

LOAN AGREEMENT

in respect of

SENGU MUNICIPALITY: OFFICE BUILDING

made and entered into by and between

SENGU LOCAL MUNICIPALITY (SLM)

and

THE DEVELOPMENT BANK OF SOUTHERN AFRICA LIMITED

DBSA
Development Bank of Southern Africa
100 Waterlooville Road
Waterlooville, 7800
South Africa
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N.L.
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SUMMARY

1. LOAN AMOUNT : R12 000 000.00
2. LOAN PERIOD : 20 years.
3. INTEREST RATE
 - 3.1 FIXED INTEREST RATE : Amortized swap rate yield plus 210 basis points (final rate to be determined two days prior to the date of first disbursement).
 - 3.2 FLOATING INTEREST RATE : 6 (six) months ZAR-JIBAR-SAFEX plus 214 (two hundred and fourteen) basis points and 3 (three) months ZAR-JIBAR-SAFEX plus 210 (two hundred and ten) basis points (final rate to be determined two days prior to first disbursement).
 - 3.3 INTEREST RATE TO BE FIXED AT DATE OF CONVERSION : The rate shall be the applicable swap rate equivalent to the remaining Loan Period at the time of exercising the conversion option plus 210 basis points.
4. GRACE PERIOD FOR CAPITAL REPAYMENT : 1 year.

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5. CAPITAL REPAYMENT : 38 (thirty eight) equal Six-monthly instalments, commencing on the last day of the 3rd (third) Half-year after the Half-year during which the first disbursement was advanced to the Borrower.
6. PROJECT FILE NO. : EC 103126

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1.1.1 "this Agreement" means this Agreement together with any Annexures thereto;

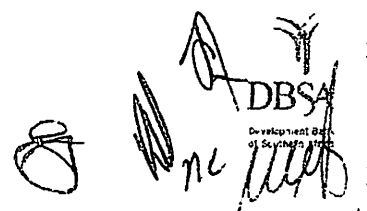
11.1.3 "Breakage Costs" means the net present value of the by which:

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1.1.4	"Business Day" means any day other than a Saturday, Sunday and a Public Holiday;
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Rate Loan and not vice versa;

- 1.1.6 "the DBSA" means the Development Bank of Southern Africa Limited, reconstituted and incorporated in terms of Section 2 of the Development Bank of Southern Africa Act No. 13 of 1997;
- 1.1.7 "Economic Failure" means any adverse change, determined in the sole discretion of the DBSA, in the South African or international capital markets or in South African or international monetary, financial, political or economic conditions which adversely affect the DBSA's access to the relevant local or international capital markets or which renders it unlawful or impossible for the DBSA to advance any portion of the Capital on any Disbursement Date.
- 1.1.8 "Fixed Rate Loan" means the amount of Loan disbursed and outstanding from time to time in respect of which the Fixed Interest Rate as determined in clause 3.1 shall apply;
- 1.1.9 "Floating Rate Loan" means the amount of Loan disbursed and outstanding from time to time in respect of which the Floating Interest Rate as determined in clause 3.2 shall apply;
- 1.1.10 "Half-year" or "Six-monthly" means from the first day of April to the 30th day of September and/or from the first day of October to the 31st day of March during the next calendar year;
- 1.1.11 "Interest Payment Date" means the last Business Day of each Interest Period;



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1.1.12 "Interest Period"

means each period of 6 (six) months commencing on 1 April or 1 October of each calendar year. The first Interest Period shall begin to run from the date of the first disbursement to 31 March or 30 September, whichever immediately follows disbursement. Each Interest Period thereafter shall begin to run from the date of expiry of the preceding Interest Period, even if the first day of this Interest Period is not a Business Day. Notwithstanding the foregoing, any period less than six months running from the date of a disbursement to the date of 31 March or 30 September immediately following this disbursement shall be deemed an Interest Period;

1.1.13 "Loan"

means the financing granted to the Borrower in terms of clause 2;

1.1.14 "Material Adverse Effect"

means an event, circumstance or matter (or combination of events, circumstances or matters) which has or is likely to have a material adverse effect on:

- 1.1.14.1 the business, operations, property, condition (financial or otherwise) or prospects of the Borrower; or
- 1.1.14.2 the ability of the Borrower to perform its obligations in terms of this Agreement; or
- 1.1.14.3 the validity or enforceability of this Agreement or the rights or remedies of the DBSA hereunder; or

- 1.1.14.4 the right or remedies of DBSA in terms of and pursuant to this Agreement; or
- 1.1.14.5 South African or international monetary, financial, political, or economic conditions or the DBSA's access to the relevant local or international capital markets.
- 1.1.15 "On-lending" means the transfer, by the Borrower, of any amount(s) to any third parties, from the proceeds of the Loan, excluding payments for the procurements of goods and services;
- 1.1.16 "Parties" means collectively, the Borrower and the DBSA;
- 1.1.17 "Project Agent" means a person nominated in writing by the Borrower to act on its behalf in respect of the Project;
- 1.1.18 "Project" means Senqu Local Municipality Office Block, as described in more detail in Annexure A attached hereto;
- 1.1.19 "Reference Banks" means four major Banks in the Johannesburg Interbank market selected by the DBSA;
- 1.1.20 "Reset Date" means the first Business Day of April and October of each calendar year or such other dates as may be agreed to in writing by the Parties;
- 1.1.21 "Reset Period" means a period of 6 (six) months commencing from each Reset Date;



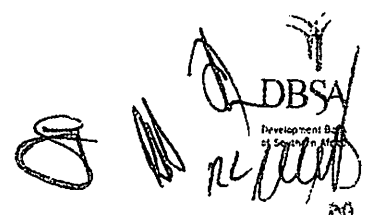
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1.1.22 "Unwinding Costs" means any and all actual costs, expenses and disbursements incurred by the DBSA in taking out a new hedge position, closing out, settling or unwinding any hedge transaction deposits or funding transactions that may have been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

1.1.23 "ZAR-JIBAR- Reference Banks Rate" In relation to each Interest Period for Floating Rate Loan, shall mean the yield rate determined on the basis of the mid-market deposit rate for South African Rand for a six month period quoted by the Reference Banks at or about 11:00 am, Johannesburg time, two Business Days prior to the commencement of the relevant Interest Period; and

1.1.24 "ZAR-JIBAR-SAFEX" In relation to each Interest Period for Floating Rate Loan, shall mean the mid-market yield rate (rounded upwards, if necessary, to the nearest one thousandth of a percentage point) for deposits in South African Rand for a six month period which appears on the Reuters Screen SAFEY Page as of 11:00 am, Johannesburg time, two Business Days prior to the commencement of the relevant Interest Period.

