|  |  |
| --- | --- |
| **OR** | **LOAN** **AGREEMENT (01/23)** |

**THIS AGREEMENT IS AN IMPORTANT CONTRACT. YOU SHOULD TAKE LEGAL ADVICE BEFORE SIGNING.**

**DRAFTING NOTES FOR GREEN (VARIABLE RATE) LOAN:**

* **This is a standard Base Rate loan agreement for capital & interest repayments that will need to be amended to meet the transaction specific details.**
* **Text highlighted in Green is wording required to meet the Bank’s requirements for loans provided for the purchase / installation of an asset determined by the Bank as eligible for a green loan.**
* **This style does not cover the scenario where the Loan is repayable by a bullet repayment and interest is compounded to the Loan account. Please contact the instructing office of the Bank should you encounter this scenario to obtain further guidance.**

**Customer:** x (registered number x)

**Bank:** [The Royal Bank of Scotland plc / National Westminster Bank Plc]

1. **The Loan**
   1. The Bank will provide the Customer with a **Loan** to assist with the acquisition [and installation][[1]](#footnote-1) of [insert details of the asset] (the **Asset**).
2. **Loan Details**

**Loan Amount:** £x.

**Interest Rate:** x% p.a. over Base Rate. On xx xxx xxxx Base Rate was 0.5% p.a. Where Base Rate is below zero, it will be deemed to be zero.

**Final Repayment Date:** The date which is xx months after the Loan is drawn.

1. **Preconditions**
   1. The Loan can be drawn when the Bank has received this Agreement signed by the Customer, and is satisfied with:
      1. the authority to sign this Agreement.
      2. all security and any related insurance.
      3. the documents and information needed to comply with its account opening and customer identity requirements.
      4. an invoice evidencing that the Customer has agreed to purchase [and install] the Asset (or such other evidence as the Bank may reasonably require).
      5. such evidence as the Bank may reasonably require to confirm or otherwise determine that the proceeds of the Loan will, following drawdown, be applied towards the purpose set out in clause 1.1.
2. **Drawdown**
   1. The Loan will be drawn by a single advance. If the Customer has a current account with the Bank, the Bank may credit the Loan to that account. Otherwise the Loan will be drawn as instructed by the Customer.
   2. Unless otherwise agreed, if the Loan is not drawn within 30 days from the date this Agreement is signed by the Bank, the Bank may decide not to provide the Loan.
   3. A drawdown will not be permitted if an **Event of Default** as detailed in this Agreement has occurred or would be caused by the drawdown.
   4. No amount repaid may be redrawn.
3. **Interest**
   1. The Customer will pay interest on the outstanding balance of the Loan at the Interest Rate.
   2. References to Base Rate are to [The Royal Bank of Scotland plc’s / National Westminster Bank Plc’s] base rate, which may change at any time and with immediate effect.
   3. Interest will be calculated daily on a 365 day year, both before and after demand or court order. Interest will be applied and compounded to [the Loan account] [a separate account] on the [penultimate {RBS}/ final {NatWest}] business day of March, June, September and December in each year and on final repayment of the Loan. A **business day** is a weekday other than a national holiday.
   4. If the Customer fails to pay any amount payable under this Agreement on its due date (including a failure to pay when due on demand), the Bank may charge interest on the overdue amount at 2% p.a. above the Interest Rate (or at such other rate as may be determined by the Bank from time to time), from the due date up to the date of actual payment.
4. **Repayment**
   1. The Customer will repay the Loan and interest by monthly **Regular Instalments** of £xx and a final instalment of an amount sufficient to repay the Loan and interest in full.
   2. The first instalment is due 1 month after the date on which the Loan is drawn and the final instalment is due on the Final Repayment Date.
   3. The Customer may make additional repayments at any time. Where possible, the Customer should (though is not obliged to) contact the Bank to discuss any additional repayments that are proposed and any resulting changes to the Regular Instalments.
   4. The following factors may impact the Regular Instalments the Customer is required to pay:
      1. changes in Base Rate.
      2. any additional repayments made by the Customer.
      3. the amount of the Loan that is drawn or outstanding on any given day.
      4. the date on which the Loan is drawn.
   5. The Bank may (but is not obliged to) vary the Regular Instalments at any time to reflect any of the factors in Clause 6.4. However, if the Regular Instalments are not varied:
      1. the amount of the final instalment will, if necessary, be adjusted to ensure the Loan and interest are repaid in full on the Final Repayment Date.
      2. repayment of the Loan and Interest may be over a different period of time ending no later than the Final Repayment Date.
5. **Method of Payment**
   1. If the Customer maintains a current account with the Bank then the Bank may apply payments due and payable by the Customer under this Agreement to such current account.
   2. If the Customer does not hold a current account with the Bank then, if required by the Bank, the Customer will maintain a feeder account (not being a current account) with the Bank to which the Bank may apply payments due and payable by the Customer under this Agreement. If the feeder account becomes overdrawn without prior agreement interest on it will be charged at the Bank's unarranged overdraft rate from time to time and unarranged overdraft fees may be charged.
6. **Fees and Costs**
   1. The Customer will pay the fees detailed in this Agreement. Any fees specified as a percentage will be calculated on the Loan Amount (unless otherwise stated), the actual number of days elapsed and a 365 day year.
   2. The Customer will pay, within 3 days of demand, all costs incurred by the Bank in connection with this Agreement or any security, including:
      1. taking and releasing security.
      2. preserving, defending or enforcing the Bank's rights.
      3. communicating with the Customer, if the Customer is in breach.
      4. professional fees and costs.
   3. The Customer will remain liable for any outstanding fees, charges and costs even if the Loan is not drawn or the Bank decides that it cannot be drawn.
7. **Payments and Set-Off**
   1. The Customer will comply with the Bank's requirements in respect of payments under this Agreement. These requirements may include the maintenance of payment instructions acceptable to the Bank.
   2. A payment due on a non-business day will be payable on the next business day.
   3. All payments to the Bank must be made without set-off and without any 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 Customer will increase the payment so that the Bank receives the amount due to it before the deduction.
   4. The Bank may apply all amounts due to an account of the Customer with the Bank even if it causes that account to be overdrawn or exceed any limit.
   5. The Bank may set off any amount due to the Bank under this Agreement against any amount owing by the Bank to the Customer. The Bank may exercise this right, without prior notice both before and after demand.
   6. To exercise its rights under this Agreement, the Bank may, using its market rate of exchange convert an amount from one currency to another.
8. **Confirmations**

