|  |  |
| --- | --- |
|  **OR** | **LOAN** **AGREEMENT (12/24)** |

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

**DRAFTING NOTES FOR PROPERTY DEVELOPMENT LOAN:**

* **This is a Base Rate loan agreement for capital & interest repayments with dummy numbers and details that will need to be changed to meet the transaction specific details.**
* **Red text is optional / variable clause wording**
* **Blue text is tranche drawdown variable clause wording**
* **Orange text is lump sum repayment on sale of property wording**
* **Purple text is Sale of units at developed property wording**

**WARNING: IF YOU DO NOT MEET THE REPAYMENTS ON YOUR CREDIT FACILITY AGREEMENT, YOUR ACCOUNT WILL GO INTO ARREARS.  THIS MAY AFFECT YOUR CREDIT RATING, WHICH MAY LIMIT YOUR ABILITY TO ACCESS CREDIT IN THE FUTURE.**

**Customer:** [ ] (registered number [ ])

**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] **Development** of xxx (the **Property**) and to cover any interest applied to the Loan.
2. **Loan Details**

**Loan Amount:** £ .

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

**Repayment Date:** The date which is [60 months] after the [[first/last] part of the] Loan is drawn.

**Repayment Date:** The earlier of: (a) the date which is [60 months] after the [[first/last] part of the] Loan is drawn; and (b) the completion date of the sale of the last unit in relation to the Development.

**Arrangement Fee:** £x to be paid following the Bank's receipt of the signed Agreement, unless otherwise agreed.

**Cancellation Fee:** £x to be paid when any part of the Loan is cancelled, whether by the Bank or the Customer.

**Commitment Fee:** x% p.a. of any undrawn part of the Loan, to be paid [quarterly] in arrears.

**Exit Fee:** [An amount equivalent to 10% of the sum which represents the peak level of outstanding Loan during the term of this Agreement (the level of outstanding Loan being calculated at the close of business each day during the term) to be paid when the Loan is fully repaid.] OR [£x to be paid when the Loan is fully repaid.]

**Monitoring Fee:** £x to be paid when the first drawing is made and then [quarterly] until the Loan is fully repaid.

**Disposal Fee:** x% of the profit derived from the disposal of the Property, to be paid on the disposal of the Property.

**Site Visit Fee:** £x to be paid following each visit to the Property by the Bank.

**Drawings Fee:** £x to be paid at each drawing.

**Security Fee:** £x to be paid following the Bank's receipt of the signed Agreement, unless otherwise agreed.

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 (including any collateral warranties) and any related insurance.
		3. the lease of the Property.
		4. a valuation of the Property, addressed to the Bank by a valuer approved by the Bank (including any additional reports required by the valuer or the Bank in order to produce a satisfactory valuation).
		5. copies of all planning permissions, consents, warranties and certificates in respect of the work to be carried out on the Development.
		6. the building contract for the Development (incorporating step in rights acceptable to the Bank).
		7. confirmation that the builder employed for the Development is registered with NHBC or another similar body.
		8. the appointment of a Bank approved monitoring surveyor or quantity surveyor.
		9. the **Budget** and **Timetable** for the Development.
		10. the monitoring surveyor’s [signed and dated] initial report on the Development, and its contents.
		11. a solicitor's undertaking to send to the Bank the net disposal proceeds of the Property.
		12. the documents and information needed to comply with its account opening and customer identity requirements.
2. **Drawdown**
	1. The Loan will be drawn [in such amounts as may be agreed between the Bank and the Customer] OR [in amounts agreed by the Bank [and, other than for the acquisition of the Property,] [following its inspection of such certificates of a professional as the Bank requests] OR [following its inspection of any invoices (receipted if the Bank requires) that the Bank requests to inspect] OR [following inspection of its monitoring surveyors’ certificates]. 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 3 months from the date this Agreement is signed by the Bank, the Bank may decide not to provide the Loan.
	3. The Bank may cancel any part of the Loan which is not drawn by [date].
	4. 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.
	5. 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 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 the Repayment Date.
	2. If the Customer requests, the Bank may agree to extend the Repayment Date.
	3. If the application of interest would result in the balance of the Loan account exceeding the Loan Amount, the Customer will pay the excess on the day it is applied.

