



TERM CREDIT FACILITY AGREEMENT

Between

CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY

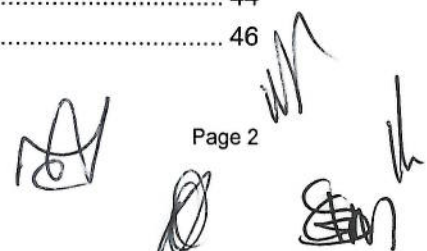
and

**NEDBANK LIMITED (ACTING THROUGH ITS NEDBANK CORPORATE AND INVESTMENT
BANKING DIVISION)**

Handwritten signatures in black ink, appearing to be initials or names, located in the bottom right corner of the page.

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THIS AGREEMENT is made between:

- 1 City of Johannesburg Metropolitan Municipality a municipality duly established in terms of the laws of South Africa (**Borrower**);
- 2 Nedbank Limited (acting through its Nedbank Corporate and Investment Banking division) (Registration No. 1951/000009/06), a limited liability company duly registered and incorporated in accordance with the laws of South Africa (**Nedbank**).

IT IS AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

- 1.1.1 **Accounting Reference Date** has the meaning given to it in clause 16.18.
- 1.1.2 **Affiliate** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.
- 1.1.3 **Agreement** means this credit facility agreement.
- 1.1.4 **Auditors** means one of PwC, EY, KPMG or Deloitte or any other firm approved in advance by Nedbank (such approval not to be unreasonably withheld or delayed) or any other firm appointed by the Auditor General in respect of the Borrower.
- 1.1.5 **Authorisation** means an authorisation, consent, approval, resolution, licence, permit, exemption, filing, notarisation, lodgement or registration.
- 1.1.6 **Availability Period** means the period from and including the date upon which Nedbank notified the Borrower as contemplated in clause 4.1 to and including the date which occurs **30** days thereafter.
- 1.1.7 **Available Facility** means the Commitment under the Facility.
- 1.1.8 **Break Costs** means in respect of the Fixed Interest Rate, any and all costs incurred by Nedbank in closing out or unwinding any hedge transactions entered into by Nedbank to hedge any interest rate risk arising from the advance of the Loan.
- 1.1.9 **Business Day** means a day (other than a Saturday, a Sunday or official public holiday) on which banks are open for general business in Johannesburg.
- 1.1.10 **Commitment** means R1 498 386 000, to the extent not cancelled or reduced.
- 1.1.11 **Companies Act** means the Companies Act, 2008.
- 1.1.12 **Compliance Certificate** means a certificate substantially in the form set out in Schedule 4.
- 1.1.13 **Default** means an Event of Default or any event or circumstance specified in clause 20 which would (with the expiry of any applicable grace period, the giving of

notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

- 1.1.14 **Disruption Event** means either or both of:
- 1.1.14.1 a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facilities (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or
- 1.1.14.2 the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
- 1.1.14.2.1 from performing its payment obligations under the Finance Documents;
or
- 1.1.14.2.2 from communicating with other Parties in accordance with the terms of the Finance Documents,
- and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.
- 1.1.15 **Environment** means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:
- 1.1.15.1 air (including, without limitation, air within natural or man-made structures, whether above or below ground);
- 1.1.15.2 water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
- 1.1.15.3 land (including, without limitation, land under water).
- 1.1.16 **Environmental Claim** means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law.
- 1.1.17 **Environmental Law** means any applicable law or regulation which relates to:
- 1.1.17.1 the pollution or protection of the Environment;
- 1.1.17.2 harm to or the protection of human health;
- 1.1.17.3 the conditions of the workplace; or
- 1.1.17.4 the generation, handling, storage, use, release, emission or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste.

- 1.1.18 **Environmental Permits** means any permit and other Authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of the Borrower conducted on or from the properties owned or used by the Borrower.
- 1.1.19 **Event of Default** means any event or circumstance specified as such in clause 20.
- 1.1.20 **Facility** means the term loan facility made available under this Agreement as described in clause 2.
- 1.1.21 **Finance Document** means this Agreement, each document referred to in paragraph 2 of Schedule 1 and any other document designated as such by Nedbank and the Borrower.
- 1.1.22 **Financial Indebtedness** means any indebtedness, including for or in respect of:
- 1.1.22.1 moneys borrowed or credit granted;
- 1.1.22.2 any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- 1.1.22.3 any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- 1.1.22.4 the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GRAP, be treated as a finance or capital lease;
- 1.1.22.5 receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- 1.1.22.6 any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
- 1.1.22.7 any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- 1.1.22.8 any amount raised by the issue of shares which are redeemable;
- 1.1.22.9 any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- 1.1.22.10 the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in clauses 1.1.22.1 to 1.1.22.9.

- 1.1.23 **Fixed Interest Rate** means the aggregate of the Fixed Rate Margin and the Swap Offer Rate.
- 1.1.24 **Fixed Rate Margin** means:
- 1.1.24.1 at any time other than while an Event of Default is continuing, 1.98% per annum;
- 1.1.24.2 while an Event of Default is continuing, the percentage interest rate in clause 1.1.24.1 plus 2% per annum.
- 1.1.25 **GRAP** means Generally Recognised Accounting Practice.
- 1.1.26 **Interest Period** means, in relation to a Loan, each period determined in accordance with clause 9.1 and, in relation to an Unpaid Sum, each period determined in accordance with clause 8.3.
- 1.1.27 **Interest Rate Swap** means a contractual arrangement entered into between two counterparties under which each agrees to make periodic interest payments to the other for an agreed period of time based on a notional amount of principal. A notional amount of principal is required in order to compute the actual cash amounts that will be periodically exchanged. As expressed in this Agreement, Interest Rate Swap relates to Nedbank exchanging a fixed interest rate for a floating interest rate.
- 1.1.28 **Interest Rate Swap Curve** means the market-determined graphic line chart that shows interest rates at a specific point for all securities having equal risk, but different maturity dates. In South Africa, the data points used to derive the Interest Rate Swap Curve represents the yields on South African Government securities with differing maturing values.
- 1.1.29 **Loan** means a loan made or to be made under the Facility or the principal amount outstanding for the time being of that loan.
- 1.1.30 **Material Adverse Effect** means a material adverse effect on:
- 1.1.30.1 the business, operations, property, condition (financial or otherwise) or prospects of the Borrower;
- 1.1.30.2 the ability of the Borrower to perform any of its obligations under the Finance Documents; or
- 1.1.30.3 the validity or enforceability of any of the Finance Documents or the rights or remedies of Nedbank under any of the Finance Documents.
- 1.1.31 **MFMA** means the Municipal Financial Management Act, 2003.

- 1.1.32 **Month** means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:
- 1.1.32.1 subject to clause 1.1.32.3, if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- 1.1.32.2 if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- 1.1.32.3 if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end,
- provided that the above rules will only apply to the last Month of any period.
- 1.1.33 **Original Financial Statements** means, the audited consolidated financial statements of the Borrower for the financial year ended 30 June 2017.
- 1.1.34 **Party** means a party to this Agreement.
- 1.1.35 **Repeating Representations** means each of the representations set out in clause 16.1 to 16.6, 16.9, 16.10, 16.11, 16.12, 16.17 and 16.19.
- 1.1.36 **Security** means a mortgage bond, notarial bond, cession in security, charge, pledge, hypothec, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.
- 1.1.37 **Signature Date** means the date of the signature of the Party last signing this Agreement in time.
- 1.1.38 **Specified Time** means 11:00 a.m.
- 1.1.39 **Subsidiary** means a "subsidiary" as defined in the Companies Act and shall include any person who would, but for not being a "company" under the Companies Act, qualify as a "subsidiary" as defined in the Companies Act.
- 1.1.40 **Swap Offer Rate** means the market-determined rate for an Interest Rate Swap based on the Interest Rate Swap Curve benchmarked against the 10 year offer point on the Nedbank Interest Rate Swap Curve as published on Bloomberg/Reuters at 16:30 on 26 March 2018 but adjusted for both the value and the amortising profile of the Interest Rate Swap as these parameters differ from the value and the amortising profile to which the Interest Rate Swap Curve is applicable, as determined by Nedbank's Treasury Division, and fixed as at the Utilisation Date of the applicable Loan.



