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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"	<p>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:</p> <ul style="list-style-type: none"> (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, <p>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;</p>
"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> <ul style="list-style-type: none"> (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; (b) any accrued warning notices shall be cancelled; and (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;
“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> <ul style="list-style-type: none"> (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;

- (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: <ul style="list-style-type: none"> (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>(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 the Water Industry (Scotland) Act 2002</u> 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”	<p>means an agreement on the same terms and conditions as this Agreement 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 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;</p>

	(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: <ul style="list-style-type: none"> (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: <ul style="list-style-type: none">(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> <ul style="list-style-type: none"> (a) having the legal capacity, power and authority to become a party to and perform the obligations of IPL under the Project Agreements; and (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;
“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”	<p>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:</p> <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.

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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

undertaking relating to the Insurances referred to in paragraph 10 below in the Agreed Form, executed by the parties to such agreements (other than NHS Greater Glasgow).

5. Extracts from the minutes of the meeting of the board of directors (certified as true and accurate by the Secretary of the relevant company) of each of IPL, SpA and each of the other parties to the documents listed in Schedule 2 Section A (other than the Senior Funders), at which resolutions were passed approving the execution, delivery and performance of each relevant document to which such person is expressed to be a party and in each case authorising a named person or persons to execute and deliver each such document and any other documents to be delivered by it pursuant to it.
6. A certificate of the Secretary of each of the companies referred to in paragraph 5 above setting out the names and specimen signatures of the person or persons named in the relevant certified extract.
7. An original of the Parent Company Guarantee executed by SpA.
8. A certified copy of the Performance Bond issued in relation to the obligations of Impregilo New Cross Limited.
9. IPL's and SpA's Certificate of Incorporation and of any Certificate of Incorporation on Change of Name.
10. The Memorandum and Articles of Association of IPL and SpA.
11. Evidence of the Insurances required in accordance with Clause 64 [*Insurance*] having been taken out by IPL and that the policies comply with the requirements of this Agreement.

12. A written undertaking that, prior to the start of the Works, IPL shall:-
- (a) make a declaration to the Health and Safety Executive that it is to act as sole "client" for the project for the purposes of the Construction (Design and Management) Regulations 1994; and
 - (b) if the same has been received by IPL, deliver to NHS Greater Glasgow a copy of the Health and Safety Executive's notice confirming receipt of IPL's declaration that it is to act as sole "client" for the purposes of the Construction (Design and Management) Regulations 1994 (and if not received prior to the start of the Works, IPL shall use all reasonable endeavours to obtain the notice and shall deliver a copy of such notice to NHS Greater Glasgow as soon as reasonably practicable following receipt of the same).
13. Evidence that the Insurance Proceeds Account has been opened.
14. An original duly executed copy of this Agreement.
15. Certified copy of letter from Glasgow City Council dated .

SECTION B

DOCUMENTS TO BE DELIVERED BY NHS GREATER GLASGOW

NHS Greater Glasgow shall deliver to IPL the following documents:

1. An original copy of the Funders' Direct Agreement, the Builder's Direct Agreement, the Builders Sub-Contractors Deed, the Professional Team Deed and this Agreement, duly executed by NHS Greater Glasgow.
2. A certified copy of the board resolution of NHS Greater Glasgow approving the execution, delivery and performance of the documents referred to in paragraphs 1 and 2 above and in each case authorising a named person or persons to execute and deliver each such document and any documents to be delivered by it pursuant thereto.
3. Letter of comfort from the Scottish Ministers signed for and on their behalf by the Scottish Executive Director of Performance Management and Finance dated
4. Certified copies of NHS Greater Glasgow's Standing Orders and Standing Financial Instructions.
5. Certified copy of the Highways Works Contract.
6. Side letter from NHS Greater Glasgow dealing with the Weaver street issue and confirming that NHS Greater Glasgow will not raise any objection to parking restriction around the Glasgow Royal Infirmary proposed by Glasgow City Council.

This is Schedule 3 comprising the Building Documents referred to in the Project Agreement for the Project Operations at Glasgow Royal Infirmary.

SCHEDULE 3

THE BUILDING DOCUMENTS

The Building Contract

The Builder Direct Agreement

The Builders' Sub-Contractors Deed

The Professional Team Deed

The Specification as annexed to this Agreement

The Programme

The Drawings

Method Statement – IPL shall be entitled to make amendments to the Method Statement provided that any material change will only be made with NHS Greater Glasgow's consent, which consent will not be unreasonably withheld or delayed. NHS Greater Glasgow shall respond within five Working Days to any request to approval to change the Method Statement, failing which consent shall be deemed. To avoid doubt, it is expressly stated that any change which impacts on the operations of NHS Greater Glasgow at NHS Greater Glasgow's Estate shall comprise a material change and, in particular, changes which may affect the level of noise, vibration or dust arising from the Works.

Where any of the foregoing Specifications or drawings which comprise the Building Documents are incomplete as at the date hereof the same shall be agreed between NHS Greater Glasgow and IPL acting reasonably.

The Building Documents will detail inter alia the works to be undertaken by IPL in respect of the Multi Storey Car Park, the Surface Car Parks and any associated works.

Laing O'Rourke Scotland Ltd

Contract Number: *tbc*

Method Statement for:

Site Establishment & General Methodology

Glasgow Royal Infirmary MSCP

Reference No. GO310/MS/001

Revision	Prepared by	Date	Approved		Date
0	E.MORGAN		Laing O'Rourke Scotland Limited	I.CUTHBERTSON	10/03/04

Control Number	Issue Date	Received Please sign, photocopy & return	Date

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1. Introduction
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 - 3.1.4. Ground Floor Construction
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7. Security
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Appendices

Appendix 'A' – Site Layout Sketch

1. INTRODUCTION

This method statement outlines the practices and procedures to be employed whilst carrying out all work elements to substructure and superstructure areas.

2. SCOPE

The main scope of the work is to construct a 6No. level Multi story car park for Impreligo Newcross Ltd., for approximately 1000No. car park spaces located on a designated site within the Glasgow Royal Infirmary Estate.

3. METHODOLOGY

3.1 Site Establishment.

Site establishment will be the first task for Laing O'Rourke on the commencement of work. Site establishment will consist of the following:

- Main Site accommodation,
- Welfare Facilities for 50 operatives,
- Visitor/ Security Control Point,
- Space for Sub-Contractor accommodation,
- Fencing/Gates, material and waste distribution area

The office accommodation will be formed using proprietary "Portakabin" type temporary building. Welfare facilities will be formed using the same type of unit.

All site accommodation will be in accordance with current health and safety legislation.

Temporary fencing will be erected around the full length of the site perimeter with access for deliveries and personnel at restricted areas (attached on sketch). There will be no access from Castle Street.

At Castle Street it is intended to incorporate the footpath inside the site boundary, subject to the approval of Glasgow City Council.

This will be done by reducing the lane width on Castle Street from 3.8m (existing size) to 3.3m and moving the path temporarily on to the existing road. The path width will be reduced to 1.5m. See attached sketch for details (initial talks with the Roads Department suggest that this will be possible).

3.1.1 Site Preparation/Pile Foundations.

This will begin with the reduced dig where applicable and the preparation of the site for the piling contract. These operations will include the placement of piling mats for the piling rig, which is approx 300mm deep stone base.

The type of method is yet to be finalised at this time but is most likely to be a bottom driven pile foundation. Laing O'Rourke will inform the Client's Engineer of their proposed method. For the method statement for Site Prep. and Pile Foundations please see method statement GRI/MSCP/MS/001

3.1.2 Pile Cap and Ground Beams

Pile cap sizes vary from a one pile cap to a six pile cap size.

Pile cap and Ground beams will be formed using Pecafil permanent formwork (Attached Technical Data). Concrete to be placed either

using Skip or Excavator's bucket. Bolts for steel work will be set out by Laing O'Rourke

Engineer and will be offered up to the Client's representative for inspection prior to the concrete been poured. The bolts are to be covered in some form of tape (e.g. Denso tape) to protect the threads and will be inspected after the concrete pour to ensure no concrete has got on to the threads. For method statement for pile cap and ground beams, please see method statement GRI/MSCP/MS/002.

3.1.3 Drainage, Manholes and Services

All drainage and services below the main car park area will be installed prior to the construction of the Ground floor. The remaining drainage, manholes and services to be installed as to specification requirements and drawings. For method statement for Drainage, Manholes and Services, please see method statement GRI/MSCP/MS/003.

3.1.4 Ground Floor Construction

Construction of the Ground Floor will begin at Grid line 17 and carried through to Gridline 1. Ground Floor will consist a layer of type 1 which will be mechanically compacted. This will then be covered with a layer of 60mm macadam base course and a 40mm asphalt wearing course. For method Statement for Ground Floor construction, please see method statement GRI/MSCP/MS/004

3.1.5 Erection of steelwork and Laying Pre cast Slabs.

The erection of the steel work in the main building will be split into 5No. sections. Each section will be constructed to roof level before moving

on to the next section. It will be necessary to consult with the Clients Engineer for the requirement of Temporary Bracing or supports if needed. This method of construction will allow for the utilisation of the car park area for storage of materials. Steelwork and precast to be put into position using a mobile crane. For method Statement for steel Erection and Laying of Pre cast Slabs construction, please see method statement GRI/MSCP/MS/005

3.1.6 Ramp Construction

The helical ramp is likely to be formed in reinforced concrete, and will be constructed separately to the Main Car Park structure. For method Statement for Ramp Construction, refer to method statement GRI/MSCP/MS/006

3.1.7 General Concreting of decks and ramps etc

Placement of concreting of the deck will be carried out by pump. The required finish will be applied to the placed concrete as required in the specification.

For method Statement for General Concreting, please see method statement GRI/MSCP/MS/007

3.1.8 Block work

Block work to be placed in accordance of drawings and specification.

For method Statement for Block work, please see method statement GRI/MSCP/MS/008.

3.1.9 Mechanical and Electrical Package

Mechanical and Electrical packages to be carried out with accordance of drawings and specification. For method Statement for Mechanical Package, please see method statement GRI/MSCP/MS/009. For method Statement for Electrical Package, please see method statement GRI/MSCP/MS/010

3.1.10 Louvres, Brie Soleil and Aerofoils

Louvres, Brie Soleil and Aerofoils to be placed as shown on drawings and what's required in the specification. Method Statement to follow. For method Statement for Louvers, Brise Soleil and Aerofoils, please see method statement GRI/MSCP/MS/011

North and South Stair Cores

Stair cores to be constructed as to drawings and specification requirements. For method Statement for Block work, please see method statement GRI/MSCP/MS/012.

3.1.11 Protection to Roof and Other levels.

Deckshield or some other proprietary system to be used to protect Roof and ramp area. For method Statement for Roof Protection, please see method statement GRI/MSCP/MS/013.

3.1.12 Road Markings / Car park markings

Markings to be placed as shown on drawings and to Specification requirements.

Method Statement to follow. For method Statement for Road Markings/
Car park markings, please see method statement GRI/MSCP/MS/014.

3.1.13 Management Suite

To be constructed as required by specification and drawings.

For method Statement for Accommodation Centre, please see method
statement GRI/MSCP/MS/015.

3.1.14 Central Stair Core / Lift Access

To be constructed as to drawings and specification requirements. For
method Statement for Road Markings / Car park markings, please see
method statement GRI/MSCP/MS/016.

Towards the completion of the contract it will be necessary to move the
site offices to allow the construction of 17 car park spaces adjacent to
the service road.

4. LOGISTICS

The site boundaries, access roads, control points and laydown areas will be as
defined on the attached site layout sketch (see Appendix 'A')

There will be one 40m radius 'flat top' tower crane deployed on site, and this will be
positioned as indicated on the proposed site layout sketch. There are a couple of
minor oversailing issues to address, and these will be agreed with NHS Greater
Glasgow in due course.

Due to the nature of the Site's environment, all operations need to be very carefully
planned and coordinated.

Laing O'Rourke will have two main access gates for general access and delivery of goods to Site. Gate No1 (Main Gate) will be located at the south east corner of the Site, will be approached from Wishart Street, and will be used for every-day general access. Gate No2 will be located at the North East corner of the Site, and will be approached from the entrance at Castle Street. It will be necessary to use this gate for long-vehicle deliveries due to tight bends at Gate 1, but such use will be strictly by prior arrangement only due to the potential conflict with hospital traffic.

Due to the extreme importance of the access roads to Trust's operations, it is critical that delivery of goods to site is managed efficiently. It is proposed to control deliveries to site by ensuring suppliers are given a specific time to arrive on site and that Laing O'Rourke ensure that there is adequate staff and plant on site to off-load vehicles. All suppliers will be informed how critical delivery time will be and that under no circumstances will there be any vehicle allowed to stand on the main access road at any time.

The main access for the personnel on site will be through Gate No1, where they will be directed via established walkways to the Site Offices located to the south of the site. This will be for both security and safety reasons. All site visitors to the site will be informed that there will be no facilities for parking on site.

Material deliveries to site will arrive at the gate at Gate No1 (or Gate No2 by prior arrangement with Trust), where they will then be directed to the main site/compound entrance for processing and admittance. We shall operate a materials delivery booking system where contractors will be required to advance book time slots for deliveries. This will reduce the potential for traffic congestion on Wishart Street, Castle Street and internal 'estate' roads leading from both.

Our site layout provides minimal space for the lay-down of materials and therefore we shall enforce a just-in-time delivery regime upon all of our contractors. Materials will

only be permitted on site in quantities to match the production within the building unless by prior agreement to pre-load areas.

Laing O'Rourke will liaise closely with the NHS Greater Glasgow to ensure that NHS Greater Glasgow are fully aware and in agreement with the logistical proposals, and will give them every opportunity to comment on problems arising. LORS will ensure that any concerns or problems identified are considered and rectified immediately.

5. QUALITY

All work on site will be carried out in accordance with Laing O'Rourke Quality Assurance procedures. All work been carried out will be inspected by Laing O'Rourke and will be offered to the Clients Engineer for inspection.

All materials to site will be approved with the Clients Engineer prior to use on site and in accordance with the requirements of the Specification (and as recommended by the manufacturers).

Laing O'Rourke will ensure the visit of the QA managers to site periodically during the contract, to carry out inspection of the site QA system and to ensure full compliance is maintained.

6. HEALTH & SAFETY

All work to be carried on site will be carried out in accordance to the client's health and safety plan.

Laing O'Rourke will induct all employees prior to commencing works.

All operatives will be fully competent and trained in there respective trades. Operators of plant will be ticketed and trained as will scaffolders, etc

Weekly toolbox talks will be carried out to Laing O'Rourke employees on a weekly basis. Laing O'Rourke will also ensure that all subcontractors on site will carry out toolbox talks on a weekly basis.

Laing O'Rourke will also ensure that all work to be carried out on site will be to a specific method statement related to the tasks to be carried out and that it will also have a related risk assessment, highlighting the various risks and their magnitude in the work to be carried out.

Laing O'Rourke will ensure that all necessary PPE required will be supplied to employees.

All labour will be briefed via task sheet prior to carrying out operations on site whilst supervisors will be fully conversant with methods to be used to carry out the works.

Laing O'Rourke will maintain an accident book together with trained first aiders.

A visiting Laing O'Rourke safety inspector will visit the site to undertake safety audits on the Laing O'Rourke works site wide.

7. SECURITY

All employees will clock in and out of the job using Laing O'Rourke Aurora system. This system will enable a full listing of labours that are on site. Site Security (during working hours).

During site working hours, our directly employed Site Controller in conjunction with Gate Marshalls shall control access to the site. Our main security point will be located at the entrance to the actual compound/site. We shall also position a supplementary control point at the gate formed at Castle Street entrance during the working shift. This will be our first point of control for personnel, visitors and vehicles arriving at the site. At our main security hut all personnel arriving at the site for the first time will be

processed for future visits and registered with our electronic control system, which works by facial recognition. This greatly reduces the potential for unauthorised persons entering the site. This is beneficial from a safety and security viewpoint.

Outwith site working hours, our preferred Security Contractor will control access to the site, and he will again be based at our main security point located at the entrance to the compound/site.

8. WASTE MANAGEMENT

Laing O'Rourke site management will control the waste management on the site. Common user skips will be placed in a suitable location adjacent to the building. Debris will be removed from the building using the hoist

A multi-service gang will provide a service to ensure that the general and circulation areas are maintained and kept clear.

Waste resulting from specific tasks will be the responsibility of each contractor at minimum on a daily bases or when an operation moves location. Black bags and bins will be available for the collection of such waste materials and taken to hoist location for disposal in skips.

SITE LAYOUT PLAN

This is Schedule 4 comprising the Custody Agreement referred to in the Project Agreement for the Project Operations at Glasgow Royal Infirmary.

SCHEDULE 4

CUSTODY AGREEMENT

1. DEFINITIONS AND INTERPRETATION

1.1 *Definitions*

In this Schedule, the following terms shall, unless the context otherwise requires, have the following meanings:

“Disc 1 –Financial Model”	A disc to be held by IPL in accordance with paragraph 3.1.4;
“Disc 2 Financial Model”	A disc to be held by NHS Greater Glasgow in accordance with paragraph 3.1.4;
“The Discs”	Disc 1 and Disc 2 as defined in this Schedule;
“Password 1”	A password to be chosen and kept confidential by NHS Greater Glasgow;
“Password 2”	A password to be chosen and kept confidential by IPL;

2. VERIFICATION AND DELIVERY OF THE FINANCIAL MODEL

2.1 *Verification*

- 2.1.1 On the date of the Project Agreement and following any delivery of the Financial Model to NHS Greater Glasgow in accordance with Clause 65 of the Project Agreement NHS Greater Glasgow will verify the identity of a copy of the Financial Model which shall be a copy of the then current version of the Financial Model as amended from time to time in accordance with Clause 65 of the Project Agreement. Whenever a variation is made to the Financial Model a hard copy showing the amendment will be printed off and kept with the original

version of the Financial Model). This will then be stored on to Disc 1 and Disc 2 by IPL and NHS Greater Glasgow respectively.

- 2.1.2 On such date as may be agreed by NHS Greater Glasgow and IPL but in any event no later than 20 Working Days after the date of the Project Agreement or (in the event of a variation being made) the date of any agreed variation, NHS Greater Glasgow and IPL will verify that the data stored on Disc 1 and Disc 2 is identical and is a copy of the then current version of the Financial Model as amended from time to time.

2.2 *Obligations of IPL*

- 2.2.1 IPL shall ensure that the Financial Model as delivered to NHS Greater Glasgow is capable of being rerun on Excel 2000 run on Microsoft Windows (or such software as may replace or update it) along with all available optional functions (when loaded onto a networked desktop PC in accordance with the Project Agreement).
- 2.2.2 IPL hereby grants to NHS Greater Glasgow a perpetual, transferable (but only to any permitted assignee of any rights or benefits of NHS Greater Glasgow under the Project Agreement), non-exclusive, royalty free licence (carrying the right to grant sub-licences) to use the Financial Model or any revised Financial Model for any purpose in connection with the Project Agreement whether during or after the Project Term.

3. **SECURITY OF THE FINANCIAL MODEL**

3.1

- 3.1.1 On such date as may be agreed by NHS Greater Glasgow and IPL but in any event no later than 20 Working Days after the date of verification of Disc 1 and Disc 2 in accordance with paragraph 2.1.1 NHS Greater Glasgow shall take possession of Disc 1 and IPL shall take possession of Disc 2.
- 3.1.2 Within 5 Working Days after taking possession of Disc 1 and Disc 2 in accordance with paragraph 3.1.1. NHS Greater Glasgow shall render the data on Disc 1 accessible only by use of Password 1 and IPL shall render the data on Disc 2 accessible only by use of Password 2 and NHS Greater Glasgow will hand over Disc 1 to IPL and IPL will hand over Disc 2 to NHS Greater Glasgow. After having rendered the data on Disc 1 and Disc 2 accessible only by the use of Password 1 and Password 2, but before handing over Disc 1 and Disc 2 to IPL and NHS Greater Glasgow respectively, NHS Greater Glasgow and IPL shall clearly mark the Discs identifying them as Disc 1 and Disc 2 and as being the current version of the Financial Model.
- 3.1.3 NHS Greater Glasgow will not reveal Password 1 to IPL and IPL will not reveal Password 2 to NHS Greater Glasgow unless and until a dispute arises or there is a variation in relation to the Financial Model.

3.1.4 NHS Greater Glasgow will hold Disc 2 and IPL will hold Disc 1 unless and until a dispute arises or there is a variation in relation to the Financial Model.

3.1.5 NHS Greater Glasgow and IPL will use best endeavours at all times when the Discs are in their custody or control to ensure that the Discs are kept securely and not damaged or corrupted in any way. In the event that the Discs are damaged or corrupted NHS Greater Glasgow and IPL will follow the procedure outlined in paragraphs 2 and 3 and create new Discs having made reference to the hard copy of the Financial Model kept in accordance with paragraph 2.1.1.

4. DISPUTE OR VARIATION IN RELATION TO THE FINANCIAL MODEL

4.1 In the event of any dispute arising or variation being agreed in relation to the Financial Model NHS Greater Glasgow will reveal Password 1 to IPL and IPL will reveal Password 2 to NHS Greater Glasgow.

4.2 When both NHS Greater Glasgow and IPL have agreed in writing that any dispute in relation to the Financial Model has been resolved or a variation in relation to the Financial Model has been agreed the relevant amendment will be made to the Financial Model and the procedure outlined in paragraph 3 will again be followed save with a different Password 1 and Password 2.

5. INTELLECTUAL PROPERTY RIGHTS

NHS Greater Glasgow and IPL agree that the Financial Model shall remain the confidential property of IPL and all copyright and Intellectual Property Rights in the Financial Model will remain with IPL and the provisions of Clause 65 of this Agreement shall apply.

This is Schedule 5 comprising the Title Matters referred to in the Project Agreement for the Car Park Operation at Glasgow Royal Infirmary.

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SCHEDULE 5

SECTION A: TITLE DEEDS

A SUBJECTS AT CASTLE STREET, GLASGOW - TITLE NUMBER GLA138918

1. Land Certificate Title Number GLA138918.
2. Transfer of Heritable Property Transfer Order Number G011

B SUBJECTS AT CASTLE STREET, GLASGOW – TITLE NUMBER GLA138062

1. Land Certificate GLA138062
2. Land Certificate Title Number GLA14624;
3. Land Certificate Title Number GLA52165;
4. Land Certificate Title Number GLA10170;
5. Transfer of Heritable Property Transfer Order Number G011 (see A 2. above).

C WEAVER STREET CAR PARK – TITLE NUMBER GLA25681

1. Land Certificate Title Number GLA25681;
2. Transfer of Heritable Property Transfer Order Number G015.

D CAR PARKING ARRANGEMENTS AT CATHEDRAL PRECINCT

1. Extract Deed of Servitude by The City of Glasgow District Council in favour of The Secretary of State for Scotland recorded GRS (Barony and Regality of Glasgow) on 3 April 1989;
2. Copy Minute of Agreement between The City of Glasgow District Council and The Secretary of State for Scotland dated 22 June and 1 July 1987.

SECTION B: PROVISIONS RELATING TO LEASE

On or prior to the date of execution of this Agreement (and if required in respect of any requisitions of the keeper) NHS Greater Glasgow shall, in respect of the Site:

1. deliver to IPL such documents and evidence as the Keeper may require to enable the interest of IPL in the Lease to be registered in the Land Register without exclusion of indemnity under Section 12(2) of the Land Registration (Scotland) Act 1979 (except in respect of the Access Road where IPL's sole remedy shall be as specified in terms of Clause 45 of the Project Agreement); the land certificate to be issued to IPL will disclose no entry, deed or diligence prejudicial to IPL's interest other than such as are created by or against IPL (except in respect of the Access Road where IPL's sole remedy shall be as specified in terms of Clause 45 of the Project Agreement).
Notwithstanding the delivery of the Lease, this clause shall remain in full force and effect and may be founded upon;
2. deliver to IPL a self-proving letter of obligation from the Scottish Ministers' solicitors on behalf of the Scottish Ministers and addressed to IPL's solicitors in accordance with the terms set out below:-
3. deliver to IPL immediately prior to the date of execution of the Lease and prior to the Commencement Date Form 12 Reports against the Site incorporating a Search in the Personal Register against NHS Greater Glasgow, the Scottish Ministers and North Glasgow Universities National Health Service Trust and showing no entries adverse to NHS the Scottish Ministers' interest the Scottish Ministers' ability to validly grant the Lease (except in either instance as created by or against IPL).

TO BE TYPED ON CLO HEADED NOTEPAPER

[DATE]

Eversheds
1 Callaghan Square
CARDIFF
CF10 5BT

Dear Sirs

**THE SCOTTISH MINISTERS
GREATER GLASGOW HEALTH BOARD
GLASGOW ROYAL INFIRMARY CAR PARK PFI**

With reference to the settlement of the above transaction today on behalf of the Scottish Ministers, we hereby (1) undertake to clear the records of any deed, decree or diligence (other than such as may be created by or against your client) which may be recorded in the Property or Personal Registers or to which effect may be given in the Land Register in the period from [DATE OF FORM 10/11 REPORT] to 21 days after settlement (or to the earlier date of registration of your client's interest in the above subjects) and which would cause the Keeper to make an entry on, or qualify his indemnity in, the Land Certificate to be issued in respect of that interest, and (2) confirm that, to the best of our knowledge and belief, as at this date, the answers to the questions numbered 1 to 14 in the draft Form 2 adjusted with you (insofar as these answers relate to the Scottish Minister's interest in the above subjects) are still correct.

Yours faithfully

This is Schedule 6 comprising the Builder Direct Agreement and the Builders' Sub-Contractors Deed referred to in the Project Agreement for Project Operations at Glasgow Royal Infirmary.

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SCHEDULE 6

SECTION A: BUILDER DIRECT AGREEMENT



2

BUILDER DIRECT AGREEMENT
BETWEEN
GREATER GLASGOW HEALTH BOARD
AND
IMPREGILO PARKING (GLASGOW) LIMITED
AND
IMPREGILO NEW CROSS LIMITED

File Ref: GT5/45 LT/PS

© 2007

**NHSScotland Central Legal Office
Trinity Park House
South Trinity Road
Edinburgh EH5 3SE
DX ED154**

BUILDERS DIRECT AGREEMENT

Between

GREATER GLASGOW HEALTH BOARD
constituted pursuant to the National Health Service
(Scotland) Act 1972 and its statutory successors
having its headquarters at Dalian House PO Box
15329 350 St. Vincent Street Glasgow G3 8YZ
("NHS Greater Glasgow")

and

IMPREGILO PARKING (GLASGOW) LIMITED
(Company Number 04531874) whose registered
office is at Second Floor, 1 Raleigh Walk, Brigantine
Place, Cardiff, CF10 4LN
("IPL")

and

IMPREGILO NEW CROSS LIMITED
(Company Number 4295568) and whose registered
office is at Second Floor, 1 Raleigh Walk, Brigantine
Place, Cardiff, CF10 4LN
(the "Builder");

WHEREAS:

- A. NHS Greater Glasgow and IPL have agreed the terms on which IPL will undertake the financing, design and construction in connection with the provision of a fully serviced multi storey car park at the Glasgow Royal Infirmary and, accordingly, have entered into the Project Agreement.
- B. The Builder has entered into a building contract with IPL ("the Building Contract").
- C. This Agreement is the "Builders Direct Agreement" contemplated by the Project Agreement.

NOW IT IS HEREBY AGREED as follows:

1. DEFINITIONS

1.1 In this Agreement, the following words, terms and expressions shall have the meanings given to them below:

"Business Day"	means Monday to Friday each week excluding Scottish public holidays recognised in Glasgow and "Business Days" shall be construed accordingly;
"Final Statement"	means the final statement referred to in clauses 22.15 and 22.16 of the Building Contract;
"Funder"	means The Royal Bank of Scotland plc in its several capacities as facility agent and/or security trustee for the Senior Funders under the Funding Agreements;
"Funder Builder's Direct Agreement"	means the agreement between the Builder, the Funder and IPL dated on or about the date hereof;
"Novation Effective Date"	means the date of performance of the obligations set out in Clauses 4.5 (b) (i) and 4.5 (b) (ii);
"Party"	means a party to this Agreement and "Parties" shall be construed accordingly;
"Project Agreement"	means the project agreement of even date herewith between NHS Greater Glasgow and IPL;
"Proposed Novation Date"	has the meaning given in Clause 4.1;
"Proposed Novation Notice"	has the meaning given in Clause 4.1;
"Proposed Step-in Date"	has the meaning given in Clause 3.1;
"Proposed Substitute"	has the meaning given in Clause 4.1;
"Step-in Date"	means the date of issue of the Step-in Undertaking;
"Step-in Notice"	has the meaning given in Clause 3.1;
"Step-in Period"	means the period commencing on the Step-in Date and ending on the earliest of: (a) the date of the second anniversary of the Step-in Date (but subject always to Clause

4.7);

- (b) the Step-out Date;
- (c) the Novation Effective Date; and
- (d) termination of the Building Contract under Clause 3.3;

"Step-in Undertaking" has the meaning given in Clause 3.2.

"Step-out Date" has the meaning given in Clause 3.4 (a).

"Termination Notice" has the meaning given in Clause 2.

1.2 Interpretation

- (a) Words importing any gender include any other gender and words in the singular include the plural and words in the plural include the singular.
- (b) References to any statute or statutory provision in this Agreement shall be deemed to refer to any modification or re-enactment thereof for the time being in force whether by statute or by directive or regulation which is intended to have direct application within the United Kingdom and has been adopted by the Council of the European Communities.
- (c) The headings and index are inserted for convenience only and shall be ignored in interpreting the terms and provisions of this Agreement.
- (d) References in this Agreement to any Clause or Sub-Clause or Schedule or Appendix without further designation shall be construed as a reference to the clause or sub-clause of or schedule to this Agreement so numbered.

- (e) Where consent or approval of any party hereto is required for any purpose under or in connection with the terms hereof it shall be given in writing.
- (f) A reference to an employee of NHS Greater Glasgow shall include a reference to any full or part time employee or officer director manager or clinical staff (including visiting clinical staff).
- (g) Wherever in this Agreement a period of time is referred to, the day upon which that period commences shall be the day after the day from which the period is expressed to run, or the day after the day upon which the event occurs which causes the period to start running.
- (h) Subject to Clause 1.1 terms used in this Agreement that are defined in the Project Agreement shall have the meanings given to them in the Project Agreement.

2. TERMINATION NOTICE

- 2.1 The Builder undertakes to NHS Greater Glasgow not to terminate the Building Contract on account of an IPL Event of Default (as defined in the Building Contract) without first giving NHS Greater Glasgow not less than 20 Business Days' prior written notice specifying the grounds for that termination. For the avoidance of doubt, the Builder shall be entitled to suspend performance of its obligations under or pursuant to the Building Contract (including without limitation execution of the Works) from the date of the Termination Notice until the Step-In Date. Any such notice, other than one given in circumstances where there is no default under the Building Contract by IPL or the Builder, shall be a "Termination Notice".

2.2 The Termination Notice may be given by the Builder up to 5 Business Days before the earliest date on which the Builder reasonably expects to become entitled to exercise its right to terminate. If following the giving of a Termination Notice such right to terminate does not in fact arise the Builder shall without delay give to NHS Greater Glasgow written notification to that effect.

3. STEP-IN AND STEP-OUT

3.1 Step-in Notice

If NHS Greater Glasgow has terminated the Project Agreement in accordance with the terms of that agreement or if NHS Greater Glasgow has received a Termination Notice, then subject and postponed to the rights of the Funder in terms of provisions of the Funder Builder's Direct Agreement, NHS Greater Glasgow may no later than 20 Business Days after the later of:-

- (a) exhibition to NHS Greater Glasgow of written intimation from the Funder of its intention not to exercise any step in rights available to it under the Funder Builder's Direct Agreement;
- (b) receipt by NHS Greater Glasgow from IPL of written confirmation of either notice received from the Funder of its intention not to exercise its said step in rights or expiry of the period during which the Funder may exercise its said step in rights but the Funder has failed to do so; or
- (c) the date of the Termination Notice

give prior written notice to the Builder (a "Step-in Notice") of the intention of NHS Greater Glasgow to issue a Step-in Undertaking on a specified date (the

"Proposed Step-in Date") provided that such Proposed Step-in Date shall be no later than 10 Business Days after the date of the Step-in Notice. Unless the Builder otherwise consents, only one Step-in Notice may be given during the period of this Agreement. Subject to Clause 5.1, the Builder shall not be entitled to terminate the Building Contract until after the Proposed Step-in Date.

3.2 Step-in Undertaking

- (a) Within 3 Business Days of receipt of any Step-in Notice, the Builder shall give written notice to NHS Greater Glasgow of any sums of which the Builder has actual knowledge which are due and payable to it including any costs of suspension, demobilisation, standby and remobilisation but unpaid by IPL and/or the Funder on behalf of IPL and of any other material obligations or liabilities, of which the Builder has actual knowledge, which should have been performed or discharged by IPL under the Building Contract, in each case, as at the date of the Step-in Notice.
- (b) the Builder shall inform NHS Greater Glasgow in writing as soon as reasonably practicable of:
 - (i) any change in such sums, obligations or liabilities referred to in Clause 3.2(a); and
 - (ii) any further sums, obligations or liabilities thereafter falling due and payable but unpaid or falling due for performance or discharge and unperformed or undischarged (as the case may be),in each case of which the Builder has actual knowledge before the Step-in Date.

(c) Not later than the Proposed Step-in Date NHS Greater Glasgow shall decide if it is prepared to issue a Step-in Undertaking. If it does so decide, NHS Greater Glasgow shall promptly give the Builder written notification of such decision. NHS Greater Glasgow shall deliver to the Builder on the Proposed Step-in Date a written undertaking in form and substance agreed with the Builder (both NHS Greater Glasgow and the Builder acting reasonably) (the "Step-in Undertaking"), (incorporating a clause in terms similar to Clause 10, but only to the extent that there will not be double counting of default interest accruing under the Building Contract and this Agreement):

- (i) to pay or procure the payment to the Builder, within 20 Business Days of demand by the Builder, of any sum due and payable but unpaid by IPL to the Builder under the Building Contract before the Step-in Date;
- (ii) to perform or discharge or procure the performance or discharge of any unperformed or undischarged obligations of IPL under the Building Contract which shall have fallen due for performance or discharge before the Step-in Date within such period as the Builder may reasonably require;
- (iii) to pay or procure the payment of any sum due and payable by IPL under the Building Contract which shall arise from any act or omission occurring during the Step-in Period (but subject to Clause 3.4 and 4.5); and
- (iv) to perform or discharge or procure the performance or discharge of any obligations of IPL under the Building

Contract which shall arise during the Step-in Period (but subject to Clause 3.4 and 4.5).

- (d) If NHS Greater Glasgow shall not have issued the Step-in Undertaking on or before the Proposed Step-in Date the Step-in Notice shall be deemed to have been withdrawn and the rights and obligations of the Parties shall be construed as if the Step-in Notice had not been given.