- 1.2 Headings to the clauses of this Agreement, the table of contents and summary are for reference purposes only and are not intended to affect the interpretation thereof.
- 1.3 Any reference to the singular shall include the plural and vice versa.
- 1.4 Any reference to a natural person shall include an artificial or corporate person and vice versa.



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- 1.5 Any reference to one gender shall include the other.
- 1.6 Any reference to ZAR-JIBAR and/or ZAR-JIBAR-Reference Banks Rate shall include any other substitute rate, calculated in the same manner as either of these two rates whether such substitute rate appears on the Reuters screen safety page or on some other screen page.
- 1.7 Interest rate to be fixed at date of conversion will be the applicable swap rate equivalent to the remaining Loan Period at the time of exercising the conversion option plus 210 basis points
- 1.8 This Agreement shall bind the Borrower and its successors-in-title.

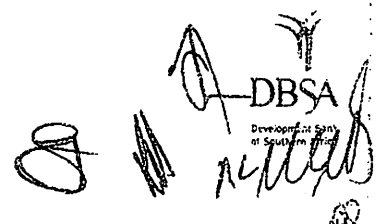
2. THE LOAN

- 2.1 The Loan shall be:-
- 2.1.1 an amount not exceeding, in aggregate, R12 000 000.00 (twelve million);
and
- 2.1.2 utilised exclusively for the Project and the Borrower, hereby, undertakes that it shall comply with all provisions of this Agreement.
- 2.2 The Loan proceeds shall be paid by the DBSA to, and on the order of, the Borrower in such disbursements and in accordance with all provisions contained in this Agreement.
- 2.3 No On-Lending shall be effected unless provided for in this Agreement.

3. INTEREST

The Loan shall bear interest on the amount from time to time outstanding at a Fixed or Floating Rate, as the case may be at the election of the Borrower as follows:

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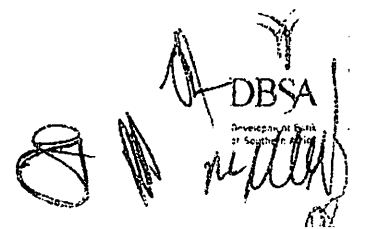


3.1 FIXED INTEREST RATE

- 3.1.1 The Capital shall bear interest on the amount from time to time outstanding at a nominal fixed rate of armotized swap rate yield plus 210 basis points per annum (final rate to be determined two days prior to the date of first disbursement).
- 3.1.2 Interest on the amount from time to time outstanding shall be compounded Six-monthly and shall be due and payable on the last day of each Half-year. If payment of interest falls on a day other than a Business Day, such interest shall be payable on the next succeeding Business Day.
- 3.1.3 The interest rate for each Interest Period shall be compounded Six-monthly based on the actual number of days elapsed and a 365-day year (irrespective of whether it is a leap year) and shall be payable in arrears on each Interest Payment Date.
- 3.1.4 Payment shall commence on the last day of the Half-year during which the first disbursement was advanced to the Borrower.

3.2 FLOATING INTEREST RATE

- 3.2.1 The rate of interest applicable to the Floating Rate Loan disbursed and outstanding from time to time (expressed as a percentage rate per annum) shall be a 6 (six) months ZAR-JIBAR-SAFEX plus 214 (two hundred and fourteen) basis points per annum and 3 (three) months ZAR-JIBAR-SAFEX plus 210 (two hundred and ten) basis points (final rate to be determined two days prior to first disbursement). If, for any reason, it shall become impossible to determine ZAR-JIBAR-SAFEX or ZAR-JIBAR-SAFEX rates shall become unavailable by reason either of market dysfunction or any other reason unforeseen by the Parties, then the rate of interest applicable to the Floating Rate Loan shall be the ZAR-JIBAR-Reference Banks Rate plus 214(two hundred and fourteen) basis points, and 210 (two hundred and ten) basis points.



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3.2.2 The DBSA shall request the principal Johannesburg office of each of the Reference Banks to provide a quotation of its rates. If at least 2 (two) quotations are provided, the rate will be the arithmetic mean (rounded upwards, if necessary, to the nearest thousandth of a percentage point) of the quotations.

3.2.3 The interest rate for each Interest Period shall be compounded Six-monthly based on the actual number of days elapsed and a 365-day year (irrespective of whether it is a leap year) and shall be payable in arrears on each Interest Payment Date.

3.2.4 Interest on the amount from time to time outstanding shall be compounded Six-monthly and shall be due and payable on the last day of each Half-year. If payment of interest falls on a day other than a Business Day, such interest shall be payable on the next Business Day. Payment shall commence on the last day of the Half-year during which the first disbursement was advanced to the Borrower.

3.3 **CONVERSION FROM FLOATING RATE TO FIXED RATE**

The Borrower may, on any Reset Date convert all of the Floating Rate Loan into a Fixed Rate Loan provided that the Borrower shall give DBSA no less than 30 (thirty) business days notice of its intention to do so. Upon the exercising of the Conversion Option by the Borrower as contemplated herein, the amount outstanding from the date on which the Borrower shall exercise the Conversion Option shall bear a fixed interest rate as determined in terms of clause 1.7 above. The Borrower shall be notified in writing of the rate applicable at the time. Interest rate shall for the purpose of this sub-clause, be calculated on the same basis as indicated in sub-clause 3.1.1 above.

4. **REPAYMENT OF LOAN AND PAYMENT OF INTEREST**

4.1 The capital amount of the Loan shall be repaid in 38 (thirty eight) equal Six-monthly instalments, commencing on the last day of the 3rd (third) Half-year following the Half-year during which the first disbursement was made to the Borrower from the proceeds of the Loan; and thereafter at the end of each succeeding Half-year until

the Loan together with interest thereon shall be fully repaid; provided that subject to the provisions of clause 7, the Borrower may, with 30 (thirty) days written notice to the DBSA, make repayments in excess of the abovementioned or repay the full amount outstanding, provided further that the Borrower shall not be entitled to make any repayments prior to the date on which the first instalment shall fall due in terms of this Agreement; provided further that this shall not jeopardise the proper completion of the Project.

