



Registration of a Charge

Company name: **MCCARTHY & STONE RETIREMENT LIFESTYLES LIMITED**
Company number: **06622231**



X653KTUJ

Received for Electronic Filing: **25/04/2017**

Details of Charge

Date of creation: **21/04/2017**
Charge code: **0662 2231 0129**
Persons entitled: **COLLEGE HOLDINGS 2012 LTD**
Brief description: **THE FREEHOLD PROPERTY FORMING PART OF THE FORMER
BRAMCOTE SCHOOL, FILEY ROAD, SCARBOROUGH SHOWN EDGED
RED ON THE PLAN ATTACHED TO THE LEGAL CHARGE AND BEING
PART OF THE PROPERTY REGISTERED AT THE LAND REGISTRY WITH
TITLE ABSOLUTE UNDER TITLE NUMBER NYK379560**
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: **CATHERINE RAWLES**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6622231

Charge code: 0662 2231 0129

The Registrar of Companies for England and Wales hereby certifies that a charge dated 21st April 2017 and created by MCCARTHY & STONE RETIREMENT LIFESTYLES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 25th April 2017 .

Given at Companies House, Cardiff on 26th April 2017

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

21 April

2017

- (1) COLLEGE HOLDINGS 2012 LTD
- (2) McCARTHY & STONE RETIREMENT
LIFESTYLES LIMITED

LEGAL CHARGE
of
FILEY ROAD, SCARBOROUGH

Lester Aldridge LLP

Solicitors

Real Estate Team
Russell House
Oxford Road
Bournemouth
Dorset
BH8 8EX

Tel: 01202 786161
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THIS LEGAL CHARGE is made on

21 April

2017

BETWEEN:-

- (1) **Owner** : **MCCARTHY & STONE RETIREMENT LIFESTYLES LIMITED** whose registered office is at 4th floor 100 Holdenhurst Road Bournemouth Dorset BH8 8AQ (company registration number 06622231).
- (2) **Chargee** : **COLLEGE HOLDINGS 2012 LTD** whose registered office is at Scarborough College, Filey Road, Scarborough, North Yorkshire YO11 3BA (company registration number 00580220).

BACKGROUND

- 0.1 By the terms of the Agreement (defined in clause 1.1) the Owner agreed to purchase the Property (defined in clause 1.1) subject to obligations to make payments to the Chargee of deferred consideration.
- 0.2 It was agreed by the parties to the Agreement that this Deed would be executed by the Owner in order to secure payment to the Chargee of the sums agreed to be paid by the Owner under the terms of the Agreement.
- 0.3 The parties intend insofar as such payments can be secured by way of a charge by way of legal mortgage that such payments will be so secured under the terms of this Deed but insofar as they cannot be so secured that they will be secured by way of an equitable charge.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

In this Deed:

- 1.1. the following words and expressions shall have the following meanings unless otherwise stated:

Act of Insolvency : any of the following:

- a. the Owner suspends payment of its debts or is unable to pay its debts as they fall due or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- b. the Owner commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of the Owner with one or more other companies or the solvent reconstruction of the Owner;
- c. an order is made for or in connection with the

winding up of the Owner other than for the sole purpose of a scheme for a solvent amalgamation of the Owner with one or more other companies or the solvent reconstruction of the Owner;

- d. the appointment of a receiver or administrator in respect of the Owner or an order is made for the appointment of an administrator over the Owner;
- e. the holder of a qualifying floating charge over the assets of the Owner appoints an administrative receiver;
- f. a mortgagee takes possession of or exercises a power of sale or appointment of a receiver in relation to any property of the Owner;
- g. the Owner is struck off from the Register of Companies; or
- h. the Owner otherwise ceases to exist;

Agreement

: an agreement dated 28 August 2015 and made between the Chargee (1) and the Owner (2) in relation to the Property, as varied by a supplemental agreement dated *12 April 2017* 2017 and made between the Chargee (1) and the Owner (2) in relation to the Property;

Disposal

: a disposition within the meaning of section 27(2) of the Land Registration Act 2002 (other than an Exempt Disposal);

Exempt Disposal

- : any of the following:
- a. any disposal or the grant of any easement or wayleave for nominal consideration for the siting of an electricity substation gas governor pumping station road or other similar service facility or the grant of any easements or rights wholly for the benefit of the development of the Property; or
 - b. any disposal of amenity areas to a management company;

Final Payment

: the sum payable by the Owner to the Chargee pursuant to clause 6.3 of the Agreement;

Interest

: interest at 5% per annum calculated on a daily basis during the period beginning on the first day on which the relevant sum is due and ending on the date on which the payment is made whether before or after any judgment;

Principal Sum

: the Final Payment;

Property : the freehold property forming part of the former Bramcote School, Filey Road, Scarborough shown edged red on the attached plan and being part of the property registered at the Land Registry with title absolute under title number NYK379560;

Working Day : any day which is not a Saturday or Sunday Christmas Day Good Friday or a statutory bank holiday.

