

# LOAN AGREEMENT

entered into between

## ABSA BANK LIMITED

(Registration Number: 1986/004794/06)

(Hereinafter referred to as "Absa")

and

## GEORGE MUNICIPALITY

(Hereinafter referred to as "Borrower")

DHL REF:-

362 0937 552.

Mr. P. gestuur

V. Hendry. Tienie Grobler.

Handwritten signatures and initials at the bottom right of the page.

## 1. PARTIES

1.1. ABSA BANK LIMITED; and

1.2. GEORGE MUNICIPALITY

## 2. DEFINITIONS AND INTERPRETATION

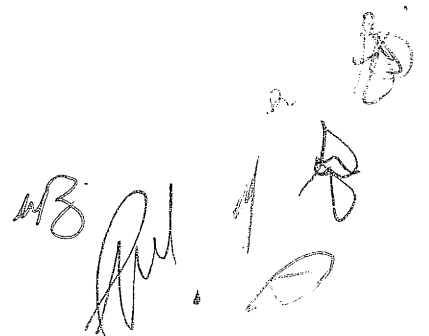
2.1. The headings to the clauses of this Agreement are for reference purposes only and shall in no way govern or affect the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof.

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:

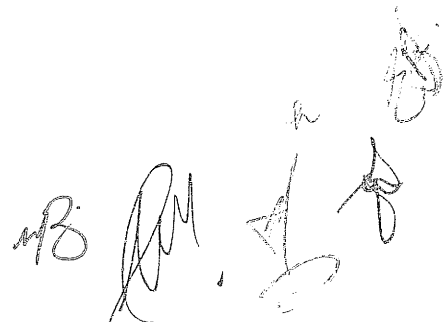
2.2.1. "**Absa**" means Absa Bank Limited (Registration No. 1986/004794/06), a public company duly incorporated in accordance with the laws of the Republic of South Africa with its registered address at Block H, Corporate Park, 4 Varing Avenue, George, 6529 herein duly represented by Willie Zastron and Elre Fredericks in their respective capacities as General Manager and Public Sector Banker: Southern Cape of Absa;

2.2.2. "**Agreement**" means this loan agreement between the Parties together with all annexures and schedules hereto;

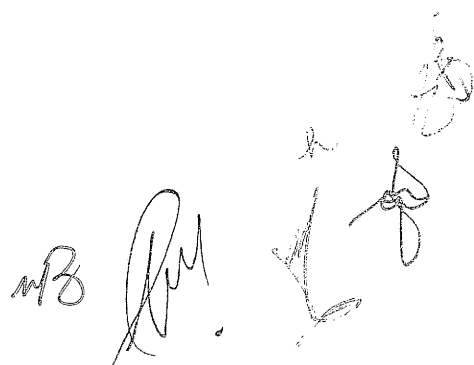
2.2.3. "**Applicable Laws**" means all applicable laws, ordinances, writs, regulations, judgements and orders of any competent court, central bank or governmental agency or authority in any relevant jurisdiction;

Handwritten signatures and initials are present at the bottom right of the page. There are several distinct marks, including what appears to be a signature starting with 'MB' and other initials and scribbles.

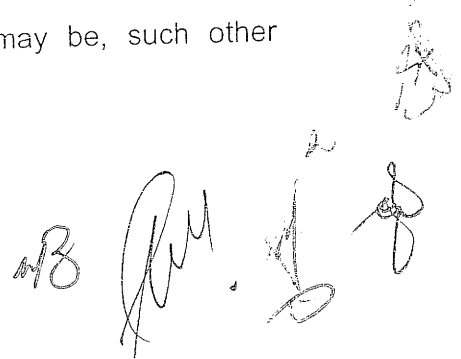
- 2.2.4. **"Borrower"** means **GEORGE MUNICIPALITY** or its successors in title, being a legal person duly incorporated in terms of the laws of the Republic of South Africa, with its address as **set out in clause 15**;
- 2.2.5. **"Business Day"** means any day, other than a Saturday, Sunday and/or any South African public holiday in accordance with the Public Holidays Act of 1994, on which banks are open for business in the Republic of South Africa;
- 2.2.6. **"Capital Sum"** means R18 000 000.00 (Eighteen million Rand);
- 2.2.7. **"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;
- 2.2.8. **"Default"** means an Event of Default or an event which, with the passing of time, the giving of notice, the determination of materiality or fulfilment of any applicable condition, would constitute an Event of Default;
- 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 a once off withdrawal by the Borrower of the Capital Sum on or before 30 June 2006;



- 2.2.11. **“Effective Date”** means the date of signature of this Agreement by the party signing it last in time;
- 2.2.12. **“Event of Default”** means an event specified as such in clause 14;
- 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 six monthly period for the duration of the agreement, being 10 (ten) years;
- 2.2.15. **“Interest Rate”** means a fixed rate of 10.50 % (ten and a half percent) nominal annual compounded six monthly;
- 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;

Handwritten signatures and initials at the bottom right of the page, including what appears to be 'NB' and several stylized signatures.

