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PREAMBLE

This manual is intended for use by Provincial Land Reform Offices. However in the implementation of the Proactive Strategy (PLAS) other government departments and role-players are welcome to utilize this manual.

The manual outlines guidelines and procedures that are necessary to implement PLAS. While the manual serves as a guide to implementation, implementers are requested to adjust these guidelines to local conditions and experience. The manual does, however, indicate certain non-negotiable procedures that must be strictly adhered to during the course of implementation. This manual is subject to editing as policy or procedures change.

The manual is presented in three sections:

Section 1: Proactive Implementation Framework
This section provides the overall implementation framework for the PLAS. It details the legislative ambit, financial mechanisms, institutional arrangements, target groups and corridor approach as well as communications, skills development and monitoring and evaluation strategies required to effectively implement the PLAS.

Section 2: Project Cycle
Section 2 outlines the project cycle in terms of the different phases. Each phase consists of a:
- Purpose;
- Reference guide detailing steps, activities and tools required; and
- Milestone

Section 3: Toolkit
This section provides various tools or guidelines, notes, examples and pro-formas that should be utilized during implementation.

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SECTION 1: PROACTIVE IMPLEMENTATION FRAMEWORK

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List of Acronyms

CASP: Comprehensive Agricultural Support Package
CD: Chief Directors of the Provincial Land Reform Offices
DLA: Department of Land Affairs
DLD: District Level Delivery
DOA: Department of Agriculture
DOH: Department of Housing
ESTA: Extension of Security of Tenure Act
IDP: Integrated Development Plan
LRAD: Land Redistribution for Agricultural Development
LTA: Labour Tenants Act
MOU: Memorandum of Understanding
PDA: Provincial Department of Agriculture
PLAS: Proactive Land Acquisition Strategy
PLRO: Provincial Land Reform Office
RLCC: Regional Land Claims Commission
A. ORIENTATION

1.1 Introduction

The Minister reaffirmed during the National Land Summit of 2005 that one of the measures that need to be in place “to ensure that land and agrarian reform moves to the new trajectory that will contribute to the higher path of growth, employment and equity by 2014” is the “introduction of proactive land acquisition by the state for targeted groups in the land market.” The implementation of the Proactive Land Acquisition Strategy (PLAS) will contribute to the higher path of growth, employment and equity by 2014. While the PLAS was approved “in principle” in July 2003, it arrived with a Ministerial proviso that a management (implementation) plan be developed prior to the implementation of the Strategy. The PLAS dealt with two possible approaches: a needs-based approach and a supply-led approach but essentially focusing on the state as the lead driver in land redistribution rather than the current beneficiary-driven redistribution. The document was re-looked at in view of the Land Summit recommendations and the approaches were deemed to be similar (only the state’s entry point was different) as both approaches advocated the dominant role of the state. These approaches have therefore been streamlined into one approach: State-driven Proactive Land Acquisition. This document outlines an implementation framework that is formulated for the revised approach, taking into consideration the new direction/trajectory that the Department of Land Affairs (DLA) plans to take post Land Summit and in terms of the Accelerated Shared Growth Initiative (ASGISA).

To briefly reiterate the pivotal elements of the PLAS in order to contextualize the Proactive Implementation Framework (hereafter referred to as the “Framework”), and to emphasize revision of the plan in terms of the ‘new trajectory’ the strategy/approach moves from the premise that there is a need or demand for land, it might either be quantified (through IDPs) or not, but that it is not beneficiary demand driven, but rather state driven. This means that the state will proactively target land and match this with the demand or need for land.

The main advantages of this approach are to:

- accelerate the land redistribution process;
- ensure that the DLA can acquire land in the nodal areas and in the identified agricultural corridors and other areas of high agricultural potential to meet the objectives of ASGISA;
- improve the identification and selection of beneficiaries and the planning of land on which people would be settled; and
- ensure maximum productive use of land acquired.

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1 Ministry for Agriculture and Land Affairs, 2005, Address by Ms. Thoko Didiza, MP Minister of Agriculture and Land Affairs at the National Land Summit, NASREC Johannesburg, Gauteng, 27-30 JULY 2005
The approach is primarily **pro-poor** and is based on purchasing advantageous land i.e. either because of the property’s location, because it is especially amenable to subdivision, because it is suitable for particular agricultural activities that government would like to promote vis-à-vis redistribution, and/or because it is an especially good bargain.

The Framework (**Figure 1**) consists of the following elements:

- Legislative framework and delegation
- Target groups
- Corridor approach, agricultural development within the Nodal areas and land for housing
- Institutional Arrangements
- Financial Mechanisms
- The different Resettlement Models
- Systems and Procedures
- Communication strategy
- Skills development strategy
- Monitoring and Evaluation

### 1.2 Legislative Framework

The Provision of Land and Assistance Act, Act No. 126 of 1993\(^2\) Section 10(1) (a) gives legal effect to the proactive acquisition of land:

> **The Minister may, from money appropriated by Parliament for this purpose-**
> ... (a) **acquire land for the purposes of this Act**

Section 10 has been delegated\(^3\) to Provincial Chief Directors (CDs) and this gives them the authority to purchase land without first identifying beneficiaries if it is for the purposes of Act 126.

Once land has been made farmable, Section 11 of Act 126 can be invoked to dispose of the land. It is therefore not necessary to process applications through the Provincial State Land Disposal Committees because Section 11 of Act 126 affords the Provincial CDs the discretion to sell, exchange or donate any land acquired in terms of Act 126 for the purposes of Act 126 or if the land is not required for the purposes of the Act. However it should be noted that Section 11 is a partial delegation and the power to impose terms and conditions still vests with the Minister. The approved terms and conditions will allow Provincial Chief Directors to dispose of land acquired through Act 126 and it will be a non-negotiable aspect of the Provincial Grants Committees approvals process. In this way all proactive projects, if they comply with the Ministerial terms and conditions, need not be sent through the state land disposal route.

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\(^2\) See Tool 1 in the Toolkit Section of this Manual for the full version of this Act.

\(^3\) See Tool 1 in the Toolkit Section of this Manual for the full version of the delegations in terms of Act 126 of 1993
Figure 1: Proactive Implementation Framework

STATE DRIVEN DEVELOPMENT

- FINANCING
- TARGETING
- CONCLUSION OF SERVICE LEVEL AGREEMENTS WITH AGENTS/DEVELOPERS/COMMODITY GROUPS/ETC

SYSTEMS AND PROCEDURES

PLANNING AND IMPLEMENTATION OF RE-SETTLEMENT MODELS

MONITORING AND EVALUATION

COMMUNICATION

SKILLS DEVELOPMENT PROGRAMME
2. Target Groups

The Framework in terms of the strategy will target black people (Africans, Coloureds and Indians), groups that live in communal areas and black people with the necessary farming skills in urban areas, people living under insecure tenure rights. In this way the Framework seeks to contribute to the decongestion of the communal areas, secure on or off farm accommodation and to create sustainable livelihoods. While the approach is pro-poor, it also caters for emergent and commercial farmers.

3. Corridor Approach, Agricultural development within Nodal Areas and land for housing

The proactive strategy supports the concept of the agricultural development corridors and should increase economic growth and development of rural towns. The agricultural development corridors focuses on developing agriculture along the major arterial routes (N1, N2 etc), guided by the principal of exploiting agricultural potential in the rural towns scattered along these routes. By using the models that the proactive strategy use to deliver land, land can be acquired and use for agricultural purposes though area-based planning and development.

The inception of the Integrated Sustainable Rural Development Programme (ISRDP) and the Urban Renewal Programme (URP) in 2001 ushered in a renewed focus on a new approach to integration at a local level in South Africa. Twenty-one nodal areas (both rural and urban) were identified in order to develop a model that would inform an overall strategy of government working in a new integrated way to produce results. The proactive strategy is one method of fostering integrated planning and development in such areas.

The proactive strategy is also aligned with the Department of Housing’s various programmes linked to the fast tracking of housing delivery. Central to the programmes is the acquisition of well-located land for low-income housing where the Department has committed to make funding available for land acquisition. The Department and the Department of Housing will manage the systems for delivering land for housing.

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4 See Toolkit…. See Pro-poor guidelines for beneficiary selection in terms of the Proactive Land Acquisition Strategy for agricultural projects
4. **Institutional Arrangements**

4.1 **Roles and Responsibilities of government role-players**

In terms of the Intergovernmental Relations Framework Act (Act No. 13 of 2005), the implementation of the FRAMEWORK will require a concerted effort at both local (municipalities) and provincial (Agriculture, Housing, etc) level. The DLA, together with its national counterparts in Department of Housing (DOH), Agriculture and Department of Provincial and Local Government and South African Local Government Association will play a monitoring role and evaluative role in terms of this strategy. The DLA and DOA will for instance ensure that in terms of agricultural projects, that adequate budgets, systems and procedures are in place to effectively implement those projects. The DLA and DOH will ensure that in relation to settlement projects adequate budgets, systems and procedures are in place and to ensure alignment of the housing products and grant instruments with the proactive strategy. Memoranda of Understanding must be concluded between the DLA and DOA and DLA and DOH and other possible actors such as the municipalities that are critical to this process.

4.2 **Area-based planning**

Proactive land acquisition must be executed within the ambit of local/district level IDP processes or area-based planning approach. However, the DLA need not necessarily wait for local level structures to approach the DLA for land (as is currently the situation), but could actively assist local level structures to determine land needs, select appropriate beneficiaries and identify suitable land. Thus Municipalities and/or local/district agriculture may actively identify land and beneficiaries, and then approach the DLA for funding assistance for planning and land acquisitions. The DLA may also embark on the process (with the Municipality/District Council as lead agents and/or local/district Agriculture) of actively identifying needs, land and beneficiaries.

In terms of the District Level Delivery (DLD) process, a proactive land reform strategy would improve and add to an efficient land delivery process.

4.3 **Concluding Service Level Agreements**

Proactive acquisition is driven by the state but the state can initiate service level agreements with any private or public sector agency to implement the strategy within the area-based approach. The state as the development driver will acquire the land, create a planning framework, develop the land and then

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5 The Act seeks to establish a framework for the national government, provincial governments and local governments to promote and facilitate intergovernmental relations; to provide for mechanisms and procedures to facilitate the settlement of intergovernmental disputes; and to provide for matters connected therewith.
assist potential beneficiaries through grants and services to acquire this land. In the development of the land and identification of beneficiaries, service level agreements with estate agents, financial institutions, commodity-groupings may be concluded.

Projects could be outsourced to other organisations/service providers such as the Land Bank, Ilovo, Tongaat-Hullets, and Stockowners etc. The advantages are threefold. First, many of these organisations have ample technical capacity that could serve as a valuable addition to government's capacity, especially in terms of land-use planning, marketing, and extension support. Second, a number of these organisations have experience in identifying opportunities in the land market, and thus would be particularly well suited to accessing appropriate land for redistribution. And third, by relying on such organisations, government would be able to keep some supply-led processes at arm's length, the idea being that supply-led projects that are undertaken directly by government are more apt to be impeded or distorted by pressure exerted by various groups.

Service level agreements with farmer unions and associations, organised agriculture etc. can be developed. The bottom-line of this approach is that these associations and organisations can assist in identifying available and suitable land and ensure that the land is made available on the market. Guidelines and criteria for concluding service level agreements are available.

B. FINANCIAL MECHANISMS

5. Grant financing

5.1 Acquisition and Disposal Financing

The proactive approach would allow the DLA to acquire land in terms of Act 126 [Section 10(a)] based on the selling price, expropriation or auction price without attaching beneficiaries to such land. Once beneficiary selection has been finalised, beneficiaries are expected to lease\(^6\) with an option to purchase and lease fees would also be taken into consideration once the applicants are ready to acquire full ownership of the land after being assessed by the Department of Agriculture.

Once the trial-lease period has expired the land can be disposed off to the same beneficiaries if they have been satisfactorily assessed by the Department of Agriculture. A “qualifying grant” based on the LRAD grant system would be made available to beneficiaries and discounted against the purchase price. The sale price of the land would have been fixed at acquisition by the DLA.\(^7\) A further discount of 30% would be offered to all qualifying beneficiaries.\(^8\) If grants and the discounts are still not enough to

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\(^6\) Leases are determined according to the length of a production cycle of a particular agricultural enterprise.

\(^7\) Subject to National Treasury approval.

\(^8\) Subject to National Treasury approval.
reach the purchase price, then beneficiaries should be assisted to obtain finance from:

- Commercial financial institutions;
- Development financial institutions such as the Land Bank; or
- MAFISA.

5.2 Planning Costs

Planning costs⁹ such as valuation, agricultural potential report/feasibility study, infrastructure development, subdivision and other costs that are necessary to make the farm “farmable” will be jointly funded by the DLA and Department of Agriculture through the CASP in relation to agricultural projects.

In relation to settlement projects, the Department of Housing will fund planning costs while the DLA will bear all costs associated with land acquisition.

6. The different Re-Settlement Models

As illustrated in Figure 1, there are, at this stage, seven re-settlement models through which the Proactive Land Acquisition Strategy can be implemented. These models can be implemented through mixing and matching various grants and services of different government departments e.g. agri-villages and Kibbutz type development can be implemented by combining grants and services from DLA (land acquisition), DoA (CASP, agricultural starter packs and extension), Department of Housing (building of the houses) and local government for municipal services. Each of these models will be integrated into local development strategies.

- Agri-village
- Small holdings
- Settlement + Commonage
- Establishing black commercial farmers
- Sustainable human settlements
- Commonage
- Kibbutz type development

These models can be implemented utilising the systems and procedures, as discussed below, based on the approach.

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⁹ See Toolkit 5 for detailed explanation on what can be considered as planning costs in terms of this strategy.
C. SYSTEMS AND PROCEDURES

7. Guidelines, methods and arrangements for proactive acquisition and disposal

7.1 Guidelines for acquiring land proactively

The state will acquire land based on a quantified or non-quantified need or demand. Thus the state can buy/secure suitable land that is available, on offer or have been targeted for land reform, before or after beneficiaries have been identified and quantified. This can be achieved either programmatically or at a project level.

At a project level, the need or demand may or may not be quantified in terms of identified beneficiaries. In some cases this may be quantified in terms of specific DLA programmes and there is an indication of what type of land is needed as the need is very specific e.g. a set number of labour tenant claims are registered. The state in this case may simply purchase the land based on the number of claims registered in the office and then commence proper planning with the selected beneficiaries.

In terms of the programmatic approach, land needs of potential beneficiaries are to be identified in a specific area and matched with suitable and available land in that area. Various re-settlement models as outlined in Figure 1 can be applied within this approach. The Programmatic approach is therefore based on area development planning; ultimately culminating in an area development plan that will clearly stipulate the land needs. These land needs would then need to be quantified, if not already quantified through other planning tools such as the IDPs or Provincial Growth Strategies, in terms of beneficiaries. The quantification exercise must be driven by district and local municipalities with assistance from PLROs and other relevant institutions.

7.2 Methods of acquisition

‘Methods of acquisition’ refers to how the state will acquire the land proactively.

a) Expropriation

The rationale of the targeted expropriation option would be that the land market is not providing adequate opportunities to acquire the land that is considered necessary for redistribution. Expropriation or compulsory acquisition by the State has the advantage of enabling better planning:

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See Toolkit 4 for non-negotiable guidelines for acquisition of land utilizing the Proactive approach.
• If the land market as a whole is not supplying enough land to meet overall national targets;
• If the land market is not supplying enough land in the particular areas that the Government wants to develop as part of the land reform and rural development programs:
  o high-potential agricultural land;
  o contiguous blocks of agricultural land suitable for resettlement, with possible infrastructure cost-savings because of economies of scale; and
  o extension of farming by households resident in communal areas—again cost-savings (due to economies of scale and possibly savings on residential infrastructure if households would not need to physically move) would be achieved if households can still use the existing social infrastructure in the communal area, but farm better land on neighbouring agricultural land.

Comprehensive systems and procedures have been developed for expropriation of land for Redistribution, ESTA\textsuperscript{11} and Restitution purposes.

\textit{b) Auctions}

In terms of Act 126 of 1993 (sections 10 (1) (a), the Minister or Delegate may acquire land for the purposes of the Act. Land auctions provide the DLA with a good opportunity to proactively acquire land cheaply; giving that the final bidding price for land at an auction is generally plus or minus 90\% of the actual market value.

The auction process is relatively straightforward. Prior to the commencement of the auction, all those intending to bid must make a 10-15\% down-payment or provide a financial guarantee. This enables the auctioneer to determine who the serious bidders are. The sale occurs as per rising bid, with the right to purchase reserved to the highest offer. The agreed purchase price is paid as follows: a 10\% deposit is payable or a financial guarantee is given to the auctioneer on the day of the auction with the balance paid to the liquidator/attorney by the Date of Transfer/upon registration of the property (approximately 30/60 days)\textsuperscript{12}.

The following exemption may be offered to government departments depending on the private auction houses in particular provinces: A financial guarantee that includes:
  • the maximum amount available for bidding; and
  • a description of the property on auction.

The financial guarantee binds the Department that full payment will be made within or on the date of transfer to the auctioneer.

\textsuperscript{11} See Toolkit 43 for summary of expropriations procedures into Act 126 & ESTA
\textsuperscript{12} See Toolkit 44 for procedures on auctions
c) **Market transactions/ negotiated transfers**

Land will be acquired through normal market transactions. PLROs or prospective beneficiaries can approach owners to see if they would be interested in selling it through normal market transactions, depending on the negotiations.

Occasionally land owners alert either provincial or national government officials that they would like to make their land available for sale for redistribution. Owners may have a variety of different motives for such offers, ranging from a genuine wish to 'contribute' to redistribution, to a conviction that the redistribution programme is the solution to their inability to sell their property in the normal market. All such offers should be objectively assessed relative to the province's pre-defined land needs within the area-based approach.

**7.2.1 Other potential sources of land**

These are other sources of land that can be relevant to the strategy and area-based planning.

a) **Existing public land**

The Department should actively assist local government to identify state land for disposal based on identified needs in the area. Various mechanisms are already in place (e.g. Provincial and National State Land Disposal Committees) where, *inter alia*, the Department of Public Works and the Provincial Governments are actively identifying state land that can be used for land reform purposes, in a joint effort. State land has already been set aside for land reform as a first priority in terms of a Cabinet Memorandum No. 5 of 1994. Superfluous state land can therefore, where suitable, be utilized for proactive redistribution purposes.

b) **Financial Institutions landed properties**

There is an existing MOU with the Land Bank that it will provide the DLA with first option to purchase any of its landed properties. This MOU can be extended to other financial institutions through the Banking Council. In terms of the current agreement the Landbank undertakes to instruct its branch offices to supply the PLROs with all available information on new properties that are acquired by the Bank from time to time in the province concerned, including the purchase price.
On receipt of the information PLROs will conduct preliminary investigations into the suitability of the relevant properties for land reform purposes, and will make its findings known to the relevant branch office of the Bank in writing within 30 days from the date of the Bank's letter of advice. If no answer is received within the mentioned 30 day, the Bank will accept that the property is not suitable for land reform purposes.

If the PLRO finds that a property has immediate potential to be used for land reform purposes and has informed the Bank accordingly, the Bank undertakes to withdraw the relevant property from the market for a further period of five months to afford the PLRO time to engage in the necessary activities towards planning/approval of the land for such purposes in terms of applicable legislation/policy and to register transfer of such property. Should the procedures not be finalised when the period of 5 months expires, opportunity costs calculated on the selling price at the current interest rate will be payable monthly in advance to the Bank by the PLRO, until date of registration of transfer, or until payment is made by the PLRO for the land in question.

c) Donations

The state could proactively communicate to farmers on the possibility of donating their land/part of their land the land is located in an area that has been identified for development purposes. In order not to discourage such donations, the DLA has developed a policy whereby such donations are exempt from donations tax. Often, the proposed donation is to a specific group of people, for example the owner's farm workers or former farm workers. Occasionally, however, the proposed donation is not linked to anyone in particular, in which case it would appear to be suitable for proactive acquisition. Notwithstanding the advantage of acquiring the land for free, the same caveat is evoked here as was mentioned in the case of land offered for sale: all such offers must be scrutinised relative to the stated land needs of the province.

7.3 Holding arrangements: Guidelines for the administration/management of land prior to leasing and/or disposal

Prior to entering into leases with beneficiaries, the PLRO would need to make sure that the land is developed and made ‘farmable’. During this period the PLROs must ensure that holding arrangements are in place by either appointing a caretaker, lessee or a management/security company.

a) Caretaker arrangements

Once agricultural land has been acquired proactively, there may be a need to acquire the services of a caretaker\textsuperscript{13}. A caretaker agreement is essentially an agreement

\textsuperscript{13} See Toolkit 16 & 17 for guidelines on caretaker agreements and an example of a caretaker agreement
interim holding arrangement and a few points garnered from the experience of state land administration are also relevant in this context:

- A caretaker agreement, or lease, should never include an option to purchase.
- A caretaker may have to pay for the opportunity to occupy and use the land but this will depend on what is agreed upon between the relevant provincial DLA and the caretaker.
- Caretaker agreements will not extend for more than twelve months at a time, and shall be subject to a notice to cancel period of one month.
- Any breach of the caretaker contract should be dealt with immediately and the caretaker should be given 30 days notice to vacate the property. Should the PLRO fail to do so, it might very well be the case that the caretaker might damage the land rather than taking care of it.

b) Management companies

The DLA could utilize reputable management companies to manage the collection of lease fees. Some property companies such as Pam Golding or Just Letting manage agricultural properties on behalf of their clients. In such cases a service level agreement would need to be concluded with these companies in order to ensure strict compliance with DLA requirements. Regular quarterly reports are also expected to be forwarded to the DLA on the leases being managed and outstanding payments.

7.4 Guidelines for leasing to beneficiaries and/or disposing of land after acquisition

It should be noted that the once the state takes possession of the land it becomes state land unless the seller and the PLRO have agreed on the delayed transfer route. The state is not exempted from paying VAT or transfer duties or rates as the state will be assuming ownership of the land. No transfer duties or VAT are payable once the land has been disposed off to beneficiaries after the lease period has expired.

Land that has been acquired becomes a state asset and as such must be registered on the state asset register.

7.4.1 Transfer/Disposal/Lease methods

As stated earlier, Section 11 of Act 126 of 1993 allows the Minister to sell, exchange, donate or lease land acquired via Act 126 for the purposes of Act 126 or for any other purpose. As a further requirement to Section 11 of Act

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14 See Toolkit 32 for Guidelines on leases
15 See Toolkit 4 for non-negotiable guidelines related to the disposal of land acquired proactively.
16 See Project cycle, phase 1, step 5 for details of registering land on the asset register.
126, the Minister has to determine terms and conditions to allow for Provincial Chief Directors to dispose of land acquired proactively via Act 126\(^{17}\). The approved terms and conditions would enable Provincial Chief Directors to dispose of land acquired via Act 126 without utilising state land disposal methods\(^{18}\). However it should be noted that existing state land made available for the strategy will be still subjected to the state land disposal processes.

\[b)\] \textit{Leasing (Trial lease period\(^{19}\))}

Lease agreements with an option to purchase must be concluded with the selected beneficiaries. Lease period must be linked to one production cycle of the enterprise that the beneficiaries are engaged in. Beneficiaries who are in arrears with their lease fees and who have not broken even during the lease period will be removed from the farming operation and new beneficiaries will be installed. However circumstances beyond beneficiaries control such as adverse weather conditions or animal diseases/pest problems will be considered before the decision is taken to remove under-performing beneficiaries. Leases currently utilized as part of state land disposal will be utilized during proactive disposal.

The trial lease period does not apply to beneficiaries that have been assessed in terms of rights-based programmes such as Extension of Tenure Security Act and the Land Reform (Labour Tenants) Act.

\[c)\] \textit{Exercising the option to purchase/outright disposal}

Once a particular lease period has expired and the selected beneficiaries have demonstrated their farming capabilities after the Department of Agriculture has assessed their performance, the beneficiaries will be given the opportunity to exercise the option to purchase. The DLA at this stage will consider applicable grants as per the LRAD grant system, lease fees paid and other discounts before disposing of the land to the beneficiaries\(^{20}\).

7.4.2 Transfer/Disposal route

\[a)\] \textit{State land disposal route}

In relation to public land that will be made available for proactive land reform purposes, the state land disposal route will have to be followed. This will not apply to land that has been acquired proactively as the Section 11 terms and conditions will take effect.

\(^{17}\) See Toolkit 30 for Terms and conditions in terms of Section 11 of Act 126.

\(^{18}\) See Toolkit 40 for format of memo for approval of LRAD grants & disposal of land.

\(^{19}\) See Toolkit 32 for Guidelines on leases

\(^{20}\) See Toolkit 40 for format of memo for approval of LRAD grants & disposal of land.
b) **Delayed transfer**

Double transfers may be avoided through the endorsement of title deed **but this applies only in cases where the state acquires all land (not just particular portions) held under a title deed and the seller is agreeable to this.** This would only apply in situations where the state intends to outright dispose of land rather than lease land to intended beneficiaries.

In this instance Section 16 of the Deeds Registries Act, Act No. 47 of 1937, dealing with endorsement procedures can be applied. The land can then be transferred later to beneficiaries through normal conveyancing procedures. **Section 16 reads as follows:**

*Save as otherwise provided in this Act or in any other law the ownership of land may be conveyed from one person to another only by means of a deed of transfer executed or attested by the registrar, and other real rights in land may be conveyed from one person to another only by means of a deed of cession attested by a notary public and registered by the registrar: Provided that notarial attestation shall not be necessary in respect of the conveyance of real rights acquired under a mortgage bond: Provided further that where the State acquires all the land held under any title deed, whether by way of expropriation or otherwise, or where a local authority by virtue of the provisions of any law acquires all the land held under a title deed by any other such authority, the registrar shall make such alterations and entries in his registers and such endorsements on any such title deed as may be necessary to register transfer to the State or such authority, as the case may be, of the property so acquired free of charge, and that the provisions of subsection (4) (a) of section 31 of this Act shall apply mutatis mutandis in respect of such a transfer by endorsement.*

The endorsement procedure is exempt from any registration fees but conveyancing costs can be incurred. However there is a general view from conveyancers that endorsement procedures are far less than a formal transfer process.

c) **Normal transactions**

Once beneficiaries have exercised the option to purchase after the lease period, normal conveyancing procedures, as contained in the Deeds Registries Act, Act No. 47 of 1937 would apply.
D. COMMUNICATION, SKILLS DEVELOPMENT AND MONITORING AND EVALUATION STRATEGIES

8. Communication Strategy

The strategy would need to be communicated to all spheres of government and relevant stakeholders. The Department would need to adopt a sensitive approach in communicating this strategy. A clear and credible position on how the land will be acquired need to be in place specifically if targeted and administrative expropriation is to be supported.

Different communication strategies for a wide range of stakeholders will be put in place. The approach must be widely communicated to different government Departments at national, provincial and local levels. Different communication tools would be used; following are some of the tools that would be used, road shows, print media, radio stations etc.

9. Skills development strategy

Implementing the Proactive Land Acquisition Strategy will present the Department with challenges as it would need highly skilled personnel, more so because government departments are moving away from appointing service providers to do the work that can be done in house. To ensure effectiveness, efficiency in delivering land using proactive land acquisition strategy and compliance with other important legislation, various training programmes will be put in place and they would target DLA project officers, Local Government employees, commodity groups, Estate Agents and other stakeholders that would be identified from time to time.

Needs assessment will be undertaken to inform a process of developing a comprehensive training strategy and a programme. The existing training programmes e.g. business planning, valuations etc will be part of the proposed training programme. Some of the elements that will be included in a training programme are:- policies and legislation that are specific to land reform e.g. Expropriation Act, 1975 (Act No 63 of 1975) National Spatial Development Framework, Environmental related legislation, internal legislation like the Provision of Land and Assistance Act, 1993 (Act No 126 of 1993). The following will be included:

- Livelihoods participatory approaches, and
- Integrated development planning.

Training programmes will also include crosscutting issues like gender and HIV/AIDS. The recently developed e-learning would be upgraded to include the proactive strategy. E-learning provides an option to project officers to go through a training course in the comfort of their offices at their own pace.

It is also important that project officers understand the provincial specific process e.g. Provincial Growth and Development Strategies for the
sustainability of land reform projects. When it becomes clear that some of the areas of training would need specialist intervention other government departments would be drawn into the training teams as and when needed.

10. Monitoring and Evaluation

The DLA, through its Monitoring and Evaluation unit, will develop indicators for each model identified within the strategy. Currently in terms of the LRAD, there are streamlined processes of approval in terms of a District Screening Committee and a Provincial Grants Approval Committee. The Strategy, when implemented, will follow a similar process as the LRAD screening and grant approvals processes. It is during these processes that monitoring audits can be performed in terms of a checklist for the various models within the strategy and then can proper indicators be developed. Baseline information can normally be collected after projects have been in existence for about three years. Evaluation will take place both during the implementation of the models and after the implementation of the different models. The impact assessment of the strategy will take place after five years of implementation through a survey of different households that benefited from the strategy.
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INTRODUCTION

This section sets out the steps and activities related to the PLAS project cycle and refers the user to the relevant tools as per the toolkit. The phases of the project cycle are described in detail and each phase sets out the:

- purpose;
- steps and activities referring to the relevant tools within the Toolkit section; and
- milestone/output.

ACRONYMS

DOH: Department of Housing
DSC: District Screening Committee
IDP: Integrated Development Plan
LRAD: Land Redistribution for Agricultural Development
MOU: Memorandum of Understanding
PDA: Provincial Department of Agriculture
PGC: Provincial Grants Committee
PIR: Project Implementation Report
PLAS: Proactive Land Acquisition Strategy
PLRO: Provincial Land Reform Office
CD: Provincial Chief Director (PLRO)
PRE-PHASE: NEEDS ANALYSIS AND PROJECT IDENTIFICATION

A. PURPOSE

The purpose of this phase is to identify land and/or confirm needs within the area-based approach and then match the land needs with land in that area.

B. STEPS AND ACTIVITIES

Step 1: Land needs assessment

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Tool</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Situation assessment/needs identification</td>
<td>PLRO to lead but other role players such as Departments of Agriculture, Housing and municipalities to co-opted into the relevant planning task teams</td>
<td>• Example of a situation assessment questionnaire Tool 3</td>
</tr>
<tr>
<td>• Meetings with municipalities and Department of Agriculture for all agriculture-related projects.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Meetings with municipalities and the Department of Agriculture for all settlement-related projects.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

NB: This activity can take place within IDP-related forums or area-based planning. It should also be noted that needs may have been identified through the IDP processes and/or area-based planning.

C. MILESTONE/OUTPUT: NEEDS IDENTIFIED AND/OR CONFIRMED.
PHASE 1: LAND ACQUISITION

A. PURPOSE

Land is acquired via Section 10(a) and is registered in the name of the national government prior to the identification and selection of beneficiaries. Land can be acquired in 3 ways through:

- Expropriation (See Tool 44 in the Toolkit section for procedures)
- Auctions (See Tool 45 in the Toolkit section for procedures)
- Land market

Whatever method is deemed appropriate in terms of the PLAS, the following steps are common to all three methods

B. STEPS AND ACTIVITIES

Step 1: Land identification

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Tool</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Land identification</td>
<td>PLRO to be assisted by municipalities and Departments of Agriculture (agricultural projects) and Housing (settlement projects).</td>
<td>• Non-negotiable guidelines when acquiring or disposing of land proactively Tool 4</td>
</tr>
<tr>
<td>• Identify land within the area-based approach.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Check for land claims or other rights in land within the area</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Step 2: Planning costs approval related to land acquisition

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Tool</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Compile document for release of funding for:</td>
<td>PLRO and PDA and/or Service Provider PLRO and Service Provider PLRO and Service Provider</td>
<td>• Notes on planning costs Tool 5</td>
</tr>
<tr>
<td>• Feasibility studies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Valuation</td>
<td>• Example of terms of reference for appointment of service providers: Valuation Tool 6</td>
<td></td>
</tr>
<tr>
<td>• Conveyancing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Submit and present documentation to DSC</td>
<td>PLRO</td>
<td>• Format of a PIR Tool 7</td>
</tr>
<tr>
<td>3. Submission of document to Provincial Chief Director for release of funding for planning.</td>
<td>PLRO</td>
<td>• Format of a PIR Tool 7</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Certificate of payment form Tool 8(a)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Payment advice form Tool</td>
</tr>
</tbody>
</table>
4. Provisional budget allocated

### Step 3: Valuation

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Tool</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Obtain valuation report to use in negotiations with the seller (not in auctions process. Valuations can be obtained prior to auctions to base maximum price state will be willing to bid at an auction)</td>
<td></td>
<td>• Example of a valuation report (^{\text{Tool 10}})</td>
</tr>
</tbody>
</table>

### Step 4: Land feasibility

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Tool</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Obtain feasibility report</td>
<td>PLRO and PDA</td>
<td>• Notes on land use regulations (^{\text{Tool 11}})</td>
</tr>
</tbody>
</table>

### Step 5: Land acquisition

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Tool</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Obtain approval from PGC for acquisition of land</td>
<td>PLRO</td>
<td>• Format for an approval memo for land acquisition (^{\text{Tool 13}})</td>
</tr>
<tr>
<td>2. Appoint a conveyancer to register land in the name of Republic of South Africa: National Government</td>
<td>PLRO</td>
<td>• Example of terms of reference for appointment of conveyancers – transfer to Nat. Gov. (^{\text{Tool 9}}) • Format of a letter of instruction to a conveyancer- transfer to Nat. Gov. (^{\text{Tool 12}})</td>
</tr>
<tr>
<td>3. Financial officer releases funds for land acquisition to the seller and payment to the conveyancer</td>
<td>PLRO</td>
<td>• Format for an approval memo (^{\text{Tool 13}}) • Certificate of payment form (^{\text{Tool 8 a}}) • Payment advice form (^{\text{Tool 8(b)}})</td>
</tr>
<tr>
<td>4. Submit transfer details to PLRO district office</td>
<td>PLRO</td>
<td></td>
</tr>
</tbody>
</table>
## Step 6: Register land on state asset register

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Tool</th>
</tr>
</thead>
</table>
| 1. PLRO project officer fills in asset inventory schedule and creates a manual file that must include:  
- Copy of sale agreement  
- Title deed  
- Valuation report  
*NB: THE PLRO SHOULD CREATE AN ELECTRONIC VERSION OF THE ASSET INVENTORY SCHEDULE UNTIL A UNITARY SYSTEM IS DEVELOPED.* | PLRO | Pro Forma Asset Inventory Schedule Tool 14 |
| 2. Project officer must update Financial Lead Schedule. Total of inventory list should balance to amount shown on lead schedule. The lead schedule is sent to the SSC or CD: FM after the end of each financial year and it should contain a list of all PLAS projects | PLRO | Pro Forma of Lead Schedule Tool 15 |

### C. MILESTONE/OUTPUT: LAND ACQUIRED AND ASSET REGISTERED
PHASE 2: PROJECT PLANNING AND LAND DEVELOPMENT

A. PURPOSE

The intention of Phase 2 is to identify and select beneficiaries for the land that has been acquired proactively and to plan further with the selected beneficiaries.

B. STEPS AND ACTIVITIES

Step 1: Holding arrangements

Step 1.1 Appoint Caretaker/management Company

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Tool</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Select caretaker/Management company</td>
<td>PLRO/PDA</td>
<td></td>
</tr>
</tbody>
</table>
| 2. Sign Caretaker agreement/ Agreement with Management Company | PLRO | • Example of a caretaker agreement Tool 16
• Guidelines on caretaker agreements in terms of the Proactive Land Acquisition Strategy Tool 17 |

Step 1.2: Management of Caretaker/Management Company

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Tool</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. PLRO to forward copy of lease agreement to Directorate: Land Reform Implementation Support</td>
<td>PLRO</td>
<td>• Format of a memo to Directorate: Land Reform Implementation Support to capture caretaker lease agreement Tool 18</td>
</tr>
<tr>
<td>2. Directorate: Land Reform Implementation Support captures relevant information on lease debtor system</td>
<td>Directorate: Land Reform Implementation Support</td>
<td></td>
</tr>
<tr>
<td>3. Directorate: Land Reform Implementation Support generates a report and submits to PLRO</td>
<td>Directorate: Land Reform Implementation Support</td>
<td></td>
</tr>
<tr>
<td>4. PLRO must verify every three months the</td>
<td>PLRO</td>
<td></td>
</tr>
</tbody>
</table>
5. PLRO must ensure that caretaker pays all rates and taxes, water, electricity and other costs associated with the agreement.

### Step 2: Beneficiary selection

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Tool</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Identify beneficiaries</td>
<td>PLRO/PDA</td>
<td>• Example of a beneficiary questionnaire Tool 19</td>
</tr>
</tbody>
</table>
| 2. Select beneficiaries | PLRO/PDA | • Example of wealth ranking exercise Tool 20  
| | | • Skills audit tool Tool 21  
| | | • Pro-poor guidelines Tool 22 |

### Step 3: Approval of planning costs and development of business plans

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Tool</th>
</tr>
</thead>
</table>
| 1. Compile document for release of funding for business planning, production/operational planning, compilation of lease agreements, legal entity formation (if necessary) and infrastructure development assessment | PLRO and PDA | • Example of a Terms of Reference for appointment of service providers for development of a business plan Tool 23  
| | | • Notes on Planning Costs Tool 5 |
| 2. Submit and present documentation to DSC | PLRO | • Format of a PIR for funds for planning Tool 24 |
| 3. Submission of document to Provincial Chief Director for release of funding for planning and infrastructure assessment. | PLRO | • Format of a PIR for funds for planning Tool 24  
| | | • Certificate of payment form Tool 8(a)  
| | | • Payment advice form Tool 8(b) |
| 4. Compile and finalise business plan and production/operational plan with selected | PLRO/PDA | • Format for a business plan for commercial agricultural projects Tool 25  
<p>| | | • Format for a business |</p>
<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Tool</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Conduct Infrastructure assessment</td>
<td>PLRO/PDA</td>
<td>• Notes on Planning costs Tool 5</td>
</tr>
<tr>
<td>2. Submit for approval</td>
<td>PLRO/PDA</td>
<td>• Format of memo for approval for infrastructure development of land acquired Tool 24</td>
</tr>
<tr>
<td>3. Release of joint funding from DLA/DoA (CASP) for infrastructure development</td>
<td>PLRO/PDA</td>
<td>• Notes on Planning costs Tool 5</td>
</tr>
<tr>
<td>4. Appoint service providers and finalise development of and provision of infrastructure</td>
<td>PLRO/PDA</td>
<td></td>
</tr>
</tbody>
</table>

C. MILESTONE/OUTPUT: FARM PLANNING COMPLETED, BENEFICIARIES SELECTED AND LAND DEVELOPED
PHASE 3: TRIAL LEASE PERIOD

A. PURPOSE

The main intention of Phase 3 is to finalize lease agreements with the selected beneficiaries and to manage and monitor these lease agreements.

B. STEPS AND ACTIVITIES

Step 1: Finalise lease agreements

<table>
<thead>
<tr>
<th>Step</th>
<th>Activity Description</th>
<th>Responsible Party</th>
<th>Tools</th>
</tr>
</thead>
</table>
| 1.   | Compile and finalize lease agreements with selected beneficiaries | PLRO and PDA | • Terms and conditions Tool 29  
• Example of a lease agreement with an option to purchase Tool 30  
• Guidelines on leases in terms of the Proactive Land Acquisition Strategy Tool 31  
• Notes on planning costs Tool 5 |
| 2.   | Provincial CD signs lease agreements | PLRO | |
| 3.   | PLRO to forward copy of lease agreement to Directorate: Land Reform Implementation Support | PLRO | • Format of a memo to Directorate: Land Reform Implementation Support to capture lease agreement Tool 32 |
| 4.   | Directorate: Land Reform Implementation Support captures relevant information on lease debtor system | Directorate: Land Reform Implementation Support | |
| 5.   | Directorate: Land Reform Implementation Support generates a report and submits to PLRO | Directorate: Land Reform Implementation Support | |
### Step 2: Manage, Monitor and Evaluate assets, lease payments and agreements

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
<th>Responsible Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>PLRO has option to appoint management company to manage lease payments</td>
<td>PLRO</td>
</tr>
<tr>
<td>2.</td>
<td>PLRO must verify every three months the assets as per report and report any deviations to Directorate: Land Reform Implementation Support</td>
<td>PLRO</td>
</tr>
<tr>
<td>3.</td>
<td>Monitoring reports of lease agreements to be issued at least twice a year to Provincial CD</td>
<td>PLRO &amp; PDA/Service Provider</td>
</tr>
<tr>
<td>4.</td>
<td>Evaluation on expiration on lease agreement</td>
<td>PLRO/PDA</td>
</tr>
<tr>
<td>5.</td>
<td>Sign MOU for aftercare/post transfer support</td>
<td>PLRO &amp; PDA</td>
</tr>
<tr>
<td>6.</td>
<td>Extension officer/mentor assigned</td>
<td>PDA</td>
</tr>
<tr>
<td>7.</td>
<td>Ensure that the extension officer/mentor executes skills development aspects of business plan</td>
<td>PLRO &amp; PDA</td>
</tr>
</tbody>
</table>

NB: During Step 4 above there is a possibility that some beneficiaries may be expelled based on their non-performance and new beneficiaries would then need to be selected to replace the expelled beneficiaries. If new beneficiaries are to be selected then Step 2: Beneficiary Selection in Phase 2 and the whole of Phase 3 must be repeated.

### C. MILESTONE/OUTPUT: LEASE AGREEMENTS SIGNED, ASSETS AND LEASES MONITORED
# PHASE 4: TRANSFER/DISPOSAL OF LAND

## A. PURPOSE

Beneficiaries apply for LRAD grant funding and for transfer/disposal of land/title to beneficiaries after satisfactory performance during lease period.

