

G:\Legi\MTC\UEM001.96  
26 November 1996

*LOAN AGREEMENT*

**LOAN AGREEMENT**

made and entered into between

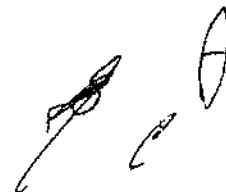
**ABSA BANK LIMITED**

("the Lender")

and

**MIDRAND TOWN COUNCIL**

("the Borrower")



GA:Legal\MTCVEM001.96  
26 November 1996

## 1. INTERPRETATION AND PRELIMINARY

The headings of the clauses in this agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this agreement nor any clause hereof. In this agreement, unless a contrary intention clearly appears -

### 1.1. words importing -

1.1.1. any one gender include the other two genders;

1.1.2. the singular include the plural and vice versa; and

1.1.3. natural persons include created entities (corporate or unincorporated) and vice versa;

### 1.2. the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely -

1.2.1. "the advance date" shall mean 26 November 1996;

1.2.2. "the/this agreement" shall mean this loan agreement together with all Annexures to it;

1.2.3. "the Borrower" shall mean the Midrand Town Council, a local authority established in terms of the Premiers' Proclamation 2 of 1995 read with 35 of 95, 45 of 95 and 43 of 96 issued in terms of the Local Government Transitional Act, No 209 of 1993;

1.2.4. "business day" shall mean a day which is not a Saturday, Sunday or public holiday in the Republic of South Africa;

O:\Legal\MTC\EM001.96  
26 November 1996

Page 2

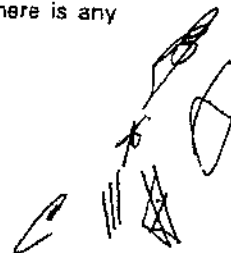
- 1.2.5. "the capital" shall mean R54 712 000 (fifty four million seven hundred and twelve thousand rand);
- 1.2.6. "the cession" shall mean the cession *in securitatem debiti* provided for in clause 7;
- 1.2.7. "the interest rate" shall mean the NCD rate plus a margin of 2% (two per cent) per annum plus stamp duty thereon or such other rate as may be agreed upon by the parties from time to time or for any specified period expressed as a percentage and converted to a nacm rate;
- 1.2.8. "the investment" shall mean the amount of R4 712 000 (four million seven hundred and twelve thousand rand) invested with Standard Corporate and Merchant Bank and as more fully defined in Annexure B hereto;
- 1.2.9. "the Lender" shall mean ABSA Bank Limited, a company with a share capital and incorporated under the laws of the Republic of South Africa with registration number 86/04794/96 and registered as a bank in terms of the Banks Act, 1990;
- 1.2.10. "the loan" shall mean the loan made by the Lender to the Borrower in terms of this agreement;
- 1.2.11. "nacm" shall mean nominal annual compounded monthly in arrear;
- 1.2.12. "the NCD rate" shall mean the discount rate available to the Lender in the market in respect of negotiable certificates of deposit;



G:\Legal\MTQUEM001.96  
26 November 1996

Page 3

- 1.2.13. "the parties" shall mean, collectively, the Lender and the Borrower;
- 1.2.14. "the prime rate" shall mean the publicly quoted lowest rate of interest (expressed as a namn rate) generally levied by the Lender from time to time on overdraft to its most favoured corporate borrowers, calculated on a 365 day factor, irrespective as to whether or not the year is a leap year and *prima facie* proven, in the event of there being a dispute in relation thereto, by a certificate by any manager of the Lender (whose qualification or authority need not be proven);
- 1.2.15. "the repayment date" shall mean 26 November 2011;
- 1.3. any reference to an enactment is to that enactment as at the date of signature hereof and as amended or re-enacted from time to time;
- 1.4. if any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the agreement;
- 1.5. when any number of days is prescribed, same shall be reckoned exclusively of the first and inclusively of the last day;
- 1.6. where any act is to be performed on a day which is not a business day, such act shall be performed on the business day immediately succeeding such day;
- 1.7. where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail; and



G:\Legal\MTCVEN\001.96  
16 November 1996

Page 4

1.8. schedules or annexures to this agreement shall be deemed to be incorporated in and form part of this agreement.

## 2. THE LOAN

With effect from the advance date, the Lender lends and advances the capital to the Borrower, which the Borrower borrows.

## 3. INTEREST

3.1. Interest shall accrue on the capital at the interest rate. Such interest shall be calculated on a daily basis on the outstanding capital in terms of the loan and compounded monthly in arrear on the last business day of each month.

3.2. Interest shall be paid in the amounts, on the dates set out and on the assumption contained in Annexure A. Should the assumption referred to therein change for any reason whatsoever, the interest payable by the Borrower shall be re-calculated by the Lender and such re-calculated interest shall be paid by the Borrower.

