



Registration of a Charge

Company name: **ABBERLEY HALL LIMITED**

Company number: **00602279**



X9KX17NV

Received for Electronic Filing: **29/12/2020**

Details of Charge

Date of creation: **05/12/2020**

Charge code: **0060 2279 0007**

Persons entitled: **MALVERN COLLEGE**

Brief description: **THE FREEHOLD PROPERTY AT ABBERLEY HALL, ABBERLEY,
WORCESTERSHIRE WR6 6DD REGISTERED TO ABBERLEY HALL
LIMITED WITH TITLE NUMBERS WR52723 AND WR179727**

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **ANDREW MILTON**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 602279

Charge code: 0060 2279 0007

The Registrar of Companies for England and Wales hereby certifies that a charge dated 5th December 2020 and created by ABBERLEY HALL LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 29th December 2020 .

Given at Companies House, Cardiff on 31st December 2020

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

Dated 5 December 2020

Legal Charge

relating to

Abberley Hall Abberley Worcestershire WR6 6DD

between

Malvern College

(Chargee)

and

Abberley Hall Limited

(Chargor)

We certify this to be a true copy of the original

.....
Veale Wasbrough Vizards LLP

Narrow Quay House, Narrow Quay, Bristol BS1 4QA

Date: 22 December 2020

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This Legal Charge is made on

5 December

2020

Between:

- (1) **Malvern College**, a Royal Charter Corporation with registered charity number 527578 whose principal place of business is Malvern College, College Road, Malvern WR14 ("Chargee"); and
- (2) **Abberley Hall Limited**, a charitable company incorporated and registered in England and Wales with company number 00602279 and registered with charity number 527598 whose registered office is at Abberley Hall, Abberley, Worcestershire WR6 6DD ("Chargor").

Background

- (A) The Chargor has agreed to enter into this deed to secure any payments or other sums due to the Chargee from the Chargor.

Now this Deed witnesses as follows:

1 Definition

1.1 In this deed:

Charge: the legal charge granted by this deed;

Costs: the properly and reasonably incurred costs, charges and expenses and liabilities incurred by the Chargee (including without limitation all legal and other professional costs charges and expenses) in and incidental to and in the contemplation of any of the following:

- (a) the protection preservation realisation and enforcement of this security other than initial registration of this deed at the Land Registry;
- (b) the collection or recovery of any moneys owing to the Chargee under this deed; and
- (c) the taking of legal proceedings in respect of any of the above;

Delegate: a person appointed by the Chargee under clause 8.2 and includes a sub delegate appointed thereunder;

Disposition: a disposition within the meaning of Section 205 of the Law of Property Act 1925 or Section 27(2) of the Land Registration Act 2002 of the whole or any part of the Property BUT EXCLUDING an Excluded Disposition;

Enforcement Event: one of the events mentioned in clause 6;

Excluded Disposal: a Disposition of any part of the Property (but not the whole):

- (a) to a statutory undertaker, utility company or other similar body acquiring land for the provision of an electricity sub station, gas tank, gas governor, pumping station, service media flood defence or other similar flood alleviation measure facility and all equipment meters fixtures fittings and accessories ancillary thereto (including by way of a grant of a wayleave or easement) required by any company or organisation providing any utilities or services for development of the Property; or
- (b) to a highway authority in respect of highway works;

Existing Security:

- (a) Charge dated 14 May 2018 between the Recipient and Lloyds Bank Plc, being a mortgage over freehold property known as Abberley Hall, Worcester

WR6 6DD and all buildings and fixtures, fixed charge of any plant and machinery on the property and fixed charge any present or future right conferred upon the Recipient by virtue of any Enfranchising Legislation including any rights against any nominee purchaser pursuant thereto;