- 2.2.17. “month” means a calendar month and “monthly” shall be construed accordingly;
- 2.2.18. “nacs” means nominal annual compounded six monthly;
- 2.2.19. “Parties” means Absa and the Borrower and “Party” shall be a reference to any one of them, as the context requires;
- 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 annexures 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 annexures.
- 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.
- 2.6. The rule of construction that, in the event of ambiguity, the contract shall be interpreted against the Party responsible for the drafting thereof, shall not apply in the interpretation of this Agreement.
- 2.7. The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 2.8. Save where the contrary is indicated, any reference in this Agreement to this Agreement or any other Agreement or document shall be construed as a reference to this Agreement or, as the case may be, such other

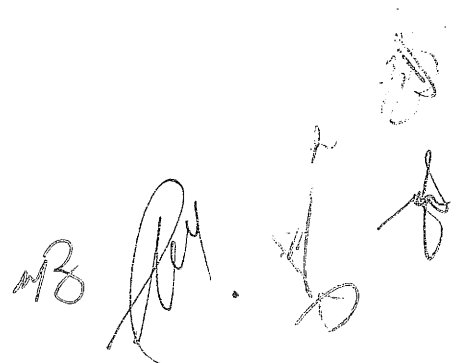
Handwritten signatures and initials are present at the bottom right of the page. There are four distinct marks: a set of initials 'MB', a large stylized signature, a smaller signature, and another set of initials.

Agreement or document as same may have been, or may from time to time be amended, varied, novated or supplemented.

### 3. CONDITIONS PRECEDENT

The obligations of Absa to the Borrower in terms of this Agreement are subject to the fulfilment of the following suspensive conditions by the Borrower, to the satisfaction of Absa:

- 3.1. receipt by Absa of a certified copy of a council resolution and/or resolutions of the Borrower, signed by the Mayor:
  - 3.1.1. approving the terms of this Agreement, which shall be signed by the Municipal Manager and resolving that it executes this agreement as a party, including specific mention of the Capital Sum of R 18 000 000.00;
  - 3.1.2. confirm 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;
- 3.2. receipt by Absa of a certificate signed by a member of the council of the Borrower certifying that the specimen of the signature of each person authorised by the resolution referred to in clause 3.1 above is a true and genuine signature of such person;
- 3.3. receipt by Absa of a copy of the annual audited financial statements of the Borrower for its financial year ended 2004/2005;
- 3.4. receipt by Absa of a certificate signed by the council of the Borrower setting out all encumbrances which currently exist in respect of the Borrower's rights and/or assets;

Handwritten signatures and initials at the bottom right of the page, including a large signature that appears to be 'MB' and several other smaller signatures and initials.

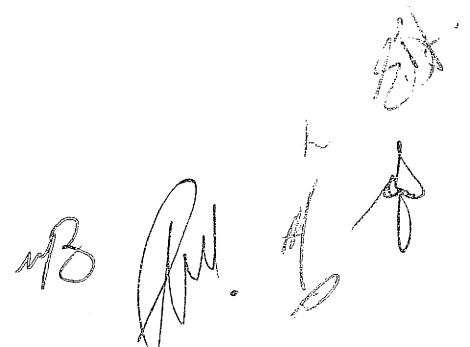
- 3.5. the Borrower shall utilise the funds advanced in terms hereof only for capital expenditure;
- 3.6. the economic lifespan of the assets of the Borrower should at least be equal to or exceed ten years.

#### 4. THE LOAN

- 4.1. Subject to the conditions precedent stipulated herein, Absa hereby lends to the Borrower, which hereby borrows, the Capital sum for a maximum period of 10 (ten) years.
- 4.2. Absa shall advance the amount mentioned in clause 4.1 to the Borrower by permitting single withdrawal by the Borrower of the Capital Sum on or before 30 June 2006 provided that, at such a date, the Borrower shall have complied with its obligations in terms of this Agreement.
- 4.3. The Payment term will be according to the attached Repayment Schedule, marked **Annexure "A"**.

