SERVICE DELIVERY AGREEMENT

ENTERED INTO BETWEEN:-

DITILABENG LOCAL MUNICIPALITY

and

ZAM ENTERTAINMENT

WHEREAS

- (a) Dihlabeng Local Municipality is a local authority with jurisdiction within its demarcated municipal area:
- (b) Dihlabeng Local Municipality performs various functions to enable it to perform its legal responsibilities and duties;
- (c) Dihlabeng Local Municipality wishes to engage and the service provider wishes to be engaged as an independent service provider to provide a FIFA World Cup Public View Area as specified in the Agreement related to the appointment of a service provider;
- (d) For the purpose of this Agreement, Zam Entertainment shall be engaged to provide and undertake to show all the televised Soccer World Cup Matches for the period 11 June 2010 until the 11th July 2010 for Dihlabeng Local Municipality;
- (e) In addition to the expectation by Dihlabeng Local Municipality from the service provider to fulfill its traditional role and functions in terms of legal compliance;
 - Dihlabeng Local Municipality wishes to agree to benchmarks of service delivery with the service provider and a system of remuneration by Dihlabeng Local Municipality of the service provider, measured against and linked to the agreed benchmarks;
- (f) Dihlabeng Local Municipality wishes to attain their objectives of empowerment of previously disadvantaged individuals as well as other applicable legislation in this regard;
- (g) Zam Entertainment is desirous of assisting Dihlabeng Local Municipality in attaining the intensions, objectives and benchmarks as contained in this Agreement;

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(h) Zam Entertainment understands, underwrites and commits to the principles of due diligence, transparency and good governance in fulfilling its role and functions / responsibilities towards Dihlabeng Local Municipality; and

(i) The parties will comply with the Constitution of the Republic of South Africa as amended from time to time and applicable legislation.

PURPOSE

(a) The purpose of this Service Delivery Agreement is to formalize an arrangement between the Dihlabeng Local Municipality and Zam Entertainment (hereinafter, the Service Provider) to implement security as specified in the attached proposal.

(b) Service delivery agreement means an agreement between a municipality and an institution or person mentioned in section 76(b)(v) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) in terms of which a municipal service is provided by that institution or person, either for his own account or on behalf of the municipality.

NOW THE PARTIES DO HEREBY AGREE:

1. INTERPRETATION

In this Agreement:

- 1.1 Clause headings are for convenience and shall not be in its interpretation.
- 1.2 Unless the context clearly indicates a contrary intension, an expression that denotes any gender shall include the other genders, natural persons shall include an artificial person and vice versa. The singular shall include the plural and vice versa and the following expressions shall bear the meaning assigned to them below and cognate expressions shall bear corresponding meanings:

"Dihlabeng Local Municipality" A municipality established under the Local Government; Municipal Structures (Act 117 of 1998, as amended), to govern and represent the said and having its office at:

9 Muller Street East BETTILEHEM 9700

"parties" Dihlabeng Local Municipality and Zam Entertainment;

"effective date" This agreement shall be deemed to commence on the 11th June 2010:

"service" a service as contained in the main agreement between the parties:

"service plan" is the plan of service in line with Annexure "1 and 2" undertaken by the service provider on behalf of Dihlabeng Local Municipality which shall be that:

"Acceptance of quotation" means the signing of the agreement by the municipality which brings this agreement into force;

"Contract documents" means this service provision document, tender document or request for proposal, preliminaries, appointment letter, specifications, fees, scope work; also any documents annexed to the agreement documents by agreement between the parties;

"Contract price" means the amount specified in the main agreement and service plan of this agreement;

"Service Provider" means the person, partnership, company, close corporation, community of service provider or other legal body that agree to the scope of this agreement and is so identified in the schedule;

"Date of completion" means the completion of all work in this agreement including rectification of all defective and incomplete work to the reasonable satisfaction of the municipality;

"Days" means calendar days (including Saturdays, Sundays and public holidays, school holidays, etc);

"Final account" means the amount to be paid to the contractor in terms of clause 14 hereof;

