UXWEBHU OLUSEMTHETHWENI LWETRASTI

olwenza

iTRASTI YEQ(H)UBEKA

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ISIGABA I: INTSHAYELELO

1. IINKCAZELO KUNYE NENKCAZO

1.1 La magama kunye namabinza alandelayo, ngaphandle kokuba kuxelwe ngenye indlela okanye awangqinelani nomxholo avela kuwo, aya kuba nezi ntsingiselo zilandelayo kwaye amabinza anxulumeneyo aya kuba neentsingiselo ezingqinelanayo:

1.1.1 "**I-Anglo American**" ithetha i-Anglo American South Africa Limited, inkampani ebhaliswe kwiRiphabliki yoMzantsi Afrika ngenombolo yobhaliso engu-1917/005309/06;

1.1.2 "**I-AngloGold**" ithetha i-AngloGold Ashanti Limited, inkampani ebhaliswe kwiRiphabliki yoMzantsi Afrika ngenombolo yobhaliso engu-1944/017354/06;

1.1.3 "**Abaphicothi-ncwadi**" kuthetha abaphicothi-ncwadi beTrasti ixesha nexesha;

1.1.4 "**Abaxhamli**" kuthetha abantu ekubhekiselwe kubo kwisiqendu se-13;

1.1.5 "**USuku lokuSebenza**" luthetha naluphi na usuku ngaphandle koMgqibelo, iCawe okanye iHolide kaWonke-wonke ySizwe eFakwe kwiGazethi kwiRiphabliki yoMzantsi Afrika;

1.1.6 "**I-CCOD**" ithetha i-Compensation Commissioner for Occupational Diseases (uMkomishinala weMbuyekezo kwiZifo eziFumaneke eMsebenzini) owonyulwe phantsi kwecandelo lama-54(a) we-ODMWA (njengoko utshintshwa ixesha nexesha, okanye nawuphi ongena endaweni yawo apho);

1.1.7 "**Abafaki mabango**" kuthetha abantu abachongwe njengabaFaki mabango kwiSivumelwano seNtlawulo;

1.1.8 "**I-COIDA**" ithetha i-Compensation for Occupational Injuries and Diseases Act (umThetho weMbuyekezo yoKwenzakala kunye neZifo eziFumaneke eMsebebenzini, umThetho we-130 ka-1993 (njengoko

utshintshwa ixesha nexesha, okanye nawuphi ongena endaweni yawo apho);

1.1.9 "**Uxwebhu olusemthethweni**" kuthetha olu Xwebhu lusemthethweni kunye nazo naziphi na izihlomelo, iishedyuli okanye izongezo kulo;

1.1.10 "**UMfaki Bango onguMxhomekeki**" kuthetha umxhomekeki kunye/okanye umabi welifa loMfaki Bango oFanelekileyo oswelekileyo;

1.1.11 "**Ukuba sesichengeni**" kuthetha ukuba sesichengeni sothuli lwekhompawundi yezimbiwa eyisilika;

1.1.12 "**I-HURIS**" ithetha i-AngloGold's Human Resources Information System (iNkqubo yoNxibelelwano loLwazi lweMicimbi eNxulumene nabaSebenzi ye-Anglogold);

1.1.13 "**I-ILO**" kuthetha i-International Labour Organisation (uMbutho wezeMisebenzi weHlabathi);

1.1.14 "**IPhaneli yabezoNyango**" kuthetha iphaneli yeengcali eziqeshwe ziiTrasti;

1.1.15 "**I-MBOD**" kuthetha i-Medical Bureau for Occupational Diseases (iZiko lezoNyango leZifo eziFumaneke eMsebenzini) elisekwe phantsi kwecandelo lesi-2 le-ODMWA (njengoko litshintshwa ixesha nexesha, okanye nawuphi na ongena endaweni yawo apho);

1.1.16 "**UMbuyisa Neale**" kuthetha amagqwetha eMbuyisa Neale, ifem yamagqwetha esebenza ngentsebenziswano eMzantsi Afrika, eye yasebenza egameni labaFaki maBango kwiinkqubo ebezibhekiswe kuye ngamnye kubaHlawuli ekubhekiselwe kuye kwisiqendu se-2.1;

1.1.17 "**I-ODMWA**" ithetha i-Occupational Diseases in Mines and Works Act (umThetho weZifo eziFumaneke eMsebenzini eMigodini kunye nakwiMisebenzi), umThetho wama-78 ka-1973 (njengoko utshintshiwe ixesha nexesha, okanye nawuphi ongena endaweni yawo apho);

1.1.18 "**I-Sicelo sokuThobela i-ODMWA**" kuthetha isicelo sembuyekezo phantsi kwe-ODMWA esithobela zonke iimfuneko ezibalulekileyo ze-ODMWA, i-MBOD kunye ne-CCOD, ezenza ukuba uMfaki Bango oFanelekileyo abe nelungelo lembuyekezo phantsi kwe-ODMWA;

1.1.19 "**UMfaki Bango oFanelekileyo kwi-ODMWA**" kuthetha uMfaki Bango oFanelekileyo omiselwa ziiTrasti ukuba une-SRD yeeNdidi olwesi-2, 3 okanye lwesi-4 njengoko kubhekiselwe kuzo kwisiqendu se-17.1 abo iSicelo sokuthobela se-ODMWA senziwe egameni labo saze sangeniswa kwi-MBOD;

1.1.20 "**UMhla weSaziso se-ODMWA**", ngokunxulumene noMfaki Bango oFanelekileyo we-ODMWA, kuthetha umhla lowo ikopi yeSicelo sokuThobela se-ODMWA esingeniswe kwi-MBOD inikwa uMhlawuli ngamnye kulandela ukusekwa kweTrasti;

1.1.21 "**INjongo enguNdoqo**" kuthetha injongo engundoqo yeTrasti njengoko kuchaziwe kwisiqendu sesi-4;

1.1.22 "**IThuba eliFanelekileyo kumaBango**" kuthetha ithuba leminyaka emithathu ukusuka kumhla ebhaliswe ngawo iTrasti nguMphathi weNkundla ePhakamileyo;

1.1.23 "**UMfaki Bango oFanelekileyo**" kuthetha uMfaki Bango, kuquka noMfaki Bango oswelekileyo, oneNkonzo eFanelekileyo kwaye omiselwe njengoMfaki Bango oFanelekileyo ngexa leThuba lamaBango eliFanelekileyo;

1.1.24 "**UMxhomekeki oFanelekileyo**" kuthetha uMfaki Bango onguMxhomekeki onelungelo lembuyekezo ngokwesiqendu se-16.2.2 solu Xwebhu lusemthethweni;

1.1.25 "**IMisebenzi eFanelekileyo**" kuthetha ezo shafti/imisebenzi emiselwe kwiSihlomelo A solu Xwebhu lusemthethweni lweTrasti, ebalulekileyo ngexa lamathuba aboniswe kweso Sihlomelo;

1.1.26 "**INkonzo eFanelekileyo**" kuthetha ubuncinane beminyaka emibini yengqesho kuphelele kuMsebenzi oFanelekileyo omnye okanye ngaphezulu;

1.1.27 "**ISixa seTrasti yeQ(h)ubeka**" kuthetha isixa esipheleleyo emasihlawulwe nguMhlawuli ngamnye kwiTrasti ixesha nexesha njengoko kumiselwe kwisiqendu sesi-7.1 apha, ngokuxhomekeke kwisiqendu se-7.2;

1.1.28 "**UbuNgqina obuFanelekileyo**" ngokunxulumene neNkonzo eFanelekileyo kuthetha iRekhodi lokwenene lengqesho kwithuba elifunwayo kuMsebenzi oFanelekileyo omnye okanye ngaphezulu;

1.1.29 "**IRekhodi**" kuthetha irekhodi le-MBOD okanye le-CCOD, irekhodi lakwa-TEBA, irekhodi lengqesho elisemthethweni lomgodi, irekhodi le-HURIS, okanye irekhodi elifana nalo elibhaliweyo lamandla kunye nokuthembeka elinobungqina elinokuthelekiswa, elinokuquka irekhodi lomsebenzi, irekhodi leSebe likaRhulumente, isiliphu somvuzo okanye irisiti yomrholo eyazisa uMfaki Bango oFanelekileyo, okanye nasiphi na esinye isitifiketi okanye uxwebhu oluvela kwiMisebenzi eFanelekileyo eyazisa uMfaki Bango oFanelekileyo njengokuba ube ngumsebenzi kwiMisebenzi eFanelekileyo omnye okanye ngaphezulu kwithuba elifunekayo;

1.1.30 "**ISivumelwano seNtlawulo**" kuthetha isivumelwano sentlawulo ekuza kungenwa kuso phakathi koMhlawuli kunye nabaFaki maBango apho amaqela avumelanayo ukuba kusekwe iTrasti;

1.1.31 "**ISixa seNtlawulo yokuBuyisa**" kuthetha isixa (x) esibalwe ngokwale ndlela ilandelayo: x = (R300 yezigidi eyohlulwe ngama-2413) yaphindwa ngama-(2413 kuthatyathwe u-y), apho u-y ilingana nenani ngqo lokuqala labantu abamiselwe njengebafaki mabango abaFanelekileyo ngokolu Xwebu lusemthethweni ngexa leThuba lamaBango aFanelekileyo;

1.1.32 "**AbaHlawuli**" kuthetha i-Anglo American kunye ne-AngloGold, abangabaseki beTrasti;

1.1.33 "**I-SRD**" kuthetha i-Silica Related Disease (iSifo esiNxulumene neKhompawundi yeziMbiwa eyiSilika;

1.1.34 "**ISifo esiNxulumene neKhompawundi yeziMbiwa eyiSilika**" sithetha iThayisisi kunye neSifo sePhepha esibangwe yikhompawundi yezimbiwa eyiSilika okanye nasiphi kuzo njengoko imeko inokuba njalo;

1.1.35 "**iTrasti**" ithetha iTrasti yeQ(h)ubeka, esekwe ngokolu Xwebhu lusemthethweni;

1.1.36 "**iiNdleko zokuLawula iTrasti**" kuthetha iindleko ezifanelekileyo zokuseka, ukulawula kunye nokwenza kusebenze iTrasti ngendlela eqinisekisa ukuba uhlolo lwabaFaki mabango kunye nokusebenza kunye nokukhutshwa kweebhenefithi kwenziwa ngononophelo, ngempumelelo nangokuthembekileyo ngabasebenzi abanobungcali, izakhono kunye nemfezeko, kuquka iindleko ekubhekiselwe kuzo kwisiqendu se-9.1;

1.1.37 "**i-Akhawunti yeBhanki yeTrasti"** kuthetha i-akhawunti yebhanki evulwe yiTrasti ukuze ifake izixa ezihlawulwa kwiTrasti ngokolu Xwebhu lusemthethweni, kuquka iSixa seTrasti yeQ(h)ubeka kunye neeNdleko zokuLawula iTrasti; kwaye

1.1.38 "**I/iiTrasti**" kuthetha abantu abonyulwe njengeetrasti zeTrasti, okwangoku, ngokungqinelana nesiqendu sesi-8.

1.2 Kolu Xwebhu lusemthethweni amagama athetha ngesini sobudoda aza kuquka nesini sobasetyhini kunye nezini ezingathathi cala kunye nangokuphendululekileyo. Ukubhekisela kwisinye kuya kuquka isininzi kunye nangokuphendululekileyo. Amagama "kuquka" kunye no "quka" awayi kuchazwa njengokuba okanuye asebenze njengamisela umda kumagama jikelele andulelayo.

1.3 Ukuba nayiphi na inkcazelo ibeka amalungelo kunye nezibophelelo ezizimeleyo kwinxenye yolu Xwebhu lusemthethweni, amalungelo kunye nezibophelelo ezinjalo ziya kwenziwa zisebenze kwaye ziya kunyanzeliswa nakuba ziqulethwe kwinkcazelo.

1.4 Amabinzana kolu Xwebhu lusemthethweni aya kuba nentsingiselo efanayo kwiishedyuli okanye kwizihlomelo kolu Xwebhu lusemthethweni ezo ngokwazo zingaqulathanga ezazo iinkcazelo.

1.5 Apho naliphi na igatya kolu Xwebhu lusemthethweni lifuna ukuba uMhlawuli ngamnye ahlawule isixa ngezabelo ezilinganayo, nangona kukho isivumelwano okanye ulungiselelo olwahlukileyo ekunokuba kugqitywe ngalo phakathi koMhlawuli ngamnye ngokuphathelene nolwahlulo okanye ulwabiwo loxanduva kuzo naziphi na iintlawulo ezinjalo, phantsi kolu Xwebhu lusemthethweni isiqingatha sesixa esibandakanyekayo siya kuhlawulwa yi-Anglo American kwaye isiqingatha esibandakanyekayo siya kuhlawulwa yi-AngloGold. Akukho nalinye kula maqela ekunokufunwa okanye linyanzelwe, yiTrasti okanye ngenye indlela, ukuba lihlawule nakuphina okungaphezulu kwisiqingatha salo sesixa esibandakanyekayo.

