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PROJECT ID No: P-ZA-KZ0-002

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ZAR2,500,000,000 TERM LOAN FACILITY AGREEMENT

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DATED 30 June 2025

between

CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY

and

AFRICAN DEVELOPMENT BANK

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**THIS AGREEMENT** is dated 30 June 2025 and made between:

- (1) **CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY**, a municipality established by Notice No. 6766 of 2000 promulgated in the Gauteng Provincial Gazette Extraordinary No. 141 of 1 October 2000 in terms of section 12(1) of the Local Government: Municipal Structures Act, 1998 (the **Borrower**); and
- (2) **AFRICAN DEVELOPMENT BANK**, an international financial institution and multilateral development bank established and existing under the Agreement Establishing the African Development Bank which came into force on 10 September 1964 among its member countries (as amended, supplemented or replaced from time to time), and having its headquarters at Rue Joseph Anoma, OIBP 1387 Abidjan 01, Cote d'Ivoire, (the **Original Lender**).

**IT IS AGREED** as follows:

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In this Agreement:

- 1.1.1 **Accounting Officer** shall have the meaning ascribed thereto in the MFMA (as defined below);
- 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 **AfDB Environmental and Social Policies and Guidelines** means the relevant policies, procedures and guidelines of the AfDB that concern environmental and social matters, all of which have been provided to the Borrower, being the following:
  - 1.1.3.1 AfDB Group's Integrated Safeguards System Policy and Operational Safeguards (the ISS) (2023), available at: <https://www.afdb.org/en/documents/african-development-bank-groups-integrated-safeguards-system-2023>;
  - 1.1.3.2 AfDB Group's Environmental and Social Guidance Notes which serve to clarify the requirements outlined in the ISS and to provide stakeholders with information on tools and techniques to facilitate compliance and available at: <https://www.afdb.org/en/documents/borrower-guidance-note>; and
  - 1.1.3.3 any other policies, procedures and guidelines of the Original Lender of general application that concern environmental and social matters which may from time to time be adopted by the Original Lender. **AfDB Sanctions Procedures** means the formal procedures established by the Original Lender to govern the process for investigating, adjudicating, and sanctioning entities or individuals alleged to have engaged in Sanctionable Practices in connection with operations financed by the Original Lender, as may be amended from time to time, which can be found at

[https://www.afdb.org/sites/default/files/2025/02/18/sanctions\\_procedures\\_-\\_2023\\_edition.pdf](https://www.afdb.org/sites/default/files/2025/02/18/sanctions_procedures_-_2023_edition.pdf);

- 1.1.4 **Agreement** means this term loan facility agreement and its Schedules;
- 1.1.5 **Agreement for Mutual Enforcement of Debarment Decisions** means the agreement entitled "Agreement for Mutual Enforcement of Debarment Decisions" dated 9 April 2010 between the African Development Bank Group, the Asian Development Bank Group, the European Bank for Reconstruction and Development, the Inter-American Development Bank Group and the World Bank Group (each as defined therein) pursuant which provides for a system for the mutual recognition of enforcement actions by the Participating Institutions (as defined therein) pursuant to the Uniform Framework for Preventing and Combatting Fraud and Corruption (as defined therein).
- 1.1.6 **Annual Budget** means, in respect of each Financial Year, the annual budget of the Borrower approved by the Council under section 16 of the MFMA;
- 1.1.7 **Applicable Anti-Corruption, Anti-Money Laundering, Tax, Countering Terrorism and Proliferation Financing Laws** means all statutes, laws, rules, regulations, internationally recognized standards and guidelines issued, administered or enforced by any governmental, intergovernmental, supranational body, regulatory or competent authority, which are applicable to the Borrower, its Affiliates, or the Project, and which govern anti-corruption, anti-money laundering, tax compliance, countering the financing of terrorism and proliferation financing, in each case as in effect and as may be amended, supplemented or replaced from time to time.
- 1.1.8 **Applicable Law** means:
- 1.1.8.1 the MFMA;
- 1.1.8.2 the Municipal Structures Act;
- 1.1.8.3 the Municipal Systems Act;
- 1.1.8.4 the Municipal Demarcation Act, 1998;
- 1.1.8.5 the Constitution of the Republic of South Africa, 1996; and
- 1.1.8.6 the common law and any other statutory law applicable in South Africa, and any other jurisdiction relevant to the Parties including any present or future constitution, decree, judgment, legislation, order, ordinance, regulation, statute, treaty, directive, rule, guideline or practice issued by the relevant authority, governmental body, agency or department or by any central bank or other fiscal, monetary, regulatory, self-regulatory or other authority or agency which is applicable to the Finance Documents (including and Environmental Law and Social Law), compliance with which is mandatory or otherwise generally complied with;

1.1.9 **Applicable Margin** means the percentage per annum corresponding to the Rating in the table below:

<b>Moody's Rating Parameters</b>	<b>Applicable Margin (% p.a.)</b>
Ba3 or better rating	2.30%
B1	the lower of (i) 3.20% and (ii) the margin implied by the prevailing yield curve for B1 rated bonds.

provided that:

any increase or decrease in the Applicable Margin as a consequence of a change in the applicable parameters set out in the column headed "Moody's Rating Parameters" shall take effect on the date of such change in the applicable parameters;

1.1.10 **Approved Rating Agencies means** Moody's, S&P Global Ratings and Fitch or, if a rating is not available from any such agency(ies), such other internationally recognised credit rating agency(ies) as the Borrower and the Original Lender may agree in writing from time to time;

1.1.11 **Auditors** means:

1.1.11.1 the Auditor-General as that term is defined in the MFMA; or

1.1.11.2 any one of PricewaterhouseCoopers, Ernst & Young, KPMG, Deloitte & Touche or any other firm approved in advance by the Lender.

1.1.12 **Authorisation** means authorisation, consent, approval, resolution, permit, license, exemption, filing, notarisation or registration required from time to time in connection with the Finance Documents or under Applicable Law;

1.1.13 **Authorised Signatory** means those persons authorised by the Borrower in accordance with paragraph 1.2 of Schedule 1 (*Conditions Precedent*);

1.1.14 **Availability Period** means the period commencing on the Signature Date up to and including the earlier of the date on which:

1.1.14.1 the Facility has been Utilised in full;

1.1.14.2 the date falling 12 (twelve) Months from the Signature Date; and

- 1.1.14.3 the date on which the Commitment is cancelled in full in accordance with this Agreement;
- 1.1.15 **Banks Act** means the Banks Act 94 of 1990, as amended from time to time;
- 1.1.16 **Base Rate** means JIBAR (or any successor rate or alternative rate, as applicable) provided, however, that if JIBAR or any successor rate or alternative rate is less than zero, then JIBAR or any successor rate or alternative rate shall be deemed to be zero.
- 1.1.17 **Beneficial Owner** means the natural person(s) who ultimately owns or controls a legal entity or arrangement, directly or indirectly, including:
- 1.1.17.1 any natural person who ultimately owns or controls, directly or indirectly, 5% or more of the shares, voting rights, or economic interest in a legal entity;
- 1.1.17.2 any natural person who exercises control over a legal entity through other means, such as control over management, the board of directors, or through other contractual arrangements; or
- 1.1.17.3 where no natural person is identified under Clause 1.1.17.1 and Clause 1.1.17.2 any natural person who is a senior management official of a legal entity or arrangement;
- 1.1.18 **Borrower's Leadership Team** means each person occupying the following positions of the Borrower, from time to time:
- 1.1.18.1 the mayor;
- 1.1.18.2 the deputy mayor;
- 1.1.18.3 members of the mayoral committee;
- 1.1.18.4 the city manager;
- 1.1.18.5 the group chief financial officer;
- 1.1.18.6 all heads of department, entities or units within the Borrower's administration; and
- 1.1.18.7 any other senior officials with significant decision-making authority over the Borrower's resources or policies.
- 1.1.19 **Break Costs** means the amount (if any) by which:
- 1.1.19.1 the interest (excluding the Applicable Margin) which a Lender should have received for the period from the date of receipt of an amount prepaid in respect of any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period for that Loan or Unpaid Sum, if the principal amount of that Loan or Unpaid Sum received had been paid on the last day of that Interest Period;
- exceeds:

- 1.1.19.2 the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period;
- 1.1.20 **Business Day** means a day (other than a public holiday, a Saturday or a Sunday) on which banks are open for general business in Johannesburg and Abidjan;
- 1.1.21 **Capital Expenditure Programme** means the Borrower's capital expenditure programme for the Financial Year ending 30 June 2025 set out in the medium-term capital budget approved by the 26<sup>th</sup> Extraordinary Council Meeting held on 22 May 2024;
- 1.1.22 **Closing Date** means the date of the notice given by the Lender pursuant to Clause 4.1 (*Initial conditions precedent*);
- 1.1.23 **Code** means the US Internal Revenue Code of 1986;
- 1.1.24 **Coercive Practice** means the impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- 1.1.25 **Collusive Practice** means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;
- 1.1.26 **Commitment** means ZAR2,500,000,000 (two billion five hundred million Rand) to the extent not cancelled, reduced or transferred by the Original Lender under this Agreement;
- 1.1.27 **Compliance Certificate** means a certificate substantially in the form set out in Schedule 5 (*Form of Compliance Certificate*);
- 1.1.28 **Conflict of Interest** means a situation where a person or entity has competing interests or loyalties that could potentially corrupt or impair their judgment, decisions, or actions in connection with the Eligible Projects, including but not limited to:
- 1.1.28.1 a financial interest that could affect the person's or entity's objectivity;
- 1.1.28.2 professional or personal relationships that could influence decision-making;
- 1.1.28.3 multiple roles or duties that create competing obligations;
- 1.1.28.4 access to confidential information that could be used for personal benefit; or
- 1.1.28.5 any other situation where a person's or entity's private interests could reasonably appear to interfere with the proper performance of their official duties related to the Eligible Projects.

- 1.1.29 **Confidential Information** means all information relating to the Borrower, the Finance Documents or the Facility of which a Lender becomes aware in its capacity as, or for the purpose of becoming, a Lender or which is received by a Lender in relation to, or for the purpose of becoming a Lender under, the Finance Documents or the Facility from either:
- 1.1.29.1 the Borrower or any of its advisers; or
- 1.1.29.2 another Lender, if the information was obtained by that Lender directly or indirectly from the Borrower or any of its advisers,
- in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:
- 1.1.29.3 information that:
- 1.1.29.3.1 is or becomes public information other than as a direct or indirect result of any breach by the Lender of Clause 32 (*Confidential Information*); or
- 1.1.29.3.2 is identified in writing at the time of delivery as non-confidential by the Borrower or any of its advisers; or
- 1.1.29.3.3 is known by the Lender before the date the information is disclosed to it in accordance with Clause 1.1.29.3.1 or Clause 1.1.29.3.2 above or is lawfully obtained by the Lender after that date, from a source which is, as far as the Lender is aware, unconnected with the Borrower and which, in either case, as far as the Lender is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality;
- 1.1.30 **Corrupt Practice** means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- 1.1.31 **Council** means the municipal council of the Borrower as contemplated by section 18 of the Municipal Structures Act;
- 1.1.32 **Debarment List** means the list of persons sanctioned by the African Development Bank or other multilateral development banks participating in the Agreement for Mutual Enforcement of Debarment Decisions and declared ineligible either permanently or for a defined period to participate in AfDB-financed procurement or be nominated a sub-contractor, manufacturer or supplier, consultant or otherwise benefit from AfDB resources as set out on the Original Lenders website at the following link <https://www.afdb.org/fr/projects-and-operations/procurement/debarment-and-sanctionsprocedures/>;
- 1.1.33 **Default** means an Event of Default or any event or circumstance specified in Clause 22 (*Events of Default*) which would (with the expiry of a 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;

1.1.34 **Development Outcomes Report** means a report substantially in the form set out in Schedule 13 (*Development Outcomes Reporting Template*);

1.1.35 **Disruption Event** means either or both of:

1.1.35.1 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 Facility (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

1.1.35.2 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:

1.1.35.2.1 from performing its payment obligations under the Finance Documents; or

1.1.35.2.2 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;

1.1.36 **Economic Failure** means the occurrence, at any time after the Signature Date, of any change in the domestic or international capital, money, banking, financial, monetary, economic, political or financial market conditions in South Africa and/or any other calamity or event which, in the opinion of the Lender, makes it uneconomical, impractical or impossible for the Lenders to make the Facility (or any part thereof) available on the terms and conditions set out in the Finance Documents;

1.1.37 **Eligible Project** means a capital project listed in the Capital Expenditure Programme to be implemented by a Relevant Municipal Entity has been specifically identified, documented and approved by the Original Lender for financing under this Agreement, as set forth in Schedule 16 (Eligible Projects), which may be amended from time to time only with the Original Lender's prior written approval.

1.1.38 **Environment** means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:

1.1.38.1 air (including, without limitation, air within natural or man-made structures, whether above or below ground);

1.1.38.2 water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and

- 1.1.38.3 land (including, without limitation, land under water);
- 1.1.39 **Environmental and Social Implementation Report** means a report substantially in the form set out in Schedule 8 (*Social and Environmental Audit Reporting Template*) as amended to reflect any changes to the Borrower's business or operations and any environmental or social risks identified by the ISS;
- 1.1.40 **Environmental and Social Management System** means the Borrower's environmental and social management system integrating improvements to:
- 1.1.40.1 ensure compliance with applicable national environmental and social laws, regulations and policies;
- 1.1.40.2 ensure full compliance with the AfDB Environmental and Social Policies;
- 1.1.40.3 enabling the Borrower to identify, assess, manage, monitor and report on positive and negative impacts associated with the Capital Expenditure Programme on an ongoing basis.
- 1.1.41 **Environmental and Social Performance Audit Report** means a report substantially in the form set out in Schedule 8 (*Social and Environmental Performance Audit Reporting Template*);
- 1.1.42 **Environmental Claim** means any claim, litigation, arbitral proceeding, administrative proceeding, formal notice or investigation by any person or authority in respect of any Environmental Law, or any Authorisation held (or required to be held) under applicable Environmental Law;
- 1.1.43 **Environmental Law** means any Applicable Law, guideline or regulation which relates to:
- 1.1.43.1 the pollution or protection of the Environment;
- 1.1.43.2 harm to or the protection of human health;
- 1.1.43.3 the conditions of the workplace; or
- 1.1.43.4 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;
- 1.1.44 **ESMP** means the environmental and social management plan dated 25 April 2025 developed by the Borrower and disclosed to the Original Lender that sets out the action plan of environmental and social management measures to be implemented by the Borrower, as may be amended, supplemented, or updated from time to time in concurrence with the Bank;

- 1.1.45 **Event of Default** means any event or circumstance specified as such in Clause 22 (*Events of Default*);
- 1.1.46 **Exclusion List** means the list of prohibited activities set out in Schedule 7 (*Exclusion List: Activities not Eligible for Financing*);
- 1.1.47 **Facility** means the term loan facility made available under this Agreement as described in Clause 2 (*The Facility*);
- 1.1.48 **Facility Office** means the office or offices through which a Lender will perform its obligations under this Agreement;
- 1.1.49 **Facility Outstandings** means at any time, in relation to the Original Lender, the aggregate of all amounts of principal, accrued and unpaid interest (whether or not capitalised), Break Costs, fees and all and any other amounts due and payable to the Original Lender under the Facility including, without limitation, any claim for damages or restitution and any claim as a result of any recovery by the Borrower (or any judicial manager, liquidator or trustee, as the case may be, of the Borrower) of a payment or discharge on the grounds of preference, and any amounts which would be included in any of the above but for any discharge, non-provability or unenforceability of those amounts in any insolvency or other proceedings;
- 1.1.50 **Fee Letter** means any letter or letters entered into by reference to this Agreement, between the Lender and the Borrower setting out any of the fees;
- 1.1.51 **Finance Document** means this Agreement, Utilisation Request, the Mandate Letter, each Qualifying Guarantee, each Fixed Base Rate Notice, any Fee Letter and any other document designated as such by the Lender and the Borrower in writing;
- 1.1.52 **Financial Debt** has the meaning given to it in Clause 20.1 (*Financial Definitions*).
- 1.1.53 **Financial Year** means the accounting year of the Borrower ending on 30 June of each year or such other period as the Borrower, from time to time designates as its accounting year;
- 1.1.54 **First Repayment Date** means, the first Payment Date to occur on or after the end of the Grace Period.
- 1.1.55 **Fixed Base Rate** means the amortizing market swap rate calculated based on the amortization profile of the Facility set out in the Repayment Schedule.
- 1.1.56 **Fixed Base Rate Effective Date** has the meaning given to it in Clause 8.2.2.2;
- 1.1.57 **Fixed Base Rate Notice** means a written notice delivered to the Lender by the Borrower substantially in the form set out in Schedule 14 (*Form of Fixed Base Rate Notice*) pursuant to which the Borrower requests that a Lender apply a Fixed Base Rate to the Loan or any part thereof in accordance with Clause 8.1.2 (*Calculation of Interest*);

- 1.1.58 **Fraudulent Practice** means any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation
- 1.1.59 **Funding Cost Margin** means the semester weighted average of the difference between (i) the refinancing rate of the Lender as to the borrowings linked to 3-month JIBAR and allocated to all its floating interest loans denominated in South African Rand and (ii) 3-month JIBAR for each semester ending on 30 June and on 31 December in each year which spread shall apply to 3-month JIBAR as reasonably determined by the Lender on the Utilisation Date;
- 1.1.60 **Grace Period** means the period of twelve (12) months commencing from the date of signature of this Agreement during which only interest, fees, costs, and expenses shall be payable, except in the event of the acceleration of the Facility Outstandings, at which time all sums due to the Lender shall be payable.
- 1.1.61 **GRAP** means the general recognized accounting principles, standards and procedures issued in the Republic of South Africa and typically used by public sector entities;
- 1.1.62 **Group** means the Borrower and each Municipal Entity;
- 1.1.63 **Holding Company** means, in relation to a person, any other person in respect of which it is a Subsidiary;
- 1.1.64 **Illicit Origin** means any funds, assets, or property derived from or obtained through:
- 1.1.64.1 criminal activities, including but not limited to drug trafficking, human trafficking, arms trafficking, and counterfeiting;
- 1.1.64.2 corruption, bribery, embezzlement, or misappropriation of public or private funds;
- 1.1.64.3 organized criminal enterprises or terrorist activities;
- 1.1.64.4 tax evasion or fiscal fraud;
- 1.1.64.5 Money Laundering;
- 1.1.64.6 any other activities deemed criminal under applicable national laws or international conventions; or any attempt to conceal or disguise the true origin of such funds, assets, or property any origin which is illicit or fraudulent including, without limitation, drug trafficking, corruption, bribery, organised criminal activities, terrorism, Money Laundering or fraud;
- 1.1.65 **Implementation Report** means a report signed by an Authorised Signatory of the Borrower setting out the following information in connection with the Eligible Projects:
- 1.1.65.1 a summary of the implementation of each Eligible Project;

- 1.1.65.2 a summary of the application of the proceeds of the Loans during such period;
- 1.1.65.3 information in reasonable detail concerning any material developments during such period in the implementation of each Eligible Project;
- 1.1.65.4 compliance with AfDB Environmental and Social Policies and Guidelines, Social Laws and Environmental Law; and
- 1.1.65.5 any ongoing or continuing interruptions to the implementation of any Eligible Project;
- 1.1.66 **Independent Procurement Audit** means a comprehensive review and verification of procurement processes and documentation related to the Eligible Projects, conducted by the Auditors, in accordance with Clause 21.5.4 of this Agreement;
- 1.1.67 **Integrity Certification** means the official written confirmation provided by the Borrower's authorized representatives in the form set out in Schedule 16 (*Annual Integrity Certification*) of this Agreement, confirming compliance with the integrity provisions of this Agreement;
- 1.1.68 **Integrity Due Diligence** means the reasonable investigation conducted by the Borrower to verify information about contractors, subcontractors, suppliers, consultants, and other third parties involved in the implementation of Eligible Projects, including but not limited to identification of Beneficial Owners, connections to Politically Exposed Persons, presence on Department List or Sanction List, and connections to the Borrower's Leadership Team or Related Parties;
- 1.1.69 **Integrity Violation** means any act or omission in connection with any Loan or any Eligible Project that:
  - 1.1.69.1 constitutes an Objectionable Practice;
  - 1.1.69.2 constitutes a Sanctioned Transaction or involves a Sanctioned Entity;
  - 1.1.69.3 involves funds, assets, or property of Illicit Origin;
  - 1.1.69.4 constitutes a breach of any Integrity Representation contained in Clause 18.16 (*Integrity*);
  - 1.1.69.5 constitutes a breach of any Integrity covenant contained in Clause 21.5 (*Integrity*);
  - 1.1.69.6 involves an obstruction of or failure to comply with the Original Lender's audit, inspection, verification, or access rights;
  - 1.1.69.7 impedes, obstructs, or fails to cooperate with the Independent Procurement Audit;
  - 1.1.69.8 involves a material misrepresentation in any certification, report, or other document provided under this Agreement; or

- 1.1.69.9 otherwise contravenes any provision of this Agreement or Applicable Anti-Corruption, Anti-Money-Laundering, Tax, Countering Terrorism and Proliferation Financing Laws.
- 1.1.70 **IRM Policy** means the Lender's independent grievance mechanism for complaints by persons whose rights or interests have been or are likely to be directly affected by investments or financings supported by the Lender as may be updated from time to time and currently published at <https://irm.afdb.org/en/>;
- 1.1.71 **Interest Period** means, in relation to a Loan, each period determined in accordance with Clause 9 (*Interest Periods*);
- 1.1.72 **Involuntary Resettlement** in relation to any person, any physical displacement (including relocation, loss of residential land or loss of shelter), economic displacement (loss of land, assets or access to assets, including those that lead to loss of income sources or other means of livelihood), or both, in each case (i) caused by project-related land acquisition or restrictions on land use and (ii) provided that the affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in such displacement
- 1.1.73 **JIBAR** means, for the relevant Interest Period of any Loan or any Unpaid Sum:
- 1.1.73.1 the applicable Screen Rate as of the Specified Time; or
- 1.1.73.2 (if no Screen Rate is available for the Interest Period of that Loan or Unpaid Sum) the arithmetic mean of the rates (rounded upwards to 4 (four) decimal places) as supplied to the Lender, at its request, quoted by at least 2 (two) Reference Banks in the Relevant Interbank Market as of the Specified Time for the offering of deposits in ZAR for a period comparable to that Interest Period;
- If JIBAR is less than zero, it shall be deemed to be zero;
- 1.1.74 **JIBAR Replacement Event** means:
- 1.1.74.1 the methodology, formula or other means of determining JIBAR has, in the opinion of the Lender, materially changed;
- 1.1.74.2 provided that, in each case, at that time, there is no successor administrator to continue to provide JIBAR:
- 1.1.74.2.1 the administrator of JIBAR or its supervisor publicly announces that such administrator is insolvent; or
- 1.1.74.2.2 information is published in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body which reasonably confirms that the administrator of JIBAR is insolvent;