The Customer confirms on the date it signs this Agreement that:

* 1. it has power to carry on its current business.
  2. this Agreement does not breach its constitution and it has taken all necessary action to authorise this Agreement.
  3. its most recent financial statements provided to the Bank were prepared in accordance with generally accepted accounting principles (**GAAP**), fairly represent its financial condition at the date they were prepared and there has been no material adverse change in its business or financial condition since that date.
  4. there is no actual or threatened litigation, dispute resolution, administrative proceeding or enforcement process, or any breach of an agreement, affecting it or any Subsidiary, which could have a material adverse effect on its business or financial condition or on its ability to perform this Agreement.

A **Subsidiary** is an entity controlled, directly or indirectly, by the Customer or by a Subsidiary of the Customer.

**Control** means the ability to appoint or remove directors or exercise the majority of voting rights alone or with the agreement of others.

* 1. The Customer confirms on the date it signs this Agreement, on the date on which the Loan is drawn down under this Agreement, and on each day that the Loan or any part of it is outstanding, that:
     1. the Loan will be, and is being, used for the purpose set out in clause 1.1.
     2. if the Loan is to be applied by the Customer in more than one instalment towards the purpose set out in clause 1.1, the Customer has procedures in place to enable it to track and monitor the amount of the proceeds of the Loan which have been drawn down and applied in accordance with clause 1.1 until such time as the proceeds of the Loan have been fully applied towards such purpose.
  2. The Customer confirms on each date it provides any documents, information and / or details to the Bank pursuant to clauses 12.4.2 and 12.4.3 below that all such documents, information and / or details are accurate, up to date and not misleading.