3.3. In order to avoid interest accruing on overdue amounts in terms of clause 3.1 and 4.4, such overdue amounts shall, for the purposes of calculating interest in terms of clause 3.1 only, be deemed to have been paid on their due date.

## 4. REPAYMENT

4.1. The Borrower shall, subject to clauses 4.2 and 6, repay the outstanding capital in terms of the loan in full on the repayment date.

4.2. The Borrower shall pay to the Lender the amounts set out in Annexure B on the dates set out in such Annexure.

Handwritten signature and initials in black ink, located at the bottom right of the page.

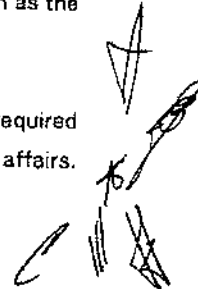
G:\Legal\MTC\JEM001.96  
26 November 1996

Page 5

- 4.3. The Borrower shall not be entitled to anticipate the repayment date, or any date referred to in clause 4.2, subject to clause 8.
- 4.4. All payments by the Borrower in terms of this agreement shall be made before 12h00 on their due dates, free of exchange or other deduction and without the right of deferment or avoidance by virtue of any counterclaim or set-off, in the currency of the Republic of South Africa and at the address referred to in clause 13 or such other address in the Republic of South Africa as the Lender may specify in writing.
- 4.5. All amounts payable by the Borrower to the Lender in terms of this agreement, which are not paid on the due dates thereof (having due regard to clause 1.6), shall with effect from the due dates thereof to the date of payment bear interest at 2 (two) percentage points above the greater of the prime rate or the interest rate, calculated on a daily basis and compounded monthly in arrear, without prejudice to any right which the Lender may otherwise have as a result of that non-payment.

#### 5. UNDERTAKINGS AND COVENANTS BY THE BORROWER

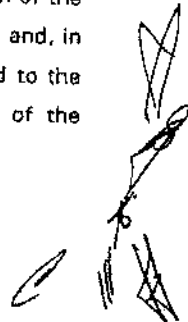
- 5.1. The Borrower hereby agrees and undertakes that, until the capital together with all interest thereon, and any amounts due in connection therewith, has been repaid in full, the Borrower shall:
- 5.1.1. furnish the Lender with its audited annual financial statements at the time these are made available as prescribed by the Auditor-General;
- 5.1.2. furnish the Lender with such other financial information as the Lender may reasonably require; and
- 5.1.3. maintain in full force and effect, all statutory approvals required to enable the Borrower to continue in its business and affairs.



G:\Legal\MTCUEM001.96  
26 November 1996

Page 6

- 5.2. The Borrower represents and warrants to the Lender that:
- 5.2.1. it has full power to enter into and perform in terms of this agreement and has taken all necessary corporate and other actions to authorise the borrowing hereunder;
  - 5.2.2. this agreement constitutes a legal, valid, binding and enforceable obligation of the Borrower;
  - 5.2.3. no litigation, arbitration or administrative proceeding is presently in progress, or to the knowledge of the Borrower pending or threatened against it, or any of its assets, or which relates to this agreement or which would have a materially adverse effect on the financial condition of the Borrower;
  - 5.2.4. it is not a party to any agreement materially affecting or, which is likely to materially affect, its financial condition;
  - 5.2.5. it has good title to all its material assets which are reflected in its financial statements, and has not sold or otherwise disposed of, or encumbered in any way, such assets, save as reflected in such financial statements;
  - 5.2.6. the Borrower is not in default in respect of any of its obligations in respect of other borrowed monies.
- 5.3. The Borrower shall be deemed on the anniversary of each year after date of signature of this agreement to represent and warrant that each of the representations and warranties is true and accurate on such day and, in addition, that the then latest accounts of the Borrower delivered to the Lender pursuant hereto, fairly represent the financial position of the Borrower.

