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**OFFICE OF THE MUNICIPAL MANAGER**

19 October 2012

The Relationship Executive  
Public Sector Banking  
19 Nelson Mandela Drive  
Bloemfontein  
9301

Dear Mr Moshane

**TERM LOAN AGREEMENT BETWEEN PHUMELELA AND ABSA BANK**

The originally signed term loan agreement as well as the extract from the council minutes will be provided to the bank on the 22<sup>nd</sup> October 2012. In terms of clause 3 – suspensive conditions, sub clauses 3.1.3, 3.1.5 and 3.1.6 the Municipal Manager must give written confirmations and they are as follows:

- (a) In terms of sub-clause 3.1.3, I hereby disclose in writing that the purpose of this term loan is for the acquisition of plant, property and equipment in line with section 46 (1)(a) of the MFMA and not for the re-financing of existing long-term debt;
- (b) In terms of sub-clause 3.1.5, I further confirm in writing that all the requirements of section 46 of the MFMA have been complied with and that a public notice was issued as prescribed;
- (c) In terms of sub-clause 3.1.6, I further confirm in writing that this term loan would not be repaid from revenues linked to particular municipal services. The conditions applicable to conditional grants are very strict and those funds cannot be used for the repayment of this term loan.

I will appreciate it if the bank can expedite the fixing of interest rate and this letter further serves as an instruction for the total amount of R3.5 million to be transferred to the municipality primary account provided in the term loan agreement.

Regards



T.M. Moremi  
Municipal Manager



**EXTRACTS FROM THE MINUTES OF THE 2<sup>nd</sup> ORDINARY COUNCIL MEETING OF  
PHUMELELA LOCAL MUNICIPALITY HELD ON THE 02<sup>nd</sup> OCTOBER 2012 AT  
14H00 IN THE COUNCIL CHAMBER, VREDE**

**ITEM 28/2012**

**RE: LONG TERM LOAN AGREEMENT TO BE ENTERED INTO BETWEEN  
PHUMELELA LOCAL MUNICIPALITY AND ABSA BANK**

**RESOLUTION**

1. That Council takes note of the tabled term loan agreement.
2. That Council approves the long term loan agreement of R3 500 000.00 for the acquisition of Service Delivery fleet.
3. That the Accounting Officer must ensure that the provisions of section 46 of the MFMA with regard to the incurrence of the term loan is complied with and records kept for audit purposes.
4. That the Mayor must sign an extract of a municipal council resolution on behalf of council for the approval of the debt agreement in terms of section 46, subsection 2 (a) of the MFMA
5. That Council authorize the Accounting Officer (Municipal Manager) to sign the loan agreement and other documents which creates or acknowledges the debt in terms of section 46, subsection 2 (b) of the MFMA

Signed by .....

**CLLR T.J. MOTAUNG(MAYOR)**

14/10/2012  
.....

**DATE**



NACM

**PHUMELELA LOCAL MUNICIPALITY**

**Base Rate** 5.55%  
**Liquidity Premium** 0.98%  
**Liquid Asset Cost** 0.30%  
**Margin** 3.77%  
**All-in Rate** **10.60%**

**PHUMELELA LOCAL MUNICIPALITY**

**Escalation**  
**Accrued interest** 0.00

5.02

**All in Rate:** **10.600%**  
 75,525.13

0.00

Months	Date	Days	43848000	Repayments	10.60% Interest Capitalised	Outstanding Balance
	25-Oct-12		3,500,000.00			3,500,000.00
1	30-Nov-12	36		75,525.13	36,591.78	3,461,066.65
2	31-Dec-12	31		75,525.13	31,159.08	3,416,700.61
3	31-Jan-13	31		75,525.13	30,759.67	3,371,935.14
4	28-Feb-13	28		75,525.13	27,418.91	3,323,828.93
5	31-Mar-13	31		75,525.13	29,923.57	3,278,227.37
6	30-Apr-13	30		75,525.13	28,560.99	3,231,263.23
7	31-May-13	31		75,525.13	29,090.22	3,184,828.32
8	30-Jun-13	30		75,525.13	27,747.27	3,137,050.47
9	31-Jul-13	31		75,525.13	28,242.05	3,089,767.39
10	31-Aug-13	31		75,525.13	27,816.37	3,042,058.63
11	30-Sep-13	30		75,525.13	26,503.41	2,993,036.92
12	31-Oct-13	31		75,525.13	26,945.53	2,944,457.32
13	30-Nov-13	30		75,525.13	25,653.08	2,894,585.27
14	31-Dec-13	31		75,525.13	26,059.20	2,845,119.34
15	31-Jan-14	31		75,525.13	25,613.87	2,795,208.08
16	28-Feb-14	28		75,525.13	22,729.25	2,742,412.20
17	31-Mar-14	31		75,525.13	24,689.22	2,691,576.30
18	30-Apr-14	30		75,525.13	23,449.90	2,639,501.07
19	31-May-14	31		75,525.13	23,762.74	2,587,738.68
20	30-Jun-14	30		75,525.13	22,545.23	2,534,758.78
21	31-Jul-14	31		75,525.13	22,819.77	2,482,053.42
22	31-Aug-14	31		75,525.13	22,345.28	2,428,873.58
23	30-Sep-14	30		75,525.13	21,161.15	2,374,509.59
24	31-Oct-14	31		75,525.13	21,377.09	2,320,361.56
25	30-Nov-14	30		75,525.13	20,215.75	2,265,052.18
26	31-Dec-14	31		75,525.13	20,391.68	2,209,918.73
27	31-Jan-15	31		75,525.13	19,895.32	2,154,288.92
28	28-Feb-15	28		75,525.13	17,517.62	2,096,281.41
29	31-Mar-15	31		75,525.13	18,872.28	2,039,628.55
30	30-Apr-15	30		75,525.13	17,769.91	1,981,873.34
31	31-May-15	31		75,525.13	17,842.29	1,924,190.50
32	30-Jun-15	30		75,525.13	16,764.18	1,865,429.55
33	31-Jul-15	31		75,525.13	16,793.98	1,806,698.40
34	31-Aug-15	31		75,525.13	16,265.24	1,747,438.51
35	30-Sep-15	30		75,525.13	15,224.26	1,687,137.64
36	31-Oct-15	31		75,525.13	15,188.86	1,626,801.37
37	30-Nov-15	30		75,525.13	14,173.23	1,565,449.47
38	31-Dec-15	31		75,525.13	14,093.33	1,504,017.67
39	31-Jan-16	31		75,525.13	13,540.28	1,442,032.82
40	29-Feb-16	29		75,525.13	12,144.68	1,378,652.38
41	31-Mar-16	31		75,525.13	12,411.65	1,315,538.90
42	30-Apr-16	30		75,525.13	11,461.41	1,251,475.17
43	31-May-16	31		75,525.13	11,266.71	1,187,216.75
44	30-Jun-16	30		75,525.13	10,343.42	1,122,035.05
45	31-Jul-16	31		75,525.13	10,101.39	1,058,611.31
46	31-Aug-16	31		75,525.13	9,512.40	990,598.57
47	30-Sep-16	30		75,525.13	8,630.42	923,703.86
48	31-Oct-16	31		75,525.13	8,315.87	856,494.60
49	30-Nov-16	30		75,525.13	7,462.06	788,431.54
50	31-Dec-16	31		75,525.13	7,098.04	720,004.45
51	31-Jan-17	31		75,525.13	6,482.01	650,961.33
52	28-Feb-17	28		75,525.13	5,293.30	580,729.50
53	31-Mar-17	31		75,525.13	5,228.16	510,432.53
54	30-Apr-17	30		75,525.13	4,447.06	439,354.46
55	31-May-17	31		75,525.13	3,955.39	367,784.72
56	30-Jun-17	30		75,525.13	3,204.26	295,463.85
57	31-Jul-17	31		75,525.13	2,659.98	222,598.71
58	31-Aug-17	31		75,525.13	2,004.00	149,077.58
59	30-Sep-17	30		75,525.13	1,298.81	74,851.26
60	31-Oct-17	31		75,525.13	673.87	0.00



