

UMCULU LOGUNYATA SIKHWAMA

wakha

SIKWAMA SEKUNCEPHETELISA LABAKHINYABETWE LITJEBOYA

LITHEBULA LALOKUCUKETFWE

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INCENYE 1: Kungeniswa

1. Tinchazelo nekutoligwa

1.1 Lamagama lalandzelako nalolokushiwoko, ngaphandle nangabe kuchaziwe nobe kungahambelani nalengcikitsi lashiwo kuyo, atawusho lenchazelo lelandzelako futsi loku lokuvetiwe kutawusho letinchazelo leticondzene:

1.1.1 **"ACA"** - African Chrysotile Asbestos Limited, yinkhapani yahulumende lengeniswe ngekuhambelana nemitsetfo we-Riphabliki yaseNingizimu Afrika ngaphasi kwenombolo yekubhaliswa 1944/017008/06, nobe nanobe ngabe ngumuphi longena esikhundleni se-ACA;

1.1.2 **"ARD"** - sifo lesihlobene nelitjeboya;

1.1.3 **"Sifo lesihlobene nelitjeboya"** i-mesothelioma, umdlavuza wemaphapho lohlobene nelitjeboya, sifo selitjeboya, kukhula kwesikhala seliphapho lokuhlobene nelitjeboya, nanobe ngabe ngusiphi sinye sato njengobe kungaba njalo;

"umdlavuza wemaphapho lohlobene nelitjeboya" i-bronchial nobe lenye i-carcinoma yeliphapho ndzawonye nekucina lokukabili kwemtsambo wemaphaphu;

1.1.4 **"Bacwaningi mabhuku"** - mabhuku alesikhwama atawucwaningwa tikhatsi tonkhe. Bacwaningi mabhuku bekucala kutawuba nguyinye kuletinkhapani, Deloitte & Touche, KPMG, PriceWaterhouse-Coopers nobe Ernst & Young;

1.1.5 **"Bahlomuli"** - labantfu labashiwo kumtsetfo 8;

- 1.1.14 **"Gefco"** - I-Griqualand Exploration and Finance Company Limited, yinkhaphani yahulumende lengeniswe ngekuhambelana nemitsetfo yeRiphabliki yaseNingizimu Afrika ngaphasi kwenombolo yekubhaliswa 1970/011100/06, nanobe ngabe ngumuphi longena esikhundleni se-Gefco;
- 1.1.15 **"Gefco Group"** - leyo naleyo nkhaphani ye-Gefco kanye/nobe tinkhaphani te-Gefco tangaphambilini letincikile nobe tanyalo nobe letingakacondzani kanye/nobe tinkhaphani letibandzakanyekako kanye nebacondzisi kanye/nobe tiphatsi tikhundla kanye/nobe tisebenti kanye nobe nebaphatsi bemasheya nobe ngabe ngukuphi emhlabeni tikhatsi tonkhe (kufaka ekhatsi i-Hanova) nanobe ngabe nguyiphi yinye yato, njengobe kungaba njalo;
- 1.1.16 **" Inkhokhelo ye-Gefco"** - leyo ncenye yeSivumelwano sekukhokhelana (Incenye III) lecedza tonkhe tinchabano emkhatsini, *ngakuphatse*lana, Bafaki ticelo labafanelekile labayincenye kuleSivumelwano sekukhokhelana ne-Gefco ne-Hanova ngalokuhlobene ne, lokuvuka kuloku nobe kuhlobene nekuhogela lutfuli lwelitjeboya nobe kungenwa yi-ARD ngemigomo nemibandzela levetwe kuleSivumelwano sekukhokhelana;
- 1.1.17 **" Inkhokhelo ye-Gefco"**

- Linani lemali"**
- ngulelinani lemali lelitawukhokhelwa ummangaleli walesikhwama se-Gefco ngetinchubo tenkhokhelo te-Gefco, ngaphandle kwetindleko tekulungiselela lekuvunyelenwe ngato kuleSivumelwano sekukhokhelana;
- 1.1.18 **"Gencor"**
- iGencor Limited, yinkhapani yahulumende lengeniswe ngekuhambelana nemitsetfo yeRiphabliki yaseNingizimu Afrika ngaphasi kwenombolo yekubhaliswa 1895/001232/06, nanobe ngabe ngumuphi longena esikhundleni se-Gencor;
- 1.1.19 **"Gencor Group"**
- leyo naleyo nkhapani ye-Gencor kanye/nobe tinkhapani te-Gencor tangaphambilini letincikile nobe tanyalo nobe letingakacondzani kanye/nobe tinkhapani letibandzakanyekako kanye nebacondzisi kanye/nobe tiphatsi tikhundla kanye/nobe tisebenti kanye/nobe nebaphatsi bemasheya nobe ngabe ngukuphi emhlabeni nganobe ngusiphi sikhatsi nobe ngabe ngumuphi wabo, njengobe kungaba njalo;
- 1.1.20 **"Inkhokhelo ye- Gencor "**
- leyo ncenye yeSivumelwano sekukhokhelana (Incenye II) lecedza tonkhe tinchabano emkhatsini, *ngakuphatselana*, Bafaki ticele labafanelekile labayincenye kuleSivumelwano sekukhokhelana ne-Gencor ngalokuhlobene ne, lokuvuka kuloku nobe kuhlobene nekuhogela lutfuli lwelitjeboya nobe kungenwa yi-ARD

ngemigomo nemibandzela levetwe
kuleSivumelwano sekukhokhelana;

1.1.21 " Linani lemali leNkhokhelo
ye- the Gencor "

- ngulelinani lemali lelitawukhokhelwa ummangaleli walesikhwama se-Gencor ngetinchubo teNkhokhelo te-Gencor, ngaphandle kwetindleko tekulungiselela njengobe kuvunyelwene kuleSivumelwano sekukhokhelana;

1.1.22 "Hanova"

- (i) I-Hanova Mining Holdings (Proprietary) Limited, yinkhapani yangasese lengeniswe ngekuhambelana nemitsetfo yeRiphabliki yaseNingizimu Afrika ngaphasi kwenombolo yekubhaliswa 1988/04021/07, nanobe ngabe ngumuphi longena esikhundleni se-Hanova;

(ii) I-Hanova Management Services (Proprietary) Limited, yinkhapani yangasese lengeniswe ngekuhambelana nemitsetfo yeRiphabliki yaseNingizimu Afrika ngaphasi kwenombolo yekubhaliswa 1978/004365/07 futsi inenzawo yayo lebalulekile yekwenta ibhizinisi e- Everite House, 20 De Korte Street, Braamfontein, nanobe ngabe ngumuphi longena esikhundleni sayo kuloko;

(iii) I-Hanova Investment CC, yinkhapani levalekile lengeniswe ngekuhambelana nemitsetfo yeRiphabliki yaseNingizimu Afrika ngaphasi kwenombolo yekubhaliswa CK1988/019314/23 futsi inenzawo yawo lebalulekile yekwenta ibhizinisi e- Everite House, 20 De Korte

emhlabeni nganobe ngusiphi sikhatsi nobe ngabe ngumuphi wabo, njengobe kungaba njalo;

- 1.1.29 **"Inkhokhelo ye- Msauli"** - leyo ncenye yeSivumelwano sekukhokhelana (Incenye IV) lecedza tonkhe tinchabano emkhatsini, *ngakuphatselana*, Bafaki ticelo labafanelekile labayincenye kuleSivumelwano sekukhokhelana ne- Msauli ne- ACA ngalokuhlobene ne, lokuvuka kuloku nobe kuhlobene nekuhogela lutfuli lwelitjeboya nobe kungenwa yi-ARD ngemigomo nemibandzela levetwe kuleSivumelwano sekukhokhelana;
- 1.1.30 **" Linani lemali leNkhokhelo ye-Msauli "** - ngulelinani lemali lelitawukhokhelwa ummangaleli walesikhwama yi-Msauli ngetinchubo teNkhokhelo te-Msauli, ngaphandle kwetindleko tekulungiselela lekuvunyelenwe ngato kuleSivumelwano sekukhokhelana;
- 1.1.31 **"Ncheyagae"** - Piet Lentikile Ncheyagae, ngumuntfu lomdzala loyindvodza lona, ngaphambi kwekufa kwakhe, bekahlala e- 100 Skinnington Street, Danielskuil, Northern Cape;
- 1.1.32 **"NNS"** - Ntuli Noble and Spoor Inc, yifemu yebammeli nebammeli betemhlaba netetindlu, inenzawo yayo lebalulekile yabhizinisi e-35 Hendrik Potgieter Street, Nelspruit, nanobe ngabe ngumuphi longena esikhundleni se-NNS;

- 1.1.33 **"Bafaki tikhalo labagule emsebentini"**-umuntu locashwe kuMgodzi loVumelekile futsi logulwa yi- ARD njengalochazwe kumtsetfo 11.2.1;
- 1.1.34 **"ODMWA"** - umTsetfo weTifo letitfolakele Ngekwemsebenti etiMayini naseMisebentini, umTsetfo 78 wanga-1973 (njengobe uchitjiyelwa njalo njalo, nanobe ngabe ngumuphi longena esikhundleni salomunye kuloko);
- 1.1.35 **"Injongo lehamba phambili"** -injongo lehamba phambili yalesikhwama njengobe ichaziwe kumtsetfo 4;
- 1.1.36 **"Umfaki sicelo lofanelekile"** -nobe ngabe ngumuphi umfaki sicelo logule emsebentini, Umfaki sicelo lohogele litjeboya emoyeni nobe Umfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya, nobe ngabe ngumuphi munye wabo njengobe incikitsi ingafuna (ungafaki ekhatsi Bafaki ticelo base-Kapa njengobe kuchaziwe kuleSivumelwano sekukhokhelana) njengobe kuvetwe ngalokungetiwe kumtsetfo 11;
- 1.1.37 **"IMigodzi leVumelekile"** - nobe ngabe nguyiphi imigodzi ye-Gencor Group, i-Gefco Group kanye/nobe u-Msauli Group, njengobe kungaba njalo;
- 1.1.38 **"Sikhatsi lesivumelekile"** - lesikhatsi sa-1965 kuya ku-1988 sonkhe;
- 1.1.39 **" Sivumelwano seNkhokhelo "** - Lesivumelwano sekukhokhelana lekungenwe kuso emkhatsini, *ngekuphatsetlana*, i-Gencor, Gefco, NNS, Msauli, ACA, Hanova nelinani leBafaki ticelo labafanelekile kucedza tonkhe tinchabano emkhatsini wabo ngalokuhlobene ne, lokuvuka kuloku nobe

sikhatsi nobe kucedvwa, ngekungakhohlwa kutsi lemitsetfo letsintsekako ngekwayo ayikakubeki kwacaca loku.

- 1.7 Letihloko kuloMculu ekwenta kutsi tintfo tihambe malula kuphela kumele tinganakwa kakhulu uma kudvvetjwa loMculu.

2. Singeniso

- 2.1 Lamacembu kuleSivumelwano sekukhokhelana avume kukhokhelana ngalokugcwele futsi nangalokuphelele futsi nangaphandle kwekuvunywa kwelicala yi-Gencor, nanobe ngabe nguliphi lilunga le-Gencor Group, Gefco, nanobe ngabe nguliphi lilunga le-Gefco Group, Msauli, nanobe ngabe nguliphi lilunga le-Msauli Group, ACA ne-Hanova, tonkhe tinchabano emkhatsini wabo ngalokuhlobene nelitjoboya, lokuvuka kuloku nobe kuhlobene nekuhogela lutfuli lwelitjeboya nobe kungenwa yi yi-ARD ngemigomo nemibandzela levetwe kuleSivumelwano sekukhokhelana.
- 2.2 Njengencenye yalemibandzela yeSivumelwano sekukhokhelana, kwavunyelwana kutsi lesikhwama sitawusungulwa kulawulwa kwekulungiselelwa kwekuncepheteliswa kuBafaki ticelo labafanelekile mayelana nema-ARD futsi baSunguli bafisa kusungula lesikhwama kuphumelelisa lenchubo.
- 2.3 ngaloko, lesikhwama sisungulwe ngekuhambelana, ngesisekelo nangemibandzela yemigomo nemibandzela lechazwe ngentasi.

