

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NUMBER: 86507/16

In the matter between:

SOLIDARITY

AFRIFORUM NPC

And

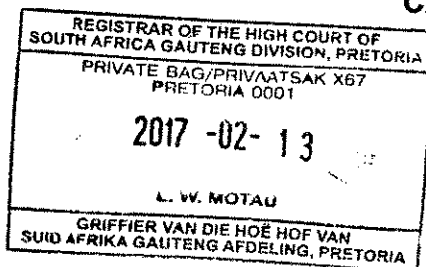
MINSTER OF SPORTS AND RECREATION

SOUTH AFRICAN RUGBY (PTY) LTD
t/a SOUTH AFRICAN RUGBY UNION

CRICKET SOUTH AFRICA

ATHLETICS SOUTH AFRICA

NETBALL SOUTH AFRICA



1st APPLICANT

2nd APPLICANT

1st RESPONDENT

2nd RESPONDENT

3rd RESPONDENT

4th RESPONDENT

5th RESPONDENT

FILING NOTICE

DOCUMENT : APPLICANTS' PRACTICE NOTE

DATE ENROLLED : 1 MARCH 2017

FILED BY : SERFONTEIN VILJOEN & SWART
Attorneys for the **APPLICANTS**
165 ALEXANDER STREET
BROOKLYN
PRETORIA
TEL: (012) 362 2556
FAX: (012) 362 2557
REF: MR CLAASSEN/N VENTER/CS0246

AND TO : THE REGISTRAR OF THE HIGH COURT
PRETORIA

AND TO

STATE ATTORNEY – PRETORIA
Attorneys for the 1st RESPONDENT
GROUND FLOOR
SALU BUILDING
255 FRANCIS BAARD
TEL: (012) 309 1634
FAX: (012) 328 2662/3
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REF: MS C PEDRO AFONSO/8078/16/Z30/MN



2

AND TO

THE SOUTH AFRICAN RUGBY UNION
THE SECOND RESPONDENT
SARU HOUSE
TYGERBERG PARK
163 UYS KRIGE ROAD
PLATTEKLOOF
CAPE TOWN
TEL: (021) 659 6712
FAX: (021) 689 3330 / 3907
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ismail@sarugby.co.za / ronelg@sarugby.co.za

AND TO

CRICKET SOUTH AFRICA
THE THIRD RESPONDENT
WANDERES CLUB
21 NORTH STREET
ILLOVO
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yolisam@cricket.co.za / sharlad@cricket.co.za

AND TO

ATHLETICS SOUTH AFRICA
THE FOURTH RESPONDENT
ATHLETICS HOUSE NO. 3
11th AVENUE
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AND TO : **NETBALL SOUTH AFRICA**
THE FIFTH RESPONDENT
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ARCADIA
PRETORIA
TEL: (012) 344 5971
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**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NUMBER: 86507/16

In the matter between:

SOLIDARITY

First applicant

AFRIFORUM NPC

Second applicant

and

THE MINSTER OF SPORTS AND RECREATION

First respondent

**SOUTH AFRICAN RUGBY (PTY) LTD t/a SOUTH AFRICAN
RUGBY UNION**

Second respondent

CRICKET SOUTH AFRICA

Third respondent

ATHLETICS SOUTH AFRICA

Fourth respondent

NETBALL SOUTH AFRICA

Fifth respondent

APPLICANTS' PRACTICE NOTE

DATE ON WHICH MATTER IS ENROLLED

1 March 2017

NATURE OF THE APPLICATION

The applicants' seek relief under the provisions of section 78 of the Promotion of Access to Information Act 2 of 2000 in response to a request made in accordance with section 18(1) thereof.

ESTIMATED DURATION OF HEARING

10 minutes

LEGAL REPRESENTATIVES FOR THE APPLICANTS

Attorney: Serfontein Viljoen & Swart

012 362 2556

jd@svslaw.co.za

Counsel: A Schluep

011 290 4000 / 082 928 9490

schluep@counsel.co.za

PREVIOUS POSTPONEMENTS

None.

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NUMBER: 86507/16

In the matter between:

SOLIDARITY

1st APPLICANT

AFRIFORUM NPC

2nd APPLICANT

And

MINISTER OF SPORTS AND RECREATION

1st RESPONDENT

**SOUTH AFRICAN RUGBY (PTY) LTD
t/a SOUTH AFRICAN RUGBY UNION**

2nd RESPONDENT

CRICKET SOUTH AFRICA

3rd RESPONDENT

ATHLETICS SOUTH AFRICA

4th RESPONDENT

NETBALL SOUTH AFRICA

5th RESPONDENT

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Section 17(1) of the Access to Information Act
 858
 Tel: 017 312 2500

IN THE HIGH COURT OF SOUTH AFRICA
 GAUTENG DIVISION, PRETORIA

CASE NUMBER: 86507/16

In the matter between:

SOLIDARITY

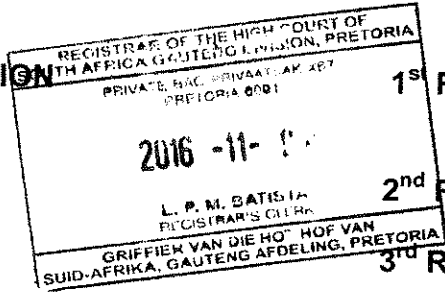
1st APPLICANT

AFRIFORUM NPC

2nd APPLICANT

And

MINISTER OF SPORTS AND RECREATION



1st RESPONDENT

**SOUTH AFRICAN RUGBY (PTY) LTD
 t/a SOUTH AFRICAN RUGBY UNION**

2nd RESPONDENT

CRICKET SOUTH AFRICA

3rd RESPONDENT

ATHLETICS SOUTH AFRICA

4th RESPONDENT

NETBALL SOUTH AFRICA

5th RESPONDENT

NOTICE OF MOTION

KINDLY TAKE NOTICE THAT an application will be made by the above named applicants to the above Honourable Court on 1 day of March 2017 at 10:00 or as soon as thereafter for the matter to be heard for an order in the following terms:

1. The first respondent is to comply with the applicants' request in terms of section 18 of the Promotion of Access to Information Act 2 of 2000 dated 30 June 2016 by providing the following documents to the applicant:

1.1. The memoranda of agreements concluded between the Department of Sport and Recreation with the South African Rugby Union, Cricket South Africa, Netball South Africa and Athletics South Africa;

- 1.2. The agenda and minutes of meetings wherein the aforementioned parties concluded the memoranda of agreements;
- 1.3. The transformation plans of the South African Rugby Union, Cricket South Africa, Netball South Africa and Athletics South Africa.
2. The first respondent is to provide both physical copies and electronic copies of the aforesaid documents within 10 (TEN) days of the order of the Honourable Court;
3. Costs of this application;
4. Further and/or alternative relief.

KINDLY TAKE NOTICE FURTHER that the accompanying affidavit of **ANTONIE JASPER VAN DER BIJL** together with the documents referred to in Rule 3(3) of the Promotion of Access to Information Rules will be used in support of this application.

KINDLY TAKE NOTICE FURTHER that the Applicants have appointed **SERFONTEIN VILJOEN & SWART ATTORNEYS** as the address at which it will accept notice and service of all process in these proceedings.

KINDLY TAKE NOTICE FURTHER that should you intend opposing this application you are required:

- a) To notify the Applicants' attorneys in writing within **15 (FIFTEEN)** days after receipt hereof and file same with the Registrar of the Court located at **CNR PAUL KRUGER & MADIBA STREETS, PRETORIA.**

- b) Within **15 (FIFTEEN)** days after you have so given notice of your intention to oppose the application, to deliver your Answering Affidavit and file same at court, if any; and
- c) To appoint in your Notice of intention to oppose an address within **8 (EIGHT)** kilometres of the Court to which the application is brought and at which you will accept notice and service of all documents in these proceedings.
- d) If no such Notice of intention to oppose be given, the application will without further notice, be placed on the roll for hearing after the expiry of the period mentioned in a) above, on a date fixed by the registrar of the Court.
- e) If such Notice of intention to oppose is served and filed but no answering affidavit served and filed within the time prescribed above, the application will without further notice, be placed on the roll for hearing after the expiry of the period mentioned in a) above, on a date fixed by the registrar of the Court.

KINDLY TAKE NOTICE FURTHER that the information office of the Department of Sport and Recreation must:

- a) Immediately after receipt of this application, notify, in writing, all other persons affected, of the application and attach a copy of the application to such notice; and
- b) Within 15 (FIFTEEN) days of receipt of the application:
 - i. File with the registrar of Court 2 (TWO) true copies of the request and the notification sent to the requester in terms of section 25(1)(b) of Promotion of Access to Information Act 2 of 2000;

- ii. Notify the applicant in writing that the requirements of subparagraph (i) have been complied with; and
- iii. Serve on the applicant a true copy of the reasons, if they have not yet been provided.

SIGNED AT PRETORIA ON THIS THE 3rd DAY OF NOVEMBER 2016.


SERFONTEIN VILJOEN & SWART
 Attorneys for the **APPLICANTS**
 165 ALEXANDER STREET
 BROOKLYN
 PRETORIA
 TEL: (012) 362 2556
 FAX: (012) 362 2557
 REF: MR CLAASSEN/N VENTER/CS0246

**TO: THE REGISTRAR OF THE HIGH COURT
 PRETORIA**

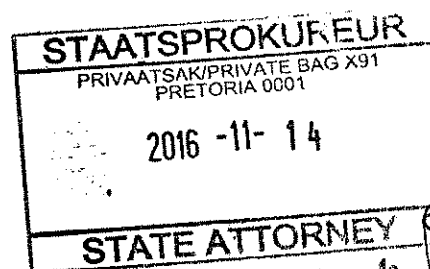
AND TO: STATE ATTORNEY – PRETORIA
 Attorneys for the **RESPONDENTS**
 GROUND FLOOR
 SALU BUILDING
 255 FRANCIS BAARD

TEL: (012) 309 1501/02/03/1557

FAX: (012) 309 1649 / 086 629 2761 / 086 507 0353

EMAIL: EErasmus@justice.gov.za Co Pedro Afonso@justice.gov.za.

REF: **ERNST-ERASMUS COLETT AFONSO/8078/16/230**



AND TO: THE MINISTER OF SPORT AND RECREATION
1st RESPONDENT
 66 REGENT PLACE
 CNR QUEEN & MADIBA STREETS
 PRETORIA
 TEL: (012) 304 5000/185/23


 14/11/16

FAX: (012) 323 7196 / 086 644 9583
 EMAIL: abongile@srsa.gov.za

AND TO: **THE SOUTH AFRICAN RUGBY UNION**
2nd RESPONDENT
 SARU HOUSE
 TYGERBERG PARK
 163 UYS KRIGE ROAD
 PLATTEKLOOF
 CAPE TOWN
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 FAX: (021) 689 3330 / 3907
 EMAIL: jurier@sarugby.co.za / khayam@sarugby.co.za /
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AND TO: **CRICKET SOUTH AFRICA**
3rd RESPONDENT
 WANDERES CLUB
 21 NORTH STREET
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 FAX: 086 641 4887 / 086 569 9728
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maxj@cricket.co.za / HaroonL@cricket.co.za / yolisam@cricket.co.za /
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AND TO: **ATHLETICS SOUTH AFRICA**
4th RESPONDENT
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 11th AVENUE
 HOUGHTON ESTATE
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 FAX: (011) 824 3517
 EMAIL: askhosana@qinet.co.za / skhosita@gmail.com /
adamsh@worldonline.co.za

AND TO: **NETBALL SOUTH AFRICA**
5th RESPONDENT
 846 PARK STREET
 ARCADIA
 PRETORIA
 TEL: (012) 344 5971

RECEIVED BY : Nimi Mthethwa
 PRESIDENT NETBALL SA
 DATE : 14 NOVEMBER 2016

FAX: (012) 343 5285

EMAIL: mimi@netball-sa.co.za / blanche@netball-sa.co.za

AND TO: **INFORMATION OFFICER OF THE DIRECTOR-GENERAL OF SPORT
AND RECREATION OF SOUTH AFRICA**
66 REGENT BUILDING
CNR QUEEN & MADIBA STREETS
PRETORIA
TEL: (012) 304 5274
FAX: 086 240 9456
EMAIL: DG@srsa.gov.za

 14/11/16

Addressee	Start Time	Time	Prints	Result	Note
0866292761	11-09 16:34	01:17:22	049/049	OK	
0865070353	11-09 17:53	01:17:17	049/049	OK	
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0865699728	11-09 22:58	00:23:03	007/049	OK	
0862409456	11-09 23:24	00:57:31	049/049	OK	
0123091649	11-10 00:24	00:08:48	049/049	OK	
0216893330	11-10 00:48	00:00:57	000/049	No Ans	
0216893907	11-10 00:49	00:00:56	000/049	No Ans	
0118243517	11-10 00:51	00:00:57	000/049	No Ans	
0123435285	11-10 00:52	00:01:00	000/049	No Ans	

Note TMR:Timer TX, POL:Polling, ORG:Original Size Setting, FME:Frame Erase TX,
DPS:Page Separation TX, MIX:Mixed Original TX, CALL:Manual TX, CSAC:CSAC,
FWD:Forward, PC:PC-FAX, BND:Double-Sided Binding Direction, SP:Special Original,
FCODE:F-code, RTX:Re-TX, RLV:Relay, MBX:Confidential, BUL:Bulletin, SIP:SIP Fax,
IPADR:IP Address Fax, I-FAX:Internet Fax

Result OK: Communication OK, S-OK: Stop Communication, PW-OFF: Power Switch OFF,
TEL: RX from TEL, NG: Other Error, Cont: Continue, No Ans: No Answer,
Refuse: Receipt Refused, Busy: Busy, M-Full:Memory Full,
LOVR:Receiving length Over, POVR:Receiving page Over, FIL:File Error,
DC:Decode Error, MDN:MDN Response Error, DSN:DSN Response Error.

10

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NUMBER: 86507/16

In the matter between:

SOLIDARITY**AFRIFORUM NPC**

And

MINISTER OF SPORTS AND RECREATION**SOUTH AFRICAN RUGBY (PTY) LTD
v/a SOUTH AFRICAN RUGBY UNION****CRICKET SOUTH AFRICA****ATHLETICS SOUTH AFRICA****NETBALL SOUTH AFRICA**1st APPLICANT2nd APPLICANT1st RESPONDENT2nd RESPONDENT3rd RESPONDENT4th RESPONDENT5th RESPONDENT

NOTICE OF MOTION

KINDLY TAKE NOTICE THAT an application will be made by the above named applicants to the above Honourable Court on 1 day of March 2017 at 10:00 or as soon as thereafter for the matter to be heard for an order in the following terms:

1. The first respondent is to comply with the applicants' request in terms of section 18 of the Promotion of Access to Information Act 2 of 2000 dated 30 June 2016 by providing the following documents to the applicant:

1.1. The memoranda of agreements concluded between the Department of Sport and Recreation with the South African Rugby Union, Cricket South Africa, Netball South Africa and Athletics South Africa;

7

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NUMBER: 86507/16

In the matter between:

SOLIDARITY

1st APPLICANT

AFRIFORUM NPC

2nd APPLICANT

And

MINSTER OF SPORTS AND RECREATION

1st RESPONDENT

**SOUTH AFRICAN RUGBY (PTY) LTD
t/a SOUTH AFRICAN RUGBY UNION**

2nd RESPONDENT

CRICKET SOUTH AFRICA

3rd RESPONDENT

ATHLETICS SOUTH AFRICA

4th RESPONDENT

NETBALL SOUTH AFRICA

5th RESPONDENT

FOUNDING AFFIDAVIT

I, the undersigned,

ANTONIE JASPER VAN DER BIJL

do hereby make oath and say that—

DEPONENT, AUTHORITY AND KNOWLEDGE

1. I am the Head of the Labour Court Department of the first applicant in this application ('**Solidarity**'), the details of which are set out below.
2. I am duly authorised to represent the applicants in these proceedings and to depose to this affidavit, as appears from annexures '**FA1**' and '**FA2**' hereto.



3. Save where specifically stated or where the context indicates otherwise, I have personal knowledge of the facts herein stated or I have ascertained and determined them from the records of Solidarity that are under my personal control. I confirm that the facts referred to are true and correct.
4. Where I make legal submissions, I do so on the advice of Solidarity's legal representatives, which advice I accept.