Name: **TEKOETSILE MOSES MOREMI**  
 Capacity: **MUNICIPAL MANAGER**  
 Duly Authorised



## Business Bank

3rd Floor Absa Forum Building  
Cor Nelson Mandela Drive and  
Donald Murray Avenue Bloemfontein 9301  
PO Box 323 Bloemfontein 9300

Tel +27 51 401 0531  
Fax +27 51 401 0539  
Swift Address: ABSA ZA JJ  
Web <http://www.absa.co.za>

3de Verdieping Absa Forum Gebou  
Paul Krugerstraat 20 Nelspruit 1201  
Posbus 1951 Nelspruit 1200  
Posbus 323 Bloemfontein 9300

Tel +27 51 401 0531  
Faks +27 51 401 0539  
Swift-Adres: ABSA ZA JJ  
Web <http://www.absa.co.za>

## APPENDIX 1

### RATE FIXING LETTER

**To:** Phumelela Local Municipality  
Cnr Kunn & Prinsloo Street  
Vrede  
2302

(the 'Borrower' and together with Absa, hereinafter, the 'Parties')

**From:** Absa Bank Limited  
(acting through its Absa Business Bank division)  
3<sup>rd</sup> Floor Absa Forum Building  
19 Nelson Mandela and Donald Murray Avenue  
Brandwag  
9300  
South Africa  
(**'Absa'**)

**26 October 2012**

ABSA Bank Limited/Beperk, Reg No 1986/004794/06

Member of the  **BARCLAYS** Group  
Lid van die Groep

Directors: DC Brink (Chairperson), \*M Ramos (Group Chief Executive), DC Arnold, BP Connellan, YZ Cuba, BCM de Vitry d'Avaucourt (French), SA Fakie, G Griffin, MW Hlahla, MJ Husain, A Jenkins (British), R Le Blanc (British), TM Mokgosi-Mwantembe, EC Mondlane (Jr) (Mozambican), TS Munday, SG Pretorius, \*JH Schindehütte, \*LL von Zeuner, B.J. Willemse

\*Executive directors

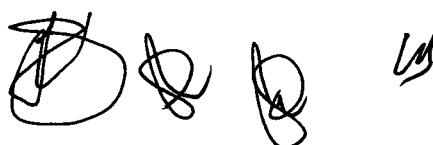
Secretary: S Martin

Authorised Financial Services Provider - Registered Credit Provider, Reg no NCRCP7

Dear Sirs

**Term Loan Agreement (the 'Agreement') concluded on or about 18 October 2012 between Absa and the Borrower pursuant to which Absa agrees to lend and advance the Facility to the Borrower**


1. Reference is made to the Agreement.
2. This is the Rate Fixing Letter contemplated in the Agreement (hereinafter, the 'Rate Fixing Letter'). Save as defined herein terms defined in the Agreement (whether directly or by way of incorporation by reference) shall bear the meanings ascribed therein when used in this Rate Fixing Letter.
3. Absa and the Borrower hereby agree that the Interest Rate for all purposes in terms of the Agreement shall be **10.60 % (ten point six percent)**
4. The Payment Schedule for the purposes of the Agreement shall be attached hereto as **Annexure A**.
5. The terms of this Rate Fixing Letter constitute the sole record of the agreement between the Parties in relation to the Interest Rate being the subject matter hereof and shall be governed by the Laws of the Republic of South Africa and no waiver, amendment, or cancellation of any of the provisions or terms of this Rate Fixing Letter shall be binding unless recorded in a written document signed by the Parties.
6. The Borrower may not cede, delegate, assign or transfer all or any part of its rights and/or obligations under this Rate Fixing Letter without the prior written consent of Absa.
7. This Rate Fixing Letter may be executed in one or more counterparts all of which, when read together, shall comprise one and the same instrument. A facsimile shall constitute a valid counterpart for all purposes hereunder, provided the fax and e-mail indemnity being Appendix 3 of the Agreement has been duly completed.