1. **Security**
   1. Security for the Loan is detailed in the Security Schedule.
   2. The Loan will also be secured by any further security held by the Bank for the Customer's liabilities.
   3. If any security is to be replaced, it will be released when the Bank is satisfied with the new security.
2. **Information Undertakings**
   1. The Customer will provide the following **Financial Information** within the specified number of days from the end of the period to which it relates:
      1. its annual financial statements, audited unless otherwise agreed by the Bank, within 270 days.
   2. The Customer will ensure that all Financial Information is prepared consistently and in accordance with GAAP and that any management accounts are in a form acceptable to the Bank.
   3. The Customer will immediately notify the Bank if an Event of Default occurs or if there is a material adverse change in its business or financial condition.
   4. The Customer will promptly provide:
      1. all documents and information required by the Bank to comply with its customer account opening and identity requirements.
      2. all documents and information required by the Bank in relation to the Asset and / or use of proceeds of the Loan, including, without limitation:
         1. to determine the status and / or ownership of the Asset.
         2. to determine whether the Loan has been used for the purpose set out in clause 1.1.
         3. relating to the Customer’s sustainability policies and procedures and the procedures which it has in place to enable it to track and monitor the allocation of the Loan proceeds to ensure that they are only applied towards the purpose set out in clause 1.1.
      3. details of any Material Change and, promptly following the occurrence of such Material Change, the Customer will facilitate, at the Bank’s request and on reasonable prior notice and at reasonable times, a meeting (which may be by telephone or video conference) between the Bank and the Customer to discuss such matters.

**Material Change** means, in relation to the Asset, a material change (whether favourable or adverse) in the business, operations or prospects of the Customer to the extent that they relate to the Asset, or a material change (whether favourable or adverse) in the condition (financial or otherwise) of the Asset.

Examples of a Material Change would include (but are not limited to) the damage, destruction or demolition of the Asset, ceasing to use the Asset in its intended manner, or uninstalling or modifying the Asset.

* + 1. details of any actual or threatened litigation, dispute resolution, administrative proceeding or enforcement process affecting it or any Subsidiary, which could have a material adverse effect on its business or financial condition or on its ability to perform this Agreement.
    2. all documents sent by the Customer to its shareholders and any further information regarding its business or financial condition as the Bank may reasonably request, including audited financial statements if not already provided.
    3. within 2 business days of filing a copy of any document filed at court initiating or applying for a moratorium in relation to the Customer.
    4. within 2 business days a copy of any court order made to bring a moratorium into force in relation to the Customer[, the Parent] or any [other] Subsidiary.

1. **General Undertakings**
   1. The Customer will:
      1. use the Loan only for the purpose stated.
      2. ensure that any precondition to drawdown, which the Bank agrees to defer until after drawdown, is satisfied within the period specified by the Bank.
   2. The Customer will, and will procure that any Subsidiary will, in relation to its business and assets:
      1. insure against the same risks as a similar business in a similar locality would normally insure, including, if requested by the Bank, terrorism cover.
      2. maintain or ensure the holding of all certificates, licences, registrations and authorisations required, and comply with all applicable laws and regulations.
   3. The Customer will not, and will procure that any Subsidiary will not, without the consent of the Bank:
      1. grant or allow to exist any security, other than arising by the operation of law in the ordinary course of business.
      2. dispose of:
         1. the Asset in whole or in part; or
         2. any other asset except any such other asset which is not subject to a fixed charge to the Bank and which is disposed of in the ordinary course of business.
      3. grant, vary, waive any term or accept a surrender of a lease or licence of any property charged to the Bank, or consent to a tenant assigning or sub-letting.
      4. undertake any borrowing from another source or any leasing arrangement or factoring or invoice discounting of debts or any other arrangements for obtaining finance.
      5. grant any guarantees.
      6. make any material change in the nature of its business.
      7. take or agree to take any action (and will take all reasonable steps to prevent the occurrence of anything) in relation to the Asset which would or is likely to result in a Material Change which, in the Bank’s reasonable opinion, would result in it no longer being appropriate to market or otherwise advertise the Loan as a green loan.
2. **Change of Circumstances**
   1. The Customer must pay to the Bank, within 7 days of notice, the amount certified by the Bank as an Increased Cost incurred by the Bank or its parent and attributable to this Agreement.

