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IMPLEMENTATION OF PARTNERSHIP AGREEMENT DISPUTE RESOLUTION MECHANISM

Background

The Leadership Partnership Forum ("LPF") as part of the Partnership Agreement established a task group in order to develop a new dispute resolution mechanism and to propose such to the LPF.

The above mentioned task group concluded its work, and proposed a new Dispute Resolution Procedure to the LPF. This presentation was made during the LPF held on 06 and 08 August 2013 respectively. The Dispute Resolution Procedure was approved by the LPF. A resolution detailing the LPF resolution is reflected in the LPF communique dated 15 August 2013. It reads as follows:

"RESOLUTION: The LPF approved the recommendation for the implementation of Dispute Resolution. Implementation is subject to all parties (Eskom, Contractors and Unions) signing this resolution document."

The LFP communique was signed by all parties in August 2013. In order to implement the procedure Eskom engaged with the CCMA and the MEIBC for the purposes of obtaining:

- Approval for the implementation of the Dispute Resolution Procedure; and
- The names of Commissioners that could be selected to serve on the Panels of Commissioners that has to be established for Medupi and Kusile respectively.

In October 2013 Eskom received a list of commissioners from the CCMA. The list consisted of 13 names for Medupi and 5 for Kusile with an additional 9 names that could be assigned from Johannesburg. The number of Commissioners provided by the CCMA was less than what is required in the agreed procedure. Further discussion between the CCMA, MEIBC and the BCCEI took place for the purpose of obtaining more names in order to increase the pool from which the panels could be elected.

On 19 November 2013, a further LPF resolution concerning the implementation of the Dispute Resolution Procedure was issued. It required the parties to meet before the 22 November 2013, and to resolve all outstanding issues. It is confirmed that this meeting was not held. The LPF resolution however still stands.

The purpose of this letter is to provide the actions that are required to implement the dispute resolution procedure and to make proposals on how best they can be implemented.

Administrative requirements

As previously explained Eskom has to be ISO 9001 compliant. This requires all policy and procedural documents to be drafted in a specific standard format. This format is similar to the format that was used when drafting the other proposed LPF policies. It required that the Dispute Resolution Procedure is drafted in the said format without changing the substantive content of the document.

Please find Annexure "A" which is the Dispute Resolution Procedure in the format as accepted by the LPF, attached. Further find Annexure "B" which is the same procedure 'packaged' in the ISO standard format. Annexure "A" and "B" can be compared in order to confirm that no material changes were made to the procedure accepted by the LPF.

Proposal

It is proposed that in further Annexure "B" is used as the official document containing the Dispute Resolution Procedure.

Appointment of panel of commissioners

The Dispute Resolution Procedure requires that the Unions and Contractors jointly agree on a panel consisting of 40 of Commissioners. Such panel will be reviewed by the parties every six months. (See Part B paragraph 2 of Annexure "B")

As mentioned above the number of Commissioners initially nominated by the CCMA was insufficient. Further engagement with CCMA, MEIBC and BCCEI were conducted during the period October 2013 to January 2014, with the aim of increasing the available names of suitable commissioners to serve on the respective panels.

It can now be confirmed that the parties have jointly made available names of suitable Commissioners that can be considered by the Unions and Contractors to serve on the respective panels.

A list of 45 names has been provided for Medupi (See Annexure "C").

A list of 51 names has been provided for Kusile (See Annexure "D").

Proposed way forward

In order to resolve the issue relating to the appointment of a panel of commissioners the following issues have to be considered:

- The LPF resolution required that the Dispute Resolution Procedure should already have been implemented and that the implementation of this is long overdue;
- If a panel of 40 has to be selected from the names that have been made available it will result in academic excises and will not serve its original purpose, of allowing the Unions and Contractors to jointly select a panel.

In order to resolve both these issues Eskom proposes that:

1. That the number of Commissioners to serve on the elected panel is reduced from 40 to 20.

2. That the Medupi Site Labour Forum and the Contractors Management Forum uses the names on Annexure "C" to each propose 10 names, to serve on the panel.
3. That the Kusile Site Labour Forum and the Contractors Management Forum uses the names on Annexure "D" to each propose 10 names, to serve on the panel.
4. Except for reducing the panel from 40 to 20, no other changes will be made to the provisions of Part B, Paragraph 2 of the Dispute Resolution Procedure. (Annexure "B")

Date for nominations

Given the urgency of the matter both the name lists proposed by the respective SLF's and the CMF's should reach Eskom before close of business on 14 February 2014.

Further implementation actions

In order to ensure that the dispute resolution mechanism can be implemented by 15 March 2014 the following actions is required:

1. Establishment of panel of commissioners by 18 February 2014;
2. Training of the FTSS in the new dispute resolution procedure before 21 February 2014;
3. Training of the CMF in the new dispute resolution procedure before 21 February 2014;
4. Training of Commissioners on the dispute resolution procedure and, arranged site visit by all panelists before 07 March 2014.
5. Establishment of case management capacity to deal with new dispute resolution mechanism by 28 February 2014. This should also include transitional arrangements that will govern the period during which disputes referred to the CDR in the 'old mechanism' can be concluded.

The successful implementation of the Dispute Resolution Procedure will be beneficial to all parties. It can however only be successfully done if all of the parties provide their full co-operation and view the implementation thereof as a priority.