- 1.1.41 **Tax** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).
- 1.1.42 **Termination Date** means the 15th anniversary of the first Utilisation Date.
- 1.1.43 **Transfer** has the meaning given to it in clause 21.1.
- 1.1.44 **Unpaid Sum** means any sum due and payable but unpaid by the Borrower under the Finance Documents.
- 1.1.45 **Utilisation** means a utilisation of the Facility.
- 1.1.46 **Utilisation Date** means the date of a Utilisation, being the date on which the relevant Utilisation is to be made.
- 1.1.47 **Utilisation Request** means a notice substantially in the form set out in Schedule 3.
- 1.1.48 **VAT** means:
- 1.1.48.1 any value added tax as provided for in the Value Added Tax Act, 1991;
- 1.1.48.2 any general service tax; and
- 1.1.48.3 any other tax of a similar nature.
- 1.2 **Construction**
- 1.2.1 Unless a contrary indication appears, any reference in this Agreement to:
- 1.2.1.1 the Borrower or any **Party** or any other person shall be construed so as to include its successors in title, permitted cessionaries and permitted transferees to, or of, its rights and/or obligations under the Finance Documents;
- 1.2.1.2 **assets** includes present and future properties, revenues and rights of every description;
- 1.2.1.3 **authority** includes any court or any governmental, intergovernmental or supranational body, agency, department or any regulatory, self-regulatory or other authority;
- 1.2.1.4 a **Finance Document** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
- 1.2.1.5 **guarantee** means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;

- 1.2.1.6 the use of the word **including** followed by specific examples will not be construed as limiting the meaning of the general wording preceding it, and the *eiusdem generis* rule must not be applied in the interpretation of such general wording or such specific examples;
- 1.2.1.7 **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.1.8 a **person** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- 1.2.1.9 a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- 1.2.1.10 a provision of law is a reference to that provision as amended or re-enacted; and
- 1.2.1.11 a time of day is a reference to Johannesburg time.
- 1.2.2 The determination of the extent to which a rate is for a **period equal in length** to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.
- 1.2.3 Clause and schedule headings are for ease of reference only.
- 1.2.4 Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- 1.2.5 A Default (other than an Event of Default) is **continuing** if it has not been remedied or waived and an Event of Default is **continuing** if it has not been waived.
- 1.2.6 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it appears only in an interpretation clause, effect shall be given to it as if it were a substantive provision of the relevant Finance Document.
- 1.2.7 Unless inconsistent with the context, an expression in any Finance Document which denotes the singular includes the plural and vice versa.
- 1.2.8 The Schedules to any Finance Document form an integral part thereof and a reference to a **clause** or a **Schedule** is a reference to a clause of, or a schedule to, this Agreement.

- 1.2.9 The rule of construction that, in the event of ambiguity, a contract shall be interpreted against the party responsible for the drafting thereof, shall not apply in the interpretation of the Finance Documents.
- 1.2.10 The expiry or termination of any Finance Documents shall not affect those provisions of the Finance Documents that expressly provide that they will operate after any such expiry or termination or which of necessity must continue to have effect after such expiry or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 1.2.11 The Finance Documents shall to the extent permitted by applicable law be binding on and enforceable by the administrators, trustees, permitted cessionaries, business rescue practitioners or liquidators of the Parties as fully and effectually as if they had signed the Finance Documents in the first instance and reference to any Party shall be deemed to include such Party's administrators, trustees, permitted cessionaries, business rescue practitioners or liquidators, as the case may be.
- 1.2.12 Unless a contrary indication appears, where any number of days is to be calculated from a particular day, such number shall be calculated as including that particular day and excluding the last day of such period.
- 1.3 **Third party rights**
- 1.3.1 Except as expressly provided for in this Agreement or in any other Finance Document, no provision of any Finance Document constitutes a stipulation for the benefit of any person who is not a party to that Finance Document.
- 1.3.2 Notwithstanding any term of any Finance Document, the consent of any person who is not a party to that Finance Document is not required to rescind or vary that Finance Document at any time except to the extent that the relevant variation or rescission (as the case may be) relates directly to the right conferred upon any applicable third party under a stipulation for the benefit of that party that has been accepted by that third party.

2 THE FACILITIES

Subject to the terms of this Agreement, Nedbank makes available to the Borrower a term loan facility in an aggregate amount equal to the Commitment.

3 PURPOSE

3.1 Purpose

The Borrower shall apply all amounts borrowed by it under the Facility for the purposes of capital expenditure on property, plant or equipment to be used for the purposes of achieving the objects of local government as set out in section 152 of the Constitution of

South Africa Act, 1996, including costs referred to in section 46(4) of the MFMA and for no other purpose.

3.2 Monitoring

Nedbank is not bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4 CONDITIONS OF UTILISATION

4.1 Initial conditions precedent

4.1.1 The Borrower may not deliver a Utilisation Request unless Nedbank has received all of the documents and other evidence listed in Schedule 1 in form and substance satisfactory to Nedbank. Nedbank shall notify the Borrower promptly upon being so satisfied.

4.1.2 If all of the documents and other evidence listed in Schedule 1 were not delivered to Nedbank by not later than 16:00 on 28 June 2018, Nedbank may, on not less than 1 days' notice to the Borrower, cancel the Commitment and declare all amounts accrued under the Finance Documents immediately due and payable, whereupon the Commitment will be cancelled and all such outstanding amounts will become immediately due and payable.

4.2 Further conditions precedent

Nedbank will only be obliged to comply with clause 5.4 if on the date of the Utilisation Request and on the proposed Utilisation Date:

4.2.1 no Default is continuing or would result from the proposed Loan; and

4.2.2 the Repeating Representations to be made by the Borrower are true in all material respects.

4.3 Maximum number of Loans

The Borrower may only deliver one Utilisation Request.

5 UTILISATION

5.1 Delivery of a Utilisation Request

The Borrower may utilise the Facility by delivery to Nedbank of a duly completed Utilisation Request not later than the Specified Time (or such other time as Nedbank may agree to) on the day which is not later than 3 Business Days (or such other period as Nedbank may agree to) prior to the date of the proposed Utilisation Date.

5.2 Completion of a Utilisation Request

5.2.1 Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

5.2.1.1 the proposed Utilisation Date is a Business Day within the Availability Period applicable to the Facility;

5.2.1.2 the amount of the Utilisation complies with clause 5.3.

5.2.2 Only one Loan may be requested in each Utilisation Request.

5.3 Amount

The amount of the proposed Utilisation must be an amount which is not more than the Available Facility and which is a minimum of R1 498 386 000 or, if less, the Available Facility.

5.4 Advance

If the conditions set out in this Agreement have been met, Nedbank shall advance the Utilisation by the Utilisation Date.

5.5 Cancellation of Commitment

The Commitment which, at that time, is unutilised shall be immediately cancelled at the end of the Availability Period.

6 REPAYMENT

6.1 Repayment of Loans

A Loan shall be repaid by not later than the Termination Date and shall be repaid in 60 quarterly instalments as set out in Schedule 5. The first instalment shall be due and payable on 31 October 2018. Each other instalment shall be paid on the last day of each Interest Period thereafter.

6.2 No Reborrowing

The Borrower may not reborrow any part of the Facility which is repaid.

7 PREPAYMENT AND CANCELLATION

7.1 Illegality

If it becomes unlawful in any applicable jurisdiction for Nedbank to perform any of its obligations as contemplated by this Agreement or to fund or maintain any Loan or it becomes unlawful for any Affiliate of Nedbank for Nedbank to do so:

7.1.1 Nedbank shall promptly notify the Borrower upon becoming aware of that event;

7.1.2 upon Nedbank notifying the Borrower, the Commitment will be immediately cancelled and

7.1.3 the Borrower shall repay the Loans made to the Borrower on the last day of the Interest Period for each Loan occurring after Nedbank has notified the Borrower or, if earlier, the date specified by Nedbank in the notice delivered to the Borrower (being no earlier than the last day of any applicable grace period permitted by law) and the Commitment shall be cancelled in the amount of the Loans repaid.

7.2 **Voluntary cancellation**

The Borrower may, if it gives Nedbank not less than 5 Business Days' (or such shorter period as Nedbank may agree) prior notice, cancel the whole or any part (being a minimum amount of R10 000 000) of the Available Facility. Any cancellation under this clause 7.2 shall reduce the Commitment.

7.3 **Voluntary prepayment of the Loans**

7.3.1 The Borrower may, if it gives Nedbank not less than 5 Business Days' (or such shorter period as Nedbank may agree) prior notice, prepay the whole or any part of any Loan (but, if in part, being an amount that reduces the amount of that Loan by a minimum amount of R10 000 000).

7.3.2 A Loan may only be prepaid after the last day of the Availability Period (or, if earlier, the day on which the Available Facility is zero).

7.3.3 Any prepayment under this clause 7.3 shall satisfy the obligations under clause 6.1 in inverse chronological order.

7.4 **Right of repayment and cancellation**

7.4.1 If:

7.4.1.1 any sum payable to Nedbank by the Borrower is required to be increased under clause 11.2.3; or

7.4.1.2 Nedbank claims indemnification from the Borrower under clause 11.3 or clause 12.1,

the Borrower may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues and provided no Default is then continuing, give Nedbank notice of cancellation of the Commitment and its intention to procure the repayment of all the Loans.

7.4.2 On receipt of a notice of cancellation referred to in clause 7.4.1, the Commitment shall immediately be reduced to zero.

7.4.3 On the last day of each Interest Period in relation to any Loan which ends after the Borrower has given notice of cancellation under clause 7.4.1 (or, if earlier, the date specified by the Borrower in that notice), the Borrower shall repay all such Loans.

7.4.4 If the increased cost, tax gross-up or indemnity arose as a result of a law or regulation that is applicable to or affects financial institutions generally then the

prepayment contemplated in this clause 7.4 shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs and save as otherwise provided for in clause 7.5.7, without premium or penalty.

