

PERSONAL GUARANTEE

This deed is dated

2022

BETWEEN:

1. **MDN Properties Pension Scheme** of c/o 25 Long Grove, Seer Green, Beaconsfield, Buckinghamshire, HP9 2YN ("**the Lender**"), acting by Mr Matthew Norris as its trustee; and
2. Mr Benjamin Karl Richards of 52b Bernard Street, St Albans, AL3 5QN ("**the Guarantor**").

OPERATIVE PROVISIONS

1. Interpretation

- 1.1 The following definitions shall have the following meanings:

"Agreement" means a loan agreement dated 2022 between the Lender and the Borrower.

"Borrower" means XP 4 Developments Limited (company number: 13517038) whose registered office is at 52b Bernard Street, St Albans, Hertfordshire, AL3 5QN.

- 1.2 The rules of interpretation in this clause 1 apply in this agreement.
- 1.3 Clause headings do not affect the interpretation of this agreement.
- 1.4 Except where a contrary intention appears, a reference to a clause is a reference to a clause of this agreement.
- 1.5 Unless otherwise specified, a reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.6 A person includes a corporate or unincorporated body.
- 1.7 Writing or written includes faxes, but not email.
- 1.8 Any obligation in this agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.9 Unless the context otherwise requires, (a) words in the singular shall include the plural and in the plural shall include the singular and (b) a reference to one gender shall include a reference to the other genders.
- 1.10 Any words following the terms "including", "include", "in particular" or "for example" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2. Guarantee

- 2.1 The Guarantor irrevocably and unconditionally guarantees to the Lender the punctual performance by the Borrower of all of its obligations.

- 2.2 The Guarantor irrevocably and unconditionally agrees that it will on demand pay to the Lender in cleared funds:
- 2.2.1 all the Borrower's Obligations as if it were the principal debtor. "**The Borrower's Obligations**" are all the Borrower's liabilities to the Lender under the Agreement as varied, amended, supplemented or replaced from time to time (present, future, actual or contingent and whether incurred alone or jointly with another) together with interest, commission and bank charges; and
- 2.2.2 any **Expenses** the Lender incurs or charges (on a full indemnity basis from the due date of payment) in connection with taking, protecting, enforcing or exercising any power (or attempting to do so) under this Guarantee.

3. Indemnity

- 3.1 If any claim by the Lender against the Guarantor is not enforceable or recoverable on the basis of a guarantee, the Guarantor, will irrevocably and as a separate and independent obligation, indemnify the Lender against any costs or loss it incurs as a result of the Borrower not paying or performing any of the Borrower's Obligations and will pay the amount of the Lender's loss or cost together with Expenses on demand in cleared funds.

4. Certificate

- 4.1 A certificate signed by a trustee of the Lender as to the amount due from the Guarantor will be binding on the Guarantor, except if it is obviously wrong.

5. Continuing security

- 5.1 This Guarantee is and will remain a continuing security and will extend to the ultimate balance of the Borrower's obligations regardless of any intermediate payment or settlement.

6. Subordination

- 6.1 The Guarantor undertakes to the Lender that all claims of whatsoever nature which the Guarantor has or may have at any time against the Borrower or any of the Borrower's property or assets shall rank after and be in all respects subordinate to any and all claims, whether actual or contingent, which the Lender has or may have at any time against Borrower or any of the Borrower's property or assets and during such period the Guarantor will not without the Lender's prior written consent:

- 6.1.1 demand or accept payment in whole or in part of any moneys owing to the Guarantor by the Borrower;
- 6.1.2 take any steps to enforce the Lender's rights to recover any moneys owing to the Guarantor by the Borrower and more particularly (but without limitation) take or issue any judicial or other legal proceedings against the Borrower or any of the Borrower's property or assets; or
- 6.1.3 prove in the liquidation or other dissolution of the Borrower.

7. Arrangements with the Borrower and others

- 7.1 The Lender's rights against the Guarantor will not be affected by anything that would, but for this clause reduce or prejudice any of its obligations under this Guarantee, including, but not limited to:
 - 7.1.1 the Lender settling, allowing time or granting a concession to or agreeing, renewing, varying, refraining to enforce or ending any arrangements, including any other security of guarantee, with the Borrower or any other person; or
 - 7.1.2 the Lender failing to take any intended security or guarantee for the Borrower's Obligations or any new security given to the Lender.

8. More than one Borrower including partnerships

- 8.1 Where the Borrower is more than one person (including the partners of a partnership):
 - 8.1.1 the Borrower's Obligations include their joint, several and independent liabilities. References to the Borrower are to them together and separately;
 - 8.1.2 this Guarantee gives the Lender the same rights as if it were a separate guarantee of each Borrower;
 - 8.1.3 the Lender may release the Guarantor from liability for any Borrower or partner (where the Borrower is a partnership), without reducing or releasing the Guarantor's liability for the others.
- 8.2 Where the Borrower is a partnership:
 - 8.2.1 the Guarantor's liability will not be affected and this Guarantee will remain a continuing security if a partner leaves or joins the partnership, if the partnership dissolves, or if there is a change in the name or constitution of the partnership; and
 - 8.2.2 the Borrower's Obligations are those of the partners of the partnership present and future which relate to the partnership business.