PARTIES

The applicants

5. The first applicant is Solidarity, a trade union duly registered in terms of the Labour Relations Act 66 of 1995 ('**the LRA**'). Solidarity has its head office at the corner of Eendracht and D F Malan Avenues, Kloofsig, Centurion.
 - 5.1. The primary function of Solidarity is to protect its members in the work environment. Solidarity achieves this through its Labour Services Department which protects individual and collective members in various industries throughout South Africa.
 - 5.2. Solidarity currently has approximately 140 000 members in all occupational fields.
 - 5.3. As an organisation within the broader Solidarity movement (which includes Afriforum), it pursues the protection and promotion of constitutional rights.
6. The second applicant is Afriforum NPC ('**Afriforum**'), a non-profit company registered as such in terms of the Companies Act 71 of 2008. Prior to the enactment of this statute, Afriforum was registered as a s 21 company in terms



of the Companies Act of 1973. Afriforum has its principal place of business at Afriforum Building, corner DF Malan and Union Streets, Kloofsig, Centurion.

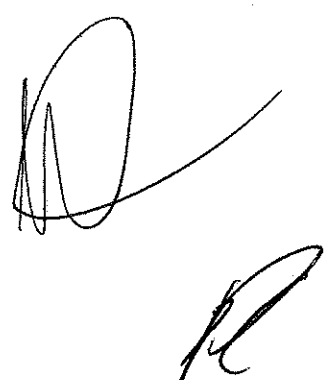
7. Afriforum is an active non-governmental organisation involved in the protection and development of civil rights within the context of the Constitution and it was created to promote democracy through public participation. In order not to burden these papers unduly, I do not attach a copy of Afriforum's articles of association (which in any event is in the public domain), but a copy will be made available to the court, if it is required.
8. The Civil Rights Manifest adopted by Afriforum records that Afriforum is *'inspired by the republican tradition, which is based on democratic participation and accord among the citizenry, rather than a mentality of slavish submission'* and that it is *'committed to the continuous monitoring of that status of civil rights in South Africa and to take appropriate action when such rights are violated'*. In it, it is recognized that *'the constitutional rights of citizens will remain paper rights only if all the grand symbolic gestures and pronouncements emanating from the Constitution do not agree with the realities experienced by citizens'* and accordingly Afriforum commits itself to *'do everything possible to ensure that the rights contained in the Constitution are actualized and promoted in practice'* and strives particularly for the realization of constitutional rights, including the right to fair administrative process. A copy of the Civil Rights Manifest will be made available to the court if it is required.
9. By 30 June 2016, Afriforum had 176 456 members.



The respondents

10. The first respondent

- 10.1. The first respondent is the Minister of Sport and Recreation (**'the Minister'**), who, for the purposes of this application, is represented by the offices of the State Attorney located at 8th floor, Old Mutual Centre, 167 Andries Street, Pretoria.
- 10.2. For the time being the office of the Minister is occupied by Mr Fikile Mbalula. References to the conduct of the Minister described in this affidavit are to be taken to be references to the conduct of Mr Mbalula in his official capacity.
- 10.3. The Minister is cited herein in his official capacity as the executive head of the Department of Sports and Recreation (**'the Department'**), situated at 66 Regent Place, corner Queen and Madiba Streets, Pretoria. The Department is a department of state established and regulated by the National Sports and Recreation Act 110 of 1998 (**'the NSRA'**).
- 10.4. The Minister is empowered by the NSRA to determine general policy to be pursued with regard to sport and recreation which shall be binding on all sport or recreation bodies. The Minister is specifically required by the NSRA to issue guidelines or policies to promote equity, representivity and redress in sport and recreation.

A large, stylized handwritten signature in black ink, consisting of a large loop and a long horizontal stroke.

11. The second respondent


- 11.1. The second respondent is South African Rugby Union ('**SARU**').
- 11.2. SARU is an association of persons with perpetual succession and juristic personality and it has its headquarters in Cape Town with physical address at SARU House, Tygerberg Park, 163 Uys Krige Drive, Platteklouf, Cape Town.
- 11.3. SARU is bound by the provisions of its constitution ('**the SARU constitution**') which regulates its affairs and establish its objectives as the national governing body of the sport of rugby within the Republic of South Africa.
- 11.4. Article 4 of the SARU Constitution defines SARU's main object as the promotion, development and support of all levels of rugby in the Republic of South Africa.
- 11.5. Under article 5, it is stipulated that it is an ancillary object of SARU to:
- 11.5.1. act as the controlling and coordinating body of its members (article 5.5); and
- 11.5.2. adopt measures governing the activities of its members and the administration of the game in South Africa, including measures which will promote and develop rugby (article 5.6).
- 11.6. SARU is cited herein by virtue of its status as the national governing body responsible for the organisation and administration of rugby at all levels of the game as well as the body responsible for the control and co-ordination of its members operating at the various playing levels.



12. The Third Respondent

- 12.1. The third respondent is Cricket South Africa ('**CSA**'), a non-profit company incorporated as such under the company laws of the Republic of South Africa with registration number 2002/002641/08 and with registered address at Wanderers Club, North Street, Illovo, Gauteng.
- 12.2. CSA is the recognised national governing body for the sport of cricket in South Africa and administers all aspects of South African cricket, men and women, both in the professional and amateur spheres.
- 12.3. CSA is cited herein by virtue of its status as the national governing body for the sport of cricket as well as the coordinating body of its members.

13. The fourth respondent

- 13.1. The fourth respondent is Athletics South Africa ('**ASA**'), a non-profit company incorporated as such under the company laws of the Republic of South Africa under registration number 2006/034767/08 and with its registered address at Unit 3, Boskruin Park, Corner Kelly and Bosbok Streets, Randpark Ridge.
- 13.2. ASA is the sole organisation responsible for administering and controlling athletics within the boundaries of South Africa and is the sole South African member federation affiliated to the international athletics federation known as IAAF. As such, ASA controls athletics in the Republic of South Africa.
- 13.3. ASA is cited herein by virtue of its status as the national governing body of athletics and the coordinator and administrator of its members operating at various levels of the sport.
- 

14. The fifth respondent

The fourth respondent is Netball South Africa ('NSA'), a non-profit company incorporated as such under the company laws of the Republic of South Africa with its main place of business situated at 846 Park Street, Pretoria.

15. The second to fifth respondents are referred to collectively as '**the sporting bodies**' in this affidavit.

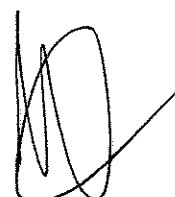
16. No relief is sought against the second to fifth respondents who have been cited as parties to this application on the basis of any interest they may have in the relief sought against the first respondent and / or any affect the relief sought may have on any obligation held by them to the first respondent or any other party.

THIS APPLICATION

17. This is an application under and in accordance with the provisions of the Promotion of Access to Information Act 2 of 2000 ('PAIA').

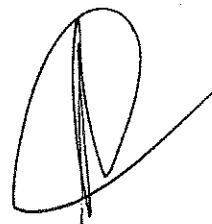
18. On 25 April 2016, the Minister announced that the Ministry of Sport and Recreation had resolved to revoke the privileges of SARU, CSA, ASA and the NSA to host or bid for major and mega international tournaments in South Africa as a consequence of the aforementioned bodies failing to meet certain pre-set transformation targets. I attach a transcription of this address taken from the Polity.org.za website marked as 'FA3'.

19. It appears from the contents of this address that the pre-set transformation targets derive from the conclusion of certain memoranda of agreement between the Minister on the one hand, and SARU, CSA, ASA and NSA on the other,



which memoranda establish transformation targets and goals to be achieved over a five-year period by each sporting body.

20. It was in accordance with these memoranda that the Minister alleges that he was authorized to revoke the privileges of SARU, CSA, ASA and the NSA to host or bid for major or mega tournaments in South Africa in accordance with the agreed punitive measures contained in the agreements in the event that any of the sporting bodies failed to meet their transformation targets.
21. The targets agreed to and the memoranda in which they are contained, are not in the public domain. Members of the public and organisations such as Solidarity and Afriforum are accordingly unable to discern from public documents the nature of the agreement reached, the targets set and/or the punitive measures set for non-compliance with the agreed targets.
22. Clearly, given the constitutional commitment to transformation and need to adopt constitutionally compliant measures to protect and advance persons, or categories of persons, who have been disadvantaged by discrimination, the transformational commitments of the various sporting bodies concern matters that are of relevance to the public.
23. Solidarity and Afriforum are both committed to a proper evaluation of transformation measures (whether self-imposed or imposed externally). In pursuit of their effort to ensure constitutional compliance in the adoption and implementation of measures loosely referred to as '*affirmative action measures*' or '*transformation measures*' Solidarity routinely seek and gain access to, for example, employment equity plans adopted by employers under the Employment Equity Act 55 of 1998 ('**the EEA**'). Solidarity engages employers on the content of their employment equity plans and other affirmative measures and it has litigated against employers whose plans have been considered to be unlawful under the EEA and/or the Constitution.



24. In the present instance, having learnt of alleged non-compliance with transformation targets, seeks to gain access to the memoranda in which the targets relied on by the Minister have been agreed to. This, in an effort to gain an understanding of their contents and to evaluate the lawfulness or otherwise of the targets as transformational measures.
25. In the circumstances, the applicants called for production of the memoranda in accordance with the provisions of PAIA, as is explained more fully below. The applicants' non-litigious attempts to gain access to the relevant documents have proven unsuccessful and they now apply to this court for an order that they be released to the applicants.

JURISDICTION

26. This court enjoys the necessary jurisdiction to adjudicate upon the claim for access to the documents sought from the Minister.

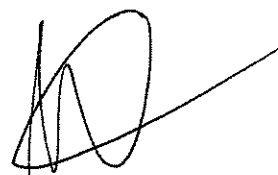
LOCUS STANDI

27. The applicants bring this application in their own interest, as well as in the interests of their beneficiaries, members and supporters (in terms of ss 38(a) and (e) of the Constitution of the Republic of South Africa Act 108 of 1996 ('the **Constitution**'). They also bring the application in the public interest (in terms of section 38(d) of the Constitution).. Clearly, the interest in the adoption of transformational measures by sporting bodies extends well beyond the interests served by any particular organisation.
28. The applicants bring this application in circumstances where they have exhausted non-litigious means of gaining access to the documents sought.



APPLICATION IN TERMS OF S 18 OF PAIA

29. On 30 June 2016, Solidarity submitted a request to the information officer of the Department in terms of s 18(1) of PAIA in which it sought:
- 29.1. the various memoranda of agreement concluded between the Department and the sporting bodies;
 - 29.2. the agenda and minutes of meetings where the Minister and the representatives of the sporting bodies concluded the memoranda of agreement;
 - 29.3. the transformation plans of the sporting bodies.
30. This request was made by Solidarity's legal representatives on its behalf, in compliance with the provisions of s 18(1) of PAIA and in the accordance with the prescribed form referred to in the section. I attach a copy of this request marked as annexure 'FA4'.
31. The request was transmitted to the designated information officer by way of fax transmission to fax number 086 644 9583, being the identified fax number of the information officer appointed by the Department. I attach a copy of the fax transmission report marked as annexure 'FA5' which reflects that the fax was successfully transmitted.
32. On 29 July 2016, Solidarity's legal representatives received an email from a Mr Manase Makwela who:
- 32.1. advised that, in accordance with s 26(1) of PAIA, the information officer to whom a request for access has been made or transferred, may



extend the period of 30 days referred to in s 25(1) once for a further period of not more than 30 days;

- 32.2. notified Solidarity's legal representative that the information officer wished to extend the 30-day period for a further period of not more than 30 days from the date of his email; and
- 32.3. indicated that Solidarity was entitled to challenge the extension by way of an internal appeal as prescribed by sections 74 to 82 of PAIA.
33. I attach a copy of this email marked as annexure '**FA6**'.
34. At this juncture it must be noted that in his letter, Mr Makwela erroneously referred to five national federations. It is accepted that this was an incorrect reference to the four sporting bodies cited in the application.
35. On 4 August 2016, Solidarity delivered notice of its intention to lodge an internal appeal against the information officer decision to extend the original period in accordance with s 26(1) of PAIA. I shall address this internal appeal in further detail below.
36. On 1 September 2016, Mr Makwela responded to Solidarity's legal representatives, as appears from annexure '**FA7**'.
- 36.1. He stated that the national federations were not in favour of releasing the requested information to Solidarity on the basis that the federations were of the view that the confidentiality clause contained in the agreement concluded with the Minister should be respected.
- 36.2. Mr Makwela went on to state that the information officer has, in the spirit of the promotion of access to information, deemed it necessary to



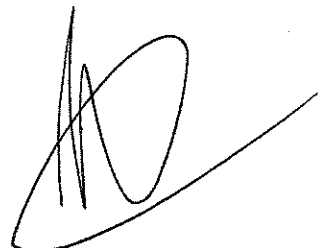
engage with the federations further in order to understand their reservations better and it would only be after this engagement process that the information officer would be able to provide a final response to Solidarity's request.



37. Notwithstanding the information officer's expressed concerns, the 30-day extended period lapsed and no further response was received from Mr Makwela on behalf of the Department's information officer.

INTERNAL APPEALS IN TERMS OF S 74 OF PAIA

38. On 4 August 2016, Solidarity lodged an internal appeal against the extension in terms of s 26(1) on the grounds that:

- 38.1. It was clear to Solidarity that the purpose of PAIA is to '*foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information*' and to '*actively promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all of their rights.*'
- 38.2. The requested memoranda are documents which should be made readily available to any person or organisation and accordingly, there can be no reasonable justification for the withholding of the requested documentation.
- 38.3. Chapter 4 of PAIA sets out the grounds upon which an application of this nature can be justifiably refused. None of the grounds for refusal as set out in chapter 4 of PAIA could be validly claimed by the Minister in support of the decision to extend the time period as aforesaid.

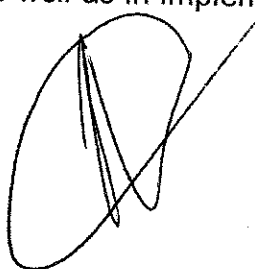



- 19
39. A copy of this notice of internal appeal dated 4 August 2016 is attached marked 'FA8'.
40. To date, no response has been received in respect of this internal appeal and Solidarity accepts that the internal appeal has been refused in accordance with the provisions of s 77(7) of PAIA.
41. Furthermore, no further response to Solidarity's request in terms of s 18 of PAIA was forthcoming. Therefore, on 2 October 2016, Solidarity accepted that its request had been refused in accordance with s 27 of PAIA. Accordingly, it lodged an internal appeal against the deemed refusal. A copy of this internal appeal is attached marked as annexure 'FA9'.
42. The grounds upon which Solidarity sought to appeal against the deemed refusal were:
- 42.1. It was clear to Solidarity that the purpose of PAIA is to '*foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information*' and to "*actively promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all of their rights.*'
- 42.2. The requested memoranda are documents which should be made readily available to any person or organisation and accordingly, there can be no reasonable justification for the withholding of the requested documentation.
- 42.3. Chapter 4 of PAIA sets out the grounds upon which an application of this nature can be justifiably refused. None of the grounds for refusal as
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set out in chapter 4 of PAIA could be validly claimed by the Minister in support of the decision to refuse access.

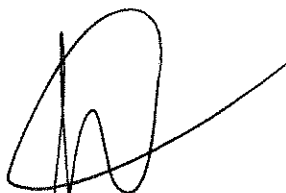
43. At the time of the issuing of the present application, no response had been received from the relevant authority and accordingly, Solidarity accepts that the internal appeal lodged on 2 October 2016 is deemed to have been refused in accordance with s 77(7) of PAIA.

THE RELEVANCE OF THE DOCUMENTS SOUGHT

44. I have been advised that in order to succeed with this application, I am required to establish the relevance of the documentation sought.
45. The documents sought are as described in the s 18 application. These documents appear to be the source of the Minister's decision to impose sanctions upon the sporting bodies as communicated in the address of 25 April 2016. It is believed that the information contained in the documents will place that decision in the appropriate factual context which will enable Solidarity to form a proper understanding of the Minister's decision and the policies and agreements upon which it was enabled.
46. On the face of it and in the absence of any factual evidence to the contrary, it appears that the Minister, with the cooperation of the sporting bodies, has taken measures to enforce selection policies akin to quotas that have been held to be unconstitutional in the employment context. That the documents apparently contain provision for sanctions and that these sanctions are apparently being enforced, supports the conclusion that the 'targets' are more appropriately termed 'quotas', given the state of the law on this topic.
47. In the circumstances it is imperative that the documents relied upon by the Minister in enforcing the policies, as well as in implementing punitive measures
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in the face of non-performance with those policies, be obtained and assessed with a view of determining the content and ultimately the constitutionality thereof.

