

M

COMPANIES FORM No. 395

Particulars of a mortgage or charge

050503/26
395

CHFP025

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

Please do not write in this margin

Pursuant to section 395 of the Companies Act 1985

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

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

For official use

Company number

[1 1 2]

5153608

*insert full name of Company

Name of company

* Nations Healthcare (Nottingham) Limited ("**Borrower**")

Date of creation of the charge

20 July 2005

Description of the instrument (if any) creating or evidencing the charge (note 2)

05

Debenture ("**Deed**")

Amount secured by the mortgage or charge

T
10

In relation to the Borrower, all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever) of the Borrower to the Senior Finance Parties (or any of them) under any Senior Finance Document (including all monies covenanted to be paid under the deed) provided that no obligation or liability shall be included in the definition of "Secured Obligations" to the extent that, if it were so included, this deed (or any part of it) would constitute unlawful financial assistance within the meaning of sections 151 and 152 of the Companies Act 1985 ("**Secured Obligations**").

Names and addresses of the mortgagees or persons entitled to the charge

T

Barclays Bank PLC of 1 Churchill Place, London ("**Security Trustee**")
Postcode E14 5HP

Presentor's name address and reference (if any):
DLA Piper Rudnick Gray Cary UK
Victoria Square House, Victoria Square, Birmingham, B2 4DL

(L)

HH/RMJ/63532/120308

Time critical reference

For official Use (02/00)
Mortgage Section

Post room



A28
COMPANIES HOUSE

0728
29/07/05

Short particulars of all the property mortgaged or charged

See Schedule 1 - short particulars of all the property mortgaged or charged
See Schedule 2 - definitions

Please do not write in this margin

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

Particulars as to commission allowance or discount (note 3)

Nil

Signed DLA Piper Rudnick Gray Cary Date 28 July 2005

On behalf of ~~XXXXXX~~ [mortgagee/chargee] † DLA Piper Rudnick Gray Cary UK LLP

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

† delete as appropriate

Notes

- 1 The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395). If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398). A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the Registrar. The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body. A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No. 398 is submitted.
- 2 A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage", or "Legal charge", etc, as the case may be, should be given.
- 3 In this section there should be inserted the amount or rate per cent. of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his;
 - (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or
 - (b) procuring or agreeing to procure subscriptions, whether absolute or conditional,
 for any of the debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered.
- 4 If any of the spaces in this form provide insufficient space the particulars must be entered on the prescribed continuation sheet.
- 5 A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge. Cheques and Postal Orders must be made payable to **Companies House**.
- 6 The address of the Registrar of Companies is: Companies House, Crown Way, Cardiff CF14 3UZ

SCHEDULE 1 TO M395

SHORT PARTICULARS OF ALL THE PROPERTY MORTGAGED OR CHARGE

1. FIXED CHARGES - Clause 4.1 of the Deed

The Borrower charges and agrees to charge all its present and future right, title and interest in and to the following assets which are at any time owned by it or in which it from time to time has an interest:

4.1.1 by way of first legal mortgage:

4.1.1.1 the Property (if any) specified in schedule 1 (*Details of Security Assets*) of the Deed; and

4.1.1.2 all other Property (if any) now vested in or charged to it (not being charged by clause 4.1.1.1) of the Deed;

4.1.2 by way of first fixed charge:

4.1.2.1 all other Property and all interests in Property (not being charged by clause 4.1.1); of the Deed and

4.1.2.2 all licences now or hereafter held by the Borrower to enter upon or use land and the benefit of all other agreements relating to land to which the Borrower is or may become a party

other than the Lease and any leasehold interest of the Borrower thereunder;

4.1.3 by way of first fixed charge:

4.1.3.1 all plant and machinery (not being charged under clauses 4.1.1 or 4.1.2) of the Deed;

4.1.3.2 all computers, vehicles, office and other equipment; and

4.1.3.3 the benefit of all contracts, licences and warranties relating to the same,