"Guarantee" means the guarantee in the exact words of the guarantee form as provided with this document and to be provided by one or more guarantors on behalf of the service provider if required in writing by the municipality. The guarantor(s) will be responsible to finish the agreed work and/or for payment to the municipality of an amount of up to a maximum of 10% (ten percent) of the agreed sum, in the event that the service provider does not complete the works;

"Notice in writing" means a written notice delivered by either party to the other either by registered post, by hand or by telefacsimile, together with reasonable proof of the date of delivery;

"Payment" means payment by the municipality to the service provider of the amount(s) as agreed within 30 days of the completion of certain parts of the work to the satisfaction of the municipality;

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"Practical completion" means that stage of completion when a work is completed sufficiently for it to be properly used for the purpose for which it was constructed;

"Site" means the place where a work is to be executed.

"Variations" means changes to the works the service provider issues to its staff and/or team as instructions in writing excluding extra work not described in a written instruction from the municipality, which such work will not be paid for the municipality:

"Works" means the work/service which is to be done by the service provider in terms of this service level agreement and as set out in the contract documents.

2. APPOINTMENT

Dihlabeng Local Municipality hereby appoints the service provider who accepts such appointment as an independent service provider to perform the work detailed in the service plan.

3. SERVICE PROVIDER NOT EMPLOYEE OR AGENT IN RESPECT OF OTHER SERVICES

Neither the service provider nor any other person performing any duties or engaged in any work on its instruction shall be an employee or agent of Dihlabeng Local Municipality.

4. PERIOD

- 4.1 This Agreement shall, subject to any alternative agreement between the parties, endure for the period 11 June 2010 until 11 July 2010.
- 4.2 the period of the agreement may be terminated and/or renewed on written agreement between the parties.

5. SERVICE PROVIDER'S OBLIGATIONS

The service provider shall:

- (a) Upon notification of the acceptance of the quotation, commence to executive work and carry out the work in accordance with this agreement, to the reasonable satisfaction of the municipality;
- (b) Provide all necessary labour, equipment etc the work, complete the work as set out in this agreement;
- (c) Comply with all applicable statutory provisions and municipal requirements;

- Comply with all written instructions of the municipality to make variations to the (d) work undertaken:
- Give any instructions and/or explanations and/or variations to its employees (c) including any relevant advice to assist the employees to understand the service provision documents;
- (f) Inspect the work to decide when it is at the stage of practical completion and, when satisfied, certify that practical completion has occurred:
- Inspect the work to decide when it is at the stage of final completion and, when (g) satisfied, certify that final completion has occurred;
- Decide on the settlement of any dispute that may arise between the service (h) provider and the municipality, subject to the conditions of clause 17.

MUNICIPALITY'S OBLIGATIONS 6.

The municipality shall:

- 6.1 Hand over the information as specified in the schedule mentioned hereafter:
- 6.2 Make payment to the service provider for the works as set out in the service plan:

7. BREACH AND TERMINATION

- 7.1 Should the Service Provider;
 - fail to comply with any term of this Agreement or any of the terms and conditions of the addendum and benchmarks; or
 - 7.1.2 be wound up, or its estate sequestrated, whether provisionally or finally, or be placed under judicial management, or if the service provider defaults in the payment of its liabilities generally; or
 - 7.1.3 commit an act of insolvency; then and, in any of those events. Dihlabeng Local Municipality shall immediately be entitled, without prejudice to its rights in terms of this Agreement to cancel this Agreement in writing to the service provider.

RNY OF THE PARTIES

Should Diblabeng Local Municipality be dissatisfied with the manner in which 7.2 E CHARR PART Lam Lintertainment is performing its duties, will Diblabeng Local Municipality Take of give Zam Entertainment 24 hours notice to rectify the situation, and clearly specify in which regard Zam Entertainment is not fully complying with the agreement.

Should Zam Entertainment not be able to rectify the situation within in the 24 hour periods shall Dihlabeng Local Municipality be entitled to cancel the agreement.

ACTIVE ACHIEVEST THAY SHALL WITHOUT PROJUKICE TO ANY CINER RISHTS IT MAY HAVE BEEN ENTITIES TO CANCEL THE AGREEMENT.

