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**GOVERNMENT NOTICE**

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**DEPARTMENT OF MINERALS AND ENERGY****No. 1015****2 November 2007**

NATIONAL NUCLEAR REGULATOR ACT, 1999 (ACT NO. 47 OF 1999)

**CO-OPERATIVE AGREEMENTS CONCLUDED IN TERMS OF SECTIONS 6 (2) AND  
PUBLISHED IN TERMS OF SECTION 6(4) OF THE NATIONAL NUCLEAR  
REGULATOR ACT, 1999 (ACT NO. 47 OF 1999)**

Under section 6(4) of the National Nuclear Regulator Act, 1999 (Act No. 47 of 1999), I, Buyelwa Sonjica, Minister of Minerals and Energy, I hereby publish co-operative agreements signed between the National Nuclear Regulator and the following: Department of Minerals and Energy (Mine Health Safety Inspectorate; Electricity and Nuclear), Department of Health (Directorate Radiation Control), Department of Water Affairs and Forestry and the South African Maritime Safety Authority.



**B P SONJICA**  
**MINISTER OF MINERALS AND ENERGY**

**CO-OPERATIVE AGREEMENT IN RESPECT OF THE  
MONITORING AND CONTROL OF RADIOACTIVE  
MATERIAL AND EXPOSURE TO IONISING RADIATION**

In terms of the provisions of section 6 of the National Nuclear Regulator Act, 1996  
(Act No. 47 of 1999) and Regulation No. 709 of 24 May 2002

between

**THE NATIONAL NUCLEAR  
REGULATOR**



and

**THE DEPARTMENT OF MINERALS AND ENERGY  
MINE HEALTH SAFETY INSPECTORATE**



**MEMORANDUM OF  
CO-OPERATIVE AGREEMENT IN RESPECT OF THE MONITORING AND  
CONTROL OF RADIOACTIVE MATERIAL OR EXPOSURE TO IONISING  
RADIATION**

In terms of the provisions of section 6 of the National Nuclear Regulator Act (Act No. 47 of 1999) and Regulation No 709 of 24 May 2002

between

**The National Nuclear Regulator**

and

**Department of Minerals and Energy (Chief Inspector of Mines)**

(Hereinafter referred to as “the parties”)

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**PREAMBLE**

**Whereas:** The National Nuclear Regulator (hereinafter referred to as the NNR) has responsibilities with regard to the regulation of radiation hazards in terms of the National Nuclear Regulator Act (Act no 47 of 1999);

**And whereas:** The Department of Minerals and Energy (Mine Health and Safety Inspectorate) (hereinafter referred to as the MHSI) also has responsibilities with regard to the regulation of radiation hazards in terms of Mine Health and Safety Act (Act No 29 of 1996);

**And whereas:** The parties acknowledge and respect each others’ autonomy and statutory responsibilities whilst recognizing the National Nuclear Regulator as the lead authority in the regulation of radiation hazards with a view to protecting persons, property and the environment against nuclear damage; and the MHSI responsibility for safeguarding the health and safety of mine employees and other affected by mining activities;

**And whereas:** The National Nuclear Regulator and the Department of Minerals and Energy (Mine Health and Safety Inspectorate) have concluded an agreement in terms of the requirements for co-operative governance as provided for in terms of the provision of section 6 of the National Nuclear Regulator Act;

**Now therefore** the parties record the following-

**SCOPE**

This agreement provides for the working relationship at mines, between the Department of Minerals and Energy (Chief Inspector of Mines) and the National Nuclear Regulator with regard to:

- i. ensuring the effective monitoring and control of hazards/risks associated with ionising radiation;
- ii. co-ordinating, harmonising, aligning and integrating the exercise of such functions;
- iii. minimising the duplication of monitoring and control of the regulatory functions of each party as set out in the preamble and also the functions and procedures regarding the exercise of such functions; and
- iv. Promoting consistency in the exercise of such functions.

**ARTICLE I**Time period for implementation of this agreement

The parties agree that the provisions of this agreement will be implemented within 4 (four) months from the date of signature of this agreement.