INCENYE II: Sikhwama nebaGcini besikhwama

3. Kubunjwa kwalesikhwama

- 3.1 Lesikhwama sakhiwe ngekuya ngaloMculu sitawatiwa njengeSikhwama sekuncephetelisa labakhinyabetwe litjeboya.
- 3.2 BaSunguli basungule lesikhwama ngekunikela ngamunye R100 kulabaGcini besikhwama ngemandla abo kanjalo, leyo minikelo angeke ibuyiselwe emuva.

4. Injongo lehamba phambili yalesikhwama

- 4.1 Injongo lehamba phambili yalesikhwama kuniketa sincepheteliso kuBafaki ticelo labafanelekile mayelana nema-ARD ngalokugcwele, kahle futsi

ngemphumelelo njengobe tindlela tabo tivuma, ngekunaka, *ngekuphatselana*, kuloku:

- 4.1.1 Lelinani lemali lekungilo letiNkhokhelo letitfolwa ngulesikhwama;
- 4.1.2 imphilo yalesikhwama; kanye
- 4.1.3 Nelinani lekungilo nalelihlongotwako lwetikhalo letiletfe, nobe letitawuletfwa kulesikhwama ngenjong yetincepheteliso.

5. Emandla ngekwetemtsetfo

- 5.1 Lesikhwama sitawuba nato tonkhe tintfo nemandla lachunyaniswa nemuntfu lohlukile lonelilungelo lemtsetfo ngekuya ngemitsetfo yeRiphabhliki yaseNingizimu Afrika.
- 5.2 Lesikhwama singamangalela nobe simmangalelwe ngeligama laso.

6. Bagcini besikhwama

6.1 Linani

- 6.1.1 Ngekulandzela lokushiwo nguMtsetfo 6.1.2 ngekhati kwa-3 tinyanga tekubhaliswa kwalesikhwama, lelinani lebaGcini besikhwama ehhovisi litawungetwa liye ku-5, letawukhetfwa ngalokulandzelako:
 - 6.1.1.1 Bagcini besikhwama labangu-2 batawukhetfwa yi-NNS isebentela linani leBafaki ticelo labafanelekile kulokutsetfwa kwelicala lapho lesikhwama sisunguliwe (njengobe kuvetwe kuleSivumelwano sekukhokhelana ngalokucacako);
 - 6.1.1.2 Munye webaGcini siKhwama utawukhetfwa yi-Gencor nobe lenye incenye lekhetwfe yi-Gencor;
 - 6.1.1.3 Munye webaGcini siKhwama utawukhetfwa yi-Gefco ne-Msauli; futsi
 - 6.1.1.4 Munye webaGcini siKhwama kutawuvunyelwana ngaye yi-NNS, Gencor, ne-Gefco ne-Msauli. LomGcini sikhwama kutawuba ngumuntfu loneticu temfundvo kanye/nobe nelwati loluphatselene nekulawulwa kwalesiKhwama. Lomuntfu utawuba **ngumGcini sikhwama wekuCala** futsi utawusebenta njengasihlalo

wesikhashane (kute kufike leso sikhatsi lapho baGcini besikhwama labasihlanu sebakhetsiwe bese bakhetsa sihlalo njengobe kuvunyelwe ku-6.8) futsi utawufuneka kutsi abuke tonkhe tindzaba ledzingekile letishiwo kumtsetfo 13 ngentasi, kufaka ekhatsi kubuka tonhe tindzaba tesimo tekuphatsa kufaka ekhatsi kuvulwa kwema-akhawunti asebhange eSiKhwama. Kuhluleka kuvumelwano, lomGcini sikhwama utawukhetfwa nguSihlalo wanyalo we-Johannesburg Bar Council nobe ngunobe ngabe ngumuphi longena esikhundleni salomunye kuloko.

6.1.2 Kuvikela kungabata, emandla ekukhetsa lashiwo ngenhla asebenta masinyane. Kodvwa lelilungelo lelichubekako lekukhetsa kanye/nobe kukhetfwa kwanobe ngumuphi UmGcini sikhwama lokhetfwe ngalendlela ngekulandzela (endzabeni ye-Gencor, Gefco kanye/nobe uMsauli) inkhokhelo ngibo ngelinani lemali yetiNkhokhelo tabo ngekulandzelana, futsi kanye naloku lokulandzelako:

6.1.2.1 Uma lesimo sekusombulula lesivetwe kumtsetfo 3.1, 5.1.2 na-7.1.2 weSivumelwano sekukhokhelana sivela (lokungukutsi lokusonjululwa lokuhlongotwako kwe-Gencor kungakacedvwa kuwo onkhe emacala mhlaka 30 Juni 2003 nobe lusuku lelindlulile njengobe kungavunyelwana ngembhalo emkhatsini we-Gencor ne-NNS) bese nobe ngabe ngubaphi baGcini besikhwama labakhetsiwe batawubeka phasi tintsambo ngekupheliswa kwalesikhwama njengobe kuvunyelwe kuloMtsetfo 10.2;

6.1.2.2 Uma lesimo sekusombulula lesibekwe kuMtsetfo 5.1.1 weSivumelwano sekukhokhelana sivela futsi lesimo sekusombulula lesibekwe kuMtsetfo 3.1, 7.1.1 na-7.1.2 weSivumelwano sekukhokhelana singaveli, ngaloko lelilungelo lelichubekako le-Gefco kukhetsa umGcini sikhwama (ne-Msauli) njengobe kuvunyelwe ku-6.1.1.3 nelilungelo lekuvuma umGcini sikhwama njengobe kuvunyelwe ku-6.1.1.4, litawushabalala;

6.1.2.3 Uma lesimo sekusombulula lesibekwe kuMtsetfo 7.1.1 weSivumelwano sekukhokhelana sivela nesimo sekusombulula lesibekwe kuMtsetfo 3.1, 5.1.1 na-5.1.2 weSivumelwano sekukhokhelana singaveli, ngaloko lelilungelo lelichubekako le-

Msauli kukhetsa umGcini sikhwama (ne-Gefco) njengobe kuvunyelwe ku-6.1.1.3 nelilungelo lekuvuma umGcini sikhwama njengobe kuvunyelwe ku-6.1.1.4, litawushabalala;

6.1.2.4 Uma letimo tekusombululo letibekwe ku-5.1.1 na-7.1.1 weSivumelwano sekukhokhelana tivelya, ngaloko lilungelo le-Gefco ne-Msauli kukhetsa umGcini sikhwama wemmangaleli kulokuvunyelwe ku-6.1.1.3 litawushabalala, njengobe nelilungelo labo lekuvuma umGcini sikhwama wemmangaleli kulokuvunyelwe ku-6.1.1.4. Uma umGcini sikhwama akhetsiwe ngekulandzelela lokuvunyelwe ku-6.1.1.3 ngaphambi kwesimo sekusombulula ku-5.1.1 na-7.1.1 weSivumelwano sekukhokhelana lesivelako, lona mGcini sikhwama utawushiya masinyane uma kuvela lesimo sekusombulula sivelya, kuleso senteko, lelinani lebaGcini besikhwama litawuncishiswa ngalokufanele.

6.2 emandla ekukhushulwa newekukhetsa labangena etikhundleni

6.2.1 Uma ngekhatshi kweminyaka lengu-2 yekucala yekuba khona kwalesikhwama, umGcini sikhwama lotsite abeke phasi tintsambo nobe akhishwe ehhovisini ngekuya ngemitsetfo 6.6 na-6.7, lomunye umGcini sikhwama utawukhetfwa ngulelicembu lelukhetse lomGcini sikhwama lobekwe ngekuhambelana ngalokuvunyelwe futsi nemigomo nemibandzela lefanele lebekwe kuloMculu.

6.2.2 Uma ngemuva kweminyaka lengu-2 yekucala yekuba khona kwalesikhwama, umGcini sikhwama lotsite abeke phasi tintsambo nobe akhishwe ehhovisini ngekuya ngemitsetfo 6.6 na-6.7, umGcini sikhwama longena esikhundleni utawuncuma ngulabaGcini besikhwama labasele kodvwa ngemuva kwekuchumana nalabantfu labakhetse lomGcini sikhwama lesikhala lesivulekile labasivalako.

6.2.3 Loyo naloyo longena esikhundleni lokhetfwe mayelana nalomtsetfo **Error! Reference source not found.** njengemGcini sikhwama, ngekwemukela ngalokubhaliwe kwalesikhundla, utawuniketwa futsi aboshelelwe ngiwo onkhe emandla nemisebenti yemGcini sikhwama lokhetfwe ngekuya ngaloMculu.

6.2.4 Akukho umGcini sikhwama lotawuvumeleka kukhetsa lomunye umGcini sikhwama, njengemvali wemGcini sikhwama kuso, nobe umuntfu lotawenta imisebenti yaso nekusebentisa emandla njengemGcini sikhwama esikhundleni saso ngaphandle kwemuntfu lokhetfwe ngumGcini sikhwama wenkhapani ngekuya ngesigaba 6(4) semTsetfo wekuLawula iMphahla yaleSikhwama.

6.3 **kuvikeleka**

LabaGcini besikhwama angeke badzingeke kutsi bavete kuvikeleka ngekuhambelana ngekukhetfwa kwabo njengebaGcini sikhwama nobe kwenta imisebenti yabo nekusebentisa mandla abo ngaphasi kwaloMculu.

6.4 **tikweleti**

Uma ngabe sikhalo singavuki ngebudlabha bakhe, kukhwabanisa nobe kuphambuka ngenhloso ekwenteni imisebenti yakhe nobe kusebentisa emandla nemalungelo akhe ngaphasi kwaloMculu kubona lizinga lekunaka, kutimisela nelikhono lelingalindzelwa kumuntfu lolawula tindzaba talanye:

6.4.1 Akukho umGcini sikhwama lotawusolwa ngekwakhe ngekulahlekelwa lokuvele kulesikhwama nobe Bahlomuli, nobe ngabe yini imbangela;

6.4.2 Ngekulandzela nobe ngabe ngutiphi tikhalo taphambilini teBahlomuli, labaGcini besikhwama batawuvikelwa emacaleni ngulesikhwama kutikhalo letentiwe kubo letivelako nobe kunobe ngabe nguyiphi indlela lechumene nanome ngusiphi sento nobe lokushiywe ngaphandle ngesikhatsi kulawulwa lesikhwama.

6.5 **kusetjentiswa kwemandla babaGcini besikhwama**

LabaGcini besikhwama ngaso sonkhe sikhatsi batawuhlonipha futsi bamukele lokuvunyelwe nguloMculu uma basebentisa emandla abo.

