

# DBSA



## IMPLEMENTATION

Loan Agreement

**LOAN AGREEMENT**

in respect of

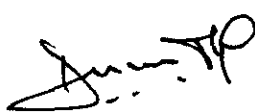
**KEIMOOES: UPGRADING OF URBAN INFRASTRUCTURE**

entered into by and between

**KAI! GARIB MUNICIPALITY**

and

**THE DEVELOPMENT BANK OF SOUTHERN AFRICA LIMITED**



ONTVANG
2001 -08- 03
RECEIVED



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**SUMMARY**

1. LOAN AMOUNT : R1 506 000-00
2. LOAN PERIOD : 20 years
3. INTEREST RATE :
- 3.1 INITIAL FIXED RATE : 16,00%, nominal, per annum, payable six monthly;
- 3.2.1 FLOATING RATE : 3 (three) months ZAR-JIBAR-SAFEX; plus the sum, from time to time, of the Operating Cost Margin and the Funding Cost Margin (presently, 55 basis points); plus, in respect of risk, 150 (one hundred and fifty) basis points; or
- 3.2.2 : 6 (six) months ZAR-JIBAR-SAFEX; plus the sum, from time to time, of the Operating Cost Margin and the Funding Cost Margin (presently, 60 basis points), plus, the overhead charge of 0,75% (nought comma seven five percent); plus, in respect of risk, 150 (one hundred and fifty) basis points.
- 3.3 CONVERTED FIXED RATE : the DBSA Base Rate, then applicable; plus, in respect of risk, 150 (one hundred and fifty) basis points.
4. GRACE PERIOD FOR CAPITAL REPAYMENT : 6 months
5. CAPITAL REPAYMENT : 39 equal six-monthly instalments, commencing on the last day of the 2nd Half-year after the Half-year during which the first disbursement was advanced to the Borrower.
6. PROJECT FILE NO. : NC 13702

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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" Kail Garib 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" Keimoes: Upgrading of Urban Infrastructure, 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 "Half-year" from the first day of January to the 30th day of June and/or from the first day of July to the 31st day of December during the same calendar year;
- 1.1.9 "Business Day" any day, other than a Saturday, Sunday or a Public Holiday;
- 1.1.10 "the Interest Payment Date" the last Business Day of each Interest Period;
- 1.1.11 "the Interest Period" each period of 6 (six) months, commencing on 1 January, or 1 July (as the case may be), of each calendar year. The first Interest Period shall begin running from the date of the first disbursement to

30 June, or 31 December, whichever date immediately follows such first disbursement. 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. Notwithstanding the foregoing, any period less than six months, running from the date of a disbursement to the date of 30 June, or 31 December (as the case may be), immediately following such first disbursement, shall be deemed to be an Interest Period;

- 1.1.12 "the Reset Date" the first Business Day of January and July, of each calendar year, or such other dates, as may be agreed, in writing, between the Parties;
- 1.1.13 "the Reset Period" a period of 3 (three) or 6 (six) months, as the case may be, commencing from the Reset Date;
- 1.1.14 "the Floating Rate  
Portion of the Loan" that amount of the Loan, disbursed, and outstanding, from time to time, in respect of which the Floating Rate is applicable;
- 1.1.15 "the Floating Rate" the floating interest rate, from time to time, as determined in Clause 3.2 of the Summary;
- 1.1.16 "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;
- 1.1.17 "the Initial Fixed Rate" the fixed interest rate, as determined in Clause 3.1 of the Summary;

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- 1.1.18 "the Converted Fixed Rate Portion of the Loan" that amount of the Loan, disbursed, and outstanding, from time to time, in respect of which the Converted Fixed Rate is applicable;
- 1.1.19 "the Converted Fixed Rate" the fixed interest rate, as determined in Clause 3.3 of the Summary;
- 1.1.20 "the Conversion Option" the option, in terms of which, the Borrower may convert from the Floating Rate to the Converted Fixed Rate, but not vice versa, pursuant to Clause 3.9;
- 1.1.21 "the DBSA Base Rate" the DBSA fixed interest rate for fixed rate loans, ruling at the time of exercise, by the Borrower, of the Conversion Option;
- 1.1.22 "the Reference Banks" the four major Banks in the Johannesburg Interbank market, selected by the DBSA;
- 1.1.23 "ZAR-JIBAR-SAFEX" in relation to each Interest Period, for the Floating Rate Portion of the 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 Rands, for a three or six month period, as the case may be, which appears on the Reuters Screen, SAFEX Page, as of 11h00, Johannesburg time, two Business Days prior to the commencement of the relevant Interest Period;
- 1.1.24 "ZAR-JIBAR-Reference Banks Rate" in relation to each Interest Period, for the Floating Rate Portion of the Loan, shall mean the yield rate, determined on the basis of the mid-market deposit rate,