#### 5. INTEREST

- 5.1. The interest payable by the Borrower shall be the Interest Rate, calculated on the Capital Sum, and payable six monthly, on the last day of each Interest Period.
- 5.2. Any amount due by the Borrower in terms of this Agreement that is not paid on the date on which it is due and payable, shall bear default interest at the Prime Rate plus 8 (eight) percent, calculated from the date on which that amount was due and payable to the date of payment.

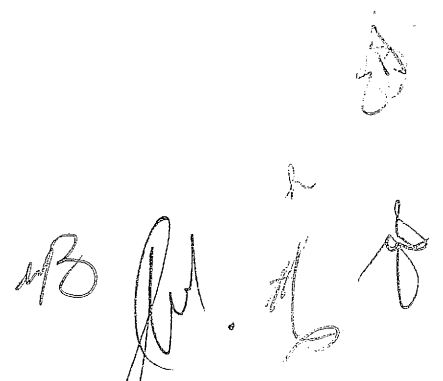
The bottom right of the page contains several handwritten signatures and initials. There are four distinct marks: a large, stylized signature, a smaller signature, and two sets of initials. The handwriting is in dark ink and appears to be from the same person or a group of related parties.

## 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. Any cheque payments sent by post by the Borrower shall be done entirely at the risk of the Borrower and shall only constitute payment upon receipt by Absa and clearance by the bankers of the Borrower.
- 6.4. 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. PREPAYMENT

- 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/s 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.

Handwritten signatures and initials are present at the bottom right of the page. There are four distinct marks: a signature that appears to be 'AB', a signature that appears to be 'R', a signature that appears to be 'L', and a signature that appears to be 'B'.



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 with Absa.

## 8. UNDERTAKINGS

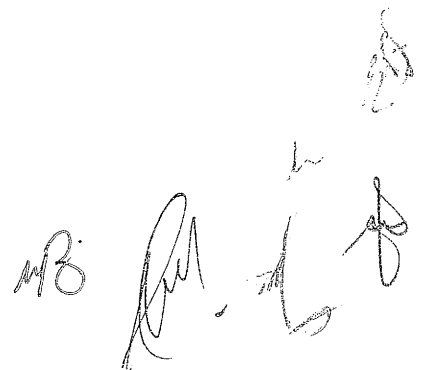
8.1. As at the Effective Date, the date of Drawdown and (if applicable) the date of advance of the Term Loan, the Borrower undertakes to Absa that, until all amounts payable in terms of this Agreement have been repaid in full, the Borrower shall:

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;

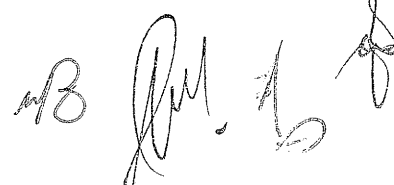
8.1.2. it shall send its audited annual financial statements to Absa as soon as they are available, but in any event not later than 30 (thirty) days from the date of consideration by the Borrower's council, which consideration shall take place after finalisation thereof by the Auditor-General;

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, which shall not be unreasonably withheld;



- 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 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. maintain, in full force and effect, all statutory approvals required to enable the Borrower to continue in its business and affairs;
- 8.1.8. 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;
- 8.1.9. 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:
- 8.1.9.1. Absa has given the Borrower written notice of its opinions to that effect; and
- 8.1.9.2. the Borrower has failed to satisfy Absa within 10

Handwritten signatures and initials in black ink, including what appears to be 'AB' and several stylized signatures.

(ten) days after its receipt of said notice that it shall have the ability to continue to meet its financial obligations under this Agreement.

8.1.10. 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

8.1.11. implement reasonable measures to ensure that, while this agreement is in force, it honours its obligations in other existing loan agreements with third parties;

8.2. 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:

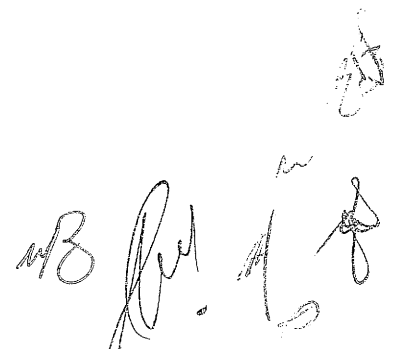
8.2.1.1. that it shall not unreasonably withhold such consent or approval; and

8.2.1.2. 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 20% after 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 90% of the amounts outstanding for less than 60 days (that is, currently thirty days and sixty days).