6.6 **kukhishelwa ngaphandle**

6.6.1 Umuntfu utawukhishelwa ngaphandle ekutseni abe ngumGcini sikhwama uma anguloluhlobo lwemuntfu:

- 6.6.1.1 Ube umuntfu lotimele, lodliwe imphahla, nobe sikhashane nobe kwesiphetfo, nobe wente sento sekungakhoni kukhokhela tikweleti njengobe kuchaziwe kulomTsetfo wekuHluleka kukhokhela tikweleti, 1936 njengobe uchitjiyelwe;
- 6.6.1.2 Njengemuntfu losemtsetfweni, lotsatselwa imphahla (nobe sikhashane nobe kwesiphetfo), umlawuli wetemtsetfo, ummabi nobe njengemphatsi ubekwe kutsi alawule libhizinisi netindzaba nobe sicelo lesifakiwe sentiwe nobe singahle sentiwe kutsi kukhetfwe loluhlobo lwemlawuli wetemtsetfo, sentiwe nobe sitawentiwa kute asulwe, ungenile nobe angahle angene kusikimu lesinemitselela lemibi nebabolekisi betimali nobe sivumelwano nemalunga aso ngekuya ngesigaba 311 semTsetfo wetiNkhampani, 1973;
- 6.6.1.3 Njengemuntfu lotimele, uyahlanya nobe akakhoni kulawula imphilo yakhe;
- 6.6.1.4 Wente emacala lafaka kungatsembeki ngaphasi kwemitsetfo yanobe ngabe nguliphi live;
- 6.6.1.5 Ubeka panshi tintsambo njengemGcini sikhwama ngaphasi kwemaviki langu-4 esatiso lesibhaliwe kulabaGcini besikhwama labasele.

6.7 **kushiya lihhovisi**

- 6.7.1 UmGcini sikhwama utawuyekela kubamba lihhovisi uma:
- 6.7.1.1 Ngekutentekela uma lomGcini sikhwama akamukeleki kutsi abe ngumGcini sikhwama ngekuya ngemtsetfo 6.6; nobe
- 6.7.1.2 Uma acelwe kutsi abeke phasi tintsambo ngulelicembu lelimukhetse kutsi angene esikhundleni;
- 6.7.1.3 Ekupheleni kwesikhatsi sesatiso uma lomGcini sikhwama abeka phasi tintsambo, uma nje lomGcini sikhwama kumele anikete satiso semaviki lamane lesibhaliwe sekubeka phasi kwakhe tintsambo kulabaGcini besikhwama labasele.

6.7.2 LomGcini sikhwama angeke abe nesikhalo kulesikhwama, nobe lelicembu lelimcela kutsi abeke phasi tintsambo, lokuvela nobe lokuchumene nekukhishwa kwakhe njengemGcini sikhwama.

6.8 **bosihlalo**

LabaGcini besikhwama bangakhetsa suhlalo nelisekela lakhe nobe ngaleso sikhatsi, lesingadluli umnyaka munye, njengobe bangancuma, nobe emhlanganeni lotsite. Angeke sihlalo nobe lisekela lakhe libe nelilungelo lekuvota mayelana nanobe ngabe ngusiphi sincumo lesitsatfwe ngulesikhwama.

6.9 **imihlangano**

6.9.1 Labagcini besikhwama, ngesatiso lesibhaliwe lesingekho ngaphasi kwemalanga langu-14, batawuhlangana:

6.9.1.1 Ejozi, ngaphandle nangabe labaGcini besikhwama bavumelana ngalokugcwele ngalenywe indzawo.

6.9.1.2 Umhlangano weminyaka yonkhe (lotawuvulekela umphakatsi wonkhe) ngekhatsi kwa- 9 tinyanga tekuphela kwemnyaka timali lapho ema-akhawunti emnyaka timali wangaphambilini atawuletfwa kutsi amukelwe futsi abukwe ngulabaGcini besikhwama; futsi

6.9.1.3 Nangaletinye tikhatsi lapho labaGcini besikhwama bakubona kudzingekile.

6.9.2 Uma nobe ngabe ngumuphi walabaGcini besikhwama bakubona kudzingekile kutsi labaGcini besikhwama bahlangane, loyo mGcini sikhwama utawubita umhlangano ngesatiso lesibhaliwe lesingekho ngaphasi kwemalanga langu-14 kulaba labanye baGcini besikhwama. Lesatiso sitawusho letindzaba lekuyobukwana nato emhlanganweni futsi, uma kungakhonakala, sitawuphekeletelwa maminitisi emhlangano wangaphambilini.

6.10 **imbumba yebantfu**

6.10.1 ngekhatsi kwaletinyaka tekucala letingu-3 tekubhaliswa kwalesikhwama, lembumba yebantfu kulomhlangano webaGcini besikhwama kutawuba

ngibo bonkhe labaGcini besikhwama labakhona, ngemuva kwaloko imbumba yebantfu emhlanganweni webaGcini besikhwama kutawuba lokungenani 3 baGcini besikhwama labakhona lapho munye wabo kumele abe ngumGcini sikhwama lokhetfwe yi-Gencor nobe umGcini sikhwama lokhetfwe yi-Gefco ne-Msauli (uma nje kuphela labaGcini besikhwama bakheke lokungenani ngaMunye webaGcini siKhwama lokhetfwe yi-Gencor nobe i-Gefco kanye/nobe Msauli).

6.10.2 Uma ngekhatsi kwa-60 wemaminitisi ngemuva kwalesikhatsi lesibekelwe umhlangano, imbumba yebantfu ayikafiki, lomhlangano utawumiswa uyiswe kulelinye lilanga lelingekho ngaphasi kwa-5 emalanga futsi lingekho ngetulu kwa-10 wemalanga ngemuva kwelusuku lekumiswa kwemhlangano. Uma loluhlobo lelichutjeiwe lwemhlangano lembumba yebaGcini besikhwama bangekho ngekhatsi kwemaminitisi langu-60 ngemuva kwekubitwa kwaloluhlobo lwemhlangano, labaGcini besikhwama labakhona kuloyo mhlangano batawuba yimbumba yebantfu. Indzawo nesikhatsi saloluhlobo lwemhlangano kutawuncunywa kulomhlangano lomisiwe ngaphambi kwekumiswa kawo futsi nesatiso salokuchutjwa kwalomhlangano sitawuniketwa baGcini besikhwama labangekho kulomhlangano. Letindzaba letitawubukwa kulomhlangano lochutjwako titawuncishiselwa kuleti lebekumele tibukwe kulomhlangano lomisiwe.

6.11 **kuvota**

6.11.1 Tincumo talabaGcini besikhwama titawutsatfwa ngemavoti lamaningi alabaGcini besikhwama labakhona emhlanganweni.

6.11.2 Uma kunekungabo ngaliso linye mayelana netincumo talabaGcini besikhwama, leyo ndzabo lokungaboni ngeliso linye kuvuke kuyo itawushiwo kumhlangano lapho bonkhe labaGcini besikhwama batawube bakhona. Uma kungaboni ngaliso linye kuphundze kuvela mayelana nalenzaba lefanako, nobe bonkhe labaGcini besikhwama bahluleka kuya emhlanganweni mayelana nalomtsetfo 6.11.2, ngaloko lendzaba itawutsatfwa njengalena lecitsiwe.

6.12 tisombululo tekujikeletisa

Sisombululo lesibhaliwe lesisekelwe ngalokugcwele futsi sisayinwe ngibo bonkhe baGcini besikhwama sitawuba nemtselela lofanako njengalesi lesitsatfwe emhlanganweni.

6.13 emaminitsi nerejista yekuta emihlanganweni

Loyo naloyo mGcini sikhwama utawusayina irejista yekuta emhlanganweni (legcinwa mayelana nemihlangano yalabaGcini besikhwama) mayelana nayo yonkhe imihlangano yalabaGcini besikhwama lena loyo umGcini sikhwama aya kuyo. LabaGcini besikhwama batawugcina emaminitsi ayo yonkhe imihlangano yabo. Maminithi, nobe ikhophi lecinisekisiwe yemaminithi, lesayinwe ngusihlalo nobe 2 yalabaGcini besikhwama labakhona kulomhlangano, kutawakha bufakazi betinchukaca temaminithi, ngaphandle nangabe kungaba nebufazi lobuphikisana naloko.

6.14 tindleko nemali lekhishwako

6.14.1 LabaGcini besikhwama batawuvumeleka kutsi bakhokhelwe tindleko tabo tabo letivakalako kanye nemali levakalako ngalokusenta njengebaGcini besikhwama ngulesikhwama.

6.14.2 Lesikhwama sitawuba nemtfwalo wetindleko tonkhe taso, kufaka ekhatsi ngaphandle kwekukhiphela ngaphandle tindleko tesati lesikhetfwe ngummangaleli ngemtsetfo 7.2.4.

6.15 ema-akhawunti nemibiko

6.15.1 LabaGcini besikhwama batawugcina imibiko lefanele letsintsa tindzaba talesikhwama nekulawulwa kwalesikhwama semali futsi batawulungisa titatimende temnyaka te-akhawunti futsi batawucinisekisa lama-akhawunti nemibiko iyahlolisiswa baCwanningi mabhuku.

6.15.2 Ema-akhawunti alesikhwama atawubonisa kutsi lokulawulwa nekuphatfwa kweLinani lemali yeNkhokhelo le-Gefco / Msauli kanye neLinani lemali yeNkhokhelo le-Gencor akhishwa ahlukene futsi ahlukile kuleli lelinye. Injongo yalokuhlukanisa kucinisekisa kutsi, imali yeBafaki ticelo labafanelekile labane-mesothelioma nemdlavuza wemaphapho

lohlobene nelitjeboya, lemali yeNkhokhelo ye-Gencor Linani ayisetjentiselwa kuncephetelisa bantfu laba ngesikhatsi sabo sekusebenta bahogela lutfuli lwelitjeboya eMgodzini loVumelekile ngaphandle kwaleSikhatsi lesivumelekile futsi njalo njalo. Ngetulu kwaloko, kuhlukanisa kutawusita ekugcineni imibiko leliciniso nalengiyo ngenjongo yekubika ngeLinani lemali yeNkhokhelo yaletincepheteliso letentiwe yi-Gencor ne-Gefco / Msauli ngekulandzelana.

6.15.3 LabaGcini besikhwama batawukhipha umbiko wemnyaka (lokutawuba ngumculu wemphakatsi) lotawufaka ekhatsi (kodwa awukavimbeleki kuloku) titatimende tema-akhawunti temnyaka leticwaningiwe, ndzawonye nemniningwano lohlobene naloku:

6.15.3.1 linani lebafaki ticelo labafanelekile labatfole sincepheteliso kulesikhwama kulomnyaka lodlulile;

6.15.3.2 lelinani lemali lato tonkhe tincepheteliso letentiwe, kufaka ekhatsi kutsi ngabe leso sincepheteliso sentiwe kuLinani lemali yeNkhokhelo ye-Gefco / Msauli nobe Linani lemali yeNkhokhelo le-Gencor ngekulandzelana, futsi

6.15.3.3 timali, tindleko, netinhokhelo etindzuzo letitbitwe ku, letikhokhelwe nobe titfolwe nobe esikhundleni salesikhwama.

7. Emandla ebaGcini besikhwama

7.1 Ngekulandzela lokushiwo kuloMculu, labaGcini besikhwama, kute uzuze injongo lehamba phambili yalesikhwama, batawuba nawo onkhe lamandla emuntfu lotimele lomkhulu longakashadi, kufaka ekhatsi emandla ekummangalela nekummangalelwa.

