

85560

Evanie Daniels

From: Des Collier [tracts@intekom.co.za]
Sent: 12 January 2011 09:05 AM
To: langbooi@camdeboo.gov.za
Cc: Vasu Padayachy
Subject: Amava.Camdeboo Draft SLA for PMS
Attachments: Camdeboo Draft SLA -PMS with Dates.doc

MUNISIPALE BESTUURDER
CAMDEBOO MUNISIPALITEIT

2011 -01- 14

MUNICIPAL MANAGER
CAMDEBOO MUNICIPALITY

For Attention: Mr Langbooi; Ms Daniels

I have attached the draft SLA with Amava IT for the Performance Management System as requested by Mr Padayachy.

Regards
Des Collier
Amava Information Technologies (Pty) Ltd
Cell: 076 189 4231

The message is ready to be sent with the following file or link attachments:
Camdeboo Draft SLA -PMS with Dates

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

MUNISIPALE BESTUURDER
CAMDEBOO MUNISIPALITEIT

2011 -01- 17

MUNICIPAL MANAGER CAMDEBOO MUNICIPALITY



Munisipaliteit Camdeboo Municipality

Best Performing Municipality 2010 - Beste Presterende Munisipaliteit 2010

Town of the Year 2010 - Dorp van die Jaar 2010

Phone/Foon: 049 8075700
Fax/Faks: 049 8924319
eMail: townclerkgrtmun@intekom.co.za

Church Square/Kerkplein
P O Box/Posbus 71
GRAAFF-REINET
6280

84299

MEMORANDUM

Ref: 2/2/1-40462

Enquiries: Mr. Langbooi/ed

10 November 2010

TO: Directors and Managers
Snr. Admin Officer (Aberdeen)
Supervisor: Nieu-bethesda



FROM: Municipal Manager

Sir/Madam

ACTING MUNICIPAL MANAGER: 10-12 NOVEMBER 2010

Please take note that the Director: Finance (Mr. Joubert) will be in charge of the whole institution during the abovementioned dates.

Yours faithfully


M.G. LANGBOOI
MUNICIPAL MANAGER

Munisipaliteit Camdeboo Municipality

Best Performing Municipality 2010 - Beste Presterende Munisipaliteit 2010

Town of the Year 2010 - Dorp van die Jaar 2010

Phone/Foon: 049 8075700
Fax/Faks: 049 8924319
eMail: townclerkgrtmun@intekom.co.za

Church Square/Kerkplein
P O Box/Posbus 71
GRAAFF-REINET
6280

MEMORANDUM

Ref: 2/2/1-40629

Enquiries: Mr. Langbooi/ed

22 November 2010

TO: Directors and Managers
Snr. Admin Officer (Aberdeen)
Supervisor: Nieu-bethesda



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22/11/10

FROM: Municipal Manager

Sir/Madam

ACTING MUNICIPAL MANAGER: 23 NOVEMBER 2010

Please take note that the Director: Finance (Mr. Joubert) will be in charge of the whole institution during the abovementioned dates.

Yours faithfully

M.G. LANGBOOI
MUNICIPAL MANAGER

CAMDEBOO LOCAL MUNICIPALITY

**SERVICE LEVEL
AGREEMENT
PERFORMANCE MANAGEMENT**

2010

MEMORANDUM OF AGREEMENT

ENTERED INTO BY AND BETWEEN

CAMDEBOO LOCAL MUNICIPALITY (EC 101)

herein represented by

M.G. Langbooi

in his capacity as

MUNICIPAL MANAGER

AND

AMAVA INFORMATION TECHNOLOGIES (PTY) LTD

herein represented by

V. PADAYACHY

in his capacity as

DIRECTOR



PREAMBLE

WHEREAS the Municipality has in terms of the Municipal Systems Act (Act 32 of 2000), to establish a performance management system that is commensurate with its resources; best suited to its circumstances; and in line with the priorities, objectives, indicators and targets contained in its integrated development plan;

AND WHEREAS the Municipal Performance Regulations for Section 57 Employees seek to set out how the performance of municipal councils will be uniformly directed, monitored and improved.

