


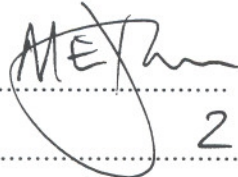
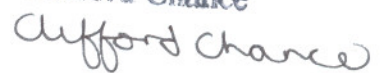


THIS IS SCHEDULE 28 AS REFERRED TO IN THE CONCESSION AGREEMENT
DATED BETWEEN CALDERDALE HEALTHCARE NHS
TRUST (1) AND CATALYST HEALTHCARE (CALDERDALE) PLC (2)


For and on behalf of 


For and on behalf of  2

We hereby certify that
this is a true copy of
the original.

Clifford Chance


12/8/98

29.07.98

**SCHEDULE 28
NOTICE OF NON-PERFORMANCE**

To:
Concessionco Representative

From:
Trust Representative

Section A - Notice under Clause 33.32

PART A

This notice is served pursuant to Clause 33.32 of the Concession Agreement that on the date and at the time of service of this notice (as indicated below) the circumstance(s) as set out in items (a) and (b) below have arisen in the specified Areas of the Hospital and the circumstances described have arisen otherwise than:

- (i) as a result of any Trust Default or any Compensation Event or other act or omission of the Trust, any persons carrying out clinical activities on the Trust's Premises, Voluntary Organisations, patients, Trust Contractors or their respective employees, agents and sub-contractors where such agents and sub-contractors are acting within the scope of their agency or sub-contract;
- (ii) as a result of a Trust Defect, Trust Refurbishment Works Defect or Concessionco Latent Defect (and/or damage caused by repair or preventative maintenance relating thereto) to the extent that such damage is not caused by Concessionco acting in breach of this Agreement;
- (iii) as a result of Concessionco or any Service Provider carrying out Maintenance in accordance with this Agreement;
- (iv) prior to the Completion Dates of Sections annotated 'L' in Schedule 4 Part 2.5.1 or Completion of the Trust Refurbishment Works (subject to Clause 26.1) in respect of any part of the Hospital the subject of or affected by the ongoing works thereon;
- (v) as a result of the occurrence of any Force Majeure Event or Uninsurable Risk (and/or the consequences thereof); or
- (vi) as a result of any actions or proceedings brought to enforce (i) the User Restrictive Covenant or (ii) the Building Restrictive Covenant in respect of breaches in existence at the Effective Date or any breaches committed by the Trust or any Trust Contractor along with the outcome of any such proceedings or any other consequence of the existence of such User Restrictive Covenant or of the Building Restrictive Covenant to the extent that the Trust assumes responsibility for such consequence under the Agreement.

PART B

Take notice that if in accordance with Clause 33.32 the circumstances as set out on the reverse of this notice continue for a period of:

- a) over 1 hour from due service of this Section A Notice in respect of a failure by Concessionco

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to provide clean linen or disposable linen to an Area or Sub-Area within the response time to be agreed pursuant to the Linen and Laundry Service Specification;

- b) (i) over two hours from due service of this Section A Notice in respect of a failure by Concessionco to maintain cleanliness in an A or B Area as defined in Schedule 18 so as seriously to jeopardise the life or health of any patients, visitors, or staff in the Hospital; or
- (ii) over three hours from due service of this Section A Notice in respect of a failure by Concessionco to maintain cleanliness in a C Area as defined in Schedule 18 which would seriously jeopardise the life or health of any patients, visitors or staff in the Hospital;

the Trust will have the remedies set out in Clause 33.32.1A of the Concession Agreement :

Signed:
Trust Representative

Date:

Time:

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Unit/Area/Sub-Area	[Reverse of Notice] Classification A or B or C as per Sch. 18 (as applicable)	Description of Non-Performance

Note

For the avoidance of doubt, deductions will be on the basis of 1 full day, for each full Day or part of a Day that the non-performance remains unremedied.

Section B - Notice under Clause 33.32.1A

To:
Concessionco Representative

From:
Trust Representative

Take notice that further to a Section A notice (a copy of which is attached), the circumstance(s) reported therein have not been remedied within the relevant cure period set out in Section A and the Trust's remedy as described above, has now come into force in respect of such cumulative non-performance and in respect of item (b) of Section A the Area has/has not been taken out of use. [Delete as appropriate]

Signed:
as the Trust Representative

Date:

Time:

Section C - Notice of Cessation of Non-Performance

Take notice that further to a Section A notice and a Section B notice (copies of which are attached), the circumstances causing the non-performance have now been remedied.

Signed:
as Concessionco Representative

Date:

Time:

Handwritten initials or mark in the top right corner.

Section D - Notice of Non-Provision of Two Consecutive Meals pursuant to Clause 33.32.3

To:
Concessionco Representative

From:
Trust Representative

This notice is served pursuant to Clause 33.32.3 of the Concession Agreement that on the date and time of service of this notice (as indicated below) there was a failure to provide two consecutive meals within the times required by the Quality Assurance Systems to a patient or patients in any Area or Sub-Area and the Trust has the remedy set out in Clause 33.32.3(b).

For the avoidance of doubt, the Trust may serve a further Section D notice for any further failure to provide two consecutive meals PROVIDED THAT only one such notice may be served in each Day in respect of any one Area or Sub-Area..

Such deduction shall be added to the Performance Deductions for the Month in question according to the procedure set out in Clause 33.33.

Signed:
as the Trust Representative

Date:

Time:

N
/

Section E
Calculation of Hotel Service Special Deductions

Table:

Hospital Area	No of Sub-Areas	Applicable Percentage (Linen and Laundry)	Applicable Percentage (Catering)
A & E (1)	1	7%	0%
CCU (1)	1	7%	7%
ITU/XIDU (1)	1	7%	7%
Theatres (8)	8	8%	0%
X-ray (1)	1	3%	0%
SCBU (1)	1	7%	0%
Day Surgery Unit (1)	1	7%	7%
Wards/Day Units (13)	13	26%	65%
Dialysis Unit (1)	1	3%	4%
Out-patients (9)	9	9%	0%
Day Hospitals (2)	2	10%	10%
Mortuary (1)	1	3%	0%
Physiotherapy (1)	1	3%	0%
TOTAL	41	100%	100%