

## LOAN AGREEMENT

Dated \_\_\_\_\_ Day of \_\_\_\_\_ 2017

## 1.0 PARTIES

**1.1** **STEPHEN JOHN HOWELLS** of Brynna Mill, Brynna, Pontyclun Mid Glamorgan CF72 9QP and **STEVEN DICKS** of Oakland House Tondy, Bridgend, Mid Glamorgan, CF32 0EH as Trustees of the **MILLSTONE EXECUTIVE PENSION** ("the Trustees"); and

**1.2 Millstone Construction (Wales) Limited** (Co Reg No 04774361) of Brynna Mill, Brynna, Pontyclun Mid Glamorgan CF72 9QP ("**the Borrower**")

## 2.0 RECITALS

2.1 The Scheme (acting by the Trustees) has at the request of the Borrower agreed to make the Loan to the Borrower for the Term.

2.2 The Borrower has agreed to accept the Loan, to repay the Capital of the Loan and pay the Interest in accordance with the provisions of this Agreement.

2.3 The Borrower has agreed to provide security for the Loan by way of a Debenture of even date.

### 3.0 DEFINITIONS

3.1 **"Effective Date"** means 2017 being the date monies provided under the Loan are first drawn down by the Borrower.

3.2 **"Scheme"** means the Millstone Executive Pension (of which the Trustees are the trustees).

3.3 **"Loan"** means the sum of £100,000.00 (Three Hundred Thousand Pounds).

3.4 **"Loan Purpose"** means for the general business use of the Borrower.

3.5 **"Interest"** means 4.5% per annum fixed for the duration of the Term (equating to a repayment of capital and interest of £5,611.00 per quarter).

3.6 **"Term"** means a period of 5 years commencing on the Effective Date of this Agreement and expiring at 6.00 p.m. on 2022.

3.7 **"Capital Repayment"** means a payment of the Loan principal due on the expiry of the Term.

3.8 **“Business Day”** means a day on which clearing banks are open for business in London (other than a Saturday or Sunday and other than Bank Holidays).

3.9 In this Agreement wherever the context permits words importing the masculine gender shall include the feminine and neuter genders and words importing the singular shall include the plural and in both cases vice versa and any agreement on the part of two or more persons shall be deemed to be made by such persons jointly

and severally and the terms used herein for the parties hereto shall mean and include their respective successors in title.

#### **4.0 OPERATIVE PROVISIONS**

4.1 In consideration of the Scheme agreeing to make the Loan to the Borrower, the Borrower agrees as follows:

4.1.1 The Loan will at all times be used for the Loan Purpose and consistently with the purpose or purposes permitted by the Memorandum and Articles of Association of the Borrower in the event that the Borrower is a company.

4.1.2 To pay Interest and capital to the Scheme each quarter of the Term on the usual quarter dates in the sum of £5,611.00.

4.1.3 To pay the Capital Repayment to the Scheme.

4.1.4 Notwithstanding the other provisions hereof and in any event to repay the Loan and any accrued Interest by not later than the last day of the Term provided that notwithstanding the foregoing the Trustees shall always have the right to demand repayment in full by the Borrower of the balance of the Loan for the time being and any accrued Interest upon the Trustees giving the Borrower seven days' notice in writing of such demand.

4.1.5 That so long as the Loan (or any part thereof) or any Interest remains outstanding, the Borrower will not, without the prior written consent of the Trustees and upon fully satisfying the Trustees as to the precise nature of the transaction and supplying copies of the documentation in connection with the transaction whether in draft or not, other than in the normal course of the Borrower's business (i) acquire, whether by purchase, subscription or otherwise or (ii) sell, transfer, lease, exchange or otherwise dispose of or (iii) mortgage, charge or pledge, any property or assets, whether real or personal (including cash), or (iv) enter into any hire purchase or leasing agreement, and the Borrower agrees that if any such transaction is entered into in the normal course of its business then it will supply details and copies of all documentation relating to the transaction within seven days of the Borrower concluding the same.

4.1.6 To reimburse the Scheme on demand all costs expenses and disbursements including legal fees incurred by the Scheme incidental to this Agreement.

4.2 The Borrower further agrees with the Trustees that so long as any part of the Loan and Interest is outstanding the Borrower shall:

4.2.1 Carry on its business in an efficient and businesslike manner,

4.2.2 Not (save with the written consent of the Trustees, which shall not be unreasonably withheld), sell or otherwise dispose of the whole or a substantial part of its assets,

4.2.3 Provide to the Trustees any documents requested in evidence of the continuation of its trading activity.

#### **5.0 TERMINATION**

5.1 If the Borrower shall be in breach of any of the provisions of this Agreement the Trustees may require repayment of the Loan and accrued Interest forthwith. No failure to exercise, nor any delay on the part of the Trustees in exercising, any rights or powers or privileges hereunder shall operate as a waiver thereof nor shall any single

nor partial exercise of any such rights or powers or privileges preclude any other or further exercise thereof or the exercise of any other rights or powers or privileges.

