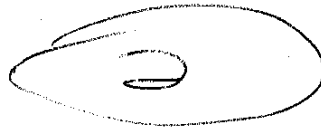




Standard Bank



Execution Version
24 May 2024

TERM LOAN AGREEMENT

by and between

THE STANDARD BANK OF SOUTH AFRICA LIMITED

and

FETAKGOMO TUBATSE MUNICIPALITY

Handwritten initials and signature:
NB, 4D, AL, MM, MJS, LNR



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1. PARTIES

The parties to this agreement are:

- 1.1 The Standard Bank of South Africa Limited; and
- 1.2 Fetakgomo Tubatse Municipality.

2. DEFINITIONS

- 2.1 In this Agreement, unless clearly inconsistent with or otherwise indicated by the context:

2.1.1 **Agreement** means this agreement, together with all appendices hereto and letters and notices given in terms hereof from time to time, all read together;

2.1.2 **Anti-Bribery and Anti-Corruption Laws** means any bribery, fraud, kickback, or other similar anti-bribery and anti-corruption law or regulation to which either Party or its Associated Person, as applicable, is subject to in carrying out its obligations under this Agreement in terms of Applicable Laws including but not limited to the Prevention of Organised Crime Act, 121 of 1998, the UK Bribery Act, 2010 and the United States Foreign Corrupt Practices Act of 1997;

2.1.3 **Applicable Laws** means all the following:

2.1.3.1 all national, provincial, local and municipal legislation or subordinate legislation, ordinances, regulations or by-laws;

2.1.3.2 all regulations, policies, directives, position papers, rules or other instructions of any relevant regulatory authority; and

2.1.3.3 the common law, judgment, order or decree;

2.1.4 **Associate** means:

2.1.4.1 any entity that has a shareholder, director, member, partner or beneficiary in common with the Borrower; and/or

2.1.4.2 any entity of which the Borrower is a beneficiary or in which it holds any shares or interest; and/or

2.1.4.3 any person who is a beneficiary of the Borrower or holds any shares or interest in the Borrower; and/or

2.1.4.4 any entity that is otherwise directly or indirectly controlled by any member(s), partner(s), beneficiary/ies, director(s) or shareholder(s) of the Borrower or that directly or indirectly controls the Borrower; and/or

2.1.4.5 any company that is a subsidiary of a company referred to in clause 2.1.4.1 or any entity that is controlled by any entity referred to in clause 2.1.4.1; and/or

2.1.4.6 any other entity that, in the opinion of the Bank, can be regarded as an "Associate" as defined in clauses 2.1.4.1 and 2.1.4.5 of this Agreement.

For the purpose of this definition, the terms "member", "partner", "beneficiary", "director" and "shareholder" include the spouse or any relative, trustee or nominee of any such member, partner, beneficiary, director or shareholder (or their legal representative if they are under a disability or their executor or administrator if they are deceased);

2.1.5 **Associated Person** means any agent, representative, intermediary, introducer, sponsor, consultant, contractor, sub-contractor, distributor, vendor, service provider, consortium partner, joint venture partner, outsourcing provider, advisor and employee;

2.1.6 **Bank** means The Standard Bank of South Africa Limited (Registration Number: 1962/000738/06), a public company duly incorporated with limited liability according to the company laws of South Africa and its successors in title and assigns;

2.1.7 **Borrower** means Fetakgomo Tubatse Municipality, a municipality established in accordance with the Local Government: Municipal Structures Act, 117 of 1998 and the municipal laws of South Africa;



- 2.1.8 **Borrower's Loan Account** means the loan account in the Borrower's name in the Bank's books in respect of the Loan Facility;
- 2.1.9 **Borrower's Investment Account** means a Bank investment account opened as security for the Borrower's Pledge and Cession, and in terms of which:
- 2.1.9.1 no withdrawals will be permitted;
- 2.1.9.2 all sums standing to the credit of such account will be held to the order of the Bank; and
- 2.1.9.3 any transaction capabilities will be excluded;
- 2.1.10 **Borrower's Investment Account Mandate and Shortfall Undertaking** means the mandate and authority given by the Borrower in favour of the Bank, in terms of which the Borrower irrevocably and unconditionally mandates and authorises the Bank to do all such things and perform all such acts as may be necessary to give effect to the provisions of clause 13.5;
- 2.1.11 **Borrower's Pledge and Cession** means the pledge and cession in security in favour of the Bank by the Borrower of an amount of R50 000 000 (fifty million Rand) held in the Borrower's Investment Account;
- 2.1.12 **Bribe** means:
- 2.1.12.1 an offer, promise, giving, soliciting or receipt of a financial or other gratification to or from another person, directly or indirectly, immediately or in the future:
- 2.1.12.1.1 to induce that person to perform improperly a relevant function or activity;
- 2.1.12.1.2 to reward that person for the improper performance of such a function or activity; or
- 2.1.12.1.3 knowing or believing that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity;
- 2.1.13 **Business Day** means a day other than a Saturday, Sunday or proclaimed public holiday in South Africa;
- 2.1.14 **Calendar Month** means a full calendar month in any year, namely, January, February, March, April, May, June, July, August, September, October, November and December;
- 2.1.15 **Collateral** means any security, indemnity or undertaking provided to the Bank to secure the Borrower's payment and other obligations in terms of this Agreement;
- 2.1.16 **Collateral Provider** means each person or entity who is to provide Collateral to the Bank in respect of the due performance by the Borrower of its payment and other obligations in terms of this Agreement;
- 2.1.17 **Early Repayment** means any payment made by the Borrower in advance and in addition to the repayment set out in clause 9 of this Agreement, as part payment of the Loan Facility;
- 2.1.18 **FICA** means the Financial Intelligence Centre Act, 38 of 2001;
- 2.1.19 **Governmental Authority** means any national, municipal, provincial, other local or administrative government, authority or department, or any agency, tribunal, commission, regulator, self-regulatory body or other similar body having jurisdiction over the Agreement or any part thereof;
- 2.1.20 **Indebtedness** means the total balance of the capital amount outstanding on the Loan Facility plus any interest, fees and costs in respect of the Loan Facility which are owed by the Borrower to the Bank from time to time;
- 2.1.21 **Limit** shall have the meaning ascribed to it in clause 5;
- 2.1.22 **Loan Facility** means the term loan facility referred to in this Agreement;
- 2.1.23 **Material Adverse Event** means any event, circumstance or matter or combination of events, circumstances or matters which, in the reasonable opinion of the Bank, has or may have a material adverse effect on the:



- 2.1.23.1 business, assets, operations, property or financial condition of the Borrower taken as a whole;
- 2.1.23.2 ability of the Borrower to perform its obligations in terms of this Agreement;
- 2.1.23.3 ability of a Collateral Provider to perform its obligations in terms of the Collateral; or
- 2.1.23.4 validity or enforceability of this Agreement or the Collateral or any other documents provided under this Agreement or the rights or remedies of the Bank thereunder;
- 2.1.24 **MFMA** means the Local Government: Municipal Finance Management Act 56 of 2003, including all schedules and regulations thereto;
- 2.1.25 **National Treasury** means the National Treasury established in terms of section 5 of the Public Finance Management Act, 1 of 1999;
- 2.1.26 **Parties** means the Bank and the Borrower and **Party** means any one of them as the context may indicate;
- 2.1.27 **Personal Information** means information about an identifiable, natural person and where applicable, a juristic person, including, but not limited to information about: race; gender; sex; pregnancy; marital status; nationality; ethnic or social origin; colour; sexual orientation; age; physical or mental health; well-being; disability; religion; conscience; belief; culture; language; birth; education; medical, financial, criminal or employment history; any identifying number, symbol, e-mail, postal or physical address, telephone number; location; any online identifier; any other particular assignment of the person; biometric information; personal opinions, views or preferences of the person or the views or opinions of another individual about the person; correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence; and the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;
- 2.1.28 **Prime Rate** means the publicly quoted variable base rate of interest per annum ruling from time to time at which the Bank lends on overdraft, available on the Bank's website: www.standardbank.co.za (or as certified by any manager or business unit head of the Bank, whose appointment it shall not be necessary to prove and which certification shall be binding on the Parties absent manifest error);
- 2.1.29 **Process** means any operation or activity, automated or not, concerning Personal Information, including alteration, blocking, collation, collection, consultation, degradation, destruction, dissemination by means of transmission, distribution or making available in any other form, erasure, linking, merging, organisation, receipt, recording, retrieval, storage, updating, modification, or the use of information; **Processing** and **Processed** will have a similar meaning;
- 2.1.30 **Rand** means the South African Rand, the currency of South Africa;
- 2.1.31 **Sanction List** means any list of Sanctioned Entities published by a Sanctioning Body, as updated from time to time;
- 2.1.32 **Sanctioned** means listed on all or any one of the Sanction Lists and/or subject to any Sanctions;
- 2.1.33 **Sanctioning Body** means any sanctioning regime that we recognise, including:
- 2.1.33.1 the United Nations;
- 2.1.33.2 the European Union;
- 2.1.33.3 the Council of Europe (founded under the Treaty of London, 1946);
- 2.1.33.4 the Government of the United States of America;
- 2.1.33.5 the Office of Foreign Assets Control of the US Department of Treasury;
- 2.1.33.6 the US Department of Commerce;
- 2.1.33.7 the US State Departments or the US Department of Treasury;