**ARTICLE II**Coordination of functions with respect to the monitoring and control of radioactive material and exposure to ionising radiation

<b>Specific Activity</b>	<b>Lead responsibility</b>	<b>Support responsibility</b>	<b>Mechanisms &amp; procedures for co-operation</b>
Develop legislation safety standards and regulatory practice including conditions of authorisation (where applicable) and guidelines.	The NNR to develop according to the NNRA	The MHSI to provide input	The NNR must involve the MHSI to participate in the development process.
	The MHSI to develop according to MHSI	The NNR to provide input on radiation matters	The MHSI must involve the NNR to participate in the development process
	Review codes of practice in terms of MHSI	The NNR	The MHSI must involve the NNR in the review process of codes of practice
Issue nuclear authorisations and authorisation change requests in terms of NNRA	The NNR	The MHSI	The NNR shall notify the MHSI in writing of authorisations and status.
Investigate accidents, incidents	The NNR	The MHSI	Joint investigation shall be conducted

and other occurrences which impact on the public			
Conduct inspections and audits	The NNR	The MHSI	The NNR communicates findings to the MHSI. The MHSI will communicate any radiation anomalies identified during their general inspections to the NNR for action.
Review routine health reports (Occupational Hygiene and Occupational Medicine)	The NNR	The MHSI	The NNR provides the MHSI with the results
Conduct occupational health and safety research and development	The NNR	The MHSI	The NNR would invite participation from the MHSI and elicit support from SIMRAC process
Enforcement of legislation	The NNR	The MHSI	The NNR will deal with radiation related offences and non-compliances under the NNRA and communicate to the MHSI on the necessary action to be taken after consultation between the parties.

### ARTICLE III

#### Measures to resolve non-compliance with this agreement

In the event of either of the parties failing to comply with any provision of this agreement every reasonable effort shall be made to ensure compliance. Where the parties are unable to reach agreement on compliance within 90 days, the details of such non-compliance shall be referred to the Minister of Minerals and Energy for determination.

### ARTICLE IV

#### Resolution of disputes in respect of the interpretation or application of this agreement

The parties agree that should any conflict arise in the interpretation of the joint responsibilities of the parties with respect to guidelines and standards regarding nuclear matters or in the event of any dispute relating to the interpretation or application of any provision contained in this Agreement, every effort must be made to resolve such dispute by means of mutual consensus between the parties, which includes escalation within the hierarchy of the parties should consensus not be reached. Where the parties are unable to resolve the dispute, the details of such dispute must be reported to the Minister of Minerals and Energy for determination. The parties agree that the primary mechanisms for dispute resolution must firstly be through a joint co-ordinating committee and/or working groups which must be established by mutual consent between both parties.

#### **ARTICLE V**

##### Mechanisms and procedures for co-operation between the parties

In order to implement the provisions of this agreement, in particular Article II hereof, the parties agree to the following:

- i. A Joint Co-ordinating Committee must be established, and must be chaired by the Chief Executive Officer of the NNR.
- ii. Membership of this Committee shall consist of an equal number of representatives from each party, and the Chief Inspector of Mines must head the MHSI representation.
- iii. The Joint Co-ordinating Committee shall meet at least bi-annually.
- iv. The Joint Co-ordinating Committee is responsible for the establishment of working groups, where the need arises to conduct the tasks identified by the committee to comply with this agreement.

#### **ARTICLE VI**

##### Safety standards

Regulation No. R388, 28 April 2006, GG No. 28755 (attached) on safety standards and regulatory practice contained in Regulation No R388 shall be applicable to all relevant provisions for the regulation, monitoring and control of radiation hazards falling within the respective responsibilities of the parties. Where the regulation R388 does not adequately address the safety standards relating to responsibilities of the MHSI, the parties may agree that a recommendation be made to the Minister of Minerals and Energy to have the regulation amended accordingly.

Both parties agree to use the following guidelines or standards:

1. Regulation No. R388 on safety standards and regulatory practices.
2. Any other guidelines, standards, procedures, regulations etc that may be developed or promulgated from time to time in terms of each others' legislation.

Subject to Article XII of this Agreement, as these guidelines, standards, procedures, regulations etc, are developed, their incorporation into this document must be as an addendum to this Agreement.

#### **ARTICLE VII**

##### Coordination of monitoring and enforcement functions

The co-ordination of monitoring and enforcement functions shall be carried out as indicated in Article II.

#### **ARTICLE VIII**

##### Record of delegation

No delegations have been made in terms of section 238 of the Constitution

#### **ARTICLE IX**

##### Expert assistance and support

As and when required, the parties agree to provide expert assistance to each other. The NNR would provide radiation expert assistance and support to the MHSI. The MHSI would provide expert assistance and support in respect of mining and mining related health and safety issues to the NNR.

