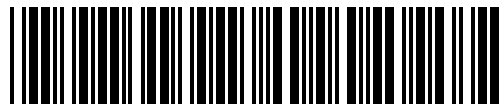




Registration of a Charge

Company Name: **TOMINTOUL AND GLENLIVET DEVELOPMENT TRUST**

Company Number: **SC424813**



Received for filing in Electronic Format on the: **12/08/2021**

XAAPJLTS

Details of Charge

Date of creation: **06/08/2021**

Charge code: **SC42 4813 0002**

Persons entitled: **THE SCOTTISH MINISTERS**

Brief description: **ALL AND WHOLE THE SUBJECTS COMPRISING THE FORMER TOMINTOUL SECONDARY SCHOOL, MAIN STREET, TOMINTOUL, BALLINDALLOCH, BEING THE SUBJECTS REGISTERED IN THE LAND REGISTER OF SCOTLAND UNDER TITLE NUMBER BNF10963.**

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: **MACROBERTS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 424813

Charge code: SC42 4813 0002

The Registrar of Companies for Scotland hereby certifies that a charge dated 6th August 2021 and created by TOMINTOUL AND GLENLIVET DEVELOPMENT TRUST was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th August 2021 .

Given at Companies House, Edinburgh on 12th August 2021

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

THIS IS AN IMPORTANT DOCUMENT. YOU SHOULD TAKE INDEPENDENT LEGAL ADVICE BEFORE SIGNING AND SIGN ONLY IF YOU WANT TO BE LEGALLY BOUND. THIS DOCUMENT SECURES ALL SUMS DUE OR TO BECOME DUE TO THE SCOTTISH MINISTERS BY THE CHARGOR. IF YOU SIGN AND THE SCOTTISH MINISTERS IS NOT PAID YOU MAY LOSE THE ASSET(S) CHARGED.

Definitions

Certificate:	A certificate by an official or manager of the Scottish Ministers
Charged Assets:	The Property and the Goodwill
Chargor:	TOMINTOUL AND GLENLIVET DEVELOPMENT TRUST , a company incorporated under the Companies Acts (Company Number SC424813), a registered Scottish charity (Charity Number SC050269) and having their Registered Office at 43 The Square, Tomintoul, Ballindalloch, AB37 9ET
Consent:	The prior written consent of the Scottish Ministers which consent, if granted, may be so granted subject to such conditions as the Scottish Ministers, acting reasonably, may see fit to impose
Enforcement Event:	means the occurrence of any of the events set out in Condition 10.1 of the grant offer letter issued by the Scottish Ministers on 18 December 2020 and accepted by the Chargor on 22 December 2020
Expenses:	All expenses (on a full indemnity basis) incurred by the Scottish Ministers at any time in connection with the Property or the Indebtedness or in entering into the Standard Security or in preserving, defending or enforcing the security created by the Standard Security or in exercising any power under the Standard Security or otherwise, with Interest from the date on which they are incurred
Goodwill:	The present and future goodwill, so far as heritable, of any business now or at any time carried on by or on behalf of the Chargor upon all or any part of, or in connection with, the Property
Indebtedness:	All monies, obligations and liabilities whatsoever (including sums of principal, Interest and Expenses) which are now and which may at any time or in any currency become due to the Scottish Ministers by the Chargor in accordance with the grant offer letter issued by the Scottish Ministers on 18 December 2020 and accepted by the Chargor on 22 December 2020, whether alone or jointly with another person and whether as principal or cautioner
Insurance Proceeds:	All rights, benefits and claims (present and future) under the policy or policies of insurance affording cover in respect of the Property or any interest in the Property effected from time to time in accordance with the provisions of the Standard Security