- 2.1.33.8 the Government of the United Kingdom and Her Majesty's Treasury; and
- 2.1.33.9 the Government of the Republic of France and French Ministry of Finance;
- 2.1.34 **Sanctioned Entity** means an individual, juristic person or country listed on the Sanctions List or subject to sanctions. In the case of a juristic person, this includes any person who controls the juristic person and any person who it controls. In the case of any country, this includes that country's ministries, departments, agencies and any other governmental organisations;
- 2.1.35 **Sanctions** means measures imposed or restrictions set by a Sanctioning Body, including diplomatic, travel, trade or financial sanctions or embargoes;
- 2.1.36 **Signature Date** means the date of signature of this Agreement by the Party signing last in time;
- 2.1.37 **Standard Bank Group** means Standard Bank Group Limited, its subsidiaries and their subsidiaries;
- 2.1.38 **South Africa** means the Republic of South Africa; and
- 2.1.39 **VAT** means value added tax in terms of the Value Added Tax Act, 89 of 1991.
- 2.2 Any reference in this Agreement to legislation or subordinate legislation is to such legislation or subordinate legislation at the Signature Date and as amended or re-enacted from time to time.
- 2.3 Words importing the singular shall include the plural, and *vice versa*, words importing the masculine gender shall include the feminine and neuter genders, and *vice versa*, and words importing natural persons shall include legal persons, and *vice versa*.
- 2.4 The head notes to the clauses to this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 2.5 If any provision in the definition clause is a substantive provision conferring rights or imposing obligations on a Party, then notwithstanding that such provision is contained in this clause, effect shall be given thereto as if such provision were a substantive provision in the body of the Agreement.
- 2.6 Words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this Agreement.
- 2.7 Unless otherwise provided, defined terms appearing in this Agreement in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.
- 2.8 The words include and including mean include without limitation and including without limitation. The use of the words include and including followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.
- 2.9 When any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day.
- 2.10 If the due date for performance of any obligation in terms of this Agreement is a day which is not a Business Day, then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately preceding Business Day.
- 2.11 Any reference in this Agreement which requires that the Bank exercise its discretion in respect of any matter stated herein shall mean that the exercise thereof shall be as determined by the Bank in its reasonable discretion.
- 2.12 When any condition of this Agreement requires fulfilment by the Borrower, or any information, evidence, proof or documentation is required to be furnished by the Borrower, such condition shall be required to be fulfilled and information, evidence, proof or documentation shall be required to be furnished, in a form and substance to the satisfaction of the Bank.
- 2.13 Unless the context indicates a contrary intention, any reference in this Agreement to material or materially shall mean material or materially as determined by the Bank in its reasonable opinion.



- 2.14 No provision of this Agreement shall (unless otherwise stipulated) constitute a stipulation for the benefit of any person (*stipulatio alteri*) who is not a Party to this Agreement.
- 2.15 The terms and conditions of this Agreement having been negotiated by the Parties, no provision herein shall be construed against or interpreted to the disadvantage of any Party by reason of such Party having or being deemed to have structured, drafted or introduced such provision.
- 2.16 Any reference in this Agreement to a specific requirement under the MFMA shall not derogate from or exclude the application of any provisions not specifically referred to herein.

3. LOAN FACILITY

The Bank has agreed to grant the Borrower the Loan Facility, on and subject to the terms and conditions hereinafter set out.

4. RANKING OF LOAN FACILITY

The Borrower represents, warrants, and undertakes that the Loan Facility comprises senior debt and ranks at least equally with all other senior debt in terms of servicing, repayment and collateral rights and the claims of all of the Borrower's other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law.

5. LIMIT

- 5.1 The aggregate amount to be advanced to the Borrower under the Loan Facility is R40 000 000 (forty million Rand) (Limit).
- 5.2 To the extent that a drawdown under the Loan Facility would cause the Limit to be exceeded, the Borrower shall not be entitled to make such a drawdown.

6. AVAILMENT AND PURPOSE

- 6.1 The Loan Facility may only be utilised on fulfilment to the satisfaction of the Bank or waiver by the Bank of all the conditions precedent referred to in clause 11 and provided that drawdown must be made by the Borrower under the Loan Facility within 3 (three) months from the date of such fulfilment or waiver of all of the conditions precedent set out in clause 11, following which date, any unutilised portion of the Loan Facility shall be reduced by such unutilised amount. The Borrower shall be obliged to give the Bank prior written notice of a requested drawdown by not later than 11:00 am at least 2 (two) Business Days before the proposed date of drawdown in the form of Annexure A hereto.
- 6.2 The Loan Facility shall be utilised by the Borrower to fund the Borrower's capital expenditure projects as contemplated in section 40(1)(a) of the MFMA namely, capital expenditure projects as approved by the Borrower's Municipal Council for the Borrower's 2023/2024 financial year.
- 6.3 The Bank shall not, however, be under any obligation to verify or monitor that the Borrower will utilise the Loan Facility for the aforesaid purpose.

7. INTEREST

- 7.1 The Loan Facility shall bear interest at a fixed interest rate of 10.27% (ten-point two seven percent) per annum. This rate is the indicative rate as per our proposal dated 30 September 2022 and updated on 23 June 2023 and 13 September 2023 and subject to change on the date of first drawdown of the Loan Facility. The final interest rate will be determined on the date of draw down and advised by the Bank to the Borrower in writing on the date of the date of first drawdown of the Loan Facility or as soon as practically possible thereafter.
- 7.2 The interest payable by the Borrower is calculated on a nominal annual compounded monthly in arrears basis on the Indebtedness and is calculated on a 365 (three hundred and sixty-five) day year, irrespective of whether it is a leap year.
- 7.3 The interest payable by the Borrower shall be charged monthly in arrears and debited to the to the Borrower's Loan Account on a date convenient to the Bank, and shall be payable in accordance with clause 8.



- 7.4 The Bank may immediately amend the pricing structure of the Loan Facility if there is a change in:
- 7.4.1 law or the issue of a directive with which the Bank must comply; or
- 7.4.2 market conditions resulting in an increasing cost to the Bank.
- 7.5 If the Bank amends the pricing structure of the Loan Facility, it will advise the Borrower accordingly.

8. DURATION AND REPAYMENT

- 8.1 The capital and interest amount of the Loan Facility is to be repaid (respectively, **Capital Repayment** and **Interest Repayment** and collectively, **Repayments**) by the Borrower over a period of 3 (three) years (**Term**) in 36 (thirty-six) equal monthly instalments in terms of the Repayment schedule to be prepared by the Bank on receipt of the drawdown notice referred to in clause 6 and delivered by the Bank to the Borrower at the address set out in clause 18.17.1.2 or 18.17.2.2.
- 8.2 The first Interest Repayment and the first Capital Repayment shall be due and shall be due and payable on 31 July 2024. The Repayments shall thereafter be due and payable on the last Business Day of each and every succeeding month for the Term of the Loan Facility.
- 8.3 All Repayments pursuant to this Agreement shall be made by means of electronic funds transfer, in permanent reduction of the Loan Facility, into a bank account the details of which will be communicated to the Borrower in writing.
- 8.4 The Bank reserves the right in its sole discretion, to accept payment made other than by electronic funds transfer.
- 8.5 The Parties agree that the Repayment schedule will be amended by the Bank from time to time to cater for variations in the interest rate, changes in the interest period due to fluctuations in the interest calculations and/or in the event that the Bank becomes entitled to amend the pricing structure of the Loan Facility in accordance with this Agreement. The Bank will deliver the amended Repayment schedule to the Borrower at the address set out clause 18.17.1.2 or 18.17.2.2.