7.5 Restrictions

- 7.5.1 Any notice of cancellation or prepayment given by any Party under this clause 7 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- 7.5.2 Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs and save as otherwise provided for in clause 7.5.7, without premium or penalty.
- 7.5.3 The Borrower may not reborrow any part of the Facility which is prepaid.
- 7.5.4 The Borrower shall not repay or prepay all or any part of the Loans or cancel all or any part of the Commitment except at the times and in the manner expressly provided for in this Agreement.
- 7.5.5 No amount of the Commitment cancelled under this Agreement may be subsequently reinstated.
- 7.5.6 If all or part of a Loan under the Facility is repaid or prepaid and is not available for redrawing (other than by operation of clause 4.2), an amount of the Commitment (equal to the amount of the Loan which is repaid or prepaid) in respect of the Facility will be deemed to be cancelled on the date of repayment or prepayment.
- 7.5.7 If the Borrower prepays all or any portion of a Loan as a result of incurring a Financial Indebtedness in favour of any person other than Nedbank or the issue of any securities to any person other than Nedbank or any of its Affiliates, then and if such prepayment occurred:
- 7.5.7.1 at any time during the period commencing on the date of first Utilisation of that Loan and terminating on 18 Months thereafter, the Borrower shall pay to Nedbank, together with such prepayment, a refinancing penalty in an amount which is equal to 3% of the prepayment amount;
- 7.5.7.2 at any time during the period commencing on the first day of the 19th Month after the first Utilisation that Loan and terminating 36 Months thereafter, the Borrower shall pay to Nedbank, together with such prepayment, a refinancing penalty in an amount which is equal to 2% of the prepayment amount; and
- 7.5.7.3 at any time during the period commencing on the first day of the 37th Month after the first Utilisation of that Loan and terminating 54 Months thereafter, the Borrower shall pay to Nedbank, together with such prepayment, a refinancing penalty in an amount which is equal to 1% of the prepayment amount.

7.6 Right to quote

If the Borrower wishes to prepay all or a portion of a Loan and for such purpose intends to incur Financial Indebtedness, the Borrower shall advise Nedbank of such intention and shall afford Nedbank an opportunity to quote for such Financial Indebtedness.

8 INTEREST

8.1 Calculation of interest

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the Fixed Interest Rate for that Loan.

8.2 Payment of interest

The Borrower shall pay accrued interest on a Loan on the last day of each Interest Period.

8.3 Default interest

8.3.1 If the Borrower fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to clause 8.3.2, is 2% per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan of that Unpaid Sum for successive Interest Periods. Any interest accruing under this clause 8.3 shall be immediately payable by the Borrower on demand by Nedbank.

8.3.2 If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:

8.3.2.1 the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and

8.3.2.2 the rate of interest applying to the overdue amount during that first Interest Period shall be 2% per annum higher than the rate which would have applied if the overdue amount had not become due.

8.3.3 Default interest (if unpaid) arising on any overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

8.4 Notification of rates of interest

Nedbank shall promptly notify the Borrower of the determination of a rate of interest under this Agreement.

8.5 Change in the rate of interest

8.5.1 If the long-term local rating attributed by the Global Credit Rating Company Proprietary Limited (or another rating agency registered with the Financial Services

Board) to the Borrower is downgraded by 2 notches from the level it was at as at the Signature Date, then the Borrower must notify Nedbank of such event (the **2 Notch Downgrade Event**), Nedbank may review the Fixed Rate Margin and, should Nedbank elect to increase the Fixed Rate Margin, Nedbank shall notify the Borrower in writing (the **New Margin Notice**) of the revised Fixed Rate Margin, which amount may not be more than 0.1% greater than the amount stated in clause 1.1.24.1 (the **New Margin**) by no later than 28 Business Days after having exercised its right to increase the Fixed Rate Margin. Nedbank may only exercise such right within 28 Business Days of the later to occur of:

- 8.5.1.1 Nedbank becoming aware of such 2 Notch Downgrade Event; and
- 8.5.1.2 the Borrower notifying Nedbank of the occurrence of the 2 Notch Downgrade Event.
- 8.5.2 If the Borrower:
 - 8.5.2.1 accepts, in writing, the rate prescribed by Nedbank as constituting the New Margin (the **New Margin Acceptance Notice**) by not later than 28 Business Days after receipt of the New Margin Notice, then the New Margin shall be effective as of the commencement of the next Interest Period;
 - 8.5.2.2 shall have failed to accept in writing the rate prescribed by Nedbank as constituting the New Margin by not later than 15 Business Days after receipt of the New Margin Notice Nedbank may, on prior written notice to the Borrower, cancel the Commitment and declare all outstanding Loans, together with accrued interest, Breakage Costs and all other amounts accrued under the Finance Documents due and payable within 180 days, whereupon the Commitment will be cancelled and all such outstanding amounts will become due and payable within 180 days.

9 INTEREST PERIODS

9.1 Selection of Interest Periods

- 9.1.1 Interest Periods in respect of the Facility will be 3 Months each, provided that the first Interest Period shall commence on the Utilisation Date and terminate on 31 October 2018.
- 9.1.2 An Interest Period for a Loan shall not extend beyond the Termination Date.
- 9.1.3 Each Interest Period other than the first Interest Period shall start on the last day of its preceding Interest Period.

9.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

10 BREAK COSTS

- 10.1 The Borrower shall, within 90 days of demand by Nedbank, pay to Nedbank its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by the Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.
- 10.2 Nedbank shall, as soon as reasonably practicable after a demand by it, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

11 TAX GROSS UP AND INDEMNITIES

11.1 Definitions

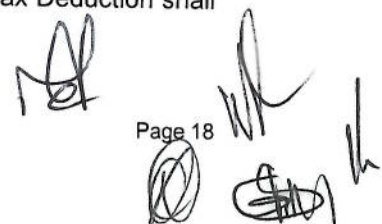
11.1.1 In this Agreement:

- 11.1.1.1 **Tax Credit** means a credit against, relief or remission for, or repayment of any Tax.
- 11.1.1.2 **Tax Deduction** means a deduction or withholding for or on account of Tax from a payment under a Finance Document.
- 11.1.1.3 **Tax Payment** means either the increase in a payment made by the Borrower to Nedbank under clause 11.2 or a payment under clause 11.3.

11.1.2 Unless a contrary indication appears, in this clause 11 a reference to **determines** or **determined** means a determination made in the absolute discretion of the person making the determination.

11.2 Tax gross-up

- 11.2.1 The Borrower shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.
- 11.2.2 The Borrower shall promptly upon becoming aware that the Borrower must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify Nedbank accordingly. Similarly, Nedbank shall notify the Borrower on becoming so aware in respect of a payment payable to Nedbank from the Borrower.
- 11.2.3 If a Tax Deduction is required by law to be made by the Borrower, the amount of the payment due from the Borrower shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- 11.2.4 If the Borrower is required to make a Tax Deduction, the Borrower shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- 11.2.5 Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Borrower making that Tax Deduction shall



deliver to Nedbank evidence reasonably satisfactory to Nedbank that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

11.3 Tax indemnity

11.3.1 The Borrower shall (within 3 Business Days of demand by Nedbank) indemnify Nedbank against, and shall pay to Nedbank an amount equal to the loss, liability or cost which Nedbank determines will be or has been (directly or indirectly) suffered for or on account of Tax by Nedbank in respect of a Finance Document.

11.3.2 Clause 11.3.1 shall not apply:

11.3.2.1 with respect to any Tax assessed on Nedbank under the law of the jurisdiction in which Nedbank is incorporated or, if different, the jurisdiction (or jurisdictions) in which Nedbank is treated as resident for tax purposes, if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by Nedbank; or

11.3.2.2 to the extent a loss, liability or cost is compensated for by an increased payment under clause 11.2.

11.3.3 If Nedbank makes, or intends to make a claim under clause 11.3.1, Nedbank shall promptly notify the Borrower of the event which will give, or has given, rise to the claim.

11.3.4 Nedbank shall, on receiving a payment from the Borrower under this clause 11.3, notify the Borrower.

11.4 Tax Credit

Subject to clause 23, if the Borrower makes a Tax Payment and Nedbank determines that:

11.4.1 a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, or to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and

11.4.2 Nedbank has obtained, utilised and retained that Tax Credit,

Nedbank shall pay an amount to the Borrower which Nedbank determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Borrower.

11.5 Value added tax

11.5.1 All amounts set out or expressed to be payable under a Finance Document by any Party to Nedbank which (in whole or in part) constitute the consideration for a supply or supplies for VAT purposes shall be deemed to be exclusive of any VAT which is chargeable on such supply or supplies, and accordingly, if VAT is or becomes

chargeable on any supply made by Nedbank to any Party under a Finance Document and Nedbank is required to account to the relevant tax authority for the VAT, that Party must pay to Nedbank (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and Nedbank must promptly provide an appropriate VAT invoice to that Party).

- 11.5.2 Where a Finance Document requires any Party to reimburse or indemnify Nedbank for any costs or expenses, that Party shall reimburse or indemnify (as the case may be) Nedbank for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that Nedbank reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.

12 INCREASED COSTS

12.1 Increased costs

- 12.1.1 Subject to clause 12.3 the Borrower shall, within 3 Business Days of a demand by Nedbank, pay to Nedbank the amount of any Increased Costs incurred by Nedbank or any of its Affiliates as a result of:

12.1.1.1 the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation;

12.1.1.2 compliance with any law or regulation made after the Signature Date;

12.1.1.3 the implementation or application of or compliance with Basel III or any other law or regulation which implements Basel III (whether such implementation, application or compliance is by a government, regulator, Nedbank or any of its Affiliates).

12.1.2 In this Agreement **Increased Costs** means:

12.1.2.1 a reduction in the rate of return from the Facility or on Nedbank's (or its Affiliate's) overall capital;

12.1.2.2 an additional or increased cost; or

12.1.2.3 a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by Nedbank or any of its Affiliates to the extent that it is attributable to Nedbank having entered into its Commitment or funding or performing its obligations under any Finance Document.

12.2 Increased cost claims

12.2.1 If Nedbank intends to make a claim pursuant to clause 12.1, it shall notify the Borrower of the event giving rise to the claim.

12.2.2 Nedbank shall, as soon as practicable after a demand by the Borrower, provide a certificate confirming the amount of its Increased Costs.