OR

* 1. The Customer will repay the Loan and interest by the Repayment Date.
	2. If any of the units at the Property are disposed of before the Repayment Date, the Customer will pay [the proceeds from the disposal of each unit, after payment of reasonable legal expenses] OR [xx% of the proceeds from the disposal of each unit] OR [£xx,xxx of the proceeds from the disposal of each unit] OR [*transaction specific arrangements to be detailed*] (the **Disposal Proceeds**) to the Bank in reduction of the Loan.
	3. If the Customer requests, the Bank may agree to extend the Repayment Date.
	4. If the application of interest would result in the balance of the Loan account exceeding the Loan Amount, the Customer will pay the excess on the day it is applied.
1. **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.
2. **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.
3. **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.
4. **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. **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 statutory financial statements within 270 days.
		2. its quarterly management accounts incorporating profit and loss account, balance sheet and cash flow statement within 30 days.
		3. with each set of annual statements, a certificate, in the form set out in the Financial Covenant Compliance Schedule, detailing the calculation of the Financial Covenants, and signed by a director or the secretary of the Customer.
	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 notify the Bank of any change in its financial year end or any change in GAAP or accounting practice which affects the preparation of the Financial Information. The Customer and the Bank will agree any amendments required to the Financial Covenants, so that they have the same effect as before the changes. The decision of the Bank will be final regarding:
		1. any amendments required to the Financial Covenants, if agreement is not reached within 30 days.
		2. any dispute over the calculation of the Financial Covenants.
	4. 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.
	5. 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. 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 [or the Parent].
		3. 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.
		4. 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.
		5. 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. **Financial Covenants**
	1. The following **Financial Covenants** apply and will be calculated using the Customer's Financial Information:
		1. **Interest Cover**: EBITA to Borrowing Costs for each financial year must be at least **10.00 to 1**.
		2. **Interest Cover**: EBITA plus operating lease charges to Borrowing Costs plus operating lease charges for each financial year must be at least **10.00 to 1**.
		3. **Debt Servicing**: Net Cash Flow to Debt Service Liability for each financial year must be at least **10.00 to 1**.
		4. **Debt Servicing**: CFADS to Debt Service Liability for each financial year must be at least **10.00 to 1**.
		5. **Debt Servicing**: EBITDA to Debt Service Liability for each financial year must be at least **10.00 to 1**.
		6. **Debt Servicing**: Adjusted EBITDA to Debt Service Liability for each financial year must be at least **10.00 to 1**.
		7. **Minimum EBITDA**: EBITDA for each financial year must be at least **£100**.
		8. **Gross Leverage**: Gross Borrowings to EBITDA for each financial year must not exceed **10.00 to 1**.
		9. **Net Leverage**: Net Borrowings to EBITDA for each financial year must not exceed **10.00 to 1**.
		10. **Net Tangible Assets**: Net Tangible Assets on the last day of each financial year must be at least **£100**.
		11. **Gearing**: Gross Borrowings must not exceed **10%** of Net Tangible Assets on the last day of each financial year.
		12. **Dividends**: Dividends payable must not exceed **10%** of Earnings in each financial year, without the consent of the Bank.
		13. **Dividends**: Dividends payable in each financial year must not exceed **£100**, without the consent of the Bank.
		14. **Capital Expenditure**: Capital Expenditure in each financial year must not exceed **£100**, without the consent of the Bank.
	2. The following definitions apply to the Financial Covenants:

**Adjusted** **EBITDA**: EBITDA less Dividends, Directors' Remuneration and all repayments on loans from directors.

**Borrowing Costs**: interest and costs (accrued, payable or capitalised) to service Gross Borrowings including the effect of amounts payable and receivable under interest rate hedging related to Gross Borrowings.

**Borrowing Costs Paid**: interest and costs (paid, due to be paid or capitalised) to service Gross Borrowings including the effect of amounts paid and received under interest rate hedging related to Gross Borrowings.

**Capital Expenditure**: expenditure on the purchase of fixed assets, including amounts funded by hire purchase or finance leases.

**CFADS**: Net Cash Flow less Net Capital Expenditure.

**Debt Service Liability**: Borrowing Costs Paid plus scheduled repayments of Gross Borrowings.

**Directors'** **Remuneration**: Amounts paid to directors by way of salary, fees, pension contributions, bonus contributions and any other similar reward payments.