Interest:	Interest at the rate charged to the Chargor by the Scottish Ministers from time to time
Moveables:	Furniture, goods, equipment or other moveable property
Property:	All and Whole the subjects comprising the former Tomintoul Secondary School, Main Street, Tomintoul, Ballindalloch, being the subjects registered in the Land Register of Scotland under Title Number BNF10963; Together with (One) the whole rights, common, mutual and exclusive pertaining thereto; (Two) the parts, privileges and pertinents effeiring thereto; (Three) the heritable fittings and fixtures therein and thereon; and (Four) the Chargor's whole right, title and interest, present and future, therein and thereto
Scottish Ministers:	The Scottish Ministers having their address care of Longman House, 28 Longman Road, Inverness, IV1 1RY
Standard Conditions:	The standard conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 (as amended) and any lawful variation to them operative for the time being
Standard Security:	This standard security

1 Interpretation

In the Standard Security

- 1.1 references to a numbered Clause without further amplification are references to the Clause so numbered,
- 1.2 each of the expressions in the first column above has the meaning appearing opposite that expression in the second column above,
- 1.3 words importing any gender shall include the other genders, words importing the singular number shall include the plural and vice versa,
- 1.4 the expression "Scottish Ministers" includes its successors and assignees, and
- 1.5 references to a "person" shall be construed as a reference to any person, firm, company, corporation or any association or partnership (whether or not having separate legal personality) or to two or more of the foregoing.

2 Chargor's Undertaking

The Chargor undertakes to pay to the Scottish Ministers on demand the Indebtedness.

3 Charge

As security for the payment and discharge of its obligations under the Standard Security and for the Indebtedness, the Chargor grants a standard security in favour of the Scottish Ministers over the Charged Assets.

4 Application of Standard Conditions

The Standard Conditions shall apply as varied in accordance with Clause 5.

5 Variation of Standard Conditions

The Standard Conditions shall be varied as follows:

5.1 Insurance Cover

The insurance to be effected in terms of Standard Condition 5(a) shall provide cover to the extent of the reinstatement value of the Property and not its market value.

5.2 Endorsement of Insurance Policy

All policies of insurance affording cover in respect of the Property shall be disclosed to the Scottish Ministers by the Chargor in order that they may be written or endorsed for the interest of the Scottish Ministers and the Chargor as the Scottish Ministers may require and shall in other respects be deemed to have been effected under Standard Condition 5(a).

5.3 Assignment of Insurance Proceeds

The Chargor assigns its whole right, title and interest in and to the Insurance Proceeds to the Scottish Ministers.

5.4 Application of Insurance Proceeds

All monies becoming payable under the policies of insurance referred to in Clause 5.2 shall be applied in making good the loss or damage in respect of which such monies become payable or, if the Scottish Ministers so requires, in or towards the discharge of the Indebtedness.

5.5 Restrictions on Dealings with the Property

The Chargor shall not:

- 5.5.1 create or agree to create a subsequent security over the Charged Assets or any part of them or convey or otherwise transfer the Charged Assets or any part of them, or
- 5.5.2 make directly or indirectly any application for planning permission in relation to the Property or any part of it, or
- 5.5.3 make an application for an improvement grant or other grant in respect of the Property or any part of it, or
- 5.5.4 create or agree to create any servitude or real burden over the Property or any part of it, or
- 5.5.5 accept a surrender, vary the terms or consent to an assignment of any lease of the Property or any part of it

without, in each case, obtaining Consent.

5.6 Moveables

If the Scottish Ministers shall enter into possession of the Property the Scottish Ministers shall be entitled at the expense and risk of the Chargor to remove, store, sell or otherwise deal with any Moveables left in or upon the Property and not removed within 14 days of the Scottish Ministers entering into possession; the Scottish Ministers shall not be liable for any loss or damage occasioned by the exercise of this entitlement but the Scottish Ministers shall account for the proceeds of any sale of the Moveables after deducting all expenses incurred by the Scottish Ministers in connection with the sale.

5.7 Enforcement

- 5.7.1 In addition to the events of default specified in Standard Condition 9, the Chargor shall be deemed to be in default for the purposes of Standard Condition 9(1)(b) immediately upon the occurrence of an Enforcement Event.
- 5.7.2 After the Scottish Ministers have become entitled to enter into possession of the Property, the Scottish Ministers shall be entitled (without limitation) to deal with the Property or any part or parts thereof.

