agreement, assurance, deed, instrument or document, or perform any act, which may be required of the Company under this Deed (including under Clause 7 (*Further Assurance*)), or may be deemed by such attorney necessary or desirable for any purpose of this Deed or to perfect the security intended to be constituted by it or to convey or transfer legal ownership of any Charged Property in pursuance of the powers given under this Deed

12 2 **Ratification:** Without prejudice to the generality of the provisions contained in Clause 12 1 (*Power of Attorney*), the Company hereby covenants with the Security Trustee and separately with any Receiver that if required so to do it will ratify and confirm.

- (a) all transactions entered into by it or (as the case may be) them at the Company's instance in the proper exercise of its or their powers in accordance with this Deed, and
- (b) all transactions entered into by it or (as the case may be) them in signing, sealing, delivering and otherwise perfecting any assignment, mortgage, charge, security, deed, assurance, document or act in the proper exercise of its or their powers in accordance with this Deed,

and the Company irrevocably acknowledges and agrees that such power of attorney is (inter alia) given to the Security Trustee, or as the case may be, the Receiver or both, to secure the performance of these obligations owed to him or them by the Company

13. ADJUSTMENT OF ACCOUNT

If the state of account between the Security Trustee or any Beneficiary and the Company by reference to which any Secured Sums are calculated for the purposes of this Deed requires adjustment at any time because of any claim made against the Security Trustee or such Beneficiary by an officeholder (within the meaning of Section 234 of the Insolvency Act 1986) then, notwithstanding any other provision of this Deed.-

- (a) the Company's liability to the Security Trustee or such Beneficiary will be correspondingly adjusted, and
- (b) the Security Trustee or such Beneficiary may treat any release or settlement made by it with the Company before any such adjustment is required as being of no effect, and
- (c) the Security Trustee or such Beneficiary may recover from the Company such sum as will place the Security Trustee or such Beneficiary in the same position as if such release or settlement had not been made

If any claim is made against the Security Trustee or any Beneficiary in relation to the Company under any insolvency law, the Security Trustee or such Beneficiary may agree the claim or settle it on any terms it chooses without asking for the Company's agreement. If the Security Trustee or such Beneficiary does agree or settle the claim, the Company will be liable under this Deed as if a court order had been made containing the terms which the Security Trustee or Beneficiary have agreed. The Company will be responsible for all costs and expenses which the Security Trustee or such Beneficiary properly incurs in defending such a claim

14. OTHER POWERS EXERCISABLE BY THE SECURITY TRUSTEE

14 1 **Security Trustee may exercise Receiver's Powers:** All powers of the Receiver conferred by this Deed may be exercised by the Security Trustee following demand by the Security Trustee whether as attorney of such Company or otherwise and whether or not the Receiver shall have been appointed and so that Clause 11 7(m) (Powers of Receivers) shall be read and construed as if the words "be charged on the Charged Property of the Company" were substituted for the words "be deemed an expense properly incurred by the Receiver"

