

**MINUTES OF AN EXTRAORDINARY MEETING OF THE UNIVERSITY COUNCIL
HELD ON TUESDAY 19TH JANUARY 2021**

Present: Canon Dr J. Turnbull (*President*), Mr F. Ball, Mrs C. Bond, Dr D. Briggs, Sir Neil Cossons, Cllr Mrs R. Daniels, Dr M. David, Mrs J. France-Hayhurst, Ms K. Howell, Mr N. Jenkins, Ms E. Lewis (*CSU President*), Mr G. Reay, Professor E. Simmons (*Vice Chancellor*) and Mrs S. Verity.

Apologies for absence were received from: Professor S. Broomhead, Professor M. Clinton, Associate Prof. M. Degg, Professor C. Forsdick, Dr A. Seeney, The Very Revd Dr T. Stratford, and The Rt Revd M. Tanner.

In attendance: Mr A. Lee (*University Secretary*), Mr R. Waddington (*PVC Resources & Chief Financial Officer*), Mr A.J. Parker (*Committee Secretary*)

	ACTION
<p>3314 DECLARATION OF INTEREST</p> <p>There were no declarations of interest.</p>	
<p>3315 AMENDED AND RESTATED FACILITIES AGREEMENT, AN AMENDMENT AND RESTATEMENT AGREEMENT AND ANCILLARY DOCUMENTS WITH BARCLAYS BANK PLC</p> <p>(1) <u>Purpose</u></p> <p>(a) The Chair reminded the Board that the Charity had the benefit of the following facilities with Barclays Bank PLC (the Lender):</p> <p>(i) a £8,500,000 term loan facility, made available pursuant to a facility agreement originally dated 8 June 2001 as amended by amendment letters dated 31 January 2002 and 2 October 2008 between the Charity and the Lender;</p> <p>(ii) a £4,000,000 term loan facility, made available pursuant to a facility agreement originally dated 20 November 2002 and accepted on 27 November 2003 between the Charity and the Lender; and</p> <p>(iii) a £10,000,000 term loan facility agreement originally dated 8 August 2004 as amended by an amendment letter dated 2 October 2008 made between the Charity and the Lender (the Facilities).</p>	

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- (b) The Chair reported that it had now been agreed that the Facilities would be amended, restated and consolidated (the **Amendment, Restatement and Consolidation**). The Chair reported that the Amendment, Restatement and Consolidation would be effected by an amendment and restatement agreement to be entered into between (1) the Lender and (2) the Board of Governors of the University of Chester (the **Amendment and Restatement Agreement**).
- (c) The Chair reported that a copy of the amended, restated and consolidated facilities agreement (the Amended and Restated Facilities Agreement) would be annexed to the Amendment and Restatement Agreement.
- (d) It was further reported that, in connection with the Amendment, Restatement and Consolidation, the Charity would be required to enter into a side letter with the Lender in connection with changes to LIBOR during the term of the Facilities (the IBOR Side Letter).
- (e) It was agreed that, for the purposes of the minutes, capitalised terms shall, unless otherwise defined, bear the same meanings assigned to such terms in the Amended and Restated Facilities Agreement.
- (f) It was noted that it was a condition of the Amendment and Restatement Agreement that the governors of the Charity, Chester Diocesan Board of Finance as custodian trustee (**CDBF**) and Eunice Angela Simmons and Jeffrey Turnbull as managing trustees (the **Managing Trustees**) would charge by way of legal mortgage the properties listed therein to the Lender (**Legal Charge**).
- (g) The Chair then produced to the meeting the latest drafts of the following documents:
 - (i) The Amended and Restated Facilities Agreement and the Amendment and Restatement Agreement;
 - (ii) the ibor side letter; and
 - (iii) the legal charge,together, the documents.

(2) **Purpose of Meeting**

- (a) The Chair reported that the Board must consider the Documents and in particular it was noted that:
 - (i) the Legal Mortgage secured repayment to the Lender of all monies and liabilities at any time due, owing or

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incurred by the Charity to the Lender from time to time, including under the Amended and Restated Facilities Agreement; and

(ii) the Legal Mortgage contained a statement that the security created pursuant to the Legal Mortgage, being a registered charity, does not fall within section 124(9) of the Charities Act 2011 so the restrictions imposed by section 124 of the Charities Act 2011 apply.

(b) The Chair referred the Board to the advice received from Hill Dickinson LLP in connection with the Documents.

(c) The Chair reminded the Board of their duty to promote the success of the Charity (both in relation to the Documents and generally).

(3) Independent Advice

(a) It is noted that, pursuant to sections 124 to 126 of the Charities Act 2011, prior to executing the Documents, the trustees of the Charity must obtain and consider proper advice, given to them in writing, on the following matters:

(i) whether the Facilities provided by the Lender to the Charity under the Amended and Restated Facilities Agreement were necessary in order for the Charity to pursue the particular course of action in connection with which they are seeking the funding;

(ii) whether the terms of Documents are reasonable having regard to the status of the Charity as a registered charity as the prospective recipient of the loan; and

(iii) the ability of the Charity to repay on those terms the sum proposed to be advanced pursuant to the Amended and Restated Facilities Agreement.

(b) It is further noted that a report on the above matters has been prepared by Hill Dickinson LLP. The Board carefully considered Hill Dickinson LLP's advice. It was noted that Hill Dickinson LLP has no personal financial interest in relation to the Facilities.

(c) The Board confirmed that they are content with Hill Dickinson LLP's advice in this respect and the other issues on which advice is required pursuant to section 124(3) Charities Act 2011.

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(4) Approval and Execution of documents

The terms of each of the Documents having been carefully considered, **IT WAS RESOLVED THAT:**

- (a) the terms and conditions and the transactions contemplated by each of the Documents be and are hereby approved by the Board;
- (b) the Charity be and is hereby authorised to execute and deliver the Documents and any other document in connection with the Transaction (the **Ancillary Documents**);
- (c) the governors of the Charity, acting by any managing trustee in the presence of a witness, be and are hereby authorised to execute any Documents and Ancillary Document requiring execution as a deed, for and on behalf of the Charity;
- (d) any managing trustee be and is hereby authorised to sign and/or dispatch any Documents and Ancillary Documents to be signed and/or dispatched, for and on behalf of the Charity and to give any and all notices in connection with the Documents or the Ancillary Documents on behalf of the Charity; and
- (e) the Charity execute, deliver and perform its obligations under the Documents.

(5) Filings and Registrations

The Chair was instructed to make all such filings with the Registrar of Companies and the Registrar of Charities and all such entries in the statutory books of the Charity as are required to reflect or give effect to the business transacted at the meeting.

3316 ARRANGEMENTS FOR APPROVAL OF THE ANNUAL FINANCIAL RETURN

Mr Waddington spoke to the OfS Annual Financial Return which had been discussed in detail at the Planning & Resources Committee earlier in the day. It was noted that the University had a financial recovery plan which envisaged return to surplus in 2024/25 and which did not assume capital receipts from Sealand Road, Warrington or residential properties in Chester.

IT WAS RESOLVED to approve the Annual Financial Return. It was noted that initial submission was required by 1st February 2021 with final sign off by the Vice-Chancellor required by 8th March 2021 after a period of data verification.