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| **DATED 2018** | | | | | | |
|  |  | | | | |  |
|  |  | **THE TRUSTEES OF THE EVERGREEN PENSION SCHEME** |  |  |
|  |  | and |  |  |
|  | 1. ( | **GREEN PROPERTY INVESTMENT LIMITED** |  |  |
|  | | | | |
| **LOAN AGREEMENT** | | | | |
| **Hemingways Solicitors Limited**  11 Westbourne Road  Sheffield S10 2QQ  T: 0114 266 8118 F: 0114 266 3424 | | | | |

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THIS AGREEMENT is dated 2018

PARTIES

1. THOMAS ALAN RACE of [●] and JAMES BENJAMIN RACE of [●] as trustees of the Evergreen Pension Scheme (PSTR [●]) (the “Lender”); and
2. GREEN PROPERTY INVESTMENT LIMITED a company incorporated and registered in England and Wales with company number 7933983 whose registered office is at Hawthorn House, North Roddymoor Farm, Billy Row, Crook, Durham DL15 9TB (the “Borrower”).

BACKGROUND

1. The Lender consists of the current trustees of the Evergreen Pension Scheme (the “**Scheme**”), which is a registered pension scheme for the purposes of the Finance Act 2004 (the "**Finance Act**"). The Scheme is a [●] pension scheme and is presently governed by a trust deed and rules dated [●].
2. The Borrower is the principal employer of the Scheme.
3. The Lender has agreed to provide to the Borrower aLoan of £74,250 subject to the terms and conditions of this agreement.
4. The Loan shall not at any time exceed 50% of the net asset value of the assets of the Scheme.

AGREED TERMS

# Definitions and interpretation

In this agreement:

## unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;

## references to clauses, schedules or appendices are to clauses or schedules of and appendices to this agreement;

## a reference to a **“party**” shall include that party’s successors, permitted assigns and permitted transferees and this agreement shall be binding on, and enure to the benefit of, the parties to this agreement and their respective personal representatives, successors, permitted assigns and permitted transferees;

## "**£**" means the lawful currency for the time being of the United Kingdom;

## clause and schedule headings shall not affect the interpretation of this agreement;

## a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;

## a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision; and

## a reference to a “**business day**” is to a day (other than Saturday, Sunday and public holidays) when banks are generally open for business in London.

# THE LOAN

## The Lender agrees to lend the Borrower the sum of £74,250 upon the following terms of this agreement (which sum or such part thereof as is for the time being owing by the Borrower to the Lender shall be referred to as the “**Loan**” in this agreement).

## This is an “authorised employer loan” to a “sponsoring employer” for the purposes of section 179 of the Finance Act.

## The Lender shall be under no obligation to make the Loan available to the Borrower, or provide any monies to the Borrower, until it (or its authorised representative) has received (in a form satisfactory to the Lender, acting reasonably) from the Borrower or its authorised representative:

### the duplicate of this agreement, duly signed by the Borrower;

### the Charge (as defined in clause 9 of this agreement) duly executed by the Borrower; and

### a copy of the signed and dated minutes of the board of directors of the Borrower approving the provisions of and the Borrower’s entry into this agreement and the Charge.

## Subject to clause 2.3, the Loan will be available for drawdown in one single advance on the date of this agreement to the bank account specified by the Borrower or its authorised representative.

# PURPOSE OF LOAN

## The Loan is provided to the Borrower for the purpose of the consolidation and repayment of existing loans, with the balance to fund the purchase of a property.

## The Lender shall not have any responsibility for ensuring that funds advanced under the Loan are applied in the manner required by clause 3.1.

## This agreement supersedes and replaces the loan agreement dated 15 February 2018 between the parties which the parties agree and acknowledge did not reflect the terms on which the Loan is to be made available to the Borrower.

# NORMAL REPAYMENT

## Subject to clauses 4.2 and 4.3 below, the Borrower shall repay the Loan to the Lender in equal instalments of capital and interest in such amounts and on such dates as determined by the Lender in writing from time to time (and initially in accordance with the Schedule 1 to this Agreement).

## The Loan shall be repaid in full, together with interest payable under clause 7, within the period of 5 years from the date on which the Loan was advanced to the Borrower. At the end of the 5 year term the Lender may at the Borrower's request allow the loan to be rolled over on one occasion only for an additional period, not exceeding 5 years. All interest outstanding should be repaid prior to the loan being rolled over.