9. More than one Guarantor including partnerships

- 9.1 Where the Guarantor is more than one person (including the partners of a partnership):

- 9.1.1 all of them are jointly and severally liable under this Guarantee. References to the Guarantor are to them together and separately;
- 9.1.2 this Guarantee gives the Lender the same rights as if it were a separate guarantee by each Guarantor;
- 9.1.3 the Lender may settle with or release from liability any of them, without releasing or reducing the liability of the others;
- 9.1.4 the liabilities of each of them under this Guarantee are severable. If this Guarantee, or any provision of it, is unenforceable against any of them, it will not affect the enforceability or continuation of this Guarantee in respect of any others; and
- 9.1.5 the Guarantor's liability will not be affected and this Guarantee will remain a continuing security if a partner leaves or joins the partnership, if the partnership dissolves, or if there is a change in the name or constitution of the partnership.

10. Preservation of the Lender's claims and rights

- 10.1 Until the Borrower's Obligations have been paid in full:
 - 10.1.1 the Guarantor is not entitled to claim or share any security held by the Lender or any payment received by the Lender for the Borrower's Obligations;
 - 10.1.2 the Guarantor will not make any claim against, or in the insolvency of, the Borrower or any co-guarantor;
 - 10.1.3 the Guarantor will not take any security from, or enforce any security against, the Borrower or any co-guarantor,
 - 10.1.4 and the Guarantor will hold on trust for the Lender any payment or security received by the Guarantor in breach of these provisions.
- 10.2 This Guarantee is in addition to any other security or guarantee for the Borrower's Obligations held by the Lender, now or in the future. It will not merge with or prejudice any other security or guarantee or any of the Lender's other rights.
- 10.3 This Guarantee will not be released if the Lender fails to take any intended security or guarantee for the Borrower's Obligations or if any other security or guarantee held by the Lender for the Borrower's Obligations is unenforceable.
- 10.4 Any release or settlement of liability will only take effect when any reductions in the Borrower's Obligations cannot be challenged for any reason. The Lender may retain this Guarantee until it is satisfied that it will not have to make any repayments or give up any new security.
- 10.5 All payments to the Lender must be made without set off and without deduction on account of any tax, duty or other charge, unless a deduction is required by law. If a deduction is required by law, the Guarantor will increase the payment so that the Lender receives the amount due to it before the deduction.

11. Grossing-up

- 11.1 If at any time any law requires (or is interpreted to require) the Guarantor to make any deduction or withholding from any payment, or to change the rate or manner in which any required deduction or withholding is made, the Guarantor will promptly notify the Lender and, simultaneously with that payment, will pay to the Lender whatever additional amount (after taking into account any additional Taxes (as defined in the Agreement) on, or deductions or withholdings from, or restrictions or conditions on, that additional amount) is necessary to ensure that, after the deduction or withholding, the Lender receives a net sum equal to the sum which the Lender would have received had no deduction or withholding been made.

12. The Lender's powers and transfers

- 12.1 The Lender may set off any amount due from the Guarantor against any amount owed by the Lender to the Guarantor. The Lender may exercise this right, without prior notice, both before and after demand.
- 12.2 The Lender may allow any person to take over any of its rights and duties under this Guarantee. The Guarantor authorises the Lender to give that person or its agent any financial or other information about the Guarantor. References to the Lender include its successors.

13. Counterparts

- 13.1 This agreement may be executed in any number of counterparts, and by the parties on separate counterparts, each of which so executed and delivered shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

14. Entire agreement

- 14.1 This agreement constitutes the entire agreement and understanding of the parties and supersedes any previous agreement or understanding between them relating to the subject matter of this agreement.

15. Notices

- 15.1 Any consent, notice and demand given under this agreement must be in writing and delivered to the recipient at the address detailed at the start of this agreement or at such other address as has been notified to the sender previously in writing. Any such notice or demand by the Lender shall be deemed to have been received by the Guarantor 24 hours after posting (where sent by first class prepaid post) or immediately on delivery (where delivered personally), whether or not it is actually received.
- 15.2 A notice given under this agreement will not be validly served if sent by email.

15.3 If an Address for Service is specified, it, or any other address provided for this purpose, will be an effective address for service of proceedings on the Guarantor.

16. Rights of third parties

16.1 A person who is not a party to this agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

17. Law and jurisdiction

17.1 This agreement shall be governed by and construed in accordance with the laws of England and each of the parties hereto submits to the exclusive jurisdiction of the English Courts as regards any claim or matter arising under this agreement.

IN WITNESS whereof this document has been executed as a Deed the day and year first before written.

THIS IS AN IMPORTANT DEED. YOU ARE ADVISED TO TAKE INDEPENDENT LEGAL ADVICE ON IT BEFORE SIGNING IT. YOU WILL HAVE TO PAY IF THE LENDER IS NOT PAID BY THE BORROWER.

Executed as a deed by
Mr Benjamin Karl Richards
in the presence of:

) *Blehard*
)
)

Witness's signature: *Marchant*

Witness's name: *NICOLLE MARCHANT*

Witness's address:

.....
.....

Witness's occupation: *Solicitor*

LENNONS SOLICITORS LTD
CHESS CHAMBERS
2 BROADWAY COURT
CHESHAM, BUCKS HP5 1EG
TEL: 01494 773377
FAX: 01494 773100

Date

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Guarantor must date the document

Executed and delivered as a deed by)
Matthew Norris, a duly authorised)
director of MDN Properties Pension)

Scheme in the presence of:

) M. O'Neil

Witness's signature:

M.H.

Witness's name:

MICHAEL HARRIS

Witness's address:

MAPLEWOOD, SCHOOL LAWE

SEER GREEN, BUCKS

HP9 2 QJ

Witness's occupation:

SALES DIRECTOR