#### **ARTICLE X**

##### Sharing of relevant information

Relevant information shall be shared by the quickest means of communication and be supported in writing by the parties.

Means of communication are regarded as:

- Telephone
- E-mail
- Fax
- Ordinary mail
- Working groups and
- Joint Co-ordinating Committee



**ARTICLE XI**  
Coordination of responses to incidents/accidents

The co-ordination of responses to incidents/accidents shall be carried out as outlined in article II.

**ARTICLE XII**  
Amendments to co-operative agreements

This agreement constitutes the entire agreement between the parties and any amendment thereto shall only be effective when reduced to writing after agreement by the joint co-ordinating committee and signed by both parties.

Thus done and signed at.....on this.....day of..... 2007.

.....  
**For NATIONAL NUCLEAR REGULATOR**  
**Maurice T Magugumela**  
**Chief Executive Officer**

WITNESSES

1.....

2.....

Thus done and signed at ..... on this.....day  
of.....2007.

.....  
**For DEPARTMENT OF MINERALS**  
**AND ENERGY(Mine Health and Safety Inspectorate)**  
**Thabo Enoch Gazi**  
**Chief Inspector of Mines**

WITNESSES

1.....

2.....

**CO-OPERATIVE AGREEMENT IN RESPECT OF THE  
MONITORING AND CONTROL OF RADIOACTIVE  
MATERIAL AND EXPOSURE TO IONISING RADIATION**

In terms of the provisions of section 6 of the National Nuclear Regulator Act, 1996  
(Act No. 47 of 1999) and Regulation No. 709 of 24 May 2002

between

**THE NATIONAL NUCLEAR  
REGULATOR**



and

**THE DEPARTMENT OF MINERALS AND ENERGY  
ELECTRICITY AND NUCLEAR**



**MEMORANDUM OF  
COOPERATIVE AGREEMENT IN RESPECT OF THE MONITORING AND  
CONTROL OF RADIOACTIVE MATERIAL OR EXPOSURE TO IONISING  
RADIATION**

In terms of the provisions of section 6 of the National Nuclear Regulator Act (Act No.47 of 1999) and Regulation No. 709 of 24 May 2002  
between

**The National Nuclear Regulator**

and

**Department of Minerals and Energy (Deputy Director General: Electricity and Nuclear)**

(Hereinafter referred to as the parties)

---

**PREAMBLE**

**Whereas:** The National Nuclear Regulator (hereinafter referred to as the NNR) has responsibilities in respect of the monitoring and control of radioactive material or exposure to ionising radiation in terms of the National Nuclear Regulator Act (Act no 47 of 1999);

**And whereas:** The Department of Minerals and Energy, Deputy Director-General: Electricity and Nuclear (hereinafter referred to as the DME: DDGEN), in servicing the obligations of the Minister of Minerals and Energy in terms of the Nuclear Energy Act (Act No. 46 of 1999) and the National Nuclear Regulator Act (Act No. 47 of 1999), has functions in respect of the monitoring and control of radioactive material or exposure to ionizing radiation;

**And whereas:** The NNR and the DME:DDGEN must conclude an agreement in terms of the requirements for co-operative governance as provided for in terms of the provision of section 6 of the National Nuclear Regulator Act;

**Now therefore the parties record the following-**

**SCOPE**

This agreement provides for a working relationship between the DME: DDGEN and the NNR:

- i. ensuring the effective monitoring and control of nuclear hazards;
- ii. co-ordinating the exercising of such functions;
- iii. minimizing the duplication of such functions and procedures regarding the exercise of such functions; and
- iv. promoting consistency in the exercising of such functions

**ARTICLE I****Time period for implementation of this agreement**

The parties agree that this agreement must be implemented on the date of signature hereof.

**ARTICLE II****Description of how the functions will be coordinated**

The functions in terms of the NNR Act will be coordinated between the parties by official consultation as and when considered necessary by the parties.

**ARTICLE III****Measures to resolve non-compliance with this agreement**

In the event of either of the parties failing to comply with any provision of this agreement every effort shall be made to ensure compliance, which may include escalation within the hierarchy of the parties. Where the parties are unable to reach agreement on compliance, the details of such non-compliance shall be referred to the Minister of Minerals and Energy for determination.

**ARTICLE IV****Resolution of disputes in respect of the interpretation or application of this agreement**

The parties agree that, in the event of any dispute relating to the interpretation or application of any provision contained in this agreement, every effort shall be made to resolve such dispute between the parties, which may include escalation within the hierarchy of the parties. Where the parties are unable to resolve the dispute, the details of such dispute shall be referred to the Minister of Minerals and Energy for determination.

