

## Funders Direct Agreement

**THIS AGREEMENT** is made

BETWEEN:

- 1 **GREATER GLASGOW HEALTH BOARD** of Gartnavel Hospital, 1055 Great Western Road, Glasgow, G12 0XH (the "**Board**")
- 2 **DEXIA CRÉDIT LOCAL, LONDON BRANCH** of Shackleton House, 4 Battle Bridge Lane, London, SE1 2RB as Agent under the Senior Funders' Agreements (as defined in the Project Agreement) on behalf of itself and the Senior Funders ("the "**Agent**" which expression shall include in substitution all other persons from time to time being Agent under the Senior Funders' Agreements);
- 3 **DEXIA MANAGEMENT SERVICES LIMITED** of Shackleton House, 4 Battle Bridge Lane, London, SE1 2RB as Security Trustee for the for the Senior Funders under the Senior Funders' Agreements (as defined in the Project Agreement) on behalf of itself and the Senior Funders (the "**Security Trustee**" which expression shall include in substitution all other persons from time to time being Security Trustee under the Senior Funders' Agreements); and
- 4 **STOBHILL HEALTHCARE FACILITIES LIMITED** a company incorporated under the laws of Scotland with registered number SC275420 whose registered office is at Saltire Court, 20 Castle Terrace, Edinburgh, EH1 2EN ("**Project Co**")

**IT IS AGREED AS FOLLOWS:**

### 1 INTERPRETATIONS

#### 1.1 Definitions

In this Agreement, unless the context otherwise requires:

"Appointed Representative"	means a Representative that has been notified to the Board pursuant to a Step-In Notice;
"Board Project Documents"	means the Project Agreement and all other documents to which the Board and Project Co are parties pursuant to the Project Agreement;
"Collateral Agreements Counterparty"	means each of the parties to the Collateral Agreements other than the Board and Project Co;
"Enforcement Event"	means that an Event of Default has occurred and the Agent has given notice to Project Co under Clause 21.3 of the Facility Agreement and/or the commencement of any enforcement procedure under any of the Security Documents;

"Event of Default"	is as defined in the Facility Agreement
"Event of Insolvency"	means one of the events specified in Clause 44.1.1 of the Project Agreement;
"Facility Agreement"	means the loan agreement dated on or around the date hereof among Project Co, the Agent, the Senior Funders and financial institutions;
"Final Payment Date"	means the date upon which all indebtedness of Project Co and Hold Co under the Senior Funders' Agreements has been fully and irrevocably paid or discharged and no such further indebtedness is capable of becoming outstanding;
"Loan Life Cover Ratio"	has the meaning given to it in the Facility Agreement;
"Project Agreement"	means an agreement so entitled dated on or around the date hereof between Project Co and the Board;
"Representative"	means: <ul style="list-style-type: none"> <li>(a) the Agent, the Security Trustee, any Senior Funder and/or any of their Affiliates;</li> <li>(b) an administrative receiver, receiver or receiver and manager of Project Co appointed under the Security Documents;</li> <li>(c) an administrator of Project Co;</li> <li>(d) a person directly or indirectly owned or controlled by the Agent and/or any Senior Funders; or</li> <li>(e) any other person approved by the Board (such approval not to be unreasonably withheld or delayed);</li> </ul>
"Required Period"	means the period starting on the date of a Termination Notice and: <ul style="list-style-type: none"> <li>(a) prior to the Payment Commencement Date, ending eighty (80) Business Days later; and</li> <li>(b) following the Payment Commencement Date, ending sixty (60) Business Days later;</li> </ul>
"Security Documents"	has the meaning ascribed to it in the Facility Agreement and shall include any subsequent security documents created in accordance with the terms of the Facility Agreement ;
"Step-In Date"	means the date on which the Agent gives the Board a Step-In Notice;