## B. STEPS AND ACTIVITIES

### Step 1: Determination and approval of grant funding and disposal

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Tool</th>
</tr>
</thead>
</table>
| 1. Determine grant funding and any additional funding needed | PLRO | • Terms and Conditions Tool 29  
| | | • Notes on own contribution Tool 34  
| | | • Inventory form for estimating own contribution Tool 35  
| | | • Notes and guidelines on verification of own contribution Tool 36  
| | | • LRAD grant scale Tool 37  
| | | • Guidelines for when lessees exercise option to purchase after trial lease period Tool 38  |
| 2. Submit to PGC for approval of grant funding and disposal | PLRO | • Format of a memo for approval of LRAD grants & disposal of land Tool 39  |

### Step 2: Transfer land to beneficiaries

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Tool</th>
</tr>
</thead>
</table>
| 1. Financial officer credits beneficiary grant funds for land acquisition to the state and payment to the conveyancer | PLRO | • Certificate of payment form Tool 8(a)  
| | | • Payment advice form Tool 8(b)  
| | | • Example of terms of reference for appointment of conveyancers Tool 9  
<p>| | | • Format of a letter of instruction to a conveyancer Tool 12  |
| 2. Submit transfer details | PLRO | |</p>
<table>
<thead>
<tr>
<th></th>
<th>PLRO</th>
<th>• Format of a memo to Directorate: Land Reform Implementation Support to terminate lease entry on lease debtor system</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. PLRO to provide</td>
<td>PLRO</td>
<td>Tool 40</td>
</tr>
<tr>
<td>Directorate: Land</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reform Implementation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Support with copy of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>title deed to terminate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>lease entry on lease</td>
<td></td>
<td></td>
</tr>
<tr>
<td>debtor system</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

C. MILESTONE/OUTPUT: LAND TRANSFERRED TO BENEFICIARIES
PHASE 5: POST SETTLEMENT SUPPORT

A. PURPOSE

This phase is aimed at ensuring that the business plan is implemented and that support is provided to beneficiaries.

B. STEPS AND ACTIVITIES

Step 1: Ensure Post Settlement Support

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Tool</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Complete Implementation Completion Report</td>
<td>PLRO</td>
<td>• Implementation Completion Report Pro Forma Tool 41</td>
</tr>
<tr>
<td>2. Ensure that the extension services are</td>
<td>PLRO and PDA</td>
<td></td>
</tr>
<tr>
<td>still in place as per MOU</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Monitoring and Evaluation of project as</td>
<td>PLRO and PDA</td>
<td></td>
</tr>
<tr>
<td>per business plans</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

C. MILESTONE/OUTPUT: MONITORING MECHANISM IN PLACE
SECTION 3: TOOLKIT

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1. **PROVISION OF LAND AND ASSISTANCE ACT**

[ASSENTED TO 9 JULY 1993]  [DATE OF COMMENCEMENT: 23 JULY 1993]

(Afrikaans text signed by the State President)

as amended by

Development Facilitation Act 67 of 1995
Provision of Certain Land for Settlement Amendment Act 26 of 1998

**ACT**

To provide for the designation of certain land; to regulate the subdivision of such land and the settlement of persons thereon; to provide for the rendering of financial assistance for the acquisition of land and to secure tenure rights; and to provide for matters connected therewith.

[long title substituted by section 12 of Act 26 of 1998];

**Definitions**

1. In this Act, unless the context otherwise indicates-

   'Administrator' ...;

   [definition of "Administrator" deleted by section 1 of Act 26 of 1998]

   'deeds registry' means a deeds registry as defined in section 102 of the Deeds Registries Act, 1937 (Act 47 of 1937);

   'designated land' means land which is under section 2 designated for settlement;
'developer' means any person who under section 4 undertakes the development of designated land;

'development body' ...;  
[definition of “development body” deleted by section 1 of Act 26 of 1998]

'Minister' means the Minister of Land Affairs;

[Definition of 'Minister' substituted by s. 68 of Act 67 of 1995.]

'partition plan' means a partition plan as referred to in section 6;

'prescribed' means prescribed by or under this Act;

'settlement' means the settlement of persons on designated land as referred to in section 7 (1);

'this Act' includes a regulation made under this Act.

Powers of Administrator with regard to certain land

2. (1) The Minister may, subject to the provisions of section 3, designate for the purposes of settlement-

   (a) State land which is controlled by him or her and made available by him or her for those purposes;

   (b) land which is purchased or acquired by him or her for those purposes and which is made available by him or her for those purposes;

   (c) any land which has been made available for those purposes by the owner thereof.

   (2) The Minister shall give notice in the Gazette of any land designated under subsection (1).
(3) The Minister may by notice in the Gazette, impose conditions for the use of the land designated under subsection (1).

(4) The laws governing the subdivision of agricultural land and the establishment of townships, shall not apply in respect of land referred to in subsection (1) unless the Minister directs otherwise in the notice in question.

[Section 2 substituted by section 2 of Act 26 of 1998]

Publication of notice in newspaper

3. (1) Taking into consideration the languages most commonly used in the district, the Minister shall cause to be published in at least one newspaper circulating in the district in which the designated land is situated, a notice calling upon interested parties to submit in writing to the Minister, within a period mentioned in the notice, which period may not be shorter than 21 days, following the day upon which the notice appeared in the newspaper, any representations which they wish to make in respect of the contemplated designation: Provided that if no substantial change in land use is likely to occur as a result of the proposed settlement in terms of this Act, the Minister may direct that no such publication shall be necessary.

(2) The Minister shall not designate any land before he or she has considered all the representations received by virtue of subsection (1).

[Section 3 substituted by section 3 of Act 26 of 1993]

Development of designated land

4. The development of designated land shall be undertaken-

(a) in the case of land referred to in section 2 (1) (a) or (b), by the Minister or by someone with whom he has concluded an agreement for that purpose; and
[par. (a) amended by sec. 11 of Act 126 of 1998]

(b) in the case of land referred to in section 2 (1) (c), by the owner of that land or by someone with whom he has concluded an agreement for that purpose.
Subdivision of designated land

5. The developer may, subject to the conditions contemplated in section 2 (3), subdivide the designated land or cause it to be subdivided in accordance with the provisions of this Act into pieces of land for small-scale farming, residential, public, community, business or similar purposes.

Partition plan

6. (1) The developer shall draw up or cause to be drawn up a partition plan indicating the intended subdivision of the designated land.

(2) If the Minister is not the developer, the developer shall submit such partition plan to the Minister, and if the Minister is satisfied with the intended subdivision of the designated land, he shall approve the partition plan.

[Subsection (2) amended by section 11 of Act 26 of 1998]

Surveying and approval of plans and diagrams

7. The developer shall-

(a) as indicated on the approved partition plan, cause plans and diagrams to be prepared for the designated land, and shall cause such plans and diagrams to be submitted to the surveyor-general for approval; and

(b) after the plans and diagrams have been approved or provisionally approved by the surveyor-general, file such plans and diagrams at the deeds registry for registration by the registrar of deeds.

Settlement of persons on designated land
8. (1) The developer may, subject to the provisions of subsection (2), alienate or lease a piece of land referred to in section 5 to any person.

(2) Settlement of a person shall take place only after a land surveyor has surveyed the designated land and placed the beacons: Provided that the Minister may in a particular case grant permission that such settlement may take place in a manner determined by him even though the beacons concerned have not been placed.

[subsection (2) amended by section 11 of Act 26 of 1993]

Registration of ownership

9. (1) If ownership in a piece of land referred to in section 5 is transferred, the developer shall, as soon as the surveying thereof is completed, lodge a deed of transfer, made out in the name of the person to which such piece of land has been alienated, on the form prescribed for that purpose under the Deeds Registries Act, 1937 (Act 47 of 1937), at the deeds registry, whereupon the registrar of deeds shall register such piece of land in the name of that person.

[Sub-s. (1) substituted by s. 68 of Act 67 of 1995.]

(2) A deed of transfer referred to in subsection (1) shall be prepared by-

(a) a conveyancer; or

(b) if the owner of the piece of land is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the Minister, a Premier or a local government body, as the case may be.

[Sub-s. (2) substituted by s. 68 of Act 67 of 1995.]

(3) A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Registries Act, 1937, and shall be signed by
the owner of the piece of land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2) (a) or an officer or person referred to in subsection (2) (b) in the manner prescribed under that Act.

[Sub-s. (3) substituted by s. 68 of Act 67 of 1995.]

(4) An officer or person referred to in subsection (2) (b)-

(a) shall disclose the fact that the deed of transfer referred to in subsection (1), or any power of attorney, application or consent, which may be required by the registrar for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, mutatis mutandis, in terms of section 15A (1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document; and

(b) may, despite anything to the contrary contained in any other law, perform all of the functions of conveyancer in relation to the registration of a deed of transfer as contemplated in this section.

[Sub-s. (4) substituted by s. 68 of Act 67 of 1995.]

(5) A conveyancer, officer or person referred to in subsection (2) shall lodge the deed of transfer together with the necessary supporting documents at a deeds registry in the manner prescribed under the Deeds Registries Act, 1937.

[Sub-s. (5) added by s. 68 of Act 67 of 1995.]

(6) The registrar shall deal with a deed of transfer and other documents referred to in subsection (5) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act, 1937.
(7) Ownership of the piece of land shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1).

(8) Section 17 (1) and (2) of the Deeds Registries Act, 1937 (Act No. 47 of 1937), shall not apply to and no transfer or stamp duty shall be payable in respect of the -

(a) transfer of ownership of land referred to in section 2(1); or

(b) acquisition of land or a right in land by any person contemplated in section 10 : Provided that section 17(1) and (2) of the Deeds Registries Act, 1937, shall apply in respect of the acquisition of land contemplated in section 10(1)(d).

Financial assistance for acquisition, development and improvement of land or to secure tenure rights

10. (1) The Minister may, from money appropriated by Parliament for this purpose -

(a) acquire land for the purposes of this Act;

(b) on such conditions as he or she may determine, grant an advance or a subsidy to any person contemplated in subsection (2) -

(i) for the acquisition of land for residential purposes, agricultural production or small business development;
(ii) for the acquisition of capital assets for the development of land contemplated in subparagraph (i);

(iii) for securing, upgrading and registering of tenure rights;

(iv) for the improvement of any land contemplated in subparagraphs (i) and (iii);

(v) to acquire an equity share in any existing agricultural enterprise;

(vi) to facilitate the planning of any development which may be necessary for the purposes of subparagraphs (i) to (v), including survey costs;

(vii) for the planning and development of land designated for settlement purposes under section 2(1);

(c) on such conditions as he or she may determine, grant an advance or a subsidy to a Municipal Council to acquire land -

(i) to be used as a commonage; or

(ii) to extend an existing commonage;

(d) acquire land on behalf of any person contemplated in subsection (2), in which case ownership of such land, notwithstanding section 14 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), may be transferred directly from the owner of the land to any such person;

(e) in writing, for the purposes of acquiring, planning or developing designated land or any other land contemplated in this subsection, and on such conditions
as he or she may determine, authorise the transfer of funds contemplated in this section to:

(i) a provincial government;

(ii) a Municipal Council;

(iii) any other organ of state; or

(iv) any other body recognised by the Minister for such purposes.

(2) For the purposes of subsection (1), persons who may be granted an advance or a subsidy are:

(a) persons who have no land or who have limited access to land, and who wish to gain access to land or to additional land;

(b) persons who wish to secure or upgrade the conditions of tenure under which they live or who wish to develop the land with the consent of the owner;

(c) persons who have been dispossessed of land or of a right in land but who do not have a right to restitution in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994).

(3) The laws governing the subdivision of agricultural land and the establishment of townships shall not apply in respect of land referred to in subsection (1) unless the Minister directs otherwise.

[S. 10 substituted by s. 68 of Act 67 of 1995 and section 5 of Act 26 of 1998.]

**Minister’s power to dispose of certain land**

11. The Minister may, on such terms and conditions as he or she may deem fit, for the purposes of this Act, sell, exchange, donate or lease any land
designated or acquired under this Act or, if the land is no longer required for the purposes of this Act, for any other purpose.

[S. 11 repealed by s. 68 of Act 67 of 1995 and added by section 6 of Act 26 of 1998.]

**Expropriation Act**

12. (1) Without derogating from the powers that a Minister may exercise under the Expropriation Act, 1975 (Act No. 63 of 1975), the Minister may for the purposes of this Act, exercise equivalent powers to the powers that such other Minister may exercise under the Expropriation Act, 1975.

(2) Notwithstanding the provisions of the Expropriation Act, 1975, the owner of the land in question shall be given a hearing before any land is expropriated in terms of this Act.

(3) In the event of expropriation, compensation shall be paid as prescribed by the Constitution, with due regard to the provisions of section 12(3), (4) and (5) of the Expropriation Act, 1975.

(4) Any right in land which derives from the provisions of this Act will be capable of expropriation in accordance with the provisions of any applicable legislation.

[.section 12 substituted by section 7 of Act 26 of 1998]

13. ......

[.section 13 repealed by section 8 of Act 126 of 1993]

**Regulations**

14. The Minister may make regulations regarding-

(a) any matter which in terms of this Act is required or permitted to be prescribed;
(b) the sizes of the pieces of land into which the designated land shall be subdivided;

(c) any steps which may be taken if the developer does not comply with the conditions contemplated in section 2 (3) or, if applicable, the developer does not comply with any term of an agreement referred to in section 4;

(d) the supply of services to persons who are settled on the designated land;

(e) the number of people who may inhabit a piece of land contemplated in section 5;

(f) the grant of financial or other assistance to a buyer or lessee of a piece of land contemplated in section 5,

and, generally, with regard to any other matter which he considers it necessary or expedient to prescribe in order to achieve or promote the objects of this Act, and the generality of this provision shall not be limited by the preceding paragraphs of this section.

**Delegation**

15. (1) The Minister may, on such conditions as he or she may determine -

(a) delegate to any officer in the Department of Land Affairs any power conferred upon the Minister by this Act, except the power under section 14 to make regulations;

(b) authorize any such officer to perform any duty imposed upon the Minister by this Act.

(2) The Minister may, either in general or in a particular case or in cases of a particular nature and on such conditions as he or she may determine -
(a) delegate to the Premier of a province or, with the concurrence of the Premier, to a member of the Executive Council of that province, any power conferred upon the Minister by this Act, except the power under section 14 to make regulations;

(b) authorize that Premier or member of the Executive Council to perform any duty imposed upon the Minister by this Act.

(3) The Premier or the member of the Executive Council contemplated in subsection (2) may, subject to such conditions as the Minister may determine -

(a) delegate to the Director-General of the province or any officer of the provincial administration in question any power delegated to that Premier or member under subsection (2);

(b) authorize that Director-General or any such officer to perform any duty which that Premier or member is authorized to perform under subsection (2).

(4) The Minister may, with the concurrence of a Municipal Council, either in general or in a particular case or in cases of a particular nature and on such conditions as he or she may determine -

(a) delegate to any officer of the Municipal Council any power conferred upon the Minister by this Act, except the power under section 14 to make regulations;

(b) authorize that officer of the Municipal Council to perform any duty imposed upon the Minister by this Act.

(5) Any delegation of a power or authorization to perform a duty under this section -

(a) shall be done in writing;
(b) shall not prevent the person who effected the delegation or granted the authorization from exercising that power of performing that duty himself or herself;
(c) may at any time be withdrawn in writing by that person.

[section 15 substituted by section 9 of Act 26 of 1998]

**Short title**

16. This Act shall be called the Provision of Land and Assistance Act, 1993.

[section 16 amended by section 10 of Act 26 of 1998]

**Note :** The Act was made applicable throughout the Republic with effect from 27 April 1994 in terms of section 13 of the Provision of Certain Land for Settlement Amendment Act, 1998 (Act No. 26 of 1998).
DELEGATIONS : PROVISION OF LAND AND ASSISTANCE ACT, 1993 (ACT NO. 126 OF 1993)

I, Lulama Xingwana, Minister for Agriculture and Land Affairs, duly authorised thereto by section 15 of the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993), hereby –

(a) determine that the powers delegated in this document will come into force on the date of signature thereof;

and

(b) repeal all powers previously delegated in terms of the said Act, as from the date of signature of this document.

Signed at ........................................ on this the ...... day of ................................................. 2006.

L XINGWANA
MINISTER FOR AGRICULTURE AND LAND AFFAIRS
### PROVISION OF LAND AND ASSISTANCE ACT, 1993 (ACT NO. 126 OF 1993)

<table>
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<tr>
<td>1</td>
<td>2(1)</td>
<td>Designate certain land for the purposes of settlement</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG &lt;br&gt; DDG : LTR &lt;br&gt; CD : LRIMC &lt;br&gt; CD : LRSSS &lt;br&gt; CD : PLRO</td>
<td>Land must be made available by the Minister in terms of section 2(1)(a) and (b) and the owner in terms of section 2(1)(c)</td>
</tr>
<tr>
<td>2</td>
<td>2(2)</td>
<td>Give notice in the Gazette of any land designated under section 2(1)</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG &lt;br&gt; DDG : LTR &lt;br&gt; CD : LRIMC &lt;br&gt; CD : LRSSS &lt;br&gt; CD : PLRO</td>
<td>None</td>
</tr>
<tr>
<td>3</td>
<td>2(3)</td>
<td>Impose conditions by notice in the Gazette for the use of the land designated under section 2(1) and amend, withdraw or provide for the lapsing of any condition</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG &lt;br&gt; DDG : LTR &lt;br&gt; CD : LRIMC &lt;br&gt; CD : LRSSS &lt;br&gt; CD : PLRO</td>
<td>None</td>
</tr>
<tr>
<td>4</td>
<td>2(4)</td>
<td>Direct in the said notice that the laws governing the subdivision of agricultural land and the establishment of townships apply to the land designated under section 2(1)</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG &lt;br&gt; DDG : LTR &lt;br&gt; CD : LRIMC &lt;br&gt; CD : LRSSS &lt;br&gt; CD : PLRO</td>
<td>None</td>
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<td>5</td>
<td>3(1)</td>
<td>Cause to be published in at least one newspaper circulating in the district, a notice calling upon interested parties to submit representations in writing in respect of the contemplated designation</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>Taking into consideration the languages most commonly used in the district in which the designated land is situated</td>
</tr>
<tr>
<td>6</td>
<td>3(1)</td>
<td>Direct that publication is not necessary if no substantial change in land use is likely to occur as a result of the proposed settlement</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>None</td>
</tr>
<tr>
<td>7</td>
<td>3(2)</td>
<td>Consider all the representations received before any land is designated</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>CD’s are responsible for responding to any representations made to intended designation</td>
</tr>
<tr>
<td>8</td>
<td>4(a)</td>
<td>Undertake the development of designated land in the case of land referred to in section 2(1)(a) or (b)</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>Post-approval functions are delegated to CD’s</td>
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</tbody>
</table>
| 9    | 4(a)    | Conclude agreement with someone to undertake the development of designated land in the case of land referred to in section 2(1)(a) or (b) | Minister | Section 15 | DG  
DDG : LTR  
CD : LRIMC  
CD : LRSSS  
CD : PLRO | None | but the CD’s will, however, still assume responsibility for the projects |
| 10   | 5       | Subdivide designated land or cause it to be subdivided in accordance with the provisions of the Act into pieces for small-scale farming, residential, public, community, business or similar purposes | Minister (if the Minister is the developer of the land referred to in section 2(1)(a) or (b)) | Section 15 | DG  
DDG : LTR  
CD : LRIMC  
CD : LRSSS  
CD : PLRO | None | |
| 11   | 6(1)    | Draw up or cause to be drawn up a partition plan indicating the intended subdivision of the designated land | Minister (if the Minister is the developer of the land referred to in section 2(1)(a) or (b)) | Section 15 | DG  
DDG : LTR  
CD : LRIMC  
CD : LRSSS  
CD : PLRO | None | |
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<tr>
<td>12</td>
<td>6(2)</td>
<td>Approve partition plan if satisfied with the intended subdivision of the designated land</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>None</td>
</tr>
<tr>
<td>13</td>
<td>7(a)</td>
<td>Cause plans and diagrams to be prepared for the designated land and cause such plans and diagrams to be submitted to the surveyor-general for approval</td>
<td>Minister (if the Minister is the developer of the land referred to in section 2(1)(a) or (b))</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>As indicated on the approved partition plan</td>
</tr>
<tr>
<td>14</td>
<td>7(b)</td>
<td>File plans and diagrams at the deeds registry for registration</td>
<td>Minister (if the Minister is the developer of the land referred to in)</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>After the plans and diagrams have been approved or provisionally approved by the surveyor-general</td>
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<td>section 2 (1)(a) or (b)</td>
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<td>15</td>
<td>8(1)</td>
<td>Alienate or lease a piece of land referred to in section 5 to any person</td>
<td>Minister (if the Minister is the developer of the land referred to in section 2(1)(a) or (b))</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>Subject to the provisions of section 8(2)</td>
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<tr>
<td>16</td>
<td>8(2)</td>
<td>Grant permission that a settlement of a person may take place in a manner determined by the Minister even though beacons concerned have not been placed</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>None</td>
</tr>
<tr>
<td>17</td>
<td>9(1)</td>
<td>Lodge a deed of transfer at the deeds registry</td>
<td>Minister (if the Minister is the developer of the land referred to in section 2(1)(a) or (b))</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>If ownership in a piece of land referred to in section 5 is transferred</td>
</tr>
<tr>
<td>18</td>
<td>9(2)</td>
<td>Designate any officer in the public service to prepare the deed of transfer</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR</td>
<td>If the owner of the piece of land is the</td>
</tr>
<tr>
<td>ITEM</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>CD : LRIMC CD : LRS SS CD : PLRO</td>
<td>State</td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>10(1)(a)</td>
<td>Acquire land for the purposes of this Act</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRS SS CD : PLRO</td>
<td>None</td>
</tr>
<tr>
<td>20</td>
<td>10(1)(b)</td>
<td>Determine the conditions for the granting of an advance or a subsidy to any person contemplated in subsection (2) for the purposes set out in sections 10(1)(b)(i) to (vii) <em>(items 21 to 27)</em></td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRS SS CD : PLRO</td>
<td>None</td>
</tr>
<tr>
<td>21</td>
<td>10(1)(b)(i)</td>
<td>Grant an advance or a subsidy for the acquisition of land for residential purposes, agricultural production or small business development</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRS SS CD : PLRO</td>
<td>To any person contemplated in section 10(2)</td>
</tr>
<tr>
<td>22</td>
<td>10(1)(b)(ii)</td>
<td>Grant an advance or a subsidy for the development of land contemplated in section 10(1)(b)(i)</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRS SS CD : PLRO</td>
<td>To any person contemplated in section 10(2)</td>
</tr>
<tr>
<td>23</td>
<td>10(1)(b)(iii)</td>
<td>Grant an advance or a subsidy for securing, upgrading and registering of tenure rights</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRS SS CD : PLRO</td>
<td>To any person contemplated in section 10(2)</td>
</tr>
<tr>
<td>ITEM</td>
<td>SECTION</td>
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</tr>
<tr>
<td>24</td>
<td>10(1)(b) (iv)</td>
<td>Grant an advance or subsidy for the improvement of any land contemplated in section 10(1)(b)(i) and (iii)</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>To any person contemplated in section 10(2)</td>
</tr>
<tr>
<td>25</td>
<td>10(1)(b) (v)</td>
<td>Grant an advance or a subsidy to acquire an equity share in any existing agricultural enterprise</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>To any person contemplated in section 10(2)</td>
</tr>
<tr>
<td>26</td>
<td>10(1)(b) (vi)</td>
<td>Grant an advance or a subsidy to facilitate the planning of any development which may be necessary for the purposes of section 10(1)(b)(i) to (v), including survey costs</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO DD : PLRO</td>
<td>To any person contemplated in section 10(2) Delegation to Deputy Director to maximum amount of R10 000</td>
</tr>
<tr>
<td>27</td>
<td>10(1)(b) (vii)</td>
<td>Grant an advance or a subsidy for the planning and development of land designated for settlement purposes under section 2(1)</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>To any person contemplated in section 10(2) Delegation to</td>
</tr>
<tr>
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</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>DD : PLRO</td>
<td>Deputy Director to maximum amount of R10 000</td>
</tr>
<tr>
<td>28</td>
<td>10(1)(c)</td>
<td>Determine the conditions for the granting of an advance or a subsidy to a Municipal Council to acquire land to be used as commonage or to extend an existing commonage</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>None</td>
</tr>
<tr>
<td>29</td>
<td>10(1)(c)</td>
<td>Grant an advance or a subsidy to a Municipal Council to acquire land to be used as a commonage</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>None</td>
</tr>
<tr>
<td>30</td>
<td>10(1)(c)</td>
<td>Grant an advance or a subsidy to a Municipal Council to acquire land to extend an existing commonage</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>None</td>
</tr>
<tr>
<td>31</td>
<td>10(1)(d)</td>
<td>Acquire land on behalf of any person contemplated in subsection (2)</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>None</td>
</tr>
<tr>
<td>32</td>
<td>10(1)(e)</td>
<td>Determine the conditions for the</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG</td>
<td>In writing</td>
</tr>
<tr>
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</tr>
</tbody>
</table>
| 33   | 10(1)(e) | authorisation of the transfer of funds contemplated in section 10 to a provincial government, a Municipal Council, any other organ of state or any other body recognised by the Minister                                                                                                                                                                                                 | Minister      | Section 15               | DG : LTR    | DDG : LTR  
CD : LRIMC  
CD : LRSSS  
CD : PLRO  
For the purposes of acquiring, planning or developing designated land or any other land contemplated in section 10(1)                                                                                                                                                                                                 |
| 34   | 10(1)(e) | Authorise the transfer of funds contemplated in section 10 to a Provincial Government                                                                                                                                                                                                                                                                                                                       | Minister      | Section 15               | DG : LTR    | DDG : LTR  
CD : LRIMC  
CD : LRSSS  
CD : PLRO  
For the purposes of acquiring, planning or developing designated land or any other land contemplated in section 10(1)                                                                                                                                                                                                 |
| 35   | 10(1)(e) | Authorise the transfer of funds contemplated in section 10 to any other organ of state                                                                                                                                                                                                                                                                                                                    | Minister      | Section 15               | DG : LTR    | DDG : LTR  
CD : LRIMC  
For the purposes of acquiring, planning or developing designated land or any other land contemplated in section 10(1)                                                                                                                                                                                                 |


<table>
<thead>
<tr>
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<th>REMARKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>36</td>
<td>10(1)(e) (iv)</td>
<td>Recognise any other body to which funds contemplated in section 10 may be transferred</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>None</td>
</tr>
<tr>
<td>37</td>
<td>10(1)(e) (iv)</td>
<td>Authorise the transfer of funds contemplated in section 10 to the body recognised in item 36</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>In writing For the purposes of acquiring, planning or developing designated land or any other land contemplated in section 10(1)</td>
</tr>
<tr>
<td>38</td>
<td>10(3)</td>
<td>Direct that the laws governing the subdivision of agricultural land and the establishment of townships apply in respect of land referred to in section 10(1)</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>None</td>
</tr>
<tr>
<td>39</td>
<td>11</td>
<td>Determine terms and conditions for the</td>
<td>Minister</td>
<td>Section 15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ITEM</td>
<td>SECTION</td>
<td>DESCRIPTION OF POWER</td>
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<tr>
<td>40</td>
<td>11</td>
<td>Sale, exchange, donation or lease of any land designated or acquired under this Act for the purposes of this Act or, if the land is no longer required for the purposes of this Act, for any other purpose</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>Subject to the terms and conditions determined by the Minister (See item 39)</td>
</tr>
<tr>
<td>41</td>
<td>11</td>
<td>Lease any land designated or acquired under this Act, for the purposes of this Act or if the land is no longer required for the purposes of this Act, for any other purpose</td>
<td>Minister</td>
<td>Section 15</td>
<td>DG DDG : LTR CD : LRIMC CD : LRSSS CD : PLRO</td>
<td>Subject to the terms and conditions determined by the Minister (See item 39)</td>
</tr>
<tr>
<td>42</td>
<td>12(1)</td>
<td>Exercise equivalent powers to the powers that a Minister may exercise under the Expropriation Act, for purposes of this Act</td>
<td>Minister</td>
<td>Section 15</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>43</td>
<td>14</td>
<td>Make regulations</td>
<td>Minister</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>
3. EXAMPLE OF A SITUATION ASSESSMENT QUESTIONNAIRE

1. Area assessment

1.1 Total number of households?

1.2 Total number of individuals in each household

1.3 How many females headed households?

1.4 Number of male headed households

1.5 Number of child-headed (under 18) households

1.6 Number of women:
1.7 Number of men:
1.8 Number of children:

1.7 Age distribution (number)

Under age □
Schooling □
Student □
Working age □
1.8 Education levels (numbers)

No formal education
Primary school
Primary and some high school
Matriculated
Tertiary

3. Income & Financial status

3.1 What is the average income of type of household?
Female headed households
Male headed households
Child headed households

3.2 Distribution of income (Average numbers based on the above-mentioned numbers)

R 00.00 – R 500.00
R 500.00 – R 1 000.00
R1 000.00 – R 1 500.00
R1 500.00 – R 2 000.00

3.3 List all potential sources of income that exist within this area
3.4 How many people have received previous financial assistance from the state in relation to housing subsidies and/or land reform subsidies?

3.5 How many people own agricultural land in this area?

4. **Current land tenure arrangements (List numbers)**

- Farm workers
- Lease holders
- Labour tenants
- Permissions to occupy
- Land/House owners
- Individual titles
- Other (please specify)
4. NON-NEGOTIABLE GUIDELINES WHEN ACQUIRING OR DISPOSING OF LAND PROACTIVELY IN TERMS OF ACT 126 OF 1993

1. ACQUISITION

- Land must be acquired within an area-based approach or an IDP process.

- The acquisition of land must be linked to specific needs as identified by the state (DLA and/or other role-players such as municipalities, traditional authorities, etc). Some of these needs may include the following:
  - Number of labour tenant claims registered.
  - Number of evictions in a particular area.
  - Increased need for housing.
  - Number of Land Redistribution for Agricultural Development applications in a particular area.
  - Increased need for proactive agricultural development in areas where agricultural development has declined and there is high unemployment in such areas.
  - Need expressed by commodity groupings to distribute their agricultural holdings, skills and other resources to emergent farmers.

- In relation to agricultural development, the state must acquire white-owned agricultural land in order to meet the 30% redistribution target.

- In relation to land for housing, the DLA (to be guided by the Department of Housing and municipalities) must acquire well-located land for low-cost/pro-poor housing development.

- Going concerns can be purchased but not above the market value even if there is additional “goodwill” (contracts with wholesalers/retailers) by the seller included.

- The prices paid for land must not be above market value for land acquired through market transactions or auctions. It should be emphasised that the Provincial Land Reform Offices should proactively strive to influence land owners to sell below market value and not simply pay market value in all cases.

- Prior to the acquisition of land a market valuation of land must be carried out to base negotiations on.

- When participating in auctions, Provincial Land Reform Offices must ensure that a financial guarantee is available on the day of the auction
and that the funds are transferred within the stipulated time period or the there could be legal and financial consequences for the DLA.

2. DISPOSAL

- State land disposal route must be followed when disposing of existing state land (not acquired via Act 126) in terms of the strategy.

- Subject to Ministerial approval, the terms and conditions in relation to Section 11 of Act 126 must be strictly adhered to when disposing of land acquired proactively via Section 10(1) (a) for the purposes of Act 126.

- The terms and conditions can be used when disposing of land via leases to selected beneficiaries and eventually transfer (sale) to the same beneficiaries (or new beneficiaries based on performance).

- The Provincial Departments of Agriculture must advise on all agricultural leases and caretaker agreements as they are required to assist in monitoring of the performance of beneficiaries in relation to leases and to expel non-performing beneficiaries.

- Prior to the transfer of land (sale) to the selected beneficiaries the Provincial Departments of Agriculture and Provincial Land Reform Offices will assess the performance of the beneficiaries after the trial lease period in terms of pre-determined criteria as developed by both Departments.
5. NOTES ON PLANNING COSTS

1.1. The Proactive Land Acquisition Strategy (PLAS) would allow the Department of Land Affairs (DLA) to acquire land in terms of Act 126 [Section 10 (a)] based on the selling price, expropriation or auction price without attaching beneficiaries to such land.

1.2. The PLAS requires various planning costs at different phases in terms of the project cycle and these costs can be categorized into costs for planning services and costs for infrastructure development.

1.3. Some of the critical costs relating to planning services are as follows:

- Valuations
- Business plan
- Legal entity,
- Conveyancing costs for transfer of land to government
- Feasibility study
- Lease agreement
- Conveyancing costs for transfer of land to beneficiaries.
- Subdivision and surveying

1.4. The following are some of the costs that can be incurred in relation to infrastructural development:

- Grazing projects: fencing and livestock water requirements and handling facilities;
- Crop production: irrigation and water equipment, fencing, vegetable tunnels, sheds,
- Poultry farming: chicken houses
- Pig farming: Pig houses, etc.

1.5. However, to be able to allocate planning costs and approve expenditure of the planning costs, the Department needs to determine an appropriate grant/funding mechanism for these planning cost. In addition, the land that is bought pro-actively is registered as state land and therefore becomes a state asset. Any development or services that will improve this state asset must be paid from the Departmental item land and subsoil assets and not from capital transfers and as such, the Department needs to determine which development and services will improve the asset.
2. DISCUSSION

2.1. Funding mechanism and grant size related to planning costs

2.1.1. The ideal would be to use the Comprehensive Agricultural Support Package (CASP) from Department of Agriculture (DoA) to pay for infrastructural development as per CASP policy guidelines. However CASP funds cannot be utilized for payment of infrastructure development prior to disposal to beneficiaries.

2.1.2. The Department of Land Affairs will have to enter into a service level agreement with the Department of Agriculture to amend their policy to make funds available for infrastructure development on land acquired through the PLAS. An interim arrangement will be for the DLA to make funds available to enable the Provincial Land Reform Offices (PLROs) to develop the farms prior to the settlement of beneficiaries. It should be noted that funds from the DLA to cover infrastructure development costs will only be available until the end of the next financial year (31st March 2008) and the CASP Programme must be amended to cater for development on land acquired proactively via Section 10(a) of Act 126 of 1993.

2.1.3. A ceiling can be placed on how much of the planning costs can be made available for planning services. Although this amount differs from project to project, the indication is that a maximum of 25% of the land value would cover the basic planning services such as valuations, conveyancing, surveying and subdivisions, legal entity formation, business plans, etc subject to the discretion of the Chief Directors of the Provincial Land Reform Offices. It should also be noted that CASP does not provide funds to pay for these types of services. Some Provincial Departments of Agriculture can provide limited services in terms of business planning and feasibility studies and PLROs should utilize these services where possible.

2.1.4. In relation to infrastructure development costs, it is proposed that a ceiling of 55% of the land value can be placed on infrastructure development subject to the discretion of the Chief Directors of the Provincial Land Reform Offices.

2.1.5. The table below provides an approximation of costs that can be expected in relation to planning services:
Table 1: Estimation of Costs for Planning Services

<table>
<thead>
<tr>
<th>Planning Services</th>
<th>Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valuation</td>
<td>R4000-R30 000</td>
</tr>
<tr>
<td>Business plan</td>
<td>R20 000-R60 000</td>
</tr>
<tr>
<td>Legal entity</td>
<td>R10 000-R30 000</td>
</tr>
<tr>
<td>Feasibility study</td>
<td>R10 000-R40 000</td>
</tr>
<tr>
<td>Beneficiary selection according to skills audit:</td>
<td>R5000-R15 000</td>
</tr>
<tr>
<td>Conveyancing costs for transfer of land to government</td>
<td>R5000-R40 000</td>
</tr>
<tr>
<td>Finalisation of lease agreements</td>
<td>R3000- R6000</td>
</tr>
<tr>
<td>Conveyancing costs for transfer of land to beneficiaries</td>
<td>R5000-R40 000</td>
</tr>
</tbody>
</table>

Table 2 outlines estimated costs attached to some infrastructure development on agricultural properties.
<table>
<thead>
<tr>
<th>Irrigation</th>
<th>Cost</th>
<th>Unit</th>
<th>Description</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Irrigation</td>
<td>R 20,000</td>
<td>Hectare</td>
<td>Floppies, micro drip or boom types</td>
<td>An average which includes pumps/connections/lines etc.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Conventional sprinklers are cheaper but less secure (theft)</td>
</tr>
<tr>
<td>Broilers</td>
<td>R 150,000</td>
<td>500 to 1000 per week</td>
<td>Production unit includes structure, feed silos and fixed equipment</td>
<td>The top end can easily escalate into millions. At the same rate,</td>
</tr>
<tr>
<td></td>
<td>R 500,000</td>
<td>3000 per week</td>
<td></td>
<td>The bottom end can be less than R20k... these brackets are broad.</td>
</tr>
<tr>
<td>Boreholes</td>
<td>R 30,000</td>
<td>1 hole</td>
<td>Includes drilling, sleeve &amp; mounting</td>
<td>Detailed costing depends on depth, energy (diesel, electric, solar etc)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Pump installation &amp; extras considered</td>
<td>Actual drilling is between R7.5k and R12k</td>
</tr>
<tr>
<td>Tunnels</td>
<td>R 20,000</td>
<td>10m x 30m</td>
<td>Basic entry model</td>
<td>Not recommended: such capital intensivity can only be justified in the case of an established market (R3.50/kg) and track record.</td>
</tr>
<tr>
<td></td>
<td>R 2,000,000</td>
<td>1 Hectare</td>
<td>Large units</td>
<td></td>
</tr>
<tr>
<td>Fencing</td>
<td>R 9,900</td>
<td>Hectare</td>
<td>for goats, cattle or sheep</td>
<td>R18 per linear meter. A hectare is at least 400m and at most 700m</td>
</tr>
<tr>
<td></td>
<td>R 50,000</td>
<td>Hectare</td>
<td>1,2 meter high</td>
<td>gives an average of 550m (more or less)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>For poultry types</td>
<td>1,8 metre mesh (good for ostriches too)</td>
</tr>
<tr>
<td>Abattoir</td>
<td>R 30,000</td>
<td>300 birds/day</td>
<td>entry level poultry</td>
<td>Micro scale abattoirs (class E)</td>
</tr>
<tr>
<td></td>
<td>R 45,000</td>
<td>cattle/sheep/goats</td>
<td>entry level medium &amp; large animals</td>
<td>Includes building &amp; fittings/equipment</td>
</tr>
<tr>
<td>Reservoirs</td>
<td>R 2,000</td>
<td>2900 liters</td>
<td>Mesh</td>
<td>Household and livestock holding tanks</td>
</tr>
<tr>
<td></td>
<td>R 24,000</td>
<td>169000 liters</td>
<td>Mesh</td>
<td>Small scale cultivation (&gt;5 ha)</td>
</tr>
<tr>
<td></td>
<td>R 3,100</td>
<td>2270 liters</td>
<td>Panel</td>
<td>Household and livestock holding tanks</td>
</tr>
<tr>
<td></td>
<td>R 121,000</td>
<td>516000 liters</td>
<td>Panel</td>
<td>Huge</td>
</tr>
<tr>
<td>Steel Structures</td>
<td>R 32,000</td>
<td>9m x 18m x 3.6m</td>
<td>Pack shed or storage</td>
<td>great for medium scale producers</td>
</tr>
<tr>
<td></td>
<td>R 310,000</td>
<td>25m x 50m x 6m</td>
<td>specialized or shared shed</td>
<td>great for cooperative use</td>
</tr>
</tbody>
</table>
2.1.6. Example of an estimation of planning costs

In relation to planning services and infrastructure development for a farm acquired at R350 000

Planning services required:

Valuation costs: R6 000  
Legal entity: R6 000  
Business plan: R13 000  
Feasibility study: R11 000  
Beneficiary selection according to skills audit: R5 000  
Conveyancing costs: R5 000  
Lease agreement fees: R2 500  
Conveyancing costs: R7 000

Total costs: R55 500

Basic infrastructure development:

Irrigation (drip): 3 hectares: R60 000  
Fencing 7 hectares: R69 300

Total costs: R129 300

Therefore the total planning costs (costs for planning services and infrastructure development): R55 500 + R 129 300 = R184 800

In relation to the above example the total planning costs are approximately 55% of the land acquisition costs (R350 000).

If PLROs utilize the services of the PDAs to conduct feasibility studies and develop business plans then the planning costs will be less.

Once CASP and the PLAS are aligned, then infrastructure costs would be sourced from the CASP and not DLA funding and the DLA can save up to 36% in relation to these costs.

PLROs are encouraged to purchase land with the necessary infrastructure already installed to save on development costs prior to settling beneficiaries.

2.2. Budget allocation of planning costs

2.2.1. Land acquired through the pro-active land acquisition strategy is registered as a state asset. Funding for this acquisition must therefore be paid from the departmental budget item called land and subsoil assets. In addition, any development and services
done (i.e. planning and infrastructural development) that improve the state asset (the land acquired) must also be paid from the land and subsoil assets item. Development and services done that will not improve the asset (land) must either be paid from goods and services (prof and spec) or if attached to land reform grants (i.e. Beneficiaries) can be paid from capital transfers. Currently, no provision has been made in the land and subsoil asset budget item for funding for these services and development and the Department needs to approach Treasury for shifting if funds. Therefore PLROs must indicate how much funds must be shifted from the current capital transfers to the relevant budget item.

2.2.2. The outline below indicates what services will be required at various stages in the project cycle and whether this will improve the asset and linked or not linked to beneficiaries. PLROs can use this as a guide to assist them to determine the allocation of funds for shifting.