for South African Rands, for a three or six month period, as the case may be, quoted by the Reference Banks, at, or about, 11h00, Johannesburg time, two Business Days prior to the commencement of the relevant Interest Period;

1.1.25 "the Operating Cost Margin"

the margin for operating expenses, as shall be determined, by the DBSA, from time to time, in its reasonable discretion;

1.1.26 "the Funding Cost Margin"

the margin representing an average cost of borrowing, to the DBSA, as shall be determined, by the DBSA, from time to time, in its reasonable discretion;

1.1.27 "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 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 SAFEX Page, or on some other screen page.

1.5 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, R1 506 000-00 (one million, five hundred and six thousand Rand); 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 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, or the Floating Rate (from time to time) or the Converted Fixed Rate, as the case may be, at the election of the Borrower.
- 3.2 The Borrower shall, subject to this Clause, indicate its choice, in writing, of the interest rate option to be applied. The document, in which the Borrower indicates its option, shall be deemed to form part of this Agreement.
- 3.3 In the event that the Borrower, initially, exercises its option in favour of a fixed rate, then the Initial Fixed Rate shall apply to the Loan.
- 3.4 Interest, pursuant to the Initial Fixed Rate, on the amount outstanding, from time to time, shall be compounded six-monthly and payable on the last Business Day of each Half-year. Payment shall commence on the last Business Day of the Half-year following the Half-year during which the first disbursement was advanced to the Borrower from the proceeds of the Loan.
- 3.5 In the event that the Borrower, initially, exercises its option in favour of a floating rate, then the Floating Rate, from time to time, shall apply to the Floating Rate Portion of the Loan.
- 3.6 The rate of interest applicable to the Floating Rate Portion of the Loan, disbursed, and outstanding, from time to time, (expressed as a percentage rate, per annum) shall be the three or six month ZAR-JIBAR-SAFEX, as the case may be, plus the sum, from time to time, of the Operating Cost Margin and the Funding Cost Margin, plus, in respect of risk,

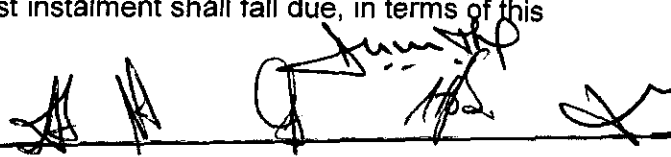
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the basis points enumerated in Clause 3.2 of the Summary. If, for any reason, it shall become impossible to determine ZAR-JIBAR-SAFEX, or ZAR-JIBAR-SAFEX rates shall become unavailable, by reason of market disfunction, then the rate of interest applicable to the Floating Rate Portion of the Loan shall be the three or six month ZAR-JIBAR-Reference Banks Rate, as the case may be, plus the sum, from time to time, of the Operating Cost Margin and the Funding Cost Margin, plus, in respect of risk, the basis points enumerated in Clause 3.2 of the Summary.

- 3.7 The DBSA will be entitled to request the principal Johannesburg office of each of the Reference Banks to provide a quotation of their 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.
- 3.8 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, and shall be payable, in arrears, on each Interest Payment Date.
- 3.9 The Borrower may, on any Reset Date, convert all of the Floating Rate Portion of the Loan into a Converted Fixed Rate Portion of the Loan, provided that the Borrower shall give, to the 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 have exercised the Conversion Option shall bear interest at the Converted Fixed Interest Rate. The DBSA shall notify the Borrower, in writing, of the DBSA Base Rate applicable, at the time. The Converted Fixed Interest Rate shall, for the purpose of this Clause, be calculated on the same basis as in Clause 3.4, above.

