

RESTRUCTURING LOAN AGREEMENT

made and entered into between



THE DEVELOPMENT BANK OF SOUTHERN AFRICA LIMITED



and

DRAKENSTEIN LOCAL MUNICIPALITY





MB. f
Hm Kh.

SUMMARY

- | | | | |
|----|-----------------------------------|---|--|
| 1. | RESTRUCTURED LOAN AMOUNT | : | R962 981 450.00 (nine hundred and sixty two million nine hundred and eighty one thousand four hundred and fifty Rand) |
| 2. | TERM | : | 17 (seventeen) years 6 (six) months |
| 3. | INTEREST RATE FIXED | : | R2030 plus DBSA cost of funding plus 114 (one hundred and fourteen) basis points, fixed upon date of signature hereof. |
| 4. | GRACE PERIOD FOR INTEREST PAYMENT | : | None |
| 5. | GRACE PERIOD FOR CAPITAL PAYMENT | : | 30 (thirty) months |
| 6. | CAPITAL REPAYMENT | : | 30 (thirty) semi-annual instalments, commencing on 31 December 2022. |
| 7. | INTEREST REPAYMENT | : | 35 (thirty-five) semi-annual instalments commencing on 30 June 2020. |
| 8. | PROGRAMME FILE NO. | : | 12008248 |








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1. DEFINITIONS AND INTERPRETATION

In this Agreement, unless the contrary appears from the context, the following words shall have the meanings, as stated:

- 1.1 **"Agreement"** means this restructured loan agreement together with such annexes as may be annexed thereto and the context so requires;
- 1.2 **"Authorisation"** means any authorisation, consent, registration, filing, agreement, notarisation, certificate, licence, approval, resolution, permit and/or authority or any exemption from any of the aforesaid, by or with any competent Authority;
- 1.3 **"Authority"** any national, supranational, or regional government or administrative, fiscal, judicial or governmental body, commission, agency, authority, central bank or similar entity or body;
- 1.4 **"Billings"** means the aggregate amount in respect of accounts rendered by the Borrower for assessment rates, services and consumption charges and other regulated municipal imposts and levies;
- 1.5 **"Borrower"** means Drakenstein Local Municipality, a municipality established or deemed to be established in terms of section 12 of the Municipal Structures Act;
- 1.6 **"Breakage Costs"** means the amount (if any) determined by the DBSA by which:
 - 1.6.1 the interest (but excluding the Margin) which the Lender would have received for the period from the date of receipt of an amount repaid or prepaid in respect of the Restructured Loan Amount to the last day of the applicable Interest Period for that Restructured Loan Amount, if the principal received had been paid on the last day of that Interest Period,

exceeds:
 - 1.6.2 the amount which the DBSA would be able to obtain by placing an amount equal to the amount received by it on deposit with a leading bank in the Johannesburg interbank market for a period starting on the Business Day following receipt and ending on the last day of the applicable Interest Period;
- 1.7 **"Business Day"** means any day (other than a Saturday, Sunday or officially recognised public holiday) on which day banks generally are open for business in Johannesburg, South Africa;
- 1.8 **"Capital Grace Period"** means the period commencing on and including the Effective Date and ending on 30 June 2022;

- 1.9 **"Collections"** means the amount received by the Borrower from its debtors;
- 1.10 **"DBSA"** means the Development Bank of Southern Africa Limited, a juristic person reconstituted and incorporated in terms of section 2 of the Development Bank of Southern Africa Act, No. 13 of 1997;
- 1.11 **"DBSA Cost of Funding Margin"** means the costs that the DBSA incurs in acquiring its requisite liquidity and is quoted above the R2030 RSA Government Bond;
- 1.12 **"DBSA Loan Agreements"** means the loan agreements entered into between the Parties as set out in **Annexure A** (*Existing DBSA Loan Agreements*);
- 1.13 **"Debt"** means mean the aggregate of moneys borrowed (both long and short term);
- 1.14 **"Debt Service Coverage Ratio"** means the sum of the 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;
- 1.15 **"Default Interest"** means any interest which accrues at the Default Rate calculated in terms of clause 4.4 of this Agreement;
- 1.16 **"Default Rate"** means the Interest Rate plus 200 (two hundred) basis points;
- 1.17 **"Effective Date"** means 31 December 2019, provided that on such date the DBSA has notified the Borrower pursuant to clause 3 (*Conditions Precedent*) that it has received all the documents listed therein and evidence required in terms thereof, in form and substance satisfactory to it;
- 1.18 **"Event of Default"** means any event of default as envisaged in clause 12 (*Events of Default*) below;
- 1.19 **"Existing Commitments"** means, the following existing outstanding loans owing by the Borrower to the Senior Lenders:
- 1.19.1 in relation to Standard Bank, an amount of R463 000 000.00 (four hundred and sixty-three million Rand); and
- 1.19.2 in relation to Nedbank, R189 800 000.00 (one hundred and eighty-nine million, eight hundred thousand Rand);
- 1.20 **"Final Repayment Date"** means 30 June 2037;
- 1.21 **"Interest Rate"** means the interest rate as set out in clause 4 (*Interest*) of this Agreement;
- 1.22 **"Interest Payment Date"** means the last Business Day of each Interest Period;



The bottom right corner of the page contains several handwritten signatures in black ink. To the left of these signatures is the official logo of the Development Bank of Southern Africa (DBSA). The logo consists of the letters 'DBSA' in a bold, sans-serif font, with 'DEVELOPMENT BANK OF SOUTHERN AFRICA' written in smaller capital letters underneath. Below the full name is the tagline 'Building Africa's Prosperity'.

