

**IN THE MARIKANA COMMISSION OF INQUIRY  
HELD AT CENTURION, PRETORIA**

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**AFFIDAVIT OF SUSANNE JANE BRANDT**

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I, the undersigned,

**SUSANNE JANE BRANDT**

do hereby make oath and state:

**DEPONENT AND AUTHORITY**

1. I am an adult female and Chief Executive Officer of Managing Transformation Solutions (“MTS”).
2. The facts deposed to in this affidavit are to the best of my knowledge and belief true and correct and are, save where it is otherwise stated or the contrary appears from the context, within my personal knowledge.
3. I am duly authorised to depose to this affidavit on behalf of MTS for the purposes of placing before the Marikana Commission of Inquiry a report prepared by myself and the staff of MTS, entitled “*The problems of the Social and Labour Plan (SLP) ‘System’ within the Mining Sector in South Africa*” (“the SLP report”). That report is attached, marked as **Annexure ‘A’** and I confirm the correctness and truth of its contents.

**PURPOSE AND SUMMARY OF REPORT**

4. The SLP report is set out in 8 parts, namely:

- 4.1. Section 1 – An introduction to the objectives of the SLP report, MTS as an organisation and myself as lead author;
- 4.2. Section 2 – A broad overview of the wider legislative context since 2004, thereby situating the legislative and regulatory framework provided by the Mineral and Petroleum Resources Development Act (MPRDA) of 2002 that underpins the SLP analysis. Such a review provides the context for the MPRDA objectives with regards to the SLP 'System' and informs the response to whether the objectives and intent of the SLP legislation are clear, applicable and realistic;
- 4.3. Section 3 – An overview of the SLP regulatory framework, situated within the legislative framework established by the MPRDA and an overview of the legislative intent of what an ideal SLP should look like;
- 4.4. Section 4 – Defining the roles and responsibilities of the SLP system role-players;
- 4.5. Section 5 – Describing the interaction of the respective role-players' obligations and interdependencies;
- 4.6. Section 6 – Identifying and describing the failures of the SLP system and the respective role-players utilising anonymised examples;
- 4.7. Section 7 – The consequences of these failures and the accountability of the various role-players within the SLP system; and

4.8. Section 8 – Recommendations for the reform of the SLP system for future consideration in light of these failures.

5. The SLP system must be understood as one mining-focussed aspect of the broader socio-economic development agenda for South Africa, expressed through policies and frameworks such as the National Development Goals, the National Development Plan, the National Spatial Development Perspective and the Provincial Growth and Development Strategy. It also reinforces the corporate governance imperatives established by the Companies Act (No 71 of 2008), the King Report on Good Governance (2009) (“King III”) and the Global Reporting Initiative that all aim for greater accountability, transparency and stakeholder engagement by corporations active in South Africa.
6. The SLP system is also one component of the various mining-focussed initiatives aimed at ensuring sustainable, accountable and transformative governance and practice in the mining sector. Instruments within the system such as the Social and Labour Plan (“SLP”), the Broad-based Socio-economic Charter for the South African Mining Industry (“the Mining Charter”) and the Code of Good Practice translate these broader socio-economic and governance aims into targets designed for the mining industry specifically.
7. Businesses in the private sector, which includes the mining sector, have traditionally focussed on profit margins, shareholder value and the bottom line. The importance of profit is not disputed, but socio-economic and environmental challenges globally have also seen a call for greater focus on and action around social responsibility. Within the arena in which modern

corporations operate, the view that business exists to create value for shareholders alone is no longer true; corporations need to link their success to social process and social progress. The overall performance of business needs to be measured in terms of its relationship with the broader environment and its ability to ensure sustainability over the long term. Businesses that are aware of their social context are able to better anticipate and manage risk, through the formulation and implementation of creative strategic solutions. This is a core objective of the legislative framework driving the SLP system. The rising tide of all stakeholders' expectations directly impacts the company's ability to create value over the long-term and corporate and government leadership has come to acknowledge that social sustainability impacts long-term profitability. The nature of the company's involvement in social sustainability will depend on industry and the socio-political-economic-environmental context, the maturity and integrity of all stakeholders and the level of risk exposure to the company. The SLP system is one instrument through which mining companies can contribute to the socio-economic development of the communities in which they operate, ensure sustainable operating (business) environments and enhance the value of their activities for all of their stakeholders whilst transforming mining communities to address the historical socio-economic imbalances of the past.

8. An SLP - a core component of the SLP system - that satisfies the ambitious goals of this framework requires:

- 8.1. An integrated Human Resources Development (“HRD”) programme that ensures skills development, training (of community members as well as workforce) and career development;
  - 8.2. A Local Economic Development (“LED”) programme designed to transform and spur economic growth and development in the communities in which mining takes place or from where substantial labour is sourced;
  - 8.3. Thoughtful and careful consideration of how downscaling or retrenchments are to occur, when required by the mining plan for a particular mine’s operations to mitigate the impacts on both workforce and community;
  - 8.4. Clear, transparent and intelligible provision for financing of the SLP goals; and
  - 8.5. An effective strategy and plan for communicating the SLP to those affected by it and whom it is designed to target and benefit.
9. These objectives should also correspond to the objectives and targets of the Mining Charter Scorecard. As such the SLP system requires effective cooperation and performance from each and every role-player to ensure the success of the SLP system. In an ideal SLP system these role-players would include:
- 9.1. Mining rights holders;
  - 9.2. The Department of Mineral Resources (“DMR”);
  - 9.3. Local government municipalities and other government departments;

9.4. Communities, through properly elected community representatives;

9.5. Tribal authorities;

9.6. Trade union and other workplace representatives; and

9.7. Mining contractors.

10. All of the above require clarity on and commitment to their roles and responsibilities, separately and collectively, as well as effective communication processes designed to transparently and reliably monitor, report and inform.