7.2 Kute kuphuyeleliswe leNjongo lehamba phambili, labaGcini besikhwama batawuba nemandla (kufaka ekhatsi, ngaphandle kwekunciphisa, ekulekelela nemandla laphelele), imvume nelikhono lekuphumelelisa ngalokuvakalako leNjongo lehamba phambili, kufaka ekhatsi, ngaphandle kwekunciphisa, emandla, imvume nelikhono laloku:

7.2.1 kutfola tonkhe tikhalo kuBafaki ticelo labafanelekile labatfolakele kutsi banema-ARD kuletimo njengobe kubekwe kuloMculu;

- 7.2.2 kuniketa tincepheteliso kuBafaki ticelo labafanelekile labahlangabetana nayo yonkhe lemibandzela yekufaneleka lebekwe kuloMculu;
- 7.2.3 Kutfola nekwemukela iminikelo, tinkhokhelo netincepheteliso kunobe nguyiphi incenye ngekuhlobana nemonakalo nesincepheteliso se-ARD lengene Bafaki ticelo labafanelekile kululuhlobo lwemigomo nemibandzela njengobe bangayincuma, kufaka ekhatsi, ngaphandle kwekunciphisa, Linani lemali yeNkhokhelo le-Gefco , Linani lemali yeNkhokhelo le-Msauli neLinani lemali yeNkhokhelo le-Gencor ;
- 7.2.4 Bakhetsa tati kuleyo naleyo ndzawo kute bakhone kuphumelelisa lemisebenti yabo;
- 7.2.5 bakhokhelwe tindleko tabo tabo letivakalako, kanye nemali levakalako ngalokusenta njengebaGcini besikhwama;
- 7.2.6 bakhokhele letimali letiniketwe kumitsetfo 13.1.1 na-13.1.2 ngentasi ku-NNS;
- 7.2.7 kuniketa letimbuyiselo letitsintsekako letishiwo kulemitsetfo 13.1.3, 13.1.4, 13.1.5 and 13.1.6 ngentasi;
- 7.2.7.1 kuhambisana nalemibandzela yekhatsi lokunaka kugcina liphanela letinhlango leto labatawuvumela inkhokhelo lapho kufanele khona. LabaGcini besikhwama batawusungula tindlela tekwamukelwa kuleliphanela, kufaka ekhatsi kodwa ayikavimbeleleki kulokuvunyelwe ngumtsetfo kucinisekisa kutsi akukho lilunga (lwaleuhlobo lweliphanela) lotfola inkhokhelo ngekubukana nanobe ngusiphi sikhalo (siyaphumelela nobe cha) ngaphandle kwalesisuka kulesikhwama, ngekuya ngekutsi lesikhwama singenta inkhokhelo kuletindleko tebafaki ticelo labaphumelele, futsi ngetulu kwaloko, mayelana nebafaki ticelo labaphumelele labangancedvwa ekufakeni sikhalo, letindleko angeke undlule kubita kwetindleko tabo letivele ngalokuvakalako;
- 7.2.7.2 lenchubo yenkhokhelo yanobe ngabe ngusiphi sincepheteliso nobe inkhokhelo;
- 7.2.7.3 letinchubomgomo tekuncunywa kwetikhalo telinani lemashezi;

- 7.2.7.4 Loluhlobo lwelucwaningo (lufaka ekhatsi lucwaningo lwetingoti) njengobe kungadzingeka ngalokuvakalako kuphumelelisa leNjongo lehamba phambili;
- 7.2.7.5 Lesimo nelizinga lelusekelo leiniketwe kutinhlelo temphakatsi leliniketwe kuloMculu;
- 7.2.8 Kutjala timphahla talesikhwama nanobe nguyiphi incenye kuloko ngendlela yekutsi labaGcini besikhwama bayibona ifanelekile. Ngaphandle kwokusuka kulenjongo lejwayelekile yaloku, batawuvumeleka (kodvwa abakavimbeleki kuphela) kutjala kunobe ngutiphi timphahla, letihambako, letingahambi, lukungumtima nobe lokungasiwo umtimba; emasheya kutinkhapani tangasese netahulumende; emabhange naletinye takhiwo tetetimali nakutitoko taHulumende, inkhapani lengucala mbili nobe titoko tabomasipala nobe ngabe ngukuphi emhlabeni. Batawuphindze bavumeleke kuntjintja, kuhluka nobe kubona nobe ngabe nguluphi lutjalomali ngemandla abo bese batjala kabusha intalo;
- 7.2.9 ngemandla abo ekuhlanganyela basebentisa emandla abo ekuvota lachunyaniswa nanobe nguwaphi emasheya alesikhwama futsi laphetfwe kunobe ngabe nguyiphi inkhapani;
- 7.2.10 kwemukela iminikelo nemafa laniketwe lesikhwama;
- 7.2.11 Kwakha tiKhwama letihlukene ikakhulukati ngekuhambelana nemibandzela yaloMculu weSakhiwo kute kuhlomule nobe ngabe ngumuphi weBahlomuli nekudlulisela imali lengenako kanye/nobe nemali letjaliwe kulesiKhwama kuya kuletiKhwama lapho labaGcini besikhwama labangayincuma, ngemandla abo, kutsi lentalo yalaBahlomuli balesiKhwama baloluhlobo itawumiswa;
- 7.2.12 kungena kutinkhontileka;
- 7.2.13 kuniketa emamotigeji, tibambiso nekunikela njengesivikeleko bese balungisa kukhishwa kwetibambiso taseBange; kanye neku
- 7.2.14 nekwemukela, kulawula nekuniketa tincepheteliso tetimali letingetiwe njengobe tinganikelwa nobe titfolwe ngulesikhwama ngunobe ngabe

ngumuphi umuntfu, ngenjongo yekuncephetelisa labanye bafaki ticelo labane-ARD kuloluhlobo lwemigomo nemibandzela njengobe labaGcini besikhwama bangavumelana, um nje loku kungabeki esimeni lesikabi bafaki ticelo labafanelekile kuloku.

7.3 labaGcini besikhwama batawuba nemandla (futsi baphocelwe kutsi basebentise emandla abo) ekwenta tonkhe tintfo futsi basayine tonkhe tinhlobo talemiculu njengobe kungadzingeka kwenta lemitfwalo letsite leshiwo kumtsetfo 13 ngentasi.

8. Bahlomuli

8.1 Bahlomuli bekucala kulesikhwama kutawuba Bafaki ticelo labafanelekile kulemphilo yalesikhwama. Kuvikela kungabata, tindzuzo lekumele tikhokhelwe Bahlomuli bekucala nalendlela leyo loluhlobo lwetindzuzo labatawuncepheteliswa ngayo, titawuncunywa ngekulandzela lemibandzela yaloMculu (Incenye III).

8.2 Bafaki ticelo base-Kapa (njengobe kuchaziwe kule Sivumelwano sekukhokhelana), timphahla tabo kanye/nobe kanye nalabondliwa ngibo bavinjelwe ngalokubhaliwe ekubambeni lichaza nganobe nguyiphi indlela kanye/nobe nanobe ngabe ngaliphi lizinga njengeBahlomuli ngaphasi nobe mayelana nalesiKhwama.

8.3 Uma ngabe ekupheleni kwesikhatsi semphilo yalesikhwama, kunetimpahla letinyenti letisele kulesikhwama, Bahlomuli bendzawo baletimpahla kanye nemali lengenile yalesikhwama itawuniketwa inhlango temhawu lenayinye yetinjongo tayo lethamba phambili kukhutsata imphilo lencono yebantfu nobe imiphakatsi lekhinyabetwe kakhulu kugutjwa kwelitjeboya.

9. Kuphatsa nebuniyo betimpahla talesiKhwama

9.1 Kulanzela ngaso sonkhe sikhatsi lokuvunyelwe ngumtsetfo 7:

9.1.1 Tonkhe timphahla letitsengiwe nato tonkhe tikweleti letivulwe ngulabaGcini besikhwama ngemandla abo njengebaGcini besikhwama, kutawuba kulabaGcini besikhwama ngemandla abo kanjalo, futsi kutawulawlwa ngulabaGcini besikhwama njengesikhwama semali lesihlukile, lekutsiwa sikhwama semali, uma nje lokulawulwa

- nekuphatfwa kweLinani lemali yeNkhokhelo le-Gencor litawugcinwa eceleni futsi lihlukele kulokulawulwa nekuphatfwa kweLinani lemali yeNkhokhelo le-Gefco / Msauli njengobe kubekiwe kumtsetfo 6.15.2;
- 9.1.2 ngekulandzela umtsetfo 9.1.4, letimpahla talesikhwama tingabhaliswa ngeligama lalesikhwama, labaGcini besikhwama kwanyalo nobe lokhetfwe ngulesikhwama;
- 9.1.3 labaGcini besikhwama batawutsatsa futsi bagcine elunakekeleni lwabo nobe etandleni tabo nobe tema- ejensi abo, tonkhe kanye naletinye tinsita letibalulekile naleminyane imiculu lehlobene nobe lemayelana nalesikhwama kanye nemisbenti yabo kunobe ngabe ngusiphi siKhwama semali kanye/nobe imali lengena kulesiKhwama; kanye ne
- 9.1.4 timphahla talesikhwama nemali lengena kulesikhwama itawuba setandleni talabaGcini besikhwama, ngemandla abo kanjalo, futsi Bahlomuli angeke babe nemalungelo kuleto timphahla kanye/nobe imali lengenile, batawutsatfwa njengeBahlomuli kulesikhwama.

10. Budze besikhatsi nekupheliswa

- 10.1 Lesikhwama sitawuphila sikhatsi sa-25 yeminyaka kusuka kulusuku lwekubhaliswa siKhulu seNkhantolo lenKhulu, uma nje labaGcini besikhwama, ngekunaka iNjongo lehamba phambili, kanye netinshisekelo teBahlomuli bekucala neBahlomuli bendzawo banganciphisa nobe bangete imphilo yalesikhwama nga-5 iminyaka.
- 10.2 Uma lesimo sekusombulula kumtsetfo 3.1, 5.1.2 na-7.1.2 weSivumelwano sekukhokhelana sivela, lesikhwama sitawutivalekela sona.

INCENYE III: Kulawulwa kwenkhokhelo

11. Imiklomelo leniketwa baGcini besikhwama

11.1 inkhokhelo lesuka kulemali yesikhwama

- 11.1.1 Linani lemali yeNkhokhelo le-Gencor lekhokhelwa kulesikhwama yi-Gencor itawusetjentiswa ngulabaGcini besikhwama kuniketa tincepheteliso kuletigaba letilandzelako teBafaki ticelo labafanelekile:

- 11.1.1.1 bonkhe bantfu labangenwe yi-ARD lenekonakalisa kusebenta kwemaphapho, labo baGcini besikhwama banelisekile kutsi kuhogela lutfuli lwelitjeboya ngekwemsebenti kunobe ngabe nguyiphi iMigodzi loVumelekile kwenteke kuphela ngaleSikhatsi lesivumelekile;
- 11.1.1.2 bonkhe bantfu labangenwe yi-ARD lenekonakalisa kusebenta kwemaphapho, labo baGcini besikhwama banelisekile kutsi kwenteke (hhayi ngekwemsebenti) kuhogela lutfuli lwelitjeboya edvute kwanobe ngabe nguyiphi iMigodzi leVumelekile futsi labangenawo umlandvo wangaphambilini wekuhogela ngekwemsebenti lutfuli lwelitjeboya kunobe ngabe ngusiphi sikhatsi;
- 11.1.1.3 bonkhe bantfu labangenwe yi-mesothelioma nobe umdlavuzwa wemaphapho lohlobene nelitjeboya, labo baGcini besikhwama banelisekile kutsi kuhogela lutfuli lwelitjeboya ngekwemsebenti kunobe ngabe nguyiphi iMigodzi loVumelekile kwenteke kancane ngaleSikhatsi lesivumelekile kanye nakancane ngaphandle kweSikhatsi lesivumelekile;
- 11.1.1.4 bantfu labebondliwa bantfu labafile futsi imbangela yekufa yi-mesothelioma nobe umdlavuzwa wemaphapho lohlobene nelitjeboya kuletimo lapho labaGcini besikhwama banelisekile kutsi lona loшонile ungenwe lutfuli lwelitjeboya kuMgodzi loVumelekile nobe, njengobe kungaba njalo, kulitfolo emoyeni lolutfuli lwelitjeboya edvute kwanobe ngabe nguyiphi iMigodzi leVumelekile futsi langanawo umlandvo wangaphambilini wekuhogela ngekwemsebenti lutfuli lwelitjeboya kunobe ngabe ngusiphi sikhatsi;
- 11.1.2 Linani lemali yeNkhokhelo ye-Gefco kanye/nobe Linani lemali yeNkhokhelo ye-Msauili lekhokhelwe kulesikhwama yi-Gefco ne-Msauili itawusetjentiswa ngulabaGcini besikhwama kuniketa tincepheteliso ku:
- 11.1.2.1 LaBafaki ticelo labafanelekile labangenwe yi-ARD lenekonakalisa kusebenta kwemaphapho, labo baGcini besikhwama banelisekile kutsi kuhogela lutfuli lwelitjeboya ngekwemsebenti kwenteke kunobe ngabe nguyiphi iMigodzi leVumelekile kuphela ngaphandle kweSikhatsi lesivumelekile;