8.5 The ratio of the Borrower's consumer debtors to operating income may not exceed 15% year on year.



8.6 The Borrower's debt to equity ratio shall be maintained at a level less than 50% (fifty percent).

8.7 The Borrower's earnings before interest and tax to interest shall be at a level that interest is covered ten times.

## 9. WARRANTIES AND REPRESENTATIONS

On a continuous basis, for the duration of this Agreement, the Borrower represents and warrants, as material warranties, to Absa that:

9.1. it has full power to enter into and perform its obligations in terms of this Agreement and has taken all necessary actions to authorise the borrowing hereunder and that the borrowing of the total amount of the Capital Sum would not cause any borrowing limit binding on the Borrower to be exceeded;

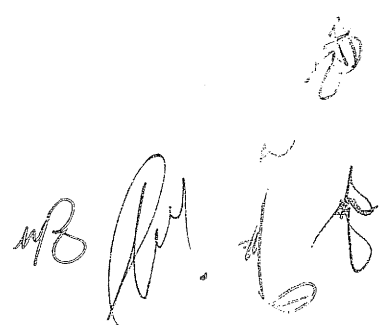
9.2. this Agreement constitutes a legal, valid, binding and enforceable obligation of the Borrower and the entry into and performance of this Agreement and the transactions contemplated hereby do not conflict with:

9.2.1. any law or regulation or any official or judicial order; or

9.2.2. the Constitution of the Republic of South Africa; or

9.2.3. any agreement or document to which the Borrower is a party or which is binding upon it or any of its assets, nor results in the creation or imposition of any security Interest on any of its assets pursuant to the provisions of any such Agreement or document;

9.3. it is not a party to any agreement which has, or is likely to have, a Material Adverse Effect;



- 9.4. it has good title to all its material assets that are reflected in its financial statements and has not sold, or otherwise disposed of, or encumbered such assets in any way likely to result in the Borrower failing to meet its repayment obligations in terms of this loan, save as reflected in such financial statements;
- 9.5. there has been no material adverse change in the financial condition of the Borrower since publication of the audited annual financial statements of 2004/2005;
- 9.6. it is not in default in respect of any of its obligations arising from other borrowed monies;
- 9.7. its obligations hereunder rank and will rank at least *pari passu* with all the Borrower's other present and future unsecured and unsubordinated obligations in relation to any indebtedness;
- 9.8. the economic lifespan of the assets to be financed shall be equal to, or exceed, the term of the funding provided.

The Borrower shall be deemed, on the date of signature and on each repayment date, to represent and warrant that each of these representations and warranties is true and accurate on such day;

#### 10. INDEMNITY

- 10.1 The Borrower hereby indemnifies and holds Absa harmless against any and all losses, liabilities, claims, damages, penalties, judgements, disbursements, costs and expenses (including legal costs) to which Absa may become subject, which directly or indirectly arise from or relate to –

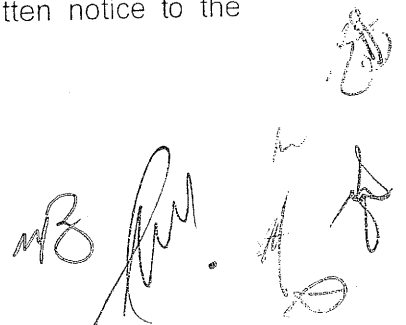
Handwritten signatures and initials at the bottom right of the page, including a large signature and several smaller initials.

- 10.1.1. the execution, delivery, performance, administration or enforcement of this Agreement in the case of a breach by the Borrower;
- 10.1.2. any of the transactions contemplated by the provisions of this Agreement or any transaction which the loan enables or has already enabled the Borrower to conclude;
- 10.1.3. any breach by the Borrower of any representation, warranty, covenant or other Agreement contained in or contemplated by this Agreement;
- 10.1.4. any claim against the Borrower or Absa arising from or in any other way connected to any act or omission on the part of the Borrower as a result of anything that the Borrower has been enabled to do, or has already done, as a result of the loan having been granted to the Borrower in terms of this Agreement.