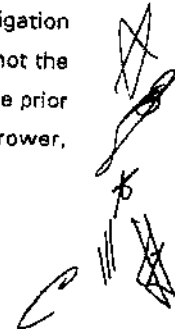


G:\Legal\MTCVJEM001.96  
26 November 1996

Page 7

## 6. EVENTS OF DEFAULT

- 6.1. An event of default shall occur if any of the following events, each of which shall be severable and distinct, occurs:
- 6.1.1. the Borrower fails to pay any amount due in terms of this agreement on the due dates thereof, and such failure is not remedied within 5 (five) business days of receipt of notice from the Lender calling upon the Borrower to pay such amount; or
  - 6.1.2. the Borrower defaults in the performance of any other provision of this agreement or any other agreement between the parties, and such default continues for a period of 10 (ten) business days after receipt of notice from the Lender calling upon the Borrower to remedy such default; or
  - 6.1.3. the Borrower makes any general assignment for the benefit of its creditors or compromises with its creditors generally; or
  - 6.1.4. the Borrower is unable, or fails, or admits an inability in writing, to pay its debts as and when they fall due; or
  - 6.1.5. any judgement is taken against the Borrower and the Borrower fails within 5 (five) business days of it becoming aware thereof either to satisfy same or to take steps (and thereafter actively to pursue such steps) to appeal or set aside such judgement; or
  - 6.1.6. any third party loan, debt, guarantee or other obligation constituting indebtedness of the Borrower, whether or not the Lender is concerned therewith, becomes due and payable prior to its specified maturity by reason of default by the Borrower, or is not repaid when due; or







G:\Legal\MTCVEM001.96  
26 November 1996


Page 8

- 6.1.7. the Borrower, fails to notify the Lender of the creation of or increase in any indebtedness ranking prior, generally or in respect of any particular asset of the Borrower, to the indebtedness of the Borrower to the Lender pursuant to this agreement and its implementation; or
  
- 6.1.8. any account, statement or certificate furnished by the Borrower to the Lender in connection with this agreement, or any representation made in connection with the Borrower's financial affairs, proves in any material respect to have been incorrect or untrue when made; or
  
- 6.1.9. there is a change in the laws of the Republic of South Africa or its interpretation which renders, will render or may have the effect of rendering this agreement or anything done or to be done pursuant thereto or done or to be done pursuant to any security for the obligations of the Borrower hereunder, illegal, invalid or unenforceable and the parties in good faith fail to rectify such illegality, invalidity or unenforceability or agree upon alternative acceptable provisions or security, as the case may be, within 5 (five) business days after receipt of notice from the Lender advising the Borrower of the relevant change; or
  
- 6.1.10. any material adverse change occurs in the condition (financial or other) of the Borrower which gives the Lender grounds to believe that the Borrower may not, or will be unable to, perform or observe in the normal course its obligations under this agreement; or

G:\Legal\UTC\JEM001.96  
26 November 1996

Page 9

- 6.1.11. a change occurs in the functions, powers, duties, rights or obligations of the Borrower which, in the reasonable opinion of the Lender, will influence the Borrower's ability to perform its obligations under this agreement or any other agreement between the parties.
- 6.2. Upon the happening of an event of default, the Lender shall, in addition to and without prejudice to any other rights the Lender may have in terms of this agreement or in law, be entitled to:
- 6.2.1. call upon the Borrower to repay the outstanding capital in terms of the loan together with all accrued interest thereon, which amount shall immediately become due and payable and such amount shall bear interest at a rate of 2% (two per cent) above the greater of the prime rate or interest rate, calculated as from the date of default or non-payment to the date prior to the date of actual payment; and/or
- 6.2.2. the cost of unwinding any negotiable certificate of deposit or alternative funding instrument utilised to fund the facility from time to time; and/or
- 6.2.3. in its sole discretion, review and amend the terms and period of the facility; and/or
- 6.2.4. enforce compliance with the provisions of this agreement and claim such damages as may have been suffered as a result of such breach.



G:\Legal\WTC\UEM001.96  
26 November 1996

Page 10

## 7. CESSION

- 7.1. As security for the due performance of its obligations in terms of this agreement, the Council hereby cedes *in securitatem debiti* to the Lender all its rights in and to the Investment on the terms and conditions set out in the cession *in securitatem debiti* annexed hereto marked "C", which shall be deemed to be incorporated in this agreement.
- 7.2. The making of the advance in terms of clause 2 of this agreement shall be conditional upon the security referred to in clause 7.1 being provided to the Lender.

## 8. EARLY TERMINATION

Upon early termination of this agreement for any reason whatsoever, the Borrower shall pay to the Lender the outstanding capital in terms of the loan together with all accrued interest thereon plus the costs of unwinding any negotiable certificates of deposit or other instrument used to fund the facility from time to time.

## 9. ARBITRATION

- 9.1. Should any dispute arise between the parties in connection with -
- 9.1.1. the formation or existence of;
  - 9.1.2. the implementation of;
  - 9.1.3. the interpretation or application of the provisions of;
  - 9.1.4. the parties' respective rights and obligations in terms of or arising out of, or the breach or termination of;



G:\Legal\MTC\UEM001.96  
26 November 1996

Page 10

## 7. CESSION

- 7.1. As security for the due performance of its obligations in terms of this agreement, the Council hereby cedes *In securitatem debiti* to the Lender all its rights in and to the investment on the terms and conditions set out in the cession *In securitatem debiti* annexed hereto marked "C", which shall be deemed to be incorporated in this agreement.
- 7.2. The making of the advance in terms of clause 2 of this agreement shall be conditional upon the security referred to in clause 7.1 being provided to the Lender.