"Step-In Notice"	means the notice given by the Agent to the Board pursuant to Clause 6 stating that the Agent is exercising the step-in rights under this Agreement and identifying the Appointed Representative;
"Step-In Period"	means the period from the Step-In Date up to and including the earlier of: <ul style="list-style-type: none"> <li>(a) the Step-Out Date;</li> <li>(b) the date of any transfer under Clause 9;</li> <li>(c) the date of any termination for breach under Clause 7; or</li> <li>(d) the date of expiry of the Project Agreement.</li> </ul>
"Step-Out Date"	means the date falling twenty (20) Business Days after the date of a Step-Out Notice;
"Step-Out Notice"	means a notice from the Agent or Appointed Representative to the Board pursuant to Clause 8 (Step Out);
"Suitable Substitute Contractor"	means a person approved by the Board (such approval not to be unreasonably withheld or delayed) as: <ul style="list-style-type: none"> <li>(a) having the legal capacity, power and authority to become a party to and perform the obligations of Project Co under the Board Project Documents; and</li> <li>(b) employing 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 of Project Co under the Board Project Documents;</li> </ul>
"Termination Notice"	means a notice given by the Board to the Agent under Clause 3.2;
"Board Project Documents"	means the Project Agreement and all other documents to which the Board and Project Co are parties pursuant to the Project Agreement

## 1.2 Interpretation

1.2.1 Capitalised terms defined in the Project Agreement shall have the same meaning in this Agreement.

- 1.2.2 The clause and paragraph headings in this Agreement are for ease of reference only and are not to be taken into account in the construction or interpretation of any provision to which they refer.
- 1.2.3 Unless the context otherwise requires:
- 1.2.4 reference in this Agreement to any clause, sub-clause, paragraph, schedule or annex is, except where it is expressly stated to the contrary, a reference to such clause, sub-clause, paragraph, schedule or annex of this Agreement;
- 1.2.4.1 references to this Agreement or to any other such document shall include any permitted variation, amendment or supplements to such document;
- 1.2.4.2 references to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument (including any EU instrument) as amended or re-enacted;
- 1.2.4.3 references to a person includes firms and corporations and their successors and permitted assignees or transferees;
- 1.2.4.4 words in this Agreement importing any one gender include both other genders and may be used interchangeably; and
- 1.2.4.5 words in this Agreement importing the singular meaning, include the plural meaning and vice versa.

## 2 **CONSENT TO SECURITY**

- 2.1 The Board acknowledges notice of, and consents to, the security interests granted over Project Co's rights under the Board Project Documents and the Insurances effected by Project Co in favour of the Security Trustee on behalf of the Senior Funders under the Security Documents.
- 2.2 The Board confirms that it has not received notice of any other security interest granted over Project Co's rights under the Board Project Documents or the Insurances.
- 2.3 Except as specifically provided for in this Agreement and the Insurance Proceeds Account Agreement, the Board has no obligations (whether express, implied, collateral or otherwise) to the Agent and/or the Senior Funders in connection with this Agreement or the Board Project Documents or the Project.
- 2.4 The Board acknowledges notice of and consents to the security interest granted by HoldCo in favour of the Security Trustee on behalf of the Senior Funders over the entire issued share capital of Project Co.
- 2.5 For the purposes of Clause 35.3 of the Project Agreement, Project Co and the Agent hereby authorise and instruct the Board (and the Board agrees) to pay all sums payable to Project Co under the Board Project Documents to the account of Project Co entitled "Operating Account" numbered 11108582, sort code 83-06-08 or to such other account or accounts as the Agent may on giving reasonable prior written notice to the Board

Designate from time to time, except for those sums payable in accordance with Clauses 2.6, 2.7 and 2.8 below.

- 2.6 All amounts received by the Board and/or Project Co in respect of any insurance policy (other than as referred to at Clause 36.18 of the Project Agreement) maintained by or on behalf of Project Co pursuant to the Project Agreement shall be paid to the credit of the account of Project Co entitled ("Insurance Account") numbered 11108558, sort code 83-06-08.
- 2.7 Any sums payable by the Board pursuant to Part K and/or Schedule 23 of the Project Agreement shall be paid directly to the credit of the account of Project Co entitled "Termination Reserve Account" numbered 11108590, sort code 83-06-08, or to such other account as the Agent may from time to time designate on giving reasonable prior written notice to the Board or the same. Project Co agrees that payments to the Termination Reserve Account in accordance with this Clause 2.7 shall constitute a good discharge of the Board's obligations to Project Co in respect of such payments.
- 2.8 The Board shall not be obliged to make any enquiry as to the authority of the Agent in doing any act or entering into any document or making any agreement under of in connection with this Agreement and the Board shall be entitled to assume that the Agent is duly authorised by each of the Senior Funders to assume the obligations expressed to be assumed by it under this Agreement and to undertake on behalf of each Senior Funder in the terms of this Agreement so as to bind each Senior Funder as if it were a party hereto.