- (b) Charge dated 30 November 2012 between the Recipient and Lloyds Bank Plc, being a mortgage over freehold property known as Abberley Hall, Worcester WR6 6DD and all buildings and fixtures, fixed charge over all present and future book and other debts including all monies owed to the Recipient and floating charge over all present and future stock, goods, moveable plant, machinery, implements, utensils, furniture and equipment at the property; and
- (c) Charge dated 24 August 2000 between the Recipient and Lloyds Bank Plc, being a mortgage over all that mansion house known as Abberley Hall together with the outbuildings and cottages together with the playing fields, agricultural land and woodland adjoining thereto, fixed charge over all present and future book and other debts including all monies owed to the Recipient, floating charge over all present and future stock, goods, moveable plant, machinery, implements, utensils, furniture and equipment at the property, assignment of goodwill of the business carried out at the property, assignment of the benefit of all guarantees and covenants under any existing lease or underlease of the property and fixed charge over any shares Abberley becomes entitled to in any company connection with the property;

Grant Funding Agreement: the grant funding agreement containing contingent repayment options made between (1) the Chargee and (2) Chargor dated on or around the date of this deed.

Insolvency Act: the Insolvency Act 1986;

Loan Agreement: the term loan agreement entered into between (1) the Chargee and (2) the Chargor dated on or around the date of this deed

Property: the freehold property at Abberley Hall, Abberley, Worcestershire WR6 6DD registered to the Chargor with Title Number s WR52723 and WR179727;

Secured Liabilities: all present and future obligations and liabilities of the Chargor to the Chargee, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, including, without limitation any sums under or in connection with the Grant Funding Agreement, the Loan Agreement, this deed;

Security: includes any mortgage, pledge, lien, hypothecation, security, interest or other charge or encumbrance and any other agreement or arrangement having substantially the same economic effect;

1925 Act: the Law of Property Act 1925.

2 Interpretation

- 2.1 The expressions "Chargor" and "Chargee" include their respective successors in title.
- 2.2 Unless the context otherwise requires references in this deed to clauses and schedules are to clauses and schedules in this deed and reference to a clause includes a sub clause.

- 2.3 The headings to clauses and other parts of this deed are for reference only and do not affect its construction.
- 2.4 This deed may only be varied in writing signed by or on behalf of the parties.
- 2.5 An obligation on a party to do any act or thing includes an obligation to procure that it be done and any obligation not to do any act or thing includes an obligation not to allow that act or thing to be done by any person under its control.
- 2.6 Where the Chargor or the Chargee comprise two or more parties the obligations of each party in relation to the other shall be joint and several.
- 2.7 A reference to a person includes an individual, a corporation, company, firm or partnership or government body or agency, whether or not legally capable of holding land.
- 2.8 Unless otherwise specified a reference to legislation (including subordinate legislation) is to that legislation as extended, amended, modified, consolidated, or re enacted from time to time.
- 2.9 Unless the context otherwise requires:
- 2.9.1 the singular includes the plural and vice versa; and
- 2.9.2 references in the masculine gender include references in the feminine or neuter genders and vice versa.

3 Charge

- 3.1 The Chargor with full title guarantee charges the Property to the Chargee by way of first legal mortgage as a continuing security for the discharge and payment of the Secured Liabilities.
- 3.2 If the Existing Security is still in place at the time that this Charge is entered into, the Security created by this deed will rank behind the Existing Security until such time as the Existing Security is released and this Charge shall become a first legal charge.
- 3.3 The Chargor and the Chargee will jointly apply to the Chief Land Registrar to enter in the proprietorship register of the title to the Property a restriction in the following form:
- “No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge not being a charge registered before the entry of this restriction is to be registered without the written consent of the registered proprietor of the Legal Charge dated [] 2020 and made between (1) Malvern College and (2) Abberley Hall Limited”,
- and the Chargor hereby irrevocably consents to that application.

