

INDEX

SCHEDULE 1	140
DEFINITIONS AND INTERPRETATIONS	140
SCHEDULE 2	174
COMPLETION DOCUMENTS	174
SECTION A	174
DOCUMENTS TO BE DELIVERED BY IPL	174
SECTION B	177
DOCUMENTS TO BE DELIVERED BY NHS GREATER GLASGOW	177
SCHEDULE 3	178
THE BUILDING DOCUMENTS	178
SCHEDULE 4	193
CUSTODY AGREEMENT	193
SCHEDULE 5	196
SECTION A: TITLE DEEDS	196
SECTION B: PROVISIONS RELATING TO LEASE	198
SCHEDULE 6	200
SECTION A: BUILDER DIRECT AGREEMENT	200
SECTION B: BUILDING SUB-CONTRACTOR'S DEED	227
SCHEDULE 7	235
PROFESSIONAL TEAM WARRANTY	235
SCHEDULE 8	241
FUNDERS' DIRECT AGREEMENT	241
SCHEDULE 9	267
INITIAL FUNDING AGREEMENTS	267
SCHEDULE 10	268
PARENT COMPANY GUARANTEE	268
SCHEDULE 11	273
CAR PARK OPERATOR DIRECT AGREEMENT	273
SCHEDULE 12	299
REFINANCING	299
SCHEDULE 13	301
CAR PARKING CHARGES AND PAYMENT PROVISIONS	301
SCHEDULE 14	318
EMPLOYEES AND REVERSE TUPE	318
REVERSE TUPE	318
SCHEDULE 15	324
TRANSFER CONDITIONS	324
SCHEDULE 16	327
NHS GREATER GLASGOW MAINTENANCE OF ACCESSWAYS AND SURFACE CAR PARKS	327
SCHEDULE 17	330
CAR PARKING MANAGEMENT POLICY	330
SCHEDULE 18	354
SPECIFICATION FOR CAR PARKING SERVICES	354
SCHEDULE 19	361
COMPENSATION ON TERMINATION	361
SECTION A	361
SECTION B	364
COMPENSATION FOR IPL DEFAULT	364
RETENDERING	364

SECTION C	372
PART D	375
CORRUPT GIFTS AND FRAUD	375
SECTION E	377
GENERAL	377
SCHEDULE 20	383
INSURANCES	383
SCHEDULE 21	396
SECTION A: HANDBACK PROCEDURE	396
SECTION B: HANDBACK REQUIREMENTS	402
SCHEDULE 22	409
SITE ACCESS PROTOCOL	409
SCHEDULE 23	413
LEASE	413
SCHEDULE 24	429
IPL INFORMATION	429
SCHEDULE 25	430
LETTER OF COMFORT	430
SCHEDULE 26	434
FINANCIAL MODEL	434

This is Schedule 1 comprising the Definitions referred to in the Project Agreement for the Project Operations at Glasgow Royal Infirmary.

.....

.....

SCHEDULE 1

DEFINITIONS AND INTERPRETATIONS

1. In this Agreement:-

- "Accessways"** means the means of access to and egress from the Site and the Surface Car Parks and the Non-Parking Zones throughout NHS Greater Glasgow's Estate as the same may be adjusted, diverted or closed from time to time at the discretion of NHS Greater Glasgow provided always that in so doing access to the Multi Storey Car Park and the Surface Car Parks is not prevented or unreasonably restricted and alternative access and egress is provided by NHS Greater Glasgow whenever an accessway is closed;
- "A&E"** means the accident and emergency department at NHS Greater Glasgow's Estate identified on the Plan;
- "Access Card"** means a card permit or other device which allows the holder to use a Car Parking Space;
- "Access Protocol"** means the site access protocol contained in Schedule 22;
- "Access Road"** means the access road to the Site from Alexandra Parade shown cross-hatched in black on the Plan;
- "Actual Liability"** has the meaning given in Clause 41.7 (c) (i);
- "Acute Hospital"** means a hospital which predominantly carries out National Health services as an acute hospital as that concept is recognised as at the Commencement Date in the National Health Service in Scotland;
- "Adjoining Owners"** means all owners and occupiers of the Adjoining Property;
- "Adjoining Property"** means any property adjoining or in the neighbourhood of the Site (excluding NHS Greater Glasgow's Estate) and

includes all roads, footpaths, walls, fences, buildings and other erections and all pipes, wires, cables and other apparatus on such property;

“Adjusted Estimated Fair Value of the Agreement”

means the Estimated Fair Value of the Agreement adjusted as follows:

- (a) where in respect of any month or part of a month from the Termination Date to the Compensation Date the Post Termination Service Amount is a negative number, the aggregate of all such negative Post Termination Service Amounts shall be set against and shall reduce the Estimated Fair Value of the Agreement (whether or not such amounts have been set-off by NHS Greater Glasgow) pursuant to paragraph 3.8 of Section B of Schedule 19;

the aggregate of the following amounts shall be deducted from the Estimated Fair Value of the Agreement:

- (b) the Post Termination Service Amounts actually paid by NHS Greater Glasgow to IPL prior to the Compensation Date;
- (c) the Tender Costs; and
- (d) amounts that NHS Greater Glasgow is entitled to set off or deduct;

the aggregate of the following amounts shall be added to the Estimated Fair Value of the Agreement:-

- (e) all credit balances on any bank accounts held by or on behalf of IPL on the date that the Estimated Fair Value is calculated; and
- (f) any insurance proceeds and other amounts owing to IPL (and which IPL is entitled to retain), to the extent not included in (e);

to the extent that:

- (i) (e) and (f) have not been directly taken into account in calculating the Estimated Fair Value of the Agreement; and
- (ii) NHS Greater Glasgow has received such amounts in accordance with this Agreement;

“Adjusted Highest Compliant Tender Price”

means the price offered by the Compliant Tenderer (if any) with the highest tender price, adjusted as follows:

- (a) where in respect of any month or part of a month from the Termination Date to the Compensation Date the Post Termination Service Amount is a negative number, the aggregate of all such negative Post Termination Service Amounts shall be set against and shall reduce such highest tender price (whether or not such amounts have been set-off by NHS Greater Glasgow) pursuant to paragraph 3.8 of Section B of Schedule 19;

the aggregate of the following amounts shall be deducted from such highest tender price:

- (b) the Post Termination Service Amounts actually paid by NHS Greater Glasgow to IPL prior to the Compensation Date;
- (c) the Tender Costs; and
- (d) amounts that NHS Greater Glasgow is entitled to set off or deduct;

the aggregate of the following amounts shall be added to such highest tender price:

- (e) all credit balances on any bank accounts held by or on behalf of IPL on the date that the highest priced Compliant Tender is received; and
- (f) any insurance proceeds and other amounts owing to IPL (and which IPL is entitled to retain), to the extent not included in (e);

to the extent that:

- (i) (e) and (f) have not been directly taken into account in that Compliant Tender; and
- (ii) NHS Greater Glasgow has received such amounts in accordance with this Agreement;

“Adverse Law”

means any Change in Law which would if passed into Law:

- (a) remove, transfer to another party or otherwise have a material adverse effect upon NHS Greater Glasgow’s legal capacity or obligation to perform any of its material obligations in relation to the Project which are material to the interests of IPL and/or its Senior Funders;
- (b) amend or repeal (without re-enactment, consolidation or replacement by Law having an

equivalent effect) the National Health Service (Residual Liabilities) Act 1996 or the National Health Service (Private Finance) Act 1997;

provided that, in the circumstances referred to in paragraph (a) where a Change in Law would have the effect of transferring the legal capacity or obligation of NHS Greater Glasgow in relation to such material obligations to a new entity (an "NHS Substitute"), the relevant Law shall not be an Adverse Law if either:

- 1.1 the provisions of the National Health Service (Residual Liabilities) Act 1996 and the National Health Service (Private Finance) Act 1997 (together the "Protective Legislation") apply to such NHS Greater Glasgow Substitute in full (as applied to NHS Greater Glasgow as at the date of this Agreement); or
- 1.2 the relevant Law has the same effect in relation to such NHS Greater Glasgow Substitute as the Protective Legislation; and
- 1.3 the relevant Law does not otherwise have any adverse material effect on the legal capacity or obligation of NHS Greater Glasgow Substitute which affects (or could reasonably be expected to affect) NHS Greater Glasgow Substitute's ability to perform any material obligations owed to IPL and/or the Senior Funders in relation to the Project which are material to the interests of IPL and/or its Senior Funders, when compared to the material obligations of NHS Greater Glasgow under this Agreement;

"Affected Employees"	shall have the meaning ascribed to it in paragraph 1 of Schedule 14;
"Agreed Form"	means a document of whatever nature signed or initialled by or on behalf of the parties hereto for identification purposes;
"Agreement"	means this Agreement, the Schedules and any other documents annexed hereto;
"Ancillary Documents"	means the Building Contract, the Car Park Operator Contract and the Performance Guarantees;
"Apparatus"	means all (if any) pipes, wires, cables and other

apparatus on the Site serving any Adjoining Property or NHS Greater Glasgow's Estate or belonging to or used for the purposes of the undertaking of any statutory undertaker;

“Apparatus Consent”	means in relation to Apparatus which would or might be interfered with by the carrying out of the Works the consent in writing of the relevant statutory undertaker to either: (a) the removal or diversion (whether temporarily or permanently) of the Apparatus in question or other subject matter of the adverse right in question; or (b) the carrying out of the Works notwithstanding such interference, such Apparatus Consent (in any such case) to be on terms previously approved in writing by NHS Greater Glasgow such approval not to be unreasonably withheld or delayed and “Apparatus Consents” shall be construed accordingly;
“Appointed Representative”	means a Representative that has been notified to NHS Greater Glasgow pursuant to a step-in notice issued under the terms of the Funders' Direct Agreement;
“Approved Use”	means use of the Site by IPL for the purpose of operating a car park on the basis required by the terms of this Agreement;
“Bank”	means The Royal Bank of Scotland plc or such other bank as NHS Greater Glasgow shall approve, such approval not to be unreasonably withheld or delayed;
“Base Case IRR”	means;
“Builder Direct Agreement”	means the collateral agreement between NHS Greater Glasgow, IPL and the Builder in the form set out in Schedule 9;
“Builder”	means Impregilo New Cross Limited (“INC”) (Company Number 4295568) and whose registered office is at 2 ND Floor, 1 Raleigh Walk, Brigantine Place, Cardiff, CF10 4LN;
“Builders’ Sub-Contractors Deed”	means a deed substantively in the form set out in Section B of Schedule 6;
“Building Contract”	means an agreement in the Agreed Form between IPL and the Builder for the carrying out of the Works;
“Building Documents”	means plans, drawings, specifications and other

	documents relating to the Works which are listed in Schedule 3 as may be varied, altered or substituted pursuant to this Agreement;
“Burial Ground Car Park”	means that area numbered 2 on the Plan and being a Surface Car Park;
“Capital Expenditure”	means capital expenditure generally accepted as such under generally accepted accounting practice;
“Car Park”	refers to any of the Surface Car Parks or the Multi Storey Car Park;
“Car Park Licence”	means any licence in respect of operation of the Site as a car park by IPL or an IPL Party required in terms of the Control of Off-Street Parking (Scotland) Act 1979;
“Car Park Operator Contract”	means an agreement in the Agreed Form between IPL and the Car Park Operator for the carrying out of some or all of the Car Park Services;
“Car Park Operator Direct Agreement”	means the collateral agreement between NHS Greater Glasgow, IPL and the Car Park Operator in the form set out in Schedule 11;
“Car Park Services Specification”	means the specification for the Car Park Operator Services contained in Schedule 18;
“Car Park Services”	means the services to be provided by IPL for management, operation, repair and maintenance of the Multi Storey Car Park, Surface Car Parks and the Non-Parking Zones, all as set out and identified in this Agreement;
“Car Parking Charges”	means the amount of the Tariff to be applied by IPL for the use of a Car Parking Space at the rate to be determined from time to time in accordance with Schedule 13;
“Car Parking Management Policy”	means the scheme set out in Schedule 17 as may be varied from time to time pursuant to this Agreement or Schedule 17;
“Car Parking Space”	means a car parking space for a single Qualifying Vehicle from time to time on NHS Greater Glasgow’s Estate;
“Car Park Operator”	means APCOA Parking (UK) Limited or such other car park operator as IPL may from time to time appoint subject to the terms of this Agreement;
“Certificate Date”	means the date on which the Certificate of Practical Completion is issued;

“Certificate of Practical Completion”	means a certificate by IPL’s Representative to the effect that in their opinion practical completion of the Works has been achieved (and “Practical Completion” shall for the purposes of this Agreement mean that the Works have been completed in accordance with the requirements of the Building Documents so that the Facilities can be operated as car parks) unless that certificate is rendered ineffective by Clause 25.5;
“Change in Control”	means any sale or other disposal of any legal, beneficial or equitable interest in any or all of the equity share capital of a corporation (including control and the exercise of voting rights conferred or the equity share capital or the control over the right to appoint or remove directors);
“Change in Law”	means the coming into effect or repeal (without re-enactment or consolidation) in England and Wales or Scotland of any Law, or any amendment or variation to any Law, or any judgement of a relevant court of law which changes binding precedent in England and Wales or Scotland in each case after the date of this Agreement;
“Charge Certificate”	means the certificate issued by the Keeper of the Land Register of Scotland in respect of the Senior Funder’s interest over IPL’s interest as tenant of the Site;
“Clause”	means a clause of this Agreement;
“Clinical Services”	means management, responsibility, administration and carrying out of the clinical and medical services provided at NHS Greater Glasgow’s Estate by NHS Greater Glasgow from time to time and which are not services to be provided by IPL to NHS Greater Glasgow under this Agreement;
“Commencement Date”	means the 23 June 2004;
“Compensation Date”	means either: <ul style="list-style-type: none"> (a) if paragraph 3 of Section B of Schedule 19 (Retendering Procedure) applies, the earlier of: <ul style="list-style-type: none"> (i) the date that the New Agreement is entered into; and (ii) the date on which NHS Greater Glasgow pays the Adjusted Highest Compliant Tender Price to IPL; or (b) if paragraph 4 of Section B of Schedule 19 (No

Retendering Procedure) applies, the date that the Adjusted Estimated Fair Value of the Agreement has been agreed or determined;