- 4.2 An instalment shall be a fixed amount, determined as at the outset of the 3rd (third) Half-year following the Half-year during which the first disbursement was made to the Borrower from the proceeds of the Loan; calculated as being sufficient to amortise the outstanding amount, plus interest at the rate set out in clause 3.1 above, in 18 (eighteen) equal Six-monthly payments. Should, at the outset of the said 3rd (third) Half-year, part of the Loan still not be drawn by the Borrower, the amount of instalments shall be adjusted as and when drawings take place, in order to achieve amortisation over the original period of the Loan.

5. COMMITMENT FEE

- 5.1 The DBSA shall be entitled to charge a commitment fee of 0.5% (nought comma five per centum) per annum on all the undisbursed portion of the Loan in the event that the Borrower deviates from the Disbursement Schedule.
- 5.2 Payment of the commitment fee shall be made on the same terms and conditions as the other amounts due in terms of this Agreement.

6. LATE PAYMENT

- 6.1 The Borrower shall be liable to the DBSA for the payment of penalty interest on all amounts payable, yet unpaid, in terms of this Agreement should the Borrower:-
- 6.1.1 fail to pay on the due date any amount owing or which may become owing to the DBSA in terms of this Agreement; or
- 6.1.2 with the DBSA's written consent defer the payment of any amount so owing.

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- 6.2 Penalty interest shall be calculated with regard to the actual period during which the amount payable remained unpaid, at the Fixed Rate/interest rate of the Loan plus 2% (two per centum). Penalty interest shall be compounded Six-monthly and payable on demand.

7. EARLY REPAYMENT

7.1 FLOATING RATE LOANS


- 7.1.1 The Borrower shall, subject to thirty (30) days written notice to the DBSA, be entitled to prepay any portion or the entire principal amount of the DBSA Loan. However, the Borrower shall be liable to pay Breakage Costs on the principal amount being prepaid otherwise than on the Interest Payment Date and any Unwinding costs.

7.2 FIXED RATE LOANS

- 7.2.1 The Borrower shall, subject to thirty (30) days written notice to the DBSA, be entitled to prepay any portion or the entire principal amount of the DBSA Loan, subject to the payment of a prepayment fee on the principal amount being prepaid. The prepayment fee shall be determined or calculated as follows:

7.2.1.1 where the interest rate of the Loan is less than or equal to the Reinvestment Rate (defined herein below), the Borrower shall be liable to pay Unwinding Costs only (if any) on the prepaid amount;

7.2.1.2 where the interest rate of the Loan is greater than the Reinvestment Rate, the Borrower shall pay to the DBSA an amount equal to the difference (calculated on a present value basis to the DBSA's prejudice) between the interest which the prepaid principal amount would have produced had there been no prepayment and the interest which would be produced by a reinvestment of the same amount having the same repayment



schedule as the prepaid principal amount of the Loan as well as any Unwinding Costs.

7.2.2 The Reinvestment Rate shall be the rate at which the DBSA can invest the funds in the relevant Interbank Market, for the period equal to the remaining Loan Period as determined at the relevant Interest Payment Date of such prepaid principal amount.

7.2.3 The discount rate used shall be equal to the Reinvestment Rate.

8. PAYMENT(S)

- 8.1 All payments to or by the Parties under this Agreement shall be effected in South African Rand.
- 8.2 All payments under this Agreement to the Borrower shall be effected to the credit of such banking account(s) of the Borrower as the Borrower may from time to time direct, in writing.
- 8.3 The Borrower shall furnish the DBSA with all the necessary information regarding its officials who are authorised to apply for drawdowns on the Borrower's behalf.
- 8.4 All payments under this Agreement to the DBSA shall be effected to the credit of such banking account(s) of the DBSA as the DBSA may from time to time direct, in writing.
- 8.5 Payments to the DBSA in terms of this Agreement shall be effected without deduction and free from any taxes, charges, fees or other costs whatsoever.
- 8.6 Whenever any payment falls due on a Saturday, Sunday or Public Holiday under the laws to which either of the Parties are subject, such payment shall be made on the next succeeding business day.

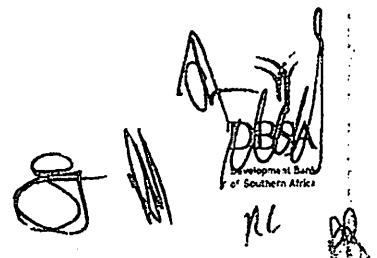
9. CANCELLATION/TERMINATION OF DRAWDOWNS

9.1 By the DBSA

- 9.1.1 The DBSA may, by notice to the Borrower at any time after the receipt of a Disbursement Request but prior to the Disbursement Date, in whole or in part suspend the making of the Disbursement if an Economic failure and /or a Material Adverse Event has occurred.
- 9.1.2 Such suspension shall continue until the DBSA notifies the Borrower that it may again submit a Disbursement Request.
- 9.1.3 The DBSA may suspend or cancel the right of the Borrower to Disbursements if an Event of Default or Potential Event of Default has occurred or is continuing, in which case the right of the Borrower to any further Disbursement shall be suspended or cancelled, as the case may be. The exercise by the DBSA of its right of suspension shall not preclude the DBSA from exercising its right of cancellation, as provided for in the *Suspension / Cancellation of Disbursements*, either for the same or any other reason, and shall not limit any other rights of the DBSA under this Agreement or in law.
- 9.1.4 Any amount of Capital undrawn at the end of the Availability Period shall be automatically cancelled.

9.2 Cancellation by the Borrower

- 9.2.1 The Borrower may at any time upon 30 (thirty) days' written notice to the DBSA, request the DBSA to cancel all or a portion of the undisbursed portion of the Capital on the date specified in such request.
- 9.2.2 If, after having received a notice in accordance with clause 9.2.1 above, the DBSA is satisfied that the Borrower has sufficient long-term funding available on terms satisfactory to the DBSA, to complete the Project (whilst complying with the provisions of this Agreement); then the DBSA shall, by notice to the Borrower, cancel the requested amount of the undisbursed portion of the Capital effective as of such specified date.

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10 MARKET DISRUPTION

10.1 Failure of a Reference Bank to supply a rate

10.1.1 Subject to clause 10.2, if JIBAR is to be calculated by reference to the Reference Banks but a Reference Bank does not supply a rate by 12h00 on a Rate Fixing Day, the applicable JIBAR will, subject as provided below, be calculated on the basis of the rates of the remaining Reference Banks.