3.3 Restriction of Right of Termination

During or in respect of the Step-in Period, the Builder confirms to NHS Greater Glasgow that subject to payment by NHS Greater Glasgow to the Builder of all outstanding amounts properly due and owing to the Builder under the Building Contract it shall continue to observe and perform its duties and obligations under the Building Contract and shall, without prejudice to Clause 5.1, only be entitled to exercise its rights of termination under the Building Contract:

- (a) by reference to an event arising during (rather than before) the Step-in Period (and any expiry of any remedy period referred to in the Building Contract where the act or omission giving rise to the commencement of such remedy period remains unremedied shall be deemed for these purposes to be an event arising during the Step-in Period), provided that the following events
 - (i) any IPL Event of Default (as defined in the Building Contract); or
 - (ii) an event which is a breach of the Building Contract and which is capable of remedy and is remedied within any relevant period set out therein,

(notwithstanding that they may have occurred during the Step-in Period) shall not entitle the Builder to exercise such rights of termination during the Step-in Period; or

- (b) if NHS Greater Glasgow fails to pay when due any amount owed to the Builder or to perform or discharge when falling due for performance or discharge any obligation under the Step-in Undertaking or fails to procure such payment or performance or discharge;

3.4 Step-Out

NHS Greater Glasgow may, at any time, give the Builder at least 40 Business Days' prior written notice:

- (a) to terminate the Step-in Period on a date specified in the notice (the "Step-out Date"); or
- (b) that (subject to Clause 4.4(b)) the Step-in Period will end due to the occurrence (subject to Clause 4.7) of the first anniversary of the Step-in Date,

and provided that:

- (c) any obligations of IPL under the Building Contract in relation to the maintenance of records and the provision of reports shall have been properly performed during the Step-in Period so as to permit the Builder to monitor the performance of IPL's other obligations under the Building Contract; and
- (d) all liability under the Step-in Undertaking pursuant to any claims properly due in terms of Clause 3.2 (c) made during the period of

such notice Step-In Period or within 15 Business Days of the expiry of such notice the Step-in Period shall have been fully and unconditionally discharged by or on behalf of NHS Greater Glasgow.

NHS Greater Glasgow shall be released from the Step-in Undertaking on the expiry of the Step-in Period for the reasons specified in Clauses 3.4 (a) and 3.4 (b). Such release shall not affect the continuation of IPL's obligations towards the Builder under the Building Contract.

4. NOVATION

4.1 Proposed Substitute

At any time that NHS Greater Glasgow is entitled to give a Step-in Notice pursuant to Clause 3.1 or at any time during the Step-in Period NHS Greater Glasgow may give notice (a "Proposed Novation Notice") to the Builder that it wishes itself or another person (a "Proposed Substitute") to assume, by way of sale, transfer or other disposal, the rights and obligations of IPL under the Building Contract and specifying a date (the "Proposed Novation Date"): falling not later than 30 Business Days after the date of the Proposed Novation Notice, where a Proposed Novation Notice is given during the Step-in Period on which such assumption is to be effective. Save as provided in Clause 4.4, only one Proposed Novation Notice may be given during the period of this Agreement. Subject to Clause 5.1, the Builder shall not be entitled to terminate the Building Contract during the notice period specified in a Proposed Novation Notice.

4.2 Information for Consent to Novation

If the Proposed Novation Notice specifies NHS Greater Glasgow as the Proposed Substitute, the Builder's consent to the novation shall be deemed to have been

given automatically. Where the Proposed Substitute is not NHS Greater Glasgow, a novation in accordance with a Proposed Novation Notice shall only be effective if the Builder consents to that novation in writing in accordance with Clause 4.3 and NHS Greater Glasgow shall (as soon as practicable) supply the Builder with such information as the Builder requires to enable it to decide whether or not to grant such consent. Such information shall include without limitation:

- (a) the name and registered address of the Proposed Substitute;
- (b) the names of the shareholders in the Proposed Substitute and the share capital owned by each of them;
- (c) the names of the directors and the secretary of the Proposed Substitute;
- (d) details of the means by which it is proposed to finance the Proposed Substitute (including the extent to which such finance is committed and any conditions precedent as to its availability for drawing); and
- (e) the resources (including contractual arrangements) which are to be available to the Proposed Substitute to enable it to perform its obligations under the Building Contract.

4.3 Grant of Consent

The Builder may only withhold or delay consent to a novation where the Proposed Substitute is not NHS Greater Glasgow and NHS Greater Glasgow has failed to show to the Builder's satisfaction (acting reasonably) that:

- (a) the Proposed Substitute has the legal capacity, power and authorisation to become a party to and perform the obligations of IPL under the Building Contract;
- (b) the technical competence and financial standing of and the technical and financial resources available to the Proposed Substitute are sufficient to perform the obligations of IPL under the Building Contract; and
- (c) that no officer of the Proposed Substitute has committed any criminal offence or act of grave misconduct in the course of his business or profession.

The Builder shall notify NHS Greater Glasgow in writing, within 5 Business Days of the later of receipt of a Proposed Novation Notice and all information required under Clause 4.2, as to whether or not it has decided to grant such consent (together with an explanation of its reasons if it has decided to withhold its consent).

4.4 Consent withheld

If, in accordance with Clause 4.3, the Builder withholds its consent to a Proposed Novation Notice, NHS Greater Glasgow shall be entitled to give one or more subsequent Proposed Novation Notices, pursuant to the provisions of Clause 4.1, containing changed particulars relating to the same Proposed Substitute or particulars relating to another Proposed Substitute which (where the replacement Proposed Substitute is not NHS Greater Glasgow) NHS Greater Glasgow has good cause to believe would fulfil the requirements of Clause 4.3, provided that only one Proposed Novation Notice may be outstanding at any one time, and:

- (a) where a Step-in-Notice has not been issued, any revised Proposed Novation Date shall be a date falling no later than the date of expiry of the Termination Notice; and
- (b) if the Proposed Novation Notice was served during the Step-in Period, the Step-in Period shall continue (subject to the terms of this Agreement).

4.5 Implementation of Novation

- (a) On the Proposed Novation Date and without prejudice to Clause 5.1:-
 - (i) subject to the prior performance by IPL of its obligations under clause 4.5 (a) the Proposed Substitute shall become a party to the Building Contract in place of IPL and, thereafter, shall be treated as if it was and had always been named as a party to the Building Contract in place of IPL; and
 - (ii) the Builder, IPL and the Proposed Substitute shall enter into a novation agreement and any other requisite agreements, in form and substance satisfactory to the Builder (acting reasonably), pursuant to which the Proposed Substitute shall be granted all of the rights and assume all of the obligations and liabilities of IPL under the Building Contract (including those arising prior to the end of the Step-in Period), provided that the Builder will not be in breach of any of its obligations under this Agreement (including

without limit those in clause 4.5 (a)) if the Proposed Substitute and IPL do not enter into such agreements.

(b) On and after the Novation Effective Date:

(i) the Builder shall owe its obligations under the Building Contract (whether arising before, on or after such date) to the Proposed Substitute and the receipt, acknowledgement or acquiescence of the Proposed Substitute shall be a good discharge; and

(ii) if NHS Greater Glasgow shall have entered into a Step-in Undertaking, NHS Greater Glasgow shall be released from the Step-in Undertaking, provided that:

(1) all obligations of NHS Greater Glasgow under the Step-in Undertaking which have accrued up to the Novation Effective Date and are identifiable as at that date shall have been fully and unconditionally discharged in full on that date or otherwise assumed by the Proposed Substitute; and

(2) the obligations of IPL under the Building Contract in relation to the maintenance of records and the provision of reports shall have been performed properly during the period up to the Novation Effective Date so as to permit the Builder to monitor the performance of IPL's other obligations under the Building Contract.

- (c) NHS Greater Glasgow and the Builder shall use all reasonable endeavours to agree any amendments to the Building Contract necessary to reflect the fact that the Project Agreement may have terminated at the time the novation agreement referred to in this Clause is entered into.

4.6 Termination After Novation

After the Novation Effective Date the Builder shall only be entitled to exercise its rights of termination under the Building Contract:

- (a) in respect of any event arising after that date (any expiry of any remedy period referred to in the Building Contract where the act or omission giving rise to the commencement of such remedy period remains unremedied being deemed for these purposes to be an event arising after that date) in each case subject to expiry of any applicable remedy period provided for in the Building Contract, if the event in question is capable of remedy; or
- (b) if the Proposed Substitute does not discharge the obligations and liabilities assumed by it under Clause 4.5 which relate to matters arising prior to the end of the Step-in Period within 5 Business Days following the Novation Effective Date.

4.7 Expiry of Step-In Period

If the Step-in Period shall not previously have ended and, as at the date of the first anniversary of the Step-in Date:

- (a) NHS Greater Glasgow shall be in the course of conducting discussions in good faith with a Proposed Substitute (the novation

to whom has been approved by the Builder whether automatically or otherwise in accordance with Clause 4.3), the Step-in Period shall be extended and shall continue until such date as is proposed by NHS Greater Glasgow and agreed by the Builder (acting reasonably); or

- (b) if contracts have been exchanged by NHS Greater Glasgow with a Proposed Substitute (which has been approved by the Builder whether automatically or otherwise in accordance with Clause 4.3) as at such date, the Step-in Period shall be extended and shall continue until the date such contracts are completed, provided that such date shall not be later than 20 Business Days after exchange.

5. RIGHTS AND OBLIGATIONS UNDER THE BUILDING CONTRACT

5.1 Rights of Termination

If:

- (a) no Step-in Notice or Proposed Novation Notice is given before a Termination Notice expires; or
- (b) a Step-in Undertaking is not issued on the Proposed Step-in Date; or
- (c) the Step-in Notice is withdrawn or, pursuant to Clause 3.2(d), deemed to have been withdrawn; or
- (d) the Step-in Period ends other than on the occurrence of the Novation Effective Date; or

- (e) in the absence of a Step-in Undertaking, the Builder withholds its consent to a novation pursuant to a Proposed Novation Notice, in accordance with Clause 4.3; or
- (f) in the absence of a Step-in Undertaking, the obligations of the Proposed Substitute set out in Clause 4.5 are not performed on the date required by Clause 4.5; or
- (g) the Builder is entitled to terminate the Building Contract under Clause 4.6;
- (h) the Builder shall be entitled to:
 - (i) exercise all of its rights under the Building Contract and act upon any and all grounds for termination available to it in relation to the Building Contract whenever occurring; and/or
 - (ii) pursue any and all claims and exercise any and all rights and remedies against IPL for any undischarged liabilities of IPL in respect of the Step In Period; and/or
 - (iii) pursue any and all claims and exercise any and all rights and remedies against NHS Greater Glasgow for any undischarged liabilities of NHS Greater Glasgow in respect of the Step In Period.

5.2 IPL's Obligations to Continue

Subject to the terms of the novation and other requisite agreements referred to in Clause 4.5, IPL shall continue to be liable for all its obligations and liabilities, whenever occurring, under or arising from the Building Contract notwithstanding:

- (a) the service of a Step-in Notice or the issue of a Step-in Undertaking or the expiry of the Step-in Period or the release of a Step-in Undertaking; or
- (b) the service of a Proposed Novation Notice; or
- (c) any other provision of this Agreement.

6. WARRANTIES

6.1 The Builder agrees and undertakes to NHS Greater Glasgow that regardless of whether or not NHS Greater Glasgow exercises its rights under Clause 3.1:

- (a) that it will owe NHS Greater Glasgow no greater contractual duties and obligations and shall have no greater liability in time or nature to NHS Greater Glasgow than if NHS Greater Glasgow had been named as joint employer with IPL under the Building Contract;
- (b) that it will not set-off any sums due to it from IPL under the Building Contract otherwise than in accordance with the provisions of the Building Contract;
- (c) where NHS Greater Glasgow has exercised its rights under Clause 3, to deliver to NHS Greater Glasgow on demand any:
 - (i) application for payment pursuant to clause 22 of the Building Contract;
 - (ii) claim for additional payments whether under express provision of the Building Contract or otherwise together with

details of any variations requested by IPL or the Builder and
details of the settlement of such items;

- (iii) details of any liquidated damages likely to be paid by the Builder to IPL;
- (iv) claims for extensions of time for completion of the Works together with any particulars in connection with such claim and details of any notification, response, determination or certification or other action in connection with such claim;
- (v) Final Statement;
- (vi) details of any defects or matters arising compiled during any Defects Liability Period under the Building Contract;
- (vii) notices referring any matter to adjudication under the Building Contract;

together with any supporting information called for therein or as may otherwise reasonably be required by NHS Greater Glasgow.

7. REVOCATION OF NOTICES

A Termination Notice and a Step-in Notice may each be revoked (in writing to the recipient) by the Party giving them before the expiry of their respective notice periods. Upon any such revocation, the rights and obligations of the Parties shall be construed as if the relevant notice had not been given.

8. ASSIGNATION

8.1 Binding on Successors and Assignees

This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and permitted assigns. In the case of NHS Greater Glasgow, its successors shall be any person to which the First Minister, in exercising his statutory powers to transfer property, rights and liabilities of NHS Greater Glasgow upon NHS Greater Glasgow ceasing to exist, transfers the rights and obligations of NHS Greater Glasgow under this Agreement.

8.2 Restriction on Assignment

No Party shall assign or transfer any part of its respective rights or obligations under this Agreement without the prior consent of the others, provided that NHS Greater Glasgow shall be entitled, without the consent of any other Party, to transfer all its rights and obligations hereunder, in the circumstances contemplated in Clause 35 of the Project Agreement, to the First Minister, another National Health Service Trust, a Health Board, a Special Health Board or, with IPL's consent (acting reasonably), any other person.

9. NOTICES

9.1 Address

Except as otherwise stated, all notices or other communications required in connection with this Agreement shall be in writing and sent by hand, by first class prepaid post or by facsimile transmission to the relevant address or facsimile number set out below or to such other address or facsimile number as a Party may notify to the others in writing by not less than five Business Days' prior notice.

9.2 Effective receipt

Subject to Clause 9.3:

- (a) a letter delivered by hand shall be effective when it is delivered to the addressee;
- (b) a letter sent by first class prepaid post shall be deemed received on the second Business Day after it is put in the post; and
- (c) a facsimile transmission shall be effective upon completion of transmission.

9.3 Timing

No notice or other communications received on a day which is not a Business Day or after 5pm on any Business Day in the place of receipt shall be deemed to be received until the next following Business Day.

NHS Greater Glasgow

Greater Glasgow Health Board
Dalian House
PO Box 15329
350 St. Vincent Street
Glasgow G3 8YZ

Builder

Impregilo New Cross Limited
Second Floor
1 Raleigh Walk
Brigantine Place
Cardiff
CF10 4LN

Fax Number: 029 2044 5781
Attention: Mr. Mike Folkard

IPL

Impregilo Parking (Glasgow) Limited
Second Floor
1 Raleigh Walk

Brigantine Place
Cardiff
CF10 4LN

Fax Number: 029 2044 5781
Attention: Mr. Gianfranco Catrini

10. PAYMENTS AND TAXES

10.1 Payments

All payments under this Agreement to any Party shall be made in pounds sterling by electronic transfer of funds for value on the day in question to the bank account of the recipient (located in the United Kingdom) specified to the other Parties from time to time.

10.2 Deductions from payments

All sums payable by a Party to any other Party under this Agreement shall be paid free and clear of all deductions or withholdings whatsoever in respect of taxation, save as may be required by Law.

10.3 Default Interest

Each Party shall be entitled, without prejudice to any other right or remedy, to receive interest on any payment not made on the due date calculated at the Default Interest Rate on a daily basis and on the basis of a 365 day year from the due date up to but excluding the date of payment to apply after as well as before judgment.

11. INTELLECTUAL PROPERTY RIGHTS

Regardless of whether NHS Greater Glasgow exercises its rights under Clause 3 hereof, the Builder hereby expressly agrees and declares that NHS Greater Glasgow and/or any Proposed Substitute (if applicable) shall have an irrevocable royalty-free non-exclusive

licence (to the extent the Builder is able to give such licence) for the term of copyright under and in respect of all copyright in all drawings, designs, plans, specifications, reports, bills of quantities, calculations, records and other similar documents provided by the Builder or on its behalf in connection with the Works (together "the Documents") to copy and use the Documents and each of them and to reproduce the designs contained in them for any purpose related to the Works or to the alteration or extension of the Works. Such licence shall continue notwithstanding termination for whatever reason of the Building Contract.

12. AGENCY

12.1 No Delegation

No provision of this Agreement shall be construed as a delegation by NHS Greater Glasgow of any of its statutory authority to any other Party.

12.2 No Agency

Save as otherwise provided in this Agreement, no Party shall be or be deemed to be an agent of any other's nor shall any Party hold itself out as having authority or power to bind another in any way.

12.3 Independent Contractor

The Parties shall, at all times, be independent contractors and nothing in this Agreement shall be construed as creating any partnership between the Parties or any relationship of employer and employee between the Parties.

13. WHOLE AGREEMENT

This Agreement (when read together with the Project Agreement and the Building Contract but without prejudice, save to the extent affected hereby, thereto and to the

Funding Agreements and the Funder Builder's Direct Agreement) contains or expressly refers to the entire agreement between the Parties with respect to the specific subject matter of this Agreement and expressly excludes any warranty, condition or other undertaking implied at Law or by custom and supersedes all previous agreements and understandings between the Parties with respect thereto and each of the Parties acknowledges and confirms that it does not enter into this Agreement in reliance on any representation, warranty or other undertaking not fully reflected in the terms of this Agreement Provided that nothing in this Clause 13 purposes to exclude any Party's liability for representatives made fraudulently.

14. WAIVER

Failure by any Party at any time to enforce any provision of this Agreement or to require performance by the other Parties of any provision of this Agreement shall not be construed as a waiver of such provision and shall not affect the validity of this Agreement or any part of it or the right of the relevant Party to enforce any provision in accordance with its terms.

15. SEVERABILITY

If any condition, Clause or provision of this Agreement not being of a fundamental nature, is held to be illegal or unenforceable, the validity or enforceability of the remainder of this Agreement shall not be affected thereby.

16. COSTS AND EXPENSES

Each Party shall be responsible for paying its own costs and expenses incurred in connection with the negotiation, preparation and execution of this Agreement.

17. AMENDMENTS

No amendment to this Agreement shall be binding unless in writing and signed by the duly authorised representatives of the Parties.

18. GOVERNING LAW AND JURISDICTION

18.1 Law

This Agreement shall be governed by and construed in all respects in accordance with Scottish Law.

18.2 Jurisdiction

The Parties each submit to the jurisdiction of the Scottish courts as regards any claim or matter arising in relation to this Agreement: IN WITNESS whereof the Parties have executed this Agreement as follows:-

For and on behalf of NHS Greater Glasgow

Place	Date
Signed by	Witnessed by
Print Name: Thomas Andrew Divers	Print Name: Wendy Hull
Designation: Chief Executive	Designation: Director of Finance

For and on behalf of Impregilo New Cross Limited

Place	Date
Signed by	Witnessed by
Print Name	Print Name
Designation	Designation
	Address

For and on behalf of Impregilo Parking (Glasgow) Limited

Place	Date
Signed by	Witnessed by
Print Name	Print Name
Designation	Designation
	Address

SECTION B: BUILDING SUB-CONTRACTOR'S DEED



Warranty

between

Laing O'Rourke Scotland Limited

and

Greater Glasgow Health Board

File Ref: GT5/45 LT/MCB

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**NHSScotland Central Legal Office
Trinity Park House
South Trinity Road
Edinburgh EH5 3SE
DX ED154**

WARRANTY

between

LAING O'ROURKE SCOTLAND LIMITED
(Company Number 4309432) and whose
registered office is at Bridge Place, Anchor
Boulevard, Admirals Park, Crossways, Dartford,
Kent, DA2 6SN
("Contractor")

and

GREATER GLASGOW HEALTH BOARD
constituted pursuant to the National Health
Service (Scotland) Act 1972 and its statutory
successors having its headquarters at Dalian
House PO Box 15329 350 St. Vincent Street
Glasgow G3 8YZ
("NHS Greater Glasgow")

WHEREAS:-

- A. NHS Greater Glasgow has entered inter alia into an agreement of even date ("Project Agreement") with Impregilo Parking (Glasgow) Limited ("IPL") to carry out the Works at the Glasgow Royal Infirmary.
- B. Impregilo New Cross Limited ("New Cross") has entered into an agreement of even date ("Building Contract") with IPL providing for New Cross to undertake IPL's obligations under the Project Agreement to carry out the Works.
- C. New Cross has entered into an agreement with the Contractor of even date ("Building Sub-Contract" which expression shall include all documents incorporated therein) providing for the Contractor to carry out some of its obligations in relation to the Works ("the Sub-Contract Works").

- D. The Contractor has agreed to provide to NHS Greater Glasgow and its assignees Warranties and Undertakings as hereinafter set out.

NOW THEREFORE THE PARTIES DO HEREBY AGREE AS FOLLOWS:-

1.

1.1 The Contractor warrants and undertakes to NHS Greater Glasgow that it has complied and will continue duly to comply with all the terms of the Building Sub-Contract on the Contractor's part to be performed and observed and complete the Sub-Contract Works in accordance with the Building Sub-Contract.

1.2 Without prejudice to Clause 1.1 the Contractor further warrants and undertakes to NHS Greater Glasgow that:-

(a) it has exercised and will continue to exercise all the reasonable skill and care to be expected from a contractor experienced in carrying out works similar in nature, size and complexity to the Sub-Contract Works in:-

(i) the design of the Sub-Contractor's Designed Portion (as defined in the Building Sub-Contract); and

(ii) the selection of goods and materials for the Sub-Contract Works;

(iii) the performance of its duties to New Cross under the Building Sub-Contract;

(b) on completion, the Sub-Contract Works will satisfy all performance specifications and other requirements contained in the Building Sub-Contract;

- (c) the Sub-Contract Works and all materials and goods comprised therein will correspond as to description, quality and condition with the requirements of the Building Sub-Contract;
- (d) on completion, the Sub-Contract Works will comply with all applicable statutory requirements; and
- (e) it will not seek to modify or vary any of the obligations for which it is responsible under the Building Sub-Contract in any respect if that modification or variation will be detrimental to NHS Greater Glasgow or affect NHS Greater Glasgow's rights and obligations under the Project Agreement.

PROVIDED THAT the liability and obligations of the Contractor under this Agreement shall be no greater in extent or quantity than if NHS Greater Glasgow had been named as employer with New Cross under the Building Sub-Contract and the Contractor shall be entitled in any action or proceedings by NHS Greater Glasgow to rely on any limitation in the Building Sub-Contract and to raise equivalent rights in defence of liability as it would have against New Cross under the Building Sub-Contract other than counter-claims, set-off or to state a defence of no loss or a different loss has been suffered by NHS Greater Glasgow and the Contractor shall have no liability whatsoever arising out of any delay in the carrying out or completion of the Works. The Contractor further warrants that the Contractor's obligations hereunder shall not be affected by any amendment to or variation of the Building Sub-Contract.

2. Subject to Clause 1 nothing herein contained shall entitle NHS Greater Glasgow to issue any direction or instruction to the Contractor in relation to the Building Sub-Contract.

3. The Contractor shall maintain professional indemnity insurance throughout the construction of the Works in an amount of not less than £20 million POUNDS (£20,000,000) in aggregate and thereafter for a period of twelve (12) years from the date of issue of the Certificate of Practical Completion (as defined in the Building Sub-Contract), provided always that such insurance is generally available on the market at commercially reasonable rates. The Contractor shall immediately inform NHS Greater Glasgow if such insurance ceases to be available at commercially reasonable rates in order that the Contractor and NHS Greater Glasgow can discuss means of best protecting the respective positions of NHS Greater Glasgow and the Contractor in respect of the Sub-Contract Works in the absence of such insurance. As and when it is reasonably requested to do so by NHS Greater Glasgow the Contractor shall produce for inspection documentary evidence that its professional indemnity insurance is being maintained.
4. The Contractor grants to NHS Greater Glasgow an irrevocable royalty-free licence to use and reproduce all designs, drawings, models, plans specifications, design details, photographs, brochures, reports, notes of meetings and any other materials prepared by or on behalf of the Contractor in connection with the Sub-Contract Works and all amendments and additions thereto (whether in existence or to be made) and any works, designs or inventions of the Contractor incorporated or referred to therein for all purposes relating to the Sub-Contract Works including (without limitation) the construction, completion, reconstruction, modification, repair, use, letting and advertisement of the Sub-Contract Works and shall be freely transferable to third parties. The Contractor shall not be liable for any use by NHS Greater Glasgow of any drawings and other of the above documents for any purpose

- other than that for which the same were prepared and provided by the Contractor or for any improper or negligent use by NHS Greater Glasgow.
5. Without prejudice to Clause 1, the Contractor further warrants that it has used reasonable endeavours to ensure that it has not and will not specify for use in relation to the Sub-Contract Works any products or materials not in conformity with relevant British or European Standards or Codes of Practice or which are at the time of use generally known within the United Kingdom to designers within the appropriate profession or buildings (in each case experience in the design and/or construction of works such as the Works) to be deleterious to health and safety or to the durability of buildings and/or other structures and/or finishes and/or plant and machinery in the particular circumstances in which they are used.
 6. The definitions of "Works" and phrases used in this Agreement shall be those set out in the Project Agreement except where set out or expressly defined elsewhere in this Agreement.
 7. The liability of the Contractor under this Agreement shall cease twelve (12) years following the date of Practical Completion as defined under the Building Sub-Contract save in respect of proceedings commenced prior to that date.
 8. This Agreement shall be governed by and construed in accordance with Scots Law and the parties hereto subject to the jurisdiction of the Scottish courts.
 9. The Contractor undertakes that it will not raise as a defence to any action by NHS Greater Glasgow for alleged breach of this Agreement the fact that the obligations of IPL to NHS Greater Glasgow in respect of the design and construction of the Sub-Contract Works have been released as a result of the termination of the Project Agreement.

10. Unless otherwise stated in this Agreement the following provisions shall apply to the giving of notice (a "Notice") which is required to be given in terms of this Agreement:-

10.1 A Notice shall be in writing and shall be deemed to have been sufficiently given only if either:-

- (a) sent by first class recorded delivery post; or
- (b) delivered by hand and receipted by or on behalf of the recipient, to the appropriate addressee as provided in Clause 10.2;

10.2 A Notice shall be addressed as follows:-

- (a) those to NHS Greater Glasgow shall be addressed to "For the attention of the Chief Executive, Greater Glasgow Health Board Dalian House PO Box 15329 350 St. Vincent Street Glasgow G3 8YZ or otherwise as notified from time to time by NHS Greater Glasgow to the Contractor; and
- (b) those to the Contractor shall be addressed to Chief Executive, Bridge Place, Anchor Boulevard, Admiral's Park, Crossways, Dartford, Kent, DA2 6SN or otherwise as notified from time to time by the Contractor to NHS Greater Glasgow;

10.3 A Notice shall be deemed to have been received (where sent by recorded delivery post) on the second Working Day after the Working Day on which it was posted or (where not so sent) when receipt is acknowledged by the recipient thereof or on proof of delivery;

10.4 In proving posting of a Notice sent by recorded delivery it shall be sufficient to prove that the envelope containing the Notice was duly addressed in accordance with the provisions of this Clause and posted to the place to which it was addressed; and

10.5 Except where otherwise provided in this Agreement a Notice under this Agreement shall not take effect until the expiry of three (3) Working Days from its date of receipt or deemed receipt under Clause 10.3 or such later date as may be specified in the Notice: IN WITNESS WHEREOF these presents typewritten on this and the preceding six pages are executed as follows:-

Signed for and on behalf of Laing O'Rourke Scotland Limited

Place of Execution

Witnessed by

Date

Print Name

Signed by

Address

Print Name

Title

Signed for and on behalf of Greater Glasgow Health Board

Date

Date

Signed by

Signed by

Print Name: Thomas Andrew Divers

Print Name: Wendy Hull

Title: Chief Executive

Title: Director of Finance

This is Schedule 7 comprising the Professional Team Warranty referred to in the Project Agreement for the Project Operations at Glasgow Royal Infirmary.

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SCHEDULE 7

PROFESSIONAL TEAM WARRANTY

AGREEMENT

between

DINARDO PARTNERSHIP LIMITED (SC
Number 124667) whose registered office is
at Mirren Court One, 119 Renfrew Road,
PAISLEY, PA3 4EA

(the "Firm")

and

GREATER GLASGOW HEALTH BOARD
constituted pursuant to the National Health
Service (Scotland) Act 1972 and its
statutory successors having its
headquarters at Dalian House PO Box
15329 350 St. Vincent Street Glasgow G3
8YZ

("NHS Greater Glasgow")

WHEREAS

- A. NHS Greater Glasgow has entered into an agreement of even date ("the Project Agreement") with, among others, Impregilo Parking (Glasgow) Limited a company incorporated under the Companies Acts and having its registered office at ("the Developer") being one of a number of agreements entered into by the Developer and NHS Greater Glasgow in connection with the design,

construction and subsequent operation of car parking facilities at Glasgow Royal Infirmary, Glasgow.

- B. The Developer has entered into an agreement ("the Building Contract") with Impregilo (New Cross) Limited ("the Builder") for the design and construction of a five storey car park, surface parking, associated infrastructure works, temporary surface car parking together with associated services, landscaping and external works ("the Works").
- C. By a contract ("the Appointment") the Builder has appointed the Firm to carry out Consultancy Services in respect of the design of the Works and a copy of the Appointment is annexed hereto.
- D. It is a term of the Project Agreement, the Building Contract and the Appointment that the parties hereto enter into this Agreement.

NOW THE PARTIES HAVE AGREED AND DO HEREBY AGREE AS FOLLOWS:-

- 1. The Firm warrants that it has exercised and will continue to exercise reasonable skill, care and diligence in the performance of its services to the Builder under the Appointment. In the event of any breach of this Agreement:-
 - 1.1 Subject to Clauses 1.2 and 1.3 the Firm shall be liable for the reasonable costs of repair, renewal and/or reinstatement of any part or parts of the Works to the extent that:-
 - (a) NHS Greater Glasgow incurs such cost; and/or
 - (b) NHS Greater Glasgow is or becomes liable either directly or by way of financial contribution for such costs.

- 1.2 The Firm shall not be liable for other losses incurred by NHS Greater Glasgow;
- 1.3 The Firm's liability under this Agreement shall be limited to that proportion of NHS Greater Glasgow's losses which it would be just and equitable to require the Firm to pay having regard to the extent of the Firm's responsibility for the same and on the basis the Builder shall be deemed to have provided contractual undertakings on terms no less onerous than this Clause 1 to NHS Greater Glasgow in respect of the performance of their services in connection with the Works and shall be deemed to have paid to NHS Greater Glasgow such proportion which it would be just and equitable for them to pay having regard to the extent of their responsibility;
- 1.4 The Firm shall be entitled in any action or proceedings by NHS Greater Glasgow to rely on any limitation in the Appointment and to raise the equivalent rights in defence of liability as it would have against the Builder under the Appointment;
- 1.5 The obligations of the Firm under or pursuant to this Clause 1 shall not be released or diminished by the appointment of any person by NHS Greater Glasgow to carry out any independent enquiry into any relevant matter.
2. The Firm will exercise skill, care and attention in accordance with this Agreement and will use all reasonable endeavours to ensure that it does not specify or use or authorise or approve the specification or use by others of any products or materials not in conformity with (save where they exceed) relevant British or European Standards or Codes of Practice or which are generally known within the Firm's profession at the time of specification

and/or use to be deleterious to health and safety or to the durability of buildings and/or other structures and/or finishes and/or plant and machinery in the particular circumstances in which they are used and/or specified to be used.

3. The Firm acknowledges that the Builder has paid all fees and expenses properly due and owing to the Firm under the Appointment up to the date of this Agreement.
4. NHS Greater Glasgow has no authority to issue any direction or instruction to the Firm in relation to the Appointment.
5. The copyright in all drawings, designs, plans, specifications, reports, bills of quantities, calculations, records and other similar documents prepared by or on behalf of the Firm in connection with the Works (together referred to in this Clause 5 as "the Documents") shall remain vested in the Firm but, subject to the Firm having received payment of any fees agreed as properly due under the Appointment, NHS Greater Glasgow and its appointee shall have a licence to copy and use the Documents and to reproduce the designs and content of them for any purpose related to the Works including, but without limitation, the construction, completion, maintenance, letting, promotion, advertisement, reinstatement, refurbishment and repair of the Works. Such licence shall enable NHS Greater Glasgow or its appointee to copy and use the Documents for the extension for the Works and shall include a licence to reproduce the designs contained in them for any extension of the Works. The Firm shall not be liable for any use by NHS Greater Glasgow or its appointee of any of the Documents for any purpose other than that for which the same were prepared by or on behalf of the Firm.

6. The Firm shall maintain professional indemnity insurance in an amount of FIVE MILLION POUNDS (£5,000,000) STERLING for any one claim and in all in any one period of insurance for a period of twelve (12) years from the date of issue of the Certificate of Practical Completion for the Works, provided such insurance is available at commercially reasonable rates. The Firm shall immediately inform NHS Greater Glasgow if such insurance is not or ceases to be available at commercially reasonable rates in order that the Firm and NHS Greater Glasgow can discuss the means of best protecting the respective positions of NHS Greater Glasgow and the Firm in the absence of such insurance. As and when it is reasonably requested to do so by NHS Greater Glasgow or its appointee the Firm shall produce for inspection documentary evidence that professional indemnity insurance is being maintained.
7. NHS Greater Glasgow shall be entitled to assign or transfer its rights under this Agreement twice to any other person acquiring NHS Greater Glasgow's interest in the whole of the Works without the consent of the Firm subject to written notice of such assignation being given to the Firm in accordance with Clause 8 hereof excluding always any transfer of NHS Greater Glasgow's rights under this Agreement which is effected by statute or statutory instrument.
8. Any notice to be given by the Firm hereunder shall be deemed to be duly given if it is delivered by hand at or sent by registered post or recorded delivery to NHS Greater Glasgow at its head office addressed to "the Director of Contracts and Planning" and any notice to be given by NHS Greater Glasgow hereunder shall be deemed to be duly given if it is addressed to "The Managing Director" and delivered by hand at or sent by registered post or recovered delivery to the above mentioned address of the Firm for the time

being and in the case of any such notices the same shall if sent by registered post or recorded delivery be deemed to have been received forty eight (48) hours after being posted.

9. No action or proceedings for any breach of this Agreement shall be commenced against the Firm after the expiry of twelve (12) years from the date of issue of the Certificate of Practical Completion of the Works as defined in the Building Contract.
10. The construction validity and performance of this Agreement shall be Governed by the law of Scotland and the parties agree to submit to the non-exclusive jurisdiction of the Scottish courts: IN WITNESS WHEREOF these presents consisting of this and preceding 5 pages are executed as follows:-

Signed for and on behalf of Greater Glasgow Health Board

Place of Execution: Glasgow

Date

Signed by

Print Name: Thomas Andrew Divers

Title: Chief Executive

Place of Execution: Glasgow

Date

Signed by

Print Name: Wendy Hull

Title: Director of Finance

Signed for and on behalf of Dinardo Partnership Limited

Place of Execution

Date

Signed by

Print Name

Title

Place of Execution

Date

Signed/Witnessed by

Print Name

Title

This is Schedule 8 comprising the Funders' Direct Agreement referred to in the Project Agreement for the Works and Project Operations at Glasgow Royal Infirmary.

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SCHEDULE 8

FUNDERS' DIRECT AGREEMENT

BETWEEN:

GREATER GLASGOW HEALTH BOARD

and

THE ROYAL BANK OF SCOTLAND PLC

and

IMPREGILO PARKING (GLASGOW) LIMITED

Signed for and on behalf of **NHS GREATER GLASGOW** by:

Signed for an on behalf of **IPL** by:

THIS AGREEMENT is made

BETWEEN:

1. **GREATER GLASGOW HEALTH BOARD** of Dalian House PO Box 15329 350 St. Vincent Street Glasgow G3 8YZ ("NHS Greater Glasgow")
2. **THE ROYAL BANK OF SCOTLAND PLC** a company incorporated under the laws of Scotland with registered number SC090312 whose registered office is at 36 St Andrew Square, Edinburgh, EH2 2YB in its several capacities as facility agent and security trustee for the Senior Funders appointed under the Funding Agreements (the "**Facility Agent**" and "**Security Trustee**"); and
3. **IMPREGILO PARKING (GLASGOW) LIMITED**, company no 04531874 whose registered office is at Second Floor, 1 Raleigh Walk, Brigantine Place, Cardiff, CF10 4LN ("**IPL**").

