

## Loan Agreement

### Parties:

**[insert name/description of the lender]**

(hereinafter referred to as the "Lender")

and

**[insert name/description of the borrower]**

(hereinafter referred to as the "Borrower")

### Introduction

- A** The Borrower requires a loan facility for a maximum amount equal to the Loan Amount.
- B** The Lender is willing to lend the Loan Amount to the Borrower upon the terms and conditions set out in this Agreement.

### It is agreed

#### 1 Definitions and interpretation

- 1.1 In this Agreement, unless the context requires otherwise:
- 1.1.1 Agreement means this Loan Agreement;
  - 1.1.2 Borrower means **[insert name]**;
  - 1.1.3 Lender means **[insert name]**;
  - 1.1.4 Building Contract means the written agreement entitled **[insert name of contract]** [entered into OR to be entered into] between the Borrower and **[insert name of Contractor]** on or about **[insert date]**;
  - 1.1.5 Business Day means any day other than a Saturday, Sunday or official public holiday in South Africa;
  - 1.1.6 Capital Outstanding means, at any time, the aggregate principal amount outstanding of the Loan, together with capitalised interest, if any, thereon;
  - 1.1.7 Companies Act means the Companies Act 71 of 2008;
  - 1.1.8 CP Documents means:
    - 1.1.8.1 certified copies of the constitutional documents of the Borrower;

- 1.1.8.2 a certified copy of the authorising resolutions of the board of directors of the Borrower;
- 1.1.8.3 duly executed original of each Transaction Document;  
*\* Practice note: Consider whether written confirmation that each Material Contract has become unconditional in accordance with its terms should also be listed as an additional condition precedent.*
- 1.1.8.4 an Independent Valuation confirming a value of not less than R **[insert amount]** of the Property;
- 1.1.8.5 a certified copy of an electrical compliance certificate relating to the Premises;
- 1.1.8.6 a certified copy of a **[insert]** certificate relating to the Premises;
- 1.1.8.7 a certified copy of a **[insert]** report relating to the Premises;
- 1.1.8.8 a certified copy of the written consent of **[insert]** confirming that **[insert details]**;
- 1.1.8.9 [documentary evidence that all the Insurances have been obtained and are in full force and effect];
- 1.1.8.10 documentary evidence that the following has occurred in the relevant Deeds Office:
  - 1.1.8.10.1 **[insert details]**; and
  - 1.1.8.10.2 **[insert details]**;
- 1.1.8.11 a certified copy of all authorisations required in connection with the transfer of the Property to the Borrower; and
- 1.1.8.12 **[insert any other relevant documentation]**;

*\* Practice note: Delete whichever is not applicable*

1.1.9 Development means the refurbishment of buildings, construction of buildings, demolition of existing buildings and construction of new buildings on the Property;

*\* Practice note: Insert whichever is relevant*

1.1.10 Default means an Event of Default or any event or circumstance specified in clause 0 which would (upon the expiry of any applicable grace period, the giving of notice, the making of any determination under this Agreement or any combination of any of the foregoing) be an Event of Default;

1.1.11 Encumbrance means any mortgage, pledge, lien, assignment or cession conferring security, hypothecation, security interest, preferential right or trust arrangement or any other agreement or arrangement, the effect of which is the creation of security;

1.1.12 Event of Default means any event or circumstance specified as such in clause 0 (Events of Default);

1.1.13 Finance Documents means:

- 1.1.13.1 this Agreement;

- 1.1.13.2 the Mortgage Bond;
- 1.1.13.3 any other finance document or other document designated as such by the Lender and the Borrower;

***\*Practice note: The definition of Finance Documents will only be required if the Borrower will be providing security to the Lender. If no security will be provided the definition of Finance Documents should be deleted and all references in this Agreement to “the Finance Documents” should be replaced with “this Agreement”.***