10.2 Market disruption

10.2.1 In this clause, if :

10.2.1.1 JIBAR is to be calculated by reference to the Reference Banks but no, or only one, Reference Bank supplies a rate by 12h00 on the Rate Fixing Day; or

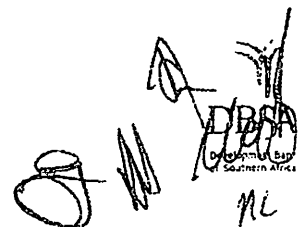
10.2.1.2 by close of business on the Rate Fixing Day, the DBSA receives notification that the cost to it of raising finance in the money market is in excess of the spread on the Interest Determination Date relative to the cost as at the immediately presiding Interest Determination Date, a Market Disruption Event shall be deemed to have occurred.

10.2.2 If a Market Disruption Event occurs in relation to a Loan, the DBSA must promptly notify the Borrower.

10.2.3 After notification under clause 10.2.2 above, the rate of interest on the Loan for the relevant Interest Period will be the aggregate of the applicable:

10.2.3.1 rate notified by the DBSA to the Borrower as soon as practicable, and in any event not later than 5 (five) Business Days after the relevant Rate Fixing Day, to be that which expresses as a percentage rate per annum the cost to DBSA of funding the Loan from whatever source it may reasonably select; and

10.2.3.2 the Margin.

The bottom right corner of the page contains several handwritten signatures and stamps. A prominent stamp reads 'DBSA' with 'SOUTHERN AFRICA' underneath it. There are also various initials and scribbles, including what appears to be 'ML' and '2008'.

10.3 Alternative basis

- 10.3.1 If a Market Disruption Event occurs and the DBSA or the Borrower so requires, the Borrower and the DBSA must enter into negotiations for a period of not more than 14 (fourteen) days with a view to agreeing an alternative basis for determining the rate of interest and/or funding for the affected Loan. Any alternative basis so agreed will be binding on all the Parties, failing which the Borrower shall repay the Loan within 10 (ten) Business Days.

11 INCREASED COSTS AND DECREASED COSTS

11.1 Increased Costs for Change in Law

Except as provided in clause 11.3 below, the Borrower must pay to the DBSA the amount of any Increased Cost incurred by the DBSA as a result of:

- 11.1.1 the introduction of, or any change in, or any change in the interpretation, administration or application of, any law or regulation; or
- 11.1.2 compliance with any law or regulation made after the date of this Agreement, but only to the extent that such law or regulation applies generally to banks operating in South Africa.

11.2 Increased Costs for Economic Failure and Material Adverse Event

If an Economic Failure and/or Material Adverse Change occurs which in the reasonable opinion of the DBSA:

- 11.2.1 may reduce the rate of return which the DBSA may receive on its capital under any Finance Documents then, at the DBSA's sole discretion:
- 11.2.2 the DBSA may demand in writing that the Borrower shall pay to the relevant Lender an additional amount as will be sufficient to compensate DBSA for such reduction in return; or
- 11.2.3 the DBSA shall be entitled to increase the Relevant Rate of the relevant Facility by such percentage as shall be necessary to compensate DBSA for such reduction in return. The increase in the Relevant Rate pursuant to this

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clause 11 shall take effect from the date specified in a written notice delivered by the DBSA to the Borrower but in any event not less than 30 (thirty) days after the date of such written notice, or

11.2.4 effects the DBSA's ability to make any advance or to maintain any funding previously advanced, including, for the avoidance of doubt, the Lender being unable to obtain matched funding in the market for its obligations under this Agreement, the DBSA shall be entitled to withhold such advance (including, without limitation, be entitled to cancel any available commitment), in each event subject to the Parties having entered into negotiations for a period of 30 (thirty) days to restructure this Agreement and/or amend the terms of this Agreement to avoid such effect, failing which the Borrower shall repay the Loan to the DBSA within 10 (ten) Business Day.

11.3 Exceptions

The Borrower need not make any payment for an Increased Cost to the extent that the Increased Cost is:

- 11.3.1 attributable to a Tax Deduction required by law to be made by the Borrower;
- 11.3.2 compensated for under Tax indemnity (or would have been but was not so compensated solely because any of the exclusions in Tax indemnity applied); or
- 11.3.3 attributable to the DBSA failing to comply with any law or regulation.

12. EVENTS OF DEFAULT

12.1 The DBSA shall be entitled, after giving the Borrower 30 (thirty) days written notice, to suspend drawdowns from the Loan or to terminate this Agreement and to claim from the Borrower immediate payment of all the outstanding amounts should the Borrower commit any breach of this Agreement, provided that the DBSA may, at its entire discretion, dispense with the giving of the 30 (thirty) days notice.

- 12.2 Without derogating from the generality of the foregoing, the DBSA shall be entitled to exercise its rights in terms of clause 12.1 above, upon the happening of any of the following events:-
- 12.2.1 the Borrower failing to repay the capital amount and to pay interest in terms hereof, and failing to remedy such breach within the notice period referred to in 12.1 above requiring it to do so;
 - 12.2.2 any attachment being made or any execution being levied against the Borrower;
 - 12.2.3 any failure to repay any of the DBSA's loans or breach of any agreement entered into between the Borrower and the DBSA and/or with any other lender/creditor;
 - 12.2.4 any fact or circumstance shall have occurred which in the opinion of the DBSA may affect the ability or willingness of the Borrower to comply with all or any of its obligations under this Agreement;
 - 12.2.5 the Borrower proposing any rescheduling, reorganisation or rearrangement of the whole or part of its indebtedness with the DBSA or any of its creditors;
 - 12.2.6 the Borrower's business operations or any significant part thereof, being interrupted for a continuous period of at least 3 (three) months;
 - 12.2.7 any approval, licence, authorisation or other requirement necessary to enable the Borrower to comply with any of its obligations in terms of this Agreement is modified, revoked or withdrawn whilst this Agreement is still in force;
 - 12.2.8 any order is made or resolution passed or other action taken for the dissolution or termination of the existence of the Borrower; and

12.2.9 any representation, warranty or statement made in, or in connection with, this Agreement or any opinion delivered by or on behalf of the Borrower under this Agreement is found to be incorrect.

12.3 The exercise of the rights by the DBSA in terms hereof shall be without prejudice and/or in addition to any other rights which the DBSA may then have against the Borrower in law, including the right to demand specific performance by the Borrower of its obligations in terms of this Agreement.

13 CONDITIONS PRECEDENT

The borrower undertakes the following:

- 13.1 The Borrower shall submit to the DBSA, a copy of the Council Resolution authorising Senqu Municipality to source external financing for the construction of the office building.
- 13.2 The Borrower shall provide the DBSA with proof of compliance with section 46 (3) of the MFMA.
- 13.3 All construction work to be as per standards: SABS 1200; SABS 0400:1990 National Building Regulations and Occupational Health and Safety Act. All building materials used are to be SABS approved.