Signed for and on behalf of:

**Absa Bank Limited**

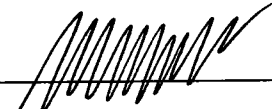

(acting through its Business Bank division)

 26/10/12

Name: John Mosane  
Title: Relationship Executive  
Date: 26/10/2012  
Witness:

**Absa Bank Limited**

(acting through its Business Bank division)

  
Name: **C D (Cas) Badenhorst**  
Title: **Regional Credit Manager  
Commercial Business Central**  
Date: **Mandate number: 9073581**  
Date: 26/10/2012  



Accepting the benefit hereof:

Signed for and on behalf of

**Phumelela Local Municipality**

  
Name: **TEKOETSILE MOSES MOREMI**  
Title: **MUNICIPAL MANAGER**  
Date: **26 OCTOBER 2012**

Witness: John Mosane (same)

 26/10/12

## DRAWDOWN NOTICE

Date: **26 October 2012**

To: Absa Bank Limited (acting through its Absa Business Bank Division)

From: **Phumelela Local Municipality**

Re: **Term Loan Agreement dated 18 October 2012('Agreement')**

We refer to the Agreement. This is a draw-down request and terms not defined in this request are defined in the Agreement.

1. The Borrower wishes to draw down the Facility on the following terms:
  - 1.1. Proposed draw down date: **26 October 2012;**
  - 1.2. Draw down requested: the Facility in a single lump sum;
2. The Borrower's payment instructions are: Please transfer the **R3,500,000** electronically into the bank account conducted by **Phumelela Local Municipality**, having the following particulars: **Account 22-6094-0190** held at **Absa Bank**.
3. The Borrower confirms that as at the date of this request, the Borrower is in compliance with all the provisions of the Agreement.



Name: **TEKOETSILE MOSES MOREMI**

Capacity: **MUNICIPAL MANAGER**

Duly Authorised



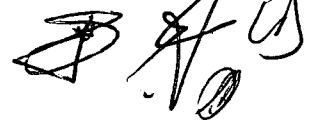
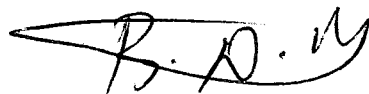
**LOAN AGREEMENT**

entered into between

**ABSA BANK LIMITED**  
(Registration Number: 1986/004794/06)  
(Hereinafter referred to as "Absa")

and

**PHUMELELA LOCAL MUNICIPALITY**  
(Hereinafter referred to as "Borrower")



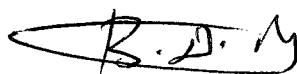
1. **PARTIES**

The parties to this loan agreement are:

- 1.1 **ABSA BANK LIMITED; and**
- 1.2 **PHUMELELA LOCAL MUNICIPALITY**

2. **DEFINITIONS AND INTERPRETATION**

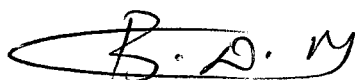
- 2.1 The headings to the clauses of this Agreement are for reference purposes only and shall in no way govern or affect the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof.
- 2.2 Unless the context dictates otherwise, the words and expressions set forth below shall bear the following meanings and cognate expressions shall bear corresponding meanings:
  - 2.2.1 **"Absa"** means Absa Bank Limited (Registration No. 1986/004794/06), a company with limited liability duly incorporated in accordance with the laws of the Republic of South Africa;
  - 2.2.2 **"Act"** means the Local Government: Municipal Finance Management Act No. 56 of 2003;
  - 2.2.3 **"Agreement"** means this loan agreement together with all annexures and schedules hereto;
  - 2.2.4 **"Applicable Laws"** means all applicable laws, ordinances, writs, regulations, judgments and orders of any competent court, central bank or governmental agency or authority in any relevant jurisdiction;
  - 2.2.5 **"Borrower"** means PHUMELELA being a municipality duly established in terms of the Local Government: Municipal Structures Act 117 of 1998 as amended;
  - 2.2.6 **"Business Day"** means any day, other than a Saturday, Sunday and/or any official South African public holiday;
  - 2.2.7 **"Capital Sum"** means R3 500 000.00(Three million five hundred thousand rand);
  - 2.2.8 **"Change in Law"** means any implementation, introduction, abolition, withdrawal or variation of any Applicable Laws, published practice, concession, official directive, ruling request, notice, announcement (including, but not limited to, any budget speech), guideline by any government entity (whether or not having the force of law) or any change in interpretation, or the introduction or making of any new or further interpretation, or any new or different competent authority or compliance with any new or different request or direction (in each case, whether or not having the force of law) from any government entity;
  - 2.2.9 **"Dispose"** means any sale, transfer, cession, assignment, lease, alienation, donation, renunciation, surrender, waiver, relinquishment, exchange or any other disposal;
  - 2.2.10 **"Drawdown"** means withdrawal by the Borrower of the Capital Sum in the manner set out in this agreement;
  - 2.2.11 **"Effective Date"** means the date of signature of this Agreement by the party signing it last in time;



