

DATED

13<sup>th</sup> August 2021

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**The Trustees of the Joel 2 vs25-27 Pension Scheme**

**- and -**

**Fontana Properties Ltd**

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**THIRD PARTY LOAN AGREEMENT**

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**THIS AGREEMENT** is made on the

13<sup>th</sup> August 2021

BETWEEN:

- (1) The Trustees of the **Joel 2 vs25-27 Pension Scheme** being **Stephen Heath** and **Trisha Theodore-Heath**, both of 254 Berglen Court, 7 Branch Road, London, E14 7JZ (in this deed called the '**Lender**'); and
- (2) **Fontana Properties Ltd** (Company No 12571217) incorporated and registered in England and Wales whose registered office is situate at 38 Dean Road, Sittingbourne, England, ME10 2DH ("the **Borrower**").

AGREED TERMS:

1. **DEFINITIONS AND INTERPRETATION**

The definitions and rules of interpretation in this clause apply in this Agreement

<b>Business Day</b>	a day (other than a Saturday or a Sunday) on which commercial banks are open for general business in the United Kingdom;
<b>Event of Default</b>	any event or circumstance listed in clause 7;
<b>Guarantor</b>	Mr Paul John Wilson of 38 Dean Road, Sittingbourne, Kent, ME10 2DH, acting in a personal capacity;
<b>Indebtedness</b>	any obligation to pay or repay money, present or future, whether actual or contingent, sole or joint;
<b>Loan</b>	the principal amount of the loan made or to be made by the Lender to the Borrower under this Agreement or (as the context requires) the principal amount outstanding for the time being of that loan;
<b>Registered Pension Scheme</b>	a pension scheme that is registered with HMRC; and under section 153 of the FA 2004 or deemed to be registered under Part 1 of Schedule 36 to the FA 2004; and
<b>Term Date</b>	13 <sup>th</sup> August 2023.

2. **THE LOAN**

The Lender grants to the Borrower a secured Sterling term loan facility of a total principal amount of £48,000.00 (Forty Eight Thousand Pounds) on the terms, and subject to the conditions of this Agreement and the attached Schedule.

3. **PURPOSE**

- 3.1 The Borrower shall use all money borrowed to assist in the business of the Borrower.

3.2 The Lender is not obliged to monitor or verify how any amount advanced under this Agreement is used.

4. **SECURITY**

4.1 The loan will be secured by a Personal Guarantee provided by the Guarantor.

5. **INTEREST**

The Borrower will pay interest on the Loan at the rate of 5% per annum fixed.

6. **REPAYMENT**

6.1 The Borrower shall repay a sum of £52,800 by way of a single instalment, representing the Loan and all accrued but unpaid interest, on or before the Term Date.

6.2 The Borrower may prepay part or all of the Loan (including accrued interest) by notifying the Lender twenty (20) Business Days in advance. The Borrower may do this if the notice specifies the amount of the prepayment of the Loan and the date of the prepayment.

6.3 The Lender may require full or partial repayment of the Loan in order to pay benefits and may do so at any time by notifying the Borrower at least sixty (60) Business Days in advance.

6.4 The Lender may require full or partial repayment of the Loan in the event that anything in this agreement prejudices the status of the Lender as a Registered Pension Scheme and the Borrower must make the necessary repayment within sixty (60) Business Days of the relevant notice being given.

7. **EVENTS OF DEFAULT**

7.1 Each of the events or circumstances set out in this clause 7 (other than this clause 7.1 and clause 7.11) is an Event of Default.

7.2 The Borrower fails to pay any sum payable under this Agreement, unless its failure to pay is caused solely by an administrative error or technical problem and payment is made within three (3) Business Days of its due date.

7.3 The Borrower fails (other than by failing to pay), to comply with any provision of this Agreement (and if the Lender considers, acting reasonably, that the default is capable of remedy), such default is not remedied within fourteen (14) Business Days of the earlier of:

7.3.1 the Lender notifying the Borrower of the default and the remedy required; and

7.3.2 the Borrower becoming aware of the default.