**ARTICLE V****Mechanisms and procedures for co-operation between the parties**

The following describes the mechanism and procedures for cooperation between the parties.

<b>Mechanisms</b>	<b>Procedures</b>
Ad Hoc Joint Coordinating Committee	The Ad Hoc Joint Coordinating Committee will meet as determined by the parties. The committee will consist of members as determined by the parties.

- v. A Joint Coordinating Committee must be established, and must be chaired by the Chief Executive Officer of the NNR.

- vi. Membership of this committee will consist of such numbers of representatives as agreed, with DDG: Electricity and Nuclear must the DME: DDGEN
- vii. The Joint Coordinating Committee must meet at least bi-annually.
- viii. The Joint Coordinating Committee may establish working groups as and when necessary.

#### **ARTICLE VI** Safety standards

Regulation No. R388, 28 April 2006, GG No. 28755 (attached) on safety standards and regulatory practice contained in Regulation No R388 shall be applicable to all relevant provisions for the regulation, monitoring and control of radiation hazards falling within the respective responsibilities of the parties. Where the regulation R388 does not adequately address the safety standards relating to responsibilities of the E&N, the parties may agree that a recommendation be made to the Minister of Minerals and Energy to have the regulation amended accordingly.

Both parties agree to use the following guidelines or standards:

3. Regulation No. R388 on safety standards and regulatory practices.
4. Any other guidelines, standards, procedures, regulations etc that may be developed or promulgated from time to time in terms of each others' legislation.

#### **ARTICLE VII** Coordination of monitoring and enforcement functions

The parties will cooperate in respect of the monitoring and compliance enforcement functions where it impacts on the other parties' responsibilities as agreed by procedures.

#### **ARTICLE VIII** **Expert assistance and support**

As and when required the parties agree to provide such expert assistance and/or support to each other

#### **ARTICLE X** Sharing of relevant information

The parties agree to keep each other informed by sharing with each other such information as each party deems relevant or as determined by the Joint Coordinating Committee or on request on a case by case basis.

**ARTICLE XI**

Coordination of responses to incidents/accidents

The NNR shall report on all nuclear incidents/accidents as defined in the NNR Act to the DME: DDGEN. Coordination of responses to incidents/accidents shall further be effected on any matter as determined by the parties.

**ARTICLE XII**

Amendments to co-operative agreements

This agreement constitutes the entire agreement between the parties and any amendments thereto shall only be effective when reduced to writing and signed by both parties.

Done and signed at Centurion on .....day of..... 2007.

.....  
Maurice T Magugumela  
Chief Executive Officer  
National Nuclear Regulator

Witnesses

1. ....

2. ....

Done and signed at ..... on .....day of.....2007

.....  
Nelisiwe Magubane  
Deputy Director General: Electricity and Nuclear  
Department of Minerals and Energy

Witnesses

1. ....

2. ....

**CO-OPERATIVE AGREEMENT  
IN RESPECT OF THE MONITORING AND CONTROL OF  
RADIOACTIVE MATERIAL AND EXPOSURE TO IONISING  
RADIATION**

In terms of the provisions of section 6 of the National Nuclear Regulator Act, 1996  
(Act No. 47 of 1999) and Regulation No. 709 of 24 May 2002

between

**THE NATIONAL NUCLEAR  
REGULATOR**



and

**THE DEPARTMENT OF HEALTH**



**MEMORANDUM OF  
CO-OPERATIVE AGREEMENT IN RESPECT OF THE MONITORING AND  
CONTROL OF RADIOACTIVE MATERIAL OR EXPOSURE TO IONISING  
RADIATION**

In terms of the provisions of section 6 of the National Nuclear Regulator Act (Act No .47 of 1999) and Regulation No. 709 of 24 May 2002  
between

**The National Nuclear Regulator**

and

**The Department of Health (Directorate Radiation Control)**

(Hereinafter referred to as “the parties”)

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**PREAMBLE**

**Whereas** the National Nuclear Regulator (hereinafter referred to as the NNR) has responsibilities with regard to the regulation of radiation hazards in terms of the National Nuclear Regulator Act (Act no 47 of 1999) (NNRA);

**And whereas** the Department of Health (Directorate Radiation Control) also has responsibilities with regard to the regulation of radiation hazards in terms of the Hazardous Substances Act, (Act 15 of 1972) (HAS);

**And whereas** the National Nuclear Regulator and the Department of Health (Directorate Radiation Control) (hereafter referred to as the RADCON) have concluded an agreement in terms of the requirements for co-operative governance as provided for in terms of the provision of section 6 of the National Nuclear Regulator Act;

**And whereas** regulatory control of Group IV\* hazardous substances is the regulatory responsibility of the RADCON (\*Radioactive material outside a Nuclear Installation and is not material which forms part of, or is used, or intended to be used, in the nuclear fuel cycle);

**And whereas** regulatory control of radioactive material falling outside of the definition of Group IV hazardous substance in terms of HSA is the regulatory responsibility of the NNR.