“Compensation Event”	has the meaning given in Clause 24.10;
“Compensation Payment”	has the meaning given in Clause 41.6;
“Completion Date”	means a date falling 15 Working Days after the Certificate Date;
“Compliant Tender”	means a tender that meets all of the Qualification Criteria;
“Compliant Tenderer”	means a tenderer who submits a Compliant Tender;
“Concession Period”	means the period of thirty one (31) years and twelve (12) weeks beginning on the Commencement Date together with any extension permitted pursuant to this Agreement;
“Consents”	means all permissions, consents, approvals, certificates, permits, licences, statutory agreements and authorisations required by Law, and all necessary consents and agreements from any third parties (including, without limitation, any planning permission), needed to carry out the Project Operations in accordance with this Agreement;
“Construction Period”	means the period up to the Completion Date during which IPL shall carry out the Works;
“Corrupt Gifts Termination Sum”	means the sum calculated pursuant to paragraph 1 of Section D of Schedule 19;
“Contracting Associate”	means the Builder, any Car Park Operator and any other entity which performs on behalf of IPL any material function in connection with this Agreement;
“Council or Third Party Claim”	means any claims or action by the Council or any third party in relation to that part of the Access Road owned by the Council and/or a third party which may or does result in the Access Road being unavailable to IPL and car park users;
“Council”	means City of Glasgow Council;
“Custody Agreement”	means the arrangement contained in Schedule 4;

“Date of Transfer”	shall have the meaning ascribed to it in paragraph 1.1 of Schedule 14;
“Deemed Liability”	has the meaning given in Clause 41.7 (c)(ii);
“Deemed New Agreement”	<p>means an agreement on the same terms and conditions as this Agreement, as at the Termination Date, but with the following amendments:</p> <p>(a) if this Agreement is terminated prior to the Certificate Date, then the Estimated Completion Date and period set out under Clause 24.1 shall be extended by a period to allow a New Contractor (had one been appointed) to achieve the Estimated Completion Date prior to the period set out under Clause 24.1;</p> <p>(b) any accrued warning notices shall be cancelled; and</p> <p>(c) the term of such agreement shall be for a period equal to the term from the Termination Date to the end of the Concession Period;</p>
“Default Interest Rate”	is the rate specified in Clause 8.5 in the Senior Funding Agreement;
“Defects Notice”	shall have the meaning ascribed to it in Clause 23.3;
“Delay Event”	has the meaning given in Clause 24.3;
“Direct Agreements”	means the Builder Direct Agreement, the Builders' Sub-Contractors Deed and the Car Park Operator Direct Agreement;
“Direct Losses”	means, subject to the provisions of Clause 62, all damage, losses, liabilities, claims, actions, costs, expenses (including the cost of legal or professional services, legal costs being on an agent/client, client paying basis), proceedings, demands and charges whether arising under statute, contract or at common law but, to avoid doubt, excluding Indirect Losses;
“Discount Rate”	<p>shall be calculated from the formula:</p> <p>Gilt A = (Project IRR – Gilt B) where;</p> <p>(a) Gilt A is the yield of the benchmark gilt over which an interest rate swap is quoted, with a maturity nearest the average life of the debt under the Senior Funding Agreement remaining unpaid as at the Termination Date;</p>

- (b) the average life of the debt under the Senior Funding Agreement is calculated by the time-weighted mean according to the following formula:

$$\frac{p \times t}{z}$$

where:

p = Every principal repayment under the Senior Funding Agreement

t = The number of months outstanding from the Termination Date to the date of repayment

z = The principal outstanding under the Senior Funding Agreement at the Termination Date

- (c) Gilt B is the yield of the benchmark gilt over which an interest swap is quoted with maturity nearest the average life of the debt under the Senior Funding Agreement as at the date hereof;

- (d) Project IRR is;

**“Discriminatory
Change in Law”**

means any Change in Law the effect of which is to discriminate directly against:

- (a) companies undertaking projects procured by contracts under the Private Finance Initiative (or any similar successor programme) in relation to other companies undertaking similar projects;
- (b) the Glasgow Royal Infirmary Hospital in relation to other hospitals; or
- (c) IPL in relation to other companies,

save that:

- (d) such action shall not be a Discriminatory Change in Law where it is in response to any act or omission on the part of IPL which is illegal (other than an act or omission rendered illegal by virtue of the Discriminatory Change in Law itself);
- (e) such action shall not be deemed to be discriminatory solely on the basis that its effect on IPL is greater than its effect on other companies; and

- (f) a change in taxes or the introduction of a tax affecting companies generally or a change in VAT shall be deemed not to be discriminatory in any circumstances;

“Dispute Resolution Procedure”

means the procedure set out in Clause 49;

“Distribution”

means whether in cash or in kind, any:

- (i) dividend or other distribution in respect of share capital;
- (ii) reduction of capital, redemption or purchase of shares or any other reorganisation or variation to share capital;
- (iii) payments under the Subordinated Funding Agreements (whether of principal, interest, breakage costs or otherwise);
- (iv) payment, loan, contractual arrangement or transfer of assets or rights to the extent (in each case) it was put in place after Financial Close and was neither in the ordinary course of business nor on reasonable commercial terms;
- (v) the receipt of any other benefit which is not received in the ordinary course of business and on reasonable commercial terms;

“Drop Off Zones”

shall have the meaning ascribed to it in Clause 26.1(r);

“Economic Reinstatement Test”

means the economic test described at clause 11 of the Funders’ Direct Agreement;

“Employees”

means those persons listed in Schedule 14, employed by NHS Greater Glasgow or any other contractor in connection with the operation of car parks on NHS Greater Glasgow’s Estate immediately prior to the Commencement Date;

“Equity IRR”

means the projected blended rate of return to the Relevant Persons over the full term of this Agreement, having regard to the Distributions made and projected to be made;

“Estimated Completion Date”

means fifty eight (58) weeks from the Commencement Date as may be extended pursuant to this Agreement or such earlier date as may be agreed between the parties in accordance with Clause 24.1;

“Estimated Fair Value

means the amount determined in accordance with

of the Agreement”	paragraph 4 of Section B of Schedule 19 [No Retendering Procedure] that a third party would pay to NHS Greater Glasgow as the market value of the Deemed New Agreement;
“Event of Default“	means an Event of Default under (and as defined in) the Senior Funding Agreement;
“Excusing Cause”	has the meaning given in Clause 61.7;
“Exempt Refinancing”	means: <ul style="list-style-type: none"> (a) any Refinancing that was fully taken into account in the calculation of the Tariffs; (b) a change in taxation or a change in accounting treatment; (c) waivers, consents and similar actions granted under the Senior Funding Agreement: <ul style="list-style-type: none"> (i) in relation to any of the Building Contract, Car Park Operator Contract (and in each case any replacement thereof) or this Agreement and: (ii) which are required in order to implement any variation thereto agreed between NHS Greater Glasgow and IPL; or (iii) whose sole purpose is to permit a reduction in either: <ul style="list-style-type: none"> (a) the operating costs of IPL incurred under the Car Park Operator Contract; or (b) a direct expense of IPL, not being a payment made under the Sub-Contracts <p style="padding-left: 40px;">(other than a release or reduction of existing reserve accounts and/or equivalent security) in a manner permitted under this Agreement; or</p> <ul style="list-style-type: none"> (c) which relate to day to day administrative and supervisory matters that are in respect of breaches of representations or warranties or covenants, late or non-provision of information or amendments to sub-contracts; (d) any sale of shares in IPL or SpA by the shareholders or securitisation of the existing rights and/or interests attaching to the shares in IPL or

SpA;

- (e) any sale or transfer of the Subordinated Funders' existing rights and/or interests under the Subordinated Funding Agreements or securitisation of the Subordinated Funders' existing rights under the Subordinated Funding Agreements; or
- (f) any Qualifying Bank Transaction;