- 1.23 **"Interest Period"** means each period of 6 (six) Months commencing 1 January or 1 July of each calendar year. The first Interest Period shall commence from 1 January 2020. Each period thereafter shall begin to run from the date of expiry of the preceding Interest Period, even if the first day of this Interest Period is not a Business Day;
- 1.24 **"Margin"** means 114 (one hundred and fourteen) basis points, expressed as a percentage, per annum;
- 1.25 **"Material Adverse Effect"** means an event, circumstance or matter (or combination of events, circumstances or matters) which has or is likely to have a material adverse effect on:
- 1.25.1 the business, operations, property, condition (financial or otherwise) or prospects of the Borrower; or
 - 1.25.2 the ability of the Borrower to perform its obligations in terms of this Agreement; or
 - 1.25.3 the validity or enforceability of this Agreement or the rights or remedies of the DBSA hereunder; or
 - 1.25.4 the right or remedies of DBSA in terms of and pursuant to this Agreement; or
 - 1.25.5 South African or international monetary, financial, political or economic conditions or the DBSA's access to the relevant local or international capital markets;
- 1.26 **"Mayor"** means in relation to:
- 1.26.1 a municipality with an executive mayor, means the councillor elected as the executive mayor of the municipality in terms of section 55 of the Municipal Structures Act; or
 - 1.26.2 a municipality with an executive committee, means the councillor elected as the mayor of the municipality in terms of section 48 of the Municipal Structures Act;
- 1.27 **"MFMA"** means the Local Government: Municipal Finance Management Act 56 of 2003, as amended from time to time;
- 1.28 **"Month/Monthly"** means a period starting on the first day of a calendar month and ending on the last day of the same calendar month;
- 1.29 **"Municipal Structures Act"** means the Local Government: Municipal Structures Act, No.





117 of 1998, as may be amended from time to time;

- 1.30 **"Parties"** means collectively, the Borrower and the DBSA and **"Party"** shall mean anyone of them as the context may indicate;
- 1.31 **"Potential Event of Default"** means any event, envisaged in clause 12 (*Events of Default*) which will become an Event of Default:
- 1.31.1 after the expiry of the applicable cure period set out in respect of such event in clause 12 (*Events of Default*); or
- 1.31.2 if notice to remedy is given as envisaged in clause 12 (*Events of Default*) and such event is not remedied within the applicable notice period set out in clause 12 (*Events of Default*);
- 1.32 **"Primary Account"** means the account of the Borrower held in terms of section 8 of the MFMA, as may be amended from time to time, with the following details:
- 1.32.1 Account Holder: Drakenstein Local Municipality
- 1.32.2 Bank: First National Bank
- 1.32.3 Account Number: 6270 231 0385
- 1.32.4 Branch: Paarl
- 1.32.5 Branch Code: 250-655;
- 1.33 **"Projects"** means the projects funded in terms of, and for which purpose the DBSA Loan Agreements were concluded;
- 1.34 **"Rand"** means the South African Rand, the lawful currency of South Africa;
- 1.35 **"Restructured Loan Amount"** means the consolidated and restructured loan in the amount of R962 981 450.00 (nine hundred and sixty-two million nine hundred and eighty-one thousand four hundred and fifty Rand);
- 1.36 **"Restructured Loan Outstandings"** means at any time the aggregate of all amounts of principal, accrued and unpaid interest and all and any other amounts payable to the DBSA in terms of this Agreement;
- 1.37 **"Restructured Loan Repayment"** means the restructured loan repayment as set out in clause 5 (*Repayment of the Restructured Loan Amount and Interest*) of this Agreement;
- 1.38 **"Revenue"** means all revenue including billings and all other income and grants received



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by or accruing to the Borrower;

1.39 **"Senior Lenders"** means, in so far as it relates to the Existing Commitments, restructured as at the Effective Date or to be restructured soon thereafter:

1.39.1 The Standard Bank of South Africa Limited, with registration number 1962/000738/06, a public company with limited liability duly incorporated in accordance with the laws of South Africa ("**Standard Bank**"); and

1.39.2 Nedbank Limited with registration number 1951/000009/06, a public company with limited liability duly incorporated in accordance with the laws of South Africa ("**Nedbank**");

1.40 **"Signature Date"** means the date on which this Agreement is signed by the last Party signing it;

1.41 **"Term"** means a period commencing from the Effective Date and ending on 30 June 2037; and

1.42 **"Unwinding Costs"** means any and all costs, expenses and disbursements incurred by the DBSA in taking out a new hedge position, closing out, settling or unwinding any hedge transaction deposits or funding transactions that may have been entered into by the DBSA or reacquiring any negotiable instruments that have been issued by the DBSA, in respect of funding any part or all of the Restructured Loan Amount.