9. EARLY REPAYMENTS

- 9.1 The Borrower shall be entitled to make an Early Repayment of the Loan Facility. If the Borrower wishes to make an Early Repayment of the Loan Facility which is:
- 9.1.1 in permanent reduction of the Loan Facility, then:
- 9.1.1.1 the Early Repayment must be made on not less than 90 (ninety) Business Days' written notice (or such shorter notice period as the Bank may agree to in writing) of the Borrower's intention to make such Early Repayment; and
- 9.1.1.2 the Repayments over the remainder of the Term will be rescheduled by agreement in writing between the Parties; or
- 9.1.2 not in permanent reduction of the Loan Facility then:
- 9.1.2.1 an Early Repayment must be in multiples of R100 000 (one hundred thousand Rand);
- 9.1.2.2 only 1 (one) Early Repayment may be made in any Calendar Month; and
- 9.1.2.3 the Borrower may drawdown in part or in full up to the amount of such Early Repayment, provided that:
- 9.1.2.3.1 the Borrower provides the Bank with a drawdown notice by not later than 11:00 am at least 2 (two) Business Days before the proposed date of drawdown in the form of Annexure A hereto;
- 9.1.2.3.2 the purpose for the drawdown is and remains the same as contemplated in clause 6 and consistent with section 46(1) of the MFMA;
- 9.1.2.3.3 such drawdowns are in multiples of R100 000 (one hundred thousand Rand);
- 9.1.2.3.4 only one such drawdown may be made in any Calendar Month; and



- 9.1.2.3.5 the Bank may, however, on written notice to the Borrower, refuse a drawdown of an Early Repayment where there has been an event of default set out in clause 14 or any change(s) in circumstances set out in clause 15.3.

- 9.2 To the extent that an Early Repayment is made, this will not result in any waiver of any rights by the Bank in terms of this Agreement or relieve the Borrower of its obligations to comply with the provisions of this Agreement.

10. EARLY SETTLEMENT

In the event of an early repayment as contemplated in clause 9.1.1 and 9.1.2. above, the Borrower will fully compensate the Bank for the costs, expenses, liabilities or losses incurred or suffered in connection with, or following the modification, breaking, or unwinding, or funding from other sources, or any arrangement which the Bank may have made for investing any repayments of the Loan Facility and/or hedging the Loan Facility for the Term.

11. CONDITIONS PRECEDENT

- 11.1 The Borrower shall only be entitled to drawdown the Loan Facility if all of the following conditions precedent are fulfilled or waived by the Bank, which conditions precedent shall be fulfilled or waived by no later than close of business on the 90th (ninetieth) day after the Signature Date:
- 11.1.1 that the Borrower has undergone the Bank's Know Your Customer (KYC) process pursuant to the provisions of FICA;
 - 11.1.2 that the Bank is provided with a copy of this Agreement signed by the accounting officer of the Borrower, accepting the terms and conditions stipulated herein, in accordance with section 46(2)(b) of the MFMA;
 - 11.1.3 that the Bank has been provided with the certified copy of the resolution of the Municipal Council, signed by the Mayor:
 - 11.1.3.1 approving the Loan Facility and the agreement(s) relating thereto, in accordance with section 46(2)(a) of the MFMA; and
 - 11.1.3.2 confirming that the Borrower has not made a written application to National Treasury for, nor has it been granted Municipal Debt Relief in terms of the Municipal Debt Relief Circular (No. 124) issued in terms of the MFMA and that there are no limitations on the borrowing powers of the Borrower;
 - 11.1.4 that the Bank has been provided with the certified copy of the resolution of the Municipal Council, signed by the Mayor, approving the Loan Facility, the Borrower's Pledge and Cession, the Borrower's Investment Account, the Borrower's Investment Account Mandate and Shortfall Undertaking and the agreement(s) relating thereto, in accordance with section 48 of the MFMA;
 - 11.1.5 that the Borrower has provided the Bank with a written disclosure, in form and substance acceptable to the Bank, that the purpose of the Loan Facility is to fund capital expenditure on property, plant or equipment as contemplated in section 46(1)(a) of the MFMA;
 - 11.1.6 that the Borrower has provided the Bank with a certified copy of the information statement, in form and substance acceptable to the Bank, signed by the accounting officer, prepared in terms of section 46(3) of the MFMA in respect of the Loan Facility;
 - 11.1.7 that the Borrower has provided the Bank with a letter of award, in form and substance acceptable to the Bank, in favour of the Bank, in terms of which the Borrower informs the Bank that it has been successful in bidding to provide the Loan Facility;

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- 11.1.8 that the Borrower has provided the Bank with the:
 - 11.1.8.1 signed audited financial statements for the preceding 3 (three) financial years, together with an indication whether the audit deadline referred to in section 126 of the MFMA has been met;
 - 11.1.8.2 approved annual budget;



- 11.1.8.3 integrated development plan or multi-year business plan referred to in section 87(5)(d) of the MFMA, if applicable;
- 11.1.8.4 repayment schedules pertaining to its existing short-term and long-term debt;
- 11.1.8.5 the audit report prepared by the Auditor General in terms of section 126(3) of the MFMA in respect of the 2022/2023 financial statements;
- 11.1.9 if applicable, that the Borrower has provided the Bank with a copy of the adjustments budget tabled in terms of the MFMA and that the Bank is satisfied as to the manner in which the Loan Facility has been dealt with in such adjustment budget;
- 11.1.10 that the Borrower has provided the Bank with written confirmation (in a form and substance acceptable to the Bank) from the Accounting Officer or any other duly authorised representative of the Borrower confirming:
- 11.1.10.1 that the Borrower is not in breach of any material contracts to which the Borrower is a party; and
- 11.1.10.2 the absence of any material pending (which has a reasonable prospect of occurring) industrial action; litigation, investigation or proceeding against the Borrower; and
- 11.1.10.3 that there has been no material deterioration in the financial position of the Borrower between the date of acceptance of this Agreement and the date of the first drawdown under the Loan Facility;
- 11.1.11 that, in the Bank's opinion, there has been no material deterioration in the financial position of the Borrower between the Signature Date and the date of first drawdown of the Loan Facility by the Borrower;
- 11.1.12 that the Bank has been provided with written confirmation signed by the accounting officer of the Borrower, in a form and substance acceptable to the Bank, confirming that the Borrower has, in relation to the Loan Facility:
- 11.1.12.1 obtained all authorisations (including exemptions, approvals, consents) and no steps have been taken to revoke, adversely modify or cancel any such authorisations and the authorisations are not subject to any conditions which Fetakgomo Tubatse Municipality does not expect to be satisfied; and
- 11.1.12.2 complied with all laws or regulations applicable to it, including but not limited to the provisions of the Municipal Finance Management Act, 56 of 2003; the Preferential Procurement Policy Framework Act 5 of 2000, including all schedules and regulations thereto, as amended from time to time.
- 11.2 The above conditions precedent are inserted for the benefit of the Bank, which may in writing on or before the dates for fulfilment of the conditions set out in clause 11.1, extend the period for fulfilment or waive any of the said conditions precedent in its sole discretion. Unless and until the above conditions precedent are either waived or fulfilled, the Borrower shall not be entitled to drawdown the Limit.
- 11.3 Notwithstanding any provision to the contrary, if the Bank, in the erroneous belief that all the conditions precedent have been fulfilled or waived (as the case may be), makes any advances or any portion of the Limit (**Advanced Amount**) available to the Borrower and if it subsequently transpires that any one (or more) of the conditions precedent has in fact not been fulfilled or waived (as the case may be):
- 11.3.1 the terms and conditions of this Agreement shall apply in respect of the amount of the Advanced Amount (subject to clauses 11.3.2 and 11.3.3);
- 11.3.2 the Bank shall be entitled to declare the amount of the Advanced Amount to be immediately due and payable by the Borrower to the Bank; and
- 11.3.3 the Bank shall not be obliged to make any further advances to the Borrower.