- 14 2 **Security Trustee empowered to receive Book Debts:** The Security Trustee or any manager or officer of the Security Trustee is hereby irrevocably empowered to receive all book debts and other debts and claims and all Document Claims which may be assigned to the Security Trustee pursuant to Clause 3 1 (*Assignment*) or pursuant to Clause 7 (*Further Assurance*) and on payment to give an effectual discharge for them and on non-payment to take and institute (if the Security Trustee in its sole discretion so decides) all steps and proceedings either in the name of the Company as assignor or in the name of the Security Trustee for their recovery and also to agree accounts and to make allowances and to give time to any surety. The Company hereby undertakes to ratify and confirm whatever the Security Trustee or any manager or officer of the Security Trustee shall do or purport to do under this Clause 14
- 14 3 **Exclusion of Security Trustee's Liability:** The Security Trustee shall have no liability or responsibility to the Company arising out of the exercise or non-exercise of the rights conferred on it by this Clause 14
- 14 4 **Security Trustee not obliged to take action relating to Book Debts:** The Security Trustee shall not be obliged to make any enquiry as to the sufficiency of any sums received by it in respect of any book debts or other debt, claim or Document Claim so assigned to it or to make any claim or take any other action to collect in or enforce them
15. **APPLICATION OF RECOVERIES RECEIVED BY THE SECURITY TRUSTEE OR A RECEIVER**
- 15 1 **Application of Recoveries:** Any money received under the powers conferred by and the provisions of this Deed shall be paid or applied in the order of priority set out in the Intercreditor Agreement
- 15 2 **Suspense Accounts:** The Security Trustee may, in its absolute discretion on or at any time or times and pending the payment to the Security Trustee of the whole of the Secured Sums, place and keep to the credit of a separate interest bearing suspense account any money received, recovered or realised by the Security Trustee by virtue of this security for so long and in such manner as the Security Trustee may determine without any intermediate obligation to apply it in or towards the discharge of any Secured Sum provided always that once the act of holding monies or distributions in suspense no longer provides the Security Trustee (in its opinion) acting on behalf of the Beneficiaries with the possibility of increasing its recoveries in the case of the Company's insolvency then such monies or distributions so held shall be released and applied in accordance with the terms of the Intercreditor Agreement
- 15 3 **Interest on Suspense Accounts:** Interest earned on the suspense account described above shall be credited to that account and shall be available to and applied by the Security Trustee in discharge of the Secured Sums
16. **COSTS, CHARGES AND EXPENSES**
- 16 1 **Indemnity:** The Company shall reimburse the Security Trustee and each Beneficiary on demand (on a full indemnity basis) for all reasonable costs and expenses in any relevant jurisdiction and any value added or similar tax upon such costs and expenses incurred by the Security Trustee and each Beneficiary in connection with this Deed and in connection with the enforcement or preservation of any of their respective rights under this Deed
- 16 2 **Indemnity of Receiver:** All costs, charges and liabilities (including all professional fees and disbursements and Value Added Tax and/or any similar tax) and all other sums paid or

incurred by any Receiver under or in connection with this Deed or the Company's affairs, shall be recoverable (on a full indemnity basis) from the Company as a debt payable on demand, may be debited without notice to any account of the Company and shall bear interest accordingly and shall be charged on the Charged Property of the Company

16.3 **Types of Costs Recoverable:** Without prejudice to the generality of Clauses 16.1 (*Indemnity*) and 16.2 (*Indemnity of Receiver*), the costs recoverable by the Security Trustee, the Beneficiaries and/or any Receiver under this Deed shall include -

- (a) all costs incurred by the Security Trustee and the Beneficiaries in preparing and administering this Deed or perfecting the security created by it,
- (b) all costs (whether or not allowable on a taxation by the court) of all proceedings for the enforcement of this Deed or for the recovery or attempted recovery of the Secured Sums,
- (c) all money expended and all costs arising out of the exercise of any power, right or discretion conferred by this Deed, and
- (d) all costs and losses arising from any default by the Company in the payment when due of any of the Secured Sums or the performance of its obligations under this Deed

16.4 **Overdue Amounts:** Any overdue amounts secured by this Deed shall carry interest at the rate and in accordance with the terms contained in the Facilities Agreement in relation to overdue sums or at such other rate agreed between the Company and the Security Trustee or the relevant Beneficiary from time to time. In either case such interest shall accrue on a day to day basis to the date of repayment in full and, if unpaid, shall be compounded on the terms so agreed (or in the absence of such agreed terms) with quarterly rests on the Security Trustee's usual quarterly interest days. Interest shall continue to be charged and compounded on this basis after as well as before any demand or judgment.