- 7.4 The Borrower stops or suspends payment of any of its debts, or is unable to, or admits its inability to, pay its debts as they fall due.
- 7.5 The value of the Borrower's assets is less than its liabilities (taking into account contingent and prospective liabilities).
- 7.6 A moratorium is declared in respect of any Indebtedness of the Borrower.
- 7.7 Any action, proceedings, procedure or step is taken for:
- 7.7.1 the suspension of payments, a moratorium of any Indebtedness, winding up, dissolution, administration or reorganisation (using a voluntary arrangement, scheme of arrangement or otherwise) of the Borrower; or
  - 7.7.2 the composition, compromise, assignment or arrangement with any creditor; or
  - 7.7.3 the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Borrower or any of its assets.
- 7.8 The Borrower commences negotiations, or enters into any composition, compromise, assignment or arrangement with one or more of its creditors with a view to rescheduling any of its Indebtedness (because of actual or anticipated financial difficulties).
- 7.9 A distress, attachment, execution, expropriation, sequestration or another analogous legal process is levied, enforced or sued out on, or against, the Borrower's assets having an aggregate value of £1,000 (or its equivalent in other currencies) and is not discharged or stayed within twenty-one (21) days.
- 7.10 The Borrower ceases, or threatens to cease, to carry on all or a substantial part of its business.
- 7.11 At any time after an Event of Default has occurred which is continuing, the Lender may, by notice to the Borrower:
- 7.11.1 declare that the Loan (and all accrued interest and all other amounts outstanding under this Agreement) is immediately due and payable, whereupon they shall become immediately due and payable; and/or
  - 7.11.2 declare that the Loan be payable on demand, whereupon it shall become immediately payable on demand by the Lender.

8. **REMEDIES, WAIVERS, AMENDMENTS AND CONSENTS**

- 8.1 Any amendment to this Agreement shall be in writing and signed by, or on behalf of, each party.
- 8.2 Any waiver of any right or remedy or any consent given under this Agreement is only effective if it is in writing and signed by the waiving or consenting party. It shall apply only in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- 8.3 No delay or failure to exercise any right or remedy under this Agreement on the part of the Lender shall operate as a waiver of any such right or remedy.
- 8.4 No single or partial exercise of any right or remedy under this Agreement by the Lender shall prevent any further or other exercise or the exercise of any other right or remedy under this Agreement.
- 8.5 Rights and remedies under this Agreement are cumulative and do not exclude any other rights or remedies provided by law or otherwise.

9. **SEVERANCE**

- 9.1 The invalidity, unenforceability or illegality of any provision (or part of a provision) of this Agreement under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions.
- 9.2 If any invalid, unenforceable or illegal provision would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with whatever modification as is necessary to give effect to the commercial intention of the parties.

10. **ASSIGNMENT**

- 10.1 The Lender may assign any of its rights under this Agreement or transfer all its rights or obligations by novation.
- 10.2 The Borrower may not assign any of its rights or transfer any of its rights or obligations under this Agreement.

11. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which is an original and which, together, have the same effect as if each party had signed the same document.

## **12. THIRD PARTY RIGHTS**

A person who is not a party to this Agreement cannot enforce, or enjoy the benefit of, any term of this Agreement under the Contracts (Rights of Third Parties) Act 1999.

## **13. NOTICES**

13.1 Each notice or other communication required to be given under, or in connection with, this Agreement shall be in writing, delivered personally or sent by pre-paid first-class letter, to the address given at the beginning of this Agreement or such other address in the United Kingdom as may be notified in writing to the other party from time to time.

13.2 Any notice or other communication given by the Lender shall be deemed to have been received:

13.2.1 if given by hand, at the time of actual delivery; and

13.2.2 if posted, on the second Business Day following the day on which it was despatched by pre-paid first-class post.

13.3 A notice or other communication given as described in this clause 13 on a day which is not a Business Day, or after normal business hours in the place of receipt, shall be deemed to have been received on the next Business Day.

13.4 Any notice or other communication given to the Lender shall be deemed to have been received only on actual receipt.

## **14. GOVERNING LAW AND JURISDICTION**

14.1 This Agreement and any dispute or claim arising out of, or in connection with it, or its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the law of England and Wales.

14.2 The parties to this Agreement irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

14.3 Electronic signatures adopted in accordance with Electronic Signatures Regulation 2002 (SI 2002 No. 318), whether digital or encrypted, by any and all the parties included in this document are intended to authenticate this document and shall have the same force and effect as manual signatures.

14.4 Delivery of a copy of this document contemplated hereby bearing an original or electronic signature by electronic mail in portable document format (.pdf) form,

or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original or electronic signature.

**THIS AGREEMENT** has been executed and delivered by the parties hereto on the date stated at the beginning of it.

**The Lender**

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**Stephen Heath** acting as Trustee of  
**Joel 2 vs25-27 Pension Scheme**

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**Trisha Theodore-Heath** acting as Trustee of  
**Joel 2 vs25-27 Pension Scheme**

**The Borrower**

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Director for and on behalf of  
**Fontana Properties Ltd**