Table 3: Outline of project cycle & Planning services required

<table>
<thead>
<tr>
<th>Step 1: Land needs assessment</th>
<th>Linked to beneficiaries</th>
<th>Improve assets</th>
<th>Budget item</th>
</tr>
</thead>
<tbody>
<tr>
<td>The PLRO needs to appoint a service provider to conduct a needs assessment identification to identify the applicants for acquisition of land through the pro-active strategy.</td>
<td>No</td>
<td>No</td>
<td>Prof &amp; Spec</td>
</tr>
</tbody>
</table>

**Phase 1: Land acquisition**

<table>
<thead>
<tr>
<th>Step 3: Valuation</th>
<th>Linked to beneficiaries</th>
<th>Improve assets</th>
<th>Budget item</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service provider must be appointed to carry out valuation.</td>
<td>No</td>
<td>No</td>
<td>Prof &amp; Spec</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Step 4: Land feasibility</th>
<th>Linked to beneficiaries</th>
<th>Improve assets</th>
<th>Budget item</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service provider may be appointed (Planning services) or Provincial Department of Agriculture can provide this service dependent on capacity</td>
<td>No</td>
<td>No</td>
<td>Prof &amp; Spec</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Step 5: Land acquisition (Planning Services)</th>
<th>Linked to beneficiaries</th>
<th>Improve assets</th>
<th>Budget item</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service provider for conveyancing (Planning Services)</td>
<td>No</td>
<td>No, but linked to the acquisition</td>
<td>Land &amp; subsoil asset</td>
</tr>
<tr>
<td>Step 1: Appoint Caretaker/Management company</td>
<td>Linked to beneficiaries</td>
<td>Improve assets</td>
<td>Budget item</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>------------------------</td>
<td>----------------</td>
<td>-------------</td>
</tr>
<tr>
<td>The PLRO will appoint a caretaker or management company to take care of the land while preparations are being conducted on the land to make it farmable. Arrangements for payment of caretaker/management company will depend on the agreement between the PLRO and caretaker/management company.</td>
<td>No</td>
<td>Yes</td>
<td>Land &amp; subsoil asset</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Step 2: Beneficiary selection</th>
<th>Linked to beneficiaries</th>
<th>Improve assets</th>
<th>Budget item</th>
</tr>
</thead>
<tbody>
<tr>
<td>A service provider may be needed for assisting in selecting beneficiaries e.g. by conducting a skills audit or wealth ranking exercise (Planning Services)</td>
<td>Yes</td>
<td>No</td>
<td>Capital transfers – NB. This must be confirmed as it is at this stage not yet linked to a land reform grant. If not, Prof &amp; Spec must be used.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Step 3: Appointment of a mentor</th>
<th>Linked to beneficiaries</th>
<th>Improve assets</th>
<th>Budget item</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional mentoring services may be needed to guide beneficiaries during the trial lease period to ensure that there is sufficient skills transfer to enable them to acquire the land at the end of the trial lease period</td>
<td>Yes</td>
<td>No</td>
<td>Capital transfers – NB. This must be confirmed as it is at this stage not yet linked to a land reform grant. If not, Prof &amp; Spec must be used.</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Step 4: Business planning costs recommendation and approval</th>
<th>Linked to beneficiaries</th>
<th>Improve assets</th>
<th>Budget item</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service provider needed to plan farming enterprise with beneficiaries (Planning services).</td>
<td>Yes</td>
<td>No</td>
<td>Capital transfers – NB. This must be confirmed as it is at this stage not yet linked to a land reform grant. If not, Prof &amp; Spec must be used.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Step 5: Land Development</th>
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<th>Improve assets</th>
<th>Budget item</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service provider/s needed for infrastructure development (Infrastructure development)</td>
<td>No</td>
<td>Yes</td>
<td>Land and subsoil asset</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Step 6: Surveying and subdivision</th>
<th>Linked to beneficiaries</th>
<th>Improve assets</th>
<th>Budget item</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No &amp; Yes</td>
<td>Yes</td>
<td>Land and subsoil asset</td>
</tr>
</tbody>
</table>
The PLRO may appoint a surveyor to do surveying and subdivision of land if needed (Planning services)

<table>
<thead>
<tr>
<th>Linked to beneficiaries</th>
<th>Improve assets</th>
<th>Budget item</th>
</tr>
</thead>
</table>

**Phase 3: Trial lease period**

**Step 1: Finalize lease agreements**
The PLRO must appoint a service provider to compile and finalize lease agreements with selected beneficiaries (Planning services)

| Yes | No | Capital transfers – NB. This must be confirmed as it is at this stage not yet linked to a land reform grant. If not, Prof & Spec must be used. |

**Step 2: Monitor lease payments**
PLRO has option to appoint a management company to manage lease payments. Method of payment needs to be agreed upon (either once off or monthly)

| Yes | No | Prof & Spec |

**Phase 4: Transfer/ Disposal of land**

**Step 2: Land transfer to beneficiaries**
Service providers needed for conveyancing and may be legal entity formation (for beneficiaries to take transfer of the land) (Planning services). LRAD grants

| Yes | No | Capital transfers |

3. **RECOMMENDATIONS**

3.1. It is recommended that the Department of Land Affairs carry the costs for infrastructure development only until 31 March 2008 so that the Department of Agriculture can align the CASP policy with the Proactive Land Acquisition Strategy (PLAS).

3.2. It is recommended that there should be a ceiling of 25% of the land value is attached for planning services and a ceiling of 55% of the land value is attached for infrastructure development costs subject to the discretion of the Chief Directors of the Provincial Land Reform Offices.

3.3. It is further recommended that once CASP and PLAS are aligned that the DLA simply pays for costs associated with land acquisition such as valuation, conveyancing, surveying and subdivision, land feasibility
studies/business planning (only if Provincial Departments of Agriculture cannot provide this service) and for services such as skills audits or wealth ranking, legal entity formation and finalization of lease agreements. The ceiling of 25% of the land value for procuring such services must remain **subject to the discretion of the Chief Directors of the Provincial Land Reform Offices.**
6. EXAMPLE OF TERMS OF REFERENCE FOR THE APPOINTMENT OF SERVICE PROVIDERS: VALUATION

Outlined below, are the main requirements to be included in the terms of reference for professional valuations. The terms of reference will determine the quality of the valuation report furnished to DLA. The valuation depends on clear instructions and specifications regarding what the planner wants to be valued and what type of report is needed.

DLA requires that an independent valuer who is registered with the Council of Valuers must endorse the valuation. Care must be taken not to mistake this Council with the SA Institute of Valuers. The Institute is a voluntary body whereas the Council for Valuers is a body set up in terms of the Values Act, 1982 (Act No. 23). An exception to the above is where the valuation is of state land in the context of state land disposal. In this situation, the valuation can be undertaken by the provincial department of agriculture.

The general policy of the DLA is that all valuations are to estimate fair market value using the comparable sales method, except when this is not practicable, or for particular types of land. Where a valuer deems that market value cannot be estimated because it is not practicable to do so, she will be expected to explain the specific circumstances that make it impracticable. For cases involving rural land, the alternative to market value will normally be productive value, while for cases involving urban land, the alternative will normally be replacement value. (This is discussed more in later chapters.)

The planner should see him/herself as the administrative appraiser, who needs to analyse the valuation report. Reviewing/appraising the report is good business practice as a form of quality control and risk assessment. The report should not be appraised in terms of right versus wrong, but rather in terms of reasonable versus unreasonable.

Project/property description

The terms of reference should contain basic information about the project and the property:

- Project name;
- Location (including magisterial district);
- Project reference number;
- Project officer;
- Accurate legal description of the property and the name of owner and contact number;
- Brief history of the project, goal of project and whether any negotiations have taken place with the current property owner;
- The rationale behind the valuation (e.g. to help DLA negotiate a fair price).
Instruction to the valuer/statement of work

The valuer should be instructed to:

- State the extent of the process of collecting, confirming, and reporting data.
- Collect, verify, analyse and reconcile data as are available in support of his/her conclusion.
- Include and explain all calculations showing how data (e.g. comparables) have been applied. Applicability of comparables, reasons for acceptance or rejection of data and final adjustments must be included.
- Describe the information considered, the procedures followed, and the reasoning that supports the analyses, opinions and conclusions.
- Include an inventory of equipment (e.g. pumps, irrigation equipment, watering points) and improvements (e.g. structures); however, note that component values must be included by way of showing influences on the overall value, rather than applied in terms of a summation of components approach.

Where comparable sales are being used to estimate market value (this should be most of the time), a minimum of 5 selected sales should be used, though 10 would be better. The valuer should be instructed to:

- Indicate the scope of the deeds search in terms of radius and time frame - a deeds search may extend over a 20-30 km radius and go back 3-5 years;
- Include a list of all comparable sales, and not only selected sales with which subject property has been compared;
- Explain why certain sales were excluded from further analysis;
- Indicate how market data were interpreted, adjusted and applied; and
- Provide the date and price of the subject property’s most recent sale.

Implementation schedule

The terms of reference should specify the time frames and provide a date for submission of the valuation report to DLA. If the valuer will be expected to present the findings at the Provincial Projects Approval Committee meeting or any other meeting, this must be indicated.

Tendering procedures

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a That is, a property value is not to be construed as simply the sum of the values of its separate components, e.g. dwellings, outbuildings, grazing land, arable land, etc.
The terms of reference should explain the provincial office’s procurement system and tendering procedures, which will include the criteria used to evaluate the valuer's tender. The valuer should be provided with the necessary copies of the tender documents (ST8 & ST12). As part of his/her tender, the valuer will be expected to specify his/her expenses, inclusive of VAT, administration and transport costs, and be based on a breakdown of activities.

**Alternatives to market value**

The terms of references may have to leave space for alternatives to market valuation. In these cases, terms of reference should require the valuer to approach the DLA at the outset to explain why market valuation is not practicable. It is not acceptable practice for the valuer to inform the DLA that something other than market value was estimated, only upon submitting the valuation report.

It should be stated that where productive value is used, the end result be reported twice, on the basis of both 5% and 10% capitalization rates. Secondly, the valuation report should justify what type of highest and best use (i.e. in terms of productive activities) was employed as the basis of determining productive value. In general, highest and best use should be consistent with the aims of the project.

**Valuation reports**

The terms of references should specify what is expected from valuation reports. Generally, the valuation report should include the following:

- **Introduction:**
  - The client’s brief and purpose of the valuation
  - Definition of value used
  - Valuation approach
  - The date(s) of valuation
  - The date of inspection of the subject property
  - Effective date of valuation

- **Title deed information:**
  - Title deed
  - Full description of property in terms of deed
  - Registered owner
  - Surveyor diagram of property
  - Area of property
  - Area required for purpose of valuation
  - Date of acquisition by present owner and
  - Purchase price
  - Bonds
  - Servitudes
  - Mineral rights (if applicable)
Physical description:
Situation
Nature of surrounding neighbourhood/area
Distances from important points
Availability of services and amenities
Historical background, applicable
Features of property, incl. dimensions, frontage contours, soil types, surface drainage, etc.
Climatic conditions and water supply, if applicable
Buildings and other improvements
Water supply and water rights

Description of agriculture on the property:
Productive capacity and income potential - carrying capacity, soil fertility and irrigation
Farm budget (income and expenditure data)

Establishment of comparables:
Market identification of property - potential and highest and best use
Market conditions
Comparable factors
Comparable properties

Application of comparables:
Method of valuation
Effective valuation together with motivation - include all calculations showing how comparables have been applied. Asking prices, applicability of comparable, acceptance of data, capitalization rates, final adjustments

Conclusion and Certificate of Value
The conclusion consists of the valuer’s final judgement as to the value of the subject property. The Certificate of Value (or Valuer’s Certificate, Valuation Certificate, etc.) is a statement to the effect that the valuer has reached her or his conclusion on the basis of considering all relevant factors, subject to stated assumptions and limiting conditions, and without prejudice due to any present or contemplated interest in the properties or the outcome of the valuation.

Finally, the organisation of the valuation report should be as follows:
Title page
Table of contents
Instruction
Purpose of valuation
Date of inspection
Effective date of valuation
Statement of limiting conditions
Certificate of value
Annexures
Location map of subject property and comparable properties
Diagram of subject property
Copy of relevant title deed
Copies of all the relevant documents
Photographs

Note: it may not be necessary to include all the above. Planners need to go through the list and confirm what is needed for the specific valuation at hand.
7. FORMAT OF A PROJECT IMPLEMENTATION REPORT RELATED TO LAND ACQUISITION (PLANNING COSTS APPROVAL: FEASIBILITY STUDIES, VALUATION)

<table>
<thead>
<tr>
<th>INTRODUCTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date</td>
</tr>
<tr>
<td>File number</td>
</tr>
<tr>
<td>Responsible person/Institution for managing the project</td>
</tr>
<tr>
<td>Prioritization</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ORIENTATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Province</td>
</tr>
<tr>
<td>Magisterial district</td>
</tr>
<tr>
<td>Community name/Individual</td>
</tr>
<tr>
<td>Project name</td>
</tr>
<tr>
<td>Short background to the project highlighting the need for assistance</td>
</tr>
<tr>
<td>Is the proposed project consistent with land reform policy and if not, why should it be considered?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LAND SPECIFICS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Context: * Rural; * Peri-urban.</td>
</tr>
<tr>
<td>If land has been identified, comment on the following: * the name of the farm or land parcel involved; * the area in ha. * Short reflection on the current land use and facilities; * Is it suitable for production purposes? * Is the land already occupied?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FINANCIAL CONSIDERATIONS</th>
</tr>
</thead>
</table>
Indicate the overall budget relevant budget item for the project as well as in what financial year/s will the expenses be incurred:

<table>
<thead>
<tr>
<th><strong>Feasibility study</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Valuation</strong></td>
<td></td>
</tr>
</tbody>
</table>

FULL NAME OF PROVINCIAL CHIEF DIRECTOR:

SIGNATURE OF PROVINCIAL CHIEF DIRECTOR

PROVINCIAL LAND REFORM OFFICE:

DATE OF APPROVAL:
8. (A): PAYMENT FORMS: CERTIFICATE OF PAYMENT FORM

This form may be used with payment advice form [8(b)] when applying for project funds. To be attached to these forms are, the project approval memorandum and the three quotes each for the services required.

1. Certificate of payment form

PROJECT NAME: _____________________________________
FILE NO: ____________________ SERVICE PROVIDER _________________
TYPE OF PROGRAMME (E.G TENURE, REDISTRIBUTION): _________________
TYPE OF FUNDS (E.G LAND ACQUISITION): _____________________________
TYPE OF ACTIVITY (E.G FEASIBILITY STUDY):
________________________________
COST OF ACTIVITY: ______________________________

D. CERTIFICATE

I HEREBY CERTIFY THAT THE SERVICE HAS BEEN SATISFACTORILY PROVIDED BY THE SERVICE PROVIDER (MENTIONED ABOVE) AND RECOMMEND THAT PAYMENT BE EFFECTED ACCORDING TO THE INVOICE MENTIONED HEREUNDER.
INVOICE NO: _______________ DATE: _____________ AMOUNT: ____________

________________________________   _________________
PROJECT MANAGER’S NAME    SIGNATURE    DATE:

i. CERTIFIED CORRECT

________________________________   ______________________
PROGRAMMES MANAGER’S NAME    SIGNATURE    DATE:

ii. PAYMENT APPROVED/ NOT APPROVED

________________________________   ______________________
CHIEF DIRECTOR: …….PLRO SIGNATURE    DATE:
8. (B): PAYMENT FORMS: PAYMENT ADVICE FORM

Department of Land Affairs

PAYMENT ADVICE

1. Systems Users Only

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<thead>
<tr>
<th>Field</th>
<th>Details</th>
</tr>
</thead>
<tbody>
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<td>Date Captured:</td>
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<tr>
<td>Authorised By:</td>
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<tr>
<td>Date Authorised:</td>
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Payment Description

2. Payee Details

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<td>Postal Code</td>
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<table>
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<td>Reference No.:</td>
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<td>(If applicable)</td>
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Payment To

Source Document Details

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<th>Receipt Voucher</th>
<th>Invoice</th>
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<tbody>
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Purchase Order Number

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i. Payment Method

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<tr>
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<tr>
<td>Manual Cheque</td>
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<tr>
<td>System Cheque</td>
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b. Manual Cheque Details

<table>
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<tr>
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<th>MICR Number</th>
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### 3. Settlement Details

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### 4. Allocation Detail

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<tr>
<th>Description</th>
<th>Responsibility</th>
<th>Objective</th>
<th>Item</th>
<th>Project</th>
<th>Matching Field 1</th>
<th>Matching Field 2</th>
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<thead>
<tr>
<th>Allocation Percentage</th>
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File Reference  :
Project Manager  :

1. PURPOSE:
   
   To secure the services of a registered conveyancer to effect the transfer of the afore-mentioned properties in the name of the Republic of South Africa: National Government.

2. 2. BACKGROUND

   2.1 The Sellers, ........................., signed an agreement with the Provincial Department of Land Affairs: ..........................

3. PROPERTY DETAILS

   3.1 The properties in question are accurately described as:

   3.2 The accurate property description will be provided upon the approval of the survey diagram.

   3.3 The ultimate property extent will be ............... hectares.

   3.1 The purchase price is ..........................
3.2 List mortgages:

4. QUOTATION

4.1 The quotation must inform the Department of Land Affairs as to what it will cost to transfer a property that is worth ..................

4.2 Time frames will be determined between the Project Manager and the appointed conveyancer, although it is understood that time frames will be highly influenced by the circumstances of the subject properties.

5. LINES OF ACCOUNTABILITY

The appointed conveyancer will report to the project manager Ms/MR. ................ in the .................. office. The conveyancer will be requested to give a progress report from time to time.
10. EXAMPLE OF A VALUATION REPORT

NB: This is the report on the valuation of a property (farm) in the North West Province.

GENERAL REPORT

1.1 INTRODUCTION

1.1.1 Purpose and use of the appraisal

The valuation was requested by Mr .............. of the Department of Land Affairs, North West Province. The Properties are being considered for purchasing on behalf of the respective communities and a valuation is needed to determine open market value which will be used as a basis for negotiating a purchase price.

1.1.2 Definition of market value

The price at which the real estate might reasonably be expected to sell, assuming an arms length transaction between a willing able and informed seller and a willing able and informed buyer and further that reasonable time is allowed for disposal of the asset.

1.1.3 Valuation approach

The comparable sales or market data approach is used whereby the subject property is compared to similar properties which have recently sold. The farms are valued on a per hectare basis inclusive of land, infrastructure and improvements. This technique is called “bracketing”. In a case like this where selling prices of comparable properties vary greatly, it is impossible to make objective adjustments. The size and productivity of the land, extent of the infrastructure and productive improvements are taken into account when selecting the overall rate per hectare.

The cost approach is not the correct method to use, especially in this market where buyers do not attach value
to surplus dwellings and outbuildings. In a land reform project, these improvements would be of great importance but this is not the conventional market. However under no circumstances should buildings be valued on a square metre basis.

A deeds search was carried out to find all sales which took place since 1995 on 100 farms closest to the subject property. The search revealed more than 120 transfers in total. All sales of over 100 ha, except those which were inherited or clearly not arms-length were analyzed further.

Within the allotted time, not all these sales could be properly investigated, however 20 sales were followed up and these are considered sufficient for a reliable estimate of market value. The remaining 18 sales were not investigated but the selling prices do form a pattern from which certain inferences can be made.

1.2 DESCRIPTION OF THE AREA

The area is characterized by crop farming with livestock as a sideline. According to information obtained at the agricultural extension office in Lichtenburg area, the rainfall in the Barberspan area is 513 mm per annum.

The carrying capacity is between 6 and 7 Hectares per MLU. As it can be seen from the soil classification map, the soils are similar for many of the comparable sales, yet prices vary greatly.

The subject properties adjoin the Ditsobotla district of the former Bophutatswana and although some farmers mention stock theft being a problem, there does not appear to be any discount for this negative factor. There also does not appear to be any price difference between areas North, South, East or West of the subject property. High and low prices are found in pockets.

It was found during the course of the valuation assignment that the farms in the area are relatively small, the majority being between 100 ha and 300 ha, with some exceptions. It appears that many farmers own more that one portion with the result that little value is attached to a dwelling.
The vast majority of buyers were in fact existing farmers looking to expand.

<table>
<thead>
<tr>
<th>N°</th>
<th>DESCRIPTION (portion)</th>
<th>OWNER</th>
<th>DATE</th>
<th>SIZE (Ha)</th>
<th>PRICE (R)</th>
<th>RATE R/Ha</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ptn 4 …… 10 IO</td>
<td></td>
<td>960301</td>
<td>177,1815</td>
<td>177 000</td>
<td>1 000</td>
</tr>
<tr>
<td>2a</td>
<td>Ptn 5 …… 10 IO</td>
<td></td>
<td>970611</td>
<td>370,6569</td>
<td>800 000</td>
<td>1 459</td>
</tr>
<tr>
<td>2</td>
<td>Ptn 15 …… 10 IO</td>
<td></td>
<td>970611</td>
<td>177,1815</td>
<td>800 000</td>
<td>1 459</td>
</tr>
<tr>
<td>3</td>
<td>Remaining extent of the farm …… 157 IO</td>
<td></td>
<td>970626</td>
<td>516,5258</td>
<td>650 000</td>
<td>1 258</td>
</tr>
<tr>
<td>4</td>
<td>Ptn 3 of the farm …… 157 IQ</td>
<td></td>
<td>940722</td>
<td>240/1010</td>
<td>305 000</td>
<td>1 270</td>
</tr>
<tr>
<td>5</td>
<td>Ptn 15 of the farm …… 161 IO</td>
<td></td>
<td>970902</td>
<td>256,9151</td>
<td>420 000</td>
<td>1 635</td>
</tr>
<tr>
<td>6</td>
<td>Ptn 17 of the farm …… 161 IO</td>
<td></td>
<td>951228</td>
<td>342,6128</td>
<td>866 400</td>
<td>2 528</td>
</tr>
<tr>
<td>7</td>
<td>Ptn 3 of the farm …… 162 IQ</td>
<td></td>
<td>980223</td>
<td>262,9553</td>
<td>328,700</td>
<td>1 250</td>
</tr>
<tr>
<td>8</td>
<td>Remaining extent of the farm …… 168 JQ</td>
<td></td>
<td>960705</td>
<td>230,9216</td>
<td>230 000</td>
<td>1 000</td>
</tr>
<tr>
<td>9</td>
<td>Remaining extent of the farm …… 171 IO</td>
<td></td>
<td>941107</td>
<td>128,0063</td>
<td>122 578</td>
<td>957</td>
</tr>
<tr>
<td>10</td>
<td>Ptn 7 of the farm …… 171 IO</td>
<td></td>
<td>941107</td>
<td>128,4798</td>
<td>123 032</td>
<td>957</td>
</tr>
<tr>
<td>11</td>
<td>Ptn 23 of the farm …… 185 IO</td>
<td></td>
<td>980219</td>
<td>188,7396</td>
<td>388 400</td>
<td>1 793</td>
</tr>
<tr>
<td>12</td>
<td>Ptn 24 of the farm …… 185 IO</td>
<td></td>
<td>970825</td>
<td>188,7384</td>
<td>658 000</td>
<td>3 486</td>
</tr>
<tr>
<td>13</td>
<td>Ptn 30 of the farm …… 185 IO</td>
<td></td>
<td>970818</td>
<td>190,5602</td>
<td>380 000</td>
<td>1 994</td>
</tr>
<tr>
<td>14</td>
<td>Ptn 7 of the farm …… 198 IO</td>
<td></td>
<td>941031</td>
<td>168,3092</td>
<td>338 000</td>
<td>2 008</td>
</tr>
<tr>
<td>15</td>
<td>Ptn 13 of the farm …… 301</td>
<td></td>
<td>950818</td>
<td>265,5849</td>
<td>360 000</td>
<td>1 355</td>
</tr>
<tr>
<td>16</td>
<td>Remaining extent of the farm ……</td>
<td></td>
<td>961114</td>
<td>299,3399</td>
<td>285 000</td>
<td>952</td>
</tr>
<tr>
<td></td>
<td>304 IO</td>
<td>Ptn 7 of the farm</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>--------</td>
<td>------------------</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>Ptn 27 of the farm</td>
<td>961130</td>
<td>274,5194</td>
<td>235 000</td>
<td>856</td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>Ptn 38 of the farm</td>
<td>941107</td>
<td>136,7845</td>
<td>202 714</td>
<td>1 482</td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>Ptn 40 of the farm</td>
<td>970815</td>
<td>455,9505</td>
<td>450 000</td>
<td>987</td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>Ptn 1 of the farm</td>
<td>950707</td>
<td>588,0798</td>
<td>300 000</td>
<td>510</td>
<td></td>
</tr>
</tbody>
</table>
1.3.2 Other sales in the area

The following sales were not investigated or analyzed further. Some of these sales lie slightly further afield in the Sannieshof district. Some are believed to be family transactions (not arms-length). The sales do however present a broad picture of the market and show where the bulk of the prices tend to congregate.

<table>
<thead>
<tr>
<th>NO</th>
<th>DESCRIPTION (portion)</th>
<th>OWNER</th>
<th>DATE</th>
<th>SIZE (Ha)</th>
<th>PRICE (R)</th>
<th>RATE R/Ha</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ptn 6 ....... 108 IO</td>
<td></td>
<td>971103</td>
<td>171,3101</td>
<td>105000 0</td>
<td>1 849</td>
</tr>
<tr>
<td>1b</td>
<td>Remainder of the farm ...... 124 IO</td>
<td></td>
<td>971103</td>
<td>396,4368</td>
<td>105000 0</td>
<td>1 849</td>
</tr>
<tr>
<td>2</td>
<td>Ptn 6 ....... 109 IO</td>
<td></td>
<td>970630</td>
<td>154,1884</td>
<td>308 376</td>
<td>2 000</td>
</tr>
<tr>
<td>3</td>
<td>Ptn 1 ...... 110 IO</td>
<td></td>
<td>970114</td>
<td>581,3340</td>
<td>941 581</td>
<td>1 620</td>
</tr>
<tr>
<td>4</td>
<td>Ptn 3 of the farm ..... 133 IO</td>
<td></td>
<td>971120</td>
<td>373,3209</td>
<td>600 000</td>
<td>1 607</td>
</tr>
<tr>
<td>5</td>
<td>Ptn 8 of the farm .... 133 IO</td>
<td></td>
<td>971204</td>
<td>373,3080</td>
<td>746 000</td>
<td>1 998</td>
</tr>
<tr>
<td>6</td>
<td>Ptn 2 of the farm ...... IO</td>
<td></td>
<td>950913</td>
<td>240,2858</td>
<td>350 000</td>
<td>1 457</td>
</tr>
<tr>
<td>7*</td>
<td>Ptn 6 of the farm ..... IO</td>
<td></td>
<td>950830</td>
<td>350,4387</td>
<td>500 000</td>
<td>1 457</td>
</tr>
<tr>
<td>8</td>
<td>Ptn 10 of the farm .... 138 IO</td>
<td></td>
<td>970227</td>
<td>701,3870</td>
<td>850 000</td>
<td>1 212</td>
</tr>
<tr>
<td>9</td>
<td>Ptn 23 of the farm ...... IO</td>
<td></td>
<td>961024</td>
<td>133,1265</td>
<td>214 000</td>
<td>1 608</td>
</tr>
<tr>
<td>10</td>
<td>4 portions of the farm ......... IO</td>
<td></td>
<td>941006</td>
<td>475,46</td>
<td>730 000</td>
<td>1 535</td>
</tr>
<tr>
<td>11</td>
<td>Ptn 13 of the farm ......... 185 IO</td>
<td></td>
<td>980219</td>
<td>175,8104</td>
<td>350 000</td>
<td>2 000</td>
</tr>
<tr>
<td>12</td>
<td>Ptn 2 of the farm ......... 195 IO</td>
<td></td>
<td>950727</td>
<td>512,8001</td>
<td>390 000</td>
<td>762</td>
</tr>
<tr>
<td>13</td>
<td>Ptn 4 of the farm ......... 1995 IO</td>
<td></td>
<td>950811</td>
<td>234,3322</td>
<td>275 000</td>
<td>1 175</td>
</tr>
<tr>
<td>14</td>
<td>Ptn 4 of the farm ......... 192 IO</td>
<td></td>
<td>971016</td>
<td>256,9596</td>
<td>230 000</td>
<td>895</td>
</tr>
<tr>
<td>15</td>
<td>Remaining extent of the farm ...... 197 IO</td>
<td></td>
<td>960903</td>
<td>428,2660</td>
<td>380 000</td>
<td>887</td>
</tr>
<tr>
<td>NO</td>
<td>DESCRIPTION (portion)</td>
<td>OWNER</td>
<td>DATE</td>
<td>SIZE (Ha)</td>
<td>PRICE (R)</td>
<td>RATE R/Ha</td>
</tr>
<tr>
<td>----</td>
<td>-----------------------</td>
<td>-------</td>
<td>-----------</td>
<td>-----------</td>
<td>-----------</td>
<td>-----------</td>
</tr>
<tr>
<td>16</td>
<td>Ptn 9 of the farm</td>
<td></td>
<td>960828</td>
<td>388,7684</td>
<td>390 000</td>
<td>1 003</td>
</tr>
<tr>
<td>17</td>
<td>2 Ptns of the farm</td>
<td></td>
<td>961024</td>
<td>201,21</td>
<td>200 000</td>
<td>994</td>
</tr>
<tr>
<td>18</td>
<td>Ptn 3 of the farm</td>
<td></td>
<td>941006</td>
<td>220,2385</td>
<td>220 000</td>
<td>1 000</td>
</tr>
<tr>
<td>19</td>
<td>Ptn 1 of the farm</td>
<td></td>
<td>970424</td>
<td>342,6128</td>
<td>400 000</td>
<td>1 167</td>
</tr>
<tr>
<td>20</td>
<td>Ptn 10 of the farm</td>
<td></td>
<td>950110</td>
<td>313,3104</td>
<td>140 000</td>
<td>447</td>
</tr>
</tbody>
</table>

* Believed to be family transactions.

1.4 SUMMARY AND CONCLUSIONS

The market analysis presented in section 2.8 shows that there is a very active market in this area and most of the buyers are farmers who are on the expansion trail. Prices varied from R510/ha for pure grazing to R3 486/ha for arable land with the average price being R1 438/ha and the average farm consisting of both grazing and arable land.

This wide variation in prices is not proportional to the differences in productivity. In this market it appears that there are certain non-economic factors which influenced prices. The neighbouring farm factor was obviously important for some buyers. Difference in levels of knowledge and experience on the part of the buyers affected prices more that productive capacity.

To the average buyer in this market, it is not important to have a second home and in a number of cases the houses were given free of charge to tenants in return for a little maintenance. In other cases, houses have been left unoccupied and have been plundered. In fact, the owner of the subject property does not know what the house looks like inside. It is remarkable that the highest price of R3 486/ha was paid for "skoon land" – no improvements apart from two centre pivots. There were two sales of unimproved land at around R1 700/ha where other improved properties sold at
around R1 000/ha. With numbers like this, it is clearly impossible to separate out the values of the land and improvements.

Although the soil classification map shows that there is no major difference in soil potential throughout the study area, there were certain small pockets where prices were substantially higher than others. The only reason for this appears to be that the wealthy farmers in the district were prepared to pay extra for adjoining land. Research has clearly shown that buyer characteristics are important price determining factors. In the size category of 100ha to 300ha there did not appear to be any adjustment necessary for size.

Taking into consideration the productive capacity, improvements and the size of the tract, the following values are indicated:

<table>
<thead>
<tr>
<th>N O</th>
<th>FARM</th>
<th>R/HA</th>
<th>SIZES(Ha)</th>
<th>VALUE</th>
<th>ROUNDED</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ptn 2</td>
<td>R2 300</td>
<td>130,4613</td>
<td>R 300 058</td>
<td>R300 000</td>
</tr>
<tr>
<td>2</td>
<td>Ptn 3</td>
<td>R1 700</td>
<td>130,4693</td>
<td>R 221 782</td>
<td>R220 000</td>
</tr>
<tr>
<td>3</td>
<td>Ptn 1</td>
<td>R1 600</td>
<td>321,1995</td>
<td>R 513 905</td>
<td>R514 000</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>R1 776</td>
<td>582,13</td>
<td>R1 034 000</td>
<td></td>
</tr>
</tbody>
</table>

Taking all three portions together, the average price is R1 776/ha which corresponds well with two highly relevant sales, neither of which are included in the above schedule of sales. The first sale is the sale of the next door property on 27/09/94. The remaining extent of the farm ……. measuring 260,9318 ha was bought by …….. (Pty) Ltd for R456 000 or R1 747/ha. This was an unimproved portion. The second relevant sale is that portion of the farm ……. which the ……. community wanted to buy. According to the owner, Mr……., this farm has now been sold for R1 700ha/ha. The farm is very comparable to the ……. farms in that the improvements are similar overall (the outbuildings are superior and the house is inferior, the agricultural potential is slightly inferior). These two additional comparable sales confirm that it would be futile to try and allocate a value to the lands and improvements separately. Here are two farms with very different levels of development which sold for the same price.
1.5 ANNEXURES

1.5.1 Location of comparable sales

1.5.2 Soil classification map of the area

1.5.3 Photographs of comparable sales

(i) Comparable sale no. 6, nice dwelling, established garden
(ii) Comparable sale no. 6, substantial outbuildings
(iii) Comparable sale no. 11, “skoon lande” at R1 800/ha

2.0 VALUATION OF THE SUBJECT PROPERTY

(I) Portion 1 of the farm …… 167, registration division IO, North West Province Measuring: 130,4613 Ha

REGISTERED OWNER:

(II) Portion 3 of the farm ……. 167, registration division IO, North West Province
Measuring: 130,4693 Ha

REGISTERED OWNDER:

(III) Portion 1 of the farm ……., 175, registration division IO, North West Province
Measuring: 321,1995 Ha

REGISTERED OWNER:

2.2 DATE OF VALUATION:

2.3 DATE OF INSPECTION:
2.4 AGRICULTURAL POTENTIAL

This is certainly one of the better farms in the area, it is almost 100% arable, it is estimated that there is 10 Ha which is for the homestead and where there are two small pans. Cattle farming is usually an important sideline in this area where cattle feed on the crop residues. However, the subject property only has 3 big camps and 4 small camps, not all of which have water. Livestock is therefore not a major enterprise.

2.5 AVAILABILITY OF SURFACE AND UNDERGROUND WATER

There is no surface water and underground water is supplied from 3 boreholes. These are equipped with a submersible pump, a mono pump and one windmill. There are a further 2 unequipped boreholes. The water supply is sufficient for domestic and stock watering purposes but not for irrigation.

2.6 DESCRIPTION OF IMPROVEMENTS

2.6.1 Portion 2 of the farm ........ 167. Measuring: 130,4613 Ha.

i) Dwelling house constructed of plastered brick as well as face brick and slasto under iron. “Effective” age of the building is estimated at 25 years. The size is approximately 370 m², accommodation includes 5 bedrooms, 2 bathrooms plus a separate flat. Outbuildings include a laundry (20 m²), single garage (34 m²) and double garage (60 m²).

ii) Feed store constructed of face brick and under iron, fairly obsolete, measuring approximately 100 m².

iii) Old brick shed with no roof, used as a silage pit, measuring 120 m².

iv) Infrastructure consists of silage pits and cattle handling facilities, there are also pig sties of no economic value.
2.6.2 Portion 3 of the farm ….. 167.
Measuring: 130,4693 Ha

i) Feed and tractor shed, steel construction, fully enclosed, quite old, measuring 280 m².

ii) Old house, very dilapidated measuring 170 m².

iii) 3 x workers houses constructed of face brick under iron each measuring 60 m².

iv) Farm shop constructed of face brick under galvanised iron roof, measuring 90 m² – good condition.

2.6.3 Portion 1 of the farm …. 175.
Measuring: 321,1995

This portion is unimproved.

2.7 SERVITUDES AND MINERAL RIGHTS

The title deeds have not been inspected, but it is believed that there are no servitudes which affect this valuation. The mineral rights are owned by the surface right owner but mineral rights are excluded from the valuation.

2.8 COMPARISON AND CALCULATIONS

2.7.1 Analysis of comparable sales

The following sales were traced and analyzed:

1) North West of the subject property, also on the old Bophutatswana border. Apparently the soil is of a lower potential than the subject property but it is all arable. Apart from one shed, there are no improvements worth mentioning. Information was supplied by two different neighbours, one who previously rented the farm.
2) These two sales measure 540.03 ha in total and the price was R1 459 per ha. The buyer was not prepared to discuss the transaction and according to a neighbour, the actual price paid was more than the R1 459 per hectare which was recorded. This is a good farm with substantial improvements including a good dwelling.

3) The buyer of this property is the same Mr …… who is involved in the sale of the ….. property. According to information supplied by him as well as other sources, this was bought on an insolvent auction and the price was below market value. Some have said that the bidding was rigged. The property consists of 85% arable lands which were apparently neglected. Improvements consists of a poor house and a good shed. An adjustment must also be made for size in this case. The price of R1 258/ha is therefore the bottom limit.

4) Very similar no. 3 above (except in size), and also bought on auction. Note that the date of sale is 1994. The farm is 100% arable with two houses, one good and one poor.

5) The purchaser of this property is the son of wealthy landowners just West of Geysdorp. The property is mainly good arable soil but is an area of approximately 100 ha which is game fenced. Apart from a lapa, there are no improvements. Considering that game fencing costs around R800/ha, and there are no comparable sales of game farms in this area, the overall average price of R1 635/ha, and there are no comparable sales of game farms in this area, the overall average price of R1 635/ha is assumed to apply to the arable land and the game camp.

6) The price of R2 528/ha is second highest which was found in this study. This was bought on an auction in 1995, the buyer was prepared to go up to R3 000/ha. The reason for this high value is that it is all high potential arable land with 80 hectares irrigable from centre pivot. The water source is underground water and there are no centre pivots at present. The improvements are also substantial. There is a good
title roof dwelling set in a landscaped garden. There are two pools, one olympic sized, there is a tennis court and many outbuildings. The purchaser took me on a tour of this farm and other sales in the area.

7) The purchaser of this property is also Mr. ....... of ....... Apparently this farm consists of 100 ha for grazing, the balance being arable. There are no improvements. This was an open market transaction. Note that the date of sale is 1998. If this sale can be broken down, the following values can be abstracted:

- 100 ha grazing @ R600/ha = R 60 000
- 162 arable @ R1 658/ha = R268 700

8) This property is approximately 80% arable but apparently the non-arable parts are “panne” which are not palatable and difficult to camp as they are interspersed among the lands. There are no improvements. The farm is very close to De Hoop. If it is broken down, the following values are abstracted:

- 46 ha grazing and “panne” @ R400/ha = R 18 400
- 185 ha arable @ R1 143/ha = R211 600

9 & 10 These two properties were purchased on an auction for R957/ha. These properties consists of mainly lands and improvements consist of a shed and a borehole. The low price may be due to the auction sale but it appears that this little pocket close to De Hoop is subject to lower prices. A comparable which was excluded because of size (102 ha) and date (1994) adjoins the two above properties and sold on auction for R900/ha.

11) The purchaser is Mr ........, this was an open market transaction and the farm consists of “skoon land”, no improvements. There may be some irrigation potential as there is good underground water. The property is one block of nice deep soils, with no wasted ground at all. The Excelsior grain silos are also conveniently
close. The price of R1 793/ha is therefore an upper limit for arable land.

12) This property set the record price for a farm in this area at R3 486/ha. This is because there is a large irrigation component and 2 centre pivots were included in the price. This price should be disregarded altogether.

13) The value of the fixed property from (12) above can be determined from this sale at R1 994/ha as there is irrigation potential, an old dwelling and a shed.

14) Reinforcing the opinion that the upper limit should be set at R2 000/ha is this sale at R2 008 which was on the outskirts of Delareyville. The soils are not so good but the improvements are good.

15) This property is situated close to the tar road at Barberspan. The farm is a mix of grazing and lands with a good house and outbuildings. This price of R1 358/ha is a good indication of the value of a mixed farm.

16) This property is situated in one of the “cheap pockets” and the price of R952/ha should be considered non-conforming as there are a number of improvements and mostly lands.

17) This sale at R1 482/ha supports sale (15) in determining the value of a mixed and reasonably well developed farm. It was bought on auction in 1994 so an upward adjustment is warranted. While investigating this sale, another as yet unregistered sale was found. This same Mr………. sold a farm of approximately 240 ha by public auction. It was bought by Mr………. for approximately R1 100/ha. The property it well developed and mainly arable. The low price cannot be attributed to the auction sale as it was not a forced sale.

18) This property consists of 120 ha grazing, the rest is lands. Apart from a shed it is unimproved. If the sale is broken down, the following values are obtained:

120 ha grazing @ R600/ha      R  72 000
154 ha arable @ R1 058/ha  R163 000

It was a totally open market transaction and no reason could be found for the lower price except that this is one of the cheap pockets as supported by the next two sales.

19) This sale is almost all grazing land but the price of R510/ha is still very cheap. It was a totally open market transaction, the seller started off asking R700/ha and approached all his neighbours. The lower price is partly due to the larger size of the land and smaller parcels of grazing are given a value of R600/ha.

20) Mixed grazing and lands, good house, shed, silage towers, near Barberspan.

2.8 CERTIFICATE OF VALUE

I, the undersigned, hereby certify that I have personally inspected the subject properties, that I have no interest therein and that my employment and compensation is in no way contingent on the value found. In my opinion, the open market value for the three subject properties are as follows:

I) Portion 1 of the farm ….. 167, registration division IO, North West Province
   Measuring: 130,4613 Ha.

   R300 000 (THREE HUNDRED THOUSAND RAND)

II) Portion 3 of the farm …… 167, registration division IO, North West Province
   Measuring: 130,4693 Ha.

   R220 00 (TWO HUNDRED AND TWENTY THOUSANDS RAND).
III) Portion 1 of the farm …… 175, registration division IO, North West Province

R514 000 (FIVE HUNDRED AND FOURTEEN THOUSAND RAND).

This done and signed at ................. On 26 August 1998

2.9 ANNEXURES

2.9.1 Location of subject property

2.9.2 Photos of subject property

i) Front of dwelling
ii) Back of dwelling
iii) Lands
iv) Outbuildings

2.9.3 Assumptions and limiting conditions

1) I have not inspected the title deeds and report that I am not aware of any onerous conditions contained herein which might affect this valuation.

2) The information given by others is assumed to be reliable. However no warranty is given for its accuracy.

3) The appraiser, by reason of this appraisal, is not required to give further consultation, testimony or be in attendance in court with reference to the property in question unless arrangements have previously been made.

4) No responsibility is assumed for the legal description or for matters including legal title or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
5) It is assumed that there is full compliance with all environmental, government and use regulations.
11. Notes on land use regulation (rezoning, EIA)

NB: The following are sections of the Land Use Management Bill which is still under review. For the purposes of providing guidelines on land use, only sections 33-44 of the bill are dealt with:

Changes in land use

Change in land use only with approval of land use regulators

33. (1) The use of a piece of land may be changed only with the approval of the land use regulator having jurisdiction.

(2) An application in terms of this section includes an application for:

(a) township establishment;
(b) the subdivision of a piece of land;
(c) the consolidation of different pieces of land;
(d) the amendment of a land use scheme or township development scheme;
(e) the removal, alteration or suspension of a restrictive condition in a title deed; or
(f) the combination of any of paragraphs (a) to (e) of this subsection.