16.5 **Currency Indemnity:** Monies received or held by the Security Trustee or any Beneficiary pursuant to this Deed may from time to time after demand has been made be converted into such currency as the Security Trustee or any Beneficiary considers necessary or desirable to discharge the Secured Sums in that currency at the Security Trustee's or that Beneficiary's then prevailing spot rate of exchange (as conclusively determined by the Security Trustee or that Beneficiary) for purchasing the currency to be acquired with the existing currency. Following such conversion, the amount available to discharge the Secured Sums shall be the converted amount less any costs associated with such conversion.

16.6 **Withholding:** The terms of Clause 10 (*No Deductions*) of the Facilities Agreement shall apply, mutatis mutandis, to any sums payable by the Company under this Deed.

17. SET-OFF

17.1 **Right of Set-off:** Save as otherwise provided in the Intercreditor Agreement and/or the Facilities Agreement the Security Trustee and each Beneficiary shall have the right at any time while a Default has occurred and is Continuing to retain any money standing to the credit of the Company with such Beneficiary in any currency upon any account or otherwise (in any country and whether or not in the Company's name) as cover for any Secured Sums and/or at any time, without notice to the Company, to combine or consolidate and/or set-off or transfer all or any of such money with all or such part of the Secured Sums as such Beneficiary may select (whether presently payable or not) and such Beneficiary may purchase with any such money any other currency required to effect such combination.

- 17 2 **Authorisation:** The Company irrevocably authorises the Security Trustee and each Beneficiary in its name and at its expense to perform such acts and sign such documents as may be required to give effect to any set-off or transfer pursuant to Clause 17 1 (*Right of Set-off*), including the purchase with the money standing to the credit of any such account of such other currencies as may be necessary to effect such set-off or transfer
- 17 3 **Extension:** The foregoing provisions of this Clause 17 shall be in addition to and without prejudice to such rights of set-off, combination, consolidation, lien and other rights whatsoever conferred on the Security Trustee and the Beneficiaries by law

18. SECURITY TRUSTEE, PERPETUITY PERIODS AND NO PARTNERSHIP

- 18 1 **Security Trustee.** The Security Trustee hereby declares itself to be a trustee of this Deed (and any other security in its favour created pursuant to this Deed) for the Beneficiaries. The retirement of the Security Trustee from being trustee and the appointment of any new trustee (the "Successor") shall be effected in the manner provided in the Facilities Agreement and the Intercreditor Agreement
- 18 2 **No Partnership:** Nothing in this Security shall constitute or be deemed to constitute a partnership between the Beneficiaries (or between any of them)

19. FORBEARANCE AND SEVERABILITY

- 19 1 **No Waivers:** All rights, powers and privileges under this Deed shall continue in full force and effect, regardless of the Security Trustee or any Beneficiary exercising, delaying in exercising or omitting to exercise any of them
- 19 2 **Invalidity and Severability:**
- (a) None of the covenants and guarantees given and none of the charges created by the Company under this Deed shall be avoided or invalidated by reason only of one or more of such covenants, guarantees or charges being invalid or unenforceable
 - (b) Any provision of this Deed which for any reason is or becomes illegal, invalid or unenforceable shall be ineffective only to the extent of such illegality, invalidity and unenforceability, without invalidating the remaining provisions of this Deed

20. VARIATIONS AND CONSENTS

- 20 1 **Variations to be in writing signed by all parties:** No variation of this Deed shall be considered valid and as constituting part of this Deed, unless such variation shall have been made in writing and signed by the Security Trustee (on behalf of the Beneficiaries) and the Company
- 20 2 **Variation:** The expression "variation" shall include any variation, supplement, extension, deletion or replacement however effected
- 20 3 **Conditional Consents:** Save as otherwise expressly specified in this Deed, any consent of the Security Trustee may be given absolutely or on any terms and subject to any conditions as the Security Trustee may determine in its entire discretion

21. SERVICE OF DEMANDS AND NOTICES

21 1 Addresses: A demand for payment or any other demand or notice under this Deed may be made or given by any manager or officer of the Security Trustee in writing addressed to the Company and served on it at the address for service stated below or to the address last notified to the Security Trustee by the Company, or by facsimile transmission to the facsimile number stated below or to the facsimile number last notified to the Security Trustee by the Company

