

T:
E: 38(1)b
www.scottish-enterprise.com/rsa



38(1)b
Denfind Stone Limited
Denfind Farm
Monikie
Dundee
Scotland
DD5 3PZ

Our ref: 33(1)b
4 November 2015

Dear

REGIONAL SELECTIVE ASSISTANCE

1.- (1) Scottish Enterprise (referred to in this letter as "SE"), in exercise of its powers under Section 8 of the Enterprise and New Towns (Scotland) Act 1990, offers to give Denfind Stone Limited, company registration number SC268906 ("the company") a grant of up to SEVENTY THOUSAND POUNDS STERLING (£70,000) as assistance in -

(a)

33(1)b

(b)

(c)

as more fully described in Schedule 1 to this letter ("the project") at Denfind Farm, Monikie, Dundee, Scotland, DD5 3PZ ("the premises").

(2) This offer of Regional Selective Assistance is made under the Scottish Enterprise Regional and SME Investment Aid Scheme 2014 - 2020. The scheme operates under Articles 14 - 20 and 56 of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the common market in application of Articles 107 and 108 of the Treaty (General Block Exemption Regulation) as published in the Official Journal of the European Union (26 June 2014 – L187/1). The legal basis for the scheme is the European Communities Act 1972 and the Enterprise and New Towns (Scotland) Act 1990, as amended. The full text of the scheme is available at www.scottish-enterprise.com.

(3) This offer of grant is subject to the terms and conditions of this letter and the 3 Schedules to it.

(4) If, within one year from the date of this offer, the company has not submitted its claim for the First instalment of grant which meets the terms and conditions in this offer letter and the Schedules to it, SE may terminate the agreement constituted by this offer and the acceptance of it.

(5) The agreement constituted by this offer and the acceptance of it will have effect as a contract between SE and the company.

Conditions

2.-(1) Before SE pays the First instalment of grant, the company must produce written evidence of

33(1)b

33(1)b

(2) Before SE pays the First and Final instalments of grant, the company shall provide evidence to SE's satisfaction on

33(1)b

33(1)b

Payment of grant

3. Subject to the company complying with the terms and conditions in this offer letter and the Schedules to it, the grant¹ will be paid in instalments as follows -

First instalment	When the company -	Grant £45,000
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33(1)b

Second instalment	When the company -	£15,000
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33(1)b

¹Note - the grant is taxable

Final instalment	At least 6 months after the date of payment of the Second instalment, when –	£10,000
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33(1)b

- (d) the project has been completed; and
- (e) SE is satisfied with the results of the project.

No obligation to pay date

4. 33(1)b
33(1)b

How to claim

5. For each instalment of grant a claim must be made as set out in Schedule 2.

Variation, withholding and repayment of grant

6. Schedule 3 to this offer letter sets out the circumstances in which SE may vary or withhold any or all of the payments of grant or require repayment of part or all of the grant. If any of the circumstances set out in Schedule 3 occurs or are likely to occur, the company must tell SE immediately.

Publicity

7. After the company has accepted the grant offer, SE will publish details of the project in a regular report on awards of RSA, including the amount of grant offered, the planned number of jobs to be created and/or safeguarded, the location and a brief description of the project. SE's normal practice will be to consult with the company where publicity additional to this report is envisaged. SE however reserves the right to disclose information related to grant paid, withheld and/or recovered, without consulting the company, on grounds of public accountability.

8. It is a condition of this offer of grant that where the company plans publicity to announce the project, SE has the option of including in that a reference to the support offered through RSA funding. "Publicity" for these purposes includes formal and informal announcements, press and journal articles, press releases, media interviews, official launches and openings.

Exchange and disclosure of information

9. In order to more effectively co-operate in furthering the economic development of Scotland, SE and the Scottish Government will be entitled, again of course subject always to the provisions of any relevant legislation, to share information in relation to the project.

The European Commission

10. Occasionally the European Commission queries an offer, in which case SE is required to give it information about the case. In such circumstances, the company shall co-operate with SE in the provision of such information.

Monitoring of the project

11. From time to time SE may inspect the project and may require information from the company to enable SE to monitor the project's progress.

12. SE has the right to require a report 18 months after the date of payment of the Final instalment of grant and a further report 3 years after date of payment of the Final instalment of grant, to check that the terms and conditions of this letter and the Schedules to it have been maintained. SE has the right to require this report to be confirmed by an accountant who fulfils the requirements set out in paragraph 2(a) of Schedule 2. The company shall provide any reports required by SE in writing as soon as reasonably practicable after having been required to provide it, and in any event by such date as SE may reasonably require.

