

AMENDMENT TO
LOAN AGREEMENT

between

THE DEVELOPMENT BANK OF SOUTHERN AFRICA LIMITED

and

DIHLABENG MUNICIPALITY (FORMERLY BETHLEHEM TLC)

In respect of the

DEBT OBLIGATIONS RESCHEDULING



1. DEFINITIONS AND HEADINGS

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

1.1.1 "this Amendment Agreement" shall mean this Amendment Agreement and any annexures hereto;

1.1.2 "the Loan Agreement" shall mean the written agreement concluded by and between the Parties on 4 July 2005.

1.2 All words, phrases and meanings in the Loan Agreement shall bear the same meanings in this Amendment Agreement.

2. BACKGROUND

2.1 The Parties have concluded the Loan Agreement.

2.2 The Parties wish to amend the Loan Agreement.

2.3 The Parties desire that this amendment shall be contained in this Amendment Agreement.

3. AGREEMENT

3.1 The Loan Agreement is, hereby, amended, as follows:-

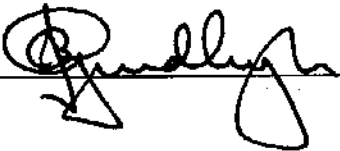
3.1.1 By the deletion, in Clause 1, of the Summary, of the words: "R38 299 420-61 (as at 01/07/2005)" and the replacement, therefor, of the words: "R38 347 902-10 (as at 30/06/2005)"; and

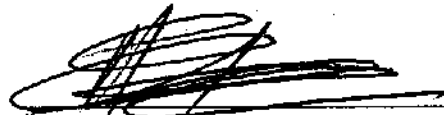
3.1.2 By the deletion, on Annexure B, of the words: "01/07/2005", wherever they appear, and the replacement, therefor, of the words: "30/06/2005".

- 3.2 This Amendment Agreement contains all the amendments to the Loan Agreement and neither of the Parties shall be bound by any undertakings, representations, warranties or promises made, in respect of such amendments, which are not recorded herein.
- 3.3 Nothing, in this Amendment Agreement, shall be construed by either Party, as precluding the Parties from further amending the Loan Agreement, should this become necessary.
- 3.4 Save for the changes contained in this Amendment Agreement, the Loan Agreement shall remain unaltered.

SIGNED at BETHLEHEM on the 26th day of July 2005.

AS WITNESSES:

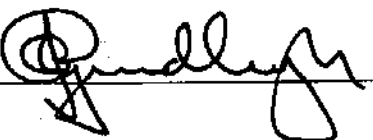
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FOR AND ON BEHALF OF THE
BORROWER, DULY AUTHORISED
THERETO.

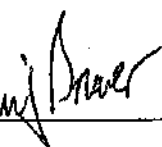
2. 

SIGNED at Midrand on the 01 day of August 2005.

AS WITNESSES:

1. 


FOR AND ON BEHALF OF THE DBSA, DULY
AUTHORISED THERETO.

2. 

LOAN AGREEMENT

*John. Coen
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in respect of

DEBT OBLIGATIONS RESCHEDULING

entered into by and between

DIHLABENG MUNICIPALITY (FORMERLY BETHLEHEM TLC)

and

THE DEVELOPMENT BANK OF SOUTHERN AFRICA LIMITED

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SUMMARY

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1. LOAN AMOUNT : R38 299 420-61 (as at 01/07/2005).
2. LOAN PERIOD : 15 years.
3. INTEREST RATE :
- 3.1 INITIAL FIXED RATE : 14,5%, nominal, per annum, compounded monthly.
4. GRACE PERIOD FOR CAPITAL REPAYMENT : Nil.
5. CAPITAL AND INTEREST REPAYMENT : 180 consecutive equal monthly instalments, commencing on the 31st July 2005.
6. PROJECT FILE NO. : FS100347.