“Facilities”	means the Multi Storey Car Park, the Surface Car Parks and other facilities, together with all supporting infrastructure (including the plant and amenities located on NHS Greater Glasgow's Estate) as required to enable IPL to comply with its obligations under this Agreement, all as the same may be varied, amended or supplemented from time to time in accordance with this Agreement;
“Expiry Date”	means the day following the last day of the Concession Period;
“Fair Value”	means the amount at which an asset or liability could be exchanged in an arm's length transaction between informed and willing parties, other than in a forced or liquidated sale;
“Financial Close”	shall have the meaning given to it in the Senior Funding Agreements;
“Financial Model”	means the computer spreadsheet model for the Project incorporating statements of IPL's cashflows including all expenditure, revenues, financing and taxation of the Project Operations together with the profit and loss accounts and balance sheets for IPL throughout the Concession Period accompanied by details of all assumptions, calculations and methodology used in their compilation and any other documentation necessary or desirable to operate the model, as amended from time to time in accordance with the terms of Clause 65 (Custody of Financial Model), the output from which at the date of this Agreement is shown at Schedule 26 (Financial Model) and a copy of which is attached to this Agreement on disk as Attachment 1;
“Force Majeure”	any event listed in Clause 47.1;
“Free Space”	means a Car Parking Space for use as a parking space by the categories of person referred to in Clause 26.1(d);
“Funders' Direct Agreement”	means the agreement to be entered into between NHS Greater Glasgow, the facility agent and security trustee for the Senior Funders (each appointed under the

Funding Agreements) and IPL in the form set out in Schedule 8 to the Project Agreement;

“Funders”	means all or any of the persons who provide financing or funding in respect of the Project Operations under the Funding Agreements including the Senior Funders and, where the context so permits, prospective financiers or funders;
“Funding Agreements”	means those agreements or instruments to be entered into by IPL relating to the financing of the Project Operations (including the Initial Funding Agreements and any agreements or instruments to be entered into by IPL relating to the re-scheduling of its indebtedness or the refinancing of the Project Operations);
“Good Industry Practice”	means using standards, practices, methods and procedures conforming to the Law and utilising that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person engaged in a similar type of undertaking under the same or similar circumstances;
“Government”	means the government of the United Kingdom or the Scottish Ministers;
“Handback Requirement”	means each handback requirement contained in Section B of Schedule 21;
“Health and Safety Regime”	means the Food Safety Act 1990 (and associated regulations), the Health & Safety at Work etc Act 1974 (and associated regulations), the Fire Precautions Act 1971, the Environmental Protection Act 1990, <u>and</u> the Water Industry (Scotland) Act 2002 and any similar or analogous health, safety or environmental legislation in force from time to time;
“Highways Agreement”	means such agreement as may be required as a condition of planning permission being issued or otherwise required by the relevant local Highway Authority in relation to works to the highway and any diversion of utilities as may be necessary as a result, the form of such agreement including the Highways Specification being approved by IPL acting reasonably;
“Highways Specification”	means the specification for the Highways Works which will be the responsibility of NHS Greater Glasgow pursuant to the Highways Agreement;
“Highways Works”	means the works to be procured by NHS Greater Glasgow as required as a condition of Planning Permission being issued or otherwise required by the

	Highway Authority in relation to works to the highway and any diversion of utilities as may be necessary as a result;
“Highways Works Contract”	means the contract concluded by NHS Greater Glasgow and the Highways Works Contractor in accordance with the provisions of Clause 9 in respect of the Highways Works;
“Highways Works Contractor”	means the contractor appointed by NHS Greater Glasgow in accordance with the provisions of Clause 9 to undertake the Highways Works;
“Highways Works Delay Event”	means any event or circumstance set out in the Highways Works Contract pursuant to which the Highways Works Contractor is or becomes entitled to an extension of time to complete the Highways Works except to the extent caused by any wilful act or omission or default by or on behalf of NHS Greater Glasgow;
“Highways Works Long-stop Date”	means the date occurring six calendar months after the Estimated Completion Date;
“Hospital Change”	means any change undertaken from time to time at NHS Greater Glasgow’s Estate (whether taken by NHS Greater Glasgow or any person or body responsible for administering the National Health Service in Scotland) which results in a substantial removal or diminution of the Clinical Services carried out at NHS Greater Glasgow’s Estate from those carried out immediately prior to such change;
“Indirect Losses”	has the meaning given in Clause 62.1;
“Initial Funding Agreement”	means each agreement listed in Schedule 9 as may be required between IPL and the Senior Funders and any other party in respect of any funding provided by the Senior Funders to IPL;
“Inset Plan”	means the plan identified as the inset plan annexed hereto;
“Inspection”	shall have the meaning ascribed to it in Clause 25.1;
“Insurance Proceeds Account”	means the account numbered 10152868, sort code 381600 in the joint names of IPL and NHS Greater Glasgow with the Account Bank (as defined in the Senior Funding Agreement);
“Insurances”	means, as the context requires, all or any of the insurances required to be maintained by IPL pursuant to this Agreement;
“Invitee”	means a person entitled to use any Car Parking Space;

“Invoice Date”	means in respect of NHS Greater Glasgow Default Termination Sum, or the Force Majeure Termination Sum or the Corrupt Gifts Termination Sum (as appropriate), the date that is the later of: <ul style="list-style-type: none"> (a) the date on which NHS Greater Glasgow receives an invoice from IPL for the relevant termination sum; and (b) the date on which NHS Greater Glasgow receives the supporting evidence required pursuant to paragraph 1.1 of Section E of Schedule 19;
“IPL Default Compensation Sum”	means the sum calculated pursuant to paragraph 1 of Section B of Schedule 19;
“IPL Party”	means IPL’s agents and contractors (including without limitation the Builder, the Car Park Operator and any sub-contractor) and its or their sub-contractors of any tier and its or their directors, officers, employees and workmen in relation to the project and IPL Parties shall be construed accordingly;
“IPL’s Solicitors”	means Eversheds of 1 Callaghan Square, Cardiff CF10 5BT or such other firm of solicitors as IPL may from time to time notify to NHS Greater Glasgow as being IPL’s solicitors for the purpose of this Agreement;
“IPL”	means Impregilo Parking (Glasgow) Limited;
“IPL Events of Default”	has the meaning given to that term in Clause 37.1 of this Agreement;
“Land Certificate”	means the certificate issued by the Keeper of the Land Register of Scotland in respect of IPL’s interest as Tenant of the Site;
“Law”	means: <ul style="list-style-type: none"> (a) any applicable statute or proclamation or any delegated or subordinate legislation; (b) any enforceable community right within the meaning of section 2(1) European Communities Act 1972; (c) any applicable guidance, direction or determination with which NHS Greater Glasgow and/or IPL is bound to comply to the extent that the same are published and publicly available or the existence or contents of them have been notified to IPL by NHS Greater Glasgow; and