1.43 Any reference to: =

1.43.1 the singular shall include the plural and vice versa;

1.43.2 a natural person shall include an artificial or corporate person and vice versa;
and

1.43.3 one gender shall include the other.

1.44 This Agreement shall bind the Parties and their successors-in-title and/or successors-in-law.

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

2 RECORDAL

2.1 The Borrower and the DBSA entered into the DBSA Loan Agreements in respect of the programmes undertaken by the Borrower.



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- 2.2 The Borrower approached the DBSA with the intention to restructure all its existing loans due to a slow-down in its residential and other developments.
- 2.3 The DBSA has made an offer to the Borrower to consolidate and restructure the loans owed by the Borrower to the DBSA. The Borrower hereby accepts the offer.
- 2.4 The Parties wish to record their agreement in writing and to regulate matters related thereto.

3 CONDITIONS PRECEDENT

- 3.1 The provisions of this Agreement, save for this clause 3 (*Conditions Precedent*) and clauses 1 (*Definitions and Interpretation*), to 18 (*General*), inclusive, shall not become of full force and effect unless the following conditions are fulfilled, waived or deferred, as the case may be, and in particular, the DBSA shall have received the following, in the form and substance satisfactory to the DBSA:
- 3.1.1 an original letter (on the letterhead of the respective entity) from each of the Senior Lenders that they support the restructure of the Existing Commitments, which letter shall include, *inter alia*, written confirmation by such lender of its final agreed restructure terms with the Borrower;
- 3.1.2 a resolution of the Municipal Council:
- 5.1.1.1 signed by the Mayor;
- 5.1.1.2 approving the terms of this restructured loan Agreement;
- 5.1.1.3 authorising the Accounting Officer to execute this restructured loan Agreement or any other document which creates or acknowledges the Restructured Loan Amount on its behalf; and
- 3.1.3 all FICA documents from the Borrower as required by legislation.

4 INTEREST

- 4.1 The Restructured Loan Amount shall bear interest on the Restructured Loan Outstandings, from 1 January 2020, at the fixed Interest Rate determined in terms of clause 4.2 below. Interest on the Restructured Loan Amount shall accrue on a semi-annual basis and calculated and payable on an Interest Payment Date.
- 4.2 The Parties record and agree that the Interest Rate will be fixed on Signature Date based upon the prevailing base rate (R2030) plus the DBSA Cost of Funding plus the Margin.
- 4.3 If the Borrower fails to pay an amount payable by it in terms of this Agreement on an



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Interest Payment Date (any such amount being an overdue amount), interest will accrue on the overdue amount, from the due date up to the date of actual payment of such overdue amount (both before and after judgment, if any) at the Default Rate.

- 4.4 Default Interest due in a particular Interest Period will be calculated in accordance with the following formula:

$$D1 = \frac{OM \times DR \times d}{365}$$

Where:

D1 = the Default Interest amount;

OM = the overdue amount;

DR = the Default Rate; and

d = the number of days from the due date of an overdue amount to the date of actual payment of such overdue amount.

- 4.5 Default Interest will be payable on demand, or if not demanded, on the first Interest Payment Date, after such failure to pay.

- 4.6 The provisions of this clause 4 (*Interest*) are without prejudice to any other rights which the DBSA may have as a result of the failure by the Borrower to pay amounts whether of stated maturity or upon pre-maturity by acceleration or otherwise and if not so specified, as notified by the DBSA to the Borrower.

5 REPAYMENT OF THE RESTRUCTURED LOAN

5.1 Restructured Loan Repayment

- 5.1.1 The Restructured Loan Outstandings shall be repaid on a semi-annual basis in 30 (thirty) equal instalments in respect of the principal Restructuring Loan Amount; and in 35 (thirty-five) equal instalments commencing on 30 June 2020 in respect of the Interest, for the duration of the Term.
- 5.1.2 The first instalment for a Restructured Loan Outstandings shall be paid on the first Interest Payment Date and each instalment thereafter shall be made on the succeeding Interest Payment Dates until the Final Repayment Date.
- 5.1.3 Notwithstanding anything to the contrary, the Restructured Loan Outstandings and Interest shall be repaid to the DBSA in full by no later than the Final



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Repayment Date.

6 LATE PAYMENT

- 6.1 The Borrower shall be liable, to the DBSA, for the payment of Default Interest on all amounts payable, yet unpaid, in terms of this Agreement, should the Borrower:
- 6.1.1 fail to pay, on the due date for payment thereof, any amount owing, or which may become owing, to the DBSA, in terms of this Agreement; or
- 6.1.2 with the DBSA's written consent, defer the payment of any amount so owing.
- 6.2 Default Interest shall be calculated with regard to the actual period during which the amount payable remained unpaid, at the Default Rate. Default Interest shall be compounded Monthly and be payable, on demand.