- 7.3 Any remuneration paid or payable by Dihlabeng Local Municipality to the service provider shall be made on a pro rata basis for work completed up to the date of actual termination of this Agreement and shall be reconciled between the parties with effect from the date of inception of this Agreement. Should there be any dispute about any account of Zam Entertainment, must such an account be taxed.
- 7.4 The service provider warrants that he/she has not made, and will not make any promises to any person of the municipality, nor to any relative or business associate or political associate of the municipality to do or not to do anything as an inducement to award this agreement to the service provider or to allow any such wrongful inducement to gain an advantage in the carrying out of the contract.

Such conduct will serve as good grounds for cancellation.

- 7.5 The establishment by the municipality of proof of improper conduct by the service provider shall be grounds for immediate cancellation of the agreement by the municipality and of payment by the service provider to the municipality of any loss suffered by the municipality due to such cancellation.
- 7.6 Fails, in the opinion of the municipality, to carry out the works with reasonable diligence; and/or
- 7.7 Refuses to comply with an instruction issued by the municipality then the municipality shall, by notice in writing, inform the service provider of such default and, if such default shall continue for a further period of 30 days, cancel this contract and employ others to complete the works. The cost of such work by others shall be a debt due by the service provider to the municipality.

8. COSTS CONSEQUENT UPON BREACH

In the event of the either party being in breach of this Agreement, each party acknowledgement and agrees to pay legal costs incurred by either of them in enforcing its rights on the scale as between attorney and own client.

CESSION

9.1 The service provider shall not sub-contract or cede this agreement, including any portion thereof or interest therein, unless written permission is granted by Dihlabeng Local Municipality and on such conditions as Dihlabeng Local Municipality may approve.

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9.2 The service provider shall ensure that in all its activities supports the principles of good governance, transparency and objectivity.

10. WARRANTY OF QUALIFICATION

The service provider warrants that it has the necessary knowledge and expertise of the local government environment and of the guiding policies and legislation to enable it to fulfill its obligations in terms of this Agreement.

11. SPECIALIST WORK

The municipality may directly employ specialist to do work which are beyond the expertise of the service provider and which are not included in the schedule on site whilst the work is in progress. The service provider shall allow such specialist to do their work as and when needed and shall make available all facilities to enable such work to be properly done to the satisfaction of the municipality.

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In the event that either of the parties or both parties cannot discharged its obligations in terms of this agreement as a result of an act of God neither of the parties shall be held liable for such non-performance.

13. VARIATION OF WORK

- 13.1 The service provider undertakes to agree to any reasonable request by Dihlabeng Local Municipality for the variation or substitution of any clause or activity and resultant possible cost implication.
- 13.2 The payment due to the service provider in respect of such varied work shall be subject to negotiations and on the same terms and conditions of this Agreement.

PAYMENT

Dihlabeng Local Municipality shall pay the service provider the total price of any work formally agreed to in writing, as outlined in the "service plan" within 30 (thirty) days of receipt of the VAT Invoice (or other terms as agreed).

-RETENTION

15.1 Rentetion will be applicable as follows:

10% of the contract price retention completion, being payable at the end of the guarantee period subject to a satisfactory standard of completion being attained.

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15.2 This guarantee shall expire 12 months after the satisfaction standard or completion being issued.

16. DOMICILIUM

16.1 These parties choose domicifium citandi et executandi ("domicifium") for the purposes of giving any notice, the payment of any sum, the serving of any process or for any other purpose arising from this agreement as follows:

Dihlabeng Municipality:

The Municipal Manager
Dihlabeng Local Municipality
9 Muller Street East
BETHLEHEM, 9700

Tel no: 058 303 5732 Fax no: 058 303 5076

The Service Provider:

Zam Entertainment P O Box 851

NEWLANDS, 0049

16.2 Each of the parties shall be entitled from time to time on 14 days written notice to the other to vary its domicilium to any other address within the Republic of South Africa which is not a post office box or post restante.

- 16.3 Any notice required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing.
- 16.4 Any notice given and any payment made by one party to the other ("the addressee's") which:
 - 16.4.1 Is delivered by hand during the normal business hours of the addressee's domicilium for the time being shall be presumed, until the contrary is proven to have been received by the addressee;
 - 16.4.2 Is posted by pre-paid registered post from an address within the Republic of South Africa to the addressee at the addressee's domicile for the time being shall be presumed, unless the contrary is proof, to have been received by the addressee on the seventh day after the date of posting; and:
 - 16.4.3 Is transmitted by facsimile where it is transmitted during normal business hours or, if transmitted outside normal business, within one hour of normal business hours on the next general business day.