Jurisdiction of various land use regulators

34. For the purpose of section 33, the land use regulator having jurisdiction with regard to any particular application to change the use of a piece of land is –

(a) the metropolitan or local municipality in which the land falls, if the application does not have an implication on the use of land beyond the boundaries of the municipality;

(b) the district municipality in which the land falls, if the application has an implication on the use of land beyond the boundaries of the local municipality in which the land falls but not beyond the boundaries of the district municipality;
the Land Use Tribunal in the province in which the land falls –

(i) if the application has an implication on the use of land beyond the boundaries of a metropolitan or district municipality;

(ii) if the application has been redirected or referred to a Land Use Tribunal in terms of section 35 (2) or (5), 36 or 83 (4); or

(iii) if the municipality in which the land falls is the applicant;

(d) the Appeal Tribunal, if an appeal has been lodged in terms of section 37 against a decision of a municipality or a Land Use Tribunal; or

(e) the Minister, if the application is the subject of an intervention by the Minister in terms of section 38.

i. Lodging of land use applications

35. (1) The owner of a piece of land who wants to apply for approval in terms of section 33 to change the use of that land, must lodge an application for such approval on the prescribed form with –

(a) the metropolitan or local municipality in which the land falls, if the application does not have an implication on the use of land beyond the boundaries of the municipality;

(b) the district municipality in which the land falls, if the application has an implication on the use of land beyond the boundaries of the local municipality in which the land falls but not beyond the boundaries of the district municipality; or

(c) the Land Use Tribunal in the province in which the land falls, if the application has an implication on the use of land beyond the boundaries of the metropolitan or district municipality in which the land falls.

(2) If a municipality with which an application has been lodged is of the opinion that the application has been lodged with it contrary to the provisions of subsection (1), the municipality must –
(a) consult the municipality or the Land Use Tribunal with which the application should have been lodged; and

(b) if the other municipality or the Tribunal agrees that the application has been incorrectly lodged, redirect the application to the other municipality or the Tribunal.

(3) If a Land Use Tribunal with which an application has been lodged is of the opinion that the application has been lodged with it contrary to the provisions of subsection (1), the Tribunal must –

(a) consult the municipality with which the application should have been lodged; and

(b) if the municipality agrees that the application has been incorrectly lodged with the Tribunal, redirect the application to the municipality.

(4) If no agreement is reached in the circumstances contemplated in subsection (2) or (3), the relevant municipality or Tribunal must consider and decide the application subject to subsection (5).

(5) If the MEC responsible for planning in a province is of the opinion that an application has been lodged with a municipality or the Land Use Tribunal in the province contrary to the provisions of subsection (1), the MEC may at any time before the application is decided, direct that the application be referred to another municipality or to the tribunal, as the case may be.

(6) The Minister may by notice in the Gazette, after consultation with MECs responsible for planning in provinces, issue guidelines to facilitate the implementation of this section.

Undue delays

36. (1) Land use regulators must decide land use applications without undue delay.

(2) Subject to a prescribed procedure, a Tribunal may entertain and decide an application that –
(a) has not been disposed of by a municipality within a prescribed period; and
(b) has been referred to it on the ground of undue delay.

Appeals

37. A person aggrieved by the decision of a municipality or a Land Use Tribunal may lodge an appeal with the Appeal Tribunal in the province against such decision.

Applications affecting national interest

38. (1) If the Minister is of the opinion that a land use application lodged with a Land Use regulator may affect national interest, he or she may –
(a) at any time before the application is decided, request to be joined as a party to, and make representations at, the hearing of the application; or
(b) where no appeal has been lodged against the decision of a land use regulator and the time allowed for the lodging of such appeal has elapsed, reconsider the application.
(2) If the Minister after reconsidering the application in terms of subsection (1)(b) –
(a) decides the application, the Minister’s decision is final and subject only to review by the High Court; or
(b) declines to decide the application, the Minister must refer the application back to the relevant land use regulator for a decision.
(3) A land use application affects national interest if –
(a) the application relates to land use for a purpose which falls outside the functional areas listed in Schedules 4 and 5 of the Constitution; or
(b) either approval or rejection of the application would not be consistent with –
   (i) national policy objectives, principles or priorities;
(ii) the national spatial development framework; or
(iii) any applicable regional spatial development framework.

(4) When acting in terms of this section the Minister must be fair.

Criteria for decision of land use applications

39. (1) A decision by a land use regulator must –
   (a) give effect to the directive principles;
   (b) be consistent with the applicable national, regional, provincial
       and municipal spatial development framework; and
   (c) take into account any factors that may be prescribed including
       timeframes for taking decisions.

(2) Despite subsection (1), but subject to prescribed conditions, a
land use regulator may on good cause shown permit a deviation
from the spatial development framework of the municipality in
which the land falls.

Conditions

40. (1) A land use application may be approved subject to such
     conditions as –
     (c) determined by the land use regulator; or
     (d) may be prescribed.

(2) Such conditions may include a condition that if the permitted use
of the land is not substantially utilised within five years, or other
prescribed period, after the date the land use regulator has
granted the application, the use of the land reverts to what it was
immediately before the approval.

(3) A land use regulator may on good cause shown by the owner of
land which is subject to a condition referred to in subsection (2)
–
   (a) extend the period of five years referred to in that subsection for
       a further period not exceeding three years at a time; or
   (b) withdraw the condition.
a) Notification on removal of restrictive conditions in title deeds

41. (1) A land use regulator must within 60 days, or other prescribed period, after the approval of an application to use a piece of land otherwise than in accordance with a restrictive condition in a title deed, notify -

(a) the Registrar of Deeds of such approval; and
(b) the office of the Surveyor-General where such approval affects a diagram or general plan filed in that office.

(2) On receipt of the notification, the Registrar of Deeds must endorse the registered deed of that piece of land with an appropriate endorsement.

Part 2: Procedures

Procedures to be followed by land use regulators

42. (1) When considering a land use application, a land use regulator must adopt an administratively fair procedure consistent with this Act including –

(a) to conduct an investigation;
(b) to hold a public hearing;
(c) to acquire information by way of written statements; and
(d) any other procedure that may be prescribed.

(2) A land use regulator may follow different procedures for different –

(a) land use applications; or
(b) categories of land use applications.
When considering a land use application affecting the environment, a land use regulator must comply with section 24 of the National Environmental Management Act 1998 (Act 107 of 1998).

Investigations by land use regulators

43. (1) A land use regulator or its designate may conduct an investigation into any matter within its jurisdiction

(2) A land use regulator or designated investigator may –

(a) at all reasonable hours gain entry to a piece of land which is–

(i) the subject of a land use application; or

(ii) relevant to the consideration of a land use application; and

(b) conduct on that land such inspections and make such inquiries as are necessary for the purpose of the investigation.

(3) Records of investigations conducted by a land use regulator or its designate must be kept in the prescribed manner.

Public hearings by land use regulators

44. (1) A land use regulator or its designate may hold a public hearing on any matter within its jurisdiction.

(2) For the purposes of a public hearing, the land use regulator or its designate may –

(a) by written notice summon a person to appear before it to –

(i) give evidence; or

(ii) produce a document available to that person and specified in the summons;
(b) call a person present at the public hearing, whether summoned or not, to -

(i) give evidence; or
(ii) produce a document in that person’s custody;

(c) have an oath or solemn affirmation administered to that person;

(d) question that person; and

(e) retain for a reasonable period a document produced in terms of paragraph (b) (ii).

(3) If the public hearing is held by one or more members or other persons designated by a land use regulator, they must on completion of the hearing, submit a written report on the hearing and their findings to the land use regulator.
12. Format of letter of instruction to a conveyancer

NB: In some cases, the Provincial Office does not appoint a conveyancer, but instead, the seller’s lawyer undertakes the conveyancing process and the Provincial office pays for associated costs. In such instances PLROs can utilize this format.

DEPARTMENT: LAND AFFAIRS

File Ref.:
Enq:

............... ATORNEYS INC.
[ ATTORNEY’S ADDRESS]

Dear Sir /Madam

RE: TRANSFER OF PORTION NO.2 OF FARM........... TO THE REPUBLIC OF SOUTH AFRICA: NATIONAL GOVERNMENT

Please be advised that the Department of Land Affairs will pay an amount of ................... to Mr/Ms. ............... as the agreed purchase price for the following property: Portion No.2 of Farm ........, which is located in ..........................................................[STATE DISTRICT AND PROVINCE].
The Department will also pay the conveyancing costs. However, any interests accrued on both these amounts is payable back to the Department on the date of transfer.

In the mean time, may you please furnish the Department with your Bank Details and Pro-Forma (account tax invoice).

The property is to be transferred to Republic of South Africa: National Government

**Provincial Chief Director:** ..................................................

**Date:** .................
REQUEST FOR APPROVAL FOR THE PURCHASE OF LAND FOR AGRICULTURAL PURPOSES IN TERMS OF SECTION 10 (1)(a) OF THE PROVISION OF LAND AND ASSISTANCE ACT, 1993 (ACT No. 126 OF 1993), PORTION OF FARM: ........... FOR.......... PROJECT SITUATED IN THE DISTRICT OF ................. IN THE .........PROVINCE

REFERENCE: ............

1. PURPOSE

To obtain approval for funding for the pro-active acquisition of land, in terms of section:
10(1)(a) of the Provision of Land and Assistance Act, Act No. 126 of 1993, for the purchase of portion ...... of farm:
.........., situated in the ................. District of the ...........Province.

2. LEGAL PROVISION

Section 10(1)(a) of the Provision of Land and Assistance Act, Act No. 126 of 1993 (hereafter referred to as the Act), provides for the acquisition of land for the purposes of the Act.

3. BACKGROUND

Portion... of farm............... has been identified as part of area-based planning/the Integrated Development Plan of the Area in terms of the Proactive Land Acquisition Strategy. The Department of Agriculture/Service provider has conducted a preliminary feasibility study on the farm. The acquisition of the farm will improve the livelihoods of people by creating the much-needed employment.
4. PARTICIPATION AND ROLE PLAYER CONSULTATION

The Department of Agriculture is involved in the project and has assisted the Department with the preliminary feasibility study. They have indicated their availability to provide support during project planning, selection of beneficiaries, management of leases, extension services and training.

5. LAND IDENTIFICATION

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Title deed attached

6. FINANCIAL IMPLICATIONS

1. Land Price
2. Agreed selling price

The following are attached:
An option letter from the seller,
A valuation report for confirmation of the value of the land.

7. CURRENT LAND USE AND ASSETS

Short description of the current land use and what type of assets are on the land.

8. PROPOSED LAND USE

Short description of the possible use of land. As beneficiary selection will follow, indicate the land need as identified in the area-based plans/IDPs.

9. RECOMMENDATION

It is recommended that funds be released:
In terms of section 10(1)(a) of the provision of Land and Assistance Act, Act No. 126 of 1993, for the purchase of Portion….. of the farm .......... situated in ..........district, ........ Province for agricultural purposes.

Recommendation 9.1 supported/ not supported

CHIEF DIRECTOR: PROVINCIAL LAND REFORM OFFICE
DATE:

PROVINCIAL DEPARTMENT OF AGRICULTURE
DATE:
### 14. ASSETS AND IMPLEMENTS SCHEDULE

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MEMORANDUM OF AGREEMENT FOR THE APPOINTMENT OF CARETAKER

ENTERED INTO BY AND BETWEEN

B. THE NATIONAL DEPARTMENT OF LAND AFFAIRS

Represented by Peter Brislin in his / her capacity as Acting Director and being duly authorised thereto.

(hereinafter referred to as “the Owner”)

AND

_____Mr X____________________________

i. OF ______Bloemfontein Farms __________________

ID NO._____XXX XXX ___________________________

(hereinafter referred to as “the Caretaker”)

WHEREAS the Owner appoints the Caretaker to take care of property known as ‘Richter Farms’ (In extent 6550 ha) in the District Bloemfontein, Free State Province

(hereinafter referred to as “the property”)
WHEREAS the Caretaker accepts the appointment.

NOW THEREFORE THE PARTIES HERETO AGREE AS FOLLOWS:

1. DURATION OF THE AGREEMENT

The appointment takes effect on (Date of transfer) and expires on (within 6 months of transfer date) and may be terminated by either party at any stage giving the other thirty (30) days written notice. The Owner (The Department) may from time to time within the next six months, advise the Caretaker to release some or all portions of the farms to its own beneficiaries.

2. CONDITIONS OF APPOINTMENT

The Caretaker is not and will not be regarded as an employee of the State while he or she performs his or her duties in terms of this Agreement. The Caretaker shall be regarded as an independent contractor and not an agent. He or she may not bind the State in an agreement or otherwise unless he or she is specifically authorised in writing.

3. DUTIES OF THE CARETAKER

3.1 The Caretaker is responsible for taking care of and maintaining the land and the improvements on the property, listed in Annexure A to this agreement, if applicable, mentioned above to the satisfaction of the Owner and accepts responsibility for any damage to the property or improvements during the term of caretakership.
3.2 Damage to the improvements or theft, must be reported to the Owner and the local police when the caretaker becomes aware thereof.

3.3 The Caretaker must at all times take necessary precautions to protect the improvements and to combat fires which could originate.

3.4 The Caretaker must see to it that no unlawful squatting occurs on the property. Should it happen, the Caretaker must immediately act by informing the Owner and the local police. However the provisions of the Prevention of Illegal Eviction from an Unlawful Occupation of Land Act 19 of 1998 must be compiled with. The Caretaker shall not cede or assign any of his rights or obligations under this agreement to any third party, including any subletting or other arrangement, without the prior written approval of the Owner first being obtained.

3.5 The Caretaker shall report to the Owner any other matter that he or she considers in his or her discretion important.

4. COMPENSATION AS CARETAKER

4.1 The Caretaker has no claim to compensation for taking care of and maintaining the property or for the improvements effected thereon or material required in respect of such caretaking or maintenance.

4.2 The Caretaker shall not by virtue of appointment enjoy any privilege above other prospective buyers or beneficiaries when the properties are sold or otherwise disposed of.
4.3 The Caretaker shall not by virtue of this appointment obtain or enjoy any rights of whatever nature in respect of the property other than those expressly stipulated in this agreement.

5. RIGHTS OF THE CARETAKER

5.1 The Caretaker has the right to:-

5.1.1 utilise existing farming infrastructure and improvements, including feedlots, on the property;

5.1.2 to cultivate existing crop lands, provided he or she obtains the Owner’s prior written consent for establishing new crop lands and on such conditions as may be imposed on each occasion.

5.2 To farm existing orchards to the satisfaction of the Owner and to harvest and market the fruit on condition that one fifth (1/5) of the gross income from such harvest is paid to the Department. (Income accounts to be submitted as proof)

6. KEEPING OF LIVESTOCK

The Caretaker or any of his or her employees may not keep any livestock that is not the bona fide property of the Caretaker on the property without the written permission of the Owner. The number of livestock units on the property shall be limited to ......XX......large livestock units per hectare grazing area.

7. OTHER RESPONSIBILITIES OF THE CARETAKER
7.1 Except as stipulated in condition 2.1, the Caretaker may not erect any new improvements on the property. Should this take place he or she will not be entitled to compensation for such improvements, unless such improvements were erected with the prior permission having been obtained from the Owner.

7.2 The Caretaker may not draw water from any borehole on the property unless it is extracted by means of properly installed pumping equipment.

7.3 All rights to game are reserved and the Caretaker will not have the right to hunt or to allow people to hunt on the property without the written consent of the Owner and the required permits first being obtained from the appropriate provincial authority.

7.4 The Caretaker may not chop down or destroy any trees on the property, but has the right to use dry wood on the property for his or her own needs.

7.5 The Caretaker may not interfere with any person who is lawfully present on the property.
8. INDEMINITY

8.1 The Caretaker indemnifies the Owner against any third party claim for damage, loss, inconvenience or injury whether it being personal injury or damage to the property, which arises from or in connection with the mismanagement, improper maintenance by the Caretaker, the poor condition of any improvements on the property, work or activities of Caretaker.

8.2 The Owner is under no circumstances responsible for the maintenance and caretaking of any improvements of whatever nature on the property.

9. RIGHT OF ENTRY

9.1 The Owner has the right of access to the property for official purposes at all times.

9.2 The Owner has the right, without payment of compensation:-

9.2.1 to store any material on the property;

9.2.2 to erect crusher and mixer stations, stores, workshops and shelters for machinery and implements on the property;

9.2.3 to accommodate contractors, employees and officers on the property and to install the necessary conveniences for any purposes whatsoever; and

9.2.4 to withdraw water during the tenancy from any source by means of existing pump installations on the property and/or cause same to be done.

10. BREACH
10.1 Should the Caretaker breach any condition of this agreement the Owner shall have the right to terminate the agreement with immediate effect, after giving 7 (seven) days written notification to the Caretaker of its intention to cancel the agreement, and the breach not having been rectified within the said period.

10.2 If the Caretaker terminates this agreement he or she will not have the right to harvest any of the existing crops. These crops shall with the termination of this agreement remain in the ownership of the Department and no compensation in respect thereof can be claimed by the Caretaker.

11. DOMICILIUM CITANDI ET EXECUTANDI

The parties choose the following addresses as their domicilia citandi et executandi for all purposes of and service of legal documents in connection with this agreement:-

11.1 DEPARTMENT OF LAND AFFAIRS

.................................................................................................
.................................................................................................
.................................................................................................
.................................................................................................
Telephone:-

11.2 CARETAKER

...........(Present owner) ....................
.................................................................................................
.................................................................................................
.................................................................................................
.................................................................................................
Telephone:- XX

12. ENTIRE AGREEMENT

This agreement constitutes the whole agreement between the parties and no variation or amendment shall be of any force or effect unless reduced to writing and signed by both parties.
THUS DONE AND SIGNED AT ************************** THIS ....... DAY OF 
******************************2002.

WITNESSES
1. .......................................................... 
2. ..........................................................

.......................................................... 
OWNER

THUS DONE AND SIGNED AT ************************** THIS ....... DAY OF 
******************************2002.

WITNESSES
1. .......................................................... 
2. ..........................................................

.......................................................... 
CARETAKER
16. GUIDELINES ON CARETAKER AGREEMENTS IN TERMS OF THE PROACTIVE LAND ACQUISITION STRATEGY

1. Appointment of Caretakers

- The Provincial Department of Agricultures may assist the Provincial Land Reform Offices in the nomination of capable persons to be appointed as caretakers.
- The local farmers' union may also be approached in assisting the Provincial Land Reform Office in selecting a caretaker.
- The previous land owner can be considered for appointment as a caretaker.
- Provincial Land Reform Office should not appoint caretakers for longer than a year. If the duration of the caretakership extends beyond a year then a short term lease agreement (not more than 3 years) should be signed with the caretaker who will then become the lessee.

2. THE CARETAKER AGREEMENT SHOULD CONSIST OF THE FOLLOWING CLAUSES:

2.1 Proper utilization of state agricultural land

- The caretaker must ensure that the land is utilized in a sustainable manner in order to obtain the greatest long-term benefit from the agricultural potential of the land.
- Guidelines stipulated by the local extension officer must be followed.
- The use rights of the caretaker should be clearly spelled out in the agreement.

2.2 Maintenance of infrastructure

- It should always be the prime goal to keep infrastructure on the acquired land in a good condition.
- The caretaker then becomes responsible for the maintenance of the infrastructure.
- Prior to the signing of an agreement with the caretaker, officials from both the Provincial Land Reform Office and Provincial Department of Agriculture should conduct an inspection and note the condition of the infrastructure and attach this inventory form to the agreement (this should also be signed). In this way if the period of caretakership is short and there were damages to the infrastructure, actions could be instituted against the caretaker if he/she had not repaired it before vacating the land.
- The caretaker must report all damages and theft of infrastructure to the Provincial Land Reform Office.
2.3 Combating of soil erosion

- Maintenance of existing erosion works such as contours, watercourses, weirs, etc, must be carried out.

2.4 Prevention of bush fires

- State agricultural land should at all times be protected against bush fires that can cause damage to infrastructure or grazing. Firebreaks should be made in accordance with the Forestry Act.
- It is the responsibility of the Provincial Department of Agriculture to ensure that lessees and caretakers comply with the stipulations of the Forestry Act, with regard to firebreaks.
- The Caretaker must always take necessary precautions to protect the improvements and to combat fires which could originate.

2.5 Prevention of the illegal occupation of state agricultural land and institution of corrective measures

- The Caretaker must see to it that no unlawful squatting occurs on the property.
- Should it happen, the Caretaker must immediately act by informing the Provincial Land Reform Office and the local police. However the provisions of the Prevention of Illegal Eviction from an Unlawful Occupation of Land Act 19 of 1998 must be complied with.
- The Caretaker shall not cede or assign any of his/her rights or obligations under this agreement to any third party, including any subletting or other arrangement, without the prior written approval of the Provincial Land Reform Office first being obtained.

2.6 The institution of legal proceedings

- The caretaker agreement should contain a clause on breach of agreement that can result in the Provincial Land Reform Office resorting to taking legal action against the caretaker. Provincial Land Reform Offices may take one or more of the following actions as a result of a breach in agreement:
  - immediate termination of the agreement;
  - immediate termination of the agreement and withdrawal of use rights on the land e.g. right to harvest;
  - recoveries of any monies owed in relation to damages that may have occurred; and
  - criminal proceedings in relation to willful damage to state property.
18. FORMAT OF A MEMO TO DIRECTORATE: LAND REFORM IMPLEMENTATION SUPPORT TO CAPTURE CARETAKER LEASE AGREEMENT

[DEPARTMENTAL MEMO HEAD]

LAND ACQUIRED IN TERMS OF THE PRO-ACTIVE LAND ACQUISITION STRATEGY THROUGH ACT 126: REGISTRATION OF CARETAKER LEASE AGREEMENT

Reference:

DIRECTOR: LAND REFORM IMPLEMENTATION SUPPORT

Please find attached copy of the caretaker lease agreement for capturing on the lease debtor system

CHIEF DIRECTOR: ........ PLRO
DATE:
19. EXAMPLE OF A BENEFICIARY QUESTIONNAIRE

DEPARTMENT OF LAND AFFAIRS
REPUBLIC OF SOUTH AFRICA

LAND REFORM NEEDS ASSESSMENT HOUSEHOLD QUESTIONNAIRE

Please note that the information provided will be treated as confidential information and is for research purposes only. This questionnaire is not an application form but aids in the assessment of your application.

A: GENERAL

A1. Province: ____________________________ District: ____________________________

Town/Village: ____________________________

A2. Name: ______________________________

A3. Male ☐ Female ☐ [Tick relevant box]

A4. Age [Tick relevant box]: 18 to 25 ☐

26 to 35 ☐

36 to 50 ☐

50 to 65 ☐

Above 65 ☐

A5. Please tell us what is your occupation? [Tick relevant box]:

<table>
<thead>
<tr>
<th>Student</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employed full/part time private sector (delete relevant section before ticking box)</td>
</tr>
<tr>
<td>Employed full/part time public sector (national, provincial, municipal government or parastatal) (delete relevant section before ticking box)</td>
</tr>
<tr>
<td>Farm worker full/seasonal (delete relevant section before ticking box)</td>
</tr>
<tr>
<td>Self-employed</td>
</tr>
<tr>
<td>Pensioner</td>
</tr>
<tr>
<td>Unemployed</td>
</tr>
<tr>
<td>Other: (Please explain)</td>
</tr>
</tbody>
</table>
A6. Have you always lived in this town/village? Yes ☐ No ☐ [Tick relevant box]

A6 (i) If No, Where did you live before this? __________________________________________

B: HOUSEHOLD INFORMATION

B1. How many people live in your household? Please enter the information in the table below (Skip this question if you live alone):

<table>
<thead>
<tr>
<th>Age group</th>
<th>Number of persons in each group by sex</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Male</td>
</tr>
<tr>
<td>18 years and below</td>
<td></td>
</tr>
<tr>
<td>18-35</td>
<td></td>
</tr>
<tr>
<td>35 to 65</td>
<td></td>
</tr>
<tr>
<td>Above 65</td>
<td></td>
</tr>
</tbody>
</table>

B2. How many people are employed in your household excluding yourself? ______________________

B3. Please list all sources of income in your household (including yours)? [Tick relevant box or boxes- more than one answer can be relevant]:

<table>
<thead>
<tr>
<th>Income source</th>
<th>Number of people</th>
<th>Estimated amount</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farming</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Old age Pension</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other social grants such as child grants and/or disability</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Off- farm income from either permanent or contract or self employment</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other (please list)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

C. ACCESS TO LAND AND SHELTER

C1. Do you have access to agricultural land? [Tick relevant box]:

- I own a piece of land
- I am leasing a piece of land privately
- I am leasing a piece of land from a government institution
- I have access to land but I am not leasing or owning it
- I have no access to agricultural land

C2. If you answered that you have access to land either through ownership/lease/other- please tell us what activities you practice on that land? [Tick relevant box]:

I farm with a few livestock (goat, sheep or cattle, etc)
I farm with poultry (chickens, duck, geese, ostriches, etc)
I farm with vegetables
I farm with vegetables and livestock and/or poultry
I practice non-agricultural activities on the land e.g. Spaza, brick-making, etc (Please list activities)

C3. Please tell us more about where you live. [Tick relevant box]:
I live in rental/rent free accommodation on a farm (delete relevant section before ticking box)
I live in rental/rent free accommodation in a township (delete relevant section before ticking block)
I own my own home in a township/suburb (delete relevant section before ticking box)
I live in an informal settlement
Other (Please explain)

D. ACCESS TO BASIC NEEDS

D1. Please answer yes or no to the following questions

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you have access to clean water e.g. tap in the house or yard?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do you have access to proper sanitation e.g. flush toilets in the house or yard?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are the health services such as clinics and/or hospitals within 30 kilometres of your place?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are the primary and high schools within 5 kilometres of your place?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are shopping centres or general dealers within 5 kilometres of your place?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is the public transport system within 2 kilometres of your place?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is the public transport system regular? (either train, bus or taxi services)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

D2. Please tell us about the food situation in your household. [Tick relevant box]
I/We eat 2-3 meals per day (delete relevant section before ticking box)
I/We eat 1 meal per day but its by choice
I/We eat 1 meal per day or sometimes do not eat in a day because I/we cannot afford to eat more

E. AGRICULTURAL AND OTHER SKILLS

E1. Please tell us about your farming skills. Fill in relevant information in the table below.

<table>
<thead>
<tr>
<th>Type of skill</th>
<th>Number of years experience</th>
<th>Qualification either formal courses and/or informal (life experience). [You can tick both options if it applies to you]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vegetable farming: List vegetables that you have farmed with</td>
<td></td>
<td>formal courses (List course) life experience</td>
</tr>
<tr>
<td>Farming with deciduous fruit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Farming with citrus fruit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maize farming</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wheat farming</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Farming with sunflowers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Poultry farming</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sheep farming</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Goat farming</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cattle farming</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pig farming</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dairy production</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

E2. Please indicate the type of general skills that you have. [Tick relevant box or boxes—more than one answer can be relevant]:

<table>
<thead>
<tr>
<th>Type of skill</th>
<th>Please indicate what your level is in relation to this skill</th>
</tr>
</thead>
<tbody>
<tr>
<td>People management</td>
<td>Basic Average Expert</td>
</tr>
<tr>
<td>Farm management</td>
<td></td>
</tr>
<tr>
<td>-------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Book keeping and accounting</td>
<td></td>
</tr>
<tr>
<td>Computer Software (<em>Office programmes such as spreadsheets, Word, etc</em>)</td>
<td></td>
</tr>
<tr>
<td>Driving a tractor</td>
<td></td>
</tr>
<tr>
<td>Driving and operating a harvester</td>
<td></td>
</tr>
<tr>
<td>Driving and operating a planter</td>
<td></td>
</tr>
<tr>
<td>Operating other farming equipment (Please list)</td>
<td></td>
</tr>
</tbody>
</table>

| Driving (Please state what licence you have) |

<table>
<thead>
<tr>
<th>Marketing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other (Please list):</td>
</tr>
</tbody>
</table>

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
</table>
20. EXAMPLE OF A WEALTH RANKING EXERCISE TOOL

INTRODUCTION

Wealth ranking is a participatory rural appraisal technique that is utilized in communities to:
- Investigate the community’s perceptions of wealth differences and inequalities within their community;
- Identify and understand local indicators and criteria of wealth and well-being; and
- To map the relative position of households in a community.

In order to adopt a more pro-poor approach to proactive land reform, such techniques are necessary to assist the Provincial Land Reform Offices (PLROs) in selecting beneficiaries to participate in projects executed through the Proactive Land Acquisition Strategy (PLAS). It is proposed that PLROs employ wealth ranking methods (through qualified experts in this field) during the project planning phase of the implementation of the PLAS where beneficiary selection is expected to take place. However it is suggested that PLRO project officers accompany the appointed facilitators on some visits to obtain a feel for the technique and to gain insights into community thinking.

Critical questions that are normally asked of communities during such an exercise are:
- What are local perceptions of wealth and inequality?
- What socio-economic groupings are there in the community and who belongs in what group?

2. SOME OF THE KEY STEPS THAT FORM PART OF THIS EXERCISE ARE AS FOLLOWS:

1. A numbered list is made of all the households in the community (social map) and the name of each household head and the household number is written on a separate card.

2. A number of key informants who know the village/area and its inhabitants very well are asked to sort the cards in as many piles as there are wealth categories in the community, using their own criteria.

3. After sorting, informants are asked for the wealth criteria for each pile and differences between the piles. Informants are assured of confidentiality and are not allowed to discuss the ranks of individual families, so as not to cause ill feelings within the community.
4. Facilitators then list the local criteria and indicators derived from the ranking discussion.

21. EXAMPLE OF A SKILLS AUDIT TOOL

INTRODUCTION

During the project planning phase of the implementation of the Proactive Land Acquisition Strategy (PLAS), beneficiaries would need to be selected. A skills audit is a method of accounting the existing and deficient skills in a community to illuminate under-utilized capital which can be re-invested into creating a sustainable agricultural economy. The skills audit will also point to areas in which training and education are needed so that suitable courses can be developed. In this sense, Provincial Land Reform Offices (PLROs) must coordinate such an audit with the Provincial Departments of Agriculture (PDAs). A service provider can also be appointed to carry out the audit but both departments should play a monitoring and project management function.

A skills audit can be done at a personal or community level. Skills audits usually entail people enlisting their academic and trade qualifications, hobbies, personal interests and work experience. The accuracy of the report would depend on the communication skills of the person being audited as well as the ability of the facilitator to think laterally about the transferable skills. A core of people is needed to assist in the undertaking of the skills audit and church groups, non-governmental organizations, farmers associations or other community based organizations can be roped in to assist in this process.

Skills are usually divided into three major types:
- Ability to work with people (entrepreneurial and social);
- With things (technical and trade); or
- With information (academic and communication).

The lists that follow provide a generic list/template that Project Officers/service providers can identify and assess the presence or absence of skills.

1. WORKING WITH PEOPLE

Every person gains some level of ability in working with people through their upbringing and schooling. These skills are often unrecognized by society and even by the people who have them. For example, a woman who has organised a large wedding will have skills in planning; time scheduling; dealing with caterers, printers, dressmakers, florists and clergy; interior decoration; and most probably negotiation and conflict resolution amongst family members. Neither she nor most of her relatives would recognize these as transferable skills which she may be able to use in a workplace.
Entrepreneurial skills | Skills with groups and organizations | Skills with individuals
---|---|---
• Assess strengths and weaknesses  
• Cope with stress and tension  
• Make decisions  
• Plan time and energy  
• Carry out agreed responsibilities  
• Negotiate  
• Deal with power and authority- taking instructions, supervising  
• Solve problems and resolve conflict- diverting, persuading  
• Evaluate your own and others’ performance  
• Communicate clearly both verbally and non verbally  | • Motivating or influencing groups  
• Leading  
• Managing, delegating tasks  
• Facilitating group activities, resolving conflicts  
• Selling ideas or things  | • Tutoring  
• Counselling, advising  
• Mentoring, empowering  
• Selling ideas or things

2. WORKING WITH THINGS

Any agricultural enterprise will need some level of technical or trade skills to carry out its operations. The rural sector relies heavily on "working with things" so these skills will be well supplied in rural communities.

<table>
<thead>
<tr>
<th>Skills with raw materials</th>
<th>Skills with living things</th>
<th>Skills with the body</th>
</tr>
</thead>
</table>
| • logging  
• Processing and refining minerals  
• Crafting objects, pottery, woodcarving, cabinet-making, sewing,  
• Blacksmithing  
• Maintaining water and soil quality  
• Preserving wilderness and eliminating alien species  | • Growing crops, forestry, plant propagation  
• Gardening, landscaping, pruning  
• Breeding and raising livestock  
• Veterinary health  
• Maintaining plant health  
• Wildlife preservation  
• Harvesting, transporting and storing crops  
• Slaughtering and meat processing  
• Canning, freezing, distilling, fermenting  | • Motor skills

| Skills with machines, tools | |
|---|---|---|
**and equipment**

- Maintaining, cleaning, repairing and restoring farm equipment
- Disassembling and recycling components or materials

**or drying produce**

---

### 3. WORKING WITH INFORMATION AND IDEAS

These academic skills are taught in the formal education sector. They are increasingly dominating the workplace as the "information revolution" takes hold. For a community to maintain its viability into the future it is vital to develop and promote information skills. These are the tools the community uses to detect, predict and respond to changing circumstances.

<table>
<thead>
<tr>
<th>Gathering or creating information</th>
<th>Managing information</th>
<th>Using information</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Researching existing information&lt;br&gt;- Interviewing&lt;br&gt;- Studying and observing&lt;br&gt;- Recording- written, on film, on audio&lt;br&gt;- Imagining, inventing&lt;br&gt;- Designing, programming&lt;br&gt;- Expressing and communicating through writing, art or music</td>
<td>• Copying and comparing&lt;br&gt;- Analyzing&lt;br&gt;- Classifying&lt;br&gt;- Compiling, synthesizing, simplifying, editing&lt;br&gt;- Evaluating&lt;br&gt;- Computing, numeracy, accounting&lt;br&gt;- Keeping records, filing, databases&lt;br&gt;- Archiving Accessing information</td>
<td>• Designing&lt;br&gt;- Planning&lt;br&gt;- Programming&lt;br&gt;- Problem solving&lt;br&gt;- Recommending actions</td>
</tr>
</tbody>
</table>

22. PRO-POOR GUIDELINES

PRO POOR GUIDELINES FOR BENEFICIARY SELECTION IN TERMS OF THE PROACTIVE LAND ACQUISITION STRATEGY FOR AGRICULTURAL PROJECTS

1. WHAT IS PRO-POOR?

Poverty continues to persist in South Africa despite improvements in the global trade regime and significant enhancement in agricultural productivity. Most people live in extreme absolute poverty, earning less than R1000 per month and it is significantly lower in rural areas. To achieve the millennium development goal of halving poverty by 2014, these people should be given preference in relation to government-aided schemes to allow them to enter the mainstream economy and create sustainable livelihoods for themselves.

Pro-poor is an approach that results in increased net benefits for poor people. It enhances the linkages between commercial activities and poor people; so that poverty reduction is increased and poor people are able to participate more effectively in agricultural activities. This will enable economic growth to be broadly shared by all groups of society.

The following are categories of people that should be considered for a more pro-poor proactive approach to land reform:

➢ ABSOLUTE POOR

These are people that do not possess basic needs such as running water, sanitation, housing, farming implements, etc and earn between R0- R1500 per month per household. In relation to Department of Agriculture’s Household Food Garden’s Programme, criteria for selection simply asks applicants to fill in a form (affidavit) stating that they are unemployed or they are the sole breadwinners earning between R0-1500 per month. Beneficiaries selected from this group should be offered a 30% discount of their lease fees.\(^{21}\) They may also qualify for LRAD grants and a 30% discount on the purchase price after the trial lease period has expired depending on their performance.\(^{22}\)

➢ POOR

This group comprises of people that may have some of the basic needs, own minimal farming implements and earn between R1 500-R2500 per month per household. Their educational levels vary from primary school

\(^{21}\) Subject to National Treasury Approval
\(^{22}\) Subject to National Treasury Approval
education to secondary level education. Beneficiaries selected from this group should also be offered a 25% discount of their lease fees\textsuperscript{23}. Such beneficiaries may also qualify for LRAD grants and a 30% discount on the purchase price after the trial lease period has expired depending on their performance.

\section*{PEOPLE EARNING OVER R2 500 PER MONTH}

This group of people should not necessarily be excluded from gaining access to land through the PLAS but they should be excluded from qualifying for a discount of their lease fees. They may still qualify for a LRAD grant and a 30% discount on the purchase price after the trial lease period has expired depending on their performance.

\textsuperscript{23} Subject to National Treasury Approval
NB: The following ‘terms of reference’ were obtained from the Western Cape Provincial Land Reform Office and has been adapted.

Introduction

It is the intention of the Department of Land Affairs to enter into a formal contract with a consultant to provide the services described here. These Terms of Reference and the consultant’s proposal will form the basis of the contract.

SECTION 1: DETAILS

Province:               ------------------------------
District Office:        ------------------------------
Project Officer:        ------------------------------
Project Name (as registered at DLA): ------------------------------
Name of the Community:  ------------------------------

SECTION 2: SUMMARY OF THE TASK TO BE COMPLETED

2.1 Tasks to be completed

The aim of this project is to complete a Business Plan for the ............................. (individual/group/farm workers). The services to be provided will be discussed.

This terms of reference is drafted in accordance with the Department of Land Affairs’ document “Structure of Business Plan” which is attached for your reference as Annexure ......
2.2 Format of Tender Proposal

The Tender Proposal should take the following format:

- A proposal which contain all the elements outlined in this Terms of Reference document
- A completed ST 5.1 and the original Tax Clearance Certificate received by SARS
- A completed ST 8 form
- A ST 6.4 form
- A completed ST 7 (3). A fixed amount of the tasks set out in Section 3 and a breakdown of costs and estimated number of meetings/workshops. The total tender price should include VAT and a 10% contingency fee.
- An outline of professional services to be undertaken to meet the tasks set out in Section 3
- Comments on the criteria against which you will be evaluated
- Detailed CV's of all relevant persons and/or organisations
- Completed ST 12 form
- Completed ST 11.1 form

SECTION 3: PROJECT DESCRIPTION

3.1 Statement of Need/Problem Statement

The Department of Land Affairs (Worcester District Office) is currently assisting a community to attain land for agricultural purposes, through the Land Reform Programme, in the ................. District of the Western Cape.

The services of a consultant are needed to gather all the relevant information regarding this agricultural venture and capture it in a detailed Business Plan and also to ensure a coherent group of
potential owners. The service provider needs to conduct the participation of all relevant role players, especially that of the beneficiaries and must emphasize participating planning techniques, gender sensitivity, environmental awareness and capacity building.

Consultant/s must be committed to engage in the process for a minimum of two years from the date of appointment so as to assist the community with advice on various issues such as social, financial, legal matters after approval and during the implementation phase. (Consultant/s should build this period into the projected budget.)

Consultants are requested to submit a proposal on the execution of this need, based on the information given below.

3.2 Profile of the Beneficiaries and Project Background

The participant group consists of .......... households; all of them are working and staying at .................

Individual/ Community details:

<table>
<thead>
<tr>
<th>Name of Individual/community</th>
<th>Number of households</th>
<th>Number of people involved</th>
<th>Number of adults involved</th>
<th>Number of adult women with/out dependant participating in the project</th>
<th>Number of female-headed households</th>
</tr>
</thead>
<tbody>
<tr>
<td>Etc.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

For further information and assistance from this office, the planner working in the area, ...................., may be contacted at ......................... (tel).

3.3 Objectives of the Facilitation Process
The community understands or has a clear perception of the venture they are embarking on.

Obtain commitment and buy-in to the process and outcome viz. the implementation of a sustainable venture.

Community must be fully trained in order to fulfill their roles after implementation.

All participants should receive training to understand simple financial statements.

Community must be economically empowered so as to render their project viable and sustainable.

An employment equity plan should be in place.

A skills transfer plan should be in place.

A clear perception of the impact of the project on the social development of the community (i.e. qualitative aspects in terms of development).

Gender equality as evidenced through empowerment of women, life-skills training etc. must be emphasised.

Minimise the risk exposure of the community.

Formal dispute resolution mechanisms should be included in legal documents.

Ensure that the required legal and financial measures are in place for this venture.

### 3.4 Activities

In order to achieve the stated objectives of this facilitation process, it is expected of the consultant to engage in the following activities bearing in mind that all of the activities must be with maximum involvement of and communication with the beneficiaries. It is assumed that some consultants may have to employ certain other professionals to execute activities, which demand skills, or expertise that such consultants do not possess. The consultant would be held responsible for the delivery
of such services and the Department of Land Affairs would not be bound by any separate agreements.

3.4.1 SOCIAL COMPONENT

1. Arrange workshops to explain the Land Reform Program of the Department of Land Affairs and the different options that are available to the community under this program.

2. Assess status quo of community in terms of the following:
   - Characteristics (social profile);
   - Goals and aspirations of the community;
   - Organizational structure;
   - Participation of women;
   - Adherence to employment equity and existing labor relations legislation;
   - Perform a skill audit, which should include an assessment of the literacy levels of the participants.

3. Perform a needs assessment of the current and future training needs of the participants.

4. On the basis of the needs assessment a comprehensive training proposal, to be executed by a recognized trainer or training organisation after project approval, should be prepared. This should include costing associated with presentation of various components, methods to be used and an implementation schedule and includes modules such as the following:

   - life skills;
   - financial skills;
   - agricultural skills training;
   - operational and institutional structures;
- advanced financial skills for elected office bearers of the management structure;
- gender awareness;
- decision making skills;
- conflict handling; and
- professional conduct for elected office bearers.

5. To conduct, during the facilitation process, information sessions, which include modules such as the following:

- legal entity identification (if necessary);
- election of office bearers of selected management structures;
- responsibilities of members and committee;
- meeting procedures;
- reporting structures and procedures;
- gender sensitivity;
- basic financial skills; and
- basic management skills.

6. To assess the views of adjoining property owners on possible changes in ownership and land tenure systems on the land.

7. Establish and verify (at various stages) a beneficiary list that contains:

- full names and identity numbers of individuals;
- names and ages of dependants;
- own contribution.

3.4.2 LEGAL COMPONENT

8. Arrange workshops to explain different options for legal entities and the differences between different types of legal entities.

9. Assist the community to make an informed decision in terms of an appropriate legal entity, which would address their needs within the project.
10. Assist the participants with the compilation of a draft legal entity deed and workshop the contents thereof with the participants.

11. Prepare the deed/document in a format that is ready for registration by the relevant authority.

12. Prepare the deed/constitution in a format that is ready for registration by the relevant authority, but taking into consideration that the document should be in a format that is easily understood by the beneficiaries.

13. Effect the registration of the legal entity.

14. Ensure that the community understands the need for their specific institutional arrangements as well as how their structure fits into the overall structure of the proposed venture.

15. Negotiate at least equitable farm worker and shareholder participation in the financial and management decision-making processes, taking into consideration the gender implications.