The rights of the Agent under this Agreement shall be extinguished upon the Final Payment Date.

### **3 NO TERMINATION WITHOUT NOTICE**

- 3.1 Subject only to Clause 3.2, the Board may serve notice terminating the Project Agreement at any time if it is entitled to do so under the terms of any of the Board Project Documents.
- 3.2 The Board shall not terminate or serve notice terminating the Project Agreement in respect of a Project Co Event of Default without giving to the Agent:
  - 3.2.1 at least the Required Period of prior written notice (a "Termination Notice") stating:
    - 3.2.1.1 that a Project Co Event of Default has occurred and the proposed Termination Date; and
    - 3.2.1.2 the grounds for termination in reasonable detail,
  - 3.2.2 not later than the date falling 20 Business Days after the date of a Termination Notice a notice containing details of any amount owed by Project Co to the Board, and any other liabilities or obligations of Project Co of which the Board is aware (having made proper enquiry) which are:
    - 3.2.2.1 accrued and outstanding at the time of the Termination Notice; and/or

3.2.2.2 which will fall due on or prior to the end of the Required Period, under the Project Agreement

- 3.3 On becoming aware of an Enforcement Event the Agent shall give notice thereof to the Board stating that an Enforcement Event has occurred and giving reasonable details thereof (an Enforcement Event Notice), whereupon the provisions of Clause 3.2 apply as if references therein to a Termination Notice were to an Enforcement Event Notice PROVIDED THAT the Board first receives all its estimated costs and expenses which it may incur in complying with this Clause 3.3. All reasonable costs and expenses additional to those estimated by the Board shall be reimbursed on demand and on an indemnity basis by Project Co.

#### 4 NO LIQUID MARKET

- 4.1 At any time during the Required Period the Agent may issue a written notice (the "No Liquid Market Notice") to the Board setting out the reasons why the Agent does not believe that a Liquid Market exists.
- 4.2 On or before the date falling fourteen (14) days after the date on which a No Liquid Market Notice is received by the Board, the Board shall notify the Agent of its opinion as to whether or not a Liquid Market exists. Where the Board believes that a Liquid Market does exist, such notice shall set out the reasons for the Board's belief. If the parties do not agree whether or not a Liquid Market exists, then either party may refer the dispute to be determined in accordance with Clause 56 of the Project Agreement (Dispute Resolution Procedure).
- 4.3 If the parties agree or it is determined in accordance with Clause 56 of the Project Agreement (Dispute Resolution Procedure) that no Liquid Market exists, the Project Agreement shall automatically terminate and the provisions of paragraph 4 Part B of the Schedule Part 23 (*No Retendering*) shall apply.
- 4.4 If any dispute relating to this Clause 4 is determined under Clause 56 of the Project Agreement (Dispute Resolution Procedure), the Required Period shall be extended by the period of time spent determining such dispute under Clause 56 of the Project Agreement (Dispute Resolution Procedure).

#### 5 ECONOMIC REINSTATEMENT TEST

- 5.1 If all the Facilities are destroyed or substantially destroyed in a single event and the insurance proceeds (when taken together with any other funds available to Project Co) are equal to or greater than the amount required to repair or reinstate the Facilities, then Project Co shall calculate the Loan Life Cover Ratio (on the assumption that the Facilities are repaired or reinstated in accordance with Clause 36.19 of the Project Agreement (Application of Proceeds)).
- 5.2 If the calculation referred to in Clause 5 above shows that the Loan Life Cover Ratio is greater than or equal to 1.10:1 then Project Co shall be subject to the procedure set out in Clauses 36.19 to 36.21 of the Project Agreement (Application of Proceeds).
- 5.3 If the calculation referred to in Clause 5 above shows that the Loan Life Cover Ratio is less than 1.10:1 then an amount equal to the lesser of:

5.3.1 the insurance proceeds; and

5.3.2 the greater of the Base Senior Termination Amount and Revised Senior Debt Termination Amount

shall be released from the Insurance Proceeds Account to Project Co.

5.4 The Agent on behalf of the Senior Funders confirms that it will release monies from the Insurance Proceeds Account, to allow Clause 36.19A of the Project Agreement to be complied with.

## **6 REPRESENTATIVE**

6.1 Subject to Clause 6.1.2 and without prejudice to the Security Trustee's rights under the Security Documents, the Agent may give the Board a Step-In Notice at any time:

6.1.1 during which a Project Co Event of Default or an Enforcement Event is subsisting (whether or not a Termination Notice has been served); or

6.1.2 during the Required Period.