21 2 Deeming provisions: Any communication to the Company or to any Beneficiary (other than the Security Trustee) shall be deemed to have been received by the Company or that Beneficiary (other than the Security Trustee) -

- (a) if delivered by hand, at the time of actual delivery,
- (b) if transmitted by facsimile, at the time the facsimile transmission report (or other appropriate evidence) confirming that the facsimile has been transmitted to the addressee is received by the sender,
- (c) if sent by pre-paid first class post, at noon on the second Business Day (in the case of an inland address) or the fifth Business Day (in the case of an overseas address) following the day of posting and shall be effective even if it is misdelivered or returned undelivered

In proving such service it shall be sufficient to prove that personal delivery was made, or that the envelope containing the communication was correctly addressed and posted or that a facsimile transmission report (or other appropriate evidence) was obtained that the facsimile had been transmitted to the addressee

21 3 Service on Security Trustee: Any communication to the Security Trustee shall be deemed to have been given only on actual receipt by it

21 4 Company's Address for Service: The Company's address for service is.

Mercia Healthcare Limited
St Martins House, 1 Gresham Street, London EC2V 7BX

Fax 020 7184 9138
Attention. Company Secretariat

21 5 Security Trustee's Address for Service: The Security Trustee's address for service is

Bank of Scotland PLC
2nd Floor, New Uberior House
11 Earl Grey Street, Edinburgh EH3 9BN

Fax 0131 659 0591
Attention Director Infrastructure Finance

22. COUNTERPARTS

This Deed may be executed by any of the parties in any number of copies, all of which taken together shall constitute a single Deed.

23. ASSIGNMENT

Each Beneficiary, in accordance with the transfer provisions contained in the Facilities Agreement, may assign or transfer all or any of their respective rights hereunder or hold their rights hereunder on trust for their successors or assigns or transferees

24. SECURITY TRUSTEE

The provisions of Clause 31 (*Senior Creditor Representatives*) of the Intercreditor Agreement shall apply to the Security Trustee's rights, obligations and duties under this Deed as if set out in this Deed in full

25. RELEASE OF SECURITY

Subject to the provisions of the Lenders' Direct Agreement and the Intercreditor Agreement, the Security Trustee shall at the request of the Company following the Senior Discharge Date execute a deed of release (at the cost of the Company) in relation to the Encumbrances created by this Deed

26. GOVERNING LAW

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law

THIS DEED has been executed by the Company as a Deed and signed by the Security Trustee but it shall only be treated as having been executed and delivered to take effect on the day and year first above written

THE FIRST SCHEDULE

The Documents

- 1 Services Performance Guarantee dated on or around the date hereof between Sodexo S A (1) and the Company (2)
- 2 Deed of Novation relating to Service Contract Direct Deed dated on or around the date hereof between Sodexo Property Solutions Limited (1), WS Atkins PLC (2), the Company (3), Bank of Scotland PLC (as Security Trustee) (4) Bank of Scotland PLC (as Agent) (5) and Sodexo S A (6)
- 3 Deed of Novation relating to Service Provider Umbrella Agreement dated on or around the date hereof between Sodexo Limited (1), the Company (2), Philips Electronics UK Limited (3), WS Atkins PLC (4) Sodexo Property Solutions Limited (5) and Sodexo S A (6)
- 4 Deed of Novation relating to Direct Services Agreement dated on or around the date hereof between the Company (1), the Trust (2), WS Atkins PLC (3) Sodexo Property Solutions Limited (4) and Sodexo S A (5)

THE SECOND SCHEDULE

Part I

Form of Notice of Assignment and Acknowledgement of Receipt - Document Claims

To [Details of Party to Assigned Contract]

Date:

Dear Sirs

[Description of Relevant Document] (the "Assigned Contract")

We refer to the Assigned Contract. We refer also to a guarantee and security assignment (the "Deed") dated [•] 2013 made between Bank of Scotland PLC in its capacity as security trustee for certain beneficiaries named therein (the "Security Trustee") and ourselves (the "Company"). Terms defined in the Deed shall have the same meanings where used in this letter.