IT IS AGREED as follows:

1. DEFINITIONS

In this Agreement, unless the context otherwise requires:

Appointed Representative	means a Representative that has been notified to NHS Greater Glasgow pursuant to a Step-In Notice.
Car Parks	means the Multi Storey Car Park and the Surface Car Parks on NHS Greater Glasgow's E state.
Collateral Agreements	means the Builder Direct Agreement, the Builders Contractors Deed, the Professional Team Warran Car Park Operator Direct Agreement and the Company Guarantee.
Collateral Agreement Counterparties	means the parties to the Collateral Agreements (other than NHS Greater Glasgow and IPL).
Default	has the meaning given to it in the Senior Funding Agreement.
Event of Insolvency	means the events or circumstances set out in Clause 37.1(a) of the Project Agreement each being an IPL Event of Default.
Intercreditor Agreement	has the meaning given to that term in the Senior Funding Agreement.
IPL Event of Default	has the meaning given to it in Clause 37 of the Project Agreement.
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 contracts or similar contracts for the provision of services (in each case the same as or similar to this Agreement) for the price that is likely to be achieved through a tender to be undertaken in accordance with the provisions of Schedule 19 to be a reliable indicator of Fair Value for the New Agreement.
Loan Life Cover Ratio	has the meaning given to it in the Senior Funding Agreement.
Project Agreement	means an agreement on or about the date of this Agreement between IPL and NHS Greater Glasgow relating to the construction and operation of a multi-storey car park at Glasgow Royal Infirmary and the operation, management and upkeep of existing car parks upon the

Glasgow Royal Infirmary site.

Representative

means:

- (a) the Facility Agent, the Security Trustee, any Senior Funder and/or any of their affiliates;
- (b) an administrative receiver, receiver or receiver and manager of IPL appointed under the Security Documents;
- (c) an administrator of IPL;
- (d) a person directly or indirectly owned or controlled by the Facility Agent and/or any Senior Funder; or
- (e) any other person approved by NHS Greater Glasgow (such approval not to be unreasonably withheld or delayed).

Required Period

means the period starting on the date of a Termination Notice and:

- (a) prior to the Completion Date, ending eighty (80) Business Days later; and
- (b) following the Completion Date ending sixty (60) Business Days later.

Security Documents

has the meaning given to it in the Senior Funding Agreement.

Senior Discharge Date

has the meaning given to it in the Intercreditor Agreement.

Senior Finance Document

has the meaning given to it in the Intercreditor Agreement.

Step-In Date

means the date on which the Facility Agent gives NHS Greater Glasgow a Step-In Notice.

Step-In Notice

means the notice given by the Facility Agent to NHS Greater Glasgow pursuant to Clause 4 stating that the Facility 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:

- (a) the Step-Out Date;
- (b) the date of any transfer under Clause 9;

	(c) the date of any termination for breach under Clause 7;
	(d) the date of expiry of the Project Agreement.
Step-Out Date	means the date falling 20 Business Days after the date of a Step-Out Notice.
Step-Out Notice	means a notice from the Facility Agent or Appointed Representative to NHS Greater Glasgow pursuant to Clause 8 (Step-Out).
Suitable Substitute Contractor	means a person approved by NHS Greater Glasgow (such approval not to be unreasonably withheld or delayed) as: <ul style="list-style-type: none"> (a) having the legal capacity, power and authority to become a party to and perform the obligations of IPL under NHS Greater Glasgow Project Documents; and (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 IPL under NHS Greater Glasgow Project Documents.
Termination Notice	means a notice given by NHS Greater Glasgow to the Facility Agent under Clause 4.2.
NHS Greater Glasgow Project Documents	means the Project Agreement and all other documents to which NHS Greater Glasgow and IPL (whether among others or not) are parties pursuant to the Project Agreement including the Lease and any licences.

2. INTERPRETATION

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

2.3 Unless the context otherwise requires:

- (a) a 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;
- (b) references to this Agreement or to any other such document shall include any permitted variation, amendment or supplement to such document;
- (c) 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;
- (d) references to a person includes firms and corporations and their successors and permitted assignees or transferees;
- (e) words in this Agreement importing any one gender include both other genders and may be used interchangeably; and
- (f) words in this Agreement importing the singular meaning, include the plural meaning and vice versa.

2.4 It is intended that this Agreement take effect as a deed notwithstanding the fact that any party may only execute this document under hand.

3. CONSENT TO SECURITY

- 3.1 NHS Greater Glasgow by its execution of this Agreement acknowledges notice of, and consents to, the security interest granted or to be granted over IPL's rights under NHS Greater Glasgow Project Documents (including the Lease) and in relation to the Insurances effected by IPL in favour of the Security Trustee on behalf of the Senior Funders under the Security Documents.
- 3.2 NHS Greater Glasgow confirms that it has not received notice of any other security interest granted over IPL's rights under NHS Greater Glasgow Project Documents and in relation to the Insurances.
- 3.3 The Facility Agent acknowledges on behalf of itself and the Senior Funders that the insurance proceeds held in the Insurance Proceeds Account are held on trust for the purposes of, and are to be applied in accordance with the terms of the Project Agreement.
- 3.4 Except as specifically provided for in this Agreement NHS Greater Glasgow has no obligations (whether express, implied, collateral or otherwise) to the Facility Agent and/or the Senior Funders in connection with this Agreement or NHS Greater Glasgow Project Documents or the Project.
- 3.5 NHS Greater Glasgow acknowledges notice of and consent to the security interest granted by Impregilo International Infrastructures NV in favour of the Security Trustee over the entire issued share capital of IPL.

- 3.6 IPL and the Facility Agent hereby authorise and instruct NHS Greater Glasgow (and NHS Greater Glasgow agrees) to pay all sums payable to IPL under NHS Greater Glasgow Project Documents to the Proceeds Account (as defined in the Accounts Agreement (as defined in the Senior Funding Agreement) and IPL and NHS Greater Glasgow agree that upon the occurrence of a Default, if so directed in writing by the Facility Agent, NHS Greater Glasgow shall pay any sum which it is obliged to pay to IPL under NHS Greater Glasgow Project Documents to a bank account specified by the Facility Agent.
- 3.7 NHS Greater Glasgow shall not be obliged to make any enquiry as to the authority of the Facility Agent in doing any act or entering into any document or making any agreement under or in connection with this Agreement and shall be entitled to assume that the Facility 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 Funders as if it were a party.
- 3.8 The rights of the Facility Agent and the Senior Funders under this Agreement shall be extinguished upon the Senior Discharge Date.

4. NO TERMINATION WITHOUT NOTICE

- 4.1 Subject only to Clause 4.2, NHS Greater Glasgow may serve notice terminating an NHS Greater Glasgow Project Document at any time if it is entitled to do so under the terms of such NHS Greater Glasgow Project Document.

- 4.2 NHS Greater Glasgow shall not terminate or serve notice terminating an NHS Greater Glasgow Project Document without giving to the Facility Agent:
- (a) at least the Required Period of prior written notice (a **"Termination Notice"**) stating:
 - (i) that an IPL Event of Default has occurred and the proposed Termination Date; and
 - (ii) the grounds for termination in reasonable detail, and
 - (b) 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 IPL to NHS Greater Glasgow, and any other existing liabilities or underperformed obligations of IPL of which NHS Greater Glasgow is aware (having made proper enquiry) which are:
 - (i) accrued and outstanding at the time of the Termination Notice; and/or
 - (ii) which will fall due on or prior to the end of the Required Period, under the Project Agreement.
- 4.3 On becoming aware of the occurrence of a Default, the Facility Agent shall give notice thereof to NHS Greater Glasgow (a **"Default Notice"**) whereupon the provisions of Clause 4.2(b) shall apply as if references therein to a Termination Notice were to a Default Notice.

5. NO LIQUID MARKET

- 5.1 At any time during the Required Period the Facility Agent may issue a written notice (the "**No Liquid Market Notice**") to NHS Greater Glasgow setting out the reasons why the Facility Agent does not believe that a Liquid Market exists.
- 5.2 On or before the date falling 14 days after the date on which a No Liquid Market Notice is received by NHS Greater Glasgow, NHS Greater Glasgow shall notify the Facility Agent of its opinion as to whether or not a Liquid Market exists. Where NHS Greater Glasgow believes that a Liquid Market does exist, such notice shall set out the reasons for NHS Greater Glasgow'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 49 of the Project Agreement (Dispute Resolution Procedure) which is incorporated into this Agreement mutatis mutandis providing that references to IPL in such Dispute Resolution Procedure shall be read as references to the Facility Agent.
- 5.3 If the parties agree or it is determined in accordance with Clause 49 of the Project Agreement (Dispute Resolution Procedure) that no Liquid Market exists, the Project Agreement shall automatically terminate and the provisions of paragraph 4 of Schedule 19 (No Retendering Procedure) shall apply.
- 5.4 If any dispute relating to this Clause 5 is determined under Clause 49 of the Project Agreement (Dispute Resolution Procedure), the Required Period shall be extended by the period of time spent

determining such dispute under Clause 49 of the Project Agreement (Dispute Resolution Procedure).

6. REPRESENTATIVE

6.1 Subject to Clause 6.2 and without prejudice to the Facility Agent's rights under the Security Documents, the Facility Agent may give NHS Greater Glasgow a Step-In Notice at any time:

- (a) during which an IPL Event of Default or a Default is subsisting (whether or not a Termination Notice has been served); or
- (b) during the Required Period.

6.2 The Facility Agent shall give NHS Greater Glasgow not less than five Business Days' prior notice of:

- (a) its intention to issue a Step-In Notice; and
- (b) the identify of the proposed Appointed Representative.

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

6.4 For the avoidance of doubt, nothing in this Agreement shall preclude the Facility Agent from taking the actions described in this Clause 6 more than once.

7. STEP-IN PERIOD

7.1 Subject to Clause 4, NHS Greater Glasgow may terminate the Project Agreement if:

- (a) any amount referred to in Clause 4.2(b)(i) above has not been paid to NHS Greater Glasgow on or before the Step-In Date; or
- (b) any amount referred to in Clause 4.2(b)(ii) has not been paid on or before the last day of the Required Period;
- (c) amounts, of which NHS Greater Glasgow 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 IPL for these amounts is notified to the Facility Agent or if later the Step-in Date; or
- (d) grounds arise after the Step-In Date in accordance with the terms of the Project Agreement provided that any notice of default under Clause 37.2 of the Project Agreement prior to the Step-In Date shall not be taken into account during the Step-In Period.

7.2 NHS Greater Glasgow shall not terminate the Project Agreement during the Step-In Period on grounds:

- (a) that the Facility Agent has served a Step-In Notice or enforced any Security Document; or

(b) arising prior to the Step-In Date of which NHS Greater Glasgow was aware (having made proper inquiry) and whether or not continuing at the Step-In Date unless:

(i) the grounds arose prior to the Completion Date, and the Completion Date does not occur on or before the date 12 months after the date on which NHS Greater Glasgow would have been entitled to terminate the Project Agreement for non-completion of the Works under Clause 37.1 (b) of the Project Agreement; or

(ii) the grounds arose after the Completion Date, and neither the Appointed Representative nor IPL is using all reasonable endeavours (including implementation of any remedial programme) to remedy any breach of the Project Agreement that:

(1) arose prior to the Step-In Date; and

(2) is continuing (and capable of remedy); and

(3) would have entitled NHS Greater Glasgow to terminate the Project Agreement; or

(4) the grounds (whenever they first arose) did not give rise to any right to terminate until after the Step-In Notice; or

(5) arises solely in relation to IPL.

8. STEP-OUT

- 8.1 The Facility Agent and/or the Appointed Representative may at any time during the Step-In Period deliver to NHS Greater Glasgow a Step-Out Notice which shall specify the Step-Out Date.
- 8.2 On expiry of the Step-In Period:
- (a) the Appointed Representative will be released from all of its obligations and liabilities to NHS Greater Glasgow under this Agreement and NHS Greater Glasgow Project Documents arising prior to the Step-Out Date and rights of the Appointed Representatives against NHS Greater Glasgow will be cancelled; and
 - (b) NHS Greater Glasgow shall no longer deal with the Appointed Representative and shall deal with IPL in connection with NHS Greater Glasgow Project Documents.
- 8.3 IPL 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 Facility Agent, or the Security Trustee or an 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:
- (a) after a Default has occurred; or

(b) during the Step-In Period,

the Facility Agent may, subject to Clause 9.2, on not less than 20 Business Days' prior notice to NHS Greater Glasgow and any Appointed Representative, procure the transfer of IPL's rights and liabilities under NHS Greater Glasgow Project Documents to a Suitable Substitute Contractor in accordance with the provisions of Clause 9.4.

9.2 NHS Greater Glasgow shall notify the Facility Agent as to whether any person to whom the Facility Agent proposes to transfer IPL'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 Facility Agent of all information reasonably required by NHS Greater Glasgow to decide whether the proposed transferee is a Suitable Substitute Contractor.

9.3 NHS Greater Glasgow 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 NHS Greater Glasgow to withhold its consent if there are unremedied breaches under NHS Greater Glasgow Project Documents and there is no rectification plan reasonably acceptable to NHS Greater Glasgow in respect of the breaches.

9.4 Upon the transfer referred to in Clause 9.1 becoming effective:

(a) IPL, the Appointed Representative and NHS Greater Glasgow will be released from their obligations under NHS Greater

Glasgow Project Documents to each other (the "**discharged obligations**");

- (b) the Suitable Substitute Contractor and NHS Greater Glasgow 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 IPL;
- (c) the rights of IPL against NHS Greater Glasgow under NHS Greater Glasgow Project Documents and vice versa (the "**discharged rights**") will be cancelled;
- (d) the Suitable Substitute Contractor and NHS Greater Glasgow 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 IPL;
- (e) any then subsisting ground for termination of the Project Agreement by NHS Greater Glasgow shall be deemed to have no effect and any subsisting Termination Notice shall be automatically revoked;
- (f) NHS Greater Glasgow shall enter into a direct agreement with the Suitable Substitute Contractor and a representative of the Senior Funders lending to the Suitable Substitute Contractor on substantially the same terms as this Agreement; and
- (g) any notice of default under Clause 37.2 of the Project Agreement prior to that time shall not be taken into account in determining whether an IPL Event of Default has occurred.

10. MISCELLANEOUS

- 10.1 NHS Greater Glasgow shall at IPL's expense, take whatever action the Facility Agent, the Security Trustee, an Appointed Representative or a Suitable Substitute Contractor taking a transfer in accordance with Clause 9.1 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 Facility Agent or the Security Trustee or the Appointed Representative or the Suitable Substitute Contractor reasonably requires.
- 10.2 NHS Greater Glasgow shall not take any action to wind up, appoint an administrator or sanction a voluntary arrangement (or similar) in relation to IPL.
- 10.3 This Agreement shall remain in effect until the earlier of:
- (a) the date on which all amounts which may be or become owing by IPL to the Senior Funders under the Funding Agreements have been irrevocably paid in full;
 - (b) the date of termination of the Project Agreement; or
 - (c) the date of transfer of IPL's rights and liabilities under NHS Greater Glasgow Project Documents to a Suitable Substitute Contractor pursuant to Clause 9.1.

10.4 The Facility Agent shall promptly notify NHS Greater Glasgow of:

- (a) any Default and any action taken in connection with such Default, any decisions to accelerate the maturity of any amounts owing by IPL to the Senior Funders under the Funding Agreements and/or any decisions to demand repayment; and
- (b) the date referred to in Clause 10.3(a) above on or before the date falling 20 Business Days after its occurrence.

10.5 IPL 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 10.8, NHS Greater Glasgow shall not prior to the Senior Discharge Date:

- (a) claim, recover, retain or receive (or seek to claim, recover, retain or receive) any amount under the Collateral Agreements (and/or the Building Contract and/or the Car Park Operator Contract) from any Collateral Agreement Counterparty;
- (b) make an application for or 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

- (c) compete with the Facility Agent's rights on a winding up or other insolvency of any Collateral Agreement Counterparty nor claim to be subrogated to any rights of the Facility Agent or any Senior Funder;
- (d) NHS Greater Glasgow agrees and undertakes that if it receives any amount in contravention of the provisions of this Clause 10.7 it will immediately turn the same over to the Facility Agent for the account of the Facility Agent and the Senior Funders and pending such payment hold the same on trust for the Facility Agent and the Senior Funders provided that such trust shall not create any registerable security interest over such amount.

10.8 Notwithstanding any provision in the Collateral Agreements, NHS Greater Glasgow 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 10.8(a) to Clause 10.9 inclusive:

- (a) Following termination of the Project Agreement in accordance with this Agreement, NHS Greater Glasgow 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 Building Contract and/or the Car Park Operator Contract in accordance with the Collateral Agreements.

- (b) Until the Senior Discharge Date, but following the Exercise Date, NHS Greater Glasgow shall not do anything to prejudice the rights which are not transferred to it pursuant to the Collateral Agreements.

10.9 Notwithstanding the terms of the Collateral Agreements and any other provisions of this Clause 10.8, each of the Builder and the Car Park Operator (and any guarantors thereof) shall remain responsible, and be liable, to IPL in respect of all costs, claims, damages, losses and liabilities which shall have arisen out of or in connection with the Building Contract and/or the Car Park Operator Contract in respect of the period prior to the Exercise Date in relation to which the Facility Agent acting on behalf of IPL or the Senior Funders shall retain the benefit of all and any rights to all such costs, claims, damages, losses and liabilities.

10.10 Without prejudice to Clause 10.8, NHS Greater Glasgow shall notify the Facility Agent of its wish to exercise any of its rights under the Collateral Agreements.

11. INSURANCE - ECONOMIC TEST

11.1 If any of the Car Parks are destroyed or substantially destroyed in a single event and the insurance proceeds (when taken together with any other funds available for IPL) are equal to or greater than the amount required to repair or reinstate the Car Parks then IPL shall calculate the Loan Life Cover Ratio on the assumption that the Car Parks are repaired or reinstated in accordance with Clause 64.19 of the Project Agreement.

11.2 If the calculation referred to in Clause 11.1 shows that the Loan Life Cover Ratio is greater than or equal to 1.1:1 then IPL shall be subject to the procedure set out in Clause 64.19 to 64.22 of the Project Agreement.

11.3 If the calculation referred to in Clause 11.1 shows that the Loan Life Cover Ratio is less than 1.1:1 then the amount equal to the lesser of:

- (a) the insurance proceeds; and
- (b) the Senior Debt Amount,

shall be released from the Insurance Proceeds Account and paid in the manner required by Clause 3.6 of this Agreement.

11.4 The Facility Agent on behalf of the Senior Funders confirms that it will release monies from the Insurance Proceeds Account, to allow Clause 64.19(a) of the Project Agreement to be complied with.

12. INSURANCE PROCEEDS

Where, in respect of any one incident (or series of related incidents), a claim is made or proceeds of insurance received or receivable under any insurance policy in respect of physical damage effected pursuant to the Project Agreement, such proceeds shall be applied in accordance with the Project Agreements.

13. ASSIGNMENT

- 13.1 No party to this Agreement may assign, novate or transfer any part of its rights or obligations under this Agreement save as provided in this Clause 13.
- 13.2 The Facility Agent and the Security Trustee may assign, novate or transfer its rights and obligations under this Agreement and in respect of the Security Documents to a successor Facility Agent or Security Trustee in accordance with the Funding Agreements without the consent of NHS Greater Glasgow and any such assignment, novation or transfer shall not constitute a Change of Control for the purposes of Clause 35 of the Project Agreement. Without prejudice to Clause 35 of the Project Agreement, NHS Greater Glasgow also agrees that any enforcement by the Security Trustee of the security constituted by the Security Documents (and any subsequent transfer of share capital in IPL) following a Default shall not constitute an IPL Event of Default under Clause 37.1(i) of the Project Agreement.
- 13.3 Any Senior Funder may assign or transfer its rights under the Funding Agreements in accordance with the terms of the Funding Agreements without the consent of NHS Greater Glasgow or any other party except as required by the Funding Agreement to which such Senior Funder is a party.
- 13.4 NHS Greater Glasgow may transfer its rights and obligations under this Agreement to any permitted assignee of its interest in the Project Agreement and the Facility Agent and the Senior Funder shall co-operate with NHS Greater Glasgow in completing the formalities of any transfer or assignment including by executing any

additional documents as may be required by NHS Greater Glasgow.

- 13.5 If Clause 13.2 applies in relation to the Facility Agent, NHS Greater Glasgow shall enter into a new direct agreement with the new Facility Agent on substantially the same terms as this Agreement.

14. ENTIRE AGREEMENT

Unless otherwise stated in this Agreement, this Agreement and NHS Greater Glasgow Project Documents constitute 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.

15. WAIVER

- 15.1 The failure of any party to exercise any contractual right or remedy shall not constitute a waiver thereof until communication in writing under Clause 15.2.
- 15.2 No waiver shall be effective unless it is communicated in writing to the other party.
- 15.3 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
- 15.4 other breach of this Agreement.

16. 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.

17. CONFIDENTIALITY

The Facility Agent shall be bound to comply with the obligations on the part of IPL contained in Clause 31 of the Project Agreement in relation to all information and matters obtained from any other party under or in connection with the Project.

18. NOTICES CONSENTS AND APPROVALS

18.1 In this Clause:

- (a) **"NHS Greater Glasgow's Address"** means the address of NHS Greater Glasgow shown on the first page of this agreement or such other address as NHS Greater Glasgow may from time to time notify to IPL as being its address for service for the purposes of this Agreement; and
- (b) **"IPL's Address"** means the address of IPL shown on the first page of this Agreement or such other address as IPL may from time to time notify to NHS Greater Glasgow as being its address for service for the purpose of this Agreement.

18.2 Any notice or other communication given or made in accordance with this Agreement shall be in writing, and:

- (a) may (in addition to any other effective mode of service) be sent by registered or recorded delivery post; and
- (b) shall (in the case of a notice or other communication to NHS Greater Glasgow but subject to Clause 18.3(a)) be served on NHS Greater Glasgow at NHS Greater Glasgow's Address; and
- (c) shall (in the case of a notice or other communication to IPL but subject to Clause 18.3(b)) be served on IPL at IPL's Address.

18.3 Any notice or other communication given or made in accordance with this Agreement:

- (a) by or to NHS Greater Glasgow may be given or made by or to NHS Greater Glasgow's Solicitors on behalf of NHS Greater Glasgow;
- (b) by or to IPL may be given or made by or to IPL's Solicitors on behalf of IPL.

18.4 Any notice to be given to NHS Greater Glasgow should be marked for the attention of NHS Greater Glasgow's Representative or other position as notified in writing to NHS Greater Glasgow and delivered to 300 Balgrayhill Road, Glasgow, G21 3UR or such other address as notified in writing to the Facility Agent by NHS Greater Glasgow.

18.5 Any notice to be given to the Facility Agent or the Security Trustee should be marked for the attention of David George, or other person as notified in writing to NHS Greater Glasgow and delivered

to The Royal Bank of Scotland plc, Structured Finance, 135
Bishopsgate, Level 5, London, EC2M 3UR or such other address
as notified in writing to NHS Greater Glasgow by the Facility Agent
or the Security Trustee (as the case may be).

18.6 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.

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

19. EXECUTION AS A DEED

The obligations of the parties who have executed this Agreement shall not be
affected by the fact that not all of the parties have validly executed this
Agreement as a deed and such obligations shall be binding among
themselves.

20. COUNTERPARTS

This Agreement may be executed in any number of counterparts, all of which
when taken together will constitute one and the same instrument.

21. GOVERNING LAW

21.1 This Agreement is governed by the laws of England and Wales.

21.2 The parties agree that the courts of England and Wales 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 those courts:

EXECUTED AS A DEED AND DELIVERED at the date of this Agreement.

Executed as a deed by Greater Glasgow Health Board acting by

Place	Place
Date	Date
Signed by	Witnessed by
Print Name: Thomas Andrew Divers	Print Name: Wendy Hull
Designation: Chief Executive	Designation: Director of Finance

Executed as a deed by The Royal Bank of Scotland plc as Facility Agent and Security
Trustee acting by

Place	Place
Date	Date
Signed by	Witnessed by
Print Name	Print Name
Designation	Designation
	Address

Executed as a deed by Impregilo Parking (Glasgow) Limited acting by

Place	Place
Date	Date
Signed by	Witnessed by
Print Name	Print Name
Designation: Director	Designation: Director/Secretary

This is Schedule 9 comprising the Initial Funding Agreements referred to in the Project Agreement for the Works and Project Operations at Glasgow Royal Infirmary.

SCHEDULE 9

INITIAL FUNDING AGREEMENTS

1. Senior Funding Agreement;
 2. Security Agreement (as defined in the Senior Funding Agreement);
 3. Mortgage on Shares (as defined in the Senior Funding Agreement);
 4. Intercreditor Agreement (as defined in the Senior Funding Agreement);
 5. Accounts Agreement (as defined in the Senior Funding Agreement);
 6. Direct Lenders Agreement (in the form set out in Schedule 8 of this Agreement);
 7. Hedging Arrangement (as defined in the Senior Funding Agreement) of even date;
 8. Direct Agreements (as defined in the Senior Funding Agreement);
- and
9. Scottish Security Documents comprising:
 - a. the Scots Law assignments of Contracts dated on or about the date hereof created by IPL in favour of the Royal Bank of Scotland (in its capacity as Security Trustee); and
 - b. the Standard Security dated on or about the date hereof executed by IPL in favour of the Royal Bank of Scotland (in its capacity as Security Trustee) .

This is Schedule 10 comprising the Parent Company Guarantee referred to in the Project Agreement for the Works and the Project Operations at Glasgow Royal Infirmary.

SCHEDULE 10

PARENT COMPANY GUARANTEE

between

- (1) **GREATER GLASGOW HEALTH BOARD** of Dalian House PO Box 15329
350 St. Vincent Street Glasgow G3 8YZ
- (2) **IMPREGILO SPA** having limited liability and being incorporated in accordance with the laws of, and existing in, the Republic of Italy whose registered office is Viale Italia, 1 – 20099 Sesto San Giovanni (Milan), Italy, enrolled in the Register of Companies of the Milan Tribunal Number 00830660155 whose address for service in England and Wales is 9, Columbus Walk, Brigantine Place, Cardiff CF1 5BY; ("the Guarantor")
- (3) **IMPREGILO PARKING (GLASGOW) LIMITED** a company registered under number 04531874 and whose registered office is situated at Second Floor, 1 Raleigh Walk, Brigantine Place, Cardiff CF10 4LN ("IPL")

RECITALS

- (A) This Deed of Guarantee is supplemental to a project agreement of even date ("the Project Agreement") made between NHS Greater Glasgow and IPL.
- (B) The Guarantor has agreed to guarantee the due performance of the obligations of IPL under the Project Agreement in the manner set out in this Deed of Guarantee
- (C) In this Deed of Guarantee, the expression "Construction Obligations" means all of the obligations, warranties, duties, liabilities and undertakings of IPL to be performed, observed or carried out by IPL under or arising out of the Project Agreement and relating to the completion of the Works as that term is defined in the Project Agreement as required pursuant to the provisions of the Project Agreement.
- (D) In this Deed of Guarantee:
 - (i) the expression the "IPL Default Compensation Sum" means the sum payable by NHS Greater Glasgow to IPL pursuant to paragraph 1 of Section B of Schedule 19 of the Project Agreement; and
 - (ii) unless otherwise defined the words, phrases and definitions shall have the same meaning as set out in the Project Agreement.

NOW THIS DEED WITNESSES AS FOLLOWS:-

1. In consideration of IPL entering into the Project Agreement the Guarantor irrevocably guarantees to NHS Greater Glasgow to procure the due and punctual performance and observance by IPL of each and all the Construction Obligations. If, at any time, any default is made by IPL in the performance of any of the Construction Obligations, the Guarantor will well and truly perform (or cause to be performed) each and every one of the Construction Obligations.
2. The Guarantor acknowledges that the obligations of the Guarantor under Clause 1 of this Deed of Guarantee shall be enforceable by specific implement in respect of the Construction Obligations.
3. (a) In consideration of IPL entering into the Project Agreement but subject to sub-clause (b) below the Guarantor irrevocably guarantees the payment or discharge of the IPL Default Compensation Sum within twenty (20) days of written demand by NHS Greater Glasgow provided that (i) NHS Greater Glasgow has paid such sum to IPL under the terms of the Project Agreement and (ii) the written demand is received within six months of the date of payment of the IPL Default Compensation Sum by NHS Greater Glasgow to IPL.

(b) The Guarantor's liability under Clause 3(a) above shall under no circumstances exceed the IPL Default Compensation Sum.
4. The Guarantor shall not be exonerated or released from its liability hereunder nor shall such liability be lessened, affected or impaired by time being given to IPL by NHS Greater Glasgow by any concession or arrangement granted or made to or with IPL or by anything that NHS Greater Glasgow or IPL may do or omit or neglect to do (including, but without limitation, the assertion or failure or delay to assert any right or remedy of NHS Greater Glasgow or the pursuit of any rights and remedies by NHS Greater Glasgow or the giving by IPL of any security or the release, modification or exchange of any such security or the liability of any person) and which but for this provision might exonerate or release the Guarantor.
5. Without prejudice to clause 7 below the Guarantor authorises IPL and NHS Greater Glasgow to make any addendum or variation to the Project Agreement, to which the addendum or variation this Deed of Guarantee shall apply as if it were set out in the Project Agreement. The obligations of the Guarantor hereunder shall not be affected in any other way by any variation or addendum to the Project Agreement.

6. So long as any Construction Obligations pursuant to the Project Agreement remain outstanding, unsatisfied, or unperformed the Guarantor shall not:
- (a) in respect of any amount paid by the Guarantor under or in respect of the Construction Obligations seek to enforce against IPL repayment by subrogation or otherwise or to exercise any other rights or legal remedies of any kind which may accrue howsoever to the Guarantor in respect of such amount; or
 - (b) claim payment (and shall procure that no subsidiary of the Guarantor shall claim payment) of any other monies for the time being due to the Guarantor (or such subsidiary) by IPL other than in the ordinary course of business; or
 - (c) in the event of the winding up, liquidation, dissolution or other incapacity of IPL prove in competition with NHS Greater Glasgow in respect of any monies owing to the Guarantor by IPL on any account whatsoever and will give to NHS Greater Glasgow the benefit of any such proof and of all monies to be received thereof.
7. The liability of the Guarantor hereunder shall not be affected by any arrangement including any alteration to the terms of the Project Agreement which NHS Greater Glasgow may make with IPL which (but for this provision) might operate to diminish or discharge the liability of or otherwise provide a defence to a surety. Without prejudice to the generality of the foregoing NHS Greater Glasgow shall be at liberty at any time to give time for payment or grant any other indulgence and give up, deal with, vary, exchange or abstain from effecting or enforcing other security or guarantees or any of them as it thinks fit and to compound with, accept compositions from and make any other arrangements with IPL without affecting the Guarantor's liability hereunder.
8. Any settlement or discharge between NHS Greater Glasgow and the Guarantor shall be conditional upon no security or payment given or made in respect of the Project Agreement to NHS Greater Glasgow by IPL or the Guarantor or any other person being avoided or reduced by virtue of any provision or enactment relating to bankruptcy, insolvency, liquidation or other incapacity for the time being in force or being otherwise declared or being illegal and NHS Greater Glasgow shall be entitled subsequently to recover any sum payable by the Guarantor hereunder as if such settlement or discharge had not occurred.
9. The rights of NHS Greater Glasgow hereunder shall be in addition to and shall not be in any way prejudiced or affected by any one or more other

securities or guarantees which may now or hereafter be held by NHS Greater Glasgow.

10. Subject to Clause 3(b) above and Clause 11 below the Guarantor's liability to NHS Greater Glasgow under this Deed of Guarantee shall be no greater than the liability of IPL to NHS Greater Glasgow under the Project Agreement (whether actual, realised, contingent or otherwise) save insofar as such liability relates to a liability arising pursuant to Clause 3.
11. Any payment made by the Guarantor under this Deed of Guarantee shall be made without set-off, deduction or counterclaim. For the avoidance of doubt nothing in this clause 11 shall limit the rights of the Guarantor to the benefit of any defence or counterclaim to which IPL may be entitled to raise against NHS Greater Glasgow under the Project Agreement.
12. Without prejudice to any pre-existing claims of NHS Greater Glasgow hereunder the obligations of the Guarantor contained in this Deed of Guarantee in relation to the Construction Obligations shall expire upon the twelfth anniversary of the Certificate Date as defined in the Project Agreement.
13. This Guarantee may be executed in any number of counterparts and by the parties on separate counterparts each of which so executed and delivered will be an original but all the counterparts will together constitute one and the same agreement and may be validly exchanged and completed by fax.
14. In the event that IPL ceases to be owned (directly or indirectly) by the Guarantor the parties agree that the Guarantor may, with the approval of NHS Greater Glasgow and IPL (such approval not to be unreasonably withheld or delayed) procure a replacement guarantor of financial standing satisfactory to NHS Greater Glasgow and IPL (acting reasonably) and upon extension of a new guarantee in form and substance reasonably satisfactory to NHS Greater Glasgow and IPL the obligations of the Guarantor hereunder shall be cancelled.

15. This Deed of Guarantee is subject to and shall be governed by the laws of Scotland and the parties hereby submit to the exclusive jurisdiction of the Scottish Courts: IN WITNESS WHEREOF these presents typewritten on this and the preceding [] pages are executed as follows:-

For and on behalf of Greater Glasgow Health Board

Place: Glasgow

Place: Glasgow

Date

Date

Signed by

Witnessed by

Print Name: Thomas Andrew Divers

Print Name: Wendy Hull

Designation: Chief Executive

Designation: Director of Finance

Address

For and on behalf of Impregilo SpA

Place

Place

Date

Date

Signed by

Signed by

Print Name

Print Name

Designation

Designation

For and on behalf of Impregilo Parking (Glasgow) Limited

Place

Place

Date

Date

Signed by

Witnessed by

Print Name

Print Name

Designation

Designation

Address

This is Schedule 11 comprising the Car Park Operator Direct Agreement referred to in the Project Agreement for the Project Operations at Glasgow Royal Infirmary.

SCHEDULE 11

CAR PARK OPERATOR DIRECT AGREEMENT



CAR PARK OPERATOR DIRECT AGREEMENT BETWEEN GREATER GLASGOW HEALTH BOARD AND APCOA PARKING (UK) LIMITED AND IMPREGILO PARKING (GLASGOW) LIMITED AND APCOA PARKING AG

File Ref: GT5/45 LT/PS

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**NHSScotland Central Legal Office
Trinity Park House
South Trinity Road
Edinburgh EH5 3SE
DX ED154**

CAR PARK OPERATOR DIRECT AGREEMENT

between

GREATER GLASGOW HEALTH BOARD
Dalian House PO Box 15329 350 St. Vincent Street
Glasgow, G3 8YZ
("NHS Greater Glasgow")

and

APCOA PARKING (UK) LIMITED
a company incorporated under the Companies Acts with
registered number 025729467 and having its registered
office at 2 Windmill Business Village, Brooklands Close,
Sunbury on Thames, Middlesex TW16 7DY (the "Car Park
Operator")

and

IMPREGILO PARKING (GLASGOW) LIMITED
a company incorporated under the Companies Act with
registered number 04531874 and having its registered
office at Second Floor, 1 Raleigh Walk, Brigantine Place,
Cardiff CF10 4LN
("IPL")

and

APCOA PARKING AG
a company incorporated in Germany and having its
registered office at D – 70624 Stuttgart (Flughafen),
Postfach 2304 63
("Guarantor")

WHEREAS:

- A. NHS Greater Glasgow and IPL have agreed the terms on which IPL will undertake the financing, design, construction of a new multi storey car park at the Glasgow Royal Infirmary and the operation and control of all parking at the Glasgow Royal Infirmary site and, accordingly, have entered into the Project Agreement.