All parties are therefore requested to please provide their full co-operation.

Should any party or person have specific inputs or seek clarity, please feel free to contact the author at 082 280 1829.

Yours sincerely,



Dick Huyser

CHIEF ADVISOR: INDUSTRIAL RELATIONS

**CC: Roman Crookes – General Manager Mega Project Medupi
Abram Masango – General Manager Mega Project Kusile
Matome Makwela – General Manager Human Resources
Mala Moodley – IR Manager –Group Capital Division**

Annexure D
Pool of Commissioners Kusile

NO	SURNAME	FIRST NAME	PROVINCE
1	Bester	Erika	Gauteng
2	Boyce	Timothy	Gauteng
3	Bracks	Ronnie	Gauteng
4	Cachalia	Ahmed	Gauteng
5	Cormack	Glen	Mpumalanga
6	Dibden	Raymond	Mpumalanga/Gauteng
7	Driscoll	Kerry	Gauteng
8	Gaylard	Jeanne	Gauteng
9	Havenga	Coen	Gauteng
10	Hawyes	Mark	Gauteng
11	Hock	Claire	Gauteng
12	Kekana	Prince	Gauteng
13	Kirstein	Paul	Gauteng
14	Levy	David	Gauteng
15	Manzana	Daisy	Gauteng
16	Mashigo	Tshepo	Gauteng
17	Mashika	John	Mpumalanga/Gauteng
18	Mathebula	Johnny	Gauteng
19	Matshekga	James	Gauteng
20	Matthewson	Grahame	Gauteng/Western Cape
21	Mbileni	Nomsa	Gauteng
22	Mokwena	Seele	Gauteng
23	Moletsane	Russell	Gauteng
24	Moodley	Terry	Gauteng
25	Moolman	Johannes	Gauteng
26	Mosime	Kenny	Gauteng
27	Mphaphuli	Joseph	Gauteng
28	Mtiya	Lungile	Gauteng
29	Mzondi	Molapo	Gauteng
30	Naidoo	Moksha	Gauteng
31	Nkopane	Joyce	Gauteng
32	Nowosenetz	Lawrence	Gauteng
33	Ntimbana	Thomas	Mpumalanga
34	Ntuli	Leslie	Mpumalanga
35	Nyama	Moahloli	Gauteng
36	Pio	Paul	Gauteng
37	Raffee	Mohamed	Gauteng
38	Shandu	Lungelwa	Gauteng
39	Singh	Manisha	Gauteng
40	Sirkhot	Imthiaz	Gauteng
41	Sjölund	Arne	Gauteng
42	Smith	Margaret	Gauteng
43	Soman	Mohini	Gauteng
44	Stapelberg	Johan	Gauteng
45	Stassen	Frans	Gauteng

46	Stone	Pat	Gauteng
47	Tshayana	Thandiwe	Gauteng
48	Van der Merwe	Francois	Gauteng
49	Van Kerken	Esther	Gauteng
50	Walele	Zarina	Gauteng
51	Williams	Itumeleng	Gauteng

Annexure C
Pool of Commissioners Medupi

NO	SURNAME	FIRST NAME	PROVINCE
1	Bester	Erika	Gauteng
2	Bracks	Ronnie	Gauteng
3	Cachalia	Ahmed	Gauteng
4	Havenga	Coen	Gauteng
5	Hawyes	Mark	Gauteng
6	Hock	Claire	Gauteng
7	Kirstein	Paul	Gauteng
8	Lebea	Mohale Calvin	Limpopo
9	Ledwaba	Nelson	Limpopo
10	Levy	David	Gauteng
11	Maake	Kganyago Francis	Limpopo
12	Manzana	Daisy	Gauteng
13	Mashego	Michael Lati	Limpopo
14	Mashigo	Tshepo	Gauteng
15	Matsepe	Harold	Limpopo
16	Matshekga	James	Gauteng
17	Mokwena	Seele	Gauteng
18	Moletsane	Russell	Gauteng
19	Moodley	Terry	Gauteng
20	Moolman	Johannes	Gauteng
21	Mosime	Kenny	Gauteng
22	Mpai	Mpai Khutso	Limpopo
23	Mphaphuli	Joseph	Gauteng
24	Mtiya	Lungile	Gauteng
25	Mzondi	Molapo	Gauteng
26	Nkadimeng	Donald	Limpopo
27	Nowosenetz	Lawrence	Gauteng
28	Nyama	Moahloli	Gauteng
29	Nyathela	Irene	Limpopo
30	Osman	Abdool	Limpopo/Gauteng
31	Pio	Paul	Gauteng
32	Raffee	Mohamed	Gauteng
33	Ramotshela	Matthews	Limpopo
34	Rantho	Simon	Limpopo
35	Shai	Piet	Limpopo
36	Shandu	Lungelwa	Gauteng
37	Sirkhot	Imthiaz	Gauteng
38	Stapelberg	Johan	Gauteng
39	Stassen	Frans	Gauteng
40	Talane	Sipho	Limpopo
41	Tshayana	Thandiwe	Gauteng
42	Van der Merwe	Francois	Gauteng
43	Van Kerken	Esther	Gauteng
44	Walele	Zarina	Gauteng
45	Williams	Itumeleng	Gauteng