7 EARLY PAYMENT

- 7.1 At any time, the Borrower may, by giving the DBSA not less than 30 (thirty) days prior written notice to that effect, prepay the whole or any part of the Restructured Loan Outstandings on any Interest Payment Date and no other.
- 7.2 Any notice of prepayment pursuant to clause 7.1 shall:
- 7.2.1 be irrevocable;
- 7.2.2 specify a date (the "**Prepayment Date**") upon which prepayment is to be made;
- 7.2.3 specify the amount of the Restructured Loan Outstandings to be prepaid; and
- 7.2.4 oblige the Borrower to make such prepayment on the Prepayment Date.
- 7.3 The Borrower will not be entitled to make more than 1 (one) prepayment in any calendar Month.
- 7.4 The Borrower will not be entitled to re-borrow any of the Restructured Loan Outstandings prepaid.
- 7.5 Any prepayment will be:
- 7.5.1 applied to the Restructured Loan Amount being prepaid in inverse order of maturity;
- 7.5.2 made together with accrued interest on the amount prepaid (together with other



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amounts than due to the DBSA); and

7.5.3 subject to Breakage Costs and/or Unwinding costs.

7.6 The Borrower will not prepay all or any of the Restructured Loan Outstandings except at the times and in the manner expressly provided in this Agreement.

8 PAYMENT COVENANTS

8.1 The Borrower undertakes that it shall not incur any long-term Financial Indebtedness at any time during the period ending one year after Capital Grace Period or any additional period as stipulated by the DBSA (in consultation with, should the DBSA deem it fit, other Senior Lenders of the Borrower).

8.2 For the purpose of this clause 8 (*Payment Covenants*), "**Financial Indebtedness**" means any indebtedness, regarding -

8.2.1 monies borrowed from any third parties, including banks and other financial institutions and debit balances with any third parties, including banks and other financial institutions;

8.2.2 any debenture, bond, note, loan stock or other security but excluding any performance bonds or advance payment bonds or documentary letters of credit issued in respect of the obligations of the Borrower arising in the ordinary course of trading of the Borrower;

8.2.3 any acceptance credit, receivables sold or discounted;

8.2.4 the balance of the acquisition cost of any asset to the extent payable after the time of acquisition or possession where the deferred payment is arranged primarily as a method of raising finance or financing the acquisition of that asset;

8.2.5 any guarantee, indemnity or similar assurance against financial loss of any person, but excluding performance or similar guarantees of a non-financial nature provided they are/were given in the ordinary course of business; or

8.2.6 the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in this clauses 8.2.1 to 8.2.5 above.

8.3 All payments to be made by the Borrower in terms of this Agreement will be made in Rand, in same day funds, free of exchange and bank commission and without deduction or set-off into such bank account as the DBSA may from time to time direct in writing.



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- 8.4 The Borrower shall not be entitled to defer, withhold or adjust any payment due to the DBSA arising out of this Agreement.
- 8.5 All payments made in terms of this Agreement will be made free and clear of any taxes and, to the extent that taxes are payable, the amount to be paid will be increased to the extent necessary such that, after deduction or withholding of taxes, the DBSA receives the amount that it would have received, but for the taxes.
- 8.6 If the DBSA at any time receives less than the full amount then due and payable to it under this Agreement, the DBSA may allocate and apply such payment as follows notwithstanding any instruction from the Borrower:
- 8.6.1 firstly, in or towards payment or satisfaction of all costs, charges, expenses and liabilities, incurred and payments made by the DBSA, under or pursuant to this Agreement including without limitation, legal expenses on an attorney and own client scale, reinstatement costs;
 - 8.6.2 secondly, in or towards payment of any accumulated and accrued interest in respect of the Restructured Loan Amount; and
 - 8.6.3 thirdly, in or towards repayment of the Restructured Loan Amount.
- 8.7 The DBSA may set off any obligations due under this Agreement from the Borrower against any obligations owed by the DBSA to the Borrower.
- 8.8 The Borrower will not set off any obligations due under this Agreement from the DBSA against any obligations owed by the Borrower to the DBSA.

9 POSITIVE UNDERTAKING

- 9.1 Each undertaking is a continuous undertaking and the Borrower shall comply with each undertaking for the duration of this Agreement. The Borrower shall:
- 9.1.1 comply with all law applicable to it;
 - 9.1.2 adequately provide for the restructured loan repayments in the 2019/2020 adjustment budget and beyond;
 - 9.1.3 fully and punctually comply with all the terms of this Agreement;
 - 9.1.4 promptly upon becoming aware thereof inform the DBSA of any occurrence which might have a Material Adverse Effect and/or of any Potential Event of Default; and
 - 9.1.5 maintain separate records for the use of the proceeds of the Restructured Loan

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Amount and make such records, as the DBSA may request, available.