4 Chargor's Covenants

- 4.1 The Chargor hereby covenants with the Chargee as follows:
- 4.1.1 The Chargor shall not create or have outstanding any Security over the Property except the Charge and the Existing Security save with the prior consent in writing of the Chargee.
- 4.1.2 The Chargor shall promptly do whatever the Chargee reasonably requires:
- (a) to perfect or protect the Charge or the priority of the Charge; and

- (b) to facilitate the realisation of the Property or the exercise of any rights vested in the Chargee or any Delegate or any receiver appointed by the Chargee at any time after the occurrence of an Enforcement Event,

including executing any transfer, charge, conveyance, assignment or assurance of the Property (whether to the Chargee or their nominees or otherwise), making any registration and giving any notice, order or direction.

4.1.3 The Chargor shall not do, or suffer to be done, anything which could prejudice the Charge.

4.1.4 The Chargor shall notify the Chargee of any of the following events promptly after becoming aware of such event:

- (a) the occurrence of any Enforcement Event;
- (b) any event or circumstance which with the giving of any notice, the expiry of any grace period, and/or (as the case may be) the making of any determination would become an Enforcement Event; and
- (c) any action taken or proposed to be taken to remedy an Enforcement Event.

4.1.5 The Chargor shall comply with any covenants, stipulations, conditions, licenses, consents and other statutory, regulatory or contractual obligations relating to the Property or its use, including those requiring payment of sums in respect of the Property.

4.1.6 The Chargor shall pay to the Chargee on demand the amount of all Costs.

4.1.7 The Chargor shall pay to the Chargee interest on all sums owing to the Chargee pursuant to clause 4.1.6 from the date such monies are due at the rate of 4% per annum above Lloyds Bank PLC's base rate from time to time until full payment is made.

5 Representations and Warranties

5.1 The Chargor represents and warrants to the Chargee as follows:

- 5.1.1 Except for the Charge and the Existing Security no Security exists on or over the Property or any part thereof as at the date hereof.
- 5.1.2 No Enforcement Event has occurred or will occur as a result of the entry into this deed and/or the creation of the Charge.
- 5.1.3 The Chargor has the power to grant security and to enter into and perform and comply with all its obligations under this deed.

6 Enforcement Events

6.1 The occurrence at any time and for any reason of any of the following events shall constitute an Enforcement Event:

- 6.1.1 the failure by the Chargor to pay on the due date for payment the sums due to the Chargee under any document;
- 6.1.2 the failure by the Chargor to pay on the due date for payment any sum due to another lender;

- 6.1.3 any Security on or over the assets of the Chargor or the Property becomes enforceable and any step (including the taking of possession or the appointment of a receiver, manager or similar person) is taken to enforce that Security which involves taking possession of the Property;
- 6.1.4 any representation, warranty or statement by the Chargor in this deed is not complied with or is or proves to have been incorrect in any material respect and which (in each case) materially adversely affects or is likely to affect the security afforded by the Charge;
- 6.1.5 the Chargor is in material breach of any one or more of its obligations under this deed and such breach materially adversely affects or its likely to affect the security afforded by the Charge subject to prior written notice having been given to the Chargor specifying a reasonable period of time to remedy the breach of such obligation;
- 6.1.6 the Chargor being a company (other than for the purposes of amalgamation or reconstruction):
- (a) goes into liquidation whether compulsory or voluntary;
 - (b) is deemed unable to pay its debts as defined in section 123 of the Insolvency Act;
 - (c) has a receiver manager or administrative receiver or provisional liquidator or administrator appointed;
 - (d) makes or suffers to be made a proposal for a voluntary arrangement under Part I of the Insolvency Act 1986 or for a compromise or arrangement under Part 26 of the Companies Act 2006 in relation to it;
 - (e) presents or suffers to be presented an application for an administration order in relation to it; or
 - (f) is removed from the Register of Companies.

7 Enforcement

7.1 Power of Sale

- 7.1.1 Save as mentioned in clause 6 above the Charge shall on the happening of an Enforcement Event become immediately enforceable and the power of sale as amended or varied by this deed shall be immediately exercisable in respect of the whole or any part of the Property without the restrictions contained in the 1925 Act as to the giving of notice or otherwise.