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17. **DISPUTES**

- 17.1 A dispute between the parties relating to any matter arising out of this agreement or the interpretation thereof, shall be referred to arbitration, by either of the parties, by way of a notice to the other party, in which notice particulars of the dispute are set out.
- 17.2 When arbitration proceedings are held it shall not be necessary to observe or carry out the usual formalities of procedure (e.g. There shall not be any pleadings or discovery or in accordance with the strict rules of evidence).
- 17.3 Arbitration shall be held immediately and with a view to its being completed within 30 days after it is demanded.
- 17.4 The arbitration for such arbitration proceedings shall be a suitably qualified person agreed upon by the parties and, failing agreement, nominated by the chairperson for the time being of the Association of Arbitrators (Southern Africa).
- 17.5 The decision of the arbitrator shall be final and binding on the parties, who shall summarily carry out that decision and either of the parties shall be entitled to have the decision made an order of any court with competent jurisdiction.
- 17.6 The "arbitration" clause in this agreement shall be severable from the rest of the agreement and therefore shall remain effective between the parties after this agreement has been terminated.
- 17.7 No clause in this agreement which refers to arbitration shall mean or be deemed to mean or interpreted to mean that either of the parties shall be precluded from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.

GENERAL

- 18,1 This document constitutes the sole record of the Agreement between the parties:
- 18.2 No party shall be bound by any express or implied term representative, warranty, promise or the like not recorded herein;
- 18.3 No addition to, variation or agreed cancellation of this Agreement shall be any force or effect unless in writing and signed by the authorized and duly delegated representatives for the parties concerned; and
- 18.4 No extension of time or indulgence which either Party ("the grantor") may grant to the other ("the guarantee") shall constitute a waiver of any of the rights of the grantor who shall not thereby be precluded from exercising any rights against the grantee which may have arisen in the future.

19. CONFIDENTIALITY

The Parties undertake either during the term of the Agreement or after termination or expiration of the Agreement not to disclose any proprietary or confidential information or intellectual property relating to each other and the operations without each other's prior written consent. The determination of whether a Party's information is proprietary or confidential shall be in the sole discretion of each Party.

20. TERMS OF AGREEMENT

The terms of agreement shall be interpreted in whole in the following preference:

- This service delivery agreement;
- The proposal; or tender document;
- The appointment letter;
- Specifications based on the Occupational Health and Safety Act, 1993. (Act no 85 of 1993)

| SIGNED AT BETHLEHEM | ION 14_DAY OF | NE2010 |
|----------------------|------------------------------|----------------|
| NAME: | DIHLABENG LOCAL MUNICIPALITY | THABISO TSCAEL |
| SIGNATURE: | AJULLi- | |
| AS WITNESS SIGNATURE | ES: | |
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| 2. Raicks. | | |

FOR AND BEHALF OF DIHILABENG LOCAL MUNICIPALITY AND WARRANTING HIS/HER AUTHORITY

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| NAN | ME: | $\angle AM$ | ENTERTAINMENT | (Zoha | K _E J' |
|------|-----------------|-------------|---------------|-------|-------------------|
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FOR AND BEHALF OF SERVICE PROVIDER AND WARRANTING HIS/HER AUTHORITY

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ZAM ENTERTAINMENT

ANNEXURE 1

THE WORK

To provide and undertake to televise all FIFA Soccer World Cup matches during the period 11 June 2010 until 11 July 2010 in a Public View Area at Bohlokong Stadium.

The service provider will be expected to work closely with the Municipal Manager, Director: Public Works, Heads of Department and the Project Manager Unit and appropriate officials and members of the Council.

The service provider will be expected to focus on the following key strategic and operational areas:

- Supervision of local SMME's over execution of the project.
- Any other service as may be required during the project.