## If at any stage before the Loan is fully repaid the Lender has reasonable cause to believe that the Loan may be an unauthorised employer payment, may prejudice the Scheme's continuing registration under the Finance Act, or may render the Scheme or the Lender liable to an unauthorised payments charge, a scheme sanction charge, a de registration charge or any other liability under the Finance Act, the Lender may require that the Borrower shall immediately repay the Loan in full to the Lender on receiving written notice from the Lender.

# SPECIAL REPAYMENT

The Borrower may prepay the whole or any part of the Loan to the Lender together with interest on the amount accrued to the date of prepayment at any time, without penalty throughout the duration of this agreement.

# IMMEDIATE REPAYMENT

## Notwithstanding anything contained in this Agreement, the Loan and all unpaid interest which has accrued under this Agreement shall become immediately repayable by the Borrower to the Lender on demand by the Lender if at any time any of the following events (each an “**Event of Default**”) should occur:

### the Borrower fails to pay any money due under this Agreement on the due date; or

### an order is made or an effective resolution is passed for winding up the Borrower; or

### the Borrower goes into administration, or enters into any agreement with its creditors; or

### the Borrower stops payment or ceases or threatens to cease to carry on its business or substantially the whole of its business; or

### an encumbrancer takes possession of or a receiver is appointed to any part of the assets of the Borrower (or any surety); or

### the Borrower (or any surety) is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or

### the Borrower becomes insolvent; or

### the Borrower (or any surety) commits any breach of this agreement and in the case of any breach capable of remedy fails to remedy the breach within 14 days of being required in writing by the Lender to do so; or

### the Borrower disposes of the whole or a substantial part of its business or assets without the Lender's consent in writing (such consent not to be unreasonably withheld); or

### the Loan is required to enable the Lender to pay benefits which have already fallen due for payment under the Scheme.

## The Borrower shall forthwith upon the occurrence of any of the events listed in 6.1 above serve notice in writing on the Lender that the Loan and all interest and commission accrued and all other sums payable pursuant to this agreement have become immediately due and payable by the Borrower to the Lender, if the Lender so demands, whereupon the same shall become immediately due and the Borrower shall immediately pay the same to the Lender upon such a demand by the Lender. The Lender reserves the right to pursue all legal steps to recover the amounts payable under this agreement.

# Interest

## Interest shall accrue on the outstanding balance of the Loan from time to time at the rate of 2.5% per annum fixed for the term of the Loan and shall be payable by the Borrower at the end of each month (the "**Interest Period**") The first payment will be made on [●].

## The interest rate set out in clause 7.1 shall be not less than that which is from time to time required by the Registered Pension Schemes (Prescribed Interest Rates for Authorised Employer Loans) Regulations 2005, being no less the interest rate which is from time to time charged by HMRC on unpaid Corporation Tax Self Assessment ("**CTSA**") as published from time to time by HMRC on the HMRC website in the CTSA tables entitled "Interest charged on underpaid quarterly Instalment payments".

## Interest shall be calculated for each Interest Period on the Loan and shall be compounded at the end of each Interest Period.

# INTEREST IN EVENT OF DEFAULT OF PAYMENT

## Should the Borrower fail to make a payment in respect of the capital of the Loan in accordance with clause 4.1 above, or in respect of interest in accordance with clause 7.1 above, then interest shall be charged on the outstanding amounts of the Loan and interest from the due date up to the actual date of payment (both before and after judgement) due at the rate of 1% per annum over and above the base rate from time to time of the Royal Bank of Scotland plc. Interest accruing under this clause 8.1 shall be immediately payable by the Borrower to the Lender on demand from the Lender.

## Default interest under clause 8.1 (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period but will remain effectively due and payable by the Borrower to the Lender.

# SECURITY

## The Borrower has provided security in respect of the Loan to the Lender in the form of a first legal charge over the properties set out in Schedule 2 to this agreement (the “**Charge**”).

## The Loan shall at all times be (and it is a condition to the making available of the Loan by the Lender to the Borrower that the Loan shall at all times be) secured and supported by the Charge.

# Costs

## The Borrower shall on demand reimburse the Lender for all fees, costs and expenses (including legal fees, disbursements and value added or any similar tax) incurred by the Lender on a full indemnity basis in connection with:

### the payment of monies to the Borrower in connection with the Loan;

### the negotiation, preparation, execution, completion and conclusion of or exit from this agreement and the Charge;

### any amendment, supplement, variation, release, discharge, consent or waiver relating to this agreement or the Charge; and

### preservation, exercise or enforcement of (or attempted preservation, exercise or enforcement of) any rights or remedies under or in connection with this agreement or the Charge.