1.6 Ukuphelelwa okanye ukupheliswa kolu Xwebhu lusemthethweni akuyi kuchaphazela amagatya anjalo olu Xwebhu lusemthethweni amiselwe ukuba asebenze emva kokuphelelwa okanye ukupheliswa okunjalo, oko ngokuyimfuneko kufuneka kuqhube ukusebenza emva kokupheliswa okunjalo, nangona iziqendu ezibandakanyekayo ngokwazo zingakuboneleli oku.

1.7 Izihloko kolu Xwebhu lusemthethweni zezokwenza lula nje kuphela kwaye mazingahoywa xa kutolikwa olu Xwebhu lusemthethweni.

2 **INTSHAYELELO**

2.1 AbaFaki maBango bafake iinkqubo zomthetho ngokubhekisele kubaHlawuli bebanga umonakalo wethayisisi okanye isifo sephepha-esinxulumene nekhompawundi yezimbiwa yesilika ekubonakala ukuba ibosulele ngenxa yokuba sesichengeni kwabo kuthuli kwiishafti/imisebenzi ethile apho abaHlawuli kusolwa ukuba luxanduva lwaba olo.

2.2 Amabango ekubhekiselwe kuwo kwisiqendu 2.1 ahlawulwe ngamaqela kwaye kuthathelwa ingqalelo iintlawulo ezinjalo, amaqela kumangalelwano olunjalo avumelene ukuba kusekwe le Trasti.

2.3 Ngale ndlela iTrasti iyasekwa ngokungqinelana, ngokusekelwe kunye nangokuxhomekeke kwimiqathango ebekiweyo echaziweyo apha.

ISIGABA SE-II: ITRASTI NEETRASTI

3 UKUSEKWA KWETRASTI

3.1 ITrasti , esekwa ngokolu Xwebhu lusemthethweni, iza kwaziwa njengeTrasti yeQ(h)ubeka.

3.2 AbaHlawuli baseka iTrasti ngokunikela ngama-R200 kwiiTrasti ngokwezikhundla zazo njengokuba zinjalo, apho iminikelo ingenakubhangiswa.

4 INJONGO ENGUNDOQO YETRASTI

INjongo enguNdoqo yeTrasti kukunika imbuyekezo kubaFaki maBango abaFanelekileyo kunye nabaFaki maBango abangabaXhomekeki ngokunxulumene nee-SRD ngokusekelwe kokumiselwe kolu Xwebhu lusemthethweni kuso nasiphi na isehlo ngononophelo, ngempumelelo nangokuthembekileyo, kusetyenziswa ubungcali babasebenzi, izakhono kunye nemfezeko.

5 AMANDLA OMTHETHO

ITrasti iya iya kuba nazo zonke izehlo kunye namagunya abekwe kwisiqendu se-12.

6 UKUMISELA ABAFAKI MABANGO ABAFANELEKILEYO

6.1 Abafaki mabango baya kumiselwa njengokuba ngabaFaki maBano abaFanelekileyo ngendlela emiselwe kwesi siqendu sesi-6.

6.2 Msinyane nje emva kokubhaliswa kweTrasti, iMbuyisa Neale iya kuzisa kwi-AngloGold uluhlu loninzi lolwazi olulandelayo njengoko lusaziwa yiMbuyisa Neale ngokunxulumene noMfaki Bango ngamnye:

6.2.1 amagama;

6.2.2 iinombolo zezazisi; kunye

6.2.3 neenombolo zengqesho.

6.3 I-AngloGold iya kusebenzisa iinzame zayo ezigqwesileyo ukukhangela iirekhodi zayo zengqesho kwiinyanga ezintathu zokufumana uluhlu ekubhekiselwe kulo kwisiqendu se-6.2, okanye ithuba elingaphaya elinjalo njengoko kunokuvunyelwana ngokubhalwe phantsi phakathi kwe-AngloGold kunye neTrasti.

6.4 AngloGold iya kunika iTrasti ngenyanga ngexa lethuba ekubhekiselwe kulo kwisiqendu se-6.3 amagama:

6.4.1 abaFaki maBango ngokunxulumene nabo ifumene ubungqina babo beNkonzo eFanelekileyo;

6.4.2 abaFaki maBango ngokunxulumene nabo, ikhangele iirekhodi zabo zengqesho, ingabufumananga ubungqina babo beNkonzo eFanelekileyo; kwaye

6.4.3 abaFaki maBango abo ingekazikhangeli iirekhodi zabo zengqesho.

6.5 I-AngloGold iya kwenza ukuba iTrasti okanye umntu owonyuliweyo yiTrasti ukuba ahlole iirekhodi zengqesho ekubhekiselwe kuzo kwisiqendu 6.3 ngokunxulumene nabaFaki maBango.

6.6 Abafaki maBango ekubhekiselwe kubo kwisiqendu se-6.4.1 baza kuthathwa njengabaFaki maBango abaFanelekileyo ngeenjongo zolu Xwebhu lusemthethweni. Abafaki maBango ekubhekiselwe kubo kwisiqendu se-6.4.2 kunye nese-6.4.3 baza kuthathwa njengabaFaki maBango abaFanelekileyo ngeenjongo zolu Xwebhu lusemthethweni kuphela ukuba ubuNgqina obuFanelekileyo beNkonzo eFanelekileyo bunikwa yioTrasti kuMhlawuli ngamnye.

6.7 IiTrasti ziya kuthatha amanyathelo anjalo njengoko kuyimfuneko ukufumana iiRekhodi zabaFaki maBango ekubhekiselwe kubo kwiziqendu ese-6.4.2 nese-6.4.3 okanye ukuncedisa abaFaki maBango ukuba bafumane iiRekhodi.

7 ISIXA SETRASTI YEQ(H)UBEKA

7.1 UMhlawuli ngamnye uya kuba noxanduva lokuhlawula kwi-Akhawunti yeBhanki yeTrasti ezi zixa zilandelayo, ngezabelo ezilinganayo, ezo zixa iTrasti inelungelo lokuzifumana kuMhlawuli ngamnye ngeenjongo zokuzalisekisa iNjongo enguNdoqo:

7.1.1 Ama-R300 ezigidi alindeleke ukuba ahlawulwe kwaye kufuneka ahlawulwe kwiiNtsuku ezili-10 zokuSebenza zokufunyanwa kwesiqinisekiso kwiiTrasti

ezonyuliweyo sokuba i-Akhawunti yeBhanki yeTrasti ivuliwe, ngokuxhomekeke kwisiqendu se-7.2;

7.1.2 ezinye izigidi ezingama-R50 ezilindelekileyo kwaye ezihlawulwayo kwiiNtsuku ezili-10 zokuSebenza zomhla lowo inani labaFaki maBango abaFanelekileyo abamiselweyo ngokwesiqendu sesi-6 lifikelela kuma-2852 (amawaka amabini amakhulu asibhozo namashumi amahlanu anesibini);

7.1.3 ezinye izigidi ezingama-R45 ezilindelekileyo kwaye ezihlawulwayo kwiiNtsuku ezili-10 zokuSebenza zomhla lowo inani labaFaki maBango abaFanelekileyo abamiselweyo ngokwesiqendu sesi-6 lifikelela kuma-3291 (amawaka amathathu amakhulu amabini namashumi alithoba ananye);

7.1.4 ezinye izigidi ezingama-R23 ezilindelekileyo kwaye ezihlawulwayo kwiiNtsuku ezili-10 zokuSebenza zomhla lowo inani labaFaki maBango abaFanelekileyo abamiselweyo ngokwesiqendu sesi-6 lifikelela kuma-3729 (amawaka amathathu amakhulu asixhenxe namashumi amabini anethoba);

7.1.5 ezinye izigidi ezingama-R22 ezilindelekileyo kwaye ezihlawulwayo kwiiNtsuku ezili-10 zokuSebenza zomhla lowo inani labaFaki maBango abaFanelekileyo abamiselweyo ngokwesiqendu sesi-6 lifikelela kuma-3949 (amawaka amathathu amakhulu alithoba namashumi amane asnethoba); kunye

7.1.6 ezinye izigidi ezingama-R24 ezilindelekileyo kwaye ezihlawulwayo kwiiNtsuku ezili-10 zokuSebenza zomhla lowo inani labaFaki maBango abaFanelekileyo abamiselweyo ngokwesiqendu sesi-6 lifikelela kuma-4168 (amawaka amane ikhulu namashumi amathandathu anesibhozo).

7.2 Ukuba, ekupheleni kweThuba lamaBango eliFanelekileyo, abambalwa kunama-2413 (amawaka amabini amakhulu amane neshumi elinesithathu) labaFaki mabango bamiselwe ngokwesiqendu sesi-6 ukuba ngabaFaki maBango abaFanelekileyo, iTrasti, kwiintsuku ezingama-30 zemfuno yoMhlawuli ngamnye, iya kuhlawula ibuyisele uMhlawuli ngamnye, ngezabelo ezilinganayo, iSixa seNtlawulo yokuBuyisa.

7.3 Ukulondoloza njengoko kubonelelwe kolu Xwebhu lusemthethweni, abaHlawuli abayi kuba nesibophelelo nokuba sesinjani na sokuhlawula nasiphi na isixa esongezelelekileyo kwiTrasti, kwaye iiTrasti aziyi kuba nelungelo lokubanga nasiphi na isixa esingaphaya nokuba sesinjani na kubaHlawuli.

8 IITRASTI

8.1 IiTrasti zokuQala

UGqirha Sophia Kathrina Kisting-Cairncross, Mnu John Richard Parker Doidge, Mnu Goolam Mohammed Aboobaker noNks. Brigitte Mathews ngale ndlela bonyulwa njengeetrasti zokuqala zeTrasti (ngokuhlangeneyo, "**iiTrasti zokuQala**") kwaye ngamnye kubo wamkela ukonyulwa okunjalo kunye nomnikelo ekubhekiselwe kuwo kwisiqendu se-3.2.

8.2 Inani

8.2.1 Maxa onke kuza kuba khona iiTrasti ezingekho ngaphantsi kwezi-4 okanye zibe ngaphezulu kwezisi-7.

8.2.2 Ukuba ngalo naliphina ixesha inani leeTrasti lingaphantsi kwezi-4, iTrasti okanye iiTrasti eziseleyo ziya kuba nelungelo lokuqhuba zisenza yonke imicimbi echaphazela iTrasti ngexa ukonyulwa kwetrasti entsha kufuneka kwenzeke kwiinyanga ezintathu zokuqala ukwehla kwenani libe ngaphantsi kwesi-4.

8.2.3 IiTrasti maxa onke ziya kuba nobuncinane bengcali yezempilo emsebenzini e-1 enobuncinane bamava okusebenza eminyaka eli-10, igqwetha okanye i-advokheyithi e-1 enobuncinane beminyaka eli-10 yamava, kunye netrasti e-1 enobuncinane beminyaka esi-8 yamava ekubeni ngumcwangcisi-zimali nokunxulumene nemicimbi yerhafu.

8.3 Amagunya okuqalisa kunye nokonyulwa kwabalandelayo

8.3.1 Ukuba nayiphi na iTrasti iyasweleka, iyarhoxa okanye iyasuswa kwi-ofisi ngokweziqendu ze-8.7 kunye nese-8.8, iiTrasti eziseleyo ziya kuba nelungelo (kodwa zinganyanzelekanga, ngokuxhomekeke kwisiqendu se-

8.2) ukonyula enye iTrasti ngokungqinelana namagatya emiqathango ebekiweyo efanayo nebekwe kolu Xwebhu olusemthethweni.

8.3.2 ITrasti nganye elandelayo eyonyulwe ngokwesi siqendu se-8.3 njengeTrasti, ekwamkeleni unyulo lwayo ngokubhaliweyo, iya kugunyaziswa kwaye ibotshelelwe ngawo onke amagunya kunye nemisebenzi yeTrasti eyonyuliweyo ngokolu Xwebhu lusemthethweni.

8.3.3 Akukho mntu ngokomthetho uya konyulwa egameni layo nayiphi na iTrasti ukuba azalisekise imisebenzi kunye nokusebenzisa amagunya aloo Trasti.

8.4 **Ukhuselo**

ITrasti akuyi kufunwa ukuba inike ukhuselo ngokunxulumene nokonyulwa njengeTrasti okanye ukwenza izibophelelo kunye namagunya ayo phantsi kolu Xwebhu lusemthethweni kwaye uMphathi kunye nawuphi na omnye umntu onjalo, iqumrhu okanye ugunyaziwe ngale ndlela bayalelwa ukuba bakhuphe kwaye bangafuni ukhuselo olunjalo.