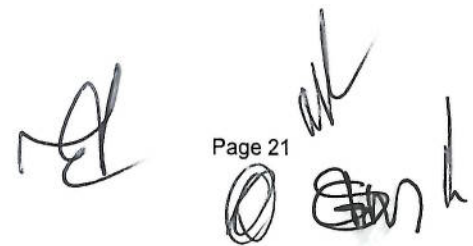

12.3 **Exceptions**

- 12.3.1 Clause 12.1 does not apply to the extent any Increased Cost is:
 - 12.3.1.1 attributable to a Tax Deduction required by law to be made by the Borrower;
 - 12.3.1.2 compensated for by clause 11.3 (or would have been compensated for under clause 11.3 but was not so compensated solely because any of the exclusions in clause 11.3.2 applied), or
 - 12.3.1.3 attributable to the wilful breach by Nedbank or its Affiliates of any law or regulation.
- 12.3.2 In this clause 12.3:
 - 12.3.2.1 a reference to a **Tax Deduction** has the same meaning given to that term in clause 11.1;
 - 12.3.2.2 **Basel III** means:
 - 12.3.2.2.1 the global regulatory framework on bank capital and liquidity contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity risk measurement, standards and monitoring" and "Guidance for national authorities operating in the countercyclical capital buffer" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;
 - 12.3.2.2.2 the rules for global systemically important banks contained in "Global systemically important banks: assessment methodology and the additional loss absorbency requirement - Rules text" published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and
 - 12.3.2.2.3 any further guidance or standards published by the Basel Committee on Banking Supervision relating to "Basel III".

13 **INDEMNITIES**

The Borrower shall (or shall procure that the Borrower will), within 3 Business Days of demand, indemnify Nedbank against, and shall pay to Nedbank, any cost, loss or liability incurred by Nedbank as a result of:

- 13.1 investigating or taking any other action in connection with any event which it reasonably believes is a Default;
- 13.2 acting or relying on any notice (including a notice of prepayment), request or instruction purportedly received from the Borrower and which it reasonably believes to be genuine, correct and appropriately authorised;



- 13.3 the occurrence of any Default;
- 13.4 a failure by the Borrower to pay any amount due under a Finance Document on its due date;
- 13.5 any default by the Borrower in the performance of any of the other obligations expressed to be assumed by it in the Finance Documents; or
- 13.6 funding, or making arrangements to fund, a Loan requested by the Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by Nedbank alone).

14 **MITIGATION BY THE LENDER**

14.1 **Mitigation**

- 14.1.1 Nedbank shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of clause 7.1, clause 11 or clause 12.
- 14.1.2 Clause 14.1.1 does not in any way limit the obligations of the Borrower under the Finance Documents.

14.2 **Limitation of liability**

- 14.2.1 The Borrower shall, following agreement with Nedbank of the steps taken (if any) under clause 14.1, promptly indemnify Nedbank against, and pay to Nedbank, all costs and expenses reasonably incurred by Nedbank as a result of steps taken by it under clause 14.1.
- 14.2.2 Nedbank is not obliged to take any steps under clause 14.1 if, in its opinion (acting reasonably) to do so might be prejudicial to it.

15 **COSTS AND EXPENSES**

15.1 **Amendment costs**

If:

- 15.1.1 the Borrower requests an amendment, waiver or consent; or
- 15.1.2 there is any change in law or any regulation which requires an amendment, waiver or consent under the Finance Documents,

the Borrower shall, within 3 Business Days of demand, in respect of the costs in clause 15.1.1 reimburse Nedbank for the full amount and in respect of the costs in clause 15.1.2, 50% of the amount of all costs and expenses (including legal fees) reasonably incurred by Nedbank in connection with evaluating, negotiating or complying with any such request or requirement.

15.2 **Enforcement costs**

The Borrower shall, within 3 Business Days of demand, pay to Nedbank the amount of all costs and expenses (including legal fees on the scale as between attorney and own client whether incurred before or after judgment) incurred by Nedbank in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

16 **REPRESENTATIONS**

The Borrower makes the representations and warranties set out in this clause 16 to Nedbank on the Signature Date.

16.1 **Status**

16.1.1 It is duly established in terms of law.

16.1.2 It has the power to own its assets and carry on its business as it is being conducted.

16.2 **Binding obligations**

The obligations expressed to be assumed by it in each Finance Document are legal, valid, binding and enforceable obligations.

16.3 **Non-conflict with other obligations**

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

16.3.1 any law or regulation applicable to it;

16.3.2 its constitutional documents; or

16.3.3 any agreement or instrument binding upon it or any of its assets.

16.4 **Power and authority**

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

16.5 **Validity and admissibility in evidence**

All Authorisations required or desirable:

16.5.1 to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party;

16.5.2 to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation; and

16.5.3 for the conduct of the business, trade and ordinary activities of the Borrower,

have been obtained or effected and are in full force and effect.

16.6 Governing law and enforcement

16.6.1 The choice of South African law as the governing law of the Finance Documents will be recognised and enforced.

16.6.2 Any judgment obtained in relation to a Finance Document will be recognised and enforced.

16.7 Deduction of Tax

It is not required to make any Tax Deduction (as defined in clause 11.1) from any payment it may make under any Finance Document.

16.8 No filing or stamp taxes

It is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority or that any stamp, registration or similar tax be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents.

16.9 No default

16.9.1 No Event of Default is continuing or might reasonably be expected to result from the entry into, or the performance of any transaction contemplated by, the Finance Documents.

16.9.2 No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject.

16.9.3 It is not experiencing financial problems which would justify:

16.9.3.1 an intervention;

16.9.3.2 the preparation of a financial recovery plan;

16.9.3.3 an application to stay legal proceedings or to suspend or terminate its financial obligations; or

16.9.3.4 the grant of any other relief,

contemplated in Chapter 13 of the MFMA.

16.10 No misleading information

All information supplied by the Borrower (including its advisors) to Nedbank was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any respect.

16.11 Financial statements

16.11.1 Its Original Financial Statements were prepared in accordance with GRAP consistently applied.



- 16.11.2 Its Original Financial Statements give a true and fair view and represent its financial condition as at the end of the relevant financial year and operations during the relevant financial year (consolidated in the case of the Borrower).
- 16.11.3 There has been no material adverse change in its business or consolidated financial condition of the Borrower) since 30 June 2017.
- 16.12 **Pari passu ranking**
- Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.
- 16.13 **No proceedings pending or threatened**
- No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, would result in a the Borrower having to pay an amount which is equal to or in excess of 3% of the Borrower's latest annual billed revenue has or have (to the best of its knowledge and belief) been started or threatened against it or any of its Subsidiaries.
- 16.14 **Insolvency and Financial Distress**
- 16.14.1 No:
- 16.14.1.1 corporate action, legal proceeding or other procedure or step described in clause 20.8; or
- 16.14.1.2 creditors' process described in clause 20.9,
- has been taken or threatened in relation to the Borrower, and none of the circumstances described in clause 20.7 applies to the Borrower.
- 16.14.2 The Borrower is not Financially Distressed (as defined in the Companies Act).
- 16.15 **No breach of laws**
- 16.15.1 It has not breached any law or regulation.
- 16.15.2 No labour disputes are current or, to the best of its knowledge and belief (having made due and careful enquiry), threatened against it.
- 16.16 **Environmental laws**
- 16.16.1 The Borrower is in compliance with clause 19.4 and to the best of its knowledge and belief (having made due and careful enquiry) no circumstances have occurred which would prevent such compliance.
- 16.16.2 No Environmental Claim has been commenced or (to the best of its knowledge and belief (having made due and careful enquiry)) is threatened against it.

16.17 **Authorised Signatures**

Any person specified as its authorised signatory under Schedule 1 or clause 17.5.4 is authorised to sign Utilisation Requests and other notices on its behalf.

16.18 **Accounting reference date**

The Accounting Reference Date of the Borrower is 30 June of each year.

16.19 **No immunity**

In any proceedings taken in South Africa or in any other jurisdiction, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process in relation to any Finance Document.

16.20 **No adverse consequences**

It is not necessary:

16.20.1 in order to enable Nedbank to enforce its rights under any Finance Document; or

16.20.2 by reason of the execution of any Finance Document or the performance by it of its obligations under any Finance Document,

that Nedbank should be licensed, qualified or otherwise entitled to carry on business.

16.21 **Repetition**

The Repeating Representations are deemed to be made by the Borrower by reference to the facts and circumstances then existing on the date of each Utilisation Request and the first day of each Interest Period.

17 **INFORMATION UNDERTAKINGS**

The undertakings in this clause 17 remain in force from the Signature Date for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

17.1 **Financial statements**

The Borrower shall supply to Nedbank:

17.1.1 as soon as the same become available, but in any event within 30 days after having been approved by council:

17.1.1.1 its audited company and consolidated financial statements for that financial year; and

17.1.2 as soon as the same become available, but in any event within 30 days after having been approved by council:

17.1.2.1 its company and consolidated management accounts for that financial half year.


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17.2 Compliance Certificate

17.2.1 The Borrower shall supply to Nedbank, with each set of financial statements delivered pursuant to clause 17.1.1.1 or 17.1.2.1, a Compliance Certificate setting out (in reasonable detail) computations as to compliance with clause 18 as at the date as at which those financial statements were drawn up.

17.2.2 Each Compliance Certificate shall be signed by the Chief Financial Officer and the Municipal Manager of the Borrower.

17.3 Requirements as to financial statements

17.3.1 Each set of financial statements delivered by the Borrower pursuant to clause 17.1 shall be certified by the Borrower or a director of the relevant company as fairly representing its financial condition as at the date as at which those financial statements were drawn up.