AND WHEREAS these Regulations reference both the Employment Contract of a Municipal Manager and other Section 57 managers, as well as the Performance Agreement that is entered into between respective municipal councils and Managers to, in combination, ensure a basis for performance and continuous improvement in local government.

AND WHEREAS Camdeboo Local Municipality requires the services of a Service Provider to provide the following in accordance with the Project Plan, Time Frame and Costing enclosed under Annexure 1:

- o Design of an appropriate performance management system
- o Work shopping of the Performance Management System with all role players
- o Implementation of the Performance Management System
- o Design of procedures for reviewing and reporting of performance in terms of legislation. (Monitoring and feedback)
- o Review of all Section 57 Performance Contracts
- o Proposals – devolution of performance management system to other categories of staff
- o Staff capacitation
- o Cascading of system to all levels in terms of performance plan for each post.
- o Training regarding the reporting on performance management and conducting of performance.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

2. APPOINTMENT AND ACCEPTANCE

- 2.1 **The Municipality** hereby appoints the **Service provider** to execute the service specified (above) in this Agreement and the **Service Provider** accepts such appointment subject to the terms and conditions set out herein.
- 2.2 Notwithstanding anything herein contained to the contrary, it is specifically agreed that the appointment of the **Service Provider** shall not create an employment contract or relationship between the parties.
- 2.3 The services executed will amount to a total cost of **R293 675.40 (incl)**

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RS
GA
MA
AD

3. DURATION OF AGREEMENT

- 3.1 Notwithstanding the date of signature hereof this Agreement shall be deemed to have commenced on 29 November 2010 and shall proceed until 15 March 2011 (allowing for 10 days closure over Christmas/New year period).
- 3.2 Subject to the terms of clauses 16 and 17 relating to breach and termination respectively, the term of the Agreement will be from the date stipulated in clause 3.1 supra, unless extended in terms of clauses 3.3 and 4.4.
- 3.3 The terms of the Agreement may be extended to encompass work that is similar or related to the execution of the services of this Agreement.
- 3.4 The terms of Agreement may be extended as a result of bona fide negotiations between the parties. No extension of term shall be valid unless reduced to writing and signed by both parties.

4. RIGHTS AND DUTIES OF THE MUNICIPALITY

- 4.1 The **Municipality** shall ensure that the **Service Provider** is afforded access, at all reasonable times, to all relevant locations as well as relevant information and systems reasonably required for the performance of its duties, whilst this contract is in force and effect.
- 4.2 The **Municipality** shall ensure that **Service Provider** is afforded reasonable, necessary support and assistance by the **Municipality** to effectively perform its duties and responsibilities in terms of the Agreement.
- 4.3 The **Municipality** may, when necessary, require cooperation from the providers of professional services to it for example external accountants and legal representatives as well as past and present personnel to assist the **Service Provider** thereof.

5. RESPONSIBILITIES OF THE SERVICE PROVIDER

- 5.1 The **Service Provider** shall ensure that a reasonable level of care and responsibility be exercised when using items belonging to the **Municipality** in the performance of its duties and obligations as stipulated in the Agreement.



- 5.2 The **Service Provider** shall exercise the highest degree of skill, care and diligence that can be expected of its profession.

6. TERMS AND CONDITIONS

- 6.1 The time frames and number of days set out herein are estimates only and may be varied by Agreement between the **Municipality** and the **Service Provider**.
- 6.2 The **Service Provider** shall act as an independent contractor and not as an agent or employee of the State and has no authority to bind the State, or the **Municipality**.
- 6.3 The **Service Provider** shall submit original Invoices to the **Municipality** that will show the amount payable and submit a spreadsheet to indicate all actual costs and balances.
- 6.4 Invoices shall be certified by the **Service Provider** that the amount claimed in the invoices is due and payable in terms of the Agreement, that the amount claimed does not cover the amounts already claimed and that the claim truly reflects the value and extent of the work performed.
- 6.5 Should the **Municipality** accept the invoices submitted by the **Service Provider**, the **Municipality** undertakes to certify such Invoices within five (5) working days of the receipt thereof. Acceptance of invoice will be conveyed to the **Service Provider** in writing. Should the invoices not be acceptable to the **Municipality**, the **Service Provider** will be informed thereof in writing together with reasons for the non-acceptance of such invoices, within ten (10) working days of receipt of the Invoices.
- 6.6 Should the **Municipality** accept the invoices, payment shall be made to the **Service Provider** within ten (10) working days after certification.