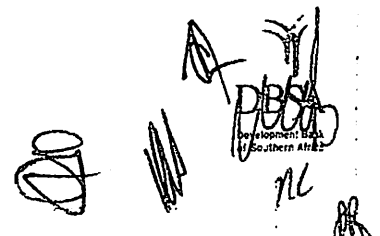
14. FURTHER TERMS AND CONDITIONS

14.1. That suitable insurance be arranged in order to cover any possible damage during and after construction. Proof must be provided that the following insurances are in place:

- 14.1.1 All risk insurance;
- 14.1.2 Material & Consequential loss caused by machinery & plant breakdown.
- 14.1.3 Damage during construction;
- 14.1.4 Public liability cover;
- 14.1.5 *Force Majeure*.

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- 14.2. The Borrower, hereby, undertakes to submit to the DBSA its Audited Financial Statements within six months from the end of each financial year, for the duration of the loan period.
- 14.3 The Borrower hereby undertakes not to enter into any further loans without prior consultation with the DBSA and its written consent thereto.
- 14.4 The Borrower undertakes that the project shall comply with all the relevant environmental policies and legislation, as well as sound environmental practices. The Borrower will provide the DBSA with a draft EMP, final EMP and environmental monitoring reports and the final environmental audit of the project. On each request for payment, the client will provide the DBSA with written assurance of full legal compliance of all project activities that have occurred to date.
- 14.5 The Client will continue to actively promote and pursue opportunities that will ensure:
- Sound In-house environmental management and urban design capacity development.
 - Appropriate environmental management systems, policies and plans are developed and implemented. All infrastructure systems and Local Economic Development Initiatives need to be designed, implemented and maintained according to sound sustainability/environmental management principles/standards. Opportunities for improving land use planning including mapping sensitive areas and producing appropriate design bylaws will be undertaken.
- 14.6 The construction shall not involve the use of any asbestos
- 14.7 The Borrower shall ensure proper maintenance of the assets created through this loan by including it in a maintenance plan which must be part of an asset management plan.



- 14.8 All claims and payments will be subjected to Steering Committee approvals on satisfactory work completed by the service provider.
- 14.9 A Project Steering Committee (PSC) will be established to oversee implementation of the projects
- 14.10 Projects will be implemented using labour intensive methods, in line with the guidelines of the Expanded Public Works Programme.
- 14.11 Projects prioritised for funding will be aligned with the Integrated Development Plans.
- 14.12 The Borrower must indicate the manner in which the right for the provision of the minimum level of basic municipal services will be protected.
- 14.13 This loan is a total package with the offer for TIP dependant on the normal loan for the office building being accepted. The TIP offer on its own is not valid and cannot be taken until the normal loan offer is committed to by the Borrower.
- 14.14 The Borrower undertakes to ensure that the disbursement of the Loan amount will be in accordance with the Disbursement Schedule attached to the Project Description.
- 14.15 The Borrower hereby indemnifies the DBSA against any claims from third parties relative to this project.

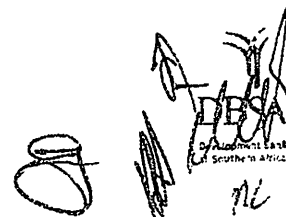
15. ARBITRATION

- 15.1 Any dispute arising out of or relating to this Agreement concerning the interpretation of the terms and conditions of this Agreement or of compliance by any Party with the terms/conditions of this Agreement which is not resolved amicably through consultations or negotiations shall, subject to the other provisions of this Agreement, be settled by arbitration in terms of the Arbitration Act No. 42 of 1965, as amended from time to time; provided that a claim by the DBSA for the repayment of any monies due under this Agreement shall not be regarded as a

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dispute for the purpose of this clause and neither Party shall therefore be obliged to refer such a claim to arbitration.

- 15.2 In case of arbitration a tribunal shall be composed of one arbitrator who shall be appointed by the Parties by agreement or failing such agreement, by the chairperson of the Association of Arbitrators, who shall, in appointing such arbitrator, have regard to the qualifications and experience of the appointee in relation to the nature of the dispute over which he/she has to adjudicate. In case the arbitrator resigns or becomes unable to act, a successor shall be appointed in the same manner as herein prescribed for the appointment of the original arbitrator and the successor shall have all the powers and duties of his/her predecessor.
- 15.3 The arbitration shall be held at the place and in accordance with whatever procedures the arbitrator considers appropriate. In particular, the arbitrator, may, if he/she deems appropriate, conduct the arbitration in an informal and summary manner and without requiring pleadings or discovery of documents and without observing the rules of evidence. The proceedings shall be confidential and neither the Parties nor the arbitrator shall disclose to third parties any information regarding the proceedings, the award, or settlement terms unless the parties otherwise agree in writing.
- 15.4 After the institution of arbitration proceedings the tribunal may proceed with the arbitration notwithstanding any failure, neglect or refusal of either Party to comply with the provisions hereof or to take part or to continue to take part in the arbitration proceedings. The arbitrator shall within 30 (thirty) days of the termination of the proceedings render a final and binding written award including interest and costs, and furnish the Parties with written reasons for his/her judgment.
- 15.5 The provisions of this clause may be invoked by any Party by delivering to the other Party a demand, in writing, that an arbitrator be appointed to adjudicate in respect of a specified dispute.

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16. GENERAL

16.1 PROJECT NOTICE BOARDS

The Borrower shall, at its own cost, ensure that, immediately upon commencement of construction/building operations, contemplated by this Agreement, if it is decided to erect a Project notice board, the said board shall clearly advertise the fact that such construction/building operations, have been financed or co-financed, as the case may be, by the DBSA.

16.2 DOMICILIUM

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

(i) In case of the DBSA:-

Physical address: Development Bank of Southern Africa Limited
1258 Lever Road
Headway Hill
MIDRAND
SOUTH AFRICA; or

Postal address: P O Box 1234
HALFWAY HOUSE
1685; or

Telefax number: (011) 313 3086

(ii) In case of the Borrower:-

Physical address: The Municipal Manager
Mr M. Yawa
Senqu Municipality
19 Murray Street
Lady Grey
9755; or

Telefax number: 051 603 0445

16.2.2 Each of the Parties shall be entitled from time to time, by written notice to the other, to vary its domicilium to any other address which is not a Post Office or Poste Restante.