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MM M-L
TK



12. ONGOING CONDITIONS AND FINANCIAL COVENANTS

12.1 Financial covenants

The Borrower undertakes that during the currency of the Loan Facility, it shall maintain the following financial covenants the breach of which shall constitute an event of default, based on the financial information in the most recent management accounts and/or draft financial statements and/or audited financial statements (as the case may be). The financial covenants will also be measured on a rolling bi-annual basis, for the periods ending on the last day of December each year as opposed to each financial year or part thereof:

- 12.1.1 **Debt to Revenue Ratio** - to be maintained at a level that is less than or equal to 50% (fifty percent) of revenue. For purposes of this clause **Revenue** includes billings and all other income and grants received by or accruing to the Borrower and **Debt** shall mean the aggregate of moneys borrowed (both long and short term).
- 12.1.2 **Interest paid to total costs** - to be maintained at a level that is less than or equal to 7.5% (seven-point five percent) of total expenditure.
- 12.1.3 **Debt Service Cover Ratio** - to be maintained at a level that is greater than or equal to 1.1 (one point one) times, calculated on the sum of net cash from operating activities plus finance charges incurred less capital grant funding received to cover the sum of capital redemption and interest paid on interest bearing debt. Any drop of the Debt Service Cover Ratio to below 1.1 (one point one) will require the Borrower to make provision for the next financial year's payments in the form of a ceded investment to an amount equalling the interest and capital repayments.

12.2 Compliance certificate

The Borrower undertakes that during the Term it shall provide the Bank with a certificate signed by the accounting officer of the Borrower (in the format as agreed between the Parties from time to time) stipulating that the Borrower has complied with the financial covenants applicable in terms of this Agreement and the calculations used by the Borrower in calculating same, by no later than 60 (sixty) Business Days from the end of the financial year to which it relates.

12.3 Signing Authorities

In the event of there being any variation in the signing authorities during the Term, the Borrower is then to furnish the Bank with written resolution and amended mandate instructions timeously.

12.4 Management Accounts

The Borrower undertakes that during the Term it shall provide the Bank with the management accounts of the Borrower (in the format as agreed between the Parties from time to time) by no later than 15 (fifteen) Business Days after the end of the Calendar Month to which they relate and which management accounts shall not differ materially from the signed financial statements (prepared in compliance with the relevant Financial Reporting Standard) of the Borrower for the particular year.

12.5 Financial Statements

- 12.5.1 The Borrower shall furnish the Bank with signed copies of the audited annual financial statements of the Borrower annually within a period of 180 (one hundred and eighty) days from the date that they are due in terms of the MFMA together with any other information as the Bank may reasonably require.

- 12.5.2 The draft audited annual financial statements submitted to the Bank shall not differ materially from the signed audited annual financial statements in respect of the previous financial year.

12.6 Notification of event of default

The Borrower hereby undertakes to the Bank that it will advise the Bank immediately on becoming aware of the occurrence of an event of default or of any circumstances that could potentially result in an event of default as contemplated in clause 14.



12.7 Reporting Requirements

While the Loan Facility remains available or any amount or commitment remains outstanding to the Bank the following conditions shall apply, the Borrower shall:

- 12.7.1 provide the Bank with information relating to its draft budgets, approved budgets, adjustment budgets as well as a copy of the quarterly reports required in terms of the MFMA within 5 (five) days of such information being due in terms of the MFMA for a particular period;
- 12.7.2 inform the Bank, as soon as possible after identification of any financial problems facing the Borrower, including any emerging or impending financial problems in terms of the provisions of section 54 of the MFMA that could reasonably be expected to affect the Borrower's ability to repay any amounts outstanding under the Loan Facility;
- 12.7.3 provide the Bank with confirmation, if requested by the Bank, in form and substance acceptable to the Bank, that it submits to its mayor and the Provincial Treasury the monthly reports required in terms of section 71 of the MFMA within 10 (ten) days after the month to which they relate;
- 12.7.4 inform the Bank by no later than 10 (ten) business days of approval by National Treasury of its application for Municipal Debt Relief in terms of the Municipal Debt Relief Circular (No. 124) issued in terms of the MFMA; and
- 12.7.5 in the event that the Borrower has applied for Municipal Debt Relief and has received approval therefor, provide the Bank by no later than the 30th of June of each year with a copy of the compliance certificate issued by National Treasury confirming the Borrower's compliance with the conditions set out in Municipal Debt Relief Circular (No. 124).

12.8 Annual Review

- 12.8.1 The Loan Facility is subject to annual review by the Bank, with the first annual review falling due by 20 September 2024 and annually thereafter in light of the following information:
 - 12.8.1.1 annual audit report required in terms of the MFMA;
 - 12.8.1.2 audited annual financial statements;
 - 12.8.1.3 approved annual budget;
 - 12.8.1.4 annual revised integrated development plan; and
 - 12.8.1.5 repayment schedules pertaining to the Borrower's existing short-term and long-term debt.
- 12.8.2 The above information must be given to the Bank before the review date. In the event of a delay in receipt of this information, the Bank may reduce or restructure the Loan Facility until such time as such required information has been received and the review undertaken.
- 12.8.3 Without limitation to the Bank's other rights under this Agreement, the Bank reserves the right to reassess and to renegotiate the Loan Facility in the event of there being any change in the:
 - 12.8.3.1 management and/or legislated governance of the local authority;
 - 12.8.3.2 overall structure of the local authority;
 - 12.8.3.3 structure of revenue streams; or
 - 12.8.3.4 any deterioration in the Borrower's financial position; or
 - 12.8.3.5 an existing or pending material (which has a reasonable prospect of occurring) industrial action, litigation, investigation or proceeding against the Borrower.

13. EVENTS OF DEFAULT

- 13.1 An event of default will occur if:
 - 13.1.1 the Borrower fails to pay any sum due and payable by it to the Bank in terms of this Agreement;
 - 13.1.2 the Borrower commits a breach of any of the other terms and conditions of this Agreement, and such breach is not remedied within a period of 14 (fourteen) days of written notice having been given to the Borrower to do so;



- 13.1.3 the Borrower or any Collateral Provider commits a breach of any of the terms and conditions of any Collateral and such breach is not remedied within a period of 14 (fourteen) days' of written notice having been given to the Borrower to do so;
- 13.1.4 the Borrower ceases to carry on its business in a normal and regular manner;
- 13.1.5 the Borrower defaults in the due payment of any amount falling due for payment under any suretyship or guarantee to which it is a party;
- 13.1.6 the Borrower suffers any default judgment against it which remains unsatisfied for 21 (twenty-one) days, or is refused a rescission of any default judgment;
- 13.1.7 the Borrower permits any of its assets to be attached under a warrant of execution which is not set aside within a period of 21 (twenty-one) days after service thereof on the Borrower;
- 13.1.8 the Borrower defaults in the due and punctual performance under any other agreement including but not limited to any other agreement concluded between the Borrower and a third party or any other loan/credit facility between the Borrower and the Bank and (if such default is capable of being remedied) same has not been remedied to the satisfaction of the Bank within 14 (fourteen) days' from the date of any written notice given by the Bank to the Borrower to remedy the default;
- 13.1.9 the Borrower meets the conditions of a mandatory provincial intervention (as contemplated in section 139 and 140 of the MFMA), or is dissolved;
- 13.1.10 any representation, or warranty or undertaking made either in respect of the Borrower or in connection with this Agreement or in any documents delivered under this Agreement, is not complied with or is materially incorrect in any respect;
- 13.1.11 the Borrower's auditors in any financial statements of the Borrower published after the date of the last set of financial statements furnished to the Bank or if none have been so furnished, after the Signature Date, materially qualifies that annual statement in any respect, or inserts a note in the supporting documents to that financial statement relating to any material irregularity;
- 13.1.12 there is a material deterioration in the Borrower's financial position;
- 13.1.13 the whole or any part of the Collateral furnished is judicially attached, or becomes subject to any lien, hypothec or other encumbrance without the Bank's prior written consent;
- 13.1.14 the Borrower is unable to pay its debts, suspends or threatens to suspend payment of all or a material part of (or of a particular type of) its indebtedness to any other creditors, commences negotiations or takes any other step with the view to the deferral, rescheduling or other re-adjustment of all of (or all of a particular type of) its indebtedness to creditors (or of any part of such indebtedness which it will or might otherwise be unable to pay when due), proposes or makes a general assignment or an arrangement or composition with or for the benefit of its creditors or a moratorium is agreed or declared in respect of or affecting all or a part of the indebtedness of the Borrower;
- 13.1.15 if the Loan Facility and/or charges related to or associated with the Loan Facility is not budgeted for in the Borrower's budget in any particular year;
- 13.1.16 if the Borrower becomes aware of any over expenditure or potential over expenditure in respect of its budget or adjustments budget;
- 13.1.17 if the payment of all amounts under the Loan Facility and/or charges is not retrospectively approved by means of an adjustments budget within the prescribed time period in terms of the MFMA;
- 13.1.18 if there is at any time a change in the demarcation of the area falling within the jurisdiction of the Borrower as at the Signature Date;
- 13.1.19 if at any time after the Signature Date there is any change in (including but not limited to repeal of legislation) or addition to, the legislation to which the Borrower is subject and which in the reasonable opinion of the Bank could be expected to adversely affect the ability of the Borrower to comply with any of its obligations hereunder;