An **Increased Cost** is either a reduction in the rate of return on overall capital or an increase in cost, which results from any change in law or regulation or its application (excluding tax paid on overall net income).

* 1. The Bank may stop any further drawings and require repayment of the Loan, all interest accrued and all other sums payable by the Customer under this Agreement, if:
     1. control of the Customer changes without the consent of the Bank; or
     2. it is or becomes, in the determination of the Bank or any regulator of the Bank, unlawful under any law or regulation in any jurisdiction for the Bank to perform this Agreement or to continue to provide this Loan.

1. **Events of Default**
   1. If any Event of Default specified below occurs, then the Bank may demand immediate repayment of the Loan, all interest accrued and all other sums payable by the Customer under this Agreement, and/or stop the drawing of any undrawn part of the Loan:
      1. failure to pay any amount payable under this Agreement on its due date.
      2. failure by the Customer to use all of the proceeds of the Loan for the purpose set out in this Agreement, unless the failure can be and is remedied within 7 days of notice.
      3. failure by the Customer to comply with any other term of this Agreement or any security, unless the failure can be and is remedied within 7 days of notice.
      4. a guarantor or other grantor of security serves notice to discontinue that security, or fails to comply with any of its terms, unless the failure can be and is remedied within 7 days of notice.
      5. any confirmation given or information provided by or on behalf of the Customer, which the Bank considers material, proves inaccurate or misleading.
      6. a default by the Customer or any Subsidiary (including a failure to pay when due on demand) under:
         1. any liability to the Bank.
         2. any other borrowing or arrangement for obtaining finance with any other creditor.
      7. any procedure is used to attach or take possession of any asset of the Customer or any Subsidiary.
      8. any court order is made which adversely affects the whole or a material part of the assets of the Customer or any Subsidiary.
      9. the Customer or any Subsidiary proposes a Voluntary Arrangement with its creditors.
      10. there is any resolution or petition for liquidation, or insolvency proceedings are commenced, in relation to the Customer or any Subsidiary in any jurisdiction, except as part of a re-organisation agreed by the Bank.
      11. the Customer or any Subsidiary proposes a compromise or arrangement with its creditors or members or any class of them the purpose of which is to eliminate, reduce or prevent or mitigate the effect of financial difficulties.
      12. any security is enforced or a receiver or similar official is appointed in respect of any of the assets of the Customer or any Subsidiary.
      13. there is an administration application or notice is given to any person of intention to appoint an administrator, or an administrator or similar official is appointed, in relation to the Customer or any Subsidiary.
      14. there is a moratorium application or notice that the directors wish to obtain a moratorium is filed with the court or a monitor is appointed in relation to the Customer or any Subsidiary.
      15. there is a significant drop in the value of the Customer's business or any security.
      16. any other circumstances occur which cause the Bank to believe that the Customer's obligations to the Bank will not be met.
   2. Without affecting any of its rights following an Event of Default, the Bank may agree to accept regular or increased instalments or payments.
2. **Notices**
   1. All consents, notices and demands must be in writing.
   2. The Bank may deliver a notice or demand to the Customer at the contact details last known to the Bank, its registered office or an address for service advised to the Bank.
   3. A notice or demand by the Bank will be effective at the time of personal delivery; on the second business day after posting; or, if by fax, at the time of sending, if sent before 6.00 p.m. on a business day, or otherwise on the next business day.
   4. A notice from the Customer to the Bank must be addressed to the Customer's Relationship Manager and will be effective on receipt.
3. **Disclosure of Information and Transfers**
   1. The Bank may give to anyone any information about the Customer, this Agreement or any associated security in connection with any proposed transfer of, or financial arrangement by reference to, this Agreement. The Bank may allow any person to take over any of its rights and duties under this Agreement and any associated security. References to the **Bank** in this Agreement include its successors.
   2. The Customer will:
      1. not represent in any internal and / or external communication, marketing or publication, that the Loan has been classified as, and / or is, a green loan without the prior written consent of the Bank; and
      2. following;
         1. the occurrence of an Event of Default; and / or
         2. written confirmation from the Bank that the Bank has determined, in its sole discretion that, it is no longer appropriate to market or otherwise advertise the Loan as a green loan (including, without limitation, due to the Bank no longer considering the Asset to be an asset that ought to be considered eligible for a green loan),

immediately cease representing in any internal and / or external communication, marketing or publication, that the Loan has been classified as, and / or is, a green loan (unless otherwise agreed by the Bank in writing).