- 1.1.14 Insurances means all insurances of any nature whatsoever in and to any insurance policies (existing and future) in respect of the Premises whether procured by the Borrower or any third party (or on any of their behalves) as required pursuant to the Lease Agreement, the provisions of this Agreement and/or the Finance Documents and/or any other agreement and all and any claims in respect thereof and all and any moneys paid in respect of such claims;
- 1.1.15 Interest Rate means **[insert interest rate]**;
- 1.1.16 Independent Valuation means the valuation of the Property as determined by an Independent Valuer;
- 1.1.17 Independent Valuer means an independent, registered, sworn property valuer, who is appointed by the Lender and is experienced in the valuation of commercial properties similar in value as the Property;
- 1.1.18 Lease Agreement means the written agreement entitled **[insert name of agreement]** entered into **OR** to be entered into between **[insert]** and **[insert]** on or about **[insert date]** pursuant to which **[insert description]** are **OR** will be leased by **[insert name]** from **[insert date]**;

***\*Practice note: Insert this definition if this agreement is relevant for the transaction and is one of the Material Contracts.***

- 1.1.19 Lender means **[insert name]**;
- 1.1.20 Loan means the loan to be made by the Lender to the Borrower or the principal amount outstanding for the time being of the loan;
- 1.1.21 Loan Amount means an amount of R **[insert amount]**;
- 1.1.22 Loan Outstanding means the Capital Outstanding together with all accrued but unpaid and uncapitalised interest thereon;
- 1.1.23 Material Contracts means:
  - 1.1.23.1 the Building Contract;
  - 1.1.23.2 the Lease Agreement;
  - 1.1.23.3 the Property Management Agreement;
  - 1.1.23.4 the Sale Agreement; and
  - 1.1.23.5 any other document designated as a Material Contract by the Parties;

***\*Practice note: Insert whichever is applicable***

1.1.24 Mortgage Bond means the first covering mortgage bond registered or to be registered by the Borrower in favour of the Lender over the Property in the capital amount of R **[insert]**;

***\*Practice note: Delete if irrelevant***

1.1.25 Parties means the Borrower and the Lender and Party means, as the context requires, any one of them;

1.1.26 Premises means the Property and the buildings thereon;

1.1.27 Property means **[insert description of property]**;

1.1.28 Property Management Agreement means the written agreement entitled **[insert name of agreement]** **[insert date entered into OR to be entered into]** between **[insert name]** and **[insert name]** on or about **[insert date]** pursuant to which **[insert]** **[are OR will be]** managed by **[insert name]** for and behalf of **[insert name]**;

***\*Practice note: Insert this definition if this agreement is relevant for the transaction and is one of the Material Contracts.***

1.1.29 Repayment Date means **[insert date OR each of the dates specified in clause 0 below]**;

1.1.30 Sale Agreement means the written agreement entitled **[insert name]** **[entered into OR to be entered into]** between **[insert name]** and **[insert name]** on or about **[insert date]** pursuant to which the Premises **[are OR will be sold]** by **[insert name]** to **[insert name]**;

1.1.31 Signature Date means the date of the last signature to this Agreement;

1.1.32 Term means the period from the Advance Date to the date on which the Borrower has paid all amounts (whether in respect of interest, principal or otherwise) owing by it to the Lender in terms of this Agreement; and

1.1.33 Transaction Documents means:

1.1.33.1 this Agreement **OR** the Finance Documents; and

1.1.33.2 the Material Contracts.

## **2 Interpretation**

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

2.1.1 the Lender, the Borrower or any Party shall be construed so as to include its successors in title, permitted cessionaries and permitted transferees;

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

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

2.1.4 this Agreement or any other agreement or instrument includes (without prejudice to any prohibition on amendments) all amendments (however fundamental) to, or novations of this Agreement or other agreement or instrument, including any

amendment or novation providing for any increase in the amount of a facility or any additional facility or replacement facility;

2.1.5 the use of the word including followed by specific examples will not be construed as limiting the meaning of the general wording preceding it, and the *eiusdem generis* rule must not be applied in the interpretation of such general wording or such specific examples;

2.1.6 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;

2.1.7 a person includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);

2.1.8 a regulation includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, being of a type with which any person to which it applies is accustomed to comply) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;

2.1.8.1 a provision of law is a reference to that provision as amended or re-enacted; and

2.1.8.2 a time of day is a reference to Johannesburg time.