7. OWNERSHIP AND PUBLICATION OF REPORTS

- 7.1 The **Municipality** will become the owner of the information, advice, recommendation and reports collected, furnished and/or compiled by the **Service Provider** during the course of, and for the purpose of executing this Agreement, in accordance with the reporting requirements enclosed under Annexure 2, all of which will be handed over to the **Municipality** on request, but in any event on the termination of this Agreement for whatever reason. The **Service Provider** relinquishes its retention of any other rights to which it may be entitled.

- 7.2 The copyright of all the documents, recommendations and reports compiled by the **Service Provider**, and specifically relate to the Municipality, during the course of and for the purpose of finalizing the project will vest in the **Municipality** and may not be reproduced or distributed or made available to any person outside the **Municipality's** service or to any institution in any way without the prior written consent of the **Municipality**.
- 7.3 In case of the **Service Provider** providing documents or material to the **Municipality** the development of which has not been at the expense of the **Municipality**, copyright shall not be vested in the **Municipality**. The **Service Provider** shall be required to indicate to which document and material and/or material this provision applies.
- 7.4 The **Service Provider** hereby indemnifies the **Municipality** against any action, claim, damage or legal cost that may be instituted against the **Municipality** on the ground of an alleged infringement of any copyright or other intellectual property right in connection with the work outlined with this Agreement.
- 7.5 All information, documents, recommendations, and reports collected or compiled must be regarded as confidential and may not be communicated or made available to any person outside the **Municipality's** services and may not be published during the currency of this Agreement or after termination thereof without the prior written consent of the **Municipality**.

8 INTELLECTUAL PROPERTY RIGHTS INDEMNITY

- 8.1 The **Service Provider** undertakes to obtain the necessary consent from the proprietors or their licenses should the **Service Provider** make use of the intellectual property of any other person.
- 8.2 The **Service Provider** further indemnifies the **Municipality** against any claim or action (including costs) caused by and/or arising from the failure to obtain such consent.

9. NO AGENCY OR PARTNERSHIP

- 9.1 The relationship between the parties shall not imply any partnership in the legal sense, nor shall it constitute either Party the agent or authorized representative of the other Party.

RB
JA
MS
SA

10. ASSIGNMENT

- 10.1 Neither Party shall be entitled to assign this Agreement, all or any of its rights and obligations hereunder without prior written consent of the other Party.
- 10.2 Each Party warrants that It is acting as a principal agent and not as an agent for an undisclosed principal.

11. INDULGENCES

- 11.1 No extension of time, latitude or other Indulgence without which may be given or allowed by either Party to the other shall constitute a waiver to alteration of this Agreement, or affect such Party's right, or prevent such Party from strictly enforcing, due to some compliance with each and every provision of this Agreement.

12. THE EXERCISE OF THE REASONABLE SKILLS, CARE AND INDULGENCE

- 12.1 The **Service Provider** guarantees that It will perform all its duties professionally and that all the work done by it will be of the highest standard that may be expected from a professional body in Its position.
- 12.2 If, for any reason, the **Service Provider** finds itself incapable of completing the services as agreed in terms of this Agreement, it will notify the **Municipality** within five (5) working days, stating full reasons.
- 12.3 The **Service Provider** shall ensure that a reasonable level of care and responsibility be exercised by all parties and Individuals under its control when such parties or individuals are using property belonging to the **Municipality** in the performance of this contract and in general in the performance of the **Service Provider's** duties and obligations as stipulated in this Agreement.
- 12.4 The **Service Provider** shall maintain an efficient well-trained and qualified staff. Should the **Municipality** find any member of the **Service Provider** unable to perform the task to the satisfaction of the **Municipality**, the **Municipality** may, in writing and together

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15/11/11

will reasons therefore, request that he/she be replaced in order to meet the requirement of the contract.

- 12.5 Such replacement will take place within ten (10) working days of receipt of the **Municipality's** request.