- 1.1.74.3 the administrator of JIBAR publicly announces that it has ceased or will cease, to provide JIBAR permanently or indefinitely and, at that time, there is no successor administrator to continue to provide JIBAR;
- 1.1.74.4 the administrator of JIBAR or its supervisor publicly announces that JIBAR has been or will be permanently or indefinitely discontinued;
- 1.1.74.5 the administrator of JIBAR or its supervisor announces that JIBAR may no longer be used;
- 1.1.74.6 the supervisor of the administrator of JIBAR makes a public announcement or publishes information stating that JIBAR is no longer or, as of a specified future date will no longer be, representative of the underlying market or economic reality that it is intended to measure, and that representativeness will not be restored (as determined by such supervisor);
- 1.1.74.7 the administrator of JIBAR determines that JIBAR should be calculated in accordance with its reduced submissions or other contingency or fallback policies or arrangements and the circumstances or events leading to such determination are not temporary in the opinion of the Lender;
- 1.1.74.8 any Relevant Nominating Body formally designates, nominates or recommends a replacement for JIBAR which has become available for general use; or
- 1.1.74.9 in the opinion of the Lender and the Borrower, JIBAR is otherwise no longer appropriate for the purposes of calculating interest under this Agreement;
- 1.1.75 **Lender** means:
- 1.1.75.1 the Original Lender; and
- 1.1.75.2 any New Lender,
- which in each case has not ceased to be a Party in accordance with the terms of this Agreement;
- 1.1.76 **LMA** means the Loan Market Association;
- 1.1.77 **LMA Master Confidentiality Undertaking for Use with Administration/Settlement Service Providers** means the form of confidentiality agreement identified as such on the website of the LMA as such form may be updated from time to time.
- 1.1.78 **Loan** means a loan made or to be made under the Facility or the principal amount outstanding for the time being of that loan;
- 1.1.79 **Major Corporate Project Party** means any material contractor procured to implement an Eligible Project;

- 1.1.80 **Material Adverse Effect** means in the reasonable opinion of the Lender a material adverse effect on:
- 1.1.80.1 the business, operations, property, condition (financial or otherwise) or prospects of the Borrower;
  - 1.1.80.2 the ability of the Borrower to perform its obligations under the Finance Documents,
  - 1.1.80.3 the validity or enforceability of any of the Borrower's obligations under any Finance Document; or
  - 1.1.80.4 the rights and remedies of the Lender under any Finance Document,
- when taken alone or together with any current or previous event or circumstance;
- 1.1.81 **Maturity Date** means 26 June 2040;
- 1.1.82 **Member Country** means each of the countries listed in Schedule 10 (*Member Countries*) of this Agreement;
- 1.1.83 **MFMA** means the Municipal Finance Management Act No. 56, 2003;
- 1.1.84 **Minimum Fixed Base Rate Amount** means for one or several utilizations, the total amount or outstanding amount of which is at least equal to ZAR 100,000,000 (one hundred million Rand).
- 1.1.85 **Money Laundering** means:
- 1.1.85.1 the conversion or transfer of property, knowing it is derived from a criminal offence, for the purpose of concealing or disguising its illegal origin or of assisting any person who is involved in the commission of the crime to evade the legal consequences of its actions;
  - 1.1.85.2 the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property knowing that it is derived from a criminal offence; or
  - 1.1.85.3 the acquisition, possession or use of property knowing at the time of its receipt that it is derived from a criminal offence;

- 1.1.86 **Month** means a period starting on 1 (one) day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:
- 1.1.86.1 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; or
- 1.1.86.2 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,
- the above rules will only apply to the last Month of any period;
- 1.1.87 **Moody's** means Moody's Investor Services;
- 1.1.88 **Municipal Entity** means a municipal entity under and as defined in section 1(1) of the MFMA;
- 1.1.89 **New Lender** has the meaning given to that term in Clause 23 (*Changes to the Lenders*);
- 1.1.90 **Objectionable Practice** means any Sanctionable Practice, Money Laundering, Terrorism Financing, Proliferation Financing, or Tax Evasion;
- 1.1.91 **Obstructive Practice** means:
- 1.1.91.1 destroying, falsifying, altering or concealing evidence material to an investigation by the Original Lender or making false statements to investigators, with the intent to impede an investigation by Original Lender;
- 1.1.91.2 threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to an investigation or from pursuing such investigation; or
- 1.1.91.3 acts intended to impede the exercise of the Original Lender's contractual rights of audit or inspection or access to information under this Agreement;
- 1.1.92 **Original Financial Statements** means the:
- 1.1.92.1 the monthly budget statements reflecting the Borrower's budget and prepared in accordance with section 71 of the MFMA for the periods ending 31 January 2025, 28 February 2025 and 31 March 2025; and
- 1.1.92.2 audited consolidated financial statements of the Borrower for the financial year ended 30 June 2024.
- 1.1.93 **Party** means a party to this Agreement;
- 1.1.94 **Payment Date** means each Quarter Date and the Maturity Date;

- 1.1.95 **Politically Exposed Person** means:
- 1.1.95.1 any individual who is or has been entrusted with prominent public functions in South Africa or in another country, including: heads of state or government; senior politicians; senior government, judicial, or military officials; senior executives of state-owned corporations; and important political party officials;
- 1.1.95.2 any individual who is or has been entrusted with a prominent function by an international organization, including directors, deputy directors, and members of the board or equivalent functions; or
- 1.1.95.3 any family member or close associate of a person referred to in 1.1.95.1 or 1.1.95.2.
- 1.1.96 **Permitted Transferee** means any person who, at the time of transfer, is:
- 1.1.96.1 an international bank or financial institution who holds a rating for its long-term senior unsecured debt obligations of A- or higher by S&P or A3 or higher by Moody's or Fitch; or
- 1.1.96.2 a reputable national or international development finance institution; or
- 1.1.96.3 any institution that provides financing of a similar nature in its ordinary course of business to the extent that it is not a direct competitor of the Borrower;
- provided, in each case, that (i) the proposed transferee is a person to whom the Borrower can make payments of interest under this Agreement without any deduction or withholding of Tax; and (ii) the Borrower has had the opportunity to perform identification and integrity due diligence checks on such person based on its customary "know your customer" requirements and such person has passed all such checks to the satisfaction of the Borrower;
- 1.1.97 **Proliferation Financing** means the provision of funds or financial services used, in whole or in part, for the manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual use goods used for non-legitimate purposes), in contravention of national laws or, where applicable, international obligations;
- 1.1.98 **Qualifying Guarantor** means a bank or other financial institution acceptable to the Lender that has a credit rating for unsecured and unsubordinated long-term foreign currency debt of not lower than BBB+ by S&P and Baa1 by Moody's (or such equivalent rating from an Approved Rating Agency);
- 1.1.99 **Quarter Date** means 31 March, 30 June, 30 September and 31 December of each year;

- 1.1.100 **Quotation Day** means, in relation to any period for which an interest rate is to be determined, the first day of that period unless market practice differs in the Relevant Interbank Market, in which case the Quotation Day will be determined by the Lender in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given on more than one day, the Quotation Day will be the last of those days);
- 1.1.101 **Rating** means the credit rating of the Borrower in respect of its unsecured and unsubordinated local currency long-term debt assigned to it by Moody's or an equivalent Rating as determined by any Acceptable Rating Agency;
- 1.1.102 **Reference Banks** means the principal Johannesburg offices of FirstRand Bank Limited, Nedbank Limited, Investec Bank Limited, Absa Bank Limited and The Standard Bank of South Africa Limited or such other banks as may be appointed by the Lender;
- 1.1.103 **Related Party** means:
- 1.1.103.1 any spouse, child, parent, or sibling of a member of the Borrower's Leadership Team or senior management in any Relevant Municipal Entity.
- 1.1.103.2 any entity in which a member of the Borrower's Leadership Team or senior management in any Relevant Municipal Entity or their family member has a significant financial interest (defined as ownership or control of 5% or more);
- 1.1.103.3 any entity in which a member of the Borrower's Leadership Team or senior management in any Relevant Municipal Entity, or their family member serves as a director, officer, or in a similar management capacity; or
- 1.1.103.4 any business partner of a member of the Borrower's Leadership Team or senior management in any Relevant Municipal Entity.
- 1.1.104 **Relevant Interbank Market** means the Johannesburg interbank market;
- 1.1.105 **Relevant Municipal Entity** means, each of:
- 1.1.105.1 Pikitup Johannesburg (SOC) Ltd, state-owned company registered in accordance with the laws of South Africa with registration number 2000/029899/07;
- 1.1.105.2 City Power Johannesburg (SOC) Ltd, state-owned company registered in accordance with the laws of South Africa with registration number 2000/030051/30; and
- 1.1.105.3 Johannesburg Water (SOC) Ltd, state-owned company registered in accordance with the laws of South Africa with registration number 2000/029271/30;
- 1.1.106 **Relevant Nominating Body** means the SARB, or any other replacement regulator or other supervisory authority or a group of them, or any working group or committee sponsored or chaired by, or constituted at the request of, any of them;

- 1.1.107 **Repayment Dates** means each Payment Date following the expiry of the Grace Period;
- 1.1.108 **Repayment Schedule** means the schedule of Loan repayment instalments set out in Schedule 11 (*Repayment Schedule*);
- 1.1.109 **Repayment Instalment** means the amount set out in Schedule 11 (*Repayment Schedule*) under the column titled "Repayment Instalment";
- 1.1.110 **Replacement Benchmark** means a benchmark rate which is:
- 1.1.110.1 formally designated, nominated or recommended as the replacement for JIBAR by:
- 1.1.110.1.1 the administrator of JIBAR (provided that the market or economic reality that such benchmark rate measures is the same as that measured by JIBAR); or
- 1.1.110.1.2 any Relevant Nominating Body,
- and if replacements have, at the relevant time, been formally designated, nominated or recommended under both sub-Clauses, the "Replacement Benchmark" will be the replacement under Clause 1.1.110.1.2 above;
- 1.1.110.2 in the opinion of the Parties, generally accepted in the international or any relevant domestic syndicated loan markets as the appropriate successor to JIBAR; or
- 1.1.110.3 in the opinion of the Parties, an appropriate successor to a Screen Rate;
- 1.1.111 **Repeating Date** means any date on which a Repeating Representation is deemed to be made pursuant to this Agreement.
- 1.1.112 **Repeating Representations** means each of the representations set out in Clause 18 (*Representations*) other than Clause 18.12 (*Financial Statements*) or those representations which are expressly stated to be given at a specific time only;
- 1.1.113 **Representative** means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian;
- 1.1.114 **Restricted Purpose** has the meaning given to it in Clause 21.11 (*Use of proceeds*);
- 1.1.115 **Sanctionable Practice** means any Corrupt Practice, Fraudulent Practice, Coercive Practice, Collusive Practice or Obstructive Practice;
- 1.1.116 **Sanctioned Entity** means a person:
- 1.1.116.1 listed on, or owned or controlled (directly or indirectly) by any person which is listed on, a Sanctions List, a Debarment List or is subject to Sanctions;

- 1.1.116.2 located or resident in, or organised under the laws of a country or territory that is the target of comprehensive country or territory-wide Sanctions or whose government is the target of comprehensive country or territory-wide Sanctions, or a person who is owned or controlled (directly or indirectly) by such a person;
- 1.1.116.3 acting at the direction, on behalf of, or for the benefit of a person referred to in Clauses 1.1.116.1 and 1.1.116.2 or otherwise the target of Sanctions;
- 1.1.117 **Sanctioned Territory** means any country, region or territory that is the subject or the target of Sanctions;
- 1.1.118 **Sanctioned Transaction** means directly or indirectly, using, lending, making payments of, contributing or otherwise making available, all or any part of the proceeds of any Loan or other transaction(s) contemplated by this Agreement to fund any trade, business or other activities:
- 1.1.118.1 involving or for the benefit of any Sanctioned Entity which would result in a breach of Sanctions by any such person or the Borrower; or
- 1.1.118.2 involving or for the benefit of any person on a Debarment List;
- 1.1.118.3 in any other manner that would, or would reasonably be expected to, result in any such person or the Borrower being in breach of any Sanctions (if and to the extent applicable to either of them) or becoming a Sanctioned Entity;
- 1.1.119 **Sanctions** means the economic or financial sanctions laws, regulations, trade embargoes or other restrictive measures enacted, administered, implemented and/or enforced from time to time by the United Nations Security Council;
- 1.1.120 **Sanctions List** means any list promulgated by the United Nations Security Council or its committees pursuant to resolutions issued under Chapter VII of the United Nations Charter as amended, supplemented or substituted from time to time;
- 1.1.121 **SARB** means the South African Reserve Bank;
- 1.1.122 **Screen Rate** means the rate determined on each Quotation Day utilising the three-month Johannesburg Interbank Agreed Rate, which is the mid-rate as polled and published by the South African Futures Exchange (or its successor-in-title) and which appears on the Bloomberg Screen JIBA3M Index page at 11:00 a.m. (Johannesburg time), expressed as a yield rate. If such page or service ceases to be available, the Lender may specify another page or service displaying the appropriate rate after consultation with the Borrower;
- 1.1.123 **Security** means a mortgage, charge, pledge, lien or other security interest securing any obligations of any person or any other agreement or arrangement having a similar effect including any arrangement under which money or claims to, or the benefit of, a bank or other account may be applied, set-off or made subject to a

combination of accounts so as to effect payment of sums owed or payable to any person; or any other type of preferential arrangement (including title transfer or retention, sale and leaseback or sale and purchase arrangements) having a similar effect;

1.1.124 **Signature Date** means the date of this Agreement, as reflected on the second page of this Agreement;

1.1.125 **Social Claim** means any written claim, notice or demand commencing a proceeding or investigation by any person or asserting a violation of any Social Law.

1.1.126 **Social Law** means any Applicable Law or regulation in any jurisdiction in which the Borrower and/or any member of the Group conducts business, which imposes obligations upon the Borrower and/or such member of the Group relating to the work, health, hygiene or security of employees (including the relevant laws and regulations for the public protection of citizens in these domains); the legal protection of property (including rights to intellectual property and cultural property), land rights and traditional assets; the consultation of employees or citizens with respect to work, health, hygiene or security matters; the regulation of industrial relations between the government, employers and employees; the protection and empowerment of indigenous persons and/or ethnic groups; the protection, restoration and rehabilitation of cultural heritage; and all other laws, rules and regulations that guarantee the protection of employees and citizens;

1.1.127 **Specified Time** means a time determined in accordance with Schedule 6 (*Timetables*);

1.1.128 **Subsidiary** means an entity of which a person has direct or indirect control or owns directly or indirectly more than fifty percent (50%) of the voting capital or similar right of ownership and control for this purpose means:

1.1.128.1 the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:

1.1.128.1.1 cast, or control the casting of, more than fifty percent (50%) of the maximum number of votes that might be cast at a general meeting of the shareholders of the entity;

1.1.128.1.2 appoint or remove all, or the majority, of the directors or other equivalent officers of the entity; or

1.1.128.1.3 give directions with respect to the operating and financial policies of the entity with which the directors or other equivalent officers of the entity are obliged to comply;

- 1.1.129 **Swap Unwinding Cost** means any cost the Lender may incur in relation to cancellation or adjustment in the swap contracts executed by the Lender in connection with this Agreement upon the (i) prepayment in full or part of the Loan before maturity, (ii) payment default or (iii) cancellation or adjustment in the swap transaction(s) for any reason under this Agreement;
- 1.1.130 **Tax, Taxes or Taxation** 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);
- 1.1.131 **Tax Authority** means any governmental, state, federal, provisional, local governmental or municipal authority or body or official authorised by law to impose, administer or collect Tax;
- 1.1.132 **Terrorism Financing** means providing or raising of funds or the provision of financial services in the knowledge of their being intended for financing an organization, preparing and committing any of the crimes envisaged by applicable legislation as a terrorist act, or for supporting an organized crimes group, illegal military formation or criminal organization that has been formed or is being formed for the purpose of committing the said crimes, including mobilizing and/or extending such support.
- 1.1.133 **Transfer** has the meaning given to it in Clause 23 (*Changes to the Lender*);
- 1.1.134 **Transfer Certificate** means a certificate substantially in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Lender and the Borrower;
- 1.1.135 **Transfer Date** means, in relation to a Transfer, the later of:
- 1.1.135.1 the proposed Transfer Date specified in the Transfer Certificate or Assignment Agreement; and
- 1.1.135.2 the date on which the Existing Lender executes the Assignment Agreement or Transfer Certificate;
- 1.1.136 **Unpaid Sum** means any sum due and payable but unpaid by the Borrower under the Finance Documents;
- 1.1.137 **US** means the United States of America;
- 1.1.138 **Utilisation** means the utilisation of the Facility;
- 1.1.139 **Utilisation Date** means the date of the Utilisation, being the date on which the relevant Loan is to be made; and
- 1.1.140 **Utilisation Request** means a notice substantially in the form set out in Schedule 2 (*Utilisation Request*).

## 1.2 Construction

1.2.1 Unless a contrary indication appears, any reference in this Agreement to:

1.2.1.1 the **Lender**, the **Borrower** or any **Party** shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents;

1.2.1.2 a document in **agreed form** is a document which is previously agreed in writing by or on behalf of the Borrower and the Lender or, if not so agreed, is in the form specified by the Lender;

1.2.1.3 an **amendment** includes an amendment, supplement, novation, re-enactment, replacement, restatement or variation and **amend** will be construed accordingly;

1.2.1.4 **assets** includes present and future properties, revenues and rights of every description;

1.2.1.5 **authority** includes any court or any governmental, intergovernmental or supranational body, agency, department or any regulatory, self-regulatory or other authority;

1.2.1.6 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;

1.2.1.7 a **guarantee** means any guarantee, bond, letter of credit, 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 in or loan to any person or to purchase assets of any person, where, in each case, that obligation is assumed in order to maintain or assist the ability of that person to meet any of its indebtedness;

1.2.1.8 **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;

1.2.1.9 a document in **original form** is a reference to that document in the form it is in force on the Signature Date;

1.2.1.10 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);

- 1.2.1.11 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;
- 1.2.1.12 a provision of law is a reference to that provision as amended or re-enacted; and
- 1.2.1.13 a time of day is a reference to Johannesburg time (unless otherwise specified).
- 1.2.2 Section, Clause and Schedule headings are for ease of reference only.
- 1.2.3 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.
- 1.2.4 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.
- 1.2.5 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.
- 1.2.6 Unless a contrary indication appears, all accounting expressions which are not otherwise defined in this Agreement shall be construed in accordance with GRAP.

### 1.3 **Currency symbols and definitions**

- 1.3.1 **R, ZAR** and **Rand** denote the lawful currency of South Africa.
- 1.3.2 **\$, USD** and **Dollars** denote the lawful currency of the United States of America.

### 1.4 **Third party rights**

- 1.4.1 Unless expressly provided to the contrary in a Finance Document a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the **Third Parties Act**) to enforce or to enjoy the benefit of any term of this Agreement.
- 1.4.2 Notwithstanding any term of any Finance Document the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

## 2. **THE FACILITY**

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

### 3. **PURPOSE**

#### 3.1 **Purpose**

The Borrower shall apply the proceeds of all amounts borrowed by it under the Facility towards funding Eligible Projects.

#### 3.2 **Monitoring**

The Lender shall not be bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

### 4. **CONDITIONS OF UTILISATION**

#### 4.1 **Initial conditions precedent**

The Borrower may not deliver a Utilisation Request and the Original Lender shall not be obligated to make the first utilisation unless the Original Lender has received all of the documents and other evidence listed in Schedule 1 (*Conditions precedent*) in form and substance satisfactory to the Original Lender. The Original Lender shall notify the Borrower promptly upon being so satisfied.

#### 4.2 **Further conditions precedent**

The Lender will only be obliged to comply with Clause 5.4 (*Lender's participation*) 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;
- 4.2.2 no event or occurrence which may constitute a Material Adverse Effect has occurred;
- 4.2.3 no Economic Failure has occurred; and
- 4.2.4 the Repeating Representations to be made by the Borrower are true in all material respects.

### 5. **UTILISATION**

#### 5.1 **Delivery of a Utilisation Request**

The Borrower may utilise the Facility by delivery to the Lender of a duly completed Utilisation Request not later than the Specified Time, or such later time and date as the Lender may agree in writing.

#### 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;

- 5.2.1.2 the currency and amount of the Utilisation comply with Clause 5.3 (*Currency and amount*);
- 5.2.1.3 the proposed Interest Period complies with Clause 9 (*Interest Periods*); and
- 5.2.1.4 it specifies the Borrower's account(s) and bank(s) to which the proceeds of the utilisation are to be credited.

5.2.2 Only 1 (one) Loan may be requested in a Utilisation Request.

### 5.3 **Currency and amount**

5.3.1 The currency specified in a Utilisation Request must be ZAR.

5.3.2 The amount of the proposed Loan must be an amount which is not more than the Commitment.

5.3.3 The amount of any proposed utilisation must be a minimum of ZAR100,000,000 (one hundred million Rand) or, if less, the total available Commitment.

### 5.4 **Lender's participation**

If the conditions set out in this Agreement have been met the Lender shall make the Loans available by the Utilisation Date through its Facility Office.

### 5.5 **Cancellation of Commitment**

Any amount of the Commitment which is unutilised shall be immediately cancelled at the end of the Availability Period.

## 6. **REPAYMENT**

### 6.1 **Repayment of the Facility**

The Borrower will repay the Loans in 56 (fifty-six) equal quarterly instalments, with the first Repayment Instalment falling due on the First Repayment Date and each subsequent Repayment Instalment falling due on each subsequent Repayment Date up to and including the Maturity Date in each case as set out in Schedule 11 (*Repayment Schedule*). Any amount which remains outstanding under this Agreement on the Maturity Date shall be repaid in full on that date.

### 6.2 **Reborrowing**

The Borrower may not reborrow any part of the Facility which has been repaid or prepaid.

6.3 **Effect of cancellation and prepayment on scheduled repayments and reductions**

If a Loan is prepaid in accordance with Clause 7.1 (*Illegality*), Clause 7.2 (*Voluntary cancellation*), Clause 7.3 (*Voluntary prepayment of Loans*) or Clause 7.4 (*Right of cancellation and repayment in relation to a single Lender*), then, the amount of the Repayment Instalments for the Facility for each Payment Date falling after that prepayment will reduce pro rata by the amount of the Facility prepaid.

7. **ILLEGALITY, VOLUNTARY PREPAYMENT AND CANCELLATION**

7.1 **Illegality**

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

- 7.1.1 the Lender shall promptly notify the Borrower upon becoming aware of that event;
- 7.1.2 upon the Lender notifying the Borrower, the Commitment of that Lender will be immediately cancelled; and
- 7.1.3 the Borrower shall prepay that Loan made to it together with any cost, expense or loss (including Swap Unwinding Costs) on next Payment Date occurring after the Lender has notified the Borrower or, if earlier, the date specified by the Lender 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.

7.2 **Voluntary cancellation**

The Borrower may, if it gives the Lender not less than 30 (thirty) days' prior written notice, cancel the whole or any unutilised part of the Commitment. Any cancellation under this Clause 7.2 shall reduce the Commitment of the Lender.