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

- 4.1 The capital amount of the Loan shall be repaid in 39 (thirty nine) equal six-monthly instalments, commencing on the last day of the 2nd (second) 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 have been fully repaid. Provided that, subject to the provisions of Clause 7, 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 outset of the 1st (first) Half-year following the Half-year during which the first disbursement was made to the Borrower from the proceeds of the Loan;
- 4.2.2 calculated as being sufficient to amortise the outstanding capital amount, together with interest at the rate set out in clause 3, above, in 39 (thirty nine) six-monthly payments.
- 4.3 Should, at the outset of the said 2nd (second) 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, in respect of the Fixed Rate Portion of the Loan, to charge a commitment fee of 0,5% (nought comma five per centum), per annum, on all the undisbursed portions of the Loan, as follows:-
- 5.1.1 in the case where the Borrower has elected the Initial Fixed Rate option, the DBSA shall be entitled to charge such commitment fee, effective 3 (three) months from the date of signature of this Agreement; or
- 5.1.2 in the case where the Borrower has exercised the Conversion Option, the DBSA shall be entitled to charge such commitment fee, effective 3 (three) months from the date of the exercise of the Conversion Option, by the Borrower.

## 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 for payment thereof, 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.

- 6.2 Penalty interest shall be calculated with regard to the actual period during which the amount payable remained unpaid, at the ruling prime overdraft rate, charged by The Standard Corporate and Merchant Bank, Sandton, South Africa, on its overdraft accounts, from time to time. Penalty interest shall be compounded six-monthly and shall be payable, on demand.

7. **EARLY REPAYMENT**

- 7.1 The Borrower may prepay all, or part of, the Loan on payment dates and subject to prior written notice of, at least, 1 (one) month. The amount prepaid shall be equal to a full payment of any instalment of the Loan. In such case and in the event of the Borrower electing the Initial Fixed Rate option, or exercising the Conversion Option:-

7.1.1 where the interest rate of the Loan is less than, or equal to, the reinvestment rate, defined below, no prepayment fee shall be payable;

7.1.2 where the interest rate of the Loan is greater than the reinvestment rate, defined below, each prepayment shall give rise to payment, by the Borrower to the DBSA, of a prepayment fee, equal to the difference calculated, on a present value basis, to the DBSA's prejudice, between the interest which the Loan 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 amortisation schedule, as the prepaid portion of the Loan.

- 7.2 For the purposes of this Clause:-

7.2.1 the reinvestment rate shall be the rate at which the DBSA lends out funds to Borrowers, at the date of such prepayment;

7.2.2 the discount rate shall be equal to the reinvestment rate, used above. The date used for the present value calculation shall be that of the prepayment;

7.2.3 payment of the prepayment and prepayment fee shall take place for value on the payment date.

8. **PAYMENTS/REPAYMENTS**

- 8.1 All payments, in terms of this Agreement:-

8.1.1 to, or by, the Parties shall be effected in South African Rands;

- 8.1.2 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;
- 8.1.3 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;
- 8.1.4 to the DBSA, shall be effected without deduction and free from any taxes, charges, fees or other costs, whatsoever.
- 8.2 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.
- 8.3 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.

## **9. CANCELLATION/TERMINATION OF DRAWDOWNS**

- 9.1 The Borrower may, by giving 30 (thirty) days' written notice to the DBSA, cancel any undrawn portion of the Loan, provided that such cancellation shall not jeopardise the proper completion of the Project, it being understood that, upon the giving of such notice, the instalments referred to in clause 4.1, above, shall be reduced pro rata.
- 9.2 If the DBSA, after consultation with the Borrower, reasonably concludes that any portion of the Loan will not be required to finance the Project, the DBSA may, by written notice to the Borrower, terminate the right of the Borrower to make drawdowns in respect of such undrawn portion, it being understood that, upon giving of such notice, the instalments referred to in clause 4.1, above, shall be reduced pro rata.
- 9.3 If the DBSA has not received a final application for a drawdown under the Loan from the Borrower at the end of the 2nd (second) Half-year following the Half-year during which the first disbursement was made to the Borrower from the proceeds of the Loan, the DBSA may terminate further disbursements to the Borrower on 30 (thirty) days' written notice to the Borrower, unless the DBSA, after consideration of the reasons for the delay, has determined a later date for the purposes of this Clause. The DBSA shall only consider an extension on receipt of a written request from the Borrower and shall notify the Borrower of its decision.