13. FORCE MAJEURE

- 13.1 Force majeure shall be considered to be, if the performance of any obligation in terms of the Agreement is suspended or postponed by:
- 13.1.1 strikes or lock-out or any combination thereof by employees or either of the parties;
 - 13.1.2 fire or accident on the premises of the **Municipality** not occasioned by negligence on the part of either of the parties;
 - 13.1.3 war or civil commission;
 - 13.1.4 any cause, except as may be otherwise provided for in the Agreement, beyond the reasonable control of either of the parties; and
 - 13.1.5 any act of God / nature.
- 13.2 Should the completion of obligation be delayed as a result of force majeure, the Party who is unable to perform its obligation shall, within twenty (20) working days of occurrence of such force majeure, give notice thereof in writing to the other Party and request an extension of time in which to comply with its obligation. On receipt of such notice and supporting particulars of the claim, the other Party may, in writing grant an extension of time as may be justified.
- 13.3 The Party who is incapable of performing its obligation shall not be liable for any such claim which the other Party may have as a result of such obligation not being performed provided that the reason why it cannot perform its obligation is due to force majeure and provided further that the notice referred to in 14.2 has been duly delivered.
- 13.4 In the event of force majeure continuing for a period of twenty (20) working days, either Party shall be entitled to terminate the Agreement by written notice to the other Party and without any Party incurring any liability to the other Party.

14. SEQUESTRATION, LIQUIDATION AND JUDICIAL MANAGEMENT

Should the estate of the **Service Provider** be sequestrated or liquidated or if it is placed under judicial management or administration order to be issued against it by any court, the **Municipality** shall have the right to make other arrangements at its own discretion for the completion of the project specified herein as well as to recover any additional cost from the estate of the **Service Provider** without prejudice to lodge claims in respect of the damages that it may suffer.

15. BREACHES OF AGREEMENT

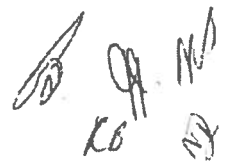
- 15.1 In the event of breach of the **Service Provider** of any of the terms and conditions of this Agreement, and in the event that the **Service Provider** fails to remedy such breach within five (5) working days after receiving written notice from the **Municipality** to do so, the **Municipality** shall be entitled to exercise all or any of the following rights:
- 15.1.1 The **Municipality**, or a third person of its choice, may assume and take over control of the project, in which event the **Service Provider** agrees to give access to and to make available all information, documents, programmes and reports collected, furnished and/or compiled by them to enable the **Municipality** to assume responsibility for and the benefit of the project as a whole;
- 15.1.2 To terminate this Agreement without prejudice to any other rights
It may have;
- 15.1.3 To suspend payments to the **Service Provider**;
- 15.1.4 To appoint another **Company** to complete execution of the project, in which event the **Service Provider** shall be held liable for cost incurred in the appointment of such **Company** as well as reasonable cost of the process of delay.
- 15.2 Should the **Service Provider** dispute the existence of breach entitling the **Municipality** into the above-mentioned rights and remedies, the matter(s) in issue may be referred at the request of either Party for determination by an arbitrator to be appointed in terms of clause 17 of this Agreement. Notwithstanding anything to the contrary contained in this Agreement, and by the reasons of the financial and social imperatives underlying this Agreement the arbitrator shall be entitled to make interim order to make sure that the project proceed and that no material delays occur.
- 15.3 The **Municipality** may terminate the Agreement should the **Service Provider** or any of its agents make themselves guilty of misconduct in terms of code of conduct of their profession or if the **Service Provider** act dishonestly or contrary to the integrity which is required by its profession.