2.2 Clause headings are for ease of reference only.

2.3 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.

2.4 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it appears only in an interpretation clause, effect shall be given to it as if it were a substantive provision of this Agreement

2.5 Unless inconsistent with the context, an expression in this Agreement which denotes the singular includes the plural and vice versa.

2.6 The rule of construction that, in the event of ambiguity, a contract shall be interpreted against the party responsible for the drafting thereof, shall not apply in the interpretation of this Agreement.

2.7 The expiry or termination of this Agreement shall not affect those provisions of this Agreement that expressly provide that they will operate after any such expiry or termination or which of necessity must continue to have effect after such expiry or termination, notwithstanding that the clauses themselves do not expressly provide for this.

2.8 This Agreement shall to the extent permitted by applicable law be binding on and enforceable by the administrators, trustees, permitted cessionaries, business rescue practitioners or liquidators of the Parties as fully and effectually as if they had signed this Agreement in the first instance and reference to any Party shall be deemed to include such Party's administrators, trustees, permitted cessionaries, business rescue practitioners or liquidators, as the case may be.

2.9 Where figures are referred to in numerals and in words in this Agreement, if there is any conflict between the two, the words shall prevail.

2.10 Unless a contrary indication appears, where any number of days is to be calculated from a particular day, such number shall be calculated as including that particular day and excluding the last day of such period.

### 3 Conditions precedent

3.1 The Lender shall not be obliged to lend the Loan Amount to the Borrower unless the Lender has confirmed, by notice in writing to the Borrower:

3.1.1 that:

3.1.1.1 all of the CP Documents have been delivered to it in a form and in substance satisfactory to it; or

3.1.1.2 to the extent that any CP Documents are not in a form and in substance satisfactory to it or have not been delivered, it has waived or deferred delivery of those CP Documents which are not in a form and in substance satisfactory to it or which have not been delivered pursuant to clause 0 below; and

3.1.2 that no Default or Event of Default has occurred and is continuing or would result from the proposed Loan.

3.2 The Lender may, in its sole discretion, waive or defer satisfaction of any of the CP Documents on written notice to the Borrower.

3.3 Waiver or deferral of the condition of the delivery of any of the CP Documents either at all or in a form and in substance satisfactory to the Lender shall not prejudice the right of the Lender to require subsequent fulfilment of such condition and, unless otherwise specified in any written notice waiving or deferring fulfilment of such condition, such condition shall be fulfilled by the Borrower within one Business Day of the date of the written notice waiving or deferring fulfilment of such condition.

3.4 If the CP Documents have not been delivered to the Lender or waived, as the case may be, in accordance with clauses 0 and 0 above by **[the Advance Date/insert other long stop date]** (or such later date as may be agreed in writing between the Lender and the Borrower) then the Lender shall be entitled to cancel this Agreement by written notice to the Borrower and upon receipt of such notice by the Borrower this Agreement shall immediately be cancelled. Such cancellation shall be without prejudice to the Borrower's obligation under clause 36 (Costs and expenses) pay any such costs, fees and expenses then due and payable.

### 4 Purpose

4.1 Subject to clause 0, the Borrower shall apply all amounts borrowed by it under the Loan towards **[the cost of acquisition of the Property] [funding the Development] [repaying [insert].**

*\*Practice note: Insert whichever is applicable*

4.2 The Lender shall be entitled to but not obliged to monitor or verify the application of any amount borrowed pursuant to this Agreement.

### 5 The Loan

5.1 The Lender will advance a Loan to the Borrower on **[each] [the]** Advance Date for a specific purpose evidenced by the following:

- 5.1.1 [an invoice submitted by **[insert name]** to the Borrower setting out the costs for **[insert]**;
  - 5.1.2 [a certificate signed by **[insert]** confirming **[insert]**; and
  - 5.1.3 **[insert any other point if applicable]**,
- all of which will be acceptable to the Lender.