17.3.2 The Borrower shall procure that each set of financial statements delivered pursuant to clause 17.1 is prepared using GRAP.

17.4 Year-end

The Borrower shall not change its Accounting Reference Date.

17.5 Information: miscellaneous

The Borrower shall supply to Nedbank:

17.5.1 promptly upon becoming aware of them, details and copies of any changes proposed to or made to its constitutional documents;

17.5.2 promptly upon becoming aware of them, the details of any (i) litigation and/or arbitration proceedings which are current, threatened or pending against it which in aggregate exceed 3% of the Borrower's latest annual billed revenue, and (ii) administrative proceedings, liquidation applications, winding up applications or business rescue applications which are current, threatened or pending against it;

17.5.3 promptly, such further information regarding the financial condition, business and operations of it as Nedbank may reasonably request;

17.5.4 promptly, notice of any change in authorised signatories of it signed by the Accounting Officer or Chief Financial Officer (both as defined in the MFMA) (or such other delegated official) and accompanied by specimen signatures of any new authorised signatories; and

17.5.5 promptly upon request, such additional information or documentation as Nedbank may require in order to verify that any signatory referred to in clause 17.5.4 has been duly authorised.



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17.6 Notification of default

17.6.1 The Borrower shall notify Nedbank of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.

17.6.2 Promptly upon a request by Nedbank, the Borrower shall supply to Nedbank a certificate signed by the Accounting Officer or Chief Financial Officer (both as defined in the MFMA) (or such other delegated official) on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

17.7 Know your customer checks

If:

17.7.1 the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the Signature Date;

17.7.2 any change in the status of the Borrower after the Signature Date; or

17.7.3 a proposed Transfer by Nedbank of any of its rights and obligations under this Agreement,

obliges Nedbank (or, in the case of clause 17.7.3, any prospective transferee) to comply with know your customer or similar identification procedures (whether in terms of the Financial Intelligence Centre Act, 2001 or otherwise) in circumstances where the necessary information is not already available to it, the Borrower shall promptly upon the request of Nedbank supply, or procure the supply of, such documentation and other evidence as is reasonably requested by Nedbank (for itself or, in the case of the event described in clause 17.7.3, on behalf of any prospective transferee) in order for Nedbank or, in the case of the event described in clause 17.7.3, any prospective transferee to carry out and be satisfied it has complied with all necessary know your customer or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

18 FINANCIAL COVENANTS

18.1 Financial definitions

In this Agreement:

18.1.1 **Billed Revenue** means all invoiced revenue from Service Charges and property rates.

18.1.2 **Cash Receipts** means cash receipts from Billed Revenue.

18.1.3 **Debtors Cash Collection Percentage** means, in respect of each Relevant Period, the percentage resulting from the following formula:

$$\frac{P}{Q} \times 100$$

where:

18.1.3.1 P = Cash Receipts; and

18.1.3.2 Q = Billed Revenue.

18.1.4 **Financial Half Year** means the period commencing on the day after one Half Year Date and ending on the next Half Year Date.

18.1.5 **Financial Year** means the annual accounting period of the Borrower ending on or about 30 June in each year.

18.1.6 **Half Year Date** means 31 December of each year.

18.1.7 **Gross Debt to Total Operating Revenue Percentage** means the percentage determined in accordance with the following formula:

$$\frac{X}{Y} \times 100$$

where:

18.1.7.1 X = Gross Debt; and

18.1.7.2 Y = Total Operating Revenue Less Operating Conditional Grant.

18.1.8 **Gross Debt** means bank overdraft facilities plus short- term borrowings plus short-term leases plus long- term borrowings plus long- term leases.

18.1.9 **Relevant Period** means each period of twelve months ending on or about the last day of each Financial Year and each period of twelve months ending on or about the last day of each Financial Half Year.

18.1.10 **Service Charges** means all amounts invoiced and arising from the sale of electricity, sale of water, sewerage and sanitation charges, and refuse removal.

18.1.11 **Total Operating Revenue** means all revenue received of an operating nature, including conditional and unconditional grants used for operating purposes.

18.2 Financial condition

The Borrower shall ensure that:

18.2.1 **Gross Debt to Total Operating Revenue Percentage** in respect of any Relevant Period specified in column 1 below shall be less than the percentage set out in column 2 below opposite that Relevant Period.

Column 1 - Relevant Period	Column 2 - Ratio
Each Relevant Period	55%

- 18.2.2 **Debtors Cash Collection Percentage** in respect of any Relevant Period specified in column 1 below shall be greater than the percentage set out in column 2 below opposite that Relevant Period.

Column 1 - Relevant Period	Column 2 - Ratio
Each Relevant Period	85%

18.3 **Financial testing**

The financial covenants set out in clause 18.2 shall be calculated in accordance with GRAP and tested by reference to each of the financial statements delivered pursuant to clause 17.1 and/or each Compliance Certificate delivered pursuant to clause 17.2.

19 **GENERAL UNDERTAKINGS**

The undertakings in this clause 19 remain in force from the Signature Date for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

19.1 **No Refinancing of Short Term Debt**

The proceeds of this Facility shall not be applied to refinance any short term debt in a manner that may contravene section 45(5)(a) of the MFMA, or any other similar provision.

19.2 **Authorisations**

The Borrower shall promptly:

- 19.2.1 obtain, comply with and do all that is necessary to maintain in full force and effect; and

- 19.2.2 supply certified copies to Nedbank of,

any Authorisation required under any law or regulation to enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence of any Finance Document.

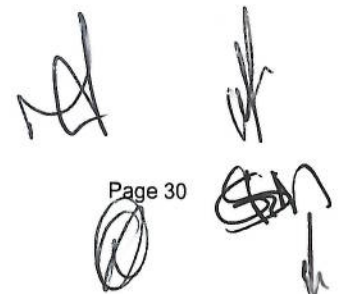
19.3 **Compliance with laws**

The Borrower shall comply in all respects with all laws to which it may be subject.

19.4 **Environmental compliance**

The Borrower shall:

- 19.4.1 comply with all Environmental Law;



- 19.4.2 obtain, maintain and ensure compliance with all requisite Environmental Permits;
- 19.4.3 implement procedures to monitor compliance with and to prevent liability under any Environmental Law.

19.5 **Environmental claims**

The Borrower shall, promptly upon becoming aware of the same, inform Nedbank in writing of:

- 19.5.1 any Environmental Claim against it which is current, pending or threatened; and
- 19.5.2 any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against it.

19.6 **Negative pledge**

The Borrower shall not create or permit to subsist any Security over any of its assets, other than as permitted under the MFMA.

19.7 **Disposals**

- 19.7.1 The Borrower shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset.
- 19.7.2 Clause 19.7.1 does not apply to any sale, lease, transfer or other disposal effected in accordance with the provisions of the MFMA.

19.8 **Acquisitions**

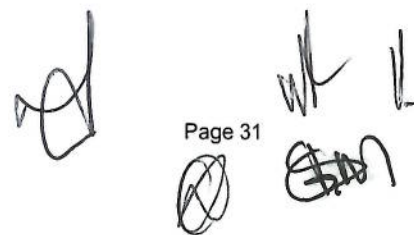
The Borrower shall be entitled to acquire such assets as are approved in any approved Capital Budget (as defined in the MFMA) and in respect of which all the necessary approvals as required by all applicable laws, including, without limitation, the MFMA, have been obtained.

19.9 **Change of business**

The Borrower shall procure that no substantial change is made to the general nature of its business taken as a whole from that carried on at the Signature Date.

19.10 **Loans or credit**

- 19.10.1 Except as permitted under clause 19.10.2, The Borrower shall not be a creditor in respect of any Financial Indebtedness.
- 19.10.2 Clause 19.10.1 does not apply to:
 - 19.10.2.1 loans made or credit granted in the ordinary course of trade;
 - 19.10.2.2 loans made or credit granted with Nedbank's prior written consent.



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19.11 Financial Indebtedness

19.11.1 Except as permitted under clause 19.11.2, The Borrower shall not incur or allow to remain outstanding any Financial Indebtedness.

19.11.2 Clause 19.11.1 does not apply to Financial Indebtedness which is:

19.11.2.1 incurred in accordance with the provisions of the MFMA;

19.11.2.2 incurred with Nedbank's prior written consent.

19.12 Capital budget and integrated development plan

The Borrower shall at all times comply with its approved integrated development plan, capital budget and/or approved adjustments budget and shall furnish to Nedbank, promptly after it has become available, a copy of the capital budget and adjustments budget, as the case may be.

19.13 Auditor

The Borrower shall not appoint as its auditors any auditors other than the Auditor-General or any Auditor appointed by the Auditor-General.

19.14 Sanctions

19.14.1 In this Agreement:

19.14.1.1 **Sanctioned Entity** means:

19.14.1.1.1 a person, country or territory which is listed on a Sanctions List or is subject to Sanctions;

19.14.1.1.2 a person which is ordinarily resident in a country or territory which is listed on a Sanctions List or is subject to Sanctions.

19.14.1.2 **Sanctioned Transaction** means the use of the proceeds of the Facilities for the purpose of financing or providing any credit, directly or indirectly, to:

19.14.1.2.1 a Sanctioned Entity; or

19.14.1.2.2 any other person or entity, if the Borrower has actual knowledge that the person or entity proposes to use the proceeds of the financing or credit for the purpose of financing or providing any credit, directly or indirectly, to a Sanctioned Entity,

in each case to the extent that to do so is prohibited by, or would cause any breach of, Sanctions if conducted by a person subject to the authority of any Sanctions Authority.

