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ANNEXURE - 1



**ATHA-AFRICA VENTURES (Pty) Ltd**

Registration No. 2004/020746/07

8<sup>th</sup> Floor, Sinosteel Plaza, 159 Rivonia  
Road, Morningside, Sandton, 2144  
Tel: +27 11 784-1885  
Fax: +27 11 784-7467

The Regional Manager: Mpumalanga Region  
Department of Mineral Resources  
Private Bag X 7279  
Emalahleni  
1035

Date: 19 November, 2014

PER FAX: 013 690 3288  
PER EMAIL: Aubrey.Tshivhandekano@dmr.gov.za  
PER HAND DELIVERY

FOR ATTENTION: MR. A TSHIVHANDEKANO

Dear Sir,

YOUR REFERENCE: MP 30/5/1/2/2/10069 MR

**RE: GRANTING OF A MINING RIGHT IN TERMS OF SECTION 22 OF THE MINERALS AND PETROLEUM RESOURCE DEVELOPMENT ACT, ACT 28 OF 2002 ON THE FARMS BLOEMHOF 92 HT, GOEDGEVONDEN 95 HT, KROMHOEK 93 HT, PORTION 1 OF NAAUWGEVONDEN 110 HT, PAADEKOP 109 HT, REMAINDER OF VAN DER WALTSPOORT 81 HT, VIRGINIA 91 HT, PORTION 1 OF YZERMYN 96 HT, REMAINDER OF YZERMYN 96 HT AND ZOETFONTEIN 94 HT SITUATED IN THE MAGISTERIAL DISTRICT OF WAKKERSTROOM: MPUMALANGA PROVINCE.**

The correspondence letters received by Atha Africa Ventures Proprietary Limited ("AAV") from the Department of Mineral Resources ("DMR"), dated 12 November 2014, regarding the granting of a Mining Right to AAV in respect of the abovementioned Properties, refer:

As per your letter dated 12 November 2014, AAV would like to extend our sincere appreciation for the opportunity to approach you regarding our request to give consideration to this motivation letter to amend the current conditions attached to the Mining Right in order for AAV to be in a position to execute the long awaited mining right.

As a starting point, AAV is committed to adhere to all conditions listed in the Granting Letter annexed to the letter dated 12 November, 2014 ("the Granting Letter"), except for some of the conditions imposed under paragraph 6 of the Granting Letter.

In the ensuing paragraphs AAV will provide you with our bonafide and best endeavours to motivate why certain of the current conditions, notably the conditions imposed under paragraphs 6(i) and 6(ii) of the Granting Letter, are impossible to abide by if AAV must adhere to the strict interpretation of the wording used in the relevant paragraphs.

Our sincere request is that you give due consideration to amending the current paragraphs 6(i) and 6(ii) conditions of the Granting Letter, based on the following motivation:

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1. Paragraph 6 (i) of the Granting Letter dated 19 September 2014, as attached to your letter dated 12 November 2014 :
  - 1.1 Paragraph 6(i) provides that "The granting shall exclude any areas that constitute wetlands." It is our sincere submission that the current wording is ambiguous and, as it stands, poses a significant risk to the entire Yzermyn Underground Coal Project ("YUCP"), since the wording as it currently stands, fails to recognise that the total of YUCP's mining process, in our opinion, must be regarded as a three dimensional activity.
  - 1.2 A total exclusion, as proposed by the current wording: "The granting shall exclude any areas that constitute wetlands" can be interpreted to mean that mining and infrastructure activities are prohibited in all surface areas within and in close proximity to wetlands, as well as a total prohibition of any mining activities in the underground portion of the Yzermyn Project, where there are surface wetlands. It may also be noted that the entire YUCP is consisting of underground mining of coal by Bord & Pillar mining method, and thus will have no surface mining as well as zero subsidence.
  - 1.3 It is important to note that during the extensive assessment of the impacts that the proposed mining activities might pose on the area, especially consideration to the risk that the mining development might pose to the wetland areas, it was found that the impact of the proposed mining activities, which will take place in an already, previously disturbed wetland area, falls within the boundaries of recognised guidelines and that the proposed mitigation measures will in fact result in, initial further disruption, but eventually an improvement of the already disturbed wetlands after closure.
  - 1.4 It is also important to note that during the assessment process of the Mining Rights application of the applicant, the Mabola Protected Environment was declared and that as part of the declaration process, Portion 1 of Yzermyn 96 HT was excluded from the Mabola Protected Environment.
  - 1.5 It is our submission that the MEC: MDEDET's (as ultimate regulatory custodian of the environment in Mpumalanga) decision to exclude Portion 1 of Yzermyn 96 HT from the intended declaration of the Mabola Protected Environment in its entirety, for purposes of all relevant above-ground infrastructure of the mine, must be taken into consideration.
  - 1.6 In light of the abovementioned we request that the Department of Mineral Resources consider AAV's proposed amendment of paragraph 6(i) to read that "the granting shall exclude surface areas for development of surface infrastructure outside Portion 1 of Yzermyn 96 HT".
  - 1.7 As a token of our commitment to implement the best practical environmental mitigation measures, AAV has already agreed to amend its Mine Works Programme



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in that the Residue Stockpile (Disposal Facility) will be removed from the plans, which will result in a mining project that will have no physical disturbance of channel valley wetlands, and in addition the proposed disturbance to seep wetlands will be confined to the historically disturbed wetlands. It is important to note that the mitigation measures proposed to enable the best functioning of the wetland will initially disturb the wetland, however, *the future impact brought about by these mitigation measures, will ultimately result in an improvement of the current functioning of the wetland*

2. Paragraph 6 (ii) of the Granting Letter dated 19 September 2014, as attached to your letter dated 12 November 2014:

2.1 Paragraph 6(ii) states that *"Surface mining or related activity, as well as erection installation of surface infrastructure shall be prohibited from taking place in any area that constitute wetlands or is deemed to be a sensitive environment."*

2.2 One of the statutory compliance requirements that AAV needs to adhere to is compliance with Government Notice Regulation 704, promulgated (4 June 1999) under the National Water Act, Act 36 of 1998 (this Regulation is specific to the use of water or impact on water resources by mining activities).