# CERTIFICATE OF AMOUNT

## It is agreed by the parties hereto that any account or certificate signed by an authorised signatory of the Lender shall in the absence of manifest error conclusively determine the amount from time to time owing by the Borrower to the Lender.

# LIABILITY OF LENDER

## If there is any liability to be imposed then the total liability of the Lender will be limited to the extent of the assets which it holds and which are available to it in its capacity as trustee of the Scheme.

# NOTICES

## Any notice to be given pursuant to the terms of this agreement shall be given in writing to the party due to receive such notice at (in the case of a company) its registered office from time to time or (in the case of an individual) at his address set out in this agreement or such other address as may have been previously notified (at least 5 business days in advance) under this clause 13 to the other parties.

## Any notice shall be delivered personally or sent by first class post, prepaid recorded delivery or registered post (airmail if overseas) and shall be deemed to be given in the case of delivery personally on delivery and in the case of posting (in the absence of evidence of earlier receipt) 2 business days after posting.

# GENERAL

## The Borrower may not assign or transfer any of its rights or obligations under this agreement without the prior written consent of the Lender. This agreement and its rights and obligations under this agreement shall be freely assignable by the Lender.

## No delay on the part of the Lender in exercising any of its rights, powers or privileges under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

# LAW

This agreement shall be governed by and construed in accordance with the laws of England.

## **THIS DOCUMENT** has been executed and delivered by the parties as a deed on the date stated at the beginning of this document .

**EXECUTION**

**THE LENDER**

|  |  |  |
| --- | --- | --- |
| **SIGNED** and **DELIVERED** as a **DEED** | | ) |
| by **THOMAS ALAN RACE** | | ) |
| in the presence of: | | ) …………………………………………………… |
|  |  | |
|  |  | |
| Witness signature: | …………………………………………………… | |
| Name: | …………………………………………………… | |
| Address: | …………………………………………………… | |
|  | …………………………………………………… | |
|  | …………………………………………………… | |
| Occupation: | …………………………………………………… | |

|  |  |  |
| --- | --- | --- |
| **SIGNED** and **DELIVERED** as a **DEED** | | ) |
| by **JAMES BENJAMIN RACE** | | ) |
| in the presence of: | | ) …………………………………………………… |
|  |  | |
|  |  | |
| Witness signature: | …………………………………………………… | |
| Name: | …………………………………………………… | |
| Address: | …………………………………………………… | |
|  | …………………………………………………… | |
|  | …………………………………………………… | |
| Occupation: | …………………………………………………… | |

**THE BORROWER**

|  |  |  |
| --- | --- | --- |
| **EXECUTED** and **DELIVERED** as a **DEED** | | ) |
| by **GREEN PROPERTY INVESTMENT LIMITED** | | ) |
| acting by a director, in the presence of: | | ) ………………………………………………… |
|  | |  |
|  |  | |
| Witness signature: | …………………………………………………… | |
| Name: | …………………………………………………… | |
| Address: | …………………………………………………… | |
|  | …………………………………………………… | |
| Occupation: | …………………………………………………… | |

**SCHEDULE 1**

**REPAYMENT SCHEDULE**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Payment No.** | **Payment Date** | **Payment** | **Principal** | **Interest** | **Balance** |
| 1 | 22 March 2019 | £15,982.08 | £14,125.83 | £1,856.25 | £60,124.17 |
| 2 | 22 March 2020 | £15,982.08 | £14,478.98 | £1,503.10 | £45,645.19 |
| 3 | 22 March 2021 | £15,982.08 | £14,840.95 | £1,141.13 | £30,804.24 |
| 4 | 22 March 2022 | £15,982.08 | £15,211.97 | £770.11 | £15,592.27 |
| 5 | 22 March 2023 | £15,982.08 | £15,592.27 | £389.81 | £0 |

**SCHEDULE 2**

**PROPERTIES**

|  |  |
| --- | --- |
| **Property address** | **Land Registry title number** |
| 69 Mount Pleasant, Stanley, Crook DL15 9SG | DU307751 |
| 2 West Terrace, Billy Row, Crook DL15 9SS | DU239202 |