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- 13.1.20 if the Borrower defaults in the due payment or due performance of any amount payable or obligation to be performed under any agreement, which amount or which obligation the Bank considers to be material in its reasonable opinion;
- 13.1.21 if any material indebtedness or obligation for monies borrowed constituting indebtedness of the Borrower shall become due and payable prior to its specified maturity by reason of default, or shall not be paid when due;
- 13.1.22 any Collateral Provider who may have provided additional Collateral for, the whole or part of the Indebtedness commits any act, or omits to do anything, referred to in this clause 13 or if any of the events referred to in this clause 13 occurs in respect of any such person, or in relation to that person's own affairs;
- 13.1.23 a Material Adverse Event occurs;
- 13.1.24 the Borrower generally does or omits to do anything which may cause the Bank to suffer any loss or damage;
- 13.1.25 the Borrower or any Collateral Provider becomes or is, in the opinion of the Bank, likely to become subject to Sanctions, or the Bank in any way knows or suspects that the Borrower's Loan Account (or any other bank accounts held with the Bank) is being used fraudulently, negligently, for illegal or terrorist activities, or for any purpose that does not comply with the law or the Borrower is involved in any illegal or terrorist activities; and
- 13.1.26 in the event that the Borrower has applied for Municipal Debt Relief, in terms of the Municipal Debt Relief Circular (No. 124) issued in terms of the MFMA and received approval therefor, the Borrower has not received the annual compliance certificate from National Treasury confirming the Borrower's compliance with the conditions set out in Municipal Debt Relief Circular (No. 124).
- 13.2 The Bank, may without prejudice to any other rights hereunder or at law, at any time after the happening of an event of default, by written notice to the Borrower:
- 13.2.1 decline any request by the Borrower to drawdown any further monies under the Limit and cancel the Limit forthwith;
- 13.2.2 require immediate repayment all the Indebtedness, which Indebtedness shall become immediately become due, owing and payable;
- 13.2.3 require immediate payment of all "breakage costs" being all costs, charges, expenses, losses or reduced receipts which the Bank may have sustained or incurred in relation to the termination or modification of any arrangements the Bank may have made on account of or in respect of funds borrowed, contracted for or utilized to fund any amount payable or advanced under the Loan Facility; or
- 13.2.4 increase the rate of interest charged.
- 13.3 The Bank's rights under this clause shall not be exhaustive but shall be in addition to and without prejudice to any other rights which it may have under this Agreement or the law.
- 13.4 If any of the events specified in clause 13.1 (other than in clause 13.1.2 become applicable in respect of any Collateral Provider (and for such purpose, a reference to "Borrower" in clause 13 shall be read and construed as a reference to such person), then, on the occurrence of such event, an event of default shall be deemed to have taken place for the purposes of this Agreement thereby entitling the Bank to avail itself of the remedies specified in clause 13.2.
- 13.5 **Enforcement of the Borrower's Pledge and Cession**
- 13.5.1 The Bank has the unconditional and irrevocable right to:
- 13.5.1.1 give written notice to the Borrower providing details of the nature of the Event of Default with particular reference to the specific clause under which the Event of Default occurred (Enforcement Notice); and



- 13.5.1.2 enforce the Borrower's Pledge and Cession to settle any arrears amount/amount outstanding under the Loan Facility (by debiting the Borrower's Investment Account and simultaneously crediting the Borrower's Loan Account with the arrears amount/ amount outstanding under the Loan Facility) in terms of the Borrower's Investment Account Mandate and Shortfall Undertaking in the format attached hereto as Annexure B.
- 13.5.2 If an Event of Default relates to:
- 13.5.2.1 the failure to make a Repayment, the Borrower shall, on first written demand by the Bank, ensure that the Borrower's Investment Account is immediately credited with the cash flow shortfall amount required to give effect to the amount set out in the Borrower's Pledge and Cession; or
- 13.5.2.2 anything other than the failure to make a Repayment, the Borrower shall not be obliged to credit the Borrower's Investment Account with the amount outstanding under the Loan Facility provided the Bank has confirmed to the Borrower (in writing) that the Debt Service Cover Ratio has been met.
- 13.5.3 Following the process set out in this clause 13.5, the Bank shall continue to apply its collection process against those arrear / amounts outstanding under the Loan Facility that are still in default.
- 13.6 **Penalty Interest**
- At any time after the occurrence of an event of default set out in clause 13.1 above or otherwise as contemplated in this Agreement, the Bank shall be entitled, but not be obliged, in respect of any amount falling due or payable to the Bank, to increase the interest rate in clause 7.1 by a rate of 2.5% (two point five percent) per annum on such overdue amount (compounded monthly from the due date to the date of payment to the Bank), without prejudice to any rights which the Bank may otherwise have as a result of that event of default.

14. REPRESENTATIONS AND WARRANTIES AND UNDERTAKINGS

The Borrower represents and warrants to the Bank that as at the Signature Date and for the Term, that:

- 14.1 it is a Municipality duly constituted and existing under the laws of South Africa;
- 14.2 it has full power to enter into and perform in terms of this Agreement and has taken all necessary corporate, regulatory and other actions to authorise the borrowings hereunder;
- 14.3 the execution, delivery and performance of any agreements applicable to the Loan Facility do not violate any law, including the MFMA;
- 14.4 it has complied with all the provisions of the MFMA in relation to the Loan Facility and undertakes that it will continue to do so for the currency of the Loan Facility;
- 14.5 it has disclosed all guarantees, suretyships and other off-balance sheet items to the Bank;
- 14.6 its annual budget as well as its approved annual budget contains all of the information referred to in section 17 of the MFMA;
- 14.7 there are no circumstances resulting in a Material Adverse Event, and in the reasonably exercised opinion of the Borrower no such circumstances are likely to arise;
- 14.8 it is not in breach of any law applicable to it, nor in breach of any material contract by which it is bound, or to which it is a party, and in its reasonably exercised opinion, no such breach is likely to occur or arise;
- 14.9 the terms of this Agreement do not conflict with and do not constitute a breach of the terms of any other agreement or undertaking or act or legislation that is binding on the Borrower;
- 14.10 there is no material industrial action or litigation or similar proceedings, to the knowledge of the Borrower, presently pending or threatened which would result in a Material Adverse Event;
- 14.11 no event of default specified in clause 13.1 has occurred and is continuing;