19.14.1.3 **Sanctions** means trade, economic or financial sanctions, laws, regulations, embargoes or restrictive measures imposed, administered or enforced from time to time by any Sanctions Authority.

19.14.1.4 **Sanctions Authority** means any of:

19.14.1.4.1 the United Nations;

19.14.1.4.2 the European Union;

19.14.1.4.3 the Council of Europe (founded under the Treaty of London, 1946);

19.14.1.4.4 the government of the United States of America;

19.14.1.4.5 the government of the United Kingdom;

and any of their governmental authorities, including, without limitation, the Office of Foreign Assets Control for the US Department of Treasury (**OFAC**), the US Department of Commerce, the US State Department or the US Department of the Treasury and Her Majesty's Treasury (**HMT**).

19.14.1.5 **Sanctions List** means:

19.14.1.5.1 the Specially Designated Nationals and Blocked Persons List maintained by OFAC;

19.14.1.5.2 the Consolidated List of Financial Sanctions Targets and the Investments Ban List maintained by HMT,

and any similar list maintained, or a public announcement of a Sanctions designation made, by any Sanctions Authority, in each case as amended, supplemented or substituted from time to time.

19.14.2 The Borrower shall not (and the Borrower shall ensure that no other member of the Borrower group will) at any time participate in a Sanctioned Transaction in any manner.

20 EVENTS OF DEFAULT

Each of the events or circumstances set out in this clause 20 is an Event of Default (save for clause 20.16).

20.1 Non-payment

The Borrower does not pay on the due date any amount payable pursuant to a Finance Document at the place and in the currency in which it is expressed to be payable unless:

20.1.1 its failure to pay is caused by:

20.1.1.1 administrative or technical error; or

20.1.1.2 a Disruption Event; and

20.1.2 payment is made within:

20.1.2.1 (in the case of clause 20.1.1.1) 3 Business Days of its due date; or

20.1.2.2 (in the case of clause 20.1.1.2) 5 Business Days of its due date.

20.2 **Financial covenants**

Any requirement of clause 18 is not satisfied.

20.3 **Other obligations**

20.3.1 The Borrower does not comply with any provision of the Finance Documents (other than those referred to in clause 20.1 and clause 20.2).

20.3.2 No Event of Default under clause 20.3.1 will occur if the failure to comply is capable of remedy and is remedied within 3 Business Days of the earlier of:

20.3.2.1 Nedbank giving notice to the Borrower; and

20.3.2.2 the Borrower becoming aware of the failure to comply.

20.4 **Misrepresentation**

Any representation or statement made or deemed to be made by the Borrower in the Finance Documents or any other document delivered by or on behalf of the Borrower under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

20.5 **Serious financial problems or financial crisis**

The Borrower experiences financial problems which would justify:

20.5.1 an intervention;

20.5.2 the preparation of a financial recovery plan;

20.5.3 an application to stay legal proceedings or to suspend or terminate its financial obligations; or

20.5.4 the grant of any other relief,

contemplated in Chapter 13 of the MFMA.

20.6 **Cross default**

20.6.1 Any Financial Indebtedness of the Borrower is not paid when due nor within any originally applicable grace period.

20.6.2 Any Financial Indebtedness the Borrower is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).

20.6.3 Any commitment for any Financial Indebtedness of the Borrower is cancelled or suspended by a creditor of the Borrower as a result of an event of default (however described).

- 20.6.4 Any creditor of the Borrower becomes entitled to declare any Financial Indebtedness of the Borrower due and payable prior to its specified maturity as a result of an event of default (however described).
- 20.6.5 No Event of Default will occur under this clause 20.6 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within the preceding sub-clauses is less than 3% of the Borrower's latest annual billed revenue (or its equivalent in any other currency or currencies).
- 20.7 **Insolvency**
- 20.7.1 The Borrower:
- 20.7.1.1 is or is deemed by any authority or legislation to be unable or admits inability to pay its debts as they fall due;
- 20.7.1.2 suspends making payments on any of its debts; or
- 20.7.1.3 by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (other than Nedbank) with a view to rescheduling any of its indebtedness.
- 20.7.2 The Borrower is or is deemed by any authority or legislation to be Financially Distressed (as defined in the Companies Act).
- 20.7.3 The value of the assets of the Borrower is less than its liabilities (taking into account contingent and prospective liabilities).
- 20.7.4 A moratorium is declared in respect of any indebtedness of the Borrower.
- 20.8 **Insolvency and business rescue proceedings**
- 20.8.1 Any corporate action, legal proceedings or other procedure or step is taken in relation to:
- 20.8.1.1 the suspension of payments, a moratorium of any indebtedness, liquidation, winding-up, dissolution, administration, business rescue or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Borrower;
- 20.8.1.2 a composition, compromise, assignment or arrangement with any creditor of the Borrower;
- 20.8.1.3 the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager, business rescue practitioner or other similar officer in respect of the Borrower or any of its assets; or

- 20.8.1.4 enforcement of any Security over any assets of the Borrower, or any analogous procedure or step is taken in any jurisdiction. This clause 20.8 shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 30 days of commencement.
- 20.8.2 A meeting is proposed or convened by the directors of the Borrower, a resolution is proposed or passed, application is made or an order is applied for or granted, to authorise the entry into or implementation of any business rescue proceedings (or any similar proceedings) in respect of the Borrower or any analogous procedure or step is taken in any jurisdiction.
- 20.9 **Creditors' process**
- Any expropriation, attachment, sequestration, implementation of any business rescue plan, distress or execution affects any asset or assets of the Borrower having an aggregate value of 3% of the Borrower's latest annual billed revenue and is not discharged within 30 days.
- 20.10 **Unlawfulness**
- It is or becomes unlawful for the Borrower to perform any of its obligations under the Finance Documents.
- 20.11 **Expropriation**
- 20.11.1 The authority or ability of the Borrower to conduct its business is limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation, compulsory acquisition, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person.
- 20.11.2 By the authority of any governmental, regulatory or other authority or other person:
- 20.11.2.1 the management of the Borrower is wholly or substantially replaced; or
- 20.11.2.2 all or a majority of the shares of the Borrower or the whole or any part of its assets or revenues is seized, expropriated or compulsorily acquired.
- 20.12 **Cessation of business**
- The Borrower suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business.
- 20.13 **Audit qualification**
- The Auditor-General or the Auditors of the Borrower qualify its audited annual financial statements, raise a going concern issue, have withheld an opinion or issued a disclaimer due to the inadequacies of the financial statements or records of the Borrower, or have issued an opinion which identifies a serious financial problem in the Borrower.



20.14 **Repudiation**

The Borrower (or any other relevant party) repudiates a Finance Document or purports to repudiate a Finance Document or evidences an intention to repudiate a Finance Document.

20.15 **Material adverse change**

Any event or circumstance occurs which Nedbank reasonably believes has or is reasonably likely to have a Material Adverse Effect.

20.16 **Acceleration**

On and at any time after the occurrence of an Event of Default Nedbank may, by notice to the Borrower:

- 20.16.1 cancel all or any part of the Commitment whereupon it shall immediately be cancelled;
- 20.16.2 declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or
- 20.16.3 declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by Nedbank.

21 **CHANGES TO THE LENDER**

21.1 **Cessions and delegations by Nedbank**

Subject to this clause 21, Nedbank may cede and/or delegate (a **Transfer**) any or all of its rights and/or obligations under this Agreement and/or under any other Finance Document to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (a **New Lender**). The Borrower consents to any splitting of claims which arises or may arise as a result of a Transfer permitted by this Agreement.

21.2 **Conditions of Transfer**

- 21.2.1 The consent of the Borrower is not required for a Transfer by Nedbank to any New Lender. The consent of the Borrower is required for a Transfer to any other prospective transferee (and the Borrower irrevocably and unconditionally authorises the Borrower to give such consent for the benefit of the prospective transferee and Nedbank).
- 21.2.2 Where the consent of the Borrower to a Transfer is required in terms of clause 21.2.1, that consent must not be unreasonably withheld or delayed. The Borrower will be deemed to have given its consent 5 Business Days after Nedbank has requested it unless consent is expressly refused by the Borrower within that time.

21.2.3 If:

21.2.3.1 Nedbank Transfers any of its rights or obligations under the Finance Documents; and

21.2.3.2 as a result of circumstances existing at the date the Transfer or change occurs, the Borrower would be obliged to make a payment to the transferee under clause 11 or clause 12,

then the transferee is only entitled to receive payment under those clauses to the same extent as Nedbank would have been if the Transfer or change had not occurred.

21.3 **Effect of Transfer**

On the date a Transfer takes effect pursuant to a transfer agreement:

21.3.1 the Transfer shall take effect under the Finance Documents so that the rights and/or obligations which are the subject of the Transfer shall be ceded and delegated by Nedbank to the transferee (being the **Transferred Rights and Obligations**);

21.3.2 each of the Borrowers shall perform their obligations and exercise their rights in relation to the Transferred Rights and Obligations in favour of or against the transferee, as the case may be;

21.3.3 the transferee shall become a Party and any reference to Nedbank in the Finance Documents shall be construed as reference to the transferee.

21.4 **Copy of transfer agreement to the Borrower**

Nedbank shall send to the Borrower a copy of each transfer agreement executed by it as soon as reasonably practicable after it has executed any such transfer agreement.

22 **CHANGES TO THE BORROWER**

The Borrower may not cede any of its rights or delegate any of its obligations under the Finance Documents.