16. Investigate any bonds, servitude and other legal restrictions on the property involved and indicate the impact of these on the viability of the proposed venture, taking care to relate this to the community in layman’s terms.

17. Assist the community in the election of a representative structure - taking care to give consideration to gender implications.

18. Assist the community to prepare appropriate dispute resolution mechanisms and procedures.

19. Ensure that any stipulations in terms of the Environmental Conservation Act, 1989, the Water Act, 1998 and any other relevant legislation, are met for any new developments forming part of the proposed venture. Please note that the relevance of any such legislation should be detailed in the form of a report, which should form part of the business plan to be submitted.

20. Assess the relevance of the issue of tenure for the community and investigate the possibilities to secure the
tenure of the community over and above the provisions of the Extension of Security of Tenure Act, 62 of 1997, according to the guidelines set by the Department of Land Affairs.

21. Investigate how this project can promote employment equity and advance labor relations.

3.4.3 **FINANCIAL COMPONENT**

Indicate the financial implications of the project:
- What are the costs involved.
- The necessity of additional financial support or other subsidies (e.g. ESCOM/Department of Water Affairs etc.) in the project and whether it is available.

Compile a detailed assessment to prove the viability and sustainability of the proposed venture; including an assessment of the agricultural potential of the land; the assumptions that were used based on industry norms, current and projected employment and value-adding opportunities; financial indicators and tax implications, taking the outcomes of a sensitivity analysis into consideration.

In the case of participants wanting to purchase shares in an existing operation or company or entering into a joint venture it **might** be necessary to perform a due diligence review which would consider the values of assets and liabilities of the existing venture. This would entail engaging in the following activities:

- Reviewing the statutory details of the business/operation/company (founding statement, member's agreements, etc.).
- If there are no audited financial statements available for review, obtain the most recent management accounts available (last 6 months) and analyses it.
- Perform a review of the prior year (not audited) financial statements in order to establish trends within the business/company/operation.
- Ascertain and review any business or strategic plans of the business/company/operation and consider their viability.
- Review any cash flow projections for the foreseeable future.

Consider value of assets and liabilities of the business/company/operation.
- Fixed Assets:
  - Verifying that the major items of property (lease), plant and equipment do exist and are owned by the company/operation and are fairly valued.
  - Assessing the age of the company/plant/equipment and to determine whether it will be usable, whether there are any additional costs needed to make it operational and to check whether it is fully owned.
- Stock:
  - Verifying the existence of stock by physical counting and listing of stock.
  - Valuation is to be verified and due provision made of old or not saleable stock/produce etc.
  - Ascertain whether there is any stock/produce held on consignment and if so, verify its existence and valuation and any consignment debtors.
- Debtors:
  - Reviewing the composition of the debtors and investigate any large or unusual amounts.
  - Consider the adequacy of doubtful debt provisions.
- Creditors:
  - Reviewing the composition of the creditors to determine the terms of payment.
  - Make inquiries about any unrecorded liabilities.

Determining the terms of any bank overdrafts, by confirmation with the bank and whether any assets of the company/operation (or the members) have been used as surety for the bank overdraft.

Determine by direct confirmation with any long-terms creditors, the terms of any long-term loans in terms of interest and repayments. Consider if any provision for exchange losses are required.

Ascertain the taxation and other implications of converting the company/operation to a legal entity identified by the participants.

Determine whether the company/operation has provided any warranties/guarantees to a third party.

Consider the importance of the different partners to the company/operation.
Assess factors in determining the purchase price such as risk/return ratio - purchase price could possibly be based on an equity value of the operation.

Present a 5-year cash-flow projection for the proposed venture.

To negotiate the transfer and payment of water rights with the Department of Water Affairs and the Irrigation Board and to reflect all relevant costs in the project budget.

Explain the long-term and short-term visible benefits to the participants such as social and financial benefits.

Ensure that steps have been taken to reduce the participants risk exposure, e.g. put and call options, gearing etc. (Income risks, financial and institutional risks.)

Ensure that gender relations are addressed.

Investigate the job creation potential of the venture and report on this.

3.4.4 SUPPORT COMPONENT

To assist the individual/community to establish the viability of the relevant property in terms of providing in the needs of the applicants. Factors that should be considered are:

- Productive potential of the relevant land.
- Cash flow projections.
- Sustainability of the project.

To make recommendations on the possible changes in land use and farming systems, including production costs and potential income.

To prepare a development plan (subdivision plan), if necessary.

Indicate the types of development and support services that are considered essential for the implementation of the project and availability of such services.
To provide the DLA with a project implementation schedule which indicates the time frames and relevant milestones.

Indicate what needs to be done after project approval.

In the implementation phase, it will not be expected of the consultant/s to be involved with the community on a full-time basis, but to play a supporting role after approval of the project. The intensity of the consultant/s involvement should be reflected in the time allocation and budget.

Assist the individual/community to participate effectively in the decision-making process around the new venture and the financial and legal implications of the proposed developments of the land involved.

Assist the individual/community during the implementation phase to participate effectively in the detailed planning process with the appointed planners and/or the implementing agent.

Support the individual/community during the implementation phase to set up the necessary structures within their own management structure for record-keeping, conducting meetings and resolving disputes.

Liaise between the individual/community and the other role players in the project, including the Department of Land Affairs, the Local Authority, the local Agricultural Extension Officer and other government departments, during the implementation phase of the project.

Obtain letters of support from relevant government departments involved with the project (e.g. Department of Agriculture, Local Authority, Water Affairs and Forestry). Please note that these should be attached as part of the business plan to be submitted.

3.4.5 GENERAL COMPONENT

The consultant/s is expected to arrange and co-ordinate meetings, in conjunction with the Department, with the various stakeholders and relevant government departments, including notification of meetings, agenda’s, minutes etc.
It is expected of the incumbent to supply a comprehensive community meeting schedule within two weeks of appointment.

It is expected of the consultant/s to assist the community with visits of dignitaries and/or media.

The compilation of a project business plan according to the format supplied by the Department of Land Affairs (attached as Annexure …).

The following attachments should accompany your Business Plan:
- List of beneficiaries and their ID numbers.
- Consent of the current owner to sell the relevant property and an agreement on the selling price.
- Copy of the lease agreement.
- Proof of the legal entity, if they are to own it communally.
- Agricultural viability studies.
- Letter of support from different role players and departments involved.

Workshopping of the various sections of the business plan with the participants and presentation to various role-players prior to an approvals committee meeting. Allowance should be made for the allocation of manageable tasks to members of community/applicant group to ensure maximum participation.

Presentation of the project business plan at an approvals committee meeting (date to be determined in accordance with implementation schedule). Please note that Business Plans are to be submitted at least one and a half months prior to the meeting of the approvals committee so as to allow for verification and circulation.

3.5 Indicators of achievements (Key Performance Indicators)

- Are the individual/community structures working efficiently and does it enjoy full participation by its members?
- Has the venture facilitated the transformation of power relations between the different partners?
- Does the business plan prove the viability and sustainability of the project and are there short-and long-term visible and tangible benefits for the participants?
- How have women gained equal opportunities through this project?
- Has the facilitated solution solved the problem of insecure tenure in a manner acceptable to all members of the community and stakeholders?
- Have the participants been rendered sufficiently empowered to manage the venture on their own or have appropriate structures been identified to assist with the transition in management?
- Is the new arrangement benefiting the participants in a way that is a significant improvement in terms of their livelihood opportunities?

3.6 **Documentation required as outputs of the facilitation process**

- A complete **business plan** compiled according to the prescribed format.
- Detailed **development plans** (subdivisions).
- A formal heads of agreement; deed of sale, share-holding agreements or formal contracts.
- A complete **beneficiary list** in the format prescribed by Department of Land Affairs (also see Section 3.4.1).
- An acceptable **legal entity deed**.
- A **training proposal** that includes a budget and implementation schedule based on the need assessment conducted (See Section 3.4.1).
- **Quarterly written reports** to the Department of Land Affairs (for the attention of the planner) on the status of the facilitation process. This should entail reports on the various workshops held within that period and should include details about the following:
  - attendance lists;
  - format of workshop and methodology used; and
  - content presented.
- **Written commitments** (letters of support) from the various stakeholders - see Section 3.4.4.

**SECTION 4: PROJECT EXPENSES**

The consultant/s will be paid from the ………………….(state budget item) allocated to the project. Departmental procedures require that tender documents be sent to seven organizations selected through the Department of Land Affairs procurement system.
Each of the service providers identified is supplied with the Terms of Reference and is invited to submit a proposal. After the closing date of the tenders, the Department of Land Affairs Sub-standig Tender Committee evaluates the tenders and appoints the selected consultant.

The consultant is required to break down the professional fees and other projected costs based on the Activities in Section 3.4.

**A final amount, inclusive of VAT, must be quoted.**

Consultants should tender for all the work. This is a lump sum tender and will not be broken down into smaller sections.

The consultant/s will be required to indicate a contingency fee of 10% in the tender price (see e.g. below). Access to such a contingency fee would only be gained on submission of a strong written motivation and subject to prior approval thereof by the Department of Land Affairs.

**Example:**

<table>
<thead>
<tr>
<th>Tender amount:</th>
<th>R70 000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contingency (10%):</td>
<td>R 7 000</td>
</tr>
<tr>
<td>Quoted amount:</td>
<td>R77 000</td>
</tr>
</tbody>
</table>

_The service provider must propose a payment schedule as part of the tender proposal. Only completed activities will be remunerated and payment will be subject to the receipt of a detailed quarterly report to the project officer from the service provider on the progress of the work._

**SECTION 5: IMPLEMENTATION SCHEDULE**

The contract period will start approximately one month after close of the tender to allow for administrative procedures. The service provider must propose a **weekly implementation schedule** (preferably on a bar chart) based on the activities stated above (See Section 3.4). Milestones, derived from the activities and key performance indicators as well as documentation
required, as outputs should be indicated where possible. A final implementation Schedule will be negotiated with the project officer within two weeks after appointment has commenced.

See Annexure C for an example of a project implementation schedule.

SECTION 6: OTHER INFORMATION

The individual/members of the beneficiary community are …………………… (mention language) speaking. The business plan and legal entity deed must be in the language preferred by the community so that they can refer back to it. All documentation becomes the property of the Department of Land Affairs after submission by the consultant/s.

The tender proposal must include the following information:

- A CV of the organisation, including information that is relevant to the criteria in Section 7.
- The CV of a nominated person or persons from the organisation who will be responsible for this project, should the organisation win the tender- an overview of previous involvement with rural communities should be adequately reflected in the CV.
- CV’s of any organisations, which the main tenderer proposes to involve in the execution of the activities - an overview of previous involvement with rural communities should also be adequately reflected in these CV’s.
- A breakdown of the envisaged cost of the facilitation work (see Section 4).
- A proposed implementation schedule (see Section 5) together with a projection reflecting dates and amounts of claims for payment to coincide with major milestones.
### 24. FORMAT OF A PROJECT IMPLEMENTATION REPORT (PIR) FOR RELEASE OF FUNDS FOR PLANNING/BUSINESS PLANS/SUBDIVISION

<table>
<thead>
<tr>
<th>INTRODUCTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date</td>
</tr>
<tr>
<td>File number</td>
</tr>
<tr>
<td>Responsible person/Institution for managing the project</td>
</tr>
<tr>
<td>Prioritization</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ORIENTATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Province</td>
</tr>
<tr>
<td>Magisterial district</td>
</tr>
<tr>
<td>Community name/Individual</td>
</tr>
<tr>
<td>Project name</td>
</tr>
<tr>
<td>Short background to the project highlighting the need for assistance</td>
</tr>
<tr>
<td>Is the proposed project consistent with land reform policy and if not, why should it be considered?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LAND SPECIFICS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Context:</td>
</tr>
<tr>
<td>* Rural;</td>
</tr>
<tr>
<td>* Peri-urban.</td>
</tr>
<tr>
<td>If land has been identified, comment on the following:</td>
</tr>
<tr>
<td>* the name of the farm or land parcel involved;</td>
</tr>
<tr>
<td>* the area in ha.</td>
</tr>
<tr>
<td>* Short reflection on the current land use and facilities;</td>
</tr>
<tr>
<td>* Is it suitable for production purposes?</td>
</tr>
<tr>
<td>* Type of infrastructure needed</td>
</tr>
<tr>
<td>FINANCIAL CONSIDERATIONS</td>
</tr>
<tr>
<td>--------------------------</td>
</tr>
<tr>
<td>Indicate the overall budget relevant budget item for the project as well as in what financial year/s will the expenses be incurred:</td>
</tr>
</tbody>
</table>
| ** Business plans  
**Surveying/Subdivision  
** Infrastructure development |
25. FORMAT OF A MEMO FOR APPROVAL OF THE DEVELOPMENT OF LAND ACQUIRED

[DEPARTMENTAL MEMO HEAD]


REFERENCE: .............

1. PURPOSE

To obtain approval for funding for the development of farm/land acquired pro-actively in terms of section 10(1)(a) of the Provision of Land and Assistance Act, Act No. 126 of 1993.

2. LEGAL PROVISION

Section 10(1)(a) of the Provision of Land and Assistance Act, Act No. 126 of 1993 (hereafter referred to as the Act), provides for the acquisition of land and subsequent development thereof for the purposes of the Act.

3. BACKGROUND

Portion... of farm................. has been acquired by the Department of Land Affairs in terms of the Proactive Land Acquisition Strategy (Attach approved memorandum). The Department of Land Affairs and Provincial Department of Agriculture have done beneficiary selection and business plans were drawn up for the beneficiaries. To ensure that the beneficiaries would be able to farm on a sustainable basis and have viable production units, the farm would need to be developed and certain infrastructure be erected.

Etc....
4. LAND DESCRIPTION

<table>
<thead>
<tr>
<th>Land description</th>
<th>Ffarm: .............</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farm Extent/Size</td>
<td></td>
</tr>
<tr>
<td>Title deed No.</td>
<td></td>
</tr>
</tbody>
</table>

5. PROPOSED LAND USE

Provide a description of how the land will be used as per the business/farm plans.

6. ASSESSMENT

The Provincial Department of Agriculture has done an assessment of the farm assets and have indicated that the following development and infrastructure are needed:

For example: Water points, fencing and a shed.

7. FINANCIAL IMPLICATIONS

<table>
<thead>
<tr>
<th>ii. Water points</th>
<th>iii. R xxx</th>
</tr>
</thead>
<tbody>
<tr>
<td>iv. Fencing</td>
<td>R xxx</td>
</tr>
<tr>
<td>v. Shed</td>
<td>R xxx</td>
</tr>
</tbody>
</table>
8. RECOMMENDATION

It is recommended that funds be released:

In terms of section 10(1)(a) of the provision of Land and Assistance Act, Act No. 126 of 1993, for the development of the farm ........ situated in ...........district, ........ Province.

Recommendation 8.1 supported/ not supported

DEPARTMENT OF LAND AFFAIRS           DEPARTMENT OF AGRICULTURE

Recommendation 8.1 approved / not approved

CHAIRPERSON: PROVINCIAL GRANTS COMMITTEE
DATE:
26. FORMAT OF A BUSINESS PLAN FOR COMMERCIAL AGRICULTURAL PROJECTS

1. Background

1.1 Profile of beneficiaries
   - Name of the project
   - Number of project members
   - Number of women and youth

1.2 Profile of the farm(s) or land parcel(s) involved.
   - Name of the farm
   - Hectares involved
   - Current infrastructure on the farm
   - Current land use
   - Where is the land situated—district council, distance to access roads

1.3 Objectives
   - What are the objectives of the project? The objectives of the project should be clearly defined.

2. Proposed land use
   - Type of enterprise(s)
   - Area per enterprise
   - Expected yield

   Production plan or schedule that shows critical stages of production or activities that must be performed (e.g. land preparation, planting, fertilization through harvesting in terms of crop production) and allocation of responsibilities should be attached to the business plan.

3. Land Management and Tenure Arrangement

   - What type legal entity exists?
   - How is the land going to be managed and decisions taken? Who will be involved in management, their roles and responsibilities and their expertise and skills?
   - Will there be any subdivision into individual plots for various purposes?
   - Is the land going to be owned individually or communally or leased?

4. Natural resource assessment

   Information on the following should be provided and its implications on the proposed enterprise:

   - climatic conditions
• soil conditions (analysis)
• veld conditions and carrying capacity
• land capability

5. Financial information

• Projected capital requirements (for long term, medium term and short term).
• Indication of the additional finance needed, possible sources of this finance and the type of finance being sought.
• Indicate how books will be kept.

Financial statements (balance sheet, income statement, enterprise budget and cash flow statement) should be included as an appendix at the back of the business plan.

6. Market information

Indicate how the business is going to deal with these elements of marketing:

• Nature, location and reliability of the market.
• Distance to the market (transport).
• How quality, quantity and good price will be ensured.
• Advantages enjoyed over other producers/competitors.
• Plans to deal with negative market forces.

Other potential markets or competitors should be pointed out. Limiting factors if any (transport, training, quality, quantity, ability to add value if there is need) need to be discussed. A plan on how to overcome these problems should be given.

7. Post transfer support

In order to ensure sustainability of the project, the following should be indicated on how post transfer support is going to be provided:

Mentorship/training/capacity building programmes

• Indicate the type of support, mentorship programme and/or training required.
• Indicate how these will be provided for (what, when and by whom).
• Financial implications.
8. Conclusion

The conclusion should attempt to:

- Show that all of the objectives of the business venture are satisfied by proposed plan.
- Briefly outline the next step after the business plan (where to now?) e.g. attending training programmes, scheduling activities, etc.

Highlight some issues that will be critical to the success of the business venture, issues like technical support, record keeping, monitoring and control of the business, etc.

9. Attachments

1. List of beneficiaries
2. Copy of Lease agreement
3. Proof of legal entity (if one formed)
4. Agricultural viability study
5. Environmental Impact Assessment report (if carried out)
6. Infrastructure and assets inventory
7. Production plan/schedule
8. Financial statements (balance sheet, income statement, enterprise budget, cash flow statement)
27. FORMAT FOR A BUSINESS PLAN FOR FOOD-SAFETY NET PROJECTS

1. Background

1.1 Profile of beneficiaries
- Name of the project
- Number of project members
- Number of women and youth

1.2 Profile of the farm(s) or land parcel(s) involved.
- Name of the farm
- Hectares involved
- Current infrastructure on the farm
- Current land use
- Where is the land situated—district council, distance to access roads

1.3 Objectives
- What are the objectives of the project, objectives of the project should be clearly defined
- Any plans or intentions to expand the project in the long run

2. Proposed land use
- Type of enterprise(s)
- Area per enterprise
- Expected yield

Production plan or schedule that shows critical stages of production or activities that must be performed (e.g. land preparation, planting, fertilization through harvesting in terms of crop production) and allocation of responsibilities should be attached to the business plan.

3. Land Management and Tenure Arrangement
- What type legal entity exists?
- How is the land going to be managed and decisions taken? Who will be involved in management, their roles and responsibilities and their expertise and skills?
- Will there be any subdivision into individual plots for various purposes?
- Is the land going to be owned individually or communally or leased?
4. Natural resource assessment

Information on the following should be provided and its implications on the proposed enterprise:

- climatic conditions
- soil conditions (analysis)
- veld conditions and carrying capacity
- land capability

5. Financial information

- Projected capital requirements (for long term, medium term and short term).
- Indication of the additional finance needed, possible sources of this finance and the type of finance being sought.
- Indicate how books will be kept.

Financial statements (balance sheet, income statement, enterprise budget and cash flow statement on the surplus to be produced) should be included as an appendix at the back of the business plan.

6. Market information

Indicate plans to deal with the produced surplus, i.e. to store or market the surplus. If the surplus is going to be marketed, the following should be outlined.

- Nature, location and reliability of the market.
- Distance to the market (transport).
- How quality, quantity and good price will be ensured.

Limiting factors if any (transport, training, quality, quantity, ability to add value if there is need) need to be discussed. A plan on how to overcome these problems should be given.

7. Post transfer support

In order to ensure sustainability of the project, the following should be indicated on how post transfer support is going to be provided:

**Mentorship/training/capacity building programmes**

- Indicate the type of support, mentorship programme and/or training required.
- Indicate how these will be provided for (what, when and by whom).
- Financial implications.

8. Conclusion
The conclusion should attempt to:

- Show that all of the objectives of the business venture are satisfied by proposed plan.
- Briefly outline the next step after the business plan (where to now?) e.g. attending training programmes, scheduling activities, etc.

Highlight some issues that will be critical to the success of the business venture, issues like technical support, record keeping, monitoring and control of the business, etc.

9. **Attachments**

1. List of beneficiaries
2. Copy of lease agreement to the land
3. Proof of legal entity (if one was formed)
5. Agricultural viability study
6. Environmental Impact Assessment report (if applicable)
7. Infrastructure and assets inventory
8. Production plan/schedule
9. Financial statements (balance sheet and income statement, enterprise budget and cash flow statement on the envisaged surplus)
28. NOTES ON LEGAL ENTITIES

INTRODUCTION

For most practical purposes, only persons can be the bearers of rights and duties. Persons can either be natural persons (i.e. humans) or legal persons (i.e. a body recognised by law as the bearer of rights and duties). This recognition can arise from the common law (e.g. trusts) or legislation (e.g. closed corporations and companies).

People form legal entities in order to reduce their personal liability in case of insolvency, since the risk carried by contributors of capital extends no further than the loss of the amount that have contributed to the venture in the form of capital. This means that, should the legal entity become insolvent, the members of that entity are not personally liable for the debt. It also allows groups of people to act collectively, and creates a system for managing their collective interests.

Land reform beneficiaries should select the most appropriate legal entity based on their numbers and needs. This could be a company, business trust or closed corporation. Common Property Associations (CPAs) are appropriate as land-holding entities but they cannot hold shares in another company. In relation to decision-making processes, CPAs, although democratic, can prove too cumbersome to deal effectively with pressing business decisions.

The beneficiaries' legal entity will hold shares in the enterprise and each employee will in turn own a unit in the beneficiaries' trust or a share in the beneficiaries' company or closed corporation. The share holding of each party is determined by its equity contribution compared to the total value of the enterprise.

The following is a brief explanation of trusts, companies and closed corporations (CCs):

- The trading or business trust

In South Africa, the Trust Property Control Act, 1988 governs the formation and operation of trusts. Through a trust, a business can be carried on by trustees for the benefit of nominated beneficiaries. A trust is usually formed by means of a trust deed that needs to be lodged with the Master of the High Court. No trustee can act in the capacity of a trustee until a written authorisation is obtained from the Master. Security can be requested by the Master, but exemption is usually granted.

24 LREF Manual, 2000, Legal Entities for Equity share schemes and other joint ventures
The benefit of a trust is that the onerous provisions of the Companies Act do not apply. A trust need not submit financial statements and does not have to appoint an auditor. There is no limit on the number of trustees or beneficiaries that are permitted.25

An outstanding feature of the trust is the protection it affords trust beneficiaries in the event of the collapse of the trustee's personal estate. The earmarking of the trust property separately from the personal property of the trustee shields the beneficiaries in the event of the trustee's insolvency. The trust provides a mechanism for the efficient management of modern financial assets. The business trust eliminates governance procedures and is useful in designing particular asset securitisation and investment growth.

The trust carries its own separate liability which is not imputed upon the investors and trust beneficiaries. The trust affords limited liability in that neither the trustees nor the beneficiaries are liable for the obligations thereof. The trust does not have a separate legal personality (other than for taxation purposes). The trust assets vest in the trustees who hold them for the benefit of others.

There are income tax benefits in making use of a trust. Where income is distributed by a trust, it is considered the income of the recipient and is taxed in the hands of the recipient, and not the trust. In this way, effective splitting of income can be achieved, subject to the tax avoidance provisions of the South African income tax legislation. Distributions to beneficiaries of profits of the trust are not subject to standard tax on companies, as with companies and close corporations. The trust, unlike a natural person, cannot die and therefore does not incur estate duty. Personal estate duty savings are achieved by divesting oneself of ownership of growth assets in favour of a trust and at most, only the value of the assets at the date of transfer, usually by loan account, are retained in the planner's estate.

Trusts are popular in agriculture because of the accumulated assessed losses that often occur in agriculture. A trust does not pay income tax on benefits distributed to its beneficiaries, while beneficiaries are taxed on their own applicable scales. Thus farm workers, who are normally on very low tax brackets, and farmers, who often have accumulated losses, can receive income from the trust without that income first having been reduced by income tax.26

See Box 1 below for more information on Trusts.


26 LREF Manual, 2000, Legal Entities for Equity share schemes and other joint ventures
Be cautious about trust funds

Maya Fisher-French: GETTING PERSONAL

14 October 2005

Trusts have received some bad press recently as a result of changing tax legislation. Gone are the days where you chucked all your assets into a trust to avoid tax and transfer duty on your property. With the advent of capital gains tax, having your home held in a trust structure means you cannot, for example, take advantage of the R1-million rebate on your primary residence. Another big change in legislating government trusts is the payment of transfer duties for properties. Until a few years ago, this could be avoided by selling the trust instead of the property. The tightening of money-laundering legislation internationally has meant that offshore trusts have also lost their status as cosy vehicles to hide your illegal offshore funds from the Reserve Bank and Receiver of Revenue.

However, Tony Barrett, regional manager at BJM Private Client Services, says that while prior to the tax reforms everyone was piling into trusts, today the pendulum has swung and people are no longer making use of this very powerful financial planning tool.

“It is unfortunate that because the issue has become more complicated many financial advisers are steering away from trusts, yet they can offer huge benefits in certain circumstances.”

The idea behind trusts is to provide for estate planning, long-term wealth creation and to protect your assets from creditor attacks. Barrett says you should consider having a trust if you run your own business as this protects your assets from creditors. At the same time he recommends that when starting your business you put your shares into a trust as part of long-term estate planning.

“It is a fallacy that capital gains tax makes trusts prohibitive as the capital gain can be distributed to the beneficiaries and taxed in their hands.” Barrett says that for this reason any long-term asset could be held in trust as the trust can retain the asset while paying out the income or capital gain to the beneficiaries. Testamentary trusts, which are created on your death, are very valuable structures, especially if you have young children or dependants who need to live off the assets of the trust.

However Barrett warns against trying to rule from the grave by making the trust very restrictive and inflexible. For example someone who got badly burnt in the dot.com bubble may try to protect the heirs by stipulating that they may never invest in IT stocks even if the conditions change. “It is important to keep the trust as simple and flexible as possible.”

In addition to estate-planning benefits, offshore trusts are ideal vehicles if you are fortunate enough to receive an offshore inheritance. By paying the offshore inheritance into an offshore trust you are able to preserve the inheritance, draw an income and avoid estate duty.

“If foreign executors pay the money directly into an offshore trust, the funds do not accrue to you or your estate and any amount of the initial capital from the inheritance that you draw down from the trust is tax free,” says Barrett.

Although you will pay tax in South Africa on any income or capital gains that is distributed to you as a beneficiary, if you are drawing down the initial capital to supplement your income locally, this will be seen as a capital distribution from the trust, which is not taxable.

What to look for
Proper record-keeping: You need to ensure that your trustee is keeping reliable records
• **Companies**

In many commercial land reform projects the company is the preferred legal entity. There are two types of companies with share capital, namely *private* companies and *public* companies. Public companies may raise capital from the general public. The transferability of the shares enables its members to dispose of their investments freely without withdrawing their investments from the company.27

The private company, on the other hand, may not have more than 50 members and must have restrictions on the right to transfer shares as well as a prohibition on any offer of its shares to the public. However, an exception is made to allow this number to be more when those shareholders are employees or former employees who were members when employed by the company.

The statutes of the company would prohibit the selling of shares to the general public and limit the transferability of shares. In the case of an Equity Scheme, this would prevent a situation where outside investors would be able to buy up shares and dilute the land reform beneficiaries' share holding in time. If however tradability in shares is preferred in order to obtain a market-related valuation of share-values, a public company that may invite public subscription of shares would be required.

There are very few *public companies* in agriculture (SAPPI being an example of a public company engaged in primary production). The private company would therefore be the prevalent form of organization.

Companies are popular vehicles because the rules of South African company law have evolved and developed over the past two centuries into a system which allows for effective business transactions.

• **Closed Corporations (CCs)**

The concept of a close corporation was introduced in 1985 as a simpler less expensive corporate entity for the single businessperson or small groups of entrepreneurs. The maximum number of members permitted in a close corporation is ten. This vehicle is not appropriate for corporate investors as only natural persons may hold an interest in a close corporation.28

The close corporation exists separately from its members who enjoy limited liability. The close corporation enjoys perpetual succession, notwithstanding a change in members. There is no share capital – the interest is in the form of a member's interest expressed as a percentage. There is no separate board of

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27 ibid.

directors – the members manage and own the close corporation. Close corporations are treated the same as companies for tax purposes. Close corporations do not need an auditor, only an "accounting officer".

The members' contributions constitute the "capital" of the corporation. When a CC is formed, each member must make an initial contribution. This contribution can be in the form of:

- an amount of money;
- property (corporeal or incorporeal); and
- services rendered in connection with and for the purposes of the formation and incorporation of the CC.

There is no restriction as to the monetary contributions of members. The corporation and its members are separate juristic persons. Each member of the corporation stands in a fiduciary relationship to the CC. In general, this means that a member must act honestly and in good faith and avoid any material conflict between his own interests and those of the CC. The profits belong to the CC. The distribution of the profits may be regulated by the association agreement.

As a juristic person, the CC is liable for its obligations. Members can, however, become jointly and severally liable under certain circumstances. These include:
1. Where transactions are entered into without using the abbreviation CC or BK in the name.
2. By failing to make contributions as required in the founding statement.
3. Where the number of members exceeds 10 for a period of six months.
4. Where a person takes part in the management of the CC while he is disqualified.
5. Where the office of the accounting officer is vacant for six months.
6. Where a court is satisfied that the business has been carried out recklessly, with gross negligence or with intent to defraud.
7. Where certain payments are made to a member, unless:
   - after such payment the CC's assets, fairly valued, exceed all its liabilities.
   - the CC is able and will continue to be able to pay its debts as they become due in the ordinary course of business.

A CC pays tax at a rate of 29% on its taxable income. In addition, a withholding tax on profits distributed is levied at a rate of 12.5%. It is required to pay provisional tax each half year during its financial year and a third "topping up" payment within six months after the end of the tax year, if necessary. Members of a CC are provisional taxpayers. A deceased member's interest is property in his estate for estate duty purposes.
Land acquired under the Proactive Land Acquisition Strategy (PLAS) is exempted from the laws governing subdivision of agricultural land, by the Provision of Land and Assistance Act, 1993 (Act 126 of 1993). The Surveyor General and Deeds offices are aware of this exemption [See 2.(b) below]. Thus, beneficiaries can immediately subdivide their land if there is a need, without seeking further approval. Sellers of land are also allowed to subdivide their land if it is to be sold under LRAD. However, such subdivision should come as part of the project proposal, where applicants have been identified.

1. Guidelines and Criteria for subdivision for PLAS projects

   • Subdivision of land for PLAS projects can only be done after a project has been approved.
   • For every intended subdivision, either by the land seller or by beneficiaries, a proposal should be submitted to the District Screening Committee and/or Provincial Grants Committee for approval.
   • Approval of any subdivision will be based on the viability of the project(s) associated with the intended subdivision.

2. Procedure for subdividing land for PLAS projects

   2.1 According to the Land Survey Act, Act No. 9 of 1927, every property (including properties resulting from subdivision) should be surveyed before they could be registered with the Deeds Registry. Registration of land offers security or a guarantee of title to land and rights in land. As such, a registered professional surveyor should be appointed to survey the internal boundaries. The Surveyor General’s (SG) office will assist with the appointment of land surveyors to undertake a survey, upon receiving a written request submitted by the Department of Land Affairs.

   2.2 Land surveyors are appointed in accordance with the directives contained in the State Tender Board’s User Manual ST37.

   2.3 For many land parcels, the external boundaries are already surveyed, but if the external boundary of the land to be subdivided is not surveyed yet or the original survey diagram is unclear or inaccurate, both the external and internal boundary surveys should be done. Internal boundary surveys may also be useful in describing individual lots within the larger parcel if the owners acquiring them wish to register them separately. All main corners of each surveyed land unit must be marked by beacons.
3. **Procedure for the appointment of the land surveyor**

Depending on the estimated costs of the required survey, one of the three undermentioned procedures will be followed:

3.1 **Work for amounts up to R20 000**

Where only one land surveyor is stationed in a geographical area, a tender (quotation) is invited from such a land surveyor. The costs must be negotiated and weighed against the published guideline tariffs that will be regarded as the maximum tariff payable. Where more than one land surveyor is stationed in a geographical area, tenders (quotations) must be invited from at least three land surveyors. In urgent cases the quotations may be submitted via fax.

3.2 **Work for amounts between R20 000 and R500 000**

As many as possible, but at least three land surveyors, who are stationed within a radius of 200 kilometres from the site concerned, must be contacted telephonically and tenders (quotations) must be invited from those land surveyors who indicated that they were prepared to tender.

Acceptance of invited tenders as per the two above-mentioned procedures: The lowest or only tender price, provided that it is deemed reasonable, may be accepted by the standing tender committee. The tariff may, however, not exceed the published guideline (recommended) tariff.

3.3 **Work for amounts exceeding R500 000**

The formal State Tender Procedure must be followed.

4. **The following documents must be submitted to the Surveyor General’s office by the project officer:**

- A written request stating the overall details of the required survey. It is also recommended that the urgency (normal, etc.) of the survey be indicated in such letter of request.
- An information schedule containing the following details:
  - the purpose of the survey
  - the description of the property
  - the name of the closest town or village
➢ the name and particulars of the project officer
➢ the particulars of the person or organisation responsible for the payment of the survey fees
➢ the applicable land use and planning legislation
➢ a description of adjacent roads (name/number and nature of the road), if any
➢ names of the main role-players/parties (names and their addresses/location)
➢ any special requirements such as access roads or servitudes

- A locality plan. An extract of a 1:50 000 Topo-Cadastral series map on which the property to be surveyed is clearly shown, might be ideal for this purpose.

- A sketch plan. Please note that in cases where the exact extent of the land to be surveyed is unknown, the preparation of a reliable sketch plan might be required as part of the tender document.

The SG office will instruct the land surveyor, whose tender or quotation has been accepted, to undertake the survey, and to submit the necessary documents to the office for approval. Surveys undertaken on behalf of the Department of Land Affairs are not subject to office fees for the purpose of the approval of the documents concerned. Furthermore, it is important that, apart from the usual documentation, the land surveyor must also submit a tax invoice and a beacon certificate to the SG office. The tax invoice should be addressed to the Department of Land Affairs (not the SG) and must be submitted in triplicate. The beacon certificate will describe the nature of each beacon and bear a certificate that each beacon had been pointed out on the ground to the responsible project officer. The project officer’s signature and particulars will also appear on the certificate.

After approval, a copy of the diagram(s) and/or general plans, together with the tax invoice and a beacon certificate, are forwarded to the Department of Land Affairs. The department will be advised that the requested services had been rendered to the satisfaction of the SG office and for prompt payment of the land surveyor’s account. The usual copies of the documents for registration purposes are forwarded directly to the land surveyor as usual. The land surveyor will deliver these documents to the department only upon settlement of the relevant account.
5. Costs and Service Standards

5.1 Costs

The SG office provides the services free of charge, but the department is accountable for the payment of the actual survey costs. Costs of surveying differ from survey to survey, depending on the scale of the survey. Surveying costs can be paid from the Planning grant, which is 15% of the total project cost. These costs basically include the survey itself, which is charged at applicable tariffs, costs of travelling to and from the site and a beacon certificate.

5.2 Service Standards

The completion of this type of task unfortunately depends on various factors beyond the control of the SG office. Each survey will however be properly managed and the department will be informed about the progress of the survey on a monthly basis.

It is advisable that this process for subdivision as outlined above, run simultaneously with other planning phases, e.g. business plans and valuation, so that by the time the project is approved, the survey diagrams are also approved and ready for registration. This could save on time as it takes, on average 3 months for the whole surveying process to complete. If the Department has furnished all the necessary information to the SG about the survey to be undertaken, it could take a month for a surveyor to be appointed, one month for the survey to be completed and another month for the diagrams to be approved by the SG.

6. Memorandum to the Chief Surveyor General and the Chief Registrar of Deeds

The process of subdivision does not only involve the Land Reform Office, but other main role players, such as the office of the Surveyor General and the Deeds office. As such, all these stakeholders need to have common knowledge about subdivision procedures in terms of PLAS projects. To ensure this, a step has already been taken to communicate the subdivision procedures to the offices of the Chief Surveyor General and the Chief Registrar of Deeds [See 2. (b)] below and to request them to further inform the provincial offices about this process.
1. LEGISLATIVE PREMISE

Section 11 of Act 126 states:

Minister’s power to dispose of certain land

11. The Minister may, on such terms and conditions as he or she may deem fit, for the purposes of this Act, sell, exchange, donate or lease any land designated or land acquired under this Act or, if the land is no longer required for the purposes of this Act, for any other purpose.

1.1 Land acquired via Sections 10(1)(a), 10(1)(b)(i), (iii), (v) and 10(1)(c)(i)&(ii) must comply with these Terms and Conditions:

Section 10(1)(a):
The Minister may, from money appropriated by parliament for this purpose:
(a) acquire land for the purposes of the Act

Section 10(1)(b)(i), (iii) & (v):
(b) on such conditions as he or she may determine, grant an advance or a subsidy to any person contemplated in Subsection (2)-
(i) for the acquisition of land for residential purposes, agricultural production or small business development
(ii) for securing, upgrading and registering tenure rights
(iv) to acquire an equity share in any existing agricultural enterprise

Section 10(1)(c) (i)&(ii)
(c) on such conditions as he or she may determine, grant an advance or a subsidy to a Municipal Council to acquire land-
(i) to be used as a commonage; or
(ii) to extend an existing commonage

1.2 The Minister has the right to withdraw or amend the Terms and Conditions at any time and notify the Department of Land Affairs (hereafter referred to as the “Department”) of such intentions.

1.3 The Terms and Conditions are applicable to all land reform programmes and sub-programmes utilizing Act 126 to acquire land including the Restitution and Tenure Programmes.
1.4 These Terms and Conditions must form part of all Provincial Grants Committees approvals processes.

1.5 Non-compliance with the Terms and Conditions effectively cancels the disposal/transfer and the Minister for Agriculture and Land Affairs may request an enquiry into the matter.

1.6 Section 2 of this document deals with the Terms and Conditions to dispose of land for the purposes of Act 126 and Section 3 provides the terms and conditions for the disposal of land not needed for the purposes of Act 126.

MINISTER: ________________________________

DATE: ________________________________
SECTION 2: TERMS AND CONDITIONS TO DETERMINE SALE, LEASE, DONATION OR EXCHANGE OF LAND ACQUIRED IN TERMS OF ACT 126 OF 1993

2.1 Sale of land for the purposes of Act 126

I. The land may only be sold to black (African, Coloured or Indian) South African citizens 18 years and older that have passed through the trial lease period in terms of the proactive land acquisition strategy.

II. The final sale price of the land would be fixed at the price the state paid for acquiring the land.

III. The property will be sold to qualifying individuals but with the following restrictions written into the title deed:
   a). The property hereby sold is sold subject to the condition that the purchaser shall not sell the property within ten years from the date of registration of transfer into the name of the purchaser without first, in writing, offering it for sale to the National Department of Land Affairs or its successor. Should the National Department of Land Affairs decide to purchase this property it shall do so at a price based on the current purchase price together with improvements or deterioration of the farm (however, excluding improvements done by any organ of state) and the change in the land market in the period between the current transaction and such future sale.
   b). The Department of Land Affairs must only exercise the prerogative to demand that the property reverts to the Republic of South Africa: National Government by way of transfer from the owner to the Republic of South Africa: National Government on the basis of satisfactory evidence that the owner failed in his/her/its duty to ensure compliance with the farm business plan and misused the land. This right shall be applicable for a period of ten years from the date of transfer.

IV. Conditions I to IV do not apply to municipal commonage land acquired through Act 126 as the notarial deed contains a set of conditions applicable to commonages in relation to the sale of commonage land.

MINISTER: __________________________________________
DATE: __________________________________________
2.2 Exchanging land for the purposes of Act 126
   I. The land may be exchanged if such an opportunity provides itself with land that will be more suitable for the purposes of Act 126.
   
   II. The land that will be received in the exchange must not be of a lesser value financially than the land in the state’s possession.

2.3 Leasing of land for the purposes of Act 126
   I. The land may only be leased to black (African, Coloured or Indian) South African citizens 18 years and older except where the Department may conclude interim leasing arrangements such as caretaker agreements prior to the selection of and leasing to black citizens.

   II. Politicians that hold public office, traditional leaders who receive salaries/stipends from the government, government officials (municipal, provincial, national) or parastatal employees even if they form part of a company will be excluded from applying to lease such land.

   III. Land may not be leased to foreign nationals or companies where the majority of the shares are held by foreigners.

   IV. Land may only be leased at a fixed rate during the lease period at 6% of the productive value for arable land and grazing land to black South African citizens and companies where black South Africans have the majority shares. This will be subject to review on an annual basis.

   V. The duration of the lease would be based on the type of enterprise as determined by the Provincial Departments of Agriculture but for a minimum period of three years.

   VI. Qualifying beneficiaries that exercise the option to purchase after leasing any land acquired through this Act would be offered the initial purchase price of the land. Lease rentals would be subtracted from the purchase price owing to the state.

   VII. The Provincial Land Reform Office must utilize a lease debtor system to manage all leases.

MINISTER: __________________________
DATE: __________________________
VIII. The Provincial Land Reform Office must utilize a state asset register to manage all immovable and moveable assets acquired via Act 126 and to monitor all assets on the leased land periodically to ensure strict compliance with the state asset register.

IX. The relevant municipality will determine the lease period and lease fees in relation to leasing on commonage land and will be required to keep records of such transactions on asset management and debtor systems similar to the Department’s or approved by the Department.

2.4 **Donation of land for the purposes of Act 126**

I. The state will not donate any land for the purpose of Act 126. This also applies to municipal commonage land acquired through this Act.
SECTION 3: TERMS AND CONDITIONS TO DETERMINE SALE, EXCHANGE, DONATION OR LEASE OF LAND ACQUIRED THROUGH ACT 126 NOT FOR THE PURPOSES OF ACT 126

3.1 If land is no longer required for the purposes of Act 126 the Minister or her/his delegate may dispose of it for any other purpose.