16.2.3 All notices made by either Party to the other ("the addressee") which:-

- (i) is delivered by hand during the normal business hours of the addressee at the addressee's domicilium for the time being shall be presumed to have been received by the addressee at the time of delivery;
- (ii) is posted by prepaid registered post to the addressee at the addressee's domicilium for the time being shall be presumed to have been received by the addressee on the seventh day after the date of posting; Provided that the Parties agree that all other forms of correspondence and/or requests may be done through fax and/or electronic mail (e-mail).

16.3 WHOLE AGREEMENT

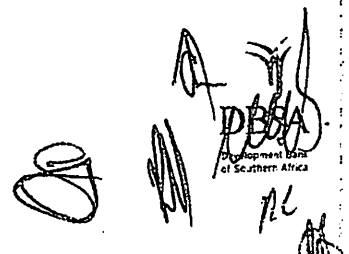
This Agreement (including the Annexures) constitutes the entire Agreement between the Parties and no representations, warranties, undertakings or promises of whatever nature which may have been made by any of the Parties, their agents or employees, other than those herein contained, shall be binding or enforceable against them.

16.4 NON-VARIATION

No variation, amendment or addition to this Agreement shall be valid unless the same has been reduced to writing and signed by or on behalf of the Parties.

16.5 NON-ENFORCEMENT/INDULGENCE

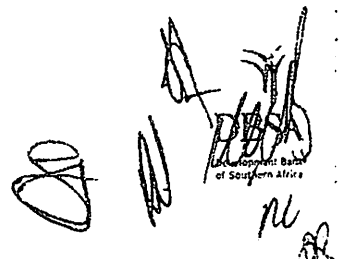
The non-enforcement of any provision of this Agreement or any indulgence which either Party may grant to the other Party shall be without prejudice to the rights of such first-mentioned Party to insist upon strict compliance by such other Party with all the provisions of this Agreement or to enforce its right in respect of which such indulgence was granted.



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16.6 TERMS AND CONDITIONS OF DISBURSEMENT

The disbursement of each claim, in respect of the amount financed, by the DBSA, is to be affected as a ratio of actual costs of each item, as indicated in the Disbursement Schedule to be provided by the Borrower for each element of the project, to the maximum amount of R12 000 000.00. This is subject to the submission of fully documented proof of expenditure by the Borrower to supplier, consultant and/or contractor, of actual claims, as certified/approved by the Borrower or its authorised representative.

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Development Bank of Southern Africa

FOR AND ON BEHALF OF THE DBSA,
DULY AUTHORISED THERETO IN
TERMS OF ANNEXURE E ATTACHED
HERETO

[Signature]

AS WITNESSES:
1. *[Signature]*
2. *[Signature]*

THUS DONE AND SIGNED AT *Musgrave* ON THE *31* DAY OF *March* 2009.

FOR AND ON BEHALF OF THE
BORROWER, DULY AUTHORISED
THERETO IN TERMS OF ANNEXURE D
ATTACHED HERETO

[Signature]
Group Executive Manager

AS WITNESSES:
1. *[Signature]*
2. *[Signature]*

THUS DONE AND SIGNED AT *Lady Grey* ON THE *19* DAY OF *March* 2009.

PROJECT DESCRIPTION

ANNEXURE A

PROJECT GOAL

1.

To enable improved municipal service delivery and administration that will have a positive impact on socio-economic conditions and communities in the Senqu municipal area and to support sustainable infrastructure development.

PROJECT OBJECTIVE

2.

To provide loan financing to the Senqu Municipality to partially fund its capital development programme for the next four years by:

- Funding, through a conventional loan, its new municipal offices to accommodate administrative staff and councillors within a single building complex to provide effective and efficient service delivery; and
- Funding, through a TIP facility, a portion of its service delivery projects that will :
 - unlock economic opportunities,
 - improve the delivery of basic services and quality of life in the previously disadvantaged areas in Senqu,
 - upgrade key municipal and socio-economic infrastructure, and
 - reduce basic infrastructure service backlogs.

PROJECT OUTPUTS

3

The project comprises of a conventional DBSA loan to finance the construction of a new block of offices and a TIP loan to fund economic infrastructure access roads to eradicate backlogs in line with SM's IDP and Capital Development Programme.

PROJECT DESCRIPTION

4

The project entails the provision of a loan facility to the Senqu Municipality for the financing of a new office building and for its Priority 1 Infrastructure Projects as listed in the IDP and Capital Development Programme for the next four years with focus on the following projects:

DBSA
103126/L T/2-10-08

Sectors	DBSA (R)	Budget (R)
Administrative Building	12 000 000	18 000 000
Access Roads	5 000 000	7 000 000
Total	17 000 000	25 000 000

The new extension will provide office space for current and new staff (36) that will be appointed in terms of the current budget, together with council chambers for political leaders. Better facilities will lead to improved staff morale and new motivation that is critical to sound organizational development, which in turn will lead to improved municipal service delivery that will have a positive impact on socio-economic conditions in this poor municipality.

The building will also cater for the disabled (wheelchairs) and will be technically and environmentally sound.

By utilizing loan funding, for the office building project, from the DBSA, the municipality is ensuring that their own funds and all other transfers are directed towards much needed service delivery and thereby positively attending to the eradication of backlogs in its area of jurisdiction.

The new office block is considered vital to justify the continuing role of the Municipal Council and ensure the long term continuation of the Local Municipality's presence and employment within the municipal region.

Service delivery projects in the roads sector has been identified from Senqu's IDP and will be funded through a TIP facility that will :

- unlock economic opportunities,
- improve the delivery of basic services in the previously disadvantaged areas in Senqu,
- upgrade key municipal and socio-economic infrastructure,
- reduce infrastructure backlogs.
- Increased and improved stock of core public infrastructure in areas such as roads;
- Improved quality of life and economic opportunities for distanced rural communities;
- Support for long term economic growth;
- Improvement of community infrastructure;

- More efficient use of existing infrastructure;

Therefore, DBSA will fund R17m (15.2%) of SM's next four year's Capital development programme of R112m as depicted in the table below:

Capex & Project Funding Contributions	FY08/09 R'000	FY 09/10 R'000	FY 09/10 R'000	FY 10/11 R'000	TOTALS R'000
DBSA	7 500	7 500	2 000		17 000
Public Sector	18 400	22 100	16 000	18 100	74 600
Private Sector					
Other (Specify)					
Borrower	2 700	1 200	3 100	13 700	20 700
Total Programme Value	28 600	30 800	21 100	31 800	112 300

5. Motivation - Targeted Infrastructure Programme (TIP)

The team recommends that consideration be given to the maintenance of access roads projects as per Senqu's IDP and be funded under the Targeted Infrastructure Programme in line with the motivation given below:

- Earmarked for an area that is critical for development. Sound infrastructure is a pre-requisite in attracting investors for local economic development. Senqu is not attracting major investors due to the poor infrastructure especially roads and the economic conditions.
- It forms part of the key basic service deliverables that is also essential for economic development and the health and wellbeing of the communities.
- It will be easier to focus only on the upgrading and refurbishment of the access roads since it is specific projects contained within a specific location that can be monitored and measured easily for development impact.
- Providing an incentive for the municipality to prioritise the development of basic access road in the township and rural areas despite them having low cost recovery.