6.2 The Security Trustee shall give the Board not less than five (5) Business Days prior notice of:

6.2.1 its intention to issue a Step-In Notice; and

6.2.2 the identity of the proposed Appointed Representative.

6.3 On the issue of the Step-In Notice, the Appointed Representative shall assume jointly with Project Co the rights of Project Co under the Board Project Documents and thereafter, until the end of the Step-In Period the Board shall deal with the Appointed Representative and not Project Co.

## **7 STEP-IN PERIOD**

7.1 Notwithstanding Clause 3 of this Agreement, the Board may terminate the Project Agreement if:

7.1.1 any amount referred to in Clause 3.2.2.1 above has not been paid to the Board on or before the Step-In Date; or

7.1.2 any amount referred to in Clause 3.2.2.2 has not been paid on or before the last day of the Required Period;

7.1.3 amounts, of which the Board was not aware (having made proper enquiry) at the time of the Termination Notice, subsequently become payable and are not discharged on or before the date falling 20 Business Days after the date on which the liability of Project Co for these amounts is notified to the Agent or if later the Step-In Date; or

- 7.1.4 grounds arise after the Step-In Date in accordance with the terms of the Project Agreement provided that Service Failure Points and/or Warning Notices that arose pursuant to the Schedule Part 18 prior to the Step-In Date shall not be taken into account during the Step-In Period but such Service Failure Points and/or Warning Notices (to the extent applicable under the terms of the Project Agreement) shall be taken into account after the Step-Out Date.
- 7.2 The Board shall not terminate the Project Agreement during the Step-In Period on grounds:
- 7.2.1 that the Agent or the Security Trustee has served a Step-In Notice or enforced any Security Document; or
- 7.2.2 arising prior to the Step-In Date of which the Board was aware (having made proper enquiry) and whether or not continuing at the Step-In Date unless:
- 7.2.2.1 the grounds arose prior to the Actual Completion Date, and the Actual Completion Date does not occur on or before the date 12 months after the date on which the Board would have been entitled to terminate the Project Agreement for non-completion of the Works under Clause 44.1.2 of the Project Agreement; or
- 7.2.2.2 the grounds arose after the Actual Completion Date, and neither the Appointed Representative nor Project Co is using all reasonable endeavours (including implementation of any remedial programme) to remedy any breach of the Project Agreement that:
- 7.2.2.2.1 arose prior to the Step-In Date; and
- 7.2.2.2.2 which is continuing (and capable of remedy); and
- 7.2.2.2.3 which would have entitled the Board to terminate the Project Agreement; or
- 7.2.2.3 the grounds (whenever they first arose) did not give rise to any right to terminate until after the Step-In Notice; or
- 7.2.3 arising solely in relation to Project Co

## 8 STEP-OUT

- 8.1 The Appointed Representative may at any time during the Step-In Period deliver to the Board a Step-Out Notice which shall specify the Step-Out Date.
- 8.2 On expiry of the Step-Out Period (which is on the Step-Out Date):
- 8.2.1 the Appointed Representative will be released from all of its obligations and liabilities to the Board under the Board Project Documents arising prior to the Step Out Date and rights of the Appointed Representative against the Board will be cancelled; and



8.2.2 the Board shall no longer deal with the Appointed Representative and shall deal with Project Co in connection with the Board Project Documents.

8.3 Project Co shall continue to be bound by the terms of the Project Agreement, notwithstanding the occurrence of a Step-In Notice, a Step-In Period, a Step-Out Notice, Step-Out Date, any action by the Agent or Appointed Representative or the Senior Funders and/or any provision of this Agreement.

## 9 NOVATION

9.1 Subject to Clause 9.2, at any time:

9.1.1 after an Enforcement Event has occurred; or

9.1.2 during the Step-In Period,

the Agent may, subject to Clause 9.2, on not less than twenty (20) Business Days' prior notice to the Board and any Appointed Representative, procure the transfer of Project Co's rights and liabilities under the Board Project Documents to a Suitable Substitute Contractor in accordance with the provisions of Clause 9.3.

9.2 The Board shall notify the Agent as to whether any person to whom the Agent proposes to transfer Project Co's rights and liabilities under the Project Documents is a Suitable Substitute Contractor, on or before the date falling 20 Business Days after the date of receipt from the Agent of all information reasonably required by the Board to decide whether the proposed transferee is a Suitable Substitute Contractor.