## 8. EARLY TERMINATION

Upon early termination of this agreement for any reason whatsoever, the Borrower shall pay to the Lender the outstanding capital in terms of the loan together with all accrued interest thereon plus the costs of unwinding any negotiable certificates of deposit or other instrument used to fund the facility from time to time.

## 9. ARBITRATION

- 9.1. Should any dispute arise between the parties in connection with -
- 9.1.1. the formation or existence of;
  - 9.1.2. the implementation of;
  - 9.1.3. the interpretation or application of the provisions of;
  - 9.1.4. the parties' respective rights and obligations in terms of or arising out of, or the breach or termination of;



G:\Legal\MTCV\EM001.96  
26 November 1996

Page 11

9.1.5. the validity, enforceability, rectification, termination or cancellation, whether in whole or in part of;

9.1.6. any documents furnished by the parties pursuant to the provisions of,

this agreement or which relates in any way to any matter affecting the interests of the parties in terms of this agreement, that dispute shall, unless resolved amongst the parties to the dispute, be referred to and be determined by arbitration in terms of this clause.

9.2. Any party to this agreement may demand that a dispute be determined in terms of this clause by written notice given to the other parties.

9.3. This clause shall not preclude any party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.

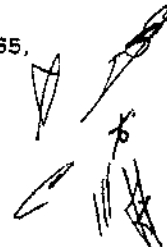
9.4. The arbitration shall be held -

9.4.1. at Johannesburg;

9.4.2. with only the legal and other representatives of the parties to the dispute present thereat;

9.4.3. *mutatis mutandis* in accordance with the provisions of the Supreme Court Act, No. 59 of 1959, the rules made in terms of that Act and the practice of the division of the Supreme Court referred to in 9.9;

9.4.4. otherwise in terms of the Arbitration Act, No. 42 of 1965,



G:\Legal\WITCUEM001.96  
26 November 1996

Page 12

it being the intention that the arbitration shall be held and completed as soon as possible.

9.5. The arbitrator shall be, if the matter in dispute is principally -

9.5.1. a legal matter, a practising advocate or attorney of Johannesburg of at least 15 (fifteen) years' standing;

9.5.2. an accounting matter, a practising chartered accountant of Johannesburg of at least 15 (fifteen) years' standing;

9.5.3. any other matter, any independent person,

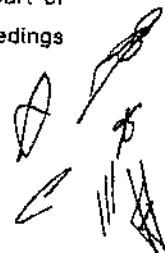
agreed upon between the parties to the dispute.

9.6. Should the parties to the dispute fail to agree whether the dispute is principally a legal, accounting or other matter within 7 (seven) days after the arbitration was demanded, the matter shall be deemed to be a legal matter.

9.7. Should the parties fail to agree on an arbitrator within 14 (fourteen) days after the giving of notice in terms of 9.2, the arbitrator shall be appointed at the request of either party to the dispute by the President for the time being of the Transvaal Law Society according to the provisions of 9.5.

9.8. The decision of the arbitrator shall be final and binding on the parties to the dispute and may be made an order of the court referred to in 9.9 at the instance of any of the parties to the dispute.

9.9. The parties hereby consent to the jurisdiction of the Supreme Court of South Africa (Witwatersrand Local Division) in respect of the proceedings referred to in 9.3.



G:\Legal\MTCVEM001.96  
26 November 1996

Page 13

9.10. The parties agree to keep the arbitration including the subject-matter of the arbitration and the evidence heard during the arbitration confidential and not to disclose it to anyone except for purposes of an order to be made in terms of 9.8.

9.11. The provisions of this clause -

9.11.1. constitute an irrevocable consent by the parties to any proceedings in terms hereof and no party shall be entitled to withdraw therefrom or claim at any such proceedings that it is not bound by such provisions;

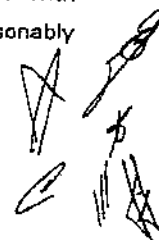
9.11.2. are severable from the rest of this agreement and shall remain in effect despite the termination of or invalidity for any reason of this agreement.

#### 10. CERTIFICATE

A certificate signed by any general manager or manager of the Lender (whose appointment or authority as such it shall not be necessary to prove), certifying any amount outstanding in terms of the facility or the relevant portion thereof which has become due and payable (including rates of interest and other charges applicable thereto) shall be prima facie proof of the matters therein stated for all purposes, including for the purposes of furnishing further particulars, obtaining provisional sentence and obtaining judgment against the Borrower.

#### 11. CESSION OF RIGHTS

11.1. The Lender shall at any time be entitled to cede any or all of its rights under this agreement to any other company in the Lender's group or with the consent of the Borrower, which consent shall not be unreasonably withheld, to any other person.

