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COMPANIES FORM No. 410(Scot)

Particulars of a charge created by a company registered in Scotland

410

A fee of £10 is payable to Companies House in
respect of each register entry for a mortgage or
charge

Pursuant to section 410 of the Companies Act 1985

COMPANIES HOUSE
FEE PAID
EDINBURGH

CHFP025

Please do not
write in this
margin

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

1217

SC206930

Name of company

THE EDINBURGH SCHOOLS PARTNERSHIP LIMITED (the "Assignor")

Date of creation of the charge (note 1)

19 DECEMBER 2003

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

Further Borrower Assignment in Security (the "Assignment")

Amount secured by the charge

The Secured Finance Liabilities being the Indebtedness of the Obligors to the Senior Creditors under the Senior Lender Finance Documents (See Paper Apart for defined terms).

Names and addresses of the persons entitled to the charge

The Governor and Company of the Bank of Scotland, The Mound, Edinburgh as
Security Trustee for the Senior Creditors

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

McGrigor Donald
Princes Exchange
1 Earl Grey Street
Edinburgh
EH3 9AQ

For official use
Charges Section

Post room



SCT SQ797RHD 0232
COMPANIES HOUSE 05/01/04

Short particulars of all the property charged.

Please do not
write in
this margin

The Assignor's whole right, title, interest and benefit in and to:

- (i) the Project Documents;
 - (ii) all Rights of the Assignor relative to the Project Documents.
- (See Paper Apart for defined terms)

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)

N/A

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

N/A

A fee of £10 is
payable to
Companies House
in respect of each
register entry for a
mortgage or
charge.
(See Note 5)

Signed

McGregor Donald

Date

5/1/4

On behalf of ~~XXXXXX~~ [company] [chargee] †

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 Assignment.)

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. 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

† delete as
appropriate

PAPER APART TO FORM 410 RE THE EDINBURGH SCHOOLS PARTNERSHIP LIMITED (COMPANY NUMBER SC206930)

Defined terms:-

"Account Bank" means the Governor and Company of the Bank of Scotland;

"Account Bank Agreement" means the agreement dated 15 November 2001 between the Borrower, the Holding Company, the Account Bank, the Security Trustee and the Global Agent in relation to the establishment and operation of the Project Accounts held with the Account Bank together with any bank mandates, fee letters or safekeeping agreements agreed between the Borrower or (as the case may be) the Holding Company and the Account Bank;

"Approved Hedging Programme" means at any time the Original Hedging Agreement and such agreements for the management of the Borrower's exposure to changes in floating rates of interest as the Global may (acting reasonably) approve;

the **"Banks"** means the banks and financial institutions designated as such under the Banks Facility Agreement;

"Banks Facility Agreement" means the agreement of that name dated 15 November 2001 amongst (i) the Assignor (ii) Holdings and (iii) The Governor and Company of the Bank of Scotland in its capacities as Arranger, Banks Agent and Original Bank as amended and restated by a supplemental agreement dated 19 December 2003 among the same parties;

"Borrower" means the Assignor;

"Borrower Assignment in Security" means the assignment in security dated 15 November 2001 given by the Borrower in favour of the Security Trustee;

"Borrower Fixed Charge" means the fixed charge dated 15 November 2001 given by the Borrower in favour of the Security Trustee;

"Borrower Standard Securities" means standard securities over the Borrower's interest in the Leases and the sub-leases dated 15 November 2001 given by the Borrower in favour of the Security Trustee;

"Common Terms Agreement" means an agreement of that name dated 15 November 2001 amongst (i) the Assignor (ii) Holdings (iii) The Governor and Company of the Bank of Scotland as Arranger, Bank's Agent, Senior Lender, Global Agent, Account Bank and Security Trustee (iv) European Investment Bank as Senior Lender and (v) HBoS Treasury Services plc as Original Hedging Counterparty, as the same has been amended and restated by two supplemental agreements amongst the same parties;

"Construction Contract" means the agreement dated 15 November 2001 between the Borrower and the Contractor relating to the design, construction, reconstruction and refurbishment of the Project Schools by the Contractor, as amended by a supplemental agreement dated on or around 16 December 2003;