- B. The Car Park Operator has entered into a service contract with IPL ("the Service Contract").
- C. This Agreement is the "Car Park Operator Direct Agreement" contemplated by the Project Agreement.

NOW IT IS HEREBY AGREED as follows:

1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

In this Agreement, the following words, terms and expressions shall have the meanings given to them below:

"Business Day"	means Monday to Friday each week excluding Scottish public holidays recognised in Glasgow and "Business Days" shall be construed accordingly;
"Car Park Operator Performance Guarantee"	means the performance guarantee concluded between the Guarantor and IPL in respect of performance by the Car Park Operator of its obligations under the Service Contract;
"Funder"	means The Royal Bank of Scotland plc as facility agent for the Senior Funders appointed under the Funding Agreements or any successor facility agent or security trustee for the Senior Funders;
"Funder Car Parking Management Direct Agreement"	means the agreement between the Car Park Operator, the Funder and IPL dated on or about the date hereof;
"Guarantee"	means the guarantee dated on or around the date hereof executed by the Guarantor in favour of IPL in respect of the obligations of the Car Park Operator under the Service Contract;
"Novation Effective Date"	means the date of performance of the obligations set out in Clauses 4.5 (b) (i) and 4.5 (b) (ii);
"Party"	means a party to this Agreement and "Parties" shall be construed accordingly;

"Project Agreement"	means the project agreement of even date herewith between NHS Greater Glasgow and IPL;
"Proposed Novation Date"	has the meaning given in Clause 4.1;
"Proposed Novation Notice"	has the meaning given in Clause 4.1;
"Proposed Step-in Date"	has the meaning given in Clause 3.1;
"Proposed Substitute"	has the meaning given in Clause 4.1;
"Service Guarantee"	means the guarantee dated on or around the date hereof executed by the Guarantor in favour of IPL in respect of the obligations of the Car Park Operator under the Service Contract;
"Step-in Date"	means the date of issue of the Step-in Undertaking;
"Step-in Notice"	has the meaning given in Clause 3.1;
"Step-in Period"	means the period commencing on the Step-in Date and ending on the earliest of: <ul style="list-style-type: none"> (a) the date of the second anniversary of the Step-in Date (but subject always to Clause 4.7); (b) the Step-out Date; (c) the Novation Effective Date; and (d) termination of the Service Contract under Clause 3.3;
"Step-in Undertaking"	has the meaning given in Clause 3.2 (c);
"Step-out Date"	has the meaning given in Clause 3.4 (a);
"Termination Notice"	has the meaning given in Clause 2.

1.2 Interpretation

- (a) Words importing any gender include any other gender and words in the singular include the plural and words in the plural include the singular.

- (b) References to any statute or statutory provision in this Agreement shall be deemed to refer to any modification or re-enactment thereof for the time being in force whether by statute or by directive or regulation which is intended to have direct application within the United Kingdom and has been adopted by the Council of the European Communities.
- (c) The headings and index are inserted for convenience only and shall be ignored in interpreting the terms and provisions of this Agreement.
- (d) References in this Agreement to any Clause or Sub-Clause or Schedule or Appendix without further designation shall be construed as a reference to the clause or sub-clause of or schedule to this Agreement so numbered.
- (e) Where consent or approval of any party hereto is required for any purpose under or in connection with the terms hereof it shall be given in writing.
- (f) A reference to an employee of NHS Greater Glasgow shall include a reference to any full or part time employee or officer director manager or clinical staff (including visiting clinical staff).
- (g) Wherever in this Agreement a period of time is referred to, the day upon which that period commences shall be the day after the day from which the period is expressed to run, or the day after the day upon which the event occurs which causes the period to start running.
- (h) Subject to Clause 1.1 terms used in this Agreement that are defined in the Project Agreement shall have the meanings given to them in the Project Agreement.

2. TERMINATION NOTICE

- 2.1 The Car Park Operator undertakes to NHS Greater Glasgow not to terminate the Service Contract on account of a IPL Event of Default (as defined in the Service Contract) without first giving NHS Greater Glasgow not less than 20 Business Days' prior written notice specifying the grounds for that termination. Any such notice, other than one given in circumstances where there is no default under the Service Contract by IPL or the Car Park Operator, shall be a "Termination Notice".
- 2.2 The Termination Notice may be given by the Car Park Operator up to 5 Business Days before the earliest date on which the Car Park Operator reasonably expects to become entitled to exercise its right to terminate. If following the giving of a Termination Notice such right to terminate does not in fact arise the Car Park Operator shall without delay give to NHS Greater Glasgow written notification to that effect.

3. STEP-IN AND STEP-OUT

3.1 Step-in Notice

If NHS Greater Glasgow has terminated the Project Agreement in accordance with the terms of that agreement or if NHS Greater Glasgow has received a Termination Notice, then subject and postponed to the provisions of the Funders Car Parking Management Direct Agreement , NHS Greater Glasgow may no later than 20 Business Days after the later of:-

- (a) exhibition to NHS Greater Glasgow of written intimation from the Funder of its intention not to exercise any step-in rights available under the Funder Car Parking Management Direct Agreement;

(b) receipt by NHS Greater Glasgow from IPL of written confirmation of either notice received from the Funder of its intention to not to exercise its said step-in rights or expiry of the period during which the Funder may exercise its said step-in rights but has not done so; or

(c) the date of the Termination Notice,

give prior written notice to the Car Park Operator (a "Step-in Notice") of the intention of NHS Greater Glasgow to issue a Step-in Undertaking on a specified date (the "Proposed Step-in Date") provided that such Proposed Step-in Date shall be no later than 5 Business Days after termination of the Project Agreement where the Project Agreement has been terminated by NHS Greater Glasgow and no earlier than the date following 5 days prior to the date of expiry of the Termination Notice and no later than the date of expiry of the Termination Notice where a Termination Notice has been given by the Car Park Operator. Unless the Car Park Operator otherwise consents, only one Step-in Notice may be given during the period of this Agreement. Subject to Clause 5.1, the Car Park Operator shall not be entitled to terminate the Service Contract until after the Proposed Step-in Date.

3.2 Step-in Undertaking

(a) Within 3 Business Days of receipt of any Step-in Notice, the Car Park Operator shall give written notice to NHS Greater Glasgow of any sums of which the Car Park Operator has actual knowledge which are due and payable but unpaid by IPL or by any other party on behalf of IPL and of any other material obligations or liabilities, of which the Car Park Operator has actual knowledge, which should have been performed or discharged by IPL under the Service Contract, in each case, as at the date of the Step-in Notice.

(b) The Car Park Operator shall inform NHS Greater Glasgow in writing as soon as reasonably practicable of:

- (i) any change in such sums, obligations or liabilities referred to in Clause 3.2 (a); and
- (ii) any further sums, obligations or liabilities thereafter falling due and payable but unpaid or falling due for performance or discharge and unperformed or undischarged (as the case may be),

in each case of which the Car Park Operator has actual knowledge before the Step-in Date.

(c) Not later than the Proposed Step-in Date NHS Greater Glasgow shall decide if it is prepared to issue a Step-in Undertaking. If it does so decide, NHS Greater Glasgow shall promptly give the Car Park Operator written notification of such decision. NHS Greater Glasgow shall deliver to the Car Park Operator on the Proposed Step-in Date a written undertaking in form and substance agreed with the Car Park Operator (both NHS Greater Glasgow and the Car Park Operator acting reasonably) (the "Step-in Undertaking"), (incorporating a clause in terms similar to Clause 10.3, but only to the extent that there will not be double counting of default interest accruing under the Service Contract and this Agreement):

- (i) to pay or procure the payment to the Car Park Operator, within 45 days of demand by the Car Park Operator, of any sum due and payable but unpaid to the Car Park Operator under the Service Contract before the Step-in Date;

- (ii) to perform or discharge or procure the performance or discharge of any unperformed or undischarged obligations of IPL under the Service Contract which shall have fallen due for performance or discharge before the Step-in Date within such period as the Car Park Operator may reasonably require;
 - (iii) to pay or procure the payment of any sum due and payable by IPL under the Service Contract which shall arise from any act or omission occurring during the Step-in Period (but subject to Clauses 3.4 and 4.5 (c) (ii); and
 - (iv) to perform or discharge or procure the performance or discharge of any obligations of IPL under the Service Contract which shall arise during the Step-in Period (but subject to Clauses 3.4 and 4.5 (c) (ii).
- (d) In the event that NHS Greater Glasgow issues a Step-In Undertaking in terms aforesaid it shall, as at the date of the Step-In Undertaking, be entitled to benefit from and exercise the rights of IPL under the Car Park Operator Performance Guarantee in terms of Clause 5.4(b) thereof.
- (e) If NHS Greater Glasgow shall not have issued the Step-in Undertaking on or before the Proposed Step-in Date the Step-in Notice shall be deemed to have been withdrawn and the rights and obligations of the Parties shall be construed as if the Step-in Notice had not been given.

3.3 Restriction of Right of Termination

During or in respect of the Step-in Period, the Car Park Operator confirms to NHS Greater Glasgow that it shall continue to observe and perform its duties

and obligations under the Service Contract and shall, without prejudice to Clause 5.1, only be entitled to exercise its rights of termination under the Service Contract:

(a) by reference to an event arising during (rather than before) the Step-in Period (and any expiry of any remedy period referred to in the Service Contract where the act or omission giving rise to the commencement of such remedy period remains unremedied shall be deemed for these purposes to be an event arising during the Step-in Period), provided that:-

- (i) any IPL Event of Default (as defined in the Service Contract); or
- (ii) an event which is a breach of the Service Contract and which is capable of remedy and is remedied within any relevant remedy period set out in the same;

shall not entitle the Car Park Operator to exercise such rights of termination during the Step-in Period (notwithstanding that they may have occurred during the Step-In Period); or

- (b) if NHS Greater Glasgow fails to pay when due any amount owed to the Car Park Operator or to perform or discharge when falling due for performance or discharge any obligation under the Step-in Undertaking or fails to procure such payment or performance or discharge; or
- (c) if such rights of termination arise in circumstances where there is no default under the Service Contract by NHS Greater Glasgow or the Car Park Operator.

3.4 Step-Out

NHS Greater Glasgow may, at any time, give the Car Park Operator at least 60 days' prior written notice:

- (a) to terminate the Step-in Period on a date specified in the notice (the "Step-out Date"); or
- (b) that (subject to clause 4.4 (b)) the Step-in Period will end due to the occurrence (subject to Clause 4.7) of the second anniversary of the Step-in Date,

and provided that:

- (i) any obligations of IPL under the Service Contract in relation to the maintenance of records and the provision of reports shall have been properly performed during the Step-in Period so as to permit the Car Park Operator to monitor the performance of IPL's other obligations under the Service Contract; and
- (ii) all liability under the Step-in Undertaking pursuant to any claims made during the period of such notice or within 20 days of the expiry of such notice shall have been fully and unconditionally discharged,

NHS Greater Glasgow shall be released from the Step-in Undertaking on the expiry of the Step-in Period. Such release shall not affect the continuation of IPL's obligations towards the Car Park Operator under the Service Contract.

4. NOVATION

4.1 Proposed Substitute

At any time that NHS Greater Glasgow is entitled to give a Step-in Notice pursuant to Clause 3.1 or at any time during the Step-in Period NHS Greater Glasgow may give notice (a "Proposed Novation Notice") to the Car Park Operator that it wishes itself or another person (a "Proposed Substitute") to assume, by way of sale, transfer or other disposal, the rights and obligations of IPL under the Service Contract and specifying a date (the "Proposed Novation Date") falling not later than the expiry of the Termination Notice where a Proposed Novation Notice is given by NHS Greater Glasgow during the Step-In Period on which such assumption is to be effective. Subject to Clause 5.1, the Car Park Operator shall not be entitled to terminate the Service Contract during the notice period specified in a Proposed Novation Notice.

4.2 Information for Consent to Novation

If the Proposed Novation Notice specifies NHS Greater Glasgow as the Proposed Substitute, the Car Park Operator's consent to the novation shall be deemed to have been given automatically. Where the Proposed Substitute is not NHS Greater Glasgow, a novation in accordance with a Proposed Novation Notice shall only be effective if the Car Park Operator consents to that novation in writing in accordance with Clause 4.3 and NHS Greater Glasgow shall (as soon as practicable) supply the Car Park Operator with such information as the Car Park Operator requires to enable it to decide whether or not to grant such consent. Such information shall include:

- (i) the name and registered address of the Proposed Substitute;

- (ii) the names of the shareholders in the Proposed Substitute and the share capital owned by each of them;
- (iii) the names of the directors and the secretary of the Proposed Substitute;
- (iv) details of the means by which it is proposed to finance the Proposed Substitute (including the extent to which such finance is committed and any conditions precedent as to its availability for drawing); and
- (v) the resources (including contractual arrangements) which are to be available to the Proposed Substitute to enable it to perform its obligations under the Service Contract.

4.3 Grant of Consent

The Car Park Operator may only withhold or delay consent to a novation where the Proposed Substitute is not NHS Greater Glasgow and NHS Greater Glasgow has failed to show to the Car Park Operator's satisfaction (acting reasonably) that:

- (a) the Proposed Substitute has the legal capacity, power and authorisation to become a party to and perform the obligations of IPL under the Service Contract;
- (b) the technical competence and financial standing of and the technical and financial resources available to the Proposed Substitute are sufficient to perform the obligations of IPL under the Service Contract; and

- (c) that no officer of the Proposed Substitute has committed any criminal offence or act of grave misconduct in the course of his business or profession.

The Car Park Operator shall notify NHS Greater Glasgow in writing, within 5 Business Days of the later of receipt of a Proposed Novation Notice or all information required under Clause 4.2, as to whether or not it has decided to grant such consent (together with an explanation of its reasons if it has decided to withhold its consent).

4.4 Consent withheld

If, in accordance with Clause 4.3, the Car Park Operator withholds its consent to a Proposed Novation Notice, NHS Greater Glasgow shall be entitled to give one or more subsequent Proposed Novation Notices, pursuant to the provisions of Clause 4.1, containing changed particulars relating to the same Proposed Substitute or particulars relating to another Proposed Substitute which (where the replacement Proposed Substitute is not NHS Greater Glasgow) NHS Greater Glasgow has good cause to believe would fulfil the requirements of Clauses 4.3 (a) and 4.3 (b), provided that only one Proposed Novation Notice may be outstanding at any one time, and:

- (a) where a Step-in-Notice has not been issued, any revised Proposed Novation Date shall be a date falling no later than the date of expiry of the Termination Notice; and
- (b) if the Proposed Novation Notice was served during the Step-in Period, the Step-in Period shall continue (subject to the terms of this Agreement).

4.5 Implementation of Novation

- (a) If the Car Park Operator consents to a novation pursuant to a Proposed Novation Notice (whether automatically or otherwise) the Proposed Substitute shall, as from the Proposed Novation Date, be entitled benefit from and exercise the rights of IPL under the Car Park Operator Performance Guarantee.
- (b) On the Proposed Novation Date and without prejudice to Clause 5.1:-
 - (i) subject to the prior performance by IPL of its obligations under clause 4.5 (a) the Proposed Substitute shall become a party to the Service Contract in place of IPL and, thereafter, shall be treated as if it was and had always been named as a party to the Service Contract in place of IPL; and
 - (ii) the Car Park Operator, IPL and the Proposed Substitute shall enter into a novation agreement and any other requisite agreements, in form and substance satisfactory to the Car Park Operator (acting reasonably), pursuant to which the Proposed Substitute shall be granted all of the rights and assume all of the obligations and liabilities of IPL under the Service Contract (including those arising prior to the end of the Step-in Period), provided that the Car Park Operator will not be in breach of any of its obligations under this Agreement if the Proposed Substitute and IPL do not enter into such agreements.
- (c) On and after the Novation Effective Date:
 - (i) the Car Park Operator shall owe its obligations under the Service Contract (whether arising before, on or after such date)

to the Proposed Substitute and the receipt, acknowledgement or acquiescence of the Proposed Substitute shall be a good discharge; and

(ii) if NHS Greater Glasgow shall have entered into a Step-in Undertaking, NHS Greater Glasgow shall be released from the Step-in Undertaking, provided that:

(1) all obligations of NHS Greater Glasgow under the Step-in Undertaking which have accrued up to the Novation Effective Date and are identifiable as at that date shall have been fully and unconditionally discharged in full on that date or otherwise assumed by the Proposed Substitute; and

(2) the obligations of IPL under the Service Contract in relation to the maintenance of records and the provision of reports shall have been performed properly during the period up to the Novation Effective Date so as to permit the Car Park Operator to monitor the performance of IPL's other obligations under the Service Contract.

(d) NHS Greater Glasgow and the Car Park Operator shall use all reasonable endeavours to agree any amendments to the Service Contract necessary to reflect the fact that the Project Agreement may have terminated at the time the novation agreement referred to in this Clause is entered into.

4.6 Termination After Novation

- (a) After the Novation Effective Date the Car Park Operator shall only be entitled to exercise its rights of termination under the Service Contract:
 - (i) in respect of any event arising after that date (any expiry of any remedy period referred to in the Service Contract where the act or omission giving rise to the commencement of such remedy period remains unremedied being deemed for these purposes to be an event arising after that date) in each case subject to expiry of any applicable remedy period provided for in the Service Contract, if the event in question is capable of remedy; or
 - (ii) if the Proposed Substitute does not discharge the obligations and liabilities assumed by it under Clause 4.5 (b) (ii) which relate to matters arising prior to the end of the Step-in Period within 14 days following the Novation Effective Date.

4.7 Expiry of Step-In Period

- (a) If the Step-in Period shall not previously have ended and, as at the date of the second anniversary of the Step-in Date:
 - (i) NHS Greater Glasgow shall be in the course of conducting discussions in good faith with a Proposed Substitute (the novation to whom has been approved by the Car Park Operator whether automatically or otherwise in accordance with Clause 4.3), the Step-in Period shall be extended and shall continue until such date as is proposed by NHS Greater Glasgow and agreed by the Car Park Operator (acting reasonably); or

- (ii) if contracts have been exchanged by NHS Greater Glasgow with a Proposed Substitute (which has been approved by the Car Park Operator whether automatically or otherwise in accordance with Clause 4.3) as at such date, the Step-in Period shall be extended and shall continue until the date such contracts are completed, provided that such date shall not be later than 30 days after exchange.

5. RIGHTS AND OBLIGATIONS UNDER THE SERVICE CONTRACT

Rights of Termination

- (a) If:
 - (i) no Step-in Notice or Proposed Novation Notice is given before a Termination Notice expires; or
 - (ii) a Step-in Undertaking is not issued on the Proposed Step-in Date; or
 - (iii) the Step-in Notice is withdrawn or, pursuant to Clause 3.2 (a), deemed to have been withdrawn; or
 - (iv) the Step-in Period ends other than on the occurrence of the Novation Effective Date; or
 - (v) in the absence of a Step-in Undertaking, the Car Park Operator withholds its consent to a novation pursuant to a Proposed Novation Notice, in accordance with Clause 4.3; or

- (vi) in the absence of a Step-in Undertaking, the obligations of the Proposed Substitute set out in Clauses 4.5 (b) (i) and 4.5 (b) (ii) are not performed on the date required by Clause 4.6 (b); or
 - (vii) the Car Park Operator is entitled to terminate the Service Contract under Clause 4.6,
- (b) the Car Park Operator shall be entitled to:
- (i) exercise all of its rights under the Service Contract and act upon any and all grounds for termination available to it in relation to the Service Contract whenever occurring; and/or
 - (ii) pursue any and all claims and exercise any and all rights and remedies against IPL for any undischarged liabilities of IPL in respect of the Step-in Period; and/or
 - (iii) pursue any and all claims and exercise any and all rights and remedies against NHS Greater Glasgow for any undischarged liabilities of NHS Greater Glasgow in respect of the Step-in Period.

5.2 IPL's rights to Continue

Subject to the terms of the novation and other requisite agreements referred to in Clause 4.5, IPL shall continue to be liable for all its obligations and liabilities, whenever occurring, under or arising from the Service Contract notwithstanding:

- (a) the service of a Step-in Notice or the issue of a Step-in Undertaking or the expiry of the Step-in Period or the release of a Step-in Undertaking;
- or

- (b) the service of a Proposed Novation Notice; or
- (c) any other provision of this Agreement.

6. WARRANTIES

The Car Park Operator agrees and undertakes to NHS Greater Glasgow that, regardless of whether or not NHS Greater Glasgow exercises its rights under Clause 3.1:

- (a) it will owe the same contractual duties and obligations and shall be liable and have the same liability to NHS Greater Glasgow as if NHS Greater Glasgow had been named as joint employer with IPL under the Service Contract;
- (b) it will not set-off any sums due to it from IPL under the Service Contract otherwise than in accordance with the provisions of the Service Contract.

7. SERVICE GUARANTEE

- 7.1 In the event that NHS Greater Glasgow issues a Step-In Undertaking, the parties agree that for the duration of the Step-In Period NHS Greater Glasgow shall be entitled to benefit from and exercise the rights of IPL under the Service Guarantee as if NHS Greater Glasgow instead of IPL was expressed to be IPL under the Service Agreement.
- 7.2 On the Novation Effective Date the Guarantor undertakes to execute at the request of NHS Greater Glasgow a guarantee substantially in the same form and substance as the Service Guarantee in favour of the Proposed Substitute and upon execution of such a guarantee the obligations of the Guarantor under the Service Guarantee shall be cancelled.

8. REVOCATION OF NOTICES

A Termination Notice and a Step-in Notice may each be revoked (in writing to the recipient) by the Party giving them before the expiry of their respective notice periods. Upon any such revocation, the rights and obligations of the Parties shall be construed as if the relevant notice had not been given.

9. ASSIGNATION

9.1 Binding on Successors and Assignees

This Agreement shall be binding on and shall enure to the benefit of the Parties and their respective successors and permitted assigns. In the case of NHS Greater Glasgow, its successors shall include any person to which the Secretary of State, in exercising his statutory powers to transfer property, rights and liabilities of NHS Greater Glasgow upon NHS Greater Glasgow ceasing to exist, transfers the rights and obligations of NHS Greater Glasgow under this Agreement.

9.2 Restriction on Assignment

No Party shall assign or transfer any part of its respective rights or obligations under this Agreement without the prior consent of the others, such consent not to be unreasonably withheld or delayed, provided that NHS Greater Glasgow shall be entitled, without the consent of any other Party, to transfer all its rights and obligations hereunder, in the circumstances contemplated in Clause 35 of the Project Agreement, to the First Minister, another National Health Service Trust, a Health Board, a Special Health Board or, with IPL's consent (acting reasonably), any other person.

10. NOTICES

10.1 Address

Except as otherwise stated, all notices or other communications required in connection with this Agreement shall be in writing and sent by hand, by first class prepaid post or by facsimile transmission to the relevant address or facsimile number set out below or to such other address or facsimile number as a Party may notify to the others in writing by not less than five Business Days' prior notice.

10.2 Effective receipt

Subject to Clause 9.3:

- (a) a letter delivered by hand shall be effective when it is delivered to the addressee;
- (b) a letter sent by first class prepaid post shall be deemed received on the second Business Day after it is put in the post; and
- (c) a facsimile transmission shall be effective upon completion of transmission.

10.3 Timing

No notice or other communications received on a day which is not a Business Day or after 5pm on any Business Day in the place of receipt shall be deemed to be received until the next following Business Day.

- 10.4 For each of the parties to this Agreement their address shall be as shown on the first page of this Agreement or such other address as any party may from

time to time notify to each of the other parties as being its address for service for the purposes of this Agreement.

11. PAYMENTS AND TAXES

11.1 Payments

All payments under this Agreement to any Party shall be made in pounds sterling by electronic transfer of funds for value on the day in question to the bank account of the recipient (located in the United Kingdom) specified to the other Parties from time to time.

11.2 Deductions from payments

All sums payable by a Party to any other Party under this Agreement shall be paid free and clear of all deductions or withholdings whatsoever in respect of taxation, save as may be required by Law.

11.3 Default Interest

Each Party shall be entitled, without prejudice to any other right or remedy, to receive interest on any payment not made on the due date calculated at the Default Interest Rate on a daily basis and on the basis of a 365 day year from the due date up to but excluding the date of payment to apply after as well as before judgment.

12. GUARANTOR

By its execution of this Agreement the Guarantor hereby acknowledges and accepts its terms and undertakes to do any such thing as is required to implement the same.

13. AGENCY

13.1 No Delegation

No provision of this Agreement shall be construed as a delegation by NHS Greater Glasgow of any of its statutory authority to any other Party.

13.2 No Agency

Save as otherwise provided in this Agreement, no Party shall be or be deemed to be an agent of any other's nor shall any Party hold itself out as having authority or power to bind another in any way.

13.3 Independent Contractor

The Parties shall, at all times, be independent contractors and nothing in this Agreement shall be construed as creating any partnership between the Parties or any relationship of employer and employee between the Parties.

14. WHOLE AGREEMENT

This Agreement (when read together with the Project Agreement, the Service Contract and the Car Park Operator Performance Guarantee but without prejudice, save to the extent affected hereby, thereto and to the Funding Agreements and the Funders' Direct Agreement) contains or expressly refers to the entire agreement between the Parties with respect to the specific subject matter of this Agreement and expressly excludes any warranty, condition or other undertaking implied at Law or by custom and supersedes all previous agreements and understandings between the Parties with respect thereto and each of the Parties acknowledges and confirms that it does not enter into this Agreement in reliance on any representation, warranty or other undertaking not fully reflected in the terms of this Agreement provided that

nothing in this Clause 13 purposes to exclude any Party's liability for representations made fraudulently.

15. WAIVER

Failure by any Party at any time to enforce any provision of this Agreement or to require performance by the other Parties of any provision of this Agreement shall not be construed as a waiver of such provision and shall not affect the validity of this Agreement or any part of it or the right of the relevant Party to enforce any provision in accordance with its terms.

16. SEVERABILITY

If any condition, Clause or provision of this Agreement not being of a fundamental nature, is held to be illegal or unenforceable, the validity or enforceability of the remainder of this Agreement shall not be affected thereby.

17. COSTS AND EXPENSES

Each Party shall be responsible for paying its own costs and expenses incurred in connection with the negotiation, preparation and execution of this Agreement.

18. AMENDMENTS

No amendment to this Agreement shall be binding unless in writing and signed by the duly authorised representatives of the Parties.

19. GOVERNING LAW AND JURISDICTION

19.1 Law

This Agreement shall be governed by and construed in all respects in accordance with Scottish Law.

19.2 Jurisdiction

The Parties each submit to the jurisdiction of the Scottish courts as regards any claim or matter arising in relation to this Agreement.

IN WITNESS whereof the Parties have executed this Agreement as follows:-

For and on behalf of NHS Greater Glasgow

Place	Date
Signed by	Witnessed by
Print Name: Thomas Andrew Divers	Print Name: Wendy Hull
Designation: Chief Executive	Designation: Director of Finance

For and on behalf of the Car Park Operator

Place	Date
Signed by	Witnessed by
Print Name	Print Name
Designation	Designation
	Address

For and on behalf of IPL

Place	Date
Signed by	Witnessed by
Print Name	Print Name
Designation	Designation
	Address

For and on behalf of the Guarantor

Place	Date
Signed by	Witnessed by
Print Name	Print Name
Designation	Designation
	Address

This is Schedule 12 comprising the Refinancing referred to in the Project Agreement for the Works and Project Operations at Glasgow Royal Infirmary.

SCHEDULE 12

REFINANCING

Refinancing

1. IPL shall obtain NHS Greater Glasgow's prior written consent to any Qualifying Refinancing and both NHS Greater Glasgow and IPL shall at all times act in good faith with respect to any Refinancing.
2. NHS Greater Glasgow shall be entitled to receive a fifty (50) per cent share of any Refinancing Gain arising from a Qualifying Refinancing.
3. Any proposed Refinancing:-
 - (a) shall not impose any greater liability actual or potential upon NHS Greater Glasgow in terms of this Agreement;
 - (b) shall not result in any actual or potential increase in Tariffs.
4. NHS Greater Glasgow shall not withhold or delay its consent to a Qualifying Refinancing to obtain a greater than fifty (50) per cent share of the Refinancing Gain arising from a Qualifying Refinancing.
5. IPL shall promptly provide NHS Greater Glasgow with full details of any proposed Qualifying Refinancing including a copy of the proposed financial model relating to it (if any) and the basis for the assumptions used in the proposed financial model. NHS Greater Glasgow shall (before, during and at any time after the Refinancing) have unrestricted rights of audit over any financial model and documentation (including, without limitation, any aspect of the calculation of the Refinancing Gain) used in connection with that Refinancing (whether the Refinancing is a Qualifying Refinancing or not).

6. NHS Greater Glasgow shall have the right to elect to receive its share of any Refinancing Gain as:
 - (a) a single payment in an amount less than or equal to any Distribution made on or about the date of the Qualifying Refinancing in connection therewith;
 - (b) applied to effect a reduction in the Tariffs such that IPL are in no worse a position if such reduction is effected;
 - (c) a combination of any of the above.
7. NHS Greater Glasgow and IPL will negotiate in good faith to agree the basis and method of calculation of the Refinancing Gain and payment of NHS Greater Glasgow's share of the Refinancing Gain (taking into account how NHS Greater Glasgow has elected to receive its share of the Refinancing Gain under paragraph 6 above). If the parties fail to agree the basis and method of calculation of the Refinancing Gain or the payment of NHS Greater Glasgow's share, the dispute shall be determined in accordance with the Dispute Resolution Procedure.
8. The Refinancing Gain shall be calculated after taking into account the reasonable and proper professional costs that each party directly incurs in relation to the Qualifying Refinancing and on the basis that all reasonable and proper professional costs incurred by NHS Greater Glasgow will be paid to NHS Greater Glasgow by IPL within twenty (20) Working Days of any Qualifying Refinancing.

This is Schedule 13 comprising the Car Parking Charges and payment provisions referred to in the Project Agreement for the Car Park Operations at Glasgow Royal Infirmary.

SCHEDULE 13

CAR PARKING CHARGES AND PAYMENT PROVISIONS

1. DEFINITIONS

In this Schedule 13 the following definitions shall have the following meanings:-

"Abnormal Costs"	means costs incurred by IPL arising from Site Conditions being substantially different to those indicated in any site surveys or reports provided by NHS Greater Glasgow to IPL or obtained by IPL prior to the date of this Agreement , all of which costs shall be subject to verification by NHS Greater Glasgow and agreement between NHS Greater Glasgow and IPL and IPL shall provide all such information as may be reasonably requested by NHS Greater Glasgow to verify such costs;
"Congestion Charge Event"	means the coming into effect of a Congestion Charge;
"Congestion Charge"	means any system of levies, charges, payments, fines, taxes or financial penalties (including any work place levies or charges) which is introduced by Law and which has the effect or intent of discouraging the use of private motorised means of transport in and around the city of Glasgow;
"Exceptional Costs"	means a change to the cost of the Project Operations (other than a change in cost resulting from a Congestion Charge Event) which is not reasonably foreseeable at the date of this Agreement and additionally for which IPL is not otherwise compensated in accordance with the provisions of this Schedule 13;
"Index"	means the Retail Price Index for all items expressed as a percentage published from time to time by the

Central Statistics Office of the Chancellor of the Exchequer or by the Office for National Statistics (Code CHAW) as appropriate or if the said Index ceases to be published or to be appropriate, such Index or other means of assessment of inflation as is most appropriate to be determined pursuant to Clause 49 in the case of disagreement;

"Indexed"	means the relevant amount of money as may be increased or decreased according to the application of the Indexation Formula;
"Indexation Formula"	means the formula set out in paragraph 4.2;
"Insurance Cost"	means the cost of IPL procuring the Insurances;
"Intercreditor Agreement"	has the meaning given to that term in the Senior Funding Agreement;
"Pass Through Amounts"	<p>means the amount reasonably necessary for IPL to recover:-</p> <p>(a) the cost of electricity tariff charges calculated in accordance with paragraph 7 below;</p> <p>(b) the amount of NNDR in respect of the Site which is payable by IPL calculated in accordance with paragraph 5 below;</p> <p>(c) the amount of water rates in respect of the Site which is payable by IPL calculated in accordance with paragraph 6 below;</p> <p>(e) the extent to which the Insurance Cost is greater than £50,400 per annum (Indexed) being the amount allowed for by IPL;</p> <p>(e) the Abnormal Costs (which may be applied at the first or second Review Date only);</p>
"Patient/Visitor Tariff"	means the amount set out in paragraph 3.2 and reviewed in accordance with the provisions of this Schedule 13, being the amount to be charged by IPL for use of patient/visitor Car Parking Spaces;
"Revenues"	<p>means the income received by IPL from Tariffs after deduction of:</p> <p>(a) amounts required to be paid or transferred by IPL in accordance with sub-clauses 4.2(a) to 4.2(g) (inclusive) of the Accounts Agreement (as defined in the Senior Funding Agreement); and</p>

	(b) amounts which would have been permitted to be transferred by IPL in accordance with sub-clause 4.2(h) of the Accounts Agreement (as defined in the Senior Funding Agreement) if the Congestion Charge Event had not occurred;
"Review Date"	means the Certificate Date and each anniversary thereof unless otherwise stated;
"Review Event"	means the occurrence or the anticipated occurrence of a Relevant Change in Law ;
"Review Event Increase"	means the amount of any increase in the Tariffs as a result of a Review Event;
"Senior Discharge Date"	has the meaning given to that term in the Intercreditor Agreement;
"Staff Tariff"	means the amount set out in paragraph 3.1 and reviewed in accordance with the provisions of this Schedule 13, being the amount to be charged by IPL for use of Staff Spaces;
"Tariff"	means the Patient/Visitor Tariff and the Staff Tariff;
"Tariff Benchmark Adjustment"	means an adjustment permitted pursuant to paragraph 10.

2. CAR PARKING CHARGES

IPL shall not charge any user for the use of a Car Parking Space more than the relevant Tariff ascertained under this Schedule 13.

3. TARIFFS

3.1 Staff Tariff

Subject to the provisions of paragraph 4:

- (a) For the period from the Commencement Date until the Certificate Date
IPL shall charge a Tariff of no more than £20.02 (Indexed) per calendar month for each Access Card issued.

- (b) From the Certificate Date IPL shall charge a Tariff of no more than £ 55 (Indexed) per calendar month for each Access Card issued.

3.2 Patient/Visitor Tariff

Subject to the provisions of paragraph 4:

- (a) Until the Certificate Date only Qualifying Persons can be charged by IPL in terms aforesaid for parking within NHS Greater Glasgow's Estate and accordingly there shall be no Patient/Visitor Tariff to apply until the Certificate Date.
- (b) From the Certificate Date IPL shall charge a Patient/Visitor Tariff of no more than:-
 - (i) 90 pence (ninety pence) (Indexed) per hour or part thereof from 8am to 6pm; and
 - (ii) 80 pence (eighty pence) (Indexed) per hour or part thereof for the first hour and a further 80 pence (eighty pence) (Indexed) if the occupant of the Car Parking Space stays over one hour between the hours of 6pm to 8am.