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## 10. EVENTS OF DEFAULT

- 10.1 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.
- 10.2 Without derogating from the generality of the foregoing, the DBSA shall be entitled to exercise its rights in terms of clause 10.1, above, upon the happening of any of the following events:
- 10.2.1 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 10.1, above, requiring it to do so;
  - 10.2.2 any attachment being made, or any execution being levied, against the Borrower;
  - 10.2.3 the Borrower failing to repay any of the DBSA's loans or breaching any agreement entered into between the Borrower and the DBSA;
  - 10.2.4 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;
  - 10.2.5 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;
  - 10.2.6 the Borrower's business operations, or any significant part thereof, being interrupted for a continuous period of, at least, 3 (three) months;
  - 10.2.7 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;
  - 10.2.8 any order is made, or resolution passed, or other action taken, for the dissolution, or termination, of the existence of the Borrower; and
  - 10.2.9 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.
- 10.3 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.

11. **SUSPENSIVE TERMS AND CONDITIONS**

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

12. **FURTHER TERMS AND CONDITIONS**

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

13. **ARBITRATION**

- 13.1 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.
- 13.2 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.
- 13.3 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.

- 13.4 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.
- 13.5 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.

## 14 GENERAL

### 14.1. 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.

### 14.2. DOMICILIUM

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

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

In case of the Borrower:

Physical address: Kai! Garib Municipality  
11<sup>th</sup> Avenue  
KAKAMAS  
8870; or



Postal address: P O Box 174  
**KAKAMAS**  
8870; or

Telefax number: (054) 431 6301

14.2.2 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.

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

14.2.3.1 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;

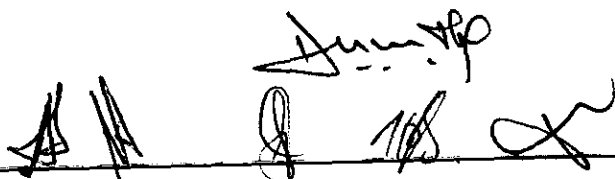
14.2.3.2 is posted by prepaid registered post to the addressee at the addressee's domicilium, for the time being, shall be presumed to have been received by the addressee on the seventh day, after the date of posting. Provided that the Parties may agree that all other forms of correspondence and/or requests may be effected, via telefax and/or electronic mail (e-mail).

### 14.3. 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 hereincontained, shall be binding or enforceable against them.

### 14.4. 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.



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**14.5. 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 rights, in respect of which such indulgence was granted.

**14.6 TERMS AND CONDITIONS OF DISBURSEMENT**

Disbursement of each progress claim, in respect of the amount financed by the DBSA, is to be effected as a ratio of the actual cost of each item (for each phase), in accordance with the Application and Source of Funds Statement (Annexure B), read together with the Project Description (Annexure A), to the maximum amount of R1 506 000-00. This is subject to submission, by the Borrower, to the DBSA, of fully documented proof of payment by the Borrower to the supplier, consultant and/or contractor, of actual claims (or in-house expenses incurred), as approved by the Borrower, or its authorised representative. Each progress claim shall be in the itemised format, as depicted in Annexure B.

SIGNED AT KAKAMAS ON THE 20<sup>TH</sup> DAY OF AUGUST 2001.

AS WITNESSES:

- 1. [Signature]
- 2. Geob

[Signature]

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

SIGNED AT Midrand ON THE 21<sup>st</sup> DAY OF August 2001.

AS WITNESSES:

- 1. [Signature]
- 2. [Signature]

[Signature]

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

## ANNEXURE A

PROJECT DESCRIPTION**1. PROJECT OBJECTIVE**

To promote the socio-economic development of the community of Keimoes by upgrading of the urban infrastructure, thereby enhancing the quality of life of its 13 200 inhabitants (i.e. 2 200 households).