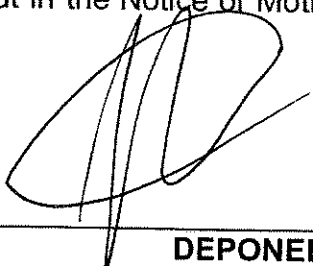
48. That these policies should be made available for public consumption appears to be an incontrovertible proposition: the Minister's policy-making power concerning transformation issues is not a private power. Rather, it is a public power conferred under a statute. Policies of this nature ought not to be kept from the public, particularly in circumstances where the public has such a keen interest in lawful transformation measures. The sporting bodies, when concluding an agreement of this nature with the Minister or the Department, are not acting privately, but rather in a public capacity (that is the administration and regulation of the various sporting codes that they manage and represent). Clearly, athletes (in the broad sense of the word) have an interest in knowing the content of the transformational objectives imposed on or agreed to by the sporting bodies that represent them or who might represent them, in order to be aware of the potential effect on their careers in their chosen sport. Supporters of the various sports codes also have such an interest - an interest starkly illustrated by the decision of the Minister to prevent bidding for the opportunity to host sporting events in South Africa. In these circumstances, it is wholly inappropriate to rely on a confidentiality clause that ought never to have been inserted in the agreements in the first place.
49. In the face of the Department's deemed refusal to provide the requested documents, Solidarity is compelled to approach this court for relief in obtaining the requested documents.



CONCLUSION

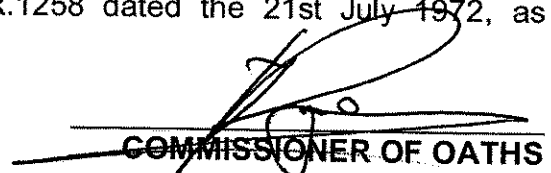
50. In circumstances where Solidarity has sought the documents and where its non-litigious attempts to gain access to the documents have been unsuccessful, it has no alternative but to approach this court for relief.
51. It is submitted that an appropriate case has been made out for the grant of the relief sought in the notice of motion.

WHEREFORE the applicant prays for relief in the terms set out in the Notice of Motion to which this affidavit is attached.



DEPONENT

I certify that the above named Deponent has acknowledged that he knows and understands the contents of this Affidavit which was signed and sworn to before me at PRETORIA on this 4TH day of NOVEMBER 2016 and that the provisions of the Regulation contained in Government Notice R.1258 dated the 21st July 1972, as amended, have been complied with.



COMMISSIONER OF OATHS

TERTIUS PAULUS KRUGER
Kommisaris van Ede • Commissioner of Oaths
Praktiserende Prokureur RSA
Practising Attorney RSA
H/V D.F. Malanrylaan & Unionlaan
Kloofsig, Centurion

"FAI" 23

IT IS HEREBY RESOLVED AND/OR RATIFIED THAT:

In my capacity as Chief Financial Officer, I hereby authorise that:

1. **SOLIDARITY** will bring an application wherein The Minister of Sports and Recreation is to comply with Solidarity's request in terms of section 18 of the Promotion of Access to Information Act 2 of 2000 dated 30 June 2016 by providing the following documents to Solidarity:
 - 1.1. The memoranda of agreements concluded between the Department of Sport and Recreation with the South African Rugby Union, Cricket South Africa, Netball South Africa and Athletics South Africa;
 - 1.2. The agenda and minutes of meetings wherein the aforementioned parties concluded the memoranda of agreements;
 - 1.3. The transformation plans of the South African Rugby Union, Cricket South Africa, Netball South Africa and Athletics South Africa.

Alternatively such relief as may be appropriate in the circumstances of the matter, and do all things necessary to bring about such application in the High Court including, but not limited to, the bringing of the application as set out above or any related applications therein.

2. **ANTONIE JASPER VAN DER BIJL** who is employed by Solidarity as Head of the Labour Court Department of Solidarity, is authorised to take all steps necessary, including deposing to any affidavits or signing any documents on behalf of Solidarity and/or any further action required in order to give effect to paragraph 1 above, and to proceed with same until finalisation of all such disputes.
3. **SERFONTEIN VILJOEN & SWART ATTORNEYS** is authorised to act on Solidarity's behalf in the matter and to take all other action required in this regard and to proceed with same until the finalisation thereof.

CERTIFIED A TRUE COPY


CHIEF FINANCIAL OFFICER

SIGNED ON THIS THE 4th DAY OF NOVEMBER 2016

"FAZ"
24

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NUMBER: 86507/16

In the matter between:

SOLIDARITY

1st APPLICANT

AFRIFORUM NPC

2nd APPLICANT

And

MINISTER OF SPORTS AND RECREATION

1st RESPONDENT

**SOUTH AFRICAN RUGBY (PTY) LTD
t/a SOUTH AFRICAN RUGBY UNION**

2nd RESPONDENT

CRICKET SOUTH AFRICA

3rd RESPONDENT

ATHLETICS SOUTH AFRICA

4th RESPONDENT

NETBALL SOUTH AFRICA

5th RESPONDENT

CONFIRMATORY AFFIDAVIT

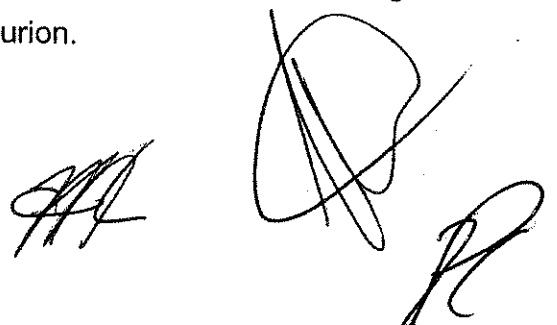
I, the undersigned,

CARL MARTIN KRIEL

hereby make oath and state the following:

1.

- 1.1 I am an adult male and Chief Executive Officer of Afriforum NPC, a non-profit company registered as such in terms of the Company Laws of the Republic of South Africa and having its principal place of business at Afriforum Building, C/O DF Malan – and Union Streets, Kloofsig, Centurion.



- 1.2 The further particulars of Afriforum NPC, (hereinafter referred to as "the second applicant"), are set out hereinafter.
- 1.3 The contents of this affidavit fall within my personal knowledge, save where the context indicates otherwise.
- 1.4 I am duly authorised by the applicant to depose to this affidavit.
- 1.5 Where this affidavit contains legal matter or legal submissions, they have been made on the advice of the applicant's legal representatives, which advice I verily believe to be correct.

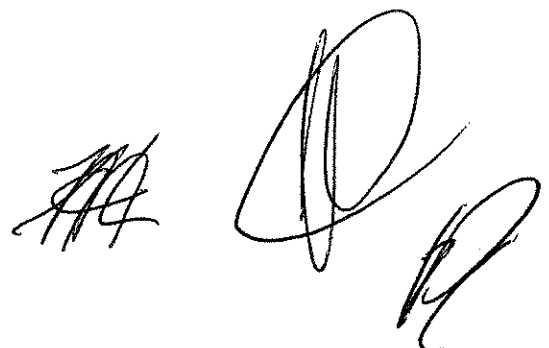
2.

THE SECOND APPLICANT AND LOCUS STANDI

- 2.1 The second applicant is a non-profit company registered as such in terms of the Companies Act, 71 of 2008. Prior to the enactment of the new Companies Act, 71 of 2008, the applicant was registered as a section 21 company in terms of the Companies Act of 1973.
- 2.2 Applicant's name was originally registered as "Solidarity Civil Movement" in terms of section 21 of the repealed Companies Act of 1973.
- 2.3 The applicant's name change was effected in the Companies Register of the Companies and Intellectual Property Commission (CIPC) on 7 February 2013.
- 2.4 The main purpose and objective of the applicant as stated in its Memorandum of Incorporation are, *inter alia*, the promotion and advocacy of democracy, equality, civil human rights and constitutional rights.



- 2.5 For the purposes of advancing its objective, namely the promotion of democracy, civil human rights and constitutional rights, the applicant is a civil rights organisation whose *locus standi* in this regard had been recognised by the courts.
- 2.6 The applicant brings this application in terms of section 78 read with section 82 of the Promotion of Access to Information Act, No 2 of 2000 ("PAIA").
- 2.7 This application is brought after a request was made for access to records in terms of section 18(1) of PAIA by the applicant and which request was refused by the first respondent.
- 2.8 The applicant subsequently exercised the remedy of an internal appeal which appeal was not upheld by the second respondent.
- 2.9 Following the refusal of the internal appeal, the applicant brings this application in its own interest.
- 2.10 However this application also involves the public interest.
- 2.11 It concerns the right to access information as provided for in section 32(1)(a) of the Constitution and certain important values of the Constitution and the promotion of the purpose of PAIA. More particularly this application concerns certain fundamental constitutional principles found in the Constitution and PAIA such as: open and transparent government; a free flow of information concerning the affairs of the State; the fostering of a culture of transparency and accountability in public bodies; and the promotion of a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect their rights.



- 2.12 To the extent that this application and the relief sought, is concerned with the right to access to information in terms of section 32(1) (a) of the Bill of Rights and the interpretation of legislation, namely certain provisions of PAIA, this application also involves section 39(2) of the Constitution to the effect that in interpreting PAIA, the courts must promote the spirit, purport and objects of the Bill of Rights.
- 2.13 In the circumstances I respectfully submit that this application not only involves the interests of the applicant given its stated objects, and the interests of its members most of whom are taxpayers, but also involves a broader public interest. Therefore the applicant has the required standing and *locus standi* by virtue of the provisions of sections 38(a); 38(d) and 38(e) of the Constitution.

3.

I herewith confirm that I have read the Founding Affidavit deposed to by Antonie Jasper van der Bijl under case number 86507/16 and confirm the contents thereof, insofar as it pertains to the involvement of second applicant in the matter, to be true and correct.



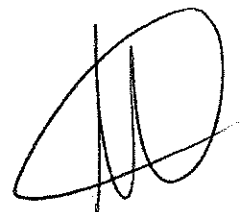
DEPONENT

I certify that the above named Deponent has acknowledged that he knows and understands the contents of this Affidavit which was signed and sworn to before me at PRETORIA on this 4TH day of NOVEMBER 2016 and that the provisions of the Regulation contained in Government Notice R.1258 dated the 21st July 1972, as amended, have been complied with.



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FULL NAMES
CAPACITY
ADDRESS

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Praktiserende Prokureur RSA
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POLITY

PUBLISHED: 26 APR 2016

SRSA: Fikile Mbalula: Address by Minister of Sport and Recreation, on the release of the third report of the Eminent Persons Group on transformation in sport, Hatfield, Pretoria (25/04/2016)

Deputy Minister of Sport and Recreation, Mr Gert Oosthuizen,
MECs for Sport and Recreation,
Director-General of Sport and Recreation, Mr Alec Moemi,
President of SASCOC, Mr Gideon Sam,
CEO SASCOC, Mr Tubby Reddy,
Representatives of Federations and Sports bodies,
Members of the Eminent Persons Group on Sports Transformation,
Ladies and gentlemen of the media,

Today I am pleased and delighted to receive the results of the third Eminent Persons Group (EPG) on Transformation in Sport Report for 2014/2015.

This occasion also presents me with the opportunity to pronounce on the Transformation Barometer as submitted to me by the EPG in its dual capacity as an Advisory Committee and Transformation Commission.

The findings and outcomes of the report are presented to the 19 federations and the South African citizenry for public scrutiny, critical reflections and flawless execution by our federations and sport bodies.

It is my intention to afford an opportunity to all the 19 sporting codes mentioned above to consider the findings and recommendations with a view to revert to me with individual barometers clearly spelling out transformation targets covering the next five years.

I have written to the 14 additional federations inviting them to present to me their barometer and prepare themselves for signing Memoranda of Agreements with the Department of Sport and Recreation South Africa as a matter of urgency.

These federations and sport bodies are Basketball, Chess, Table Tennis, Softball, Volleyball, Boxing, Hockey, Gymnastic, Swimming, Baseball, Rowing, Bowls, Juskies and Tennis.

You will recall, ladies and gentlemen, that the transformation status report referred to above covered

Athletics South Africa, Cricket South Africa, South African Football Association, Netball South Africa and South African Rugby Union.

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These 'big five' federations provided the EPG Secretariat with information and data that was analysed and thus enabling the EPG to interpret the data in line with our multi-dimensional scorecard embedded in our transformation charter. It is on this basis that the EPG made its findings and recommendations to the Minister of Sport and Recreation South Africa.

The findings and recommendations were announced at a public event in May 2015. Thereafter the five federations, had out of their own volition, signed a Memoranda of Agreements (MoA) with the Department of Sport and Recreation South Africa in 2015.

The MoA is premised on the transformation barometer with clear and concrete transformation targets and goals over the next five years. The MoA further delineates roles and responsibilities of each party to the agreement and stipulates punitive measures to be taken in the event of non-compliance.

I take this opportunity to remind you what these punitive measures entail. In the event of a federation failing to meet its own set transformation targets, it is within my right and prerogative to consider applying any of the following penalties:

- I may suspend or withdraw Government's funding to the said federation due to noncompliance;
- I may withdraw Government's recognition of the particular federation as a National Federation and where after I will publish such a decision in the Government Gazette;
- In essence, I may revoke the privilege of a federation to host and bid for major and mega International tournaments in the Republic and withdraw recognition of the said federation;
- I may withdraw the federation's opportunity to be awarded national colours via SASCOC to players who participate under the auspices of that particular federation in order to represent the Republic internationally and nationally;
- I may terminate the relationship and any cooperation between SRSA and the said federation due to non-compliance.
- Finally, I may withdraw political support and endorsements for sponsorships.

Ladies and Gentlemen I am applying these measures informed by the urgent task for the sport sector to reconstruct the fragmented and deeply discriminatory sport and recreation landscape by establishing a unified sports system that is underpinned by the principles of democracy, equity, transparency, demographic representation, access and increased participation.

The third EPG Report reminds us and confirms that social reconstruction of our sport and recreation system has linkages to economic development in the context of global economies and competitiveness. This report offers respite from the suffocating prism through which we as South Africans view our past and present.

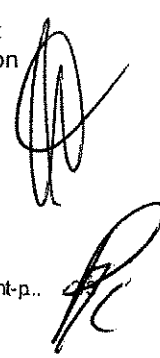
At this hour of destiny, South Africa needs more than ever before, sport for development and peace. This report is about the future of South African sport provisioning and quality of opportunities to all sport-loving people of our beloved country.

The Transformation Charter, is the loadstar of the sport movement that draws our attention to the immediate and inevitable necessity for the Sport System to Transform for both Moral and Strategic imperatives:

- Morally: Because it is "the right thing to do" considering the grave injustices of the past; and
- Strategically; because of the reality that 84% of the country's under 18 year old population grouping is Black African and only 16% is white, Coloured and Indian. To ignore this strategic reality from sustainability perspective alone would be suicidal. Thus the reasons for sport organisations to transform rapidly have not only become compelling it had become fundamental.

I have applied my mind to the aforementioned reality and have taken into account the strides made by men and women within the sports movement to achieve transformation goals.

- I recognise and acknowledge the political will and tremendous efforts made by federations and sport bodies in the implementation of National Sport and Recreation Plan and its attendant Transformation Charter.
- It is not my intention to disrupt the momentum gained from the implementation of the Transformation Barometer and the global competitive edge of some federations and sports bodies.
- However, I am mindful of the urgent task for federations to move with speed in the direction of providing quality of opportunities and access to the youth of our country.



On the basis of the aforementioned reasons I have therefore resolved not to revoke punitive measures that may either paralyse our federations financially or deny opportunities to our athletes to compete continentally and globally.

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I have therefore resolved to revoke the privilege of Athletics South Africa (ASA), Cricket South Africa (CSA), Netball South Africa (NSA) and South African Rugby (SARU) to host and bid for major and mega international tournaments in the Republic of South Africa as a consequence of the aforementioned federation, not meeting their own set transformation targets with immediate effect. I will review this decision when considering the results of the 2016/2017 Transformation Barometer.

In respect of the South African Football Association, I am delighted that the SAFA has met its transformation targets. I will however issue a Ministerial directive to SAFA as a consequence of their poor drive to penetrate and roll-out football in former model C schools and private schools.

I am directing all federations and sport bodies to establish transformation committees and appoint transformation officers as cricket and rugby has done. These structures must be mainstreamed and be integrated in all business units of the federations and sport bodies.

I have issued the Director-General to convene a Special Heads of Department s meeting (HEDCOM) to consider the EPG Report implications on the recommendations pertaining to Government. These include but not limited to school sport, club development, funding for sport and facilities.

Ladies and Gentlemen, the transformation project must succeed as our Government directed the sport sector to among others:

- Promote social cohesion and nation building across society through increased interaction across race and class through sport.
- Advocate for transformation in sport and recreation.
- Develop talented athletes by providing them with opportunities to excel.
- Support high performance athletes to achieve success in international sport competitions.
- Increase by 10% annually the number of citizens accessing sport and recreation activities.

I end by expressing my gratitude and word of appreciation to Members of the Eminent Persons Group on Transformation in Sport, their invaluable contribution to the sport and recreation community.