- 5.2 The Lender shall pay the Loan in the amount required for the specific purpose referred to in clause 0 above into an account notified by the Borrower to Lender on or before the Advance Date.
- 5.3 The Borrower may not request more than **[two]** Loans in any calender month.
- 5.4 The total Loan(s) advanced by the Lender to the Borrower will not exceed the Loan Amount.

**6 Interest**

- 6.1 The Loan shall bear interest during the Term at the Interest Rate.
- 6.2 Interest on the Capital Outstanding shall:
  - 6.2.1 accrue at the Interest Rate on a day-to-day basis;
  - 6.2.2 be calculated on the actual number of days elapsed; and
  - 6.2.3 be capitalised monthly in arrears.
- 6.3 [The Borrower will pay interest on the Loan on each Repayment Date.] **OR** [The Borrower will pay all accrued but unpaid interest on the Repayment Date.]

**7 Repayment**

- 7.1 [The Borrower will repay the Loan in the following instalments:

Repayment Date	Repayment Amount (ZAR)
<b>[insert amount]</b>	<b>[insert amount]</b>

**AND/OR**

- 7.2 [The Borrower shall repay to the Lender the Loan Outstandings in full on the **[final]** Repayment Date.]

***\*Practice note: Insert 0 and 0 if the Borrower will repay the Loan in monthly instalments. Modify repayment profile as may be necessary. Only include if the Loan will repaid in instalments. Delete if the loan will be repaid in lump sum on a future date. Keep 7.2 only if the Loan and unpaid accrued interest will be paid in lump sum on a future date.***

## **8 Interest on arrear amounts**

Interest calculated at the Interest Rate plus **[insert interest amount]**% shall accrue on the outstanding balance of all amounts due and payable but unpaid by the Borrower from time to time in terms of this Agreement. Such interest shall be calculated on a monthly basis from the due date of each such overdue amount to (but excluding) the date of payment thereof and shall be compounded daily in arrears and shall be paid by the Borrower on demand.

## **9 Representations and warranties**

The Borrower makes the representations and warranties set out in this clause 8 to the Lender on the Signature Date and on each day thereafter on which this Agreement is in force.

## **10 Status**

10.1 It is a corporation, duly incorporated and validly existing under the laws of South Africa.

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

## **11 Binding obligations**

The obligations expressed to be assumed by it in the Transaction Documents are legal, valid, binding and enforceable obligations.

## **12 Material Contracts**

The Material Contracts are legal, valid and binding on the parties thereto, are in full force and effect and no default (howsoever described) has occurred thereunder.

***\*Practice note: Carefully consider which of the Material Documents will have been concluded and be effective on the Signature Date.***

## **13 Non-conflict with other obligations**

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

13.1 any law or regulation applicable to it;

13.2 its constitutional documents; or

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

## **14 Power and authority**

14.1 It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Transaction Documents and the transactions contemplated by the Transaction Documents.

14.2 No limit on its powers will be exceeded as a result of the borrowings contemplated by this Agreement.

## **15 Validity and admissibility in evidence**

All authorisations required or desirable:

- 15.1 to enable it lawfully to enter into, exercise its rights and comply with its obligations under the Transaction Documents;
  - 15.2 to make the Transaction Documents admissible in evidence in its jurisdiction of incorporation; and
  - 15.3 for it to carry on its business,
- have been obtained or effected and are in full force and effect.

## **16 No Default**

- 16.1 No Default is continuing or might reasonably be expected to result from the borrowing of the Loan.
- 16.2 No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or to which its assets are subject.

## **17 *Pari passu* ranking**

Its payment obligations under [this Agreement] [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 Insolvency and financial distress**

- 18.1 No:
  - 18.1.1 corporate action, legal proceeding or other procedure or step described in clause 27 (Insolvency and business rescue proceedings); or
  - 18.1.2 creditors' process described in clause 0 (Creditors' process),
  - 18.1.3 has been taken or threatened in relation to it; and none of the circumstances described in clause 29 (Insolvency) applies to it.
- 18.2 It is not "financially distressed" (as defined in the Companies Act 71 of 2008).