- 3.1.1.1 approving the terms of this Agreement, which Agreement must be signed by the Municipal Manager with specific mention of the Capital Sum;
- 3.1.1.2 confirming authority of any specified person or persons to sign and/or despatch all documents and notices to be signed and/or despatched by the Borrower in terms of this Agreement, in the event such authorised persons are not the Municipal Manager;
- 3.1.2 In the event other specified persons as mentioned above in 3.1.1.2 are authorised to act on behalf of the Municipality, Absa must receive in writing the delegation of powers from the Municipal Manager, which must include specimen signatures of the authorised persons.
- 3.1.3 Receipt by Absa of a written disclosure by the Borrower signed by the Municipal Manager, indicating whether the purpose of this Term Loan is for -
  - 3.1.3.1 capital expenditure on property, plant or equipment as contemplated in section 46 (1)(a) of the Act; or
  - 3.1.3.2 re-financing existing long-term debt as contemplated in section 46 (1)(b) of the Act.
- 3.1.4 receipt by Absa of certified copies of -
  - 3.1.4.1 the Borrower's audited financial statements for its financial years ended 2009/2010/2011, together with an indication whether the audit deadline referred to in section 126 (1) and section 126 (2) of the Act has been met;
  - 3.1.4.2 The Borrower's approved annual budget;
  - 3.1.4.3 The Borrower's integrated development plan; and
  - 3.1.4.4 The Borrower's repayment schedules pertaining to its existing short-term and long-term debt.
- 3.1.5 Receipt by Absa of written confirmation by the Borrower, signed by the Municipal Manager, that it has complied with the requirements of section 46 (3) of the Act relating to the publishing of an information statement;
- 3.1.6 Receipt by Absa of written confirmation by the Borrower, signed by the Municipal Manager, that this Term Loan is not to be paid from revenues linked to a particular municipal service;
- 3.2 Absa shall be entitled to waive the suspensive conditions by written notice to the Borrower.

4. **THE LOAN**

- 4.1 Absa hereby lends to the Borrower, which hereby borrows, the Capital sum R3 500 000(three million five hundred thousand rand) for a maximum period of 5 years.
- 4.2 Absa shall advance the amount mentioned in clause 4.1 to the Borrower by permitting drawdown by the Borrower of the Capital Sum in accordance with a draw down schedule to be provided by the Borrower to Absa, which draw down schedule must be acceptable to Absa. The draw down schedule must indicate when the draw downs are anticipated and the amounts involved. The Borrower may amend the draw down schedule, subject to one month written notice to Absa and provided that the amendments are acceptable to Absa.



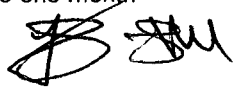












- 2.2.12 **"Event of Default"** means an event specified as such in **clause 12**;
- 2.2.13 **"Income Generating Asset"** means any asset that provides a revenue stream to the Borrower and, particularly, includes the assets funded, or to be funded by the Capital Sum;
- 2.2.14 **"Interest Period"** means a monthly period for the duration of the agreement, being 5 years;
- 2.2.15 **"Interest Rate"**  
**"Fixed Interest Rate"** means a fixed interest rate payable on the 6 monthly capital and interest redemption dates, fixed for the full term of the loan, calculated on the Swap Offer Rate plus Absa's prevailing all-in cost of funds, applicable to 10 or 5 years plus a credit margin of 3.77% or .00% nominal annual compounded six monthly interest rate, at the time of draw down
- 2.2.16 **"Material Adverse Effect"** means an event, circumstance or matter or combination of events, circumstances or matters, which has or will have a material adverse impact on:
- 2.2.16.1 the ability of the Borrower to comply with its obligations in terms of this Agreement; and/or
- 2.2.16.2 the business, operations, property, condition (financial or otherwise) or prospects of the Borrower taken as a whole and includes any substantial restructuring, or Disposal of material assets; and/or
- 2.2.16.3 the validity and/or enforceability of this Agreement and/or the rights and/or remedies of Absa in terms of this Agreement;
- 2.2.17 **"month"** means a calendar month and **"monthly"** shall be construed accordingly;
- 2.2.18 **"NACS"** means nominal annual compounded semi-annually;
- 2.2.19 **"NACM"** means nominal annual compounded monthly;
- 2.2.20 **"TERM LOAN"** means the Capital Sum together with the interest thereon advanced to the Borrower by Absa
- 2.3 Unless the context dictates otherwise, an expression which denotes any gender includes both the others; and to a natural person includes a juristic person and to the singular includes the plural, and vice versa in each case.
- 2.4 The annexure(s) to this Agreement form an integral part hereof and words and expressions defined in this Agreement shall bear, unless the context otherwise requires, the same meaning in such annexure(s).
- 2.5 When any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a Business Day, in which case the last day shall be the next succeeding Business Day.

### 3. SUSPENSIVE CONDITIONS

- 3.1 This Agreement is subject to fulfilment of the following suspensive conditions:
- 3.1.1 receipt by Absa of a certified copy of a municipal council resolution of the Borrower, signed by the Mayor:

*[Handwritten signatures and initials]*

*[Handwritten signature: B. 10. 14]*

*[Handwritten initials: LS]*

*[Handwritten initials: JH]*

*[Handwritten initials: J]*

*[Handwritten initials: @]*

- 4.3 The Payment term as well as the Instalment Amounts will be according to the Repayment Schedule, attached hereto as **Annexure A**. In the event of a variable interest rate, Absa will provide the Borrower with an Initial Repayment Schedule calculated at the variable interest rate at the Effective Date, in order to calculate the regular capital redemptions over the loan period. Absa will provide the Borrower with a manually prepared statement prior to each payment date showing the interest calculations based on the set capital redemptions and the total amount then due and payable by the Borrower.
- 4.4 Absa may charge a commitment fee of R0.50% for the unutilised portion of this Term Loan, which fee is payable monthly in arrears.