- 11.1.3 Bafaki ticelo labafanelekile labangenwe yi-ARD ngekonakalisa kusebenta kwemaphapho (ngaphandle kwe-mesothelioma nobe umdlavuzwa wemaphapho lohlobene nelitjeboya) futsi labo labaGcini besikhwama banelisekile bangenwa lutfuli lwelitjeboya kunobe ngabe nguyiphi iMigodzi leVumelekile kancane ngaleSikhatsi lesivumelekile futsi nakancane ngaphandle kwaleso sikhatsi batawuvumeleka kutfolatincepheteliso kuleLinani lemali yeNkhokhelo le-Gencor neLinani lemali yeNkhokhelo le-Gefco / Msauli ngesisekelo semacetu. LabaGcini besikhwama, ngekuhlukanisa lesincepheteliso (nekulinganisa lokufaka sandal lokufanelekile lekumelwe kwentiwe kulelo nani lemali lelikhokhelwe yi-Gencor ne-Gefco/Msauli kulesikhwama), kutawunakwa sikhatsi sanobe ngumuphi umfaki sikhalo lasicitse emsebentini kuloMgodzi loVumelekile ngaleSikhatsi lesivumelekile kanye nanobe ngabe ngutiphi tikhatsi laticitse emsebentini nobe ngaphambi nobe ngemuva kwaleso sikhatsi, kanye nemazinga elutfuli lwelitjeboya kanye/nobe buningi labo bantfu bangenwe nobe bebangahle bangenwe lutfuli lwelitjeboya ngaletotikhatsi; sibonelo, ngebudlelwano besikhatsi lasicitse emsebentini, uma umfaki sicelo lofanelekile lutfuli belimungena linani leliphela la-10 iminyaka, 4 yawo lewela kuleSikhatsi lesivumelekile bese 6 yayo iwela ngaphandle kwaleso sikhatsi, ngaloko, tonkhe letinye tintfo tilingana, lemali lekhokhelwe kulesikhwama yi-Gencor utawufaka 40% kulesincepheteliso bese kutsi lemali lekhokhelwe kulesikhwama yi-Gefco/Msauli utawufaka 60% kulesincepheteliso.
- 11.1.4 Ngemuva kwekuphela kwesikhatsi sa-20 iminyaka kusuka kulolusuku lwekubhaliswa kwalesikhwama, umehluko emkhatsini weSikhatsi lesivumelekile nanobe ngusiphi sikhatsi angeke unakwe futsi labaGcini besikhwama batawuvunyelwa kuhlukanisa lemali lesele uma ikhona, kanye nalokokusele kulemali lekhokhelwe kulesikhwama yi-Gencor nalemali lekhokhelwe kulesikhwama yi-Gefco/Msauli;
- 11.1.5 Kutimo lapho nobe ngabe ngumuphi umfaki sikhalo lona sikhalo sakhe besibhalisiwe yi-NNS/Brasg ngaphambi kwelusuku lweSivumelwano seNkhokhelo, lelilanga sikhalo sabo sabhalisiwe ngalo litawutsatfwa njengelusuku lekufakwa kwesikhalo sabo kulesikhwama.

11.2 tifo

11.2.1 Bafaki tikhalo ngekwemsebenti nangekungcola kwenzawo

11.2.1.1 Bafaki tikhalo labagule emsebentini kanye nebafaki ticelo labahogele litjeboya emoyeni batawufaneleka kuphela kutfole tincepheteliso taletinhlobo letilandzelako tema-ARD:

11.2.1.1.1 I-mesothelioma;

11.2.1.1.2 sifo selitjeboya;

11.2.1.1.3 umdlavuzi wemaphapho lohlobene nelitjeboya; kanye/nobe

11.2.1.1.4 kukhula kwemtsambo wemaphapho lokuhlobene nelitjeboya.

11.2.1.2 Sincepheteliso sitawuniketwa kuphela kutimo lapho i-ARD ibange konakala kwekusebenta kwemaphapho.

11.2.1.3 Kucedza nobe ngabe ngukuphi kungabata, Bafaki tikhalo labagule emsebentini nemfaki sicelo lohogele litjeboya emoyeni angeke bafaneleke kutfole tincepheteliso tekungcola kwemaphapho lokuhlobene nelitjeboya loku-asymptomatic.

11.2.2 Bafaki tikhalo labebondliwa ngulokhinyabetwe litjeboya

11.2.2.1 Bantfu labondliwa kanye/nobe basebentisi bemphahla yebantfu labafike ngekhatsi kwesikhatsi sa-3 (mitsatfu) iminyaka ngaphambi kwekufaka sikhalo sabo nalesikhwama kutfole sincepheteliso se-mesothelioma nobe umdlavuzi wemaphapho lohlobene nelitjeboya lokungene ngesizatfu sekulitfole ngekwemsebenti nobe kulitfole emoyeni lutfuli lwelitjeboya kuleMigodzi leVumelekile utawuvumeleka kufaka sicelo kulesikhwama; uma nje kusikhalo sanobe ngabe ngumuphi umfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya, lona sikhalo sakhe besibhalisiwe yi-NNS nobe i-Brasg ngaphambi kwelusuku lweSivumelwano seNkhokhelo, 5 iminyaka itawukhishwa ku-3 iminyaka kulenchazelo yeMfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya" kumtsetfo 1.1.13.

- 11.2.2.2 Kuvimbela nobe ngabe ngukuphi kungabata, Umfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya angeke afaneleke kufola sincepheteliso, ngaphandle nangabe imbangela yekufa bekuyi-mesothelioma nobe umdlavuzwa wemaphapho lohlobene nelitjeboya, njengobe kungaba njalo.
- 11.2.2.3 Akukho Sikhalo salabebondliwa ngulokhinyabetekile lesitawumukelwa ngulabaGcini besikhwama kutimo lapho lona loшонile bekanesikhalo lesentiwe ngaphambilini ngekuhlobana ne-mesothelioma kanye/nobe umdlavuzwa wemaphapho lohlobene nelitjeboya nekutsi leso sikhalo besimukelwe ngulabaGcini besikhwama.
- 11.2.2.4 Ekwenteni tincepheteliso kuMfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya, labaGcini besikhwama batawufuna bufakazi lobubhaliwe kanye nekuvuma lokusuka kuMfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya asho kutsi nguye umphatsi welucobo wemphahla kanye/nobe nalabanye nekutsi kukhokhelwa kwakhe kutawuphelela futsi kube yinkhokhelo yesiphetfo yato tonkhe tikhalo tabo letivela kulokufa kwalona loшонile futsi kutawukhipha lesikhwama emacaleni aletinye tikhalo letingetiwe kunobe ngabe ngumuphi lomunye uMfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya. Lesikhwama sitawubese ngalokufanelekila likhiphela eceleni letinye tikhalo letisuka kunobe ngabe ngumuphu uMfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya mayelana naleyo mphahla. LoMfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya utawuphindze avume kufaka sandla ekuncepheteliseni nobe ngabe ngumuphi lomunye umuntfu lona uMfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya atsi ummele yena;
- 11.2.2.5 Umfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya utawufaneleka kuphela kufola sincepheteliso mayelana nekulahlekelwa kondliwa futsi hhayi lomunye umonakalo;
- 11.2.2.6 Nobe ngabe ngumuphi lophilako umfaki sikhalo lofaka sikhalo bese utfolwa kutsi ugulwa yi-mesothelioma nobe umdlavuzwa lohlobene nelitjeboya nobe ngaphambi nobe ngemuva kwekufa utawutsatfwa

njengemfaki sikhalo lophilako, futsi lokuvunyelwe ngu-11.2.2.5 angeke kusebente.

11.2.3 **bufakazi bekuhogela litjeboya**

11.2.3.1 LabaGcini besikhwama batawubopheleleka kutsi babone ngekuneliseka lokuvakalako, linani leliphela leli bafaki ticelo (kufaka ekhatsi lona loshonile endzabeni yeBafaki tikhalo labebondliwa ngulokhinyabetwe litjeboya) bahogele lutfuli lwelitjeboya ngekubuka iMigodzi leVumelekile nalengakaVumeleki nekutsi loko kuhogela kaba ngaleSikhatsi lesivumelekile, ngaphambilini nobe ngemuva kweSikhatsi lesivumelekile, nobe ngalenywe indlela:

11.2.3.2 Bafaki tikhalo labagule emsebentini, ngaphandle kwasetimani letibucayi, batawufuneka kutsi bavete bufakazi bemiculu bekucashwa. Loluhlobo lwebufakazi bemiculu bekucashwa kutawufaka ekhatsi kodvwa akukavinjelwa kulokubuka kulemibiko ye-MBOD nobe i-CCOD, kucashwa kuMgodzi loVumelekile, nobe ngabe ngumuphi lomunye umlandvo wekusebenta, umBiko weliTiko laHulumende, umlandvo wakadokotela, siliphu semholo nobe seluleko semholo lesibonisa loMfaki sicelo lofanelekile, nanobe ngabe ngusiphi sitifiketi nobe umculu lovela kuloMgodzi loVumelekile, kufaka ekhatsi libhuku lekubuka lelitesitembu nobe luhlu lwetisebenti loluveta loMfaki sicelo lofanelekile njengemuntfu lobekasebenta, kuloyo Mgodzi loVumelekile ngaleSikhatsi lesivumelekile.

11.2.3.3 Umfaki sicelo lohogele litjeboya emoyeni utawufuneka kutsi avete bufakazi bekuhlala kulenzawo nobe edvute neMgodzi loVumelekile kanye nesikhatsi saloko kuhlala lapho kulenzawonye nebufakazi bakadokotela lobufanelekile lobucinisekisa kutsi kuhogela emoyeni lutfuli lwelitjeboya kuleyo ndzawo kungahle kube kufake sandla kule-ARD. LabaGcini besikhwama batawufuneka kutsi batfole futsi babuke bufakazi bebudze nebudvute bendzawo lapho bekahlala khona naloMgodzi loVumelekile lotsintsekako, tisusa letifanelekile tekungenwa lutfuli lwelitjeboya nobe letinye timayini telitjeboya nobe tigayo, budze besikhatsi lasihleli lapho, malanga ekuhlala kanye nemlandvo ngekwemsebenti lophelele kanye nemningwane

wesayensi nalosemtsetfweni lohlobene nemazinga elutfuli emoyeni uma batfolwa nobe aniketwa kubo.