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NSP
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- 15.4 In the event of any breach by the **Municipality** of the terms and conditions of this Agreement, and in the event of the **Municipality** remaining in default after ten (10) working day's written notice calling for rectification of the matter, the **Service Provider** shall be entitled to:
- 15.4.1 enforce strict compliance with the terms and conditions of the Agreement; or
 - 15.4.2 to cancel the Agreement
 - 15.4.3 This provision of clause 15.2 shall apply mutatis mutandis in the event of the **Municipality** disputing the existence of the breach entitling the **Service Provider** to the rights and remedies envisaged in 15.4.
- 15.5 If, owing to circumstances beyond the control of the **Service Provider** it becomes impossible for the **Service Provider** to fulfill any of its obligation in terms of this Agreement, the **Municipality** upon receipt of written request from the **Service Provider**, shall consider granting the **Service Provider** the necessary permission to defer such performance for such a period as is required under the circumstances, which permission shall not be unreasonably withheld.
- 15.6 In the event of the **Municipality** granting the **Service Provider** permission to defer performance as provided in 15.5 supra, it is specifically recorded that the **Service Provider** shall not be entitled to payment thereof until the particular obligations have been discharged fully.
- 15.7 Should the timeframe for the performance of the work not be met due to external reasons not attributable to either Party, it will not be considered a breach of Agreement.

16. TERMINATION OF AGREEMENT

- 16.1 The **Municipality** shall have the right to terminate the Agreement without prejudice to any of its other rights upon the occurrence of any of the following cases :
- 16.1.1 On commencement of any action for dissolution and/or liquidation of the **Service Provider** except for the purpose of the amalgamation or restructuring approved in advanced by the **Municipality**;
 - 16.1.2 If the **Service Provider** receives a court order to be placed under judicial management or commence liquidation procedures that are not withdrawn within five (5) working days;
 - 16.1.3 The **Service Provider** informs the **Municipality** that it intends to cease performing its obligations in terms of the Agreement;

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- 16.1.4 The **Service Provider** informs the **Municipality** that it is incapable of completing the project as described.
- 16.2 The **Municipality** furthermore reserves the right to postpone or terminate the whole or any part of the Agreement at anytime, provided that in such an event a period of ten (10) working day's written notice is given to the Service Provider.
- 16.3 The **Service Provider** shall receive remuneration for work completed to the satisfaction of the **Municipality** up to date of any postponement or termination of the project.
- 16.4 Termination of the Agreement will relieve the **Municipality** and the **Service Provider** of their respective obligations in terms of the Agreement.
- 16.5 The **Service Provider** shall not be entitled to advance a right of retention or any similar right if this Agreement is terminated.

17. DISPUTE RESOLUTION

- 17.1 The terms of this clause shall apply, if the parties agree in writing within five (5) working days, after failure of negotiations of the parties in good faith to reach Agreement of the dispute, that the dispute be referred to arbitration.
- 17.2 Notwithstanding anything herein contained to the contrary, it is agreed that irrespective of the fact that the dispute is referred to negotiation, arbitration or litigation in court, the decision of the **Municipality** on the dispute involved will immediately be given effect to by the **Service Provider** and the Service provider will proceed with the project or work with diligence unless the parties agree otherwise in writing.
- 17.3 The arbitrator shall be a person agreed upon between the parties and if this fails, the arbitrator shall be nominated by the President of the Law Society of South Africa or the Chairperson of any legal Bar Society.
- 17.4 The Party instituting these proceedings shall appoint the arbitrator and the arbitrator shall notify the parties beforehand of the remuneration required by him for his services.

18. GENERAL

- 18.1 This is the entire Agreement between the parties and may only be amended in writing and duly signed by both parties.
- 18.2 The Agreement shall be governed by, construed and interpreted according to the law of the Republic of South Africa.



18.3 The parties agree that the High court of South Africa (Port Elizabeth) shall have jurisdiction in respect of any matter arising from this Agreement, subject to the provisions of clause 18 relating to dispute resolutions.

19. DOMICILIUM CITANDE ET EXECUTANDI

For the purpose of this Agreement and of any proceedings which may be instituted in terms hereof and of the service of any notice, the parties each hereby choose domicilium citandi et executandi at their respective addresses set out hereunder :

For the Municipality:

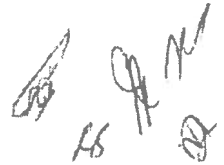
PHYSICAL ADDRESS: Town Hall
Church Square
Graaff-Reinet
6280

POSTAL ADDRESS: P.O. Box 71
Graaff-Reinet
6280

For the service provider:

PHYSICAL ADDRESS: 6 Woodpecker Street
Cotswold
Port Elizabeth

POSTAL ADDRESS: P.O. Box 7055
Newton Park
Port Elizabeth
6000



THUS DONE AND SIGNED BY AND ON BEHALF OF THE MUNICIPALITY

AT: GRATZ-REINET ON THIS 23rd DAY OF NOVEMBER 2010

AS WITNESSES:

1.  _____

2.  _____



MUNICIPAL MANAGER

THUS DONE AND SIGNED BY AND ON BEHALF OF THE SERVICE PROVIDER

AT: _____ ON THIS _____ DAY OF _____ 2010

AS WITNESSES

1.  _____

2. _____



DIRECTOR: AMAVA IT

ANNEXURE 1
Project Plan, Time Frames and Costing

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Camdeboo Performance Management Project Plan

Task No	Project Task	Duration	Start Date	End Date	Resources	No of Staff	Hours	Rate	Total Hours	Total
1	Project Initiation Workshop	1	29/11/2010	29/11/2010	Amava/Camdeboo	1	8	R 300.00	8	R 2,400.00
2	Collate all relevant organisational documents and Information	1	30/11/2010	30/11/2010	Amava/Camdeboo	1	8	R 300.00	8	R 2,400.00
4	Design and Develop draft PMS framework	2	1/12/2010	2/12/2010	Amava/Camdeboo	1	8	R 300.00	16	R 4,800.00
11	Design internal structures and procedures for PMS and reporting	3	8/12/2010	10/12/2010	Amava/Camdeboo	2	8	R 300.00	48	R 14,400.00
9	Develop Institutional Scorecard aligned to SDBJP	5	15/12/2010	22/12/2010	Amava/Camdeboo	2	8	R 300.00	80	R 24,000.00
3	Workshop Identified Stakeholders	2	9/01/2011	6/01/2011	Amava/Camdeboo	1	8	R 300.00	16	R 4,800.00
5	Workshop Organisation Objectives & Themes & Perspectives	5	10/01/2011	14/01/2011	Amava/Camdeboo	2	8	R 300.00	80	R 24,000.00
6	Workshop Departmental and Cost Centre Objectives	5	17/01/2011	21/01/2011	Amava/Camdeboo	2	8	R 300.00	80	R 24,000.00
7	Workshop Sectional Heads KPA's & KPI's & CCR's	5	24/01/2011	28/01/2011	Amava/Camdeboo	2	8	R 300.00	80	R 24,000.00
8	Workshop Line Managers KPA's & KPI's	5	31/01/2011	4/02/2011	Amava/Camdeboo	2	8	R 300.00	80	R 24,000.00
10	Amend Organisational PMS Policy & Individual PMS Policy	3	7/02/2011	9/02/2011	Amava/Camdeboo	2	8	R 300.00	48	R 14,400.00
12	Review of Sec 57 Agreements	2	10/02/2011	11/02/2011	Amava/Camdeboo	2	8	R 300.00	32	R 9,600.00

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Task No	Project Task	Duration	Start Date	End Date	Resources	No of Staff	Hours	Rate	Total Hours	Total
13	Draft Sec 57 Performance Agreements, Performance Agreements and Personal Development Plans	5	14/02/2011	18/02/2011	Amava/Camdeboo	2	8	R 300.00	80	R 24,000.00
14	Develop proposal for cascading PMS to all categories of staff	3	21/02/2011	23/02/2011	Amava/Camdeboo	2	8	R 300.00	48	R 14,400.00
15	Draft Performance Plans for Bargaining Council Employees	5	28/02/2011	4/03/2011	Amava/Camdeboo	2	8	R 300.00	80	R 24,000.00
16	Train stakeholders - PMS Legislation	5	7/03/2011	11/03/2011	Amava/Camdeboo	1	8	R 300.00	40	R 12,000.00
17	Train PMS Task Team - PMS Monitoring Evaluations	2	14/03/2011	15/03/2011	Amava/Camdeboo	1	8	R 300.00	16	R 4,800.00
18	System Signoff	1	16/03/2011	16/03/2011	Amava/Camdeboo	3	8	R 0.00	24	R 0.00
	Total	60								R 252,000.00
21	Prepare PMS Information for Electronic System	2	TBA	TBA	Amava/Camdeboo	2	8	R 300.00	16	R 9,600.00

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