## **19 Solvency**

- 19.1 It is not unable nor has it admitted its inability to pay its debts as they fall due and it has not suspended making payment of any of its debts or, by reason of actual or anticipated financial difficulties, commenced negotiations with its creditors generally with a view to rescheduling its indebtedness.
- 19.2 A moratorium has not been declared in respect of any of its indebtedness.

## **20 Independent Valuation**

All information supplied by it or on its behalf to an Independent Valuer for the purposes of each Independent Valuation was true and accurate as the date at which it was given.

## **21 Title to Property**

- 21.1 **[The Borrower is the registered owner of and has good title to the Property free from any Encumbrance [(other than the Mortgage Bond)] and free from any material restrictions and onerous covenants.] OR [With effect from the First Advance Date, it will be the registered owner of and have good title to the**

**Property free from any Encumbrance [(other than the Mortgage Bond)] and free from any material restrictions and onerous covenants.]**

**22 Insurances**

- 22.1 It has procured and maintained comprehensive Insurance over the Premises.
- 22.2 All Insurances required to have been effected have been effected and are in full force and effect **[and the interest of the Borrower and the Lender, where relevant, have been or will be noted on such Insurances].**

**23 Security**

- 23.1 The security interests created or expressed to be created by the Finance Documents constitute legal, valid and enforceable security and rank as first priority security interests over the assets described in the relevant Finance Documents and those assets are not subject to any prior or *pari passu* security.
- 23.2 All actions required to perfect the security created or expressed to be created by the Finance Documents have been or will be duly performed and the security created or expressed to be created by the Finance Documents constitutes or will constitute perfected security on all the assets described in the Finance Documents.
- 23.3 [Save for the Mortgage Bond], no Encumbrance exists over (i) all or any of its present or future assets or revenues and (ii) any assets of any security provider which are encumbered pursuant to any Finance Document.]**

***\*Practice note: Insert if security is provided by the Borrower***

**24 Events of Default**

Each of the events or circumstances set out in this clause (other than clause 0 (Acceleration) below) is an Event of Default.

**25 Non-payment**

The Borrower does not pay on the due date or time any amount payable pursuant to [this Agreement] [the Finance Documents] at the place and in the currency in which it is expressed to be payable.

**26 Other obligations**

The Borrower does not comply with any provision of [this Agreement] [the Finance Documents] (other than those referred to in clause 35).

**27 Material Contracts**

- 27.1 Any provision of any Material Contract is or becomes or is alleged by any party to be invalid, illegal, ineffective or unenforceable.
- 27.2 Any Material Contract is repudiated, terminated or rescinded by any party or any party evidences an intention to repudiate, terminate or rescind any Material Contract.
- 27.3 Any Material Contract is amended without the Lender's consent, cancelled or terminated for any reason whatsoever or a breach occurs thereunder.

## **28 Misrepresentation**

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

## **29 Insolvency**

The Borrower is unable or admits inability to pay its debts as they fall due.

## **29 Insolvency and business rescue proceedings**

29.1 Any corporate action, legal proceedings or other procedure or step is taken in relation to:

29.1.1 the suspension of payments, a moratorium of any indebtedness, liquidation, winding-up, dissolution, administration or business rescue of the Borrower;

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

29.1.3 the appointment of a liquidator, receiver, administrative receiver, administrator, business rescue practitioner or other similar officer in respect of the Borrower.

29.2 A meeting is proposed or convened by the directors of the Borrower, a resolution is proposed or passed, application is made or an order is applied for or granted, to authorise the entry into or implementation of any business rescue proceedings (or any similar proceedings) in respect of the Borrower or any analogous procedure or step is taken in any jurisdiction.

## **30 Creditors' process**

Any expropriation, attachment, sequestration, implementation of any business rescue plan, distress or execution affects any asset or assets of the Borrower.

## **31 Unlawfulness**

It is or becomes unlawful for the Borrower to perform any of its obligations under the Transaction Documents.

## **32 Property**

32.1 The Borrower disposes of the Property [without the prior written consent of the Lender].

32.2 The Borrower fails to substantially maintain the Premises in good working order.

32.3 Any material part of the Property is destroyed or damaged.

32.4 The Borrower creates or permits to subsist any Encumbrance on the whole or in part of the Property and any of its other present or future assets or revenue, [except for the Mortgage Bond], without the prior written consent of the Lender.