7.3 **Voluntary prepayment of Loans**

- 7.3.1 The Borrower may, if it gives the Lender not less than 30 (thirty) days prior written notice, prepay the whole or any part of a Loan (but, if in part, being an amount that reduces the Loans by a minimum amount of ZAR100,000,000 (one hundred million Rand) provided that:
  - 7.3.1.1 the Availability Period has ended; and
  - 7.3.1.2 the Lender has confirmed that the conditions in the financial markets allow the Lender in its sole discretion to unwind the swap and any other funding arrangements in respect of the Loan that is being prepaid.
- 7.3.2 The Borrower shall pay together with the prepayment:

- 7.3.2.1 any cost, expense or loss (including Swap Unwinding Costs) that the Lender may incur due to voluntary prepayment which cost, expense or loss may, without limitation, result from (i) prepaying borrowings entered into to fund or hedge all or any part of the amounts to be prepaid; (ii) reinvesting amounts prepaid; (iii) terminating or unwinding swaps or other hedging transactions maintained for funding or hedging all or any part of a Loan or (iv) entering into any offsetting swaps or other hedging transactions, in each case above taking into account the prevailing market conditions at the time of prepayment as determined by the Lender in its sole discretion;
- 7.3.2.2 Swap Unwinding Cost for Loans with a Fixed Base Rate;
- 7.3.2.3 a prepayment premium of 2% of the amount to be prepaid; and
- 7.3.2.4 all accrued interest, fees and expenses on the time of prepayment.
- 7.3.3 The prepaid amount will be applied *pro rata* towards reducing the remaining principal payments of the Loans.

#### 7.4 **Mandatory Prepayment – Sanctions**

- 7.4.1 If the Borrower, any member of the Group or their respective joint ventures or any of their respective directors, officers or employees:
  - 7.4.1.1 becomes a person with whom transactions are currently prohibited under any Sanctions; or
  - 7.4.1.2 participates in any manner in a transaction prohibited by any Sanctions; or
  - 7.4.1.3 are located in, incorporated under the laws of, or owned or controlled by a Sanctioned Entity located in or organised under the laws of a Sanctioned Territory; or
  - 7.4.1.4 the Borrower repays or prepays any amount under the Finance Documents from proceeds or revenue which emanates directly from an Illicit Origin, or any person or entity listed on a Sanctions List or located in a Sanctioned Territory,

then the Borrower will, promptly upon becoming aware of its occurrence, notify the Lender, and if the Lender so requires, it shall, by not less than 10 (ten) Business Days' notice to the Borrower, cancel the undisbursed portion of the Facility and declare the Loans then outstanding immediately due and payable in full together with interest thereon.

- 7.4.2 Any payment, repayment or prepayment under this clause shall be without premium or penalty.

7.5 **Right of replacement or repayment and cancellation in relation to a single Lender**

7.5.1 If:

7.5.1.1 any sum payable to the Lender by the Borrower is required to be increased under Clause 13.2 (*Tax gross-up*); or

7.5.1.2 the Lender claims indemnification from the Borrower under Clause 13.3 (*Tax indemnity*), Clause 14 (*Increased Costs*) or Clause 15 (*Other Indemnities*),

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 the Lender notice of cancellation of the Commitment and its intention to procure the repayment of the Loans.

7.5.2 On receipt of a notice of cancellation referred to in Clause 7.5.1, the Commitment of that Lender shall immediately be reduced to zero.

7.5.3 On the last day of each Interest Period which ends after the Borrower has given notice of cancellation under Clause 7.5.1 (or, if earlier, the date specified by the Borrower in that notice), the Borrower shall repay that Lender's participation in the Loan in full.

7.5.4 If:

7.5.4.1 any of the circumstances set out in Clause 7.1 above apply to a Lender; or

7.5.4.2 the Borrower will, subject to the operation of this Clause 7.5.4 become obliged to pay any amount in accordance with Clause 7.1 to any Lender,

the Borrower may, on not less than 10 Business Days' prior notice to the Lender, replace that Lender by requiring that Lender to (and, to the extent permitted by law, that Lender shall) transfer pursuant to Clause 23 (*Changes to the Lenders*) all (and not part only) of its rights and obligations under this Agreement to any other bank, financial institution, trust, fund or other entity selected by the Borrower which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with Clause 23 (*Changes to the Lenders*) for a purchase price in cash payable at the time of the transfer in an amount equal to the outstanding principal amount of such Lender's participation in in the outstanding Loan, together with all other Facility Outstandings due to that Lender.

7.5.5 The replacement of a Lender pursuant to Clause 7.5.4 above shall be subject to the following conditions:

7.5.5.1 the Lender has no obligation to find a replacement Lender;

7.5.5.2 in no event shall the Lender replaced under Clause 7.5.4 above be required to pay or surrender any of the fees received by such Lender pursuant to the Finance Documents.

## 7.6 **Restrictions**

- 7.6.1 Any notice of cancellation, prepayment, authorisation or other election given by any Party under this Clause 7 shall be irrevocable and binding on the Borrower 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.
- 7.6.2 Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid, any prepayment premium and Swap Unwinding Cost required to be paid in connection with such prepayment and, if the relevant prepayment of the Loans is made on a date other than the last day of an Interest Period for the Loan, any applicable Break Costs.
- 7.6.3 Any cancellation under this Clause 7 shall be made without any refund of any commitment or other fees paid, or due and owing, in connection with the available and undrawn Commitment so cancelled. Without prejudice to Clause 12 (Fees), in no event shall the Borrower be obligated to pay any penalty, fee or cost with respect to any voluntary or involuntary cancellation of the Available Commitment.
- 7.6.4 The Borrower shall not prepay all or any part of the Loans or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.
- 7.6.5 No amount of the Commitment cancelled under this Agreement may be subsequently reinstated.

## 8. **INTEREST**

### 8.1 **Calculation of interest**

- 8.1.1 Subject to Clause 8.1.2, the rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:
- 8.1.1.1 Applicable Margin;
  - 8.1.1.2 the Funding Cost Margin; and
  - 8.1.1.3 Base Rate.
- 8.1.2 Following the occurrence of the Fixed Base Rate Effective Date (in accordance with the process set out in Clause 8.2), the rate of interest on each Loan or any part of the Loans that is intended to have a Fixed Base Rate, for each Interest Period, shall be the percentage rate per annum which is the aggregate of applicable:
- 8.1.2.1 Applicable Margin;
  - 8.1.2.2 Funding Cost Margin; and

8.1.2.3 Fixed Base Rate.

8.1.3 If the Lender has entered into a swap to provide a Fixed Base Rate in respect of a Loan, and such swap (or any part thereof) is terminated for any reason (other than due to a prepayment by the Borrower on an agreed prepayment date), then, for each Interest Period following the date of such termination, the rate of interest applicable to the relevant Loan (or the relevant portion thereof) shall be determined in accordance with Clause 8.1.1.

8.1.4 Interest on each Loan will accrue daily and be calculated on the actual number of days elapsed and on the basis of a year of 365 (three hundred and sixty-five) days irrespective of whether the year in question is a leap year.

## 8.2 Application of Fixed Base Rate

8.2.1 The Borrower may at any time, deliver a Fixed Base Rate Notice to the Original Lender requesting the application of a Fixed Base Rate to all or any part of the outstanding Loans provided such request is in respect of an amount not less than the Minimum Fixed Base Rate Amount.

8.2.2 On receipt of a Fixed Base Rate Notice, the Lender shall:

8.2.2.1 within two Business Days of receipt, confirm to the Borrower in writing that it has received the Fixed Base Rate Notice (the **Notice of Receipt**); and

8.2.2.2 within five Business Days of the date of the Notice of Receipt, confirm the Fixed Base Rate to the Borrower (as determined by the Lender) and the date from which the Fixed Base Rate shall apply (which date shall be no earlier than the date of commencement of the Interest Period immediately following the date of such confirmation from the Original Lender) (the Fixed Base Rate Effective Date).

## 8.3 Payment of interest

The Borrower shall pay accrued interest on that Loan on each Payment Date.

## 8.4 Default interest

8.4.1 If the Borrower fails to make any payment of principal or interest on a Loan or any other payment provided for under this Agreement or any other 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 is 2 per cent. 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 in the currency of the overdue amount.

8.4.2 Any interest accruing under this Clause 8.4 shall be immediately payable by the Borrower on demand by the Lender.

8.4.3 Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount on each Payment Date but will remain immediately due and payable.

#### 8.5 **Notification of rates of interest**

8.5.1 The Lender shall promptly notify the Borrower of the determination of a rate of interest under this Agreement.

8.5.2 To the extent that Clause 8.1.2 applies, the Lender shall notify the Borrower of the Fixed Base Rate determined within the timelines stipulated in Clause 8.2.2.

### 9. **INTEREST PERIODS**

#### 9.1 **Interest Period**

9.1.1 The Interest Period for a Loan shall be for a period of 3 (three) Months commencing from (and including) a Payment Date and ending on (but excluding) the next Payment Date provided that:

9.1.1.1 the first Interest Period for a Loan shall start on (and include) the Utilisation Date and end on (and exclude) the next Payment Date; and

9.1.1.2 the last Interest Period for a Loan shall commence on (and include) the Payment Date immediately preceding the Maturity Date and end on (and include) the Maturity Date.

#### 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. **CHANGES TO THE CALCULATION OF INTEREST**

#### 10.1 **Market disruption**

10.1.1 If a Market Disruption Event occurs in relation to a Loan for any Interest Period, then the rate of interest on that Loan for the Interest Period shall be the percentage rate per annum which is the sum of:

10.1.1.1 the Applicable Margin; and

10.1.1.2 the rate notified to the Borrower by the Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its participation in a Loan from whatever source(s) it may reasonably select.

- 10.1.2 In this Agreement **Market Disruption Event** means:
- 10.1.2.1 at or about noon on the Quotation Day for the relevant Interest Period, the Screen Rate is not available and none or only 1 (one) of the Reference Banks supplies a rate to the Lender to determine JIBAR for the relevant Interest Period; or
- 10.1.2.2 before close of business in Johannesburg on the Quotation Day for the relevant Interest Period, the Borrower receives notifications from a Lender that:
- 10.1.2.2.1 the cost to it or them of funding its or their participation in that Loan from whatever source(s) it or they may reasonably select would be in excess of JIBAR; or
- 10.1.2.2.2 the cost to it or them of obtaining matching deposits in the Relevant Interbank Market would be in excess of JIBAR for the relevant Interest Period; or
- 10.1.2.2.3 matching deposits will not be available to them in the Relevant Interbank Market in the ordinary course of business to fund their participation in that Loan for the relevant Interest Period.

## 10.2 **Alternative basis of interest or funding**

- 10.2.1 Without prejudice to the generality of Clause 10.1 (*Market disruption*), if a Market Disruption Event occurs and the Lender or the Borrower so requires, the Lender and the Borrower shall enter into negotiations (for a period of not more than 30 (thirty) days) with a view to agreeing a substitute basis for determining the rate of interest.
- 10.2.2 Any alternative basis agreed pursuant to Clause 10.2.1 shall, with the prior consent of the Lender and the Borrower, be binding on all Parties.
- 10.2.3 If no agreement can be reached between the Borrower and the Lender, the provisions of clause 10.1 (*Market Disruption*) shall again apply.

## 10.3 **Replacement of JIBAR**

- 10.3.1 If a JIBAR Replacement Event has occurred, any amendment or waiver which relates to:
- 10.3.1.1 providing for the use of a Replacement Benchmark in addition to or as substitute for JIBAR; and
- 10.3.1.2 aligning any provision of a Finance Document to the use of that Replacement Benchmark);
- 10.3.1.3 enabling that Replacement Benchmark to be used for the calculation of interest under this Agreement (including, without limitation, any consequential changes required to enable that Replacement Benchmark to be used for the purposes of this Agreement);

- 10.3.1.4 implementing market conventions applicable to that Replacement Benchmark;
- 10.3.1.5 providing for appropriate fallback (and market disruption) provisions for that Replacement Benchmark; or
- 10.3.1.6 adjusting the pricing to reduce or eliminate, to the extent reasonably practicable, any transfer of economic value from one Party to another as a result of the application of that Replacement Benchmark (and if any adjustment or method for calculating any adjustment has been formally designated, nominated or recommended by the Relevant Nominating Body, the adjustment shall be determined on the basis of that designation, nomination or recommendation),

may be made with the prior written consent of the Lender and the Borrower.

- 10.3.2 If, upon the occurrence of a JIBAR Replacement Event, this Agreement provides that the rate of interest for a Loan in ZAR is to be determined by reference to JIBAR, the Lender and the Borrower shall as soon as reasonably possible but no later than 15 (fifteen) days from the occurrence of such JIBAR Replacement Event enter into negotiations in good faith (for a period of no more than 10 (ten) Business days) with a view to agreeing the use of a Replacement Benchmark in place of JIBAR. Should the Lender and Borrower fail to agree upon a Replacement Benchmark within 15 (ten) Business days after the commencement of such negotiations, the Lender shall determine the Replacement Benchmark, which determination shall be binding on all Parties.

## 11. **BREAK COSTS**

- 11.1 The Borrower shall, within 30 (thirty) days of demand by a Lender, pay to that Lender its Break Costs attributable to all or any part of the Loans or Unpaid Sum being paid by the Borrower on a day other than the last day of an Interest Period for the Loans or Unpaid Sum.
- 11.2 Each Lender shall, as soon as reasonably practicable after a demand by the Borrower, provide a certificate confirming the amount of its Break Costs, for any Interest Period in respect of which they become, or may become payable. Such certificate by the Lender shall be final, conclusive, and binding on the Borrower unless shown by the Borrower to the satisfaction of the Lender to contain a manifest error.

## 12. **FEES**

### 12.1 **Commitment fee**

- 12.1.1 The Borrower shall pay to the Lender a commitment fee computed at the rate of 0.50% per annum on its undrawn Commitment from time to time during the Availability Period, with effect from the date falling 60 days after the Signature Date.

12.1.2 The accrued commitment fee is payable quarterly in arrears on each Payment Date during the Availability Period, on the last day of the Availability Period and on the cancelled amount of the Facility at the time a cancellation is effective.

12.2 **Front-end fee**

The Borrower shall pay to the Original Lender a front-end fee of 1.15% of the full Commitment. The front-end fee shall accrue in full on the date of this Agreement and become due and payable on the earlier of (i) 30 (thirty) days after the date of this Agreement and (ii) the first Utilisation Date.

12.3 **Legal Fees**

The Borrower shall reimburse the Original Lender for the payment by the Original Lender of the legal fees incurred in connection with this Facility payable in an amount not exceeding ZAR1,000,000 (one million Rand) subject to the terms of the engagement letter entered into between the Original Lender and Bowman Gilfillan Inc. dated 16 April 2025.

13. **TAX GROSS-UP AND INDEMNITIES**

13.1 **Definitions**

13.1.1 In this Agreement:

13.1.1.1 **Protected Party** means a Lender which is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document;

13.1.1.2 **Tax Credit** means a credit against, relief or remission for, or repayment of any Tax;

13.1.1.3 **Tax Deduction** means a deduction or withholding for or on account of Tax from a payment under a Finance Document; and

13.1.1.4 **Tax Payment** means either the increase in a payment made by the Borrower to a Lender under Clause 13.2 (*Tax gross-up*) or a payment under Clause 13.3 (*Tax indemnity*).

13.1.2 Unless a contrary indication appears, in this Clause 13 a reference to **determines** or **determined** means a determination made in the absolute discretion of the person making the determination.

13.2 **Tax gross-up**

13.2.1 The Borrower shall make all payments to be made by it free and clear of and without any Tax Deduction, unless a Tax Deduction is required by law.

13.2.2 The Borrower shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the

Lender accordingly. Similarly, a Lender shall notify the Borrower on becoming so aware in respect of a payment payable to that Lender.

13.2.3 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.

13.2.4 If the Borrower is required to make a Tax Deduction, it 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.

13.2.5 Within 30 (thirty) days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Borrower shall deliver to the Lender for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

### 13.3 **Tax indemnity**

13.3.1 The Borrower shall (within 30 (thirty) days of demand by the Lender) indemnify each Protected Party against, and shall pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.

13.3.2 Clause 13.3.1 shall not apply:

13.3.2.1 with respect to any Tax assessed on a Lender under the law of the jurisdiction in which that Lender is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Lender is treated as resident for tax purposes, or under the law of the jurisdiction in which that Lender's Facility Office is located in respect of amounts received or receivable in that jurisdiction, 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 that Lender; or

13.3.2.2 to the extent a loss, liability or cost is compensated for by an increased payment under Clause 13.2 (*Tax gross-up*).

13.3.3 A Protected Party shall, on receiving a payment from the Borrower under this Clause 13.3, notify the Lender in writing.

### 13.4 **Tax Credit**

If the Borrower makes a Tax Payment and the relevant Lender determines that:

13.4.1 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

13.4.2 that Lender has obtained and utilised that Tax Credit,

the Lender shall pay an amount to the Borrower which that Lender 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.

13.5 **Stamp taxes**

The Borrower shall (within 3 (three) Business Days of demand) indemnify the Lender against, and shall pay to the Lender, any cost, loss or liability the Lender incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

13.6 **Value added tax**

13.6.1 All amounts set out or expressed to be payable under a Finance Document by any Party to a Lender 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 amounts in respect of VAT which is chargeable on such supply or supplies, and accordingly, subject to Clause 13.6.2, if VAT is or becomes chargeable on any supply made by any Lender to any Party under a Finance Document and such Lender is required to account to the relevant tax authority for the VAT, that Party must pay to that Lender (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of such VAT (and such Lender shall provide an appropriate VAT invoice to that Party as soon as reasonably practicable).

13.6.2 If VAT is or becomes chargeable on any supply made by any Lender (the **Supplier**) to any other Lender (the **Recipient**) under a Finance Document, and any Party other than the Recipient (the **Relevant Party**) is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):

13.6.2.1 (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this Clause 13.6.2.1 applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant Tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and

13.6.2.2 (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to a credit or repayment from the relevant tax authority in respect of that VAT.

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

### 13.7 **AfDB Tax Status**

Without limiting the generality of the provisions of clauses 13.1 (*Definitions*) to 13.6 (*Value added tax*) above, it is recorded that as at the date of this Agreement, the Original Lender is exempt from Tax in South Africa as per the Agreement Establishing the African Development Bank and the Diplomatic Immunities and Privileges Act 2001 (Act No 37 of 2001) as amended from time to time.

## 14. **INCREASED COSTS**

### 14.1 **Increased costs**

14.1.1 Subject to Clause 14.3 (*Exceptions*), the Borrower shall, within 3 (three) Business Days of a demand by the Lender in writing, pay the amount of any Increased Costs incurred by the Lender or any of its Affiliates as a result of:

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

14.1.1.2 compliance with any law or regulation made after the date of this Agreement; or

14.1.1.3 the implementation or application of, or compliance with, Basel III or Basel IV or any law or regulation that implements or applies Basel III or Basel IV,

including, without limitation, any such law or regulation (including a Basel III or Basel IV directive) concerning capital adequacy requirements, liquid asset holding requirements, special deposit requirements, prudential limits, reserve assets or Tax.

14.1.2 In this Agreement:

14.1.2.1 **Increased Costs** means:

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

- 14.1.2.1.2 an additional or increased cost; or
- 14.1.2.1.3 a reduction of any amount due and payable under any Finance Document, which is incurred or suffered by a Lender or any of its Affiliates to the extent that it is attributable to that Lender having entered into its Commitment or funding or performing its obligations under any Finance Document;
- 14.1.2.2 **Basel III** means:
  - 14.1.2.2.1 the agreements on capital requirements, a leverage ratio and liquidity standards 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 the countercyclical capital buffer*" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;
  - 14.1.2.2.2 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
  - 14.1.2.2.3 any further guidance, standards or directives published by the Basel Committee on Banking Supervision relating to "*Basel III*"; and
- 14.1.2.1 **Basel IV** means papers prepared by the Basel Committee on Banking Supervision (i) in January 2016 titled "*Minimum Capital Market Requirements*"; (ii) in March 2016 titled "*Revisions to the Standardised Approach for credit risk*"; (iii) in June 2016 titled "*Reducing variation in credit risk-weighted assets – constraints on the use of internal model approaches*"; and (iv) all other publications considered part of Basel IV, and in each case, as updated from time to time, or any rules, regulations, guidance, interpretations or directives promulgated or issued in connection therewith by any bank regulatory agency (whether or not having the force of law).
- 14.2 **Increased cost claims**
  - 14.2.1 If the Lender intends to make a claim pursuant to Clause 14.1 (*Increased costs*) it shall notify the Borrower as soon as reasonably practicable.
  - 14.2.2 The Lender shall, as soon as practicable after a demand by the Borrower, provide a certificate confirming the amount of its Increased Costs.
- 14.3 **Exceptions**
  - 14.3.1 Clause 14.1 (*Increased costs*) does not apply to the extent any Increased Cost is:

- 14.3.1.1 attributable to a Tax Deduction required by law to be made by the Borrower;
  - 14.3.1.2 compensated for by Clause 13.3 (*Tax indemnity*) (or would have been compensated for under that Clause but was not so compensated solely because any of the exclusions in that Clause applied); or
  - 14.3.1.3 attributable to the wilful breach by the relevant Lender or its Affiliates of any law or regulation.
- 14.3.2 In this Clause 14.3, a reference to a **Tax Deduction** has the same meaning given to that term in Clause 13.1 (*Definitions*).

## 15. **OTHER INDEMNITIES**

### 15.1 **Currency indemnity**

15.1.1 Without prejudice to Clause 25.4 (*Currency of account*), if any sum due from the Borrower under the Finance Documents (a **Sum**), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the **First Currency**) in which that Sum is payable into another currency (the **Second Currency**) for the purpose of:

- 15.1.1.1 making or filing a claim or proof against the Borrower; or
- 15.1.1.2 obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Borrower shall as an independent obligation, within 30 (thirty) Business Days of demand, indemnify the Lender to whom that Sum is due against, and shall pay to the Lender, any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

15.1.2 The Borrower waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

### 15.2 **Environmental indemnity**

15.2.1 The Borrower hereby agrees to indemnify the Lender and its directors, officers, employees, agents and delegates (together the **Indemnified Parties**) against, and shall pay to it within 10 (ten) Business Days of demand, any cost, loss or liability (including legal costs on a full indemnity basis) suffered or incurred by that Indemnified Party which arises:

- 15.2.1.1 by virtue of any actual or alleged breach of any Environmental Law (whether by the Borrower, an Indemnified Party or any other person);

15.2.1.2 in connection with an Environmental Claim which relates to the operation of all or part of the business of the Borrower, and which would not have arisen if the Finance Documents or any of them had not been executed by the Finance Parties; or

15.2.1.3 in connection with any enquiry, investigation, subpoena (or similar order) or litigation with respect to any Environmental Claim and any other enquiry, investigation, subpoena (or similar order) or litigation in respect of any breach of any Environmental Law that has or is reasonably likely to give rise to a liability for any Finance Party,

which relates to the Group, any assets of the Group or the operation of all or part of the business of the Group (or, in each case, any member of the Group) and which would not have arisen if the Finance Documents or any of them had not been executed by that Finance Party. Any Affiliate or any director, officer, employee, agent or delegate of a Finance Party or its Affiliate may rely on this Clause 15.2 as a stipulation for its benefit.