- Enabling Senqu to apply sustainable development principles emphasising on the integration of social and economic infrastructure to uplift the quality of life and create further opportunities to improve the socio-economic indicators in the area. This implies that there will be better opportunities for the creation of economic opportunities such as business development and job creation, as well as easier access to social services like the emergency and municipal services and the law enforcement.
- An investment that can generally improve the quality of life whilst accelerating and deepening the development impact by improving the backlogs. Due to the high maintenance costs for gravel roads (every year compared to once every seven years for surfaced roads), they may not receive the required maintenance annually with a possible negative impact on the communities.

In conclusion, Senqu has a technical team that is competent to implement the access roads maintenance projects. The only challenge is insufficient funding. The DBSA team, as part of its support to the Municipality, offers the appropriate knowledge products including advisory, technical assistance, Siyenza Manje deployment, etc based on the appraisal outcomes and progress monitoring during the implementation of the programme of the actual projects.

The total project cost for the office building and access roads projects is estimated at R 17 million (inclusive of VAT). The DBSA funding of R 17 million, for assets with a 20 year economic life, will be sourced from one loan agreement with two elements, with a 20 year loan period.

6. PROJECT COST

The total project cost is R23.4m of which the office building project is estimated at R18.4m million (inclusive of VAT) and infrastructure development is estimated at R5m. The DBSA will fund R17m and the borrower R6.4m.

7. DESIGN AND CONSTRUCTION PRINCIPLES AND PARAMETERS

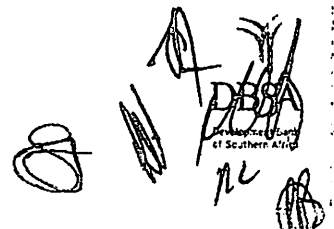
- 7.1 The design, conversion and building of new office space will follow sound engineering practices as contained in the applicable SABS and Eskom Codes, Standards and practices.
- 7.2 The building work to be executed in the Project is fully documented and will be measured in a Bill of Quantities. The contract/s for the project was advertised for public tendering and the contract/s was awarded in accordance with the Borrower's Financial Regulations.

8. INSTITUTIONAL ARRANGEMENTS FOR PROJECT IMPLEMENTATION

- 8.1 A Project Steering Committee (PSC) will be formed, comprising of the SM and DBSA and the Service Providers.
- 8.2 The Borrower shall have the responsibility for the operation and maintenance of the infrastructure.
- 8.3 The Borrower shall use its own procurement procedures, for the appointment of contractors and sub-contractors.
- 8.4 The Borrower undertakes to make use of local contractors and local labour, for the construction and maintenance of the infrastructure.

9. ENVIROMENTAL IMPACT MANAGEMENT

- 9.1 Quality environmental management, at the relevant levels of authority, is to be maintained. The project is to be implemented and operated within all relevant environmental health and safety legislation and regulations.
- 9.2 The borrower will undertake the necessary environmental due diligence measures that will be required to manage environmental risks during construction.
- 9.3 An Environmental Management Plan (EMP) will be developed. The use of an Environmental Control Officer (ECO) for the construction phases of the project will



apply. The ECO will write up a final audit report on completion of the project. Tender documents shall make provision for the Environmental Management Plan requirements, for example insisting on materials being sourced from legally operating quarries. The Draft EMP will be sent to the DBSA team for inputs. All environmental monitoring reports will be sent to the DBSA team for information.

9.4 The municipality will provide the DBSA with a letter with each request for payment indicating that the activities falling under that particular claim were implemented according to all environmental, health and safety legal requirements

9.5 The municipality will put appropriate systems in place to maintain the municipal buildings and their associated infrastructure

10. Disbursement Schedule

Elements	Disbursement (R '000)			
	Q 4 2008/09	Q 1 2009/10	Q 2 2009/10	TOTAL
Element 1: Office Building	6 000	6 000		12 000
Element 2: Infrastructure (TIP)	1 500	1 500	2 000	5 000
Total	7 500	7 500	2 000	17 000

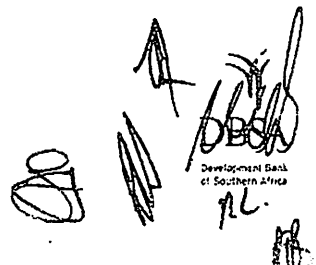
LOGFRAME

	SUMMARY	INDICATORS	VERIFICATION	ASSUMPTIONS
GOAL	To enable improved municipal service delivery and administration that will have a positive impact on socio-economic conditions and communities in the municipal area.	Services both appropriate and affordable	Monitoring and evaluation by DBSA team	Senqu accepts the DBSA loan agreement
PURPOSE	To provide co-finance for the construction of a new office building.	Delivery according to applicable SABS and NER design code and standards	Monitoring of management and implementation procedures and flow of disbursements	All developments are approved by stakeholders and approved in budget
OUTPUTS	Municipal Office Building	New office space construction	Monthly meetings of Project Steering Committee (PSC) to oversee implementation of Project to approved design principles and adherence to sound engineering practices	Availability of required material and construction skills and expertise
ACTIVITIES	Monitoring project implementation	Project implemented according to engineering specifications	Construction and quality to be verified by responsible engineers.	All role players that can contribute to a successful implementation will be involved

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SOURCE AND APPLICATION OF FUNDS STATEMENT

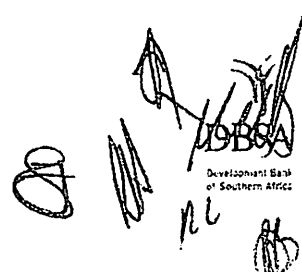
Sectors	Total CDP(R)	DBSA (R)	BORROWER (R)
Administrative Building	18 400 000	12 000 000	6 400 000
Access Roads	5 000 000	5 000 000	0
Total	23 400 000	17 000 000	6 400 000