8.5 **Ukuthatha uxanduva**

Ngaphandle kokuba ibango aliveli ekungahoyini kwabo okupheleleyo, ukungakhathali, ubuqhetseba okanye isiphosiso ngenjongo ekwenzeni imisebenzi yabo okanye ukusilela ekusebenziseni amalungelo kunye namagunya abo phantsi kolu Xwebhu lusemthethweni ukuqwalasela izinga lokukhathala, ukukhuthala kunye nesakhono okunokulindeleka ngokufanelekileyo kumntu ophethe imicimbi yabanye:

8.5.1 akukho Trasti iya kuba noxanduva buqu layo nayiphi na ilahleko eyehlele iTrasti okanye nawuphi na uMxhamli, nokuba uyintoni na unobangela;

8.5.2 akukho Trasti iya kuba noxanduva laso nasiphina isenzo sokunganyaniseki okanye okunye ukuziphatha ngenjongo okanye ukungakhathali okupheleleyo okwenziwe yiyo nayiphi na enye iTrasti ngaphandle kokuba ikuvumele isazi okanye ibincedisa apho;

8.5.3 iiTrasti ziya kukhuselwa yiTrasti kuwo nawaphi na amabango awenziwe ebhekiswe kuzo avela okanye anxulumene ngayo nayiphi na indlela ekwenzeni okanye ekungenzini ekulawuleni kwazo iTrasti;

8.5.4 ukuba iiTrasti *ngokunyanisekileyo* zenza nayiphi na ntlawulo kuye nawuphi na umntu abacinga ukuba unelungelo phantsi kwemiqathango yolu Xwebhu lusemthethweni kwaye mva bafumanise ukuba umntu lowo ufumeneyo ebengenalo ilungelo apha, iiTrasti nakuba kunjalo ayiyi kuba luxanduva lwazo olweemali ezihlawulweyo, xa bungekho ubuqhetseba okanye ukungaziphathi kakuhle ngabom okanye ukungakhathali okupheleleyo; kodwa iiTrasti nakuba kunjalo ziya kunyanzeleka ukuba zithathe onke amanyathelo afanelekileyo okubuyisa nayiphi na intlawulo enjalo ukuze kuncedeke iTrasti.

8.6 **UkuSetyenziswa kwamagunya ziiTrasti**

IiTrasti ziya kuthobela kwaye zigcine maxa onke amagatya olu Xwebhu lusemthethweni xa zisebenzisa amagunya azo.

8.7 **Ukuthintelwa**

Umntu uya kuthintelwa ukuba abe yiTrasti ukuba umntu onjalo:

8.7.1 ngumntu ngokomthetho;

8.7.2 unokuthintelwa ukuba asebenze njengomlawuli wenkampani ngokomThetho weeNkampani wama-71 ka-2008 okanye naliphi na igatya elingqinelana nawo;

8.7.3 uthinjiwe, nokuba kokwexeshana okanye kokugqitywe ngako, okanye wenze isenzo sokungakwazi ukuhlawula amatyala akhe njengoko kuchaziwe kumThetho wokuNgakwazi ukuHlawula amaTyala, 1936 njengoko utshintshiwe;

8.7.4 ubhengezwe njengongemanga kakuhle engqondweni okanye ongakwaziyo ukulawula imicimbi yakhe;

8.7.5 wenze ityala elibandakanya ukunganyaniseki phantsi kwemithetho yalo naliphi na ilizwe; okanye

8.7.6 uyarhoxa njengeTrasti hayi ngaphantsi kweeveki ezi-4 zesaziso esibhaliweyo esiya kwiiTrasti eziseleyo.

8.8 **Ukushiya i-ofisi**

8.8.1 ITrasti iya kuyeka ukubamba i-ofisi ukuba:

8.8.1.1 ngokuzenzekelayo ukuba iTrasti iyathintelwa ekubeni ibe yiTrasti ngokwesiqendu se-8.7; okanye

8.8.1.2 ekupheleni kwethuba lesaziso ukuba iTrasti iyarhoxa, ngaphandle kokuba iTrasti kufuneka inike isaziso esibaliwe sobuncinane beeveki ezi-4 sokurhoxa kwayo kwiiTrasti eziseleyo.

8.8.2 ITrasti ayiyi kuba nalo ibango ngokubhekisele kwiTrasti, okanye ngakwiqela elicela ukurhoxa kwayo, okuvela okanye okunxulumene nokususwa kwaye njengeTrasti.

8.9 **OoSihlalo**

IiTrasti ziya konyula usihlalo kwithuba ngalinye leenyanga ezili-12 ngexa lobomi beTrasti. UGqirha Sophia Kathrina Kisting-Cairncross uya kuba nguSihlalo wokuqala kwithuba lokuqala leenyanga ezili-12 ukusukela kumhla wokubhaliswa kweTrasti.

8.10 **IIntlanganiso**

8.10.1 IiTrasti ziya kumisela indlela eziza kubizwa kwaye zibanjwe ngayo intlanganiso, kwaye ziya kudibana ubuncinane qho kwiinyanga ezintandathu ukuthathela ingqalelo kunye nokuvuma intlawulo yeebhenefithi kunye nolwazi oluqulethwe kwiingxelo ezinjalo njengoko kufunwa ngokolu Xwebhu lusemthethweni.

8.10.2 Ngaphandle kokuba kumiselwe ngenye indlela, iiTrasti, ngesaziso seentsuku ezingekho ngaphantsi kwezili-14, ziya kudibana:

8.10.2.1 e-Johannesburg, ngaphandle kokuba iiTrasti zivumelana ngenye indlela ngamxhel'omnye;

8.10.2.2 ngentlanganiso jikelele yonyaka (eza kuvuleleka ukuba kuze kuyo abameli boMhlawuli ngamnye kunye nomxhamli ngamnye okanye abameli babo) kwiinyanga eszi-6 zokuphela konyaka-mali ngamnye apho ii-akhawunti zonyaka-mali wangaphambili ziya kungeniswa ukuze zivunwye kwaye zithathelwe ingqalelo ziiTrasti; kwaye

8.10.2.3 kwamanye amaxesha anjalo njengoko nayiphi kwiiTrasti iza kucingela ukuba kufanelekile.

8.10.3 Ukuba nayiphi kwiiTrasti icinga ukuba kufanelekile ukuba zidibane iiTrasti, iTrasti enjalo iya kubiza intlanganiso ngesaziso esibhaliweyo seetsuku ezili-14 esiya kwezinye iiTrasti. Isaziso siza kuxela umcimbi ekuza kube kuphethwe wona entlanganisweni kwaye, ukuba kuyenzeka, iya kukhatshwa yimizuzu yentlanganiso yangaphambili.

8.11 **Ikoram**

8.11.1 Ikoram kuyo nayiphi na intlanganiso yeeTrasti (kuquka nentlanganiso emiselwe elinye ixesha), ngexesha lonke lentlanganiso, iya kuba nobuncinane beeTrasti ezi-3 ezikhoyo.

8.11.2 Ukuba kwimizuzu engama-30 emva kwexesha elibekelwe intlanganiso, ayikho ikoram okanye nayiphi na intlanganiso yeeTrasti ayinayo ikoram kwaye ihlale ingenayo ikoram imizuzu engama-30, intlanganiso iya kumiselwa elinye ixesha ibe kusuku olungekho ngaphantsi kweentsuku ezi-5 kwaye hayi ngaphezulu kweentsuku ezili-10 emva kokuba intlanganiso imiselwe elinye ixesha. Indawo kunye nexesha lentlanganiso enjalo yakamva ziya kumiselwa kwintlanganiso emiselwe elinye ixesha phambi kokuba imiselwe elinye ixesha kwaye isaziso sentlanganiso enjalo eqhubayo siya kunikwa iiTrasti ezingekhoyo entlanganisweni. Umcimbi oza kuqhutywa kwintlanganiso eqhubayo uya kunyinelwa kulowo ibiza kuba nguwo, okanye oisahleli inguwo, njengoko imeko inokuba njalo, xa ibiqhutyiwe intlanganiso eye yamisewla elinye ixesha.

8.12 **Ukuvota**

8.12.1 Izigqibo zeeTrasti ziya kuthathwa ngemvumelwano ukuba kuyenzeka kodwa xa iiTrasti zingafikeleli kwisivumelwano, ivoti yesininzi yeeTrasti ezikhoyo iya kugqibela. ITrasti nganye iya kuba nelungelo levoti enye.

8.12.2 Kwimeko yokungabikho kwenkqubela ngokuphathelene nezigqibo zeeTrasti, umcimbi ophathelene owenze ukuba kungabikho nkqubela uya kudluliselwa kwintlanganiso leyo zonke iiTrasti ziya kube zikhona. Ukuba kuyenzeka kwakhona ukungabikho kwenkqubela kwakumcimbi omnye, uSihlalo uya kuba nevoti engaphaya yokwenza isigqibo.

8.13 **Izigqibo eziphjunyezwa sisininzi kunye nothabatho nxaxheba lweletroniki**

8.13.1 Isigqibo esibhaliweyo esixhaswa kwaye sasayinelwa bubuncinane besininzi seeTrasti siya kuba neempembelelo ezifanayo ngokungathi siwiswe entlanganisweni. Isigqibo ekuvunyelwene ngaso ngokubhaliweyo siya kuba semthetheni kwaye sisebenze ngokungathi siwiswe entlanganisweni yeeTrasti ebizwe kwaye yahlalelwa ngokufanelekileyo. Nasiphi na isigqibo esibhaliweyo kufuneka sivunywe sisininzi esiyimfuneko kwiiNtsuku ezili-10 (shumi) zokuSebenza ukusuka kumhla wokujikeleziswa kwaso wokuqala, apho kungenziwanga oko asiyi kunyanzelisa okanye sisebenze.

8.13.2 Iintlanganiso zeeTrasti ziya kubanjwa ngendlela yomnxeba, iletroniki okanye ezinye izibonelelo zonxibelelwano ezenza ukuba bonke abantu abathabatha inxaxheba entlanganisweni, banxibelelane omnye nomnye ngaxesha nye.

8.14 **Imizuzu nerejista yabakhoyo**

ITrasti nganye iya kusayina irejista yabakhoyo (egcinwa ngokunxulumene nentlanganiso zeeTrasti) ngokunxulumene nazo zonke iintlanganiso zeeTrasti eziza kuzo iiTrasti ezinjalo. Usihlalo wentlanganiso yeTrasti uya kusayina irejista egameni leTrasti nganye engekhoyo kwintlanganiso kodwa ethabatha inxaxheba ngokwesiqendu se-8.13.2 ngasentla. IiTrasti ziya kugcina imizuzu yazo zonke iintlanganiso zazo. Umzuzu, okanye ikopi eqinisekisiweyo

yemizuzu, esayinwe ngusihlalo okanye ezi-2 zeeTrasti ezikhoyo entlanganisweni, iya kumela ubungqina beziqulatho zemizuzu, de kube kunikwa ubungqina bokuchasana.

9 IINDLEKO NEMALI EHLAWULWAYO

9.1 IiNdleko zoLawulo lweTrasti ziya kuquka zingamiseli mda:

9.1.1 kwiindleko ezifanelekileyo zokuseka iTrasti kunye nokuqesha iPhaneli yezoNyango;

9.1.2 zonke iindleko ezifanelekileyo ezo iiTrasti kuza kufaneleka ukuba zizihlawule ngokusebenza njengeeTrasti zeTrasti;

9.1.3 yonke imali ehlawulwayo efanelekileyo yokusebenza njengeTrasti yeTrasti, ngokuxhomekeke kwisigqibo esimxhel'omnye seeTrasti sokuba nayiphi na iTrasti iya kuba nelungelo lokufumana imali ehlawulwayo enjalo, imali ehlawulwayo enjalo eya kumiselwa ziiTrasti, kwaye ngaphandle kokuba iiTrasti zinokugunyazisa intlawulo yayo nayiphi na imali ehlawulwayo elindeleke kwiTrasti eya kwiqela lesithathu elonyulwe yiloo Trasti.

9.1.4 zonke iindleko zokusebenza zeTrasti, kuquka iindleko ezifanelekileyo zomthetho, ezonyango kunye nezabacebisi ngezimali kunye nezeengcali eziqeshwe ziiTrasti ngenjongo zokwenza kusebenze iNjongo enguNdoqo;

9.1.5 iindleko ezifanelekileyo zokunceda abaFaki maBango abangabaXhomekeki njengoko kubhekiselwe njalo kubo kwisiqendu se-16.2.2;

9.1.6 iindleko ezifanelekileyo zePhaneli yezoNyango kunye neemvavanyo kunye namahlolo onyango ekubhekiselwe kuwo kwisiqendu se-11.3;

9.1.7 iindleko ezifanelekileyo zokuncedisa abaFaki maBango abaFanelekileyo kwi-ODMWA ngokungqinelana nesiqendu se-16.4;

9.1.8 iindleko ezifanelekileyo zokufumana iiRekhodi kunye nezokuncedisa abaFaki maBango abaFanelekileyo ukuba bafumane iiRekhodi ngokungqinelana nesiqendu se-12.2.14.

9.1.9 iindleko ezifanelekileyo zokuncedisa abaFaki maBango abaFanelekileyo ebebexhomekeke kwiimvavanyo kunye nohlolo lwezonyango lwePhaneli yezoNyango abangebabo abaFaki maBango abaFanelekileyo kwi-ODMWA kodwa nakuba kunjalo abanelungelo lokubanga imbuyekezo phantsi kwe-ODMWA, ukufaka amabango anjalo kwi-MBOD; kunye

9.1.10 neendleko ezinxulunyaniswa nokuzibandakanya kweeTrasti ekuSonjululweni kweMbambano ngokungqinelana nesiqendu sama-21.