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1. INTERPRETATION

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

- | | | |
|--------|-----------------------------|--|
| 1.1.1 | "the Borrower" | Dihlabeng Local Municipality; |
| 1.1.2 | "the DBSA" | 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; |
| 1.1.3 | "the Parties" | the Borrower and the DBSA; |
| 1.1.4 | "the Project" | Debt Obligations Rescheduling, as described in more detail in Annexure A, attached hereto; |
| 1.1.5 | "the Loan" | the financing granted to the Borrower in terms of Clause 2; |
| 1.1.6 | "the Project Agent" | a person nominated, in writing, by the Borrower, to act on its behalf, in respect of the Project; |
| 1.1.7 | "On-lending" | the transfer, by the Borrower, of any amount to any third parties, from the proceeds of the Loan, excluding payments for the procurements of goods and services; |
| 1.1.8 | "Business Day" | any day, other than a Saturday, Sunday or a Public Holiday; |
| 1.1.9 | "the Interest Payment Date" | the last Business Day of each Interest Period; |
| 1.1.10 | "the Interest Period" | each period of 1 (one) calendar month, commencing on 1 July 2005. Each Interest Period, thereafter, shall begin running from the date of expiry of the preceding Interest Period, notwithstanding that such first day of such Interest Period is not a Business Day; |

1.1.11 "the Initial Fixed Rate

Portion of the Loan" that amount of the Loan, disbursed, and outstanding, from time to time, in respect of which the Initial Fixed Rate is applicable;

1.1.12 "the Initial Fixed Rate" the fixed interest rate, as determined in Clause 3.1 of the Summary;

1.1.13 "this Agreement" this Agreement, together with any Annexures hereto.

1.2 Headings to the Clauses of this Agreement and the Table of Contents are for reference purposes only and are not intended to affect the interpretation hereof.

1.3 Any reference to:-

1.3.1 the singular shall include the plural and vice versa;

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

1.3.3 one gender shall include the other.

1.4 This Agreement shall bind the Borrower and its successors-in-title and/or successors-in-law.

2. THE LOAN

2.1 The Loan shall be:-

2.1.1 an amount not exceeding, in aggregate, R38 299 420-61 (Thirty Eight Million, Two Hundred and Ninety Nine Thousand, Four Hundred and Twenty Rands and Sixty One Cents); 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 No On-Lending shall be effected by the Borrower, unless provided for in this Agreement.

3. **INTEREST**

- 3.1 The Loan shall bear interest on the amounts outstanding, from time to time, at the Initial Fixed Rate.
- 3.2 Interest, pursuant to the Initial Fixed Rate, on the amount outstanding, from time to time, shall be compounded monthly and be payable on the last Business Day of each month. Payment shall commence on the 1st July 2005.
- 3.3 The interest rate for each Interest Period shall be compounded monthly, based on the actual number of days elapsed and a 365-day year, and shall be payable, in arrears, on each Interest Payment Date.

4. **REPAYMENT OF LOAN AND INTEREST**

- 4.1 The Loan, together with interest thereon, from time to time, shall be repaid in 180 (one hundred and eighty) equal monthly instalments, commencing on the 31st July 2005 and, thereafter, at the end of each succeeding month, until the Loan, together with the interest thereon, shall have been fully repaid. Provided that, subject to the provisions of Clause 6, the Borrower may, with 1 (one) month's 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 and provided, further, that this shall not jeopardise the proper completion of the Project.
- 4.2 An Instalment shall be:-
- 4.2.1 an amount, determined as at the 31st day of July 2005;
- 4.2.2 calculated as being sufficient to amortise the outstanding capital amount, together with interest thereon, at the rate set out in clause 3, above, in 180 (one hundred and eighty) equal consecutive monthly payments.

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5. **LATE PAYMENT**

- 5.1 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:-
- 5.1.1 fail to pay, on the due date for payment thereof, any amount owing, or which may become owing, to the DBSA, in terms of this Agreement; or
- 5.1.2 with the DBSA's written consent, defer the payment of any amount so owing.
- 5.2 Penalty interest shall be calculated with regard to the actual period during which the amount payable remained unpaid, at the Initial Fixed Rate, plus 2% (two per centum), from time to time. Penalty interest shall all be compounded monthly and shall be payable, on demand.

6. **EARLY REPAYMENT**

- 6.1 The Borrower shall be entitled to:-
- 6.1.1 only on any Interest Payment Date;
- 6.1.2 but, subject to not less than 30 (thirty) days' prior written notice; and
- 6.1.3 subject to the payment of a prepayment penalty fee ("prepayment penalty fee"),
- prepay all, or portion, of the Loan.
- 6.2 The prepayment penalty fee shall be determinable, as follows:-
- 6.2.1 where the Fixed Rate is less than, or equal to, the reinvestment rate (defined, below), the Borrower shall be liable for the Unwinding Costs (defined, below);
- 6.2.2 where the Fixed Rate is greater than the said reinvestment rate, the Borrower shall pay a prepayment penalty fee equal to the difference, calculated on a present value basis, of the DBSA's prejudice, between the interest which the full, or portion, of the outstanding Loan amount being prepaid, would have produced for each remaining year of the Loan, had there been no prepayment, and the interest which would have been produced, by the DBSA, by a reinvestment of the same amount, having the same repayment schedule, as the full, or portion, of the

outstanding Loan amount being prepaid, including any of the said Unwinding Costs.