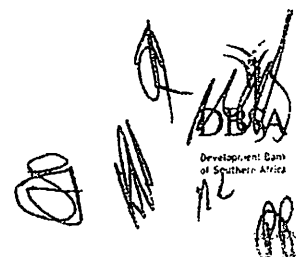
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PROJECT CO-OPERATION

1. To ensure that the purposes of the Loan are accomplished, the Parties shall:-
 - 1.1 periodically, and at the request of either Party,:-
 - 1.1.1 exchange views, with regard to the progress of the Project, the benefits derived therefrom and the performance of their respective obligations, in terms of this Agreement, as well as other matters relating to the purposes of the Loan; and
 - 1.1.2 furnish each other with all such information, as may be reasonably requested, with regard to the progress of the Project, the benefits derived therefrom and the general status of the Loan;
 - 1.2 promptly inform each other of any fact, which interferes with, or threatens to interfere with, the progress of the Project, the accomplishment of the purposes of the Loan, any related matter, and, in particular, the performance, by either Party, of its obligations, in terms of this Agreement;
 - 1.3 confirm that they have determined the technical, financial and organisational requirements, in respect of planning, management and control of the Project, to ensure the efficient and effective execution and maintenance of the Project and related matters; and
 - 1.4 jointly, determine the criteria to be taken into consideration, when awarding contracts for items and services to be financed by the Loan.
2. The Borrower shall:-
 - 2.1 grant representatives of the DBSA the opportunities reasonably necessary, to visit any relevant area, for purposes related to the Loan;
 - 2.2 in addition to the amount made available, in terms of this Agreement, be responsible for the provision of all other funds necessary for the successful execution of the Project, as set out in Annexure B, including funds to be supplied by third parties, as reflected in the said Annexure B;



- 2.3 be responsible for the management and maintenance of work carried out, within the context of the Project;
 - 2.4 with regard to the procurement of goods and services for the Project, in consultation with the DBSA, invite participation, in tender or quotation procedures on an open bid basis (such documentation to be drawn up, in consultation with the DBSA's Project Team and ratified by the DBSA), from natural persons and bodies corporate, respectively;
 - 2.5 ensure that contractors, to whom contracts are awarded, are insured, and remain insured, in terms of contractors-all-risk-insurance policies, in a manner reasonably acceptable to the DBSA;
 - 2.6 insure, and keep insured at the replacement value thereof, such of its interests in the Project, against such risks, as may be agreed upon by the Parties;
 - 2.7 maintain, or cause to be maintained, records, adequate to identify the operations carried out by means of the Loan, and furnish the DBSA with all such information (e.g. progress reports), concerning the implementation of the Project;
 - 2.8 apply the Loan, in accordance with Annexure B;
 - 2.9 require each contractor, to whom a contract is awarded, to furnish a performance guarantee acceptable to the DBSA, in terms whereof the completion of such contract is guaranteed; and
 - 2.10 preserve all documents and accounting records, relating to the Project, up to the expiry of a period of 9 (nine) years, after signature of this Agreement, and shall allow the DBSA, at the DBSA's cost, at any reasonable time, to have such documents and records audited by a person, nominated by the DBSA.
3. Where the Parties agree that the further appointment of consultants, or the revision of the brief of appointed consultants, is necessary, the following criteria shall obtain:-
- promotion and/or support of the SMME sector;
 - past experience with similar projects;
 - knowledge of local conditions;
 - abilities and qualifications;
 - membership of professional institutions.



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of Southern Africa

AUTHORISATION
BORROWER

Development Bank
Southern Africa
DBSA
12
[Handwritten signatures and initials]

**DEVELOPMENT BANK OF SOUTHERN AFRICA LIMITED: DELEGATIONS OF SIGNING
AUTHORITIES FOR INVESTMENT LOANS AND TECHNICAL ASSISTANCE**

PAUL CAMBO BALOYI

in his capacity as Chief Executive of the Development Bank of Southern Africa, in terms of authority delegated to the incumbent of this post by the Board of Directors of the Development Bank of Southern Africa Limited on 20 March 1997, as amended and read with section 5 of the Development Bank of Southern Africa Act No 13 of 1997, determined on 1 October 2006 that:

PAUL CAMBO BALOYI

in his capacity as Chief Executive Officer
and Managing Director

OR

HEINZ WEILERT

in his capacity as Chief Operating Officer

OR

LEONIE VAN LELYVELD

in her capacity as Chief Risk officer

OR

PIETER DE LA REY

in his capacity as Chief Financial Officer

OR

ADMASU YILMA TADESSE

OR

ERNEST ATHUR DIETRICH

OR

LOYISO NDLOVU

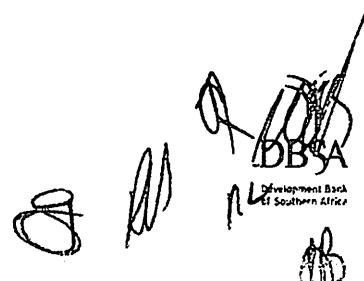
OR

SNOWY JOYCE KHOZA

OR

RAVINDRA NAIDOO

OR

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MAGARE LUTHER MASHABA

OR

SAMUEL RAPULANE MOGOTOTOANE
in his capacity as Manager: Legal Services

OR

BANE MOEKETSI MALEKE

OR

PUMLA MANNYA

OR

CHUCHEKA BEN MHLONGO

OR

EMILE DU TOIT

OR

REMBULUWANI BETHUEL NETSHISWINZHE

OR

TSHOKOLO PETRUS NCHOCHO

OR

WILLIAM LUGEMWA

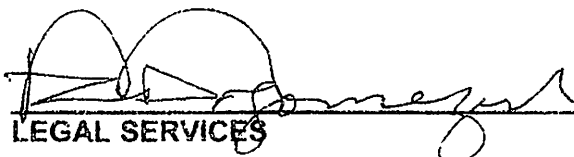
in their capacities as Managers: Business Units

be authorised for and on behalf of the Development Bank of Southern Africa to enter into agreements in terms whereof money is:-

1. lent, or
2. granted for the purpose of technical assistance,

and to perform all acts and sign all contracts or any other documentation in connection therewith that may be necessary for the purpose.

31 MARCH 2009
DATE


LEGAL SERVICES


DBSA
Development Bank
of Southern Africa