9.3 The Board shall not unreasonably withhold or delay its decision on whether the proposed transferee is a Suitable Substitute Contractor and it shall, without limitation, be reasonable for the Board to withhold its consent if there are unremedied breaches under the Project Documents and there is no rectification plan reasonably acceptable to the Board in respect of the breaches.

9.4 Upon the transfer referred to in Clause 9 becoming effective:

9.4.1 Project Co, the Board and the Appointed Representative will be released from their obligations under the Board Project Documents to each other (the "discharged obligations");

9.4.2 the Suitable Substitute Contractor and the Board will assume obligations towards each other which differ from the discharged obligations only insofar as they are owed to or assumed by the Suitable Substitute Contractor instead of Project Co;

9.4.3 the rights of Project Co against the Board under the Board Project Documents and vice versa (the "discharged rights") will be cancelled;

9.4.4 the Suitable Substitute Contractor and the Board will acquire rights against each other which differ from the discharged rights only insofar as they are exercisable by or against the Suitable Substitute Contractor instead of Project Co;

- 9.4.5 any then subsisting ground for termination of the Project Agreement by the Board shall be deemed to have no effect and any subsisting Termination Notice shall be automatically revoked;
- 9.4.6 the Board shall enter into a direct agreement with the Suitable Substitute Contractor and a representative of Senior Funders lending to the Suitable Substitute Contractor on substantially the same terms as this Agreement; and
- 9.4.7 any Service Failure Points and/or Warning Notices that arose pursuant to Schedule Part 18 of the Project Agreement prior to that time shall not be taken into account in determining whether a Project Co Event of Default has occurred.

## 10 MISCELLANEOUS

- 10.1 The Board shall at Project Co's expense, take whatever action the Agent, an Appointed Representative or a Suitable Substitute Contractor taking a transfer in accordance with Clause 9 may require for perfecting any transfer or release under Clause 6 (Representative), Clause 8 (Step-Out) and Clause 9 (Novation) including the execution of any transfer or assignment, and the giving of any notice, order or direction and the making of any registration which, in each case, the Agent or Appointed Representative or Suitable Substitute Contractor reasonably requires.
- 10.2 The Board shall not take any action to wind up, appoint an administrator or sanction a voluntary arrangement (or similar) in relation to Project Co.
- 10.3 This Agreement shall remain in effect until the earlier of:
  - 10.3.1 the date on which all amounts which may be or become owing by Project Co to the Senior Funders under the Financing Agreements have been irrevocably paid in full;
  - 10.3.2 the date of termination of the Project Agreement; or
  - 10.3.3 the date of transfer of Project Co's rights and liabilities under the Project Documents to a Suitable Substitute Contractor pursuant to Clause 9.
- 10.4 The Agent in respect of clauses 10.4.1, 10.4.2 and 10.4.3 below and Project Co in respect of clause 10.4.4 shall promptly notify the Board of:
  - 10.4.1 any Event of Default and any action taken in connection with such Event of Default, any decisions to accelerate the maturity of any amounts owing by Project Co to the Senior Funders under the Senior Funders' Agreement and/or any decisions to demand repayment;
  - 10.4.2 the date referred to in Clause 10.3 above on or before the date falling twenty (20) Business Days after its occurrence; and
  - 10.4.3 the details and amount of any proposed Additional Permitted Borrowing including:
    - 10.4.3.1 the circumstances giving rise to it and reasons for it; and