9.2 Financial Covenants


The Borrower undertakes that it shall maintain, for the duration of this Agreement (as applicable):

- 9.2.1 an Interest-bearing Debt to Revenue Ratio at a level that is less or equal to 78% (seventy eight percent) of Revenue for the period 2019/2020 to 2020/21 financial years of the Borrower and thereafter 70% (seventy percent of Revenue);
- 9.2.2 a Collections to Billings rate at a level that is greater than or equal to 90% (ninety percent);
- 9.2.3 an Interest and capital paid to total expenditure rate at a level that is less or equal to 15% (fifteen percent) of total expenditure; and
- 9.2.4 a Debt Service Coverage Ratio equal or greater than 1 (one) times.

10 REPRESENTATIONS AND WARRANTIES

- 10.1 In addition to any representation and warranties given elsewhere in the Agreement by the Borrower to the DBSA, the Borrower gives the warranties contained in this clause 10 (*Representations and Warranties*) to the DBSA.
- 10.2 The Borrower acknowledges that it makes the representations and gives the warranties in this clause 10 (*Representations and Warranties*) with the intention of inducing the DBSA to enter into this Agreement and that the DBSA enters into this Agreement on the basis of, and in full reliance on, each such representation and warranty.
- 10.3 Each such representation and warranty set out below:
 - 10.3.1 is separate and distinct;
 - 10.3.2 is material and does not omit any matter, the omission of which makes any such warranty and representation misleading;
 - 10.3.3 is given, save where otherwise indicated, a continuing warranty in the sense that such warranty will be deemed to have been repeated by the Borrower on each day during the period which commences on the Signature Date and which terminates on the Final Repayment Date;
 - 10.3.4 insofar as it is promissory or relates to a future event, shall be deemed to have been given as at and with reference to the circumstances prevailing as at the





due date for fulfilment of such promise or happening of the event (as the case may be); and

- 10.3.5 shall not be qualified by or limited with reference to any other warranty or representation contained in this clause 10 (*Representations and Warranties*).

10.4 The Borrower represents and warrants that:

- 10.4.1 it has full power to execute, deliver and perform its obligations under this Agreement and that all necessary action has been taken to authorise the execution, delivery and performance of the same, and no limit on the powers of the Borrower to borrow or to create security will be exceeded as a result of borrowings under this Agreement;
- 10.4.2 the execution, delivery and performance of the obligations of the Borrower under, and compliance with the provisions of, this Agreement by the Borrower does not and will not violate or conflict with, or result in any breach of, any law or court order or judgment or any contractual obligations binding on the Borrower or affecting the Borrower or any of the Borrower's assets;
- 10.4.3 applicable and adequate insurance in respect of the Project is in full force and effect;
- 10.4.4 the Borrower is not presently involved in any litigation, arbitration or administrative proceeding and, to the knowledge of the Borrower, no litigation, arbitration or administrative proceeding is pending or threatened against it or any of its assets which if adversely determined, would have a Material Adverse Effect;
- 10.4.5 its payment obligations rank at least *pari passu* with all of the Borrower's unsecured obligations and the rights of the DBSA under this Agreement rank as at Signature Date and Effective Date, and will continue to rank, until Final Payment Date, at least *pari passu* with the rights and claims of all its other unsecured and unsubordinated creditors including any rights or claims in existence as at the Signature Date, except for obligations mandatorily preferred by Law applying to municipalities generally;
- 10.4.6 the Projects conform in all material respects with the detailed descriptions forwarded to the DBSA from time to time;
- 10.4.7 the Borrower has, all Authorisations required in connection with the Projects and is in compliance with such Authorisations;

- 10.4.8 the Borrower is not aware of any facts or circumstances which could lead to the revocation, suspension or variation of the terms of any Authorisation in connection with the Projects;
- 10.4.9 to the best of the Borrower's knowledge and belief (having made due enquiry) no Potential Event of Default or Event of Default has occurred and/or is continuing, and no such event will occur as a result of its entering into performing its obligations under this Agreement;
- 10.4.10 the Borrower is not party to any agreement that has or could reasonably be expected to have a Material Adverse Effect on the ability of the Borrower to comply with its obligations in terms of this Agreement;
- 10.4.11 the Borrower is not in default of any of its obligations in respect of other borrowed monies;
- 10.4.12 from the Signature Date and for so long as any moneys are owing under this Agreement, it will:
- 10.4.12.1 ensure that the Projects are undertaken and completed in a good and workmanlike manner with good and suitable materials, and in compliance with all applicable technical, safety and environmental regulations and all other relevant statutory or other regulatory requirements and/or consents and approvals;
- 10.4.12.2 obtain and maintain all further requisite planning consents, building regulation approvals and other matters to enable it to commence, continue with and complete the Projects; and
- 10.4.12.3 comply with all relevant laws of the national government and/or the applicable provincial government and/or regulations made thereunder and all by-laws, regulations and codes of practice of any local or competent Authority in relation to the Projects and all deeds, agreements or other obligations binding upon the owner or occupier of the land upon which the Projects are situated and obtain all necessary consents in respect of the Projects upon reasonably satisfactory terms; and
- 10.4.13 the Borrower is carrying out the Programme and its operations in compliance with the laws of the Republic of South Africa.