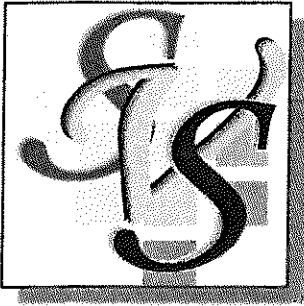
Their steady hand and unrelenting endeavors places the sport movement on a progressive growth and development trajectory.

The production of the third EPG transformation status report would not be possible had it not been for the diligent behind the scene work driven by Dr Basson and his team. The Director-General of Sport and Recreation SA has been a pillar of strength and support to the EPG in the last three years.

I am looking forward to the successful implementation of the EPG on Sport Transformation findings and recommendations.

I believe that given the political will and support from Government at all spheres and the South African Sport Confederation and Olympic Committee (SASCOC), we will achieve an accessible, adequately funded, demographically representative and equitable, democratic and non-racial sporting landscape.





Serfontein Viljoen & Swart ^{"FA4"}

Attorneys, Conveyancers & Notaries

165 Alexander Street, Brooklyn, Pretoria
PO Box 11512, Hatfield, 0028 • Docex 9 Brooklyn

E-mail: svs@svslaw.co.za

Tel: (012) 362 2556 • Fax: (012) 362 2557

GPS Co-ordinates: S25 75'94.8" E028 24'05.2"

Deeds Lodgement No: 451

Also at: Bronkhorstspuit (013) 932 3034 & Cullinan / Rayton (012) 734 4894

Website: www.serfonteinviljoenandswart.co.za

Our ref : Mr. Claassen/fc/CS0246

Date : 30 June 2016

TO: THE DIRECTOR-GENERAL OF SRSA

BY EMAIL: DG@srsa.gov.za

ATT: INFORMATION OFFICER – MR ALEC MOEMI

CC: MINISTER OF SPORT & RECREATION

BY FAX: (012) 363 7196 / 086 644 9583

BY EMAIL: abongile@srsa.gov.za / cello@srsa.gov.za

ATT: MINISTER FIKILE MBALULA

Dear Sir,

IN RE: REVOKING OF PRIVILEGES TO HOST AND BID FOR INTERNATIONAL TOURNAMENTS
APPLICATION FOR DOCUMENTATION IN TERMS OF SECTION 18(1) THE PROMOTION OF ACCESS TO INFORMATION ACT, ACT 2 OF 2000

1. We refer to the above matter and confirm that we act herein on behalf of Solidarity Trade Union (hereinafter referred to as our client).
2. We refer to the request for access to the records of a public body in terms of Section 18(1) of the Promotion of Access to Information Act, Act 2 of 2000. We attach hereto Form A, Request for Access to Record of Public Body, herewith for your kind attention.
3. We reiterate the request for the following documentation:

Partners: Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB • Johannes Barnard Luttig BLC LLB • Jan Lodewyk Serfontein BProc
Professional Assistant: Annette Johanna Louw LLB • Dawie Coetzer LLB
Associates: Conrad Swart Bcom (Law) LLB Hdip (Insolvency)

- 3.1 Memorandum of Agreement between the Department of Sport and Recreation with the sporting bodies, which includes SARU, SA Cricket, SA Netball and SA Athletics;
- 3.2 Agenda and minutes of meetings wherein the Sporting bodies and the Minister concluded the memorandum of agreement;
- 3.3 The transformation plans of all four sporting bodies.
4. Kindly take further note that the aforesaid documentation is requested in hard copy and electronic copy.
5. Kindly provide us with the bank details of where we can make the relevant payments as envisaged in the practise manual.
6. We trust you find the above in order, and await your response.

Yours faithfully

SERFONTEIN, VIJOEN & SWART

Pp: Mr. Jan-Daniël Claassen (jd@wvs.co.za)

Partners:

Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB • Johannes Barnard Luttig BLC LLB • Jan Lodewyk Serfontein BProc

Professional Assistant:

Annette Johanna Louw LLB • Dawie Coetzer LLB

Associates:

Conrad Swart Bcom (Law) LLB Hdip (Insolvency)



J750

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REPUBLIC OF SOUTH AFRICA

FORM A
REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY
(Section 18(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))
[Regulation 6]

FOR DEPARTMENTAL USE

Reference number:

Request received by (state rank,
name and surname of information officer/deputy information officer) on (date)
at (place).

Request fee (if any): R

Deposit (if any): R

Access fee: R

.....
SIGNATURE OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER**A. Particulars of public body**

The Information Officer/Deputy Information Officer:

Ms MM Raswiswi
Deputy Information Officer
Access to Information and Records Management
Department of Justice and Constitutional Development
Private Bag x81
PRETORIA
0001

Tel. no: 012 315 1730

Fax no: 012 357 8004

Email: mraswiswi@justice.gov.za

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B. Particulars of person requesting access to the record

- a) The particulars of the person who requests access to the record must be given below.
 (b) The address and/or fax number in the Republic to which the information is to be sent, must be given.
 (c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname: STEPHANUS PETRUS SWART

Identity number:

6	4	0	6	2	2	5	0	8	3	0	8	1
---	---	---	---	---	---	---	---	---	---	---	---	---

Postal address: 165 ALEXANDER STREET, BROOKLYN, PRETORIA

Telephone number: (012) 362 2556 Fax number: (012) 362 2557

E-mail address: Panus@wvs.co.za jd@wvs.co.za

Capacity in which request is made, when made on behalf of another person:

C. Particulars of person on whose behalf request is made

This section must be completed ONLY if a request for information is made on behalf of another person.

Full names and surname: Solidarity Trade Union

Identity number:

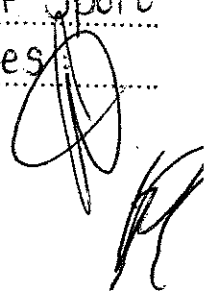
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D. Particulars of record

- (a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.
 (b) If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1. Description of record or relevant part of the record:

Memorandum of Agreement between the Department of Sport and Recreation with the sporting bodies, which includes:



2. Reference number, if available:

3. Any further particulars of record:

Specifically SARU, SA Cricket, SA Netball and SA Athletics.

E. Fees

- (a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.
- (b) You will be notified of the amount required to be paid as the request fee.
- (c) The **fee payable for access** to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.
- (d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:

F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 below, state your disability and indicate in which form the record is required.

Disability:

Form in which record is required:

Mark the appropriate box with an X.

NOTES:

- (a) Compliance with your request for access in the specified form may depend on the form in which the record is available.
- (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.
- (c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

1. If the record is in written or printed form:

copy of record*	<input checked="" type="checkbox"/>	inspection of record	<input type="checkbox"/>
2. If record consists of visual images - (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):			
view the images	<input type="checkbox"/>	copy of the images*	<input checked="" type="checkbox"/>
			transcription of the images*

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FORM A: REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

3. If record consists of recorded words or information which can be reproduced in sound:					
	listen to the soundtrack (audio cassette)		transcription of soundtrack* (written or printed document)	X	
4. If record is held on computer or in an electronic or machine-readable form:					
	printed copy of record*	X	printed copy of information derived from the record*		copy in computer readable form* (stiffy or compact disc)

*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.	YES X	NO
--	----------	----

Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available.

In which language would you prefer the record? **ENGLISH**

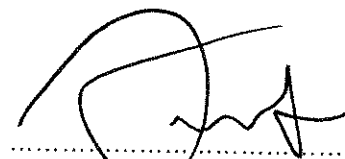
G. Notice of decision regarding request for access

You will be notified in writing whether your request has been approved / denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

.....

Signed at Pretoria this day 30th of June year 2016



SIGNATURE OF REQUESTER /
PERSON ON WHOSE BEHALF REQUEST IS MADE

STEPHANUS PETRUS SWART
 Kommissaris van Ede/Commissioner of Oaths
 Praktiserende Prokureur/Practising Attorney RSA
 Serfontein Viljoen & Swart Attorneys
 165 Alexander Street, Brooklyn, Pretoria

TX Result Report

2016.06.30 11:35

Serial No. A45X041102273

Destination	Start Time	Time	Prints	Result	Note
0866449583	06-30 11:30	00:04:36	006/006	OK	

Result OK : Communication OK S-OK : Stop Communication Busy : Busy No Ans : No Answer
Cont : Continue LOVR : Receiving Length Over SOVR : Exceed Broadcast No. M-Full : Memory Full
NG : Other Error IL-PJL : PJL Error LGN-ER : Login Error

Note TMR : Timer TX PC : PC-Fax POL : Polling Call : Manual TX
FWD : Forward Fcode : F-Code BUL : Bulletin I-Fax : Internet Fax



"FA6" 39

Niekie

From: Manase Makwela <Manase@srsa.gov.za>
Sent: 29 July 2016 04:10 PM
To: fanus@wvs.co.za; jd@wvs.co.za
Subject: Subject: Extension of period to deal with your request lodged on behalf of Solidarity

Dear Mr Swart

In terms of PAIA,

26. (1) *The information officer to whom a request for access has been made or transferred, may extend the period of 30 days referred to in section 25(1) (in this section referred to as the "original period") once for a further period of not more than 30 days.*

The Department has signed agreements with the five National Federations listed in your request in terms of PAIA. Part of the sections of the agreement, relates to its confidentiality. Therefore, in considering your request for information, the Department's Information Officer found it desirable to consult the aforesaid sport organisations. It is expected that the sport organisations will use their internal decision-making processes, to consider your request as it pertains to them, and send for consideration by the Information Officer, their feedback. The consideration of your request can therefore not reasonably be completed within the original period set by the Act.

The Information Officer therefore wishes to extend for a further period of not more than 30 days (as per the Act) from the date this mail was sent to you, his consideration of your request.

In case you wish to challenge the extension, you may do so by lodging an internal appeal to the Department's Appeal Authority as prescribed in section 74-82 of the Act.

Regards

Mr Manase Makwela
SRSA Deputy Information Officer
manase@srsa.gov.za



Department of
Sport and Recreation South Africa
REPUBLIC OF SOUTH AFRICA

#teamSArise



<http://www.srsa.gov.za>

"FA7" 40

Niekie

From: JD <jd@wvs.co.za>
Sent: 02 September 2016 04:16 PM
to: Anton vd Bijl; 'Johan Kruger'; Niekie
Cc: 'Fanus Swart'; Margaretha Engelbrecht
Subject: FW: Your Ref: Mr. Claassen/fc/CS0246

Fyi.

From: Manase Makwela [mailto:Manase@srsa.gov.za]
Sent: 01 September 2016 01:51 PM
To: fanus@wvs.co.za; jd@wvs.co.za
Cc: Matjane, Kgabo <Kgabo@srsa.gov.za>
Subject: Your Ref: Mr. Claassen/fc/CS0246



Dear Mr Swart

Department:
Sport and Recreation South Africa
REPUBLIC OF SOUTH AFRICA

Sent by e-mail to: fanus@wvs.co.za / jd@wvs.co.za

Your Ref: Mr. Claassen/fc/CS0246

SUBJECT: SOLIDARITY TRADE UNION'S REQUEST FOR DOCUMENTATION RELATING TO THE 'REVOKING OF PRIVILEGES TO HOST AND BID FOR INTERNATIONAL TOURNAMENTS'

As explained in the notice for extension, the Information Officer engaged the affected sport federations with regards to your request for information.

The responses received from some of the federations are not in favour of us releasing the requested information to your client. These federations are of the view that the confidentiality clause contained in the agreement we signed with them, should be respected.

There is also a view that these federations do not have formal relations or affiliations with your client – which raises the question of capacity in which your client is requesting the said information.

While the Information officer could on the basis of the response from the federations, decline your client's request, he has in the spirit of promotion of access to information, now deemed it necessary to engage these federations further in the form of a meeting, in order to understand their reservations better.

It could help the Information Officer to go to the aforesaid meeting armed with a response to the capacity question raised in paragraph 3 above.

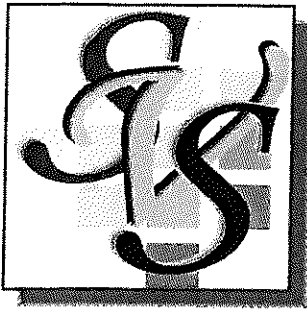
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It is only after the aforesaid process that the Information Officer will be in a position to provide the final response to your client.

Regards

Mr Manase Makwela
SRSA Deputy Information Officer
manase@srsa.gov.za
Date: 1/9/2016



<http://www.srsa.gov.za>



Serfontein Viljoen & Swart ^{"FA8" A2}

Attorneys, Conveyancers & Notaries

165 Alexander Street, Brooklyn, Pretoria
PO Box 11512, Hatfield, 0028 • Docex 9 Brooklyn

E-mail: svs@wvs.co.za

Tel: (012) 362 2556 • Fax: (012) 362 2557

GPS Co-ordinates: S25 75'94.8" E028 24'05.2"

Deeds Lodgement No: 451

Also at: Bronkhorstspuit (013) 932 3034 & Cullinan / Rayton (012) 734 4894

Website: www.serfonteinviljoenandswart.co.za

Our ref : Mr Claassen/N Venter/CS0246
Your ref : Appeal: Extension of period – Solidarity
Date : 4 August 2016

TO: SOUTH AFRICAN RUGBY UNION (SARU)
ATT: President Mr Oregan Hoskins
E-MAIL: hoskins@sarugby.co.za ; khayam@sarugby.co.za

AND TO: NETBALL SOUTH AFRICA
ATT: President Ms. Mimi Mthethwa
E-MAIL: mimi@netball-sa.co.za

AND TO: CRICKET SOUTH AFRICA
ATT: President Mr Chris Nenzani
E-MAIL: chris@cricket.co.za ; Amandaf@cricket.co.za ; maxj@cricket.co.za

AND TO: ATHLETICS SOUTH AFRICA
ATT: President: Mr Aleck Skhosana
E-MAIL: askhosana@qinet.co.za ; skhosita@gmail.com

Dear Sirs,

BY E-MAIL

**RE: NOTICE OF INTERNAL APPEAL: IN RE REVOKING THE PRIVILEGES TO HOST AND
BID FOR INTERNATIONAL TOURNAMENTS: IN RE APPLICATION FOR ACCES TO
DOCUMENTATION IN TERMS OF SECTION 53(1) OF THE PROMOTION OF ACCESS TO
INFORMATION ACT, NO 2 OF 2000 ("the PAIA act")**

Partners:

Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus
Petrus Swart Biur LLB • Johannes Barnard Luttig BLC LLB • Jan Lodewyk Serfontein/BProc

Professional Assistant:

Annette Johanna Louw LLB • Dawie Coetzer LB

Associates:

Conrad Swart Bcom (Law) LLB Hdip (Insolvency)

1. We refer to the above matter and confirm our appearance on behalf of Solidarity Trade Union ("the Appellant").
2. We on behalf of the Appellant filed an application in terms of section 18 (1) the PAIA act on 30 June 2016. The aforesaid application was filed in order to obtain the memorandum of agreement between the Department of Sport and Recreation with the sporting bodies, with specific regard to SARU, SA Cricket, SA Netball and SA Athletics. A copy of the said application is attached hereto for ease reference.
3. We received a letter from the Deputy Information Officer Mr M Makwela on 29 July 2016, indicating that the request to extend the period of not more than 30 days in terms of section 56(1) of the act. The letter is attached herewith for your ease of reference.
4. We refute that the reasons set out in the letter constitutes adequate reasons for extension as contemplated in the aforesaid section (s 56), and we therefore proceed to record on behalf of the Appellant an internal appeal as contemplated in section 74 (1) of the act.
5. Our grounds for appeal are, *inter alia*, set out as follows:
 - 5.1 It is clear that the purpose of PAIA is to "*foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information*" and to "*actively promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all of their rights*". (Own emphasis added)
 - 5.2 The requested memorandums are documents which should be made readily available to any person of organisation. There can be now reasonable justification for the withholding of the requested documentation.
 - 5.3 Chapter 4 of PAIA sets out the grounds upon which an application of this nature can justifiably be refused. We submit that none of the grounds for refusal as set out in chapter 4 of PAIA could validly be claimed by the Respondent in support of their decision to extend the time period as aforesaid.

Partners:

Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB • Johannes Barnard Luttig BLC LLB • Jan Lodewyk Serfontein BProc

Professional Assistant:

Annette Johanna Louw LLB • Dawie Coetzer LB

Associates:

Conrad Swart Bcom (Law) LLB Hdip (Insolvency)

6. In conclusion, we submit that in order to foster a culture of transparency and accountability, the requested information should be furnished to us without delay.