	(d) any applicable judgement of a relevant court of law which is a binding precedent in England and Wales or Scotland,
“Lease”	means a lease of the Site in the form contained in Schedule 23;
“Letter of Comfort”	means a letter in the form contained in Schedule 25 issued by the Scottish Ministers;
“Licence”	has the meaning given to it in Article 2 of the Order;
“Liquid Market”	means that there are sufficient willing parties (being at least three parties each of whom is capable of being a Suitable Substitute Contractor) in the market for Private Finance Initiative or similar contracts (in either case the same as or similar to this Agreement) for the price that is likely to be achieved through a tender to be a reliable indicator of Fair Value;
“Maintenance Income Loss”	means any loss of Tariffs reasonably and properly suffered by IPL as a result of NHS Greater Glasgow exercising its rights under Clause 27.3;
“Maintenance Specification”	means the specification for the Car Park Operator Services contained in Schedule 18;
“Market Value of the Agreement”	means the value of the consideration payable by the New Contractor to NHS Greater Glasgow in consideration for the entering into of the New Agreement;
“Maternity”	means the maternity department at NHS Greater Glasgow’s Estate identified on the Plan;
“Method Statement”	means the method statement relating to the Works contained in Schedule 3;
“Multi Storey Car Park”	means the multi storey car park to be constructed by IPL on the Site as part of the Works in accordance with the provisions of this Agreement;
“New Agreement”	means an agreement on the same terms and conditions as this Agreement at the Termination Date, but with the following amendments: <ul style="list-style-type: none"> (a) if this Agreement is terminated prior to the Certificate Date, then the Estimated Completion Date and the period set out under Clause 24.1 shall be extended by a period to allow a New Contractor to achieve the Certificate Date prior to the Estimated Completion Date and the period set out under Clause 24.1;

- (b) any accrued and warning notices shall be cancelled;
 - (c) the term of such agreement shall be equal to the term from the Termination Date until the end of the Concession Period; and
 - (d) any other amendments which do not adversely affect IPL;
- “New Contractor”** means the person who has entered or who will enter into the New Agreement with NHS Greater Glasgow;
- “NHS Greater Glasgow”** means Greater Glasgow Health Board
- “NHS Greater Glasgow Estate”** means that part of NHS Greater Glasgow's estate comprising the Glasgow Royal Infirmary shown outlined in green on the Plan;
- “NHS Greater Glasgow Events of Default”** has the meaning given in Clause 38;
- “NHS Greater Glasgow’s Representative”** shall have the meaning ascribed to it in Clause 8.2;
- “NHS Greater Glasgow Party”** means any of NHS Greater Glasgow’s agents, contractors and sub-contractors of any tier who may be present at or in NHS Greater Glasgow’s Estate with the authority of NHS Greater Glasgow in connection only with performance by NHS Greater Glasgow of its rights and obligations under this Agreement or the Clinical Services (excluding, for the avoidance of doubt, IPL and any IPL Party) and “NHS Greater Glasgow Parties” shall be construed accordingly;
- “NHS Greater Glasgow’s Surveyor”** means any person appointed by NHS Greater Glasgow who is a chartered surveyor or firm of chartered surveyors to perform the functions of NHS Greater Glasgow’s surveyor;
- “ NHS Greater Glasgow’s Estate”** means NHS Greater Glasgow estate comprising the Glasgow Royal Infirmary shown outlined in red on the Plan;
- “NHS Greater Glasgow’s Solicitors”** means the Scottish Health Service CLO, Trinity Park House, South Trinity Road, Edinburgh, EH5 3SE;
- “NHS Requirement”** means:
- (a) in relation to the Works, Health Building Notes and Health Technical Memoranda and such other

requirements as are designated as NHS Requirements or in NHS Greater Glasgow's construction requirements; and

- (b) in relation to the Project Operations (other than the Works), Health Building Notes, Health Technical Memoranda, all Executive Letters, Health Service Guidelines, Health Circulars of the NHS and any similar official requests, requirements and guidance having similar status for the time being in force, but only to the extent the same are published and publicly available or the existence and contents of them have been notified to IPL by NHS Greater Glasgow;

"NHS Specific Change in Law"	Means any Change in Law which principally affects or principally relates only to the provision or operation of healthcare premises and any change in a NHS Requirement (other than any NHS Requirement which merely gives effect to Law generally and does not principally affect or principally relate to the provision or operation of the hospital or healthcare premises);
"NNDR"	Means the National Non-Domestic Rate payable pursuant to the Local Government (Scotland) Acts 1975 and 1984;
"No Default Interest Rate"	Means the rate specified in Clause 8.1 of the Senior Funding Agreement;
"Non-Parking Zones"	means NHS Greater Glasgow's Estate excluding the Site and the Surface Car Parks;
"Order"	means the Control of Off-Street Parking (Scotland) Order 1979 or any amendment to it or any replacement of it;
"Parent Company Guarantee"	means a guarantee by SpA in favour of NHS Greater Glasgow in the form contained in Schedule 10;
"Parking Regulations"	shall have the meaning ascribed to it in Clause 15.2;
"Parties"	means NHS Greater Glasgow and IPL;
"Performance Guarantees"	means each of: the guarantee granted by SpA in favour of IPL in respect of the Builder's obligations under the Building Contract and; the guarantee granted by APCOA Parking AG in favour of IPL in respect of the Car Park Operator's obligations under the Car Park Operator Contract;
"Permitted Hours"	means between the hours of 08.00 to 18.00 on each day;
"Permitted Increase"	means any;

- (a) advance to IPL under the Senior Funding Agreements; or
- (b) amendment waiver or exercise of any right (including rescheduling any interest payments and the accrual of any rolled-up or additional interest) under any of the Senior Funding Agreements where the Senior Funders are entitled to exercise their step-in rights under the Funders' Direct Agreement that does not increase NHS Greater Glasgow's liabilities under this Agreement by more than 10% (in aggregate over the term of this Agreement) of the Senior Debt Facility providing that all other sources of committed funding available to IPL have been utilised in full;

“Permitted Variation” means:-

- (a) any Variation which is required by any local or other competent authority either as a condition of the grant or continuance in force of any approval or in consequence of any variation relaxation or waiver of any approval; and
- (b) any Variation which is made in order to comply with IPL's obligations under Clause 19 and which has been previously approved in writing by NHS Greater Glasgow; and
- (c) any Variation made in accordance with Clause 20; and
- (d) any other Variation which is not an Unacceptable Variation and which is proposed by IPL and approved in writing by NHS Greater Glasgow and so that such approval shall be deemed in any event to have been given unless within five (5) Working Days after NHS Greater Glasgow's Representative first receives written details (such details making clear reference to time being of the essence) of the proposed Variation NHS Greater Glasgow's Representative has notified IPL in writing that the same is not approved with reasons therefor;

and “Permitted Variations” shall be construed accordingly;

“Plan” means the plan annexed hereto;

“Planning Legislation” means the Town and Country Planning (Scotland) Acts 1972 to 1997;

“Planning Permission”	means the planning permission issued by City of Glasgow Council in relation to the Works under the Town and County Planning (Scotland) Acts 1972 – 1997 and being in respect of application number 01/02206/DC and dated 5 March 2002;
“Post Termination Service Amount”	means for the purposes of paragraph 3 of Section B of Schedule 19 [Retendering Process], for the whole or any part of a month for the period from the Termination Date to the Compensation Date, an amount equal to the Tariffs which would have been payable under this Agreement had this Agreement not been terminated, less an amount equal to the aggregate of (without double counting): <ul style="list-style-type: none"> (a) the reasonable and proper cost to NHS Greater Glasgow of procuring the management of the Car Parking Spaces pursuant to this Agreement; (b) the Rectification Costs incurred by NHS Greater Glasgow in that month;
“Pre-Refinancing Equity IRR”	means the nominal post-tax Equity IRR calculated immediately prior to the Refinancing, and assuming in the calculation thereof that all projected cash shortfalls are not funded by the Senior Funders but are funded by Relevant Persons;
“Prohibited Act”	shall have the meaning ascribed to it in Clause 66.1;
“Prescribed Rate”	means 1½ times the base lending rate of The Royal Bank of Scotland plc or such other bank as may from time to time be nominated by NHS Greater Glasgow from time to time in force;
“Professional Team”	means the Dinardo Partnership Limited whose offices are at Mirren Court, 119 Renfrew Road, Paisley, Renfrewshire, PA3 4EA;
“Professional Team Deeds”	means the collateral warranty deeds substantially in the form set out in the Schedule 7 to be entered into by the Professional Team with NHS Greater Glasgow;
“Programme”	means the programme set out in Schedule 3 as revised and re-issued by IPL in accordance with Clause 17 or 24;
“Project”	has the meaning given to it in Recital B;
“Project Agreements”	means this Agreement and the Lease together or individually as the context requires;
“Project Documents”	means the Ancillary Documents and the Funding