## 11. INCREASED COSTS

### 11.1. If by reason of: -

- 11.1.1. the introduction of, or a change in the capital requirements by means of governmental regulation or the monetary or fiscal requirements or regulations of any authority; and/or
  - 11.1.2. compliance by Absa with a requirement from the South African Reserve Bank, its successor/s in title or other fiscal, monetary or other authority,
- 11.2. there is an increase in the cost or a decrease in the pre or post-tax income of Absa as a result of Absa agreeing to advance or having advanced the Capital Sum in terms of this Agreement, then, on written notice to the



Borrower, the interest payable by the Borrower to Absa in terms of this Agreement shall be increased to an amount that would compensate Absa for such increase in cost or decrease in income, with effect from the date when the change causing such increase in cost or decrease in income becomes effective. Such an increase will apply irrespective of whether the interest rate that is payable is based on the fixed rate for the fixed period.

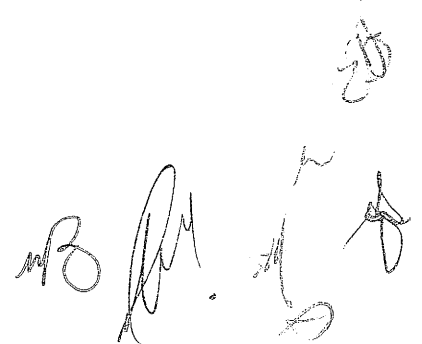
11.3. Prior to increasing the interest rate payable by the Borrower following such an increase in cost or a decrease in the pre- or post-tax income as aforesaid, Absa shall give the Borrower 7 (seven) days written notice inviting the Borrower to jointly negotiate and discuss with Absa the effect of the events contemplated in clauses 11.1.1 and 11.1.2 of this agreement. The Parties shall have 90 (ninety) days within which to reach agreement on the increased cost or decrease in Absa's pre- or post-tax income, failing which Absa shall be entitled, without prejudice to any rights which it may have in law, to implement its proposed increase on the interest rate payable by the borrower, subject to the borrower's right in terms of clause 11.4.

11.4. If by reason of a decrease in the cost to Absa as a result of events as contemplated in clause 11.1, then the interest payable by the Borrower to Absa in terms of clause 11.1 shall be decreased to an amount that will give Absa the same income as it received prior to such decrease.

11.5. If the Borrower is required to pay adjusted interest amounts pursuant to clause 11.1, the Borrower shall be entitled to terminate this Agreement upon giving Absa not less than 90 (ninety) days prior written notice, notwithstanding anything to the contrary contained in this agreement, provided that, should Absa have actually incurred any costs, the Borrower shall be obliged to make payment thereof on demand.

## 12. MATERIAL ADVERSE GOVERNMENTAL ACTION

In the event that,

Handwritten signatures and initials are present at the bottom right of the page. There are four distinct marks: a large, stylized signature, a smaller signature, and two sets of initials.

12.1. any minister, mayor, the relevant provincial legislature or the Borrower, as the case may be (the Relevant Authority) takes any action of any nature whatsoever, including but not limited to the introduction, application or change of any law, during the existence of this Agreement which results in:

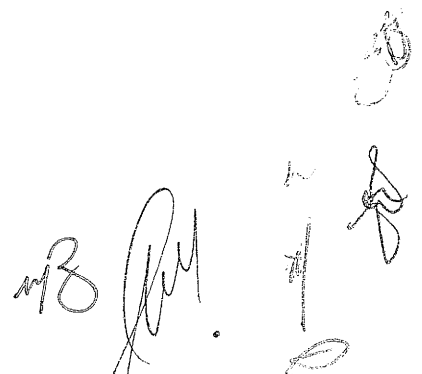
12.1.1. failure to carry out its obligations as prescribed by law, the principal effect of which is to render the Borrower's performance illegal; or

12.1.2. omitting to take any action of any nature whatsoever which may materially adversely affect or is likely to materially adversely affect the economic position of the Borrower; or

12.1.3. any change in the state of affairs of the Borrower as at the date of signature hereof until the Maturity Date will in Absa's reasonable opinion have a material adverse effect on the ability of the Borrower or its successors in title to fulfil the Borrower's obligations; or

12.1.4. any change in the structure and demarcation of the Borrower from the existing state of affairs as at the Advance Date will, in Absa's reasonable opinion, have a material adverse effect on the ability of the Borrower or its successor/s-in-title to fulfil its obligations in terms of this Agreement,

then, on the occurrence of any of these events, Absa shall be entitled, without prejudice to any rights which it may have in law, to claim immediate repayment of the Capital Sum, costs together with the accrued interest thereon owing by the Borrower to Absa at the time when such event takes place.