3.2 "Any other purpose" precludes the land being disposed of if there are any land use changes that necessitates Environmental Impact Assessments.

3.3 Municipalities cannot sell, exchange, donate or lease commonage land if no longer needed for the purpose of Act 126 as the land as a notarial deed of servitude attached to the title deed. Municipalities may request that the Premier of the Province and the Minister for Agriculture and Land Affairs provide written consent to such intentions upon motivation.

The following terms and conditions will apply under the various disposal methods:

3.4 If land is sold:
   I. If the land is not needed for the purposes of Act 126, the land may be sold to any person, body, company or organization at market related value.

3.5 If land is exchanged:
   I. The land may be exchanged if such an opportunity provides itself with land that will be more suitable for the purposes of Act 126.
   
   II. The land that will be received in the exchange must not be of a lesser value financially than the land in the state’s possession.

3.6 If land is donated:
   I. The state may donate land if no longer needed for the purpose of Act 126 to any charitable institution based on a case by case scenario.
   
   II. Such applications should then come to the Minister for Agriculture and Land Affairs for approval.

3.7 If land is leased:
I. The state may lease land to any person, body, company or organization for a short term period (1-3 years) but with an option to purchase.

II. Land may be leased at a rate of 6% of the productive value for arable land and grazing land and escalating at a value in line with Treasury Regulations on an annual basis.

III. The Provincial Land Reform Office must utilize a lease debtor system to manage all leases.

IV. The Provincial Land Reform Office must utilize a state asset register to manage all immovable and moveable assets acquired via Act 126 and to monitor all assets on the leased land periodically to ensure strict compliance with the state asset register.

MS L XINGWANA (MP)
MINISTER FOR AGRICULTURE AND LAND AFFAIRS
DATE:
31. EXAMPLE OF A LEASE AGREEMENT WITH AN OPTION TO PURCHASE

AGREEMENT OF LEASE

1. PARTIES

The parties to this lease are

THE NATIONAL GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA
THROUGH ITS DEPARTMENT OF LAND AFFAIRS

herein represented by [NAME OF PROVINCIAL CHIEF DIRECTOR] in his/her capacity as CHIEF DIRECTOR:
PROVINCIAL LAND REFORM OFFICE in the Department of Land Affairs, he/she being duly authorised thereto,

(“the Lessor”)

AND

herein represented by ..................................(ID number) in his/her capacity as.................................,
duly authorised thereto,

(“the Lessee”).

2. INTERPRETATION

2.1 In this lease, except in a context indicating that some other meaning is intended,
2.1.1 “Charges” means levies, taxes, fees or other amounts payable by the Lessor to any authority having jurisdiction over the Property that arise from the ownership and use of the Property;

2.1.2 “day” means any day of the week, excluding Sundays and public holidays;

2.1.3 “the Farm” means the Property, the Improvements, and the Plant and Equipment, and livestock;

2.1.4 “the Improvements” means the buildings, installations, fences, irrigation works, structures, dams and roads together with any integral machinery which form part of the foregoing as well as crop-bearing trees, vines, trees grown for cutting, and ornamental trees on the Property, listed in Schedule 1 to this lease;

2.1.5 “the Lease Period” means the period for which this lease subsists, including any period for which it is renewed;

2.1.6 “month” means a calendar month, and more specifically;

2.1.6.1 in reference to a number of months from a specific date, a calendar month commencing on that date or the same date of any subsequent month; and

2.1.6.2 in any other context, a month of the calendar, that is, one of the 12 months of the calendar, and “monthly” has the corresponding meaning;

2.1.7 “the Plant and Equipment” means the movable plant and equipment owned by the Lessor and listed in Schedule 1 to this lease;
2.1.8 **“the Property”** means [full description of property]:

2.1.9 “**year**” means a period of 12 consecutive months, and “**yearly**” refers to a year commencing on the date on which this lease comes into operation or any anniversary of that date;

2.1.10 references to notices, statements and other communications by or from the Lessor include notices by or from the Lessor’s agent;

2.1.11 expressions in the singular also denote the plural and vice versa;

2.1.12 words and phrases denoting natural persons refer also to juristic persons, and vice versa; and

2.1.13 pronouns of any gender include the corresponding pronouns of the other gender.

2.2 Any provision of this lease imposing a restraint, prohibition or restriction on the Lessee shall be so construed that the Lessee is not only bound to comply therewith but is also obliged to procure that the same restraint, prohibition or restriction is observed by everybody occupying or entering the Farm through, under, by arrangement with, or at the invitation of, the Lessee, including (without limiting the generality of this provision) the family, guests and employees of the Lessee and any independent contractors or workers engaged by the Lessee.

2.3 Clause headings appear in this lease for purposes of reference only and shall not influence the proper interpretation of the subject matter.
2.4 This lease shall be interpreted and applied in accordance with South African law.

3. LETTING AND HIRING

The Lessor lets and the Lessee hires the Farm on the terms of this lease.

4. USE OF THE FARM

4.1 The Farm is let to the Lessee for the purpose of conducting the following farming activities:

4.1.1 Agricultural, dairy and general crops;

4.1.2 and shall not be used for any other purpose whatsoever.

4.2 The Lessee shall be entitled to use water which is available on the Farm strictly in accordance with the rights and obligations to which the owner of the Property is subject in regard to the use of water, whether by way of agreement or legislation or otherwise, for the farming purposes abovementioned and for domestic use on the Farm but not otherwise.

4.2.1 The Lessor undertakes to ensure the transfer of 360 000 m$^3$ from the current water license (21037619) to withdraw water from the Klip River to the Lessee. The Lessee will at its own cost take all the necessary steps to transfer such rights into its name and they will be liable for payment of all the water rates and taxes levied from date of commencement of this Lease Agreement.

4.2.2 The Lessee shall maintain existing water installations on the Property.
4.2.3 The Lessee shall not withdraw water from any bore-hole on the Property except by means of properly installed pumping equipment.

4.3 The Lessee shall be entitled to use all dead wood which may be on the Farm and may cut such other wood as may be necessary for domestic purposes for occupants of the Farm but shall not cut, remove or allow to be cut or removed any other wood, nor shall he sell any such wood, save as is cultivated in the course of the farming purposes above referred to.

4.4 During the period of this lease and subject to the other terms hereof the Lessee shall conduct farming operations on the Farm at his expense and any net profit or loss realized on the Farm shall be for the account of the Lessee.

5. **DURATION**

This lease shall come into operation on 1 September 2006 and shall subsist for three years from that date.
6. RENT

6.1 The rent shall be

6.1.1 R6 306.00 (SIX THOUSAND THREE HUNDRED AND SIX RAND) for each month of the first year of the Lease Period; and

6.1.2 an amount for each month of every subsequent year of the Lease Period which is 5% (FIVE PERCENT) greater than the amount of the rent for the last month of the preceding year.

6.2 Whenever any Charges are increased during the Lease Period, the Lessor may, by written notice to the Lessee, increase the monthly rent for the Farm by an amount equivalent to the increase in such Charges calculated on a monthly basis. Every such increase in the rent shall take effect on the first day of the month following that in which the Lessor’s notice of the increase is received by the Lessee or, whichever is the later, the date on which the corresponding increase in Charges takes effect.

7. ADDITIONAL CHARGES

7.1 In addition to paying the rent, the Lessee shall pay the cost of electricity, water and gas consumed on the Farm directly to whomsoever shall have levied such charges. The Lessee shall be liable for the payment of all rates and taxes and other outgoings which any irrigation board or other competent body may legally levy during the tenancy.

7.1.1 The parties acknowledge the electricity to the Farm is supplied by Eskom and that the Lessee is aware of the terms of such supply and the charges and tariffs applicable.
7.1.2 The Lessee shall be liable for all such connection fees, deposits, consumption charges and other levies and charges as may be payable to Eskom from the date of commencement of this Lease agreement.

7.1.3 The Lessee shall be obliged to provide such guarantees acceptable to Eskom as may be necessary to release the Lessor from guarantees issued to Eskom in that regard. The parties shall co-operate as may be necessary to ensure that the Lessor is absolved from any liability to Eskom after date of commencement of this Lease Agreement.

8. PAYMENTS

8.1 The rental shall be payable in advance on or before the 7th day of each month at The Department of Land Affairs (ADDRESS) OR ………Bank : Account Number :……….., Branch Code : ……………, with reference : ………….. or any other place which the Lessor may designate from time to time in writing, from the date of occupation of the Property. Proof of payment must be faxed to the Department of Land Affairs, Provincial Land Reform Office, ………….. at fax number ……………………………

8.2 The Lessee shall not withhold, defer, or make any deduction from any payment due to the Lessor, whether or not the Lessor is indebted to the Lessee or in breach of any obligation to the Lessee.

8.3 The rent and all other amounts payable by the Lessee under this lease shall be inclusive of value-added tax in so far as it is applicable.

8.4 Should the Lessee fail to pay the rental, interest shall be payable at the current interest rate per annum as determined by the Minister of Finance from time to time, in terms of section 80 of the Public Finance Management Act, 1999 (Act 1 of 1999). A certificate by the accounting section of the Department of Land Affairs shall be prima facie proof of such interest rate.
9. INSURANCE

9.1 The Lessee shall at all times insure and keep insured the Improvements against all foreseeable risks for the benefit of the Lessor and shall, at the request of the Lessor, submit proof of such insurance to the Lessor.

9.2 Should the lessee fail to provide proof of insurance as provided for above, the lessor shall be entitled to arrange such insurance and recover the cost thereof from the Lessee, which amount shall immediately be due and payable by the Lessee. This provision shall not, however, in any way diminish the liability of the Lessee to indemnify the Lessor against any damages due to any insurable and foreseeable risk.

9.3 The Lessee shall not keep or do in or about the Farm anything which is liable to embrace any of the risks against which any of the Improvements are insured for the time being or that would have the effect that such insurance is rendered void or voidable or the premiums of such insurance are, or become liable to be, increased.

10. ASSIGNMENT AND SUBLETTING

The Lessee shall not be entitled, except with the prior written consent of the Lessor, to

10.1 cede or assign all or any of the rights and obligations of the Lessee under this lease;

10.2 sublet the Farm in whole or part; or

10.3 give up possession of the Farm to any third party.
11. SUNDRY DUTIES OF THE LESSEE

The Lessee shall

11.1 conduct the farming activities for which the Farm is let in a diligent manner and follow correct farming and husbandry practice in general but shall also follow accepted farming practice in the district in which the Farm is situated;

11.2 ensure that all dwellings and other buildings on the Farm that are occupied for any purpose are kept clean, tidy and habitable;

11.3 not infringe any law, servitude, licence or permit relating to the use of water;

11.4 at each appropriate season plough, cultivate and fertilise the fields and replant such fields or any of them from time to time as may be necessary with good seed where crops are required to be seeded;

11.5 ensure that all fields and pastures are kept free from noxious weeds;

11.6 keep all firebreaks open and free from any combustible material;

11.7 not permit the grazing upon the Farm of any animals of any description which are not owned by the Lessee;

11.8 not at any time during the currency of this lease permit the grazing of more than ............. head of ............. per hectare of the Farm which is not under cultivation, provided that the Lessee may keep any number of stall-fed animals on the Farm subject to the existence, or to the erection by the Lessee, of proper stalls and accommodation for them;
11.9 not bring into any building on the property any article which, by reason of its weight or other characteristics, is liable to cause damage to that building;

11.10 not contravene any of the conditions of title of the property or any of the laws, rules or regulations affecting owners, tenants, occupiers or use of the Farm;

11.11 not cause or commit any public nuisance;

11.12 refrain from interfering with the electrical, plumbing or gas installations or systems serving any of the Improvements, except as may be necessary to enable the Lessee to carry out its obligations of maintenance and repair in terms of this lease;

11.13 take all reasonable measures to prevent blockages and obstructions from occurring in the drains, sewerage pipes and water pipes serving the Farm;

11.14 provide at the Lessee’s own expense all electric, fluorescent and incandescent light bulbs required on the Farm; and

11.15 not allow any persons who are not in his bona fide employ to reside on the farm.

11.16 make fire-breaks and fire-belts on the boundaries between the Property and adjoining properties as well as within the boundaries of the Property, where necessary, to protect the Property against internal fires and comply within any statutory fire protection requirements or conditions imposed by any competent fire protection authority.
1.17 take all reasonable steps to prevent the illegal occupation of or trespassing onto the Property. In the event of squatting or illegal occupation taking place the Lessee shall immediately act by informing the Lessor and the South African Police Services thereof. This Lease is subject to the provisions of the Prevention of Illegal Eviction from and unlawful Occupation of Land Act, 1998 (Act 19 of 1998).
12. MAINTENANCE AND REPAIRS

12.1 Subject to clause 12.3, the Lessee shall at his own expense and without recourse to the Lessor

12.1.1 throughout the Lease Period maintain in good order and condition the Farm and all parts thereof;

12.1.2 promptly repair or make good all damage occurring to the Improvements and the Plant and Equipment from time to time during the Lease Period, whatever the cause of such damage and replace all such items which have been broken, lost or destroyed, again regardless of cause and, without derogating from the generality of the aforesaid, throughout the Lease Period maintain any existing orchards, vineyards or trees, whether same yield crops or not, and replace any trees or vines which die with a like tree or vine; and

12.1.3 on termination of this lease, howsoever and whenever its terminates, return the Farm and all such parts thereof aforementioned to the Lessor in good order, condition and repair, fair wear and tear excepted, provided that the Lessor shall not be obliged to compensate the Lessee for any expenditure incurred by the Lessee in complying with his obligations of maintenance, repair and replacement under this lease.

12.2 If the Lessee notifies the Lessor in writing, after having taken possession of the Farm, of the need for any repairs to any of the Improvements or any of the Plant and Equipment or that any of the Improvements or any of the Plant and Equipment is damaged, missing, or out of order, the Lessor shall promptly cause the necessary repair or replacement to be effected at the Lessor’s expense. If or in so far as
the Lessee does not give such notice the Lessee shall be deemed to have acknowledged that the Farm and all parts thereof were intact, in place, and in good order, condition and repair when the Lessee took possession of the Farm under this lease.

12.3 The Lessor shall be responsible for the maintenance of, and for all repairs and replacements becoming necessary from time to time in or to, all systems, works and installations which are part thereof of the Property or the Improvements and the roofs and the exterior walls of any buildings on the Property.

12.4 The Lessor shall not, however, be in breach of clause 12.3 in so far as any of its obligations thereunder are not or cannot be fulfilled by reason of any vis major or the acts or omissions of others over whom the Lessor has no direct authority or control, and where the Lessor is indeed in breach of clause 13.3, the Lessee’s only remedy against the Lessor shall be a right of action for specific performance.

12.5 Should the Lessee fail to carry out any of its obligations under this lease with regard to any maintenance, repair or replacement, the Lessor shall be entitled, without prejudice to any of its other rights or remedies, to effect the required item of maintenance, repair or replacement and to recover the cost thereof from the Lessee on demand.

13. ALTERATIONS, ADDITIONS AND IMPROVEMENTS

13.1 The Lessee shall not, except with the Lessor’s prior written consent which shall not be unreasonably withheld

13.1.1 make any alterations or additions to any of the Improvements; or
13.1.2 make any alterations or additions to any of the Plant and Equipment save those of a minor nature which are easily capable of being undone.

13.2 If the Lessee does alter, add to or improve the Farm or any part thereof in any way, whether in breach of clause 13.1 or not, the Lessee shall, if so required in writing by the Lessor, restore the Farm on the termination of this lease to its condition as it was prior to such alteration, addition or improvement having been made. The Lessor's requirement in this regard may be communicated to the Lessee at any time, but not later than the Fourteenth day after the Lessee has delivered up the Farm pursuant to the termination of this lease, and this clause 13.2 shall not be construed as excluding any other or further remedy which the Lessor may have in consequence of a breach by the Lessee of clause 13.1.

13.3 Save for any addition or improvement which is removed from the Farm as required by the Lessor in terms of clause 13.2, all additions and improvements made to the Farm shall belong to the Lessor and may not be removed from the Farm at any time. The Lessee shall not, whatever the circumstances, have any claim against the Lessor for compensation for any addition or improvement to the Farm, save for such compensation as is specifically provided for in respect of orchards, plantations and crops in terms of clause 14 below nor shall the Lessee have a right of retention in respect of any improvements.

14. **ORCHARDS, PLANTATIONS, VINES AND CROPS**

14.1 Subject to having obtained the Lessor’s prior written consent, the Lessee may, at his expense, establish new orchards or plantations or plant new trees or vines. No such orchards, plantations, trees or vines shall be removed on the termination of this lease but shall belong to the Lessor, who shall pay compensation therefore to the Lessee in an amount to be arrived at in terms of the provisions of clause 14.5.
14.2 If trees have been planted for the purpose of being cut down and sold by the Lessee during the Lease Period and which on the termination of this lease, for whatsoever cause, have not attained the stage of growth at which it was intended they were to be cut down, then

14.2.1 until such growth has been obtained, the Lessee shall be obliged to vacate the Farm; and

14.2.1.1 shall be entitled at reasonable times and upon (specify period) written notice to the Lessor to enter the Farm with labourers and equipment in order to inspect the trees and to tend them;

14.2.2 after such growth has been obtained the Lessee shall be entitled to enter the Farm with labourers, transport and equipment sufficient for the purpose of cutting down the trees and removing them from the Farm;

14.2.3 the stumps of the trees shall belong to the Lessor, who shall pay compensation therefore to the Lessee in an amount to be arrived at in terms of the provisions of clause 14.5.

14.3 Any crop cultivated by the Lessee during the Lease Period and unripe at the termination hereof for whatsoever cause shall belong to the Lessor, who shall pay compensation therefore to the Lessee in an amount to be arrived at in terms of the provisions of clause 14.5, or at the Lessee’s election shall remain the property of the Lessee, provided that if the Lessee so elects

14.3.1 the Lessee shall vacate the Farm whilst such crop is ripening;
14.3.2 once the crop has ripened, the Lessee shall be entitled to enter the Farm with labourers, equipment and transport in order to reap and/or harvest such crop and remove it from the Farm.

14.4 The Lessor shall not be liable to the Lessee in any way whatsoever for any failure, destruction or diminution of any such orchards, plantations, trees, vines or crops referred to herein from any cause whatsoever.

14.5 Any compensation for any tree, vine or crop which is to be payable by the Lessor to the Lessee shall be determined by an expert appointed by the parties jointly or, if they do not agree on such appointment by an appropriate expert agreed upon by the parties and the decision of such expert shall be final and binding. The expert's fees and disbursements, including any inspection costs, shall be borne and paid by the parties in equal shares.

15. EXCLUSION OF LESSOR FROM CERTAIN LIABILITY AND INDEMNITY

15.1 The Lessee shall have no claim for damages against the Lessor and may not withhold or delay any payment due to the Lessor by reason directly or indirectly of

15.1.1 a breach by the Lessor of any of its obligations under this lease;

15.1.2 any act or omission of the Lessor or any agent or servant of, or contractor to, the Lessor, whether or not negligent, or otherwise actionable at law;

15.1.3 the condition or state of repair at any time of the Farm, any of the Improvements or any part of the Plant and Equipment or any part of the Farm;
15.1.4 any failure or suspension of, or any interruption in, the supply of water, electricity, gas, or any other amenity or service to the Farm, whatever the cause;

15.1.5 any breakdown of, or interruption in the operation of, any of the Improvements or any of the Plant and Equipment or any system situated in or on, or serving the Farm or the Improvements, again regardless of cause;

15.1.6 any interruption of or interference with the enjoyment or beneficial occupation of the Farm or any part thereof;

15.1.7 any other event or circumstance whatever occurring, or failing to occur, upon, in, or about the Farm, whether or not the Lessor could otherwise have been held liable for such occurrence or failure, and the Lessee indemnifies the Lessor against all liability to members of the Lessee’s household, the Lessee’s servants, guests and other invitees and all other persons who may occupy or be entitled to occupy the Farm or any parts thereof through or under Lessee, in consequence of any such matter as is referred to in clauses 15.1.1 to 15.1.7 above.

15.2 The Lessor shall not, however, be excused from specific performance of any of its obligations under this lease, whether express or implied, and particularly (but not only) its obligations to afford the Lessee occupation and enjoyment of the Farm as contemplated by this lease and to carry out such maintenance and repairs as are incumbent upon the Lessor in terms hereof, and if the Lessor fails to carry out any such obligation of maintenance or repair with reasonable speed and efficiency, and persists in such default after reasonable notice in writing requiring that it be remedied, the Lessee may cause the necessary maintenance or repair (including any incidental or necessary replacement) to be carried out and may then recover the reasonable cost thereof from the Lessor on demand.
15.3 The Lessee hereby indemnifies the Lessor and the Government of the Republic of South Africa or any of its officials against any claims, applications or court actions which may arise from the occupation of, farming activities on or other circumstances on the said property by the Lessee and/or his employees or third parties, for any reason whatsoever.

16. LESSOR’S RIGHTS OF ENTRY AND CARRYING OUT OF WORKS

The Lessor’s representatives, agents, servants and contractors may at all reasonable times, without thereby giving rise to any claim or right of action on the part of the Lessee or any other occupier of the Farm, enter the Farm in order to inspect any part of it, to carry out any necessary repairs, replacements or other works, or to perform any other lawful function in the bona fide interests of the Lessor or any of the occupiers of the Farm, but the Lessor shall ensure that this right is exercised with due regard for, and a minimum of interference with, the beneficial enjoyment of the Farm by the Lessee and those in occupation thereof.
17. DAMAGE TO OR DESTRUCTION OF FARM

17.1 If the Farm is destroyed or so damaged that it can no longer be beneficially occupied, this lease shall terminate when that happens unless the parties agree otherwise in writing.

17.2 If the Farm is significantly damaged but can still be beneficially occupied, this lease shall remain in force and the Lessor shall repair the damage without undue delay but the rent shall be abated so as to compensate the Lessee fairly for the effects of the damage and repair work on the enjoyment of the Farm. Failing agreement on such abatement or on the applicability of this clause to any particular circumstances, the matter shall be referred to an expert appointed by the parties jointly or, if they do not agree on such appointment, nominated by the (specify, for example, Chairman (or President) for the time being of (association or body chosen)) and the decision of such expert shall be final and binding. The expert’s fees and disbursements, including any inspection costs, shall be borne and paid by the parties in equal shares. Pending determination of the abatement the Lessee shall continue to pay the full rent for the Farm as if it had not been damages (or be excused from the payment of rent for the Farm) and as soon as the matter has been resolved the Lessor shall make the appropriate repayment to the Lessee (or the Lessee shall make up the arrears in the rent as abated).

17.3 If any damage to the Farm or the destruction thereof is caused by an act or omission for which either party is responsible in terms of this lease or in law, the other party shall not be precluded by reason of any of the foregoing provisions of this clause 17 from exercising or pursuing any alternative or additional right of action or remedy available to the latter party under the circumstances (whether in terms of this lease or in law).
18. SPECIAL REMEDY FOR BREACH

18.1 Should the Lessee default in any payment due under this lease or be in breach of its terms in any other way, and fail to remedy such default or breach within 14 (fourteen) days after receiving a written demand that it be remedied, the Lessor shall be entitled, without prejudice to any alternative or additional right of action or remedy available to the Lessor under the circumstances, to cancel this lease without further notice with immediate effect, be repossessed of the Farm and recover from the Lessee damages for the default or breach and the cancellation of this lease.

18.2 Clause 18.1 shall not be construed as excluding the ordinary lawful consequences of a breach of this lease by either party (save any such consequences as are expressly excluded by any of the other provisions of this lease) and, in particular, any right of cancellation of this lease on the ground of a material breach going to the root of this lease.

18.3 In the event of the Lessor having cancelled this lease justifiably but the Lessee remaining in occupation of the Farm, with or without disputing the cancellation, and continuing to tender payments of rent and any other amounts which would have been payable to the Lessor but for the cancellation, the Lessor may accept such payments without prejudice to and without affecting the cancellation, in all respects as if they had been payments on account of the damages suffered by the Lessor by reason of the unlawful holding over on the part of the Lessee.

19. OPTION TO PURCHASE

The Purchaser may apply to the Lessor to purchase the Property at any stage during and after the existence of this lease agreement. The purchase of the Property by the Lessee will be subject to the provisions
contained in clause 18 above, prevailing policies of the Lessor, and the prior written approval of the Minister of Land Affairs, which may be granted at her discretion, and National Treasury, if required, first being obtained.

20. NEW TENANTS AND PURCHASERS

The Lessee shall at all reasonable times.

during the Lease Period, allow prospective purchasers of the Farm or of any shares or other interest in the Lessor to enter and view the Farm.

The Lessor undertakes that he will not accept any offer for the purchase of the Farm without first offering to sell the farm to the Lessee.

21. COSTS

The legal costs incurred in the preparation of this lease and the stamp duty payable thereon shall be borne and paid by the lessee.

22. DOMICILIA AND NOTICES

The parties choose as their domicilia citandi et executandi the addresses mentioned below, provided that such domicilium of either party may be changed by written notice from such party to the other party with effect from the date of receipt or deemed receipt by the latter of such notice.

22.1.1 The Lessor; .............................

22.1.2 The Lessee; .............................
any notice, acceptance, demand or other communication property addressed by either party to the other party at the latter’s *domicilium* in terms hereof for the time being and sent by prepaid registered post shall be deemed to the received by the latter on the 7th (seventh) business day following the date of posting thereof. This provision shall not be construed as precluding the utilization of other means and methods (including telefacsimile) for the transmission or delivery of notices, acceptances, demands and other communications, but no presumption of delivery shall arise if any such other means or method is used.

23. **WHOLE AGREEMENT**

This lease constitutes the entire agreement between the parties.

Neither party relies in entering into this agreement on any warranties, representations, disclosures or expressions of opinion which have not been incorporated into this agreement as warranties or undertakings.

No variation or consensual cancellations of this agreement shall be of any force or effect unless reduced to writing and signed by both parties.

24. **NON-WAIVER**

24.1 Neither party shall be regarded as having waived, or be precluded in any way from exercising, any right under or arising from this lease by reason of such party having at any time granted any extension of time for, or having shown any indulgence to, the other party with reference to any payment or performance hereunder, or having failed to enforce, or delayed in the enforcement of, any right of action against the other party.
24.2 The failure of either party to comply with any non-material provision of this lease shall not excuse the other party from performing the latter’s obligations hereunder fully and timorously.

25. WARRANTY OF AUTHORITY

The persons signing this lease on behalf of the Lessor and the Lessee expressly warrant their authority to do so.

26. AGREEMENT WITH CLOVER LIMITED

The Lessee shall enter into a Milk Delivery Agreement with Clover Limited. The Lessee shall be liable for all the costs thereby occasioned. The benefits arising from such Agreement shall only accrue for the account of the Lessee from the date of commencement of this Lease Agreement.
27. SALE OF PROPERTY

The validity of this lease shall not in any way be affected by the transfer of the Property from the Lessor pursuant to a sale thereof. It shall accordingly, upon registration of transfer of the Property into the name of the purchaser, remain of full force and effect save that the purchaser shall be substituted as Lessor and acquire all rights and be liable to fulfill all the obligations which the Lessor, as Lessor, enjoyed against or was liable to fulfill in favour of the Lessee in terms of the lease.

28. TERMINATION BY DEATH OR INSOLVENCY

This lease shall not terminate with the death of the Lessee. The executor of the deceased Lessee’s estate shall have the option, depending upon the circumstances of the estate, either to abide by the contract for the remainder period of the lease (the successor or successor of the Lessee assuming his rights and obligations) or to cancel this lease by giving the Lessor two months written notice of termination, such notice to be given not more than one month after the death of the Lessee.

The insolvency of the Lessee shall not terminate this lease. However, the trustee of the Lessee’s insolvent estate shall have the option to terminate this lease by notice in writing to the Lessor. If the trustee does not within three month of his appointment as trustee notify the Lessor that he desires to continue with the lease on behalf of the estate, he shall be deemed to have terminated the lease at the end of the three months.

SIGNED at ........................ on this ......................DAY OF...............2006

Witnesses

1. .................................
2. ........................................ ........................................

LESSEE
LEASE AGREEMENT BETWEEN DLA AND ........................................

SIGNED at ................................ on this ......................DAY
OF ..............2006

Witnesses:

1. ........................................
2. ........................................

LESSOR
32. GUIDELINES ON LEASES IN TERMS OF THE PROACTIVE STRATEGY

Prior to signing the lease agreement lessees should be made aware of the following important consideration that will form part of the agreement:

• The Lessee shall be liable for the payment of all rates and taxes and other monies which any irrigation board or other competent body may legally levy during the tenancy.

1. Signing of leases and determination of lease period

• Authority to approve leases with regard to land acquired proactively has been delegated to the Chief Director: PLRO in terms of Section 11 of the Provision of Land and Assistance Act, Act 126 of 1993 (See Terms and Conditions Tool).
• Leasing periods are granted mainly on a three-year basis with certain exceptions for products such as sugarcane, forestry, etc.
• The Provincial Departments of Agriculture must assist the PLROs in determining the lease period based on particular enterprises that require leases longer than three years.

2. Allocation of leases

All leases are to be allocated on the following basis:

• Leases are only to be made available to individuals who are selected in terms of the Proactive Land Acquisition Strategy. Thus, individual beneficiaries must:
  o Be a South African citizen;
  o Preferably earn less than R1 500.00 but not more than R3 500.00 per month.
  o Potential lessees who earn more than R3 500.00 per month should not be excluded from participation in the programme but preference must first be given to the lower income categories;
  o Preference will be given to people that do not own any agricultural properties.
• Leases may be allocated to groups that comprises of individuals who meet the above mentioned criteria, which have been established in terms of an approved written constitution. However large group leases will be discouraged.

3. Selection Committee

• The allocation of all leases may be undertaken by a Selection Committee which is to be comprised of:
  o An official nominated by the Provincial Department of Agriculture.
  o An official nominated by the Provincial Land Reform Office
  o An official from the relevant municipality.
• All decisions of the Selection Committee are to be fully minuted for monitoring purposes.

• The Selection Committee is accountable to the Chief Director: Provincial Land Reform Office for that particular province.

• Any objections by the public on the allocation of leases may be directed to the Provincial Chief Director for response.

4. How rental payments should be determined

• In terms of the common practice adopted by the Department of Agriculture rental is determined according to the nature of the land being rented.

• The intention of the Proactive Land Acquisition Strategy is not for the state to profit from the lease agreements. The state intends to create conducive conditions for beneficiaries to produce efficiently in order to break even during the trial lease period.

• For the interim, lease payments for arable land should be calculated at 6% of the productive value of the land per annum.\(^{29}\) The lease fees will remain fixed for the duration of the trial lease period. Lease payments for grazing land should be based on the large stock units (LSUs) and small stock units (SSUs) as stipulated in the State Land Disposal Policy.

5. Management of leases

• PLROs must register all leases on the lease debtor system if the PLRO has opted to manage the lease agreements.

• Beneficiaries must be issued with receipts of payments made.

• If PLRO has outsourced the management of leases to a management company- then the PLRO should ensure on a quarterly basis that the management company has collected the correct rentals from the different beneficiaries according to the guidelines in Section 2 above.

• The PLRO should ensure that the management company keeps a database of the lessees (with payments recorded) and the PLRO should also have a copy of this database for management purposes and to verify and capture the information on the lease debtor system.

• Only reputable management companies should be appointed through the procurement system. Some of these companies could be property rental companies. Fly-by-night debt collection agencies should be avoided.

• It should be noted the PLROs must on a quarterly basis verify the assets as per the asset report from the state land asset register that will be provided by the Directorate: Land Reform Implementation

\(^{29}\) This is an interim arrangement until the DLA approaches National Treasury on the issue of offering discounts to lessees on state land. The policy is aligned with current state land policy criteria on rentals.
Support at the National Office until the state asset register and lease debtor system has been decentralized.

6. **Cession and sub-letting**

- No sub-letting of the property is permitted without the written consent of the Chief Director: Provincial Land Reform Office.
- The lessee will be obliged to identify a nominee in the event of his/her death, disability, illness or unexpected absence. In these circumstances:
  - The named nominee will be entitled to continue the exercise of the rights and obligations of the original lessee for the remaining period of the lease.

7. **Termination of the lease**

- The lease agreement may be cancelled by the Chief Director: Provincial Land Reform Office in writing as a result of any breach of any material clause in the lease agreement such as
  - Failure to pay lease fees on time as stipulated in the agreement or without making the proper arrangements;
  - Sub-letting the farm without written permission from the Department of Land Affairs;
  - Willful damaging of property;
  - Failure to use the property at all or failure to use the property for agricultural purposes only.
- The lessee will be entitled to cancel the lease agreement on three months' written notice to the Chief Director: Provincial Land Reform Office for the province concerned.
- Upon termination of the agreement the lessee will be compensated at replacement values for self-incurred improvements to the leased property pending approval by the Chief Director: Provincial Land Reform Office for the province concerned. This will only occur if the lessee is facing expulsion because of non-performance and where the option to purchase will not be pursued.
33. FORMAT OF A MEMO TO DIRECTORATE: LAND REFORM IMPLEMENTATION SUPPORT TO CAPTURE BENEFICIARY LEASE AGREEMENT

[DEPARTMENTAL MEMO HEAD]

LAND ACQUIRED IN TERMS OF THE PRO-ACTIVE LAND ACQUISITION STRATEGY THROUGH ACT 126: REGISTRATION OF BENEFICIARY(IES) LEASE AGREEMENT(s)

Reference:

DIRECTOR: LRIS

Please find attached copy(ies) of the lease agreement (s) signed with beneficiary(ies) for capturing and registration on the lease debtor system

CHIEF DIRECTOR: ....... PLRO
DATE:
34. EXAMPLE OF A MOU (BETWEEN DLA AND PDA)

DEPARTMENT OF LAND AFFAIRS
REPUBLIC OF SOUTH AFRICA

MEMORANDUM OF UNDERSTANDING (MOU) FOR THE IMPLEMENTATION OF THE PROACTIVE LAND REFORM STRATEGY
(Herein referred to as “The Strategy”)

BETWEEN;

DEPARTMENT OF LAND AFFAIRS (DLA): (Province)

Provincial Office at:
(Physical Address)

&

PROVINCIAL DEPARTMENT OF AGRICULTURE (PDA): (Province)
(Physical Address)

PURPOSE

This MOU describes the responsibilities of the DLA (Province & District) and the PDA (Province & District), outlines areas of mutual planning and support and provides a frame of reference for cooperative and supporting arrangements.

1. STATEMENT OF GENERAL RESPONSIBILITIES

1.1 DLA (PROVINCE):

   a) The identification of agricultural farm land for land reform purposes and the purchase of such land.
b) Determining land reform grants and payment for “The Strategy” and transfer costs.

c) Determining planning grants and payment for planning services (as per Departmental guidelines) rendered in relation to “The Strategy”.

d) Beneficiary selection and assessment.

e) Project Planning.

f) Convening District Screening and Provincial Grants Committee sessions.

g) Provide training on land reform information implementation and communication.

h) Monitoring and Evaluation of “The Strategy.”

1.2 **PDA (PROVINCE):**

a) The identification of suitable agricultural land for “The Strategy”.

b) Determine agricultural support grants as outlined in the *Comprehensive Agricultural Support Programme* (CASP).

c) Beneficiary selection and assessment

d) Project planning.

e) Active participation in District Screening

f) Convene and Chair Provincial Grants Committee processes.

g) **Provision of agricultural support services:**

- Assist potential beneficiaries to prepare and implement business plans that qualify for support by assisting with the evaluation and prioritisation of projects/applications within the principles and criteria of “The Strategy”.

- Provide general agricultural information and provision of capacity to applicants to implement the “The Strategy”.

- Provide farmer training and capacity building.

- Render advisory services and monitor the implementation of the projects and effect remedial action when necessary.

- Provide information and technology support.

- Report on progress as per agreed objectives of the “The Strategy”
and the CASP.

2. COORDINATION

During the implementation of the “The Strategy” cooperation and coordination are required during each of the four phases.

Therefore it is agreed that:

Both the DLA and PDA will encourage communication between staff and the provision of clear guidelines and/or policies in relation to different phases in terms of “The Strategy.”

The DLA will coordinate all planning sessions. Planning sessions will be held on the following dates:

<table>
<thead>
<tr>
<th>DATE</th>
<th>TIME</th>
<th>VENUE</th>
</tr>
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<tbody>
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</tbody>
</table>

The District screening and PGC sessions will be held on the following dates:

<table>
<thead>
<tr>
<th>DATE</th>
<th>TIME</th>
<th>VENUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>DSC</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PGC</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

There will be records kept of all meetings held and disseminated within 5 working days of such meetings. Secretariat services may be provided by either party as agreed upon.

Both DLA and PDA will encourage other relevant stakeholders involved in land reform and agricultural development to work closely with the implementation team.

The following staff members from both Departments will form part of the implementation team:
2.7 The above-mentioned implementation team will meet according to the timeframes outlined in provisions 2.2 and 2.3 of this understanding. Alternate representation on the team can be proposed if any team member cannot attend meetings. However it is strongly urged that for the sake of continuity and to enable the effective implementation of “The Strategy”, the nominated team members attend all meetings.

3. DISTRIBUTION OF THIS UNDERSTANDING

Since local arrangements are the principal means by which this understanding may be effectively implemented, both DLA and PDA will furnish copies of this understanding to all relevant officials in the District and/or Province.

*The Provisions of this understanding will be effective*

*from ................................. and will remain in force until otherwise changed or terminated.*

__________________________________________
PROVINCIAL CHIEF DIRECTOR
DEPARTMENT OF LAND AFFAIRS
DATE:

__________________________________________
HEAD OF DEPARTMENT:
PROVINCIAL DEPARTMENT OF AGRICULTURE
DATE:
35. NOTES ON OWN CONTRIBUTION

- Land, whether it is acquired by means of an earlier grant (SLAG or LRAD), by means of restitution or a tenure security grant, by means of a donation, etc. cannot be used as own contribution. However, this does not exclude the possibility that some applicants may choose to use existing land as collateral in order to leverage a loan, which itself could serve as own contribution.

- Existing agricultural assets can be counted as own contribution only if they are integral to the operation of the land to be acquired by means of the LRAD grant. For example, only those livestock can be counted as own contribution that will actually be present on the newly acquired land, or the land, which is being improved by means of the grant. Farm/business plans must provide absolute clarity on the relationship between these types of in-kind own contribution and the proposed project.

- Multiple applicants from the same household will not be discouraged from spreading their agricultural assets for use as own contribution. It has been noted for example that a household comprising two adults can get a larger total grant if each adult applicant counts half of the household’s livestock, rather than just one of the applicants counting all of them.

- For purposes of counting own contribution, government will not concern itself with outstanding loans on certain agricultural assets. For example, if an applicant owns a tractor but owes money on it to the Land Bank, the extent to which the tractor may be counted as own contribution will not be affected by the existence of the owner’s outstanding debt.

- Own labour can be counted as own contribution only the first time the individual applies for an LRAD grant.
## 36. INVENTORY FORM FOR ESTIMATING OWN CONTRIBUTION

<table>
<thead>
<tr>
<th>Property</th>
<th>Unit</th>
<th>Number</th>
<th>Current Value (R)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Current Assets</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Liquidity</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Foreign Equity</td>
<td>Rand</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Own Cash</td>
<td>Rand</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Cash Loans -short term</td>
<td>Rand</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Cash Loans -mt/lt</td>
<td>Rand</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td><strong>Vehicles</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Motor car</td>
<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Bakkie</td>
<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Trucks</td>
<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td><strong>Tooling</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Hand Held</td>
<td>item</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Mechanised</td>
<td>item</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td><strong>Stock</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Live stock</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cattle</td>
<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Bull</td>
<td>Head</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Cow</td>
<td>Head</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Calf</td>
<td>Head</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td><strong>Chickens</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rams</td>
<td>Head</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Ewes</td>
<td>Head</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td><strong>Goats</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rams</td>
<td>Head</td>
<td></td>
<td></td>
<td>0</td>
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<tr>
<td>Ewes</td>
<td>Head</td>
<td></td>
<td></td>
<td>0</td>
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<tr>
<td><strong>Horses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mares</td>
<td>Head</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Stallion</td>
<td>Head</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td><strong>Sheep</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rams</td>
<td>Head</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Ewes</td>
<td>Head</td>
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<td></td>
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<tr>
<td><strong>Production Inputs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chemicals</td>
<td>Kg/L</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Fertilizers</td>
<td>Kg</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Seed</td>
<td>Kg</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td><strong>Fencing</strong></td>
<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Value of fencing material</td>
<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td><strong>Waterwork Tools</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fittings</td>
<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Pumps- Electrical/diesel/Mechanical</td>
<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Pumps- Manual</td>
<td></td>
<td></td>
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<td>0</td>
</tr>
<tr>
<td>Pipes</td>
<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td><strong>Total contribution from Applicant</strong></td>
<td></td>
<td></td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Land Grant</td>
<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
</tbody>
</table>
37. NOTES/GUIDELINES ON VERIFICATION OF OWN CONTRIBUTION

- Applicants should sign the declaration below stating that the items comprising their own contribution are indeed in their possession, and will indeed contribute to the establishment and operation of the proposed project.

- The use of cash and livestock must be specified in the farm/business plan.

It is advisable that:

- For livestock, only livestock that are branded and/or tattooed in terms of a registered brand could be counted.

- For cash, a letter from the bank should be furnished, showing the amount of money the person has on hand that can be used towards the project.