**And whereas** regulatory control of Group III hazardous substances as defined in the HSA is the regulatory responsibility of RADCON regardless of the fact that it may be within a nuclear installation;

**And whereas** the transport of radioactive material while in the possession or under the control of the holder of the nuclear installation licence is the regulatory responsibility of the NNR until the liability ends as referred to in section 30(3) of the NNRA. Where the liability



ends as provided for in section 30(3) (b) of the NNRA, the regulatory responsibility of such material transfers to the RADCON.

**Now therefore** the parties record the following-

### SCOPE

This agreement provides for the working relationship between the Department of Health (Directorate Radiation Control) and the National Nuclear Regulator with regard to:

- v. ensuring the effective monitoring and control of nuclear hazards;
- vi. co-ordinating the exercise of such functions;
- vii. minimizing the duplication of such functions and procedures; and
- viii. promoting consistency in the exercise of such functions.

### ARTICLE I

#### Time period for implementation of this agreement

The parties agree that this agreement must be implemented on the date of signature hereof.

### ARTICLE II

#### Co-ordination of functions with respect to the monitoring and control of radioactive material and exposure to ionising radiation

<b>Specific Activity</b>	<b>Lead responsibility</b>	<b>Support responsibility</b>	<b>Mechanisms &amp; procedures for co-operation</b>
Develop legislation safety standards, regulatory practices (where applicable) and guidelines.	The NNR to develop according to the NNRA	The RADCON to provide input	The NNR must involve the RADCON to participate in the development process.
	The RADCON to develop according to the HSA	The NNR to provide input on radiation matters	The RADCON must involve the NNR to participate in the development process.
IAEA safety standard committees	The RADCON to participate in IAEA safety standards committees, specifically in RASSC as a lead agent	The NNR to participate in IAEA safety standards committees, specifically in RASSC as an alternate agent	The RADCON to provide for the NNR to make inputs in the committee's processes and the RADCON to share information with the NNR.

	The NNR to participate in IAEA safety standards committees as a lead agent, specifically in TRANSC and WASSC	The RADCON to provide input	The NNR to provide for the RADCON to make inputs in the committee's processes and the NNR to share information with the RADCON.
Investigate accidents and incidents and other occurrences that might be of public interest.	The NNR to lead investigation related to the NNRA	The RADCON support where necessary	The NNR to provide for the RADCON to participate in investigations
	The RADCON to lead investigation related to HSA	The NNR support where necessary	The RADCON to provide for the NNR to participate in investigations
Issue authorisations and authorisation change requests	The NNR in terms of NNRA	The RADCON	The RADCON to provide input on generic conditions.
	The RADCON in terms of HSA	The NNR	The NNR to provide input on generic conditions including code of practice
Review routine reports	The NNR in terms of NNRA	The RADCON	The NNR and the RADCON share the results of annual reports which are of common interest
	RADCON in terms of HSA	The NNR	
Conduct inspections and audits	The NNR in terms of the NNRA	RADCON	The NNR and the RADCON share the findings which are of common interest and inform each other of possible anomalies
	The RADCON in terms of HSA	The NNR	
Conduct health and safety research and development	The NNR	The RADCON	The NNR would invite participation from the RADCON
Enforce legislation	The NNR in terms of the NNRA	The RADCON	Offences and non-compliances must be communicated to both parties and the necessary action taken.
	The RADCON in terms of HSA	The NNR	

**ARTICLE III****Measures to resolve non-compliance with this agreement**

In the event of either of the parties failing to comply with any provision of this agreement, every effort must be made to ensure compliance. Where the parties are unable to reach agreement on compliance, after referral to the Joint Co-ordinating Committee referred to in Article V, the details of such non-compliance must be reported to the Minister of Minerals and Energy for determination.