9.2 Kurekhodiwe ukuba abaHlawuli banokuba bahlawule kwi-akhawunti yetrasti yeMbuyisa Neale isixa sezigidi ezi-R2 million ("**iMali eHlawulwe ngaPhambili yeeNdleko zoLawulo lweTrasti**") eza kusetyenziswa kwiindleko ezikhawulezayo eziyimfuneko ukuseka iTrasti.

9.3 KwiiNtsuku ezili-10 zokuSebenza emva kokufumana isiqinisekiso kwiiTrasti ezonyulwe ngokufanelekileyo kwaye zabhalisa ukuba kuvulwe i-Akhawunti yeBhanki yeTrasti, iMbuyisa Neale iya kudiphozitha kwi-Akhawunti yeBhanki yeTrasti ibhalansi yeMali eHlawulwe kwangaPhambili yeeNdleko zoLawulo lweTrasti, emva kokutsala iindleko ezikhawulezileyo ezenziwe ekusekweni kweTrasti, kuquka ukubhaliswa kweTrasti, kunye nokonyulwa kunye nokubhaliswa kwweeTrasti ("**iiNdleko zokuSeka iTrasti**").

9.4 IMbuyisa Neale iya kuthi kwiiNtsuku ezingama-20 zokuSebenza inike iTrasti kunye noMhlawuli ngamnye i-akhawunti ecazululiweyo zonke iiNdleko zokuSekwa kweTrasti ezenziweyo, kuquka ubungqina bokubhatala, kwaye iTrasti inelungello lokufumana ibhalansi yeMali eHlawulwe kwangaPhambili kuMbuyisa Neale yeeNdleko zoLawulo lweTrast emva kokutsalwa kweendleko zokuSekwa kweTrasti. Iimali ezinjalo ziya kusetyenziswa yiTrasti ukuhlawula iiNdleko zoLawulo lweTrasti ezikhawulezilyo.

9.5 Ngamnye kubaHlawuli uya kuba noxanduva lokuhlawula, ngezabelo ezilinganayo, ezi zixa zilandelayo zingaphaya, kwi-Akhawunti yeBhanki yeTrasti, enokusetyenziselwa kuphela iiNdleko zoLawulo lweTrasti, kunye nangale miqathango ibekiweyo ilandelayo:

9.5.1 isixa sesi-R8 sezigidi kwiiNtsuku ezili-10 zokuSebenza zokufunyanwa kwesaziso esivela kwiiTrasti esiya kuMhlawuli ngamnye sokusekwa kwe-

Akhawunti yeBhanki yeTrasti (**"UMrhumo wokuQala weNkunzi yoLawulo lweTrasti**"); kunye

9.5.2 nesixa esingaphaya se-R10 lezigidi ngesicelo seeTrasti ngokubhekisele kubungqina obufanelekileyo obunikwe uMhlawuli ngamnye ukuba –

9.5.2.1 iMali eHlawulwe kwangaphambili yeeNdleko zoLawulo lweTrasti emva kokutsalwa kweeNdleko zokuSekwa kweTrasti; kwaye

9.5.2.2 yoMrhumo wokuQala weNkunzi yoLawulo lweTrasti;

isetyenziselwe iiNdleko zoLawulo lweTrasti kunye nocazululo lwezo ndleko kuquka nobungqina obufanelekileyo bokubhatala ("**uMrhumo weSibini weNkunzi yoLawulo lweTrasti**").

9.6 Kwimali eHlawulwe kwangaPhambili kwiiNdleko zoLawulo lweTrasti emva kotsalo lweeNdleko zokuSekwa kweTrasti, uMrhumo wokuQala weNkunzi yoLawulo lweTrasti kunye noMrhumo weSibini weNkunzi yoLawulo lweTrasti ayonelanga ukuba ihlawulele iiNdleko zoLawulo lweTrasti, ngamnye kubaHlawuli, kwiiNtsuku ezili-15 zokuSebenza zokwenza kusebenze esi saziso ziiTrasti, uya kuhlawula izixa ezingaphaya ezinjalo njengoko zinokufunwa ngokufanelekileyo ukuhlawulela iindleko zoLawulo lweTrasti ezingaphaya ezifunekayo ukuzalisekisa iNjongo enguNdoqo, ngokubhekisele kubungqina obufanelekileyo obunikwe uMhlawuli ngamnye kunye nocazululo lweeNdleko zoLawulo lweTrasti ezihlawulelwe ezo zixa kuquka nobungqina obufanelekileyo bokubhatelweyo.

9.7 Ngaphandle kokwehla kwizibophelelo zabaHlawuli ezimiselwe kwisiqendu se-9.5, nokuba yintoni na echaseneyo nolu Xwebhu lusemthethweni, iiTrasti ziya kusebenzisa ingqiqo yazo yokusebenzisa inzala kunye notyalo-mali lwezabelo ezivele kwibhalansi ye-Akhawunti yeBhanki yeTrasti kwiiNdleko zoLawulo lweTrasti phambi kokusebenzisa, njengoko imeko inokuba njalo, iinxalenye zenkunzi -

9.7.1 iMali eHlawulwe kwangaphambili yeeNdleko zoLawulo lweTrasti emva kokutsalwa kweeNdleko zokuSekwa kweTrasti;

9.7.2 yoMrhumo wokuQala weNkunzi yoLawulo lweTrasti; kunye

9.7.3 noMrhumo weSibini weNkunzi yoLawulo lweTrasti.

10 **II-AKHAWUNTI KUNYE NEENGXELO**

10.1 IiTrasti ziya kuqinisekisa ukuba iincwadi kunye neerekhodi ezifanelekileyo zezimali ziyagcinwa eziphathalene nemicimbi yeTrasti kunye nolawulo lwemali yeTrasti ebonakala ngokwenene kunye nangokuchanekileyo nkulawulo lwemicimbi kunye neshishini leTrasti kwaye barekhode iitransekshini kunye nesimo sezimali seTrasti.

10.2 Zonke ezo ncwadi kunye neerekhodi zezimali, kunye nawo onke amaphepha kunye namaxwebhu eTrasti, ziya kugcinwa kwiindawo ezinjalo ezinokumiselwa ziiTrasti ixesha nexesha kwaye ziya kufikeleleka kwiRasti nganye ukuze azihlole ngawo onke amaxesha afanelekileyo.

10.3 Kuza kwenziwa uphicotho-ncwadi kwiincwadi zeTrasti. IiTrasti ziya kulungiswa kwaye zisayine iingxelo zonyaka ze-akhawunti yeTrasti kunyaka-mali ngamnye, kwaye ziya kuqinisekisa ukuba zonke ii-akhawunti neerekhodi ziyaxelwa kwaye kwenziwe uphicotho-ncwadi kuzo ngabaPhicothi-ncwadi beTrasti.

10.4 Umphicothi-ncwadi ngamnye weTrasti uya kuba nelungelo lokufikelela maxa onke kwiincwadi ze-akhawunti, iivawutsha kunye nerekhodi zeTrasti, kwaye uya kuba nelungelo lokufuna kwiiTrasti kunye nabasebenzi beTrasti ulwazi kunye nengcaciso enjalo njengoko kunokuba yimfuneko ekwenzeni imisebenzi yabo njengabaphicothi-ncwadi beTrasti.

10.5 Ngaphandle komda kwizibophelelo zeeTrasti zokugcina iirekhodi ezifanelekileyo ngeenjongo ezilapha, iiTrasti ziya kugcina iirekhodi ezibanzi zabo bonke abaFaki maBango abahloliweyo, kuquka iinkcukacha zabaFaki maBango ekufunyaniswe ukuba banethayisisi kwaye bachongwe ngokuqiniseka okufanelekileyo, ngokusekelwe, ngaphandle komda, kumagama abo, inombolo yesazisi kunye nencwadi ye-ID, iNombolo yakwa-TEBA, ukuba iyafumaneka, kunye nokubonwa kweempawu zeminwe , ukuba ziyafumaneka, kwaye abaye kwisibonelelo sovavanyo lwezonyango ukuba bayokwenza uvavanyo kunye nohlolo lwezonyango, okanye kwimeko yabaFaki maBango abaZimeleyo, baye baqhagamshelana neTrasti kwiThuba lamaBango aFanelekileyo.

10.6 Ii-Akhawunti zeTrasti ziya kuququzelela ukugciwna kweerekhodi eziyinyani kunye nezifanelekileyo.

10.7 IiTrasti ziya kunika uMhlawuli ngamnye ngokusekelwe kwiinyanga ezintandathu ingxelo emisela okulandelayo:

10.7.1 igama, inombolo ye-ID, iNombolo yakwa-TEBA (ukuba ikhona) kunye nokujongwa kweempawu zezandla zoMfaki Bango ngamnye ohloliweyo ngexa leenyanga ezintandathu ezandulelayo;

10.7.2 iinkcukacha zoMsebenzi oFanelekileyo kunye neNkonzo eFanelekileyo oMfaki Bango ngamnye onjalo ekubhekiselwe kuye kwisiqendu se-10.7.1;

10.7.3 nokuba bahloliwe okanye abahlolwanga abantu ekubhekiselwe kubo kwisiqendu se-10.7.1 ukuba baneempawu zekhompawundi yezimbiwa eyisilika kwaye ukuba kunjalo loluphi uDidi lwesifo njengoko kuchaziwe kwisiqendu se-17.1.

10.8 IiTrasti ziya kuqinisekisa ukuba bonke abaFaki maBango abaza kuhlolwa kufuneka bavume ukuxelwa okulandelayo kweerekhodi zee-x-reyi kunye nezonyango ezenzelwe iinjongo zohlolo yiTrasti kuMhlawuli ngamnye ngomqathango wokuba imvume enjalo ayiyi kudlulela kulo naluphi na ulwazi lobuqu olungafunekiyo kuhlolo lwabaFaki maBango lwembuyekezo ngokwale Trasti kuquka, ukuphetshwa kwawo nawaphi na amathandabuzo, isimo se-HIV soMfaki Bango kunye nempilo yezesondo.

10.9 IiTrasti ziya kunika uMhlawuli ngamnye iinkcukacha zesixa sazo zonke iibhenefithi ezihlawulwe uMfaki Bango ngamnye ekubhekiselwe kuye kwisiqendu se-16, iikopi zeerekhodi ekubhekiselwe kuzo kwisiqendu se-10.8, ukuxelwa kwazo oko kunyiweyo ngabaFaki maBango, kunye nalo naluphi na ulwazi olucelwe ngokufanelekileyo nguMhlawuli ngamnye ngokunxulumene nabaFaki maBango kunye nesixa esihlawulwe kubo, ngokuxhomekeke kumqathango wokuba ngamnye kubaHlawuli uya kumisela umda ukuxelwa kolwazi kwiinkampani zabo kwabo bantu bafuna ufikelelo kulwazi kuquka ukugcina ulwazi ukuze lungafumaneki kubasebenzi bneenkampani ezinjalo jikelele, kwaye abayi kuxela ulwazi kulo naliphi na iqela lesithathu olubekelwe abacebisi abangamagcisa okanye ukuze kuxelwe okanye kulandelwe naluphi na ulungiso okanye ibango, nokuba ngomrhumo, unyenyiso okanye ngenye

indlela ngokubhekisele kwiqela lesithathu, kodwa kwisehlo esinjalo ulwazi lunokuxelwa kuphela ukuya kuma kwimfuneko engqongqo kunye nangobumfihlo obungqongqo.

10.10 IiTrasti ziya kunika iingxelo zokugqibela ekwenziwe uphicotho-ncwadi kuzo ekupheliswni kweTrasti yazo zonke iimali ezibhatelweyo kunye nayiphi na intsalela efumanekayo, kwaye, phambi kokupheliswa kweTrasti, ziya kwenza kufumaneka kuMhlawuli ngamnye lonke ulwazi oluphathelene nokusebenza kweTrasti abanelungelo layo ngokolu Xwebhu lusemthethweni. Kwimeko yentsalela, iiTrasti ziya kugunyaziswa ukuba zinikele kuphela ngentsalla enjalo kwisikim soMbutho oNgekho Phantsi kukaRhulumente obhalisiweyo onika iinkozo zokhathalelo lwempilo ezisisiseko kwabo bebesakuba ngabasebenzi mgodini eMzantsi Afrika.

10.11 IiTrasti ziya kukhupha ingxelo yonyaka eya kufaka (kodwa ingamiselwanga mda) kwiingxelo zonyaka ekwenziwe uphicotho-ncwadi kuzo ze-akhawunti, kunye nolwazi olunxulumene:

10.11.1 nenani lebaFaki maBango abaFanelekileyo abafumene ukunikwa kwiTrasti ngexa lonyaka owandulelayo;

10.11.2 isixa esipheleleyo sazo zonke izixa ezinikiweyo; kunye

10.11.3 neemali e zihlawulwayo, ezibhatelweyo kunye nemivuzo ethatyhwe, ehlawulwe okanye eyenziwe yiyo okanye egameni layo iTrasti.

11 **IMISEBENZI JIKELELE YETRASTI**

11.1 IiTrasti ziya kunyanzeleka ukuba zizalisekise iNjongo enguNdoqo msinyane kangangoko kufaneleke, kodwa kwithuba lokusebenza kweTrasti njengoko kumiselwe kwisiqendu se-15 ngezantsi.