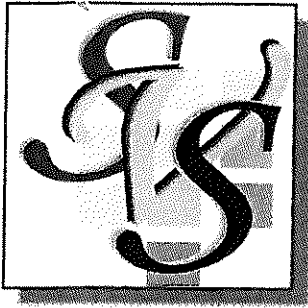
7. We trust you find the above in order, and await your urgent reply.

Yours faithfully

SERFONTEIN, VIJOEN & SWART

Per: Nicolaas C Venter
niekie@wvs.co.za

Partners: Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus
Petrus Swart Biur LLB • Johannes Barnard Luttig BLC LLB • Jan Lodewyk Serfontein BProc
Professional Assistant: Annette Johanna Louw LLB • Dawie Coetzer LB
Associates: Conrad Swart Bcom (Law) LLB Hdip (Insolvency)



"FA9"
Serfontein Viljoen & Swart **AK**

Attorneys, Conveyancers & Notaries

165 Alexander Street, Brooklyn, Pretoria
PO Box 11512, Hatfield, 0028 • Docex 9 Brooklyn

E-mail: svs@svslaw.co.za

Tel: (012) 362 2556 • Fax: (012) 362 2557

GPS Co-ordinates: S25 75'94.8" E028 24'05.2"

Deeds Lodgement No: 451

Also at: Bronkhorstspuit (013) 932 3034 & Cullinan / Rayton (012) 734 4894

Website: www.serfonteinviljoenandswart.co.za

Our ref : Mr. Claassen/N Venter/CS0246
Date : 2 October 2016

TO: THE DIRECTOR-GENERAL OF SRSA
BY EMAIL: DG@srsa.gov.za
ATT: INFORMATION OFFICER – MR ALEC MOEMI

CC: MINISTER OF SPORT & RECREATION
BY FAX: (012) 363 7196 / 086 644 9583
BY EMAIL: abongile@srsa.gov.za / cello@srsa.gov.za
ATT: MINISTER FIKILE MBALULA

Dear Sir,

**RE: NOTICE OF INTERNAL APPEAL: IN RE REVOKING THE PRIVILEGES TO HOST AND
BID FOR INTERNATIONAL TOURNAMENTS: IN RE APPLICATION FOR ACCES TO
DOCUMENTATION IN TERMS OF SECTION 18(1) OF THE PROMOTION OF ACCESS TO
INFORMATION ACT, NO 2 OF 2000 ("the PAIA act")**

1. We refer to the above matter and more specifically to the letter dated 4 August 2016, and furthermore to your response dated 1 September 2016.
2. We on behalf of the Appellant filed an application in terms of section 18(1) the PAIA act on 30 June 2016. The aforesaid application was filed in order to obtain the memorandum of agreement between the Department of Sport and Recreation with the sporting bodies, with specific regard to SARU, SA Cricket, SA Netball and SA Athletics. A copy of the said application is attached hereto for ease reference.

Partners:

Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus
Petrus Swart Biur LLB • Johannes Barnard Luttig BLC LLB • Jan Lodewyk Serfontein B Proc

Professional Assistant:

Annette Johanna Louw LLB • Dawie Coetzer LLB

Associates:

Conrad Swart Bcom (Law) LLB Hdip (Insolvency)

3. We received a letter from the Deputy Information Officer Mr M Makwela on 29 July 2016, indicating that the request to extend the period of not more than 30 days in terms of section 56(1) of the act. The letter is attached herewith for your ease of reference.
4. We refute that the reasons set out in the letter constitutes adequate reasons for extension as contemplated in the aforesaid section (section 56), and we therefore proceed to record on behalf of the Appellant an internal appeal as contemplated in section 75 of the act.
5. Our grounds for appeal are, *inter alia*, set out as follows:
 - 5.1 It is clear that the purpose of PAIA is to "*foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information*" and to "*actively promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all of their rights*". (Own emphasis added)
 - 5.2 The requested memorandums are documents which should be made readily available to any person of organisation. There can be now reasonable justification for the withholding of the requested documentation.
 - 5.3 Chapter 4 of PAIA sets out the grounds upon which an application of this nature can justifiably be refused. We submit that none of the grounds for refusal as set out in chapter 4 of PAIA could validly be claimed by the Respondent in support of their decision to extend the time period as aforesaid.
6. In conclusion, we submit that in order to foster a culture of transparency and accountability, the requested information should be furnished to us without delay.
7. We trust you find the above in order, and await your urgent reply.

Yours faithfully

SERFONTEIN, VILJOEN & SWART

Per: Nicolaas C Venter
niekie@wvs.co.za

Partners:

Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB • Johannes Barnard Luttig BLC LLB • Jan Lodewyk Serfontein BProc

Professional Assistant:

Annette Johanna Louw LLB • Dawie Coetzer LLB

Associates:

Conrad Swart Bcom (Law) LLB Hdip (Insolvency)



REPUBLIC OF SOUTH AFRICA

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J751

FORM B
NOTICE OF INTERNAL APPEAL
(Section 75 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))
[Regulation 8]

STATE YOUR REFERENCE NUMBER: INTERNAL APPEAL

A. Particulars of public body

The Information Officer/Deputy Information Officer:

TO: THE DIRECTOR-GENERAL OF SRSA
BY EMAIL: DG@srsa.gov.za;
ATT: INFORMATION OFFICER - MR ALEC MOEMI

CC: MINISTER OF SPORT AND RECREATION
BY FAX: (012) 363 7196 / 086 644 9583
BY E-MAIL: abongile@srsa.gov.za / cello.gov.za
ATT: MINISTER FIKILE MBALULA

B. Particulars of requester/third party who lodges the internal appeal

- (a) The particulars of the person who lodge the internal appeal must be given below.
(b) Proof of the capacity in which appeal is lodged, if applicable, must be attached.
(c) If the appellant is a third person and not the person who originally requested the information, the particulars of the requester must be given at C below.

Full names and surname: STEPHANUS PETRUS SWART (LEGAL REPRESENTATIVE)

Identity number:

6	4	0	6	2	2	5	0	8	3	0	8	1
---	---	---	---	---	---	---	---	---	---	---	---	---

Postal address:

PO BOX 11512, HATFIELD, PRETORIA, 0028

Telephone number:

(012) 362 2556

Fax number:

(.012 .) 362 2557

E-mail address:

jd@wvs.co.za / fanus@wvs.co.za

Capacity in which an internal appeal on behalf of another person is lodged: SOLIDARITY TRADE UNION

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C. Particulars of requester

This section must be completed ONLY if a third party (other than the requester) lodges the internal appeal.

Full names and surname:
Identity number:

--	--	--	--	--	--	--	--	--	--	--	--	--	--

D. The decision against which the internal appeal is lodged

Mark the decision against which the internal appeal is lodged with an X in the appropriate box:

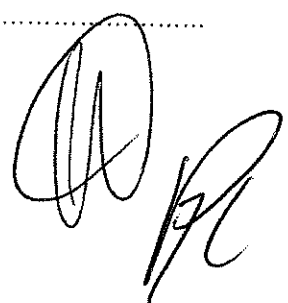
X	Refusal of request for access
	Decision regarding fees prescribed in terms of section 22 of the Act
	Decision regarding the extension of the period within which the request must be dealt with in terms of section 26(1) of the Act
	Decision in terms of section 29(3) of the Act to refuse access in the form requested by the requester
	Decision to grant request for access

E. Grounds for appeal

If the provided space is inadequate, please continue on a separate folio and attach it to this form. You must sign all the additional folios.

State the grounds on which the internal appeal is based:
See letter attached hereto marked Annexure "A" for the ground on which the internal appeal is based.
.....
.....
.....
.....
.....

State any other information that may be relevant in considering the appeal:
See letter attached hereto marked Annexure "A".
.....
.....
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.....
.....
.....



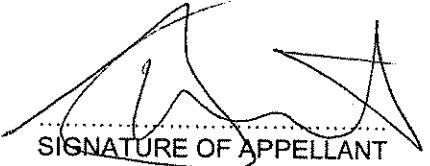
F. Notice of decision on appeal

You will be notified in writing of the decision on your internal appeal. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

State the manner: EMAIL: jd@wvs.co.za / fanus@wvs.co.za

Particulars of manner:

Signed at Pretoria this day 2nd of October year 2016


SIGNATURE OF APPELLANT

FOR DEPARTMENTAL USE:

OFFICIAL RECORD OF INTERNAL APPEAL:

Appeal received on (date) by

(state rank, name and surname of information officer/deputy information officer)

Appeal accompanied by the reasons for the information officer's/deputy information officer's decision and, where applicable, the particulars of any third party to whom or which the record relates, submitted by the information officer/deputy information officer on (date) to the relevant authority.



OUTCOME OF APPEAL:

DECISION OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER CONFIRMED/NEW DECISION SUBSTITUTED

NEW DECISION:

DATE RELEVANT AUTHORITY

RECEIVED BY THE INFORMATION OFFICER/DEPUTY INFORMATION OFFICER FROM THE RELEVANT AUTHORITY ON (date):

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

CASE NO: 87463/16

In the matter between:

SOLIDARITY

1st Applicant

AFRIFORUM NPC

2nd Applicant

and

MINISTER OF SPORTS AND RECREATION

1st Respondent

**SOUTH AFRICAN RUGBY (PTY) LTD
t/a SOUTH AFRICAN RUGBY UNION**

2nd Respondent

CRICKET SOUTH AFRICA

3rd Respondent

ATHLETICS SOUTH AFRICA

4th Respondent


NETBALL SOUTH AFRICA

5th Respondent

NOTICE TO OPPOSE

KINDLY TAKE NOTICE THAT the First Respondent hereby give notice of his intention to oppose the above urgent application and appoint the under mentioned address as the address for the delivery and service of all affidavits, notices and documents.

DATED at PRETORIA on this 16TH day of NOVEMBER 2016.



**1ST RESPONDENT ATTORNEY
THE STATE ATTORNEY
SALU BUILDING, GROUND
FLOOR
CNR 316 FRANCIS BAARD &
THABO SEHUME STREET
PRIVATE BAG X91**

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PRETORIA

Ref: 8078/16/Z30/MN

Enq: Ms C Pedro Afonso

Tel: (012) 309 1513

**TO: THE REGISTRAR OF THE COURT
HIGH COURT SOUTH AFRICA
PRETORIA**

AND:

**TO: SERTFONTEIN VILJOEN & SWART
APPLICANT'S ATTORNEYS
165 ALEXANDER STREET
BROOKLYN
PRETORIA
Tel: (012) 362-2556
Fax: (012) 362-2557
REF.: MR CLAASEN/N VENTER/CS0246**

Serfontein Viljoen & Swart
165 Alexander Street, Brooklyn
PO Box 11512 Hatfield 0028
Tel: (012) 362 2556
Fax: (012) 362 2557

RECEIVED COPY:

DATE: 25 NOVEMBER 2016
TIME: 3:23



APPLICANT'S ATTORNEY

52

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NUMBER: 86507/16

In the matter between:

SOLIDARITY

AFRIFORUM NPC

And

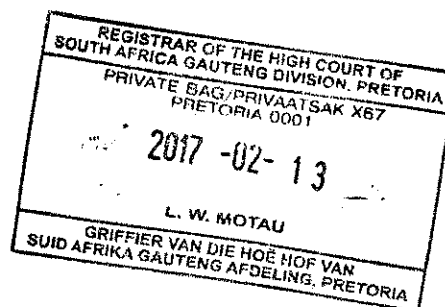
MINSTER OF SPORTS AND RECREATION

SOUTH AFRICAN RUGBY (PTY) LTD
t/a SOUTH AFRICAN RUGBY UNION

CRICKET SOUTH AFRICA

ATHLETICS SOUTH AFRICA

NETBALL SOUTH AFRICA



1st APPLICANT

2nd APPLICANT

1st RESPONDENT

2nd RESPONDENT

3rd RESPONDENT

4th RESPONDENT

5th RESPONDENT

FILING NOTICE

DOCUMENT : APPLICANTS' SUPPLEMENTARY AFFIDAVIT

DATE ENROLLED : 1 MARCH 2017

FILED BY : SERFONTEIN VILJOEN & SWART
Attorneys for the **APPLICANTS**
165 ALEXANDER STREET
BROOKLYN
PRETORIA
TEL: (012) 362 2556
FAX: (012) 362 2557
REF: MR CLAASSEN/N VENTER/CS0246

AND TO : THE REGISTRAR OF THE HIGH COURT
PRETORIA

53

AND TO

:

STATE ATTORNEY – PRETORIA
Attorneys for the 1st RESPONDENT
GROUND FLOOR
SALU BUILDING
255 FRANCIS BAARD
TEL: (012) 309 1634
FAX: (012) 328 2662/3
EMAIL: CoPedroAfonso@justice.gov.za
REF: MS C PEDRO AFONSO/8078/16/Z30/MN



AND TO

:

THE SOUTH AFRICAN RUGBY UNION
THE SECOND RESPONDENT
SARU HOUSE
TYGERBERG PARK
163 UYS KRIGE ROAD
PLATTEKLOOF
CAPE TOWN
TEL: (021) 659 6712
FAX: (021) 689 3330 / 3907
EMAIL: jurier@sarugby.co.za / khayam@sarugby.co.za /
ismail@sarugby.co.za / ronelg@sarugby.co.za

AND TO

:

CRICKET SOUTH AFRICA
THE THIRD RESPONDENT
WANDERES CLUB
21 NORTH STREET
ILLOVO
TEL: (011) 880 2810
FAX: 086 641 4887 / 086 569 9728
EMAIL: chrisn@cricket.co.za / AmandaF@cricket.co.za /
maxj@cricket.co.za / HaroonL@cricket.co.za /
yolisam@cricket.co.za / sharlad@cricket.co.za

AND TO

:

ATHLETICS SOUTH AFRICA
THE FOURTH RESPONDENT
ATHLETICS HOUSE NO. 3
11th AVENUE
HOUGHTON ESTATE
TEL: (011) 082 1100
FAX: (011) 824 3517
EMAIL: askhosana@qinet.co.za / skhosita@gmail.com /
adamsh@worldonline.co.za

SA

AND TO : **NETBALL SOUTH AFRICA**
THE FIFTH RESPONDENT
846 PARK STREET
ARCADIA
PRETORIA
TEL: (012) 344 5971
FAX: (012) 343 5285
EMAIL: mimi@netball-sa.co.za / blanche@netball-sa.co.za

SS

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NUMBER: 86507/16

In the matter between:

SOLIDARITY

First applicant

AFRIFORUM NPC

Second applicant

And

THE MINISTER OF SPORTS AND RECREATION

First respondent

**SOUTH AFRICAN RUGBY (PTY) LTD t/a SOUTH AFRICAN
RUGBY UNION**

Second respondent

CRICKET SOUTH AFRICA

Third respondent

ATHLETICS SOUTH AFRICA

Fourth respondent

NETBALL SOUTH AFRICA

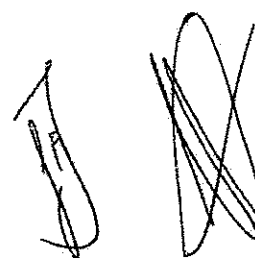
Fifth respondent

APPLICANTS' SUPPLEMENTARY AFFIDAVIT

I, the undersigned,

ANTONIE JASPER VAN DER BIJL

do hereby make oath and say that—



DEPONENT, AUTHORITY AND KNOWLEDGE

1. I am the Head of the Labour Court Department of the first applicant in this application ('Solidarity'), the details of which are set out below.
2. I am duly authorised to represent the applicants in these proceedings and to depose to this affidavit, as appears from annexures 'FA1' and 'FA2' to the founding affidavit.
3. Save where specifically stated or where the context indicates otherwise, I have personal knowledge of the facts herein stated or I have ascertained and determined them from the records of Solidarity that are under my personal control. I confirm that the facts referred to are true and correct.
4. Where I make legal submissions, I do so on the advice of the applicants' legal representatives, which advice I accept.

PURPOSE OF THIS AFFIDAVIT

5. On 09 November 2016, the applicants issued an application under and in accordance with the provisions of the Promotion of Access to Information Act 2 of 2000 ('PAIA'). Subsequent to the filing of this application, the applicants received opposition by way of notice as well as correspondence from the first respondent which was accompanied by a bundle of documents purportedly provided in answer to the application from the first respondent.
6. This affidavit is intended to supplement the founding papers of the aforesaid application to the extent that it may be necessary to disclose these subsequent events to the Court. The

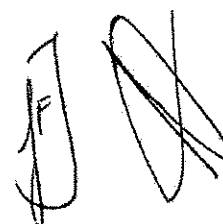
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applicants therefore seek the leave of this Court to file this affidavit on the basis that the subsequent events are material to the determination to be made by the Court in respect of the application brought in terms of PAIA.