- 10.4.3.2 the terms on which it will be borrowed;
- 10.4.4 on the first Business Day of each calendar month during which any Additional Permitted Borrowing is, or may be, subsisting, the amount outstanding under the Senior Funders Agreements and, to the extent it is aware (having made reasonable and proper enquiry):
  - 10.4.4.1 the amount of any Distribution made by Project Co; an
  - 10.4.4.2 the amount of any credit balance on any account of Project Co
- 10.5 Project Co joins in this Agreement to acknowledge and consent to the arrangements set out and agrees not knowingly to do or omit to do anything that may prevent any party from enforcing its rights under this Agreement.
- 10.6 For the avoidance of doubt, if there is any conflict or inconsistency between the provisions of this Agreement and the Project Agreement, the provisions of this Agreement shall prevail.
- 10.7 Without prejudice to Clause 10.7.3, the Board shall not prior to the Final Payment Date:
  - 10.7.1 claim, recover, retain or receive (or seek to claim, recover, retain or receive) any amount under the Collateral Agreements (and/or the Construction Contract and/or the Service Contracts) from any Collateral Agreement Counterparty;
  - 10.7.2 petition for or otherwise be a party to any proceedings for winding-up any Collateral Agreement Counterparty or any other insolvency proceedings in respect of any Collateral Agreement Counterparty; or
  - 10.7.3 compete with the Security Trustee's rights on a winding up or other insolvency of any Collateral Agreement Counterparty nor claim to be subrogated to any rights of the Security Trustee or any Senior Funder;
- 10.8 The Board agrees and undertakes that if it receives any amount in contravention of the provisions of this Clause 10.6 it will immediately turn the same over to the Security Trustee for the account of the Security Trustee and the Senior Funders and pending such payment hold the same on Board for the Security Trustee and the Senior Funders provided that such Board shall not create any registerable security interest over such amount.
- 10.9 Notwithstanding any provision in the Collateral Agreements, the Board hereby undertakes that it will not, and it will procure that no permitted successor or assignor of it will exercise any rights it may have under or arising out of any of the Collateral Agreements, except as provided in Clause 10.9.1 to Clause 10.9.3 inclusive:
  - 10.9.1 Following termination of the Project Agreement in accordance with this Agreement, the Board shall from such date (the "Exercise Date") be entitled to exercise its rights under the Collateral Agreements to Step-In to and/or novate the Construction Contract(s), and/or the Services Contract in accordance with the Collateral Agreements.

10.9.2 Until the Final Payment Date, but following the Exercise Date, the Board shall not do anything to prejudice the rights which are not transferred to it pursuant to the Collateral Agreements.

10.9.3 Notwithstanding the terms of the Collateral Agreements and any other provisions of this Clause 10.9.3, each of the Contractor and the Service Providers (and any guarantors thereof) shall remain responsible, and be liable, to Project Co in respect of all costs, claims, damages, losses and liabilities which shall have arisen out of or in connection with the Construction Contract(s) and/or the Services Contract in respect of the period prior to the Exercise Date in relation to which the Agent acting on behalf of Project Co or the Senior Funders shall retain the benefit of all and any rights to all such costs, claims, damage, losses and liabilities.

10.10 Notwithstanding any terms of the Funding Agreements, the parties agree that all insurance proceeds received by Project Co under the insurances referred to in Part 1 paragraph 1 or Part 2 paragraphs 1 and 4 of the Schedule Part 21 of the Project Agreement (Insurance Requirements) shall be paid into the Insurance Proceeds Account and applied in accordance with the Project Agreement and this Agreement.

## 11 ASSIGNATION

11.1 No party to this Agreement may assign or transfer any part of its rights or obligations under this Agreement save as provided in this Clause 11.

11.2 The Security Trustee may assign or transfer its rights and obligations under this Agreement and in respect of the Security Documents to a successor Security Trustee in accordance with the Funding Agreements without the consent of the Board and any such assignation novation or transfer shall not constitute a Change of Control for the purposes of Clause 50.8 of the Project Agreement. Without prejudice to Clause 50.10 of the Project Agreement, the Board also agrees that any enforcement by the Security Trustee of the security referred to in Clause 3.3 of this Agreement (and any subsequent transfer of share capital in Project Co) following an Event of Default shall not constitute a Project Co Event of Default under Clause 44.1.8 of the Project Agreement.

11.3 Any Senior Funder may assign or transfer its rights under the Financing Agreements in accordance with the terms of the Financing Agreements.

11.4 The Board shall transfer its rights and obligations under this Agreement to any permitted assignee of its interest in the Project Agreement and the Security Trustee and the Senior Funders shall co-operate with the Board in completing the formalities of any transfer or assignment including by executing any additional documents as may be required by the Board.

11.5 If Clause 11.1 applies in relation to the Security Trustee, the Board shall enter into a new direct Agreement with the new Security Trustee on substantially the same terms as this Agreement.

## 12 ENTIRE AGREEMENT

12.1 Unless otherwise stated in this Agreement, this Agreement and the Board Project Documents constitutes the entire agreement between the parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this Agreement. No party has relied on any representation except as expressly set out in this Agreement.

### 13 WAIVER

13.1 The failure of any party to exercise any contractual right or remedy shall not constitute a waiver thereof until communication in writing under Clause 13.1.