11.2 IiTrasti ezifanelekileyo ziya kuqinisekisa ukuba intlawulo yembuyekezo yenziwa kuphela -

11.2.1 KubaFaki maBango abaFanelekileyo abo:

11.2.1.1 banelungelo lokubuyekezwa ngokwegatya lesiqendu se-16 solu Xwebhu lusemthethweni; kwaye

11.2.1.2 bachongwe ngokuqiniseka okufanelekileyo, ngokusekelwe (kungamiselwanga mda) ngokulandelayo: igama, inombolo yesazisi kunye nekopi yencwadi ye-ID, iNombolo yakwa-TEBA (ukuba ikhona), kunye (phambi kokuba yenziwe intlawulo) ngokuqondwa kweempawu zeminwe; kwaye

11.2.1.3 baye beza buqu kwisibonelelo sezempilo bezokwenza uhlolo lwezonayngo kunye nokujongwa kwiThuba lamaBango eliFanelekileyo; okanye

11.2.2 AbaXhomekeki abaFanelekileyo bafake ibango kwiTrasti kwiThuba lamaBangio eliFanelekileyo.

11.3 IiTrasti ziya konyula iPhaneli yezoNyango kwaye ilungiselele uvavanyo kunye nohlolo lwezonyango ngokuthembeka kunye nokukhawuleza kangangoko ukumisela ukufunyaniswa ngoxilongo lwethayisisi kunye nenqanaba lomonakalo kubo bonke abaFaki mabango abaFanelekileyo. IPhaneli yezoNyango iya kuquka oogqirha abaqinisekisiweyo abagqwesa kwimpilo yasemsebenzini kunye nabatshisi ngemitha abaqinisekisiweyo, bonke abaya kuba namava afanelekileyo ekufumaniseni ngoxilongo isifo semiphunga esifumaneke emsebenzini kunye nokuhlolwa komonakalo womjelo wokuphefumla. ITrasti iza kuqinisekisa ukuba iPhaneli yezoNyango iqalisa imijikelo emibini yovavanyo kunye nohlolo.

11.3.1 Umjikelo wokuqala uya kufumanisa ngoxilongo ithayisisi kwaye apho kubalulekileyo ihlole inqanaba lomonakalo kubaFaki maBango abaFanelekileyo kunabaFaki maBango abaSwelekileyo.

11.3.2 Umjikelo wesibini uza kuqhutywa msinyane nje kulandela iThuba lamaBango eliFanelekileyo kwaye liya kuhlola inqanaba lomonakalo wabaFaki maBango kuphela abamsielwe kumjikelo wokuqala ukuba ngaboDidi loku-1, njengoko kuchaziwe kwisiqendu se-17.1.1. Injongo yomjikelo wesibini iya kuba kukumisela kuphela ukuba ingaba uMfaki Bango oFanelekileyo uye waqhubeka na waba ngumFaki bango oFanelekileyo kwi-ODMWA kwaye, ukuba kunjalo, ukuqinisekisa ukuba uMfaki Bango oFanelekileyo onjalo wonwabela ibhenefithi lokuncedwa ekufumaneni iintlawulo ze-ODMWA njengoko kumiselwe kwisiqendu se-

16.4. Ayikho intlawulo eyongezelekileyo eza kwenziwa yiTrasti kuye nawuphi na uMfaki Bango onjalo evela kwiSixa seTrasti yeQ(h)ubeka ngenxa yesiphumo somjikelo wesibini.

11.4 IiTrasti ziya kunyanzeleka ukuba zisebenzise ezona nzame zazo zigqwesileyo ukufumana abaFaki maBango abaninzi kangangoko benako ukubafumana ukuze baqinisekise ukuba bafakiwe kuhlolo kunye novavanyo lwezonayngo ngokukhawuleza kwaye kwiThuba lamaBango eliFanelekileyo.

11.5 IiTrasti kufuneka, kwinyanga ezintathu zokubhaliswa kweTrasti, ziseke inkqubo yokuthintelwa korhwaphilizo eya kuthintela ukusetyenziswa kakubi kweebhenefithi ezinikwe yiTrasti kunye nokuqinisekisa ukuba akukho Mfaki Bango ubanga imbuyekezo ngaphezulu kokukanye kunye nokuba akukho Mfaki bango uya wukwazi ukuthembela kwiirekhodi zonyango zomnye umntu.

11.6 IiTrasti ziza kufuna ukuba uMfaki Bango ngamnye oza kwisibonelelo azokuhlolelwa kwaye ajongelwe ezonyango njengoko kuxeliwe kwisiqendu se-11.2.1.3 kunye noMxhomekeki oFanelekileyo ngamnye ofaka ibango kwiTrasti njengoko kuxeliwe kwisiqendu se-11.2.2 asayine isivumelwano esiqinisekisa ukuba:

11.6.1 akayi kuba nebango elingaphaya kwiTrasti njengoko kumiselwe kolu Xwebhu lusemthethweni;kwaye

11.6.2 akayi kuba nebango okanye ilungelo lokufuna imbuyekezo nokuba injani na nokuba yeyoMhlawuli na evela kwimiqathango yolu Xwebhu lusemthethweni, okanye nakuphi na ukusilela kweeTrasti ukuthobela imiqathango yolu Xwebhu lusemthethweni okanye ukuqhuba imicimbi yeTrasti ngendlela ekufunwa ukuba bayiqhube ngayo.

11.7 Ukukhululwa kuya kuba ngohlobo lweSihlomelo B ekuza kuvunyelwana kwaye kusayinwe nguMfaki Bango ngamnye njengomqathango waphambi kohlolo lwezonyango kunye nokujongwa njengoko kuxeliwe kwisiqendu se-11.2.1.3 kunye nanguMxhomekeki oFanelekileyo ngamnye njengomqathango phambi kokufaka ibango kwiTrasti njengoko kuxeliwe kwisiqendu se-11.2.2.

12 **AMAGUNYA EETRASTI**

12.1 Ngokuxhomekeke kumagatya olu Xwebhu lusemthethweni, iiTrasti, ukuze ziphumeze iNjongo enguNdoqo zeTrasti, ziya kuba nawo onke amagunuya omntu ongundoqo ngokomthetho (okulungiselela ezo zinto zingangqinelaniyo ukuba asetyenziswe yiTrasti), ukongeza kuwo onke amagunya eziwonwabelayo phantsi komthetho oqhelekileyo nangokomthetho owisiweyo, kodwa ngokuxhomekeke kumagatya achaseneyo abekwe apha, kwaye ziya kuba namagunya ngqo abekwe kwesi siqendu se-12.

12.2 Ukuze zizalisekise iNjongo enguNdoqo, iiTrasti ziya kuba namagunya (kuquka, kungamiselanga mda, nawaphi na amagunya ancedisayo asecaleni), amagunya kunye nokukwazi ukuzalisekisa iNjongo enguNdoqo kuphela, kuquka, kungamiselwanga mda, amagunya, amandla kunye nokukwazi:

12.2.1 ukufumana amabango kubaFaki maBango abaFanelekileyo ekungqiniweyo ukuba bane-SRD kwimeko ezibekwe kolu Xwebhu lusemthethweni;

12.2.2 ukwenza izigqibo zokunika imali ezimiselwe ngokuxhomekeke kwisiqendu se-16 kubaFaki maBango abaFanelekileyo kunye nakubaXhomekeki abaFanelekileyo abahlangabezana nayo yonke indlela yokufaneleka exelwe kolu Xwebhu lusemthethweni, kodwa abayi kunyanzeleka ukuba benze naziphi na izigqibo ezifana nokunika imali okanye zokuhlawula nayiphi na imbuyekezo kwiinyanga ezintandathu zokuqala ezilandela ukubhaliswa kweTrasti;

12.2.3 ukufumana nokwamkela iminikelo, iintlawulo okanye izigqibo zeentlawulo kuMhlawuli ngamnye njengoko kuxeliwe kolu Xwebhu lusemthethweni;

12.2.4 ukunikezela ngalo naliphi kumagunya azo kwiikomiti ezineTrasti enye okanye ngaphezulu okanye kubantu abanokumiselwa ziiTrasti, ngaphandle kokuba kuya kuhlala kukho iTrasti e-1 (enye) ubuncinane kwikomiti nganye enjalo;

12.2.5 ukonyula iingcali kwinkalo nganye ukwenza ukuba kuzalisekiswe igunya lazo;

12.2.6 zihlawulwe iindleko zazo ezifanelekileyo, ngokunjalo nemali ehlawulwayo efanelekileyo yokuba zisebenza njengeeTrasti;

12.2.7 ukukhupha naluphi na ukhululo olufanelekileyo;

12.2.8 ukumisela nokuyalela (ngokuxhomekeke kumagatya olu Xwebhu lusemthethweni):

12.2.8.1 ukuseka iindlela zolawulo ezifunwa yiTrasti;

12.2.8.2 inkqubo eza kulandelwa yiTrasti ukuze imeme lawo inokubas ngamabango kunye nohlobo aza kungeniswa ngalo amabango;

12.2.8.3 inkqubo yokuhlola amabango;

12.2.8.4 inkqubo yentlawulo yazo naziphi na izigqibo okanye iintlawulo;

12.2.8.5 uphando olunjalo (kuquka uphando lweenkcukacha manani ngqo) njengoko kunokufunwa ukuphumeza iNjongo enguNdoqo;

12.2.9 ukwenza utyalo-mali ngee-asethi okanye nayiphi na inxenye yayo ngaphaya koko kuyo nayiphi na ingxowa-mali yemarike yezimali yeRANDI yoMzantsi Afrika enezinga lesikeyile lesizwe le-AA okanye ngaphezulu, okanye nayiphi na idiphozithi yexesha elifutsahne (iinyanga ezintathu okanye ngaphantsi) kuyo nayiphi na yenye yeebhanki ezine ezinkulu zoMzantsi Afrika. Baya kuba nelungelo kwakhona lokuguqula, ukwahlula, okanye ukukhulula naluphi na utyalo-mali ngokwengqiqo yabo kwaye baphinde benze utyalo -mali kwakhona ngayo nayiphi na inzuzo kodwa ukuya kuma kuphela apho kugunyazisiweyo khona ngokwesi siqendu se-12;

12.2.10 ngokwengqiqo yabo behlangene yokusebenzisa amandla okuvota ahlonyelwe kuzo naziphi na izabelo zeTrasti kwaye ezigcinwe kuyo nayiphi na inkampani;

12.2.11 ukungena kwiikontraki ezifunekayo okanye eziyimfuneko ukuphumeza okanye ukuzalisekisa iNjongo enguNdoqo zeTrasti;

12.2.12 ukuhlola iirekhodi zengqesho zoMhlawuli ngamnye okanye bonyule ummeli ukuba ahlole ezi rekhodi;

12.2.13 ukulungisa kunye nokupapasha ulwazi oluqokelelwe yiTrasti ngendlela engenagama ngenjongo yokusa phambili impilo yoluntu; kunye

12.2.14 nokufumana iiRekhodi zabaFaki maBango ngokunceda abaFaki maBango bafumane iiRekhodi.

12.3 IiTrasti ziya kuba negunya (kwaye zinyanzelekile ukuba zisebenzise elo gunya)

12.4 ukwenza zonke izinto kunye nokusayina onke amaxwebhu njengoko kuyimfuneko ukuzalisekisa izibophelelo ezithile ekubhekiselwe kuzo kolu Xwebhu lusemthethweni, kuquka igunya lokumisela iinkqubo ngokubhekisele kuMhlawuli ukunyanzela izibophelelo zoMhlawuli phantsi kolu Xwebhu lusemthethweni.

12.5 IiTrasti ziya kuba negunya lokusebenzisa, ukupapasha okanye ukusasaza ngohlobo olungenagama kwaye ngaphandle kwenzuzo okanye intlawulo, ulwazi kunye nedatha eqokelelwe ngexa lokusebenza kweTrasti kuphela ngenjongo yokusa phambili impilo yoluntu.

12.6 Kurekhodwe ngokungaphaya ukuba namnye kubaHlawuli ovunyewle ukuba:

12.6.1 asebenzise nayiphi na impazamo, okanye ajonge kwakhona, izigqibo zohlolo kunye nembuyekezo ezenziwe ziiTrasti;

12.6.2 athengise, asebenzise okanye asasaze ulwazi lwezonyango loMfaki Bango ukuze azuze imali;

12.6.3 ukuxela ulwazi lwezonyango loMfaki Bango kulo naliphi na iqela lesithathu olugcinwe njengoluyimfuneko ukuthgintela ubuqhetseba okanye ukuze abange, okanye alandele naluphi na uncedo okanye ibango, nokuba ngomrhumo, ukukhululwa okanye ngenye indlela ngokubhekisele kwiqela lesithathu, kodwa kwimeko enjalo ulwazi lunokuxelwa kuphela kwimfuneko engqongqo kunye nangobumfihlo obungqongqo;

12.6.4 ukuxela ulwazi lwezonyango loMfaki Bango *kwihlokondiba* leqela lesithathu; okanye

12.6.5 ukupapasha ulwazi lwezonyango loMfaki Bango olugcinwe ngohlobo olungenagama ukuze kusiwe phambili impilo yoluntu.