7. For the reasons detailed below, the applicants persist in the relief sought in the application under PAIA.

ENSUING EVENTS AND THE RESPONSE RECEIVED FROM FIRST RESPONDENT

8. On 25 November 2016, the applicants received a notice of its intention to oppose the application from the first respondent, as can be seen from annexure 'SA1'.
9. Notwithstanding this notice, on 28 November 2016 the first respondent advised the applicants that it had in principle decided to provide the applicants with certain documentation which was provided to the applicants shortly thereafter. A copy of this letter is attached marked as annexure 'SA2' and the documents provided will be made available to the Court prior to the hearing of the application.
10. Upon consideration of the documents provided, it became apparent to the applicants that the documents did not constitute full and proper compliance with the applicants' request brought under the provisions of section 18(1) of PAIA and on 16 January 2017, a letter setting out the deficiencies of the first respondent's purported compliance was addressed to the representatives of the first respondent. I attach a copy of the applicants' letter marked as 'SA3'.
11. The *dies* in which the first respondent was required to file its response to the application expired on 19 December 2016. At the time of deposing to this affidavit, no response to the



applicants' letter or application had been received.

EXTENT OF COMPLIANCE WITH REQUEST MADE IN TERMS OF SECTION 18(1) OF PAIA

12. As can be seen from the applicants' request which is annexed to the founding affidavit marked as 'FA4', the applicants sought:
 - 12.1. the memoranda of agreement concluded between the first respondent on the one hand and the second to fifth respondents on the other;
 - 12.2. the agenda and minutes of meetings wherein the aforesaid agreements were concluded;
 - 12.3. the transformation plans of the second to fifth respondents entered into pursuant to the conclusion of the aforesaid agreements.
13. In purported compliance with the applicants' request, the first respondent provided the applicants with:
 - 13.1. copies of the original transformation agreements with the second to fifth respondents, without annexures;
 - 13.2. the unsigned versions of the aforesaid agreements, without annexures;
 - 13.3. the media statement delivered by the first respondent dated 25 April 2016.
14. The first respondent failed to comply with the applicants' request to the extent that certain documents were provided but were selectively incomplete or were not provided at all.
15. In amplification of the incomplete nature of the first respondent's purported compliance, I point out to the Court that each of the agreements provided are without their identified annexures. In order to avoid undue repetition, I will refer to only one of the agreements concluded as a way of an example. However, I submit that the piecemeal approach adopted

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by the first respondent is equally applicable to each of the agreements concluded with each of the second to fifth respondents.

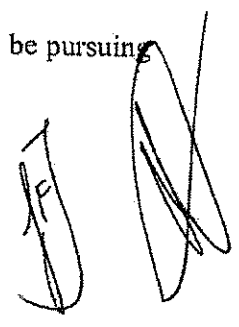
16. To demonstrate the inadequate compliance, I refer to the memorandum of agreement concluded between the first and second applicant which I attach hereto marked as annexure 'SA4'. As can be seen from the agreement, reference is made to certain annexures such the Eminent Persons Group Pilot Audit Report, the undertakings of the second respondent relative to the EPG Pilot Audit Report, the Transformation Charter, the Transformation Barometer, the contact details of unspecified persons and the specimen signatures which are identified respectively as annexures A, B, C, D, E and F to the memorandum of agreement and which are necessary for the agreement to be read in its entirety. The agreement without its annexures is incomplete and leaves large deficits in the understanding of the nature and the extent of the agreement reached between the parties. Furthermore, in the absence of the annexures, the agreement provided in its present form fails to comply with the request of the applicants under section 18(1) of PAIA.
17. Similarly, the agreements concluded between the first respondent and the third to fifth respondents respectively are incomplete as the first respondent has in the same way failed to provide the annexures to those agreements.
18. Furthermore, as can be seen from the first respondent's letter dated 28 November 2016, no mention is made to the minutes and agendas of the meetings wherein the agreements were concluded or the transformation plans adopted by each sporting body. These documents were also not included in the bundle of documents provided to the applicants. The first respondent has therefore also failed to comply with the applicants' request in this regard.

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19. The response of the first respondent can only be described as being the selective disclosure of documents at the discretion of the first respondent which is contrary to the purpose of PAIA. I am advised that PAIA was formulated to give effect to the constitutional right of access to any information held by the state and any information that is held by another person and that is required for the exercise or protection of any rights. This resolve does not provide for the selective disclosure which remains unjustified by the first respondent. In the absence of any established ground of justification in accordance with PAIA, it is not for the first respondent to decide what should and should not be disclosed upon receipt of a request such as the applicants.
20. In the circumstances, the first respondent has failed to properly comply with the applicants' request and the applicants accordingly persevere in their application under PAIA.

COMPLIANCE WITH THE PRACTICE MANUAL

21. I am advised that in accordance with the provisions of the practice directives of this Court, this application must be enrolled on the unopposed motion court roll, despite a notice of opposition having been received from the first respondent.
22. As indicated above, the first respondent has failed to timeously deliver its answering affidavit to the application, notwithstanding that the last day on which the first respondent was required to do so was on 19 December 2017. However, in an attempt to avoid any postponement of the application, the applicants in their letter dated 16 January 2017 called upon the first respondent to comply with the applicants' request by no later than 18 January 2017. It was further indicated to the first respondent that the applicants would be pursuing

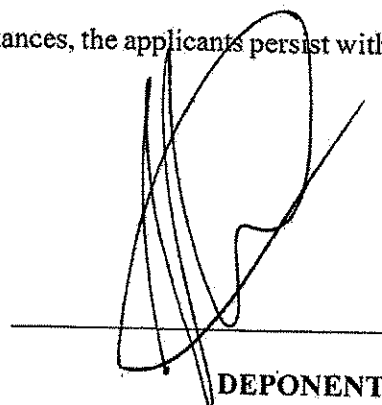
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the application on 1 March 2017, being the date on which the application was enrolled on the unopposed motion court roll.

23. No response to the applicants' letter or application has been received as at the date on which I deposed to this affidavit.
24. In these circumstances and in accordance with that provided for in Chapter 13.10 of the Gauteng Provincial Division Practice Directive, the applicants caused the present application to be enrolled for hearing.

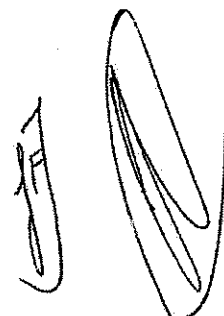
CONCLUSION

25. Despite the provision of certain documents, the first respondent has failed to properly perform according to the applicants' request. In the circumstances, the applicants persist with the relief sought in the notice of motion.



DEPONENT

I certify that the above named Deponent has acknowledged that he knows and understands the contents of this Affidavit which was signed and sworn to before me at PRETORIA on this 07th day of February 2017 and that the provisions of the Regulation contained in Government Notice R.1258 dated the 21st July 1972, as amended, have been complied with.




COMMISSIONER OF OATHS**LOUIS FRANCOIS TALJARD**

Kommissaris van Ede • Commissioner of Oaths
Praktiserende Prokureur RSA
Practising Attorney RSA
H/V D.F. Malanrylaan & Unionlaan
Kloofslip, Genturien

"SAI" 63

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

CASE NO: 87463/16

In the matter between:

SOLIDARITY

1st Applicant

AFRIFORUM NPC

2nd Applicant

and

MINISTER OF SPORTS AND RECREATION

1st Respondent

**SOUTH AFRICAN RUGBY (PTY) LTD
t/a SOUTH AFRICAN RUGBY UNION**

2nd Respondent

CRICKET SOUTH AFRICA

3rd Respondent

ATHLETICS SOUTH AFRICA

4th Respondent


NETBALL SOUTH AFRICA

5th Respondent

NOTICE TO OPPOSE

KINDLY TAKE NOTICE THAT the First Respondent hereby give notice of his intention to oppose the above urgent application and appoint the under mentioned address as the address for the delivery and service of all affidavits, notices and documents.

DATED at PRETORIA on this 16TH day of NOVEMBER 2016.



**1ST RESPONDENT ATTORNEY
THE STATE ATTORNEY
SALU BUILDING, GROUND
FLOOR
CNR 316 FRANCIS BAARD &
THABO SEHUME STREET
PRIVATE BAG X91**

6A
PRETORIA
Ref: 8078/16/Z30/MN
Enq: Ms C Pedro Afonso
Tel: (012) 309 1513

TO: THE REGISTRAR OF THE COURT
HIGH COURT SOUTH AFRICA
PRETORIA

AND:
TO: SERTFONTEIN VILJOEN & SWART
APPLICANT'S ATTORNEYS
165 ALEXANDER STREET
BROOKLYN
PRETORIA
Tel: (012) 362-2556
Fax: (012) 362-2557
REF.: MR CLAASEN/N VENTER/CS0246

RECEIVED COPY:
DATE:
TIME:

APPLICANT'S ATTORNEY



Office of the State Attorney Pretoria

"SAZ"
65

Private Bag X 91
PRETORIA
0001

SALU Building
Ground Floor
c/o 316 Thabo Sehume & Francis Baard
Street

Tel: (Switchboard): (012) 309 1500
(Direct Line): (012) 309 1634
(Secretary): (012) 309 1514

Fax: (012) 328 2662/3

Docex: 298

28 November 2016

Enq: C Pedro Afonso

My ref: 8076 / 16 / Z30

Email: CoPedroAfonso@justice.gov.za

Your ref: MR CLAASEN/N VENTER/CS0246

BY Fax: 012 362-2557

ATTENTION: Mr Claasen

Serfontein Viljoen and Swart
165 Alexander Street
Brooklyn
Pretoria
0001

**RE: SOLIDARITY and ANOTHER vs DEPARTMENT OF SPORTS AND RECREATION
AND FOUR OTHERS (Case no 86507/16)**

Dear Sir,

The above matter bears reference.

We act on behalf of the Department of Sports and Recreation South Africa.

Our client has instructed us to inform you that it has in principle decided to provide to you the following documents:

- 1) Copies of the original transformation agreements with Athletics South Africa, Netball South Africa, Cricket South Africa and the South African Rugby Union (without any of its Annexures);
- 2) The unsigned versions of the above agreements (without any of its Annexures);

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- 3) Media Statement by the Minister of Sports and Recreation earlier in 2016 insofar as the outcome and progress of the respective transformation status of the four (4) national federations are concerned.

It is our further instructions to relate to you that the Transformation Plans of the above-mentioned national federations will not be provided to your good selves as same have already been made public and is available in the public domain when the Minister made his public announcements in relation to the outcome and current progress of their respective transformation status earlier in 2016 in the above regard.

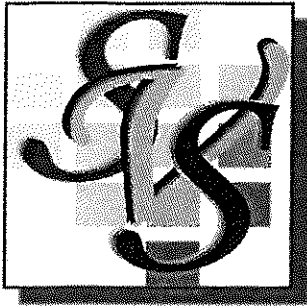
Kindly provide our offices with your e-mail address as the above documents will be e-mailed to you and hard copies of same will be couriered to your offices.

We trust you find the above in order.

Kind Regards


Ms C Pedro Afonso

For: State Attorney Pretoria



^{"SA3"} *Serfontein Viljoen & Swart* 67

Attorneys, Conveyancers & Notaries

165 Alexander Street, Brooklyn, Pretoria
PO Box 11512, Hatfield, 0028 • Docex 9 Brooklyn

E-mail: svs@svslaw.co.za

Tel: (012) 362 2556 • Fax: (012) 362 2557

GPS Co-ordinates: S25 75'94.8" E028 24'05.2"

Deeds Lodgement No: 451

Also at: Bronkhorstspuit (013) 932 3034 & Cullinan / Rayton (012) 734 4894

Website: www.serfonteinviljoenandswart.co.za

Our ref : Mr. Claassen/N Venter/CS0246
Date : 16 January 2017

TO: THE STATE ATTORNEY - PRETORIA
Your ref: C Pedro Alfonso/8076/16/Z30
BY EMAIL: CoPedroAfonso@justice.gov.za

Dear Madam,

IN RE: SOLIDARITY OBO ANOTHER / DEPARTMENT OF SPORTS AND RECREATION & 4 OTHERS
CASE NUMBER: 86507/16

1. We refer to the above matter and more specifically your letter dated 28 November 2016 as well as the bundle of documents delivered to our offices.
2. We thank you for the documents delivered to our offices. The documents are however incomplete and insufficient as they were delivered without any annexures to the transformation agreements/plans. Furthermore none of the agenda and minutes of meetings wherein the transformation plans and agendas were included were disclosed.
3. In this regard we confirm that in terms of the Practice Directive of the High Court of South Africa, Gauteng Division, Pretoria we will not remove the matter from the roll on 1 March

Partners: Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB • Johannes Barnard Luttig BLC LLB • Jan Lodewyk Serfontein BProc
Professional Assistant: Annette Johanna Louw LLB •
Associates: Conrad Swart Bcom (Law) LLB Hdip (Insolvency)

2017 but will proceed seek the relevant relief in that your client has failed to file their
opposing papers herein.

4. To avert any further time and costs to be wasted in this matter we urgently request that you provide us with all the necessary information as requested in our application dated 3 November 2016.
5. We await your reply before close of business on Wednesday, 18 January 2017.

Yours faithfully

SERFONTEIN, VILJOEN & SWART

Per: Mr. JD Claassen (jd@svslaw.co.za)

Partners:

Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB • Johannes Barnard Luttig BLC LLB • Jan Lodewyk Serfontein BProc

Professional Assistant: Annette Johanna Louw LLB •

Associates:

Conrad Swart Bcom (Law) LLB Hdip (Insolvency)

69

TX Result Report

P 1

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Serial No. A45X041102273

Destination	Start Time	Time	Prints	Result	Note
0123282662	01-17 11:49	00:00:59	000/002	Busy	

Result OK : Communication OK S-OK : Stop Communication Busy : Busy No Ans : No Answer
Cont : Continue LOVR : Receiving Length Over SOVR : Exceed Broadcast No. M-Full : Memory Full
NG : Other Error IL-PJL : PJL Error LGN-ER : Login Error

Note TMR : Timer TX PC : PC-Fax POL : Polling Call : Manual TX
FWD : Forward Fcode : F-Code BUL : Bulletin I-Fax : Internet Fax

"SA4" 70

MEMORANDUM OF AGREEMENT

entered into between

SPORT AND RECREATION SOUTH AFRICA
(hereinafter referred to as "SRSA")

And

SOUTH AFRICAN RUGBY UNION
(hereinafter referred to as "SARU")

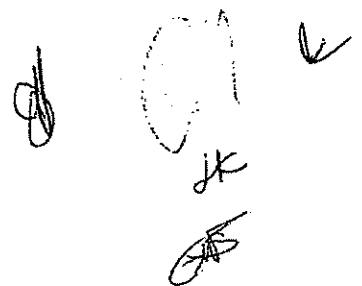
And

**SOUTH AFRICAN SPORTS CONFEDERATION AND
OLYMPIC COMMITTEE**
(hereinafter referred to as "SASCOC ")

in respect of the overseeing, coordinating and giving effect to
the proper implementation and execution of –

- the Eminent Persons Group Report on Transformation in sport ("EPG Report" as defined in terms of this agreement); and
- the responses, actions, commitments and undertakings (jointly referred to as "undertakings" as defined in terms of this agreement) of SARU

insofar as it has a bearing on the domain of SARU.