Handwritten signatures and initials, including a large signature and several smaller initials or marks.

11.2. To the extent that any cession by the Lender results in a splitting of a claim, the Borrower hereby consents to the splitting.

## 12. RENUNCIATION OF BENEFITS

The Borrower hereby renounces the benefits and exceptions *non numeratae pecuniae, non causa debiti, errore calculi*, revisions of accounts, no value received and all other legal benefits and exceptions, with the force, meaning and effect of which the Borrower declares itself to be fully acquainted.

## 13. DOMICILIA AND NOTICES

13.1. The parties choose as their *domicilia citandi et executandi* for all purposes under this agreement, whether in respect of court process, notices or other documents or communications of whatsoever nature, the following addresses :-

13.1.1. the Lender:                   c/o ABSA Corporate & Merchant Bank  
Project Finance Administration  
29th floor, Sanlamsentrum  
Jeppe Street  
Johannesburg, 2001  
  
Telefax No: (011) 330-3167

13.1.2. the Borrower:               Old Pretoria Road  
Ranjespark  
Halfway House  
1685  
  
Telefax No: (011) 314-1894

13.2. 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.

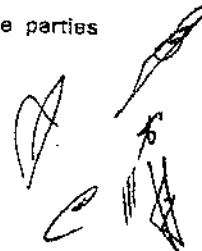




G:\Legal\MTCVEM001.96  
26 November 1996

Page 15


- 13.3. Either party may by notice to the other party change the physical address chosen as its *domicilium citandi et executandi* or telefax number to another physical address or telefax number in the Republic of South Africa, provided that the change shall become effective on the 7th business day from the deemed receipt of the notice by the addressee.
- 13.4. Any notice to a party -
- 13.4.1. sent by prepaid registered post (by airmail if appropriate) in a correctly addressed envelope to it at its *domicilium citandi et executandi* shall be deemed to have been received on the 7th business day after posting (unless the contrary is proved);
- 13.4.2. delivered by hand to a responsible person during ordinary business hours at its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery; or
- 13.4.3. sent by telefax to its chosen telefax number shall be deemed to have been received on the first business day following the date of transmission (unless the contrary is proven), provided that a copy thereof is despatched by prepaid registered post within 2 (two) business days of the date of such transmission.
- 13.5. 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 *domicilium citandi et executandi*.
14. **WHOLE AGREEMENT**
- 14.1. This agreement constitutes the whole agreement between the parties relating to the subject matter hereof.



G:\Legal\MTCVUEM001.96  
26 November 1996

Page 16

- 14.2. No amendment or consensual cancellation of this agreement or any provision or term thereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this agreement and no settlement of any disputes arising under this agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this agreement or of any agreement, bill of exchange or other document issued pursuant to or in terms of this agreement shall be binding unless recorded in a written document signed by the parties.
- Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.
- 14.3. No extension of time or waiver or relaxation of any of the provisions or terms of this agreement or any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this agreement, shall operate as an estoppel against any party in respect of its rights under this agreement, nor shall it operate so as to preclude such party thereafter from exercising its rights strictly in accordance with this agreement.
- 14.4. No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract or not.
- 14.5. Each provision in this agreement is severable, the one from the other, and if at any time any provision is or becomes or is found to be illegal, invalid, defective or unenforceable for any reason by any competent court, the remaining provisions shall be of full force and effect and shall continue to be of full force and effect.
- 14.5. Each party warrants that it is acting as a principal and not as an agent for an undisclosed principal.

Handwritten signatures and initials in black ink, including a large stylized signature and several smaller initials.

G:\Legal\MTC\ITEM001.96  
26 November 1996

Page 17

- 14.7. No party, nor the trustee, provisional liquidator, liquidator, provisional judicial manager or judicial manager of any party may cede any of its rights or delegate any of its obligations under this agreement.
- 14.8. This agreement shall be governed by the laws of the Republic of South Africa; provided that in the event of a conflict between or inconsistency in the laws applicable in the various provinces of the Republic of South Africa, the laws as interpreted and applied in Gauteng shall prevail.
15. **COSTS**
- 15.1. Each party shall bear its own costs of and incidental to the preparation of this agreement. Stamp duty shall not be payable hereon by the Borrower as it is exempt therefrom in terms of Section 4(1)(b)(ii) of the Stamp Duties Act of 1968.
- 15.2. If in any legal proceedings relating to the enforcement by either party of its rights in terms of this agreement, a court awards costs to any party, such costs shall be determined and recoverable on the scale as between an attorney and his own client and shall include collection charges, the costs incurred by such party in endeavouring to enforce such rights prior to the institution of legal proceedings and the costs incurred in connection with the satisfaction or enforcement of any judgment awarded in favour of such party in relation to its rights in terms of or arising out of this agreement.