10.5 Disclosure

The Borrower has disclosed to the DBSA all such information as is material to the granting of the Facility and all information disclosed by the Borrower to the DBSA, whether in writing or otherwise, is true, correct and complete in every material respect.

11 RIGHTS AND REMEDIES

The rights and remedies of the DBSA in relation to any misrepresentations or breach of warranty on the part of the Borrower are not prejudiced:

- 11.1 by any investigation by or on behalf of the DBSA into the affairs of the Borrower; or
- 11.2 by any other act or thing which may be done by or on behalf of the DBSA in connection with this Agreement and which might, apart from this clause 11 (*Rights and Remedies*), prejudice such rights or remedies.

12 EVENTS OF DEFAULT

- 12.1 The DBSA shall be entitled to, after giving the Borrower 30 (thirty) days' written notice, terminate this Agreement, and to claim, from the Borrower, immediate payment of all the outstanding amounts, should the Borrower commit any breach of this Agreement, provided that the DBSA may, at its entire discretion, dispense with the giving of the 30 (thirty) days' notice.
- 12.2 Without derogating from the generality of the afore-going, the DBSA shall be entitled to exercise its rights in terms of clause 12.1 upon the happening of any of the following events:
 - 12.2.1 the Borrower failing to repay any portion of the Restructured Loan Amount and/or to pay interest in terms hereof, and failing to remedy such breach within the notice period referred to in clause 12.1, above, requiring it to do so;
 - 12.2.2 fail to pay punctually any amounts payable to DBSA in terms of this Agreement after having previously failed to pay punctually an amount to DBSA in terms of this agreement on more than one occasion and DBSA has given notice in terms of clause 12.1 in respect of each such occasion;
 - 12.2.3 any attachment being made, or any execution being levied, against the Borrower;
 - 12.2.4 the Borrower failing to repay any of the Restructured Loan Amount or breaching any other agreement entered into, between the Borrower and the DBSA;



The bottom right corner of the page contains a handwritten signature, the official logo of the Development Bank of Southern Africa (DBSA) with the tagline 'Building Africa's Prosperity', and another handwritten signature.

- 12.2.5 any fact or circumstance shall have occurred, which, in the opinion of the DBSA, may affect the ability, or willingness, of the Borrower to comply with all, or any, of its obligations, pursuant to this Agreement;
 - 12.2.6 the Borrower proposing any further consolidation, rescheduling, re-organisation or re-arrangement of the whole, or part, of its indebtedness with the DBSA, or any of the Borrower's creditors;
 - 12.2.7 the Borrower's business operations, or any significant part thereof, being interrupted for a continuous period of, at least, 3 (three) Months;
 - 12.2.8 any approval, licence, Authorisation, or other requirement, necessary to enable the Borrower to comply with any of its obligations, in terms of this Agreement, is modified, revoked or withdrawn, whilst this Agreement is still in force;
 - 12.2.9 any order is made, or resolution passed, or other action taken, for the dissolution, or termination, of the existence of the Borrower;
 - 12.2.10 commit or permit to commit a material breach of any of the terms, warranties or conditions of this agreement (other than a term relating to payment of an amount referred to above) and fail to remedy such breach within fourteen days of receipt of written notice from DBSA; and/or
 - 12.2.11 any representation, warranty or statement made in, or in connection with, this Agreement, or any opinion delivered by, or on behalf of, the Borrower, pursuant to this Agreement, is found to be incorrect.
- 12.3 Should the Borrower commit an Event of Default as provided for in clause 12.2 above and in addition to any other rights which the DBSA may have against the Borrower in law, DBSA shall be entitled to charge the Borrower Interest retrospectively from the Effective Date.
- 12.4 The exercise of the rights by the DBSA, in terms hereof, shall be without prejudice and/or in addition to any other rights which the DBSA may have against the Borrower in law, including the right to demand specific performance by the Borrower of its obligations in terms of this Agreement.

13 CESSION AND DELEGATION

- 13.1 The Borrower will not be entitled to cede, assign, delegate or otherwise transfer any of its rights or obligations under this Agreement to any third party.
- 13.2 The DBSA will be entitled, without the Borrower's consent, to cede, delegate or assign all or any of its rights, benefits and obligations or obligation only under this Agreement to





any third party, either absolutely or as collateral security, and on any such cession, assignment and/or delegation taking place, the Borrower will, if so required make all payments to any specified cessionary.

14 CONFIDENTIALITY

- 14.1 The Borrower acknowledges and agrees that the financial arrangements referred to in this agreement are confidential to DBSA and the Borrower.
- 14.2 The Borrower accepts the responsibility for ensuring that the confidentiality of this agreement shall be maintained by it and all its employees, agents and representatives at all times.