4. REVIEW OF TARIFF

4.1 On each Review Date, IPL shall adjust the current Tariffs by applying to the Tariffs:-

- (a) the Indexation Formula;
- (b) where relevant any Tariff Benchmark Adjustment pursuant to paragraph 10 below; and

- (c) the Pass Through Amounts to the extent (with the exception of Abnormal Costs) not compensated by the Tariffs being Indexed in accordance with this Schedule 13.

4.2 Where any item is "Indexed" it shall be adjusted as follows:

- (a) in the case of the Staff Tariff on the first Review Date it shall increase or decrease (as applicable) on that Review Date by a percentage equivalent to the percentage increase or decrease in the Index over the period between 1 January 2003 and the Index last published prior to the Review Date plus 1%;
- (b) in the case of the Staff Tariff on the Second Review Date and each Review Date up to and including the fifth review date the Staff Tariff shall be increased or decreased (as applicable) on such Review Dates by a percentage equivalent to the percentage increase or decrease in the Index as published for the calendar month preceeding the relevant Review Date when compared with the Index used at the last Review Date plus 1%;
- (c) in the case of the Patient/Visitor Tariff it shall increase or decrease (as applicable) on the Review Date by a percentage equivalent to the percentage increase or decrease in the Index over the period between 1 January 2003 and the Index last published prior to the relevant Review Date plus 1%;
- (d) in the case of the Staff Tariff on the sixth and each subsequent Review Date the Staff Tariff shall be increased or decreased (as applicable) on any such Review Dates by a percentage equivalent to the percentage increase or decrease in the Index as published for the calendar month

preceding the Review Date when compared with the Index used at the last Review Date plus 3% PROVIDED THAT at all times the Staff Tariff as adjusted pursuant to this sub-paragraph (c) shall never be more than 85% of the Visitor Tariff (assuming 7.5 hours, 5 days per week, 4 weeks per month occupancy of a Car Parking Space) as adjusted under sub-paragraph (b);

- (e) in the case of any other amount which is Indexed under this Agreement such amount shall increase or decrease (as applicable) on the Review Date by a percentage equivalent to the percentage increase or decrease in the Index over the period from 1 January 2003 and the Index last published prior to the relevant Review Date;
- (f) where the Tariffs have been adjusted between any two Review Dates because of a Review Event Increase then any application of the Indexation Formula shall be adjusted so that the Review Event Increase shall only be altered by a percentage equivalent to the percentage increase or decrease in the Index as provided in the calendar month immediately preceding the Review Event and the Index as published for the calendar month preceding the relevant Review Date;
- (g) to avoid doubt it is expressly stated that on each Review Date the Indexation Formula shall be applied to the amount of the relevant Tariff calculated at the previous Review Date prior to any rounding up in accordance with paragraph 4.5 of this Schedule 13.

4.3 On each Review Event IPL may adjust the Staff Tariff and the Patient/Visitor Tariff as may be permitted by the relevant provisions of this Agreement;

- 4.4 All increases to the Staff Tariff calculated in accordance with paragraph 4.1 or 4.2 above shall be applied as a percentage increase to the Staff Tariff.
- 4.5 The amount of the increases in the Patient/Visitor Tariffs arising out of paragraph 4.1 or 4.2 shall be rounded upwards in 10p steps or in the event of a coin of 10p ceasing to be legal tender the next highest equivalent usable coin.
- 4.6 If when rounding up under paragraph 4.5 the amount of the Patient/Visitor Tariff is greater than would have been the case without rounding up any further increase to that Patient/Visitor Tariff shall only be applied when the aggregation of the Indexation Formula and the Pass Through Amounts exceed the then level of Patient/Visitor Tariff.
- 4.7 Worked examples of review of the Patient/Visitor Tariffs are set out in the appendix to this Schedule 13 .
- 4.8 Where IPL makes any adjustment to the Tariff permitted by this Schedule in accordance with paragraph 10 below or by application of Pass Through Amounts it shall apply any adjustment to the Staff Tariff and Patient/Visitor Tariff on an equal percentage basis equivalent to the percentage increase or decrease in the relevant cost.
- 4.9 On the occurrence of a Congestion Charge Event the provisions of paragraph 12 shall apply and may subject to the terms of that paragraph permit an alteration in the Tariffs.

5. **NNDR**

The amounts relating to NNDR which may be recovered by IPL as a Pass Through Amount are:-

- (a) any shortfall between TWENTY THOUSAND POUNDS (£20,000) (Indexed) in relation to the first year from the Commencement Date and TWO HUNDRED THOUSAND POUNDS (£200,000) (indexed) thereafter being the amount allowed for NNDR by IPL in its Financial Model and the actual amount of NNDR payable in respect of the Site once valued for NNDR by the relevant rating authority; and
- (b) any subsequent increases in NNDR applied no less than one year after
- (c) the original valuation of the Site for NNDR.

6. **WATER RATES**

The amounts relating to water rates which may be recovered by IPL as a Pass Through Amount are:-

- (a) any shortfall between Thirty Thousand POUNDS (£30,000) (Indexed) being the amount allowed for water rates by IPL in its Financial Model and the actual amount of water rates payable in respect of the Site; and
- (b) any subsequent increases in water rates.

7. **ELECTRICITY PASS THROUGH**

The amounts relating to electricity which may be recovered by IPL as a Pass Through Amount are to be calculated as follows:

- (a) IPL has an allowance in the Financial Model of Thirteen Thousand eight hundred and ninety Pounds (£13,890) per annum (Indexed) based on an assumed use of 300 000 ("the Assumed Volume") units of electricity multiplied by a unit cost of 4.63 pence per unit or if greater

the cost of a unit under any purchasing contract entered into by IPL on the Certificate Date ("the Assumed Unit Cost").

- (b) IPL shall pay for actual electricity at the unit rate determined pursuant to such electricity supply contract as it may from time to time enter ("the Actual Unit Cost").

- (c) IPL shall be entitled to adjust the Tariffs to the extent that:

Assumed Volume x Actual Unit Cost

exceeds

Assumed Volume x Assumed Unit Cost (Indexed)

8. VALUE ADDED TAX

The Tariffs specified in or ascertained under the above provisions of this Schedule 13 are inclusive of Value Added Tax at 17.5% and shall be varied pro rata to any changes in the level of any Value Added Tax.

9. WORKED EXAMPLES

Worked examples of the operation of the Indexation Formula in relation to the Tariffs are appended to this Schedule 13.

10. TARIFF BENCHMARK ADJUSTMENT

- 10.1 On the fifth Review Date (or the nearest Working Day thereto) and every fifth Review Date thereafter the parties shall meet to review the Tariffs with a view to allowing IPL to recover the Exceptional Costs.

- 10.2 Not less than 15 Working Days prior to the relevant meeting IPL shall submit to NHS Greater Glasgow any proposals for increasing the Tariffs to meet Exceptional Costs and reasons therefor.
- 10.3 NHS Greater Glasgow shall within 10 Working Days of any meeting approve or reject IPL's proposals but NHS Greater Glasgow shall act reasonably in doing so.
- 10.4 If NHS Greater Glasgow rejects IPL's proposals then IPL may within 10 Working Days refer the matter to the Dispute Resolution Procedure.
- 10.5 NHS Greater Glasgow and IPL agree that:
- (a) any proposals for changing the Tariff shall put IPL in no better but no worse a position;
 - (b) IPL shall have to demonstrate that it has used all reasonable endeavours to mitigate any Tariff increases proposed and has acted as a prudent car parking operator;
 - (c) no increase in the Tariff shall be permitted to the extent that such increase may increase any profit or projected profit of IPL; and
 - (d) no increase in the Tariff shall be permitted which would allow for double recovery of any costs or overheads.

11. NNDR CONTRIBUTION

- 11.1 With effect from the Commencement Date IPL shall pay to NHS Greater Glasgow a contribution of £20,000 per annum (Indexed) towards any NNDR payable in relation to the Surface Car Parks (but to avoid doubt excluding the Site) ("Rates Contribution").

11.2 IPL's contribution shall be payable quarterly in arrears within 10 Working Days of an invoice from NHS Greater Glasgow.

11.3 If IPL shall be deemed by any relevant rating authority to be liable for payment of the NNDR payable in relation to the Surface Car Park then NHS Greater Glasgow shall accept responsibility for any such NNDR liability in excess of the Rates Contribution and shall reimburse IPL within 10 Working Days of IPL invoicing NHS Greater Glasgow in respect of any such payment of NNDR by IPL to the rating authority less the Rates Contribution. For the avoidance of doubt if the circumstances set out in this paragraph 11.3 occur IPL shall not be liable to make any payment pursuant to paragraph 11.1.

12. CONGESTION CHARGING

12.1 If a Congestion Charge Event occurs at any time then the parties agree that the provisions of this paragraph 12 shall operate.

12.2 For a period of two consecutive years immediately after a Congestion Charge Event IPL shall monitor on a monthly basis the effect of such event on:

- (a) the usage of the Car Parking Spaces, by reference to both the number of Qualifying Vehicles using each Car Parking Space and the length of time of such use ("Car Parking Space Usage"); and
- (b) any alteration of income from Tariffs.

12.3 IPL shall, following the expiry of the said two year period, report to NHS Greater Glasgow in adequate detail its estimate of the effects of the Congestion Charge Event ("the Report").

12.4 Such effects shall be measured by reference to the Car Parking Space Usage and the income from Tariffs during the two years immediately prior to the

Congestion Charge Event or the period from the Commencement Date to the Congestion Charge Event (whichever period is the shorter), save that where the parties agree that such data is unobtainable or inapplicable, the effects of the Congestion Charge Event shall be measured (wholly or in part) by reference to the equivalent data in the base case of the Financial Model. IPL shall provide to NHS Greater Glasgow such additional information as NHS Greater Glasgow shall reasonably request.

- 12.5 Where the Report reasonably demonstrates a material adverse effect on income to IPL from Tariffs as a result of a Congestion Charge Event the Report shall additionally set out IPL's proposals for any extension to the duration of the Concession Period that may be necessary to place IPL in no better and no worse a position as though the Congestion Charge Event had not occurred.
- 12.6 NHS Greater Glasgow shall within 10 Working Days of receiving any proposals (or such additional information as is reasonably requested under paragraph 12.4) approve or reject IPL's proposals but NHS Greater Glasgow shall act reasonably in doing so.
- 12.7 If NHS Greater Glasgow rejects IPL's proposals then IPL may within 10 Working Days refer the matter to the Dispute Resolution Procedure.
- 12.8 Any agreed proposals or those determined pursuant to paragraph 12.7 shall take effect within 10 Working Days of agreement or determination.
- 12.9 Any change in the duration of the Concession Period or assessment of additional Revenues as contemplated by paragraph 12.11 below shall be reviewed by IPL annually from the time of introduction and IPL shall update the Report indicating the continued effects of any Congestion Charge Event (measured by reference to the Car Parking Space Usage and the income from

Tariffs during the year immediately prior to the year on which the Report is made) and shall where considered necessary make further proposals which may include the reduction of any extension of the Concession Period.

12.10 The provisions of paragraph 12.5 to 12.8 shall be re-applied to any update pursuant to paragraph 12.9.

12.11 Where a Report indicates that any Congestion Charge Event has put IPL in a position that is better than it would otherwise have been if a Congestion Charge Event had not occurred then, to the extent that IPL has received any additional Revenues in the relevant period solely as a result of the Congestion Charge Event, IPL shall pay in arrears to NHS Greater Glasgow:

- (a) such additional Revenues received during the two years following introduction of the Congestion Charge Event; and
- (b) in each subsequent year, such additional Revenues for the relevant year,

within 10 Working Days of agreement of the level of such additional Revenues or in the absence of agreement within 10 Working Days of any determination under the Dispute Resolution Procedure.

12.12 IPL shall not make any distributions to any Shareholders by way of dividend, bonus shares, redemption of shares or by any other means until the parties shall have agreed or it is determined whether or not to extend the Concession Period or to pay additional Revenues to NHS Greater Glasgow following the Report on the period to which the distributions relate.

12.13 Notwithstanding any other provision in this paragraph 12:-

- (a) the maximum increase to the duration of the Concession Period as a result of a Congestion Charge Event shall be five years; and
- (b) this paragraph 12 shall cease to have effect on the Senior Discharge Date.

APPENDIX

This is the Appendix containing worked examples referred to in paragraph 9 of Schedule 13 to the Project Agreement for Project Operations at Glasgow Royal Infirmary.

WORKED EXAMPLES

STAFF TARIFF

First Review

Commencement Date	Price of £20.02 (indexed) per calendar month for each Access Card			
to Certification Date				
Indexation Formula for first review	$\frac{(\text{Commencement RPI}) - (\text{Base RPI})}{(\text{Base RPI})} \times 100$	+ 1		
Commencement RPI	Assume 01/01/2004 = 182.1			
Base RPI	01/01/2003 = 177.1			
Indexation Calculation	$\frac{182.1 - 177.1}{177.1} \times 100$	+ 1		= 3.82%
Revised Price	$£20.02 + 3.82\% = £20.78$			

Certification to Fifth Review

Certificate Date	Price of £55 (indexed) per calendar month for each access card			
to sixth review				
Indexation Formula to fifth review	$\frac{(\text{Current Review RPI}) - (\text{Previous Review RPI})}{(\text{Previous Review RPI})} \times 100$	+ 1		

Current Review RPI	Assume 184.8			
Previous Review RPI	Assume 182.7			
Indexation Calculation	$\frac{184.8 - 182.7}{182.7} \times 100$	+ 1		= 2.15%
Revised Price	£55.00 + 2.15% = £56.18			

Note: The staff tariff shall never be more than 85% of the visitors tariff (assuming 7-8 hours, 5 days per week, 4 weeks per month occupancy of a car parking space)

Sixth & Subsequent Reviews

Sixth & Subsequent reviews	Price of £55 (indexed) per calendar month for each access card			
Indexation Formula	$\frac{(\text{Current Review RPI}) - (\text{Previous Review RPI})}{(\text{Previous Review RPI})} \times 100$	+ 3		
sixth & subsequent review				
Current Review RPI	Assume 184.8			
Previous Review RPI	Assume 182.7			
Indexation Calculation	$\frac{184.8 - 182.7}{182.7} \times 100$	+ 3		= 4.15%
Revised Price	£55.00 + 4.15% = £57.28			

Note: The staff tariff shall never be more than 85% of the visitors tariff (assuming 7-8 hours, 5 days per week, 4 weeks per month occupancy of a car parking space)

PATIENT/VISITOR TARIFF

Commencement to Certification

Commencement Date
to
Certification Date

No Charge for Visitor / Patient parking

Certification Review

Certification Date
Review

90 pence(indexed) per hour (8pm to 6pm)

Indexation Formula
for certification date review

$$\frac{(\text{Certification RPI}) - (\text{Base RPI})}{(\text{Base RPI})} \times 100 + 1$$

Certification RPI

Assume 05/01/2005 = 187.7

Base RPI

01/01/2003 = 177.1

Indexation Calculation

$$\frac{187.7 - 177.1}{177.1} \times 100 + 1 = 6.99\%$$

Revised Price

90 + 6.99% = 96.29
Rounded up = £1.00

Subsequent Reviews

Subsequent Reviews

97 pence(indexed) per hour (8pm to 6pm)

Indexation Formula
for subsequent reviews

$$\frac{(\text{Current Review RPI}) - (\text{Previous Review RPI})}{(\text{Previous Review RPI})} \times 100 + 1$$

Current Review RPI

Assume 188.1

Previous Review RPI

Assume 187.7

Indexation Calculation

$$\frac{188.1 - 187.7}{187.7} \times 100 + 1 = 1.21\%$$

Revised Price

97 + 1.21% = 98.17
Rounded up = £1.00

This is Schedule 14 comprising the Employers and Reverse TUPE referred to in the Project Agreement for the Works and Project Operations at Glasgow Royal Infirmary.

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SCHEDULE 14

EMPLOYEES AND REVERSE TUPE

REVERSE TUPE

1. Where there is a transfer pursuant to TUPE of the contracts of employment of any employees of IPL or its sub-contractors of any tier (such group of employees being referred to herein as "Affected Employees") to NHS Greater Glasgow or a replacement contractor appointed by NHS Greater Glasgow ("New Contractor") on termination of this Agreement, or any sub-contract of IPL or its sub-contractors of any tier then the following shall apply:-
 - 1.1 All obligations in respect of the Affected Employees including without prejudice the foregoing generality Transfer Financial Obligations relative to the period in which IPL was responsible for performing this Agreement up to but not including the date of such transfer ("the Date of Transfer") shall be borne by IPL and IPL shall indemnify NHS Greater Glasgow and any New Contractor and hold them harmless from and against all Transfer Financial Obligations relative to the period up to the Date of Transfer.
 - 1.2 All Transfer Financial Obligations and all other obligations in respect of the Affected Employees relative to the period from and including the Date of Transfer shall be borne by NHS Greater Glasgow or if directed by NHS Greater Glasgow, the New Contractor. NHS Greater Glasgow shall indemnify

IPL and hold it harmless from and against all Transfer Financial Obligations relative to the period from and including the Date of Transfer.

- 1.3 NHS Greater Glasgow shall procure that the Affected Employees are offered the right to enter into a pension scheme which is certified by the Government's Actuary Department as providing broadly comparable benefits to the relevant contractor scheme.

2.

- 2.1 In relation to entitlement to holiday pay for the Affected Employees the following shall apply:-

- (a) where an employee has taken more than his proportionate holiday for the then current holiday year prior to the Date of Transfer, NHS Greater Glasgow or the New Contractor shall not be obliged to make any reimbursement in respect thereof to IPL; and
- (b) where the employee has taken less than his proportionate holiday in the then current holiday year prior to the Date of Transfer, NHS Greater Glasgow shall or shall procure that the New Contractor shall bear the cost of such entitlement arising thereafter in full without recourse to any reimbursement from IPL provided that IPL shall ensure that employees are permitted to take holidays in the normal course of business until the Date of Transfer.

- 2.2 IPL shall provide to NHS Greater Glasgow, no later than six months before the Date of Transfer, in the event of natural expiry of this Agreement, and in the event of early termination, within ten Working Days of the notice to terminate served by either party, the information set out in paragraph 4 hereof regarding all Affected Employees and shall confirm the validity of that information no later than two weeks before the Date of Transfer (if possible).

- 2.3 IPL warrants to NHS Greater Glasgow that the information that IPL provides under paragraph 4 hereof in respect of the Affected Employees will be true, accurate and complete in all material aspects.

3. IPL warrants to NHS Greater Glasgow that as at the date of provision of the information in terms of paragraph 2.3 hereof the Affected Employees identified by IPL pursuant to paragraph 1 represents IPL's estimate, acting reasonably and in good faith, of all those persons whose contracts of employment will transfer in accordance with this Agreement.
4. The information required under paragraph 2 hereof is the following:-
 - 4.1 where the same is available from employee records all material facts and matters relating to or concerning the employment of any Affected Employee including but not limited to their respective names, titles, ages, length of service, notice periods and all terms and conditions of employment;
 - 4.2 any agreements or other arrangements (whether or not legally binding) between IPL and any trade union, staff association, appropriate representatives or other body representing any of the Affected Employees;
 - 4.3 any dismissal of any person for a reason connected with the Agreement and any dismissal of the Affected Employees or other persons previously working in the Undertaking who have or may have a statutory or contractual right to return to work in the Undertaking and are on maternity leave, absent on grounds of disability or other leave of absence;
 - 4.4 any enquiries or investigations existing, pending or threatened to the Undertaking by the Equal Opportunities Commission or the Commission for Racial Equality or other similar authority;
 - 4.5 any existing, threatened or pending litigation (in either a court or Employment Tribunal) or dispute (including any industrial action) relating to or concerning all of any of the Affected Employees or any matter which could give rise to any

legal claim or right of action whatsoever or create other liabilities in respect of any of them; and

- 4.6 any industrial action currently or at any time during the three years preceding the date of providing the information affecting IPL and any acts or omissions of IPL the result of which is reasonably likely to result in industrial action by or a dispute with all or any of the Affected Employees or in litigation (in either a court or Employment Tribunal) against IPL by any of the Affected Employees or any trade union, staff association or other representatives of the Affected Employees.

5.

- 5.1 IPL will, in so far as it is aware in the period up to Date of Transfer disclose material changes to and negotiations in respect of changes to those terms and conditions and/or collective agreements or further collective agreements applicable to the Affected Employees entered into by it;
- 5.2 Subject to paragraph 5.1 IPL shall not vary the terms and conditions of the contracts of employment of the Affected Employees from the date of disclosure to NHS Greater Glasgow except insofar as it is reasonably required in the normal course of the business of IPL or engage such employees on terms and conditions materially different to those disclosed to NHS Greater Glasgow without the prior consent of NHS Greater Glasgow, such consent not to be unreasonably withheld or delayed.
- 5.3 Prior to the Date of Transfer and upon receiving reasonable notice from NHS Greater Glasgow specifying the Affected Employees required and the date, time and duration for which the relevant Affected Employees are required, IPL shall make such Affected Employees available to NHS Greater Glasgow or the

New Contractor for training, induction and consultation provided always that NHS Greater Glasgow and/or the New Contractor acts reasonably in specifying the date, time and duration having regard to the duties of such Affected Employees and the impact of any absence on the performance of this Agreement by IPL.

6. Prior to the Date of Transfer, NHS Greater Glasgow or the New Contractor shall send a letter to each of the Affected Employees, in terms previously approved by IPL, confirming that pursuant to TUPE, the contracts of employment of the Affected Employees will transfer to NHS Greater Glasgow or the New Contractor with effect from and including the Date of Transfer and confirming that the period of employment which the employee has accrued under service with IPL shall be viewed as continuous for all purposes pursuant to TUPE.
7. IPL shall indemnify NHS Greater Glasgow and/or the New Contractor and hold it harmless from and against all losses, costs, claims, demands, actions, fines, penalties, awards, liabilities and expenses (including reasonable legal expenses) incurred (either before, on or after the Date of Transfer) in connection with or as a result of:-
 - 7.1 any claim or demand by or in respect of the Affected Employees or any of them or any employee or other employee or former employee of IPL, any New Contractor or other sub-contractor of IPL or any New Contractor arising either under statute, contract or at common law from any act, fault or omissions of IPL, any New Contractor or other third party in relation to the period prior to the Date of Transfer; and
 - 7.2 any claim or demand (either under statute or at common law) by any trade union or staff association or any other workers' representatives within the meaning of TUPE arising from or connected with any obligations to that trade

union, staff association or other workers' representatives whether under Regulation 10 of the TUPE or otherwise to the extent that such claim or demand relates to the period before the Date of Transfer.

8. NHS Greater Glasgow shall indemnify IPL and hold it harmless from and against all losses, costs, claims, demands, actions, fines, penalties, awards, liabilities and expenses (including reasonable legal expenses) incurred in connection with or as a result of:-

8.1 any claim or demand by or in respect of the Affected Employees or any of them arising either under statute, contract or at common law from any act, fault or omissions of NHS Greater Glasgow in relation to the period after the Date of Transfer; and

8.2 any claim or demand (either under statute or at common law) by any trade union or staff association or any other workers' representatives within the meaning of TUPE arising from or connected with any obligations to that trade union, staff association or other workers' representatives whether under Regulation 10 of the TUPE or otherwise to the extent that such claim or demand relates to the period after the Date of Transfer;

8.3 any claim by any Affected Employee that IPL or the relevant Affected Employee pension terms and benefits, certified as equivalent to the relevant IPL pension scheme the Government's Actuary Department, as being broadly compared.

9. This Schedule 14 shall survive the expiry or earlier termination of this Agreement.

This is Schedule 15 comprising the Transfer Conditions referred to in the Project Agreement for the Works and Project Operations at Glasgow Royal Infirmary.

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SCHEDULE 15

TRANSFER CONDITIONS

1. NHS Greater Glasgow, as beneficial owner, shall transfer with full title guarantee and IPL shall accept title to the car parking management equipment in the ownership of NHS Greater Glasgow as at the Commencement Date and used at the Commencement Date in management of car parking in the Surface Car Parks on NHS Greater Glasgow's Estate ("Assets") and shall purchase the Assets as from the Commencement Date and upon and subject to the terms and conditions of this Schedule 15.
2. The transfer of the Assets shall be at a cost to IPL of one pound (£1) ("Asset Price").
3. At termination of this Agreement (howsoever occasioned) beneficial ownership in all car parking equipment within the Multi Storey Car Park, the Surface Car Parks and the Non Parking Zones shall pass to NHS Greater Glasgow with no payment being due to IPL in respect thereof (other than as may be included in any compensation calculated in accordance with Schedule 19).
4. For the avoidance of doubt, there shall be excluded from the transfer hereunder:-
 - 4.1 any goodwill in relation to any activity or business of either party;
 - 4.2 any name, trade or service mark associated with or used by either party;

4.3 any refund of taxation in respect of the period prior to transfer of ownership in accordance with this Schedule 15;

4.4 any debts, liabilities or obligations in respect of any equipment transferring in accordance with this Schedule 15 arising prior to the relevant date of transfer unsettled as at that date.

5. Completion of Sale

5.1 Each party shall deliver or make available to the other as the case may be:-

(a) possession of any equipment to transfer in accordance with this Schedule 15;

(b) executed documentation sufficient for the purposes of transferring title to the same.

6. Warranty

6.1 Each party warrants and represents that it has good title to the equipment transferring in accordance with this Schedule 15 and the same is free from all liens, charges and encumbrances.

6.2 Any equipment transferring subject to this Schedule 15 shall so transfer subject to all defects on an "as is" basis. Neither party gives any warranty as to the condition, merchantability or working order of the same.

6.3 All statutory warranties are hereby excluded to the extent permitted by law.

ANNEX to SCHEDULE 15

Glasgow Royal Infirmary

List of the Assets

Location 1: Quadrangle, Castle Street Kiosk

Location 2: Cathedral Car Park

Single entry & exit barrier card reader system

Location 3: Macewen Building

2 barriers with one entry barrier with barrier car entry system. One exit barrier

Location 5 & 7: Warnock Street

Kiosk operated system with 2 barriers

Exit Location 5: Castle Street

Single barrier

Exit Location 7: QEB Ambulance Bay

Single Barrier

Location 6: PRM/Cuthbertson Building

Single entry and exit barrier with barrier card entry system

Location 8: Wishart Street

Single entry and exit barrier with barrier card entry system

Location 9: Clydesdale Bank

Single entry and exit barrier with barrier card entry system

This is Schedule 16 comprising NHS Greater Glasgow Maintenance of the Accessways and Surface Car Parks referred to in the Project Agreement for the Works and Project Operations at Glasgow Royal Infirmary.

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SCHEDULE 16

**NHS GREATER GLASGOW MAINTENANCE OF ACCESSWAYS AND SURFACE CAR
PARKS**

1. In accordance with Clause 27 of the Agreement NHS Greater Glasgow shall:
 - (a) maintain the Accessways to a standard such as to allow reasonable access to and egress from the Car Parking Spaces within the Multi Storey Car Park and Surface Car Parks; and
 - (b) maintain the boundary wall and fences at Car Park 9 (Weaver Street Car Park) in accordance with the obligations contained in the title checks to the same.
2. Subject to paragraph 10 below NHS Greater Glasgow shall maintain those Car Parks identified on the Plan as Car Park 1 (the Quadrangle), Car Park 3 (Mortuary Lane) and Car Park 7 (the Ambulance Undercroft) all to a standard such as to allow reasonable and proper use of the Car Parking Spaces within the said Surface Car Parks.
3. NHS Greater Glasgow shall advise IPL as soon as reasonably practicable of any work it intend to carry out to the Accessways and the said Surface Car Parks giving the expected dates and time required for any maintenance work to be carried out.

4. IPL may issue notice to NHS Greater Glasgow of the requirement for maintenance work to be carried out following any inspection of the said Surface Car Parks undertaken by IPL specifying the extent of work required ("Maintenance Report").
5. If NHS Greater Glasgow disputes any item on the Maintenance Report the parties shall meet within 5 Working Days to agree the content of the same failing which either party may refer such dispute to the Dispute Resolution Procedure.
6. Any items on the Maintenance Report shall be rectified by NHS Greater Glasgow within 40 Working Days of:-
 - (a) receipt of the Maintenance Report; or
 - (b) resolution or determination of any disputed items,(the "Rectification Period").
7. Any rectification shall use good quality materials and be carried out in accordance with Good Industry Practice.
8. Upon completion of the maintenance works by NHS Greater Glasgow, the parties shall jointly re-inspect at an agreed time, each party acting reasonably, and IPL shall reissue the Maintenance Report marked as "rectified".
9. If NHS Greater Glasgow fails to carry out said works as it may be required to remedy to the standard set out in this Schedule 16 IPL may (but is not obliged) itself carry out the works identified on the Maintenance Report.
10. NHS Greater Glasgow shall reimburse to IPL any cost properly incurred by IPL in itself carrying out remedial works within 10 Working Days of demand by IPL subject to IPL :-

- (a) providing such information as NHS Greater Glasgow shall reasonably require to verify any amounts claimed;
 - (b) using reasonable endeavours to itself undertake or procure the remedial works at reasonable cost;
 - (c) using good quality materials;
 - (d) undertaking the maintenance works in accordance with Good Industry Practice.
11. In the event of late payment by NHS Greater Glasgow interest shall apply at the Default Rate.

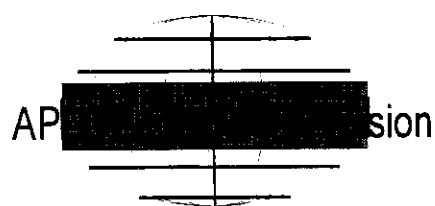
This is Schedule 17 comprising the Car Parking Management Policy referred to in the Project Agreement for the Works and Project Operations at Glasgow Royal Infirmary.

SCHEDULE 17

CAR PARKING MANAGEMENT POLICY

GREATER GLASGOW HEALTH BOARD

CAR PARKING MANAGEMENT POLICY



SITE OPERATING DOCUMENT

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- F. ANTI FRAUD POLICY
- G. ENVIRONMENTAL POLICY
- H. DEISTER PATROL CHECK POINTS
- I. DUTY ROSTERS

INTRODUCTION

This document comprises the Car Parking Management Policy referred to in the Project Agreement between Greater Glasgow Health Board and Impregilo Parking (Glasgow) Limited ("IPL") pursuant to which IPL have contracted with APCOA Parking (UK) Limited (referred to in this Schedule 17 as "APCOA" or "Apcoa") for operation of the new Multi Storey Car Park and the Surface Car Parks at the Glasgow Royal Infirmary. This Car Parking Management Policy is intended to set out the detailed basis upon which the Multi Storey and Surface Car Parks shall be operated and managed by APCOA on behalf of IPL and should be read in conjunction with the said Project Agreement. In the event of any conflict between the terms of the Project Agreement and the terms of this Car Parking Management Policy, the Project Agreement shall prevail.

1. PHILOSOPHY AND BASIC PRINCIPLES OF SERVICE

1.1 Philosophy

APCOA's service objective is to maximise for our clients the financial return on their assets whilst providing the customer with a secure, efficient and friendly service. It is our intention to maintain the general level of security for all hospital patients, staff, visitors and property in a manner which is entirely compatible with the nature of NHS Greater Glasgow's premises and services.

We are committed to establishing a strong operational partnership with all sections of NHS Greater Glasgow who have an interest in the management of parking, whether as casual users of the facilities or as NHS Greater Glasgow employees with special responsibilities in this area. The partnership extends to bodies outwith NHS Greater Glasgow i.e. Police and Local Authorities, and is fostered by means of regular liaison meetings to address points of common interest.

1.2 Basic Principles

It is fully appreciated that the main measure of our performance is our ability to respond effectively, swiftly and appropriately to any incident falling within our area of responsibility. It is only in doing so that we can realistically maintain the confidence and co-operation of hospital users.

The quality of staff used in attaining our objectives is assured by a combination of careful vetting and recruitment, and a vigorous standard of supervision. Apcoa feels that our clients have an absolute right to expect a high level of professionalism from our staff, and it is to this end that all the efforts of management are directed.

We employ sufficient staff in order to provide a highly visible and reassuring presence at those times and locations of maximum activity, or which have been identified as giving cause for concern, and to enhance the overall feeling of security by a high level of patrolling.

Basic and continuation training is carried out by APCOA's in-house training department, which is qualified to undertake training by our SITO approved in-house team.

2. OPERATIONAL PHASE

2.1 Staff Briefing

All staff are allocated a period of 15 minutes at the beginning of each tour of duty for briefing purposes. The Duty Supervisor briefs the Security Patrol Officers on his shift.

The briefing covers:

- a. All matters of note which have occurred since the end of his last tour.

- b. Any matters which may arise within the current tour of which he needs to be appraised-not just those effecting his own responsibilities, but taking a broader view, in order that he may be familiar with all other developments within the hospital.

2.2 Inspection

Prior to commencing operational duty, staff are inspected by a Supervisor to ensure that:

- a. Their dress is of a suitable standard and appropriate to the nature of their allocated task;
- b. That they are fully equipped to carry out that task.

2.3 Patrolling

Patrolling is carried out on foot and by vehicle and is highly visible. The essence of effective patrolling is that it should be frequent but irregular. Where patrolling forms a pattern or becomes routine, its only value is to the wrong-doer; who can then accurately gauge the amount of time at his disposal to engage in his nefarious activities. To ensure best practice in our patrolling methods, Apcoa has installed the Deister system of patrol monitoring. Radiowave reflective discs (no bigger than a fifty pence piece) have been placed in discreet locations throughout the areas we patrol. Staff carrying out security patrols are equipped with a wand-like device, which has a computer memory: by pointing the wand close to the disc, the date, time and location are logged into the memory. The information stored in the wand is downloaded into a PC and reports of patrol activity are printed as an aid to supervision.

3. CAR PARK POLICY

The aim of the Apcoa Parking (UK) Ltd Management Team is to:

- a. Provide a facility for the users of the hospital car parks to park their vehicles in a clean and safe environment.
- b. To assist all car park users i.e. staff, visitors and patients with any queries they may have.
- c. Ensure that all rules and instructions from IPL and NHS Greater Glasgow Management are observed and enforced.
- d. To anticipate and report any incident which may compromise NHS Greater Glasgow's or IPL's obligations under the Health and Safety at Work Legislation.
- e. Maintain proper and accurate records of all car park incidents, accidents, damage and maintenance requirements to car park fixtures and fittings.
- f. To project a confident, efficient and helpful image with well trained staff available to assist all users of the facility.
- g. Ensure assistance is given to customers with wheel changing and the jump starting of vehicles.
- h. To provide a safe escort upon request from any member of staff, to or from their vehicle, wherever possible.
- i. Ensure correct operation of all car parking equipment.
- j. Deter vehicle related crime through the car park areas by promotion of crime prevention.
- k. Liaison with local Police.

3.1 Operational Procedure for Civil Penalty Notices (CPN's)

Offence and Action.

A penalty notice will be issued for the following breaches of contract.

