



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA



CONFIDENTIALITY AND NON-DISCLOSURE UNDERTAKING

For

**PARTICIPANT TO THE OPERATION PHAKISA – CHEMICALS AND WASTE MANAGEMENT LAB
TAKING PLACE FROM TO 2017**

1.1. In this Confidentiality and Non-Disclosure Undertaking:

“Confidentiality Information” means certain concepts, ideas, manuals, information (including papers, reports, assessments, decisions, minutes of meetings) , written , oral , visual and electronic or on tape or on disk, financial arrangements which relates to the business of the Department of Environmental Affairs (DEA) or McKinsey & Company (McKinsey) in respect of which information is not readily available in the ordinary course of business to the public including information that is of such a nature (or has been disclosed in such a way) that it should be obvious to the other Party that it is claimed as confidential ; and

“Permitted Employee” means an officer or employee of DEA, McKinsey & Company and the organization which the recipient represents, or where the recipient is a legal representative, the clients of the recipient who have executed a similar Confidentiality and Non-Disclosure Undertaking.

2. I, the undersigned _____ (Full Name(s)), from the _____ (organisation), do hereby undertake that:

- 2.1. I shall treat any information relating to the Operation Phakisa Chemicals and Waste Management Lab (CWML) including performance information and analysis, strategies, plans, personalities, policies, intellectual property and any plans relating to the same.
- 2.2. All classified documents belonging to the DEA as well as all information and matters pertaining to the Operation Phakisa CWML interactions (including papers, reports, assessments, decisions and minutes of meetings) confidential.
- 2.3. I shall keep the Confidential Information confidential.
- 2.4. I shall not disclose such information to another person without the prior written consent of the DEA and shall take reasonable steps to ensure that such information is not disclosed to another person.
- 2.5. Use the Confidential Information only for the purpose and in accordance with this Confidentiality and Non-Disclosure Undertaking and shall mark any such copy "Confidential".
- 2.6. Only disclose the Confidential Information for the purpose of Operation Phakisa CWML and only to Permitted Employees and permitted disclosees, to the extent that the Permitted Employee or permitted disclosee has a need to know.
- 2.7. Safeguard and secure all Confidential Information in accordance with legislation, policies, procedures on safety and security of Confidential Information of Operation Phakisa CMWL and the DEA, including but not limited to not unduly exposing or showing the Confidential Information to any unauthorized persons, whether they be staff of interim McKinsey & Company, and the DEA or otherwise.
- 2.8. I shall immediately notify the Director-General of DEA should I:
 - 2.8.1 suspect or become aware of any unauthorised copying, use or disclosure in any form; or
 - 2.8.2 be required by law to disclose any Confidential Information.

- 2.9. Comply with any direction or instruction issued regarding a suspected or actual breach.
 - 2.10 Not alter, modify, tamper with, reverse engineer (if in software) or attempt to do so any part of the Confidential Information.
 - 2.11 Upon demand of the Director-General of DEA, I must promptly return the Confidential Information to the Director-General of DEA or destroy any or all copies of Confidential Information, and any right to use, copy and disclose the Confidential Information ceases.
 - 2.12 That under no circumstances will I disclose, communicate, publish, or otherwise, whether orally or in writing or in any form, directly or indirectly to any person, except in the course of and within the scope of carrying out my duties with respect to the Operation Phakisa CMWL.
3. This Undertaking is not intended to restrict use or disclosure of any portion of such information which:
 - 3.1. becomes publicly available other than as a result of a breach of this Undertaking by the recipient,
 - 3.2 is already known to the recipient;
 - 3.3 independently acquired or developed by the recipient without violating any of its obligations under this Undertaking;
 - 3.4 required to be disclosed by law or judicial process;
 - 3.5 is rightfully received by the member of the participant of the Operation Phakisa CWML from a third party having no obligation of confidentiality to the DEA; or
 - 3.6 is disclosed by the participant of the Operation Phakisa CWML after receipt of written permission from the DEA.
 4. I hereby acknowledge that:
 - 4.1 I fully understand that in the event of any breach of this Confidentiality and Non-Disclosure Undertaking due to my act or omission, Operation Phakisa CWML could suffer substantial loss and damage for which monetary compensation is not adequate remedy;

- 4.2 DEA will be entitled to seek specific performance, injunctive and other equitable relief in enforcing the obligations of this Confidentiality and Non-Disclosure Undertaking to the maximum extent allowable under the law; and
- 4.3 DEA reserve the right to seek recourse against me for any threatened or actual breaches of this Confidentiality and Non-Disclosure Undertaking to the maximum extent available under the law without having any regard for any internal Operation - Phakisa CWML, DEA and procedures on staff matters and/or any other contractual document entered into between it and myself related to the Operation Phakisa CWML.
5. This Confidentiality and Non-Disclosure Undertaking is perpetual and is governed by the laws of South Africa and the Parties shall submit to the exclusive jurisdiction of the South African courts.

Signed at _____ on this ___ day of _____ 2017 in the presence of the undersigned witnesses.

SIGNATURE OF PARTICIPANT - OPERATION PHAKISA CWML

Capacity: Participant to Operation Phakisa CWML

AS WITNESSES:

1. _____

2. _____