DEED OF CESSION AND DIRECT PAYMENT AGREEMENT

Entered into by and between

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(hereinafter referred to as the "cedent")

And

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(hereinafter referred to as the "cessionary")

And

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(hereinafter referred to as the “council/municipality/local authority”)


WHEREAS the cedent is obliged to supply and deliver material to

(Hereinafter referred to as the "council/municipality/local authority")

in terms of contract number

(Hereinafter referred to as the "contract")

entered into by and between the cedent and the council/municipality/local authority.

AND WHEREAS the cedent is desirous that the material be supplied and delivered to it and the cessionary is prepared to supply and deliver the material to the cedent, provided that the cedent cede to the cessionary, the cedent’s right, title and interest in and to its claim to payment from the council/municipality/local authority in terms of the contract referred to in paragraph 1 supra.

AND WHEREAS the council/municipality/local authority takes notice of the cession embodied in this agreement and is prepared to agree that it will pay to the cessionary all amounts payable to the cedent pursuant to the contract referred to in paragraph 1 supra.
NOW THEREFORE IT IS AGREED AS FOLLOWS:

CESSION

5 The cedent hereby cedes, transfers and makes over to the cessionary, its right, title and interest in and to any amount due and owing by the council/municipality/local authority in terms of the contract referred to in paragraph 1 supra.

6 It is recorded that the terms of this agreement will be binding on the council/municipality/local authority on the date which the council/municipality/local authority’s duly authorised body/person adopts a resolution binding the council to the terms of this agreement.

7 The cessionary shall be obliged to furnish to the engineer/architect/quantity surveyor (QS), by the 7th of each month, all invoices pertaining to material supplied to the cedent in the preceding month and any other documentation and/or information so as to enable the engineer/architect/QS to include the aggregate amount of the invoices in a certificate for payment.

8 8.1 It is recorded that the council/municipality/local authority’s liability in terms of this agreement shall be limited to an amount certified for payment by the engineer/architect/QS.

8.2 The obligations of the council/municipality/local authority to the cessionary are confined to the provisions of this agreement and are subject to the rights and obligations of the council/municipality/local authority and cedent in terms of the contract referred to in paragraph 1 supra.

9 The cession shall remain in force for as long as the cedent is indebted to the cessionary for material supplied and will expire on the date when the debt payable
by the cedent to the cessionary has been extinguished.

10 It is recorded that this cession constitutes security for payment of the amount payable by the cedent to the cessionary and shall in no way be regarded as extinguishing the liability of the cedent towards the cessionary.

11 Any payment made by the council/municipality/local authority to the cessionary, shall pro tanto reduce the cedent’s liability to the cessionary, and shall similarly reduce the council/municipality/local authority’s liability to the cedent.

12 It is recorded that the cessionary reserves the right to suspend delivery of material to the cedent in the event where payment of any amounts due by cedent to cessionary are overdue.

13 It is recorded that the cessionary reserves the right not to supply any material to the cedent until such time as this agreement is duly approved by the council/municipality/local authority as envisaged in paragraph 6 supra.

14 Ownership in all goods supplied by the cessionary to the cedent shall remain vested in the cessionary until such time as the value of such material has been paid by the council/municipality/local authority in terms of this agreement or by the cedent.

15 The parties acknowledge that any cancellation, variation, withdrawal or amendment of this agreement shall only be valid and effective if reduced to writing and signed by all parties hereto.

16 This agreement constitutes the whole agreement between the parties and no
warranties or representations, whether express or implied, not stated herein, shall
be binding on the parties.

SIGNED AT ___________________________________________ ON THIS THE

_________________ DAY OF _____________________________ 20 ________

AS WITNESSES:

1____________________________

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CEDENT
Herein represented by

____________________________________________________________________

In his/her capacity as

____________________________________________________________________

2____________________________

SIGNED AT ___________________________________________ ON THIS THE

_________________ DAY OF _____________________________ 20 ________

AS WITNESSES:

1____________________________

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CESSIONARY
Herein represented by

____________________________________________________________________

In his/her capacity as
SIGNED AT ____________________________ ON THIS THE
_________________ DAY OF ____________________________ 20 ________

AS WITNESSES:

1____________________________

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for and on behalf of
COUNCIL/MUNICIPALITY/LOCAL AUTHORITY
Herein represented by

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In his/her capacity as

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2____________________________