5. **INTEREST**

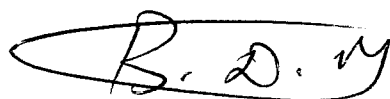

- 5.1 Interest shall be payable by the Borrower at the Interest Rate calculated on the Capital Sum, and payable monthly on the last day of each Interest Period.
- 5.2 The Capital Sum owing by the Borrower to Absa shall bear interest at a fixed rate to be determined by Absa on the day following the end of the Draw down Period (or the day prior to the draw down), provided that such rate shall be determined according to the cost to Absa of funding the Borrower under this Agreement for a 5 year period, or 6 (six) monthly period, and that an appropriate interest margin shall be applicable to such rate.
- 5.3 Any amount due by the Borrower in terms of this Agreement that is not paid on due date, shall bear default interest at the Prime Rate plus 0.50% from the due date to date of payment.

6. **PAYMENTS**

- 6.1 All payments due by the Borrower in terms of this Agreement will be made by the Borrower to Absa before or on the relevant due date, in the currency of the Republic of South Africa, free of exchange or other deductions in a manner as may be agreed upon by the Parties from time to time in writing.
- 6.2 Where any payment to be made by the Borrower in terms of this Agreement is due on a date which is not a Business Day, then such payment shall become due and payable on the first Business Day following such date.
- 6.3 The Borrower may not raise any claim, counter-claim, dispute or arbitration proceedings as a reason for deferring payment and the Borrower may not withhold any payment or set-off any claim or counterclaim which it may wish to raise against any amount payable to Absa.

7. **PREMATURE CAPITAL PAYMENT**

- 7.1 The Borrower may repay the outstanding Capital Sum prematurely subject to 6 (six) months written notice of its intention to do so to Absa, provided that such premature repayment or repayments shall coincide with the agreed upon capital and interest redemption sequence as provided for in this Agreement.
- 7.2 The Borrower may not give notice of early repayment to Absa until at least 90 (ninety) days, calculated from the Effective date, have elapsed. The latter notice shall state the date on which the Borrower intends to repay the Capital Sum and, notwithstanding anything to the contrary contained herein, the date thus stated shall be deemed to be the date on which the Capital Sum is due and payable.



- 7.3 Upon early repayment of the Capital Sum for any reason whatsoever, the Borrower shall pay the Capital Sum to Absa, together with all the accrued interest thereon from the date of the last Interest Period to the date on which the Capital Sum shall be deemed to be due and payable in accordance with clause 7.2
- 7.4 The Borrower shall be liable for any and/or all unwinding costs in respect of any fixed rate Swap agreement entered into by Absa. In the event such a Swap agreement is cancelled, and depending on the interest rate levels at that time of cancellation, Absa may have to be credited with funds due to such cancellation.

8. **UNDERTAKINGS**

8.1 As at the Effective Date, the date of Drawdown and (if applicable) the date of advance of the Term Loan, the Borrower undertakes to Absa that, until all amounts payable in terms of this Agreement have been repaid in full, the Borrower shall:

8.1.1 not encumber its cash flows, income or Income Generating Assets in favour of, nor utilize the same to pay any of, its current or subsequent creditors in respect of such cash flows, income or Income Generating Assets in which Absa may have an interest and/or right;

8.1.2 it shall send its audited annual financial statements to Absa as soon as they are available, but in any event not later than 30 (thirty) days from the date of consideration by the Borrower's Council, which consideration shall take place after finalisation thereof by the Auditor-General;

8.1.3 not give subsequent creditors preferential creditor status;

8.1.4 not ring-fence or cede any income stream on which it relies upon to fulfil its repayment obligations in terms of this Agreement, without Absa's prior written approval;

8.1.5 furnish Absa with such financial information and relevant credit information as may be required by Absa from time to time on 30 (thirty) days' notice from Absa;

8.1.6 furnish Absa with management accounts and a cash flow report, on a 6 (six) monthly basis, reflecting actual income and expenditure compared to the annual budget of the Borrower as approved. Upon receipt of the accounts from the Borrower, Absa shall be entitled to peruse the account and to determine any negative variances in respect of which it may require the Borrower to provide explanations. The Borrower shall also provide Absa with a detailed outline of corrective action which is to be taken by the Borrower;

8.1.7 not cede any of its rights or delegate any of its obligations in terms hereof to another person without the prior written approval of Absa;

8.1.8 immediately notify Absa of any statutory change to the functions, powers, duties, rights or obligations of the Borrower which may materially affect the Borrower's ability to meet its obligations under this Agreement, whereupon Absa shall be entitled to review the terms of this Agreement and, if in the reasonable opinion of Absa it is a necessary step, shall be entitled to cancel this Agreement; provided, however, that Absa shall only exercise its right to cancel this Agreement in terms hereof after:

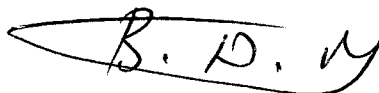
8.1.8.1 Absa has given the Borrower written notice of its opinions to that effect; and