16. **EXECUTION**

This agreement is executed for and on behalf of:-

- 16.1. The Borrower by JOHANNES SACOLUS SOOSTE  
he being duly authorised hereto under and by virtue of a resolution dated  
B(11) 29 OCTOBER 1996.

G:\Legal\MTC\EM001.96  
26 November 1996

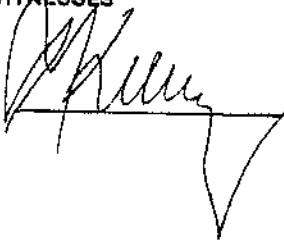
16.2. The Lender by Bernardus Groenewald, Mandate Number A-60556, in his capacity as a Marketing Consultant of ABSA.

16.3. The Lender by Ian Carruthers, Mandate Number A-60557, in his capacity as a Marketing Consultant of ABSA.

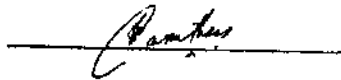
Signed at MIDRAND this 27TH day of NOVEMBER 1996

AS WITNESSES

1.



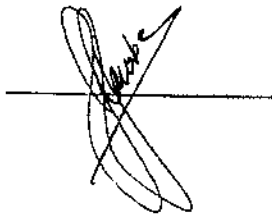
For: ABSA BANK LIMITED



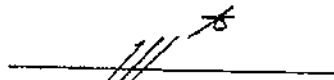
Signed at MIDRAND this 27TH day of NOVEMBER 1996

AS WITNESSES

1.



For: MIDRAND TOWN COUNCIL



G:\Legal\MT\CURM001.96  
26 November 1996

## ANNEXURE A

### INTEREST PAYMENT SCHEDULE

Based on an all-in assumed interest rate of 18,9128% per annum compounded monthly as at 26 November 1996, the repayments will be:

Date	Amount
31 May 1997	R5 381 976
30 November 1997	R5 379 070
31 May 1998	R5 375 878
30 November 1998	R5 372 372
31 May 1999	R5 368 521
30 November 1999	R5 364 292
31 May 2000	R5 359 646
30 November 2000	R5 354 543
31 May 2001	R5 348 939
30 November 2001	R5 342 783
31 May 2002	R5 336 021
30 November 2002	R5 328 595
31 May 2003	R5 320 438
30 November 2003	R5 311 478
31 May 2004	R5 301 637
30 November 2004	R5 290 828
31 May 2005	R5 278 956
30 November 2005	R5 265 916
31 May 2006	R5 251 593
30 November 2006	R5 235 861
31 May 2007	R5 218 582
30 November 2007	R5 199 603
31 May 2008	R5 178 757
30 November 2008	R5 155 860
31 May 2009	R5 130 712
30 November 2009	R5 103 089
31 May 2010	R5 072 749
30 November 2010	R5 039 424
31 May 2011	R5 002 822
30 November 2011	R4 962 618

Handwritten signature and initials, possibly 'D. S.' and 'H. J.', with a date '11/11/07' written below.

G:\Legal\MTCVEM001\_96  
26 November 1996

**ANNEXURE B**

<b>Date</b>	<b>Amount</b>
30 November 1997	R81 991
30 November 1998	R74 787
30 November 1999	R90 224
30 November 2000	R108 848
30 November 2001	R131 316
30 November 2002	R158 421
30 November 2003	R191 122
30 November 2004	R230 572
30 November 2005	R278 165
30 November 2006	R335 583
30 November 2007	R404 852
30 November 2008	R488 420
30 November 2009	R589 237
30 November 2010	R710 864
30 November 2011	R857 597





G:\Legal\MTC\EM008.96  
26 November 1996

**ANNEXURE C**

**CESSION IN *SECURITATEM DEBITI***

(of Standard Bank Investment)

by

**MIDRAND TOWN COUNCIL**

G:\Legal\MTCVEM\001.96  
26 November 1996

## 1 INTERPRETATION

1.1 In this cession, unless inconsistent with or otherwise indicated by the context-

1.1.1 "the Cedent" shall mean the Midrand Town Council, a local authority established in terms of the Premiers' Proclamation 2 of 1995 read with 35 of 95, 45 of 95 and 43 of 96 issued in terms of the Local Government Transitional Act, No 209 of 1993;

1.1.2 "the Cessionary" shall mean ABSA Bank Limited;

1.1.3 "the/this cession" shall mean the cession in security recorded in this document;

1.1.4 "the loan agreement" shall mean the loan agreement between the Cessionary and the Cedent dated 26 November 1996 in terms of which the Cessionary will lend R54 712 000 (fifty four million seven hundred and twelve thousand rand) to the Cedent;