- 1.2. Obligations expressed to be made or assumed by a party comprising more than one person are made and are to be construed as made by all such persons jointly and severally;
- 1.3. Words denoting one gender include the other genders and words denoting persons include firms and corporations and vice versa;
- 1.4. Words importing the singular number include the plural and vice versa;
- 1.5. Clause paragraph and schedule headings are not to affect interpretation;
- 1.6. Any obligation on any party not to do or omit to do anything includes an obligation not to allow that thing to be done or omitted to be done by any employee servant agent consultant or other person acting on that party's behalf or under that party's control;
- 1.7. Unless the context otherwise requires a reference to a clause or to a Schedule is a reference to the relevant clause in or Schedule to this Deed and a reference to a paragraph of a Schedule is a reference to the relevant paragraph of that Schedule.
- 1.8. Any references to "liability" include where the context allows claims demands proceedings damages loss costs and expenses.
- 1.9. Any references to any statutes or statutory instruments include any statute or statutory instrument amending consolidating or replacing them respectively from time to time in force and references to a statute include statutory instruments and regulations made pursuant to it.
- 1.10. If any provision of this Deed is held to be invalid or unenforceable then such provision will (so far as invalid or unenforceable) be given no effect and is deemed not to be included in this Deed but without invalidating any of the remaining provisions of this Deed.

2. COVENANT TO PAY

2.1. The Owner covenants with the Chargee to pay to the Chargee:

- 2.1.1. the Principal Sum in the manner set out in and pursuant to the terms of the Agreement; and
- 2.1.2. if the Owner fails to make any payment due under this Deed on the due date for payment, the Owner shall pay Interest on that sum or the part of it from time to time outstanding.

3. CHARGE

- 3.1. The Owner with full title guarantee charges the Property by way of a first legal mortgage.
- 3.2. Insofar as the Principal Sum is unable to be secured by way of a charge by way of legal mortgage the Owner with full title guarantee charges the Property by way of equitable mortgage with the payment to the Chargee of the Principal Sum.

4. DISPOSALS

- 4.1. The Owner covenants with the Chargee not to make any Disposal of the whole or part of the Property except by way of an Exempt Disposal without a consent in writing signed by the Chargee.
- 4.2. The Owner consents to an application being made by the Chargee to the Land Registrar for the following restriction to be registered against its title to the Property:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a certificate signed by College Holdings 2012 Ltd or their conveyancer that the provisions of clause 4.1 of a legal charge dated 21 April 2017 and made between College Holdings 2012 Ltd (1) and McCarthy & Stone Retirement Lifestyles Limited (2) have been complied with or that they do not apply to the disposition."

- 4.3. The Chargee will at its own cost within 10 Working Days of written request send the Owner a properly executed form DS3 and RX4 in respect of any part of the Property that is subject to an Exempt Disposal.
- 4.4. The Chargee will at its own cost within 10 Working Days of written request and subject to having first received a solicitors undertaking not to date the same until such time as the Principal Sum and any Interest on that sum have been paid to the Chargee in cleared funds pursuant to the terms of the Agreement, send the Owner a properly executed, but undated, form DS3 and RX4 in respect of a disposal of the first completed residential dwelling constructed on the Property.
- 4.5. On receipt of the Principal Sum the Chargee will immediately apply to the Land Registry to remove the restriction referred to in clause 4.2.

5. FURTHER COVENANTS

- 5.1. The Owner further covenants with the Chargee:
 - 5.1.1. within 5 Working Days of a written demand to repay to the Chargee all monies costs charges and expenses properly paid or incurred by the Chargee in relation to the enforcement of the security created by this Deed;
 - 5.1.2. to comply with all obligations covenants conditions restrictions and stipulations affecting or attaching to the Property (so far as the same are still subsisting and capable of being enforced);

5.1.3. duly and punctually pay all rates taxes and outgoings relating to the Property; and

5.1.4. to comply with all obligations relating to the Property imposed by any present or future statute or any statutory instrument regulation or order made under it or imposed by any statutory public local or other authority and any court of law and any government department.