**ARTICLE IV****Resolution of disputes in respect of the interpretation or application of this agreement**

The parties agree that, in the event of any dispute relating to the interpretation or application of any provision contained in this agreement, every effort must be made to resolve such dispute between the parties. Where the parties are unable to resolve the dispute, after referral to the joint co-ordinating committee referred to in Article V, the details of such dispute must be referred to the Minister of Minerals and Energy for determination.

**ARTICLE V****Mechanisms and procedures for co-operation between the parties**

In order to implement the provisions of this agreement, the parties agree to the following:

- ix. A Joint Co-ordinating Committee must be established, and must be chaired by the Chief Executive Officer of the NNR.
- x. Membership of this Committee must consist of an equal number of representatives from each party, and the Director: Radiation Control must head the representation of the RADCON.
- xi. The Joint Co-ordinating Committee must meet at least bi-annually.
- xii. The Joint Co-ordinating Committee is responsible for the establishment of working groups, where the need arises, to conduct the tasks identified by the Committee to comply with this agreement.

**ARTICLE VI****Safety standards**

Regulation No. R388, 28 April 2006, GG No. 28755 (attached) on safety standards and regulatory practice contained in Regulation No R388 shall be applicable to all relevant provisions for the regulation, monitoring and control of radiation hazards falling within the respective responsibilities of the parties. Where the regulation R388 does not adequately address the safety standards relating to responsibilities of the DOH, the parties may agree that

a recommendation be made to the Minister of Minerals and Energy to have the regulation amended accordingly.

Both parties agree to use the following guidelines or standards:

5. Regulation No. R388 on safety standards and regulatory practices.
6. Any other guidelines, standards, procedures, regulations etc that may be developed or promulgated from time to time in terms of each others' legislation.

#### **ARTICLE VII**

##### Co-ordination of monitoring and enforcement functions

The co-ordination of monitoring and enforcement functions shall be carried out as indicated in article II

#### **ARTICLE VIII**

##### Record delegation

No delegation has been made in terms of section 238 of the Constitution.

#### **ARTICLE IX**

##### Expert assistance and support

The parties agree to provide expert assistance and support to one another as and when required, within the ambit of their respective mandates.

#### **ARTICLE X**

##### Sharing of relevant information

Relevant information must be shared by the quickest means of communication and be supported in writing by the parties. Such means of communication include but are not restricted to:

- Telephone
- E-mail
- Fax
- Ordinary mail
- Working groups and
- Joint co-ordinating committee

**ARTICLE XI**

Co-ordination of responses to incidents/accidents

The co-ordination of responses to incidents/accidents shall be carried out as outlined in article II.

**ARTICLE XII**

Amendments to co-operative agreements

This agreement constitutes the entire agreement between the parties and any amendment thereto must be reduced to writing after agreement by the joint co-ordinating committee and signed by both parties.

Thus done and signed at.....on this.....day

of..... 2007.

.....  
For **NATIONAL NUCLEAR REGULATOR**

**Maurice T Magugumela**

**Chief Executive Officer**

WITNESSES

1.....

2.....

Thus done and signed at.....on this.....day

of..... 2007.

.....  
For **DEPARTMENT OF HEALTH**

**Josephus H I Olivier**

**Director: Directorate Radiation Control**

WITNESSES

1.....

2.....

**MEMORANDUM OF  
CO-OPERATIVE AGREEMENT**

**In terms of the provisions  
of section 6 of the  
National Nuclear Regulator Act, 1999  
(Act No. 47 of 1999) and Regulation No. 709 of  
24 May 2002.**

**between**

**THE NATIONAL NUCLEAR  
REGULATOR**



**and**

**THE DEPARTMENT OF WATER  
AFFAIRS AND FORESTRY**



**MEMORANDUM OF CO-OPERATIVE AGREEMENT IN RESPECT OF THE  
MONITORING AND CONTROL OF RADIOACTIVE MATERIAL OR EXPOSURE TO  
IONIZING RADIATION**

**In terms of the provisions of section 6 of the  
National Nuclear Regulator Act, 1999 (Act No. 47 of 1999) and Regulation No.  
709 of 24 May 2002.**

between

**The National Nuclear Regulator**

and

**The Department of Water Affairs and Forestry**

(Hereinafter jointly referred to as "the parties")

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**PREAMBLE**

**Whereas:** The National Nuclear Regulator (hereinafter referred to as "the NNR") has responsibilities with regard to the regulation of radiation hazards in terms of the National Nuclear Regulator Act, 1999 (No 47 of 1999),

**And whereas:** The Department of Water Affairs and Forestry (hereinafter referred to as "the DWAF") also has responsibilities with regard to the regulation of the sources of radiation hazards that may impact on water resources, as well as to manage the water resources of the Republic of South Africa, and in terms of the National Water Act, 1998 (No. 36 of 1998), (NWA);

**And whereas:** The NNR and the DWAF must conclude an agreement in terms of the requirements for co-operative governance as provided for in terms of the provision of section 6 of the National Nuclear Regulator Act.