2. CONTRACT DOCUMENTS

The contract documents comprise of the following:

Appointment letter

Signed service delivery agreement

Implementation plan

Occupational Health and Safety Specifications

THE SITE.

Dihlabeng Local Municipality jurisdiction area

4. SPECIFICATION OF THE WORKS

4.1 The progress report and payment certificate must be submitted monthly.

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- 5. **DATE OF COMMENCEMENT:** Date of signing of this agreement
- DATE OF REVIEW: 18 June 2010.

7. TIME FOR AND MANNER OF COMPLETION OF THE WORKS

Meeting the target of 100% within 1 month from 11 June 2010.

8. CONTRACT PRICE

The price to be paid to the service provider for completing the works is calculated as follows:

Dihlabeng Local Municipality

R1 050 000,00

Thabo Mofutsanyana District Municipality

R1 204 014,90

R2 254 014,90

AS PER CONTINUOUS SUBMITTED BY SERVICE PROVIDED in accordance with form I of the South African Association of Consulting Engineers as a percentage of the project cost

9. PAYMENT

Weekly reports should be submitted and measured against the submitted implementation plan

Payments will be made in line with the implementation plan-

PRIMERTS WILL'BE MADE AS PER SUBMITTED GOLFATION BY SERVICE PROVIDER

10. SERVICES, TOOLS AND EQUIPMENT TO BE PROVIDED BY THE CONTRACTOR

Labour

Necessary equipment

11. SERVICES/TOOLS/EQUIPMENT TO BE ARRANGED BY THE MUNICIPALITY:

Financial statements

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ANNEXURE 2

PROJECT TIMELINE

| ACTIVITY | DELIVERABLE | PERFORMANCE INDICATOR | PERFORMANCE | COST |
|--|---|--------------------------|---|------|
| (STEPS TO BE FOLLOWED IN THE PROJECT) (1) To televise all FIFA Soccer World Cup matches during the period 11 June 2010 until 11 July 2010 in a Public View Area at Bohlokong Stadium. | World Cup matches during the period 11 June 2010 until 11 July 2010 in a Public View Area at | WORK DONE) | EXPECTED DATE OF DELIVERY) Must be finalized within 1 month from 11 June 2010 | |

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DIHLABENG

PLAASLIKE MUNISIPALITEIT / LOCAL MUNICIPALITY / MASEPALA WA LEHAE \mathbf{MEMO}

DATE

1 June 2010

FROM

MUNICIPAL MANAGER

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SUPPORTING CHIEF FINANCIAL

OFFICER

REF

(MM8/2)(MM17/7/R) JLB/mp

YOUR REF

SUBJECT ZAM ENTERTAINMENT: QUOTATION: 31 MAY 2010: FIFA WORLD CUP PUBLIC VIEW AREA: BOHLOKONG STADIUM

Hereby you are informed that Zam Entertainment is appointed to establish a FIFA World Cup Public View Area, showing all the televised soccer matches during the period 11 June 2010 until the 11 July 2010.

The amount of R2 062 626,00 will be paid in the following manner:

Dihlabeng Local Municipality

R1 050 000,00

Thabo Mofutsanyana District Municipality

<u>RI</u> 012 626,00

TOTAL

R2 062 626.00

The attached quotation dated 31 May 2010 is already approved and is the appointment letter also attached.

This Public View Area is handled in conjunction with the Free State Government Department of Sport, Arts, Culture and Recreation as well as the Thabo Mofutsanyana District Municipality.

The service delivery agreement will be forwarded to your office.

Thabiso Tsoaeli

MUNICIPAL MANAGER

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(MM8/2)(MM17/7/R)

MUNICIPAL MANAGER

MR 1 E TSOAELI/mp

1 June 2010

The Managing Member Mr Zola A M Key Zam Entertainment P O Box 5282 PHUTTIADITJHABA 9866

Sir

ZAM ENTERTAINMENT: QUOTATION: 31 MAY 2010: FIFA WORLD CUP PUBLIC VIEW AREA: BOHLOKONG STADIUM

Your quotation dated 31 May 2010 in the above regard, refers.

Hereby Zam Entertainment is appointed to establish a FIFA World Cup Public View Area, showing all the televised soccer matches during the period 11 June 2010 until the 11 July 2010.