11. However, several failures are clear in the SLP system. These include:

11.1. Failures by mining rights holders to consistently and with sufficient impact deliver on their obligations. These may be summarised as follows:

11.1.1. Design and planning: Limited consultation and engagement with relevant internal stakeholders and contractors; planning with integrated implementation in mind with sufficient financial provision; planning that avoids informal settlement growth in mining communities; and in-adequate LED project identification, planning and consultation;

11.1.2. Implementation: In-adequate commitment and capacity to deliver SLP undertakings across a mine or company; in-adequate implementation management (and reporting) processes entrenched in business processes; and adjustments to annual targets or LED projects without ministerial consent:

11.1.3. Data management: Credible, accurate, comparable data per mine or company and for the industry as a collective; and a lack of sufficient evidence of progress or impacts;

11.1.4. Reporting (both internal and external): Predominately statistical in nature with minimal qualitative feedback; reporting only on areas where SLP progress has been achieved resulting in unbalanced reports; inadequate internal focus and structures for effective management of reports; not aligned to the original plan or targets; and un-comparable reporting between reporting periods, mines or other external reports;

11.1.5. Communication and community engagement: Frequently over-looked or inadequate on critical areas of the SLP system, particularly recruitment, LED projects and community skills development opportunities; lack of sharing of success stories; and limited consultation at times of downscaling and retrenchment.

11.2. Failures by the DMR in its role as regulator of the SLP system: numerous years were 'lost' in the effective implementation of the SLP System due to ineffectual, under-capacitated, poorly organized and ambiguous DMR communications on and management of SLP matters. Whilst the recent on-line SLP submission system, more DMR-generated templates, on-site audits and increased capacity and focus are evidence of efforts to improve, there remains a lack of trust and perception of authority of the regulator by the industry;

11.3. Failures by local municipalities and other government departments in integrating, and implementing their local socio-economic development plans with the promises of the SLP System as well as significant shortfalls in communication or stakeholder engagement and LED project implementation are notable;

11.4. Failures by tribal authorities, community representatives, trade union and other workplace representatives to effectively communicate and represent the interests of those they purport to represent, often underpinned by limited capacity and knowledge of the SLP System or the protection of vested interests; and

11.5. Failures by mining contractors to support and complement the undertakings made in an SLP.

12. It is not correct therefore to say that the SLP System is broken or inherently fatally flawed, but rather that the resources and systems (for planning, data management, implementation and reporting) have been and may remain in certain areas, relatively immature and unorganized. Greater clarity as to the 'end-result' and respective roles and accountabilities of each role-player is required for optimal success of the objectives within the legislative provisions and framework provided.

13. Recommendations included in the SLP report for addressing these systemic failures include:



- 13.1. Greater focus and effort must be attained in securing effective and clearly defined collaborative partnerships. The opportunity exists to build-upon the platform created by MIGDETT as long as the collective agreement on the vision and success indicators for the SLP System within the South African mining industry are more clearly defined and agreed upon;
- 13.2. The nature of involvement in social sustainability will depend on industry and the socio-political-economic-environmental context, the maturity of all stakeholders and the level of risk exposure to the company. This requires transformational leaders where accountability will filter to leaders and all members of society at all levels;
- 13.3. The establishment of suitably mandated and empowered Regional SLP Forums which act as regional accountability frameworks for all role-players within the current system. Regional Funding Committees and Regional SLP Funds inherent in this recommendation are core to enable focused, collective investment on higher-impact LED or SED projects across regions;
- 13.4. The setting of industry-wide training and qualification standards for SLP management, implementation and reporting, aligned to national goals and international best practice, will enhance the capabilities and consistency in effective delivery amongst the growing pool of 'SLP Managers', 'Transformation Managers' and 'Community Liaison Officers' seen in recent years. This will directly enhance the prospects of successfully meeting the obligations of the SLP system;

- 13.5. Improving the quality and consistency of data collected and utilised in the SLP System, across geographic regions, mining companies and over-time will significantly improve the decisions being made and impact achieved within the SLP System. The Regulator will need to set the standards, parameters for data collection and reporting as well be responsible for (or appoint a suitable third-party) assimilating regional or cross-regional data for analysis and reporting for improved investor and stakeholder confidence in the industry;
- 13.6. Enhancing the transparency and effectiveness of communications between the stakeholders and role-players in the SLP System with particular focus on entrenching and optimising the Future Forum structure within the current legislation;
- 13.7. Improving community development by utilising international best practice measures in this field to enhance the provisions established within the SLP System. Such measures include Community Development Agreements (“CDAs”) to strengthen and advance the relationships between government, mining rights holders and communities seeking to establish sustainable and mutually beneficial relationships; and the adoption and utilisation of community development toolkits, such as the World Bank’s Community Development Toolkit: International Council on Mining and Minerals (2005) that ensures that the set of commitments underpinning the SLP system are measured against actual performance.

14. In sum a foundation exists within the South African mining industry on which further enhancements and refinements of the current SLP System will derive broader and deeper impact on community development and stakeholder engagement. Constructive, collaborative efforts driven within a clearly defined framework of planning, monitoring and reporting; developed utilising reliable, accurate data; transparent and specific dialogue and driven, transformational leadership, will further enhance the SLP System and ensure that it delivers on its ambitious promise.

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**DEPONENT**

I hereby certify that the Deponent has acknowledged that she knows and understands the contents of this affidavit, which was signed and sworn before me at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 2014, the regulations contained in Government Notice No. R1258 of 21 July 1972, as amended, having been complied with.

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**COMMISSIONER OF OATHS**

Full Names:  
Business Address:  
Office: