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PROVINCIAL NOTICE

No. 26**11 July 2008****OFFICE OF THE PREMIER****PUBLICATION OF DRAFT WHITE PAPER ON ASGISA EC (PTY)
LTD FOR COMMENT**

It is hereby made known that the Premier of the Province of the Eastern Cape intends to make a policy on ASGISA EC (Pty) (Ltd) as set out in the annexure hereto.

Members of the public are invited to make comments on the draft policy and to submit their comments to the **Director – General, Office of the Premier, Private Bag X 0047, Bisho, 5605** or fax to **(040) 6391419** on or before **18 July 2008**

OFFICE OF THE PREMIER



DRAFT WHITE PAPER ON

ASGISA (PTY) LTD EASTERN CAPE

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Definitions

1. In this Policy, unless the context indicates otherwise –

“alternate member” means an alternate member of the Board;

“Board” means the Board of the company constituted in terms of paragraph 12,

“Companies Act” means the Companies Act, 1973 (Act No 61 of 1973);

“Company” means the company contemplated in paragraph 5

“Constitution” means Constitution of the Republic of South Africa , 1996 (Act No. 108 of 1996);

“Department” means the Office of the Premier;

“financial year” means the period from 1 April in any year to 31 March in the next year;

“Gazette” means the Provincial Gazette;

“House” means the House of Traditional Leaders (Eastern Cape) established in terms of section 2 of the House of Traditional Leaders Act (Eastern Cape), 1995 (Act No. 1 of 1995)

“Legislature” means the Legislature of the Province;

“member” means a member of the Board;

“PFMA” means the Public Finance Management Act, 1999 (Act No. 1 of 1999) as amended;

“Premier” means the Premier of the Province as elected in terms of section 128 of the Constitution; and

“Province” means the Province of the Eastern Cape established by section 103 of the Constitution;

INTRODUCTION

2. In response to the national government call for each provincial government to perform certain functions and duties in relation to the Accelerated and Shared Growth Initiative of South Africa (ASGISA) the Eastern Cape Province developed comprehensive list of high impact and catalytic programmes aimed at accelerating economic growth and development of the Province. The identified programmes were also aligned to the Eastern Cape's Provincial Growth and Development Plan (PGDP). The Mzimvubu Basin Development and the forestry and timber expansion programme were identified as principal programmes in support of AsgiSA.

Recognising capacity constraints and the desire to ensure high impact, speed, agility, effective and efficient delivery of service the Eastern Cape Provincial Government identified the need to establish a Special Purpose Vehicle (SPV) that will be tasked with the responsibility to drive the implementation of the principal programmes.

ASGISA Eastern Cape (Pty) Limited (ASGISA EC) was established and registered as a private company in terms of the Companies Act by in 2007 as the appropriate SPV to discharge the obligations of the Provincial Government in relation to conceptualizing and implementation of Mzimvubu Basin Development and the forestry and timber expansion programme.

3. BACKGROUND AND CONTEXTUAL FOUNDATION OF ASGISA EC

- 3.1 The PGDP, a blue print for the Eastern Cape's growth and development, identifies the following as its targets:

- Economic growth rate of 5-8% per annum.
- Reduction of unemployment by 50% by 2014.
- Reduction of poverty by 50% by 2014.
- Food self-sufficiency of the Province by 2014.
- Clean water and elimination of sanitation backlogs by 2010.
- Halt the spread of HIV and AIDS.

- 3.2 As part of the PGDP review process in 2007 the province identified, amongst others, the following areas that continue to confront the province:

- Uneven development and spatial imbalances;
- Pervasive poverty (dependency and poverty trap);

- Lack of skills;
- Sub-optimal growth in east of the Province (mainly characterized by the dominance of public sector);
- Unequal terms of trade (high external account and sub-optimal local beneficiation);
- High unemployment;
- Complex regulatory bottlenecks (particularly relating to land);
- Sub-optimal impact of existing agrarian and rural development initiatives;
- Significant infrastructure backlogs (lack of enabling infrastructure and logistics for economic development);
- Sub-optimal resources at provincial and local level for investments requirements;
- State capacity (planning, implementation, project development, partnership facilitation, monitoring); and
- Absence of viable growth coalitions.

3.3 The provincial government recognized that in order to achieve these targets a new approach and impetus to economic growth and development is required.

3.4 At a national level the National Spatial Development Perspective, Macro Economic Strategy, Regional Industrial Development Programme and the Accelerated and Shared Growth Initiative of South Africa are the main informants of ASGISA EC programmes.

3.5 AsgiSA is the base upon which ASGISA EC is founded. AsgiSA plans to improve skills, remove logistical bottlenecks and increase economic participation. AsgiSA is an implementation programme, around the following themes:

- Infrastructure Programmes
- Sector investment (or industrial) strategies
- Skills and education issues
- Second economy interventions
- Macro-economic issues
- Public Administration issues

AsgiSA aims to accelerate levels of growth in the country, with targets of 4,5% until 2009, and 6% between 2010-2014. It puts measures in place to ensure that growth reduces poverty and inequality in the country, through calling on the state to play a more active role in correcting market failures and accelerating economic transformation. In order to pick up levels of economic growth, AsgiSA aims to remove a number of obstacles to growth, including:

- Reducing the cost and ease of doing business;
- Reducing barriers to entry through targeting pro-poor growth sectors and through a range of 2nd economy interventions including the provision of

support packages and use of state procurement to enable BBBEE participation and partnerships in major investments;

- Reducing the cost and efficiency of logistics capability in the IDZs, and access linkages to the rural economy;
- De-bottlenecking regulatory barriers through address EIA obstacles and identifying red tape issues in municipalities;
- Addressing out skills deficit through a targeted skills plan, and the establishment of JIPSA to prioritize and co-ordinate skills development; and
- Beefing up the capacity of the state to facilitate economic planning and development.

3.6 ASGISA EC's activities are also guided by the 2014 Millennium Development Goals and the five South African government's People's Contract Principles, namely:

- (a) Reduce poverty by half through economic development, comprehensive social security, land reform and improved household and community assets.
- (b) Provide the skills required by the economy, build capacity and provide resources across society to encourage self employment with an education system that is geared fro productive work, good citizenship and a caring society.
- (c) Reduce unemployment by half through new jobs, skill development, assistance to small businesses, opportunities for self-employment and sustainable community livelihoods (including large-scale multi year public works programmes).
- (d) Massively reduce cases of tuberculosis, diabetes, malnutrition, and maternal deaths; turn the ride against HIV/AIDS; working with the rest of the southern Africa, strive to eliminate malaria; and improve services to achieve a better national health profile and reduce preventable causes of death, including violent crime and road accidents. To these ends, ensure that each South African household has access to clean running water by 2009 and to electricity by 2012.
- (e) Position South Africa strategically as a force in global relation, with vibrant and balanced trade and other relations with the countries of the South and the North, and in an Africa that is growing, prospering and benefiting all Africans, especially the poor.

3.7 The Eastern Cape Industrial Development Strategy (ECIDS), whose basis is the national Regional Industrial Development Strategy and the PGDP also provides useful bedrock upon which ASGISA EC is founded. The ECIDS captures the rationale for the establishment of ASGISA EC when it argues that:

'After ten years of democracy the structure of the Eastern Cape economy has not shifted significantly. After three years of implementing the PGDP (Provincial growth and development plan) there is still too little real engagement between the public and private sectors and the objectives of economic transformation are largely based on fairly broad strategies for agrarian transformation, diversifying the manufacturing sector and overcoming the structural constraints associated with the legacy of apartheid.

However, we need to formalize an agenda for economic transformation and industrial development by developing a programmatic response through which to tackle the challenges of economic growth and employment creation facing the province. It is increasingly obvious that this cannot be done without engaging the private sector, targeting growth and labour absorptive sector engagements, and building greater co-ordination capacity within government and between government, labour and the private sector'.

- 3.8 The District Growth and Development Summit Agreements (DGS) adopted by the various district municipalities in the Eastern Cape Province also provide a useful guide to ASGISA EC. Despite commitment by various parties who were signatories in the agreements there is little progress in the implementation of the identified priority programme in particular around economic growth and development. The parties to the DGSs all recognize the need for accelerated and shared growth in their respective municipalities and need to build the capacity of the developmental State to implement successful and sustainable programmes.
- 3.9 The Development paradigm that has led to the establishment of ASGISA EC rests on six pillars, namely;
- (a) **Agriculture and agro-processing** aimed at managing 1 million livestock units and putting 40 000 ha under irrigated cultivation and 346 000 ha under dry-land cultivation, focusing both on food and industrial crops for agro-processing and bio-fuel production;
 - (b) **Water storage and transfer** aimed at using 640 million m³ for forestry, agricultural, livestock watering, domestic and industrial use within the MDZ and surrounding areas, and transferring 660 million m³ to other water scarce areas of the country (Nelson Mandela Metro, Western Cape, etc).
 - (c) **Hydro-power and alternative energy** aimed at generation 1500 MW of clean, renewable energy.
 - (d) **Tourism Development** linking eco-tourism on the Wild Coast with the adventure hotspots of the Southern Drakensberg through a branded tourism corridor that includes Mandela's Birthplace and the Mandela Museum in

Mthatha;

- (e) **Forestry Development** through new afforestation, the improved management of existing forests, and the development of downstream manufacturing opportunities in the timber industry; and
- (f) **Addressing unsustainable human settlement** patterns in the MDZ through the urban and economic renewal of Mthatha, Port St Johns and other rural towns such as Lusikisiki.

3. 10 It is clear from the above analysis that there is a need to build the capacity of the state to accelerate the implementation of programmes with the potential to unlock the potential of the Eastern Cape. In particular, the PGDP identifies the rural hinterlands as the most negatively affected by lack of investment and consequent underdevelopment, unemployment and poverty. The lack of investment and poor co-ordinated interventions continues to occur despite the enormous comparative advantages the Eastern Cape Province boasts of in agriculture, forestry and tourism.