13.2 No waiver shall be effective unless it is communicated in writing to the other party.

13.3 A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of this Agreement.

### 14 SEVERABILITY

If any term, condition or provision contained in this Agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall not affect the validity, legality or enforceability of the remaining parts of this Agreement.

### 15 CONFIDENTIALITY

The Agent shall be bound to comply with the obligations on the part of Project Co contained in Clause 52 (Confidentiality) of the Project Agreement in relation to all information and matters obtained from any other party under or in connection with the Project.

### 16 NOTICES CONSENTS AND APPROVALS

16.1 All notices under this Agreement shall be in writing and shall be served by sending the same by first class post or by hand, leaving the same at the address shown at clause 16.2, 16.3 or 16.4 (as appropriate) below.

16.2 Any notice to be given to the Board should be marked for the attention of Donald Thomson or such other person as notified in writing to the Agent and the Security Trustee and delivered to Board Headquarters, Gartnavel Royal Hospital, 1055 Great Western Road, Glasgow, G12 0XH or such other address as notified in writing to the Agent and the Security Trustee by the Board.

16.3 Any notice to be given to the Agent should be marked for the attention of Chris Bassindale or other person as notified in writing to the Board and delivered to Dexia Crédit Local, London Branch, Shackleton House, 4 Battle Bridge Lane, London, SE1 2RB (fax number 020 7470 7302) or such other address as notified in writing to the Board by the Security Trustee.

16.4 Any notice to be given to the Security Trustee should be marked for the attention of Head of Project Finance, London or other position as notified in writing to the Board and delivered to Dexia Management Services Limited, London Branch, Shackleton House, 4 Battle Bridge Lane, London, SE1 2RB (fax number 020 7470 7302) or such other address as notified in writing to the Board by the Agent.

16.5 Any consent or approval under this Agreement is required to be obtained before the act or event to which it applies is carried out or done and is to be treated as effective only if the consent or approval is given in writing.

16.6 Any notification required pursuant to this Agreement is to be treated as effective only if given in writing.

17 **SURVIVORSHIP**

Notwithstanding any other terms of this Agreement, Clauses 10.7 to 10.9 (inclusive) shall survive termination of this Agreement.

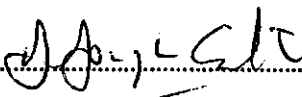
18 **GOVERNING LAW**

18.1 This Agreement is governed by the laws of Scotland.


18.2 The parties agree that the Court of Session in Scotland shall have exclusive jurisdiction to hear and settle any action, suit, proceeding or dispute in connection with this Agreement and irrevocably submit to the jurisdiction of that court.

**IN WITNESS WHEREOF** this Agreement consisting of this page and the preceding 13 pages is executed as follows:

**SUBSCRIBED** for and on behalf of  
**GREATER GLASGOW HEALTH BOARD**  
on the 11th day of July 2005  
by

..........Authorised Signatory

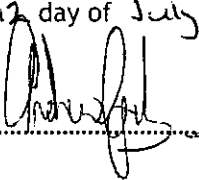
.....DOUGLAS GRIFFIN.....Full name

..........Authorised Signatory

.....ROSSLYN CROCKETT.....Full name

**SUBSCRIBED** for and on behalf of  
**STOBHILL HEALTHCARE FACILITIES LIMITED**

on the 12 day of July 2005

by .....Director

before this witness

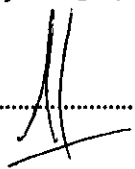
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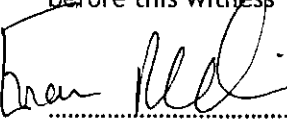
3 GERRARD ST, EDINBURGH  
EH3 6AC witness address

**SUBSCRIBED** for and on behalf of  
**DEXIA CRÉDIT LOCAL, LONDON BRANCH**

on the 13 day of July 2005

by .....Attorney

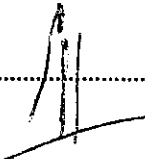
before this witness

..... witness


..... witness name

3 GERRARD ST,  
EDINBURGH, EH3 6AC witness address

SUBSCRIBED for and on behalf of  
DEXIA MANAGEMENT SERVICES LIMITED  
on the 13 day of July 2005  
by

  
.....Attorney

before this witness

  
..... witness

.....  
Eunice Wilson..... witness name

.....  
3 GARDENAS ST,  
EDINBURGH, EH3 6AQ  
..... witness address