13 **ABAXHAMLI**

AbaXhamli beTrasti iya kuba ngabaFaki maBango abaFanelekileyo kunye nabaXhomekeki abaFanelekileyo kubomi beTrasti. Ukuphepha amathandabuzo, iibhenefithi ezilindelekileyo kubaXhamli kunye nendlela iibhenefithi ezinjalo eziya kunikwa ngayo iya kumiselwa kulandela imiqathango ebekiweyo yolu Xwebhu lusemthethweni (iSigaba III).

14 **ULAWULO KUNYE NOBUNINI BEE-ASETHI ZETRASTI**

14.1 Ubunini bazo zonke ii-asethi ezifunyenweyo kunye nazo zonke izibophelelo ezenziwe yiTrasti ziya kuba kwaye zihlale ziphantsi kweeTrasti ngokwezikhundla zazo zokumela. IiTrasti zinokufumana kuphela ii-asethi ezinjalo njengoko kunokufaneleka ekwenzeni imisebenzi yeTrasti.

14.2 Ii-asethi zeTrasti zinokubhaliswa egameni leTrasti, iiTrasti zelo xesha okanye umonyulwa weTrasti, kwaye kufuneka ziboniswe kuluhlu lwempahla olufakwa kwingxelo yonyaka yeTrasti. Ekuphelisweni kweTrasti zonke ii-asethi mazithengiswe ngexabiso elifanelekileyo kwaye inzuzo iboniswe ngokucacileyo kungqinelwaniso lokugqibela lwee-akhawunti zeTrasti ekubhekiselwe kulo kwisiqendu se-10.10.

14.3 IiTrasti ziya kuthathela kuzo kwaye zigcine kukhathalelo kunye nogcino lwazo okanye kolo lwee-arhente zazo, zonke kwaye naziphi na izixhobo zetayitile kunye namanye amaxwebhu anxulumene okanye aphathelene neTrasti kunye nemisebenzi yayo kunye nakuyo nayiphi na ingxowa-mali yetrasti kunye/okanye ingeniso yetrasti.

14.4 Akukho Mxhamli uya kuba nawo nawaphi na amalungelo kwii-asethi ezinjalo kunye/okanye ingeniso, ngaphandle kokuba iTrasti ide yenze nasiphi na isigqibo sokunika uMxhamli onjalo.

15 **UBUDE BEXESHA KUNYE NOKUPHELISWA**

ITrasti iya kuhlala ikhona ithuba leminyaka emithathu elandela ukuphelelwa kweThuba lamaBango eliFanelekileyo ngaphandle kokuba ngenye indlela ipheliswa ziiTrasti kwangoko, okanye yandiswa ziiTrasti ngesivumelwano esibhaliweyo noMhlawuli ngamnye, sivumelwano eso singayi kugcinwa ngokungafanelekanga.

ISIGABA SE-III: ULAWULO LWENTLAWULO

16 **IZIGQIBO ZIITRASTI**

16.1 **Intlawulo evela kwimali yeTrasti**

ISixa seTrasti yeQ(h)ubeka siza kusetyenziswa siphelele ziiTrasti ukwenza izigqibo zembuyekezo kubaFaki maBango abaFanelekileyo kunye nabaXhomekeki abaFanelekileyo njengoko kubonelelwe ngokungaphaya kwisiqendu se-16.2 solu Xwebhu lusemthethweni.

16.2 **Izifo**

16.2.1 AbaFaki maBango abaFanelekileyo

16.2.1.1 AbaFaki maBango abaFanelekileyo baya kuba nelungelo lembuyekezo kuphela kwimeko yokuba bafunyaniswe ngoxilongo ukuba bane-SRD. Imbuyekezo iya kunikwa kuphela kwiimeko ezo iiTrasti zonelisekileyo ukuba i-SRD ifunyaniswe ngoxilongo nge-x-reyi ehlelwa ngobuncinane be-1/0 phantsi kohlelo lwehlabathi lwe-ILO lotshiso ngemitha lwesifo esinxulumene nokukrala kwemiphunga pneumoconiosis) kunye nakumanqanaba omonakalo ekusebenzeni kwemiphunga okuchazwe kwisiqendu se-17.1.

16.2.1.2 Nawuphi na uMfaki Bango ofuna ukuthathwa njengoMfaki bango oFanelekileyo kufuneka avume ngokubhaliweyo, kwaye agunyazise, kuzo zonke iimvavanyo zonyango ezifunwa ziiTrasti ukumisela ubukho bee-SRD, Ukuba sesiChengeni kunye nokuba mandundu ngaphaya koko.

16.2.2 AbaFaki maBango abangabaXhomekeki

16.2.2.1 Ukuphepha nawaphi na amathandabuzo, abaFaki maBango abangabaXhomekeki abayi kuba nelungelo lembuyekezo ngaphandle kokuba iiTrasti zoneliseke ngokufanelekileyo ukuba lowo uswelekileyo ebosulelwe yithayisisi. Uhlolo olunjalo luya kungqinisiswa ngeerekhodi zonyango, ezifana (kodwa zingamiselanga mda) *kwiziphupho zotyando lwesidumbu*, iirekhodi zonyango kunye nee-x-reyi zesifuba, ngokungqinisiswa kwimbali yengqesho yalowo uswelekileyo kunye/okanye nabuphina obunye ubungqina iiTrasti ezicinga ukuba buthembekile kwaye bunyanisekile.

16.2.2.2 Akukho bango loMfaki bango onguMxhomekeki liya kwamkelwa ziiTrasti kwiimeko ezo lowo uswelekileyo wayenze ibango ngaphambili ngokunxulumene ne-SRD kwaye elo bango lamkelwa ziiTrasti kwaye lahlawulwa ngokupheleleyo okanye lakhatywa ngokusemthethweni ngokolu Xwebhu lusemthethweni.

16.2.2.3 Ekwenzeni izigqibo kubaFaki maBango abangabaXhomekeki, iiTrasti ziya kufumana iikopi zamaxwebhu axhasayo afana neleta yokuba ngumabi lifa okanye yokuba ngumgcini kwaye, ukuba kuyimfuneko, isiqinisekiso okanye ukukhulula okubhaliweyo okuvela kuMfaki Bango onguMxhomekeki okuxela ukuba ungummeli wokwenyani wempahla kunye/okanye wabaxhomekeki kunye nokuba intlawulo eza kuye iya kuphelela kwaye intlawulo yokugqibela yawo onke amabango avela ekuswelekeni kwalowo uswelekileyo kwaye kuya kukhulula iTrasti kuwo nawaphi na amabango angaphaya avela kwabanye abafaki maBango abangabaXomekeki, kwaye akhulula iTrasti kuwo nawaphi na amanye amabango enziwa ngabaFaki maBango abangabaXhomekeki. Njengoko kuyimfuneko, iTrasti iya kuncedisa abaFaki maBango abangabaXhomekeki ukuba bafumane iileta ezisesikweni zokuba ngumabi lifa kunye nezokuba ngumgcini. ITrasti iya kukhuphela ngaphandle ngokufanelekileyo nawaphi na amabango angaphaya avela komnye uMfaki Bango onguMxhomekeki ngokunxulumene nempahla. UMfaki Bango onguMxhomekeki uya kuvuma ngokungaphaya ukunika oko kuhlawulelwe ibango nawuphina umntu ongomnye uMfaki Bango onguMxhomekeki abanga ukuba ummele.

16.2.2.4 AbaFaki Bango abangabaXhomekeki baya kuba nelungelo lokunika intlawulo yebango njengoko kumiselwe kolu Xwebhu lusemthethweni

16.2.3 Ubungqina bokuba sesichengeni

IiTrasti ziya kunyanzeleka ukuba zimisele, ngokokoneliseka kwazo okufanelekileyo, ukuba abaFaki maBango baneNkonzo eFanelekileyo na.

16.3 **Ubungqina besifo**

16.3.1 IiTrasti ziya kuqesha iPhaneli yezoNyango yoogqirha abaqinisekisiweyo abagqwesa kwimpilo yasemsebenzini kunye nabatshisi ngemitha abaqinisekisiweyo, bonke abaya kuba namava afanelekileyo ekufumaniseni ngoxilongo isifo semiphunga esifumaneke emsebenzini kunye nokuhlolwa komonakalo womjelo wokuphefumla.

16.3.2 Zisebenza ngecebo lePhaneli yezoNyango, iTrasti ziya kumisela indlela eza kuvumela uhlolo olungaqhutywa luluvo lomonakalo ngokweendidi zesifo kunye nomonakalo ekubhekiselwe kuwo kwisiqendu se-17.1. Uvavanyo luya kuquka, ngaphandle komda, uxilongo lomzimba (ngokunxulumene noMfaki Bango ophilayo), kunye nohlolo lwePhaneli yezoNyango (ngokunxulumene noMfaki Bango ngamnye ophilayo kunye noswelekileyo), oluya kuqhutywa ngokungqinelana nendlela emiselwe yiTrasti.

16.3.3 AbaFaki maBango abaFanelekileyo kuza kufunwa ukuba bonelise iiTrasti, ezisebenza ngokufanelekileyo kwimeko abosulelwe kuzo yi-SRD kunye nakwimeko yeBango loMxhomekeki lokuba oswelekileyo ebesulelwe yi-SRD.

16.3.4 Ngokunxulumene nabaFaki mabango abaphilayo, njengomthetho jikelele kwi-SRD, iiTrasti ziya kufuna ulwazi olunjalo njengoko benokucinga ukuba kufanelekile olubonisa ukufunyaniswa ngoxilongo okungamandla kwe-SRD kulo okanye ngaphezulu kwalo inqanaba lomgangatho wohlelo lwe-ILO le-1/0 kunye nohlolo olufanelekileyo lomonakalo wokusebenza kwemiphunga ekufuneka luquke:

16.3.4.1 utshiso ngemitha ukusuka kumva ukuya kumphambili wesifuba ngohlobo lwedijithali, okanye ngenye indlela inguqulelo eyenziwe idijithali yefilim ye-x-reyi eqhelekileyo ebubukhulu obupheleleyo, yemiphunga yakhe nawuphi na uMfaki bango oFanelekileyo kunye/okanye ingxelo yeziphumo ze-x-reyi ezihlelwa kwaye zibekwe ngokwenkqubo yokuhlela eqhelekileyo ye-ILO, ingxelo enjalo kufuneka igcwaliswe kwaye isayinwe ngabatshisi ngemitha abaqinisekiswe ngokufanelekileyo kwaye abanamava;

16.3.4.2 iziphumo zeemvavanyo zokusebenza kwemiphunga, ezenziwe ngesixhobo sokulinganisa amandla omoya emiphungeni esichana ngokungqiniweyo, ukuphindaphinda kunye nokuvelisa, esilinganisiweyo kwaye sangqinwa ukuba sisemthethweni ngokwezithethe nemigangatho yovavanyo lokusebenza kwemiphunga esamkelwe jikelele eMzantsi Afrika, apho zonke iipharamitha zokuhamba/umthamo ezamkeleke jikelele zirekhodwayo kwaye apho uhlolo lwenziwa ziingcali zemiphunga okanye iingcali zempilo yasemsebenzini ezigqwesileyo eziqinisekisiweyo kunye nezinamava kumonakalo kunye nokukhubazeka okunxulumene ne-SRD;

16.3.4.3 iziphumo zeerekhodi zoxilongo lwezonyango, kuquka, apho kufanelekileyo, naziphina iimvavanyo zegazi kunye neemvavanyo zesikhohlela ezibalulekileyo ekufunyanisweni ngoxilongo, kuba zinokufunwa ziiTrasti; kunye

16.3.4.4 nembali yezonyango yokuba sesichengeni kuthuli kwikhompawundi yeminerali yomgodi yesilika.

16.3.5 Kwiimeko ezo ukufunyaniswa kwesifo ngoxilongo ekufikelelwe esigqibeni ngako kungenakwenziwa ngokusekelwe kulwazi olungasentla, iiTrasti ngokwengqiqo yazo zinokufuna ukuba uMfaki Bango oFanelekileyo enze iingxilongo ezinjalo ezingaphaya njengoko benokucinga ukuba zifanelekile, kuquka isikeni se-High Resolution Computerised Tomography ukuba sibancede ekumiseleni ibango.

16.3.6 Ubungqina obunjalo bezonyango buya kurekhodwa isigxina kwinkqubo yerekhodi yezempilo yeletroniki eya kuquka iimpawu ezizodwa zeminwe

zoMfaki Bango ngamnye oFanelekileyo kunye nemvume esekelwe elwazini ukuba isetyenziselwe ubungqina bezonyango obunjalo ngeenjongo zokumisela isigqibo kunye neenjongo ekubhekisele kuzo kwisiqendu se-10.