15.2.2 The terms of this Clause 15.2 and the indemnity contained herein will survive the termination or expiry, for any reason whatsoever, of this Agreement.

15.2.3 The Lender shall, as soon as practicable provide a certificate to the Borrower setting out reasonable details of the amount of any cost, loss or liability against which the Borrower has indemnified a Lender under this clause.

### 15.3 **Indemnity for Integrity Violations**

15.3.1 The Borrower hereby indemnifies the Lender against and shall pay to it within 10 (ten) Business Days of demand, any cost, loss or liability incurred by that Finance Party as a result of any Integrity Violation committed by any member of the Group.

15.3.2 The Lender shall, as soon as practicable, provide a certificate to the Borrower, setting out reasonable details of the amount of any cost, loss or liability against which the Borrower has indemnified a Lender under this clause.

### 15.4 **Other indemnities**

15.4.1 The Borrower shall, within 5 (five) Business Days of demand, indemnify the Lender against, and shall pay to the Lender, any cost, loss or liability incurred by the Lender as a direct result of:

15.4.1.1 the occurrence of any Default;

15.4.1.2 a failure by the Borrower to pay any amount due under a Finance Document on its due date;

15.4.1.3 funding, or making arrangements to fund, its participation in the Loans requested by the Borrower in the 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 the Lender); or

15.4.1.4 a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower.

15.4.2 The Borrower shall, within 5 (five) Business Days of demand indemnify the Lender and every Representative appointed by the Lender against and shall pay to the Lender and each such Representative any cost, loss or liability (other than Taxes or amounts in respect thereof) incurred by any Lender or such Representative as a result of:

15.4.2.1 any failure by it to comply with its obligations under Clause 17 (*Costs and Expenses*);

15.4.2.2 acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;

15.4.2.3 the exercise of any of the rights, powers, discretions, authorities and remedies vested in any Lender and any Representative by the Finance Documents or by law;

15.4.2.4 any default by it in the performance of any of the other obligations expressed to be assumed by it in the Finance Documents;

15.4.2.5 instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; or

15.4.2.6 acting as Representative under the Finance Documents or which otherwise relates to any of the Secured Property (otherwise, in each case, than by reason of the Lender's or Representative's gross negligence or wilful misconduct).

15.4.3 Each Lender and every Representative may, in priority to any payment to the Lender, indemnify itself out of the Secured Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 15.2.

## 16. **MITIGATION BY THE LENDERS**

### 16.1 **Mitigation**

16.1.1 Each Lender 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 (*Illegality*), Clause 13 (*Tax Gross-up and Indemnities*) or Clause 14 (*Increased Costs*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate.

16.1.2 Clause 16.1.1 above does not in any way limit the obligations of the Borrower under the Finance Documents.

16.2 **Limitation of liability**

16.2.1 The Borrower shall promptly indemnify each Lender against and shall pay to each such Lender all documented costs and expenses reasonably incurred by that Lender as a result of all steps taken by it under Clause 16.1 (*Mitigation*).

16.2.2 A Lender is not obliged to take any steps under Clause 16.1 (*Mitigation*) if, in the opinion of that Lender (acting reasonably), to do so might be prejudicial to it.

17. **COSTS AND EXPENSES**

17.1 **Transaction expenses**

The Borrower shall within 30 (thirty) days or such other period as the Parties may agree in writing of demand pay the Lender the amount of all costs and expenses (including legal fees) incurred by the relevant Lender in connection with:

17.1.1 the negotiation, preparation, printing, execution and syndication of:

17.1.1.1 this Agreement and any other documents referred to in this Agreement; and

17.1.1.2 any other Finance Documents executed after the Signature Date.

17.2 **Amendment costs**

If:

17.2.1 the Borrower requests an amendment, waiver or consent; or

17.2.2 there is any change in law or any regulation which requires an amendment, waiver or consent under the Finance Documents,

the Borrower shall, within 30 (thirty) days of demand, reimburse each Lender for the amount of all costs and expenses (including legal fees) incurred by that Lender (and by any Representative appointed by such Lender) in responding to, evaluating, negotiating or complying with that request or requirement.

17.3 **Enforcement and preservation costs**

The Borrower shall, within 30 (thirty) days of demand, pay to each Lender the amount of all costs and expenses (including legal fees on the scale as between attorney and own client whether incurred before or after judgement) incurred by it in connection with the enforcement of or the preservation of any rights under any Finance Document.

17.4 **Reference Rate Transition Costs**

The Borrower shall within 30 (thirty) days demand pay the Lender the amount of all costs and expenses (including legal fees) incurred by it in connection with the process of amending or supplementing this Agreement or any other Finance Document to reflect any changes pursuant to Clause 10.3 (*Replacement of JIBAR*).

## 18. REPRESENTATIONS

The Borrower makes the representations and warranties set out in this Clause 18 to Lender on the Signature Date and the Closing Date.

### 18.1 Status

18.1.1 The Borrower is a municipality duly established and validly existing under the laws of South Africa.

18.1.2 It and each Municipal Entity has the power, capacity and authority to own its assets and carry on its business as it is being conducted.

### 18.2 Binding obligations

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

### 18.3 Non-conflict with other obligations

The entry into, delivery and performance by it of, and the transactions contemplated by the Finance Documents as at the date of this Agreement and on each Repeating Date do not and will not conflict with:

18.3.1 any Applicable Law; or

18.3.2 any agreement or instrument binding upon it or its Subsidiaries or any of their assets.

### 18.4 Power and authority

It has the capacity, authority and 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 and the transactions contemplated by those Finance Documents.

### 18.5 Validity and admissibility in evidence

All Authorisations and any other acts, conditions or things required or desirable:

18.5.1 to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents; and

18.5.2 to make the Finance Documents admissible in evidence in South Africa,

have been obtained, effected, done, fulfilled or performed and are in full force and effect.

### 18.6 Governing law and enforcement

18.6.1 The choice of the governing law of the Finance Documents will be recognised and enforced in South Africa.

18.6.2 Any judgment obtained in relation to a Finance Document in the jurisdiction of the governing law of that Finance Document will be recognized and enforced in South Africa.

18.6.3 The submissions to jurisdiction and arbitration made by it in the Finance Documents to which it is a party are legal, valid and enforceable.

#### 18.7 **Insolvency**

No corporate action, legal proceedings or other procedure or step has been taken in relation to:

18.7.1 the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Borrower;

18.7.2 a composition, compromise, assignment or arrangement with any creditor of the Borrower;

18.7.3 the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Borrower or any of its assets; or

18.7.4 enforcement of any Security over any assets of the Borrower,

or any analogous procedure or step has been taken in any jurisdiction.

#### 18.8 **Deduction of Tax**

It is not required under the laws of South Africa to make any Tax Deduction (as defined in Clause 1.1 (*Definitions*)) from any payment it may make to the Original Lender under any Finance Document.

#### 18.9 **No filing or stamp taxes**

Under the laws of South Africa, it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in South Africa 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.

#### 18.10 **No default**

18.10.1 No Event of Default is continuing or might reasonably be expected to result from the making of any Utilisation.

18.10.2 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 Municipal Entities or to which its (or any of its Municipal Entities') assets are subject which might have a Material Adverse Effect.

18.11 **No misleading information**

18.11.1 All written information provided by the Borrower (including its advisers) to the Lender in respect of itself or any Municipal Entity was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any respect.

18.11.2 The opinions, estimates, projections and forecasts in such information and reports to the extent provided by, or expressed to be those of, it or any Municipal Entity were arrived at after careful consideration and have been expressed and made in good faith, on the basis of recent historical information and on the basis of reasonable assumptions.

18.11.3 No information has been given or withheld that results in the information provided by it being untrue or misleading in any material respect.

18.12 **Financial statements**

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

18.12.2 Its Original Financial Statements fairly represent its financial condition as at the end of the relevant financial year and operations during the relevant financial year.

18.12.3 There has been no material adverse change in its assets, business or financial condition of it or any Municipal Entity since the date of the Original Financial Statements.

18.13 **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.

18.14 **No proceedings pending or threatened**

As at the date of this Agreement and each Repeating Date, and except as disclosed by the Borrower to the Lender in writing, no litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect has or have (to the best of its knowledge and belief having made reasonable enquiry) been started or threatened against it or any of its the Municipal Entities.

18.15 **No breach of laws**

It has not breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect.

18.16 **Integrity**

- 18.16.1 Neither it nor any Relevant Municipal Entity is using or will use the proceeds of the Facility for the purpose of financing or making funds available directly or indirectly to any person or entity which is on the Debarment List, is currently a Sanctioned Entity, as part of a Sanctioned Transaction or is located, incorporated or operating in a Sanctioned Territory.
- 18.16.2 Neither it nor any Relevant Municipal Entity is contributing nor will contribute or otherwise make available the proceeds of the Facility to any other person or entity for the purpose of financing the activities of any person or entity which is currently listed on a Sanctions List or Debarment List, to the extent such contribution or provision of proceeds would currently be prohibited by Sanctions or would otherwise cause any person to be in breach of Sanctions.
- 18.16.3 Neither the Borrower's contribution to the financing of the Eligible Projects nor any funds provided by the Borrower for the implementation of the Eligible Project are from Illicit Origins or related to an Objectionable Practice.
- 18.16.4 Each member of the Group has conducted its businesses in compliance with Applicable Anti-Corruption, Anti-Money Laundering, Tax, Countering Terrorism and Proliferation Financing Laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws against Objectionable Practices.
- 18.16.5 The Borrower and each other member of the Group (i) maintains and implements a policy for the protection of whistleblowers that encourages the reporting of Sanctionable Practices; (ii) provides protective measures to whistleblowers and witnesses; and (iii) sanctions individuals or entities who engage in retaliatory measures against whistleblowers and witnesses.
- 18.16.6 The Borrower has disclosed to the Lender, all actual or potential Conflicts of Interest in relation to the implementation of the Eligible Projects.
- 18.16.7 The Borrower and the Relevant Municipal Entities have sufficient technical capacity and administrative capacity to implement the Eligible Projects in accordance with the terms of this Agreement.
- 18.16.8 No member of the Group, nor any of its Subsidiaries or joint ventures, nor any of their respective directors, officers or employees nor any persons acting on any of their behalf:

- 18.16.8.1 has engaged in a Sanctioned Transaction;
- 18.16.8.2 is a Sanctioned Entity
- 18.16.8.3 is located, incorporated or operating in any Sanctioned Territory;
- 18.16.8.4 has received notice of or is aware of any claim, action, suit, proceeding or investigation against it with respect to Sanctions by any Sanctions Authority.
- 18.16.8.5 has been convicted of any criminal or civil offence in respect of corruption, fraud or similar activities.
- 18.16.8.6 has engaged in any Objectionable Practice,
- 18.16.8.7 has been nor is targeted under any Sanctions; or
- 18.16.8.8 has violated nor is violating any applicable Sanctions.

18.17 **Environmental and Social Compliance**

- 18.17.1 To the best of the Borrower's knowledge and belief, (having made due and careful enquiry):
  - 18.17.1.1 there are no material social or environmental risks in respect of the Borrower's business operations other than those identified by the Environmental and Social Management System; and
  - 18.17.1.2 the Borrower adheres to the AfDB Environmental and Social Policies and Guidelines.

18.18 **Environmental and Social matters**

No Environmental Claim or Social Claim has been commenced or is threatened against it or any Relevant Municipal Entity where that claim has or is reasonably likely, if determined against it, to have a Material Adverse Effect, or is reasonably likely to result in any liability for the Lender.

18.19 **Existing Security**

As at the date of this Agreement, neither of the Borrower nor the Relevant Municipal Entities has outstanding and undischarged Security for the purpose of securing Financial Indebtedness except as disclosed to the Original Lender in writing.

18.20 **Immunity**

- 18.20.1 The entry into, exercise of its rights and performance of its obligations under the Finance Documents to which it is a party do and will constitute private and commercial acts done and performed for private and commercial purposes.
- 18.20.2 It is subject to the laws and legal proceedings of the Republic of South Africa.

18.20.3 Neither it, any member of the Group nor any of its revenues or assets is entitled to any right of immunity from set-off, suit, judgment, execution, attachment or other legal process in any proceedings taken in the Republic of South Africa or elsewhere in respect of any Finance Document to which it is a party.

18.21 **Repetition**

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

18.21.2 The representation in Clause 18.12 (*Financial Statements*) shall be deemed to be made by the Borrower upon delivery of any financial statements pursuant to Clause 19.1 (*Financial Statements*) with reference to the most recent financial statements delivered thereunder.

19. **INFORMATION 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 the Commitment is in force.

19.1 **Financial statements**

The Borrower shall supply to the Lender:

19.1.1 as soon as the same become available, but in any event within 10 (ten) Business Days of approval by the Council of the Borrower:

19.1.1.1 its audited consolidated financial statements for that financial year;

19.1.1.2 a management letter from the Auditors of the Borrower regarding that financial year; and

19.1.2 as soon as the same become available, but in any event within 10 (ten) days of approval by the Council of the Borrower after the end of each quarter, its monthly budget statements reflecting the Borrower's budget and prepared in accordance with section 71 of the MFMA for the preceding quarter.

19.2 **Compliance Certificate**

19.2.1 The Borrower shall supply to the Lender, with each set of financial statements delivered pursuant to Clauses 19.1 (*Financial statements*) in relation to a Measurement Date, a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 20.2 (*financial condition*) as at the date as at which those financial statements were drawn up.

19.2.2 Each Compliance Certificate must be signed by the Group Chief Financial Officer or the Group Treasurer of the Borrower.

19.3 **Requirements as to financial statements**

19.3.1 Each set of financial statements delivered by the Borrower pursuant to Clause 19.1 (*Financial statements*) shall be certified by an Authorised Signatory as fairly representing its financial condition as at the date as at which those financial statements were drawn up.

19.3.2 The Borrower shall procure that each set of financial statements delivered pursuant to Clause 19.1 (*Financial statements*) is prepared using GRAP, unless, in relation to any set of financial statements, it notifies the Lender that there has been a change in GRAP, the accounting practices or reference periods and it delivers to the Lender:

19.3.2.1 a description of any change necessary for those financial statements to reflect the GRAP, accounting practices and reference periods upon which the Original Financial Statements were prepared; and

19.3.2.2 sufficient information, in form and substance as may be required by the Lender, to enable the Lender to make an accurate comparison between the financial position indicated in those financial statements and the Original Financial Statements.

19.3.2.3 Any reference in this Agreement to those financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements were prepared.

19.4 **Environmental and Social Performance Audit Report**

The Borrower shall, deliver an Environmental and Social Performance Audit Report prepared by an independent environmental and social performance expert setting out the details of the Borrower's compliance with the Environmental and Social Management Standards and the Environmental and Social Management Plan the Original Lender within 90 days of the end of each Financial Year.

19.5 **Implementation Report**

The Borrower shall, deliver an Implementation Report to the Original Lender within 60 days of the end of each financial half year.

19.6 **Development Outcomes Report**

The Borrower shall, deliver a Development Outcomes Report to the Original Lender within 60 days of the end of each Financial Year.

19.7 **Environmental and Social Implementation Report**

19.7.1 The Borrower shall deliver an Environmental and Social Implementation Report to the Original Lender quarterly, which report must be submitted no later than 15 days after

each Quarter Date and an annual report within 30 (thirty) days after the end of each Financial Year.

19.7.2 The Borrower shall periodically review the form of the Environmental Performance and Social Implementation Report and advise the Lender as to whether any amendments to the form as is necessary or appropriate in light of any changes to the Borrower's business or operations, any environmental or social risks identified by the Environmental and Social Management Report and the Environmental and Social Management Plan.

19.8 **Annual Integrity Certification**

The Borrower shall submit Annual Integrity Certificate signed by the Authorised Signatory within 30 (thirty) days after the end of each year.

19.9 **Information: miscellaneous**

The Borrower shall supply to the Lender:

19.9.1 as soon as available but in any event within ten (10) Johannesburg Business Days after approval by the Council in accordance with section 24(2) of the MFMA but prior to the commencement of each Financial Year, the Annual Budget of the Borrower for that Financial Year including relevant financial forecasts and any amendments thereto;

19.9.2 as soon as reasonably possible but in any event no later than 72 hours after the Borrower has knowledge of its occurrence, details of any social, labor, health and safety, security or environmental incident, accident or circumstance having, or which could reasonably be expected to have, a Material Adverse Effect or material adverse impact on the implementation of any Eligible Project or on carrying on of operations by the Borrower in accordance with the AfDB Environmental and Social Policies and Guidelines, specifying in each case the nature of the incident, accident, or circumstance and any effect resulting or likely to result therefrom, and the measures the Borrower is taking or plans to take to address them and to prevent any future similar event; and keep the Lender informed of the on-going implementation of those measures and plans;

19.9.3 provide the Lender with all reports in relation to any change in ratings as determined by Moody's or its replacement ratings agency acceptable to the Lender within 10 (ten) days after such change has occurred;

19.9.4 promptly upon becoming aware of them, the details of any actual violation by, or creation of liability for, the Borrower and any director, employee or officer of any relevant Municipal Entity (or any counterparty of any such person in relation to any transaction contemplated by a Finance Document) of or in relation to any

Objectionable Practice, or of any investigation or proceedings relating to the same and in any case not later than 7 (seven) Business Days.

- 19.9.5 copies of any correspondence delivered to, or received from, any regulatory authorities in relation to any matter referred to in Clause 19.9.4 above at the same time as they are dispatched or promptly upon receipt (as the case may be) and in any case not later than 7 (seven) Business Days; and
- 19.9.6 promptly upon request by the Lender, such further information relating to any matter referred to in Clauses 19.9.4 and 19.9.5 above as the Lender may require including to permit the Lender to inspect all accounts, records and other documents relating to such possible Objectionable Practice and to have all related documents audited by auditors appointed by the Lender
- 19.9.7 the Annual Budget of the Borrower for that Financial Year including relevant financial forecasts and any amendments thereto, as soon as available but in any event within 10 (ten) Business Days after approval by the Council in accordance with section 24(2) of the MFMA but prior to the commencement of each Financial Year;
- 19.9.8 all documents dispatched by the Borrower to its creditors generally at the same time as they are dispatched;
- 19.9.9 promptly but in any event no later than 3 days upon becoming aware of the occurrence of serious health and safety, security or environmental incidents or accidents in any sub-project, including:
  - 19.9.9.1 any work-related accident on a construction site, resulting in fatality of a personnel, site visitor or any other third party;
  - 19.9.9.2 serious injuries requiring hospitalization of a personnel, site visitor or any other third party for more than 24 (twenty-four) hours;
  - 19.9.9.3 dangerous occurrences of whatever nature causing work to be stopped on the construction sites for more than 24 (twenty-four) hours;
  - 19.9.9.4 labour disturbance for more than 24 (twenty-four) hours,
- 19.9.10 and share an investigation report on the relevant incidents or accidents which investigation report shall specify in each case the nature of the incident, accident, or circumstance, any effect resulting or likely to result therefrom and the measures the Borrower is taking or plans to take to address them and to prevent any future similar event. The Borrower shall keep the Lender informed of the on-going implementation of such measures and plans;
- 19.9.11 promptly, any proposed change in the nature or scope of any Eligible Project or the business or operations of the Borrower or the relevant Municipal Entities;

- 19.9.12 the details of any non-compliance with applicable Environmental Law, Social Law, the AfDB Environmental and Social Policies and Guidelines or the Environmental and Social Management Systems, or any Environmental Claim or Social Claim (actual or threatened) commenced or threatened against any Major Corporate Project Party or any Eligible Project but in any event no later than five (5) days after the Borrower has knowledge of the non-compliance or claim;
- 19.9.13 such other information as the Lender from time to time reasonably requests about the Borrower, its assets, the relevant Municipal Entities and the Eligible Projects or any of them, to satisfy requirements under Applicable Laws and regulations, including those concerning anti-money laundering and combating the financing of terrorism (particularly due diligence obligations under the Financial Action Task Force standards and other applicable Anti-Money Laundering and Countering the Financing of Terrorism requirements).
- 19.9.14 promptly, the details of any information received regarding the illicit origin of any of its revenues or funds invested in the Project;
- 19.9.15 within 5 days of the initiation of any administrative, supervisory or criminal investigation or proceeding involving the Borrower, the Municipal Entities, or any of their respective affiliates or any director, officer or employee of any such entity, with regard to money laundering, financing of terrorism or any Sanctionable Practices or breach of any corrupt practices laws;
- 19.9.16 promptly upon becoming aware of them but in any event by no later than 5 (five) Business Days, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against it, and which might, if adversely determined, have a Material Adverse Effect; and
- 19.9.17 promptly upon becoming aware but in any event by no later than 5 (five) Business Days:
- 19.9.17.1 any actual or potential Objectionable Practice by the Borrower, each Relevant Municipal Entity, their officials, employees, contractors, subcontractors, or any persons acting on their behalf, in connection with the Eligible Projects;
- 19.9.17.2 any actual or potential breach of Applicable Anti-Corruption, Anti-Money Laundering, Tax, Countering Terrorism and Proliferation Financing Laws by the Borrower, each Relevant Municipal Entity, their officials, employees, contractors, subcontractors, or any persons acting on their behalf, in connection with the Eligible Projects; and
- 19.9.17.3 any civil, administrative, supervisory or criminal investigation or proceeding, and outcome, by or against the Borrower, each Relevant Municipal Entity, their officials, employees, contractors, subcontractors, or any persons acting on their behalf, relating to allegations of committing Objectionable Practices, or breaches

of Applicable Anti-Corruption, Anti-Money Laundering, Tax, Countering Terrorism and Proliferation Financing Laws, in connection with the Eligible Projects;

19.9.18 subject to Applicable Law, promptly, such further information that is material in the context of the Loans or the Borrower's obligations and the rights of the Lender hereunder regarding the financial condition, business and operations of the Borrower as the Lender may reasonably request.

19.9.19 The Borrower shall deliver to the Lender by electronic mail no later than 90 (ninety) days after completion of the Eligible Projects a completion report which sets out the compliance of the Borrower with the AfDB Environmental and Social Policies and Guidelines, Environmental Law and Social Law in respect of the Eligible Projects such report to be in form and substance satisfactory to the Lenders.

19.10 **Notification of default**

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

19.10.2 Promptly upon a request by the Lender, the Borrower shall supply to the Lender a certificate signed by two of its directors or senior officers 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).

19.11 **"Know your customer" checks**

19.11.1 If:

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

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

19.11.1.3 a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Lender (or, in the case of Clause 19.11.1.3 above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrower shall promptly upon the request of the Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Lender (for itself or, in the case of the event described in Clause 19.11.1.3 above, on behalf of any prospective new Lender) in order for the Lender or, in the case of the event described in Clause 19.11.1.3 above, any prospective new Lender 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.