- 5.2 Notwithstanding anything hereinbefore contained the Loan, or the balance of the Loan for the time being outstanding, and accrued Interest and the monies due thereon shall become immediately repayable if:
- 5.2.1 the Borrower makes default in the payment of any Capital Repayment or Interest or any other monies due hereunder,
  - 5.2.2 an order is made or an effective resolution is passed for winding up the Borrower,
  - 5.2.3 the Borrower ceases or threatens to cease to carry on its business or substantially the whole of its business,
  - 5.2.4 an encumbrancer takes possession of, or a Receiver is appointed over, any part of the assets of the Borrower,
  - 5.2.5 any distress, execution, sequestration or other process is levied or enforced upon or issued against the property of the Borrower and not discharged within 28 days,
  - 5.2.6 the Borrower is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 (as re-enacted or amended),
  - 5.2.7 the Borrower commits any breach of this Agreement,
  - 5.2.8 it is required to enable the Trustees to pay benefits which have already become due under the Scheme.

## 6.0 **GENERAL PROVISIONS**

- 6.1 All payments by the Borrower to the Scheme shall be made free and clear of and without deduction of any alleged or actual set-off or counterclaim and without any deduction of any taxes, levies, imposts, duties, charges, fees, deductions or withholding of any nature now or hereafter imposed by any governmental authority in any jurisdiction or political subdivision or taxing authority thereof or therein unless the Borrower is compelled by law to deduct or withhold any such taxes levies imposts duties charges or fees.
- 6.2 The Borrower shall have the right at any time on giving 14 days' notice in writing to the Trustees to make either partial Capital Repayments of the Loan or to repay the Loan in full together with all accrued Interest.
- 6.3 Any notice required to be served hereunder shall be given personally or by sending the same by first class post to the respective registered offices for the time being of the Borrower or the Trustees (as the circumstances require) and notice so given by post as aforesaid shall be deemed served 48 hours after it has been posted.
- 6.4 The Borrower undertakes with the Trustees to notify the Trustees forthwith in writing of any matter which constitutes (or which, with the passage of time, would constitute) a default under this Agreement (or otherwise entitle the Trustees to demand repayment of the Loan).
- 6.5 Save for the purposes of compliance with statutory and legal obligations, the parties agree to keep the contents of this Agreement confidential and shall not disclose the

contents thereof, without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed.

- 6.7 A person who is not a party to this letter shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 6.8 This Agreement and all matters arising from it shall be governed by and construed in accordance with English law and each party irrevocably submits to the exclusive jurisdiction of the English courts.
- 6.9 This Agreement contains the entire Agreement between the parties hereto concerning the Confidential Information and supersedes any previous understandings commitments or agreements oral or written, provided that nothing in this clause shall be construed as limiting or excluding the parties' liability for fraud or fraudulent concealment.
- 6.10 This Agreement contains the entire Agreement between the parties hereto concerning the subject matter of the Agreement and supersedes any previous understandings commitments or agreements oral or written, provided that nothing in this clause shall be construed as limiting or excluding the parties' liability for fraud or fraudulent concealment.
- 7.0 **LIMITATION OF LIABILITY**
- 7.1 The liability of the Millstone Executive Pension shall be limited to the net assets of the scheme.

EXECUTED AS A DEED BY  
**STEPHEN JOHN HOWELLS**  
Acting as Trustee for the  
**Millstone Executive Pension**  
In the presence of:-

Witness signature

\_\_\_\_\_

Witness name

\_\_\_\_\_

Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Occupation

\_\_\_\_\_

EXECUTED AS A DEED BY  
**STEVEN DICKS**  
As Trustee for the  
**Millstone Executive Pension**

\_\_\_\_\_

In the presence of:-

Witness signature

\_\_\_\_\_

Witness name

\_\_\_\_\_

Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Occupation

\_\_\_\_\_

EXECUTED AS A DEED BY  
**MILLSTONE CONSTRUCTION**  
**(WALES) LIMITED**

\_\_\_\_\_

Acting by a Director

In the presence of:-

Witness signature

\_\_\_\_\_

Witness name

\_\_\_\_\_

Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Occupation

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