



## **BIRMINGHAM METROPOLITAN COLLEGE (the "College")**

Minutes of a meeting of the Corporation of the College held at Matthew Boulton College on 28<sup>th</sup> March 2019 at 8.00am.

### **PRESENT:**

Sir Dexter Hutt - Chair

Cliff Hall – Principal

Veronica Docherty

Michele Larmour

Simon Thompson

Amardeep Gill

Dan Zastawny

Prue Huddleston

Jane Smith

Sam Coles

### **IN ATTENDANCE:**

Liam Nevin

#### **1. NOTICE AND QUORUM**

The Chair reported that proper notice of the meeting had been given and a quorum being present in accordance with the Instrument of Government ("**Instrument**") and the Articles of Government of the College ("**Articles**"), the Chair declared the meeting open.

#### **2. DECLARATION OF INTERESTS**

Each Member present had prior to the meeting confirmed that they had no interests which they were under a duty to disclose in accordance with clause 11 of the Instrument.

#### **3. NO BREACH**



- 3.1 The Chair reminded the Members that all transactions must be to further the College's charitable purposes, and that the members of the College have the powers under section 19 of the Further and Higher Education Act 2011 to enter into the documents presented at this meeting.
- 3.2 The meeting reported that the authorisation of the execution and delivery of the Facility Agreement and Legal Mortgage (both as defined below), and any documents ancillary to those, by the Members would not be a breach of the powers delegated to the Members in accordance with the Instrument and Articles.
- 3.3 It was also reported that neither the execution and delivery of the Facility Agreement and the Legal Mortgage, and any documents ancillary to those, by the College nor the performance of the College's obligations thereunder would breach or would result in any breach of any obligation or restriction imposed by the Instrument and Articles or any other agreement or instrument to which the College is a party or which is otherwise binding upon it.

#### 4. **BACKGROUND**

- 4.1 The Company Secretary reported to the meeting that it is proposed that the College enter into:

1.1.1 A Term Loan Facility Agreement ("**Facility Agreement**") with the Secretary of State for Education ("**Secretary of State**").

1.1.2 A legal mortgage (the "**Legal Mortgage**") in favour of the Secretary of State in respect of the freehold land known as Former Youth Centre, Brook Street, Stourbridge and Stourbridge College, Brook Street, Stourbridge and registered at HM Land Registry with title numbers WM831386 and WM900906 (the "**Property**").

(the Facility Agreement and the Legal Mortgage together the **Documents**)

The Company Secretary further reported that:

4.1.1 The College was in breach of the Existing Facility Agreement with the Secretary of State and a Reservation of Rights letter had been served upon the College.

4.1.2 The outstanding balance in relation to the Existing Facility Agreement was £6,232,639 (the Commitment) and the Facility Agreement recorded the new terms proposed in relation to the Commitment. The Legal Mortgage is required by the Secretary of State as security in consideration of the Commitment and the agreement of the Secretary of State to the terms of the Facility Agreement.

#### 5. **PURPOSE OF MEETING**

- 5.1 The Company Secretary reported that the College must consider the final form Legal Mortgage and the final form Facility Agreement, both produced to the meeting and, in particular, it was noted that:



5.1.1 The Legal Mortgage secured partial repayment of the Commitment to the Secretary of State.

5.1.2 The Legal Mortgage contained a statement pursuant to section 125(1) of the Charities Act 2011 that the Property is held by (or in trust for) the College, which is an exempt charity, meaning that the requirements of section 124 of that Act do not apply; and

5.2 The Company Secretary reminded the College of their duty to promote the success of the College (in relation to the Legal Mortgage, the Facility Agreement and generally).

## 6. **CONSIDERATION OF THE DOCUMENTS**

6.1 The College considered in detail the final form version of the Facility Agreement and the risks to the College in entering into that and the final form Legal Mortgage, namely that if the College would not be able to repay the secured facilities when due then this may result in the enforcement of the Legal Mortgage against the College. Whilst these consequences were serious, the College considered that it would be able to meet its obligations when due and that the benefits of granting the Legal Charge were substantial and that it was in the best interests of the College, and in furtherance of its charitable aims, to enter into the Documents.

6.2 The College considered whether it was in the best interests of the College to:

3.2.1 provide the security constituted by the Legal Mortgage;

3.2.2 enter into the Facility Agreement; and

3.2.3 execute and deliver the Legal Mortgage and the Facility Agreement.

6.3 After due and careful consideration, bearing in mind the College's duty to promote the success of the College, IT WAS RESOLVED that the College should:

3.3.1 enter into the Legal Mortgage, grant the security in favour of The Secretary of State constituted by the Legal Mortgage and perform its obligations and exercise its rights in relation to the Legal Mortgage; and

3.3.2 enter into the Facility Agreement and perform its obligations and exercise its rights in relation to the Facility Agreement,

and that to do so would be of benefit to the College.

## 7. **AUTHORITY TO EXECUTE THE LEGAL MORTGAGE**

### **ACCORDINGLY**

**IT WAS RESOLVED** that:

7.1 the College, in good faith and for the purpose of carrying on its business, enter into the Documents and perform its obligations and exercise its rights in relation to those Documents;



7.2 the following officers of the College (each an "Authorized Signatory" and together the "Authorized Signatories") be authorised to sign on behalf of the College the Documents and return the signed counterparts to the counterparties to each document:

Name	Specimen Signature
Sir Dexter Hutt	.....
Cliff Hall	.....
.....	.....

7.3 the terms of, and the security contemplated by, the Legal Mortgage and the terms of the Facility Agreement be and are hereby approved, together with the terms of all ancillary or supplemental documents, certificates or statements as considered in or contemplated by the Documents (the "Ancillary Documents");

7.4 the College's entry into, execution, delivery and performance of each Document and any Ancillary Document be approved;


7.5 any Authorized Signatory, for and on behalf of the College, be authorised to sign on behalf of the College such of the Documents (and Ancillary Documents) as are not required to be executed as deeds;

7.6 the Authorized Signatories, for and on behalf of the College, be and are hereby authorised to execute such of the Documents and Ancillary Documents that are required to be executed as deeds by applying the College's seal attested by the signature of two Authorized Signatories (where applicable);

7.7 the College's Company Secretary to arrange for all necessary matters arising in connection with the business of the meeting to be dealt with and, in particular, will attend to all relevant filings.

8. **CLOSE OF MEETING**

There being no further business, the meeting closed.

  
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Chair

16.9.19  
.....  
Date