11.2.3.4 Umfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya, endzabeni yetikhalo letentiwe esikhundleni nobe bantfu labangenwe futsi bafa ngenca ye-mesothelioma nobe umdlavuzwa wemaphapho lohlobene nelitjeboya ngemiphumela yekuhogela litfuli ngekwemsebenti, utawufuneka kutsi ahambelane nalokuvunyelwe ngumtsetfo 11.2.3.2 ngenhla kute anelise lesikhwama kutsi lona loshonile bekacashwe kuloMgodzi loVumelekile futsi endzabeni yetikhalo letentiwe esikhundleni sebantfu labangenwe yi-mesothelioma nobe umdlavuzwa wemaphapho lohlobene nelitjeboya ngetizatfu tekuhogela lutfuli emoyeni (lokungakahlobani nekuhogela ngekwemsebenti) babuya bafa ngaleso sizatfu , batawufuneka kutsi bahambisane nalokuvunyelwe ngumtsetfo 11.2.3.3 ngenhla kute banelise labaGcini besikhwama kutsi lona loshonile uhogele litjeboya emoyeni;

11.2.3.5 Lemigomo lefanako yekwabela lebekwe ku 11.1.3 itawusebenta kulokuhlukaniswa kwekuhogela lutfuli lwelitjeboya emkhatsini weMigodzi leVumelekile neMigodzi lengakaVumeleki;

11.2.3.6 Kulesimo sanobe ngabe ngusiphi sikhalo (emoyeni nobe ngalenywe indlela) lesincike kulokungena kwe-yi-mesothelioma nobe umdlavuzwa wemaphapho lohlobene nelitjeboya, akukho kunaka lokutawentiwe kwanobe ngabe nguluphi lutfuli lwelitjeboya kuleminyaka lengu10 (lishumi) ngaphambi kwekufa.

11.3 **bufakazi bekugula**

11.3.1 Umfaki sicelo lofanelekile utawufuneka kunelisa labaGcini besikhwama, aveta ngalokuvakalako kuletimo, kutsi ungenwe ngusinyi saletifo letitsintsekako letishiwo ku-11.2.1.1 ngenhla (Bafaki tikhalo labagule emsebentini neMfaki sicelo lohogele litjeboya emoyeni) nekutsi lona loshonile ufile futsi nembangela yekufa bekuyi-mesothelioma nobe umdlavuzwa wemaphapho lohlobene nelitjeboya njengobe lokushiwo ku-11.2.2 ngenhla (Umfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya).

- 11.3.2 Njengemtsetfo lojwayelekile nangekuhlobana kwesifo selitjeboya nekucina kwemtsambo wemaphaphu, labaGcini besikhwama batawudzinga loluhlobo lwemningwano labayibona kutsi idzingekile lebonisa kufola sifo ngalokuphelele kwaletifo nekuhlolwa lokwanele kwekonakala kwekusebenta kwemaphapho lokutawufaka ekhatsi ngalokuvakalako loku:
- 11.3.2.1 ikhwalithi lekahle yelifilimu le-postero-anterior X-ray yemaphapho anobe ngabe ngumuphi umfaki sicelo lofanelekilekanye/nobe umbiko wemiphumela ye-X-ray lelinganiswe futsi yabekwa mayelana nemazinga endlela lendze (ILO) lekuyindlela yekufaka etigabeni, loluhlobo lwembiko kumele lentiwe futsi lisayinwe yi- radiologist leneticu;
- 11.3.2.2 imiphumela yeluhlolo lwekusenta kwemaphapho (lapho kunciphiswa kwemandla labalulekile (kuvimbeka) ne-spirometry (FEV1 ne-FVC) kuvela khona) futsi lapho kuhlolwa kwentiwa ngumuntfu losebenta ngemkolo loneticu (yi-pulmonologist) ngalokonakala/kukhubateka lokuhlobene ne-ARD; kanye ne
- 11.3.2.3 imiphumela nobe lemibiko yeluhlolo lwakadokotela; ne
- 11.3.2.4 mlandvo wekungenwa lutfuli lwelitjeboya.
- 11.3.3 Loluhlobo lwebufakazi bakadokotela butawuletfwa kudokotela nobe bodokotela futsi kutawuvuma bona labakhetfwe baGcini besikhwama ngenjongo yekutfolwa kwesifo nobe kucinisekisa kutfolwa kwesifo. Lesincumo saloluhlobo lwadokotela nobe bodokotela ngetindzaba temphilo sitawuba sekugcina futsi sitawubophelela kuloMfaki sikhalo.
- 11.3.4 Kutimo lapho kutfolwa kwesifo lokucacako kungeke kwenteke kutisusa talomningwano ngenhla kanye/nobe lapho konakala kwekusebenta kwemaphapho kungabe kubangelwe ngalokuphelele nobe kuyincenye yalesinyeto sifo semaphapho lesingakahlobani nelitjeboya (sibonelo, i-tuberculosis, imiphumela yekubhema/i-emphysema, i-silicosis njalo njalo) labaGcini besikhwama ngemandla abo bangacela nobe ngabe ngumuphi umfaki sicelo lofanelekile kutsi ente loluhlobo lolungetiwe lweluhlolo njengobe bakubona kufanelekile, kufaka ekhatsi kuhlolwa nge-HRCT

batfole sisindvo bese bahlukanisa letinkhomba letihlukene telitjeboya nalesifo semaphapho lesingakahlobani nelitjeboya kubancedza kutsi bancume lesikhalo.

11.3.5 Njengemtsetfo lojwayelekile nangekuhlobana ne-mesothelioma nemdlavuzwa wemaphapho lohlobene nelitjeboya, labaGcini besikhwama batawufuneka kutfole loluhlobo lwemningwano njengobe bafuna kutfole lesifo ngalokuphelele, lokutawufaka ekhatsi ngalokuvakalako loku:

11.3.5.1 ikhwalithi lekahle yelifilimu le-postero-anterior X-ray yemaphapho anobe ngabe ngumuphi umfaki sicelo lofanelekile kanye/nobe umbiko lochaza loku lokutfolakele, loluhlobo lwembiko lufaka sigaba selifilimu le-X-ray, ngekuya ngendlela ye-ILO lepheleketela liphapho lelinekugula lokuhlobene nelitjeboya nobe sifo semtsambo weliphaphu;

11.3.5.2 umbiko wakadokotela lophetselene nekugula lolungiswe ummangaleli:

11.3.5.2.1 luhlolo lolu-cytological lwesampuli loluphatselene nekugula, sibonelo, umsipha we-pleura nobe liphapho nobe emanti; kanye/nobe

11.3.5.2.2 I-biopsy;

11.3.5.3 imiphumela nobe lemibiko yeluhlolo lwakadokotela (uma nje kutsi endzabeni yeMfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya, lolo luhlolo lentiwe ngesikhatsi semphilo salona loshonile); kanye

11.3.5.4 nemlandvo wekungenwa lutfuli lwelitjeboya.

11.3.6 Loluhlobo lwebufakazi bakadokotela butawuletfwa kudokotela nobe bodokotela futsi kutawuvuma bona nobe bodokotela labakhetfwe baGcini besikhwama ngenjongo yekutfolwa kwesifo nobe kucinisekisa kutfolwa kwesifo. Lesincumo saloluhlobo lwadokotela nobe bodokotela ngetindzaba temphilo sitawuba sekugcina futsi sitawubophelela kuloMfaki sikhalo.

12. Imibandzela yanobe nguwuphi umklomelo

- 12.1 Lemigomo lelandzelako ndzawonye kanye naleminywe imigomo lena labaGcini besikhwama bangayibona ifanelekile kusebenta kulemibandzela yanobe nguwuphi umklomelo lowentiwe ngulabaGcini besikhwama kuBafaki ticelo labafanelekile:
- 12.1.1 ngekulandzela lokubekwe kumtsetfo 12.1.6 ngentasi, akukho sincepheteliso sanobe ngabe ngusiphi simo lesitawentiwa kute kuphele tinyanga letisitfupha ngemuva kwelusuku lapho lesikhwama sesibhalisiwe ngalesikhatsi labaGcini besikhwama batawubona lobukhulu baletincepheteliso temonakalo nefomula nobe indlela yemonakalo ngesisekelo sesiluleko lesitfolwe kute kuphunyeleliswe leNjongo lehamba phambili;
- 12.1.2 Umfaki sicelo lofanelekile lokhokhelwe sincepheteliso ngesifo selitjeboya nobe kucinga kwemtsambo wemaphaphu lobese atfolwa kutsi ugulwa yi-mesothelioma nobe umdlavuzwa wemaphapho lohlobene nelitjeboya, nobe bantfu labondliwa nguloluhlobo lwemuntfu lofile futsi nembangela yekufa bekuyi-mesothelioma kanye/nobe umdlavuzwa wemaphapho lohlobene nelitjeboya angaphindza afake kabusha sicelo kute atfole lizinga lelisetulu lesincepheteliso lesihlobene ne-mesothelioma nobe umdlavuzwa wemaphapho lohlobene nelitjeboya (njengobe kungaba njalo) futsi, uma tonkhe letindlela tekufaneleka kutsi kuhrangatjetwane nato, ngaloko (ngekulandzela 11.2.2 endzabeni yeMfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya) utawuvumeleka kukhokhelwa umehluko emkhatsini wesincepheteliso lesisetulu (ngalesikhatsi sekufaka kabusha sicelo sabo) kanye nalesincepheteliso leso uMfaki sicelo lofanelekile lasitfole ngaphambilini seluhlobo lwe-ARD lolungatfusi kakhulu. Kulesimo sanobe ngabe ngusiphi sekufaka kabusha sicelo ngaphasi kwalokuvunyelwe ngulomtsetfo, uMfaki sicelo lofanelekile angeke afuneke kutsi (aphindze) avete bufakazi bekuhogela lutfuli lwelitjeboya;
- 12.1.3 labaGcini besikhwama batawubuyeketa kusebenta kwalesikhwama nenkhokhelo leyentiwe ngekhatshi kwa-3 iminyaka yekusebenta kwenkhokhelo leyentiwe ngibo ngaphandle kwenkhokhelo yesikhashane leniketwete bafaki ticelo be-mesothelioma nemdlavuzwa wemaphapho lohlobene nelitjeboya. Bangahle, uma lokubuyeketa kufuna loko, bente

- inkhokhelo leyengetiwe kulaba kwanyalo labakhokhelwe samba semali kuniketa inkhokhelo lephelele kulabo bantfu ngelizinga lelifanako lelingadluli lizinga lelifanako lelo inkhokhelo yangemuva kwaloko ibekwe khona. Nobe ngabe nguyiphi inkhokhelo leyengetiwe itawuba kumandla lagcwele ebaGcini besikhwama futsi angeke kube nemtfwalo kubo kwenta inkhokhelo leyengetiwe ngisho nobe bancuma kwenta inkhokhelo leyengetiwe ngemuva kwaloko;
- 12.1.4 ngaphandle kwalokuvunyelwe ku-12.1.2, 12.1.3, 12.1.6 na-12.1.7 tonkhe tincepheteliso titawuba yinkhokhelo yesamba leyentiwa sikhatsi sinye, futsi akekho umfaki sikhalo longakhokhelwa ngetulu kwesincepheteliso sinye ngulesikhwama;
- 12.1.5 tonkhe tincepheteliso temonakalo lojwayelekile letentiwe ngulesikhwama titawuncika kulokonakala kwekusebenta kwemaphapho:
- 12.1.5.1 endzabeni ye-mesothelioma nemdlavuzwa wemaphapho lohlobene nelitjeboya, lokonakala kwekusebenta kwemaphapho kutawutsatfwa kutsi kungu-100%;
- 12.1.5.2 endzabeni ye-sifo selitjeboya nekucina kwemtsambo wemaphaphu, tigaba letibili tekonakala kwekusebenta kwemaphapho titawubonwa – simo lesi imiphumela yekonakala kwekusebenta kwemaphapho kusemkhatsini wa-10% na-40% futsi nesimo lesi imiphumela yekonakala kwekusebenta kwemaphapho kwa- 40% nobe ngetulu.
- 12.1.6 ngekungakhohlwa 12.1.1 ngenhla kanye nalesikhatsi leshiwo ngekhatshi, umuntfu lohluhwa yi-mesothelioma nobe umdlavuzwa wemaphapho lohlobene nelitjeboya lapho labaGcini besikhwama baneliseke ngalokuvakalako kutsi uMfaki sicelo lofanelekile utawuvumeleka kufaka sicelo sesincepheteliso sangaphambilini ngelinani lemali, ngemibandzela nangekulandzela indlela letawuncunywa ngulabaGcini besikhwama. Umfaki sicelo lofanelekile lokhokhelwe sincepheteliso sangaphambilini se -mesothelioma nobe umdlavuzwa wemaphapho lohlobene nelitjeboya utawukhokhelwa sincepheteliso lesicishe sifane uma yonkhe lendlela yekufaneleka kuhrangatjetenwe nayo, linani lemali lelifika kumehluko emkhatsini waloku lekumele akutfole kanye nesincepheteliso sangaphambilini uMfaki sicelo lofanelekile lasitfole ngaphambilini.