- 8.1.8.2 The Borrower has failed to satisfy Absa within 10 (ten) days after its receipt of said notice that it shall have the ability to continue to meet its financial obligations under this Agreement.
- 8.1.9 In the event that it disposes of the whole or a major portion of its assets to a third party, the Borrower shall ensure that such third party maintains those assets in a satisfactory working condition; and
- 8.1.10 Implement reasonable measures to ensure that, while this agreement is in force, it honours its obligations in other existing loan agreements with third parties;
- 8.1.11 Provide written notification to Absa as soon as possible after becoming aware of:
- 8.1.11.1 any event which is likely to affect the ability of the Borrower to meet its repayment or security obligations in respect of its debt;
- 8.1.11.2 any failure by the Borrower to meet its repayment obligations on the due date other than non-payment for technical reasons which is remedied within 72 hours;
- 8.1.11.3 any failure by the Borrower to meet –
- 8.1.11.3.1 any of its obligations pertaining to security provided by the Borrower; or
- 8.1.11.3.2 any other obligation constituting a default as defined for purposes of a debt transaction;
- 8.1.11.4 any new debt incurred by the Borrower;
- 8.1.11.5 the provision of any additional security by the Borrower to an existing creditor; or
- 8.1.11.6 any mandatory intervention by the provincial executive in terms of Chapter 13 of the Act.
- 8.2 In the event of the Borrower requiring the written consent or approval of Absa before it can pursue a certain course of action, Absa undertakes:
- 8.2.1 that it shall not unreasonably withhold such consent or approval; and
- 8.2.2 that it shall provide the Borrower with its written response within 30 (thirty) days from the date on which it received such request;
- 8.3 The Borrower shall maintain its capital charges ratio (hereinafter referred to as "financing costs") within the norm prescribed by National Treasury of not more than 8% (eight percent) of operating expenditure. In the event of new accounting standards being adopted, the financing costs shall not exceed 8% of operating expenditure.
- 8.4 The Borrower's debtors' collection rate shall not decrease to below 65% (sixty five percent) of the amounts outstanding for less than 60 (sixty) days (that is, currently thirty days and sixty days).
- 8.5 The percentage of the Borrower's Gross Consumer Debtor movement may not exceed 15% (fifteen percent) year on year.
- 8.6 The percentage of Total Interest Bearing borrowings to Total funds, reserves and accumulated surplus to be maintained and shall not increase to above 50%.

*B. D. M*

*[Signature]*

*[Signature]*

*LS*

*[Signature]*

*[Signature]*

*[Signature]*

- 8.7 Net cash from operating activities expressed as a percentage of total interest bearing borrowings should not reduce below 60%
- 8.8 It is hereby agreed that cross default shall apply to all debt.

9. **WARRANTIES**

The Borrower warrants and represents to Absa that –

- 9.1 the Borrower has full power and authority to enter into and perform the obligations under this Term Loan and that all necessary corporate and/or other actions to authorise the execution of this agreement and utilisation of the Term Loan have been taken;
- 9.2 the provisions hereof are not in conflict with and will not constitute a breach of the provisions of any other agreement or undertaking, or provision of law binding upon the Borrower;
- 9.3 all of the information supplied by the Borrower to Absa in connection with the granting of the Term Loan is true, complete and accurate in all material respects and the Borrower is not aware of any material facts or circumstances that have not been disclosed to Absa and which, if disclosed, might adversely have affected the decision to provide the Term Loan;
- 9.4 the Borrower is not in default in respect of any of its material obligations concerning borrowed money and no event of default specified below has occurred or is continuing.

10. **CHANGE OF CIRCUMSTANCES**

If as a result of any amendments in or promulgation of any legislation, regulation, policy, rule, instruction, practice note or the like or the application or interpretation of any of the aforesaid by any body of authority –

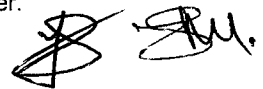
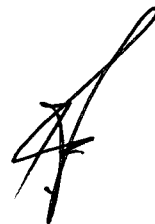
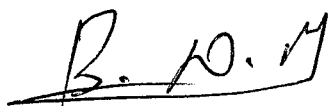
Absa's after tax return in terms of any facility is reduced, Absa is entitled to increase the interest rate, commission, fee or the like applicable in terms of the Term Loan, to such an extent as may be sufficient to maintain Absa's after tax return as if such amendment has not taken place. A certificate signed by any of Absa's managers wherein such amendment, promulgation and increased interest rate, commission, fee or the like are set out, is sufficient proof of the correctness thereof.

11. **CERTIFICATE**

A certificate by any Director and/or General Manager of Absa (who's appointment as such need not be proved) showing the amount due and owing by the Borrower to Absa at any given time as a result of:

- 11.1 termination in terms of any relevant clause of this Agreement;
- 11.2 any increase or decrease in interest payable in terms of clause 10; and
- 11.3 any Event of Default in terms of clause 12;

shall be *prima facie* proof of the facts stated therein for the purposes of all legal proceedings including provisional sentence or summary judgment against the Borrower.





12. **EVENTS OF DEFAULT**

An Event of Default shall occur if any one of the following events, each of which shall be severable and distinct from the others occurs:

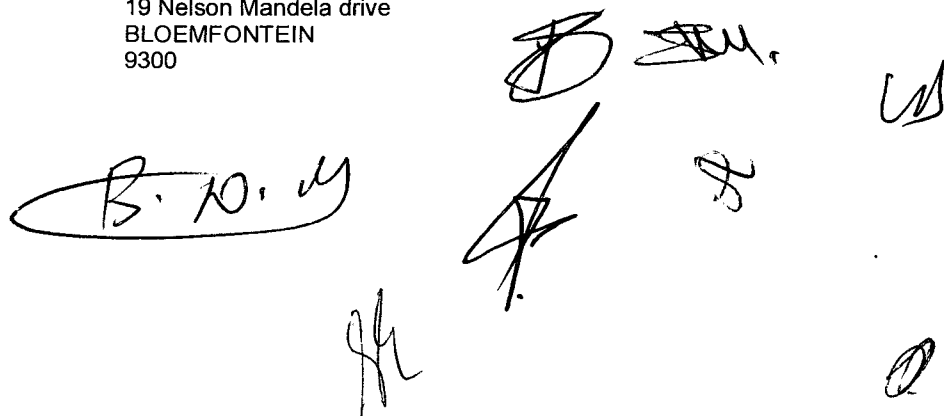
- 12.1 the Borrower fails to pay any amount due in terms of this Agreement on the due date thereof;
- 12.2 the Borrower breaches any undertaking given in terms of this Agreement or renders any representation or warranty made in terms of this Agreement untrue and/or incorrect; or
- 12.3 the Borrower is unable, or ceases for any reason whatsoever, to conduct its ordinary line of business in the ordinary or regular manner; or
- 12.4 any event or series of events occurs which, in the reasonable opinion of Absa, may have a Material Adverse Effect; or
- 12.5 any judgment of any court or arbitration order is granted against the Borrower in respect of any debt, and the Borrower fails within 14 (fourteen) days after the date of such judgment or order either to satisfy same or to take steps, and thereafter actively pursue such steps, to appeal or set aside such judgment and in the event of such steps being unsuccessful, the Borrower fails to make immediate payment thereof; or
- 12.6 any property of the Borrower being attached in execution for any debt; or
- 12.7 the Borrower having made any materially incorrect or untrue statement or representation in connection with this Agreement or its financial affairs or any particulars thereof and such statement or representation has not been remedied within 14 (fourteen) days after delivery to the Borrower of a written notice requiring such remedy; or
- 12.8 the Borrower committing any act or allowing any omission which might prejudice Absa's rights under this Agreement; or
- 12.9 the Borrower defaulting on any of its obligations with other financial institutions or creditors;
- 12.10 the Borrower defaulting on any other clause of this Agreement;