1.1.5 "the Investment" shall mean -

1.1.5.1 the investment of R4 712 000 (four million seven hundred and twelve thousand rand) made by the Cedent with Standard Corporate and Merchant Bank entitling the Cedent to receive an amount of R50 000 000 (fifty million rand) from Standard Corporate and Merchant Bank on 26 November 2011;  
and



Q:\Legal\MT\JEM008.96  
26 November 1996

Page 2

- 1.1.5.2 all benefits which may accrue in terms of such investment;
- 1.1.6 any reference to the singular includes the plural and *vice versa*;
- 1.1.7 any reference to natural persons includes legal persons and *vice versa*; and
- 1.1.8 any reference to a gender includes the other genders.
- 1.2 The clause headings in this cession have been inserted for convenience only and shall not be taken into account in its interpretation.
- 1.3 This cession shall be governed by and construed and interpreted in accordance with the law of the Republic of South Africa.

## 2 CESSION

- 2.1 The Cedent hereby cedes to the Cessionary all rights whatsoever which the Cedent may have to or arising out of the investment as security for the due and proper performance by the Cedent of its obligations under and in terms of -
- 2.1.1 any and all agreements entered into between the parties; and
- 2.1.2 this cession.
- 2.2 The Cedent shall, as evidence of the cession, immediately upon the signing hereof, deliver to the Cessionary the Investment Certificate evident of the Investment.



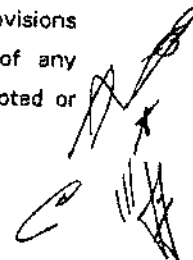
0:\Legal\ITC\JEM008.96  
26 November 1996

Page 3

- 2.3 To the extent that any documents, certificates or receipts evidencing or constituting title to the investment in the future come into the possession or under the control of the Cedent, the Cedent shall forthwith deliver same to the Cessionary.
- 2.4 The Cedent shall sign all other documents which the Cessionary may, in its sole discretion, regard as necessary to give effect to this cession.

### 3 WARRANTIES

- 3.1 The Cedent warrants to the Cessionary that -
- 3.1.1 it is the legal and beneficial holder of the investment;
  - 3.1.2 the investment is not subject to any right of retention or other limitation or encumbrance;
  - 3.1.3 the investment may be ceded by the Cedent in terms hereof without any limitation;
  - 3.1.4 no third party has or will have any rights in relation to or arising out of the investment;
  - 3.1.5 the investment is valid and all rights evidenced thereby or constituted therein are fully enforceable in all respects;
  - 3.1.8 the investment has not been ceded to any third party in terms of any prior cession.
- 3.2 Without prejudice to the rights of the Cessionary pursuant to the provisions of clause 3.1, the Cedent hereby rescinds any nomination of any beneficiary, other than the Cessionary, which may exist or be noted or endorsed on or in relation to the investment.



G:\Legal\WTC\JEM008.96  
26 November 1996

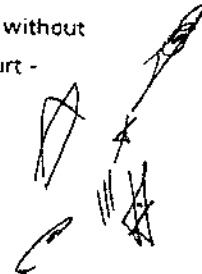
Page 4

#### 4 PAYMENT UNDER THE INVESTMENT

- 4.1 Any amount to be paid by Standard Corporate and Merchant Bank under or in terms of the Investment referred to in clause 1.1.5 shall be paid directly to the Cessionary and held by the Cessionary and dealt with as part of the security provided in terms of this cession.
- 4.2 The Cessionary shall be entitled to all the rights of action, powers and rights accruing to the Cedent for the purpose of recovering the amounts set out in clause 4.1 and to institute whatever legal proceedings it may consider necessary for such purpose, and generally to do all that may be requisite and necessary just as if the Cedent were acting therein. To this end, the Cedent hereby constitutes and appoints the Cessionary irrevocably and in *rem suam* with power of substitution as the Cedent's attorney and agent in the Cedent's name, place and stead to execute all such documents and do all such other things as may in the Cessionary's discretion be necessary to give due and proper effect to the terms hereof.
- 4.3 The Cedent shall reimburse the Cessionary on demand with all costs and expenses (which shall be market related provided that legal costs shall be determined on the scale as between an attorney and his own client) which the Cessionary may incur in the collection of the amounts set out in clause 4.1.