(other than any which is for the time being part of its stock-in-trade or work-in-progress);

4.1.4 by way of first fixed charge:

4.1.4.1 all Authorised Investments; and

4.1.4.2 all other Investments (if any) now or in the future owned (legally or beneficially) by it or in which it has an interest (not being charged by clause 4.1.4.1 of the Deed),

in each case, together with all Related Rights from time to time accruing to those Investments and all rights which it may have at any time against any clearance or settlement system or custodian in respect of any Investments;

4.1.5 by way of first fixed charge:

4.1.5.1 the Charged Accounts and all monies at any time standing to the credit of the Charged Accounts and all additions to or renewals or replacements thereof (in whatever currency)); and

4.1.5.2 all monies standing to the credit of the Charged Accounts and from time to time any and all other accounts with any bank, financial institution or other person not otherwise charged by clause 4.1.5.1 of the Deed,

in each case, together with all interest from time to time accrued or accruing on such monies, any investment made out of such monies or accounts and all rights to repayment of any of the foregoing;

4.1.6 by way of first fixed charge, all Intellectual Property;

4.1.7 to the extent that any of the Assigned Assets are not effectively assigned under clause 4.2 (*Security assignments*) of the Deed, by way of first fixed charge, those Assigned Assets;

4.1.8 by way of first fixed charge (to the extent not otherwise charged or assigned in the deed):

4.1.8.1 the benefit of all licences, consents, agreements and authorisations held or used by the Borrower in connection with its business or the use of any of its assets; and

4.1.8.2 any letter of credit issued in favour of it and all bills of exchange and other negotiable instruments held by it; and

4.1.9 by way of first fixed charge, all its goodwill and uncalled capital.

2. SECURITY ASSIGNMENTS - Clause 4.2 of the Deed

4.2.1 Subject to clause 4.2.2 of the Deed the Borrower assigns and agrees to assign absolutely (subject to a proviso for reassignment on redemption in accordance with clause 35.1 (*Covenant to release*)) of the Deed all its present and future right, title and interest in and to:

4.2.1.1 the Project Documents (other than the Lease) and Subordinated Loan Documents to which the Borrower is expressed to be a party, all rights and remedies in connection with the Project Documents (other than the Lease) and Subordinated Loan Documents and all proceeds and claims arising from them;

4.2.1.2 the Insurances, all claims under the Insurances and all proceeds of the Insurances (other than Excluded Insurance Proceeds); and

4.2.1.3 all other Receivables (not being assigned under clause 4.2.1.1 or 4.2.1.2) of the Deed.

4.2.2 To the extent that any Assigned Asset described in clause 4.2.1.2 is not assignable, the assignment which that clause purports to effect shall operate as an assignment of all present and future rights and claims of the Borrower to any proceeds of the Insurances (other than Excluded Insurance Proceeds).

3. FLOATING CHARGE

The Borrower charges and agrees to charge by way of first floating charge all its present and future assets and undertaking (wherever located) other than the Lease and any leasehold interest held by the Borrower thereunder which is not effectively charged by way of first fixed mortgage or charge or assigned pursuant to the provisions of clause 4.1 (*Fixed charges*) or clause 4.2 (*Security assignments*) or any other provision of the Deed.

4. NEGATIVE PLEDGE - Clause 24.1.1 of the Credit Agreement

24.1.1 Security

The Borrower shall not create or permit to subsist any Security over any of its assets other than Permitted Security

SCHEDULE 2

DEFINITIONS

Unless the context otherwise requires:

- 1.1 all terms and expressions defined in the Credit Agreement shall have the same meaning when used herein;
- 1.2 the following terms shall have ascribed to them the following meanings:

"Assigned Assets" means the Security Assets expressed to be assigned by way of security pursuant to clause 4.2 (*Security assignments*) of the Deed;

"Authorised Investments" means:

- (a) any fully transferable and marketable debt securities issued by HM Government which constitute direct, primary and junior obligations;
- (b) a deposit with a bank or financial institution regulated by the Financial Services Authority under the Financial Services and Markets Act 2000;
- (c) a certificate of deposit;
- (d) any bill, bond, note, debenture, loan stock or debit instrument guaranteed by, or being in any way a primary obligation of, a bank regulated by the Financial Services Authority under the Financial Services and Markets Act 2000;
- (e) commercial paper (other than that issued by any Affiliate thereof);
- (f) banker's acceptances;
- (g) floating rate notes; and
- (h) short-dated gilts,

in each case provided that such investments are denominated in sterling and made for periods which enable the Borrower to comply with its payment and other obligations under the Credit Agreement and have a minimum short-term rating of A1 (Standard & Poor's) and P1 (Moody's);

"Charged Accounts" means the:

- (a) the Proceeds Account;
- (b) the Operating Account;
- (a) the Insurance Proceeds Account;
- (b) the Repayment and Interest Reserve Account; and

(each a **"Charged Account"**);;

"Charged Investments" means all Investments and all Related Rights from time to time accruing thereto, which are from time to time charged in favour of, or assigned to, the Security Trustee by or pursuant to this deed;

"Credit Agreement" means the credit agreement dated 20 July 2005 and made between (1) the Borrower and (2) to (6) Barclays Bank plc in various capacities;

"Excluded Insurance Proceeds" means:

- (a) any insurance proceeds that are paid in respect of insurances taken out and maintained by the Borrower pursuant to clause 23.1.3 (*Insurance*) of the Credit Agreement that relate solely to matters and events which, under the Project Agreement, are not risks and liabilities that are assumed by the Borrower or assets owned, leased or possessed by the Borrower but relate solely to liabilities that the Authority may incur or to assets legally and beneficially owned by, or equipment leased by, the Authority;
- (b) all proceeds of the Insurances payable to or received by or on behalf of the Borrower in respect of construction all risks and material damage all risks;

"Insurances" has the meaning given to it in the Credit Agreement;

"Insurance Proceeds Account" means the account designated as the general insurance proceeds account (account no 70510416 sort code 20-36-47) and opened and maintained pursuant to the terms of clause 27 (*Project Accounts*) and any successor or replacement account;

"Intellectual Property" means all present and future legal and/or equitable rights of the Borrower (including without limitation, the benefit of all licences) in or relating to registered and unregistered trade marks and service marks, patents, registered designs, utility models, applications for any of the

foregoing, trademarks, copyrights, design rights, unregistered designs, inventions, confidential information, know-how, registerable business names, database rights, domain names and any other rights owned by the Borrower, or in which the Borrower has an interest, to the extent only of that interest or deriving from or through the exploitation of any of the aforementioned rights of the Borrower;

"Intercreditor Deed" means the agreement dated 20 July 2005 made between (1) Nations Healthcare (Nottingham) Limited (Borrower), (2) The Secretary of State for Health (Authority), (3) Barclays Bank Plc (in its various capacities), (4) Nations Healthcare Limited (Shareholder), (5) Nations Healthcare (Subordinated Lender), and (6) GE Capital Equipment Finance Limited (Equipment Lessor);

"Investments" means all or any of:

- (c) all Authorised Investments; and
- (d) all other stocks, shares, debentures, bonds, warrants, coupons and other securities or investments (as defined in part II of schedule II to the Financial Services and Markets Act 2000 in force at the date of this deed in each case now or in future owned (legally or beneficially) by the Borrower or in which the Borrower has an interest at any time or which are held to the order of the Borrower by any trustee, fiduciary or clearance system on its behalf;

"Operating Account" means the account designated as the operations current account (account no 70711535 sort code 20-36-47) and opened and maintained pursuant to the terms of clause 27 (*Project Accounts*) and any successor or replacement account;

"Permitted Security" has the meaning given to it in clause 24.1.3 of the Credit Agreement;