We hereby give you notice that by a first ranking assignment contained in the Deed, all of the Company's present and future right, title, interest and benefit in, under and to the Assigned Contract including any sums payable to the Company pursuant to all representations and warranties, undertakings and indemnities to, agreements with and security to be provided in favour of the Company under or in respect of the Assigned Contract, and any rights of abatement or set-off, and all other rights of recovery under or pursuant to the Assigned Contract and any net proceeds of any claims, awards and judgments which may at any time be received or receivable by the Company pursuant to the Assigned Contract, together with the benefit of all powers and remedies for enforcing the same were assigned to the Security Trustee by way of security.

We irrevocably and unconditionally instruct and authorise you as follows (notwithstanding any previous directions which we may have given you to the contrary):-

- 1 All monies payable by you to the Company pursuant to the Assigned Contract shall be paid into account number 06300175 sort code 12-27-14 in the Company's name (the "Proceeds Account") unless and until otherwise directed by the Security Trustee after the Security Trustee has notified you that the Security Trustee has become entitled to appoint a Receiver pursuant to the terms of Clause 11.1 (*Appointment of a Receiver*) of the Deed, whereupon all monies shall be paid in accordance with the instructions of the Security Trustee,
- 2 Notwithstanding the assignment referred to above or the making of any payment by you to the Security Trustee pursuant to it, the Company shall remain liable under the Assigned Contract to perform all the obligations assumed by it under the Assigned Contract and neither the Security Trustee nor any receiver, delegate or sub-delegate appointed by it shall at any time be under any obligation or liability to you under or in respect of the Assigned Contract,
- 3 The Company shall not and you agree that the Company shall not vary or waive (or agree to vary or waive) any provision of the Assigned Contract or exercise any right to rescind or terminate the Assigned Contract without the prior written consent of the Security Trustee but otherwise the Company shall be entitled to exercise all its rights, powers and discretions under the Assigned Contract unless and until you receive written notice from the Security Trustee to the contrary, in which event all rights, powers and discretions shall be exercisable by the Security Trustee or as it directs,

4. Unless otherwise directed by the Security Trustee, you shall furnish or disclose to the Security Trustee in addition to ourselves all notices, matters or things required under the Assigned Contract to be furnished and disclosed to ourselves

All notices, matters or things required to be sent to the Security Trustee under the terms of this notice shall be sent to the Security Trustee at the address set out in (e) below or to such other address as shall be notified to you from time to time

The instructions and authorisations contained in this letter shall remain in full force and effect until we and the Security Trustee together give you notice in writing revoking them

This letter shall be governed by and construed in accordance with the laws of England

Please acknowledge receipt of this Notice of Assignment by signing the acknowledgement on the attached copy of this Notice of Assignment and confirm that

- (a) You will pay all sums due under the Assigned Contract as directed by or pursuant to this Notice of Assignment,
- (b) Save as expressly permitted by the terms of the Assigned Contract, you will not claim or exercise any set-off in respect of sums payable under the Assigned Contract,
- (c) As at the date of this Notice of Assignment, you have not received any other notice of assignment or charge of the Assigned Contract,
- (d) As at the date of this Notice of Assignment, you are not aware that any third party has or will have any right or interest whatsoever in, or has made or will be making any claim or demand or taking any action whatsoever in respect of the Assigned Contract,
- (e) You submit to the exclusive jurisdiction of the courts of England to settle any dispute arising out of or in conjunction with this Notice of Assignment (a "Dispute") and agree that the courts of England are the most appropriate and convenient courts to settle Disputes,
- (f) You will agree to and comply with the other provisions of this Notice of Assignment by signing the acknowledgement on the attached copy of this Notice of Assignment and returning that copy to the Security Trustee at [] marked for the attention of []