FAILING TO DISPLAY	
OFFENCE	ACTION
No valid ticket or voucher	NOTICE TO BE ISSUED
Falsifying or defacing ticket or voucher	NOTICE TO BE ISSUED
Displaying out of date ticket or voucher	NOTICE TO BE ISSUED
Ticket incorrectly displayed	NOTICE TO BE ISSUED
Expired ticket or voucher	NOTICE TO BE ISSUED
Incorrect parking/Not parked within a marked bay	NOTICE TO BE ISSUED
No valid staff permit	NOTICE TO BE ISSUED

PARKING IN AN UNAUTHORISED AREA	
OFFENCE	ACTION
Cross Hatched Area	NOTICE TO BE ISSUED
Ambulance Bay	NOTICE TO BE ISSUED
Yellow Lines	NOTICE TO BE ISSUED
Obstruction	NOTICE TO BE ISSUED
Grass Verges	NOTICE TO BE ISSUED
Pavements	NOTICE TO BE ISSUED
Roadways	NOTICE TO BE ISSUED
Delivery Bays	NOTICE TO BE ISSUED
Car Park Entrances/Exits	NOTICE TO BE ISSUED
Drop Zones	NOTICE TO BE ISSUED
Parking in Disabled Bay without Permit	NOTICE TO BE ISSUED
Parking Other Than In A Designated Parking Bay	NOTICE TO BE ISSUED

CPN Notices – Method of Payment

1. A parking charge of £20.00 will be levied for each breach of the policy. This will be reduced to £10.00 if paid within 7 days.
2. Thereafter, APCOA will only accept full payment of £20.00 to be received within 28 days of the date of issue of the notice.
3. Should payment not be received within this time Apcoa Parking (UK) Ltd will commence legal proceedings for recovery of the £20.00 charge together with all associated costs.
4. Apcoa Parking (UK) Ltd reserves the right to sue for a greater sum, where the company deems appropriate to recover costs.

Challenging CPN Parking Notice

A written challenge may be submitted against the issue of a CPN Parking Notice, this must be received by APCOA within seven days of the issue date of the Notice.

The Arbitration Period

On receipt of a written challenge to a Civil Penalty Notice within 7 days of issue, APCOA will consider the aftermentioned factors prior to making any decision:

- Any previous communication with regard to this CPN Notice.
- Any extenuating circumstances regarding the alleged breach.
- Any previous history of unauthorised parking.
- Where, in view of the above, it is decided to take no further action the customer will be informed in writing and any penalty monies paid will be returned.

- Where a CPN Notice is held to have been properly issued and there are no circumstances warranting cancellation, the customer will be informed of that decision and of the reason, as quickly as possible in order that they may still qualify for the early payment reduction.
- The company's Site Manager will have authority to deal with these concerns and will decide whether an appeal is to be upheld or dismissed.

Checking for Valid Parking Tickets

When examining parking tickets to see if a ticket is valid, staff will ensure the following:

- That the ticket is correctly displayed.
- That the ticket is valid for the vehicle.
- If parked in a staff car park a valid APCOA permit is to be displayed.
- That the ticket/permit has not expired.

Exceptions for No Ticket

The only occasions when **No Ticket** will be accepted is when more than one Pay & Display ticket machine is out of order. Confirmation from the Supervisor must be sought as to the serviceability state of ticket machines before granting any concessions.

Instructions for Issuing CPN Notices

The following procedure is to be applied when issuing CPN Notices:

- **Always** use black ink (biro).

- **Always** print using block capital letters (print neatly and legibly).
- Ensure details are recorded clearly on carbon copy.
- When ending your shift ensure the book of CPN Notices are returned to your Supervisor/Admin Office for checking.
- If you make a mistake whilst writing a CPN Notice, inform your Supervisor immediately/Print " **ENTERED IN ERROR**" and sign your name, and request your Supervisor to countersign.

NOTE: Patrol Officers are not permitted to cancel or make void any CPN Notice once it has been issued.

Only the Contract Manager or those personnel nominated by him have the authority to cancel or make void CPN Notices.

4. **STAFFING DETAILS**

4.1 **Contract Manager**

The Contract Manager employed by APCOA Parking (UK) Ltd, is directly accountable to Impregilo Parking (Glasgow) Ltd for the provision of all services and has the authority to act and make decisions on behalf of APCOA.

The Contract Manager's prime responsibility is to establish and maintain an effective working relationship with NHS Greater Glasgow's Management Team, to provide a fully complemented and properly trained workforce, and to ensure compliance with Health and Safety policies and all APCOA internal rules and procedures.

The Contract Manager is salaried and is employed for a basic 45 hours per week. His normal hours of duty are 08.00 to 17.00 hours Monday to Friday, however, as a

Senior Contract Manager he is always contactable by telephone/mobile phone outwith these hours in the event that his services are required on site.

Key Responsibilities

- a. To supervise staff in their daily implementation of the operational plan.
- b. To adhere personally to NHS Greater Glasgow, IPL and Apcoa company regulations, and ensure compliance of subordinates.
- c. To attend liaison meetings with NHS Greater Glasgow, Police, Local Authority and other interested parties in order to refine parking operations and ensure best practice.
- d. To investigate all complaints made against Apcoa staff, and to instigate disciplinary procedures where necessary.
- e. To be mindful of the need for an understanding and flexible management approach.
- f. To address the concerns of the public and staff sympathetically.

4.2 Car Park Supervisor

Car Park Supervisors are employed seven days a week; two are on duty on any one-day. Their hours of deployment ensure that one is on duty at all times during the hospital core hours and also at any time the Contract Manager is not in attendance.

A Supervisor is taken off shift duties to deputise for the Contract Manager during periods of absence e.g. holidays, sickness etc., the other supervisors then work additional paid hours to cover their colleagues duties.

They are responsible for the daily management and operation of the car park facilities, the supervision of deployed staff, and the collection, counting and banking of parking fees.

Principal Accountabilities:

- a. Ensuring as far as is reasonably practicable, that the car parking facilities remain available to the users at all times.
- b. The completion of staff rotas and patrol patterns.
- c. Ensuring as far as is reasonably practicable, that deployed staff levels are maintained in the event of unscheduled absences.
- d. Ensuring all staff are properly uniformed and of presentable appearance, prior to and during the execution of their duties.
- e. Ensuring all staff are briefed with regard to any special duties or requirements.
- f. The security of parking fees from the time collected to the time banked, including the reconciliation of all monies.
- g. The control and operation of the key security management.

The Duty Supervisor is responsible for the Health and Safety of NHS Greater Glasgow and IPL employees and the public in their use of the car parks. It is his responsibility to properly record all accidents, acts of vandalism and violence, and to report and deal with any emergency maintenance requirements.

Reporting directly to the Duty Supervisor are the Car Park Attendants and Cleaner.

4.3 Computer Operator/Administration Assistant

One Admin Assistant is employed from Monday to Friday and is directly accountable to the Contract Manager. He/she is responsible for the daily management and upkeep of all parking permits issued.

Principal Responsibilities:

- a. To represent Apcoa, IPL and NHS Greater Glasgow by promoting good public relations, providing advice and information concerning all parking related matters, in a courteous and helpful manner.
- b. To handle all telephone inquiries regarding parking in a responsible manner.
- c. To ensure the accuracy of all paperwork relating to the administration of all car parks at Glasgow Royal Infirmary.
- d. To assist the Contract Manager in the completion of all correspondence as required.
- e. To carry out reception duties involving in the main, enquiries from the public, and receiving visitors in a professional, confident and courteous manner.
- f. To ensure all telephone calls are logged at the time of being made/received, and to log any action taken.

4.4 Patrol Officer

Patrol Officers are employed on a roster basis from Monday to Sunday and a Patrol Officer will be on site at all times i.e. 24 hours per day, and are directly accountable to the Duty Supervisor. They are responsible for the daily upkeep/compliance of the hospital parking regulations.

Principal Responsibilities

- a. To patrol the area around all of the hospital car parks.
- b. To report, record and take appropriate action in regard to any defects found in the street furniture including, signs, road markings and lighting defects, as per procedures.
- c. To record and report all suspect vehicles, acts of vandalism and fraudulent use of parking permits.
- d. To represent Apcoa, IPL and NHS Greater Glasgow by promoting good customer relations, advice and information concerning parking related matters in a helpful and courteous manner.
- e. To use radio equipment in a manner in accordance with company procedures.
- f. To keep comprehensive logbook entries regarding any incidents.
- g. To ensure any difficulties or problems encountered during the course of a normal duty are reported to the Duty Supervisor, and that all such incidents are recorded in personal logbooks.
- h. To remove all litter or other matter detrimental to the good order of the car parks.

4.5 Cleaner

One cleaner is employed from Monday to Friday, and is directly responsible to the Duty Supervisor. He is responsible for the daily upkeep of the car parks.

Principal Responsibilities

- a. To check all stairways and lift lobbies are swept and to collect all litter.

- b. Empty all litterbins as required.
- c. Complete a tour of all car parks and remove all litter and sweep as necessary.
- d. All car park signage to be wiped down and cleaned as necessary.
- e. Brush, mop and dust all areas in the Control Room, Manager's Office, Cash Office, Toilet, Kitchen and Lobby, as required.
- f. Carry out any other duties as directed by the Duty Supervisor.

5. STANDARD OPERATIONAL PROCEDURES

5.1 Control Room

The Control Room is manned 24 hours per day by either by a Supervisor, Patrol Officer or Admin Assistant. The CCTV equipment is constantly monitoring all car parks. All radio messages are passed through the Control Room. Any calls for assistance are monitored by the Control Room i.e. Police, Breakdown Vehicles etc. We will liaise with hospital security staff at irregular intervals during the Patrol Officers' shifts

5.2 Radio Communication

The radios are only used to transmit and receive essential information. They are NOT used for any other purpose. This would include general conversation, and are NEVER used as a means of playing practical jokes, failure to adhere to this policy will result in disciplinary action.

All messages are sent speaking with clarity and brevity. This is aided by use of the phonetic alphabet (alpha, bravo, charlie, delta etc.) and the twenty-four hour clock. All radio messages and instructions are to be as complete as possible to avoid time wasting question and answer scenarios.

The following abbreviations are used:

Over - End of transmission to you.- I expect a reply

Out - End of transmission.- I do not expect a reply.

Roger - Message received and understood.

Wilco - Message received and understood and appropriate action will be taken.

Say again - Please repeat your message.

Stand-by - Unable to reply now, I will contact you when I am available. (You may give an indication of how long i.e. "wait one" would imply in one minute).

E.T.A. - Estimated time of arrival.

At the beginning of each shift radios are checked and test calls made.

They are signed out in the radio register before use.

At the end of each shift they are placed in the recharging unit and their return logged in the radio register.

5.3 Incident Reporting

All staff carry notebooks in which all incidents are recorded, e.g. assaults, criminal damage, missing persons, lost, stolen or found property etc. At the end of duty the notebook is passed to the Administration Clerk for entry into the Incident Log held on the computer. It is the responsibility of all incoming supervisory staff to check this log to:

- a. Ensure that there are no outstanding matters requiring attention, which have arisen from a previous incident.
- b. Where matters are outstanding, to take such action as is appropriate to ensure that the matter or query is resolved within the current tour of duty, if possible, and to log any action taken, or indeed, the final result.

5.4 Accident Reports

When reporting an accident that has occurred within the car parks the Patrol Officer will:

- Inform the Control Room that there has been an accident, giving brief details and advice if Emergency Services are required.
- Ensure that there is no hazard, which could be a Health and Safety issue. For example: broken glass, fuel/oil spillage. If so contact the Control Room to arrange removal.
- Complete the Accident Report giving as much detail as possible.
- Issue the customer(s) with a copy of the Terms and Conditions.
- The Patrol Officer will be as helpful as possible with arrangements for recovery of the customers vehicle, where appropriate.
- The completed form is to be placed in the Admin.Tray in the Control Room for processing.

The Patrol Officer is, at all times expected to show respect and courtesy toward the customer. They will not make any comments regarding blame and will not "take sides" in any discussion between customers who have been involved in the accident

nor will they imply that NHS Greater Glasgow, IPL or APCOA have been in any way negligent.

Should the customer insist that they wish to make a claim against NHS Greater Glasgow, IPL or APCOA, the Patrol Officer is to furnish them with the Company's name and address. The Patrol Officer is not to make any comments regarding the possible outcome of any claim intended.

The Accident Report Form may be required by the Insurance Companies in order to settle any claim. It is important then, that the facts are recorded in a clear, concise and unbiased manner.

5.5 Theft Reports

When a customer reports that their vehicle has been stolen or items have been stolen from it, the following procedure will apply:

- The vehicle details will be taken, i.e. make, model, colour and registration. These details are to be passed onto The Control Room who will inform the appropriate Patrol Officer.
- The Control Room will organise the Patrol Officer to search the car parks.
- If the vehicle cannot be found, the Patrol Officer will complete a Theft Report, and issue the customer with a copy of the Terms and Conditions.
- The Patrol Officer should advise the customer that it is their responsibility to inform the Police and that they will need a Crime Reference Number in order to claim from their insurance.
- The Patrol Officer should enquire if the customer requires anyone to be contacted and if so, the Control Room will facilitate this.

- The Patrol Officer will ask the customer to telephone the Control Room when they have been given a Crime Reference Number for our records.
- The completed form is to be taken to the Control Room and placed in the Admin. Tray for processing by the Contract Manager.
- NHS Greater Glasgow Hospital Security must be informed of any incidents.

It is vital that the customer is treated with respect and sympathy. However, the Patrol Officer is not to accept any responsibility for the incident nor to imply any neglect on the part of NHS Greater Glasgow, IPL or APCOA.

If the customer insists that either NHS Greater Glasgow, IPL or APCOA are in any way responsible, then the Patrol Officer should advise them to put their opinions in writing and supply them with the Company's name and address.

5.6 Fire Alarm Procedure

Fire Alarm Activation

a. Multi-Storey

If there is a fire in the multi-storey the Control Room will call the Fire Brigade and then broadcast the following message:

"Attention all car park personnel Code 9 (Give location)".

Thereafter staff will activate the nearest Breakglass, and if possible and without

putting themselves at risk, attempt to tackle the fire with the nearest appropriate fire fighting equipment.

The lift must not be used.

Clear the area of all personnel starting at the top level of the multi-storey.

Man the entrance barrier and pedestrian entrances to prevent public access.

One member of staff is to remain at the entrance barrier to direct the Fire Brigade to the incident.

b. Vehicle Fire

Inform Fire Brigade immediately.

Evacuate the immediate area.

Prevent entry to the car park by other members of the public.

If prudent and safe to do so, attempt to tackle the fire using the nearest appropriate fire fighting equipment.

c. Surface Car Parks

If there is a fire in one of the surface car parks the Control Room will broadcast the following message:

"Attention all car park personnel, Code 9 (Give location)", and then call out the Fire Brigade.

The nearest person to the fire is to cordon off the area, and without putting yourself at risk attempt to tackle the fire using the nearest appropriate fire fighting equipment.

Entry and exit barriers of the car parks are to be manned and opened, on arrival the Fire Brigade is to be directed to the area concerned.

Fire extinguishers are located in the multi-storey offices and in the patrol vehicle.

All APCOA staff are to carry out a Fire Awareness and Extinguisher course.

5.7 **Bomb Threat**

- If the bomb threat is received via a telephone call, fill out the appropriate checklist.
- Inform all staff, police and NHS Greater Glasgow, standby to receive evacuation instructions from NHS Greater Glasgow
- Prepare to receive instructions from Control Room and pass them onto car park Patrol Officers, and facilitate evacuation if instructed by NHS Greater Glasgow

Supervisors/Patrollers

- If you discover a suspect package advise the Control Room via the nearest intercom, **DO NOT USE YOUR RADIO.**
- Evacuate the public from the immediate area, the Control Room will inform the police.
- Do not permit the public to re-enter the area.
- Under instruction of the police render all possible assistance.

5.8 **First Aid**

APCOA has a duty under the Health & Safety (First Aid) regulation to ensure that there is adequate First Aid provision for employees and users of the car parks alike, who may become ill or are injured.

Equipment First Aid boxes have been provided within every workplace, all boxes contain the minimum supplies, which are required by law.

All APCOA staff will attend a one-day basic First Aid course.

5.9 Missing Patients/Lost Persons

If requested by the Hospital Senior Management, Apcoa will provide, where practical, help in locating missing / lost persons. If any Apcoa staff believe they might have seen or located such persons APCOA's duty supervisor will inform the Hospital. At no time will Apcoa staff directly approach such a missing / lost person.

6. LOCATION OF FREE SPACES

Clause 26.1 (d) provides for thirty two (32) Free Spaces for use by disabled drivers being located within the Car Parks at various locations to be agreed between NHS Greater Glasgow and IPL. As at the Commencement Date, the location of these Free Spaces shall be:-

Car Park 1 (Quadrangle)	6 Free Spaces
Car Park 5 (Walton Building)	6 Free Spaces
Car Park 7 (Ambulance Entrance)	15 Free Spaces
Car Park 12 (ERPB)	2 Free Spaces
Car Park 13 (Maternity Low Level)	3 Free Spaces

Such locations for the Free Spaces may be varied from time to time by agreement between the parties and this Car Parking Management Policy shall be updated to reflect any such variation agreed.

7. ALLOCATION OF ACCESS CARDS

In the event that demand for purchase of Access Cards exceeds availability of Access Cards IPL shall liaise with NHS Greater Glasgow and, both parties shall, acting reasonably, agree an appropriate system for prioritising requests for purchase of Access Cards.

This is Schedule 18 comprising the specification for Car Parking Operator Services referred to in the Project Agreement for the Works and Project Operation at Glasgow Royal Infirmary.

SCHEDULE 18

SPECIFICATION FOR CAR PARKING SERVICES

The standard of maintenance for:-

- (a) the Multi-Storey Car Park shall be as set out in Part 1 of the document titled "Recommendations for the Inspection, Maintenance and Management of Car Park Structures" published on behalf of the Institution of Civil Engineers (December 2002) (the "Manual") as modified below; and
- (b) the Surface Car Parks shall be as set out below to this Schedule 18 ("Surface Car Parks Maintenance Standard").

MULTI-STOREY CAR PARK – MANUAL MODIFICATIONS

1. The Engineer (as defined in the Manual) shall be appointed by IPL and approved by NHS Greater Glasgow within six months of the Certificate Date.
2. The Life-care Plan (as defined in the Manual) shall be produced by IPL within twelve months of the Certificate Date.
3. The Life-care Plan (as defined in the Manual) shall include provisions for the maintenance of the lighting, lifts, fire alarm and other mechanical or electrical equipment.

SURFACE CAR PARKS

1. MAINTENANCE OF THE SURFACE CAR PARKS

- 1.1 IPL shall maintain the Surface Car Parks numbered 4, 5, 6, 8, 9, 10, 11, 12 and 13 on the Plan in accordance with the provisions of this Schedule 18.
- 1.2 The said Surface Car Parks shall be maintained to provide a safe environment for patients, staff and visitors. All services provided shall be on the basis of suitably maintaining the said Surface Car Parks throughout the Concession Period.
- 1.3 IPL shall be responsible for maintenance of the surfacing and lining and the clearing of litter from the said Surface Car Parks and shall ensure that all statutory and other responsibilities in respect to the surfacing and lining that apply in respect of the said Surface Car Parks are complied with and met.

2. SCOPE OF THE SERVICE

- 2.1 Maintenance of the said Surface Car Parks shall follow normal and appropriate statutory and health and safety policies and procedures to ensure that a high standard of safety, security and environmental maintenance is upheld.
- 2.2 Maintenance of the said Surface Car Parks shall include the provision by IPL of all labour, materials, plant and equipment necessary for undertaking the same.
- 2.3 Suitable and adequate systems and procedures shall be set up, operated and maintained to ensure that all necessary maintenance works are carried out and that all necessary records are kept and are available for inspection by NHS Greater Glasgow with reasonable notice.

2.4 IPL shall liaise, where necessary, with adjoining owners if any.

3. LOCATION AND FREQUENCY

3.1 NHS Greater Glasgow shall be entitled to carry out an inspection of the said Surface Car Parks at any time upon giving IPL reasonable prior notice ("Surface Car Park Inspection"). IPL shall be entitled to attend such Surface Car Park Inspection at its option.

3.2 Following any Inspection NHS Greater Glasgow shall issue a report to IPL detailing any failures by IPL to carry out maintenance in accordance with this Schedule 18 ("Services Failure Report").

3.3 If IPL disputes any item on the Services Failure Report the parties shall meet within 5 Working Days to agree the content of the same failing which either party may refer such dispute to the Dispute Resolution Procedure.

3.4 Any items on the Services Failure Report shall be rectified by IPL within 40 Working Days of:-

(a) receipt of the Services Failure Report; or

(b) resolution or determination of any disputed items,

(the "Rectification Period").

3.5 Upon completion of the remedial works NHS Greater Glasgow shall re-inspect at a time agreed with IPL, each party acting reasonably, and reissue the Services Failure Report marked as "rectified".

3.6 If IPL fails to carry out such works as may be required to remedy any failures to the standard required in terms of this Schedule 18 NHS Greater Glasgow may (but is not obliged) itself carry out such remedial works.

3.7 IPL shall reimburse to NHS Greater Glasgow any cost properly incurred by NHS Greater Glasgow in itself carrying out remedial works within 10 Working Days of demand by NHS Greater Glasgow subject to NHS Greater Glasgow:-

- (a) providing such information as IPL shall reasonably require to verify any amounts claimed;
- (b) using reasonable endeavours to itself undertake or procure the remedial works at reasonable cost;
- (c) using good quality materials and, where specified, of the standards set out in this Schedule 18; and
- (d) undertaking the remedial works in accordance with Good Industry Practice.

3.8 In the event of late payment by IPL interest shall apply at the Default Rate.

3.9 If any arisings, pot holes or debris on the said Surface Car Parks are reported to IPL, or IPL becomes otherwise aware of such matters, then they shall be rectified as soon as possible and at the latest within 24 hours of receiving such information.

4. ACCESS AND SIGNAGE

Access and signage shall be maintained as by IPL in accordance with the terms of this Agreement.

5. STANDARD OF MAINTENANCE

5.1 Maintenance of the said Surface Car Parks shall include, without limitation, the provision of year round maintenance to the following elements:-

- (a) Line markings, both permanent and temporary;
- (b) Timely removal and/or remediation of potential related hazards;
- (c) Repairs to all pot holes and other surface defects; and
- (d) Planned Preventative Maintenance (PPM).

5.2 The PPM shall to follow a planned schedule of works consistent with a five year rolling programme to be supplied and updated by IPL, carried out with the prior knowledge of NHS Greater Glasgow with minimum disruption to hospital services consistent with normal working practice, which ensure, for example, that:-

- (a) the said Surface Car Parks are maintained;
- (b) records of site visits shall be comprehensive and available for inspection within normal working hours.

6. MAINTENANCE SPECIFICATION

Table of Key Service Requirements

Ref No	SERVICE	REQUIREMENTS
1.1	Surface Car Parks.	The said Surface Car Parks shall be periodically inspected (not less than every month) to ensure they meet the required standard with regard to trip hazards and localised depressions.
1.2		The said Surface Car Parks shall be kept reasonably clear of litter accumulation and other extraneous items on a regular basis (not less than every month).
1.3		IPL shall ensure that where substantial areas of leaves have gathered following leaf fall these will be cleared in no less than two weeks of such significant accumulations having occurred.

Equipment and Consumable Items

IPL shall be responsible for the provision and storage of all equipment and consumables. Any such items requiring special storage conditions shall be stored appropriately on or off site at IPL's expense.

7. OPERATIONAL REQUIREMENTS

Health and Safety Policy; Environmental Policy

- 7.1 IPL shall have in place policy statements that confirm their commitment to health and safety and to the environment. A copy of the relevant policy statements shall be supplied to NHS Greater Glasgow.
- 7.2 All works are to be carried out in accordance with sound principles having access to the necessary equipment, including personal protective equipment, and plant which is to be used by approved, qualified personnel in a safe manner.
- 7.3 IPL shall erect barrier protection where required for all works undertaken and at all times ensure safe passage for pedestrians and vehicles.
- 7.4 Any materials that must be employed should be subject to all required safety and COSHH precautions.
- 7.5 All products used in connection with maintenance of the said Surface Car Parks shall be used and safely stored in accordance with manufacturer instructions.
- 7.6 IPL shall, where reasonably practicable, use only such products, materials and substances as are deemed to be environmentally friendly.

Monitoring

7.7 IPL shall periodically inspect the standards achieved. Such inspections and testing shall be undertaken at intervals of three months. In addition IPL shall provide NHS Greater Glasgow with an annual maintenance report for the said Surface Car Parks detailing each item of work undertaken and the outcomes.

Compliance

7.8 When maintaining the said Surface Car Parks IPL shall observe, adhere to and comply with:-

- (a) All statutory obligations;
- (b) All relevant Codes of Practice;
- (c) All guidelines issued or endorsed by the NHS Executive from time to time;
- (d) The Patients Charter; and
- (e) Good trade practices and all relevant ISO standards and NHS Greater Glasgow policies and procedures.

Staff

The control and responsibility for safety in respect of mechanised equipment shall be by way of appropriately qualified staff. They shall be suitably qualified, competent and capable to be in control and be responsible for safety procedures as applicable to the work.

This is Schedule 19 comprising the Compensation on Termination referred to in the Project Agreement for the Project Operations at Glasgow Royal Infirmary.

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SCHEDULE 19

COMPENSATION ON TERMINATION

SECTION A

1. Compensation on Termination for NHS Greater Glasgow Default and Voluntary Termination

1.1 If IPL terminates this Agreement pursuant to Clause 38 or NHS Greater Glasgow terminates this Agreement pursuant to Clause 27 or NHS Greater Glasgow exercises its right under Clause 64.22 of the Project Agreement, NHS Greater Glasgow shall pay to IPL the "NHS Greater Glasgow Default Termination Sum" as set out in paragraph 1.2.

1.2 NHS Greater Glasgow Default Termination Sum shall be an amount equal to the aggregate of:

- (a) the Senior Debt Amount;
- (b) Redundancy Payments and Sub-Contractor Losses; and
- (c) the amount for which the share capital of IPL and the Junior Debt could have been sold on an open market basis (on the assumption that there is no default by NHS Greater Glasgow, that the sale is on a going concern basis and that no restrictions exist on transfer of share capital);

LESS, to the extent it is a positive amount, the aggregate of:

- (d) all credit balances on any bank accounts held by or on behalf of IPL on the Termination Date and the value of any right of IPL to receive insurance proceeds (save where such insurance proceeds are held in the Insurance Proceeds Account and are to be applied, in accordance with Clause 64.19 of this Agreement, in reinstatement, restoration or replacement, or, in the case of third party legal liability or employer's liability, in satisfaction of the claim, demand, proceeding or liability) or sums due and payable from third parties (but only when received from third parties) but excluding any claims under any Sub-Contracts or claims against other third parties which have not been determined or have been determined but not yet paid provided that in such case IPL shall assign any such rights and claims under the Sub-Contracts or claims against other third parties to NHS Greater Glasgow and give NHS Greater Glasgow reasonable assistance in prosecuting such claims;
- (f) the market value of any other assets and rights of IPL (other than those transferred to NHS Greater Glasgow pursuant to this Agreement) less liabilities of IPL properly incurred in carrying out its obligations under this Agreement as at the Termination Date to the extent realised before the Invoice Date provided that no account should be taken of any liabilities and obligations of IPL arising out of:
 - (1) agreements or arrangements entered into by IPL to the extent that such agreements or arrangements were not entered into in connection with IPL's obligations in relation to the Project; or

(2) agreements or arrangements entered into by IPL 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; and

(g) amounts which NHS Greater Glasgow is entitled to set off pursuant to Clause 41.12 of this Agreement.

1.2 To the extent that such assets and rights referred to in paragraph (g) above are not realised and applied pursuant to that paragraph, IPL shall in payment of NHS Greater Glasgow Default Termination Sum assign such assets and rights to NHS Greater Glasgow.

1.3 NHS Greater Glasgow Default Termination Sum shall be payable in accordance with Section E of this Schedule 19.

SECTION B

COMPENSATION FOR IPL DEFAULT

1. If NHS Greater Glasgow terminates this Agreement pursuant to Clause 37 of the Project Agreement (with the exception of termination pursuant to Clause 37.1 (j)), NHS Greater Glasgow shall pay to IPL such sum as is calculated according to this Section B pursuant to the payment provisions of Section E of this Schedule 19 ("the IPL Default Compensation Sum").

RETENDERING

2. Retendering Election

NHS Greater Glasgow shall be entitled to retender the provision of the Project Operations in accordance with paragraph 3 [Retendering Procedure] and the provisions of paragraph 3 [Retendering Procedure] shall apply if:

- 2.1 NHS Greater Glasgow notifies IPL on or before the date falling twenty (20) Working Days after the Termination Date; and
- 2.2 there is a Liquid Market (provided that unless agreed by the parties a novation to a vehicle controlled by the Senior Funders under the Funders' Direct Agreement shall not on its own be sufficient to constitute a Liquid Market); and either
- 2.3 neither the facility agent nor the security trustee appointed under the Funding Agreements for the Senior Funders and party to the Funders' Direct Agreement have exercised their rights to step-in under Clause 6 [Representative] of the Funders' Direct Agreement; or

2.4 IPL or the Senior Funders have not procured the transfer of IPL's rights and liabilities under this Agreement for Fair Value to a Suitable Substitute Contractor and have failed to use all reasonable efforts to do so,

but otherwise NHS Greater Glasgow shall require a determination in accordance with paragraph 4 [No Retendering Procedure] and the provisions of that paragraph shall apply provided always that if NHS Greater Glasgow elects not to retender the Project Operations in terms aforesaid IPL may within 5 Working Days of notification of such NHS Greater Glasgow decision, notify NHS Greater Glasgow that it shall, at its sole expense and subject to IPL reimbursing NHS Greater Glasgow any reasonable expense which it thereby incurs, itself undertake a Retendering Procedure in accordance with paragraphs 3.13 to 3.20 below and NHS Greater Glasgow agrees to be bound by the outcome of the application of such procedure.

3. Retendering Procedure

- 3.1 The objective of the Tender Process shall be to enter into a New Agreement with a Compliant Tenderer.
- 3.2 NHS Greater Glasgow shall use all reasonable endeavours to complete the Tender Process as soon as practicable.
- 3.3 NHS Greater Glasgow shall as soon as reasonably practicable notify IPL of the Qualification Criteria and the other requirements and terms of the Tender Process, including the timing of the Tender Process and shall act reasonably in setting such requirements and terms.
- 3.4 IPL authorises the release of any information by NHS Greater Glasgow under the Tender Process which would otherwise be prevented under Clause 31 that is reasonably required as part of the Tender Process.

- 3.5 For all or any part of a month, falling within the period from the Termination Date to the Compensation Date, NHS Greater Glasgow shall pay to IPL:
- (a) the Post Termination Service Amount for each completed month, on or before the date falling ten (10) Working Days after the end of that month; and
 - (b) the Post Termination Service Amount for the period from the end of the last completed month until the Compensation Date, on or before the date falling twenty (20) Working Days after the Compensation Date.
- 3.6 IPL may, at its own cost, appoint a person to monitor the Tender Process for the purpose of monitoring and reporting to IPL and the Senior Funders on NHS Greater Glasgow's compliance with the Tender Process.
- 3.7 The Tender Process Monitor shall enter into a confidentiality agreement with NHS Greater Glasgow in a form acceptable to NHS Greater Glasgow and shall be entitled to attend all meetings relating to the Tender Process, inspect copies of all the tender documentation and bids and make representations to NHS Greater Glasgow as to compliance with the Tender Process. NHS Greater Glasgow shall not be bound to consider or act upon such representations but acknowledges that such representations may be put to the Adjudicator in the event of a disagreement as to the Adjusted Highest Compliant Tender Price. The Tender Process Monitor will not disclose confidential information to IPL or the Senior Funders but shall be entitled to advise IPL and the Senior Funders on whether it considers that NHS Greater Glasgow has acted in accordance with the Tender Process and correctly determined the Adjusted Highest Compliant Tender Price.

- 3.8 If any Post Termination Service Amount is less than zero then it shall be carried forward and may be set off against any future positive Post Termination Service Amounts.
- 3.9 As soon as practicable after tenders have been received, NHS Greater Glasgow shall (acting reasonably) review and assess the Compliant Tenders and shall notify IPL of the Adjusted Highest Compliant Tender Price.
- 3.10 If IPL refers a dispute relating to the Adjusted Highest Compliant Tender Price to dispute resolution in accordance with the Dispute Resolution Procedure, NHS Greater Glasgow shall irrespective of such dispute be entitled to enter into a New Agreement.
- 3.11 The Adjusted Highest Compliant Tender Price shall be paid in accordance with Section E of this Schedule 19.
- 3.12 NHS Greater Glasgow may elect, at any time prior to ascertaining the Adjusted Highest Compliant Tender Price, to follow the no retendering procedure under paragraph 4 [No Retendering Procedure] by notifying IPL that this election has been made and shall follow such procedure if a New Agreement has not been entered into on or before the date falling two (2) years after the Termination Date unless NHS Greater Glasgow has already determined the Adjusted Highest Compliant Tender Price.

Retendering by IPL

- 3.13 IPL shall (in the event that it is entitled to undertake the Retendering Procedure in accordance with paragraph 2 above) use all reasonable endeavours to complete the Tender Process as soon as practicable but in any event by no later than six calendar months from the Termination Date.

- 3.14 NHS Greater Glasgow shall acting reasonably be entitled to approve the Qualification Criteria and the other requirements and terms of the Tender Process, including the timing of the Tender Process and the parties shall act reasonably in setting such requirements and terms. NHS Greater Glasgow shall be deemed to approve such information if it fails to object or comment within ten Working Days of receipt.
- 3.15 NHS Greater Glasgow authorises the release of any information by IPL under the Tender Process which would otherwise be prevented under Clause 31 that is reasonably required as part of the Tender Process.
- 3.16 During any Retender procedure undertaken by IPL in terms aforesaid the provisions of paragraphs 3.5 shall apply.
- 3.17 NHS Greater Glasgow may, at IPL's own cost, appoint a person to monitor the Tender Process for the purpose of monitoring and reporting to NHS Greater Glasgow on IPL's compliance with the Tender Process in which event the provisions of paragraph 3.7 shall apply substituting IPL for NHS Greater Glasgow and vice versa.
- 3.18 If any Post Termination Service Amount is less than zero then it shall be carried forward and may be set off against any future positive Post Termination Service Amounts.
- 3.19 As soon as practicable after tenders have been received, IPL shall (acting reasonably) review and assess the Compliant Tenders and shall notify NHS Greater Glasgow of the Adjusted Highest Compliant Tender Price.
- 3.20 If NHS Greater Glasgow refers a dispute relating to the Adjusted Highest Compliant Tender Price to dispute resolution in accordance with the Dispute

Resolution Procedure, NHS Greater Glasgow shall not be obliged to enter into a New Agreement unless required by determination of such dispute.

4. No Retendering Procedure

4.1 Subject to paragraph 4.2, if the provisions of this paragraph 4 [No Retendering Procedure] apply IPL shall not be entitled to receive any Post Termination Service Amount.

4.2 If NHS Greater Glasgow elects to require a determination in accordance with this paragraph 4 [No Retendering Procedure] after it has elected to follow the procedure under paragraph 3 [Retendering Procedure], then NHS Greater Glasgow shall continue to pay to IPL each Post Termination Service Amount until the Compensation Date, in accordance with paragraph 3 [Retendering Procedure].