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- 14.12 the Loan Facility and the charges associated with the Loan Facility have been provided for in an approved budget, which has been properly approved in terms of the MFMA and that payment of the amount of the Loan Facility and any charges associated with the Loan Facility will not result in the total amount of the budget being exceeded. These requirements will be met in future as well;
- 14.13 it will not utilise savings with regards to an unrelated expenditure in a budget to defray any excess expenditure that may be required for satisfying a claim under a loan agreement;
- 14.14 its acceptance in terms of the Loan Facility has been duly authorised and to the best of its knowledge and belief does not contravene any law or any contractual obligation binding upon it;
- 14.15 the terms and conditions applicable to any loans provided by any other long-term funders, are not, and shall not, be more favourable than the terms and conditions applicable to the Loan Facility;
- 14.16 the Loan Facility shall be used solely for the purposes set out in clause 6;
- 14.17 all information supplied or to be supplied to the Bank by the Borrower concerning the Borrower's business as contained in the Borrower's balance sheets, trading and profit and loss accounts, cash flows and other financial statements or accounts, is true and correct in all material respects and will in future be true and correct in all material respects;
- 14.18 the Borrower has, in relation to the conduct of its business, obtained and complied with all the necessary consents, registrations, filings, certificates, licences, approvals, permits and insurances;
- 14.19 there has been no material deterioration in the financial position of the Borrower;
- 14.20 this Agreement constitutes legal, valid, binding and enforceable obligations of the Borrower;
- 14.21 it is in full compliance with all applicable laws, regulations and practices relating to the protection of the environment and the social responsibility applicable to it in each jurisdiction in which the Borrower conducts business (its **Environmental and Social Responsibility**) and hereby undertakes to continue to do so for so long as the Borrower is indebted to or owes any obligations to the Bank under or in terms of this Agreement;
- 14.22 that it is not aware of any circumstances which may prevent full compliance with its Environmental and Social Responsibility in future;
- 14.22.1 it will ensure that it and the Collateral Providers, at all times comply with all legislation and regulations applicable to it, the Collateral Providers and to this Agreement, including but not limited to, where applicable:
- 14.22.1.1 its Environmental and Social Responsibility;
- 14.22.1.2 anti-money laundering and combating the financing of terrorism regulations; and
- 14.22.1.3 exchange control regulation and the rulings and directives from the South African Reserve Bank that apply to this Agreement;
- 14.22.2 it will ensure that it, any Collateral Provider and any Associate, at all times comply with all legislation and regulation applicable to it, any Collateral Provider and any Associate and to this Agreement and any other applicable laws including Anti-Bribery and Anti-Corruption Laws and combating the financing of terrorism regulations;
- 14.23 neither the Borrower nor any of the Collateral Providers are subject to any law prohibiting the borrowing of funds or ownership of the property by non-resident individuals or limiting the borrowing of funds by companies and other entities in which non-residents have a 75% (seventy five percent) or greater interest or, if such law does apply, that the Borrower shall deliver to the Bank before the first advance written evidence to the Bank's satisfaction of the written permission of the exchange control authorities entitling the Borrower to obtain the Loan Facility;
- 14.24 it will not use (or otherwise make available) the proceeds of the Loan Facility for the purposes of financing, directly or indirectly, the activities of any person or entity which is Sanctioned or in a country which is subject to any Sanctions;
- 14.25 it will not contribute or otherwise make available, directly or indirectly, the proceeds of the Loan Facility to any other person or entity if such party uses or intends to use such proceeds for the



purpose of financing the activities of any person or entity which is subject to any Sanctions;

- 14.26 it is not involved in any illegal or terrorist activities;
- 14.27 none of the bank accounts held by the Borrower with the Bank are being used fraudulently, negligently, for illegal or terrorist activities, or for any purpose that does not comply with any law, including Anti-Bribery and Anti-Corruption Laws.
- 14.28 that the Borrower undertakes for the duration of the Loan Facility to maintain a funded budget as set out in the Medium Term Revenue and Expenditure Framework Circular (No. 41) and Funding a Municipal Budget Circular (No. 42) issued in terms of the MFMA; and
- 14.29 that the Borrower undertakes to enter into formal payment arrangements with bulk service providers where there are arrears or where arrears arise over the term of the Loan Facility.

15. INDEMNITIES

- 15.1 The Borrower hereby indemnifies the Bank against any loss, damage, claims, costs, charges, expenses or any other liability, which may arise (because of this or any other banking facility or the Bank and/or the Standard Bank Group having an interest in the Borrower's assets) in respect of a breach of, or a failure, by the Borrower to meet its Environmental and Social Responsibility.
- 15.2 The Borrower hereby indemnifies and holds the Bank harmless against any actions, proceedings, claims or demands that may be brought against the Bank and/or the Standard Bank Group and all losses, damages, costs, charges and expenses which the Bank and/or the Standard Bank Group may incur or sustain, in connection with or arising out of:
 - 15.2.1 the seizure, blocking or withholding of any funds by any Sanctioning Body or Governmental Authority, whether such funds are in respect of this Agreement or held by the Borrower in an account opened with the Bank; and
 - 15.2.2 the breach of any warranties as set out in clause 14.
- 15.3 The Borrower shall be bound by all instructions transmitted by it to the Bank via electronic means, including but not limited to emails and instructions received and processed on any digital media platform (**Instruction**) and hereby waives any rights it may have or obtain against the Bank arising directly or indirectly from any losses or damages which the Borrower may suffer as a result of the Bank acting on any purported Instruction. The Borrower further indemnifies the Bank and/or the Standard Bank Group in respect of any claims, demands or actions made against the Bank or losses or damages suffered by the Bank and/or the Standard Bank Group as a result of the Bank acting on the said Instruction.

16. CHANGE(S) IN CIRCUMSTANCES

- 16.1 If at any time or times during the currency of the Loan Facility, there is:

- 16.1.1 any change in or introduction of any law, regulation, ruling, directive, policy, requirement, request or guidelines (whether or not having the force of law) or any other similar event with which the Bank or any of its divisions is obliged to comply or which is in accordance with the practice of a responsible banker, or any interpretation or administration thereof,

without derogating from the generality of the foregoing:

- 16.1.2 any change in banking practice, as it affects or is applied generally by any financial institution in South Africa;
- 16.1.3 a requirement or a request by any authority, to pay taxes or other amounts whatsoever or to maintain special deposits or reserve assets;
- 16.1.4 any compliance by the Bank with any reserve, cash ratio, special deposit or liquidity requirements (or any other similar requirements) in respect of the Loan Facility;
- 16.1.5 any compliance with or application of (whether mandatory or not) any capital adequacy or similar requirements, including but not limited to the provisions of the International Convergence of Capital Measurement and Capital Standards (a revised framework) (i.e. BASEL II) or any other standards or guidelines published by the Basel Committee on Banking Supervision (including

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BASEL III) by the Bank or any of its divisions, or any interpretation or administration thereof, results in any increase in the Bank's costs in providing the Loan Facility to the Borrower;

- 16.1.6 any change to any present or future law, ruling or regulation;
- 16.1.7 any change in the interpretation or administration of any law, ruling or regulation by any relevant monetary or fiscal authority;
- 16.1.8 any amendment to the Banks Act, 94 of 1990; or
- 16.1.9 any compliance by the Bank with any directive or request, whether or not having the force of law, from any monetary or fiscal authority;

which would or does:

- 16.1.10 subject the Bank to any taxes, duties, or other charges in respect of the Loan Facility or change the basis of taxation of the Bank in respect of payments of principal or interest/fees payable to the Bank (except for changes in the rate of taxation on the overall net income of the Bank);
- 16.1.11 impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by the Bank; or
- 16.1.12 impose on the Bank any other obligation or condition affecting the Loan Facility or its commitment in terms of this Agreement,

and the result of any of the above is to increase the cost to the Bank of making any advance or maintaining the Loan Facility or to reduce any amount or amounts received or receivable or loanable by the Bank hereunder by a material sum, then the Borrower shall pay to the Bank on demand and while such circumstances continue, such fee as the Bank may impose or such additional amount or amounts which will compensate the Bank for such additional cost or reduced receipts.

- 16.2 The Bank shall give the Borrower 30 (thirty) days' written notice of all amounts payable in terms of clause 16.1. A certificate signed by any manager or divisional head of the Bank (whose appointment it shall not be necessary to prove) as to such additional amount/s shall be prima facie proof for all purposes in the absence of manifest error.
- 16.3 If the Borrower is required to pay additional amount/s to the Bank pursuant to clause 16.1, it shall be entitled to prepay any amounts owed in terms hereof without penalty, or to forthwith cancel any unutilised portion of the Loan Facility by giving the Bank 30 (thirty) days' written notice thereof.
- 16.4 Without detracting from any other rights that the Bank may have, the Borrower furthermore acknowledges that the Bank has approved and is providing the Loan Facility based on the present circumstances of the Borrower and the industry and environment within which it operates. The Borrower understands and agrees that certain circumstances, including but not limited to those circumstances set out in clause 16.1.1, may rise that would have the effect of materially altering the basis on which said Loan Facility was/is given. Should any event or series of events accordingly occur which, in the reasonable opinion of the Bank have or may be expected to have an adverse effect on the ability of the Borrower to comply with its obligations hereunder the Bank shall, by giving reasonable written notice, have the right to change the terms of the Loan Facility with the Borrower. Should the new terms on which the Bank is prepared to continue to make the Loan Facility available not be acceptable to the Borrower, all outstanding amounts will, without further notice, immediately become due and payable and the Borrower, or any other entities indebted in terms of the Loan Facility will immediately effect payment of such outstanding amounts.