* 1. The Customer may not transfer the benefit of this Agreement.

1. **Non-waiver and Previous Agreements**
   1. If the Bank waives any of its rights under this Agreement, it does not mean the Bank will waive that right in future.
   2. No failure to exercise, nor any delay in exercising, on the part of the Bank, any right or remedy under this Agreement or any security shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise of any other right or remedy.
   3. This Agreement replaces all previous agreements in relation to the Loan.
2. **Making a complaint**
   1. If the Customer wishes to make a complaint, the Customer may contact the Bank. The Customer may be provided with more information about the Bank’s complaints procedure by requesting a leaflet, either by telephoning the Bank or visiting any branch.
   2. After following this procedure, the Customer may also have the right to refer the complaint to the Financial Ombudsman Service (if the Customer meets the relevant eligibility criteria). The Financial Ombudsman Service can be contacted at Exchange Tower, London E14 9SR, on 0800 023 4567, or via its website: financial-ombudsman.org.uk.
3. **Law**
   1. English law governs this Agreement and the English courts have exclusive jurisdiction.
   2. For the benefit of the Bank, the Customer irrevocably submits to the jurisdiction of the relevant courts and irrevocably agrees that a judgement or ruling in any proceedings in connection with this Agreement in those courts will be conclusive and binding on the Customer and may be enforced against the Customer in the courts of any other jurisdiction.
   3. If an address for service is advised to the Bank, it, or any other address provided for this purpose, will be an effective address for service of proceedings on the Customer.

Signed for the Bank

Date xx xxx xxxx

If you are unhappy with the terms of the Loan you should speak to your Manager. If you are still unhappy, you may be able to appeal to the Bank’s Business Hotline within 30 days of the final decision being notified to you, or until the Loan is used (whichever is soonest). Full details of how to appeal the conditions relating to your lending can be obtained at [[www.rbs.co.uk/lendingappeals](http://www.rbs.co.uk/lendingappeals) or by calling 0800 092 3087] [[www.natwest.com/lendingappeals](http://www.natwest.com/lendingappeals) or by calling 0800 158 5977].

Signed for the Customer in accordance with the authority held by the Bank

Date

This is the **Security Schedule** referred to in the Loan Agreement between the Customer and [The Royal Bank of Scotland plc / National Westminster Bank Plc]

**Customer:** x (registered number x)

|  |  |  |  |
| --- | --- | --- | --- |
| Security Type | Status | Granted By | Security Address/Description |
|  |  |  |  |
| e.g.  1. Guarantee  2. First Legal Charge | Held /New |  |  |
| *Supported by* |  |  |  |
|  | Held /New |  |  |

**Resolution re Loan Agreement**

**Extract** from the Minutes of a Meeting of the Directors of **x** (the **Company**)

"After due consideration of all the circumstances and on being satisfied that it is for the benefit of the Company and in the interests of the Company for the purpose of carrying on its business to enter into a loan agreement (the **Agreement**) in respect of a Loan of £x from [The Royal Bank of Scotland plc / National Westminster Bank Plc] (the **Bank**) in the form now produced **it was resolved** that \*                                                        be authorised to sign on behalf of the Company the Agreement and any other documents required by the Bank in connection with the Agreement."

**I certify** that this is a true extract from the Minutes of a Meeting of the Directors of the Company at which (all appropriate interests having been declared) a quorum entitled to vote was present duly held on the \*             day of and that a true copy of the Agreement has been retained by the Company.

**Secretary**

\* Please complete

1. Where installation costs are being included [↑](#footnote-ref-1)