16.3.7 Isigqibo seeTrasti kwimiba yezonyango siya kuba sesokugqibela kwaye sibophelele kum(aba)Faki Bango.

16.4 **Inkxaso ye-ODMWA**

16.4.1 IiTrasti ziya kuncedisa abafaki maBango ukufaka isicelo kwimbuyekezo ye-ODMWA esisuka kwi-MBOD kunye/okanye i-CCOD, kuquka nokungenisa iziCelo zokuThobela ze-ODMWA kunye nalo lonke ulwazi olubalulekileyo kwi-MBOD, kwaye zinike iikopi ngamnye waba baHlawuli. Ngokuxhomekeke kuyo nayiphi na imfuneko echaseneyo ye-MBOD okanye i-CCOD, iTrasti iya konyulelwa ukuba ifumane imbuyekezo ehlawulwa kubaFaki maBango abafanelekileyo be-ODMWA egameni labo kunye nokunceda bona.

16.4.2 Ngamnye wabaHlawuli uya kusebenzisa iinzame zakhe ezigqwesileyo ukuququzelela intlawulo yaso nasiphi na isixa esilindelekileyo kwi-ODMWA kubaFaki mabango abaFanelekileyo be-ODMWA abo iiTrasti zifake iziCelo zokuThobela ze-ODMWA egameni labo.

16.4.3 Kwimeko yokuba uMfaki Bango oFanelekileyo we-ODMWA omiselwe ziiTrasti ukuba ukuDidi lwesi-2 lwethayisisi (njengoko kuchaziwe kwisiqendu se-17.1.2) angayifumani imbuyekezo ye-ODMWA anelungelo layo evela kwi-CCOD kwiinyanga ezili-12 ukusukela kuMhla weSaziso se-ODMWA, ngamnye kubaHlawuli ngokukhethwa babo mhlawumbi uya kuqesha amagqwetha aqinisekiswe ngokufanelekileyo oMzantsi Afrika, anokuba yiMbuyisa Neale, ukuba alandele umangalelwano lwabaFaki maBango abaFanelekileyo be-ODMWA ngokubhekisele kwi-CCOD, okanye ngenye indlela bahlawule iindleko ezifanelekileyo zomangalelwano ezenziwe yiTrasti ukulandelela umangalelwano olunjalo.

16.4.4 Kwimeko yokuba uMfaki Bango oFanelekileyo we-ODMWA omiselwe ziiTrasti ukuba ukuDidi lwesi-3 okanye lwesi-4 lwethayisisi (njengoko kuchaziwe kwisiqendu se-17.1.3 kunye nese-17.1.4) angayifumani

imbuyekezo ye-ODMWA anelungelo layo evela kwi-CCOD kwiinyanga ezili-12 ukusukela kuMhla weSaziso se-ODMWA ngamnye kubaHlawuli uya kuhlawula iTrasti ukuze kuncedeke uMfaki Bango oFanelekileyo we-ODMWA isixa esilingana nembuyekezo ye-ODMWA, ngaphandle kokuba:

16.4.4.1 ukuba nayiphina intlawulo enjalo ikhokelela kwiintlawulo ezenziwe phantsi kwesi siqendu se-16.4.4 ezedlula, ziphelele, ama-R46,095 ezigidi, azikho izixa ezingaphaya eziya kuhlawulwa ngokwesi siqendu se-16.4.4, kwaye amagatya esiqendu se-16.4.3 aya kusebenza kubo bonke abaFaki maBango abaFanelekileyo abangaphaya abo ngenye indlela kuya kusetyenzwa ngabo ngokwesi siqendu se-16.4.4; kwaye

16.4.4.2 ngokungaphaya, ukuba iTrasti kamva iyaziswa ukuba imbuyekezo ye-ODMWA ihlawulwe yi-CCOD kuMfaki Bango oFanelekileyo we-ODMWA lowo intlawulo yakhe yenziweyo ngokwesi siqendu, iTrasti iya kubuyekeza ngamnye kubaHlawuli nasiphi na isixa esigcinelwe uMfaki Bango oFanelekileyo onjalo we-ODMWA phantsi kwemiqathango yale Trasti, kodwa hayi ngaphezulu kwesixa esihlawule nguMhlawuli ngamnye kwiTrasti ukuze kuncedwe uMfaki Bango oFanelekileyo we-ODMWA ngokwesi siqendu se-16.4.4.

16.4.4.3 Ukuba uMfaki Bango oFanelekileyo we-ODMWA akayifumani imbuyekezo ye-ODMWA ngexa yokungakhathali okanye ukusilela kwakhe ukuthobela nayiphi kwiimfuneko ze-MBOD okanye ze-CCOD abaHlawuli ngeke bakwazi ukuhlawula naziphina izixa ezinxulumene noMfaki Abngo oFanelekileyo we-ODMWA ngokweziqendu se-16.4.3 kunye nese-16.4.4 ngasentla.

17 **UHLOBO KUNYE NOKULINGANISWA KOBUNINZI BEZIXA EZINIKWA ZIITRASTI**

17.1 IiTrasti ziya kumisela inqanaba lembuyekezo eza kuhlawulwa kudidi ngalunye lwabaFaki maBango ngokusekelwe kwiSixa seTrasti yeQ(h)ubeka esipheleleyo, kunye nayiphj na inzala kunye nenzuzo yotyalo-mali eyenziweyo kuso, kukhutshwa iindleko zolawulo ekubhekiselwe kuzo kwisiqendu se- 9.7, esiza kukhutshelwa abaFaki mabango abaFanelekileyo. IiTrasti zinokunika intlawulo abaFaki maBango abaFanelekileyo abawela kulo naluphi na lwezi ndidi zine zilandelayo zesifo semiphunga:

17.1.1 olunethayisisi , kungekho monakalo, kungekho TB yemiphunga okanye iziva ezininzi emiphungeni — (80% FEV1 okanye i-FVC) ("**Udidi loku-1**");

17.1.2 olunethayisisi, umonakalo ongephi — uyakwazi ukuhlangabezana neemfuno zomzimba zemisebenzi emininzi (ama-79 ukuya kuma-60% FEV1 okanye i- FVC) okanye akukho monakalo we-TB yemiphunga okanye akukho momakalo weziva ezininzi emiphungeni ("**Udidi lwesi-2**");

17.1.3 olunethayisisi, umonakalo ophakathi — ukungakwazi ukuhlangabezana neemfuno zokusebenzisa umzimba kwimisebenzi emininzi (51 — 59% FVC okanye 41 — 59% FEV1) ("**Udidi lwesi-3**"); kwaye

17.1.4 umonakalo omandundu wethayisisi — ukungakwazi ukuhlangabezana neemfuno zokusebenzisa umzimba kwimisebenzi emininzi (<50% FVC, <40% FEV1) ("**Udidi lwesi-4**");

17.2 Ukwenziwa kwesigqibo ngesixa, ngokuxhomekeke kulungiso olunokwenziwa kudidi ngalunye ukulungiselela ubudala, buya kuba ngale ndle ailandelayo:

17.2.1 kwabo kufunyaniswe ukuba bawela kudidi loku-1, ama -28% esigqibo sentalwulo kuDidi lwesi-4;

17.2.2 kwabo kufunyaniswe ukuba bawela kudidi loku-2, ama -63% esigqibo sentalwulo kuDidi lwesi-4;

17.2.3 kwabo kufunyaniswe ukuba bawela kudidi loku-3, ama -79% esigqibo sentalwulo kuDidi lwesi-4;

17.2.4 kwabo kufunyaniswe ukuba bawela kuDidi lwesi-4, isixa siza kumisela ziiTrasti sibalwe ngokusekelwe kwiSixa seTrasti ye-Q(h)ubeka esipheleleyo esabelwa bonke abaFaki maBango abaFanelekileyo abane-SRD ngokungqinelana nomlinganiselo omiselwe kwesi siqendu se-17.2.

17.2.5 kubaFaki maBango abangabaXhamli apho kukho ubungqina bamaxwebhu obamkelekileyo bokuba oswelekileyo ebenethayisisi, isigqibo sentlawulo esifanayo nesoDidi loku-1;

17.2.6 kubaFaki maBango abangabaXhamli apho kungekho bungqina bamaxwebhu obamkelekileyo bokuba oswelekileyo ebenethayisisi kodwa bube bukhona obunye ubungqina obo ngokoluvo lweeTrasti bumisela ubungqina obamkelekileyo bethayisisi, ama- 20% esigqibo sentlaulo kuDidi lwesi-4.

18 IMIQATHANGO YASO NASIPHI NA ISIGQIBO SOKUNIKA IMALI

18.1 Msinyane nje ukuba ahlolwe njengofanele ukuba anikwe intlawulo uMxhomekeki, intlawulo yokuqala iya kwenziwa iye kuMxhamli lowo. Ukumisela isixa sentalwulo yokuqala iiTrasti ziya kuthathela ingqalelo elo ingaba linani lamabango anokwenziwa ngexa lokusebenza kweTrasti, naziphina izizindlo zeenkcukacha manani ezibandakanyekayo, kwaye ziya kuthatha onke amanyathelo afanelekileyo okuphepha ukugqiba imali ekhoyo yeSixa seTrasti yeQ(h)ubeka ngendlela eya kuthintela intlawulo eyenziwa yiTrasti yezixa ezifanayo kubaXhamli abanye beTrasti.

18.2 Ngokuxhomekeke kwinani eliphelelelyo lamabango awenziweyo kunye nokufumaneka kwemali, kunye nangokuphathelene nesibophelelo seeTrasti sokuqinisekisa ukuba iSixa seTrasti yeQ(h)ubeka esipheleleyo kunye nayiphi na inzala kunye nenzuzo evela kutyalo-mali ezingaphaya kweeNdleko zokuLawula iTrasti kufunela zabiwe phakathi kwabaXhamli beTrasti, intlawulo engaphaya inokwenziwa kuMxhamli ngamnye emva kokuba zonke iintlawulo zokuqala zenziwe, kwaye yakube isaziwa imali eseleyo.

18.3 Ekwenzeni nasiphi na isigqibo sokunika imali iiTrasti aziyi kutsala nasiphi na isixa esifunyenwe nguMfaki Bango oFanelekileyo phantsi kwamagatya mhlawumbi e-ODMWA okanye e-COIDA (okanye naziphina ezilandelayo zona apha) okanye isixa uMfaki Bango oFanelekileyo ebeya kuba nelungelo laso mhlawumbi phantsi kwe-ODMWA okanye i-COIDA (okanye naziphi na ezilandela zona apha). IiTrasti kwakhona aziyi kutsala kuso nasiphi na isigqibo sentlawulo nasiphi na isixa esifunyenwe nguMfaki Bango oFanelekileyo ngendlela ye-insurensi, isikim sezonyango okanye naziphi na iintlawulo

zonyango ezinxulumene ne-SRD kunye/okanye unyango, ukudambisa iintlungu okanye ngenye indlela, enxulumene nebango lakhe.

18.4 IiTrasti ziya kwenza ulungiselelo olufanelekileyo lokunceda abaXhamli ekuvuleni ii-akhawunti zeebhanki. Nayiphina intlawulo iya kuhlawulwa ngqo kwikredithi ye-akhawunti yebhanki esegameni loMxhawuli, ngaphandle kokuba apho kungenzekiyo ukuba kuvulwe i-akhawunti yebhanki uMxhamli akayi kwenziwa ukuba ahleleleke kwilungelo lakhe. IiTrasti kufunwa ukuba zithathe amanyathelo afanelekileyo okuzanelisa ukuba uMxhamli ngumnini we-akhawunti yebhanki.

19 IZIBOPHELELO NGQO EZITHILE ZEETRASTI

IiTrasti ziya kufumana kuphela kwaye zithathele ingqalelo amabango awenziwe nguye nawuphi na umntu ekufuneka anikwe intlawulo ekugcwalisweni kunye nasekusayineni ngumntu onjalo kwefom yesicelo apho umfaki sicelo avuma, *phakathi kwezinye izinto*, ukuba isigqibo seeTrasti esinxulumene nesicelo siya kuba sesokugqibela kwaye siya kubophelela kumfaki sicelo.

20 UKUPHELISWA

20.1 IiTrasti ziya kunika ungqinelwaniso lokugqibela , ekuphelisweni kweTrasti, lwazo zonke iimali ezibhatelweyo kunye nayo nayiphi na intsalela efumanekayo.

20.2 Kwimeko yentsalela, iiTrasti ziya kugunyaziswa ukuba zinikele kuphela ngentsalla enjalo kwisikim soMbutho oNgekho Phantsi kukaRhulumente obhalisiweyo onika iinkozo zokhathalelo lwempilo ezisisiseko kwabo bebesakuba ngabasebenzi mgodini eMzantsi Afrika.

21 UKUSONJULULWA KWEMBAMBANO

21.1 Ngeenjongo zesi siqendu sama-21, amaQela athetha abaHlawuli kunye neeTrasti zeTrasti ixesha nexesha.

21.2 Kwimeko yokuba kubekho nayiphi na imbambano evela phakathi kwamaQela ngokunxulumene nemiqathango yolu Xwebhu lusemthethweni okanye ukuphunyezwa, ke ngoko ke iQela elinye linokunika isaziso esibhaliweyo (

"**ISaziso seMbambano**") amanye amaQela ukuba aqalise inkqubo emiselwe ngezantsi.