The amount of R2 062 626,00 will be paid in the following manner:

Dihlabeng Local Municipality

R1 050 000,00

Thabo Mofutsanyana District Municipality

R1 012 626,00

TOTAL

R2 062 626,00

The appointment letter is subject to a formal service delivery agreement be signed by 4 June 2010.

Yours faithfully

Thabier Tengeli

MUNICIPAL MANAGER



Reg no: 2006/221873/23, Vat no: 4440242099

Quotation

31 May 2010

Attention

: <u>Mr. Thabiso Tsoge</u>ši

Client

Dihlabeng Local Municipality

Service Duration : <u>Jechnical Equipment</u>

Duration

: From 11th of June 2010 to 11 of July 2010.

Scope

: FIFA World Cup Public Viewing Area, Showing all the televised (SABC 1 or Supersport

matches during the for 30 days. (Duration of the FIFA 2010 World Cup)

Venue : Bohlokong Stadium

| Equipment | Description | Unit | Days | Sub Total | |
|-----------------|---|--------------------------------|------|----------------|--|
| Stage | 6m x 4m x 0,6m, black, skirt, steps | R 10 500 | 10 | R 105 000,00 | |
| Structures | PA tower, FOH tower, 2x LED screen structures | R 11 700 | 10 | R 117 000,00 | |
| _Sound System | 20 kw EAW line-array complete, Desk, FOH | R 44 800 | 10 | R 448 000,00 | |
| Monitor Sound | 4 monitor, Amplification, Drive Rack | R 4600 | 10 | R 46 000,00 | |
| DJ set | DJ Tables, CDJs | R 6 500 | 10 | R 65 000,00 | |
| Lighting | 12 spot, Dimmer, Desk, 2Floods, 2Intel, smk | R 4560 | 10 | R 45 600,00 | |
| LED Screens | Lx Led Screens 3m x 3m, PC Control, Cabling | ₹ 65 800 | 10 | R 658 000,00 | |
| Video Control | DSTV. DVD, Laptop, Scaler, Preview, cabling | R 9 600 | 10 | R 96 DOG,00 | |
| Extra Equipment | Three phase cabling, power distribution, etc. | R 5100 | 10 | R 51 000,00 | |
| Power | Generator 200 kva, Diesel | R 10 500 | 10 | R 105 000,00 | |
| Crew | Engineers, Technicians and Labourers | R 4200 | 25 | R 105 000,00 | |
| <u>5</u> & T | Sustenance Technical Crew | R 300 | 32 | R 9 600,00 | |
| Accommodation | Technical Crew | R 1 200 | 32 | R 38 400,00 | |
| Transport | Equipment | R 17 500 | 2 | R 35 000.00 | |
| Transport | Crew | R 250 | 32 | R 8 000,00 | |
| Certification | Structural & Electrical compliance | R 7.500 | 1 | R 7 500.00 | |
| Sundries | Sundries and consumables | R 8000 | 1 | R 8 000,00 | |
| Total | | | | | |
| Vat | | R 1 940 900,00 R 271 726,00 | | | |
| Grand Total | | R 2 212 626,00 | | | |
| Discount | | | | R 150 000.00 | |
| Final Total | | | | R 2 062 626,00 | |

Cell: 082 265 0547, Tel: 086 111 1093, Fax: 086 646 5445 P.O. Box 5282, Phutaditjhaba, 9866, E-mail:zola.key@zament.co.za

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Reg no: 2006/221873/23, Vat no: 4440242099

<u>**Terms and conditions:**</u>

- The client to provide sufficient security from set-up (09 June 2010) to the strike day (12 July 2010).
- > 50% deposit on acceptance of this quote, or on appointment.
- > 25% on the 02nd of July 2010
- 25% Final payment on the 10th of July 2010
- Equipment is booked and reserved on first come first serve basis.

Thank you

Zola A.M. Key

Managing Member ZAM Entertainment cc Celt: 0822650547

Tel: 0861111093 Fax: 0866626087

> Cell: 082 265 0547, Tel: 086 111 1093, Fax; 086 646 5445 P.O. Box 5282, Phutaditjhaba, 9866, E-mail:zola.key@zameht.co.za

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