**2. PHYSICAL DESCRIPTION****2.1 ROAD WORKS**

- 2.1.1 Importing of selected fill, compaction and grading of base course; preparation and application of wearing course and seal on the following streets:

Street Name	Length (Metre)	Width (Metre)	Cost per metre (R)	Estimated cost (R)
Hospital	760	7	180	136,800
Lily	225	6	180	40,500
St John	286	5	150	42,900
Sultana	286	5	150	42,900
Rand	222	6	180	39,960
De Klerk	280	4	125	35,000
Bain	490	4	125	61,250
Sonop	340	6	180	61,200
Kliniek	210	6	180	37,800
Winkel	170	6	180	30,600
Industrial	87	7	230	20,010
			<b>Sub total:</b>	<b>548,920</b>
Vygie	205	6	180	36,900
Pastorie	269	5	150	40,350
Bloekom	265	5	150	39,750
Sport	265	5	150	39,750
Sonskyn	325	6	180	58,500
Livingstone	180	6	180	32,400
Lang	557	7	230	128,110
Old Lutzputz	560	7	230	128,800
			<b>Sub total:</b>	<b>504,560</b>
			<b>Plus: 26% contingencies</b>	<b>273,678</b>
			<b>Total:</b>	<b>1,327,158</b>

**2.2 ELECTRICITY UPGRADING**

The expected life span of the upgraded scheme is more than 20 years.  
The proposed plan for upgrading the electrical reticulation includes the following:

**2.2.1 Total number of existing stands/consumers**

Kousas area, residential and commercial consumers: 28.

**2.2.2 MV Supply**

- Supply and installation of 2610m overhead Mink and/or Gopher conductors on 9m and/or 11m wooden poles;
- Supply and installation of 1 only 100KVA pole mounted transformer;
- Supply and installation of 2 X 50KVA pole mounted transformer.

**2.2.3 LV Reticulation and service connections**

- Supply and installation of 950m length LV overhead aerial bundle conductors on 9m wooden poles.
- Supply and installation of 98m long, 35mm<sup>2</sup> X4 core PVC SWA underground cable to consumer connections.

**3. COST ESTIMATE**

The cost estimate of the project is as follows:

Item no	Description	Cost (R)
1.	Roadworks (excluding VAT)	1,327,158
2.	Upgrading electricity and Street lighting (excluding VAT)	178,842
3.	<b>TOTAL PROJECT COST</b>	<b>1,506,000</b>

**4. PROJECT RESOURCES**

Project component	Description	Contractor
Design and supervision road works	Professional services	Stabilis (Pty) Ltd, Kimberley
Design and supervision electricity upgrading	Professional services	BIVI Consulting Engineers, Upington
Construction or road works	Civil engineering contractor, supply of equipment, material and transport	Tender to be advertised and contract to be awarded
Construction of electricity upgrading	Electrical engineering contractor, supply of equipment, material and transport	Tender to be advertised and contract to be awarded.

**5. MANAGEMENT ARRANGEMENTS**

The Keimoes Municipality, being the owner of the assets, will maintain and operate the infrastructure in good working condition, to accepted practice in municipal engineering.

**6. THE BORROWER AND IMPLEMENTING AGENT SHALL:****6.1 CARRY OUT THE FOLLOWING MANAGEMENT ARRANGEMENTS:**

- Take responsibility for the payment of the consultant fees;
- Involve all relevant role-players;
- Accept responsibility for Operational and Maintenance activities post implementation of the project and to make adequate budget provision for the same;
- Ensure compliance with Provincial Health and Safety standards.

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6.2 CONSTITUTE A CONSULTATIVE AND ADVISORY PROJECT STEERING COMMITTEE (PSC)

6.2.1 Composition and status of PSC

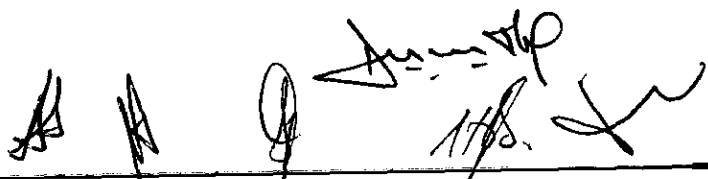
INSTITUTION	MEMBERSHIP
Keimoes Municipality (Technical Services Dept)	Permanent
Local Development Forum	Permanent
Consultants (BVI, Upington, Stabilis, Kimberley)	Permanent
DBSA	Observer

6.2.2 Functions of the PSC

- (a) Monitor implementation of the project.
- (b) Monitor the standard of work and quality of materials.