Signed.
For and on behalf of
Merica Healthcare Limited

Countersigned by.
for and on behalf of
Bank of Scotland PLC

[On Duplicate -

We acknowledge receipt of the Notice of Assignment of which this is a copy and confirm each of the matters referred to in the Notice of Assignment

Signed Date
For and on behalf of
[Party to Assigned Contract]

THE THIRD SCHEDULE

Terms of Guarantee

For the purposes of this Schedule, the term "Guarantee" shall (where appropriate) extend also to the indemnity given under Clause 2.1(d) (*Covenant to Pay*)

- 1 This Guarantee is a continuing security to the Security Trustee and each Beneficiary and will continue in full force irrespective of whatever dealings may occur on any account between the Security Trustee or such Beneficiary and the Principal
- 2 If this Guarantee ceases for any reason to be binding on the Guarantor as a continuing security in relation to the Principal, then each Beneficiary may break such accounts (save for the Project Accounts) of the Guarantor and the Principal with such Beneficiary as such Beneficiary deems appropriate and open new accounts for the account holders affected

If that is done, no money credited to such new account at that time or later will have the effect of reducing the amount due to such Beneficiary on the original account. If that is not done, such Beneficiary will still be treated as if it had broken all such accounts at the time when such notice expired or this Guarantee ceased to be a continuing security and as if all payments made to such Beneficiary then or later had been credited to a new account with the same result

Such Beneficiary may also refuse payment (without notice to the Guarantor) of any cheque or order which, if paid or honoured, would reduce or further reduce the Guarantor's credit balances below the amount of its liability to such Beneficiary under this Guarantee at such time

3. All payments falling to be made by the Guarantor under this Guarantee will be made to the Security Trustee or the relevant Beneficiary without any set-off or counterclaim and free from any deduction or withholding for or on account of any taxes or other charges in the nature of taxes imposed by any competent authority. If any such deduction or withholding is required by law, the Guarantor will pay to the Security Trustee or the relevant Beneficiary any additional amount necessary to ensure that the Security Trustee or such Beneficiary receives and retains the full amount of the relevant payment as if such deduction or withholding had not been made
- 4 The Security Trustee and/or any Beneficiary may at any time (without prejudice to its other rights) place and keep for such time as the Security Trustee or such Beneficiary may think prudent any money received, recovered or realised under or by virtue of this Guarantee on a separate or suspense account to the credit of either the Security Trustee or such Beneficiary or the Guarantor (as the Security Trustee or such Beneficiary thinks fit), without any intermediate obligation on its part to apply such money or any part of it in or towards discharge of the Secured Sums, provided always that once the act of holding monies or distributions in suspense no longer provides the Security Trustee (in its opinion) acting on behalf of the Beneficiaries with the possibility of increasing its recoveries in the case of the Company's insolvency then such monies or distributions so held shall be released and applied in accordance with the terms of this Deed. Interest earned on the suspense account described above shall be credited to that account and shall be available to and applied by the Security Trustee in discharge of the Secured Sums
- 5 This Guarantee is to be in addition to and is not to prejudice or be prejudiced by any other guarantee or security (including any other guarantee signed by the Guarantor) which the

Security Trustee or any Beneficiary may hold from or on account of the Principal either now or later. This Guarantee may be enforced without the Security Trustee or any Beneficiary first making demand on the Principal or taking any steps or proceedings against the Principal or having recourse to any such other guarantee or security.