17. CERTIFICATE OF INDEBTEDNESS

A certificate signed by any manager or business unit head of the Bank (whose authority, qualification or appointment need not be proved) setting out the amount of any indebtedness of the Borrower to the Bank in terms hereof, the rates of interest and any other fact, shall, on its mere presentation, be sufficient proof, unless the contrary is proved, of the Indebtedness and of such other facts contained therein.



18. GENERAL TERMS

18.1 Matters requiring the Bank's consent

The Borrower may not without the Bank's prior written consent, which shall not be unreasonably withheld:

- 18.1.1 cease carrying on business;
- 18.1.2 change the nature of its business;
- 18.1.3 become surety, guarantor for or give any indemnity on behalf of any third party whomsoever or render itself liable in any way whatsoever for the debts or engagements of any other party, other than encumbrances as agreed to by the Bank;
- 18.1.4 pledge, cede, mortgage, hypothecate or otherwise encumber or further encumber any of its movable or immovable assets to secure any liability of any nature;
- 18.1.5 sell or otherwise dispose of or attempt to sell or dispose of any of its assets except in the ordinary course of its business;
- 18.1.6 advance credit to third parties other than in the ordinary course of business; and/or
- 18.1.7 make material changes to the accounting policies, standards or conventions of the Borrower or any Collateral Provider.

18.2 Matters requiring the Bank to be notified

The Borrower may not without notification to the Bank:

- 18.2.1 incur any further borrowings, including but not limited to guarantees provided, other than permitted indebtedness as agreed to by the Bank. This restriction shall include off-balance sheet commitments.

18.3 Legal Charges

- 18.3.1 Each Party shall bear its own costs and expenses (including legal fees and expenses) of and incidental to the negotiation, preparation and completion of this Agreement.
- 18.3.2 All legal costs (on the attorney and own client scale), commissions or fees and other charges and expenses in connection with this Agreement including but not limited to all costs incurred by the Bank in the enforcement of any of its rights hereunder and the preparation of any documentation relating hereto, will be for the account of the Borrower and payable on demand.

18.4 Fees and Charges

- 18.4.1 The Bank may charge and recover fees and charges in respect of this Agreement.
- 18.4.2 All fees and charges will be debited to the account nominated by the Borrower for this purpose.
- 18.4.3 Where there is a change in the frequency or time for payment of a fee or charge, the Bank will give the Borrower written notice setting out the particulars of the change.
- 18.4.4 The Borrower must pay to the Bank all applicable fees and charges set out in this Agreement.
- 18.4.5 The Bank may charge and recover from the Borrower interest on and in respect of any unpaid fees and charges referred to in this Agreement.
- 18.4.6 The fees and charges applicable will be set out in the Bank's annual pricing schedule (amended from time to time) which will be issued to the Borrower or available on the Bank's website www.standardbank.co.za.
- 18.4.7 The Bank reserves the right to charge separate fees for any indulgences granted, or additional services provided by the Bank in connection with this Agreement. The Bank shall advise the Borrower in writing of these fees, as well as the payment terms associated therewith.

Handwritten signatures and initials:
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**18.5 Free of Deduction**

All amounts paid to the Bank under this Agreement shall be made free of deduction or set-off. Should the Borrower be compelled by law to withhold or deduct any taxes or other charges from any amounts payable to the Bank, the amounts payable to the Bank shall be increased to the extent necessary to ensure that the Bank receives the amounts payable, free of such withholding or deduction.

18.6 Allocation of Payments

The Bank will be entitled to allocate any payments received under this Agreement to any indebtedness of the Borrower to the Bank and the Borrower waives any rights it may have to name the debt in respect of which payment is made.

18.7 Set-off and Realisation

Should (i) the Bank demand repayment in accordance with clause 8.1, or (ii) the Borrower commit an event of default as set out in clause 13.1 or elsewhere in this Agreement and the Bank exercises its rights in terms of the provisions of clause 13.2, the Bank may in addition to any rights the Bank has and to the extent that it may be lawful:

- 18.7.1 set-off any credit balances held in any other account which the Borrower has with the Bank whether due and payable or not, against the Indebtedness; or
- 18.7.2 realise any Collateral held by the Bank and use the proceeds in payment of the Indebtedness, on written notice to the Borrower.

18.8 Collateral

On the inurrence of an event of default in clause 13.1 or elsewhere in this Agreement, or if the value of any Collateral held by the Bank to secure the Indebtedness is no longer adequate, or if in the opinion of the Bank the Borrower's account conduct increases the Bank's risk regarding the Indebtedness or any other amount owing to the Bank by the Borrower in terms of any other agreement, the Bank shall have the right to:

- 18.8.1 request the Borrower to provide the Bank with additional Collateral to secure repayment of the Indebtedness;
- 18.8.2 reduce the Limit;
- 18.8.3 require repayment of all or some of the Loan Facility; and/or
- 18.8.4 increase the interest rate in accordance with the provisions of clause 13.6.

18.9 Renunciation of benefits

The Borrower hereby renounces the benefits of the following legal defences to any claim brought by the Bank:

- 18.9.1 the Borrower has received no value for its obligations to the Bank;
- 18.9.2 no money has been paid to the Borrower;
- 18.9.3 there is no underlying cause for the Borrower's obligation to the Bank; and
- 18.9.4 the Bank made an error in calculating the Indebtedness. The Bank will revise its accounts in respect of the Indebtedness if they are incorrect.

18.10 Whole Agreement, Variation of Terms

- 18.10.1 This Agreement by the Borrower and the Bank shall constitute the whole agreement between the Bank and the Borrower relating to the subject matter hereof.
- 18.10.2 No addition to, variation, or amendment, or consensual cancellation of any of the terms contained in this Agreement, shall be of any force or effect unless it is recorded in writing and is signed on behalf of the Bank by one of its authorised officials and accepted by the Borrower. This requirement will only be satisfied if such amendment or variation is made in a written, paper-based form. The provisions of the Electronic Communications and Transactions Act, 25 of 2002

Handwritten signatures and initials: MB, GDN, MM, MS, KIF.



do not apply to this clause.

18.11 Illegality

If at any time after the Signature Date it is or becomes unlawful in any jurisdiction, or contrary to any lawful and binding request from or requirement of the South African Reserve Bank or other Governmental Authority, for the Bank to perform any of its obligations under this Agreement, then the Bank shall promptly after becoming aware of the same notify the Borrower by way of a certificate signed by any manager or divisional head of the Bank (whose authority, qualification or appointment need not be proved) and the Borrower shall repay any and all amounts due under this Agreement as required by law.

18.12 No Indulgence

18.12.1 No indulgence shown or extension of time given by the Bank shall operate as an estoppel against the Bank or waiver of any of the Bank's rights unless recorded in writing and signed by the Bank.

18.12.2 The Bank shall not be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the conclusion of any agreement created by acceptance of the Loan Facility or whether it was negligent or not.

18.13 Good Faith

The Parties undertake at all times to do all such reasonable things, perform all such reasonable actions and take all such reasonable steps open to them and necessary for or incidental to the putting into effect or maintenance of the terms, conditions or import of this Agreement, provided that nothing herein shall prevent the Bank from exercising its rights under the Agreement in the event of the occurrence of an event of default.

18.14 Severability

Each provision of this Agreement is severable, the one from the other and, if at any time any provision is or becomes or is found to be illegal, invalid, defective or unenforceable for any reason by any competent court, the remaining provisions shall be of full force and effect and shall continue to be of full force and effect.

18.15 Governing Law

The terms of this Agreement shall be governed by and interpreted in accordance with the laws of South Africa.

18.16 Corporation for Deposit Insurance

This product is not covered by the Corporation for Deposit Insurance.