"Contractor" means the joint venture formed by Amey Asset Services Limited (registered no: 03959995) and Miller Construction (UK) Limited (registered no: 209666) and/or any permitted successors or assignees under the Construction Contract and/or such other contractor or contractors as may be appointed by the Borrower with the prior approval of the Global Agent in accordance with this Agreement to carry out the Works from time to time in accordance with the Project Agreement;

"Contractor Direct Agreement" means the agreement dated 15 November 2001 between the Borrower, the Security Trustee, the Global Agent and the Contractor in respect of the Construction Contract;

"Contractor Direct Agreement" means the agreement dated 15 November 2001 between the Borrower, the Security Trustee, the Global Agent and the Contractor in respect of the Construction Contract;

"Contractor Parent Company Guarantee" means the guarantee dated 15 November 2001 provided by the Contractor Parent Company Guarantors and in respect of the obligations of the Contractor;

"Contractor Parent Company Guarantors" means jointly and severally Amey plc (registered number: 02379479) and The Miller Group Limited (registered number SC18135) together with any permitted successors, assigns or transferees;

"Council" means The City of Edinburgh Council a local authority constituted and incorporated under the Local Government etc (Scotland) Act 1994 and having its principal office at City Chambers, High Street, Edinburgh EH1 1YJ

"Council Direct Agreement" means the direct agreement dated 15 November 2001 between the Borrower, the Security Trustee, the Global Agent and the Council in respect of *inter alia* the Project Agreement and the Surplus Sites Agreement, as amended from time to time;

"Direct Agreements" means:

- (a) the Contractor Direct Agreement;
- (b) the FM Services Provider Direct Agreement;
- (c) the Council Direct Agreement;
- (d) the Surplus Sites Direct Agreements; and

the Shareholder Funding Agreement;

"Fees Letters" means the fees letters referred to in Clause 5 (*Fees*) of the Amendment and Restatement Agreement, and clause 9 (*Fees*) of the Banks Facility Agreement;

"FM Provider Parent Company Guarantee" means the guarantee dated 15 November 2001 provided by the FM Provider Parent Company Guarantor in respect of the obligations of the FM Services Provider under the FM Services Sub-Contract;

"FM Provider Parent Company Guarantor" means Amey plc and its permitted successors, assigns and transferees;

"FM Services Provider Direct Agreement" means the agreement dated 15 November 2001 between the Borrower, the Security Trustee and the FM Services Provider in respect of its FM Services Sub-Contract;

"FM Services Provider" means Amey BPO Services Limited (registered no: 02564794) and/or any permitted successors or assignees under the FM Services Sub Contract and/or such other service provider or services provider as may be appointed by the Borrower with the prior approval of the Global Agent in accordance with the Common Terms Agreement dated to carry out the FM Services;

"FM Services Sub-Contract" means the agreement dated 15 November 2001 between the FM Services Provider and the Borrower, as amended by a supplemental agreement dated on or around 16 December 2003;

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

"Hedging Agreements" means the Original Hedging Agreement and any other agreement entered into pursuant to the Approved Hedging Programme;

"Holding Company Assignment in Security" means the assignment in security dated 15 November 2001 given by the Holding Company in favour of the Security Trustee (together with the related notices of intimation and acknowledgement);

"Holding Company" means ESP (Holdings) Limited (registered number: SC206929);

"Holding Company Fixed Charge" means the fixed charge dated 15 November 2001 given by the Holding Company in favour of the Security Trustee;

"Holding Company Floating Charge" means the floating charge dated 15 November 2001 given by the Holding Company in favour of the Security Trustee;

"Holding Company Loan Notes" means the loan notes of the Holding Company constituted by an instrument dated 15 November 2001;

"Holdings" means ESP (Holdings) Limited, a company registered in Scotland with registered number SC206929;

"Indebtedness" means, with respect to any Person (the **"Relevant Person"**), any obligation (whether present or future, actual or contingent, secured or unsecured, as principal, surety or otherwise) of the Relevant Person for the payment or repayment of money;

"Obligors" means the Assignor and Holdings and **"Obligor"** means either of them;

"Original Hedging Agreement" means the ISDA Master Agreement dated 15 November 2001 between the Borrower and HBOS Treasury Services plc and the confirmation(s) of the same date thereunder and any ancillary documentation relating thereto;