6 The Guarantor shall have no right to -

- (i) make any claim (whether by way of proof in liquidation or otherwise) against the Principal or any property of the Principal; or
- (ii) participate in any security held or money received by the Security Trustee or any Beneficiary on account of the Secured Sums, or
- (iii) stand in the place of the Security Trustee or any Beneficiary in respect of any such security or money, until in each case all Secured Sums have been repaid to the Security Trustee and/or the Beneficiaries in full

However, if so directed by the Security Trustee but not otherwise, the Guarantor shall prove in the Principal's liquidation for the whole or any part of the money due or owing to the Guarantor from the Principal in any manner whatever and the benefit of such proof and of all money received by the Guarantor in respect of it shall be held on trust for the Security Trustee and applied in reduction of the Secured Sums

7 The Security Trustee or any Beneficiary may at any time (without affecting its rights against the Guarantor under this Guarantee) grant, extend, increase, renew, vary, waive the terms of, determine or refuse any credit or facility to the Principal, or take, hold, exchange, vary, release, abstain from perfecting or enforcing any guarantee or security for the Secured Sums, or compromise with or extend time or grant waivers, releases or any indulgence to the Principal or any co-surety, or make any arrangement, concession or settlement with any of them or do or omit or neglect to do anything whatever which, but for this provision, might exonerate or discharge the Guarantor's obligations under this Guarantee (except for a specific written release given by the Security Trustee of such obligations)

8 After this Guarantee becomes enforceable, no payment received by the Security Trustee or any Beneficiary from any source (except the Principal) in respect of the Secured Sums will be treated (regardless of the manner in which the Security Trustee or such Beneficiary may deal with it in its books or otherwise) as reducing the Guarantor's liability to the Security Trustee or such Beneficiary under this Guarantee, so that until the Security Trustee or such Beneficiary has received payment in full of all Secured Sums, it will be deemed, as between the Security Trustee or such Beneficiary and the Guarantor and except for any payment by the Principal, to remain wholly unsatisfied

9 If the state of account between the Security Trustee or any Beneficiary and the Principal (by reference to which any Secured Sums are calculated for the purposes of this Guarantee) requires adjustment at any time because of any claim made against the Security Trustee or such Beneficiary by an office-holder (within the meaning of Section 234 of the Insolvency Act 1986), then, notwithstanding any other provision of this Guarantee.-

- (a) the Guarantor's liability to the Security Trustee or such Beneficiary will be correspondingly adjusted, and
- (b) the Security Trustee or such Beneficiary may treat any release or settlement made by it with the Guarantor before any such adjustment is required as being of no effect, and

- (c) the Security Trustee or such Beneficiary may recover from the Guarantor such sum as will place the Security Trustee or such Beneficiary in the same position as if such release or settlement had not been made.

If any claim is made against the Security Trustee or any Beneficiary in relation to the Principal under any insolvency law, the Security Trustee or such Beneficiary may agree the claim or settle it on any terms it chooses without the necessity of asking for the Guarantor's agreement. If the Security Trustee or such Beneficiary does agree or settle the claim, the Guarantor will be liable under this Guarantee as if a court order had been made containing the terms which the Security Trustee or such Beneficiary have agreed. The Guarantor will be responsible for all costs and expenses which the Security Trustee or such Beneficiary properly incurs in defending such a claim.