15 NON-VARIATION OF THE DBSA LOAN AGREEMENTS

- 15.1 The Borrower, hereby, acknowledges that this Agreement: -
- 15.1.1 supersedes and replaces all prior commitment, undertaking, representation, whether oral or written between the parties in respect of the subject matter and does not, in any manner, or form, whatsoever, replace, cancel, supplant and/or novate the DBSA Loan Agreements;
 - 15.1.2 to the extent that there is any conflict between the provisions of this Agreement and the DBSA Loan Agreements, the provisions of the DBSA Loan Agreements will prevail; and
 - 15.1.3 governs, only, the issues, relating to the Restructured Loan Amount (as defined in this Agreement), specifically, the acceleration of the repayment of the Restructured Loan Amount as well as the interest payable.
- 15.2 Accordingly, the Borrower, hereby, further acknowledges, that, in the event that the Borrower fails and/or refuses and/or neglects to comply with the provisions of this Agreement, the DBSA, in its sole option, shall be entitled to:
- 15.2.1 proceed, pursuant to the provisions of this Agreement; or
 - 15.2.2 terminate this Agreement, immediately, and proceed, pursuant to the provisions of the original agreement, in respect of the DBSA Loan Agreements.

16 INDEMNITY

The Borrower indemnifies and hold DBSA harmless from and against loss, liability, damages, expenses, costs, fine, tax or other fiscal charge, penalty and /or claim which may be suffered or incurred by, imposed on or brought against DBSA as a result of or in connection with this agreement



The DBSA logo is located at the bottom right of the page. It consists of the letters 'DBSA' in a bold, sans-serif font, with a stylized 'D' and 'B'. Below the logo, the text 'DEVELOPMENT BANK OF SOUTH AFRICA' is written in a smaller font, followed by the tagline 'Building Africa's Prosperity'. To the left of the logo is a large, handwritten signature in black ink. To the right of the logo are several smaller, handwritten initials and signatures, including 'MB', 'KH', and 'Hm'.

to the extent to which such loss, liability, damages, expenses, cost, fine, tax or other fiscal charge, penalty and/or claim arises from the breach by the Borrower of any provision of any agreement or from any act or omission on the part of the Borrower.

17 RENUNCIATION OF LEGAL EXCEPTIONS

The Borrower, hereby, renounces the benefits of the legal exceptions:

- 17.1 *non causa debiti*;
- 17.2 *errore calculi*;
- 17.3 division;
- 17.4 *de duobus vel pluribus reis debendi*;
- 17.5 no value received;
- 17.6 revision of accounts,

the meaning and effect, of which, the Borrower declares and warrants itself to be fully acquainted.

18 GENERAL

18.1 **Domicilium**

The Parties, hereby, choose *domicilium citandi et executandi* ("**domicilium**"), for all purposes arising from, or pursuant to, this Agreement, as follows:

18.1.1 **DBSA:**

Physical address: 1258 Lever Road, Headway Hill, Midrand, insert

Postal address: P. O. box 1234, Halfway House, 1685

Telephone number: (011) 313 3502

Telefax number: (011) 206 3502

18.1.2 **Borrower:**

Physical address: Civic Centre Bergriver Boulevard Paarl, 7646

Postal address: PO Box 1 Paarl 7646

Telephone number: 021 807 6405



For: **THE DEVELOPMENT BANK OF SOUTHERN AFRICA LIMITED**

Signature: 

who warrants that he / she is duly authorised thereto

Name: MOTALE BEN MOKHEENG

Date: 05/12/2019

Place: NORRAND

Witness: 

Witness: 

For: **DRAKENSTEIN LOCAL MUNICIPALITY**

Signature: 

in his capacity as Accounting Officer

Name: J.H. LEIBRANDT

Date: 10/12/2019

Place: PAARL

Witness: 

Witness: 



Development Bank of SA

15 year amortised loan - half yearly (Fixed)