## 20. FINANCIAL COVENANTS

### 20.1 Financial definitions

20.1.1 **Debt Service Cover Ratio** means the result obtained by dividing for the immediately preceding 12 (twelve) month period: (i) cash flows from the normal operations before the finance costs, excluding the conditional capital grants by (ii) the total of all repayments on Financial Debt less amounts standing to the credit of the Sinking Fund and amounts outstanding under any loans with a term of 12 (twelve) months or less, including Financial Leases and finance costs on all Financial Debt, including Financial Leases;

20.1.2 **Financial Debt** means as to the Borrower:

20.1.2.1 any indebtedness of the Borrower for or in respect of borrowed money;

20.1.2.2 the outstanding principal amount of any bonds, debentures, notes, loan stock, commercial paper, acceptance credits, bills or promissory notes drawn, accepted, endorsed or issued by the Borrower;

20.1.2.3 any indebtedness of the Borrower for or in respect of the deferred purchase price of assets or services (except trade accounts incurred and payable in the ordinary course of business to trade creditors of the Borrower within 90 days of the date they are incurred and which are not overdue);

20.1.2.4 non-contingent obligations of the Borrower to reimburse any other Person for amounts payable by that Person under a letter of credit or similar instrument (excluding any letter of credit or similar instrument issued for the account of the Borrower with respect to trade accounts incurred and payable in the ordinary course of business to trade creditors of the Borrower within 90 days of the date they are incurred and which are not overdue);

20.1.2.5 the amount of any obligation of the Borrower in respect of any Financial Lease;

20.1.2.6 amounts raised by the Borrower under any other transaction having the financial effect of a borrowing and which would be classified as a borrowing (and not as an off-balance sheet financing) under the Accounting Standards;

20.1.2.7 the amount of the obligations of the Borrower under Derivative Transactions entered into in connection with the protection against or benefit from fluctuation in any rate or price (but only the net amount owing by the Borrower after marking the relevant Derivative Transactions to market);

- 20.1.2.8 all indebtedness of the types described in the foregoing items secured by a Lien on any property owned by the Borrower, whether or not such indebtedness has been assumed by the Borrower;
- 20.1.2.9 all obligations of the Borrower to pay a specified purchase price for goods and services, whether or not delivered or accepted (i.e., take or pay or similar obligations);
- 20.1.2.10 any repurchase obligation or liability of the Borrower with respect to accounts or notes receivable sold by the Borrower, any liability of the Borrower under any sale and leaseback transactions that do not create a liability on the balance sheet of the Borrower, any obligation under a "synthetic lease" or any obligation arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the balance sheet of the Borrower;
- 20.1.2.11 the amount of any obligation in respect of any guarantee or indemnity given by the Borrower for any of the foregoing items incurred by any other Person; and
- 20.1.2.12 any premium payable by the Borrower on a mandatory redemption or replacement of any of the foregoing items;
- 20.1.3 **Financial Lease** means any lease or hire purchase contract which would, under GRAP, be treated as a finance or capital lease;
- 20.1.4 **Measurement Date** means 30 June and 31 December of each year;
- 20.1.5 **Operating Expenses** means total actual expenses less capital expenditures;
- 20.1.6 **Operating Cashflow** means Operating Revenues less Operating Expenses;
- 20.1.7 **Operating Revenues** means total actual revenues less capital revenues and interest income;
- 20.1.8 **Total Debt** means the amount of all interest bearing obligations and the current portion of all long-term borrowings; and
- 20.1.9 **Total Income** means the total amount of operational income plus operational grants received.

20.2 **Financial condition**

The Borrower shall ensure that:

- 20.2.1 *Debt Service Cover Ratio*: the Debt Service Cover Ratio is at all times until the Final Discharge Date not less than 1.3 times;
- 20.2.2 *Total Debt to Total Income*: the Total Debt to Total Income is at all times until the Final Discharge Date less than 50%;

20.2.3 *Financial Debt to Operating Revenue*: the Financial Debt to Operating Revenue is at all times until the Final Discharge Date equal to or less than 50%; and

20.2.4 *Financial Debt to Operating Cashflow*: the Financial Debt to Operating Cashflow is at all times until the Final Discharge Date equal to or less than 6.0 times.

### 20.3 **Basis of calculations**

20.3.1 All the terms defined in Clause 20.1 (*Financial definitions*) are to be determined on a consolidated basis and (except as may be expressly included or excluded in the relevant definition, or as stated below) in accordance with GRAP.

20.3.2 Compliance (or otherwise) with the financial undertakings in Clause 20.2 (*Financial condition*):

20.3.2.1 as at any Measurement Date, shall be verified by reference to (A) the financial statements delivered under Clause 19.1 (*Financial statements*) as at that Measurement Date and (B) each Compliance Certificate delivered pursuant to Clause 19.2 (*Compliance Certificate*) in relation to that Scheduled Measurement Date; or

20.3.2.2 as at any other date shall be verified by reference to the Compliance Certificate delivered pursuant to Clause 19.2 (*Compliance Certificate*) in relation to that date and the calculations set out in that Compliance Certificate.

20.3.3 No item shall be deducted or credited more than once in any calculation.

## 21. **GENERAL UNDERTAKINGS**

The undertakings in this Clause 21 remain in force from the Signature Date for so long as any amount is outstanding under the Finance Documents or the Commitment is in force.

### 21.1 **Authorisations**

The Borrower shall promptly:

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

21.1.2 supply certified copies to the Lender of, any Authorisation required under any Applicable Law or regulation of the relevant jurisdiction to enable it to implement the Capital Expenditure Programme and to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence of any Finance Document in South Africa.

21.2 **Compliance with laws and policies**

The Borrower shall:

21.2.1 comply in all respects with all laws to which it may be subject including the Applicable Law;

21.2.2 implement each Eligible Project and conduct its business:

21.2.2.1 in accordance with the Applicable Law and the Authorisations;

21.2.2.2 with due diligence and efficiency; and

21.2.2.3 in accordance with sound financial, procurement, environmental and social, administrative, and business practices;

21.2.3 ensure that all contracts and services financed by the proceeds of the Loans are procured in accordance with the Borrower's approved supply chain management policies and all Applicable Laws;

21.2.4 not conduct business or enter into any transaction with, or transmit any funds through, a shell bank; and

21.2.5 adhere to (and ensure that each of its sub-contractors adheres to) the AfDB Environmental and Social Policies and Guidelines by applying the Environmental and Social Management System.

21.3 **Environmental and Social Compliance**

21.3.1 The Borrower shall implement procedures to monitor compliance with and to prevent liability under any Environmental Law where failure to comply is reasonably likely to give rise to a Material Adverse Effect or a financial liability for any Lender.

21.3.2 The Borrower shall and shall cause all its contractors, subcontractors and agents to:

21.3.2.1 carry out the Capital Expenditure Programme in accordance with the ESMP, the Original Lenders' requirements and the Applicable Laws in a manner and in substance satisfactory to the Lenders; and

21.3.2.2 prevent taking any action which would prevent or interfere with the implementation of the ESMP, including any amendment, suspension, waiver, and/or avoidance of any provision thereof.

- 21.3.3 The Borrower shall:
- 21.3.3.1 obtain the necessary permits and authorisations to ensure compliance with Environmental Laws, Social Laws and the AfDB Environmental and Social Policies and Guidelines;
  - 21.3.3.2 ensure that the costs for compliance with the AfDB Environmental and Social Policies and Guidelines in the relevant aspects of the Capital Expenditure Programme are adequately catered for through adequate budgetary provisions;
  - 21.3.3.3 implement the Environmental and Social Management System in compliance with the ISS and maintain necessary levels of qualified environmental and social technical staff to ensure the effective implementation of the ESMS and when and where necessary, the Borrower will establish organisational mechanisms to enhance the performance of the Environmental and Social Management System;
  - 21.3.3.4 establish and maintain a program grievance redress mechanism at the early stage of the implementation of each Eligible Project;
  - 21.3.3.5 ensure that a resettlement action plan acceptable to the Original Lender is put in place prior to the implementation of any Eligible Project where it is determined by Applicable Law that such an action plan is required because of an Involuntary Resettlement; and
  - 21.3.3.6 ensure that for each Eligible Project a stakeholder engagement plan acceptable to the Lender has been established and is being implemented.
- 21.3.4 The Borrower shall:
- 21.3.4.1 promptly upon becoming aware of the same, inform the Lender in writing of:
    - 21.3.4.1.1 any Environmental Claim against it or any Municipal Entity which is current, pending or threatened; and
    - 21.3.4.1.2 any facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against it or any Municipal Entity;
  - 21.3.4.2 inform the Lender in writing of the occurrence of any environmental, health and safety incident on a project site, within 72 hours of the occurrence of such event and furnish the Lender with (i) a copy of the national authority investigation report within 5 days of it becoming available to the Borrower from the relevant national authority; and (ii) if deemed necessary by the Lender, furnish the Lender with an independent root-cause analysis report within 10 days of the request or such other time and date as may be agreed by the Lender;

- 21.3.4.3 regularly monitor and report to the Lender on a quarterly basis on the implementation of the ESMP and the Environmental and Social Management System (the **ESMS**) with respect to the Capital Expenditure Programme in accordance with AfDB's Integrated Safeguards System (ISS); and
- 21.3.4.4 on reasonable prior written notice to the Borrower, enable and facilitate access for the Original Lender's representatives and/or any environmental advisor or consultant appointed by the Lender, to the premises, assets, books and records of the Borrower and each applicable member of the Group, at such times as are deemed appropriate by the Lenders and have been previously agreed with the Borrower (in each case, acting reasonably), to assess, review and report to the Lenders on the compliance of the Borrower and applicable members of the Group with this clause and, if deemed necessary, to conduct site visits, on reasonable prior written notice to the Borrower, to areas reflecting investments made under the Capital Expenditure Programme.
- 21.3.5 Where any change to the Borrower's environmental and social standards in effect as at the date of this Agreement requires any action to be taken by the Borrower, or a member of the Group, to ensure the Borrower remains in compliance with this clause 21.3 such action shall be required to be taken within a reasonable time period of the change to such environmental and social standards coming into effect.

#### 21.4 **Environmental and Social Adviser**

If an event occurs which, in the reasonable opinion of the Lender, has a material adverse impact on the environment, the health, safety and security and is reasonably likely to give rise to a Default or an Event of Default, the Borrower shall appoint and retain an independent environmental and social adviser (with the prior approval of the Lender) on terms and conditions (including quality and scope of work) satisfactory to the Lender, and the Borrower shall be responsible for all reasonable costs and expenses for the services of such adviser.

#### 21.5 **Integrity**

##### 21.5.1 **Compliance with Laws:**

The Borrower and each other member of the Group shall:

- 21.5.1.1 conduct their businesses and implement the Eligible Projects in compliance with the Applicable Anti-Corruption, Anti-Money Laundering, Tax, Countering Terrorism and Proliferation Financing Laws;
- 21.5.1.2 maintain policies and procedures designed to promote and achieve compliance with (i) Applicable Anti-Corruption, Anti-Money Laundering, Tax, Countering Terrorism and Proliferation Financing Laws; and (ii) Sanctions; and

21.5.1.3 take all reasonable and prudent steps to ensure that each of their respective officials, employees, agents, contractors and sub-contractors, and any person acting on their behalf comply with the Applicable Anti-Corruption, Anti-Money Laundering, Tax, Countering Terrorism and Proliferation Financing Laws.

21.5.2 **Whistleblower Protection:**

The Borrower and member of the Group shall:

21.5.2.1 maintain and implement a whistleblower protection policy that encourages the reporting of Sanctionable Practices;

21.5.2.2 provide protective measures to whistleblowers and witnesses; and

21.5.2.3 sanction individuals or entities who engage in retaliatory measures against whistleblowers and witnesses.

21.5.3 **Integrity Due Diligence**

The Borrower and each member of the Group shall:

21.5.3.1 conduct a risk-based Integrity Due Diligence on all contractors, subcontractors, suppliers, consultants, and other third parties involved in the implementation of the Eligible Projects;

21.5.3.2 identify and verify the identity of the Beneficial Owners of all contractors, subcontractors, suppliers, consultants, and other third parties involved in the implementation of the Eligible Projects;

21.5.3.3 screen all contractors, subcontractors, suppliers, consultants, and their Beneficial Owners against Sanctions Lists and Debarment Lists;

21.5.3.4 identify any Politically Exposed Persons who are Beneficial Owners of or may have significant influence over contractors, subcontractors, suppliers, or consultants;

21.5.3.5 identify any relationship between contractors, subcontractors, suppliers, or consultants (or their Beneficial Owners) and members of the Borrower's Leadership Team and senior management of each of the Relevant Municipalities or their Related Parties; and

21.5.3.6 identify any potential or actual or Conflict of Interest that any member of the Borrower's Leadership Team may have in the implementation of the Project or the use of the proceeds of the Loan.

21.5.4 **Independent Procurement Audit**

The Borrower and the Relevant Municipal Entities shall:

- 21.5.4.1 arrange for independent audits of procurement processes related to the Eligible Projects, conducted by the Auditors;
- 21.5.4.2 submit the terms of reference for such audits to the Original Lender for approval prior to commencement of such audits;
- 21.5.4.3 ensure that the audits verify compliance with: (i) applicable procurement laws and regulations; and (ii) this Clause 21.5;
- 21.5.4.4 complete the audits annually until the completion of all Eligible Projects;
- 21.5.4.5 submit audit reports to the Original Lender within thirty (30) days of completion; and
- 21.5.4.6 implement the audit recommendations within the timeframes specified therein.

21.5.5 **Prohibited Activities**

Neither the Borrower or any member of the Group shall engage in and shall not authorize or permit any of their officials, employees, contractors, sub-contractors, suppliers or any person acting on their behalf, to engage in any Objectionable Practice.

21.5.6 **Prohibited Expenditures**

21.5.7 The Borrower and each of its Affiliates shall not use any portion of the Loan proceeds for:

- 21.5.7.1 any purpose not specifically included in the approved scope and budget of an Eligible Project;
- 21.5.7.2 payment of salaries or compensation to officials or employees of the Borrower, except as specifically approved by the Original Lender as part of an Eligible Project;
- 21.5.7.3 any payment to a Politically Exposed Person or an entity in which a Politically Exposed Person has an interest (whether by way of control or ownership) of 5% or more);
- 21.5.7.4 any payment to a member of the Borrower's Leadership Team, senior management of any of the Relevant Municipal Entities or a Related Party, or to any entity in which such persons have an interest (whether by way of control or ownership) of 5% or more; or
- 21.5.7.5 any payment to an entity that fails to disclose its Beneficial Owners as required under this Agreement.

21.5.8 **Prohibited Contracts**

The Borrower and each Relevant Municipal Entity and each of its Affiliates shall not award any contract related to the Eligible Projects to:

- 21.5.8.1 any entity that fails to disclose its Beneficial Owners;
- 21.5.8.2 any entity in which a Politically Exposed Person has an interest (whether by way of control or ownership) of 5% or more;
- 21.5.8.3 any entity in which a member of the Borrower's Leadership Team or a Related Party has a potential or actual Conflict of Interest; or
- 21.5.8.4 any entity which the Borrower knows or should reasonably know has engaged in Objectionable Practices.

21.5.9 **Illicit Origin**

The Borrower and each Relevant Municipal Entity shall ensure that neither it nor any of their officials, employees, agents or any person acting on their behalf shall not fund all or part of any payment in connection with the Eligible Projects out of proceeds derived from Illicit Origin.

21.5.10 **Audit and Inspection Rights**

The Borrower shall, and will ensure that each other member of the Group shall:

- 21.5.10.1 at all times permit the Lender, its auditors and representatives to inspect all accounts, records and other documents and interview all relevant persons under their control, in connection with the negotiation and execution of the Agreement and the implementation of the Eligible Projects; and make themselves available upon request for any investigation into any allegation of Objectionable Practice or breach of Sanctions initiated by the Lender; and
- 21.5.10.2 permit the Lender, its auditors and representatives and each advisor to the Lender to visit the Project site and any of the premises where the business of the Borrower is conducted and to inspect all facilities, plant and equipment forming part of the Eligible Projects, in each case upon reasonable notice and at reasonable times.

21.6 **Taxation**

21.6.1 The Borrower shall pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:

- 21.6.1.1 such payment is being contested in good faith;
- 21.6.1.2 adequate reserves are being maintained for those Taxes and the costs required to contest them which have been disclosed in its latest financial statements delivered to the Lender under Clause 19.1 (*Financial statements*); and

21.6.1.3 such payment can be lawfully withheld and failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect.

21.7 **Insurance**

21.7.1 The Borrower shall maintain insurances on and in relation to its business and assets against those risks and to the extent as is necessary to run its business or operations.

21.7.2 All insurances must be with reputable independent insurance companies or underwriters.

21.8 **Rating**

The Borrower shall ensure that it maintains a Rating.

21.9 **Sanctions**

21.9.1 The Borrower shall not, and shall not permit or authorise any other person acting on its behalf to, directly or indirectly:

21.9.1.1 use, lend, make payments of, contribute or otherwise make available, all or any part of the proceeds of the Loans or other transaction(s) contemplated by this Agreement to fund any trade, business or other activities:

21.9.1.1.1 relating to, involving, or for the benefit of, any Sanctioned Entity or Terrorism Financing;

21.9.1.1.2 relating to, involving, or for the benefit of any person or Party on the Debarment List;

21.9.1.1.3 in any other manner that would reasonably be expected by the Borrower to result in the Borrower or the Lender being in breach of any Sanctions or becoming a Sanctioned Entity; or

21.9.1.1.4 relating to any transaction that evades or violates, or is intended to evade or violate, or attempts to evade or violate any Sanctions;

21.9.1.2 require any Lender to take action that would cause it to violate any Sanctions, it being understood that any Lender can refuse to honour any such request otherwise validly made by the Borrower under this Agreement;

21.9.2 The Borrower shall not engage in any activity prohibited by any resolution of the United Nations Security Council under Chapter VII of the United Nations Charter.

21.9.3 The Borrower shall deliver to a Lender, any certificates requested from time to time by that Lender in its reasonable discretion, to confirm the Borrower's compliance with this Clause 21.9 to the extent the same is requested so as to enable that Lender to comply with any Applicable Law, regulation or request made of it by a regulatory body or an advisor which that Lender is customarily in the habit of complying with in respect of such matters.

21.10 **Auditors**

21.10.1 The Borrower consents to the Lender communicating with the Auditors and shall not prevent any communication between the Auditors and Lender for the purposes of this Agreement.

21.11 **Use of proceeds**

The Borrower shall ensure that the proceeds of the Loans are utilised solely to fund Eligible Projects. The proceeds of the Loans shall not be:

21.11.1 used in any manner not permitted under the Finance Documents; or

21.11.2 applied towards:

21.11.2.1 funding activities on the Exclusion List;

21.11.2.2 the procurement of goods and works produced in, and services supplied from, any country which is not a Member Country; or

21.11.2.3 refinancing any existing Financial Debt Loans or other amounts owed by the Borrower to any party,

(each, a **Restricted Purpose**).

21.12 **Access**

21.12.1 Upon request from the Lender, permit the Lender representatives of the Lender and/ or the Lender's independent recourse mechanism (**IRM**), to:

21.12.1.1 visit any of the sites and premises where the business of the Borrower or any Relevant Municipal Entity is conducted;

21.12.1.2 inspect any sites, facilities, plants and equipment of the Borrower or any Relevant Municipal Entity;

21.12.1.3 have access to the books of account and all records of the Borrower and/or any Relevant Municipal Entity (including electronic and hard copy files); and

21.12.1.4 have access to those employees, agents, contractors and subcontractors of the Borrower or any Relevant Municipal Entity who have or may have knowledge of matters with respect to which the Lender or IRM seeks information,

in each case upon reasonable prior notice and subject to any applicable laws and regulations. Where such access shall be for the purpose of carrying out the IRM's role the IRM may disclose information gathered during its activities, subject to the IRM Policy;

21.13 **Merger**

The Borrower shall not enter into any amalgamation or merger other than an amalgamation or merger that (i) complies with all Applicable Laws, regulations (including, without limitation, all applicable banking regulations) and any directives or guidelines applicable to the Borrower issued by any person that has authority to regulate the Borrower; (ii) the Borrower is the continuing or surviving entity following such amalgamation or merger; and (iii) such amalgamation or merger could not reasonably be likely to result in an Event of Default.

21.14 **Change of business**

The Borrower shall procure that no substantial change is made to the general nature of the business of the Borrower from that carried on at the date of this Agreement.

21.15 **Miscellaneous**

21.15.1 The Borrower shall not change its the end of its Financial Year without the consent of the Lender.

21.15.2 The Borrower shall not initiate, support or otherwise facilitate any amendments in the laws governing the Annual Budget of the Borrower or any other relevant laws and regulations which are inconsistent with the Borrower's obligations under the Finance Documents.

21.16 **Debt Redemption Fund**

The Borrower shall at all times maintain a debt redemption fund (the **Sinking Fund**) in accordance with, for the purposes set out in, and in the minimum amount required under, Clause 3.18 of the Borrower's Group Treasury Policy in the form delivered to the Lender prior to the date of this Agreement, provided that if the Group Treasury Policy is amended after the date of this Agreement such that the Borrower's obligations in connection with maintaining a sinking and the minimum amount:

21.16.1 become more onerous, the Borrower shall comply with such more onerous obligations;

21.16.2 become less onerous, the Borrower shall comply with its obligations as set out in the Group Treasury Policy in effect as at the date of this Agreement;

21.16.3 **Pari Passu Claims:**

Ensure that at all times the claims of a Lender rank at least pari passu with the claims of the other senior unsecured and unsubordinated creditors of the Borrower, except for the claims mandatorily preferred by local law;

21.17 **Most Favoured Nation**

21.17.1 The Borrower undertakes to the Lender and agrees that, to the extent that any loan agreement or other document pursuant to which Financial Debt is incurred by the Borrower has the effect of granting to a lender or other creditor (or preference shareholder) thereunder any rights which are more favourable than rights conferred upon the Lender under the Finance Documents, including the provision of Security by the Borrower to secure such Financial Debt (the **Additional Rights**), the Borrower shall notify the Lender in writing of such Additional Rights within 3 (three) Business Days of such Addition Rights being granted to such lender or other creditor (or preference shareholder) (the **Additional Rights Notice**).

21.17.2 The Lender shall be entitled, within thirty (30) (thirty) Business Days from the date of receipt of the Additional Rights Notice, to provide the Borrower with a written notice confirming if it wishes to obtain the benefit of all Additional Rights or any Additional Rights of which it is notified pursuant to the Additional Rights Notice (the **Additional Rights Acceptance Notice**).

21.17.3 Upon the delivery of the Additional Rights Acceptance Notice to the Borrower by the Lender:

21.17.3.1 this Agreement shall be deemed to be amended, *mutatis mutandis*, such that the Additional Rights are incorporated herein and such Additional Rights shall accordingly be conferred upon the Lender and the Borrower shall perform all obligations relating to such Additional Rights in favour of the Lender who has accepted same pursuant to the Additional Rights Acceptance Notice;

21.17.3.2 the Borrower shall take all steps required to grant to the Lender Security which is the same or similar to the Security constituting Additional Rights (**Third Party Security**) to secure its obligations under the Finance Documents equally and rateably.

21.18 **Condition Subsequent**

21.18.1 The Borrower shall deliver a copy of the Environmental and Social Management System to the Original Lender by no later than 31 October 2025 (or such date as the Original Lender may agree in writing).