## **33 Abandonment**

If the Borrower abandons all or a substantial part of the Development for a continuous period of 28 days.]

### **34 Completion**

If the Development is not completed by **[insert date]** as certified by **[insert]**.

### **35 Acceleration**

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

35.1 declare that Loan Outstandings and all other amounts accrued or outstanding under this Agreement be immediately due and payable, whereupon they shall become immediately due and payable; and/or

35.2 declare that the Loan Outstandings be payable on demand, whereupon they shall immediately become payable on demand by the Lender.

### **36 Costs and expenses**

#### **37 Transaction expenses**

The costs of preparing, negotiating and drafting of this Agreement shall be borne by the Borrower.

#### **38 Valuation costs**

38.1 The Lender may request an Independent Valuation at any time.

38.2 The costs of an Independent Valuation shall be borne by the Borrower.]

#### **39 Notices**

##### **39.1 Notices**

39.1.1 Each Party chooses the addresses set out opposite its name below as its addresses to which any written notice in connection with this Agreement may be addressed.

39.1.1.1 The Borrower :

Physical address : **[insert]**

Fax number : **[insert]**

Marked for the attention of: **[insert]**

39.1.1.2 The Lender:

Physical address : **[insert]**

Fax number : **[insert]**

Marked for the attention of: **[insert]**

39.1.2 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing but it shall be competent to

give notice by telefax or email transmitted to its telefax number or email address set out opposite its name above.

39.1.3 A Party may by written notice to the other Party change its chosen addresses and/or telefax number for the purposes of this clause 0 to any other address(es) and/or telefax number, provided that the change shall become effective on the fourteenth day after the receipt of the notice by the addressee.

39.1.4 Any notice given in terms of this Agreement shall:

39.1.4.1 if sent by a courier service be deemed to have been received by the addressee on the seventh Business Day following the date of such sending;

39.1.4.2 if delivered by hand be deemed to have been received by the addressee on the date of delivery;

39.1.4.3 if transmitted by facsimile be deemed to have been received by the addressee on the first Business Day after the date of transmission,

unless the contrary is proved.

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

#### **40 Domicilia**

40.1 Each of the Parties chooses its physical address referred to in clause 39.1 as its *domicilium citandi et executandi* at which documents in legal proceedings in connection with a Finance Document may be served.

40.2 A Party may by written notice to the other Party change its *domicilium* from time to time to another address, not being a post office box or a *poste restante*, in South Africa; provided that any such change shall only be effective on the fourteenth day after deemed receipt of the notice by the other Parties pursuant to clause 39.1.4.

#### **41 Sole agreement**

This Agreement constitutes the sole record of the agreement between the Parties in regard to the subject matter thereof.

#### **42 Amendment**

No amendment or consensual cancellation of this Agreement shall be of any force or effect unless in writing and signed by or on behalf of both of the Parties (or their authorised representatives).

#### **43 Cession and delegation**

[Neither Party shall be entitled to cede and/or delegate all or any of its rights and/or obligations under this Agreement to any person without the prior written consent of the other Party.]

**44 Governing law**

This Agreement is governed by South African law.

**45 Jurisdiction**

45.1 The Parties hereby irrevocably and unconditionally consent to the non-exclusive jurisdiction of the High Court of South Africa, [insert division], [insert place] (or any successor to that division) in regard to all matters arising from this Agreement (including a dispute relating to the existence, validity or termination of this Agreement). The Parties agree that the courts of South Africa are the most appropriate and convenient courts to settle disputes and accordingly no Party will argue to the contrary.

**46 Counterparts**

This 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 Agreement.

Signed at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 2016.

For and on behalf of  
**[insert name/description of the borrower]**  
**(the Borrower)**

\_\_\_\_\_  
Name:  
Capacity:  
Who warrants authority

Signed at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 2016.

For and on behalf of  
**[insert name/description of the lender]**  
**(the Lender)**

\_\_\_\_\_  
Name:  
Capacity:  
Who warrants authority