7.2 Extension of Statutory Powers

- 7.2.1 At any time after the Charge has become enforceable and notwithstanding the appointment of any receiver the Chargee may in their absolute discretion exercise any power which a receiver appointed by them could exercise and may delegate any such rights and powers to any person on such terms and conditions (including the power to sub delegate) as the Chargee think fit.

7.3 Power to appoint a receiver

- 7.3.1 At any time after the Charge becomes enforceable the Chargee may by writing under hand appoint any person or persons to be a receiver of all or any part of the Property.
- 7.3.2 The Chargee may at any time and from time to time in like manner remove any receiver so appointed and appoint another in his place or appoint an additional person as receiver.
- 7.3.3 The Chargee may either at the time of appointment or at any time subsequently and from time to time fix the remuneration of any receiver so appointed.
- 7.3.4 None of the restrictions imposed by the 1925 Act in relation to the appointment of receivers or as to the giving of notice or otherwise shall apply.
- 7.3.5 Where more than one receiver is appointed they shall have the power to act severally.
- 7.3.6 Any receiver so appointed shall be the agent of the Chargor for all purposes and the Chargor shall be solely responsible for his acts or defaults and for his remuneration.
- 7.3.7 Any receiver so appointed shall have all the powers conferred on mortgagees or receivers by the 1925 Act except to the extent to which those powers are expressly or impliedly excluded by the terms of this deed. In the event of ambiguity or conflict the terms of this deed will prevail.
- 7.3.8 In addition any receiver so appointed shall have power at his discretion and to such extent and upon such terms as he may in his absolute discretion think fit to do or omit to do anything which the Chargor could do or omit to do in relation to all or any part of the Property. In particular (but without limitation) any receiver so appointed shall have the powers set out in the Schedule hereto.
- 7.3.9 All money received by any receiver shall be applied by him:
- (a) in payment of the costs, charges and expenses of and incidental to the appointment of the receiver and the exercise of all or any of his powers and of all outgoings paid by him;
 - (b) in payment to the receiver of such remuneration as may be agreed between him and the Chargee at or at any time and from time to time after his appointment; and
 - (c) in or towards satisfaction of the amount owing and secured by the Charge and the surplus (if any) shall be paid to the Chargor.

8 Protection of Third Parties

- 8.1 No person dealing with the Chargee or any Delegate or any receiver appointed by the Chargee shall be concerned bound or entitled to inquire or be affected by notice as to any of the following matters:
- 8.1.1 whether the Charge has become enforceable;
 - 8.1.2 whether any power exercised or purported to be exercised under this deed has arisen or become exercisable;
 - 8.1.3 the propriety, regularity or purpose of the exercise or purported exercise of any such power;

8.1.4 whether any money remains due under the Charge; or

8.1.5 the necessity or expediency of the stipulations and conditions subject to which any disposition shall be made,

and the Chargee the Delegate and the receiver so appointed (as the case may be) shall effectually discharge the person paying from such matters and from being concerned to see to the application or being answerable for the loss or misapplication of such money.

8.2 All the protection to purchasers contained in sections 104 and 107 of the 1925 Act shall apply to any person purchasing from or dealing with the Chargee or any Delegate or any receiver appointed by the Chargee.

9 Saving Provisions

9.1 Subject to clause 10 the Charge shall:

9.1.1 remain in full force and effect by way of continuing security;

9.1.2 not be affected in any way by a partial settlement of any Secured Liabilities; and

9.1.3 be in addition to any other Security, guarantee or indemnity now or in the future held by the Chargee or any other person in respect of the Secured Liabilities.

10 Discharge of Security

10.1 When the Secured Liabilities have been discharged in full the Chargee shall duly discharge the Charge in respect of that part or parts of the Property in respect of which the Charge remains in place.