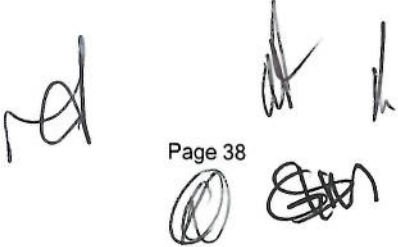
23 **CONDUCT OF BUSINESS BY NEDBANK**

No provision of this Agreement will:

23.1 interfere with the right of Nedbank to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;

23.2 oblige Nedbank to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or

23.3 oblige Nedbank to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.



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24 PAYMENT MECHANICS

24.1 Payments to the Parties

24.1.1 On each date on which the Borrower or Nedbank is required to make a payment under a Finance Document, the Borrower or Nedbank shall make the same available to the other of them (unless a contrary indication appears in a Finance Document) for value by no later than 12h00 (Johannesburg time) on the due date.

24.1.2 Payment shall be made to such account in South Africa with such bank as the payee specifies.

24.2 Distributions to the Borrower

Nedbank may (with the consent of the Borrower or in accordance with clause 25) apply any amount received by it for the Borrower in or towards payment (on the date of receipt) of any amount due from the Borrower under the Finance Documents.

24.3 Partial payments

24.3.1 If Nedbank receives a payment that is insufficient to discharge all the amounts then due and payable by the Borrower under the Finance Documents, Nedbank shall apply that payment towards the obligations of the Borrower under the Finance Documents in the following order:

24.3.1.1 **first**, in or towards payment pro rata of any unpaid costs and expenses of Nedbank under the Finance Documents;

24.3.1.2 **secondly**, in or towards payment pro rata of any accrued interest, fees, Break Costs or commission due but unpaid under this Agreement;

24.3.1.3 **thirdly**, in or towards payment pro rata of any principal due but unpaid under this Agreement; and

24.3.1.4 **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.

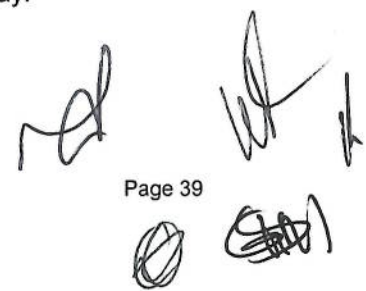
24.3.2 The preceding sub-clauses override any appropriation made by the Borrower.

24.4 No set-off by the Borrower

All payments to be made by the Borrower under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

24.5 Business Days

24.5.1 In the event that the day for performance of any obligation to be performed in terms of any Finance Document should fall on a day which is not a Business Day, the relevant day for performance shall be the succeeding Business Day.



24.5.2 During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

24.6 **Currency of account**

24.6.1 Subject to clauses 24.6.2 and 24.6.3, South African Rand is the currency of account and payment for any sum due from the Borrower under any Finance Document.

24.6.2 Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

24.6.3 Any amount expressed to be payable in a currency other than South African Rand shall be paid in that other currency.

24.7 **Disruption to Payment Systems etc.**

If either Nedbank determines (in its discretion) that a Disruption Event has occurred or Nedbank is notified by the Borrower that a Disruption Event has occurred:

24.7.1 Nedbank may, and shall if requested to do so by the Borrower, consult with the Borrower with a view to agreeing with the Borrower such changes to the operation or administration of the Facilities as Nedbank may deem necessary in the circumstances;

24.7.2 Nedbank shall not be obliged to consult with the Borrower in relation to any changes mentioned in clause 24.7.1 if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;

24.7.3 any such changes agreed upon by Nedbank and the Borrower shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of clause 30.

25 **SET-OFF**

Provided that this is permitted in terms of law, Nedbank may set off any matured obligation due from the Borrower under the Finance Documents against any matured obligation owed by Nedbank to the Borrower, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, Nedbank may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

26 **NOTICES**

26.1 **Addresses and Domicilia**

26.1.1 Each of the Parties chooses the address and fax number (and the department or officer, if any, for whose attention the communication is to be made) set out below as (1) its domicilium citandi et executandi (at which documents in legal proceedings

in connection with this Agreement may be served) and (2) as the address for any communication or document to be made or delivered under or in connection with this Agreement.

26.1.1.1 **Borrower**

Physical: 158 Loveday Street (Civic Boulevard), 3rd Floor, A Block,
Group Legal Department, Braamfontein, 2001;

Attention: City Manager - citymanager@joburg.org.za;

with a copy to:

Acting Chief Financial Officer – Charitych@joburg.org.za;

Group Head: Legal & Contracts Department –
MafoaneM@joburg.org.za,

26.1.1.2 **Nedbank**

Physical: Corporate Lending and Advances Middle
Office – Regulated and Associated, 3rd Floor, Block F,
Nedbank 135 Rivonia Campus, 135 Rivonia Road,
Sandown, 2196, South Africa;

email: CorpLending@nedbank.co.za;

Attention: Deal Manager.

26.1.2 Any Party may, by written notice to the others, change (1) its domicilium to another address, not being a post office box or a poste restante, in South Africa and/or (2) the address, fax number, department or officer for whose attention any communication or document is to be made or delivered under or in connection with this Agreement, provided that any such change shall only be effective on the 5th Business Day after deemed receipt of the notice by the others.

26.2 **Delivery**

26.2.1 Any communication or document made or delivered by one person to another will:

26.2.1.1 if by way of fax, be deemed to have been received on the 1st Business Day following the date of transmission provided that the fax is received in legible form;

26.2.1.2 if delivered by hand, be deemed to have been received at the time of delivery; and

26.2.1.3 if by way of courier service, be deemed to have been received on the 5th Business Day following the date of such sending,

provided that, if a particular department or officer was specified as part of its address details, such communication or document was addressed to that department or officer.

26.2.2 Any communication or document to be made or delivered to Nedbank will be effective only when actually received by Nedbank and then only if it is expressly marked for the attention of the relevant department or officer set out above (or any substitute department or officer as Nedbank may specify for this purpose).

27 CALCULATIONS AND CERTIFICATES

27.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by Nedbank are prima facie evidence of the matters to which they relate.

27.2 Certificates and Determinations

Any certification or determination by Nedbank of a rate or amount under any Finance Document is, in the absence of manifest error, prima facie evidence of the matters to which it relates.

27.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days (irrespective of whether the year in question is a leap year).

28 PARTIAL INVALIDITY

If, at any time, any provision of a Finance Document is or becomes illegal, invalid, unenforceable or inoperable in any respect under any law of any jurisdiction, neither the legality, validity, enforceability or operation of the remaining provisions nor the legality, validity, enforceability or operation of such provision under the law of any other jurisdiction will in any way be affected or impaired. The term **inoperable** in this clause 28 shall include, without limitation, inoperable by way of suspension or cancellation.

29 REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of Nedbank, any right or remedy under a Finance Document or other document or other indulgence shall operate as a waiver, nor shall any single or partial exercise of any right or remedy otherwise affect any of that Party's rights in terms of or arising from any Finance Document or estop such Party from enforcing, at any time and without notice, strict and punctual compliance with each and every provision or term of any Finance Document. No consent to any waiver or novation of a Party's rights in terms of or arising

from any Finance Document shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

30 AMENDMENTS AND WAIVERS

No amendment or waiver shall be of any force or effect unless in writing and signed by or on behalf of the relevant Parties.

31 RENUNCIATION OF BENEFITS

The Borrower renounces, to the extent permitted under applicable law, the benefits of each of the legal exceptions of excussion, division, revision of accounts, no value received, *errore calculi*, *non causa debiti*, *non numeratae pecuniae* and cession of actions, and declares that it understands the meaning of each such legal exception and the effect of such renunciation.

32 COUNTERPARTS

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

33 WAIVER OF IMMUNITY

The Borrower waives generally all immunity it or its assets or revenues may otherwise have in any jurisdiction, including immunity in respect of:

- 33.1 the giving of any relief by way of an interdict or order for specific performance or for the recovery of assets or revenues; and
- 33.2 the issue of any process against its assets or revenues for the enforcement of a judgment or, in an action in rem, for the arrest, detention or sale of any of its assets and revenues.

34 SOLE AGREEMENT

The Finance Documents constitute the sole record of the agreement between the Parties in regard to the subject matter thereof.

35 NO IMPLIED TERMS

No Party shall be bound by any express or implied term, representation, warranty, promise or the like, not recorded in any Finance Document in regard to the subject matter thereof.

36 INDEPENDENT ADVICE

The Borrower acknowledges that it has been free to secure independent legal and other advice as to the nature and effect of all of the provisions of the Finance Documents and that it has either taken such independent legal and other advice or dispensed with the necessity of doing so. Further, each of the Borrowers acknowledges that all of the provisions of each Finance Document and the restrictions therein contained are part of the overall intention of the Parties in connection with the Finance Documents.

37 GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by South African law.

38 JURISDICTION

- 38.1 The Parties hereby irrevocably and unconditionally consent to the non-exclusive jurisdiction of the High Court of South Africa, Gauteng Local Division, Johannesburg (or any successor to that division) in regard to all matters arising from the Finance Documents (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a **Dispute**).
- 38.2 The Parties agree that the courts of South Africa are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- 38.3 This clause 38 is for the benefit of the Nedbank only. As a result, Nedbank shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, Nedbank may take concurrent proceedings in any number of jurisdictions.