The bottom right corner of the page contains several handwritten signatures and initials. There are three distinct signatures, each appearing to be in ink. The signatures are somewhat stylized and overlapping, with some initials visible. The paper shows signs of wear and slight discoloration.



### 13. CERTIFICATE

A certificate by any Director and/or General Manager of Absa (whose 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:

13.1. termination in terms of any relevant clause of this Agreement;

13.2. any increase or decrease in interest payable in terms of clause 11; and

13.3. any Event of Default in terms of clause 14,

as certified by the external auditors of Absa 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.

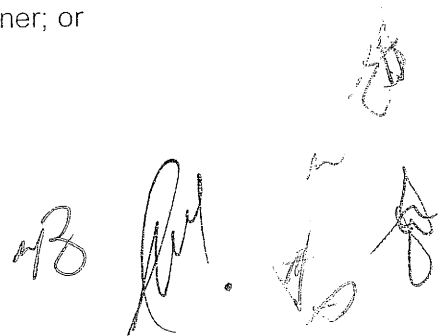
### 14. EVENTS OF DEFAULT

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:

14.1. the Borrower fails to pay any amount due in terms of this Agreement on the due date thereof, unless the failure to pay is solely due to technical or administrative reasons and the relevant amount is duly paid within 3 (three) business days of its due date; or

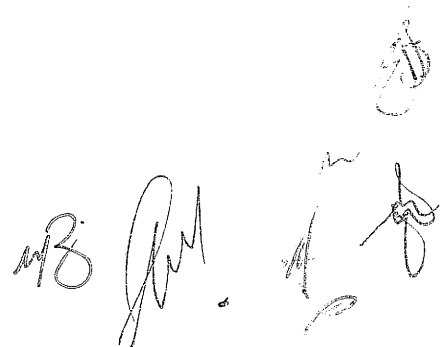
14.2. the Borrower breaches any undertaking given in terms of this Agreement or renders any representation or warranty made in terms of this Agreement untrue and/or incorrect; or

14.3. the Borrower is unable, or ceases for any reason whatsoever, to conduct its ordinary line of business in the ordinary or regular manner; or

Handwritten signatures and initials in black ink, located at the bottom right of the page. There are several distinct marks, including what appears to be a signature and some initials.

- 14.4. any event or series of events occurs which, in the reasonable opinion of Absa, may have a Material Adverse Effect; or
- 14.5. 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
- 14.6. any property of the Borrower being attached in execution for any debt; or
- 14.7. 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
- 14.8. the Borrower committing any act or allowing any omission which might prejudice Absa's rights under this Agreement; or
- 14.9. the Borrower defaulting on any of its obligations with other financial institutions or creditors;
- 14.10. the Borrower defaulting on any other clause of this Agreement;

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.

Handwritten signatures and initials at the bottom right of the page, including a large signature that appears to be 'MB' and several other smaller, less legible marks.

15. DOMICILIUM AND NOTICES

15.1. 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:

15.1.1. Absa Bank Limited

Block H, Corporate Park  
4 Varing Avenue  
George  
6529

Telephone No: 044 - 874 7575  
Facsimile No: 044 - 873 2992

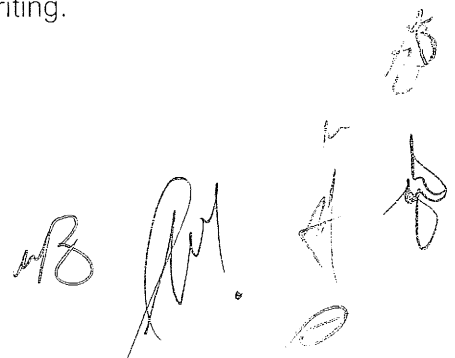
15.1.2. The Borrower

York Street  
GEORGE  
6530

Telephone No: 044 – 801 9111  
Facsimile No: 044 – 873 3776

15.2. 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.

15.3. Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing.

Handwritten signatures and initials are present at the bottom right of the page. There are four distinct marks: a signature that appears to be 'AB', a signature that appears to be 'Rui', a signature that appears to be 'A', and a signature that appears to be 'B'. There are also some smaller, less legible marks and initials scattered around these main signatures.

15.4. 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.