21.18.2 The Borrower shall for the purposes of Clause 35.4 (*Service of Process*):

- 21.18.2.1 appoint a process agent acceptable to the Original Lender in its sole discretion by no later than 60 (sixty) days from the date of this Agreement; and
- 21.18.2.2 provide evidence to the Original Lender that the process agent has accepted its appointment by completing, executing and submitting a letter substantially in the form set out in Schedule 12 (*Service of process letter*) to the Original Lender, by no later than 60 (sixty) days from the date of this Agreement.

## 22. **EVENTS OF DEFAULT**

Each of the events or circumstances set out in this Clause 22 is an Event of Default (save for Clause 22.21 (*Acceleration*)).

### 22.1 **Non-payment**

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

- 22.1.1 its failure to pay is caused by:
  - 22.1.1.1 administrative or technical error; or
  - 22.1.1.2 a Disruption Event; and
  - 22.1.1.3 payment is made within 5 (five) Business Days of its due date.

### 22.2 **Financial covenants**

Any requirement of Clause 20 (*Financial Covenants*) is not satisfied or the Borrower does not comply with the provisions of Clause 19 (*Information Undertakings*).

### 22.3 **Use of proceeds**

The Borrower or any Relevant Municipal Entity applies the proceeds of the Loans towards a Restricted Purpose.

### 22.4 **Other obligations**

- 22.4.1 The Borrower does not comply with any provision of the Finance Documents (other than those referred to in Clause 22.1 (*Non-payment*), Clause 21.11 (*Use of Proceeds*) and Clause 22.2 (*Financial covenants*)).
- 22.4.2 No Event of Default under Clause 22.4.1 above will occur if the failure to comply is capable of remedy and is remedied within 30 (thirty) days of the earlier of (a) the Lender giving notice to the Borrower and (b) the Borrower becoming aware of the failure to comply.
- 22.4.3 For the purposes of Clause 22.4.1 above, a breach of 18.17 (*Environmental and Social Compliance*) shall not constitute an Event of Default, provided that:

- 22.4.3.1 within the 30 (thirty) days of the breach of that clause, the Borrower notifies the Lender in writing of the breach (describing the nature of it);
- 22.4.3.2 within 90 (ninety) days of that notice, the Borrower submits a plan to the appropriate Governmental Authority which is reasonably expected to remedy the relevant breach (and the Borrower notifies the Lender in writing thereof); and
- 22.4.3.3 within 6 (six) months of the breach:
  - 22.4.3.3.1 the appropriate governmental authority has notified the Borrower that such breach has been remedied (and the Borrower notifies the Lender in writing thereof);
  - 22.4.3.3.2 the Borrower has notified the Lender in writing (a Notification) and provided evidence to the satisfaction of the Lender (acting reasonably) that it has remedied the breach (or expects to remedy the breach) and it is reasonable to expect that the appropriate governmental authority will notify the Borrower that such breach has been remedied within three months of the Borrower so notifying the Lender; and
  - 22.4.3.3.3 within three months of the date of such Notification, the appropriate governmental authority has notified the Borrower that such breach has been remedied (and the Borrower notifies the Lender in writing thereof); or
  - 22.4.3.3.4 the Borrower provides the Lender with written evidence indicating that it has made substantial progress in remedying that breach.

22.4.4 **Integrity and Sanctions:**

- 22.4.4.1 If the Borrower fails to comply with any of its obligations under:
  - 22.4.4.1.1 Clause 18.16 (*Integrity*);
  - 22.4.4.1.2 Clauses 19.4 (*Environmental and Social Performance Audit Report*) and 19.8 (*Annual Integrity Certification*); and
  - 22.4.4.1.3 Clause 21.5 (*Integrity*),

without prejudice to any rights and remedies of the Original Lender under the Finance Documents, the Borrower acknowledges that the Original Lender may invoke the AfDB Sanctions Procedures (as amended from time to time) in respect of alleged Integrity Violations in relation to the Project as contemplated by the Finance Documents.

22.5 **Misrepresentation**

Any representation or statement made or deemed to be made by the Borrower in the Finance Documents or any other document delivered under or in connection with any

Finance Document is or proves to have been incorrect or misleading when made or deemed to be made.

## 22.6 **Cross default**

- 22.6.1 Any Financial Debt of the Group is not paid when due nor within any originally applicable grace period.
- 22.6.2 Any Financial Debt of the Group 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).
- 22.6.3 Any commitment for any Financial Debt of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).
- 22.6.4 Any creditor of a member of the Group becomes entitled to declare any Financial Debt of that member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).

## 22.7 **Insolvency**

- 22.7.1 The Borrower:
  - 22.7.1.1 is unable or admits inability to pay its debts as they fall due;
  - 22.7.1.2 is deemed to, or is declared to, be unable to pay its debts under applicable law;
  - 22.7.1.3 suspends or threatens to suspend making payments on any of its debts; or
  - 22.7.1.4 by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding the Lender in its capacity as such) with a view to rescheduling any of its indebtedness.
- 22.7.2 The fair value of the assets of the Borrower is less than its liabilities (taking into account contingent and prospective liabilities).
- 22.7.3 A moratorium is declared in respect of any indebtedness of the Borrower. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.

## 22.8 **Insolvency proceedings**

- 22.8.1 Any corporate action, legal proceedings or other procedure or step is taken in relation to:
  - 22.8.1.1 the suspension of payments, a moratorium of any indebtedness, liquidation, winding-up, dissolution, administration, judicial management or reorganisation (by

- way of voluntary arrangement, scheme of arrangement or otherwise) of the Borrower;
- 22.8.1.2 a composition, compromise, assignment or arrangement with any creditor of the Borrower;
- 22.8.1.3 the appointment of a liquidator, receiver, administrative receiver, administrator, judicial manager, or other similar officer in respect of the Borrower or all or substantially all of its assets; or
- 22.8.1.4 enforcement of any Security over any assets of the Borrower,  
or any analogous procedure or step is taken in any jurisdiction.
- 22.8.2 This Clause 22.8.1 shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 60 (sixty) days of commencement.
- 22.8.3 A meeting is proposed or convened by the Council 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 judicial management proceedings (or any similar proceedings) in respect of the Borrower or any analogous procedure or step is taken in any jurisdiction.
- 22.9 **Creditors' process**
- Any expropriation, attachment, liquidation, distress or execution or any analogous process in any jurisdiction affects any asset or assets of the Borrower having an aggregate value of not less than ZAR90,000,000 (ninety million Rand) and is not discharged within 60 (sixty) days of commencement.
- 22.10 **Unlawfulness and invalidity**
- 22.10.1 It is or becomes unlawful for the Borrower to perform any of its obligations under the Finance Documents.
- 22.10.2 Any obligation or obligations of the Borrower under any Finance Documents are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Lenders under the Finance Documents.
- 22.10.3 Any Finance Document ceases to be in full force and effect.
- 22.11 **Audit qualification**
- The Auditors adversely qualify the audited annual consolidated financial statements of the Borrower.
- 22.12 **Litigation**

Any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or disputes are commenced or threatened in relation to the Finance Documents or the transactions contemplated in the Finance Documents or against the Borrower or its assets which have or are reasonably likely to have a Material Adverse Effect.

22.13 **Failure to comply with court judgment or arbitral award**

22.13.1 The Borrower fails to comply with or pay by the required time any sum due from it under any final judgment or any final order made or given by a court or arbitral tribunal or other arbitral body, in each case of competent jurisdiction.

22.13.2 No Event of Default under clause 22.13.1 above will occur if the aggregate liability under that judgment or order is less than USD700,000 (seventy hundred thousand Dollars) or its equivalent in any other currency and is discharged within 30 (thirty) days.

22.14 **Expropriation**

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 in relation to the Borrower.

22.15 **MFMA Administration**

The Borrower is placed into administration in accordance with sections 138, 139 and 140 of the MFMA.

22.16 **Funding Shortfall**

There is a forecast funding shortfall in the approved Annual Budget of the Borrower.

22.17 **Rating Downgrade**

22.17.1 The Borrower's Rating is downgraded to B2 or lower by Moody's or the equivalent rating from an Acceptable Rating Agency (a **Rating Downgrade**).

22.17.2 No Event of Default will arise under Clause 22.17.1 if the Borrower procures that a Qualifying Guarantor issues a unconditional, irrevocable on-demand guarantee for the Borrower's obligations under the Finance Documents (a **Qualifying Guarantee**) within 45 (forty five) days of the occurrence of a Rating Downgrade.

22.18 **Repudiation and rescission of agreements**

The Borrower rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document or evidences an intention to rescind or repudiate a Finance Document.

22.19 **Material adverse change**

Any event or circumstance occurs which the Majority Lenders reasonably believe has or is reasonably likely to have a Material Adverse Effect.

#### 22.20 **Authorisations, licenses and permits**

Any Authorisation, license, permit and/or approval necessary for the Borrower to conduct its business, perform and observe its obligations under any Finance Document or carry out each Eligible Project is materially and adversely, terminated, not obtained when required or is rescinded, suspended for a period in excess of 90 days, is terminated, lapses or otherwise ceases to be in full force and effect (except to the extent the Borrower remedies such suspension, cancellation, revocation or non-renewal within 60 days) or any of the other Authorisation, license, permit and/or approval is terminated, revoked, declared void or repudiated without the Lender's consent.

#### 22.21 **Acceleration**

On and at any time after the occurrence of an Event of Default which is continuing the Lender may by notice to the Borrower:

- 22.21.1 cancel all or any part of the Total Commitments at which time they shall immediately be cancelled;
- 22.21.2 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, at which time they shall become immediately due and payable;
- 22.21.3 exercise any or all of its rights, remedies, powers or discretions arising under the Finance Documents.

### 23. **CHANGES TO THE LENDERS**

#### 23.1 **Assignment, cessions, transfers and delegations by the Lenders**

23.1.1 Subject to this Clause 23, a Lender (the **Existing Lender**) may:

- 23.1.1.1 assign any of its rights; or
- 23.1.1.2 transfer by novation any of its rights and obligations,

(a **Transfer**) 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 (the **New Lender**). A Transfer will require the consent of the Borrower (such consent not to be unreasonably withheld or delayed) unless (x) it is to a Permitted Transferee; or (ii) it is implemented at a time when a Default is continuing in which case no consent is required.

#### 23.2 **Conditions of Assignment or Transfer**

23.2.1 An assignment will only be effective on receipt by the Existing Lender (whether in the Assignment Agreement or otherwise) of written confirmation from the New Lender (in form and substance satisfactory to the Existing Lender) that the New Lender will assume the same obligations to the other parties as it would have been under if it had been an Original Lender.

23.2.2 A transfer by novation will only be effective if the procedure set out in Clause 23.4 (*Procedure for transfer*) is complied with and will be subject to the Lenders concluding an Intercreditor Agreement if required by the Existing Lender.

23.2.3 If:

23.2.3.1 a Lender assigns or transfers any of its rights or obligations under the Finance Documents; and

23.2.3.2 as a result of circumstances existing at the date the assignment, transfer or change occurs, the Borrower would be obliged to make a payment to the New Lender under Clause 13 (*Tax gross-up and indemnities*) or Clause 14 (*Increased Costs*),

then the New Lender is only entitled to receive payment under those Clauses to the same extent as the Existing Lender would have been if the assignment, transfer or change had not occurred.

### 23.3 **Limitation of responsibility of Existing Lenders**

23.3.1 Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

23.3.1.1 the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;

23.3.1.2 the financial condition of the Borrower;

23.3.1.3 the performance and observance by the Borrower or any other Fund Entity of its obligations under the Finance Documents or any other documents; or

23.3.1.4 the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,

and any representations or warranties implied by law are excluded.

23.3.2 Each New Lender confirms to the Existing Lender:

23.3.2.1 has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of the Borrower and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and

23.3.2.2 will continue to make its own independent appraisal of the creditworthiness of the Borrower and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

23.3.3 Nothing in any Finance Document obliges an Existing Lender to:

23.3.3.1 accept a re-transfer or re-assignment from a New Lender of any of the rights and obligations Transferred under this Clause 23; or

23.3.3.2 support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by the Borrower of its obligations under the Finance Documents or otherwise.

#### 23.4 **Procedure for transfer**

23.4.1 Subject to the conditions set out in Clauses 23.1 (*Assignment, cessions, transfers and delegations by the Lenders*) and 23.2 (*Conditions of Assignment or Transfer*) a Transfer is effected in accordance with Clause 23.4.3 below when the Existing Lender executes an otherwise duly completed Transfer Certificate delivered to it by the New Lender. The Existing Lender shall, subject to Clause 23.4.3 below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.

23.4.2 The Existing Lender shall only be obliged to execute a Transfer Certificate delivered to it by the New Lender once it is satisfied it has complied with all necessary “*know your customer*” or other similar checks under all applicable laws and regulations that apply to it (if any) in relation to the transfer to such New Lender.

23.4.3 On the Transfer Date:

23.4.3.1 to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents the Borrower and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the **Discharged Rights and Obligations**);

23.4.3.2 the Borrower and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as the Borrower and the New Lender have assumed and/or acquired the same in place of Borrower and the Existing Lender;

23.4.3.3 the New Lender and any other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent

the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and

23.4.3.4 the New Lender shall become a Party as a *Lender*.

## 23.5 **Procedure for assignment**

23.5.1 Subject to the conditions set out in Clause 23.2 (*Conditions of Assignment or Transfer*) an assignment may be effected in accordance with Clause 23.5.3.1 below when the Existing Lender executes an otherwise duly completed Assignment Agreement delivered to it by the Existing Lender and the New Lender. The Existing Lender shall, subject to Clause 23.5.2 below, as soon as reasonably practicable after receipt by it of a duly completed Assignment Agreement appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Assignment Agreement.

23.5.2 The Existing shall only be obliged to execute an Assignment Agreement delivered to it by the New Lender once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assignment to such New Lender.

23.5.3 On the Transfer Date:

23.5.3.1 the Existing Lender will assign absolutely to the New Lender its rights under the Finance Documents expressed to be the subject of the assignment in the Assignment Agreement;

23.5.3.2 the Existing Lender will be released by the Borrower from the obligations owed by it (the **Relevant Obligations**) and expressed to be the subject of the release in the Assignment Agreement; and

23.5.3.3 the New Lender shall become a Party as a "Lender" and will be bound by obligations equivalent to the Relevant Obligations.

23.5.4 The Lender may utilise procedures other than those set out in this Clause 23.5 to assign their rights under the Finance Documents provided that they comply with the conditions set out in Clause 23.2 (*Conditions of assignment or transfer*).

## 23.6 **Copy of Assignment Agreement or Transfer Certificate**

The Existing Lender shall, as soon as reasonably practicable after it has executed an Assignment Agreement or Transfer Certificate send to the Borrower a copy of that Assignment Agreement or Transfer Certificate.

## 24. **CHANGES TO THE BORROWER**

The Borrower may not assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

25. **PAYMENT MECHANICS**

25.1 **Payments to the Lender**

25.1.1 On each date on which the Borrower is required to make a payment under a Finance Document, the Borrower, shall make the same available to the Lender (unless a contrary indication appears in a Finance Document) in Rand for value by no later than 12h00 (Johannesburg time) on the due date at the time and in such funds specified by the Lender.

25.1.2 All such payments shall be made to such account in South Africa with such bank as the Lender may specify by notice to the Borrower. Until otherwise notified by the Lender from time to time, its bank account details for these purposes are as follows:

Bank name:	The Standard Bank of South Africa Limited
Account name:	African Development Bank
Account number:	7117561
SWIFT Code:	SBZAZAJJ

25.2 **Partial payments**

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

25.2.1.1 **first**, in or towards payment of any accrued fees, costs, expenses or commission due but unpaid under this Agreement;

25.2.1.2 **secondly**, in or towards payment of any accrued interest due but unpaid under this Agreement; and

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

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

25.2.2 The Lender may in its sole discretion, vary the order set out in Clause 25.2.1 above.

25.2.3 Clause 25.2.1 above will override any appropriation made by the Borrower.

25.3 **Business Days**

25.3.1 Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

25.3.2 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.

25.4 **Currency of account**

25.4.1 Subject to Clauses 25.4.2 and 25.4.3 below, ZAR is the currency of account and payment for any sum due from the Borrower under any Finance Document.

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

25.4.3 Any amount expressed to be payable in a currency other than ZAR shall be paid in that other currency.

25.5 **Disruption to payment systems etc**

25.5.1 If a Disruption Event has occurred or the Lender is notified by the Borrower that a Disruption Event has occurred:

25.5.1.1 the Lender 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 Facility as the Lender may deem necessary in the circumstances;

25.5.1.2 the Lender shall not be obliged to consult with the Borrower in relation to any changes mentioned in Clause 25.5.1.1 if, in its reasonable opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;

25.5.1.3 any such changes agreed upon by the Lender and the Borrower in writing 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 31 (*Amendments and Waivers*); and

25.5.1.4 the Lender shall not be liable for any damages, costs or losses whatsoever arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 25.5, save where such damage, cost or loss is attributable to the wilful default or gross negligence of the Lender.

26. **SET-OFF**

To the extent permitted by law and subject to applicable foreign exchange limitations, the Lender may set off any matured obligation due from the Borrower under the Finance Documents (to the extent beneficially owned by the Lender) against any matured obligation owed by the Lender to the Borrower, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

27. **NOTICES**

27.1 **Communications in writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by electronic mail or letter.

27.2 **Addresses**

The address and email address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

27.2.1 in the case of the **Borrower**:

Address: 1<sup>st</sup> Floor, JD House  
27 Stiemens Street  
Braamfontein  
South Africa

Email address: CityManager@joburg.org.za  
For the attention of: City Manager

27.2.2 in the case of the **Original Lender**:

Address: Rue Joseph Anoma,  
01 BP 1387 Abidjan 01,  
Cote d'Ivoire

Email address: m.salawou@afdb.org  
For the attention of: Mike Salawou- Director – Infrastructure and Urban  
Development Department /  
Ousmane Fall - Director – Non-Sovereign Operations and  
Private Sector

or any substitute address or email address or department or officer as the Party may notify to the other Party by not less than 5 (five) Business Days' notice.

### 27.3 **Delivery**

27.3.1 Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

27.3.1.1 if by way of electronic mail, when actually received in readable form; or

27.3.1.2 if by way of letter, when it has been left at the relevant address or 5 (five) Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address;

and, if a particular department or officer is specified as part of its address details provided under Clause 27.2 (Addresses), if addressed to that department or officer.

27.3.2 Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified with the Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose).

27.3.3 Any communication or document made or delivered to the Borrower in accordance with this Clause will be deemed to have been made or delivered to the Borrower.

27.3.4 Any communication or document which becomes effective, in accordance with Clauses 27.3.1 to 27.3.3 above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

### 27.4 **Electronic communication**

27.4.1 Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:

27.4.1.1 notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and

27.4.1.2 notify each other of any change to their address or any other such information supplied by them by not less than 5 (five) Business Days' notice.

27.4.2 Any such electronic communication as specified in Clause 27.4.1 above to be made between the Borrower and the Lender may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.

27.4.3 Any such electronic communication as specified in Clause 27.4.1 above made between any two Parties will be effective only when actually received (or made available) in readable form.

27.4.4 Any electronic communication which becomes effective, in accordance with Clause 27.4.3 above, after 5h00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.

27.4.5 Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 27.4.

## 27.5 **English language**

27.5.1 Any notice given under or in connection with any Finance Document must be in English.

27.5.2 All other documents provided under or in connection with any Finance Document must be:

27.5.2.1 in English; or

27.5.2.2 if not in English, and if so required by the Lender, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

## 28. **CALCULATIONS AND CERTIFICATES**

### 28.1 **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 the Lender are *prima facie* evidence of the matters to which they relate.

### 28.2 **Certificates and Determinations**

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

### 28.3 **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 (three hundred and sixty-five) days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

29. **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 29 shall include, without limitation, inoperable by way of suspension or cancellation.

30. **REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of the Lender, any right or remedy under a Finance Documents or other document or other indulgence shall operate as a waiver, nor shall any single or partial exercise of any such 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.

31. **AMENDMENTS AND WAIVERS**

No amendment or waiver of any term of the Finance Documents shall be of any force or effect unless reduced to writing and signed by or on behalf of the relevant Parties.

32. **CONFIDENTIAL INFORMATION**

32.1 **Confidentiality**

The Lender agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 32.2 (*Disclosure of Confidential Information*), and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

32.2 **Disclosure of Confidential Information**

The Lender may disclose:

- 32.2.1 to any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as the Lender shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this Clause 32.2.1 is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient

is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

32.2.2 to any person:

32.2.2.1 to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it and, in each case, to any of that person's Affiliates, Representatives and professional advisers;

32.2.2.2 with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and/or the Borrower and to any of the Borrower's Affiliates, Representatives and professional advisers;

32.2.2.3 appointed by the Lender or by a person to whom Lender Clause 32.2.2.1 or Clause 32.2.2.2 above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf;

32.2.2.4 who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in Clause 32.2.2.1 or Clause 32.2.2.2 above;

32.2.2.5 to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any Applicable Law or regulation;

32.2.2.6 to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;

32.2.2.7 with the consent of the Borrower;

in each case, such Confidential Information as the Lender shall consider appropriate if:

32.2.2.7.1 in relation to Clauses 32.2.2.1, 32.2.2.2 and 32.2.2.3 above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;

32.2.2.7.2 in relation to Clause 32.2.2.4 above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is

otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;

32.2.2.7.3 in relation to Clauses 32.2.2.5 and 32.2.2.6 above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Lender, it is not practicable so to do in the circumstances; and

32.2.3 to any person appointed by the Lender or by a person to whom Clause 32.2.2.1 or Clause 32.2.2.2 above applies to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this Clause 32.2.3 if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrower and the Lender.

### 32.3 **Entire agreement**

This Clause 32.3 constitutes the entire agreement between the Parties in relation to the obligations of the Lender under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

### 32.4 **Inside information**

The Lender acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Lender undertakes not to use any Confidential Information for any unlawful purpose.

### 32.5 **Notification of disclosure**

The Lender agrees (to the extent permitted by law and regulation) to inform the Borrower:

32.5.1 of the circumstances of any disclosure of Confidential Information made pursuant to Clause 32.2.2.5 except where such disclosure is made to any of the persons referred to in that Clause 32.2.2.5 during the ordinary course of its supervisory or regulatory function; and

32.5.2 upon becoming aware that Confidential Information has been disclosed in breach of this Clause 32.

32.6 **Continuing obligations**

The obligations in this Clause 32.6 are continuing and, in particular, shall survive and remain binding on the Lender for a period of 12 (twelve) Months from the earlier of:

- 32.6.1 the date on which all amounts payable by the Borrower under or in connection with this Agreement have been paid in full and the Commitment has been cancelled or otherwise ceased to be available; and
- 32.6.2 the date on which such Lender otherwise ceases to be a Lender.

33. **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.

34. **GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by the laws of England and Wales.

35. **ENFORCEMENT**

35.1 **Arbitration**

The Lender shall have the exclusive right, at its sole option and for its benefit to refer any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement, or any non-contractual obligation arising out of or in connection with this Agreement) (a **Dispute**) to be referred to and finally resolved by arbitration under the Arbitration Rules of the London Court of International Arbitration (the **LCIA**) (the **Rules**) which are deemed to be incorporated by reference into this Clause.