"Person" means any individual, company, corporation, firm, partnership, joint venture, undertaking, association, organisation, trust, state or Agency of a state (in each case, whether or not having separate legal personality);

"Project Accounts" means

- (i) a Proceeds Account - Account number 00579200;
- (ii) an Operating Account - Account number 00579219;
- (iii) a Maintenance Reserve Account - Account number 00579227;
- (iv) an Insurance Proceeds Account - Account number 00579235;
- (v) a Senior Debt Service Reserve Account - Account number 00579243;
- (vi) a Distribution Account - Account number 00579251;

- (vii) a Prepayment Account - Account number 00579278;
- (viii) a Drawdown Account - Account number 00579286;
- (ix) a Supplemental Account – Account Number 00579294;
- (x) a Surplus Sites Account - Account Number 00579323;
- (xi) an Holding Company Proceeds Account - Account number 00579307;
and

an Holding Company Distribution Account - Account number 00579315.

"Project Documents" means:

- (i) the supplemental agreement dated on or around 19 December 2003 between (a) The City of Edinburgh Council and (b) the Assignor, relating to a project agreement dated 8 November 2001 (and supplemented by an agreement dated 13 February 2003) between the same parties;
- (ii) the supplemental agreement dated on or around 19 December 2003 between (a) the Assignor and (b) the joint venture comprising jointly and severally Amey Programme Management Limited (formerly Amey Asset Services Limited) (registered number 3959995) and Miller Construction (UK) Limited (registered number SC209666), relating to a construction contract dated 15 November 2001 between the same parties; and
- (iii) the supplemental agreement dated on or around 19 December 2003 between (a) the Assignor and (b) Amey BPO Services Limited (registered number 2564794), relating to an fm agreement dated 15 November 2001 between the same parties.

"Rights" in relation to any contract, agreement or arrangement includes:

- (a) the right to receive all and any monies payable thereunder;
- (b) the proceeds of any payment thereunder;
- (c) all claims for damages for any breach thereof (except for a breach by the Assignor);
- (d) the benefit of all warranties and indemnities contained therein;
- (e) any right to terminate or rescind the same; and
- (f) the right to perform and observe the provisions of the same and to compel the performance and observance of the same.

"Secured Finance Liabilities" means the indebtedness of the Obligor to the Senior Creditors under the Senior Lender Finance Documents.

"Security Documents" means:

- (g) the Borrower Assignment in Security;

- (h) the Borrower Fixed Charge;
- (i) the Borrower Floating Charge;
- (j) the Borrower Standard Securities;
- (k) the Holding Company Assignment in Security;
- (l) the Holding Company Fixed Charge;
- (m) the Holding Company Share Pledge;
- (n) the Holding Company Floating Charge; and
- (o) the Direct Agreements;

and any other future documents evidencing or creating any Security over any asset of the Borrower or the Holding Company to secure any obligations of the Borrower or the Holding Company to a Senior Creditor under the Senior Lender Finance Documents;

"Senior Creditors" means (i) the Banks (ii) European Investment Bank (iii) The Governor and Company of the Bank of Scotland in its capacities as Arranger, Global Agent, Bank's Agent and Security Trustee and (iv) HBoS Treasury Services plc as Original Hedging Counterparty and any other Hedging Counterparty acceding to the Common Terms Agreement in that capacity thereafter.

"Senior Lenders" means the Banks and EIB and **"Senior Lender"** means any of them;

"Senior Lender Finance Documents" means the following (all as defined in this Paper Apart or in the Common Terms Agreement):

- (a) the Banks Facility Agreement;
- (b) the EIB Finance Contract (being an agreement of the same name amongst European Investment Bank, the Assignor and Holdings dated 15 November 2001 as supplemented by an amendment and restatement agreement dated 19 December 2003);
- (c) the Common Terms Agreement;
- (d) the Hedging Agreements;
- (e) the Security Documents;
- (f) the Subordination Agreement;
- (g) the Account Bank Agreement;
- (h) the Fees Letters;
- (i) the FM Provider Parent Company Guarantee;
- (j) the Contractor Parent Guarantee;

- (k) the Shareholder Funding Agreement;
- (l) the Surplus Sites Guarantees;
- (m) the Surplus Sites Shortfall Undertaking; and
- (n) all agreements and other documents which the Global Agent and the Assignor agree to be Senior Lender Finance Documents.