**Now therefore the parties record the following-**

**SCOPE**

This Agreement provides for the working relationship between the DWAF and the NNR with regard to:

1. ensuring the effective monitoring and control of nuclear hazards (including management with specific reference to the impacts on the water resources of South Africa)
2. co-ordinating the exercise of such functions;
3. minimising the duplication of such functions and procedures; and
4. Promoting consistency in the exercise of such functions.

## ARTICLE I

### Time period for implementation of this Agreement

The parties agree that this Agreement will be implemented on the date of signature hereof.

## ARTICLE II

### Co-ordination of functions with respect to the monitoring and control of radioactive material and exposure to ionising radiation

<b>Specific Activity</b>	<b>Lead responsibility</b>	<b>Support responsibility</b>	<b>Mechanisms &amp; procedures for co-operation</b>
Develop legislation, regulations, standards, guidelines and regulatory practices including conditions of authorisations and licences (where applicable).	The NNR to develop according to the NNRA.	The DWAF to provide input on water source and water resource management matters.	Respecting each others' legislation, the parties must consult with each other during development and prior to any publications or issuing of any of the mentioned documents.
	The DWAF to develop according to the NWA	The NNR to provide input on radiation matters	
Issue or amend authorisations in terms of each others' legislation	The NNR/DWAF	The DWAF/NNR	The parties must consult with each other prior to the issuing of such authorisations or amendments that may impact on each others' jurisdiction as per the scope of this Agreement
Monitoring and the sharing of results	The NNR/DWAF	The DWAF/NNR	The parties must share monitoring results as are provided for in each party's respective laws.
Investigate accidents, incidents and other	The NNR/DWAF	The DWAF/NNR	Joint investigation to be conducted



occurrences which impact on water resources or any users			
Conduct inspections and audits in terms of each party's respective legislation	The NNR/DWAF	The DWAF/NNR	The parties must communicate timeously to each other on any radiation anomalies identified during their inspections/audits and must share the findings/results of such inspections/audits
Review routine reports relevant to radiation	The NNR	The DWAF	The NNR must provide the DWAF with results
Conduct research and development in terms of each party's legislation	The NNR/DWAF	The DWAF/NNR	The parties must invite participation from each other
Enforce legal requirements (radiation)	The NNR/DWAF	The DWAF/NNR	The parties must enforce compliance with their own respective legislation.

### ARTICLE III

#### Measures to resolve non-compliance with this Agreement

In the event of either of the parties failing to comply with any provision of this Agreement, every effort must be made to ensure compliance, which includes escalation within the hierarchy of the parties. Where the parties are unable to reach agreement on compliance, the details of such non-compliance must be reported to the Minister of Minerals and Energy for determination.

### ARTICLE IV

#### Resolution of disputes in respect of the management of nuclear matters or the interpretation or application of this Agreement

The parties agree that, should any conflict arise in the interpretation of the joint responsibilities of the parties with respect to guidelines and standards regarding nuclear matters or in the event of any dispute relating to the interpretation or application of any provision contained in this Agreement, every effort must be made to resolve such dispute by means of mutual consensus between the parties, which includes escalation within the hierarchy of the parties should consensus not be reached. Where the parties are unable to resolve the dispute, after referral to the Joint Co-ordinating Committee referred to in article V, the details of such dispute must be rereferred to the Minister of Minerals and Energy for determination

**ARTICLE V****Mechanisms and procedures for co-operation between the parties**

In order to implement the provisions of this Agreement, the parties agree to the following:

- xiii. A Joint Co-ordinating Committee must be established, and must be chaired by the Chief Executive Officer of the NNR.
- xiv. Membership of this committee must consist of an equal number of representatives from each party.
- xv. The Joint Co-ordinating Committee must meet at least bi-annually.
- xvi. The Joint Co-ordinating Committee is responsible for the establishment of working groups, where the need arises, to conduct the tasks identified by the committee to comply with this Agreement.