Drakenstein Municipality: Restructured loan

Amortised Repayment

Funding at 10.740% (NACS)
Amount 962,981,450
Drawdown date 1-Jan-20

Payment	Date	No of days	Interest	Capital	Repayment	Capital balance
1	Wednesday, 01 January, 2020	181	51,287,072.87	0.00	51,287,072.87	962,981,450.00
2	Tuesday, 30 June, 2020	184	52,137,134.86	0.00	52,137,134.86	962,981,450.00
3	Thursday, 31 December, 2020	181	51,287,072.87	0.00	51,287,072.87	962,981,450.00
4	Wednesday, 30 June, 2021	184	52,137,134.86	0.00	52,137,134.86	962,981,450.00
5	Friday, 31 December, 2021	181	51,287,072.87	0.00	51,287,072.87	962,981,450.00
6	Thursday, 30 June, 2022	183	51,853,780.86	13,488,148.22	65,341,929.08	949,493,301.78
7	Friday, 30 December, 2022	182	50,848,097.73	14,493,831.35	65,341,929.08	934,999,470.44
8	Friday, 30 June, 2023	182	50,071,911.37	15,270,017.71	65,341,929.08	919,729,452.73
9	Friday, 29 December, 2023	182	49,254,157.99	16,087,771.09	65,341,929.08	903,641,681.64
10	Tuesday, 28 June, 2024	186	49,456,185.45	15,885,743.63	65,341,929.08	887,755,938.01
11	Tuesday, 31 December, 2024	181	47,280,655.15	18,061,263.92	65,341,929.08	869,694,674.09
12	Monday, 30 June, 2025	184	47,086,461.02	18,255,468.06	65,341,929.08	851,439,206.03
13	Wednesday, 31 December, 2025	181	45,346,485.76	19,995,443.32	65,341,929.08	831,443,762.71
14	Tuesday, 30 June, 2026	184	45,015,504.28	20,326,424.80	65,341,929.08	811,117,337.91
15	Thursday, 31 December, 2026	181	43,198,998.30	22,142,930.78	65,341,929.08	788,974,407.13
16	Wednesday, 30 June, 2027	184	42,716,155.19	22,625,773.89	65,341,929.08	766,348,633.25
17	Friday, 31 December, 2027	182	41,040,173.87	24,301,755.20	65,341,929.08	742,046,878.04
18	Friday, 30 June, 2028	182	39,738,744.97	25,603,184.10	65,341,929.08	716,443,693.94
19	Friday, 29 December, 2028	182	38,367,620.81	26,974,308.26	65,341,929.08	689,469,385.68
20	Monday, 31 December, 2029	185	37,531,691.02	27,810,238.05	65,341,929.08	661,659,147.62
21	Friday, 28 June, 2030	179	34,849,677.94	30,492,251.13	65,341,929.08	631,166,896.49
22	Tuesday, 31 December, 2030	186	34,543,677.78	30,798,251.29	65,341,929.08	600,368,645.20
23	Monday, 30 June, 2031	181	31,974,811.62	33,367,117.46	65,341,929.08	567,001,527.74
24	Wednesday, 31 December, 2031	184	30,698,239.43	34,643,689.65	65,341,929.08	532,357,838.09
25	Wednesday, 30 June, 2032	182	28,509,293.67	36,832,635.41	65,341,929.08	495,525,202.68
26	Friday, 31 December, 2032	184	26,828,413.27	38,513,515.80	65,341,929.08	457,011,686.88
27	Thursday, 30 June, 2033	181	24,339,816.40	41,002,112.68	65,341,929.08	416,009,574.20
28	Friday, 30 December, 2033	183	22,400,918.83	42,941,030.25	65,341,929.08	373,068,563.96
29	Friday, 30 June, 2034	182	19,978,894.81	45,363,034.27	65,341,929.08	327,705,529.69
30	Friday, 29 December, 2034	182	17,549,573.83	47,792,355.25	65,341,929.08	279,913,174.44
31	Friday, 29 June, 2035	182	14,990,155.72	50,351,773.36	65,341,929.08	229,561,401.09
32	Monday, 31 December, 2035	185	12,496,316.38	52,845,612.70	65,341,929.08	176,715,788.39
33	Monday, 30 June, 2036	182	9,463,638.83	55,878,290.25	65,341,929.08	120,837,498.14
34	Wednesday, 31 December, 2036	184	6,542,307.68	58,799,621.40	65,341,929.08	62,037,876.74
35	Tuesday, 30 June, 2037	181	3,304,052.33	62,037,876.74	65,341,929.08	0.00
			1,255,411,910.65	962,981,450.00	2,218,393,360.65	

Annexure A – Existing DBSA Loan Agreements

1 DBSA Loan Agreements: -

- 1.1 the loan agreement entered into between the Parties on 19 June 2014, for a capital amount of R90 253 158.00 (ninety million two hundred and fifty-three thousand one hundred and fifty-eight Rand) in respect of the Borrower's infrastructure programme under project number: 12007834;
- 1.2 the loan agreement entered into between the Parties on 25 April 2016, for a capital amount of R281 397 906.00 (two hundred and eighty-one million three hundred and ninety seven thousand nine hundred and six Rand) in respect of the Borrower's infrastructure programme under project number: 12007991;
- 1.3 the loan agreement entered into between the Parties on 14 February 2018, for a capital amount of R404 755 427.00 (four hundred and four million seven hundred and fifty-five thousand four hundred and twenty-seven Rand) in respect of the Borrower's infrastructure programme under project number: 12008099; and
- 1.4 the loan agreement entered into between the Parties on 25 January 2019, for a capital amount of R258 626 160.00 (two hundred and fifty-eight million six hundred and twenty-six thousand one hundred and sixty Rand) in respect of the Borrower's infrastructure programme under project number: 12008149.



The bottom right corner of the page contains several handwritten signatures in black ink. In the center of these signatures is the DBSA logo, which consists of the letters 'DBSA' in a bold, sans-serif font. Below the logo, the text 'Development Bank of South Africa' is written in a smaller font, followed by the tagline 'Building a Better South Africa'.