4.3 In agreeing or determining the Estimated Fair Value of the Agreement the parties shall be obliged to follow the principles set out below:

- (a) all forecast amounts of revenues and costs should be calculated on a real basis as at the Termination Date, whereby future amounts which are inflation linked are indexed up to the Termination Date but uninflated thereafter and future amounts which are known in nominal terms are rebased to the Termination Date using suitable deflation factors;
- (b) thereafter, any future amounts which are known in nominal terms are re-based to the Termination Date using suitable deflation factors;

- (c) the total of all Tariffs forecast to be paid from the Termination Date to the end of the Concession Period shall be calculated and discounted at the Discount Rate;
- (d) the total of all costs reasonably forecast to be incurred by NHS Greater Glasgow as a result of termination shall be calculated and discounted at the Discount Rate, such costs to include (without double counting):
 - (i) a reasonable risk assessment of any cost overruns that will arise, whether or not forecast in the relevant base case;
 - (ii) the costs of providing the management of the Car Parking Spaces pursuant to this Agreement which are reasonably forecast to be incurred by NHS Greater Glasgow from the Termination Date to the Expiry Date to the standard required; and
 - (iii) any rectification costs required to deliver the Project Operations to the standard required (including any costs reasonably forecast to be incurred by NHS Greater Glasgow to complete the Works) and additional operating costs required to restore operating services standards less (to the extent that such sums are included in any calculation of rectification costs for the purposes of this paragraph) the aggregate of:
 - (1) any insurance proceeds received (or held in the Insurance Proceeds Account) or which will be received pursuant to policies maintained in accordance with Clause 64 and (in each case) which are available to and

can be applied by NHS Greater Glasgow towards meeting such costs; and

- (2) amounts payable by NHS Greater Glasgow in respect of Capital Expenditure under this Agreement which have not been paid.

in each case such costs to be forecast at a level that will deliver the Car Park Services to the standards required by this Agreement

- 4.4 If the parties cannot agree on the Estimated Fair Value of the Agreement on or before the date falling twenty (20) Working Days after the date on which NHS Greater Glasgow elected or was obliged to require an expert determination in accordance with this paragraph 4 [No Retendering Procedure], then the Estimated Fair Value of the Agreement shall be determined in accordance with the Dispute Resolution Procedure.
- 4.5 The Adjusted Estimated Fair Value of the Agreement shall be paid in accordance with Section E of this Schedule 19.

SECTION C

1. Consequences of Termination for Force Majeure

1.1 If IPL or NHS Greater Glasgow terminates this Agreement pursuant to Clause 47 of the Project Agreement NHS Greater Glasgow shall pay to IPL the "Force Majeure Termination Sum" as set out in paragraph 1.2.

1.2 The Force Majeure Termination Sum shall be an amount equal to the aggregate of:

- (a) the Senior Debt Amount;
- (b) Redundancy Payments and Sub-Contractor Losses (but excluding therefrom any claims for loss of profit);
- (c) an amount equal to the Junior Debt less an amount equal to the aggregate of payments of interest paid on the Junior Debt provided that where such figure is a negative number it shall instead be fixed at zero; and
- (d) an amount equal to all amounts paid to IPL by way of subscription for shares in the capital of IPL less dividends and other distributions paid to the shareholders of IPL provided that where such figure is a negative number it shall instead be fixed at zero;

LESS, to the extent it is a positive amount, the aggregate of (without double counting):

- (e) all credit balances on any bank accounts held by or on behalf of IPL on the Termination Date and the value of any right of IPL to receive

insurance proceeds (save where such insurance proceeds are held in the Insurance Proceeds Account and are to be applied in accordance with Clause 64.19 in reinstatement, restoration or replacement, or, in the case of third party legal liability or employer's liability, in satisfaction of the claim, demand, proceeding or liability) or sums due and payable from third parties (but only when received from third parties) but excluding any claims under any Sub-Contracts or claims against other third parties which have not been determined or have been determined but not yet paid provided that in such case IPL shall assign any such rights and claims under the Sub-Contracts or claims against other third parties to NHS Greater Glasgow and give NHS Greater Glasgow reasonable assistance in prosecuting such claims;

- (f) the market value of any other assets and rights of IPL (other than those transferred to NHS Greater Glasgow pursuant to this Agreement) less liabilities of IPL properly incurred in carrying out its obligations under this Agreement as at the Termination Date to the extent realised before the Invoice Date provided that no account should be taken of any liabilities and obligations of IPL arising out of:

- (i) agreements or arrangements entered into by IPL to the extent that such agreements or arrangements were not entered into in connection with IPL's obligations in relation to the Project; and
- (ii) agreements or arrangements entered into by IPL 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; and

- (iii) amounts which NHS Greater Glasgow is entitled to set off pursuant to Clause 41.12 of this Agreement.

- 1.3 The Force Majeure Termination Sum shall be paid in accordance with Section E of this Schedule 19.
- 1.4 To the extent that such assets and rights referred to in paragraph 1.2(f) above are not realised and applied pursuant to that paragraph, IPL shall on payment of the Force Majeure Termination Sum assign such assets and rights to NHS Greater Glasgow.

PART D

CORRUPT GIFTS AND FRAUD

1. Consequences of Termination for Corrupt Gifts and Fraud

1.1 If NHS Greater Glasgow terminates this Agreement pursuant to Clause 66.3 (Corrupt Gifts and Payments) or Clause 37.1(j) NHS Greater Glasgow shall pay to IPL the "Corrupt Gifts Termination Sum" as set out in paragraph 1.2.

1.2 The Corrupt Gifts Termination Sum shall be:

(a) an amount equal to the Senior Debt Amount;

LESS, to the extent it is a positive number, the aggregate of (without double counting):

all credit balances on any bank accounts held by or on behalf of IPL on the Termination Date and the value of any right to receive insurance proceeds (save where such insurance proceeds are held in the Insurance Proceeds Account and are to be applied in accordance with Clause 64.19 of this Agreement in reinstatement, restoration or replacement or, in the case of third party legal liability or employer's liability, in satisfaction of the claim, demand, proceeding or liability) or sums due and payable from third parties but excluding any claims under any Sub-Contracts or claims against other third parties which have not been determined or which have been determined but not paid provided that in such case IPL shall assign any such rights and claims under the Sub-Contracts or claims against other third parties to NHS Greater Glasgow and give NHS Greater Glasgow reasonable assistance in prosecuting such claims; and

(b) the market value of any other assets and rights of IPL (other than those transferred to NHS Greater Glasgow pursuant to this Agreement) less liabilities of IPL properly incurred in carrying its obligations under this Agreement as at the Termination Date to the extent realised before the Invoice Date provided that no account should be taken of any liabilities and obligations of IPL arising out of:

(i) agreements or arrangements entered into by IPL to the extent that such agreements or arrangements were not entered into in connection with IPL's obligations in relation to the Project; and

(ii) agreements or arrangements entered into by IPL 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.

1.3 To the extent that such assets and rights referred to in paragraph 1.2(b) above are not realised and applied pursuant to that paragraph, IPL shall on payment of the Corrupt Gifts and Fraud Termination Sum by NHS Greater Glasgow assign such assets and rights to NHS Greater Glasgow.

1.4 The Corrupt Gifts Termination Sum shall be paid in accordance with Section E of this Schedule.

SECTION E

GENERAL

1. **Payment and Interest**

Following termination of this Agreement pursuant to Clause 37 (NHS Greater Glasgow Events of Default), Clause 39.2 (Voluntary Termination), Clause 39.1 (Force Majeure) or Clause 66 (Corrupt Gifts and Payments).

1.1 In respect of the termination payments to be made pursuant to any of Sections A, C or D of this Part of this Schedule, as soon as practicable after, and in any event within twenty (20) Working Days of, the Termination Date IPL shall give to NHS Greater Glasgow an invoice for the relevant termination sum and sufficient supporting evidence, reasonably satisfactory to NHS Greater Glasgow, justifying the amount of the relevant termination sum including a breakdown of each of the individual elements of such sum.

1.2 Subject to paragraph 1.3 below, NHS Greater Glasgow shall pay to IPL:

- (a) the relevant termination sum within forty (40) Working Days of the Invoice Date; and
- (b) interest on the relevant termination sum (or any part of such sum that remains outstanding) from the Termination Date until the date of payment:
 - (i) at the No Default Interest Rate for the period from (but excluding) the Termination Date to (and including) the date which is forty (40) Working Days after the Invoice Date; and
 - (ii) thereafter, at the Default Interest Rate.

- 1.3 NHS Greater Glasgow shall be entitled to pay the Force Majeure Termination Sum in four (4) equal instalments by serving notice on IPL within thirty (30) Working Days of the Invoice Date, in which case the provisions of paragraph 1.4 shall apply.
- 1.4 In the event that NHS Greater Glasgow elects to pay the Force Majeure Termination Sum in instalments pursuant to paragraph 1.3 then:
- (a) the first such instalment (together with interest thereon calculated pursuant to (b) below) shall be due on the first Working Day occurring six (6) months after the date of NHS Greater Glasgow's notice served pursuant to 1.3 above and the remaining instalments (together with interest thereon calculated pursuant to (b) below) shall be due, respectively, on the first Working Day occurring twelve (12), eighteen (18) and twenty-four (24) months after the date of such notice;
 - (b) NHS Greater Glasgow shall pay interest on the Force Majeure Termination Sum (or any part of such sum that remains outstanding) from the Termination Date until the date of payment at a rate equal to the No Default Interest Rate;
 - (c) if NHS Greater Glasgow fails to make a payment under paragraphs (a) or (b) above in full within ten (10) Working Days of the due date for payment or an Adverse Law or proposal for an Adverse Law is made then the outstanding amount of the Force Majeure Termination Sum shall be immediately due and payable and NHS Greater Glasgow shall pay interest on such sum at the Default Interest Rate, any future unpaid instalments of the Force Majeure Termination Sum will become immediately due and payable.

Following Retendering

- 1.5 Subject to paragraph 1.6, following a retendering exercise under Section B of this Part of this Schedule NHS Greater Glasgow shall pay to IPL an amount equal to the Adjusted Highest Compliant Tender Price no later than the date falling twenty (20) Working Days after the later of:
- (a) the date on which NHS Greater Glasgow receives in cleared funds the Market Value of the Agreement from the New Contractor;
 - (b) if IPL has referred a dispute relating to the Adjusted Highest Compliant Tender Price to dispute resolution pursuant to paragraph 3.10 of Section B of this Schedule, the date on which the dispute is finally determined in accordance with the Dispute Resolution Procedure,
 - (c) provided that, to avoid doubt, if the dispute referred by IPL to dispute resolution (pursuant to (b) above) concerns only a proportion of the Adjusted Highest Compliant Tender Price then NHS Greater Glasgow shall pay the undisputed proportion of such sum no later than twenty (20) Working Days after the date referred to in (a) above.
- 1.6 If the Adjusted Highest Compliant Tender Price is zero or a negative number then, on entering into the New Agreement with the New Contractor, NHS Greater Glasgow shall have no obligation to make any payment to IPL and (if a negative number) an amount equal to the Adjusted Highest Compliant Tender Price shall be due and payable by IPL to NHS Greater Glasgow on the date of the New Agreement.

Following no retendering

- 1.7 If NHS Greater Glasgow follows the no retendering procedure set out in paragraph 4 of Section B of this Part of this Schedule then, subject to paragraph 1.8 of this Section E, NHS Greater Glasgow shall pay to IPL an amount equal to the Adjusted Estimated Fair Value of the Agreement no later than the date falling twenty (20) Working Days after the Compensation Date together with interest on such amount calculated in accordance with paragraph 1.2(b) above unless NHS Greater Glasgow has paid Post Termination Service Amounts pursuant to paragraph 3.2 of Section B above.
- 1.8 To the extent that the Adjusted Estimated Fair Value of the Agreement is less than zero, then an amount equal to the Adjusted Estimated Fair Value of the Agreement shall be due and payable by IPL to NHS Greater Glasgow on the Compensation Date.

2. Full and Final Settlement

- 2.1 Any and all sums irrevocably paid by NHS Greater Glasgow to IPL under this Schedule will be in full and final settlement of each party's rights and claims against the other for breaches and/or termination of this Agreement the Project Agreement and the Lease whether under contract, delict, restitution or otherwise but without prejudice to:
- (a) any antecedent liability of IPL to NHS Greater Glasgow which NHS Greater Glasgow has been unable to set off pursuant to Clause 40.11 of this Agreement;
 - (b) any antecedent liability of either party to the other that arose prior to the Termination Date (but not from the termination itself) to the extent such liability has not already been taken into account in determining or agreeing NHS Greater Glasgow Default Termination Sum, Adjusted

Highest Compliant Tender Price, or Adjusted Fair Value of the Agreement or the Force Majeure Termination Sum or the Corrupt Gifts Termination Sum as the case may be; and

- (c) any liabilities arising in respect of any breach by either party of their obligations under Clause 40.4 of this Agreement which arises in respect of which there should be continuing obligations or continues after the Termination Date.

2.2 If either the Adjusted Highest Compliant Tender Price or (as the case may be) the Adjusted Fair Value of the Agreement is zero or a negative number NHS Greater Glasgow shall be released from all liability to IPL for breaches and/or termination of this Agreement and any other Project Document whether under contract, delict, restitution or otherwise save for:

- (a) any antecedent liability of NHS Greater Glasgow which arose prior to the Termination Date (but not from the termination itself) to the extent such liability has not already been taken into account in determining the Adjusted Highest Compliant Tender Price or the Adjusted Fair Value of the Agreement (as the case may be); and
- (b) any liabilities arising in respect of any breach by either party of their obligations under Clause 40.4 of this Agreement which continues in respect of which there should be continuing obligations after the Termination Date.

3. **Costs**

The costs and/or expenses to be taken into account in the calculation of all termination sums due pursuant to this Schedule shall only be such costs and/or expenses to the extent that they are reasonable and proper in quantum and shall

have been or will be reasonably and properly incurred and shall only be counted once.

4. Undisputed Amounts

If the calculation of any termination amount is disputed then any undisputed element of that amount shall be paid in accordance with this Section E of this Schedule and the disputed element shall be dealt with in accordance with the Dispute Resolution Procedure.

5. Outstanding Senior Debt Amount

5.1 NHS Greater Glasgow shall be entitled to rely on the certificate of the facility agent for the Senior Funders appointed under the Funding Agreements as conclusive as to the amount of the Senior Debt Amount outstanding at any relevant time.

5.2 The receipt of the facility agent for the Senior Funders appointed under the Funding Agreements shall discharge NHS Greater Glasgow's obligation to pay any element of compensation due to IPL that is equal to the Senior Debt Amount (and where appropriate any accrued interest or breakage costs as certified in accordance with paragraph 5.1. above).

This is Schedule 20 comprising the Insurances referred to in the Project Agreement for the Multi Storey Car Park and Other Works at Glasgow Royal Infirmary.

SCHEDULE 20

INSURANCES

PART 1

IPL'S INSURANCE DURING THE WORKS PHASE (PHASE 1)

IPL shall (subject to the terms of this Agreement) effect and maintain from the date set out in the relevant paragraph the following insurances until the Certificate Date. All insurances to be on the terms, conditions and sums insured as set out herein and with Insurers approved by NHS Greater Glasgow.

1. CONSTRUCTION ALL RISKS

Cover:

All risks of loss destruction or damage to the Property Insured from any cause not excluded.

Insured Parties:

- (a) IPL
- (b) NHS Greater Glasgow
- (c) The Builder
- (d) The Car Park Operator
- (e) Suppliers and/or consultants to the Insured Parties (a), (c) and (d) in respect of their site activities only.
- (f) Sub-contractors of any tier to the Insured Parties (a), (c) and (d).
- (g) The Funder

each for their respective rights and interests.

Property Insured:

Permanent and temporary works and materials and all other property for incorporation in the Project.

Policy Period:

From the Commencement Date of the Project Agreement until the Certificate Date plus 12 months defects liability period as per maintenance provisions under the Building Contract.

Sums Insured:

Permanent and temporary Works and materials and all other property for incorporation into the Project for a sum representing the full replacement value plus an adequate amount for Debris Removal Costs and Professional Fees

Geographical Scope:

The Facilities, and elsewhere at NHS Greater Glasgow's Estate to include all works sites and temporary lay down areas and anywhere in U.K. in respect of inland transit and temporary storage.

Deductibles:

Not more than £150,000 in respect of design related damage (DE5)
Not more than £5,000 for other losses.

Principal Extensions / Clauses:

- Professional Fees
- Plans and Documents
- Debris Removal
- Expediting Expenses
- Loss Minimisation
- EU Reinstatement
- Additional Costs
- Temporary Repairs
- Escalation
- 72 Hour
- Munitions of War
- Automatic Reinstatement
- Full Value Terrorism

Principal Exclusions:

- Design Exclusion DE5 Wording
- War, Invasion, Acts of Foreign Enemies, Hostilities, Civil War, Rebellion, Revolution, Insurrection of Military or Usurped Power
- Nuclear Risks
- Sonic Bangs

2. LOSS OF ANTICIPATED REVENUE (DELAY IN START UP)**Indemnity:**

Loss of anticipated revenue and increased costs of working and Additional Increase in Cost of Working as a result of loss or damage which is indemnifiable under the Construction All Risks Insurance (1 above) and which results in a delay to the Date beyond what would have been the Certificate Date but for said loss or damage or results in a liability to pay such costs from the Certificate Date.

Insured Parties:

- (a) IPL
- (b) The Funder

each for their respective rights and interests.

Policy Period:

As per Construction All Risk Insurance other than the Maintenance Period.

Indemnity Period:

The period commencing from the date which would have been the Certificate Date but for the damage and ending when the Insured business ceases to be affected in consequence of the damage up to a maximum period of 2 years.

Sums Insured:

An amount sufficient to cover the sums subject to the Indemnity for the Indemnity Period.

Deductible:

Not more than 45 days in the aggregate.

Principal Extensions: -

- Professional Fees
- Payments on Account
- Public Utilities
- Suppliers Premises
- Prevention of Access
- Automatic Reinstatement of Sum Insured
- Full Value Terrorism

Principal Exclusions:

As per section 1 above (Contractors All Risks)

3. PUBLIC LIABILITY INSURANCE**Cover:**

Legal liability of the Insured Parties to pay (including claimants' costs and expenses) damages in respect of:-

- (i) death or bodily injury to or illness or disease contracted by any person
- (ii) loss of or damage to third party property
- (iii) infringement of or interference with any third party easement, right of air, light, water or way or the enjoyment of use therefore by obstruction, trespass, loss of amenities, nuisance or any like cause happening during the Policy Period and arising out of or in connection with the Project.

Insured Parties:

- (a) IPL
- (b) NHS Greater Glasgow
- (c) The Funder
- (d) The Builder and the Car Park Operator
- (e) Sub-contractors of any tier to the Insured Parties (a) and (d).

- (f) Suppliers and/or consultants to the Insured Parties (a), (c) and (d) in respect of their site activities only.

each for their respective rights and interests.

Policy Period:

As per Construction All Risks Insurance
Limit:

£20,000,000 any one occurrence (the number of occurrences being unlimited during the period of insurance)

Geographical Scope:

Anywhere in United Kingdom

Deductibles:

Not more than £5,000 each and every occurrence in respect of third party property damage. Otherwise there shall be no excess.

Principal Extensions:

Costs in addition to indemnity limit
Disclosure of information
Data Protection
Infringement of Privacy and Wrongful Arrest
Munitions of War
Cross Liabilities

Principal Exclusions:

Employers' Liability
Motor / Aircraft / Waterborne Craft
Own Property, Custody or Control
Fines and Liquidated Damages
Asbestos
Professional Indemnity

4. **21.2.1 Insurance**

Cover: Cover in respect of any expense, liability, loss, claim or proceedings which NHS Greater Glasgow may incur or sustain by reason of physical damage to property (other than the Works) arising out of or in the course of or by reason of the carrying out of the works by the Builder or his Sub-contractors and occurring during the period of insurance caused by collapse, subsidence, vibration, weakening or removal of support or lowering of ground water providing that such damage shall be caused otherwise than by the negligence omission or default of the Builder or his sub-contractors or their servants or agents.

Insured Parties :

- (a) IPL
- (b) NHS Greater Glasgow
- (c) The Builder
- (d) Sub-contractors of any tier to the Insured Parties (a) & (c)

Policy Period: From the Commencement Date of the Project Agreement until the Certificate Date

Limit of Indemnity : £5m in the aggregate

Excess/Exclusions: £5,000 claims excess
Asbestos exclusion
Heat Warranty

SCHEDULE 20

INSURANCES

PART 2

IPL'S INSURANCE DURING THE OPERATIONAL TERM (PHASE 2)

IPL shall (subject to the terms of this Agreement) effect and maintain from the date set out in the relevant paragraph the following insurances as may be required during the Concession Period. All insurances to be on the terms, conditions and sums insured as herein set out and with insurers approved by NHS Greater Glasgow (acting reasonably).

1. MATERIAL DAMAGE

Cover:

All risks of loss, destruction or damage to the Property Insured from any cause not excluded.

Insured Parties:

- (a) IPL
- (b) NHS Greater Glasgow
- (c) The Car Park Operator
- (d) The Builder (for the duration of the Construction and Maintenance Phase only)
- (e) While amounts remain outstanding under the Funding Agreements, the Funders each for their respective rights and interests.

Property Insured:

- 1. The Multi-Storey Car Park owned by IPL or for which IPL is responsible used for or in connection with the ownership, maintenance and operation of the Project.
- 2. Surface Car Parks where IPL have a reinstatement and maintenance obligation

Policy Period:

- 1. From the Certificate Date and maintained until the end of the Concession Period for Property Insured under 1 above
- 2. From Commencement Date and maintained until the end of the Concession Period for Property Insured under 2 above

Sum Insured:

A sum representing the full reinstatement value of the Facilities plus additional amounts for Debris Removal and Professional Fees from Day 1 basis with inflation allowance adequate to meet inflation rate applicable at the time.

Geographical Scope:

Anywhere on the Site and temporary removals elsewhere in U.K. and elsewhere if applicable.

Maximum Deductible:

Not more than £5,000 each occurrence.

Principal Extensions:

Professional Fees
Plans and Documents
Debris Removal
Property Hired In
Loss Minimisation
European Community and Public Authorities Clause
Temporary Repairs
Munitions of War
Automatic Reinstatement
Capital Additions
Trace and Access
Loss of Metered Water
Machinery Breakdown (Building Services Equipment)
Escalation Clause
72 Hour Clause
Expediting Expenses
Full Value Terrorism

Principal Exclusions:

War, invasion, act of foreign enemy, hostilities, civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, nationalisation, commandeering
Requisition or damage by or under the order of any government de jure or de facto or by any public or local authority
Ionising radiation or radioactive contamination
Penalties and Consequential Losses
Motor Vehicles / Aircraft / Waterborne Craft
Wear and Tear and Corrosion
Unexplained Shortages / Inventory Losses
Collapse and Cracking of Buildings
Pollution or Contamination except where resulting from an insured peril

2. BUSINESS INTERRUPTION INSURANCE

Indemnity:

- (1) Loss of Revenue and increased costs of working
- (2) Additional Increased in Cost of Working

Insured Parties:

- (a) IPL
- (b) The Funder

each for their respective rights and interests

Policy Period:

As per Material Damage Insurance.

Indemnity Period:

The period commencing from the date of the damage and ending when the results of the insured business cease to be affected in consequence of the damage up to a maximum period of 2 years.

Sum Insured:

2 years estimated loss of Revenue plus an amount for Additional Increased Cost of Working.

Deductible:

1 day

Principal Extensions:

Professional Fees
Payments on Account
Suppliers
Utilities
Prevention of Access
Notifiable Diseases
Escalation Clause
Automatic Reinstatement

Principal Exclusions:

As per Material Damage (section1 noted above excluding Consequential Losses)

3. PUBLIC LIABILITY

Cover:

Legal liability of the Insured Parties to pay (including claimants' costs and expenses) as damages in respect of:-

- (a) loss of or damage to third party property death or bodily injury to or illness or disease contracted by any person
- (b) infringement of or interference with the third party easement, right of air, light, water or way or the enjoyment of use therefore by obstruction, trespass, loss of amenities, nuisance or any like cause.

happening during the Policy Period and arising in connection with the IPL's operations including the ownership and maintenance of the Project.

Insured Parties:

- (a) IPL
- (b) NHS Greater Glasgow

- (c) While amounts remain outstanding under the Funding Agreements, the Funder.
- (d) The Car Park Operator
- e) The Builder (for the duration of the Construction and Maintenance Phase only)

each for their respective rights and interests.

Policy Period:

As per Material Damage Insurance

Limit:

£20,000,000 any one occurrence

Geographical Scope:

Anywhere in United Kingdom.

Deductible:

Not more than £1,000 each and every occurrence in respect of third party property damage. Otherwise there shall be no excess.

Principal Extensions:

Cross Liabilities
 Health and Safety Act 1974
 Consumer Protection Act 1987
 Contingent Motor Liability
 Compensation for Court Attendance
 Data Protection Act 1998
 Courts Jurisdiction
 Disclosure of Information
 Infringement of Privacy and Wrongful Arrest
 Libel and Slander

Principal Exclusions:

Employers' Liability
 Own Property / Custody or Control
 Fines, Penalties, Liquidated or Punitive Damages
 Motor Vehicles / Vessels / Crafts / Aircrafts
 Defective Work and Damage to Products
 Professional Liability, Errors and Omissions
 Pollution or Contamination unless caused by a sudden, identifiable, unintended and Unexpected incident
 Medical Malpractice
 War, invasion etc as more fully described in the Material Damage exclusions

SCHEDULE 20 - PART 3

BROKER'S LETTER OF UNDERTAKING

BROKER'S LETTER OF UNDERTAKING

Form of Broker's Letter of Undertaking

(To Greater Glasgow Health Board)

Dear Sirs,

Terms defined in the project agreement entered into between Greater Glasgow Health Board ("NHS Greater Glasgow") and IPL dated (the "Project Agreement") shall have the same meanings in this letter.

We confirm in our capacity as insurance brokers to IPL that the insurances summarised in Schedule 20 to the Project Agreement (the "Insurances") are in full force and effect on and in respect of the risks and liabilities as set out in the insurance policies evidenced in the attached cover notes (the "Policies").

In respect of the contractors "all risks" insurance, third party liability insurance, operational third party liability (including products liability) and property all risks, and we confirm that:

- (i) you and such other persons as are required to be named are or will be named as co-insured; and
- (ii) the relevant endorsements contained in the schedule of the clauses attached to Schedule 20 to the Project Agreement have been agreed by the insurers and will be included in the insurance policies.

The Insurances are to the best of our knowledge and belief placed with reputable and as at the effective date of each of the Insurances being rated at least A- by the rating agency Standard and Poor.

Pursuant to instructions received from IPL and in consideration of your approving our appointment or continuing appointment as brokers in connection with the Insurances we hereby undertake:

- 1 to advise you as soon as reasonably practicable following receipt of notice of any material changes notified to us which are proposed to be made in the terms of the Insurances and which, if effected, would result in any material reduction in limits or coverage (including those resulting from extensions) or in any material increase in deductibles, exclusions or exceptions;
- 2 to notify you as soon as reasonably practicable upon our ceasing to act as brokers to the Facilities unless owing to circumstances beyond our control in which

- case we shall notify you as soon as reasonably practicable after becoming aware that we shall cease, or that we have ceased, so to act.
- 3 to pay in to the Insurance Proceeds Account without any set-off or deduction of any kind for any reason all proceeds (if any) from the Insurances received by us from the insurers including refunds of premium except as might be otherwise permitted in the relevant loss payee clauses in the endorsements set out in Schedule 20 to the Project Agreement.
- 4 to advise you:
- (a) if any insurer cancels, suspends or gives notice of cancellation or suspension of any Insurance at least 30 days (or such lesser period as may be specified from time to time in the case of war risks and kindred perils) before such cancellation or suspension is to take effect or as soon as reasonably practicable after it comes to our attention; and
 - (b) of any act or omissions or of any event of which we have knowledge and which in our reasonable assessment as insurance broker may have a material impact on the cover provided under the Insurances;
 - (c) of all information made available to us (or otherwise within our knowledge in respect of the Facilities) and any fact, change of circumstance or occurrence which in our reasonable assessment as insurance broker is material to the risks insured against under the Insurance and which should properly be disclosed to insurers as soon as reasonably practicable after we become aware of such information, fact, change of circumstance or occurrence;
5. to hold the insurance slips or contracts, the policies and any renewals thereof or any new or substitute policies, to the extent held by us, to the order of NHS Greater Glasgow. And
6. to disclose to the insurers all information made available to us (or otherwise within our knowledge in respect of the Facilities) and any fact, change of circumstance or occurrence which in our reasonable assessment as insurance brokers is material to the risks insured against under the Insurance and which should properly be disclosed to insurers as soon as reasonably practicable after we become aware of such information, fact, change of circumstance or occurrence;
7. to advise the Insureds as insurance brokers of the type of information which needs to be disclosed to the insurers;

The above undertakings are given:

- (a) subject to any insurers right of cancellation (if any) following default in excess of 30 days in payment of such premiums, but we undertake to advise you immediately if any such premiums are not paid to us at least five Business Days before the due dates so as to give you a reasonable opportunity of paying such amounts of such premiums outstanding before notification of cancellation on behalf of the insurers; and
- (b) subject to our continuing appointment for the time being as insurance brokers to IPL.

This letter shall be governed by and construed in all respects in accordance with Scots Law. We agree for your benefit that the Court of Session in Edinburgh is to have jurisdiction to settle any disputes which may arise in connection with this letter and that any proceedings arising in connection with this letter may be brought to that Court. Nothing in this paragraph limits any rights to take proceedings against us in any other court of competent jurisdiction nor shall the taking of proceedings in one or more jurisdiction preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

Notwithstanding anything contained in this letter, we are and remain the agent of IPL and with the exception of our obligations as specified in this letter owe duties only to IPL.

Yours faithfully

Endorsement 1

Cancellation

This Policy shall not be cancelled except in respect of non-payment of premium.

The Insurer shall by written notice advise the Insured:

- (a) at least 30 Business Days before any such cancellation is to take effect
- (b) at least 30 Business Days before any reduction in limits or coverage or any increase in deductibles is to take effect; and
- (c) of any act or omission or any event of which the Insurer has knowledge and which might invalidate or render unenforceable in whole or in part this Policy

Endorsement 2

Multiple Insured Clause

Each of the parties comprising the Insured shall for the purpose of this Policy be considered a separate entity with the words "the Insured" applying to each as if they were separately and individually insured provided that the total liability of the Insurers under each section of the Policy to the Insured collectively shall not (unless the Policy specifically permits otherwise) exceed the limit of indemnity or amount stated to be insured under that section or policy. Accordingly, the liability of the Insurers under this Policy to any one Insured shall not be conditional upon the due observance and fulfilment by any other Insured party of the terms and conditions of this Policy or of any duties imposed upon that Insured party relating thereto, and shall not be affected by any failure in such observance or fulfilment by any such other Insured party.

It is understood and agreed that any payment or payments by Insurers to any one or more of the Insureds shall reduce, to the extent of that payment, the Insurers' liability to all such parties arising from any one event giving rise to a claim under this Policy and (if applicable) in the aggregate.

Notwithstanding any other provisions of this Policy, the Insurers agree not to avoid this insurance, or decline any valid claim under it, nor to claim damages or any other remedy against any Insured party, on the grounds that the risk or claim was not adequately disclosed or that it was misrepresented (unless deliberate or fraudulent non-disclosure or misrepresentation) or that there has been a material breach of a term or condition of this insurance (each referred to in this clause as a "Vitiating Act") by an Insured is established in relation thereto.

It is however agreed that a Vitiating Act committed by one Insured shall not prejudice the right to indemnity of any other Insured who has an insurable interest and who has not committed a Vitiating Act.

The Insurers hereby agree to waive all rights of recourse which they have or acquire against any party named as an Insured except where the rights of recourse are acquired in consequence or otherwise following a Vitiating Act in which circumstances the Insurers may enforce such rights against the Insured responsible

for the Vitiating Act notwithstanding the continuing or former status of the vitiating party as an Insured, provided that Insurers will not exercise any such rights or make any claim against the Borrower in respect of any claim made by any Insured until final and irrevocable payment of all obligations owed by the Borrower to the Senior Finance Parties is made.

Endorsement 3

Communications

All notices or other communications under or in connection with this Policy shall be given to the insured in writing or by facsimile. Any such notice will be deemed to be given as follows:

- (a) if in writing, when delivered
- (b) if by facsimile, when transmitted but only if, immediately after transmission, the sender's facsimile machine records a successful transmission has occurred.

The address and facsimile number of NHS Greater Glasgow for all notices under or in connection with this Policy are those notified from time to time by NHS Greater Glasgow for this purpose to IPL's insurance broker at the relevant time. The initial address and facsimile number of NHS Greater Glasgow is as follows:

The Health Board: Greater Glasgow Health Board

Address: Dalian House, 350 St Vincent Street, Glasgow, G3 8YZ

Facsimile No: 0141 201 4401

Attention: The Chief Executive from time to time of the Health Board

It is further agreed that a notice of claim given by NHS Greater Glasgow or any other insured shall in the absence of any manifest error be accepted by the Insurer as a valid notification of a claim.

Endorsement 4

Loss Payee under contractors all risks and material damage insurances

All proceeds of these insurances arising from the Facilities shall be payable without deduction or set-off to the account entitled Insurance Proceeds Account in the name of IPL, (number: 10152868 Sort Code 381600 at Royal Bank of Scotland at St Andrews Square, Edinburgh, EH2 2YB).

Endorsement 5

Primary Insurance

It is expressly understood and agreed that this Policy provides primary cover for the Insured and that in the event of loss destruction damage or liability covered by this Policy which is covered either in whole or in part under any other policy or policies of insurance effected by or on behalf of any of the Insured the Insurers will indemnify the Insured as if such other policy or policies of insurance were not in force and the insurers waive their rights of recourse if any against the insurers of such other policy or policies of insurance.

This is Schedule 21 comprising the Handback Procedure and Handback Requirements referred to in the Project Agreement for the Project Operations at Glasgow Royal Infirmary.

SCHEDULE 21

SECTION A: HANDBACK PROCEDURE

1. IPL shall, at the commencement of the sixth year prior to the end of the Concession Period and at the commencement of every year thereafter until the Handback Amount is ascertained pursuant to paragraph 6 below deposit the sum of £100,000 (Indexed) into an interest bearing account in the joint names of IPL and NHS Greater Glasgow (the "Retention Fund Account") unless otherwise directed by the Senior Funders pursuant to the Funding Agreements or as otherwise relieved pursuant to the provisions of this Schedule 21, in which event IPL shall effect a bond for the benefit of NHS Greater Glasgow to the value of the same amount (£100,000 Indexed) ("Handback Bond") from a bank or insurance company authorised to carry out business in the United Kingdom in each such year in which the Senior Funders issue such a direction.
2. Subject to paragraph 3 below, on the Expiry Date each element of the Facilities shall be in a condition which is consistent with due performance by IPL of this Agreement referred to as the Handback Requirements.
3. Not less than 24 months prior to the Expiry Date, IPL and NHS Greater Glasgow shall conduct a joint inspection of the Facilities.

4. Within 20 Working Days after the completion of the inspection, if it is found that any element of the Facilities is not in a condition consistent with the Handback Requirements, IPL shall forthwith provide to NHS Greater Glasgow:
 - 4.1 IPL's proposal as to the maintenance works (if any) (the "Handback Works") required to be carried out in respect of the Facilities in order to procure that they will, on the Expiry Date, satisfy the Handback Requirements;
 - 4.2 IPL's proposal as to the programme (the "Handback Programme") for the carrying out of the Handback Works over the remainder of the duration of the Concession Period, such programme shall describe the total works to be carried out and the method of carrying out such works during the overall period in which the Handback Works are to be executed;
 - 4.3 IPL's estimate of the cost of carrying out the Handback Works (the "Handback Amount"); and
 - 4.4 any request for a release from or reduction in the obligations of paragraph 2 above or a return of any monies from the Retention Fund Account on the basis that the monies in such account are sufficient to carry out the Handback Works.
5. NHS Greater Glasgow may, within 20 Working Days after receipt of the details set out in paragraph 5 from IPL, raise comments on IPL's proposals and estimate referred to in paragraph 5 above.
- 6.