6. POWER OF SALE ETC.

6.1. The power of sale and leasing conferred by virtue of this Deed arises on and is immediately exercisable and enforceable by the Chargee after the happening of any of the following events (whereupon such power may be exercised at any time or times without notice):

6.1.1. the Owner is in breach of its covenants or obligations under clause 2.1.1 of this Deed;

6.1.2. the Owner is in breach of any other material provision of this Deed and such breach has not been remedied; or

6.1.3. an Act of Insolvency occurs.

6.2. At any time after the security constituted by this Deed has become enforceable the Chargee may at any time and without notice appoint any person or persons to be a receiver of the Property.

6.3. Any receiver appointed by the Chargee has all the powers conferred on mortgagees or receivers by the Law of Property Act 1925 (but without the restrictions contained in section 103 of that Act) and on administrative receivers by schedule 1 of the Insolvency Act 1986.

6.4. In addition to any other powers conferred on it or him, the Chargee and any receiver appointed by the Chargee under the power conferred by virtue of this Deed in respect of the Property has as attorney for the Owner and in addition to any other powers conferred on it full power:

6.4.1. to sell the Property on such terms as the receiver thinks fit;

6.4.2. to grant options to sell the Property on such terms and in such circumstances as the receiver thinks fit;

6.4.3. to grant any lease or tenancy of the Property for such term or terms of years and at such rent or premium and generally on such terms as the receiver thinks fit;

6.4.4. to accept the surrender of any lease or tenancy on such terms as the receiver thinks fit;

6.4.5. to enter upon and take possession of the Property and to repair decorate alter improve add to or develop it and to complete any development or building on it which may have commenced;

8. 7/ 8.1. The
- 6.4.6. to manage carry on or concur in carrying on at the Property any trade or business whatsoever and for that purpose to enter into and perform such contracts and arrangements and incur such obligations as the receiver thinks fit;
 - 6.4.7. to compromise or settle any claim or claims relating to the Property and to determine or pay any compensation or any other sums which any tenant or occupier of the Property may be entitled to receive and to apply any compensation received in respect of the Property in or towards the discharge of the Principal Sum;
 - 6.4.8. to employ such persons as the receiver thinks fit for any of the foregoing purposes and to apply for and obtain such approvals permissions consents and licences and to enter into and perform such contracts and arrangements to purchase such materials and to incur such obligations as the receiver thinks fit;
 - 6.4.9. to raise or borrow from any person and to secure payment of money (whether or not in priority to the Principal Sum) for any of the foregoing purposes in such manner as the receiver thinks fit; and
 - 6.4.10. to do all such other acts and things as may in the opinion of the receiver be necessary or desirable in connection with any of the foregoing powers.
- 6.5. All sums expended by the receiver in pursuance of the powers conferred on it by this Deed will on demand be repaid by the Owner and will be paid together with interest.
- 6.6. Any receiver appointed in relation to this Deed is the agent of the Owner. The Owner is solely responsible for the receiver's acts defaults and remuneration. The Chargee and the receiver are entitled to be indemnified by the Owner in respect of all liability suffered or incurred directly or indirectly by either of them in the execution of any powers authorities or discretions vested in either or both of them or in respect of any matter or thing done or omitted to be done in relation to the Property.
- 6.7. Section 103 of the Law of Property Act 1925 does not apply to the security constituted by this Deed and neither the Chargee nor any receiver need comply with any of the restrictions imposed by sections 99 and 100 of that Act.

7. POWER OF ATTORNEY

- 7.1. For as long as any charge created by virtue of this Deed subsists the Owner irrevocably appoints the Chargee (and any person nominated in writing under the hand of any officer of the Chargee including a receiver) to act jointly and severally where appropriate as the attorney of the Owner.
- 7.2. In the Owner's name and on its behalf and as the act and deed of the Owner the Chargee as such attorney may execute and deliver any deed assurance agreement or instrument or perform any other act which may be necessary or desirable for any of the purposes of this Deed.