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71

PREAMBLE

WHEREAS SRSA is the custodian of sport in the Republic and striving to create an active and winning nation;

WHEREAS SASCOC is the national coordinating macro body for the promotion and development of high performance sport in the Republic which is recognized by the Minister of Sport and Recreation in terms of section 2(1) of the National Sport and Recreation Act, 1998 (Act No. 110 of 1998-as-amended)("the Act");

WHEREAS section 13A of the Act mandates the Minister of Sport and Recreation to issue guidelines or policies to promote equity, representivity and redress in sport and recreation;

WHEREAS the National Sport and Recreation Indaba which took place in November 2011 and adopted a National Sport and Recreation Plan that is anchored by the Transformation Charter and its attendant score-card;

WHEREAS all National Federations approved and adopted Transformation Charter in writing;

WHEREAS the said Indaba also resolved that a Transformation Commission, namely the Eminent Persons Group on Transformation ("the EPG"), be established with a view to drive, monitor, evaluate, advise and make recommendations to the Minister of Sport and Recreation on the intervenes and remedial steps to be taken, implemented and executed in order to achieve the targeted transformation goals in sport ("the mandate"), amongst others;

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WHEREAS the mandate of the EPG more fully encompassed the following, amongst others:

- Analyze the transformation audit report and advise the Minister on appropriate targets;
- Monitor and evaluate the implementation of the Transformation Charter and Balanced Scorecard in sport organizations in the Republic;
- Provide leadership and direction with regards to the target system;
- Provide an annual status report on transformation within the sporting fraternity of the Republic;
- Offer long-term strategic direction on transformation in sport
- Advise the Minister on the design of a short-term, immediate term and long term transformation strategy (within the context of the 2020 vision of SRSA). The design must be designed to take in not only national demographics, but also regional demographics;
- Advise on the design of a transparent and democratic tool for monitoring and designing public reporting system for all National Federations and sport and recreation bodies with a view to measure the success or failure for the implementation of transformation values and targets;
- Interrogate the White Paper of SRSA and pronounce on whether the White Paper will address and redress SRSA's strategic objectives in relation to school sport, community sport, institutional mechanisms, facilities, recreation, funding and internationalization of sport;
- Examine and answer the question as to whether this current arrangement in its present form and character enables and empowers SRSA to deliver on its national goals and mandate; and

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- 73
- Monitor and advise the Minister on incentives and punitive measures that must be taken against National Federations and sport bodies that are not driving transformation to its logical conclusion;

WHEREAS the Minister of Sport and Recreation received a report from the EPG ("the EPG Pilot Audit Report") which, amongst others, contained its Overview, Comparative Multi-dimensional Scorecard, Transformation Dashboards, Observations, Summaries, Recommendations and Example Data Sheets relative to the mandate of the EPG;

WHEREAS the EPG Pilot Audit Report is a report on the status of transformation with respect to the following 5 National Federations, namely:

- Athletics South Africa ("ASA");
- Cricket South Africa ("CSA");
- Netball South Africa ("NSA");
- South African Football Association ("SAFA"); and
- South African Rugby Union ("SARU");

WHEREAS the Minister of Sport and Recreation released the EPG Pilot Audit Report which, amongst others, contains an Overview, Comparative Multi-dimensional Scorecard, Transformation Dashboards, Observations, Summaries, Recommendations and Example Data Sheets relative to the mandate of the EPG to the said 5 Federations and requested that these Federations present him with:

- concrete interventions; and

- 7A
- detailed plans, amongst others, on how these Federations are responding to the above-mentioned contents that emanate from the EPG Pilot Audit Report;

WHEREAS these Federations have indicated their intention to submit their responses, proposed actions, commitments and undertakings (jointly hereinafter referred to as "undertakings") relative to –

- the EPG Pilot Audit Report

, insofar as it has a bearing on their respective domain, to the said Minister and the Minister is now ready to present these Federations with an agreement that will be concluded between SRSA, SASCOC and each of these Federations in respect of these Federations' satisfactory compliance with –

- the EPG Pilot Audit Report; and
- its undertakings in the above regard

Insofar as it has a bearing on their respective domain;

WHEREAS the above-mentioned Federations are members of SASCOC;

WHEREAS SRSA, SASCOC and SARU are jointly willing and committed to enter into a binding agreement (this agreement) in respect of the overseeing, coordinating and giving effect to the proper implementation and execution of –

- the EPG Pilot Audit Report; and
- SARU's undertakings in the above regard

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insofar as it has a bearing on SARU's domain and which are in the best interest of SARU and rugby in general; and

NOW, THEREFORE, the Parties herein agree as follows:

PARTIES AS IDENTIFIED BY THEIR RESPECTIVE SPECIMEN SIGNATURES IN ANNEXURE F

The Parties to this agreement are:

- **Sport and Recreation South Africa**, known as **SRSA**, a Government Department of the Republic of South Africa responsible for Sport and Recreation duly established in terms of the provisions of schedule 1 to the Public Service Act, 1994 (Act No. 103 of 1994 as amended) herein duly represented by **Mr. ALEC MOEMI** in his capacity as **DIRECTOR-GENERAL** and herein duly acting in such representative capacity;
 - **The South African Rugby Union**, known as **SARU**, an incorporated association of persons with perpetual succession and juristic personality, the national controlling body of rugby in South Africa herein duly represented by **MR. OREGAN HOSKINS** in his capacity as the **PRESIDENT** and herein duly acting in such representative capacity; and
 - **The South African Sports Confederation and Olympic Committee**, known as **SASCOC**, recognized by the Minister in writing in terms of the Act as a national coordinating macro body for the promotion and development of high performance and established or trading as section 21 Company herein duly represented by **Mr. GIDEON SAM** in his capacity as the
- Q
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- ✓

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PRESIDENT and herein duly acting in such representative capacity.

1. DEFINITIONS

"Act" means the National Sport and Recreation Act, 1998 (Act No.110 of 1998 as amended);

"agreement" means the written agreement entered into between SRSA, SARU and the SASCOC as recorded in the agreement signed by the Parties, including all attachments, Annexures or schedules hereto and all documents incorporated by reference herein;

"business day" means any day other than a Saturday, Sunday or a public holiday under the law of the Republic of South Africa;

"commencement date" means the date of signature of this agreement by last party signing as a signatory;

"EPG" means a Transformation Commission, namely the Eminent Persons Group on Transformation, established by the Minister of Sport and Recreation with a view to drive, monitor, evaluate, advise and make recommendations to the said Minister on the intervenes and remedial steps to be taken, implemented and executed in order to achieve the targeted transformation goals in sport, amongst others;

"EPG Pilot Audit Report" means a report received from the EPG by the Minister of Sport and Recreation attached hereto as Annexure A which –

AK GEM
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GAB

77

(a) amongst others, contains its Overview, Comparative Multi-dimensional Scorecard, Transformation Dashboards, Observations, Summaries, Recommendations and Example Data Sheets relative to the mandate of the EPG; and

(b) is a report on the status of transformation with respect to the following 5 National Federations, namely:

- Athletics South Africa ("ASA");
- Cricket South Africa ("CSA");
- Netball South Africa ("NSA");
- South African Football Association ("SAFA"); and
- South African Rugby Union ("SARU");

"5 Federations" means the 5 National Federations as contemplated in par. (b) of the definition of the EPG Pilot Audit Report;

"mandate" in essence means the mandate of the established EPG to drive, monitor, evaluate, advise and make recommendations to the Minister of Sport and Recreation on the intervenes and remedial steps to be taken, implemented and executed in order to achieve the targeted transformation goals in sport which more fully encompass the following, amongst others:

- Analyze the transformation audit report and advise the Minister on appropriate targets after consultation with the Federations;
- Monitor and evaluate the implementation of the Transformation Charter and Comparative Multi-dimensional

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Scorecard (which forms part of the EPG Pilot Audit Report attached hereto as **Annexure A**) in sport organizations in the Republic;

- Provide leadership and direction with regards to the target system;
- Provide an annual status report on transformation within the sporting fraternity of the Republic;
- Offer long-term strategic direction on transformation in sport
- Advise the Minister on the design of a short-term, immediate term and long term transformation strategy (within the context of the 2020 vision of SRSA). The design must be designed to take in not only national demographics, but also regional demographics;
- Advise on the design of a transparent and democratic tool for monitoring and designing public reporting system for all National Federations and sport and recreation bodies with a view to measure the success or failure for the implementation of transformation values and targets;
- Interrogate the White Paper of SRSA and pronounce on whether the White Paper will address and redress SRSA's strategic objectives in relation to school sport, community sport, institutional mechanisms, facilities, recreation, funding and internationalization of sport;
- Examine and answer the question as to whether this current arrangement in its present form and character enables and empowers SRSA to deliver on its national goals and mandate; and
- Monitor and advise the Minister on incentives and punitive measures that must be taken against National Federations and sport bodies that are not driving transformation to its

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logical conclusion: Provided that the Minister must, amongst others –

- ensure that the targets as determined by the EPG are reasonable and in the best interests of rugby; and
- monitor that any penalties recommended and advice furnished by the EPG are fair and reasonable;

“Minister” means the Minister of Sport and Recreation;

“National Federation” means a national governing body of a code of sport or recreational activity in the Republic recognized by the relevant international controlling body as the only authority for the administration and control of the relative code of sport or recreational activity in the Republic as defined in the Act;

“project” means the satisfactory compliance with, adherence to and fulfillment of by SARU of –

- the EPG Pilot Audit Report; and
- SARU's undertakings in the above regard

insofar as it has a bearing on SARU's domain in terms of this agreement is concerned: Provided that if there is a material or significant difference or discrepancy between –

- the said the EPG Pilot Audit Report on the one hand; and
- SARU's undertakings on the other hand

the EPG Pilot Audit Report shall always prevail and as a result thereof must be conformed and adhered to by SARU in so far as it

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has bearing on SARU's domain and is practical and can be implemented and the targets were mutually agreed: Provided further that if there is a material or significant difference or discrepancy between –

- the actual transformation performance achieved by SARU on the one hand; and
- SARU's undertakings as reflected in the Transformation Barometer (**Annexure D**) on the other hand,

SRSA and SARU must mutually reach an agreement relative to an acceptable and reasonable transformation performance: Provided that this process must always be followed before punitive measures may be suggested or recommended by the EPG to the Minister;

"SASCOC" means a national coordinating macro body for the promotion and development of high performance recognized by the Minister of Sport and Recreation in terms of section 2(1) of the Act;

"SRSA" means the national Department of Sport and Recreation in the Republic of South Africa, known as Sport and Recreation South Africa;

"Transformation Barometer" means a report (**Annexure D**) to be populated by both SRSA and SARU once a year over the next 5 years as from the commencement date which –

- (a) contains a duly completed 5 year rolling projection by both parties in selected categories from a transformation perspective; and

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(b) consists of –

- a Selected Transformation Charter Dimension Forecast and Actual Performance: 2014-2018 Report for Team Participation Based Federations to be completed by both SRSA and SARU, if applicable; or
- a Selected Transformation Charter Dimension Forecast and Actual Performance: 2014-2018 Report for Team and Individual Participation Based Federations to be completed by both SRSA and SARU, if applicable;

“Transformation Charter” means the Charter (Annexure C) signed, endorsed and approved by all National Federations which has a bearing on the transformation of sport; and

“undertakings” for the purposes of this agreement mean the responses, actions, commitments and undertakings (Annexure B) of SARU relative to the EPG Pilot Audit Report over the next 5 years as from the commencement date insofar as it has a bearing on its domain that had been received by the Minister whereby SARU in essence undertakes to oversee, coordinate and give effect to –

(a) the proper implementation and execution of –

- the EPG Pilot Audit Report; and
- SARU's undertakings

which is in the best interest of SARU and rugby in general in the Republic;





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(b) the submission of -

- (i) a duly completed 5 year rolling projection in selected categories as contemplated in the Transformation Barometer (**Annexure D**);
- (ii) SARU's annual report on an annual basis; and
- (iii) SARU's Transformation Data Sheets once a year over the next 5 years as from the commencement date

to the EPG for monitoring, evaluation, analyzing and reporting purposes;

(c) SARU's participation in the annual public announcement of the Transformation Status Report as prepared and compiled by the EPG to be convened by the Minister by invitation before the end of April following the completion of the EPG Audit Report of each calendar year; and

(d) the proper completion and maintenance of the Transformation Barometer (**Annexure D**)

: Provided that SARU must in terms of this agreement submit its undertakings together with the duly completed Transformation Barometer to the EPG -

- at the commencement of this agreement; or
- alternatively, not later than 21 days after the commencement date of this agreement

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which undertakings shall form part of this agreement and must be attached to this agreement as **Annexure B**; and

"vis major" means an event beyond the control of any of the parties and not involving its fault or negligence and is not restricted to, acts of wars or revolution, fires, floods, epidemics, quarantine restrictions and freight embargoes.

2. INTERPRETATION

Subject to the provisions of this agreement and with effect from the effective date in this Agreement:

- 2.1 clause headings shall not be used in its interpretation;
- 2.2 unless the context clearly indicates a contrary intention, an expression which denotes any gender includes the other genders, a natural person includes a juristic person and vice versa and the singular includes the plural and vice versa;
- 2.3 unless specifically otherwise provided, all amounts in this Agreement are inclusive of Value added Tax;
- 2.4 any reference to any legislation is to such legislation (as amended or re-enacted from time to time) as at the signature of this Agreement;
- 2.5 if any provision in a definition is a substantive provision conferring any right or imposing any obligation on any party, then, notwithstanding that it is only in the interpretation clause, effect

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shall be given to it as if it were a substantive provision in this Agreement;

- 2.6 when a number of days is prescribed, such number shall exclude the first and include the last day, unless the last day falls on a Saturday, Sunday or public holiday in the Republic, in which case the last day be the next succeeding day which is not a Saturday, Sunday or public holiday in the Republic;
- 2.7 unless any annexure provides otherwise, any annexure to this Agreement shall be deemed to be incorporated in and to form part of this Agreement;
- 2.8 any reference to days (other than a reference to business days, months or years) shall be a reference to calendar days, months or years, as the case may be;
- 2.9 the use of the word "including" followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific example/s;
- 2.10 the terms of this Agreement having been negotiated, the *contra proferentem* rule shall not be applied in the interpretation of this Agreement;
- 2.11 terms other than those defined within this Agreement shall be given their plain English meaning and those terms, acronyms;

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- 2.12 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 2.13 the use of any expression in this Agreement covering a process available under the law of the Republic, such as winding-up (without limitation *eiusdem generis*) shall, if any of the parties to this Agreement is subject to the law of any other jurisdiction, be construed as including any equivalent or analogous proceedings under the law of such defined jurisdiction;
- 2.14 if applicable, the expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination;
- 2.15 all words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties referred to as each case required and a verb shall be read and construed as agreeing with the required word and pronoun;
- 2.16 the terms defined in this Agreement or parenthetically elsewhere in this Agreement shall have the same meanings throughout this Agreement;
- 2.17 a reference to a party in a document include that party's successors and permitted assigns;
- 2.18 a reference to a document includes an amendment or supplement to or replacement or novation of that document;

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2.19 reference to a statutory provision include any subordinate legislation made from time to time under that provision;

2.20 to the extent that there is any inconsistency between any of the clauses and Annexure, it shall be resolved by using the following order of precedence:

2.20.1 the clauses;

2.20.2 the Annexures,

Provided that, notwithstanding the manner in which they have been grouped together or linked grammatically, they are severable from, each other.

2.21 The Interpretation Act, 1957 (Act No. 33 of 1957 as amended) shall apply to this Agreement in the same way as it applies to an enactment.

3. RECORDAL AND PURPOSE OF AGREEMENT

3.1 The purpose of this agreement is, amongst others, to –

3.1.1 give effect to –

- the EPG Pilot Audit Report (**Annexure A**); and
- SARU's undertakings (**Annexure B**) in the above regard insofar as it has a bearing on SARU's domain;

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Report is in the best interest of SARU, is practical and can be implemented; and

(b) SARU's undertakings (Annexure B) in the above regard insofar as it has a bearing on its domain and which is in the best interests of SARU and rugby in general as endorsed by its undertakings.

4.2 Moreover, in essence –

(a) SRSA must coordinate and give effect to the proper implementation and execution of the project insofar as it has a bearing on the latter's domain; and

(b) SASCOC must assist in the proper implementation and execution of the project by SARU as and when required in terms of this agreement, provided that such assistance shall not include any instruction regarding the implementation and execution of the project.

5. DURATION OF AGREEMENT

- 5.1 It is recorded that this agreement shall commence on the date on which the last Party to sign this agreement, actually signs the agreement.
- 5.2 Subject to the terms of clauses 15 and 16, relating to the breach and termination of the agreement respectively, the agreement shall commence on the commencement date as referred to in clause 5.1

and expire on 31 August 2019, unless it is extended in terms of clause 5.3.

5.3 No extension of the terms or duration of the agreement shall be valid unless:

5.3.1 Prior written approval from SRSA has been obtained; and

5.3.2 The terms and conditions of such extension have been reduced to writing and signed by the authorized representatives of all Parties.

6. ROLE, RESPONSIBILITIES, DUTIES AND OBLIGATIONS OF SARU, SRSA AND SASCOC

SARU:

6.1 In terms of this agreement, SARU has agreed to –

(a) implement the EPG Pilot Audit Report as endorsed by its undertakings by the satisfactory and proper execution and fulfillment of the project, and under the conditions as per the definition of "Project" and subject to receiving the necessary support as per clauses 6.5, 6.6, 6.10 and 6.11;

(b) submit –

- (i) a duly completed 5 year rolling projection in selected categories as contemplated in the Transformation Barometer (Annexure D);
- (ii) SARU's annual report on an annual basis; and
- (iii) transformation data-sheets on an annual basis which must conform to the format of the EPG

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Pilot Audit Report and to the undertakings of SARU over the next 5 years as from the commencement date

to the EPG for monitoring, evaluation, analyzing and reporting purposes; and

- (c) attend and participate in the annual public announcement of EPG Pilot Audit Report and the Transformation Barometer convened by the Minister by invitation before the end of April following the completion of the EPG Audit Report of each calendar year: Provided that SARU shall be entitled to respond orally to the Minister's address on the EPG Pilot Audit Report and the Transformation Barometer at the annual public announcement: Provided further that SARU shall also be afforded an opportunity to submit its written responses to the Minister's address not later than 21 days after the date on which the Minister had made the annual public announcement;

6.2. SARU must in terms of this agreement submit its undertakings together with the duly completed Transformation Barometer to the EPG-

- at the commencement of this agreement; or
- alternatively, not later than 21 days after the commencement date of this agreement

which shall form part of this agreement and must be attached to this agreement as **Annexure B** and **Annexure D**.