Agreements;

“Project Operations” means the carrying out of the Works, the carrying out of commissioning, the maintenance of the Facilities (including the renewal or replacement of any plant), the management and provision of the car parking and the performance of all other obligations of IPL under this Agreement from time to time;

“Proposal” means:

- (a) in the case of a bill, the bill being introduced by the Government or receiving the support of the Government at its second reading in the first House of Parliament into which it is introduced or the bill passing a second reading in the first House of Parliament into which it is introduced; or
- (b) in the case of subordinate legislation, the proposed statutory instrument or order being laid before Parliament in draft; or
- (c) in the case of a directive, regulation or decision of the European Union, its adoption; or
- (d) in the case of an administrative act as referred to in the definition of Adverse Law, any of the following prior or preparatory to the making of such an act:
 - (i) the taking by NHS Greater Glasgow, the Government, a minister of the Crown, or a department, agency, regulator or other public body or official of any step in a process defined by Law for the making of such administrative acts, other than any early stages of such process (such as, without limitation, consultation or information gathering) following the completion of which further substantive steps remain in such process before the making of such an administrative act can occur; or
 - (ii) any communication from the Government, a minister of the Crown, or the department, agency, regulator or other public body or official responsible for making such administrative acts, to the effect that such an administrative act will be made.

“Qualification Criteria” means the criteria that NHS Greater Glasgow requires tenderers to meet as part of the Tender Process, which

(subject to compliance with procurement regulations) shall be:

- (a) the New Agreement terms;
- (b) tenderers should have the financial ability to pay the lump capital sum tendered for the New Agreement and the financial ability to deliver the Works and/or the Car Park Services (as appropriate for the price tendered);
- (c) the tenderers may only bid on the basis of a single capital payment;
- (d) the tenderer is experienced in providing the Car Park Services or similar services;
- (e) the technical solution proposed by the tenderers is capable of delivery and the tenderer is technically capable of delivering the Car Park Services; and
- (f) any other tender criteria agreed by NHS Greater Glasgow and IPL;

“Qualifying Bank”

means a bank which is beneficially entitled to interest payable to that bank in respect of a utilisation of the Senior Debt Facility and is (on the date any payment of such interest falls due):

- (a) within the charge to united Kingdom corporation tax in respect of that payment and is either a bank which is a bank (as defined for the purpose of section 349 of the Income and Corporation Taxes Act 1988) making an advance or is a bank in respect of a utilisation of the facility made by a person that was a bank (as defined for the purposes of section 349 of the Income and Corporation Taxes Act 1988 in section 840A of the Income and Corporation Taxes Act 1988) at the time the utilisation was made; or
- (b) a bank which is treated as resident of a treaty state (being a jurisdiction having a double taxation agreement (a “Treaty”) within the United Kingdom which makes provision for full exemption from tax imposed by the United Kingdom on interest) for the purposes of the appropriate Treaty and does not carry on business in the UK through a permanent establishment with which that bank’s participation in the advance is effectively connected (a “Treaty Lender”); or
- (c) a building society (as defined in section 832 of the

Income and Corporation Taxes Act 1988) which is entitled to receive interest payable to it under this Agreement without deduction of tax pursuant to section 477A(7) of that Act; or

- (d) a company resident in the United Kingdom for United Kingdom tax purposes;

“Qualifying Bank Transaction”

means:

- (a) the disposition by a Senior Funder of any of its rights or interests in any of the Funding Agreement to which it is a party to a Qualifying Bank;
- (b) the grant by a Senior Funder to a Qualifying Bank of any rights of participation in respect of any Funding Agreement to which it is a party; or
- (c) the grant by a Senior Funder to a Qualifying Bank of any other form of benefit or interest in either any Funding Agreement to which it is a party or the revenues or assets of IPL or SpA, whether by way of security or otherwise;

“Qualifying Persons”

has the meaning assigned to it in the definition of Staff Space;

“Qualifying Refinancing”

means any Refinancing that will give rise to a Refinancing Gain greater than zero that is not an Exempt Refinancing;

“Qualifying Vehicle”

means a private motor car or motor cycle or a single light van;

“Rectification Costs”

means, for the purposes of any Termination Date that occurs after the Certificate Date, an amount equal to the reasonable and proper costs incurred by NHS Greater Glasgow in a particular month or part of a month in ensuring that the Car Parking Spaces are available in accordance with the terms of this Agreement;

“Redundancy Payments”

means redundancy payments and other termination payments which are required under Law to be made to employees of IPL reasonably and properly incurred by IPL arising as a direct result of terminating this Agreement (provided that IPL shall use all reasonable endeavours to mitigate its loss) and provided that in calculating such amount no account should be taken of any liabilities and obligations of IPL arising out of:

- (a) contracts of employment or other agreements or arrangements entered into by IPL to the extent that such contracts of employment agreements or

arrangements were not entered into in connection with the Project; and/or

- (b) contracts of employment or other agreements or arrangements entered into by IPL to the extent that such contracts of employment agreements or arrangements were not entered into in the ordinary course of business and on commercial arm's length terms;

"Refinancing Gain"

means an amount equal to the greater of zero and

[(A-B)-C], where:

A = the net present value of the Distributions projected immediately prior to the Refinancing (taking into account the effect of the Refinancing and using the Financial Model as updated (including as to the performance of the Project) so as to be current immediately prior to the Refinancing) to be made to each Relevant Person over the remaining term of this Agreement following the Refinancing;

B = the net present value of the Distributions projected immediately prior to the Refinancing (but without taking into account the effect of the Refinancing and using the Financial Model as updated (including as to the performance of the Project) so as to be current immediately prior to the Refinancing) to be made to each Relevant Person over the remaining term of this Agreement following the Refinancing; and

C = in the event that the same produces a positive number only, any adjustment required to raise the Pre-Refinancing Equity IRR to the Threshold Equity IRR,

where "net present value" means the aggregate of the discounted values, calculated as of the estimated date of the Refinancing, of each of the relevant projected Distributions, in each case discounted using the Threshold Equity IRR (applying the same periodicity as that used to express the Threshold Equity IRR);

"Refinancing"

means:

- (a) any amendment, variation, novation, supplement or replacement of any Funding Agreement (other than any Subordinated Funding Agreement);
- (b) the exercise of any right, or the grant of any waiver

or consent, under any Funding Agreement (other than any Subordinated Funding Agreement);

- (c) the disposition of any rights or interests in, or the creation of any rights of participation in respect of, the Funding Agreements (other than the Subordinated Funding Agreements); or
- (d) the creation or granting of any other form of benefit or interest in either the Funding Agreements (other than the Subordinated Funding Agreements) or the contracts, revenues or assets of IPL whether by way of security or otherwise; or
- (e) any other arrangement put in place by IPL or another person which has an effect which is similar to any of (a)-(c) above or which has the effect of limiting IPL's ability to carry out any of (a)-(c) above;