6.3 For the purposes of Clause 6.2, above:-

- 6.3.1 the reinvestment rate shall be the rate at which the DBSA can invest the said Loan amount in the relevant Interbank market, for a period equal to the remaining Loan Period, as determined at the relevant Interest Payment Date, of such prepayment;
- 6.3.2 the discount rate to be used shall be equal to the discount rate forecast by the Rand zero curve, as derived from Reuters page. The date used for the present value calculation shall be the date of the prepayment;
- 6.3.3 the amount prepaid shall be equal to a full payment of any instalments of the outstanding Loan amount;
- 6.3.4 payment of the prepayment and prepayment fee shall take place for value on the Interest Payment Date; and
- 6.3.5 "Unwinding Costs" shall mean any and all actual costs, expenses and disbursements, incurred, by the DBSA, in effecting 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 re-acquiring any negotiable instruments that have been issued, in respect of funding all, or any portion, of the Loan.

7. PAYMENTS/REPAYMENTS

7.1 All payments, in terms of this Agreement:-

- 7.1.1 to, or by, the Parties shall be effected in South African Rands;
- 7.1.2 to the Borrower, shall be effected to the credit of such banking account of the Borrower, as the Borrower may, from time to time, direct, in writing;
- 7.1.3 to the DBSA, shall be effected to the credit of such banking account of the DBSA, as the DBSA may, from time to time, direct, in writing;

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- 7.1.4 to the DBSA, shall be effected without deduction and free from any taxes, charges, fees or other costs, whatsoever.
- 7.2 The Borrower shall furnish the DBSA, in writing, with all the necessary information regarding its officials, who are authorised to apply for drawdowns, on the Borrower's behalf.
- 7.3 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.

8. **EVENTS OF DEFAULT**

- 8.1 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.
- 8.2 Without derogating from the generality of the foregoing, the DBSA shall be entitled to exercise its rights in terms of clause 8.1, above, upon the happening of any of the following events:
- 8.2.1 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 clause 8.1, above, requiring it to do so;
 - 8.2.2 any attachment being made, or any execution being levied, against the Borrower;
 - 8.2.3 the Borrower failing to repay any of the DBSA's loans or breaching any agreement entered into between the Borrower and the DBSA;
 - 8.2.4 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, pursuant to this Agreement;

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- 8.2.5 the Borrower proposing any rescheduling, reorganisation or rearrangement of the whole, or part, of its indebtedness with the DBSA, or any of the Borrower's creditors;
 - 8.2.6 the Borrower's business operations, or any significant part thereof, being interrupted for a continuous period of, at least, 3 (three) months;
 - 8.2.7 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;
 - 8.2.8 any order is made, or resolution passed, or other action taken, for the dissolution, or termination, of the existence of the Borrower; and
 - 8.2.9 any representation, warranty or statement made in, or in connection with, this Agreement, or any opinion delivered by, or on behalf of, the Borrower, pursuant to this Agreement, is found to be incorrect.
- 8.3 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.

9. SUSPENSIVE TERMS AND CONDITIONS

The Suspensive Terms and Conditions are set out in Annexure F.

10. FURTHER TERMS AND CONDITIONS

The Further Terms and Conditions are set out in Annexure G.

11. ARBITRATION

- 11.1 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 any terms and conditions of this Agreement, which is not resolved amicably, through consultation or negotiation, shall, subject to the other provisions of this Clause, 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, in terms of this Agreement, shall not be regarded as a dispute for the purpose of this Clause and neither Party shall, therefore, be obliged to refer such a claim to arbitration.

- 11.2 In the case of arbitration, a tribunal shall be comprised 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 has to adjudicate. In the event that the arbitrator resigns, or becomes unable to act, a successor shall be appointed in the same manner as prescribed, above, for the appointment of the original arbitrator and the successor shall have all the powers and duties of his predecessor.
- 11.3 The arbitration shall be held at Johannesburg, and in accordance with whatever procedures, the arbitrator considers appropriate. In particular, the arbitrator, may, if he 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.
- 11.4 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 judgment.
- 11.5 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.