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[For the avoidance of doubt it is specifically recorded that schools do not fall under the jurisdiction of SARU. It falls under the jurisdiction of the Department of Basic Education]

SRSA:

6.3 SRSA must oversee and ensure that SARU provides transformation data-sheets on an annual basis to the EPG which must conform to—

- the format of the EPG Pilot Audit Report (Annexure A); and
- SARU's undertakings (Annexure B) in the above regard

insofar as it has a bearing on its domain over the next 5 years as from the commencement date of this agreement.

6.4 SRSA must, via the assistance and advice of the EPG, monitor, evaluate and analyze the satisfactory implementation of the project by SARU over the next 5 years as from the commencement date of this agreement. The Minister must oversee and ensure that the advice and recommendations of the EPG are relevant, practical and can be implemented;

6.5 SRSA shall supply SARU with all relevant, possible and available support and guidance that has been requested by SARU in writing for proper execution and fulfillment of the project, provided that such support and guidance shall not include instructions regarding the project: Provided that if SARU's request relates to finances, it shall be subject to the availability of funds from a SRSA perspective, and in the absence of such funding SARU shall not be

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held responsible for the non-performance of the undertakings that are dependent on this funding;

6.6 SRSA shall provide SARU with all relevant, necessary, possible and available assistance in order for SARU to perform its duties, responsibilities and obligations in accordance with the standard required in terms of this agreement and its Annexures, provided that such assistance shall not include instruction on how to perform its duties, responsibilities and obligations;—

6.7 SRSA shall at all times endeavour to promote the interests of SARU relative to the project;

6.8 In essence, SRSA must coordinate and give effect to the satisfactory and proper implementation and execution of the project by SARU; and

6.9 Should SRSA not be satisfied with any of the deliverables which are required to be implemented and fulfilled by SARU in terms of —

- the EPG Pilot Audit Report (Annexure A); and
- its undertakings (Annexure B) in the above regard,

SRSA shall, subject to the exhaustion of the process to be followed as described in the *proviso* of the definition of "project" and clause 15, request SARU to rectify or improve such deliverables in writing: Provided that should SARU remain in default after receiving such a written request, SRSA shall be entitled to activate any of the penalties as captured in clause 14 of this agreement.

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SASCOC:

- 6.10 SASCOC shall supply SRSA and SARU with all relevant and available support and guidance that has been requested by SRSA or SARU in writing for proper execution and fulfillment of the project, provided that such support and guidance shall not include instructions regarding the project;
- 6.11 SASCOC shall provide SRSA and SARU with all relevant, necessary, possible and available assistance in order to perform its duties, responsibilities and obligations in accordance with the standard required in terms of this agreement and its Annexures, provided that such assistance shall not include instruction regarding its duties, responsibilities and obligations;
- 6.12 SASCOC shall at all times endeavour to promote the interests of SRSA and rugby in general relative to the project; and
- 6.13 In essence, SASCOC must assist SRSA to coordinate and give effect to the satisfactory and proper implementation and execution of the EPG Pilot Audit Report and the undertakings by SARU as and when required by SRSA in writing, provided that such assistance shall not include instructions regarding the implementation and execution of the EPG Pilot Audit Report.

7. CONTACT PERSONS OF PARTIES

- 7.1 The contact persons and service faxes or e-mail addresses set out in **Annexure E** shall act as the single point of contact for SRSA, SASCOC and SARU to report problems, make requests and general enquiries. Only those problems notified directly to such

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service fax numbers or e-mail addresses shall be covered by this agreement.

- 7.2 In the execution of the services and deliverables and in achieving the aims and objectives of this agreement, SARU shall take instructions only from a duly authorized SRSA representative.

8. INTELLECTUAL PROPERTY

- 8.1 SARU undertakes to obtain the necessary consent from the proprietors or their licensees should it make use of the intellectual property of any other person or body in order to deliver its undertaking in terms of this agreement.
- 8.2 SARU further indemnifies SRSA and SASCOC against any claim or action (including costs) caused by or arising from the failure to obtain the consent referred to in clause 8.1.
- 8.3 SARU hereby indemnifies SRSA and SASCOC against any action, claim, damages or legal costs that may be instituted against SRSA and SASCOC on the grounds of an alleged infringement of any copy right or any other intellectual property right that may have a bearing on any services rendered in terms of this agreement.
- 8.4 SRSA and SASCOC undertakes to obtain the necessary consent from the proprietors or their licensees should it make use of the intellectual property of any other person or body in order to deliver its undertaking in terms of this agreement.

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8.5 SRSA and SASCOC further indemnify SARU against any claim or action (including costs) caused by or arising from the failure to obtain the consent referred to in clause 8.1.

8.6 SRSA and SASCOC hereby indemnify SARU against any action, claim, damages or legal costs that may be instituted against SARU on the grounds of an alleged infringement of any copy right or any other intellectual property right that may have a bearing on any services rendered in terms of this agreement.

9. CONFIDENTIALITY

9.1 All information, documents, recommendations, programme, reports and other material of whatever nature and form collected or compiled in terms of this agreement must be regarded as confidential and may not be communicated or made available to any person and may not be published either during the currency of this agreement or after termination thereof, for whatever reason save for instances where the agreement mandates that documents may be made available by way of public announcements or otherwise.

9.2 SARU, SRSA and SASCOC undertakes to keep any and all information and/or material relating to the services, of whatever nature and form, strictly confidential and such shall not be sold, traded, published or otherwise disclosed to anyone in any manner whatsoever, including by means of photocopy or other forms of reproduction.

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9.3 SARU, SRSA and SASCOC however, shall be entitled to disclose such confidential information and material relating to the services to its employees, officers and management in any manner.

9.4 Subject to clause 9.1, SARU, SRSA and SASCOC shall be responsible for ensuring that all persons to whom the confidential information and materials are disclosed under this agreement shall keep such information and material of whatever nature and form confidential and shall not disclose or divulge the same to any unauthorized person.

10. NO AGENCY OR PARTNERSHIP

The relationship between the Parties in terms of the agreement shall involve a close collaboration between independent contracting parties and in the circumstances shall not imply any partnership in the legal sense, or shall it constitute any Party the agent or authorized representative of the other Party (ies).

11. CESSION OF RIGHTS AND OBLIGATIONS

11.1 The rights and obligations of the Parties in terms of this agreement shall be personal and incapable of being ceded, assigned or delegated by either of them to any other person or body, save with the written consent of all the other Parties.

11.2 Each party warrants that it is acting as a principal and not as an agent for an undisclosed principal.

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12. AMENDMENTS

No variation in or modification of the terms of the agreement can be made except by written amendment signed by the Parties concerned.

13. INDULGENCES

No extension of time, latitude or other indulgence which may be given or allowed by either Party to the other shall constitute a waiver or alteration of this agreement, or affect such Party's rights, or prevent such Party from strictly enforcing due compliance with each and every provision of this agreement.

14. PENALTY

14.1 If SARU fails to satisfactorily –

- deliver on its undertakings in terms of the mutually agreed acceptable and reasonable transformation performance as per the description of the definition of "Project" (Annexure B);
- conform to the EPG Pilot Audit Report (Annexure A) insofar as it has a bearing on SARU's domain and is agreed upon, practical and could be implemented between SRSA and SARU; and
- perform any of its duties, responsibilities and obligations in terms of this agreement,

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14.1.6 Request the Minister in writing to consider issuing a directive in terms of section 13 (5)(a) of the Act as SRSA deems fit and appropriate.

14.2 It is specifically recorded that any dispute pertaining to this clause 14 shall be dealt with in accordance with clause 19.

15. BREACH OF AGREEMENT

Should any party breach any provision of this agreement and fail to remedy such breach within 14 (fourteen) days after receiving written notice requiring such remedy, then (irrespective of the materiality of such breach or provision) any of the other parties shall be entitled, without prejudice to its other rights in law, including any right to damages, to cancel this agreement or to claim immediate specific performance of all of the defaulting party's obligations whether or not otherwise then due for performance. Notwithstanding the afore going, if the breach constitutes repudiation, the other parties shall not be required to give written notice requesting the remedy thereof before canceling this agreement.

16. TERMINATION OF AGREEMENT

16.1 Any of the parties may terminate the agreement without prejudice to any of its other rights it may have in terms of this agreement or in law:

- (i) on material breach of this agreement by the either party as stipulated in clause 15 above;

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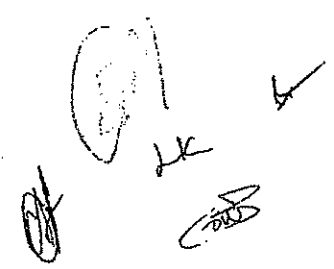
- (ii) on commencement of any action for the dissolution and/or liquidation of a party, except for purposes of an amalgamation or restructuring approved in advance by SRSA in writing;
- (iii) if SARU receives a court order to be placed under judicial management or commence liquidation procedures that is not withdrawn or struck out within five (5) working days;
- (iv) if any party informs the others that it intends to cease performing its obligations in terms of this agreement without sufficient grounds for doing so;
- (v) if, any party acted dishonestly or contrary to the integrity, which is required by its profession; and
- (vi) if SARU fails to deliver on its undertaking in terms of this agreement within the period specified or any other extended period agreed to by the Parties in writing.

16.2 A party must in advance give a written notice of termination of this agreement within 30 days.

17. CONSEQUENCE OF EXPIRY OR TERMINATION

Upon the expiry of this agreement or in event of termination hereof, howsoever arising, SARU shall:

- (a) cease to advertise or communicate to any third party that it is providing its undertaking to SRSA; and
- (b) deliver to SRSA all items relating to the Intellectual property furnished to SARU by SRSA or SASCOC and which SARU has in its possession or under its control.

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18. APPLICABLE LAW AND JURISDICTION

This agreement and relationship between the parties hereto shall be regulated entirely by the laws of the Republic of South Africa and in the event of a dispute the parties hereto consent to the jurisdiction of the relevant High Court of South Africa.

19. DISPUTE RESOLUTION

19.1 Except in respect of those provisions of this agreement which provide for their own remedy, any dispute arising out of or in connection with this agreement or the subject matter of this agreement (other than where an interdict is sought or urgent relief may be obtained from a court of competent jurisdiction), shall be finally resolved in accordance with the rules of, and by an arbitrator appointed by the Arbitration Foundation of South Africa (hereinafter referred to as "AFSA").

19.2 This clause shall not preclude any party from obtaining relief by way of motion proceedings on an urgent basis from a court of competent jurisdiction, pending the decision of the arbitrator.

19.3 The provisions of this clause:

19.3.1 constitute an irrevocable consent by the parties to any proceedings in terms hereof and no party shall be entitled to withdraw there from or to claim that any such proceedings are not bound by such provisions; and

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19.3.2 is severable from the rest of this agreement and shall remain in effect despite the termination of all invalidity for any reason of this agreement.

19.4 It is agreed between the parties that there shall be no right of appeal as provided for in Article 22 of the AFSA rules and each party to this agreement:

19.4.1 expressly consents to any arbitration in terms of the aforesaid rules being conducted as a matter of urgency; and

19.4.2 irrevocably authorizes the other to apply, on behalf of all parties to such dispute, in writing, to the secretariat of AFSA in terms of Article 23 (1) of the aforesaid rules for any such arbitration to be conducted on an urgent basis.

20. GENERAL

20.1 Any waiver of any term or condition of this agreement shall be of no force and effect unless reduced to writing and duly signed by both Parties.

20.2 The agreement shall be governed by, construed and interpreted according to the law of the Republic of South Africa.

20.3 This agreement constitutes the whole agreement between the parties relating to the subject matter hereof.

20.4 This agreement shall be binding on the parties signing it, notwithstanding that it may not have been signed by all the covenanters.

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- 20.5 Each of the parties hereto acknowledge that they have been free to secure independent legal advice as to the nature and effect of all the provisions of this agreement and that they have either taken such independent legal advice or dispensed with the necessity of doing so. Further, each of the parties acknowledges that all of the provisions of this agreement and the restrictions herein contained are fair and reasonable in all the circumstances and are part of the overall intention of the parties in connection with the services.
- 20.6 Prior drafts of this agreement shall not be admissible in any proceedings as evidence of any matter relating to any negotiations preceding the signature of this agreement.
- 20.7 If any term or provision of this agreement shall, to any extent, be held by an arbitrator or a court of competent jurisdiction to be invalid or unenforceable, the remainder of this agreement, or the application of such term or provision to persons or circumstances other than those as to which it has been held invalid or unenforceable, shall be enforced otherwise to the full extent permitted by law.
- 20.8 This agreement is executed in the English language, which shall be the sole and controlling language used in interpreting or constructing its meaning.
- 20.9 The parties undertake to use their best endeavors in respect of each contractual obligation placed upon them under and in terms of this agreement.
- 20.10 The Act and any other relevant legislation, amongst others, shall form part of this agreement.

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20.11 Communications and/or notices must be received in a form that can be read, copied and recorded.

21. ANNEXURES TO AGREEMENT

The following documents shall be deemed to form, be read with and be construed as part of this agreement:

- EPG Pilot Audit Report – Annexure A;
- Undertakings of SARU - Annexure B;
- Transformation Charter - Annexure C;
- Transformation Barometer - Annexure D;
- Contact details - Annexure E; and
- Specimen Signatures - Annexure F.

22. DOMICILIA CITANDI ET EXECUTANDI AND NOTICES

22.1 The Parties hereby select their addresses in the above regard as follows:

SRSA:

Regent Place
66 Queen Street
Pretoria.

SARU:

SARU House
Tygerberg Park
163 Uys Krige Drive
Platteklouf
Western Cape

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SASCOC:

Olympic House
James and Ethel Gray Park
Athol-Oaklands Road
Melrose 2196

22.2 Each of the parties shall be entitled, from time to time by written notice to the others, to vary its domicilium to any other address which is not a post restante or post office box.

22.3 Any notice posted or sent by the following methods to the addressee's domicilium shall be presumed to have been received as follows:

22.3.1 by prepaid registered post - on the 10th (tenth) business day after the date of posting;

22.3.2 by facsimile - on the date of transmission; or

22.3.3 by hand - on the date of delivery.

23. VIS MAJOR

The parties shall not be liable for the delay in performing obligations or for the failure to perform obligations in terms of this agreement if the delay or failure results from any cause beyond the control of any party, including but not limited to fire, accident, explosion, flood, industrial dispute, failure of hardware, software or services supplied to a party by a third party and any government action. Notwithstanding the afore going, all parties shall exercise due care

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and skills to minimize any harm or inconvenience which may be caused to another party by the events. The onus of proving that any such action was beyond the reasonable control of such party and that such party is or was thereby prevented from fulfilling its obligations shall rest on such party. If such event complaint of continues for period of thirty (30) consecutive days or sixty (60) in aggregate in any twelve (12) month period, in which event the other party may terminate this agreement on written notice to the defaulting party. .

24. COSTS

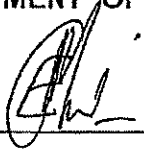
Each party shall bear its own costs in respect of the negotiation, preparation and execution of this agreement.

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SIGNED AT PRETORIA ON THIS THE 25 DAY OF MAY 2015

FOR DEPARTMENT OF SPORT AND RECREATION SOUTH AFRICA

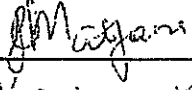
Signature: 

Name: Mr. ALEC MOEMI (Director-General)

Date: 25 MAY 2015

Place: PRETORIA

Witness

Signature: 

Name: Kgabo Matjane

SIGNED AT Durban ON THIS THE 14th DAY OF April 2015

FOR SOUTH AFRICAN RUGBY UNION

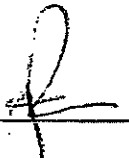
Signature: 

Name: MR. OREGAN HOSKINS (President)

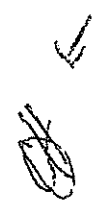
Date: 14 April 2015

Place: Durban

Witness

Signature: 


Name: JULIE WYNAND COETZEE



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SIGNED AT SANDTON ON THIS THE 23RD DAY OF MAY 2015

FOR SOUTH AFRICAN SPORTS CONFEDERATION AND OLYMPIC COMMITTEE

Signature: 

Name: **Mr. GIDEON SAM (President)**

Date: 23RD MAY 2015

Place: SANDTON

Witness

Signature: 

Name: PATIENCE SHIKWAMBANA

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