Form for verification of own contribution

1. PROJECT DETAILS:

   Project Name: __________________________________

   Ref. No.: _____________________

2. LIST OF MOVEABLE ASSETS:

   a. Livestock:

<table>
<thead>
<tr>
<th>Breed</th>
<th>Number</th>
<th>Unit Price</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulls</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Cows</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Oxen</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Heifers</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Calves</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Sub-Total</td>
<td></td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Breed</td>
<td>Number</td>
<td>Unit Price</td>
<td>Value</td>
</tr>
<tr>
<td>------------</td>
<td>--------</td>
<td>------------</td>
<td>-------</td>
</tr>
<tr>
<td>Rams</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Ewes</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Hamel</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Lambs</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td><strong>Sub-Total</strong></td>
<td></td>
<td></td>
<td><strong>R</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Breed</th>
<th>Number</th>
<th>Unit Price</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rams</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Ewes</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Castrated</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Goats</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lambs</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td><strong>Sub-Total</strong></td>
<td></td>
<td></td>
<td><strong>R</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Breed</th>
<th>Number</th>
<th>Unit Price</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boar</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Sow</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Young</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Pigs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Piglets</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td><strong>Sub-Total</strong></td>
<td></td>
<td></td>
<td><strong>R</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Breed</th>
<th>Number</th>
<th>Unit Price</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broilers</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Layers</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td><strong>Sub-Total</strong></td>
<td></td>
<td></td>
<td><strong>R</strong></td>
</tr>
</tbody>
</table>
### Vehicles:

<table>
<thead>
<tr>
<th>Model &amp; Make</th>
<th>(kW)</th>
<th>Value</th>
<th>HP Debt</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>R</td>
<td>R</td>
<td></td>
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<tr>
<td></td>
<td>R</td>
<td>R</td>
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<td>R</td>
<td>R</td>
<td></td>
</tr>
<tr>
<td>Sub-Total</td>
<td>R</td>
<td>R</td>
<td></td>
</tr>
</tbody>
</table>

### Implements:

<table>
<thead>
<tr>
<th>Item</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ploughs</td>
<td>R</td>
</tr>
<tr>
<td>Offset Disc</td>
<td>R</td>
</tr>
<tr>
<td>Planters</td>
<td>R</td>
</tr>
<tr>
<td>Sprayers</td>
<td>R</td>
</tr>
<tr>
<td>Harvestors</td>
<td>R</td>
</tr>
<tr>
<td>Rotavator</td>
<td>R</td>
</tr>
<tr>
<td>Mobile Pumps</td>
<td>R</td>
</tr>
<tr>
<td>Quick-coupling Pipes</td>
<td>R</td>
</tr>
<tr>
<td>Centre Pivot System</td>
<td>R</td>
</tr>
<tr>
<td>Other</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Sub-Total</td>
<td>R</td>
</tr>
</tbody>
</table>

### Animal:

<table>
<thead>
<tr>
<th>Item</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cattle</td>
<td>R</td>
</tr>
<tr>
<td>Sheep</td>
<td>R</td>
</tr>
<tr>
<td>Animal</td>
<td>Quantity</td>
</tr>
<tr>
<td>------------</td>
<td>----------</td>
</tr>
<tr>
<td>Goats</td>
<td>R</td>
</tr>
<tr>
<td>Pigs</td>
<td>R</td>
</tr>
<tr>
<td>Chickens</td>
<td>R</td>
</tr>
<tr>
<td>Vehicles</td>
<td>R</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>R</strong></td>
</tr>
</tbody>
</table>

____________________________

Signature

Date: ______________________
LRAD Grant

The size of the grant will be determined by the size of own contribution in kind, labour, and/or cash. Beneficiaries can access grants under LRAD on a sliding scale, depending on the amount of their own contribution. Every participant must make at least the minimum contribution of R5 000. Those who make the minimum contribution receive the minimum grant of R20 000. Those who desire larger grants will make larger contributions. As the grant and the own contribution increase, the grant declines as a proportion of the total project size. The grant and own contribution are calculated per individual adult basis (18 years and older). If people choose to apply as a group, the required own contribution and the total grant are both scaled up by the number of individuals represented in the group.

The approval of the grants is based on the viability of the proposed project, which takes into account total project costs and projected profitability.

The following table provides basic information on available grants for a certain own contribution, or alternatively, on what contribution should be made to receive a certain grant.
## Scale of grant and own contribution

### OWN CONTRIBUTION

<table>
<thead>
<tr>
<th>Scale of grant and own contribution</th>
<th>10,000</th>
<th>20,000</th>
<th>30,000</th>
<th>40,000</th>
<th>50,000</th>
<th>60,000</th>
<th>70,000</th>
<th>80,000</th>
<th>90,000</th>
<th>100,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>OWN CONTRIBUTION</td>
<td>-</td>
<td>25,798</td>
<td>33,278</td>
<td>38,622</td>
<td>42,926</td>
<td>46,592</td>
<td>49,819</td>
<td>52,721</td>
<td>55,371</td>
<td>57,819</td>
</tr>
<tr>
<td>1,000</td>
<td>26,717</td>
<td>33,880</td>
<td>39,090</td>
<td>43,317</td>
<td>46,922</td>
<td>50,122</td>
<td>52,996</td>
<td>55,624</td>
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<tr>
<td>2,000</td>
<td>27,585</td>
<td>34,463</td>
<td>39,548</td>
<td>43,702</td>
<td>47,268</td>
<td>50,422</td>
<td>53,269</td>
<td>55,875</td>
<td>58,287</td>
<td>60,539</td>
</tr>
<tr>
<td>3,000</td>
<td>28,408</td>
<td>35,031</td>
<td>39,998</td>
<td>44,081</td>
<td>47,660</td>
<td>50,720</td>
<td>53,540</td>
<td>56,125</td>
<td>58,519</td>
<td>60,756</td>
</tr>
<tr>
<td>4,000</td>
<td>29,192</td>
<td>35,583</td>
<td>40,439</td>
<td>44,455</td>
<td>47,928</td>
<td>51,014</td>
<td>53,808</td>
<td>56,372</td>
<td>58,750</td>
<td>60,972</td>
</tr>
<tr>
<td>5,000</td>
<td>29,941</td>
<td>36,120</td>
<td>40,871</td>
<td>44,823</td>
<td>48,252</td>
<td>51,305</td>
<td>54,074</td>
<td>56,618</td>
<td>58,978</td>
<td>61,157</td>
</tr>
<tr>
<td>6,000</td>
<td>31,385</td>
<td>36,644</td>
<td>41,296</td>
<td>45,187</td>
<td>48,572</td>
<td>51,594</td>
<td>54,337</td>
<td>56,861</td>
<td>59,206</td>
<td>61,400</td>
</tr>
<tr>
<td>7,000</td>
<td>32,631</td>
<td>37,156</td>
<td>41,714</td>
<td>45,545</td>
<td>48,889</td>
<td>51,879</td>
<td>54,599</td>
<td>57,103</td>
<td>59,431</td>
<td>61,612</td>
</tr>
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<td>8,000</td>
<td>33,768</td>
<td>37,655</td>
<td>42,125</td>
<td>45,899</td>
<td>49,202</td>
<td>52,162</td>
<td>54,858</td>
<td>57,343</td>
<td>59,656</td>
<td>61,823</td>
</tr>
<tr>
<td>9,000</td>
<td>34,819</td>
<td>38,657</td>
<td>42,528</td>
<td>46,248</td>
<td>49,512</td>
<td>52,443</td>
<td>55,116</td>
<td>57,852</td>
<td>59,879</td>
<td>62,033</td>
</tr>
</tbody>
</table>

### GRANT SIZE BY OWN CONTRIBUTION

<table>
<thead>
<tr>
<th>GRANT</th>
<th>20,000</th>
<th>30,000</th>
<th>40,000</th>
<th>50,000</th>
<th>60,000</th>
<th>70,000</th>
<th>80,000</th>
<th>90,000</th>
<th>100,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,000</td>
<td>5,000</td>
<td>15,080</td>
<td>33,005</td>
<td>60,596</td>
<td>99,548</td>
<td>151,463</td>
<td>217,873</td>
<td>300,245</td>
<td>380,004</td>
</tr>
<tr>
<td>2,000</td>
<td>5,710</td>
<td>16,489</td>
<td>35,301</td>
<td>63,953</td>
<td>104,130</td>
<td>157,427</td>
<td>225,368</td>
<td>309,415</td>
<td>389,496</td>
</tr>
<tr>
<td>3,000</td>
<td>6,481</td>
<td>17,977</td>
<td>37,695</td>
<td>67,425</td>
<td>108,844</td>
<td>163,538</td>
<td>233,024</td>
<td>318,761</td>
<td>396,446</td>
</tr>
<tr>
<td>4,000</td>
<td>7,315</td>
<td>19,549</td>
<td>40,189</td>
<td>71,014</td>
<td>113,690</td>
<td>167,976</td>
<td>240,843</td>
<td>328,283</td>
<td>415,322</td>
</tr>
<tr>
<td>5,000</td>
<td>8,214</td>
<td>21,204</td>
<td>42,784</td>
<td>74,722</td>
<td>118,671</td>
<td>176,204</td>
<td>248,825</td>
<td>337,983</td>
<td>432,639</td>
</tr>
<tr>
<td>6,000</td>
<td>9,180</td>
<td>22,945</td>
<td>45,484</td>
<td>78,550</td>
<td>123,788</td>
<td>182,763</td>
<td>256,974</td>
<td>347,863</td>
<td>452,021</td>
</tr>
<tr>
<td>7,000</td>
<td>10,214</td>
<td>24,774</td>
<td>48,289</td>
<td>82,499</td>
<td>129,042</td>
<td>189,474</td>
<td>265,289</td>
<td>357,923</td>
<td>472,772</td>
</tr>
<tr>
<td>8,000</td>
<td>11,350</td>
<td>26,693</td>
<td>51,201</td>
<td>86,572</td>
<td>134,435</td>
<td>196,339</td>
<td>273,772</td>
<td>368,166</td>
<td>496,105</td>
</tr>
<tr>
<td>9,000</td>
<td>12,498</td>
<td>28,703</td>
<td>54,222</td>
<td>90,770</td>
<td>139,969</td>
<td>203,360</td>
<td>282,255</td>
<td>381,166</td>
<td>524,292</td>
</tr>
</tbody>
</table>

**Version 2**

February 2007
Own contribution

Own contribution can be made up as follows:

- **Own contribution by applicants in labour** can be for up to R5 000 per applicant (individual). In order for the applicant to claim the full R5 000 in own labour towards the own contribution requirement, the farm/business plan must show evidence that the applicant intends to devote a significant amount of own labour towards the establishment and operation of the project.

- The **contribution in kind** could be calculated by costing assets such as machinery, equipment, livestock, and other assets that an applicant may possess.

- The **cash contribution** can be in the form of one's own cash contribution to the project, or borrowed capital, or some combination of the two.

These three forms of own contribution can be added in any combination to make up the required own contribution from the applicant. If applicants want to access larger grants they will have to make a larger contribution. The largest grant (R100 000) can only be accessed under the programme with an own contribution of R400 000 or greater. This own contribution can be financed through a combination of a normal bank loan approved under standard banking procedures and owned assets and cash. Farmers choosing this option would have to possess managerial skills adequate to handle the debt, and would have to have prior experience in agriculture. Where an own contribution requires such a loan component to match the grant, the loan and grant can be accessed directly via the Land Bank, see the Agency Agreement between Land Bank and the Department of Land Affairs for more details.
39. GUIDELINES FOR WHEN LESSEES EXERCISE THE OPTION TO PURCHASE AFTER THE TRIAL LEASE PERIOD

- Lessees can exercise the option to purchase after the lease period has expired and based on an assessment of performance by the Provincial Department of Agriculture and Provincial Land Reform Office.
- A discount of 30% on the fixed purchase price of the land will be offered to all qualifying lessees who exercise the option to purchase.\(^{30}\)
- Lessees may then be assessed according to the Land Redistribution for Agricultural Development (LRAD) grant criteria for possible assistance in terms of grant financing. Not all applications for LRAD grant financing would be considered. Any grant financing that a lessee may qualify for will be subtracted from the purchase price of the land.
- The lease fees paid in would be taken into consideration when the option to purchase is exercised and this would be subtracted from the purchase price of the land.
- Lessees must be assisted to obtain other financing through MAFISA, commercial financial institutions or development financial institutions if grant funding, lease payment discounts and the 30% discount are still not enough to make up for the purchase price.

\(^{30}\) Subject to National Treasury Approval
MEMORANDUM

Department: Land Affairs

REQUEST FOR APPROVAL FOR DISPOSAL OF LAND AND LRAD
GRANT FUNDING IN TERMS OF SECTION 11 AND SECTION 10 OF THE
PROVISION OF LAND AND ASSISTANCE ACT, 1993 (ACT No. 126 OF
1993), FARM: .......... SITUATED IN THE DISTRICT OF ................. IN
THE .................................. PROVINCE

REFERENCE: ............

1. PURPOSE

To obtain Provincial Grants Committee approval for:

1.1. The disposal of portion ...... of farm: ..........., situated in the.......... District of the ............... Province in terms of section 11 of the
Provision of Land and Assistance Act, Act No. 126 of 1993; and

1.2. LRAD grant funding for the purchase of portion ...... of farm: ..........., situated in the............. District of the ............... Province in terms
of section 10(1)(b)(i) of the Provision of Land and Assistance Act, Act
No. 126 of 1993.

2. LEGAL PROVISIONS

2.1. Section 11 of the Provision of Land and Assistance Act, Act No. 126 of
1993 (hereafter referred to as the Act), provides for the disposal of
land acquired under the Act.
2.2. Section 10(1)(b)(i) of the Provision of Land and Assistance Act, Act No. 126 of 1993 (hereafter referred to as the Act), provides for the approval of the grant for the acquisition of land for agricultural purposes.

3. BACKGROUND

Portion... of farm............... was bought as part the Proactive Land Acquisition Strategy (Annexe the approval memorandums etc.).

Provide a background on the beneficiary leases and how the beneficiaries fared on the land.

Indicate that the leases need to be terminated and that we want to dispose of the land to beneficiaries.

4. DISPOSAL

Provide an indication that the disposal is in line with the terms and conditions as approved by the Minister, that the beneficiaries have proved that they can farm and that the Department wants to dispose to said beneficiaries

5. PROFILE OF BENEFICIARIES

<table>
<thead>
<tr>
<th>ii. Name of applicant group</th>
</tr>
</thead>
<tbody>
<tr>
<td>– if group</td>
</tr>
</tbody>
</table>

| iii. No. of applicants       |

| iv. No. of women             |

| v. No. of youth              |

Beneficiary list attached

6. LAND IDENTIFICATION

<table>
<thead>
<tr>
<th>Land description</th>
<th>Portion ..... of farm: ............</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farm Size/Extent</td>
<td></td>
</tr>
<tr>
<td>Title deed No.</td>
<td></td>
</tr>
</tbody>
</table>

Title deed attached
7. FINANCIAL IMPLICATIONS

<table>
<thead>
<tr>
<th>vi.</th>
<th>vii.</th>
</tr>
</thead>
<tbody>
<tr>
<td>viii. Agreed selling price with the Department</td>
<td>R xxxx</td>
</tr>
<tr>
<td>ix.</td>
<td></td>
</tr>
<tr>
<td>x. Own contribution</td>
<td>R xxxx</td>
</tr>
<tr>
<td>xi. Matching LRAD grant</td>
<td>R xxxx</td>
</tr>
</tbody>
</table>

*Attach Proof of own contribution*

8. LAND USE

Indicate and expand on the land use and management of the farm

9. LAND MANAGEMENT AND TENURE ARRANGEMENTS – if group application

Provide background to the type of legal entity that will be established and management processes.
10. RECOMMENDATION

It is recommended that approval be granted for:

10.1. The disposal of portion …… of farm: …………, situated in the………….. District of the ……………. Province in terms of section

10.2. Section 11 of the Provision of Land and Assistance Act, Act No. 126 of 1993; and

10.3. LRAD grant funding for the purchase of portion …… of farm: …………, situated in the………….. District of the ……………. Province in terms of section 10(1)(b)(i) of the Provision of Land and Assistance Act, Act No. 126 of 1993

Recommendation 10.1 supported/ not supported
Recommendation 10.2 supported/ not supported

DEPARTMENT OF LAND AFFAIRS DEPARTMENT OF AGRICULTURE CONSERVATION & ENVIRONMENT

Recommendation 10.1 approved / not approved
Recommendation 10.2 approved / not approved

CHAIRPERSON: PROVINCIAL GRANTS COMMITTEE
DATE:

Version 2 235 February 2007
LAND ACQUIRED IN TERMS OF THE PRO-ACTIVE LAND ACQUISITION STRATEGY THROUGH ACT 126: TERMINATION OF BENEFICIARY(IES) LEASE AGREEMENT(s)

Reference:

DIRECTOR: LAND REFORM IMPLEMENTATION SUPPORT

Please note that the following lease agreement(s) has (ve) been terminated and the land has been disposed of:

1. ................
2. ................
3. ................

As such the lease agreement(s) need to be terminated and de-register from the lease debtor system.

CHIEF DIRECTOR: ........ PLRO
DATE:
42. IMPLEMENTATION COMPLETION REPORT PRO-FORMA

The Department of Land Affairs
National Land Reform Programme

Implementation Completion Report

4. PROJECT BACKGROUND INFORMATION

Information from this section may be sourced from the Land Base
data base

LAND REDISTRIBUTION FOR AGRICULTURAL
DEVELOPMENT (LRAD)
<table>
<thead>
<tr>
<th>5. <strong>Date of Assessment of Project:</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>6. <strong>Assessment Conducted By</strong> <em>(Name and Position):</em></td>
<td></td>
</tr>
<tr>
<td>7. <strong>Assessment Number</strong></td>
<td>1</td>
</tr>
<tr>
<td>8. <strong>Name of Project</strong> <em>(Include Local Project Name)</em></td>
<td></td>
</tr>
<tr>
<td>9. <strong>Project File Reference Number</strong></td>
<td></td>
</tr>
<tr>
<td>10. <strong>Province</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Postal Address of Project**

**Physical Address of Project**

**Name of District Manager**

**Contact Telephone/Cell Number** *(Include area-code if telephone number)*
## 11. Project History

### Why was the Project Developed/Initiated?

**Who initiated the project?**

### What was the purpose of the project?

<table>
<thead>
<tr>
<th>Purpose</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>To give beneficiaries access to land</td>
<td>1</td>
</tr>
<tr>
<td>To improve the incomes/socio/economic status of beneficiaries</td>
<td>2</td>
</tr>
<tr>
<td>To assist beneficiaries with the establishment of a small/medium commercially viable farm</td>
<td>3</td>
</tr>
<tr>
<td>Other Purpose (specify)</td>
<td>4</td>
</tr>
</tbody>
</table>

### Who are the people which the project intends to serve/benefit?

### Which organisations were involved in the project?

### Was the project implemented by the DLA Planner?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Was the project implemented by other institutions?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### What was their involvement?

<table>
<thead>
<tr>
<th>Facilitation</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Provision of services</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other involvement (specify)</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>4</td>
</tr>
</tbody>
</table>
**DATE OF PROJECT APPLICATION**

<table>
<thead>
<tr>
<th>GRANT AMOUNT</th>
<th>R (in thousands)</th>
</tr>
</thead>
</table>

**12. DATE OF GRANT APPROVAL OF PROJECT**

**13. DATE OF PROJECT TRANSFER**

<table>
<thead>
<tr>
<th>NAME OF DLA PLANNER/OTHER INSTITUTION OFFICIAL CURRENTLY DEALING WITH THIS PROJECT</th>
</tr>
</thead>
<tbody>
<tr>
<td>CONTACT DETAILS OF PLANNER/OTHER INSTITUTION OFFICIAL (CELL AND LANDLINE NUMBER)</td>
</tr>
</tbody>
</table>

**FROM WHICH PHASE WAS THE CURRENT DLA PLANNER/OTHER INSTITUTION OFFICIAL INVOLVED WITH THIS PROJECT?**

| Project Identification Phase | 1 |
| Project Approval Phase | 2 |
| Project Design Phase | 3 |
| Project Transfer Phase | 4 |
| Post-Settlement Phase | 5 |

**IF THE DLA PLANNER/OTHER INSTITUTION OFFICIAL WAS NOT INVOLVED FROM THE BEGINNING OF THIS PROJECT, WHAT (IF ANY) WERE THE DIFFICULTIES ASSOCIATED WITH PROJECT-HANDOVER TO A NEW DLA PLANNER/OTHER INSTITUTION OFFICIAL?**

<p>| The new planner/Other Institution Official was not briefed on the project when taking it over | 1 |
| There was little documentation on the project | 2 |
| The new planner/Other | 3 |</p>
<table>
<thead>
<tr>
<th>Institution Official is too overloaded with other projects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other difficulties:</td>
</tr>
</tbody>
</table>
14. PROJECT INITIATION

THIS SECTION SHOULD BE COMPLETED WITH FEEDBACK FROM THE PROJECT BENEFICIARIES ONLY. USE THE RATING-SCALE BELOW TO EVALUATE EACH OF THE STAGES IN THE PROCESS.

RATING SCALE:

- No need for immediate improvement
- Needs improvement on limited aspects
- Needs urgent attention and improvement

THIS SECTION SHOULD BE COMPLETED WITH FEEDBACK FROM BENEFICIARIES ONLY

DLA’s and/or other stakeholders awareness and educational campaigns (explaining what the specific land reform product is about)

<table>
<thead>
<tr>
<th>Rating</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>No need for immediate improvement</td>
<td>Needs improvement on limited aspects</td>
</tr>
</tbody>
</table>

Did the Project Officer/Other institution official help you with the completion of the project identification report in order to access the specific product or exercise rights under the product

<table>
<thead>
<tr>
<th>Rating</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>No need for immediate improvement</td>
<td>Needs improvement on limited aspects</td>
</tr>
</tbody>
</table>

HOW LONG DID THIS PROCESS TAKE?

Specify the number of days, weeks or months

DOES THIS PHASE OF THE PROJECT REQUIRE INTERVENTION AND/OR IMPROVEMENT?

Yes 1
No 2


TO BE COMPLETED BY ASSESSOR:

TYPE OF INTERVENTION NEEDED FOR THIS PHASE (RECOMMENDED ACTION):

<table>
<thead>
<tr>
<th>Intervention Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whole Awareness/education campaigns needs to be redone because beneficiaries don't understand land product</td>
<td></td>
</tr>
<tr>
<td>Specific part of Awareness/education campaigns needs to be redone because beneficiaries don't understand that part of the land product</td>
<td></td>
</tr>
<tr>
<td>OTHER INTERVENTION: (SPECIFY)</td>
<td></td>
</tr>
</tbody>
</table>

AGENCY, INDIVIDUAL OR GOVERNMENT DEPARTMENT THAT SHOULD UNDERTAKE THE RECOMMENDED ACTION:
<table>
<thead>
<tr>
<th>HOW URGENT IS THE RECOMMENDED ACTION?</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>LOW URGENCY</td>
<td>1</td>
</tr>
<tr>
<td>MEDIUM URGENCY</td>
<td>2</td>
</tr>
<tr>
<td>HIGH URGENCY</td>
<td>3</td>
</tr>
</tbody>
</table>
15. **PROJECT DESIGN**

THIS SECTION SHOULD BE COMPLETED WITH FEEDBACK FROM THE PROJECT BENEFICIARIES AND THE DLA PLANNER/OTHER INSTITUTION OFFICIAL. USE THE RATING-SCALE BELOW TO EVALUATE EACH OF THE STAGES IN THE PROCESS.

**RATING SCALE:**

<table>
<thead>
<tr>
<th>No need for immediate improvement</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Needs improvement on limited aspects</td>
<td>2</td>
</tr>
<tr>
<td>Needs urgent attention and improvement</td>
<td>3</td>
</tr>
</tbody>
</table>

**THIS SECTION SHOULD BE COMPLETED WITH FEEDBACK FROM BENEFICIARIES ONLY**

DLA assistance with the design of the business plan for the project and explanation to the beneficiaries what the business plan entails (stages in the business plan and issues relating to the implementation of the business plan)

| No need for immediate improvement | Needs improvement on limited aspects | Needs urgent attention and improvement |

Were beneficiaries part of the design of the business plan and did they understand their roles in the projects as detailed in the business plan?

| No need for immediate improvement | Needs improvement on limited aspects | Needs urgent attention and improvement |

**ARE BENEFICIARIES’ BUSINESS PLANS ALIGNED WITH PROJECT GOALS?**

| Yes | 1 |
| No | 2 |

**ARE BENEFICIARIES FARMING ACCORDING TO THEIR BUSINESS PLANS?**

| Yes | 1 |
| No | 2 |

**INSTRUCTION: IF THIS PHASE OF THE PROJECT DOES NEED INTERVENTION AND/OR IMPROVEMENT, PLEASE INDICATE THE TYPE OF INTERVENTION AND/OR IMPROVEMENT NEEDED IN THE NOTE BOX BELOW; THE DEGREE OF URGENCY OF THE INTERVENTION AND THE AGENCY, INDIVIDUAL OR GOVERNMENT DEPARTMENT THAT SHOULD UN DERTAKE THE RECOMMENDED ACTION.**

**TO BE COMPLETED BY ASSESSOR (by filling in the notes box below):**

**Section to be completed after assessing beneficiary opinions ONLY:** If difficulties or problems were experienced by beneficiaries with any of the steps in this stage of the project, indicate what these difficulties were.

| Whole business plan designing process has flaws and needs to be undertaken again |
| Specific part(s) of business plan design process has flaws and needs to be undertaken again |
| **OTHER INTERVENTION: (SPECIFY)** |
**HOW URGENT IS THE RECOMMENDED ACTION?**

| Low Urgency | 1 |
| Medium Urgency | 2 |
| High Urgency | 3 |

**To be completed by assessor (by filling in the note box below):**

Section to be completed after assessing the opinions of the DLA planner/Other Institution Official responsible for the implementation of the project. If difficulties or problems were experienced with any of the steps in this stage of the project, indicate what these difficulties were.

| Whole business plan designing process has flaws and needs to be undertaken again |
| Specific part(s) of business plan design process has flaws and needs to be undertaken again |

**Other intervention:**

**Specify other intervention:**

**Specific part of part of business plan design phase that needs intervention:**

**Does this phase of the project require intervention and/or improvement?**

| Yes | 1 |
| No | 2 |

**Instruction:** If this phase of the project does need intervention and/or improvement, please indicate the type of intervention and/or improvement needed in the note box below; the degree of urgency of the intervention and the agency, individual or government department that should undertake the recommended action.

**To be completed by assessor:**

**Type of intervention needed for this phase (recommended action):**

**Agency, individual or government department that should undertake the recommended action:**
16. PROJECT ESTABLISHMENT

THIS SECTION SHOULD BE COMPLETED WITH FEEDBACK FROM THE PROJECT BENEFICIARIES AND THE DLA PLANNER/OTHER INSTITUTION OFFICIAL. USE THE RATING-SCALE BELOW TO EVALUATE EACH OF THE STAGES IN THE PROCESS.

RATING SCALE:

<table>
<thead>
<tr>
<th>Rating</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>No need for immediate improvement</td>
</tr>
<tr>
<td>2</td>
<td>Needs improvement on limited aspects</td>
</tr>
<tr>
<td>3</td>
<td>Needs urgent attention and improvement</td>
</tr>
</tbody>
</table>

THIS SECTION SHOULD BE COMPLETED WITH FEEDBACK FROM THE PROJECT BENEFICIARIES ONLY

DLA assistance with negotiations of price of land

<table>
<thead>
<tr>
<th>Rating</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>No need for immediate improvement</td>
</tr>
<tr>
<td>2</td>
<td>Needs improvement on limited aspects</td>
</tr>
<tr>
<td>3</td>
<td>Needs urgent attention and improvement</td>
</tr>
</tbody>
</table>

WHAT WAS THE ASKING PRICE OF THE OWNER?

R

WHAT WAS THE AGREED SELLING PRICE?

R

WERE BENEFICIARIES SATISFIED WITH THE PRICE OF THE LAND?

<table>
<thead>
<tr>
<th>Response</th>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>1</td>
</tr>
<tr>
<td>No</td>
<td>2</td>
</tr>
</tbody>
</table>

IF BENEFICIARIES ARE SATISFIED OR NOT SATISFIED SPECIFY THE REASONS:

DLA assessment of training needs of the beneficiaries.

<table>
<thead>
<tr>
<th>Rating</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>No need for immediate improvement</td>
</tr>
<tr>
<td>2</td>
<td>Needs improvement on limited aspects</td>
</tr>
<tr>
<td>3</td>
<td>Needs urgent attention and improvement</td>
</tr>
</tbody>
</table>

DLA assistance with facilitation of training support for the beneficiaries.

<table>
<thead>
<tr>
<th>Rating</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>No need for immediate improvement</td>
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<td>Needs improvement on limited aspects</td>
</tr>
<tr>
<td>3</td>
<td>Needs urgent attention and improvement</td>
</tr>
</tbody>
</table>

TO BE COMPLETED BY ASSESSOR:

This section should be completed after assessing opinions of beneficiaries: If difficulties or problems were experienced by beneficiaries with any of the steps in this stage of the project, indicate what these difficulties were.
Training needs for beneficiaries were not appropriately assessed and stage needs to be undertaken again.

Training support for beneficiaries was not appropriately facilitate and beneficiaries needs further training.

**OTHER INTERVENTION: (SPECIFY)**

---

**TO BE COMPLETED BY ASSESSOR:**

This section should be completed after assessing opinions of DLA planner/Other Institution Official responsible for the project: If difficulties or problems were experienced with any of the steps in this stage of the project, indicate what these difficulties were.

---

**DOES THIS PHASE OF THE PROJECT REQUIRE INTERVENTION AND/OR IMPROVEMENT?**

<table>
<thead>
<tr>
<th></th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>1</td>
</tr>
<tr>
<td>No</td>
<td>2</td>
</tr>
</tbody>
</table>

**INSTRUCTION:** IF THIS PHASE OF THE PROJECT DOES NEED INTERVENTION AND/OR IMPROVEMENT, PLEASE INDICATE THE TYPE OF INTERVENTION AND/OR IMPROVEMENT NEEDED IN THE NOTE BOX BELOW; THE DEGREE OF URGENCY OF THE INTERVENTION AND THE AGENCY, INDIVIDUAL OR GOVERNMENT DEPARTMENT THAT SHOULD UNDERTAKE THE RECOMMENDED ACTION.

**TO BE COMPLETED BY ASSESSOR:**

**TYPE OF INTERVENTION NEEDED FOR THIS PHASE (RECOMMENDED ACTION):**

**AGENCY, INDIVIDUAL OR GOVERNMENT DEPARTMENT THAT SHOULD UNDERTAKE THE RECOMMENDED ACTION:**

---

**HOW URGENT IS THE RECOMMENDED ACTION?**

<table>
<thead>
<tr>
<th></th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>LOW URGENCY</td>
<td>1</td>
</tr>
<tr>
<td>MEDIUM URGENCY</td>
<td>2</td>
</tr>
<tr>
<td>HIGH URGENCY</td>
<td>3</td>
</tr>
</tbody>
</table>
17. **Project Approval**

This section should be completed with feedback from the DLA planner/other institution official. Use the rating-scale below to evaluate each of the stages in the process.

**Rating Scale:**
- No need for immediate improvement
- Needs improvement on limited aspects
- Needs urgent attention and improvement

### The process of submitting documentation (project package) to the District Screening Committee and the Provincial Grants Committee.

<table>
<thead>
<tr>
<th></th>
<th>No need for immediate improvement</th>
<th>Needs improvement on limited aspects</th>
<th>Needs urgent attention and improvement</th>
</tr>
</thead>
</table>

**To be completed by assessor (by filling in the note box below):**

If difficulties or problems were experienced with any of the steps in this stage of the project, indicate what these difficulties were.

**Does this phase of the project require intervention and/or improvement?**

| Yes | 1 |
| No  | 2 |

**Instruction:** If this phase of the project does need intervention and/or improvement, please indicate the type of intervention and/or improvement needed in the note box below; the degree of urgency of the intervention and the agency, individual or government department that should undertake the recommended action.

**To be completed by assessor:**

**Type of intervention needed for this phase (recommended action):**

**Agency, individual or government department that should undertake the recommended action:**
<table>
<thead>
<tr>
<th>HOW URGENT IS THE RECOMMENDED ACTION?</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Urgency</td>
<td>1</td>
</tr>
<tr>
<td>Medium Urgency</td>
<td>2</td>
</tr>
<tr>
<td>High Urgency</td>
<td>3</td>
</tr>
</tbody>
</table>
18. **Project Transfer**

This section should be completed with feedback from the project beneficiaries and the DLA planner/other institution official. Use the rating-scale below to evaluate each of the stages in the process.

**Rating Scale:**

<table>
<thead>
<tr>
<th>Rating Scale</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>No need for immediate improvement</td>
<td></td>
</tr>
<tr>
<td>Needs improvement on limited aspects</td>
<td></td>
</tr>
<tr>
<td>Needs urgent attention and improvement</td>
<td></td>
</tr>
</tbody>
</table>

**For DLA Planner/Other Institution Official Only**

The process of appointing a conveyancer for the project. (this includes the administrative issues that are involved in the appointment of a conveyancer)

<table>
<thead>
<tr>
<th>Rating Scale</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>No need for immediate improvement</td>
<td></td>
</tr>
<tr>
<td>Needs improvement on limited aspects</td>
<td></td>
</tr>
<tr>
<td>Needs urgent attention and improvement</td>
<td></td>
</tr>
</tbody>
</table>

Was a subdivision of land undertaken?

<table>
<thead>
<tr>
<th>Yes</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>2</td>
</tr>
</tbody>
</table>

Are you satisfied with the subdivision process?

<table>
<thead>
<tr>
<th>Yes</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>2</td>
</tr>
</tbody>
</table>

**For Project Beneficiaries Only**

The process of the subdivision of the land before the transfer took place

<table>
<thead>
<tr>
<th>Rating Scale</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>No need for immediate improvement</td>
<td></td>
</tr>
<tr>
<td>Needs improvement on limited aspects</td>
<td></td>
</tr>
<tr>
<td>Needs urgent attention and improvement</td>
<td></td>
</tr>
</tbody>
</table>

**For Project Beneficiaries Only**

The process of land transfer (this includes issues such as the time it took to process the transfer of land; the manner in which the transfer process was undertaken etc.).

<table>
<thead>
<tr>
<th>Rating Scale</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>No need for immediate improvement</td>
<td></td>
</tr>
<tr>
<td>Needs improvement on limited aspects</td>
<td></td>
</tr>
<tr>
<td>Needs urgent attention and improvement</td>
<td></td>
</tr>
</tbody>
</table>

**To be completed by Assessor (by filling in the note box below):**

To be completed after assessing the opinions of DLA planner/Other Institution Official responsible for the project: If difficulties or problems were experienced with any of the steps in this stage of the project, indicate what these difficulties were.
DOES THIS PHASE OF THE PROJECT REQUIRE INTERVENTION AND/OR IMPROVEMENT?

Yes 1
No 2


TO BE COMPLETED BY ASSESSOR:

<table>
<thead>
<tr>
<th>TYPE OF INTERVENTION NEEDED FOR THIS PHASE (RECOMMENDED ACTION):</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AGENCY, INDIVIDUAL OR GOVERNMENT DEPARTMENT THAT SHOULD UNDERTAKE THE RECOMMENDED ACTION:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

HOW URGENT IS THE RECOMMENDED ACTION?

| LOW URGENCY | 1 |
| MEDIUM URGENCY | 2 |
| HIGH URGENCY | 3 |
19. PROJECT SUSTAINABILITY

This section should be completed with feedback from the project beneficiaries and the DLA planner/other institution official. Use the rating-scale below to evaluate each of the stages in the process.

**Rating Scale:**

<table>
<thead>
<tr>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>No need for immediate improvement</td>
</tr>
<tr>
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<tr>
<td>Needs urgent attention and improvement</td>
</tr>
</tbody>
</table>

**For beneficiaries only**

Education and training support from government departments (including DLA) and/or any other institution(s) or individuals on how to use land to achieve the goals of the project.

<table>
<thead>
<tr>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>No need for immediate improvement</td>
</tr>
<tr>
<td>Needs improvement on limited aspects</td>
</tr>
<tr>
<td>Needs urgent attention and improvement</td>
</tr>
</tbody>
</table>

Access to resources: money – sufficient money to pay for costs of running the project in accordance with the business plan.

<table>
<thead>
<tr>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>No need for immediate improvement</td>
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<tr>
<td>Needs improvement on limited aspects</td>
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<td>Needs urgent attention and improvement</td>
</tr>
</tbody>
</table>

Access to resources: equipment – sufficient equipment to ensure the project functions and meets the original aims and goals of the project as detailed in the business.

<table>
<thead>
<tr>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

Access to resources: water – sufficient water to ensure the project functions and meets the original aims and goals of the project as detailed in the business.

<table>
<thead>
<tr>
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</thead>
<tbody>
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<tr>
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</table>

Access to resources: electricity – access to electricity to ensure the project functions and meets the original aims and goals of the project as detailed in the business.

<table>
<thead>
<tr>
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Access to markets: markets for the sale of goods that are produced in the project.

<table>
<thead>
<tr>
<th>Rating</th>
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</table>
**Institutional support:** functionality of committee/project legal entity committee. This includes the holding of regular meetings by the committee/legal entity committee, motivation of committee members etc.

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<tr>
<th>No need for immediate improvement</th>
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**Other institutional support:** support that the project received from other government departments including municipalities/local government.

<table>
<thead>
<tr>
<th>No need for immediate improvement</th>
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</tr>
</thead>
</table>

**FOR DLA PLANNER/OFFICE OF DLA PLANNER/OFFICE OF DLA DEVELOPMENT OFFICIAL ONLY**

**Access to resources:** money – sufficient money to pay for costs of the project in accordance with the business plan.

<table>
<thead>
<tr>
<th>No need for immediate improvement</th>
<th>Needs improvement on limited aspects</th>
<th>Needs urgent attention and improvement</th>
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</table>

**Access to resources:** equipment – sufficient equipment to ensure the project functions and meets the original aims and goals of the project as detailed in the business.

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<tr>
<th>No need for immediate improvement</th>
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</table>

**Access to resources:** water – sufficient water to ensure the project functions and meets the original aims and goals of the project as detailed in the business.

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</tr>
</thead>
</table>

DOES ANY OF THE ISSUES RELATING TO THE SUSTAINABILITY OF THE PROJECT REQUIRE INTERVENTION AND/OR IMPROVEMENT?

Yes 1  
No 2


TO BE COMPLETED BY ASSESSOR:

<table>
<thead>
<tr>
<th>TYPE OF INTERVENTION AND/OR IMPROVEMENT NEEDED (RECOMMENDED ACTION):</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
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</table>

HOW URGENT IS THE RECOMMENDED ACTION?

<table>
<thead>
<tr>
<th>LOW URGENCY</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>MEDIUM URGENCY</td>
<td>2</td>
</tr>
<tr>
<td>HIGH URGENCY</td>
<td>3</td>
</tr>
</tbody>
</table>

ARE ANY OTHER INTERVENTIONS REQUIRED ON THIS PROJECT? PLEASE INDICATE

<p>| |</p>
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>
## SUSTAINABILITY ISSUES: PROJECT LEARNINGS

**To be completed by assessor:**

To be completed after assessing the opinions of the project beneficiaries and the DLA planner/Other Institution official on the overall project sustainability and conducting an environmental assessment of the issues that affects the project's sustainability: Indicate all the issues (LEARNINGS) that may be affecting the sustainability of the project.

<table>
<thead>
<tr>
<th>Positive Factors:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Negative Factors:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>
Summary of Policy and procedures for expropriation of land in terms of Act 126 and ESTA

1. Policy for expropriation

In summary, the policy states the following:

Land may be expropriated on behalf of identified beneficiaries in terms of section 12 of Act 126/section 26 of ESTA, where the Minister has approved of the subsidies in terms of section 2 or 10 of Act 126/section 4 of ESTA, when:

*No suitable alternative land is available and the Department and the property owner cannot agree on the acquisition (or) agreement on acquisition but cannot agree on price.*

The amount of compensation offered to the property owner must be included in the hearing notice; based on a variation of the Gildenhuyys formula.

2. Identified and unidentified beneficiaries

The Minister may expropriate land on behalf of identified beneficiaries as well as for unidentified beneficiaries. The procedures in terms of this document and accompanying standard documents, however, proceed on the basis that expropriation will be undertaken on behalf of identified beneficiaries. Thus, the project has already proceeded to the point where either the Minister has approved the subsidies in terms of section 2 or 10 of Act 126/section 4 of ESTA and the owner now refuses to sell with regard to the price of the land, or the project will be submitted for approval of subsidies in terms of section 2 or 10 of Act 126/section 4 of ESTA as part of the recommendation to expropriate land. In the second scenario, the project cannot proceed, because the owner won’t sell at appropriate price or there is no suitable alternative land and the only alternative option is to recommend that the land be expropriated. If expropriation is to take place for unidentified beneficiaries, then the procedures and standard documents will need to be altered accordingly.
3. Procedures for expropriations

<table>
<thead>
<tr>
<th>STEPS IN THE EXPROPRIATION CYCLE</th>
<th>PROCESS</th>
<th>ACTION REQUIRED</th>
<th>TIME FRAME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decision on whether to consider expropriation</td>
<td>Adhere to Criteria</td>
<td>Valuation</td>
<td></td>
</tr>
<tr>
<td>Determination of compensation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preparing for the hearing: Recommendation of Expropriation and Compensation</td>
<td>Approval memorandum to DG Notice of recommendation for expropriation Memorandum of justification for expropriation</td>
<td>Submission to DG</td>
<td></td>
</tr>
<tr>
<td>The Hearing: Serving the Notice of Recommendation and Compensation and Memorandum for Justification</td>
<td>How to deliver What if the owner responds</td>
<td>Deliver notice of recommendation of expropriation to owner of property</td>
<td>21 days</td>
</tr>
<tr>
<td>Preparing for expropriation</td>
<td>Prepare memorandum to the Minister Prepare the notice of expropriation and compensation</td>
<td>Submission to Minister</td>
<td>6 days</td>
</tr>
<tr>
<td>Serving the expropriation and compensation notice</td>
<td></td>
<td></td>
<td>2 weeks</td>
</tr>
<tr>
<td>Payment of compensation</td>
<td>Deliver notice of expropriation and compensation to owner of property</td>
<td></td>
<td>60 days</td>
</tr>
</tbody>
</table>

Prepare for the Register
In summary, the process to be followed is:

The Minister must, prior to expropriation, give the property owner a hearing. This hearing is given through a Notice of Recommendation of Expropriation and Compensation and a Memorandum justifying the Recommendation of Expropriation and Compensation. The owner of the property has 21 days to respond to the notice. After this period the Minister can expropriate the property. An expropriation notice, signed by the Minister in which he determined the amount, time and manner of compensation and the date of expropriation, must be delivered to the owner of the property in the prescribed manner. On the date of expropriation, the Department pays the owner of the property 100% (or 90% if a portion is to be expropriated) of the amount offered. This will ensure that the Department does not have to pay interest on any outstanding funds. A copy of the expropriation notice must be lodged with the Registrar of Deeds, immediately after expropriation. The State takes possession of the property on date of expropriation and the beneficiaries can move onto the land. A conveyancer must be appointed to effect transfer of the property into the name of the beneficiaries.
1. DISCUSSION

1.1 Introduction

In its attempts to deliver on the Redistribution Programme and *Land Summit 2005* recommendations, the Department of Land Affairs (DLA) needs to explore alternative methods of acquiring land. One such avenue is the participation at land auctions. The purpose of this document is to propose coherent guidelines on how to go about securing land via auctions. This guidelines focus on the purchase of land at auctions where both the land and beneficiary group may or may not have been identified. It would not help the DLA’s land reform targets in terms of agriculture if the land on auction is black-owned land.