10.2 The Chargee shall release the Charge in relation to any land comprised in an Excluded Disposal by signing and delivering to the Chargor a Land Registry form DS3 in relation to such land and undertake to provide the duly executed form DS3 promptly within ten (10) working days following a written request from the Chargor so that the Chargor is holding the duly executed form DS3 prior to or on completion of the relevant Excluded Disposal.

11 Law Of Property (Miscellaneous Provisions) Act 1989

11.1 For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Grant Funding Agreement and the Loan Agreement are incorporated into this deed.

12 Charities Act 2011

12.1 The Property is held by the Chargor, a non-exempt charity and the charge created by this Legal Charge is not one falling within section 124(9) of the Charities Act 2011 so the restrictions imposed by section 124 of that Act apply. The governors of the Chargor, being the individuals who are responsible for the management and administration of the charity certify that they have power under the trusts of the charity to effect this charge and that they have obtained and considered such advice as is mentioned in section 124(2) of the said Act.

13 Miscellaneous

13.1 Each of the provisions of this deed is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions shall not be affected or impaired.

13.2 This deed and the Charge shall be governed by and construed in accordance with English law.

IN WITNESS of which this deed has been duly executed and unconditionally delivered on the date first above written.

Schedule 1 Powers exercisable by Receiver

- 1 To take possession of, collect and get in all or any part of the Property and for that purpose bring any proceedings in the name of the Chargor or otherwise.
- 2 To borrow or raise money either unsecured or on the security of the Property (either in priority to the Charge or otherwise) and on such terms and conditions and for such purposes as it may think fit.
- 3 To sell, transfer, assign, exchange, lease, rent or otherwise dispose of or realise the Property or parts of the Property to any person either by public offer or auction, tender or private contract and for a consideration of any kind (which may be payable or delivered in one amount or by instalments spread over a period or deferred).
- 4 To settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating to the Property.
- 5 To bring, prosecute, enforce, defend and discontinue actions, suits and proceedings in relation to the Property.
- 6 To redeem any Security (whether or not having priority to the Charge) over the Property and to settle the accounts of any person with an interest in the Property.
- 7 To exercise and do (or permit the Chargor or any nominee of it to exercise and do) all such rights and things as it would be capable of exercising or doing if it were the absolute beneficial owner of the Property.
- 8 To do (whether in the name of the Chargor or otherwise) all such acts and things as he may consider necessary or desirable for the preservation, management, improvement or realisation of the Property or as he may consider incidental or conducive to any of the above matters or to the exercise of any of the above powers.

We certify this to be a true copy of the original

Veale Wasbrough Vizards LLP

Narrow Quay House, Narrow Quay, Bristol BS1 4QA

Date: 22 December 2020

BY THE COMMON SEAL
OF MALVERN COLLEGE
Affixed in the presence of:

SIGNED AS A DEED

On behalf of the Council
Members

By:

Being one of their number and an authority
conferred pursuant to Section 333 of the
Charities Act 2011

Witness Name: Mrs. K. Collyer

Witness Signature: 

Witness Address: Malvern College

Witness Occupation: Finance Director

SIGNED AS A DEED

On behalf of the Council
Members

By:

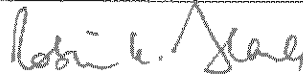
Being one of their number and an authority
conferred pursuant to Section 333 of the
Charities Act 2011

Witness Name: Mrs K. Collyer

Witness Signature: 

Witness Address: Malvern College

Witness Occupation: Finance Director




Member of College Council



Member of College Council


Member of College Council


Member of College Council

Executed as a Deed by **Abberley Hall Limited**
acting by two Governors


Governor


Governor

SIGNED AS A DEED

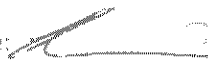
On behalf of the directors of **Abberley Hall Limited**

By:

And

Being two of their number and an authority
conferred pursuant to Section 333 of the
Charities Act 2011

Witness Name: *Mrs K. Colby*

Witness Signature: 

Witness Address: *Malvern College*

Witness Occupation: *Finance Director*

