



# Term Loan Commercial Terms Outside the National Credit Act No 34 of 2005

## Confidential

These Commercial Terms are to be read with the accompanying Standard Terms and our Business Client Agreement (BCA). Together these documents form the Agreement.

Borrower	<b>SWELLENDAM MUNICIPALITY, 49 VOORTREK STREET, SWELLENDAM 6740</b>
Loan amount	<b>R 4 200 000.00</b>
Loan account	<b>3057182630</b>
Interest rate	Fixed <b>10.03%</b> per annum.
Repayment Instalments	Instalment: R <b>89 277.09</b> Final instalment: R <b>91 163.89</b> Date of first instalment: <b>30/11/2022</b> Instalment frequency: <b>monthly</b>
Final Repayment Date	<b>30/10/2027</b>
Penalty Interest Rate	<b>8.00%</b> above the Prime Rate.
Fees	Monthly Administration Fee: R <b>100.00</b> including VAT which is payable monthly by a debit to your Loan Account.
New Security Required	<b>There is no New Security required.</b>
Existing Security	<b>There is no Existing Security.</b>
Special Conditions	<b>No interest to be capitalized.</b> <b>Funds to be used for capital expenditure only in accordance with the client's capital budget for the 2022/2023 financial year.</b> <b>Tenor of the term loan is not to exceed the useful lifespan of the assets being funded, with a maximum tenor of 60 months.</b> <b>Absa to rank pari passu to all other funders.</b> <b>Municipal council resolution, signed by the mayor, in line with Section 46 of the Municipal Finance Management Act 56 of 2003, approving the loan to be obtained.</b> <b>Written confirmation by the municipal manager that comments or representation from National treasury and Western Cape provincial treasury in accordance with section 46(3) (a) (2), of the municipal finance management Act no. 56 of 2003, have been obtained.</b>
Conditions Precedent	<b>There are no Conditions Precedent.</b>

Bank's address for notices

Absa Towers West, 15 Troye Street, Johannesburg, 2001

Signed at Swellendam on 31/10/2022

For: Absa Bank Limited

Duly authorised

Signature

Name in full

Capacity

Employee number: 502999 3

Signed at Swellendam on 31/10/2022

For: SWELLENDAM MUNICIPALITY

Duly authorised

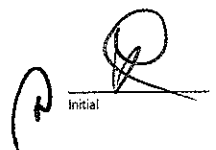
Name

Capacity

Duly authorised

Name

Capacity

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# Term Loan Standard Terms Outside the National Credit Act No 34 of 2005

In this Agreement, Absa Bank Limited is referred to as 'we' or 'us' and the borrower is referred to as 'Borrower' or 'you'. Expressions with a capital letter refer to the same expression in the Commercial Terms and these Standard Terms.

## 1 Definitions

In this

Agreement:

**Absa Group Limited** means Absa Group Limited and any of its subsidiaries;

**Limited**

**Event of Default** means any one of the events mentioned in Clause 13 (Events of Default);

**Finance Documents** means the term loan Commercial and Standard Terms, any security documents, the BCA and any other document which you and we decide;

**Interest Period** means monthly;

**Loan Account** means the account to which Repayment Instalments are paid and amounts referred to the Commercial Terms are debited;

**Loan** means the total capital, interest and fees outstanding under the term loan;

**Prime Rate** means the Bank's publicly quoted prime lending rate of interest which varies from time to time;

**Material Adverse Effect** means in the reasonable opinion of the Bank, a material adverse effect on:

- a) the business, operation, property, condition (financial or otherwise) or prospects of the Borrower or any provider of Security;
- b) the ability of any Obligor to perform any of its obligations under the Finance Documents; or
- c) the validity or enforceability of any Finance Documents or the rights or remedies of the Bank under the Finance Documents.

**Reputation Risk Event** means any act, matter, event which results in, or could, in our reasonable opinion result in damage to the reputation of any part of the Absa Group Limited;

**Security** means any Security provided to us;

**Security Document** means any document creating Security in our favour; and

**Signature Date** means the date of the signature of the party last signing the Commercial Terms.

## 2 Loan

We agree to lend and you agree to borrow the Loan Amount as set out in this Agreement.

We shall credit the account indicated in your application with the Loan Amount when you have satisfied in form and substance satisfactory to us the Conditions Precedent and any New Security required is in place.



## 3 Purpose

You shall use the Loan Amount for the purpose you declared when you applied for it.

## 4 Conditions Precedent

Each Condition Precedent is for our sole benefit and we may by written notice to you waive or defer fulfilment of any Condition Precedent, in whole or in part, or subject to any other condition we may decide.

## 5 Security

  
  
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If it is a condition of this Agreement that you provide Security, it must be registered (if required) or in place before we credit the Loan Amount to your account.

If we require Security, you agree not to allow anyone else to acquire an interest in it.

We may at any time require any asset subject to the Security to be professionally valued at your expense.

If an asset that you have ceded to us by way of Security is or will be appropriated by a public authority or otherwise suffers or is likely to suffer a material diminution in sale value, you agree to provide us with alternative or additional security reasonably acceptable to us having regard to the balance outstanding of the Loan within 3 (three) months after we deliver to you written notice requiring additional or alternate security.

## 6 Repayment

Your Repayment Instalment comprises a capital repayment of the Loan Amount, interest and Fees and any other sums due to us under this Agreement. You may pay the Repayment Instalments in cash, by electronic funds transfer (EFT) or by debit order. You will repay the Loan in South African Rand.

We may adjust the amount of the Repayment Instalment by prior written notice to you to ensure that you repay the Loan by the Final Repayment Date.

You may not redraw any part of the Loan Amount unless you have a Flexi Reserve Facility.

You are not permitted to deduct or withhold any amounts from the Repayment Instalments.

## 7 Prepayment and Paying off your Loan Early

### Voluntary Prepayment

When 90 (ninety) days have elapsed after we have credited your account with the Loan Amount, you may, on 90 (ninety) days' prior written notice to us, pay off all or part of the Loan early.

If you pay off part of the Loan early, we will recalculate and reduce your Repayment Instalment over the remaining term of this Agreement unless you tell us in writing that you want to maintain the amount of your Repayment Instalment.

If you want to repay the whole of your Loan early, you shall inform us of the date upon which you wish to repay the Loan and we will inform you of the amount required to repay the Loan on that date including any Early Repayment Fee specified in the Commercial Terms.

### Mandatory Prepayment

We may require you to pay off the Loan early by giving you 20 (twenty) working days' written notice if:

- we become or are likely to become subject to a law that does not allow us to provide credit to you;
- as a member of the Absa Group Limited our operation of controls and safeguards relating to international sanctions, the detection and prevention of financial crime and prohibited business activity both within and outside South Africa prevent us, on reasonable grounds, from continuing to provide credit to you; or
- a Reputation Risk Event has occurred, in which case:

We shall promptly notify you when we become aware of it:

- the Loan will be immediately cancelled; and
- you shall repay the Loan on the day stated by us in the notice delivered to you.

## 8 Payments

We will apply sums received to repay the Loan in the following order:

costs or expenses to which we are entitled;

fees, interest, and


to repay the Loan Amount.

We may, at our discretion, debit any sums due from you under this Agreement to any account you have with us.

## 9 FlexiReserve Facility

If we have granted you a FlexiReserve Facility with this Loan, then the provisions of this clause 9 shall apply.

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The FlexiReserve Facility will be available for the period of the Loan.

You may withdraw after making a request to us from the Loan Account all amounts paid by you in excess of the Repayment Instalments.

We will not pay interest on any amounts that you pay to the Loan Account in excess of the Repayment Instalments.

If an Event of Default occurs, we are entitled to cancel the FlexiReserve Facility immediately. We are otherwise entitled to withdraw the FlexiReserve Facility at any time during this Agreement by giving you 10 (ten) business days' notice.

You will pay the FlexiReserve Fee indicated in the Commercial Terms.

#### 10 Interest

You agree to pay interest at the rate stated in the Commercial Terms.

You agree to pay interest at the Interest Rate calculated on the balance outstanding of your Loan each day and added to the outstanding balance of your Loan monthly in arrears.

If your Interest Rate is variable, it will change in line with changes in our Prime Rate. We will notify you in writing of the change to your Repayment Instalment within 30 (thirty) days after the change takes effect.

You agree to pay interest at the penalty rate (Penalty Interest Rate) indicated in the Commercial Terms calculated on all sums overdue under this Agreement each day and added to the outstanding balance of your Loan monthly in arrears, with the Penalty Interest continuing to be charged while the sums are overdue for payment before demand is made.

#### 11 Fees

You will pay the Fees (plus any VAT payable on such fees) to us, as specified in the Commercial Terms. Unless you inform us of your intention to pay the Fees, we will debit the Fees to your Loan Account.

#### 12 Representations and Warranties

You represent and warrant at all times that:

you have taken all necessary actions to authorise the execution of this Agreement;

you have full power and authorisation to comply with your obligations in terms of this Agreement;

the terms of this Agreement do not conflict with and do not breach the terms of any other agreement or undertaking that is binding on you;

all the information that you give us in connection with this Agreement is in all aspects true, complete and accurate;

you are not aware of any facts or circumstances not disclosed to us and which, if made known, could have negatively affected our decision to grant you the Loan;

you are not in default of any of your obligations towards us or any other credit provider;

you are not insolvent and neither you nor anyone else has applied for a sequestration or liquidation order against you (whether provisional or final);


you have not received any compliance notices from the Companies and Intellectual Property Commission; and

you are not under business rescue and no steps have been taken to place you under business rescue.

#### 13 Events of Default

Each of the events or circumstances set out in this Clause 13 is an Event of Default:



  
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you fail to pay on the due date any amount payable under this Agreement;  
you fail to comply with any of your obligations under or in connection with or any Finance Document;  
you do not comply with any of your obligations under any other agreement with us;  
any representation, warranty or undertaking made, or any information provided, in connection with the Loan is or proves to have been incorrect or misleading in any material respect when made;  
you or a party who has provided Security on your behalf is unable, to pay its debts when due;  
you commit an act of insolvency as defined in the Insolvency Act 24 of 1936;  
you or a third party bring an application or other proceedings to have you liquidated, dissolved or de-registered, or you pass a resolution to be liquidated, dissolved or de-registered;  
you receive a compliance notice from the Companies and Intellectual Property Commission requesting you to cease carrying on business or trading;  
you begin (or pass a resolution to begin) business rescue proceedings or a third party starts business rescue proceedings against you;  
an event or circumstance occurs/occurred which has or is likely to have a Material Adverse Effect; or  
a compromise with any creditor is made;  
the appointment of a liquidator, receiver, business rescue practitioner or other similar officer in respect of you or any party who has provided Security to us;  
any similar procedure or step is taken in any jurisdiction;  
any expropriation, nationalisation, attachment, sequestration, distress or execution affects any asset or assets provided to us as Security;  
any Finance Documents relating to the Loan ceases to be legal, valid, enforceable;  
any party who has provided Security gives notice to terminate its obligations or terminates any Finance Document relating to the Loan; or

If you are in default, we may:

by notice to you, increase the interest, fees and cost; or

13.18 by notice to you, end this Agreement and demand immediate payment of the whole outstanding balance of your Loan with continuing interest, fees and costs; and/or enforce any Security provided in terms of this Agreement.

13.20 You hereby authorise us to debit any of your accounts held with us, in reduction, liquidation and settlement of the outstanding balance, if you default under this Agreement.

#### 14 Restrictions on Transfer of Water Rights and Land Bank Funding

If the purpose of the Loan is to finance the growing of crops and you hold water rights over the property on which the crops will be grown, you agree not to cede, assign, sell, encumber or otherwise transfer any part or all of those water rights, without getting our consent in writing beforehand.

For as long as you owe us any amounts under the Loan, you agree not to apply for or accept credit from the Land and Agricultural Development Bank of South Africa ('Land Bank') or any similar institution established by statute, without getting our consent in writing beforehand.

We are entitled to require additional security if we decide to grant consent to transfer your water rights and/or your request for financing from Land Bank.

If, at the time you apply for the Loan, you already have finance from or have applied for finance from Land Bank, you warrant that you have disclosed all material details of such finance to us.

You must inform us in writing of any amendments to pre-existing finance from Land Bank, as well as any amendments to any future finance from Land Bank to which we grant our consent.

If we consent to you applying for finance from the Land Bank and the Land Bank requests information from us regarding specific financing and other transactions concluded between you and us from time to time to enable the Land Bank to assess your finance application, you agree that we may provide such information to the Land Bank.

#### 15 Cost and Expenses

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If you default under this Agreement, you agree that we shall be entitled to recover all collection costs, fees and commissions on the attorney-own-client basis incurred by us in enforcing our rights under this Agreement.

You agree that we may debit all collection costs, fees and commissions described in this paragraph to your Loan Account and that they will be added to and form part of the outstanding balance owing to us.

**16 Change in Circumstance**

Any change in (or in the interpretation, administration or application of) any applicable law or regulation or the existing requirements of, or new requirements being imposed by, the South African Reserve Bank, the Financial Services Board or other regulatory authority (whether or not having the force of law) which results in an increase in our cost of funding, maintaining or making available the Loan or reduces the income from the Loan, then you shall pay on demand such sum as may be certified by us as being necessary to compensate for such increased cost or such reduction.

**17 Notifications Binding**

All notifications or determinations given or made by us shall be binding on you, except in the case of manifest error.

**18 Renunciation of Benefits**

You renounce, to the extent permitted under applicable law, the benefits of each of the legal exceptions, division, revision of accounts, no value received, the defence of a wrong calculation, and cession of actions and you declare that you understand the meaning of each such legal exception and the effect of such renunciation.

**19 Jurisdiction**

You consent to the jurisdiction of any Magistrates Court in South Africa in respect of any legal proceedings relating to this Agreement, provided that we may at our discretion institute proceedings in any High Court of South Africa or institute arbitration proceedings.

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