1.2 Non negotiables of an auctions process

(a) Auctions must be within an area-based approach and

(b) PLRO should ensure that in terms of agricultural land, the land on auction is white owned agricultural land because it would not help the DLA’s land reform target of 30% in terms of agriculture if land on auction is black-owned land.

(c) Prior to all auctions a desktop valuation must be carried out or the opinion of a property expert can be solicited to ensure that the PLROs do not bid over the market prices during an auctions process.

1.3 Advantages of the Auctions route

Land auctions present the DLA and disadvantaged communities with a good opportunity of acquiring land possibly cheaply, given that the final bidding price for land at an auction is generally approximately ±90% of the normal market value.

In most instances the land in question has arisen from insolvencies, deceased estates and financial institutions foreclosing on property. Another avenue relates to mortgaged land purchased through financial institutions e.g. Land Bank auctions.

This submission ties in well with the DLA’s new vision, i.e. alternative methods of acquiring land proactively and possibly cheaply on the open market, the rapid delivery of land redistribution projects, and the need to develop supply-driven land reform options.
1.4 Disadvantages of the Auctions process

1.4.1 Properties are purchased *voetstoots* (as is).

1.4.2 Properties are only seen on the day of the auction or at some auctions this may not be the case and the auction could be held off-site e.g. auctions of the Sheriff of the Courts for that region. PLROs may be aware of potential land that will come up for auction.

1.4.3 The DLA would not be able to obtain a valuation report or feasibility report prior to the auction and may not know the true value of the property until the day of the auction. If the DLA successfully wins an auction bid, the DLA would still not be able to carry out feasibility studies or complete a proper valuation on the property because the balance of payment of the auction price is due 30/60 days after the auction.

1.4.4 If the Provincial Land Reform Office has not carried out an initial needs analysis and has obtained land through an auction’s process, this will result in increased holding costs and place additional administrative and management burdens on the PLRO. The acquired property could also be vandalized.

1.4.5 It could happen that, for a number of reasons, the bid price at an auction exceeds the market value of the land, e.g. where other bidders may mobilize against the DLA, or where inexperienced bidders get caught up in the excitement of the process and raise the bid price beyond the market value and if DLA does not meet the reserve price set for the property.

1.5 The Legislative Framework for Auctions

The Provision of Land and Assistance Act, (Act No. 126 of 1993) through Section 10(1)(a) allows the Minister, from money appropriated by Parliament to acquire *land for the purposes of this Act*. This section of the Act would cover an auctions process and has been delegated to Provincial Chief Directors.

2. THE AUCTIONS PROCESS

The following sub-sections describes the processes involved at Public, Land Bank and other financial institutions auctions. It also discusses alternative arrangements that may be entered into prior to the auction. The problems that may arise from these and how they affect the DLA’s ability to positively engage at auctions will be raised and discussed in the subsequent sections.
2.1 Public Auctions

—one common scenarios that would necessitate an auction:—
• Where the owner is insolvent;
• Where a bank attaches and sells the property for failure to pay on a mortgage loan;
• Land may be left in a deceased estate; and
• A landowner may opt to put his/her land up for auction either to negate the complex processes of sales agreements or because an appropriate offer for the land was not forthcoming.

The first three options provide the Department of Land Affairs with real opportunities of acquiring land reasonably, because in both instances a sale must be concluded, i.e. they are forced to sell. The last option does not present a viable option, as the farmer will often wait for an offer close to the market value of the land with the aim of not wanting to lose financially. This implies, therefore, that if an appropriate offer is not forthcoming, there is no need or urgency to conclude the sale. Experience in redistribution projects has shown this to be especially true if the landowner knows that the DLA is financing the sale.

2.1.1 Participating at Public Auctions

(a) All buyers must pre-register for the auction at least 14 days prior to the auction, in order to pre-qualify. PLRO must try to register with as many private auction houses in their province so that the PLRO can be invited to participate at these auctions or the PLRO must watch printed media for details on private auctions.

(b) The winning bidder will be the buyer who bids the highest price

(c) The CD: PLRO will be required to sign the Condition of Sale Agreement (see Annexure A, Example of a Condition of Sale Agreement), which inter-alia, states that they will not resell the properties in any form, until such stage that the transfer has taken place into their name or entity and if they do the sale will be cancelled forthwith and the purchaser will be held liable for any losses or damages.

(d) Prior to the commencement of the auction, all those intending to bid must make a 10% down-payment of the reserve price or issue a financial guarantee on the day of auction instead of the 10-15% deposit. This enables the auctioneer to determine who the serious bidders are.

(e) The following exemption is, however, offered to all government departments:

• A financial guarantee may be issued to the auctioneer prior to the commencement of some private auctions clearly stating and including:
• A Financial guarantee from the Department must emphasize that full payment will be made prior to the date of transfer. The guarantee must includes all costs that may arise out of the auctions processes e.g. auctioneers fees, VAT, rates taxes, transfer duty and stamp duty. For a standard guarantee used, see Annexures B and C for Circular on issuing financial guarantees.

**Breach of sale agreement**

In the event of the purchaser being in breach of any of the terms and conditions and his/her failure to remedy such breach within 10 days of hand delivery to the purchaser’s domicilium address that called upon the Purchaser to remedy such breach, the Seller or his/her agent shall be entitled to:

a) Cancel the sale by written notice delivered or transmitted as above and all amounts paid by the purchaser to date shall be forfeited. The Seller reserves the rights to claim any further damages from the purchaser – or

b) Immediately claim the full purchase price and implementation of the Condition of Sale agreement.

### 2.2 Land Bank Auctions

The Land Bank has, as its main focus, the financing and not the buying and selling of property. This involves a certain amount of risk and, occasionally, the Bank is forced to foreclose on property that has been used as collateral against which a non-performing loan was granted. The decision to foreclose is currently taken at the Land Bank’s Head Office in Pretoria. Until the advertisements of the proposed sale are placed in the newspapers, all information is treated as confidential and cannot be disclosed to third parties, including the DLA. The reason for this is firstly, a privilege of confidentiality exists between the Bank and its clients, and secondly, the owner of the property has the right, until the day of the proposed sale, to honour his/her commitment to the Bank. Due legal process require the attached properties to be sold by either public auction or by means of a tender process.31 The Bank appoints the Sheriff of the court to auction on their behalf and the Sheriff of the court becomes the seller.

The Land Bank is compelled by the Land Bank Act to sell property at an auction, but the Act does not prevent the Bank from placing a reserve price on the property. The negative side of this is that the Bank may place a reserve price that may be equivalent to the normal market value.

#### 2.2.1 Participating at Land Bank Auctions

At an auction of fixed property the following scenarios may arise:

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31. The Land Bank’s agricultural economists place the reserve price on properties at the auctions. However if the reserve price is not met at the auction a provision for a “reasonable price below market value” for the property will be made. 4. Some auction houses stipulate that payment has to be made in 14 days after the land has been bought on auctions while others stipulate 30 days.
a) At a Land Bank auction, at least 10-15% of the purchase price must be paid or guaranteed on the day of the auction.\textsuperscript{32}

b) PLROs can utilize the financial Guarantee to bid at a Land Bank auction (See Annexures B and C)

c) All costs associated with this auction must be included in the financial guarantee. Some of these costs include VAT, advert, rates and taxes the auctioneer’s commission is 6% on the first R30,000.00 and 3.5% on the balance of payment thereafter up to a maximum of R7000.

d) The condition of sale agreement must be signed after the auction by the Chief Director: PLRO.

e) After the sale price is paid to Land Bank \textbf{on the date of transfer}, the relevant property will then be transferred to the State and the bond will be cancelled.

f) If the Bank’s reserve price is not met at an auction, the Bank will most definitely buy in the asset and once acquired by the Bank, the property becomes a “landed asset”. The Bank will decide at any reasonable offer it may receive for the asset. In terms of an existing Memorandum of Understanding between the Land Bank and DLA (see Annexure D), the Land Bank would first offer the DLA, in terms of its land reform mandate, the option to purchase any of its landed properties. The reserve prices for the land are normally determined at \( \pm 90\% \) of the normal market value of the property.

**Breach of the sale agreement**

The DLA will forfeit all its deposit money and estimated damages incurred as a result of the breach of the Condition of Sale shall be claimed from the DLA.

\textbf{2.3 Commercial Banks}

As with the Land Bank, commercial banks’ primary focus is to finance and not to buy or sell property. Banks are compelled to foreclose on the property for which a non-performing loan was granted. The repossessed property would then be sold at an amount equivalent to the normal market value at the auction. The legal processes require the attached properties to be sold by the public auction. The Bank appoints the Sheriff to bid on their behalf. The auction is then conducted by the Sheriff with either the Bank official present or the appointed attorney to protect the Bank’s interest.

\textsuperscript{32} Personal interview conducted with Hennie Vallentgoed, Manager of Legal Resources at the Land Bank: Head Office (10/02/2006).

5. A Sheriff of the court never receives more than R7000 commission. Some auction houses stipulate payment 14 days after land has been bought on auction while others stipulate 30 days.
The properties are sold “Voetstoots” and the auction is conducted on site. The interested bidders have access to view the property and the property is then sold to the highest bidder. The Bank places the reserve price that may be equivalent to the normal market value.

2.3.1 Participating at Commercial Bank Auctions

a). The Bank /Sheriff may invite potential bidders to avail themselves during the auction.

b). Potential bidders are been given 2-3 days notice to view the property before the auction day. The auction is conducted on site in most instances and the Bank will also bid to ensure that the reserve price for the property is reached.

c). On the day of auction, if the PLRO wins the bid, a financial guarantee must be provided to the auctioneer that includes all costs such as the Sheriff’s maximum commission of 6% of the purchase price, VAT, advertising costs, rates and taxes and transfer duty.

d). The condition of sale is signed at the point of sale and the full purchase price could be settled within a period of 3 months of date of sale. The condition of sale is signed by the buyer (Chief Director: PLRO on behalf of the DLA) and the Sheriff as the “seller”.

Breach of sale agreement

The Bank will mostly insist on compensation for such costs associated with a “pull-out” and the deposit is non-refundable. Associated costs will be recovered through legal action.

3. GENERAL IMPLICATIONS FOR PLROs WHEN ENGAGING IN ANY AUCTIONS PROCESS.

3.1 Engaging prior to the Auction

It is possible for the Department, or any other party, to forward an offer for the land prior to an auction. To this end, it is important that the Department be placed on the invitation lists of the major auction houses as well as follow the Government Gazette notices and printed media regularly so as to keep abreast of land available for auction. PLROs should obtain as much information as possible about the land that is being auctioned.

33 Based on telephonic discussion with Cathy Forster of ABSA (manager of legal recoveries)
3.2 Who does the Bidding?

The Chief Director of the PLRO does the actual bidding on the day of the auction on behalf of DLA. He/She can be accompanied by a professional consultant.

3.3 What are the financial implications for DLA in terms of buying land at an auction?

Costs associated with buying at a:

- **Public auction**: Land price, VAT, rates and taxes, transfer duty, auctioneer’s commission
- **Land Bank**: Land price, VAT, rates and taxes, transfer duty, the Sheriff’s commission
- **Commercial Financial Institutions**: Land price, VAT, rates and taxes, transfer duty, the Sheriff’s commission.

3.4 What are the time constraints placed on the DLA in terms of Payment if the successful bidder at an auction?

- **Payment for Public Auction**: Payments have to be effected before the date of transfer- usually 14/30 days
- **Land Bank**: Payment has to be effected strictly on the date of transfer up to a maximum of 60 days.
- **Commercial Financial Institutions**: Payment has to be effected before the date of transfer 14/30 days.

3.5 Who pays for holding costs after the land has been acquired?

The PLROs are liable for holding costs. The holding costs include the following: security, insurance and maintenance. All the holding costs could be deducted from the planning grant.

4. GENERIC AUCTIONS PROJECT CYCLE

The diagram below outlines the generic procedures that the DLA will follow at a land auction.
Project Cycle (Land Auction)

Phase 1: Feasibility prior to auction

Step 1: check newspaper (property section and government gazette) for auctions

Step 2: Register if auction is to be conducted

Step 3: conduct a quick desktop valuation of properties on auction

Terms of reference for appointment of service provider
Outline of a valuations report

Outline of agricultural potential report

Phase 2: Bidding at an auction

Step 1: CD: PLRC sign financial guarantee up to the maximum price

Financial guarantee

Step 2: CD to attend auction and bid to the maximum price, if state wins the bid proceed to phase 3
Phase 3: Land acquisition

Step 1: Hand the guarantee over to auctioneer and conclude condition of sale agreement

Step 2: Auctioneer to provide PLRO with proof after the property has been registered and return the financial guarantee inorder for PLRO to effect payments

Condition of sale Payment advice form Memo signed by CD: PLRO

Step 4: Register property in the asset register

Phase Steps per phase
**ANNEXURE A: FINANCIAL GUARANTEE**

**DEPARTMENT: LAND AFFAIRS**

**REPUBLIC OF SOUTH AFRICA**

**[INSERT ADDRESS, PHONE NUMBER AND FAX NUMBER OF PROVINCIAL LAND REFORM OFFICE]**

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**Guarantee**

<table>
<thead>
<tr>
<th>Type of Guarantor:</th>
<th>State Guarantee</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Is there a maximum limit to the guarantee?</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum amount of guarantee: R</td>
<td></td>
</tr>
</tbody>
</table>

This guarantee is payable upon registration of (property description) in the name of the Republic of South Africa (National Department of Land Affairs)

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**Governing Law**

<table>
<thead>
<tr>
<th>Country:</th>
<th>Governed by South African Law</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(the person guaranteeing the debtor's obligations)</td>
</tr>
</tbody>
</table>

**Guarantor's Information:**

[ADDRESS OF PLRO]

---

**Debtor's Information:**

[PLRO INFORMATION]
### Lender/Creditor Information

(the person that is owed the debt or financial obligations):

### Debt Information

### Notice Information

To whom should notices for the Guarantor be sent?

<table>
<thead>
<tr>
<th>Tel to Contact Guarantor</th>
<th>Fax number</th>
<th>E-mail address</th>
</tr>
</thead>
</table>

### Additional Provision

| Number of Provisions: |

| First Additional Provision: |

Notwithstanding the second additional provision the Department of Land Affairs reserves the right to cancel this guarantee at any time (prior to the registration of transaction(s)) by giving you written notice to that effect.

| Second Additional Provision: |

This guarantee is valid for a period of three months from the date of issue. If the guarantee lapses, the legal entity/beneficiary/ies or their legal representative must apply for a new guarantee.

| Third Additional provision: |

This guarantee is neither negotiable nor transferable

| Fourth Additional Provision |

This Guarantee is payable after 15:00 on date of registration

### Attestation/Witnesses

| Signature of authorized Officer |

| 1. |

| Name: |

| Date: |

| 2. |
ANNEXURE B: CIRCULAR ON ISSUING OF FINANCIAL GUARANTEES

DEPARTMENT: LAND AFFAIRS
REPUBLIC OF SOUTH AFRICA

Directorate: Management Accounting, Private Bag X833, PRETORIA, 0001
Tel: (012) 312 8141, Fax: (012) 323 3619

MEMORANDUM

28 November 2005

Reference: K5/14/1

DEPARTMENTAL CIRCULAR NO 37 OF 2005
(ISSUED BY THE DIRECTORATE: FINANCIAL MANAGEMENT)

MINISTER
DEPUTY MINISTER
DEPUTY DIRECTOR-GENERAL
DEPUTY DIRECTOR-GENERAL
DEPUTY DIRECTOR-GENERAL
DEPUTY DIRECTOR-GENERAL
CHIEF SURVEYOR-GENERAL
CHIEF REGISTRAR OF DEEDS
SURVEYORS GENERAL
REGISTRARS OF DEEDS
CHIEF DIRECTORS
DIRECTORS
CHIEF LAND CLAIMS COMMISSIONER
LAND CLAIMS COMMISSIONERS

ISSUING OF GUARANTEES FOR THE ACQUISITION OF LAND FOR LAND REFORM PROGRAMMES

1. The attached circular from National Treasury has reference.

2. In terms of the circular from National Treasury, Programme Managers and Responsibility Managers to whom funds have been made available for the acquisition of land under the item: Capital Transfers to Households, may issue a guarantee for the acquisition of such land, in order to satisfy the requirements of financial institutions or other persons with regard to financial commitments by the Department of Land Affairs, undertaken in the course of and for the purposes of enabling, facilitating and effecting the transfer of property to qualifying land reform beneficiaries in terms of the Provision
of Land and Assistance Act, 1993 (Act no. 126 of 1993), or the Extension of Security of Tenure Act, 1997 (Act no. 62 of 1997) or the Land Reform (Labour Tenants) Act, 1966 (Act no. 3 of 1966 or the Restitution of Land Rights Act, 1994 (Act no. 22 of 1994) or the State Land Disposal Act, 1961 (Act no. 48 of 1961) or any other law which is administered by the Department.

3. Also attached is a pro forma guarantee drafted by the Directorate: Legal Services to be utilized for purposes of issuing a guarantee.

4. As the issuing of a guarantee does not create a commitment on BAS, Programme Managers and Responsibility Managers issuing guarantees are requested to keep a manual record of such commitments, also reflecting the anticipated date of transfer of the land, and to report outstanding commitments to the Director: Management Accounting, on a monthly basis, on or before the 7th of the ensuing month.

5. The delegation for signing of the guarantees is therefore given to the Responsibility Manager or Programme Manager.

GLEN S THOMAS
DIRECTOR-GENERAL
CONDITIONS OF SALE

In Terms of Which

PARK VILLAGE AUCTIONS & PROPERTY SALES CC
Trading As

PARK VILLAGE AUCTIONS

Of:

UNIT NUMBER 10, FERNDALE MEWS NORTH
355 OAK AVENUE (Cnr DOVER ROAD)
FERNDALE, RANDBURG, 2194

(hereinafter called the "Auctioneer")

acting on behalf of

(hereinafter called the "Seller")

intends to offer for sale at a Public Auction certain fixed

property being:

measuring approximately \( m^2 \) (Square Metres) in total extent

Situate at:

(hereinafter called the "Property").
Park Village Auctions in its capacity as Auctioneer will sell the property as advertised by Public Auction on behalf of the SELLER on the following terms and conditions:

1. **AUCTION PROCEDURE** :

   1.1 The auction shall be subject to the control of the Auctioneer who shall have the sole right to regulate the bidding.

   1.2 The highest bidder accepted by the Auctioneer shall become the purchaser and should any dispute arise, the Auctioneer's decision shall be final.

   1.3 The Auctioneer may, at his sole discretion and without stating any reason, stop the auction and/or withdraw the property from the auction.

   1.4 The PURCHASER shall forthwith, after the fall of the hammer and award of his bid, sign these Conditions of Sale.

2. **PURCHASE PRICE**:

   The purchase price is the sum of R payable as follows:

   2.1 A deposit of 15% (FIFTEEN PERCENT) thereof payable to the AUCTIONEER on signature hereof which sum will be held in Trust and any interest thereon shall be for the credit and benefit of the SELLER.

   2.2 For the balance of the purchase price the PURCHASER shall within 30 (THIRTY) days of acceptance of this sale, furnish the SELLER with a written Bank or other guarantee acceptable to the SELLER payable free of exchange at Johannesburg against registration of transfer of the property into the PURCHASER’S name.

   2.3 Occupational interest shall be payable by the PURCHASER to the SELLER direct at the rate of 11% (ELEVEN PERCENT) per annum on the balance of the purchase price from date of occupation to the date of registration of transfer, monthly in advance without any deduction or demand.

   2.4 All disbursements or costs made and incurred by the Auctioneer in respect of the auction shall be recovered out of the proceeds of the deposit and in the event of same being inadequate the SELLER irrevocably undertakes to pay any difference on demand.
3. **ACCEPTANCE:**

3.1 The terms and conditions hereof shall constitute an offer by the PURCHASER which shall be subject to the acceptance thereof by the SELLER within **14 (FOURTEEN)** days of date hereof and shall remain irrevocable and open for such acceptance during the said period.

3.2 The Auctioneer shall forthwith inform the PURCHASER of any written, higher offer, acceptable to the SELLER which is received during the period of **14 (FOURTEEN)** days. The PURCHASER shall for a further period of 24 (Twenty-four) hours after having received such notice, have the option to purchase the property at the same amount as the higher offer but subject otherwise to all the terms and conditions hereof. Should the SELLER elect to sell the property for the higher amount and the PURCHASER matches the higher offer, the SELLER shall be obliged to accept the PURCHASER’S offer.

3.3 The date of sale shall, for purposes of this Agreement, be deemed to be the date of acceptance by the SELLER. The Auctioneer shall thereafter notify the PURCHASER in writing of such acceptance by pre-paid registered post or by hand delivery or facsimile, at the sole discretion of the Auctioneer.

3.4 Should the SELLER not accept the PURCHASER’S offer the Auctioneer shall repay to the PURCHASER any deposit paid by him.

3.5 In the event of the sale requiring the consent of the Master of the High court in terms of any law, then this sale is subject to the Master giving such consent in writing.

4. **RISK AND CONTROL:**

The sole risk in and control pertaining to the property shall pass to the PURCHASER upon acceptance of this offer by the SELLER, and from date of occupation the PURCHASER shall be liable for all imposts levied on the property, inclusive of and without limiting the generality hereof, all rates and taxes, licences and other official and/or municipal charges. On date of acceptance all other benefits including rental in respect of the property, if any, and risks of ownership in respect of the property, shall pass to the PURCHASER who shall insure the property and improvements thereon for its full replacement value against risk of loss or damage by fire. Any rates and taxes or other amounts paid subsequent to the said date of acceptance by the SELLER shall be refunded proportionately by the PURCHASER on demand.
5. **OCCUPATION:**

5.1 Occupation shall be given to the PURCHASER forthwith on acceptance hereof by the SELLER. The SELLER, however, gives no warranty or guarantee that the PURCHASER will obtain vacant occupation of the property on the date provided and the PURCHASER shall have no claim of whatsoever nature against the SELLER should actual vacant occupation not be obtained on the said date.

5.2 The SELLER undertakes at the PURCHASER’S cost to do whatever is reasonably necessary and/or required of him by law to assist the PURCHASER in obtaining vacant occupation of the property.

5.3 If the property is leased this Agreement is entered into subject to the terms and conditions of the lease, with which the PURCHASER acknowledges himself to be fully acquainted, and the PURCHASER shall make his own arrangements with the lessee to obtain vacant occupation of the property. The PURCHASER acknowledges being fully aware of the protection afforded under the Rental Housing Act insofar as same may be applicable to any tenant.

5.4 If the highest bid obtained at the auction is insufficient to meet the amount owing under any mortgage bond registered over the property, then the property shall be sold free of any lease which was entered into after the registration of such mortgage bond over the property or free of any lease entered into prior to the registration of any mortgage bond in respect of which lease the mortgagee had no knowledge.

6. **“VOETSTOOTS”**

6.1 The property is sold "voetstoots" as it is and to the extent as it now lies and the SELLER shall not be liable for any defects, patent, latent or otherwise in the property nor for any damage occasioned to or suffered by the PURCHASER by reason of such defect. The PURCHASER admits having inspected the property to his satisfaction and that no guaranties or warranties of any nature were made by the SELLER or the Auctioneer regarding the condition or quality of the property or any of the improvements thereon or accessories thereto.

6.2 The property is sold subject to all the conditions and servitudes as are contained in the existing Title Deed and neither the Auctioneer nor the SELLER shall be answerable or liable for any deficiency in the extent of the property. In the event of the description or area of the property herein described being different from that in the Title Deed concerned, the description and area in such Title Deed shall be considered correct and deemed as if incorporated herein. The PURCHASER specifically acknowledges that he has acquainted himself with the situation, nature, condition,
beacons, extent and locality of the property, the SELLER and/or the Agent being entirely free from any liability in respect thereof.

The PURCHASER acknowledges that he has not been induced or influenced to enter into this Agreement by any warranties and/or representations and/or statements made and/or information given by the SELLER and/or the Auctioneer. No warranties and/or representations and/or statements and/or information, express, implied or tacit, which are not set forth in this Agreement shall be binding on the SELLER and/or the Auctioneer.

7. TRANSFER:

7.1 Transfer of the property shall be effected by the SELLER’S Conveyancers within a reasonable time after the PURCHASER has complied with the terms and conditions of this Agreement and paid to the SELLER’S Conveyancers transfer duty (or VAT whichever is applicable), and all other costs of transfer and generally all costs incidental to and for the registration of transfer, for all of which the PURCHASER shall be liable and obliged to pay on demand of the SELLER’S Conveyancers.

7.2 If the South African Revenue Service regards this as a vatable transaction then the PURCHASER shall pay the SELLER the amount of VAT at the standard rate on demand, it being specifically recorded that the purchase price excludes VAT.

7.3 The PURCHASER and SELLER undertake to do all such things and to sign all such documents necessary to effect registration of transfer of the property on demand of the SELLER’S Conveyancers and the SELLER shall have the right to cancel this Agreement should the PURCHASER unreasonably cause any delay of registration of transfer into the PURCHASER’S name.

8. COMPANY OR CLOSE CORPORATION TO BE FORMED:

8.1 In the event of the PURCHASER signing this offer in his capacity as trustee or agent for a Company or Close Corporation to be formed and the PURCHASER fails within 30 (THIRTY) days from date of acceptance of this offer to register a Company or Close Corporation having as one of its objects the ratification and adoption of this Agreement or such Company or Close Corporation fails to adopt or ratify this Agreement within 14 (FOURTEEN) days after the date of its incorporation, then and in such event the PURCHASER shall be deemed as from the date of acceptance hereof to have entered into this Agreement in his personal capacity, and to have acquired all the rights and obligations of the PURCHASER under this Agreement, subject to
the condition that the parties may in writing agree otherwise.

8.2 In the event of such Company or Close Corporation being registered and duly adopting or ratifying this Agreement, then the said PURCHASER, by his signature hereunder, shall be deemed to have bound himself to the SELLER as surety and co-principal debtor *in solidum* with such Company or Close Corporation for the due performance by it as the PURCHASER of all the terms, conditions and obligations arising from this Agreement.

9. **SURETYSHIP WHERE PURCHASER IS A COMPANY, CLOSE CORPORATION, OR PRINCIPAL FOR AN AGENT:**

Should the PURCHASER be a Company, Close Corporation, Trust or Principal represented herein by an agent, the person/s signing this Agreement on behalf of the PURCHASER hereby interposes and binds himself/themselves as surety/ies for, and co-principal debtor/s with, the PURCHASER for the due and proper discharge of all the PURCHASER’S obligations arising from this Agreement.

10. **AGENT OR NOMINEE:**

Where the PURCHASER is acting as an agent or nominee for a Principal, the PURCHASER shall be entitled, by notice in writing to that effect addressed to the SELLER, to nominate his Principal in his place PURCHASER, upon the following terms and conditions:

10.1 the aforesaid notice shall be handed to the SELLER by not later than close of business on the day of acceptance of this offer by the SELLER, accompanied by a copy of the documents so appointing the PURCHASER as agent or nominee;

10.2 the notice shall set out the name and address of the nominee so nominated as PURCHASER;

10.3 the notice shall be accompanied by the Principal’s written acknowledgement:

10.3.1 that it is fully aware of all the terms and conditions of this Agreement as if fully set out in such written acknowledgement; and

10.3.2 that he is bound by the provisions of this Agreement as the PURCHASER;
10.4 should the PURCHASER nominate a Principal in terms of this clause, then:

10.4.1 all reference to the PURCHASER in this Agreement shall be deemed to be a reference to its Principal; and

10.4.2 the PURCHASER by his signature hereto, hereby interposes and binds himself jointly and severally as surety and co-principal debtor in solidum to the SELLER of all the obligations of the Principal in terms of this Agreement, including damages.

10.5 Should the PURCHASER fail to nominate a Principal in terms of this clause, then he shall be bound to perform all his obligations as PURCHASER in terms of this Agreement.

11. CANCELLATION:

11.1 Should the PURCHASER fail to comply with any of the terms or conditions of this Agreement within 7 (SEVEN) days of receipt of written demand, the SELLER shall on such breach be entitled without further notice, either

11.1.1 To cancel this Agreement, take occupation of the property and have the property sold by auction or private treaty, in his sole discretion. The PURCHASER shall then be liable for all costs of such re-sale, any deficiency in price which results therefrom and also for all official dues as well as the Auctioneer’s commission and expenses in respect of this auction payable by the SELLER which amounts the SELLER would not have had to pay but for such breach, cancellation and consequent re-sale. All payments made by the PURCHASER to the SELLER and/or the Auctioneer pursuant to this Agreement shall then be regarded as "rouwkoop" and be forfeited by the PURCHASER in favour of the SELLER or be regarded as liquidated, pre-estimated damages; or

11.1.2 To hold the PURCHASER bound by this Agreement and to claim forthwith payment of the entire purchase price and any other damages caused as a result of such breach.

11.2 The PURCHASER shall be liable for all legal costs incurred by the SELLER arising out of a breach of this Agreement by the PURCHASER, on the attorney and own client scale of costs including collection commission.
12. **REPAIRS AND IMPROVEMENTS AND VACATION ON CANCELLATION:**

12.1 Should the PURCHASER make any repairs, alterations or improvements to the property then, unless otherwise beforehand agreed to in writing between the parties, the PURCHASER shall not be entitled to any refund or compensation in respect thereof, whether on cancellation or at any other time.

12.2 The PURCHASER shall be obliged to vacate the property upon cancellation of this Agreement for any reason whatsoever, it being agreed that no tenancy shall be created by any occupation prior to transfer.

13. **ELECTRICAL COMPLIANCE CERTIFICATE:**

There shall be no obligation on the SELLER to provide a Certificate of Compliance in regard to the electrical installation/s on the property in terms of the Electrical Installation Regulations of the Occupational Health and Safety Act No 85 or 1993, or in any other form, and no warranties whatsoever are given as to the condition or otherwise of the electrical installation/s on the property or that the PURCHASER will be able to obtain such Certificate. The PURCHASER acknowledges that he is obliged to obtain such Certificate of Compliance entirely at his own cost and expense.

14. **AUCTIONEER’S COMMISSION:**

The SELLER shall be liable for payment of the Auctioneer’s commission of 7.5% (SEVEN AND A HALF PERCENT) of the purchase price plus **Value Added Tax** thereon. The Auctioneer may, when entitled thereto, take and receive payment of his commission and any disbursements or costs made and incurred by him in respect of the auction, out of the proceeds of the said deposit and in the event of same being inadequate, the SELLER irrevocably undertakes to pay the Auctioneer the difference on demand. The commission will be deemed to have been earned on acceptance of this offer.

15. **FIXTURES AND FITTINGS:**

15.1 The property is sold together with any buildings or other improvements thereon and to the extent as it now lies "voetstoots" and in the event of there being such buildings or other improvements, any stoves, anthracite heaters, electric fittings, venetian blinds, pumps, engines, fences, trees and shrubs, all shall be deemed to be included in the sale.

15.2 The SELLER shall however, not be liable for any claims of whatsoever nature by the PURCHASER should the aforesaid improvements,
fixtures and fittings on date of occupation not be on the property nor in the same condition as at the date of the auction.

15.3 The SELLER shall under no circumstances be liable for any defects of any nature whatsoever, whether patent or latent and which may be present in the aforesaid improvements, fixtures and fittings on acceptance hereof or on occupation or which may at any time become manifest.

16. MAGISTRATE’S COURT JURISDICTION:

For the purposes of all or any proceedings arising out of this Agreement the parties hereby consent to the jurisdiction of the Magistrate’s Court otherwise having jurisdiction under Section 28 of the Magistrates’ Court Act 32 of 1944, as amended; notwithstanding that the proceedings are otherwise beyond the jurisdiction this clause shall be deemed to constitute the required written consent conferring jurisdiction upon the said Court pursuant to Section 45 of the Magistrates’ Court Act of 1944, as amended. Notwithstanding the aforesaid the SELLER shall have the right at the SELLER’S sole option and discretion to institute proceedings in any other competent Court which may otherwise have jurisdiction.

17. JOINT AND SEVERAL LIABILITY:

Should there be more than one PURCHASER, the PURCHASERS shall all be liable jointly and severally for all the obligations in terms hereof as well as for the payment of all monies hereunder and for complying with all the terms and conditions of this Agreement of whatever nature.

18. WHOLE AGREEMENT, NO AMENDMENT

18.1 This entire Agreement constitutes the whole agreement between the parties relating to the subject matter hereof.

18.2 No amendments or consensual cancellation of this Agreement or any provision or term thereof or of any agreement or other document issued or executed pursuant to or in terms of this Agreement and no settlement of any disputes arising under this Agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Agreement or of any agreement or other document issued pursuant to or in terms of this Agreement shall be binding unless recorded in a written document signed by the parties. Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.
18.3 No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement or any agreement or other document issued or executed pursuant to or in terms of this Agreement, shall operate as an estoppel against the SELLER in respect of his rights under this Agreement, nor shall it operate so as to preclude the SELLER thereafter from exercising his rights strictly in accordance with this Agreement.

19. **INTERPRETATION:**

The headings of the clauses in this Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause thereof. Unless the contrary intention appears, words importing:

19.1 Any one gender include the other two genders.

19.2 Singular include the plural and vice versa.

19.3 Natural persons include created entities (corporate or unincorporated and the state) and vice versa.

20. **CONDITIONS OF SALE READ**

The Conditions of Sale having been publicly read, the property was put up for Sale by Public Auction on the day of 2006.

21. **DOMICILIAM:**

21.1 The PURCHASER hereby chooses as his *domicilium citandi et executandi* for all purposes under this Agreement, whether in respect of Court process, notices or other documents or communications of whatever nature, the following address:

**POSTAL ADDRESS:**

**STREET ADDRESS:**

**TEL. NO:** (B) (H)

**CELL NO:**

**FAX NO:**

21.2 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing but it shall be competent to give notice by telefax.
21.3 Any notice by the PURCHASER :-

21.3.1 sent by prepaid registered post in a correctly addressed envelope to the PURCHASER at his *domicilium citandi et executandi* shall be deemed to have been received on the fifth business day after posting (unless the contrary is proved);

21.3.2 delivered by hand to a responsible person during ordinary business hours at the physical address chosen as the PURCHASER’S *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery; and

21.3.3 sent by telefax to the PURCHASER’S chosen telefax number stipulated in clause 19.1 above shall be deemed to have been received on the date of despatch (unless the contrary is proved).

21.4 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by the PURCHASER shall be an adequate written notice or communication to the PURCHASER notwithstanding that it was not sent or delivered to the PURCHASER’S *domicilium citandi et executandi*.

22. **MATRIMONIAL PROPERTY ACT**

The PURCHASER warrants that all written consents required by the Matrimonial Property Act No 88 of 1984 in respect of this Agreement or any matters arising therefrom or in terms hereof have or will be given.
23. **SPECIAL CONDITIONS:**

I, the undersigned

_______________________________________________________________

(Full Names)

Identity Number

_______________________________________________________________

(herein referred to as "the Purchaser")

hereby offer to purchase the property for the sum

of R_________________________

(in words)

_______________________________________________________________

("the Purchase Price")

SIGNED at __________________________ on this the __________ day of 2006.

AS WITNESSES:

1. ______________________________________

2. ______________________________________

_________________________

20. **PURCHASER**

Assisting/consenting insofar as need be by the Purchaser’s spouse; binding myself to the Seller as surety and co-principal debtor *in solidum*.

_________________________

**A. SPOUSE**

(WHERE NECESSARY)

SIGNED at __________________________ on this the __________ day of 2006.
SURETYSHIP

I/We, the undersigned, do hereby bind myself/ourselves jointly and severally as Surety/ies for and co-principal debtor/s in solidum with the PURCHASER for the due and punctual performance by the PURCHASER of all his obligations in terms of this Agreement, the terms and conditions of which I/we acknowledge myself/ourselves to be fully acquainted.

My/Our liability in terms hereof shall not be effected, prejudiced or vitiated by any concession or accommodation which may be made by the SELLER or his successor in title to the PURCHASER, and I/We am/are not entitled to receive any prior notice in this regard.

SIGNATURE OF SURETY/IES:

Full name and address:

SIGNED at on this the day of 2006.

AS WITNESS:

1. ____________________
2. ____________________
SIGNED and ACCEPTED BY THE SELLER at on this the day of 2006.

AS WITNESSES:

1. ___________________ ___________________

2. SELLER
ANNEXURE D: MEMORANDUM OF AGREEMENT BETWEEN THE DLA AND LAND BANK ON THE LAND BANK’S LANDED PROPERTIES

MEMORANDUM OF AGREEMENT

ENTERED INTO BY AND BETWEEN

THE DEPARTMENT OF LAND AFFAIRS
(hereinafter referred to as the “DLA”)

herein represented by GEOFFREY MICHAEL BULDLINDER in his capacity as DIRECTOR-GENERAL of the DLA, and duly authorised thereto, on the one part

AND

THE LAND BANK
(hereinafter referred to as the “Bank”)

Herein represented by HELENA DOLNY in her capacity as MANAGING DIRECTOR, and duly authorised thereto, on the other part.

WHEREAS the Bank is willing to make all properties owned by it available to be considered for land reform purposes

AND WHEREAS the DLA wishes to investigate the possibility of using such properties for land reform purposes

THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. The Bank undertakes to instruct its branch offices to supply the provincial offices of the DLA (hereinafter referred to as the PDLA) with all available information on new properties that are acquired by the Bank from time to time in the province concerned, including the purchase price. (This information will be forwarded by fax as well as normal post).

2. On receipt of the information referred to in clause 1, the PDLA will conduct preliminary investigations into the suitability of the relevant properties for land reform purposes, and will make its findings known to
the relevant branch office of the Bank in writing within 30 days from the date of the Bank’s letter of advice.

3. If no answer is received within the mentioned 30 day, the Bank will accept that the property is not suitable for land reform purposes.

4. If the PDLA finds that a property has immediate potential to be used for land reform purposes and has informed the Bank accordingly, the Bank undertakes to withdraw the relevant property from the market for a further period of five months to afford the PDLA time to engage in the necessary activities towards designation/approval of the land for such purposes in terms of applicable legislation and to register transfer of such property.

5. Should the procedures mentioned in clause 4 not be finalised when the further period of 5 months expires, opportunity cost calculated on the selling price at the current interest rate will be payable monthly in advance to the Bank by the PDLA, until date of registration of transfer, or until payment is made by the PDLA for the land in question.

6. The Bank will grant permission to the PDLA to visit the properties referred to in clause 2, at any time within the period mentioned in clauses 2 and 4.

7. After the branch office of the Bank has been informed of the PDLA’s interest in a property the PDLA can request the Bank to compile an agricultural report for the property and conduct a valuation of the property and to make the information available directly to the PDLA.

8. The decision to commission a valuation of the market value of the property should rest with the Provincial Director of the PDLA. On request of the PDLA, the Bank will perform an additional valuation on the production value of the property.

9. If-

   (a) The PDLA is satisfies that the valuation reflects reasonable market value;
   (b) It has been established that the property is suitable for land reform purposes;

The PDLA must make an offer to purchase to the Bank, subject to the final approval of the project by the Minister of Land Affairs – in projects where the purchase price exceeds R320 000.00.

10. When all the relevant documentation and information have been obtained, the PDLA will make a submission to the Minister of Agriculture and Land Affairs for designation/approval of the land in terms of applicable legislation.
11. If the Minister approves the relevant project and/or designates the land and the Bank accepts the purchase offer, the Bank, at its own cost, undertakes to draw up a Deed of Sale. The Bank, further, undertakes to hold title to the property after the Date of Sale, and only to proceed with the transfer of the property to the beneficiary group/s on the written instruction of the PDLA.

(a) All risk relating to the property passes to the purchaser from the date of signing of the Deed of Sale to the Date of Transfer.
(b) Unless payment for the land is made on the Date of Sale, an acceptable guarantee from the DLA must be furnished to the Bank within 60 days after signing of the Deed of Sale.
(c) Unless otherwise agreed, occupation of the said property will take place on date of registration of transfer in the name of the purchaser/s and the DLA will ensure strict adherence to the clause.

12. The parties agree that since the Bank is registered as a VAT- vendor, VAT is payable on the purchase price of the land: Provided that where payment consists of a transfer payment, the transaction is subject to VAT at a zero rate. The Parties, therefore, agree that-

(a) If the total purchase price is financed from the Settlement/Land Acquisition Grant (hereinafter referred to as the “Grant”, the whole transaction will be subject to VAT at a zero rate;
(b) If only part of the purchase price is covered by the Grant, the part not covered by the Grant will be subject to VAT;
(c) VAT will be payable on any other service rendered by the Bank, e.g. the drafting of the Deed of Transfer and Deed Office cost.

13. The PDLA undertakes to submit to the relevant branch office of the Bank, a monthly progress report on every project where the Bank’s properties are involved, up to the Date of Transfer.

14. If at any stage within the five-month period (referred to in clause 4) it is perceived by the DLA that the project will not be followed through, the DLA must forthwith inform the Bank in writing that it is no longer interested in using the property for land reform purposes.

15. The provisions of this agreement apply *mutatis mutandis* in respect of new properties acquired by the Bank: Provided that the Bank’s branch offices shall provide the PDLA immediately with the information referred to in clause 1.

16. The Parties agree that the Bank is prepared but not compelled to grant capital loans to communities to top up their grants if it is not sufficient to purchase a property, which loans will be at a fluctuating interest rate.
17. Notwithstanding anything contained in clauses 5, 6, 7, 8, 10, 11, 12, 13(a), 13(c), 15 and 16, the DLA may purchase the approved properties directly from the Land Bank.

18. The Parties agree that this agreement may be amended in writing and with the consent of both Parties.

19. The Parties choose as their domicilium citandi et executandi:

THUS DONE AND SIGNED AT…………………………….THIS…………..DAY OF………………………19…………………….

......................................................

THE BANK

WITNESSES:

1. ..............................................

2. ..............................................

THUS DONE AND SIGNED AT…………………………….THIS…………..DAY OF………………………19…………………….

......................................................

THE DLA

WITNESSES:

1. ..............................................

......................................................