“Relevant Change in Law” means a Change in Law or Discriminatory Change in Law or a NHS Specific Change in Law;

“Relevant Day” means the day on which the Relevant Event occurs or (if later) the date upon which IPL first becomes or ought to have become aware that a Relevant Event has occurred;

“Relevant Event” means any Hospital Change or Statutory Change;

“Relevant Inspection” shall have the meaning ascribed to it in Clause 23.10;

“Relevant Person” means a Shareholder and any of its Affiliates;

“Relevant Tax Liability” has the meaning given in Clause 41.7(c);

“Relief” has the meaning given in Clause 41.7(a);

“Relief Events” has the meaning given to it in Clause 46;

“Remedial Measures” shall have the meaning ascribed to it in Clause 23.4(a);

“Representative” means:

- (a) the facility agent or the security trustee of the Senior Funders appointed under the Funding Agreements, any Senior Funder and/or any of their associates;
- (b) an administrative receiver, receiver or receiver and manager of the IPL appointed under the Security Documents;

- (c) an administrator of IPL;
- (d) a person directly or indirectly owned or controlled by the facility agent or the security trustee of the Senior Funders appointed under the Funding Agreements and/or any Senior Funders; or
- (e) any other person approved by NHS Greater Glasgow (such approval not to be unreasonably withheld or delayed);

“Reputable Insurer” means an insurer of good standing in respect of a risk and being rated at least AA- under the S & P rating system;

“Required Period” means the period starting on the date of a Termination Notice and ending sixty (60) Working Days later;

“Restricted Person” means either:

- (a) a person providing or proposing to provide healthcare services of a similar nature to those provided or contemplated by NHS Greater Glasgow at the time in question; or
- (b) any person who has a material interest in the production of:-
 - a. tobacco products; and/or
 - b. alcoholic beverages; and/or
 - c. arms or ammunitions

(excluding for the avoidance of doubt passive minority investments);

“Schedule” means each schedule annexed and signed as relative hereto;

“Security Documents” has the meaning given in the Senior Funding Agreement;

“Senior Debt Amount” means, subject to Clause 4.2 (Changes to Funding Agreements and Refinancing):

- (a) all amounts outstanding at the Termination Date, including interest accrued as at that date, from IPL to the Senior Funders under the Funding Agreement to which any Senior Funder is a party; and
- (b) all amounts including costs of early termination of interest rate hedging arrangements and other

breakage costs, payable by IPL to the Senior Funders as a result of a prepayment under any Funding Agreement to which any Senior Funder is a party, subject to IPL and the Senior Funders mitigating all such costs to the extent reasonably possible, less

(i) all amounts, including costs of early termination of interest rate hedging arrangements and other breakage costs, payable by the Senior Funders to IPL as a result of prepayment amounts outstanding under any Funding Agreements to which any Senior Funder is a party; and

(ii) all other amounts received by the Senior Funders on or after the Termination Date and before the date on which any compensation by NHS Greater Glasgow to IPL as a result of enforcing any other rights they may have;

“Senior Debt Facility”

means the aggregate commitments of the Senior Lenders which are projected to be outstanding in the Financial Model as of the date of this Agreement as may be amended from time to time to take account of any increased funding in respect of any Qualifying Variations and Qualifying Refinancings;

“Senior Debt Obligations”

means:

(a) all amounts outstanding at the Termination Date including interest accrued as at that date from IPL to the Senior Funders under the Funding Agreements; and

(b) all amounts including costs of early termination of interest rate hedging arrangements and other breakage costs payable by IPL to the Senior Funders as a result of a pre-payment under the Funding Agreements;

Less

(a) all amounts including costs of early termination of interest rate hedging arrangements and other breakage costs payable by the Senior Funders to IPL as a result of a pre-payment of amounts outstanding under the Funding Agreements;

(b) all amounts under the Funding Agreements which relate to an equity bridge facility or a capital contribution bridging facility (as defined therein); and

(c) all monies held in any Debt Service Reserve Account (as defined in Senior Funding Agreement);

“Senior Funders”	means The Royal Bank of Scotland plc (registered number SC090312) having its head office at St Andrews Square, Edinburgh EH2 2YB in its several capacities as Arranger, Original Lender, Facility Agent, Security Trustee, Account Bank and Hedging Bank (as such terms are defined in the Senior Funding Agreement) and any other person providing senior debt finance to IPL from time to time and whether in addition to or as the successor, assignee or permitted transferee of The Royal Bank of Scotland plc in any of such capacities;
“Senior Funding Agreement”	means the credit facility agreement dated on or around the date of this Agreement and made between IPL and the Senior Funders as amended in accordance with Clauses 4.2 and 4.3 of this Agreement;
“Service Media”	means only the pipes, ducts, wires, cisterns, tanks, radiators, cables, meters, sewers, drains, watercourse, mains, gutters and other media which provide or remove water, soil, surface water, electricity, gas, oil, telephone, power, fire alarm systems within, under or over the Site which have been approved by IPL pursuant to the Project Agreement and exclusively serve the Site;
“Shareholder(s)”	means a party listed in Schedule 24 (IPL Information) as changed from time to time in accordance with this Agreement;
“Site”	means that area of ground to be leased by NHS Greater Glasgow to IPL more particularly described as the Premises in the Lease;
“Site Conditions”	means the condition of the Site including (but not limited to) climatic, hydrological, hydrogeological, ecological, environmental, geotechnical and archaeological conditions;
“SpA”	means Impregilo SpA;
“Staff Space”	means a Car Parking Space (which is not a Free Space) used by employees of NHS Greater Glasgow or other institutions based at NHS Greater Glasgow’s Estate and including students or any others working or residing at NHS Greater Glasgow’s Estate or any person whom NHS Greater Glasgow shall nominate in writing is to be issued with an Access Card by IPL being in all such cases the holder of a permit in whatever form issued by IPL (“Qualifying Persons”);

“Statutory Change”	means the refusal of an application for a Licence or the grant of a Licence on terms and conditions specified under the Order such that IPL or its successors are not able to operate the Facilities for the purposes of car parking spaces to such advantage or potential advantage as immediately before IPL or its successors made the application for a Licence;
“Statutory Compensation”	means the amount of compensation actually paid or undertaken to be paid by the relevant statutory authority to IPL under the terms of the Order;
“Sub-Contractor”	means the Builder and the Car Park Operator and “Sub-Contracts” shall be construed accordingly;
“Sub-Contractor Losses”	<p>means:</p> <ul style="list-style-type: none"> (a) the amount reasonably and properly payable by IPL to the Builder under the terms of the Building Contract as a direct result of the termination of the Project Agreement provided that such amount shall be reduced to the extent that IPL fails to use all reasonable endeavours to mitigate such amount; and (b) the amount reasonably and properly payable by IPL to the Car Park Operator under the terms of the Car Park Operator Contract as a direct result of the termination of this Agreement provided that such amount shall be reduced to the extent that IPL fails to use all reasonable endeavours to mitigate such amount; <p>provided that in both cases no account should be taken of any liabilities and obligation of IPL to the Sub-Contractors arising out of:</p> <ul style="list-style-type: none"> (c) agreements or arrangements entered into by IPL and/or the Sub-Contractors to the extent that such agreements or arrangements were not entered into in connection with those parties' obligations in relation to the Project; and/or (d) agreements or arrangements entered into by IPL and/or the Sub-Contractors to the extent that such agreements or arrangements were not entered into in the ordinary course of business and on commercial arm's length terms;
“Subordinated Funders”	means a person providing finance under a Subordinated Funding Agreement;