12 GENERAL

12.1 DOMICILIUM

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

In the case of the DBSA:

Physical address: Development Bank of Southern Africa Limited
1258 Lever Road
Headway Hill
MIDRAND
SOUTH AFRICA
1685; or

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

Telefax number: (011) 313 3086

In the case of the Borrower:

Physical address: Dihlabeng Municipality
20 Muller Street
Bethlehem,
9700; or

Postal address: P O Box 551
Bethlehem
9700; or

Telefax number: (058) 303 5076

12.1.2 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.

12.1.3 Any notice addressed by either Party to the other ("the addressee"), which:-

12.1.3.1 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;

12.1.3.2 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 may agree that all other forms of correspondence and/or requests may be effected, via telefax and/or electronic mail (e-mail).

12.2 WHOLE AGREEMENT

This Agreement 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.

12.3 NON-VARIATION

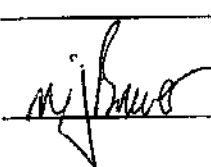
No variation, amendment, consensual cancellation or addition to this Agreement shall be valid, unless the same has been reduced to writing and signed by, or on behalf, of the Parties.

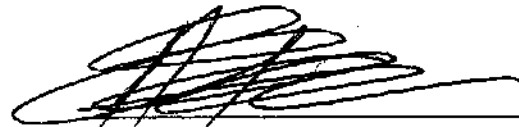
12.4 NON-ENFORCEMENT/INDULGENCE

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 rights, in respect of which such indulgence was granted.


SIGNED AT MIRANO ON THE 27 DAY OF JUNE 2005.

AS WITNESSES:

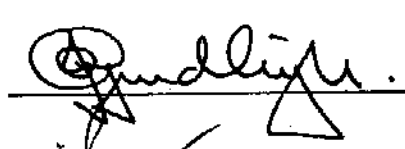
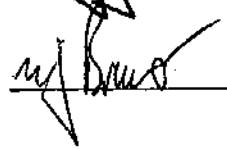
1. _____
2. 



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

SIGNED AT  ON THE 04 DAY OF July 2005.

AS WITNESSES:

1. 
2. 



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

PROJECT DESCRIPTION

1. The previous agreement, between the Borrower and the DBSA (FS 100347), is, hereby, superseded by this Agreement.

SOURCE AND APPLICATION OF FUNDS STATEMENT

DESCRIPTION	TOTAL (as at 01/07/2005)	DBSA (as at 01/07/2005)
Debt Obligations Rescheduling	38 299 420-61	38 299 420-61
TOTAL	38 299 420-61	38 299 420-61

PROJECT CO-OPERATION

ANNEXURE C

NOT APPLICABLE.

LIST OF CONTRACTORS

NOT APPLICABLE.

Q P

AUTHORISATION - BORROWER

RB

AUTHORISATION**MANDLA SIZWE GANTSHO**

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 on 19 September 1985, determined on 7 October 2004 that:

MANDLA SIZWE GANTSHO
in his capacity as Chief Executive

OR

JACOB HENRY DE VILLIERS BOTHA

OR

DISEBO CONSIGLIO MOEPHULI

OR

LEWIS MAXWELL MUSASIKE

OR

ZANELE JOYCE MATLALA

OR

SNOWY JOYCE KHOZA

OR

MAGARE LUTHER MASHABA

in their capacity as Executive Managers

OR

JEANETTE SIBONGILE NHLAPO
in her capacity as Chief Operating Officer, DBSA: Development Fund

OR

PULE LESAILANE MOKHOB
in his capacity as Manager: Legal Services

OR

CHRISTINA JOANNA GOLINO

OR

BANE MOEKETSI MALEKE

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OR

PUMLA MANNYA

OR

MAKGOTLA DANIEL PETER MOKUENA

OR

FRENCIEL FRANKTON GILLION

OR

JANINE THORNE

OR

REMBULUWANI BETHUEL NETSHISWINZHE

OR

LOYISO PITAYANA

OR

JAMES MFANVELI TWANA NDLOVU

in their capacity as Managers: Business Units (DSP Related)

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 documents that may be necessary for the purpose

04/07/2005
DATE


LEGAL ADVISOR

SUSPENSIVE TERMS AND CONDITIONS

NONE.

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FURTHER TERMS AND CONDITIONS

- 1.1 The Borrower shall furnish the DBSA with its audited Financial Statements, within 6 (six) months from the end of its financial year-ends.

Q. RB