35.2 **Formation of arbitral tribunal, seat and language of arbitration**

35.2.1 The arbitral tribunal shall consist of one arbitrator. The Parties shall jointly nominate the arbitrator or, in the absence of agreement on the arbitrator within 30 (thirty) days of receipt of a request for arbitration by the respondent, by the LCIA Court (as defined in the Rules).

35.2.2 The seat, or legal place, of arbitration shall be London, England.

35.2.3 The language of the arbitration shall be English.

35.3 **Jurisdiction**

35.3.1 The courts of England have jurisdiction to settle any dispute arising out of or in connection with this Agreement or any non-contractual obligations connected with

it (including a dispute regarding the existence, validity or termination of this Agreement) (a **Dispute**).

35.3.2 This Clause 35.3 is for the benefit of the Lender only. As a result, no Lender shall be prevented from taking proceedings relating to a Dispute or seeking interim remedies or other provisional or protective relief in any other courts with jurisdiction.

35.3.3 For the avoidance of doubt, the right of the Lender to exercise the option in Clauses 35.3 and 35.1 above arises each time there is a Dispute that is covered by this Clause 35 and shall not be fettered by any previous election made under this Clause 35.

#### 35.4 **Service of process**

Without prejudice to any other mode of service allowed under any relevant law the Borrower:

35.4.1 agrees to irrevocably designate and appoint a process agent to act as its authorised agent solely to receive for and on its behalf service of the claim form or other legal process in any action, suit or proceeding any of the Finance Parties may bring in the courts of England.

35.4.2 As long as this Agreement remains in force, the Borrower shall maintain a duly appointed and authorised agent to receive for and on its behalf service of the claim form or other legal process in any action, suit or proceeding brought by a Finance Party in the courts of England with respect to this Agreement.

35.4.3 The Borrower shall keep the Finance Parties advised of the identity and location of such agent.

35.4.4 The Borrower agrees that failure by an agent for service of process to notify the Borrower of the process will not invalidate the proceedings concerned.

#### 35.5 **Lender's Option**

Before an arbitrator has been appointed by the Lender to determine a dispute arising out of or in connection with this Agreement or any other Finance Document, the Lender may by notice in writing to the Borrower require that all disputes or a specific dispute be heard by a court of law. If the Lender gives such notice, the dispute to which that notice refers shall be determined in accordance with Clause 0 (*Litigation*).

#### 35.6 **Litigation**

35.6.1 The Borrower hereby irrevocably:

35.6.1.1 consents and agrees for the benefit of the Lender that the courts of England have jurisdiction to settle any legal action, suit or proceeding against it with respect to its obligations, liabilities or any other matter under or arising out of or in connection

with this Agreement and any other Finance Document, to the jurisdiction of which the Borrower irrevocably submits;

35.6.1.2 waives any objection it may now or hereafter have to the laying of venue of any action or proceeding in any court and any claim it may now or hereafter have that any action or proceeding has been brought in an inconvenient forum; and

35.6.1.3 consents and agrees that the submission to the jurisdiction of the courts of England shall not limit the rights of the Lender to bring any action or proceeding in any other court of competent jurisdiction nor shall the bringing of any action or the taking of any proceedings in any other jurisdiction (whether concurrently or not) and to the extent permitted by Applicable Law.

35.6.2 The Borrower also hereby irrevocably consents and agrees, for the benefit of the Lender, that any legal action, suit or proceeding against it with respect to its obligations, liabilities or any other matter under or arising out of or in connection with this Agreement and any other Lender may be brought in any court of South Africa and hereby irrevocably accepts and submits to the jurisdiction of each such South African court with respect to any such action, suit or proceeding.

35.6.3 To the extent that the Borrower has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution, sovereign immunity or otherwise) with respect to itself or its property, it hereby irrevocably waives such immunity in respect of its obligations under this Agreement and the other Finance Documents.

### 35.7 **AfDB Immunities**

The Parties hereby acknowledge and agree that the provisions of the Finance Documents, including Clauses 34 (*Governing law*) and 35.6 (*Litigation*) of this Agreement, concerning the choice of forum by the Original Lender for any legal action, suit or proceeding, arising out of or relating to the Finance Documents, shall not constitute or imply, in any way, a waiver by the Original lender of any of its immunities or privileges including without limitation:

35.7.1 the immunity of the Lender from all forms of legal process, immunity of all assets of the Lender, wherever located from all forms of seizure, attachment or execution;

35.7.2 the immunity of all of the assets of the Lender from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action;

35.7.3 the inviolability of the Lender's archives;

35.7.4 the freedom of the Lender's assets from restrictions, regulations, controls and moratoria of any nature; and

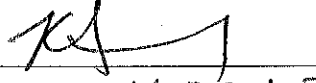
35.7.5 the exemption of the Lender's property, other assets, income and operations from taxation.

**This Agreement has been entered into on the date stated at the beginning of this Agreement.**

For and on behalf of

**CITY OF JOHANNESBURG METROPOLITAN  
MUNICIPALITY**

**(as Borrower)**

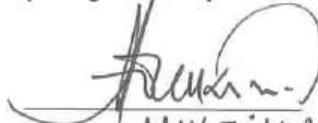


Signatory: **KIBA KEKANA**

Capacity: **ACTING CITY MANAGER**

Who warrants his authority hereto

For and on behalf of  
**AFRICAN DEVELOPMENT BANK**  
(as Original Lender)



Signatory: **MINE M.B. SALAWOLI**  
Capacity: **DIRECTOR INFRASTRUCTURE AND URBAN DEVELOPMENT**

Who warrants his authority hereto

**SCHEDULE 1**  
**CONDITIONS PRECEDENT**

**1. The Borrower**

- 1.1 A copy of the delegations of authority applicable of the Borrower.
- 1.2 A certified copy of a resolution of the Council of the Borrower signed by the mayor of the Borrower:
  - 1.2.1 approving the terms of, and the transactions contemplated by, the Finance Documents and resolving that it execute the Finance Documents in accordance with the requirements of the Applicable Law;
  - 1.2.2 authorising the Accounting Officer to execute the Finance Documents and dispatch any documents or notices under the Finance Documents on its behalf in accordance with the requirements of the Applicable Law.
- 1.3 A copy of the Capital Expenditure Programme.
- 1.4 A certificate of the Borrower (signed by one authorised signatory) and dated the Closing Date:
  - 1.4.1 confirming that:
    - 1.4.1.1 borrowing the Commitment would not cause any borrowing or similar limit binding on the Borrower to be exceeded;
    - 1.4.1.2 no Default or Event of Default has occurred or is continuing or will result from the execution of the Finance Documents;
    - 1.4.1.3 the Repeating Representations are correct in all respects;
    - 1.4.1.4 no event or series of events or circumstances has occurred or arisen which, in the Borrower's opinion, is likely to have a Material Adverse Effect;
    - 1.4.1.5 no investigation, litigation, arbitration or administrative proceedings of or before any court, arbitral body or government agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect have (to the best of its knowledge and belief having made reasonable enquiry) been started or threatened against it or any member of the Group;
    - 1.4.1.6 all Borrower sub projects to be financed by the Loans, are subject to an evaluation of risks and impacts through an adequate environmental and social impact assessment and Environmental and Social Management Plan for each works or in a given lot prepared in accordance with the Environmental and Social Management Plan and the Borrower's policies, in the form and substance satisfactory to the Lender and national requirements

- 1.4.2 certifying that each copy document relating to it specified in this Schedule 1 (*Conditions Precedent*) is correct, complete and in full force and effect as at a date no earlier than the Closing Date;
- 1.4.3 the Borrower complies with the applicable environmental laws and it has all licences, permits, authorizations, consents or other approvals required under or in relation to any applicable environmental law and is in compliance with the terms and conditions of all such approvals. For the avoidance of doubt, environmental laws mean any and all laws including all statutes, secondary and subordinate legislation, by-laws, regulations, directives, rules, codes of practice, circulars, guidance, notices, judgments, orders, decisions and interpretation of any laws by any regulatory authority;
- 1.4.4 the Borrower complies with its environmental policies or environmentally related policies;
- 1.4.5 the Borrower has not received any written communication from any governmental authority in the last two years, failure to comply with which would constitute a material breach of any environmental law, which communication has not been complied with;
- 1.4.6 the Borrower is not engaged in any ongoing material litigation, arbitration or regulatory proceedings concerning any actual or alleged non-compliance with environmental law; and
- 1.4.7 the Borrower shall conduct due diligence on and continuously monitor compliance by each Sub-Borrower to ensure that they adhere to environmental and social laws of South Africa.
- 1.5 The name of the Accounting Officer/ City Manager together with evidence of his or her appointment as the Accounting Officer (or the City Manager).
- 1.6 Evidence that the Accounting Officer/ City Manager of the Borrower has:
- 1.6.1 at least 21 (twenty-one) days prior to the meeting of the Council of the Borrower at which approval for this Agreement is to be considered, made public an information statement setting out the particulars of:
- 1.6.1.1 the proposed debt, including the amount of the proposed debt, to be incurred under this Agreement; and
- 1.6.1.2 the purposes for which such debt is to be incurred; and
- 1.6.2 invited the public, the National Treasury of the Republic of South Africa and the Provincial Treasury of Gauteng to submit written comments or representations to the Council of the Borrower in respect of the proposed debt to be incurred under the Finance Documents.

- 1.7 Evidence that the Accounting Officer/ City Manager of the Borrower has submitted a copy of the information statement to the Council of the Borrower at least 21 days prior to the meeting of the Council of the Borrower together with the particulars of:
  - 1.7.1.1 the essential repayment terms, including the anticipated debt repayment schedule applicable to the Facility; and
  - 1.7.1.2 the anticipated total cost in connection with the debt to be incurred under this Agreement over the repayment period.
- 1.8 A copy of the exchange control approvals required to be obtained from the Financial Surveillance Department of the South African Reserve Bank in connection with the entry into this Transaction.
- 1.9 Evidence that the debt to be incurred by the Borrower under this Agreement is consistent with its latest Annual Budget as required under section 17(2) of the MFMA.

## **2. Finance Documents**

- 2.1 A copy of this Agreement duly entered into by each party thereto.

## **3. Legal opinions**

- 3.1 A legal opinion of Bowman Gilfillan Inc., legal advisers to the Original Lender, substantially in the form distributed to the Original Lender prior to signing this Agreement.
- 3.2 A legal opinion of Bowman Gilfillan Inc, legal advisers to the Borrower in South Africa, substantially in the form distributed to the Original Lender prior to signing this Agreement.

## **4. Other documents and evidence**

- 4.1 Evidence of established policies and practices of Borrower to conduct enhanced due diligence on Politically Exposed Persons before entering into transactions of a commercial nature.
- 4.2 A letter of non-objection and assurance from the Government of the Republic of South Africa in respect of the transactions envisaged under this Agreement.
- 4.3 A copy of any other Authorisation or other document, opinion or assurance which the Original Lender 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.
- 4.4 A copy of the Original Financial Statements.
- 4.5 Evidence that the fees, costs and expenses then due from the Borrower pursuant to each Clause 12 (Fees) have been or will be paid in a timely manner.

- 4.6 Such documentation and other evidence relating to Borrower as is reasonably requested by the Lender in order for the Lender to carry out and be satisfied it has complied with all necessary “*know your customer*” or similar identification procedures under applicable laws and regulations (including the Financial Intelligence Centre Act, 2001) pursuant to the transactions contemplated in the Finance Documents.

**SCHEDULE 2  
UTILISATION REQUEST**

From: **City of Johannesburg Metropolitan Municipality**

To: **African Development Bank**

Dated:

Dear Sirs

**CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY  
ZAR2,500,000,000 Term Facility Agreement dated [•] 2025  
(the Agreement)**

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 Loan on the following terms:

Proposed Utilisation Date:	[•] (or, if that is not a Business Day, the next Business Day)
Currency of Loan:	ZAR
Amount:	[•]
Interest Period:	3 Months
3. We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) is satisfied on the date of this Utilisation Request.
4. The proceeds of this Loan should be credited to [*account*].
5. This Utilisation Request is irrevocable.

Yours faithfully

.....  
authorised signatory for  
[*name of Borrower*]

**SCHEDULE 3**  
**FORM OF ASSIGNMENT AGREEMENT**

To: [The Existing Lender] (the **Existing Lender**)

From: [The New Lender] (the **New Lender**)

Dated: [●], 20[●]

Dear Sirs,

**CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY**  
**ZAR2,500,000,000 Term Facility Agreement dated [●] 2025**  
**(the Agreement)**

1. We refer to the Agreement. This is an Assignment Agreement. Terms defined in the Agreement have the same meaning in this Assignment Agreement unless given a different meaning in this Assignment Agreement.
2. We refer to Clause 23.5 (*Procedure for assignment*) of the Agreement:
  - 2.1 The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Agreement and the other Finance Documents which correspond to that portion of the Existing Lender's Commitment and participations in Loans under the Agreement as specified in the Schedule.
  - 2.2 The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender's Commitment and participations in Loans under the Agreement specified in the Schedule (**Relevant Obligations**).
  - 2.3 the New Lender shall become a Party as a "Lender" and will be bound by obligations equivalent to the Relevant Obligations.
3. The proposed Transfer Date is [●].
4. On the Transfer Date the New Lender becomes Party to the Finance Documents as a Lender.
5. The address, email address and attention details for notices of the New Lender for the purposes of Clause 27.2 (*Addresses*) of the Agreement are set out in the Schedule.
6. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in Clause 23.3 (*Limitation of responsibility of Existing Lenders*) of the Agreement.
7. This Assignment Agreement acts as notice, upon delivery in accordance with Clause 23.6 (*Copy of Assignment Agreement*) of the Agreement, to the Borrower of the assignment referred to in this Assignment Agreement.
8. This Assignment Agreement 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 this Assignment Agreement.

9. This Assignment Agreement is governed by English law.
10. This Assignment Agreement has been entered into on the date stated at the beginning of this Assignment Agreement.

**THE SCHEDULE**

**Rights to be assigned and obligations to be released and undertaken**

*[Insert relevant details]*

*[address, email address and attention details for notices and account details for payments]*

[Existing Lender]

[New Lender]

By:

By:

This Assignment Agreement is accepted by the Existing Lender and the Transfer Date is confirmed as [•].

[Existing Lender]

By:

**SCHEDULE 4**  
**FORM OF TRANSFER CERTIFICATE**

To: **African Development Bank**

From: [The Existing Lender] (the **Existing Lender**) and [The New Lender] (the **New Lender**)

Dated: [●], 20[●]

Dear Sirs,

**CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY**  
**ZAR2,500,000,000 Term Facility Agreement dated [●] 2025**  
**(the Agreement)**

1. We refer to the Agreement. This is a Transfer Certificate. Terms defined in the Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.
2. We refer to Clause 23.4 (*Procedure for transfer*) of the Agreement:
3. The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation of all or part of the Existing Lenders Commitment, rights and obligations referred to in the Schedule in accordance with Clause 23.4 (*Procedure for transfer*) of the Agreement.
4. The proposed Transfer Date is [●].
5. The Facility Office and address through which the New Lender will perform its obligations and attention details for notices of the New Lender for the purposes of Clause 27.2 (*Addresses*) of the Agreement are set out in the Schedule.
6. On and with effect from the Transfer Date the New Lender:
  - 6.1 becomes party to the Agreement as a Lender;
  - 6.2 becomes party to the Intercreditor Agreement;
  - 6.3 undertakes to perform all the obligations expressed in the Agreement, the Intercreditor Agreement and other applicable Finance Documents to be assumed by a Lender; and
  - 6.4 agrees that it shall be bound by all the provisions of the Agreement and other applicable Finance Documents as if it had been an original party to those Finance Documents as a Lender.
  - 6.5 The New Lender expressly acknowledges the limitations on the Existing Lender's obligations set out in Clause 23.3 (*Limitation of responsibility of Existing Lenders*) of the Agreement.

- 6.6 This Transfer Certificate 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 this Transfer Certificate.
- 6.7 This Transfer Certificate and any non-contractual obligations arising out of or in connection with are governed by English law.
- 6.8 This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

**[EXISTING LENDER]**

By:

**[NEW LENDER]**

By:

**NOTE: The execution of this Transfer Certificate may not transfer a proportionate share of the Existing Lender's interest in security in all cases. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender's security and, if so, to arrange for execution of those documents and completion of those formalities.**

## THE SCHEDULE

### Commitment/rights and obligations to be transferred

*[insert relevant details, including applicable Commitment (or part) and participation in Loan]*

#### Part 1 Commitments

[●]

#### Part 2 Participations in Loans

[●]

#### Part 3 Administrative Details of the New Lender

*[Insert details of address for notices and payment details, etc]*

This Transfer Certificate is accepted by the Existing Lender and the Transfer Date is confirmed as [●].

**[Existing Lender]**

By:

**SCHEDULE 5**  
**FORM OF COMPLIANCE CERTIFICATE**

To: **African Development Bank**

From: **City of Johannesburg Metropolitan Municipality**

Dated: [●], 20[●]

Dear Sirs,

**CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY**  
**ZAR2,500,000,000 Term Facility Agreement dated [●] 2025**  
**(the Agreement)**

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 as at [relevant testing date] (the **Test Date**) the following financial undertakings referred to in Clause 20.2 (*Financial condition*) were at the levels set out below:

	<b>Financial Covenant Ratio</b>	<b>As Calculated</b>	<b>Covenant Level</b>	<b>Compliance [Y / N]</b>
1.	Total Debt to Total Income Ratio	[●]	[●]	[●]
2.	Debt Service Cover Ratio	[●]	[●]	[●]
3.	Financial Debt to Operating Revenue	[●]	[●]	[●]
4.	Financial Debt to Operating Cashflow	[●]	[●]	[●]

3. We set out the calculations below, establishing the figures in paragraph 2 above:  
[●]
4. [We confirm that this Compliance Certificate is being delivered pursuant to Clause 19.2 (*Compliance Certificate*)]
5. We confirm that the [financial statements]/[management accounts] which this compliance certificate accompanies fairly represents the financial condition of the Borrower as at the date as to which those [financial statements]/[management accounts] were drawn up.
6. [We confirm that no Default is continuing.]\*



**SCHEDULE 6**

**TIMETABLES**

Delivery of the Utilisation Request		U – 10 Business Days
		9.30 a.m. (Johannesburg time)
“U”	=	the date of utilisation.
“U – X”	=	X Business Days prior to the date of utilisation.

## SCHEDULE 7

### EXCLUSION LIST: ACTIVITIES NOT ELIGIBLE FOR FINANCING

The following items are not eligible for financing under the Facility:

1. Production of alcoholic beverages, tobacco, and luxury consumer goods.
2. Production or trade in weapons, ammunition and other goods used for military or paramilitary purposes.
3. Production, trade in, or use of:
  - 3.1 nuclear reactors and related products, radioactive materials (except in the case of medical materials and quality control equipment where the radioactive source is in small quantities and is adequately shielded), combustible elements not exposed to irradiation (cartridges for reactors);
  - 3.2 unbonded asbestos fibres or other products with bonded asbestos as a dominant material; or
  - 3.3 harmful substances that are subject to international phase-outs or bans (including pharmaceuticals and pesticides classified as Class Ia (extremely hazardous); Class Ib (highly hazardous); Class II (moderately hazardous); and ozone depleting substances.
4. Trade in wildlife or wildlife products regulated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
5. Speculative trade or investment in platinum, pearls, precious stones, gold, and related products.
6. Gambling, casinos and equivalent enterprises to the extent that such activities constitute the main business of the borrower/recipient.
7. Use of logging equipment in unmanaged primary tropical rainforests.
8. Economic activities involving harmful or exploitative forms of forced labour<sup>1</sup> and/or child labour<sup>2</sup> as defined by international conventions and/or national regulations.
9. Production or trade in any product or activity deemed illegal under host country laws or regulations or international conventions and agreement.

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<sup>1</sup> Forced labor means all work or service, not voluntarily performed, that is extracted from an individual under threat of force or penalty

<sup>2</sup> Harmful child labor means the employment of children that is economically exploitive, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health, or physical, mental, spiritual, moral, or social development.

10. Production or trade in any product or activity deemed illegal under host country laws or regulations or international conventions and agreement.
11. Unsustainable fishing methods.
12. Diamond mining and marketing of diamonds where the host country has not adhered to the Kimberley Process or similar process.
13. Artisanal gold production utilizing mercury or gold not produced in accordance with the International Cyanide Management Code for the Manufacture, Transport and Use of Cyanide in the Production of Gold, referred as the Cyanide Code.
14. Mining and processing of and trade in Conflict Minerals (3TG, tin, tantalum, tungsten and gold) (not mined and processed in accordance with the Responsible Minerals Initiative).
15. Trans-boundary trade of wastes, except for those accepted by the Basel Convention and its underlying regulations.
16. Any activity or wholesale trade related to pornography.
17. Prostitution, commercial sex work, escort agencies and trafficking in persons and any similar activities.
18. Palm oil cultivation and associated processing not complying with standards of the Roundtable on Responsible Palm Oil.
19. Activities involving the harmful use of animals for scientific purposes such as cosmetics and drug testing.
20. Activities that impact significantly on local or national food security.

**SCHEDULE 8**  
**SOCIAL AND ENVIRONMENTAL AUDIT REPORTING TEMPLATE**

1. **Name of Client:**
2. **Audit Team:** [•]
3. **Executive Summary:** Summary of all significant environmental and social non-conformance and issues of concern and the conclusions and recommendations.
4. **Contents:** The contents of the report should include the following sections:
  - 4.1 Introduction:  
[Client and auditee]
  - 4.2 Project Description<sup>3</sup>:
  - 4.3 Audit Objective, Scope, and Criteria:
  - 4.4 Audit Process and Methodologies<sup>4</sup>:
  - 4.5 Findings  
  
This chapter contains the individual findings of the audit subdivided in:
    - 4.5.1 Non-compliance<sup>5</sup>
    - 4.5.2 Issues of concern<sup>6</sup>
  - 4.6 Corrective Action Plan (CAP)<sup>7</sup>:
  - 4.7 Conclusions<sup>8</sup>:
  - 4.8 Recommendations<sup>9</sup>:

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<sup>3</sup> Concise description of the project, the project institutional arrangement, the area / location and past and current operations. The description should focus on project components, activities and processes that are sources of environmental and social aspects/risks.

<sup>4</sup> Audit Plan: The date of the audit and brief description of the process e.g., pre-audit activities, on site audit activities including site inspection, interviews and document reviews and post audit activities. Exceptions and deviations from the audit plan.

<sup>5</sup> The items relating to non-compliance & issues of concern may be subdivided with headings based on the type of issues (environmental and social) or the type of criteria applied.

<sup>6</sup> As above.

<sup>7</sup> A comprehensive matrix, including the cost and deadline of each action.

<sup>8</sup> Contains conclusions based on aggregated level, criticality, or significance of the individual findings in relation to the audit objectives, scope or criteria.

<sup>9</sup> Contains (a set of) recommendations supplemental to the CAP.

Signed: <sup>10</sup>	.....	.....

4.9 Annexes

- 4.9.1 Project organization chart (auditee)
- 4.9.2 Area, location chart
- 4.9.3 Criteria (detailed list of the criteria)
- 4.9.4 Register of documents
- 4.9.5 Register of interviews
- 4.9.6 Register of observations
- 4.9.7 Any other key documents, photo's, notes e.g. that support the findings (evidence)
- 4.9.8 References (papers, standards, etc.)
- 4.9.9 List of interviewees.