21.3 AmaQela kuqala aya kuzama ukusombulula imbambano ngolamlo.

21.4 AmaQela aya kuvumelana ngomlamli kwiiNtsuku ezili-10 zokuSebenza zeSaziso seMbambano.

21.5 Ukuba ngaso nasiphi na isizathu amaQela awavumelani ngomlamli kwiiNtsuku ezili-10 zokuSebenza zeSaziso seMbambano okanye umlamli ekuvunyelwene ngaye ngamaqela abe akasamkeli isimemo sokulamla kwaye amaQela ngaso nasiphi na isizathu ayasilela ukuvumelana ngomnye umlamli kwiiNtsuku ezingama-20 zokuSebenza zeSaziso seMbambano, naliphi ke kumaQela linokucela i-Tokiso Dispute Resolution Proprietary Limited ukuba yonyule umlamli.

21.6 AmaQela kufuneka avumelane ngenkqubo yolamlo kwaye ekungaphumelelini kwesivumelwano kwiiNtsuku ezili-10 zokuSebenza zeSaziso seMbambano okanye ithuba elide elinjalo njengoko kunokuvunyelwana ngalo ngokubhaliweyo, ulamlo ke luya kwenzeka ngokungqinelana nemiThetho yoXolelwaniso yeModeli yeKomishoni yeZizwe eziManyeneyo kumThetho woRhwebo weHlabathi (United Nations Commission on International Trade Law) (UNCITRAL) esebenzayo ngexesha lembambano.

21.7 Ukuba ngaso nasiphi na isizathu, kuquka nokungabikho kwentsebenziswano ngamaQela, imbambano ayisonjululwanga ngolamlo kwiintsuku ezingama-30 zeSaziso seMbambano okanye ixesha elide elinjalo njengoko kunokuvunyelwana ngokubhalwe phantsi phakathi kwamaQela, imbambano ke iya kusonjululwa ngoxolelwaniso.

21.8 AmaQela anokuvumelana ngomxolelanisi kunye nenkqubo yoxolelwanioso, kwaye, ekungaphumelelini kwesivumelwano kwiNtsuku ezili-10 zokuSebenza ezisemva kokuphela kwethuba ekubhekiselwe kulo kwisiqendu sama-21.7 okanye ithuba elide elinjalo njengoko kunokuvunyelwana ngokubhalwe phantsi uxolelwaniso ke luya kwenzeka ngokungqinelana nemiThetho yoXolelwaniso ye-UNCITRAL esebenzayo ngexesha lembambano.

21.9 Ugunyaziwe owonyulayo ngokwemiThetho yoXolelwaniso ye-UNCITRAL iya kuba nguMbutho wolamlo wamaZantsi e-Afrika

21.10 Ngaphandle kokuba kuvunyelwene ngenye indlela ulamlo ke luya kwenziwa ngamaQela.

21.11 Inani labalamli uya kuba mnye kwaye inani labaxolelanisi uya kuba mnye.

21.12 Indawo eza kuchophela ulamlo kunye noxolelwaniso iya kuba yi-Johannesburg, eMzantsi Afrika.

21.13 Umthetho olawula inkqubo yolamlo noxolelwaniso iya kuba ngumthetho woMzantsi Afrika.

21.14 Umxolelanisi uya kuba namagunya okunceda afanayo nalawo inkundla yomthetho eMzantsi Afrika ibiza kuba nawo xa igweba imbambano.

21.15 Umxolelanisi uya kunika isigqibo kunye nezizathu ezibhaliweyo kwiintsuku ezingama-30 ukusuka kumhla oluphele ngawo uxolelwaniso.

21.16 Ayikho into kwesi siqendu eya kuthintela naliphi na iqela ekufuneni uncedo lwexeshana olungxamisekileyo kunye nayiphi na iNkundla enolawulo olufanelekileyo.

ISIGABA SE-IV: IMICIMBI ENTLOBO-NTLOBO

22 **UMTHETHO OLAWULAYO**

Olu Xwebhu lusemthethweni luya kulawulwa kwaye luchazwe luze lutolikwe ngokungqinelana nemithetho yeRiphabliki yoMzantsi Afrika.

23 **UKUQUKA**

Isiqendu ngasinye kolu xwebhu lusemthethweni sizimele, esinye kwesinye, kwaye ukuba ngaba nasiphi na isiqendu kufunyaniswa ukuba sinesiphosiso okanye asinyanzelisi ukuba sithotyelwe ngaso nasiphi na isizathu yiyo nayiphi na inkundla efanelekileyo, iziqendu eziseleyo ke ziya kusebenza kwaye ziya kuqhuba zisebenza kwaye zinempumelelo.

24 **IIKOPI ZOXWEBHU OLUSEMTHETHWENI**

Olu Xwebhu lusemthethweni lunokusetyenziswa kulo nakweliphi na inani leekopi ezisemthethweni kwaye zonke iikopi ezinjalo ezisemthethweni ziya kuthathwa ngokuba zimisela isixhobo esifanayo.

Isayinwe e Sandton ngo 4 March 20176

Inqina: ye Anglo American South Africa Limited

eqinisekisa igunya layo apha

Isayinwe e Cape Town ngo 5 March 20176

Inqina: ye AngloGold Ashanti Limited

eqinisekisa igunya layo apha

Isayinwe e Braamfontein ngo 3 March 20176

ye **iTrasti yoku-1:** Dr Sophia Kathrina Kisting-Cairncross

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iTrasti yesi-2: Mr John Richard Parker Doidge

iTrasti yesi-3: Mr Goolam Mohammed Aboobaker

iTrasti yesi-4: Ms Brigitte Mathews

ANNEXURE A - IMISEBENZI EFANELEKILEYO

IMisebenzi eFanelekileyo ziishafti okanye imisebenzi ebimnini wayo kwaye iqhutywa zezi nkampani zemigodi yegolide yoMzantsi Afrika ilandelayo, apho kufanelekileyo ngexa lamathuba akhonjisiweyo:

Anglo American;

I-AngloGold (eyayisakuba yi-Vaal Reefs Exploration and Mining Company Limited; kwaye irekhoda iiShafti eyoku-1, 3, 4, 5, 6 neyesi-7 zathengiswa yi-Vaal Reefs ngo-1998 kwaye iShafti yesi- 2 yathengiswa ngo-2000, umhla wokuqala kwentengiso ibe ingowe-1 Julayi 2001; kunye nokuba umgodi we-Joel yayingowe-AngloGold phakathi kuka-1998 kunye no-Epreli 2002);

I-Elandsrand Gold Mining Company Limited;

I-Free State Consolidated Gold Mines Limited;

I-East Rand Gold and Uranium Company Limited;

I-Western Deep Levels Limited;

I-President Brand Gold Mining Company Limited;

I-President Steyn Gold Mining Company Limited;

I-Western Holdings Limited;

I-Free State Consolidated Gold Mines (Operations) Limited;

I-Inter-Mines Services O.F.S. (Proprietary) Limited;

I-Free State Saaiplaas Gold Mining Company Limited;

I-Freddies Consolidated Mines Limited;

I-Free State Geduld Mines Limited;

I-Welkom Gold Mining Company Limited; kunye ne

Video Mining Company Limited.

ANNEXURE B -IFOM YOKUKHULULA

Ukukhululwa kuwo onke amabango [uMfaki bango oFanelekileyo]

Mna, osayinileyo,

[faka amagama apheleleyo kunye nenombolo yesazisi]

ndiqinisekisa ukuba

1 Ndingomnye wabafaki mabango njengoko kuchaziwe kuXwebhu olusemthethweni lweTrasti olwenza iTrasti yeQ(h)ubeka ("**iTrasti**").

2 Ndihlawulwe, ngokupheleleyo nangokugqibeleleyo, onke amabango am eSifo semiPhunga esiFumaneke eMsebenzini ngokubhekisele kubaHlawuli ngokwesi sivumelwano sentlawulo eso abaHlawuli baye basisekela iTrasti.

3 Ngokungqinelana nemiqathango yeTrasti, iiTrasti kufunwa ukuba zimisela ukuba ingaba ndifanelekile na ukuba kwenziwe isigqibo sokuba ndifumane ibhenefithi.

4 Ndiyaqonda kwaye ndivuma ngokungatshintshiyo ukuba –

4.1 umiselo lweeTrasti zeTrasti ekubhekiselwe kulo kwisi-3 lolokugqibela kwaye luyabophelela kum;

4.2 ngokubhekisele kwiTrasti okanye enye yeeTrasti zayo, andiyi kuba namabango nokuba anjani na (i) ibango lebhenefithi kwimeko yokumisela kweeTrasti okungecala lam, okanye (ii) kwimeko yako nakuphi na ukusilela kweeeTrasti ukuthobela uXwebhu olusemthethweni lweTrasti, ibango elifuna ukunyanzela imiqathango yoXwebhu olusemthethweni lweTrasti, okanye elifuna ukuba iiTrasti ziqhube imicimbi yeTrasti ngendlela efunwa kuzo; kunye

4.3 ngokubhekisele kubaHlawuli beTrasti , andiyi kuba namabango okanye imbuyekezo nokuba injani na evela kuXwebhu olusemthethweni lweTrasti, nakuphi na ukusilela kweeTrasti ukuthobela imiqathango yoXwebhu olusemthethweni, okanye nakuphi na ukusilela kweeTrasti ukuqhuba imicimbi yeTrasti ngendlela efunwayo kuzo.

5 Ngenjongo zemihlathi owesi-2 nowesi-4:

5.1 AbaHlawuli bathetha i-Anglo American South Africa Limited kunye ne-AngloGold Ashanti Limited kunye nazo zonke ezo zazisakuba ziinkampani ezithenga nezithengisa izabelo kunye nezangoku ngokungqalileyo kunye nokungangqalanga, ezizimeleyo kunye/okanye iinkampani ezinxulumene nazo kunye nabo yasyisakuba ngabalawuli bazo, abakhoyo ngoku kunye nabo iya kuba ngabo kunye/okanye amagosa kunye/okanye abasebenzi kunye/okanye abanini zabelo naphi na ehlabathini ixesha nexesha okanye nabani kubo njengoko imeko inokuba njalo; kwaye

5.2 ISifo semiPhunga esiFumaneke eMsebenzini sithetha isifo sephepha, ithayisisi, isifo sephepha esihlangene nethayisisi, okanye nasiphi na esinye isifo sokuphefumla esinokuba sosulele ngenxa yengqesho kumgodi wegolide woMzantsi Afrika.

Isayinwe e_____ngolu _ suku lwe_____

_____
[faka amagama apheleleyo omsayini]

Khulula kuwo onke amabango [uMfaki BAngo onguMxhomekeki]

Mna, osayinileyo,

[faka amagama apheleleyo kunye nenombolo yesazisi]

ndiqinisekisa ukuba

1 NdinguMfaki Bango onguMxhomekeki njengoko kuchaziwe kuXwebhu olusemthethweni lweTrasti olwenza iTrasti yeQ(h)ubeka ("**iTrasti**").

2 Ndihlawulwe, ngokupheleleyo nangokugqibeleleyo, onke amabango am abhekisele kubaHlawuli avela kwiSifo semiPhunga esiFumaneke eMsebenzini soMfaki Bango oFanelekileyo oswelekileyo ngokwesi sivumelwano sentlawulo eso abaHlawuli baye basisekela iTrasti.

3 Ngokungqinelana nemiqathango yeTrasti, iiTrasti kufunwa ukuba zimisela ukuba ingaba ndifanelekile na ukuba kwenziwe isigqibo sokuba ndifumane ibhenefithi.

4 Ndiyaqonda kwaye ndivuma ngokungatshintshiyo ukuba –

4.1 umiselo lweeTrasti zeTrasti ekubhekiselwe kulo kwisi-3 lolokugqibela kwaye luyabophelela kum;

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4.3 ngokubhekisele kubaHlawuli beTrasti , andiyi kuba namabango okanye imbuyekezo nokuba injani na evela kuXwebhu olusemthethweni lweTrasti, nakuphi na ukusilela kweeTrasti ukuthobela imiqathango yoXwebhu olusemthethweni, okanye nakuphi na ukusilela kweeTrasti ukuqhuba imicimbi yeTrasti ngendlela efunwayo kuzo.

5 Ngenjongo zemihlathi owesi-2 nowesi-4:

5.1 AbaHlawuli bathetha i-Anglo American South Africa Limited kunye ne-AngloGold Ashanti Limited kunye nazo zonke ezo zazisakuba ziinkampani ezithenga nezithengisa izabelo kunye nezangoku ngokungqalileyo kunye nokungangqalanga, ezizimeleyo kunye/okanye iinkampani ezinxulumene nazo kunye nabo yasyisakuba ngabalawuli bazo, abakhoyo ngoku kunye nabo iya kuba ngabo kunye/okanye amagosa kunye/okanye abasebenzi kunye/okanye abanini zabelo naphi na ehlabathini ixesha nexesha okanye nabani kubo njengoko imeko inokuba njalo; kwaye

5.2 ISifo semiPhunga esiFumaneke eMsebenzini sithetha isifo sephepha, ithayisisi, isifo sephepha esihlangene nethayisisi, okanye nasiphi na esinye isifo sokuphefumla esinokuba sosulele ngenxa yengqesho kumgodi wegolide woMzantsi Afrika.

Isayinwe e_____ngolu _ suku lwe_____

_____

[faka amagama apheleleyo omsayini]