If the Borrower fails to remedy such an event of default (where capable of remedy) within thirty (30) days of having been given notice by the Bank calling upon the Borrower to do so, or if the event is not capable of remedy and the Bank gives notice that such event has occurred, then and in any such event, Absa shall be entitled, without prejudice to any other rights which it may have in law, to claim immediate repayment of the Capital Sum, together with the accrued interest thereon then owing by the Borrower to Absa, including unwinding costs as referred to in clause 7 and calculated in accordance with the relevant clauses of this Agreement, notwithstanding that the due date for payment of such amount has not yet arrived. Upon mutual agreement the thirty (30) days can be extended and such extension will be granted in writing to the Borrower.

13. **DOMICILIUM AND NOTICES**

13.1 The Parties choose the following addresses as their respective addresses in respect of all correspondence between the Parties regarding this Agreement, domicile for the service of summons and execution:

13.1.1 Absa Bank Limited  
Public Sector Banking  
Absa Forum Building 3rd Floor  
19 Nelson Mandela drive  
BLOEMFONTEIN  
9300



Handwritten signatures and initials are present around the address text. A large signature 'B. N. M.' is circled. Other signatures include 'B. N. M.', 'J. M.', 'L. M.', 'J. M.', and 'J. M.'.

Telephone No: 051 – 401 0994  
Facsimile No: 051 – 401 0539

13.1.2 The Borrower

Phumelela Local Municipality  
Cnr Kunn & Prinsloo Street  
Vrede  
Telephone No: 058 – 913 8314  
Facsimile No: 058 – 913 2317

- 13.2 Either Party may change its domicile by written notice to the other Party with effect from the date of receipt or deemed receipt by the latter of such notice. A domicile may not be a post box number or a *poste restante*, but will always be a physical address.
- 13.3 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing.
- 13.4 Any notice, demand or other communication in terms hereof properly addressed by either Party to the other Party at the latter's domicile for the time being and sent by prepaid registered post shall be deemed to be received by the latter on the 5<sup>th</sup> (fifth) day following the date of posting thereof. This provision shall not be construed as precluding the utilisation of other means and methods, including telefax, for the transmission or delivery of notices acceptances, demands and other communications, and shall, where applicable, be deemed to have been received on the day of delivery or telefax transmission, as the case may be.
- 13.5 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a Party shall be an adequate written notice or communication to it, notwithstanding that it was not sent to or delivered at its chosen domicile.
- 13.6 Notwithstanding the termination of this Agreement, the chosen domicile, as set out in this clause, will remain of full force and effect for the purpose of enforcing any rights that a Party may have.

14. **MISCELLANEOUS**

14.1 **No waiver**

No waiver by a Party of any breach, failure or default in performance by the other Party, and no failure, refusal or neglect by a Party to exercise any right hereunder or to insist upon strict compliance with or performance of the other Party's obligations under this Agreement, shall constitute a waiver of the provisions of this Agreement and a Party may at any time require strict compliance with the provisions of this Agreement.

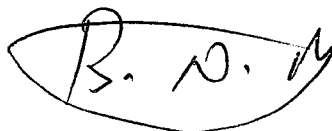
14.2 **Variation**

No amendment, consensual cancellation or other modification of this Agreement, including this clause, shall be valid or binding on a Party unless reduced to writing and signed on behalf of all Parties hereto.

14.3 **Governing law and Jurisdiction**

14.3.1 This Agreement shall be governed in all respects by and shall be interpreted in accordance with the laws of the Republic of South Africa.

14.3.2 The Parties hereby consent and submit to the jurisdiction of any High Court of South Africa in respect of all proceedings connected with this Agreement, notwithstanding the value of the claim or the matter in dispute.



14.4 **Costs**

The Borrower shall be liable for and pay all costs, on the scale as between an attorney and his own client, arising out of or in connection with any demand or legal proceedings by Absa for the recovery of any amount owing in terms hereof, including tracing fees, collection commission and disbursements.