The PGDP recognizes that within the Eastern Cape Province the Eastern part of the province is the hardest hit by lack of underdevelopment, poverty and unemployment. To respond to the challenges the region faces more focused and deliberate interventions are needed.

REGULATORY FRAMEWORK

4. The company will deal with facilitation and project management of economic development interventions in the Province and that falls within the ambit of Schedule 4 of the Constitution which provides for functional areas of concurrent national and provincial legislative competence.

OBJECTIVE OF THE POLICY

5. The policy is intended to provide for a legislative framework to recognize the establishment of the company as a duly established company in terms of the Companies Act and to further provide for governance structure as well as powers and functions.

VALUES AND PRINCIPLES

6. This Policy is underpinned by, but not limited to, the following values and principles which will guide the functioning and responsibilities of the company.

- (a) Integration and Co-ordination
- (b) Partnerships
- (c) Honesty and Integrity
- (d) Consultation and communication
- (e) Shared and Accelerated Growth
- (f) Optimising local economic benefits
- (g) People centred development

ARTICLES AND MEMORANDUM OF ASSOCIATION

7. The memorandum of association and articles of association must be consistent with the policy and where there is a conflict the provisions of the policy must prevail. Any proposed amendments to the memorandum and articles of association must be submitted to the Legislature for consideration.

OBJECTS OF THE COMPANY

8. The objects of the company are *inter alia*, to facilitate and project manage economic development interventions in the Province which are linked to the Accelerated Shared Growth Initiative of South Africa.

POWERS

9. In addition to the powers and duties of the company contained in the memorandum and articles of association, and the Shareholder's Compact, the company must have the powers of a company contemplated in section 36 of the Companies Act.

SHAREHOLDING IN THE COMPANY

11. The Government of the Province must be the only shareholder in the company.

GOVERNANCE

12. The governance structure and accounting authority is be a Board which must be appointed by the Premier, in consultation with the Executive Council.

QUALIFICATION FOR MEMBERSHIP TO THE BOARD

13. The Board shall consist of not more than 15 members to be appointed by the Premier, in consultation with the Executive Council, from the following categories :

- (a) a traditional leader who is a member of the House of Traditional Leaders;
- (b) relevant government departments (national / province);
- (c) South African Local Government Association (SALGA),
- (d) the Chief Executive Officer who must be an *ex officio* member, without voting powers.
- (e) members must possess knowledge, insight, experience, general understanding and appropriate qualifications in the core business of the Company.

The Board must be representative of the people of the Province.

PROCEDURE FOR APPOINTMENT

14. The members of the Board shall be appointed by the Premier in consultation with the Executive Council through an open invitation for applications by interested persons for consideration by him or her for membership. Such invitation must be published in at least two newspapers having a wide circulation in the Province .

TERM OF OFFICE, VACANCIES AND DISQUALIFICATION FROM THE BOARD

15. A member of the Board shall hold office for a period of 3 years but is eligible for re- appointment for one additional term of office. A vacancy in the Board occurs if a member -

- (a) dies; or
- (b) without has served his or her term of office; or
- (c) is prohibited from being a director by virtue of any provision of the Companies Act, or
- (d) for more than six months is absent without permission of the Board from meetings of the Board held during that period, or
- (e) resigns from office in writing to the company and the registrar or is removed from office, or
- (f) is directly or indirectly interested in any contract or proposed contract with the company and fails to declare his interest in terms of the Act.

A person is disqualified from being a member of the Board if a person is a member of –

- (a) a Municipal Council except for a member contemplated in paragraph 13.
- (ii) a Provincial Legislature;
- (iii) Parliament;
- (iv) a House of Traditional Leaders except for a member contemplated in paragraph 13

TERMINATION OF TERM OF OFFICE OF BOARD AND REPLACEMENT OF THE BOARD

16. The Premier may, in consultation with the Executive Council, anytime if he or she considers it to be in the public interest or the proper administration of the Act, subject to the provisions of the Promotion of Administrative Justice Act, 2000, simultaneously terminate the term of office of members of the Board and replace such members.

TERMS AND CONDITIONS

17. The remuneration of members of the Board must be determined by the Premier in consultation with the MEC for Finance.

EXPENDITURE

18. The expenditure incurred by or on behalf of the company, including expenditure relating to members of the Board must be defrayed from the funds of the company.

ANNUAL REPORTS AND FINANCIAL STATEMENTS

19. The company must be listed as a Schedule 3 public entity and the provisions of the Public Finance Management Act, 1999 in respect to reporting and financial accountability of the Board, must apply.

DISSOLUTION

20. The company may not be dissolved except by or under the authority of an Act of the Provincial Legislature.

PROHIBITION OF USE OF NAME OF THE COMPANY

21. No person, company or association of persons shall carry on business under a name which is the same as or so closely resembles that of the company that is calculated to or is reasonably likely to deceive

CONCLUSION

22. The provisions of the White Paper augment the Memorandum and Articles of Association, the Board Charter and the Shareholder's compact in ensuring that the are proper accounting functions and responsibilities entrusted to the Board.