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8. **TRUST POWERS**

- 8.1. The Owner declares that as and when the security created by this Deed is enforceable the Owner will hold the Property (subject to its rights of redemption) upon trust to convey assign or otherwise deal with the Property in such manner and in favour of such person as the Chargee directs.
- 8.2. Insofar as the Property is charged by way of equitable mortgage the Owner declares that it holds the Property on trust so that the Chargee will have such powers of sale and leasing as the Chargee would have had under a charge by way of legal mortgage but subject thereto to hold the Property for the Owner in trust for itself absolutely and beneficially.
- 8.3. The Owner declares that it is lawful for the Chargee by deed to appoint a new trustee or trustees of the Property whether in addition to or in substitution for the Owner as if the Owner wished to be discharged from the trust or in place of any trustee or trustees as if he or they were dead.

9. **NOTICES**

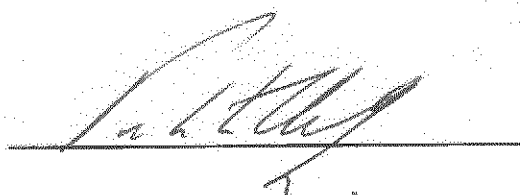
- 9.1. All notices under this Deed must be in writing.
- 9.2. Unless the receiving party acknowledges receipt a notice is valid only if it is given by hand sent by special or recorded delivery or sent by fax (provided in the case of sending by fax the fax is properly addressed and transmitted as evidenced by a fax delivery report) and served:
- 9.2.1. at its registered office where the receiving party is a company incorporated in the United Kingdom; or
- 9.2.2. where the receiving party is the Owner at the Property; or
- 9.2.3. where the receiving party is the Chargee at that party's address shown in this Deed or at an address specified in a notice given by that party to the other.
- 9.3. Unless it is returned through the postal service undelivered a notice sent by special delivery or recorded delivery is to be treated as served on the third working day after posting whenever (and whether or not) it is received.
- 9.4. A notice sent by fax is to be treated as served on the day on which it is sent unless the fax is sent after 4.00pm or sent on a day that is not a working day in which case service is on the next working day.

10. **THIRD PARTY RIGHTS**

Save as expressly provided none of the provisions of this Deed are intended to or will operate to confer any benefit (pursuant to the Contracts (Rights of Third Parties) Act 1999) on a person who is not named as a party to it.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

EXECUTED as a deed by **McCARTHY &
STONE RETIREMENT LIFESTYLES LIMITED**
by a director in the presence of a witness:



PATRICK HOLE

NAME (Print)

Witness's signature

: Nicola Willis

Witness's name (capitals)

: NICOLA WILLIS

Witness's address (capitals)

: 4th FLOOR 100 HOLLYHURST ROAD

BOURNEMOUTH BH8 8AQ

Witness's occupation
(capitals)

: LEGAL ASS. STANT -

EXECUTED as a deed by **COLLEGE
HOLDINGS 2012 LTD** by a director
in the presence of a witness:

NAME (Print)

Witness's signature

: _____

Witness's name (capitals)

: _____

Witness's address (capitals)

: _____

Witness's occupation
(capitals)

: _____



SITE PLAN SHOWING EXTENT OF RETAINED LAND AT 1:2500

KEY

- Property Line
- Retained Land
- Buildings to be demolished
- Netherbank House
- Music School
- Sports Hall
- Proposed New Driveway

REV	DATE	DESCRIPTION	DRAWN	CHECK
P8	19.04.17	Updates to blue shading	JJC	IT
P7	07.04.17	Updated to include blue shading	JJC	IT
P6	05.04.17	Updated to include blue shading	JJC	IT
P5	31.03.17	Updated yellow hatching to exclude steps	JJC	IT
P4	24.03.17	Updated driveway outline and reference points	JJC	IT
P3	21.03.17	Buildings marked up to show identity/demolition/retained works	JJC	IT
P2	10.02.17	Note to Block up door opening added per requested	JJC	IT
P1	24.01.17	Update to legal boundary line	JJC	IT

CLIENT			
Scarborough College			
PROJECT TITLE			
Former Bramcotes School			
DRAWING TITLE			
Land Transfer Plan			
DRAWING PURPOSE			
FOR INFORMATION			
DRAWN / CHECKED	DATE	SCALE	
JJC / IT	Jan 2017	1:1250 @ A3	
DATE	DRAWING NO	STATUS	REVISION
1SD5	1-027	--	P8
S1 Barton Arcade t: +44 (0)161 634 1016 Deansgate f: +44 (0)161 634 4796 Manchester e: contact@mhaarchitects.com M3 2BJ w: www.mhaarchitects.com			