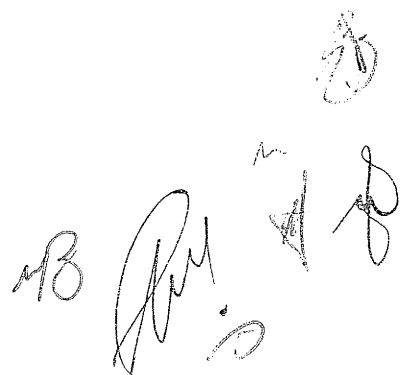
15.5. Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a Party shall be an adequate written notice or communication to it, notwithstanding that it was not sent to or delivered at its chosen domicile.

15.6. 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.

16. **MISCELLANEOUS**

16.1. **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.

Handwritten signatures and initials at the bottom right of the page. There are several distinct marks, including what appears to be a large 'B' or '13' and several cursive signatures.

## 16.2. Formalities

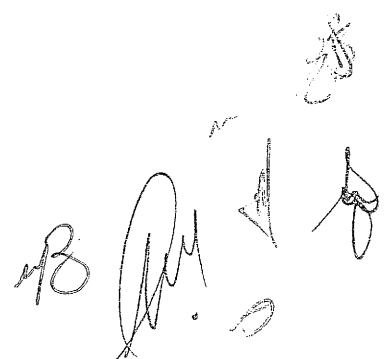
- 16.2.1. This Agreement will only be valid and binding once it has been signed by and on behalf of, all the Parties.
- 16.2.2. No amendment, consensual cancellation or other modification of this Agreement, including this clause, shall be valid or binding on a Party unless reduced to writing and signed on behalf of all Parties hereto.

## 16.3. Governing law and Jurisdiction

- 16.3.1. This Agreement shall be governed in all respects by and shall be interpreted in accordance with the laws of the Republic of South Africa.
- 16.3.2. The Parties hereby consent and submit to the jurisdiction of a Local Division of the 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.

## 16.4. 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.

Handwritten signatures and initials in black ink, located in the bottom right corner of the page. There are several distinct marks, including what appears to be a large 'AB' and several cursive signatures.

## 16.5 Dispute Resolution

16.5.1 Should any dispute (other than a dispute in respect of which urgent relief may be obtained from a court of competent jurisdiction) arise between the parties in the widest sense in connection with -

16.5.2 the formation or existence of;

16.5.3 the carrying into effect of;

16.5.4 the interpretation or application of the provisions of;

16.5.5 the parties' respective rights and obligations in terms of or arising out of;

16.5.6 the validity, enforceability, rectification, termination or cancellation, whether in whole or in part of;

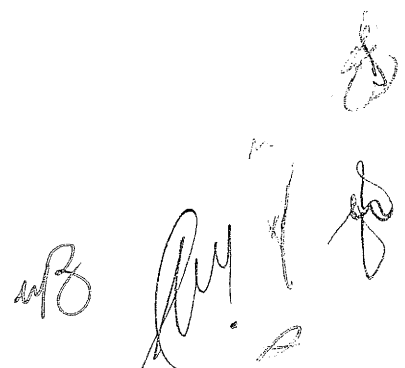
16.5.7 any documents furnished by the parties pursuant to the provisions of,

this agreement or which relates in any way to any matter affecting the interests of the parties in terms of this agreement, that dispute shall, unless resolved amongst the parties to the dispute, be referred to and be determined by arbitration in terms of this clause, provided that a party to the dispute has demanded the arbitration by written notice to the other parties.

16.6 The arbitration shall be held -

16.6.1 at a suitable venue as agreed upon between the parties;

16.6.2 with only the representatives and legal representatives of the parties to the dispute present thereat;

Handwritten signatures and initials in black ink, located at the bottom right of the page. There are several distinct marks, including what appears to be a signature 'AB' and other illegible scribbles.

16.6.3 otherwise in terms of the Arbitration Act, No 42 of 1965, it being the intention that the arbitration shall be held and completed within 21 (twenty one) days after it was demanded.

16.7 The arbitrator shall be, if the matter in dispute is principally -

16.7.1 a legal matter, a practising advocate or attorney of George of at least 15 (fifteen) years' standing;

16.7.2 an accounting matter, a practising chartered accountant of George of at least 15 (fifteen) years' standing;

16.7.3 any other matter, any independent person, agreed upon between the parties to the dispute.

16.8 Should the parties to the dispute fail to agree whether the dispute is principally a legal, accounting or other matter within 7 (seven) days after the arbitration was demanded, the matter shall be deemed to be a legal matter.