How to accept

13. This offer remains open until ^{33(1)b} An executive director of the company or the company secretary must sign and date the acceptance and return the whole document to SE and should keep a copy.

Agreement

14. The agreement constituted by this offer and the acceptance of it will have effect as a contract between SE and the company. Variations to this offer will be effective only if SE agrees to them in writing.

Governing Law

15. The validity and interpretation of this offer shall be subject to the law of Scotland and the Scottish Courts shall have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this offer without prejudice to the entitlement on the part of SE to raise any proceedings in the jurisdiction of the country in which the company is located.

Invalidity/Severability

16. If any provision of this offer is or becomes illegal or invalid, it shall not affect the legality and validity of the other provisions. The parties shall in good faith amend this offer to reflect as nearly as possible the spirit and intention behind the illegal or invalid provision to the extent that such spirit and intention is consistent with the applicable laws and so that the amended clause complies with the applicable laws.

General Conditions

17. Any failure by SE to seek redress for failure by the company to adhere to the terms and conditions or to insist on strict performance, of any terms, conditions or provisions of this offer, or the failure or delay of SE to exercise any right or remedy to which it is entitled in terms of this offer shall not constitute a waiver thereof.

Assignment

18. The company shall not assign its rights or obligations under this offer to any other party.

Yours sincerely

38(1)b

For and on behalf of Scottish Enterprise

..... (Witness Signature)

..... (Witness Full Name)

Atrium Court, 50 Waterloo Street, (Witness Address)
Glasgow, G2 6HQ

Acceptance

Denfind Stone Limited accepts the offer of grant on the terms and conditions set out in SE's letter above and in the 3 Schedules to it.

Signed Date

Print name

Director/Company Secretary
On behalf of Denfind Stone Limited

..... (Witness Signature)

..... (Witness Full Name)

..... (Witness Address)

.....

This is Schedule 1 referred to in the foregoing offer made by Scottish Enterprise to Denfind Stone Limited dated 4 November 2015

SCHEDULE 1

PROJECT

33(1)b

Project Description

1.

33(1)b

33(1)b

33(1)b

2.- (1) Expenditure on the assets is listed in the table below. The expenditure is expected to be completed by

33(1)b

The assets	Total £'000
33(1)b	33(1)b
Total	33(1)b

(2) References to amounts of money in this offer letter are to amounts exclusive of VAT.

(3) For the purposes of this offer, in paragraph 3 and throughout the letter, "spent" means:-

(a) subject to sub paragraph (b) below that liabilities must have been both incurred and discharged by payment; liabilities incurred but not yet discharged by payment cannot be the subject of a claim;

(b)

33(1)b

(4) No instalment of grant shall be paid which would result at any one time in the total payments made under this offer of grant exceeding the sum of:-

(a)

33(1)b

(b)

33(1)b

33(1)b **Target**

3.- (1) The number of permanent full-time jobs

(a)

(b)

33(1)b

(c)

The 33(1)b Target is expected to be completed by 33(1)b

(2) For the purposes of this offer the 33(1)b
33(1)b as set out in paragraph 3.-(1) (b) above.

(3) For the purposes of this offer 33(1)b is one:-

(a)

(b)

33(1)b

(4) For the purposes of sub-paragraph (3) above:-

(a)

(b)

33(1)b

This is Schedule 2 referred to in the foregoing offer made by Scottish Enterprise to Denfind Stone Limited dated 4 November 2015

SCHEDULE 2

HOW TO CLAIM INSTALMENTS OF REGIONAL SELECTIVE ASSISTANCE

Claim form

1. Make claims for each instalment of grant on the claim form which will be supplied to you on request. The claim form contains advice and guidance about the information which needs to be supplied in support of a claim and should be read carefully.

Papers to accompany claim form

2. Along with each claim form send:-

- (a) A report on the completed claim by an accountant, subject to 2(c) below, who is independent of the company; and
 - (i) is eligible under section 1212 of the Companies Act 2006 for appointment as a company auditor or
 - (ii) for companies which are not quoted on the Stock Exchange of Great Britain or elsewhere, is eligible under section 1222 of that Act,

on the accountant's headed paper, in the form set out in paragraph 3 below; and

- (b) the other papers asked for in the claim form.
- (c) A report by the independent accountant is required:
 - (i) for all claims in respect of offers above £100,000;
 - (ii) for interim claims of more than £50,000 in respect of offers up to £100,000;
 - (iii) for all final claims, but also including first and final claims irrespective of the size of the offer;
 - (iv) if otherwise required by paragraph 2 of this letter, or if asked for by SE at any time.
- (d) The latest audited, (if appropriate), financial accounts of the business should be submitted with each claim form except:
 - (i) if a claim is made within 6 months from the date of the offer, regardless of size;
 - (ii) if a claim is made within 12 months from the date of the offer and the cumulative amount of the claims to date does not exceed £100,000; and

- (iii) if a claim is made within 18 months from the date of the offer and the cumulative amount of the claims to date does not exceed £50,000.