2.3 Since it is AAV's submission, supported by its wetland specialist, that the wetland area to be disturbed is small in comparison with the larger wetland area for the catchment. In addition to that, a large portion of these wetlands have been previously disturbed by agriculture, having been ploughed, and therefore are not pristine. AAV intends to submit an application, based on the findings of our specialists, to the Department of Water and Sanitation to exempt AAV from having to comply with certain provisions of GNR 704 promulgated under the National Water Act, Act 36 of 1998.

2.4 In order for AAV to legally operate the proposed Yzermyn Mining Project, AAV shall endeavor to obtain all the necessary approvals and or exemptions provided for under GNR 704, from the Department of Water and Sanitation as custodian of the water resources of the country, prior to commencement of any mining operations on the relevant mining area.

2.5 In light of the above mentioned, it is proposed that the current wording of paragraph 6(ii) of the Granting Letter be amended to read as follow: *"Surface mining or related activities, as well as the construction, erection or installation of surface infrastructure shall be subject to the applicant (AAV) obtaining the required exemption and/or any other approvals to comply with the relevant provisions of GNR 704, promulgated under the National Water Act, Act 36 of 1998, from the Department of Water and Sanitation."*

2.6 In essence, AAV's request is that the Department of Mineral Resources considers granting AAV permission to disturb certain wetlands in line with the GN 704

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Regulations under the National Water Act. This will entail AAV obtaining the necessary exemption from Department of Water and Sanitation as custodian of the water resources of the country, prior to commencement of any mining activity.

### 3. Request to consider proposed environmental mitigation measures together with the potential socio-economic impact of the Yzerbyn Underground Mining Project

3.1 In addition to the abovementioned environmental mitigation motivation, it is important to AAV to confirm that we are not only committed to be a responsible miner who will implement effective mitigation measures to manage any potential impact on the environment, but that we are also committed to create real and definite socio economic benefit to the region, as well as the South African national interest in driving the sustainable development agenda.

3.2 We also want to reiterate our submission that AAV is committed to be a potentially valuable partner to the Mpumalanga Provincial Government as well as, in assisting the Province to fulfil the mandate and objectives of the Wakkerstroom Biodiversity Site ("WBS"), within the context of the Millennium Development goals, National Development Plan, Comprehensive Rural Development Programme, Anti-Poverty Strategy and local LED programmes, which provides a platform for "rural" provinces such as Mpumalanga, the opportunities to participate fully in the economic, social and political life of the country.

3.3 AAV's proposed approach is to work together with your Department and all other relevant Departments, to develop a sustainable co-existence model between mining and conservation, undertaking a combined radical revision of past strategies, take the success stories from these past strategies and introduce a strengthened, long term mutually benefitting sustainability strategy and action plan which, through innovative linkages, will be aligned with national, provincial and local government biodiversity and sustainable development planning priorities.

3.4 Atha-Africa Ventures believes that its own Mining and Integrated Development Planning Process is clearly aligned with the National and Provincial Development Plans, in that the AAV's Planning Process seeks to invest in the mining, manufacturing/ beneficiation and energy sectors, which AAV believes place the Mpumalanga Province and National economy on a positive growth path.

3.5 We also believe that our approach is aligned with government's advocacy to promote Public, Private Partnerships (PPP) as a strategy to kick start and support development in social and economic service delivery programmes in line with the ideal of delivering a better life for all South Africans.

3.6 In light of the abovementioned we sincerely believe that allowing AAV to operate within the framework of the proposed amended conditions of paragraph 6(i) and 6(ii) of the Granting Letter, AAV will be in a position to responsibly mine the



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proposed 104 million total in situ tons of proven coal resource in Yzermyn underground coal mine project. AAV planned to spend initial capital of approximately 950 Million Rands on the YUCP project. Approximately 12.94 billion Rands out of the revenue generated from the YUCP project during first the 10 years of the project operation will be spent under various heads (logistics, mining services, contractors etc) within the Republic of South Africa.

3.7 As a direct result, the mine will create an estimated 550 direct job opportunities, ensure a development income spent in South Africa exceeding R 1 billion Rand, ensure a regional income stream to the National and Provincial Government in respect of Royalties, Rates and Taxes, as well as ensuring that socio-economic growth opportunities are provided to the regional SLP commitments that will cater for skills development programmes, training and Local Economic Development Projects.

3.8 It is a fact that the lifestyles of ordinary people in the area will be improved as disposable income will become more available. This specific mining environment is a complex system requiring a multitude of skills and the opportunity for the creation of contractors to support those skills around the mine.

AAV accepts that by granting AAV a Mining Right, the Yzermyn project is supported by the DMR and that the wording of Paragraphs 6(i) and 6(ii) may have been done in an effort to protect the environment and not to frustrate the applicant and stopping the development. However, we sincerely hope that you will review our proposed amendments to the above mentioned paragraphs favourably, in order to reach a mutually acceptable, reasonable and practically implementable set of conditions.

We trust that you will find the above in order and look forward to a sympathetic consideration of our motivation to revise the paragraph 6(i) and 6(ii) of the Grant Letter.

Yours sincerely,

PRAVEER TRIPATHI  
SR. VICE PRESIDENT  
072 804 8250  
praveer.tripathi@athagroup.in