For **CITY OF JOHANNESBURG
METROPOLITAN MUNICIPALITY**

Signature



who warrants that he / she is duly
authorised thereto

Name

N LUICKWARGI

Date

26/06/18

Place

Braamfontein

For **CITY OF JOHANNESBURG
METROPOLITAN MUNICIPALITY**


Signature

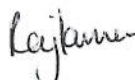
who warrants that he / she is duly
authorised thereto



Name

Date

Place


 witnesses
Niwani
Charity


 Kajamu
Wurayagi

 26 June 2018
 26 June 2018

For **NEDBANK LIMITED (ACTING
THROUGH ITS NEDBANK
CORPORATE AND
INVESTMENT BANKING
DIVISION)**

For **NEDBANK LIMITED (ACTING
THROUGH ITS NEDBANK
CORPORATE AND
INVESTMENT BANKING
DIVISION)**

Signature 
Name GERTELISE DUBE
Date 26 JUNE 2018
Place SANDOWN

Signature 
Name BENJO MOYO
Date 26. JUNE 2018
Place SANDOWN



Schedule 1
Conditions of Utilisation

- 1 Borrower
- 1.1 The Borrower providing evidence to the satisfaction of Nedbank that:
- 1.1.1 when the Borrower entered into discussions with Nedbank with a view to incurring indebtedness, the Borrower made available to Nedbank, certified copies of:
- 1.1.1.1 its audited financial statements for the preceding 3 financial years, together with an indication whether the audit deadline referred to in section 126(1) and section 126(2) of the MFMA has been met;
- 1.1.1.2 its approved annual budget, and evidence that such annual budget complies with section 17 of the MFMA;
- 1.1.1.3 the Borrower's integrated development plan referred to in section 87(5)(d) of the MFMA; and
- 1.1.1.4 its repayment schedules pertaining to its existing short-term and long-term debt;
- 1.1.2 the debt proposed to be incurred in terms of the agreement (**Proposed Debt or Debt**):
- 1.1.2.1 is to be used only for the purpose of:
- 1.1.2.1.1 capital expenditure on property, plant or equipment to be used for the purpose of achieving the objects of local government as set out in section 152 of the Constitution, including costs referred to in section 46(4) of the MFMA; or
- 1.1.2.1.2 re-financing existing long-term debt subject to section 46(5) of the MFMA;
- 1.1.2.2 will not be repaid from revenues linked to a particular municipal service (and if it is, the Borrower must comply with Regulation 15 of the Municipal Regulations on Debt Disclosure);
- 1.1.3 as prescribed in terms of section 46(3) of the MFMA, the Borrower:
- 1.1.3.1 has, in accordance with sections 21, 21A and 21B of the Local Government: Municipal Systems Act, 2000:
- 1.1.3.1.1 at least 21 days prior to the meeting of the council at which approval for the Proposed Debt is to be considered, made public an information statement setting out particulars of the Proposed Debt, including the amount of the Proposed Debt, the purposes for which the debt is to be

- incurred and particulars of any security to be provided (the **Information Statement**);
- 1.1.3.1.2 invited the public, the National Treasury and the relevant provincial treasury to submit written comments or representations to the council in respect of the Proposed Debt,
- and, for the purposes of the foregoing, a copy of the relevant website page, newspaper clippings showing the date of publication and copies of the letters in terms of which National Treasury and the relevant provincial treasury were notified must be provided; and
- 1.1.3.2 has submitted a copy of the Information Statement to the municipal council at least 21 days prior to the meeting of the council, together with particulars of:
- 1.1.3.2.1 the essential repayment terms, including the anticipated debt repayment schedule; and
- 1.1.3.2.2 the anticipated total cost in connection with such debt over the repayment period.
- 1.1.4 the Proposed Debt is consistent with the Borrower's capital budget referred to in section 17(2) of the MFMA as contemplated in section 46(6) of the MFMA.
- 1.2 A copy of the Information Statement referred to in 1.1.3.1.1 containing all the particulars set out in 1.1.3.1.1.
- 1.3 A copy of a resolution of the Municipal Council signed by the Mayor:
- 1.3.1 approving the terms of, and the transactions contemplated by, the Finance Documents and resolving that it execute the Finance Documents;
- 1.3.2 authorising the Borrower's municipal manager, on its behalf, to execute the Finance Documents on its behalf; and
- 1.3.3 authorising the Borrower's municipal manager, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, the Advance Request) to be signed and/or despatched by it under or in connection with the Finance Documents.
- 1.4 Execution of a formalities certificate by the Borrower (signed by the Borrower's Mayor):
- 1.4.1 setting out a specimen signature of the Borrower's municipal manager, in his/her capacity as accounting officer; and
- 1.4.2 confirming that borrowing the Commitment would not cause any borrowing or similar limit binding on it to be exceeded;
- 1.4.3 certifying that no material event disclosures contemplated in and pursuant to Regulation 16 of the Municipal Regulations on Debt Disclosure have been made by





the Borrower within the 2 years immediately preceding the date of the certificate;
and

- 1.4.4 certifying that each copy document relating to it specified in this Schedule 1 is correct, complete and in full force and effect as at a date no earlier than the Signature Date.

2 Finance Documents

This Agreement duly executed by the Parties.

3 Legal opinions

A legal opinion from legal advisers to Nedbank (and paid for by Nedbank), confirming that:

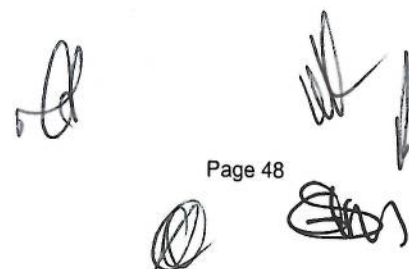
- 3.1 each of the Finance Documents will, upon them becoming unconditional in accordance with their respective provisions, be valid, binding and enforceable against the Parties (other than in respect of Nedbank).

- 3.2 the Borrower has the necessary, capacity, power and authority to enter into and perform its obligations in terms of the Finance Documents to which it is a party.

4 Other documents and evidence

- 4.1 A copy of any other Authorisation or other document, opinion or assurance which Nedbank considers to be necessary or desirable (if it has notified the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.

- 4.2 Such documentation and other evidence as is reasonably requested by Nedbank in order for Nedbank to carry out and be satisfied it has complied with all necessary know your customer or similar identification procedures under applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.



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**Schedule 2
Formalities Certificate**

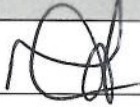
From: City of Johannesburg Metropolitan Municipality
 To: Nedbank Limited
 Dated: [insert date]

Dear Sirs





City of Johannesburg Metropolitan Municipality - Credit Facility Agreement dated [insert date] (the
Agreement)

Formalities Certificate

- 1 We refer to the Agreement. This is a formalities certificate as contemplated in 1.4 of Schedule 1. Terms defined in the Agreement have the same meaning in this letter, unless given a different meaning.
- 2 I:
- 2.1 set out hereunder a specimen of the of the Borrower's accounting officer:

Name of Accounting Officer	Specimen Signature
N LUKHWANGA	

- 2.2 confirm that borrowing or guaranteeing, as appropriate, the Commitment would not cause any borrowing, guaranteeing or similar limit binding on ourselves to be exceeded.
- 2.3 certify that no material event disclosures contemplated in and pursuant to Regulation 16 of the Municipal Regulations on Debt Disclosure have been made by the Borrower within the 2 years immediately preceding the date of this certificate.





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2.4 certify that each copy document relating to ourselves and delivered to Nedbank is correct, complete and in full force and effect as at a date no earlier than the Signature Date.

Yours faithfully

.....

The Mayor for City of Johannesburg Metropolitan Municipality

[Handwritten signatures]

Schedule 3
Utilisation Request

From: City of Johannesburg Metropolitan Municipality
To: Nedbank
Dated: [insert date]

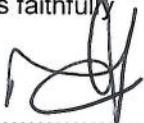
Dear Sirs

City of Johannesburg Metropolitan Municipality - Credit Facility Agreement dated [insert date] (the
Agreement)

Utilisation Request

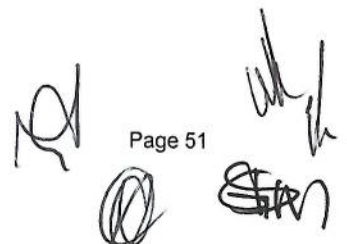
- 1 We refer to the Agreement. This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
- 2 We wish to borrow a Utilisation on the following terms:
 - 2.1 Proposed Utilisation Date: ...[•] (or, if that is not a Business Day, the next Business Day).
 - 2.2 Amount: R[•].
- 3 We confirm that each condition specified in clause 4.2 is satisfied on the date of this Utilisation Request.
- 4 The Utilisation should be credited to [insert details of the account].
- 5 This Utilisation Request is irrevocable.

Yours faithfully



.....
authorised signatory for

City of Johannesburg Metropolitan Municipality



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**Schedule 4
Form of Compliance Certificate**

From: City of Johannesburg Metropolitan Municipality
To: Nedbank
Dated: **[insert date]**

Dear Sirs

City of Johannesburg Metropolitan Municipality - Credit Facility Agreement dated **[insert date]** (the **Agreement**)
Compliance Certificate

- 1 We refer to the Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.
- 2 We confirm that: **[insert details of covenants to be certified]**.
- 3 **[We confirm that no Default is continuing]**.

Signed



.....

Authorised Signatory

for

City of Johannesburg Metropolitan Municipality

.....

Authorised Signatory

for

City of Johannesburg Metropolitan Municipality

.....

for and on behalf of

[name of auditors of the Borrower]



**Schedule 5
Repayment Schedule**

[Handwritten signature]

[Handwritten signature]

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[Handwritten signature]

[Handwritten signature]