**Dividends**: dividends on the Customer's share capital (other than on redeemable shares).

**Earnings**: profit on ordinary activities after tax and extraordinary items.

**EBITA**: profit/loss on ordinary activities before tax but after adding back:

* Borrowing Costs
* amortisation,

and after deducting:

* investment income
* interest receivable and other similar income.

**EBITDA**: EBITA after adding back depreciation and exceptional non-cash losses and deducting exceptional non-cash gains.

**Gross Borrowings**: borrowings including:

* bonds, notes, loan stock and debentures
* redeemable shares
* obligations under finance leases
* factoring and invoice discounting
* other obligations with the commercial effect of borrowing.

**Net Borrowings**: Gross Borrowings less cash at bank and in hand.

**Net** **Capital** **Expenditure**: total expenditure on the purchase of fixed assets less funding raised specifically for their purchase.

**Net Cash Flow**: net cash flow from operating activities less tax and Dividends paid.

**Net Tangible Assets**: issued share capital and reserves attributable to equity holders of the Customer less:

* intangible assets
* any increase in the revaluation reserve after 30 June 2017, except any revaluation agreed by the Bank.
1. **Property Covenants**
	1. The following **Property Covenants** apply:
		1. **Loan** **to Gross Development Value:** the Loan must not exceed **10%** of Gross Development Value on each Valuation Date.
		2. **Loan** **to Development Costs:** the Loan plus the Remaining Development Costs plus any Disposal Proceeds used in reduction of the Loan must not exceed **10%** of the Original Development Costs on each Costings Date.
	2. The following definitions apply:

**Costings Date:** the date on which the Budget is provided to the Bank.

**Gross Development Value:** the projected market value of the Property on completion evidenced by the most recent valuation addressed to the Bank, from a valuer acceptable to the Bank.

**Original Development Costs:** the projected costs of undertaking the Development as set out in the Budget provided to the Bank prior to the drawdown of the Loan.

**Remaining Development Costs:** the projected remaining costs for completing the Development as evidenced by the most recent Budget provided to the Bank.

**Valuation Date:** the date on which a valuation of the Property is delivered to the Bank.

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.
		3. ensure that the Development has the benefit of building warranty and insurance cover from a provider acceptable to the Bank.
		4. provide all information which the monitoring surveyors require to meet their responsibilities to the Bank.
		5. allow the Bank or its monitoring surveyors to make regular inspections of the Property.
		6. complete the Development in accordance with the plan for the Development, Budget and Timetable and not exceed the Budget without the Bank's prior written agreement. If required by the Bank, the Customer will demonstrate that it can meet any excess expenditure from its own resources and not from further borrowing and will deliver to the Bank a revised Budget and Timetable for approval by the Bank.
		7. pay for a valuation of the properties charged to the Bank, as required by the Bank, at any time.

OR
pay for a valuation of the properties charged to the Bank, as required by the Bank, but not more often than [x] for each property [in any calendar year / in any [x] year period / within [x years] since the previous valuation], and at any time following an Event of Default.

* + 1. [transaction specifics to be obtained from the credit report and/or terms sheet].[[1]](#footnote-1)
	1. 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. [transaction specifics to be obtained from the credit report and/or terms sheet].
	2. 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 any asset except an 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. [transaction specifics to be obtained from the credit report and/or terms sheet].
1. **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. a breach of a Financial Covenant.
		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.
		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. a breach of a Property Covenant.
		17. there is a material breach of any contract entered into between the Customer and any contractor or professional employed by the Customer in the Development.
		18. the Property is materially damaged or destroyed (other than where such damage or destruction is specifically contemplated by the plan for the Development previously agreed by the Bank).
		19. 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 or on the second business day after posting.
	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. If the Customer misses any payments, this could have severe consequences for the Customer’s finances. It would probably make obtaining further credit more difficult as the Bank may report any missed payments to credit reference agencies. This would harm the Customer’s credit rating, which most lenders will consider when assessing any borrowing application.
	3. The Customer may not transfer the benefit of this Agreement.
4. **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. This Agreement replaces all previous agreements in relation to the Loan.
5. **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.
6. **Law**
	1. [English/Scots] law governs this Agreement and the [English/Scottish] 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

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].

For more information about how we use your personal information, the types of information we collect and process and the purposes for which we process personal information, please read our full privacy notice provided on our website at [[www.natwest.com/privacy](http://www.natwest.com/privacy)] [www.rbs.co.uk/privacy].