6.2.3 Functions of the DBSA as observer on PSC

- (a) Monitor the implementation of the project to meet the agreed upon development objectives and design criteria.



APPLICATION AND SOURCE OF FUNDS STATEMENT

KEIMOE: UPGRADING INFRASTRUCTURE

(13702/1/1)

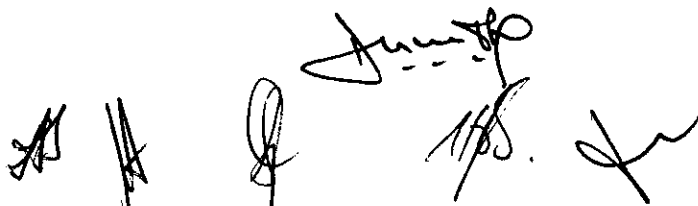
Description	Total (R)	DBSA (R)	%	Borrower (R)	%	Other (R)	%
<b>FIXED ASSETS</b>							
1.1 ROADS	1,327,158	1,327,158	100.0	0	0.0	0	0.0
1.2 ELECT RETICULATION	178,842	178,842	100.0	0	0.0	0	0.0
<b>Totals</b>	<b>1,506,000</b>	<b>1,506,000</b>	<b>100.0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>

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## ANNEXURE C

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;

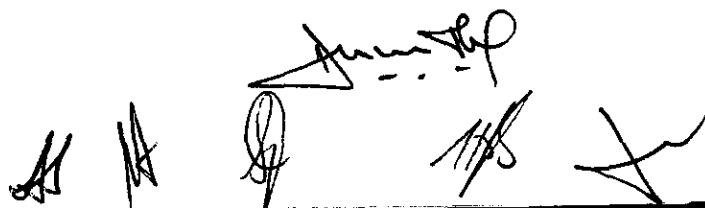




- 2.4 with regard to the procurement of goods and services for the Project, in consultation with the DBSA, invite participation, in tender or quotation procedures on an open bid basis (such documentation to be drawn up, in consultation with the DBSA's Project Team and ratified by the DBSA), from natural 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 3 (three) years, after completion of the Project, 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.
4. It is, hereby, placed on record that the Borrower has appointed the contractors, listed in Annexure C 1, in respect of the Project, and these are acceptable to the DBSA.

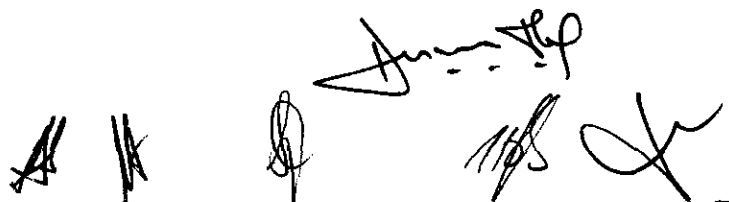
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LIST OF CONTRACTORS

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ANNEXURE D

AUTHORISATION - BORROWER

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## ANNEXURE E

AUTHORISATIONDEVELOPMENT BANK OF SOUTHERN AFRICA LIMITED**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 his post by the Board of Directors of the Development Bank of Southern Africa on 19 September 1985, determined on 07 July 2000 that:

**MANDLA SIZWE GANTSHO**

in his capacity as Chief Executive

OR

**JACOB HENRY DE VILLIERS BOTHA**

OR

**MAKAZIWE PHUMLA MANDELA**

OR

**NKOSEMNTU GLADMAN NIKA**

in their capacity as Executive Managers

OR

**PULE LESAILANE MOKHOBO**

in his capacity as Manager: Legal Services

OR

**TLADI PHILEMON DITSHEGO**

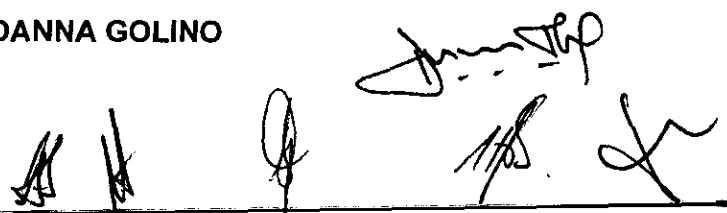
OR

**LANDIWE JACKIE MAHLANGU**

OR

**JOHN PATRICK BARTON-BRIDGES**

OR

**CHRISTINA JOANNA GOLINO**

OR

**BANE MOEKETSI MALEKE**

OR

**MAGARE LUTHER MASHABA**

OR

**DENNIS MDUDUZI THABANENG**

OR

**MASHUPYE RATALA KGAPHOLA**

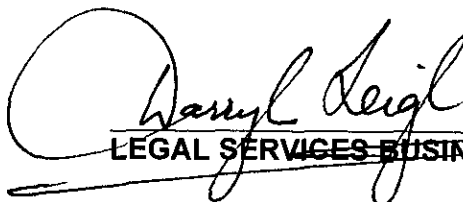
in their capacity as Managers: Business Units (DSP Related)

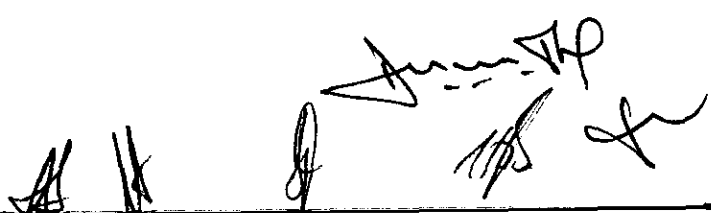
be authorised for and on behalf of the Development Bank of Southern Africa to enter into agreements in terms whereof money is:-

- 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

21/8/2001  
DATE

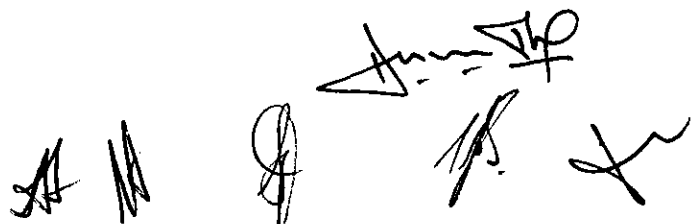
  
LEGAL SERVICES BUSINESS UNIT



## ANNEXURE F

SUSPENSIVE TERMS AND CONDITIONS

1. The operation of this Agreement is subject to the Borrower:-
  - 1.1 submitting a certified copy of its Council's resolution, authorising the Borrower to conclude the Agreement, in respect of the Project, and approval of the funding arrangements thereof.

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## ANNEXURE G

FURTHER TERMS AND CONDITIONS

- 1.1 The Borrower undertakes not to enter into any further debt obligations, without, first, consulting with, and obtaining the written consent, of the DBSA.
- 1.2 The Borrower undertakes to provide the DBSA with its audited financial statements, within six (6) months from the end of each financial year, for the duration of this Agreement.
- 1.3 The Borrower agrees and undertakes to put a budget control management plan, acceptable to the DBSA, in place, within the current financial year, to improve its overall liquidity, income and expenditure status.
- 1.4 The Borrower agrees and undertakes to put a water account management plan, acceptable to the DBSA, in place, within the current financial year, to monitor water demand and water losses within the informal residential area of Keimoes.
- 1.5 The Borrower shall furnish, to the DBSA, on an annual basis, proof that sufficient budgetary provision has been made for the servicing of this Loan.
- 1.6 The Parties, hereby, agree that:-

1.6.1 upon signature, by both of them, of this Agreement, the agreement [document: NC 13702], concluded by them on 18 April 2001, shall be consensually cancelled and shall be superseded by this Agreement; and

1.6.2 notwithstanding the date of signature, of this Agreement, by both Parties, this Agreement shall be deemed to have come into operation on 18 April 2001,

it being the intention of the Parties that this Agreement shall replace the agreement [document: NC13702], as if this Agreement had been the document signed by the Parties on 18 April 2001.