“Subordinated Funding Agreements”	means
“Suitable Substitute Contractor”	<p>means a person approved by NHS Greater Glasgow (such approval not to be unreasonably withheld or delayed) as:</p> <p>(a) having the legal capacity, power and authority to become a party to and perform the obligations of IPL under the Project Agreements; and</p> <p>(b) employing or contracting with persons having the appropriate qualifications, experience and technical competence and having the resources available to it (including committed financial resources and sub-contracts) which are sufficient to enable it to perform the obligations or IPL under the Project Agreements;</p>
“Surface Car Parks”	means those various areas on NHS Greater Glasgow’s Estate to be used for provision of Car Parking Spaces shown coloured yellow and numbered 1-13 on the Plan;
“Suspended Period”	means any period during which access over the Access Road is wholly or partly denied to IPL or Invitees as a result of a Council or Third Party Claim;
“Tariffs”	means the charges to be levied for use of Car Parking Spaces as detailed in Schedule 13;
“Tender Costs”	means the reasonable and proper costs of NHS Greater Glasgow incurred in carrying out the Tender Process and/or in connection with any calculation of the Estimated Fair Value of the Agreement;
“Tender Process”	means the process by which NHS Greater Glasgow (or in the case of paragraphs 3.14 to 3.21 of Schedule 19, IPL) requests tenders from any parties interested in entering into a New Agreement, evaluates the responses from those interested parties and enters into a New Agreement with a New Contractor, in accordance with Section B of Schedule 19 [Retendering Procedure]; and
“Tender Process Monitor”	means the person appointed under paragraph 3.6 of Section B of Schedule 19;
“Termination Date”	means the date on which this Agreement terminates in accordance with its terms;
“Termination Notice”	has the meaning given to it in the Funders’ Direct Agreement;

“Third Party Shareholder”	means a person other than Impregilo SpA, Impregilo International Infrastructures NV, the Builder or their subsidiaries or holding companies, who holds any legal, beneficial or equitable interest in any or all of the equity share capital of IPL;
“Threshold”	means the sum of one thousand pounds (£1000) indexed;
“Threshold Equity IRR”	means % [nominal post tax blended equity IRR] contained in [cell ref] of the Financial Model at the Commencement Date;
“Title Deeds”	means the deeds and documents set out in Schedule 5;
“Transfer Financial Obligations”	means all obligations in respect of the Affected Employees including, without prejudice to the foregoing generality, unpaid wages, benefits, pension contributions and other emoluments, tax and national insurance payments relative to the period up to (but not including) the Date of Transfer;
“TUPE”	means the Transfer of Undertakings (Protection of Employment) Regulations 1981 (as amended);
“Unacceptable Variation”	means any Variation which would adversely alter to a material degree the design, layout, nature, capacity or standard and quality of construction of the Works or the Surface Car Parks or alter to any degree the external finish or appearance (or both) of the Works or the Surface Car Parks or reduce the number of Car Parking Spaces in the Multi Storey Car Park below 1074;
“Undertaking”	means the undertaking incorporating performance of this Agreement;
“Uninsurable Risk”	means a risk against which IPL is required to insure under this Agreement (other than any risks insured under any professional indemnity insurances) and for which, after the date of this Agreement: <ul style="list-style-type: none"> (a) insurance is not available to IPL in respect of the Project within the European insurance market with Reputable Insurers in respect of that risk; or (b) the terms and/or conditions offered in respect of that risk are such that the risk is not generally being insured against in the European insurance market, with Reputable Insurers, <p>to the extent that IPL and other prudent contractors in the same or substantially similar businesses would cease to operate such businesses in order to mitigate or manage</p>

the effect of that risk becoming uninsured and IPL has demonstrated this to NHS Greater Glasgow;

- “Unreasonable Act”** means any act or omission which is contrary to any reasonable instruction, guidance or rules for the operation or management of the Facilities;
- “Variation”** means any amendment to or departure from the Building Documents and the details of the Works contained in them (whether by way of alteration, addition or omission);
- “VAT”** means value added tax at the rate prevailing at the time of the relevant supply charged in accordance with the provisions of the Value Added Tax Act 1994;
- “Working Day”** means Monday to Friday each week excluding Scottish public holidays recognised in Glasgow and “Working Days” shall be construed accordingly;
- “Works”** means the design and construction at the Site of a Multi Storey Car Park providing not less than 1049 Car Parking Spaces and 25 surface spaces, construction and reconfiguration of some existing car parks, road infrastructure works, together with all associated services landscaping and external works in accordance with the Planning Permission all such Works to be in generally in accordance with the Building Documents;

2. and in relation to the above definitions, derivative expressions shall be construed accordingly.
3. References to a paragraph unless the context otherwise required to a paragraph of this Agreement and references to a Clause or Schedule are unless the context specifies otherwise to a clause or schedule of this Agreement.
4. References to statutes, statutory provisions and orders or regulations made thereunder include that statute provision, order or regulation (including any EU instrument) as amended, modified, re-enacted or replaced from time to time and to any previous statutory provision, order or regulation amended, modified, re-enacted or replaced by such statute, statutory provision, order or regulation.

5. Words and phrases (including defined terms) importing the singular include the plural and vice versa and references to persons include bodies corporate or incorporate.
6. The headings in this Agreement and the use of underlining are for convenience only and shall not affect the construction of this Agreement and all plans (other than plans or drawings produced as part of the Project Agreement) are for identification only.
7. Subject to and without prejudice to any other term of this Agreement the term "NHS Greater Glasgow" shall include its statutory successors in title to NHS Greater Glasgow's Estate.
8. Subject to and without prejudice to any other term of this Agreement the term "the Scottish Ministers" shall include its statutory successors in title to NHS Greater Glasgow's Estate.
9. Words importing one gender shall be construed as importing any other gender.
10. Where any party comprises more than one person the obligations and liabilities of that party under this Agreement shall be joint and several obligations and liabilities on those persons.
11. The Clause and paragraph headings in the body of this Agreement and in the Schedules do not form part of this Agreement and shall not be taken into account in its construction or interpretation.
12. Any obligation to "procure" within this Agreement shall be construed as meaning "to bring about or cause to happen".

This is Schedule 2 comprising the Completion Documents referred to in the Project Agreement for the Project Operations at Glasgow Royal Infirmary.

.....

.....

SCHEDULE 2

COMPLETION DOCUMENTS

SECTION A

DOCUMENTS TO BE DELIVERED BY IPL

Unless an original document is specifically requested, a copy (certified by an officer of IPL as being a true copy) of each of the following documents is to be delivered by IPL to NHS Greater Glasgow in accordance with Clause 2(a) of the Agreement:

1. The Consents and other authorisations, licences, permits, and approvals listed below:
 - (a) The consent granted by the Council for carrying out of the Works.
2. The Funding Agreements and certification from IPL that (1) the Funding Agreements have become unconditional (other than any condition relating to the conditionality of this Agreement) and (2) that all conditions to the availability of funds to IPL under the Funding Agreements have been satisfied or waived, accompanied by evidence of the same (other than any condition relating to the conditionality of this Agreement).
3. The Building Contract and Car Park Operator Contract executed by the parties to such agreements.
4. An original of the Funders' Direct Agreement, Builders Direct Agreement, Builders' Sub-Contractors Deed, Professional Team Deed and the brokers letters of