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

Date

**Document Reference: [ ]**

This is the **Financial Covenant Compliance Schedule** referred to in the Loan Agreement between the Customer and The Royal Bank of Scotland plc / National Westminster Bank Plc

**Covenant Compliance Certificate**

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

From: [ ]**(registered number [ ])**

Dated: ⦁

To Whom it may Concern

**Re:** Loan Agreement dated ⦁                                                              between us and the Bank ("the Agreement").

We refer to the Agreement above. Terms defined in the Agreement have the same meaning when used in this certificate, unless given a different meaning in this certificate.

**Covenant compliance**

With reference to the \*[annual financial statements] \*[management accounts] of the Customer for the \*[financial year] \*[month] \*[quarter] \*[half year] ended ⦁                                                        , we confirm that:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Covenant** | **Period** | **Target** | **Actual** | **Compliant/Non compliant** |
| Interest Cover EBITA to Borrowing Costs | ⦁to⦁ | Not less than [ ] to 1 | ⦁ | \*Y/N |
| Interest Cover EBITA plus operating lease charges to Borrowing Costs plus operating lease charges | ⦁to⦁ | Not less than [ ] to 1 | ⦁ | \*Y/N |
| Debt Servicing (Cash Flow Based) | ⦁to⦁ | Not less than [ ] to 1 | ⦁ | \*Y/N |
| Debt Servicing (CFADS Based) | ⦁to⦁ | Not less than [ ] to 1 | ⦁ | \*Y/N |
| Debt Servicing (EBITDA Based) | ⦁to⦁ | Not less than [ ] to 1 | ⦁ | \*Y/N |
| Debt Servicing (Adjusted EBITDA) | ⦁to⦁ | Not less than [ ] to 1 | ⦁ | \*Y/N |
| Minimum EBITDA | ⦁to⦁ | Not less than £[ ] | ⦁ | \*Y/N |
| Gross Leverage | ⦁to⦁ | Not more than [ ] to 1 | ⦁ | \*Y/N |
| Net Leverage | ⦁to⦁ | Not more than [ ] to 1 | ⦁ | \*Y/N |
| Net Tangible Assets | ⦁to⦁ | Not less than £[ ] | ⦁ | \*Y/N |
| Gearing | ⦁to⦁ | Not more than [ ]% of Net Tangible Assets | ⦁ | \*Y/N |
| Dividend Restriction (percentage of Earnings) | ⦁to⦁ | Not more than [ ]% of Earnings | ⦁ | \*Y/N |
| Dividend Restriction (fixed amount) | ⦁to⦁ | Not more than £[ ] | ⦁ | \*Y/N |
| Capital Expenditure | ⦁to⦁ | Not more than £[ ] | ⦁ | \*Y/N |

We enclose computations and supporting Financial Information in support for each of the calculations above.

We confirm that no Event of Default is continuing.

[*If this statement cannot be made, the certificate should identify any Event of Default that is continuing and the steps, if any, being taken to remedy it.*]

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

\* Delete as appropriate

⦁ Insert required information as appropriate

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:** [ ] (registered number [ ])

|  |  |  |  |
| --- | --- | --- | --- |
| Security Type | Status | Granted By | Security Address/Description |
|  |  |  |  |
| e.g. 1. Guarantee2. First Legal Charge | Held /New |  |  |
| *Supported by* |  |  |  |
|  | Held /New |  |  |

**Resolution re Loan Agreement**

**Extract** from the Minutes of a Meeting of the Directors of **[ ]** (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 £ 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**

1. 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 \*\*           and that a true copy of the Agreement has been retained by the Company.
2. there are no limitations on the powers of the Company constitution or otherwise to grant this Resolution.

**Signature of Chairperson \*\*\* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Date: \*\*\*\* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

\* Please insert the full name of the person authorised at the Meeting by the Directors of the Company to sign the Agreement

\*\* Insert the date of the Meeting of the Directors of the Company (Please include the date, month and year)

\*\*\* The Chairperson of the Meeting of the Directors of the Company at which the Resolution was passed should sign here. The Chairperson of the Meeting **must** be an active listed Director of the Company on Companies House at the date of signing this certification

\*\*\*\* Insert the date this Resolution Re Loan Agreement was signed by the Chairperson which should be on or after the date the Meeting was held

1. If you are unclear on any transaction specific requirements after reviewing the credit papers and any terms sheet, please contact the instructing office for further clarification [↑](#footnote-ref-1)