- 6.1 On agreement, or determination (in accordance with the Dispute Resolution Procedure), of the Handback Works, the Handback Programme and/or the Handback Amount (as the case may be), IPL shall procure that the Handback Works are carried out in accordance with the Handback Programme. IPL shall carry out the Handback Works at its own cost notwithstanding that the actual cost of the Handback Works may be higher than the Handback Amount.
- 6.2 For the avoidance of doubt, in the event that IPL has deposited monies in the Retention Fund Account in accordance with paragraph 1 and does not procure a Handback Bond in accordance with paragraph 8, monies deposited in the Retention Fund Account up to the value of the Handback Amount shall, at IPL's request (upon completion of the Handback Works to the reasonable satisfaction of NHS Greater Glasgow) be released to contribute to the cost of the Handback Works.
7. IPL may within 20 Working Days of the agreement (or determination in accordance with the Dispute Resolution Procedure) envisaged in paragraph 7, procure the provision of a Handback Bond in favour of NHS Greater Glasgow for either:-
- 7.1 in the event that no Handback Bonds have been effected pursuant to paragraph 1, an amount equal to the Handback Amount; or
- 7.2 in the event that any Handback Bonds have previously been effected in accordance with paragraph 1, an amount equal to the shortfall between the amount of such Handback Bonds and the Handback Amount;

and in each case IPL shall forthwith be entitled to the return of 90% of the monies in the Retention Fund Account.

8. IPL shall carry out the Handback Works to the satisfaction of NHS Greater Glasgow in accordance with Good Industry Practice and in accordance with the Handback Programme so as to meet the Handback Requirements.

9. Notwithstanding:

- 9.1 the agreement of NHS Greater Glasgow to any Handback Works, the Handback Programme or the Handback Amount;

- 9.2 the participation of NHS Greater Glasgow in any inspection under this Schedule; and/or

- 9.3 the complete or partial carrying out of the Handback Works,

IPL shall not be relieved or absolved from any obligation to conduct any other inspection or to perform any other works in accordance with this Agreement.

10. Not later than 40 Working Days before the Expiry Date, IPL and NHS Greater Glasgow shall conduct a joint inspection of the Facilities. Such inspection shall confirm whether or not the condition of the Facilities is in accordance with paragraph 2 above.

11. On, or within 10 Working Days after, the Expiry Date, NHS Greater Glasgow shall either:

- 11.1 issue to IPL a certificate confirming satisfactory completion of the Handback Works ("Handback Certificate") and return any Handback Bond and/or any monies in the Retention Fund Account; or

- 11.2 notify IPL of its decision not to issue the Handback Certificate stating the reasons for such decision.
12. Any notice given by NHS Greater Glasgow in accordance with paragraph 12 shall set out each respect in which the Handback Works have not been completed or the Facilities do not comply with the Handback Requirements and shall state NHS Greater Glasgow's estimate of the cost of procuring that the Facilities comply in all respects with the Handback Requirements.
13. IPL may, within 15 Working Days after receipt of the notice given in accordance with paragraph 12.2 by notice to NHS Greater Glasgow, object to any matter set out in NHS Greater Glasgow's notice. The notice from IPL shall give details of the grounds of such objection and shall set out IPL's proposals in respect of such matters.
14. If no agreement is reached between IPL and NHS Greater Glasgow as to any matter referred to in IPL's notice given in accordance with paragraph 14 within 15 Working Days of receipt of that notice by NHS Greater Glasgow, then either IPL or NHS Greater Glasgow may refer the matter for determination in accordance with the Dispute Resolution Procedure as to:
- 14.1 whether the Facilities comply in all respects with the Handback Requirements; and
- 14.2 the estimated cost of procuring that the Facilities comply in all respects with the Handback Requirements, where the Facilities do not comply in all respects with the Handback Requirements.
15. If it is agreed or determined in accordance with the Dispute Resolution Procedure that the Facilities did not, at the Expiry Date, comply in all respects with the Handback Requirements, IPL shall pay to NHS Greater Glasgow an

amount equal to the estimated cost of completing such Handback Works or procuring that the Facilities comply in all respects with the Handback Requirements to the extent that any monies in the Retention Fund Account or the value of any Handback Bonds effected pursuant to paragraph 1 are insufficient. Such payment shall be made not later than 10 Working Days after the estimated cost has been agreed or determined and, upon such payment being received by NHS Greater Glasgow, NHS Greater Glasgow shall issue the Handback Certificate and return the Handback Bond to IPL. If IPL fails to make such payment then NHS Greater Glasgow shall be entitled to call up the Handback Bond or Bonds (as the case may be) and retain any monies in the Retention Fund Account to the extent necessary to complete the Handback Works (but no more and not so as to allow double recovery).

SECTION B: HANDBACK REQUIREMENTS

GLASGOW ROYAL INFIRMARY - MULTI STOREY CAR PARK		BUILDING ELEMENTS LIFE EXPECTANCIES	
Building Element	Minimum Residual Life Expectancy Following Hand Over.	Maintenance Schedule	
Foundations	25 Years	Regular monitoring to review any settlement of the structure. Cut out all damaged parts of structure and repair.	
Frame	25 Years	Steel, check the structure paintwork for signs of corrosion. Carry out an independent structural survey testing connections, etc. Cut out all damaged parts of structure/structural connections and repair/renew	
Upper Floors & Roof	25 Years	Concrete, full independent structural survey to record cracks, concrete spalls, damage and signs of leakage. Determine chloride levels, depth of carbonation and depth of cover from samples to identify extent of corrosion and risk of future corrosion. Cut out all damaged parts of the structure and repair. Survey protective waterproof membrane and replace as required. Reinstate existing line markings. Replace any defective joints	

Roof to Stairwell	7 Years	Check for leaks, cracks, pitting or boiling, blocked drainage outlets and make good where necessary	
Roof Outlets / Guttering	5 Years	Check for blocked drainage and gutter outlets and clear where necessary.	
Canopies	5 Years	Wash down , check for defects and make good, re-coat finish	
Stairs	25 Years	General structural survey to record cracks, concrete spalls, damage and signs of leakage. Determine chloride levels, depth of carbonation and depth of cover from samples to identify extent of corrosion and risk of future corrosion. Cut out and repair any damaged areas.	
Handrails	7 Years	Wash down check for defects in fixings etc... and make good where necessary , re-coat finish	
Finish Vinyl, Nosings etc.	5 Years	Check for worn areas and tears in floor finish and replace, check for broken or worn stair nosings and replace where necessary	
Facing Brick above D.P.C.	25 Years	Wash down, inspect for defects, cracks, efflorescence and re-point, cut out and replace as required	

Engineering Brick below D.P.C.	25 Years	Sample test for any defects
Facing Blockwork / Stone	25 Years	Wash down, inspect for defects, cracks, efflorescence and re-point, cut out and replace as required
Render	7 Years	Check for defects and make good, re-apply colour finish
Louvres	10 Years	Wash down and check louvres for defects and replace loose/damaged areas where necessary, re-apply finish
Windows and Window Ironmongery	5 years	Check fixings and operation for defects, replace where necessary
Windows	10 Years	Wash down, check for any defects , re-paint internally and externally, re-seal window units
External Doors	10 Years	Wash down, check hinges and ironmongery for defects replace where necessary, replace damaged doors and re-apply finish where necessary
Plasterboard / Plaster	5 Years	Check for damage, cracks, etc... and make good where necessary
Paint Finish	5 Years	Wash down and re-paint, dirty , graffitied and flaking areas

Solid core doors	5 Years	Wash down, check hinges, ironmongery for defects replace where necessary, replace damaged doors and re-apply finish where necessary
White Lining	5 Years	Re-paint faded areas
Finish , Vinyl etc	5 Years	Check for worn areas, de-lamination and tears in floor finish and replace where necessary
Finish	5 Years	Wash down and re-paint all dirty, stained and flaking areas
Fitted Furniture , Storage Units etc...	3 Years	Check fixings, handles, hinges wash down surfaces and repair or replace where necessary

Above Ground Drainage	15 Years	Check for leaks and blockages, periodic maintenance
Hot & Cold Water Pipes/Valves/Tanks	10 Years	Check for leaks, corrosion, sample water for legionella, clean tanks etc., regular maintenance
Water Heaters	5 Years	PAT tests, check for wear & broken parts, regular maintenance
Space Heaters	5 Years	PAT tests, check for wear & broken parts, regular maintenance
Ventilation Ductwork	10 Years	Checks for air leakage & wear, periodic maintenance & cleaning
Ventilation Fans/Dampers/Ctrls	5 Years	Check for wear & broken parts, regular maintenance
Containment Systems	10 Years	Check for earthing, secure fixings, periodic maintenance
LV Mains Cabling	10 Years	Check for earthing, loose terminations, overheating, secure fixings, periodic maintenance, insulation/continuity tests
LV Switchgear	10 Years	Check for earthing, loose terminations, overheating, secure fixings, regular maintenance
Luminaires	5 Years	Check for earthing, loose terminations, overheating, secure fixings, regular maintenance

		maintenance
Emergency Luminaires	5 Years	Check for earthing, loose terminations, overheating, secure fixings, battery condition, regular maintenance, testing log
Power Outlets/Equip	5 Years	Check for earthing, loose terminations, overheating, secure fixings, regular maintenance, PAT tests
Final Circuit Cabling	10 Years	Check for loose terminations, overheating, secure containment, periodic maintenance, insulation/continuity tests
Fire & Comms Cabling	10 Years	Check for loose terminations, secure containment, periodic maintenance, insulation/continuity tests
Fire Alarm Equipment	5 Years	Check for wear & broken parts, regular maintenance, fire test log
Ticket Control Equip	5 Years	Check for wear & broken parts, regular maintenance
Access Control Equip	5 Years	Check for wear & broken parts, regular maintenance
Sprinkler Pipework	10 Years	Check for leaks, corrosion, regular maintenance, test log
Sprinkler Pumps/Valves/Ctrls	5 Years	Check for wear & broken parts, regular maintenance, test log

Lift Car	10 Years	Check for worn/broken furnishings and fitments
Lift Machines/Controls	5 Years	Check for earthing, loose terminations, overheating, secure fixings, battery condition, regular maintenance, testing log
Landscaping	N/A	General Tidy, cut grass and trim back overgrown landscaping
Paving	5 Years	Wash down, re-point , check for any defects dips etc... and make good, re-lay damaged areas if necessary
Tar-macadam	5 Years	Check for cracks and collapsed areas Re-apply surface finish where necessary
Signage	5 Years	Wash down, replace missing, damaged or broken signage where necessary
Drainage	25 Years	Clean out existing system and review CCTV footage to highlight any defects. Carry out repairs as required.

This is Schedule 22 comprising the Site Access Protocol referred to in the Project Agreement for the Works and Project Operations at Glasgow Royal Infirmary.

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SCHEDULE 22

SITE ACCESS PROTOCOL

General considerations

The hospital will remain in full operation throughout the duration of the Works; the safe operation of the Glasgow Royal Infirmary will take precedence over all operations forming part of the Works.

The Alexandra Parade junction is the main ambulance access to the Accident & Emergency department, this junction must remain in full operation at all times 24 hours per day, 7 days per week.

No works vehicles should block or restrict vehicular movement at any time on the main road network within NHS Greater Glasgow's Estate and especially local to the Accident & Emergency department.

No vehicles may be parked on the roadway between Alexandra Parade and the main ambulance entrance to the Accident & Emergency department at any time.

Pedestrians will be in close proximity to the Works at all times. IPL and the Builder shall make adequate and safe provision for their management and direction at all times.

IPL and the Builder must make itself, its staff and sub-contractors aware of all emergency escape routes and access for fire tenders at NHS Greater Glasgow's Estate prior to commencing the Works and ensure that these areas are kept clear at all times.

Access to the Works

Subject to the planning Consents access to the Works may be taken by IPL and the Builder from both Wishart Street (via Warnock Street), and from the main junction at Alexandra Parade.

Wishart Street is the preferred delivery and access point for vehicles en route to the site compound on Mortuary Lane as this will reduce the volume of traffic through the Alexandra Parade junction.

The Alexandra Parade junction may be used for large deliveries. These must be scheduled, controlled and managed by IPL and the Builder to ensure that vehicles are not parked on the main hospital roads, and vehicles are taken onto site as soon as possible. IPL or the Builder must advise NHS Greater Glasgow representative of delivery schedules for large and repetitive loads such as steel, concrete and pre-cast components.

Abnormal loads and deliveries will require to be planned and managed by IPL and the Builder in discussion with NHS Greater Glasgow's Representative and must be agreed with NHS Greater Glasgow's Representative at least 2 days in advance. Abnormal loads shall if reasonably required by NHS Greater Glasgow, be scheduled out with normal hospital and site working hours.

In the event that the Highways Works and the Works are ongoing contemporaneously, the width of the Alexandra Parade junction will be limited, although 2 lanes will be maintained at all times.

Delivery of materials

IPL and the Builder will programme deliveries of all materials in advance, and provide a weekly schedule for discussion with NHS Greater Glasgow.

IPL and the Builder must provide adequate space within the construction site for large vehicles to be parked up to avoid obstruction of the hospital road network.

Only agreed routes are to be used for delivery of materials.

Highways works

Works to reconfigure and widen the main road junction may also be underway during the Works. IPL and the Builder will require, in discussion with the Highways Works Contractor, to programme all works and deliveries so as to maintain a fully operational access to the Site at all times (24/7). In the event these parties cannot reach agreement NHS Greater Glasgow shall act as final arbiter.

Meetings and reports

IPL or the Builder will hold regular meetings with NHS Greater Glasgow's Representative, at commencement on a weekly basis, the frequency can be changed subject to mutual agreement.

IPL or the Builder will prepare a weekly report, to be delivered to NHS Greater Glasgow's Representative 24 hours before the weekly meeting, subject to change by mutual agreement.

The weekly report will summarise as a minimum;

- Report on activity over preceding week
- Programme / progress situation

- Forthcoming deliveries to site and route of access
- Any anticipated access problems over forthcoming week
- Any anticipated work task and activity over forthcoming week(s) (noise and dust)
- Anticipated interruptions to NHS Greater Glasgow services in forthcoming weeks
- Information required from NHS Greater Glasgow
- Items for NHS Greater Glasgow attention

This is Schedule 23 comprising the Lease referred to in the Project Agreement for the Car Park Operation at Glasgow Royal Infirmary.

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SCHEDULE 23

LEASE

between

The Scottish Ministers

and

Impregilo Parking (Glasgow) Limited

LEASE

between

THE SCOTTISH MINISTERS

and

IMPREGILO PARKING (GLASGOW) LIMITED,
incorporated under the Companies Acts (Registered
under Company Number 04531874) whose registered
office is at Second Floor, 1 Raleigh Walk, Brigantine
Place, Cardiff CF10 4LN("the Tenant")

IN CONSIDERATION of the rent and other prestations hereinafter specified the Landlord hereby LETS to the Tenant (excluding assignees and sub-tenants except as hereinafter permitted) the Premises together with the rights set out in Part II of the Schedule and the Project Agreement EXCEPTING AND RESERVING nevertheless to the Landlord the rights and matters set out in Part I of the Schedule and that from and after the Date of Entry for the Period of Lease and that on the following terms and conditions:-

1. DEFINITIONS

The following expressions shall where the context so admits have the following meanings:

"Accessways"	All means of access to and egress from the Premises as the same may be adjusted, diverted or closed from time to time at the direction of the Landlord provided always that in so doing access to the Premises is not prevented or unreasonably restricted and alternative access and egress is provided by the Landlord whenever an accessway is closed;
"Authorised Use"	Use for the construction and operation of a multi storey car park including all ancillary uses thereto and/or such other use as is permitted or required under the Project Agreement;
"Date of Entry"	The Commencement Date under the Project Agreement;
"Health Board"	Greater Glasgow Health Board constituted under the National Health Service (Scotland) Act 1972 and having its principal office at Dalian House, PO Box 15329 350 St. Vincent Street Glasgow G3 8YZ;

11 August 2003

"Landlord"	The Scottish Ministers and their statutory successors and their successors in the ownership of the Premises;
"Landlord Conducting Media"	All pipes, wires, cables, sewers, tanks, cisterns, pumps, ducts, drains and other service conducting media now or at any time during the Term in under over or on or serving the Retained Land whether for gas, foul and surface water drainage, water, electricity, telephone, telecommunications or any other service to the Retained Land;
"Period of Lease"	The term of thirty one (31) years and twelve weeks from and including the Date of Entry (subject to the provisions of Condition 5 hereof);
"Plan"	The plan annexed and subscribed as relative to this Lease;
"Planning Acts"	The Town and Country Planning (Scotland) Act 1997, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Planning (Consequential Provisions) (Scotland) Act 1997 and the Planning (Hazardous Substances) (Scotland) Act 1997 and any future legislation of a similar nature;
"Premises"	The land at Glasgow Royal Infirmary shown outlined in green on the Plan together with free ish and entry, all buildings, additions, alterations, improvements, landlord's fixtures and fittings at the same from time to time and all Tenant Conducting Media exclusively serving the same as the same forms part of ALL and WHOLE (First) subjects on the east side of Castle Street. Glasgow extending to 3.29 hectares and registered in the Land Register of Scotland under Title Number GLA 138918; (Second) subjects forming part of Glasgow Royal Infirmary, Castle Street, Glasgow G4 0SF extending to 3.7 hectares and registered in the Land Register of Scotland under Title Number GLA 138062 ("the Landlord's Estate");
"Project Agreement"	The Project Agreement dated on or about the date hereof and made between the Health Board and the Tenant relating to, inter alia, the financing, design and construction of in connection with the provision of a new multi storey car park at the Premises and any agreement made supplemental to or in variation thereof from time to time;

"Restrictions"	means all matters affecting the Premises, their use, registered or capable of registration as local land charges and all notices, charges, orders, resolutions, demands, proposals, requirements, regulations, restrictions, agreements, directions and other matters affecting the Premises, their use or affecting the Works served or made by any local or other competent authority (which term shall not include NHS Greater Glasgow as landowners) or otherwise arising under any statute or any regulation or order made under any statute;
"Retained Land"	means the Landlord's Estate under exception of the Premises;
"Schedule"	The Schedule annexed and signed as relative hereto;
"Security Trustee"	The Royal Bank of Scotland plc ("the Bank") as security trustee for itself and the other Finance Parties (as defined in the Facility Agreement made among <u>inter alia</u> the Tenant and the Bank (in various capacities) dated on or around the date of this Lease pursuant to the Security Trust Deed made among <u>inter alia</u> the Tenant and the Bank (in various capacities) dated on the date of the Project Agreement and its successors and assignees as security trustee pursuant to the Security Trust Deed;
"Tenant"	Impregilo Parking (Glasgow) Limited and in substitution thereof its permitted successors and assignees but not so as to infer joint and several liability between the Tenant and its permitted assignees;
"Tenant Conducting Media"	All pipes, wires, cables, sewers, tanks, cisterns, pumps, ducts, drains and other service conducting media now or at any time during the Term in under over or on or serving the Premises whether for gas, foul and surface water drainage, water, electricity, telephone, telecommunications or any other service to the Premises;
"Term"	The Period of Lease and any extension whether by statute or at common law or by agreement;
"Works"	has the meaning set out in the Project Agreement;
"Yearly Rent"	£1 per annum (if demanded);

2. INTERPRETATION

- 2.1 In this lease, references to any statute or statutory provision shall be deemed to refer to any statutory modification or re-enactment for the time being in force whether by statute or any directives and regulations (intended to have direct application within the United Kingdom) adopted by the Council of the European Communities
- 2.2 The headings are inserted for convenience only and shall be ignored in construing the terms and provisions of this lease
- 2.3 References in this lease to any clause or sub-clause schedule or paragraph of a schedule without further designation shall be construed as a reference to the clause sub-clause schedule or paragraph of the schedule to this lease so numbered
- 2.4 Any obligation by the Tenant not to do any act or thing shall be deemed to include a obligation not knowingly to permit or suffer such act or thing and to use all reasonable endeavours to prevent such act or thing being done by a third party for whom the Tenant is responsible at law and any obligation by the Tenant to comply with any act or thing relating to the Premises shall be deemed to include a obligation to use all reasonable endeavours to procure that such act or thing is complied with by a third party
- 2.5 Words importing the neuter gender only include the masculine and feminine genders; words importing the masculine gender only include the feminine gender, and vice versa.
- 2.6 Words importing the singular number only shall include the plural number and vice versa; where at any one time there are two or more persons included in the expression "the Tenant" obligations contained in this Lease which are

expressed to be made by the Tenant shall be binding jointly and severally on them and their respective executors and representatives whomsoever without the necessity of discussing them in their order but not so far as to infer joint and several liability between the Tenant and its permitted successors; in the case where the Tenant is a firm or partnership the obligations of the Tenant hereunder shall be binding jointly and severally on all persons who are or become partners of the firm at any time during the Period of this Lease and their respective executors and representatives whomsoever as well as on the firm and its whole stock, funds, assets and estate without the necessity of discussing them in their order and such obligations shall subsist and remain in full force and effect notwithstanding any change or changes which may take place in the name of the firm or partnership whether by the assumption of a new partner or partners or by the retiral, bankruptcy or death of any individual partner.

2.7 Words importing persons include corporations and vice versa.

3. TENANT'S OBLIGATIONS

The Tenant binds and obliges itself as follows:

3.1 To Pay Rent

To pay the Yearly Rent if demanded

3.2 Alterations

Except as required or permitted under the terms of the Project Agreement or any other written agreement between the Landlord and and/or the Health Board and Tenant, not to build or erect or permit or suffer to be built or erected any additional building, structure or erection on the Premises and save as aforesaid not to make or to permit or suffer to be made any addition or

alteration to the Premises or any alteration to the Conducting Media of any nature whatsoever.

3.3 User

Not to use or permit or suffer the Premises to be used otherwise than for the Authorised Use

3.4 Nuisance

Not to use or permit or suffer to be used the Premises or any part of the same for any illegal or immoral purpose or for any dangerous noxious noisy or offensive trade or business or purpose whatsoever nor to do or permit or suffer anything in or upon the Premises or any part of the same or on any property over which the Tenant exercises rights which is or may become a nuisance to the Landlord or the tenants, owners or occupiers of the Retained Land but that without prejudice and subject to the Tenant's obligations under the Project Agreement and provided that the construction and operation of car parking facilities on the Premises shall not constitute a breach of this Clause 3.4.

3.5 Not to Allow Encroachments

Not knowingly to permit any encroachment to be made upon the Premises or any servitude or right of any nature to be established over or against the same and in the event of any such encroachment being made or attempted or any such servitude or right being established or the establishment thereof being attempted with the knowledge of the Tenant it shall be bound to give the Landlord immediate notice thereof in writing.

3.6 Alienation

Save as permitted or otherwise required in terms of the Project Agreement, not to assign, sublet, charge or part with the possession or share the use or occupation of the whole or any part or parts of the Premises nor enter into a binding agreement to do any of the same save that without the Landlord's consent (a) the Tenant may grant a Standard Security over the tenant's interest in this Lease to the Security Trustee] and (b) the Tenant may contemporaneously assign this lease to any party to which the Tenant is authorised to assign or transfer the benefit of the Project Agreement pursuant to the terms of the Project Agreement.

3.7 Notice of Dealings

To deliver or cause to be delivered to the Landlord or its agents for the time being a notice of every assignation charge or transfer of the title of the Premises or any part of the same together with a certified copy of any deed or document effecting or evidencing the same within one month after the execution or signature of any such deed or document.

3.8 Costs

The Tenant will pay the stamp duty (if any) on this Lease and the dues of registering the same in the Land Register of Scotland and the Books of Council and Session and obtaining four Extracts.

4. RESERVATIONS

4.1 The Premises shall be leased to the Tenant subject to the rights set out in Part 1 of the Schedule and all (if any) Restrictions (whether in existence as at the Date of Entry or arising at any later date).

- 4.2 No representation is made or warranty given by the Landlord as to whether any Restrictions exist or as to whether in any other respect the Premises now comply with any Restrictions except so far as the Landlord is aware.
- 4.3 The Tenant acknowledges that its obligations under this Lease and the Project Agreement shall not be affected or lessened in any way by the fact that the Premises may not now comply with any restrictions or that there may now or subsequently exist any Restrictions and the Tenant shall with effect from the Date of Entry comply with and indemnify the Landlord in respect of any liability under any restrictions.

5. LANDLORD'S OBLIGATIONS

The Tenant has examined the Landlord's title to the Premises and to the Retained Land as at 25 May 2004 and is deemed to be satisfied with the validity and marketability of the same except as expressly provided and referred to in the Project Agreement. The Landlord warrants this Lease absolutely to the Tenant and warrants that the Tenant shall and may peaceably and quietly hold and enjoy the Premises during the Term without any interruption by the Landlord or any person rightfully claiming under or in trust for the Landlord excepting always from each of the foregoing warranties that any consequence of a deficiency with the validity and/or marketability of the Landlord's title which is expressly provided for and referred to in the Project Agreement where IPL's sole remedy shall be as specified in terms of Clause 45 of the Project Agreement.

6. PROVISOS AGREEMENTS AND DECLARATIONS

PROVIDED ALWAYS and it is hereby expressly agreed as follows:

6.1 Early Termination of the Period of Lease

The parties agree that each of the Landlord or the Tenant shall be entitled independently to terminate this Lease by written notice to the other where the Project Agreement has been validly terminated and such notice to be effective from the Date of Termination of the Project Agreement.

6.2 No implied Rights or obligations

- (a) Save for the rights expressly granted or otherwise agreed between the Landlord and the Tenant nothing in this lease shall by implication of law or otherwise operate to confer on the Tenant any wayleave right or privilege whatsoever over or against any adjoining or other property of the Landlord which might in any way restrict or prejudicially affect the future rebuilding alteration or development of such adjoining or other property
- (b) Nothing, whether contained herein or otherwise, shall be deemed to constitute any warranty by the Landlord that the Premises or any part thereof are authorised for use under the Planning Acts for any specific purpose or as to the suitability or fitness of any buildings and other works whether comprised within the Premises or otherwise.
- (c) Save as otherwise agreed between the Landlord and/or the Health Board and the Tenant, the obligations of the Landlord and/or the Health Board and the Tenant at common law or otherwise to carry out works of repair, maintenance, renewal or reinstatement in respect of the Premises are excluded and the only obligations which the Landlord and/or the Health Board and the Tenant shall owe to each other for the repair, maintenance, renewal, reinstatement and rebuilding of the Premises shall be provided for in terms of the Project Agreement.

(d) Notwithstanding any rule of law to the contrary but without prejudice to any other agreement between the Landlord and/or the Health Board and the Tenant (a) this Lease shall not be terminated or suspended on account of destruction or damage to the Premises for whatever reason but will continue in full force and effect in every respect, (b) the Landlord shall have no right to irritate this Lease and (c) the Landlord hereby waives its right of hypothec in respect of any goods or others on the Premises.

6.3 Notices

Save where the following conflicts with the terms of the Project Agreement, any notices to a party hereto shall be in writing and shall be sufficiently served and sent by recorded delivery post to (a) in the case of the Landlord and the Health Board to the Chief Executive, Greater Glasgow Health Board having its headquarters at Dalian House PO Box 15329 350 St. Vincent Street Glasgow G3 8YZ and (b) in the case of the Tenant to its registered office or such other address as may be notified by the party in question. Any notice shall be deemed to have been duly served at the expiry of forty eight (48) hours after the date of posting. In providing posting it shall be sufficient to prove that the envelope containing the notice was duly addressed to the party concerned in accordance with this clause and posted to the place to which it was so addressed.

6.4 Unenforceable Provisions:

Each provision of this Lease shall, unless the context otherwise requires, be read and construed independently of every other provision of this Lease to the intent that if any provision of this Lease is held to be invalid or unenforceable

for any reason, then the remaining provisions of this Lease shall, to the extent that they are not held to be invalid, remain in full force and effect.

6.5 Project Agreement

The Landlord and the Tenant agree that in the event of any conflict or inconsistency between the provisions of this Lease and the provisions of the Project Agreement, the Project Agreement shall prevail and shall be given effect to notwithstanding anything contained in this Lease.

6.6 Jurisdiction

This Lease shall be construed in accordance with the Laws of Scotland and the parties hereto prorogate the jurisdiction of the Scottish Courts.

6.7 Consent to Registration

The Landlord and the Tenant consent to the registration hereof for preservation and execution

6.8 Dealings

- (a) The Tenant shall not assign this lease other than to a party to which the Tenant assigns the Project Agreement pursuant to the terms thereof. Such assignation of this lease shall be contemporaneous with assignation of the Project Agreement.

- (b) The Landlord shall not assign its interest in this lease other than to a party to which the Health Board assigns its interest in the Project Agreement pursuant to the terms thereof. Such assignation by the Landlord's interest shall be contemporaneous with assignation of the Project Agreement by the Health Board: IN WITNESS WHEREOF:

**This is the schedule referred to in the foregoing Lease between The Scottish Ministers
and Impregilo (Glasgow) Limited**

PART I

(Exceptions and Reservations)

1. The Landlord and/or the Health Board reserves the right at any time during the Term to enter upon the Premises to exercise any of the rights reserved to the Landlord and/or the Health Board by this lease or by the Project Agreement subject to such entry being effected in accordance with the terms and requirements regarding entry contained in the Project Agreement.
2. Subject to the terms of the Project Agreement the Landlord and/or the Health Board reserves the right to enter onto the Premises on giving reasonable prior written notice to the Tenants for the purpose of maintaining, repairing and renewing the Landlord Conducting Media where these serve the Retained Land subject to the Landlord (1) giving at least 48 hours prior written notice (except only in the case of an emergency) (2) making good any damage caused by its exercise of this right to the reasonable satisfaction of the Tenant or, where making good is not possible, paying reasonable compensation to the Tenant for any losses or damage.
3. The Landlord and/or the Health Board reserves the right to deal with any part of the Retained Land in any way it considers fit subject to the terms of the Project Agreement but without prejudicing or interfering with the Tenant's rights under the Project Agreement or the Lease.

PART II

RIGHTS GRANTED

1. There is hereby granted in favour of the Tenant a right to lay and maintain any Tenant Conducting Media, through or across the Retained Land to the extent provided in the Building Documents as defined and contained in the Project Agreement.
2. Subject to the terms of the Project Agreement there is granted to the Tenant (but only to the extent necessarily required) the right to enter onto the Retained Land on giving reasonable prior written notice to the Landlord for the purpose of maintaining, repairing and renewing the Tenant Conducting Media subject to the Tenant making good any damage caused by its exercise of this right to the reasonable satisfaction of the Landlord or, where making good is not possible, paying reasonable compensation to the Landlord for any losses or damage.
3. There is hereby granted in favour of the Tenant and its invitees permitted in terms of the Project Agreement an unrestricted right of access and egress (for pedestrians and vehicles) over the Accessways but that solely for the purposes of the Project Agreement.

This is Schedule 24 comprising the IPL Information referred to in the Project Agreement for the Multi Storey Car Park and Other Works at Glasgow Royal Infirmary.

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SCHEDULE 24

IPL INFORMATION

1. Name Impregilo Parking (Glasgow) Limited
2. Date of Incorporation 11 September 2002
3. Registered Number 04531874
4. Registered Office Second Floor, 1 Raleigh Walk, Brigantine Place, Cardiff
CF10 4LN
5. Directors

<u>Name</u>	<u>Address</u>
Mr Guiseppe Comoretto	33 Catiglione Delle Stiviere, (MN) 46043, Italy
Mr Michael Folkard	79 Bradvue Crescent, Bradville, Milton Keynes, MK13 7AH
6. Secretary

Mr Gianfranco Catrini

7. Authorised and issued share capital as at the date of this Agreement.

<u>Name and Address of Registered Holder</u>	<u>Number and Class Held</u>	<u>Amount Paid</u>
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This is Schedule 25 comprising the Letter of Comfort referred to in the Project Agreement for the Multi Storey Car Park and Other Works at Glasgow Royal Infirmary.

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SCHEDULE 25

LETTER OF COMFORT FROM SCOTTISH MINISTERS

The Royal Bank of Scotland plc in its several capacities as facility agent and security trustee for the Senior Funders under the Funding Agreements
Structured Finance
135 Bishopsgate
Level 5
London
EC2M 3UE

Impregilo Parking (Glasgow) Limited (IPL)
Second Floor
1 Raleigh Walk
Brigantine Place
Cardiff
CF10 4LN

Dear Sirs,

Glasgow Royal Infirmary Car Parking Operation Project (the **Project**)

I refer to the anticipated financial close of the Project, into which you intend to enter with Greater Glasgow Health Board (the **Board**) following the dissolution of North Glasgow University Hospitals National Health Service Trust (the **Trust**) and the transfer of all of its rights, title, interests and obligations to the Board, or in the case of heritable property, the Scottish Ministers. I also refer to the listed documents in the appendix hereto (the **Project Documents**).

In light of the dissolution of the Trust and the new responsibilities of the Board, we hereby confirm and undertake to you that once signed by or on behalf of the Board and/or the Scottish Ministers, each Project Document to which they are a party will be valid and fully enforceable against the Board and/or the Scottish Ministers in accordance with its terms.

We further undertake as follows, in relation to heritable ownership of the Premises and the Retained Land (as defined in the Lease (the **Lease**) included in the Project Documents):-

- the Scottish Ministers shall sign the Lease as consentors and shall be bound by the consent provisions contained therein
- the Scottish Ministers:-
 - (a) undertake not to sell, transfer, lease or otherwise dispose of any interest in the Site (unless transfer is to the same party as holding Board's interest under the Project Agreement) without procuring that any successor owner of the Site is bound mutatis mutandis by the provisions in the Lease, and

(b) shall procure from that successor an undertaking in the same terms as aforesaid (including its obligation to bind successors in the same terms)

- the Scottish Ministers undertake not to sell, transfer, lease or otherwise dispose of any interest in the Retained Land except in accordance with the restrictions detailed in the Project Agreement.

We note and accept that you will be relying upon the terms of this letter (and the undertakings contained therein) in determining whether to enter into the Project and that the losses you may incur in relation to the Project from breach of this undertaking are foreseeable losses within our contemplation. We also confirm and agree that the terms and effect of the undertakings given in this letter will not be affected by any knowledge you acquire of the terms of implementation of the re-structuring of the Trust and the transfer of its responsibilities to the Board or, in the case of heritable property, the Scottish Ministers (and that you will not be required to make any investigation of the terms of such re-structuring).

Yours faithfully

Peter Collings
Director of Performance Management and Finance

APPENDIX

1. Project Agreement between NHS Greater Glasgow and Impregilo Parking (Glasgow) Limited;
2. NHS Greater Glasgow Construction Direct Agreement among NHS Greater Glasgow, Impregilo Parking (Glasgow) Limited; and Impregilo (New Cross Limited);
3. NHS Greater Glasgow Services Direct Agreement among NHS Greater Glasgow, Impregilo Parking (Glasgow) Limited; and APCOA Limited;
4. Lenders Direct Agreement among NHS Greater Glasgow, Impregilo Parking (Glasgow) Limited and Royal Bank of Scotland plc;
5. Ground Lease by the Scottish Ministers in favour of Impregilo Parking (Glasgow) Limited;
6. Guarantee by Impregilo SpA in favour of NHS Greater Glasgow;
7. Architect Collateral Warranty among Impregilo Parking (Glasgow) Limited, the Dinardo Partnership and NHS Greater Glasgow;

and all other Documents, Letters and Certificates entered into or to be entered into by the Board pursuant to the above.

This is Schedule 26 comprising the Financial Model referred to in the Project Agreement for the Car Park Operations at Glasgow Royal Infirmary.

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SCHEDULE 26

FINANCIAL MODEL