#### 5 BREACH

- 5.1 Should the Cedent breach any term or condition of the agreements set out in clause 2.1 and/or this cession, the Cessionary shall, without prejudice to any other rights the Cessionary may have in law, be entitled and the Cedent hereby authorises the Cessionary irrevocably and in *rem suam* without reference to the Cedent and without first obtaining an order of court -



G:\Legal\MTC\EM008.96  
26 November 1996

Page 5

- 5.1.1 to surrender or realise in any other manner and on such terms and condition as the Cessionary may in its sole discretion deem fit any of or all the investment and apply the proceeds thereof in reduction of the indebtedness of the Cedent secured by this cession; and/or
- 5.1.2 to set off any amount held by the Cessionary pursuant to clause 4 against the indebtedness of the Cedent secured by this cession; and/or
- 5.1.3 to take all such further or steps as the Cessionary may reasonably consider necessary to deal with the investment.
- 5.2 the Cessionary shall pay to the Cedent any amount by which the amount received or the proceeds or value referred to in 5.1 exceed the amount of the indebtedness of the Cedent secured by this cession.

**6 CONTINUING COVERING SECURITY**

- 6.1 The security provided in terms hereof -
  - 6.1.1 shall constitute a continuing covering security, notwithstanding any fluctuation in the amount of the indebtedness of the Cedent secured by this cession or the temporary extinction thereof; and
  - 6.1.2 is given in addition to and without prejudice to any other security which the Cessionary may now or in the future hold in respect of the indebtedness of the Cedent secured by this cession.

Handwritten signatures and initials in the bottom right corner of the page.

G:\Legal\MTC\JEM008.96  
26 November 1996

Page 7

**9 CERTIFICATE**

A certificate, signed by any manager of the Cessionary (whose appointment or authority as such shall require no proof), setting out -

- 9.1 any indebtedness of the Cedent secured by this cession and/or any matter in relation thereto; or
- 9.2 the amount received or the proceeds or value of the Investment referred to in 5.2,

shall be *prima facie* proof for all purposes of the matters stated therein.

**10 VARIATION**

No addition to and no variation, modification or consensual cancellation of this cession, and no waiver by the Cessionary of any of its rights hereunder, shall be of any force or effect, unless reduced to writing and signed by or on behalf of the Cessionary.

**11 INDULGENCE**

No indulgence which the Cessionary may grant to the Cedent with regard to any of its obligations to the Cessionary shall be binding on the Cessionary or constitute a waiver or novation of the Cessionary's rights against it, unless reduced to writing as a waiver in express terms and signed by the Cessionary, which waiver shall be effective only in the specific instance in which it is given.



GA:Legal\MT\CUEM\008.96  
26 November 1996

Page 8

12 **DOMICILIUM**

The Cedent hereby chooses *domicilium citandi et executandi* for all purposes arising out of or in connection with this cession at the following address, or such other address in the Republic of South Africa as the Cedent may in writing notify the Cessionary, where all notices and/or processes arising out of or in connection with this cession may validly be delivered to or served upon the Cedent -

Old Pretoria Road  
Ranjespark  
Halfway House  
1685

Telefax No: (011) 314-1894

13 **COSTS**

The Cedent shall be liable for all costs on the scale as between an attorney and his own client incurred by the Cessionary in the enforcement of its rights against the Cedent in terms of this cession irrespective of whether or not legal action is instituted.

14 **EXECUTION**

This agreement is executed for and on behalf of:-

14.1 The Council by JOHANNES SARCOPUS SMOOTZ  
he being duly authorised hereto under and by virtue of a resolution dated  
14 OCTOBER 1996



C:\Legal\MT\CVE\008.96  
26 November 1996

Page 9

Signed at MIDRAND this 27TH day of NOVEMBER 1996

AS WITNESSES

1.

For: MIDRAND TOWN COUNCIL

O:\Legal\MT\CVEM008.96  
26 November 1996

Page 6

## 7 CESSION OF REVERSIONARY RIGHTS

- 7.1 If, contrary to the warranty set out in clause 3.1.6, the investment has been ceded to a third party in terms of a prior cession, this cession shall be deemed to be a cession of all the Council's reversionary rights in and to the investment in terms of the prior cession.
- 7.2 Any documents, certificates or receipts delivered to the prior cessionary shall be held by the prior cessionary on its own behalf and for and on behalf of ABSA for their respective rights and interests.
- 7.3 On the prior cessionary no longer, for any reason whatsoever, having any rights under and in terms of the prior cession, ABSA shall be entitled to receive from the prior cessionary all documents, certificates or receipts evidencing or constituting title to the investment.
- 7.4 ABSA shall be entitled to receive payment directly from the prior cessionary of the amount by which the amounts received by the prior cessionary exceed the amount due to the prior cessionary and secured by the prior cession.

## 8 RENUNCIATION

The Cedent hereby renounces the legal benefits and exceptions of *non numeratae pecuniae, non causa debiti*, revision of accounts, *errore calculi* and all other benefits or exceptions which might or could be taken to the Cedent's liability in terms of the agreement referred to in clause 2.1 and/or this cession, the Cedent declaring itself to be fully acquainted with the full meaning and effect of this renunciation.