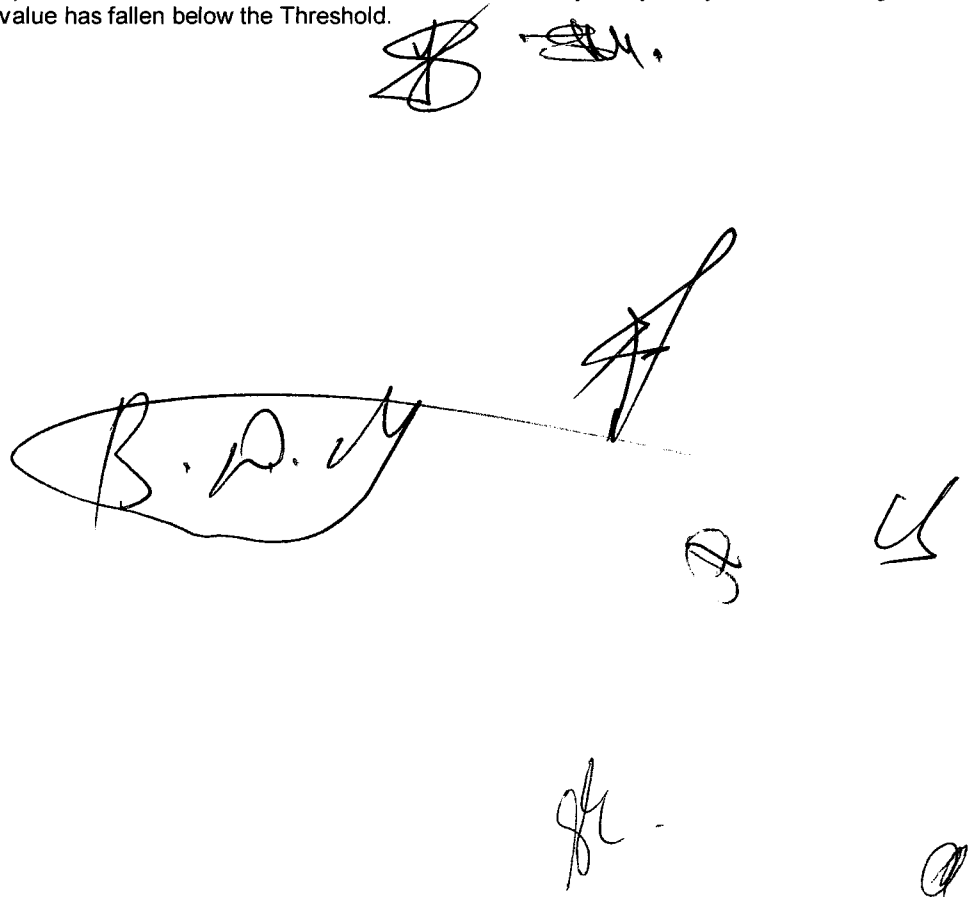
15. **SANCTIONS**

Absa discloses to the Borrower that being part of a global financial institution it complies and will in future comply with international and local anti-money laundering, counter terrorist financing, financial sanctions and prohibited business activity laws, regulations, policies and requirements. Therefore, Absa may initially screen, verify and process all new client and related information and thereafter monitor all information, instructions and transactions by and on behalf of the Borrower in relation to all transactions and to the business relationship on a continuous basis. This may result in the prohibition, limitation, delay in the execution of instructions or transactions and even in the declining or terminating any transaction or the business relationship with the Borrower. To the extent permitted, Absa shall advise the Borrower of any action it intends to take in terms hereof. The Borrower acknowledges and confirms that neither Absa nor its affiliates, employees, officers, or directors, shall be liable for any direct, indirect or consequential loss, damage, costs or expenses whatsoever that may be suffered or incurred by the Borrower as a result of, arising from or relating to any such prohibition, limitation, delay, decline or termination due to the implementation of this clause.

16. **FINANCIAL ADVISORY**

Absa hereby notifies the Borrower that in terms of the regulations applicable to the Financial Advisory and Intermediary Services Act (Act No 37 of 2002) ("FAIS") if the Borrower's net asset value is greater than R20 000 000 (twenty million rand) or such new amount as may be determined by the Registrar of Financial Services from time to time (the "Threshold") then Absa will not have to comply with the provisions of FAIS in so far as the Borrower is concerned.

In the event that the Borrower's net asset value falls below the Threshold (after the time of signing this Term Loan) then the Borrower undertakes that it will without any delay notify Absa, in writing, that its net asset value has fallen below the Threshold.



The image contains several handwritten signatures and initials. At the top, there are two small, illegible signatures. Below them is a large, stylized signature that appears to be 'B. D. V.' enclosed in a large oval. To the right of this signature is another large, stylized signature. Below these are several smaller, scattered initials and marks, including what looks like 'B', 'U', 'JL', and a circled 'Q'.

SIGNED at Bloubaart on this 23 day of October 2012.

AS WITNESSES:

- 1. 9036318  
Susanna Maria Erwee  
Full Names  
Identity No: Staff
- 2. 1244209  
[Signature]  
Full Names  
Identity No: (Staff) S. Pretorius

[Signature]  
For and on behalf of Absa Bank duly  
**SAKKIE WANNENBURG**  
MANAGER: COMMERCIAL SSCC  
CENTRAL  
ABSA RETAIL & BUSINESS BANK  
7100558

SIGNED at Blenfontein on this 23 day of October 2012.

AS WITNESSES:

- 1. 9036318  
Susanna Maria Erwee  
Full Names  
Identity No: Staff
- 2. 1244209  
[Signature]  
Full Names  
Identity No: (Staff) S. Pretorius

[Signature]  
C.D. Badenhorst - (051) 401 1001  
REGIONAL CREDIT MANAGER 0073581  
For and on behalf of Absa Bank duly  
Authorized thereto  
CORPORATE & BUSINESS  
BANKING SERVICES  
ABSA FREE STATE & NORTHERN CAPE

[Large Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]

SIGNED at VREDE on this 18 day of OCTOBER 2012.

[SIGNED BY MUNICIPAL MANAGER FOR AND ON BEHALF OF BORROWER]

AS WITNESSES:

B.R.M.

1. BUTI DAVID Madonela  
Full Names  
Identity No: 6601035677086

2. Mojalefa Mahlangu  
Full Names  
Identity No: 6810145664088

[Signature]  
For and on behalf of Municipality duly  
Authorised thereto

SIGNED at VREDE on this 18 day of OCTOBER 2012.

AS WITNESSES:

1. John Moshane (Signer)  
Full Names  
Identity No: 7801283565055

2. \_\_\_\_\_  
Full Names  
Identity No: \_\_\_\_\_

\_\_\_\_\_  
For and on behalf of Municipality duly  
Authorised thereto