"Shareholders" means the shareholders of the Holding Company from time to time, being, at the date hereof, Amey Ventures Limited (company number 03560646), Miller Construction (UK) Limited (company number SC206999), Uberior Infrastructure Investments Limited (company number SC186247) and Quayle Munro PFI Fund Limited Partnership (registered number SL004122) and **"Shareholder"** means any one of them;

"Shareholder Funding Agreement" means the agreement so entitled and dated 15 November 2001 between *inter alia* the Borrower, the Shareholders, the Holding Company, the Shareholder Parent Company Guarantors and the Security Trustee;

"Shareholder Parent Company Guarantors" means the providers of the Shareholder Parent Company Guarantees;

"Surplus Sites Agreement" means the surplus sites agreement dated on or about the date hereof between the Council and the Borrower;

"Surplus Sites Guarantee" means the guarantee by The Governor and Company of the Bank of Scotland (the **"Surplus Sites Guarantor"**, together with any permitted successors, assigns or transferees) of the obligations of The Miller Group Limited under the Miller Onward Sale Agreement, as set out in clause 5.10 of the Miller Onward Sale Agreement in favour of the Borrower;

"Surplus Sites Shortfall Undertaking" means the undertaking between Amey plc and the Borrower dated 15 November 2001;

"Subordinated Creditors" means Amey Ventures Limited, Miller Construction (UK) Limited, The Governor and Company of the Bank of Scotland, Quayle Munro PFI Fund Limited Partnership and the Holding Company and **"Subordinated Creditor"** means any of them together with any permitted successors, assigns or transferees;

"Subordination Agreement" means the agreement dated 15 November 2001 among, *inter alia*, the Borrower, the Holding Company, the Global Agent, the Original Hedging Counterparty, the Subordinated Creditors and the Security Trustee;

FILE COPY



**CERTIFICATE OF THE REGISTRATION
OF A CHARGE**

Company number 206930

I hereby certify that a charge created by

THE EDINBURGH SCHOOLS PARTNERSHIP LIMITED

on 19 DECEMBER 2003

for securing

ALL SUMS DUE TO THE SENIOR CREDITORS UNDER THE SENIOR LENDER
FINANCE DOCUMENTS

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 JANUARY 2004 given at Companies House, Edinburgh
8 JANUARY 2004



C O M P A N I E S H O U S E



N.B. Searchers may find it desirable to refer to the documents mentioned in column (2) for more detailed particulars

REGISTER of Charges, Alterations to Charges,

COMPANY: SC206930 CHARGE: 21

(1) Date of Registration	(2) Serial Number of Document on File	(3) Date of Creation of each Charge and Description thereof	(4) Date of the acquisition of the Property	(5) Amount secured by the Charge £	(6) Short Particulars of the Property Charged	(7) Names of the Persons entitled to the Charge
05/01/2004		19/12/03 FURTHER BORROWER ASSIGNATION IN SECURITY		ALL SUMS DUE TO THE SENIOR CREDITORS UNDER THE SENIOR LENDER FINANCE DOCUMENTS	THE ASSIGNOR'S WHOLE RIGHT, TITLE INTEREST AND BENEFIT IN AND TO THE PROJECT DOCUMENTS AND ALL RIGHTS RELATIVE THERETO	THE GOVERNOR AND COMPANY OF THE BANK OF SCOTLAND

Mernoranda of Satisfaction and Appointments etc. of Receivers

N.B. Searchers may find it desirable to refer to the documents mentioned in column (2) for more detailed particulars

COMPANY: SC206930 CHARGE: 21

(8) In the case of a floating charge, a statement of the provisions, if any, prohibiting or restricting the creation by the company of any fixed security or any other floating charge having priority over, or ranking <i>pari passu</i> with the floating charge.	(9) In the case of a floating charge, a statement of 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 the subject of the floating charge or any part of it.	(10) Amount or rate per cent of the Commission Allowance or discount	(11) Memoranda of Satisfaction	(12) Receiver		
				Name	Date of Appointment	Date of Ceasing to act