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<sup>10</sup> Note: To be signed by audit team and representative of auditee

**SCHEDULE 9**  
**SOCIAL AND ENVIRONMENTAL PERFORMANCE REPORTING TEMPLATE<sup>11</sup>**  
**REPUBLIC OF SOUTH AFRICA**

Project Name: \_\_\_\_\_

**Reporting template for Financial Intermediary<sup>12</sup>**

**1. General information**

- Name of the institution/Fund: .....
- Reporting period (quarterly or monthly): .....
- Up to date pipeline: .....
- Name of the responsible E&S Manager: .....

**2. Management of E&S risk profile of the pipeline over during the reporting period<sup>13</sup>**

**3. Result of the E&S screening of the projects financed over the reporting period**

TRANSACTIONS/PROJECTS FINANCED/INVESTEE COMPANIES	LOCATION	BENEFICIARY	E&S CATEGORY	E&S REPORT/POLICY <sup>14</sup> DISCLOSED (Y/N)
xx				
xx				

**4. Activities on Exclusion List financed? Yes/No. If Yes, please complete the table below.**

TRANSACTIONS/PROJECTS FINANCED/INVESTEE COMPANIES	JUSTIFICATION FOR WAIVING/EXCEPTION	BENEFICIARY	E&S CATEGORY	E&S REPORT/POLICY DISCLOSED (Y/N)

<sup>11</sup> Information to be provided to the extent applicable.

<sup>12</sup> The Borrower can report in its own format, provided that such format incorporates the above-mentioned information as minimum.

<sup>13</sup> The periodic report covers the relevant issues in the concerned reporting period and the annual report covers the reporting period for the year.

<sup>14</sup> Scenario where the Fund passes the finance through an investee company on to a beneficiary. Then, the investee's company E&S policy shall be disclosed. Reports are to be disclosed by direct transaction and project supported.

5. E&S incidents on the active portfolio

TRANSACTIONS/PROJECTS/INVESTEE COMPANIES	E&S INCIDENT DURING THE REPORTING PERIOD	SEVERITY AND EXPLANATION	NUMBER OF CUMULATIVE E&S INCIDENTS RECORDED
XX			
XX			

6. Weblink to E&S disclosure page on the institution website

7. Implementation of the ESAP

ACTIONS AGREED WITH AFDB (IF ANY)	IMPLEMENTATION STATUS	INDICATOR	ANY COMMENT
XX			
XX			
XX			

8. Progress/Changes in E&S Management System, if any. xxx.....

9. Conclusion

10. Any other issue and/or recommendation. xxx.....

**SCHEDULE 10**  
**MEMBER COUNTRIES**

**PART I - REGIONAL MEMBER COUNTRIES**

1.	Algeria	23.	Guinea
2.	Angola	24.	Guinea-Bissau
3.	Benin	25.	Kenya
4.	Botswana	26.	Lesotho
5.	Burkina Faso	27.	Liberia
6.	Burundi	28.	Libya
7.	Cameroon	29.	Madagascar
8.	Cape Verde	30.	Malawi
9.	Central African Republic	31.	Mali
10.	Chad	32.	Mauritania
11.	Comoros	33.	Mauritius
12.	Congo	34.	Morocco
13.	Congo (DR)	35.	Mozambique
14.	Cote d'Ivoire	36.	Namibia
15.	Djibouti	37.	Niger
16.	Egypt	38.	Nigeria
17.	Equatorial Guinea	39.	Uganda
18.	Eritrea	40.	South Africa
19.	Ethiopia	41.	Rwanda
20.	Gabon	42.	Sao Tome & Principe
21.	Gambia	43.	Senegal
22.	Ghana	44.	Seychelles
45.	Sierra Leone	50.	South Sudan
46.	Somalia	51.	Togo
47.	Sudan	52.	Tunisia
48.	Swaziland	53.	Zambia
49.	Tanzania	54.	Zimbabwe

**PART II**  
**NON-REGIONAL MEMBER COUNTRIES**

1.	Argentina	2.	Korea
3.	Austria	4.	Kuwait
5.	Belgium	6.	Luxembourg
7.	Brazil	8.	Netherlands
9.	Canada	10.	Norway
11.	China	12.	Portugal
13.	Denmark	14.	Saudi Arabia
15.	Finland	16.	Spain
17.	France	18.	Sweden
19.	Germany	20.	Switzerland
21.	India	22.	Turkey
23.	Ireland	24.	United Kingdom
25.	Italy	26.	United States of America
27.	Japan		

**SCHEDULE 11**  
**REPAYMENT SCHEDULE**

Quarters	Repayment Profile	Opening Balance	Drawdowns	Repayments	Closing Balance
		30-Jun-25	2,500,000,000		2,500,000,000.00
<b>1</b>	0.0000%	30-Sep-25	2,500,000,000.00	0.00	2,500,000,000.00
<b>2</b>	0.0000%	31-Dec-25	2,500,000,000.00	0.00	2,500,000,000.00
<b>3</b>	0.0000%	31-Mar-26	2,500,000,000.00	0.00	2,500,000,000.00
<b>4</b>	0.0000%	30-Jun-26	2,500,000,000.00	0.00	2,500,000,000.00
<b>5</b>	1.7857%	30-Sep-26	2,500,000,000.00	44,642,857.14	2,455,357,142.86
<b>6</b>	1.7857%	31-Dec-26	2,455,357,142.86	44,642,857.14	2,410,714,285.72
<b>7</b>	1.7857%	31-Mar-27	2,410,714,285.72	44,642,857.14	2,366,071,428.58
<b>8</b>	1.7857%	30-Jun-27	2,366,071,428.58	44,642,857.14	2,321,428,571.44
<b>9</b>	1.7857%	30-Sep-27	2,321,428,571.44	44,642,857.14	2,276,785,714.30
<b>10</b>	1.7857%	31-Dec-27	2,276,785,714.30	44,642,857.14	2,232,142,857.16
<b>11</b>	1.7857%	31-Mar-28	2,232,142,857.16	44,642,857.14	2,187,500,000.02
<b>12</b>	1.7857%	30-Jun-28	2,187,500,000.02	44,642,857.14	2,142,857,142.88
<b>13</b>	1.7857%	30-Sep-28	2,142,857,142.88	44,642,857.14	2,098,214,285.74
<b>14</b>	1.7857%	31-Dec-28	2,098,214,285.74	44,642,857.14	2,053,571,428.60
<b>15</b>	1.7857%	31-Mar-29	2,053,571,428.60	44,642,857.14	2,008,928,571.46
<b>16</b>	1.7857%	30-Jun-29	2,008,928,571.46	44,642,857.14	1,964,285,714.32
<b>17</b>	1.7857%	30-Sep-29	1,964,285,714.32	44,642,857.14	1,919,642,857.18
<b>18</b>	1.7857%	31-Dec-29	1,919,642,857.18	44,642,857.14	1,875,000,000.04
<b>19</b>	1.7857%	31-Mar-30	1,875,000,000.04	44,642,857.14	1,830,357,142.90
<b>20</b>	1.7857%	30-Jun-30	1,830,357,142.90	44,642,857.14	1,785,714,285.76
<b>21</b>	1.7857%	30-Sep-30	1,785,714,285.76	44,642,857.14	1,741,071,428.62
<b>22</b>	1.7857%	31-Dec-30	1,741,071,428.62	44,642,857.14	1,696,428,571.48
<b>23</b>	1.7857%	31-Mar-31	1,696,428,571.48	44,642,857.14	1,651,785,714.34
<b>24</b>	1.7857%	30-Jun-31	1,651,785,714.34	44,642,857.14	1,607,142,857.20
<b>25</b>	1.7857%	30-Sep-31	1,607,142,857.20	44,642,857.14	1,562,500,000.06
<b>26</b>	1.7857%	31-Dec-31	1,562,500,000.06	44,642,857.14	1,517,857,142.92
<b>27</b>	1.7857%	31-Mar-32	1,517,857,142.92	44,642,857.14	1,473,214,285.78
<b>28</b>	1.7857%	30-Jun-32	1,473,214,285.78	44,642,857.14	1,428,571,428.64
<b>29</b>	1.7857%	30-Sep-32	1,428,571,428.64	44,642,857.14	1,383,928,571.50
<b>30</b>	1.7857%	31-Dec-32	1,383,928,571.50	44,642,857.14	1,339,285,714.36

31	1.7857%	31-Mar-33	1,339,285,714.36	44,642,857.14	1,294,642,857.22
32	1.7857%	30-Jun-33	1,294,642,857.22	44,642,857.14	1,250,000,000.08
33	1.7857%	30-Sep-33	1,250,000,000.08	44,642,857.14	1,205,357,142.94
34	1.7857%	31-Dec-33	1,205,357,142.94	44,642,857.14	1,160,714,285.80
35	1.7857%	31-Mar-34	1,160,714,285.80	44,642,857.14	1,116,071,428.66
36	1.7857%	30-Jun-34	1,116,071,428.66	44,642,857.14	1,071,428,571.52
37	1.7857%	30-Sep-34	1,071,428,571.52	44,642,857.14	1,026,785,714.38
38	1.7857%	31-Dec-34	1,026,785,714.38	44,642,857.14	982,142,857.24
39	1.7857%	31-Mar-35	982,142,857.24	44,642,857.14	937,500,000.10
40	1.7857%	30-Jun-35	937,500,000.10	44,642,857.14	892,857,142.96
41	1.7857%	30-Sep-35	892,857,142.96	44,642,857.14	848,214,285.82
42	1.7857%	31-Dec-35	848,214,285.82	44,642,857.14	803,571,428.68
43	1.7857%	31-Mar-36	803,571,428.68	44,642,857.14	758,928,571.54
44	1.7857%	30-Jun-36	758,928,571.54	44,642,857.14	714,285,714.40
45	1.7857%	30-Sep-36	714,285,714.40	44,642,857.14	669,642,857.26
46	1.7857%	31-Dec-36	669,642,857.26	44,642,857.14	625,000,000.12
47	1.7857%	31-Mar-37	625,000,000.12	44,642,857.14	580,357,142.98
48	1.7857%	30-Jun-37	580,357,142.98	44,642,857.14	535,714,285.84
49	1.7857%	30-Sep-37	535,714,285.84	44,642,857.14	491,071,428.70
50	1.7857%	31-Dec-37	491,071,428.70	44,642,857.14	446,428,571.56
51	1.7857%	31-Mar-38	446,428,571.56	44,642,857.14	401,785,714.42
52	1.7857%	30-Jun-38	401,785,714.42	44,642,857.14	357,142,857.28
53	1.7857%	30-Sep-38	357,142,857.28	44,642,857.14	312,500,000.14
54	1.7857%	31-Dec-38	312,500,000.14	44,642,857.14	267,857,143.00
55	1.7857%	31-Mar-39	267,857,143.00	44,642,857.14	223,214,285.86
56	1.7857%	30-Jun-39	223,214,285.86	44,642,857.14	178,571,428.72
57	1.7857%	30-Sep-39	178,571,428.72	44,642,857.14	133,928,571.58
58	1.7857%	31-Dec-39	133,928,571.58	44,642,857.14	89,285,714.44
59	1.7857%	31-Mar-40	89,285,714.44	44,642,857.14	44,642,857.30
60	1.7857%	26-Jun-40	44,642,857.30	44,642,857.30	(0.00)

**SCHEDULE 12**  
**SERVICE OF PROCESS LETTER**

**[To be placed on the letterhead of the Process Agent]**

To: African Development Bank  
Attention: [Director, Financial Sector Department]  
Address: Centre de Commerce International d'Abidjan  
Avenue Jean-Paul II, 01 BP 1387,  
Abidjan 01, Côte d'Ivoire

Telephone number: +225 20 26 2700

[Date]

1. We refer to the facility agreement dated [•] 2025 between the City of Johannesburg Metropolitan Municipality (the **Borrower**) and the African Development Bank (the **Facility Agreement**).
2. Pursuant to clause [•] of the Facility Agreement, the Borrower has irrevocably designated and appointed the undersigned, **[Insert name of Process Agent]** with offices located at **[Insert address of process agent]**, as its authorised agent to receive for and on its behalf, service of process in any legal action or proceeding with respect to the Finance Documents in the courts of England.
3. The undersigned hereby informs you that it has irrevocably accepted such appointment from the date of this letter until Maturity Date (as defined in the Facility Agreement) and agrees that the undersigned (i) shall inform African Development Bank promptly in writing of any change of its address in England, (ii) shall inform African Development Bank promptly in writing in case our appointment is terminated prior to the Maturity Date (iii) shall perform its obligations as such process agent in accordance with Clause [•] of the Facility Agreement, and (iv) shall forward promptly to [•] any legal process received by the undersigned in its capacity as process agent.
4. As process agent, the undersigned and its successor or successors agree to discharge the above-mentioned obligations and will not refuse fulfilment of such obligations as provided in the Facility Agreement.

Yours truly,

[Insert Name of Process Agent]

By \_\_\_\_\_

[Title]

cc: [•]

**SCHEDULE 13**  
**DEVELOPMENT OUTCOMES REPORTING TEMPLATE**

**TYPE OF OPERATION INFRASTRUCTURE (ENERGY, WATER, AND SANITATION)**

*Note: The beneficiary project company is required to fill in this template annually starting from the year of the first disbursement of the AfDB facility*

Company's name:	Amount of the loan:
Sponsor's name:	Currency of the loan:
Country of operation:	Disbursement year:
Sector of operation:	Year of maturity of the loan:
Project located in a rural area (Yes/No):	Reporting year:

	Unit of measure	Value
<b>Direct employment:</b> Number of full-time equivalent (FTE) <sup>15</sup> employment created for Africans during the construction period	Number	
Of which FTE female employment	Percentage	
Of which Youth FTE skilled <sup>16</sup> employment	Percentage	
<b>Direct employment:</b> Number of full-time equivalent (FTE) employment created for Africans during operation and maintenance until the end of the reporting period	Number	
Of which FTE female employment	Percentage	
Of which youth employment	Percentage	
<b>Payment to the government:</b> Net financial flows paid by the project company to the Governments (including taxes and any other payments) over the reporting period.	ZAR	
<b>Domestic purchases:</b> Value of goods and services acquired by the project company, its EPC and O&M contractors, from domestic suppliers during the reporting period.	ZAR	
<b>SMEs supported:</b> Number of SMEs benefited from the project	Number	
Of which are owned by women	Number	
Of which are owned by the youth	Number	
<b>Power capacity:</b> Installed power capacity	MW	
<b>Power production:</b> Power produced by the power plant per annum	GWh	
<b>Power losses:</b> Reduction in power losses	percentage	
Of which technical losses	percentage	
Of which non-technical	percentage	
<b>Power connection:</b> Number of households with a new or improved power connection	Number	
<b>Water capacity:</b> Installed new water capacity	ML	

<sup>15</sup> To compute full-time equivalent (FTE) jobs, part-time jobs are converted to FTE jobs on a pro rata basis, based on local definition (e.g., if working week equals 40 hours, a 24 hours/week job would be equal to 0.6 FTE job). Seasonal or short-term jobs are prorated on the basis of the portion of the reporting period that was worked (e.g., a full-time position for three months would be equal to a 0.25 FTE job if the reporting period is one year).

<sup>16</sup> Skilled employment refer to jobs involving technical, mechanical or some form of specialized knowledge.

<b>Water savings:</b> Water saved because of the project	ML	
<b>Water losses:</b> Reduction in water losses	Percentage	
Of which technical losses	Percentage	
Of which non-technical losses	Percentage	
<b>Water leaks:</b> Reduction in the number of water pipe leaks per 100km	Number	
<b>Water connection:</b> Number of households with new or improved water access/ connections	Number	
<b>Sanitation:</b> Number of households with new or improved access to sanitation services	Number	
<b>Sewer:</b> Increased access to sewerage service	Number	
<b>Reduction in sewer spillage:</b> Reduction in sewer spillages and overflows	Number	
<b>Greenhouse gas emissions:</b> The Amount of greenhouse gas emissions saved over the reporting period thanks to the project	Tons per year	
<b>Corporate Social Responsibility (CSR):</b> Total budget dedicated to CSR activities	ZAR	
Scope of activities supported by the CSR over the reporting period	Outputs	
Number of beneficiaries from the CSR over the reporting period	Number	
Of which are women	Number	
Of which are the youth	Number	
<b>Transfer of skills:</b> Budget allocated and utilized for training over the reporting period, including during construction, operation, and maintenance	ZAR	
Number of individuals who have been trained over the reporting period	Number	
Number of women who have been trained over the reporting period	Number	

**SCHEDULE 14**  
**FORM OF FIXED BASE RATE NOTICE**

From: **City of Johannesburg Metropolitan Municipality**

To: **African Development Bank**

Dated:

Dear Sirs

**CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY**  
**ZAR2,500,000,000 Term Facility Agreement dated [●] 2025**  
**(the Agreement)**

5. We refer to the Agreement. This is a Fixed Base Rate Notice. Terms defined in the Agreement have the same meaning in this Fixed Base Rate Notice unless given a different meaning in this Fixed Base Rate Notice.
6. We hereby irrevocably request a Fixed Base Rate for the balance of the Loans which have been disbursed and not yet repaid as of the Fixed Base Rate Effective Date in accordance with Clause 8.1 (*Calculation of Interest*) of the Agreement for the following reasons:
7. We hereby acknowledge that:
  - 7.1 the Lender is not acting as a fiduciary for, or an adviser to, us in respect of this Fixed Base Rate Notice;
  - 7.2 the determination by the Lender of the Fixed Base Rate shall be final and conclusive and binding on us (unless we demonstrate to the Lender's satisfaction that such determination involves manifest error); and
  - 7.3 this Fixed Based Rate notice does not apply to any part of the Commitment that has not yet been disbursed.
8. We make the Repeating Representations on the date of this Fixed Base Rate Notice and shall be deemed to make the Repeating Representations on the Fixed Base Rate Effective Date, in each case, by reference to the facts and circumstances existing on each such date.
9. We certify that:
  - 9.1 we have made our own independent decision to request a Fixed Base Rate for the outstanding amount of the Loans based upon our own judgment and upon such advisers as we have deemed necessary, and are not relying on any communication (written or oral) from the Lender as advice or as a recommendation to request a Fixed Base Rate, it being understood that information and explanations related to implementing the Fixed Base Rate shall not be considered to be advice or recommendations to apply a Fixed Base Rate; and

9.2 no Default has occurred and is continuing.

10. We confirm that the above certifications are effective as of the date of this Fixed Base Rate Notice and shall continue to be effective as of the Fixed Base Rate Effective Date and agree to notify the Lender immediately if any such certifications cease to be valid as of or prior to the Fixed Base Rate Effective Date.

**Yours truly,**

**City of Johannesburg Metropolitan Municipality**

Acting by: \_\_\_\_\_

Authorised Representative

**SCHEDULE 15**  
**LIST OF ELIGIBLE PROJECTS**

<u>USES</u>		<b>2024/2025</b>	<b>%</b>
		<b>ZAR m</b>	
Bulk Infrastructure and Network upgrade	458.68		
Metering	233.75		
Electrification	201.53		
SCADA, Telecoms, Protection, Fire & Security	158.02		
Renewable Energy and Energy Efficiency	192.81		
New service connections	54.58		
Public lighting	46.00		
Operating Capex and computer hardware	187.25		
Electricity CAPEX		1,533	19.82%
Dams and weirs	0		
Water Treatment Works	0		
Reservoirs	260		
Bulk mains	130		
Distribution	415		
Capital Spares	123		
Water CAPEX		928	12.00%
Wastewater Treatment Works	186		
Outfall sewers	14		
Reticulation	162		
Sewerage CAPEX		362	4.68%
Land fill sites	159.5		
Waste Processing Sites	51.3		
Waste Drop-off Points	5		
Waste Separation Facilities	15		
Capital Spares	15.4		
Solid Waste Management CAPEX		246	3.18%

<b><u>USES</u></b>	<b>2024/2025 ZAR m</b>	<b>%</b>
<i>Sub Total USES – Trading Services</i>	3,069	39.69%
<u>Transport, Social Sectors and Administration CAPEX</u>	4,664	60.31%
<b>TOTAL USES – CAPEX</b>	7,733	100%

**SCHEDULE 16**  
**ANNUAL INTEGRITY CERTIFICATION**

**African Development Bank Loan to City of Johannesburg**

**Reporting Period: [Year]**

**Certification Date: [Date]**

From: **City of Johannesburg Metropolitan Municipality**

To: **African Development Bank**

Dated:

Dear Sirs

**CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY**  
**ZAR2,500,000,000 Term Facility Agreement dated [●] 2025**  
**(the Agreement)**

11. Use of Funds: All loan proceeds utilized during the reporting period have been used exclusively for the implementation of the Eligible Projects as defined in Annex 1 of the Agreement.
12. Compliance with integrity-related clauses: The Borrower has complied with all the integrity provisions under Clauses [18.16, 19.11, and 21.5] during the reporting period.
13. No Sanctioned Transactions: Neither the Borrower nor any of its Affiliates, their respective officials, employees, or persons acting their behalf have engaged in any Sanctioned Transaction during the reporting period, and the Borrower has taken all reasonable steps to ensure that that no contractors, subcontractors, suppliers or consultants engagement in the implementation of the Eligible Projects has engaged in any Sanctioned Transaction.
14. Procurement Activities: All procurement activities conducted during the reporting period in connection with the Eligible Projects have been carried out in accordance with applicable South African procurement laws and regulations.
15. Integrity Due Diligence: Integrity Due Diligence has been conducted on all contractors, subcontractors, suppliers, and consultants engaged during the reporting period, including verification of Beneficial Owners and screening against Debarment Lists and Sanctions Lists.
16. Politically Exposed Person and Related Party Involvement:

16.1 No Politically Exposed Persons or members of the Borrower's Leadership Team, senior management of each Relevant Municipal Entity or Related Parties are Beneficial Owners of or have substantial influence over any contractor, subcontractor, supplier, or consultant engaged during the reporting period.

17. Conflicts of Interest

17.1 No new Conflicts of Interest have been identified during the reporting period.

17.2 The following Conflicts of Interest have been identified and managed as described below:

[If applicable, provide details of Conflicts of Interest and management measures]

18. Integrity Violations:

18.1 No integrity violations have been detected or reported during the reporting period.

18.2 The following integrity concerns have been identified and addressed as described below: [If applicable, provide details of any integrity concerns and remedial actions taken]

19. Independent Procurement Audit:

19.1 The Independent Procurement Audit is progressing as required under the Agreement.

19.2 The most recent Independent Procurement Audit was completed on [date].

19.3 All recommendations from previous Independent Procurement Audits have been implemented or are being implemented according to the specified timeframes.

19.4 The following recommendations from Independent Procurement Audits have not yet been fully implemented (provide explanation and timeline for implementation):

20. [If applicable, provide details]

We confirm that this certification is made on the basis of adequate verification and due diligence and that the information provided herein is true and accurate to the best of our knowledge and belief.

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**City of Johannesburg Metropolitan Municipality**

**[Name]**

**Authorised Signatory**