16.9 Should the parties to the dispute fail to agree on an arbitrator within 7 (seven) days after the expiry of the period referred to in 16.8, the arbitrator shall be appointed at the request of any party to the dispute by the President for the time being of The Law Society of the Cape of Good Hope.

16.10 The decision of the arbitrator shall be final and binding on the parties to the dispute and may be made an order of any competent court at the instance of any of the parties to the dispute.

16.11 The parties hereby consent to the jurisdiction of the High Court of South Africa (Cape of Good Hope Provincial Division) in respect of any proceedings arising out of this agreement not subject to arbitration in terms of this clause.

16.12 The provisions of this clause -

16.12.1 constitute an irrevocable consent by the parties to any proceedings in terms hereof and no party shall be entitled to

Handwritten signatures and initials in black ink, located in the bottom right corner of the page. There are several distinct marks, including what appears to be a large signature and some smaller initials or marks.

withdraw therefrom or claim at any such proceedings that it is not bound by such provisions;

16.12.2 are severable from the rest of this agreement and shall remain in effect despite the termination of or invalidity for any reason of this agreement.

## 17. VIS MAYOR

17.1. Should either Absa or the Borrower (hereinafter referred to as "the invoking Party") be prevented from fulfilling any of its obligations in terms of this Agreement as a result of any act of God, strike, war, riots, fire, flood, legislation, insurrection, sanctions, trade dispute or economic embargo or any similar cause beyond the reasonable control of such invoking Party (any such event hereinafter called "*vis mayor*") then:

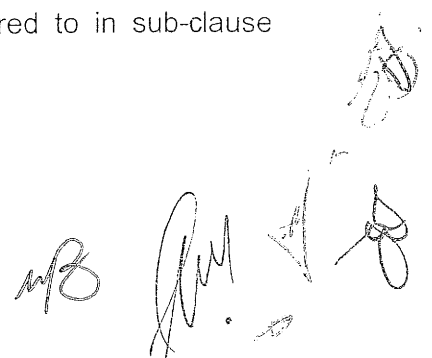
17.1.1. the invoking Party shall forthwith give written notice thereof to the other Party:

17.1.1.1. specifying the cause and anticipated duration of the *vis mayor*; and

17.1.1.2. promptly upon termination of the *vis mayor*, stating that such *vis mayor* has terminated.

17.1.2. Performance of any such obligations shall be suspended from the date on which notice is given in terms of sub-clause 17.1.1.1 until the date on which notice is given in terms of sub-clause 17.1.1.2.

17.2. The invoking Party shall not be liable for any delay or failure in the performance of any obligation hereunder, or loss or damage due to or resulting from the *vis mayor* during the period referred to in sub-clause 17.1.1 above provided that:

Handwritten signatures and initials in black ink, located at the bottom right of the page. There are several distinct marks, including what appears to be a signature 'MB' and other stylized initials.

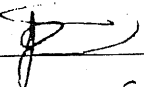


- 17.2.1. the invoking Party uses and continues to use its best efforts and takes all reasonable steps to perform such obligation and provides the necessary notices as specified in clause 17.1.1;
- 17.2.2. if the *vis mayor* shall continue for more than 21 (twenty-one) days, the other Party shall be entitled to cancel this Agreement on the expiry of such period with immediate effect on written notice, but shall not be entitled to claim damages against the invoking Party as a result of the delay or failure in the performance of any obligations hereunder due to or resulting from the *vis mayor*, except as otherwise provided in this Agreement.

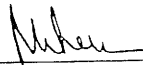
## 18. EXECUTION

SIGNED at PORT ELIZABETH on this 27 day of JUNE 2006.


AS WITNESSES:


1.   
Full Names FREDERICK JOHANNES GROBLER

Identity No: 6108275061087

2.   
Full Names Michèle Maria Scheepers

Identity No: 6112040110085

  
For and on behalf of Absa Bank duly  
authorised thereto



SIGNED at 100 Elizabeth on this 26th day of June 2006.

AS WITNESSES:

1. [Signature]

Full Names L. Chelby (Name)

[Signature]  
For and on behalf of Absa Bank duly  
authorised thereto

Identity No: 63025 000 030

2. [Signature]

Full Names CHRISTIAN STEPHANUS MARAIS

Identity No: 500718 5103682

SIGNED at GEORGE on this 26th day of JUNE 2006

AS WITNESSES:

1. John H. Fourie

Full Names:

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

Identity No: 53017 10 5062 281

2. [Signature]

Full Names CHRISTIAN STEPHANUS MARAIS

Identity No: 500718 5103682