Accountant’s report

3. The accountant’s report must be in the following form: -

“[Date]

1. I/We have examined the enclosed claim from [name of company], company registration number [number].

2. I/We have also examined the records of [name of company] and have obtained the explanations and carried out the tests which I/we consider necessary.

3. In my/our opinion subject to any reservations set out in my/our accompanying letter of [date], the claim for payment meets the terms and conditions of the offer letter of [date] and its Schedules by Scottish Enterprise to [name of company].

4. [Name of company] has:-

(a) during the period from ²[date] to [date] spent, as defined in Schedule 1 of the offer letter, £[amount] (excluding VAT) on the fixed assets for the project in accordance with that offer letter and the Schedules to it, of which -

(i) the actual amount spent 33(1)b
33(1)b

(ii) the actual amount spent by way of 33(1)b
33(1)b

(iii) the amount not yet spent by way 33(1)b
33(1)b

(b) during the period from ²[date] to [date] 33(1)b
33(1)b

(c) at the last mentioned date in sub paragraph (b) [number] 33(1)b
33(1)b at the premises;

(d) met all other requirements set out in the description of the project; and

(e) maintained adequate records to enable me/us to report on this claim.

²Note – each report must cover the period from the start of the project until the date of the claim 33(1)b
33(1)b which were the subject of any interim claim(s).

³Note – 33(1)b is not eligible for the project.

5. Name for enquiries: [name]”.

SCHEDULE 3

VARIATION, WITHHOLDING AND REPAYMENT OF GRANT

1. SE may at any time, both prior to and after any or all of the grant has been paid, vary or withhold any or all of the payments of grant or require repayment of part or all of the grant paid to the company if at any time until the Final instalment of grant has been paid:-

- (i) the company has 33(1)b
33(1)b
- (ii) the arrangements for financing the project are changed from those on which this offer of grant is based;
- (iii) assistance for the project, in addition to the funding on which this offer of grant is based, is received or promised from an institution of the European Commission, a government department, a local authority, Highland and Islands Enterprise, any other partly or wholly publicly financed body or a charitable fund;
- (iv) there is any change in the 33(1)b
33(1)b
- (v) in SE's opinion, progress on the project is not satisfactory; or
- (vi) in SE's opinion, the future of the project is in jeopardy.

2. SE may at any time, both prior to and after any or all of the grant has been paid:-

- (i) vary or withhold any or all of the payments of grant or require repayment of part or all of the grant paid to the company if at any time until the Final instalment of grant has been paid, progress to reach 33(1)b in SE's opinion, is not satisfactory; and
- (ii) require repayment of grant paid if at any time during the 18 months immediately following the date of payment of the Final instalment of grant 33(1)b
33(1)b

3. SE may at any time, both prior to and after any or all of the grant has been paid, vary or withhold any or all of the payments or require repayment of part or all of the grant already paid to the company if any of the following occur prior to the date falling 3 years immediately following the date of payment of the Final instalment of grant:-

- (i) the conditions mentioned in paragraph 2 of this offer letter are not maintained;
- (ii) the company
 - (a) becomes insolvent or makes any arrangement with its creditors, or is liquidated or wound up;
 - (b) takes or suffers any steps preparatory to the liquidation or winding up of the company or to the appointment of an administrator, liquidator or receiver; or
 - (c) commits or suffers any act equivalent to any of the foregoing;
- (iii) there is any change of ownership or control of the company;
- (iv) the company ceases to own or use for the purposes of the project:-
 - (a) part or all of the premises at which the jobs described in Schedule 1 are to be created; or
 - (b) any of the assets described in Schedule 1; or
- (v) the company fails to comply with any terms and conditions of this offer letter or its Schedules.