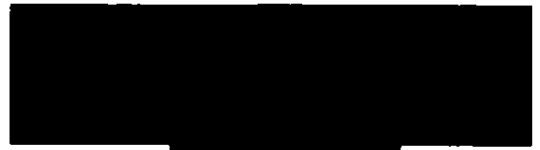
- 10 The Security Trustee may keep the security held by it for the Guarantor's liability under this Guarantee in order to protect the Security Trustee and the Beneficiaries against any possible claim under insolvency law for any relevant period after all Secured Sums have been satisfied which the Security Trustee reasonably considers to be necessary to avoid any risk under applicable insolvency law. If a claim is made against the Security Trustee or any Beneficiary within that period, the Security Trustee may keep the security until that claim has finally been dealt with.
- 11 The winding-up or dissolution of the Principal will not affect the Guarantor's liability under this Guarantee and any sum payable to the Security Trustee or any Beneficiary at the date of the commencement of such winding-up or immediately prior to such dissolution (as the case may be) will be treated as continuing to be payable until actually paid in full.
- 12 If any question arises as to the capacity of the Principal in relation to any dealing between the Principal and the Security Trustee or any Beneficiary, or as to the capacity, authority or power of any officer, employee or agent of the Principal to bind it to any transaction with the Security Trustee or any Beneficiary, or as to whether any of the Secured Sums are immediately due and payable, that question shall, as between the Security Trustee or such Beneficiary and the Guarantor, be disregarded and the Guarantor will for the purposes of this Guarantee be and continue to be liable to the Security Trustee or such Beneficiary in respect of any such dealing, transaction and/or Secured Sums as if the Guarantor were a principal debtor.
- 13 Any money received by the Security Trustee or any Beneficiary under or by virtue of this Guarantee may be converted by the Security Trustee or such Beneficiary at any time as it thinks fit (and notwithstanding any previous conversion) into any currency in which any part of the Secured Sums is due or owing to the Security Trustee or such Beneficiary, in which event the net amount available to the Security Trustee or such Beneficiary in such other currency (after allowing for all costs of conversion) shall be deemed to be the amount received by the Security Trustee or such Beneficiary under or by virtue of this Guarantee.
- 14 Any admission or acknowledgement in writing by the Principal or on its behalf of the amount of any Secured Sums or otherwise in relation to this Guarantee, or any judgment or award obtained by the Security Trustee or any Beneficiary against the Principal, or any proof by the Security Trustee or any Beneficiary in winding up which is admitted, or any statement of account furnished by the Security Trustee or any Beneficiary the correctness of which is certified by any one of its directors, regional directors or managers, will be binding and conclusive on the Guarantor (except in the case of manifest error).
15. Notwithstanding any other provision of this Guarantee, this Guarantee shall not operate to guarantee any money or liability if and in so far as such money was borrowed or such liability was incurred directly or indirectly for the purpose of the acquisition by any person of shares in the Guarantor or its holding company or the reduction or discharge of any existing liability.

incurred for the purpose of such acquisition and if and for so long as it would not be lawful under Chapter VI, Part V, of the Companies Act 1985 for such money or liability to be guaranteed by this Guarantee

- 16 As a separate and independent stipulation and without prejudice to the provisions of Clause 2 (*Covenant to Pay*), the Guarantor agrees that all sums of money which have become due hereunder and which may not be recoverable from it on the footing of a guarantee whether by reason of any legal limitation on or disability or incapacity of the Principal or any other fact or circumstance, and whether known to any Beneficiary or not, shall as to an equivalent amount thereof nevertheless be recoverable from the Guarantor as sole or principal debtor in respect thereof and shall be paid on demand in writing made by the Security Trustee
17. Other than with the prior written consent of the Security Trustee, the Guarantor shall not terminate its guarantee contained in this Deed whilst any part of the Secured Sums remains outstanding

THE COMPANY

EXECUTED and DELIVERED as a Deed by)
MERCIA HEALTHCARE LIMITED)
(pursuant to a resolution of its Board)
of Directors) acting by -)



Director

in the presence of.

Witness Signature



Witness Name

SUE TABERNER

Witness Address

Daresbury Point
Green Wood Drive
Manor Park
Cheshire
WA7 1UG

SECURITY TRUSTEE

SIGNED by)
for and on behalf of)
BANK OF SCOTLAND PLC)
as Security Trustee)

THE COMPANY

EXECUTED and DELIVERED as a Deed by)
MERCIA HEALTHCARE LIMITED)
(pursuant to a resolution of its Board)
of Directors) acting by -)

Director

in the presence of

Witness Signature

Witness Name

Witness Address

SECURITY TRUSTEE

SIGNED by)
for and on behalf of)
BANK OF SCOTLAND PLC)
as Security Trustee)