"Proceeds Account" means the account designated as the proceeds account (account no 50396265 sort code 20-36-47) and opened maintained pursuant to the terms of clause 27 (*Project Accounts*) and any successor or replacement account;

"Project Documents" means, collectively:

- (a) the Project Agreement;
- (b) the Construction Contract;
- (e) the Construction Contractor Guarantee;

- (f) the Lease;
- (g) the Independent Tester's Appointment;
- (h) the Collateral Warranties; and
- (i) all agreements or instruments entered into in connection with or pursuant to or in replacement of any of the foregoing or affecting in any material respect the interests of the Senior Finance Parties under the Senior Finance Documents to which the Borrower is or hereafter becomes a party or under which the Borrower has or at any time hereafter (to its knowledge) directly or indirectly acquires benefits which may reasonably be considered to be material having regard to the Borrower's obligations under the Project Agreement or the Senior Finance Documents;

"Property" means all estates and interests in freehold, leasehold and other immovable property (wherever situated) now or in future belonging to the Borrower or in which the Borrower has an interest (including the registered and unregistered land (if any) in England and Wales specified in schedule 1 (*Details of Security Assets*)) of the Deed and:

- (a) all buildings and fixtures and fixed plant and machinery at any time thereon (but excluding in the case of leasehold property landlord's fixtures but including other trade fixtures and excluding in the case of freehold property and leasehold property, which is let or sub-let to a third party, tenant's and trade fixtures of such third party);
- (b) all easements, rights and agreements in respect thereof;
- (c) all proceeds of sale of that property; and
- (d) the benefit of all covenants given in respect thereof

other than the Lease and any leasehold interest of the Borrower thereunder;

"Receivables" means all present and future book and other debts, rentals, royalties, fees, VAT and monetary claims and all other amounts at any time recoverable or receivable by, or due or owing to, the Borrower (whether actual or contingent and whether arising under contract or in any other manner whatsoever) together with:

- (a) the benefit of all rights, guarantees, encumbrances and remedies relating to any of the foregoing (including, without limitation, negotiable instruments, indemnities, reservations of property rights, rights of tracing and unpaid vendor's liens and similar associated rights); and

(b) all proceeds of any of the foregoing;

"Repayment and Interest Reserve Account" means the account designated as the repayment reserve account (account no. 90267260 sort code 20-36-47) and opened and maintained pursuant to the terms of clause 27 (*Project Accounts*) and any successor or replacement account;

"Related Rights" means, in relation to any Investments:

(a) all dividends, distributions and other income paid or payable on the relevant Investments or any asset referred to in paragraph (b) below;

(b) all rights, monies or property accruing or offered at any time in relation to the relevant Investments, whether by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise;

"Security Assets" means all property and assets from time to time charged or assigned (or expressed to be charged or assigned) by or pursuant to the Deed;

"Senior Finance Documents" has the meaning given to it in the Intercreditor Deed;

"Senior Finance Parties" means collectively the Agent, the Arranger, the Security Trustee, the Lenders, the Account Bank and the Hedging Counterparties (each a **"Senior Finance Party"**);

"Subordinated Loan Documents" has the meaning given to it in the Intercreditor Deed;

FILE COPY



**CERTIFICATE OF THE REGISTRATION
OF A MORTGAGE OR CHARGE**

Pursuant to section 401(2) of the Companies Act 1985

COMPANY No. 05153608

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 20th JULY 2005 AND CREATED BY NATIONS HEALTHCARE (NOTTINGHAM) LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE COMPANY TO THE SENIOR FINANCE PARTIES (OR ANY OF THEM) ON ANY ACCOUNT WHATSOEVER UNDER THE TERMS OF THE AFOREMENTIONED INSTRUMENT CREATING OR EVIDENCING THE CHARGE WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 29th JULY 2005.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 3rd AUGUST 2005.

P DMW



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



Companies House

— for the record —