4. If the company, for any reason whatsoever, has not made a claim for the Final instalment of the grant by the date specified in paragraph 4 of this offer letter (no obligation to pay date), the company shall submit an accountant's report if so requested by SE. The accountant's report must be in the form given at paragraph 3 of Schedule 2 to this offer letter. SE may require part or all of the grant to be repaid if the accountant's report is not provided within 8 weeks of SE making a request for it or if, in SE's opinion, the outcome of the project is not satisfactory.

5. SE may at any time, both prior to and after any or all of the grant has been paid, vary or withhold any or all of the payments of grant or require repayment of part or all of the grant paid together with interest, if SE is required to do so as a result of a decision by the European Commission.

6. SE may at any time vary or withhold any or all of the payments or require repayment of part or all of the grant already paid to the company if, in the opinion of SE, any information given to SE by or on behalf of the company, read as a whole, is false or misleading in any material respect, whether such information is provided prior to or after any payment of the grant is made.

7. Where SE requires repayment of part or all of the grant with interest, interest shall accrue on a day to day basis at an annual rate equal to 4 percentage points above the base rate of the Royal Bank of Scotland from the date of the first demand to the date on which payment is made. Where SE requires repayment of part or all of the grant in accordance with any of the provisions of this Schedule, the company shall pay the amount required within 30 days of the date of SE's invoice.

8. If SE withholds any or all of the payments of the grant in accordance with any of the provisions of this Schedule, it shall be under no obligation to pay the grant, or the remaining balance or instalment of it, to the company and the company shall be deemed to have forfeited all claims and rights to same, or arising out of or in connection with same.

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38(1)b
Denfind Stone Limited
Denfind Farm
Monikie
Dundee
Scotland
DD5 3PZ

Our ref: 33(1)b
4 November 2015

Dear

OFFER OF REGIONAL SELECTIVE ASSISTANCE

I enclose our formal offer of Regional Selective Assistance for your acceptance and I should be grateful if you would acknowledge its receipt. It is important that you read it most carefully and sign it only if you are content. It is also important that you notify me, before accepting the offer, if there have been any fundamental changes to the project since you agreed the level of assistance, the triggers for releasing individual payments of grant and attaching conditions with 38(1)b. In particular your attention is drawn to Schedule 3 paragraph 1(i) of the attached grant offer which advises 33(1)b

We will be happy to discuss any aspect of the offer letter or its Schedules on which you would like clarification.

The amount of grant offered or the timing of payment can be affected if the timing or scale of the project is altered or if there is any other change of substance. To ensure there are sufficient funds to allow payment of your claim when requested, it is important that you notify Scottish Enterprise ("SE") if you anticipate any slippage in the project that might affect the timing of when the company expects to claim grant as discussed during the grant application process.

33(1)b

33(1)b (as referred to in paragraph 4 of the offer letter) and so the company must have submitted all grant claims by this date.

Guidance on how to claim grant instalments is contained in Schedule 2 to the offer letter. **It is important that you establish with your proposed Reporting Accountant, at an early point, that they are able to report in accordance with the terms of the Grant Agreement and in particular will follow the precise wording required by the accountant's report, as set out in Schedule 2. We are not able to accept any variations or preferences of**

individual firms of accountants. You should be aware that SE will take account of the financial viability of the business when assessing each claim for grant and may vary or withhold payment of the claim where, in SE's opinion, the sustainability of the project is in question. It is SE's general aim to process properly documented claims, which include all the documentation required under the terms of the offer letter, within 5 working days of receiving the claim. If the claim is not fully documented, SE's general aim will be to contact the company within 10 working days of receiving the claim, detailing any further requirements. I would emphasise that a claim cannot be considered for payment until a completed claim form is received together with all the supporting documentation requested in the claim form. In order to pay the grant instalments we will need details of the bank account into which payments are to be made. Given this, please enclose a letter with the signed Offer Letter stating the:

- address of the branch where the account is held (including the postcode);
- name of the account (e.g. the company name);
- sort code; and
- account number

This should be provided on company headed paper and signed by an executive director or the Company Secretary of the company.

Scottish Enterprise has a number of ambitions for equal opportunities which helps growth at the company level and in the wider economy. More details are available here: <http://www.scottish-enterprise.com/about-us/transparency/equality-and-diversity.aspx>

I will be responsible for monitoring the progress of your project and in particular for authorising the release of instalments of grant. If you have any further questions or need any additional information please do not hesitate to contact me at any time. In particular you should contact me in advance of submitting a claim for an instalment of grant so that I can forward the necessary claim form and advise you on our procedures and what constitutes a properly documented claim.

I look forward to hearing from you.

Yours sincerely