18.17 Domicilium and Notices

18.17.1 The Parties choose as their *domicilium citandi et executandi* (address for the purpose of legal proceedings) their respective addresses set out below, at which addresses all processes and legal notices arising out of or in connection with this Agreement, its breach or termination may validly be served on or delivered to the Parties:

18.17.1.1 as regards the Bank:

Attention: Head: SA Legal

Standard Bank Centre,

9th Floor, Reception 1, 5 Simmonds Street, Johannesburg, 2001

With a copy to be sent to:

Attention: Head: Public Sector Business Banking - Timothy Matlala

7th Floor West Wing, 30 Baker Street, Rosebank, 2196

Telephone Number: 011 721 7389; and

Handwritten initials: MB, 4P, 2W, MM, MS



- 18.17.1.2 as regards the Borrower:
Attention: Municipal Manager - Mr Joel Makgata
1 Kastania Street, Burgersford, 1150
Telephone Number: 013 231 1000,
or at such other physical address, not being a post office box or *poste restante*, of which the Party concerned may notify the other Party in writing.
- 18.17.2 Any other written notices in connection with this Agreement shall be addressed as follows:
- 18.17.2.1 as regards the Bank:
at the address set out in clause 18.17.1.1
Email address: Timothy.Matlala@standardbank.co.za; and
- 18.17.2.2 as regards the Borrower:
at the address set out in clause 18.17.1.2
Email address: ramatheba@film.gov.za,
or at such other address of which the Party concerned may notify the other in writing.
- 18.17.3 Any notice given in terms of this Agreement shall be in writing and shall:
- 18.17.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery;
- 18.17.3.2 if delivered by a recognised international courier service, be deemed to have been received by the addressee on the first business day following the date of such delivery by the courier service concerned;
- 18.17.3.3 if posted by prepaid registered post will be deemed to have been received by the addressee on the 8th (eighth) Business Day following the date of such posting; and
- 18.17.3.4 if sent electronically, shall be deemed to have been received on the first Business Day following the successful transmission thereof as evidenced by the electronic confirmation of receipt (unless the contrary is proven). It is recorded, for the avoidance of doubt, that a legal notice sent by a Party shall not be regarded as valid legal notice, if sent electronically in terms of this clause 18.16.
- 18.17.4 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by a Party at its chosen address set out above, shall be an adequate written notice of communication to such Party.
- 18.17.5 Where the post office does not effect street deliveries at the Borrower's Notice Address, the Bank may send any notices in terms of this Agreement to the Borrower's post office box number.
- 18.18 **Counterparts**
This Agreement may be signed by the signatories hereto in counterparts and each signed copy shall together constitute one document.
- 18.19 **Cession**
- 18.19.1 The Borrower shall not be entitled to cede or assign its rights or obligations in terms of this Agreement to any party.
- 18.19.2 The Bank shall, on written notification to the Borrower, be entitled at any time to cede any or all of its rights or delegate any or all of its obligations under or in terms of this Agreement to any party.
- 18.19.3 To the extent that any cession, assignment or transfer by the Bank of its rights or obligations under or in terms of this Agreement to any party results (whether directly or indirectly) in a splitting of claims against the Borrower, the Borrower hereby irrevocably and unconditionally

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consents to such splitting of claims.

- 18.19.4 On cession, assignment or transfer in accordance with the provisions of clause 18.19.2 and without limitation to clause 18.20 the Bank shall be entitled to divulge and disclose such information or documents relating to the Borrower or any of its subsidiaries, which would otherwise be deemed to be confidential, to the cessionary, assignee or transferee as the Bank may deem necessary.

18.20 Sharing with Fraud Prevention Services and Governmental Authority

- 18.20.1 The Bank may give South African Fraud Prevention Services (SAFPS) information about your agreement including your account if we have reasonable cause to suspect that your account is being used improperly. The SAFPS may in turn make this information available to other members of the SAFPS if they carry out credit or other checks on your name.
- 18.20.2 Should the Bank have reasonable grounds to suspect that the Borrower or any of its Associates have violated any Anti-bribery and Anti-Corruption Laws, the Bank shall be entitled to:
- 18.20.2.1 request additional information prior to processing transactions;
 - 18.20.2.2 not process a transaction where it is suspected it is in relation to an incident of corruption, or relates to a Bribe and the Borrower cannot provide the Bank with information to the contrary; and
 - 18.20.2.3 report the incident, or suspected incident to the relevant Governmental Authority and subsequently act according to the guidance of such Governmental Authority.
- 18.20.3 A breach of this clause 18.20 constitutes a material breach that is incapable of remedy and therefore entitles the Bank to exercise the right to immediately cancel the Agreement without any liability and claim from the Borrower any damages that it may have suffered.

18.21 Data protection

- 18.21.1 The Borrower consents to the Bank collecting its Personal Information from the Borrower and where lawful and reasonable, from public sources for credit, fraud and compliance purposes as well as and the purposes set out below.
- 18.21.2 If the Borrower gives the Bank Personal Information about or on behalf of another person (including, but not limited to, account signatories, shareholders, principal executive officers, trustees and beneficiaries), the Borrower confirms that it is authorised to: (a) give the Bank the Personal Information; (b) consent on their behalf to the Processing of their Personal Information, specifically any cross-border transfer of Personal Information into and outside the country where the products or services are provided; and (c) receive any privacy notices on their behalf.
- 18.21.3 The Borrower consents to the Bank Processing its Personal Information:
- 18.21.3.1 to provide products and services to the Borrower in terms of this Agreement and any other products and services for which the Borrower may apply;
 - 18.21.3.2 to carry out statistical and other analyses to identify potential markets and trends, evaluate and improve our business (this includes improving existing and developing new products and services);
 - 18.21.3.3 in countries outside the country where the products or services are provided. These countries may not have the same data protection laws as the country where the products or services are provided. Where the Bank can, the Bank will ask the receiving party to agree to the Bank's privacy policies;
 - 18.21.3.4 by sharing the Borrower's Personal Information with the Bank's third-party service providers, and insurers, locally and outside the country where the products or services are provided. The Bank asks people who provide services to the Bank, including its insurers, to agree to the Bank's privacy policies if they need access to any Personal Information to carry out their obligations;
 - 18.21.3.5 within the Standard Bank Group.

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- 18.21.4 The Borrower consents to the Bank disclosing its Personal Information to Collateral Providers.
- 18.21.5 The Borrower will find the Bank's Processing practices in the Standard Bank Group and the Bank's privacy statements. These statements are available on the Standard Bank Group's websites or on request.
- 18.21.6 If the Borrower is unsure about its tax or legal position because the Borrower's Personal Information is Processed in countries other than where the Borrower lives or conducts business, the Borrower should get independent advice.

18.22 Recordal of Conversations

The Borrower agrees that the Bank may record telephone conversations with the Borrower's representative for the purpose of creating a record of the Borrower's instructions or requests given telephonically by the Borrower to the Bank.

18.23 Independent Advice

- 18.23.1 The Borrower acknowledges and agrees that it has not relied in any way on any information or advice given by the Bank in preparation, negotiation or implementation of this Agreement and that it has taken all reasonable actions to satisfy itself as to the consequences of entering into this Agreement.

- 18.23.2 The Borrower further acknowledges that:

- 18.23.2.1 the Bank does not provide any tax advice. The Borrower is responsible for any tax consequences associated with any account the Borrower has with the Bank;

- 18.23.2.2 it has been free to secure independent legal and other advice as to the nature and effect of all the provisions of this Agreement, and that it has taken such independent legal and other advice or dispensed with the necessity of doing so; and

- 18.23.2.3 all of the provisions of this Agreement, and the restrictions herein contained, are fair and reasonable in all the circumstances and are part of the overall intention of the Parties in connection with this Agreement.

Handwritten initials and signatures: NB, LD, FA, MM, P15, and a checkmark.



Standard Bank

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SIGNED AT Sandton ON THE 28 DAY OF MAY 2024

Signature

Lesetja Phisoanah Chidi
Full Names

Relationship Manager
Designation

For and on behalf of:
**THE STANDARD BANK OF SOUTH AFRICA
LIMITED**
Who warrants his/her authority hereto

As witnesses:

1 MBobatsi

Full names: Mantgeali Motubatsi
ID number: 7701030487052

2 NP Mabele

Full names: Monampora Mabele
ID number: 7706160299087



Standard Bank

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SIGNED AT Sandton ON THE 28 DAY OF May 2024

Signature

Margaret Moganyemesi Sobel

Full Name

Municipal Manager

Designation

For and on behalf of:
FETAKGOMO TUBATSE MUNICIPALITY
Who warrants his/her authority hereto

As witnesses:

1

Full names:

ID number:

ABRAM LEAGATHOKO MALEPE
640295613092

2

Full names:

ID number:

MALESELA MALACHIA MAPEKA
660125360082

MS
MM
MS