- 12.1.7 LabaGcini besikhwama batawuvunyelwa ngekwabo nangemandla lagcwele abo kutsi bente tincepheteliso tesikhashane ngekumela kuncunywa kwesikhalo, kodvwa kuphela endzabeni yetikhalo tebafaki ticelo labaphilako, labo baGcini besikhwama banelisekile, ngekuhambelana lokuvunyelwe kuloMculu, labagulwa yi-mesothelioma kanye/nobe nemdlavuzwa wemaphapho lohlobene nelitjeboya. Akukho imali /sincepheteliso lesitawentiwa ngaphasi kwalomtsetfo ngaphandle nangabe lomuntfu lotfolala lenkhokhelo/sincepheteliso uyaphila ngelusuku lenkhokhelo leyentiwa ngalo.
- 12.1.8 LabaGcini besikhwama batawuniketwa emandla labanti, ngekhatsi kwetilinganiso teseluleko setati lesitfoliwe, kuncuma nekusebentisa imigomo lefanele kanye/nobe ifomula kanye/nobe linani letindzuzo tenkhokhelo kuBafaki ticelo labafanelekile yetincepheteliso kuko kokubili umonakalo lojwayelekile nalokhetsekile, uma nje tincepheteliso temonakalo lokhetsekile titawukhokhelwa kuphela mayelana netindleko takadokotela kanye/nobe kulahlekelwa yimali lengenako nobe kondliwa. LabaGcini besikhwama bangasebentisa emandla abo ngekwenta tincepheteliso letifanako letifaka umonakalo lojwayelekile nalokhetsekile ngelizinga lekutsi loku kungazuzwa ngendlela lehambisana nenjongo lehamba phambili yalesikhwama.
- 12.1.9 Ngaphandle kweBafaki ticelo labafanelekile labane-mesothelioma kanye/nobe umdlavuzwa wemaphapho lohlobene nelitjeboya, labaGcini besikhwama kumele bahlukanise nobe ngabe ngusiphi sincepheteliso mayelana nako kokubili umonakalo lojwayelekile nalokhetsekile ngekunaka, *ngakuphataselana* naloku:
- 12.1.9.1 lokunye kungenwa tintfuli telitjeboya (i.e. kuhogela lutfuli lwelitjeboya kulenye indzawo hhayi iMigodzi leVumelekile kanye/nobe ngaphambilini kanye/nobe ngesikhatsi kanye/nobe ngemuva kweSikhatsi lesivumelekile ngaphandle nangabe, endzabeni yeBafaki tikhalo labagule emsebentini, loko kuhogela kwenteke emoyeni losuka kuphela kuloMgodzi loVumelekile); futsi
- 12.1.9.2 lesinnye sifo semaphapho lesingakahlobani nelitjeboya lesingahle sibe sifake sandal kulokonakala kwekusebenta kwemaphapho

(njengesifo sesifuba, imiphumela yekubhema/i-emphysema, i-silicosis njalo njalo).

- 12.1.10 Ekuhlukaniseni letincepheteliso (njengobe kushiwo ku-12.1.9 ngenhla) lemigomo lelandzelako (ndzawonye naleminywe imigomo leyo labaGcini besikhwama labangayibona ifanelekile) itawusebenta:
- 12.1.10.1 kufaka sandla (lokuvetwe njengemaphesenti) kwanobe ngabe ngusiphi sifo semaphapho lesingakahlobani nelitjeboya lesikwentile kulokonakala kwekusebenta kwemaphapho, kutawukhishwa kunobe ngabe ngusiphi sincepheteliso; futsi
- 12.1.10.2 kufaka sandla (lokuvetwe njengemaphesenti kwakho konkhe kuhogela litjeboya), kwekungenwa lutfuli lwelitjeboya lokungakenteki kuloMgodzi loVumelekile lokwentekile kulokonakala kwekusebenta kwemaphapho kutawukhishwa kunobe ngabe ngusiphi sincepheteliso.
- 12.1.11 Ekwenteni nobe ngabe ngusiphi sincepheteliso labaGcini besikhwama batawukhipha kulomonakalo lokhetsekile, nobe kulelinani lemali kwanobe ngabe ngusiphi sincepheteliso lesifanako lesihlobene nemonakalo lokhetsekile nobe ngabe nguliphi linani lemali lelitfolwe nguMfaki sicelo lofanelekile ngaphasi kwalokuvunyelwe yi-ODMWA nobe yi-COIDA (nanobe ngabe ngumuphi longena esikhundleni salomunye kuloko), nobe lelinani lemali lelo uMfaki sicelo lofanelekile utawuvumeleka ngaphasi kwa-ODMWA nobe-COIDA. LabaGcini besikhwama batawukhipha kulomonakalo lokhetsekile nobe kulelinani lemali nakunobe kusiph sincepheteliso lesilinganisiwe lesihlobene nemonakalo lokhetsekile, nobe ngabe nguliphi linani lemali letfolwe nguMfaki sicelo lofanelekile ngendlela yemshwalensi, i-medical aid nobe lenye inkhokhelo yetemphilo lehlobene ne-ARD kanye/nobe kunyangwa kwayo, lechubekisa sifo nobe ngalenywe indlela, leyo lesikhalo sabo sihlobene nayo.
- 12.1.12 Ekwenteni tincepheteliso kuMfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya, labaGcini besikhwama batawunaka loku lokulanzelako:

- 12.1.12.1 Nobe ngabe ngutiphi tindzuzo letitfolwe ngulaba bebondliwa ngemandla abo njengebahlomuli, futsi (njengaku-12.1.11) batawukhipha letindzuzo kunobe ngabe ngumuphi umonakalo lokhetsekile sincepheteliso nobe kulelinani lemali lanobe ngabe ngusiphi sincepheteliso lesilinganisiwe lesihlobene nemonakalo lokhetsekile;
- 12.1.12.2 tincepheteliso letentiwe kulona loshonile ngesifo selitjeboya kanye/nobe cucina kwemtsambo wemaphaphu ngaphambi kwakhe; futsi batawukhipha lelinani lemali lwaloluhlobo lwetincepheteliso letentiwe ngaphambilini kulelinani lemali lwanobe ngabe ngusiphi sincepheteliso labaGcini besikhwama labangasincuma kutsi bayasikweleta nobe kumele basikhokhele kuMfaki sicelo lobekondliwa ngulokhinyabetwe litjeboya.
- 12.1.13 LabaGcini besikhwama batawuba nemandla kubuyeketa ifomula kanye/nobe kubita kwetindzuzo tenkhokhelo kuBafaki ticelo labafanelekile kutfole sincepheteliso ngemonakalo lojwayelekile nalokhetsekile ngetikhatsi letahlukene (lokungeke kube ngetulu kwakunye emnyakeni) ngekubuka kuhlolwa kwematfuba nekubita kwetikhalo tabo tasesikhatsini lesitako futsi, nangekunaka imphilo yalesikhwama, bangantjintja ifomula kanye/nobe kubita ngendlela lefanelekile. Ngekulanzela 12.1.3, nobe ngabe nguyiphi ifomula kanye/nobe kuntjintjwa kwemali kubuyele emuva, futsi nobe ngabe ngumuphi umfaki sicelo lofanelekile lotfole sincepheteliso ngaphambi kwekuntjintjwa kwaloluhlobo angeke bafaneleke kuhlomula kunobe ngabe ngusiphi sincepheteliso uma kwenteka kutsi ifomula kanye/nobe imali ingetwa futsi angeke umfaki sikhalo abopheleleke kubuyisela emuva nobe ngabe nguliphi linani lemali kulesikhwama uma kwenteka kutsi ifomula kanye/nobe tindleko tiyancishiswa.
- 12.1.14 Ngekulanzela yenkhokhelo ye-Gencor kanye/nobe i-Gefco kanye/nobe i-Msauli yeLinani lemali yeNkhokhelo yabo, labaGcini besikhwama batawucinisekisa kutsi akukho sincepheteliso lesentiwa kunobe ngabe ngumuphi umfaki sicelo lofanelekile ngaphandle nobe ngalesikhatsi loyo Mfaki sicelo lofanelekile unikete futsi wasayina sivumelwano lesibhaliwe nekuvuma kulokukhishwa nekusabalaliswa (ngendlela lebekiwe)

ngekuvuna lamacembu (kanye neliCembu labo) lente lenkhokhelo. Ngekuya ngemvelaphi yemacembu lente lembhadalo yeLinani lemali yeNkhokhelo, lokukhishwa nekusabalaliswa kungatsatsa yinye yaletindlela letibekiwe:

- 12.1.14.1 kukhishwa nekusabalaliswa ngekuvuna i-Gencor ne-Gencor Group (sijobelelo "A1");
- 12.1.14.2 kukhishwa nekusabalaliswa ngekuvuna i-Gencor, i-Gencor Group, Gefco ne-Gefco Group (sijobelelo "A2");
- 12.1.14.3 kukhishwa nekusabalaliswa ngekuvuna i-Gencor, i-Gencor Group, i-Msauli ne-Msauli Group (sijobelelo "A3");
- 12.1.14.4 kukhishwa nekusabalaliswa ngekuvuna i-Gencor, ne-Gencor Group, Gefco, ne-Gefco Group, i-Msauli ne-Msauli Group (sijobelelo "A4");

13. Tinjongo letitsite letikhethsekile tebaGcini besikhwama

13.1 LabaGcini besikhwama bayavuma futsi bayakwamukela kutsi lesikhwama siboshelelwe yimigomo nemibandzela yeSivumelwano sekukhokhelana kulokuhlobana kwabo kanye nekuchumana nalesikhwama. Ngaphandle kwekusuka kulokujwayeleka kuloko:

- 13.1.1 masinyane ekutfoleni ngulesikhwama kwanobe ngabe nguliphi nobe lonkhe lelinani lemali lelikhokhelwe kuso nobe esikhundleni se-Gencor (njengobe kuvunyelenwe kuleSivumelwano sekukhokhelana), lesikhwama sitawubhadala ku-NNS linani lemali la-R11 495 000,00 ndzawonye kanye nentalo lekhulile kulelinani lemali lwemmangaleli kulolutjalomali saso ngekufaka sandla kutindleko tema-akhawunti lashiwo kuleSivumelwano sekukhokhelana;
- 13.1.2 masinyane ekutfoleni ngulesikhwama kwanobe ngabe nguliphi nobe lonkhe lelinani lemali lelikhokhelwe kuso nobe esikhundleni se-Gefco kanye/nobe i-Hanova (njengobe kuvunyelenwe kuleSivumelwano sekukhokhelana), lesikhwama sitawubhadala ku-NNS linani lemali la-R500 000,00 ndzawonye kanye nentalo lekhulile kulelinani lemali lwemmangaleli kulolutjalomali saso kuletindleko te-Gefco tekufaka sandla kuma-akhawunti lashiwo kuleSivumelwano sekukhokhelana.