6 Declarations

6.1 Breach of Obligations

If there shall be any breach of the obligations contained or referred to in the Standard Security the Scottish Ministers shall (without prejudice to all other rights and powers available to it) be entitled, without notice to the Chargor, to withhold further grant and/or loan facilities from the Chargor.

6.2 Notice of Subsequent Charge

If the Scottish Ministers receives notice of any subsequent charge or other interest affecting all or any part of the Property the Scottish Ministers may open a new account or accounts in the name of the Chargor and, if or in so far as the Scottish Ministers does not open a new account or accounts, it shall nevertheless be treated as if it had done so at the time when it receives such notice and as and from that time all payments made by the Chargor to the Scottish Ministers shall, notwithstanding any instructions by the Chargor to the contrary, be credited or treated as having been credited to the new account or accounts and shall not operate to reduce the amount due by the Chargor to the Scottish Ministers at the time when it received the notice.

6.3 Certificate

The sums due by the Chargor to the Scottish Ministers shall be conclusively ascertained by a Certificate which will be binding on the Chargor save in the case of manifest error or inaccuracy.

6.4 Arrangements with Others

The Scottish Ministers may (without releasing, modifying, rendering unenforceable or otherwise prejudicing the Standard Security and the liability of the Chargor to the Scottish Ministers under the Standard Security) allow any person any time or indulgence or enter into, renew, vary or end any arrangement, security or guarantee with any person.

6.5 Preservation of Scottish Ministers' Claims Against Others

If the Chargor is liable under the Standard Security for the debts of another person then:

- 6.5.1 the Chargor shall not in competition with or in priority to the Scottish Ministers make any claim against that other person nor take or share in or enforce any security in respect of such debts until such debts have been paid to the Scottish Ministers in full;
- 6.5.2 the liability of the Chargor under the Standard Security shall not be affected by the existence of any other security or guarantee nor by any other security or guarantee being or becoming void or unenforceable; and
- 6.5.3 the Scottish Ministers may place to the credit of a suspense account for so long as it considers desirable any monies received in respect of such debts without any obligation to apply them towards payment of such debts and, in applying monies towards payment of such debts, the Scottish Ministers may appropriate them towards such part or parts of the debts as it thinks fit.

7. Application of proceeds

- 7.1 All monies received by the Scottish Ministers under or by virtue of this Standard Security following enforcement of the security hereby granted or of any security interest constituted pursuant hereto shall be applied, subject to the claims of any creditors ranking in priority to or pari passu with the claims of the Scottish Ministers under this Standard Security, in the following order:

- 7.1.1 firstly, in or towards satisfaction of the Indebtedness in such order as the Scottish Ministers shall in their absolute discretion decide; and

- 7.1.2 secondly, any surplus shall be paid to the Chargor or any other person entitled thereto.

- 7.2 Nothing contained in this Standard Security shall limit the right of the Scottish Ministers (and the Chargor acknowledges that the Scottish Ministers are so entitled) if and for so long as the Scottish Ministers, in their discretion, shall consider it appropriate, to place all or any monies arising from the enforcement of the security interest hereby granted or any security created pursuant to this Standard Security into a suspense account, without any obligation to apply the same or any part thereof in or towards the discharge of any of the Indebtedness.

8 Warrandice

The Chargor grants warrandice.

9 Registration

The Chargor consents to registration of the Standard Security and each and every Certificate for execution.

10 **Governing law**

This Standard Security shall be governed by, and construed in all respects in accordance with the laws of Scotland and, for the benefit of the Scottish Ministers, the Chargor irrevocably submits to the non-exclusive jurisdiction of the Scottish Courts but without prejudice to the ability of the Scottish Ministers to proceed against the Chargor in any other appropriate jurisdiction.

11 **Testing Clause**

IN WITNESS WHEREOF these presents consisting of this and the five preceding pages are executed by the Chargor as follows:

O.Gu.
signature of director/secretary/witness

full name of above (print)
OLIVER GILT

LINDISFARNE, KNOLKANDO
address of witness

Elizabeth Smith
signature of director/secretary

ELIZABETH SMITH
full name of above (print)

27th July 2021
date of signing

43 The Square, Tomintoul
place of signing