Masinyane ekutfoleni ngulesikhwama kwanobe ngabe nguliphi nobe lonkhe lelinani lemali lelikhokhelwe kuso nobe esikhundleni se-Msauili kanye/nobe i-ACA (njengobe kuvunyelenwe kuleSivumelwano sekukhokhelana), lesikhwama sitawubhadala ku-NNS linani lemali lengu-R250 000,00 ndzawonye kanye nentalo lekhulile kulelinani lemali lwemmangaleli kulolutjalomali saso kutindleko tekufaka sandla te-Msauili tema-akhawunti lashiwo kuleSivumelwano sekukhokhelana;

13.1.3 uma lesimo sekusombulula losishiwo kumtsetfo 3 weSivumelwano sekukhokhelana asiveli nga-30 Juni 2003 nobe lusuku lelindlulile njengobe kungavunyelwana emkhatsini we-NNS ne-Gencor, labaGcini besikhwama ngekhatsi kwa-5 emalanga kusuka kulelo langa, batawuniketa i-Gencor ne-Gencor Group ngesivimbeli licala lesibhaliwe sikhapha ecaleni i-Gencor kanye/nobe emalunga e-Gencor Group futsi yenta kutsi nobe ngabe ngumuphi munye wabo, njengobe kungaba njalo, bangalinyatwa futsi bavikelwe kuto tonkhe tindleko letibangwe ngalokuvakalako ngibo nobe ngabe ngumuphi munye wabo, njengobe kungaba njalo, ngekuhlobana nanobe ngabe ngutiphi tinchubo temtsetfo letikhishelwe ngibo ngekuhlanganyela nobe ngekuhlukana kunobe ngabe ngubani nobe bantfu lekutsiwa bebondliwa ngulokhinyabetekile kanye/nobe imphahla ya-Kubari nobe Lombaard nobe Ncheyagae ekuhlawulisweni nobe kumelana nato tonkhe tincepheteliso kanye/nobe umonakalo kanye/nobe nekubita kanye/nobe tindleko letihlobene kuloko, kufaka ekhatsi nobe ngabe ngutiphi tinkhokhelo kanye/nobe takhiwe ngunobe ngabe ngutiphi tikhalo leti lebebondliwa kanye/nobe timphahla lebanato;

13.1.4 uma simo sekusombulula se-Gefco lesishiwo kumtsetfo 5.1.1 weSivumelwano sekukhokhelana asiveli nga-15 Meyi 2003 (nobe lusuku lelindlulile njengobe kungavunyelwana emkhatsini we-NNS ne-Gefco), nobe simo sekusombulula se-Gefco kumtsetfo 5.1.2 weSivumelwano sekukhokhelana asiveli nga-30 Juni 2003 (nobe lusuku lelindlulile njengobe kungavunyelwana emkhatsini we-Gencor ne-NNS), labaGcini besikhwama ngekhatsi kwa-5 emalanga batawuniketa i-Gefco nemalunga e-Gefco Group ne-Hanova ngesivimbeli licala lesibhaliwe sikhapha ecaleni i-Gefco nemalunga e-Gefco Group ne-Hanova futsi abenta kutsi nobe ngabe ngumuphi munye wabo, njengobe kungaba

njalo, bangenakulinyatwa kanye nakuto tonkhe tindleko letibangwe ngalokuvakalako ngibo nanobe ngabe ngumuphi munye wabo, njengobe kungaba njalo, ngekuhlobana nanobe ngabe ngutiphi tinchubo temtsetfo letikhishelwe bona ngekuhlanganyela nobe ngekuhlukana ngunobe ngabe ngubani nobe bantfu lekutsiwa bebondliwa ngulokhinyabetekile kanye/nobe imphahla ya-Kubari nobe Lombaard nobe Ncheyagae ekuhlawulisweni nobe kumelana nato tonkhe tincepheteliso kanye/nobe umonakalo kanye/nobe nekubita kanye/nobe tindleko letihlobene kuloko, kufaka ekhatsi nobe ngabe ngutiphi tinkhokhelo kanye/nobe takhiwe ngunobe ngabe ngutiphi tikhalo leti lebebondliwa kanye/nobe timphahla lebanato;

13.1.5 uma simo sekusombulula se-Msauli lesishiwo kumtsetfo 7.1.1 weSivumelwano sekukhokhelana asiveli nga-15 Meyi 2003 (nobe lusuku lelindlulile njengobe kungavunyelwana emkhatsini we-NNS ne-Msauli), nobe uma simo sekusombulula se-Msauli lesishiwo kumtsetfo 7.1.2 weSivumelwano sekukhokhelana asiveli nga-30 Juni 2003 (nobe lusuku lelindlulile njengobe kungavunyelwana emkhatsini we-Gencor ne-NNS), labaGcini besikhwama ngekhatsi kwa-5 emalanga batawuniketa i-Msauli nemalunga e-Msauli Group ne-ACA ngesivimbeli licala lesibhaliwe sikhapha ecaleni i-Msauli nemalunga e-Msauli Group ne-ACA futsi ibenta kutsi nanobe ngabe ngumuphi munye wabo, njengobe kungaba njalo, bangenakulinyatwa nakuto tonkhe tindleko letibangwe ngalokuvakalako ngibo nobe ngabe ngumuphi munye wabo, njengobe kungaba njalo, ngekuhlobana nanobe ngabe ngutiphi tinchubo temtsetfo letikhishelwe bona ngekuhlanganyela nobe ngekuhlukana ngunobe ngabe ngubani nobe bantfu lekutsiwa bebondliwa ngulokhinyabetekile kanye/nobe imphahla ya-Kubari nobe Lombaard nobe Ncheyagae ekuhlawulisweni nobe kumelana nato tonkhe tincepheteliso kanye/nobe umonakalo kanye/nobe nekubita kanye/nobe tindleko letihlobene kuloko, kufaka ekhatsi nobe ngabe ngutiphi tinkhokhelo kanye/nobe takhiwe ngunobe ngabe ngutiphi tikhalo leti lebebondliwa kanye/nobe timphahla lebanato;

13.1.6 masinyane ekutfoleni Satiso lesiHlobene netiNchubo (njengobe lelo gama lichazwe kuleSivumelwano sekukhokhelana), ikhipha ecaleni lamacembu latsintsekako bese ibenta futsi nobe ngabe ngumuphi munye wabo, njengobe kungaba njalo, bangenakulinyatwa tikweleti nobe

- tindleko letentiwe ngalokuvakalako ngibo, nobe ngabe ngumuphi munye wabo, njengobe kungaba njalo, ngekuhlobana nenchubo yetemtsetfo ekuhlawulisweni nobe kumelana nato tonkhe tincepheteliso nemonakalo kuloluhlobo lwenchubo yetemtsetfo kanye/nobe tinkhokhelo kanye/nobe lokwakhiwa kuletinchubo letishiwoko, njengobe tichazwe ngalokuphelele kumtsetfo 12 weSivumelwano sekukhokhelana;
- 13.1.7 lesikhwama sitawutfo, sibuke bese samukela ngalokuvakalako nobe ngabe ngusiphi sicelo lesentiwe yi-Gencor sekutsi nobe ngabe ngusiphi Sikhalo seBulungiswa (njengobe kuchaziwe kuleSivumelwano sekukhokhelana) kumele sicedvwe. Kuvikela kungabata, kuvuma kwalesikhwama kutawufuneka kuphela uma inkhokhelo idzinga kusetjentiswa kwemali (nobe incenye kuloko) ku-rehabilitation claw back account (njengobe kuchaziwe kule Sivumelwano sekukhokhelana).
- 13.2 labaGcini besikhwama batawutfo kuphela, futsi babuke tikhalo letentiwe ngunobe ngabe ngumuphi umuntfu tesincepheteliso ekugwalisweni nasekusayineni lifomu lekufaka sicelo nguloluhlobo lwemuntfu lapho umfaki sicelo uvuma, *ngekuphatselana*, naloku:
- 13.2.1 Uma nobe ngabe ngusiphi sincepheteliso siyentiwa, utawusayina sivumelwano lesibhaliwe nekuvuma kwekukhishwa nekusabalaliswa ngendlela yasinye setijobelelo "A1" kuya ku- "A4" njengobe kungaba njalo (njengobe kushiwo ngalokugcwele kumtsetfo 12.1.4 ("i-waiver"));
- 13.2.2 lesincumo sabodokotela kanye/nobe liphanela letemphilo lelikhetfwe ngulesikhwama kuto tonkhe tindzaba letiphatselene netemphilo letihlobene nasicelo lesifakiwe sitawuba sekugcina futsi sitawubophelela kulomfaki sicelo;
- 13.2.3 uma nobe ngabe nguyiphi inchabano ivuka emkhatsini wemfaki sicelo nalesikhwama ngekuhlobana nalesicelo sakhe lesifakiwe, sahlulelo salesikhwama kanye/nobe tincumo letentiwe mayelana nesicelo lesifakiwe kanye/nobe nobe ngabe ngusiphi sincepheteliso lesentiwe nobe lesingakentiwa ngulesikhwama ekulandzeleni leso sicelo lesifakiwe, loluhlobo lwenchabano litawuncunywa ngumlamuli ngekuhambelana ngalokuvunyelwe ngumtsetfo 23 weSivumelwano sekukhokhelana i-*mutatis mutandis*.

13.3 labaGcini besikhwama bayavuma futsi bayakwamukela kutsi lesikhwama siyi- ejenti lekhetfwe ngalokufanele ye-Gencor, Gefco ne-Msauli ngetinjongo tekwemukela letindzuzo letatfolwa nguletinkhapani ngaphasi nangengekuya nge-waiver futsi babophelekile futsi batawasayina (babuye bamukele esikhaleni sabo) leyo-waiver ngemuva kwegcwalisa nekusayina kwalelifomu lekufaka sicelo, lonkhe njengobe kuchazwe ngalokuphelele kumtsetfo 13.2.

14. Imiklamo yemphakatsi

Lishumi lemaphesenti layo yonkhe intalo levela kulolutjalomali lwaleSiKhwama litawukhishwa, ngemandla laphhelele alabaGcini besikhwama, kwenta nobe kusekela imiklamo netinhlelo letifaka ekhatsi, kodvwa tingakavimbeleki kuloku:

- 14.1 kuvikelwa kwetifo letihlobene nelitjeboya;
- 14.2 kuniketwa kanye/nobe kululwa kwelusekelo lolungasilo lwemali kubantfu labagulwa ma-ARD; kanye neku
- 14.3 kuniketwa kwemningwano nemisebenti yetaluleko kubantfu nemindeni yebantfu labagulwa yi-ARD, banakekeli kanye netisebenti tetemphilo.

INCENYE IV : Tindzaba letiyinhlanganisela

15. Umtsetfo lowengamele

LoMculu utawubuswa futsi wakhiwe futsi utoligwe ngekuhambelana nemitsetfo yeRiphabliki yaseNingizimu Afrika.

16. Kuhlukaniseka

Loyo naloyo mtsetfo waloMculu lohlukile, kulomunye nalomunye, uma nobe ngabe ngumuphi umtsetfo utfolakala uphambukile futsi ungasebentiseki ngenca yanobe ngabe ngusiphi sizatfu senkhantolo lesebentako, ngaloko lemitsetfo lesele itawuba nemandla laphhelele nekusebenta futsi itawuchubeka kuba nemandla laphhelele nekusebenta.

Usayinwe e-

nga

2013.

Fakazi:

**we- UmGcini sikhwama wekuCala –
Maitland Trust Limited**

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loneligunya lemtsetfo kuloku