**ARTICLE VI****Standards and guidelines**

Regulation No. R388, 28 April 2006, GG No. 28755 (attached) on safety standards and regulatory practice contained in Regulation No R388 shall be applicable to all relevant provisions for the regulation, monitoring and control of radiation hazards falling within the respective responsibilities of the parties. Where the regulation R388 does not adequately address the safety standards relating to responsibilities of the DWAF, the parties may agree that a recommendation be made to the Minister of Minerals and Energy to have the regulation amended accordingly.

Both parties agree to use the following guidelines or standards:

- 7. Regulation No. R388 on safety standards and regulatory practices.
- 8. Any other guidelines, standards, procedures, regulations etc that may be developed or promulgated from time to time in terms of each others' legislation.

Subject to Article XII of this Agreement, as these guidelines, standards, procedures, regulations etc, are developed, their incorporation into this document must be as an addendum to this Agreement.

**ARTICLE VII****Co-ordination of monitoring and enforcement functions**

The co-ordination of monitoring and enforcement functions shall be carried out as indicated in Article II.

**ARTICLE VIII**  
Record of delegation

No delegation has been made in terms of section 238 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), ("The Constitution").

**ARTICLE IX**  
Expert assistance and support

The parties agree to provide expert assistance and support to one another as and when required, within the ambit of their respective mandates.

**ARTICLE X**  
Sharing of relevant information

Relevant information must be shared by the quickest means of communication and be supported in writing by the parties. Such means of communication include but are not restricted to:

- Telephone
- E-mail
- Fax
- Ordinary mail
- Working groups and
- Joint Co-ordinating Committee

**ARTICLE XI**  
**Co-ordination of responses to incidents/accidents**

The co-ordination of responses to incidents/accidents shall be carried out as outlined in Article II.

**ARTICLE XII**  
Amendments and addendums to this Co-operative Agreement

This Agreement constitutes the entire Agreement between the parties and any amendments thereto must be reduced to writing after agreement by the Joint Co-ordinating Committee and signed by both parties.

Thus done and signed at.....on this.....day

of..... 2007.

.....  
**For NATIONAL NUCLEAR REGULATOR**  
**Maurice T Magugumela**  
**Chief Executive Officer**

WITNESSES

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Thus done and signed at ..... on this.....day

of.....2007

.....  
**For DEPARTMENT OF WATER AFFAIRS AND FORESTRY**  
**Mr Jabulani Sindane**  
**Director General**

WITNESSES

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**CO-OPERATIVE AGREEMENT  
IN RESPECT OF THE MONITORING AND CONTROL OF  
RADIOACTIVE MATERIAL OR EXPOSURE TO IONISING  
RADIATION**

**In terms of the provisions of section 6 of the National Nuclear Regulator Act (Act  
No. 47 of 1999) and Regulation No. 709 of 24 May 2002**

**between**

**THE NATIONAL NUCLEAR REGULATOR**



**and**

**THE SOUTH AFRICAN MARITIME SAFETY AUTHORITY**



**MEMORANDUM OF  
CO-OPERATIVE AGREEMENT IN RESPECT OF THE MONITORING  
AND CONTROL OF RADIOACTIVE MATERIAL OR EXPOSURE TO  
IONISING RADIATION**

In terms of the provisions of section 6 of the National Nuclear Regulator Act (Act No.47 of 1999) and Regulation No. 709 of 24 May 2002

between

**The National Nuclear Regulator**

and

**The South African Maritime Safety Authority**

(Hereinafter referred to as “the parties”)

**PREAMBLE**

**Whereas** the National Nuclear Regulator (hereinafter referred to as the NNR) has responsibilities with regard to the regulation of radiation hazards in terms of the National Nuclear Regulator Act (Act No. 47 of 1999);

**And whereas** the South African Maritime Safety Authority (hereinafter referred to as the SAMSA) also has responsibilities with regard to radiation hazards in terms of the South African Maritime Safety Authority Act (Act No. 5 of 1998) and other related legislation;

**And whereas** the parties acknowledge and respect each others’ autonomy and statutory responsibilities whilst recognizing the NNR as the lead authority in the regulation of radiation hazards with a view to protecting persons, property and the environment against nuclear damage;

**And whereas** the NNR and the SAMSA have an agreement in terms of the requirements for co-operative governance as provided for in terms of the provisions of section 6 of the National Nuclear Regulator Act;

**Now therefore** the parties record the following:

**SCOPE**

This agreement provides for a working relationship between the SAMSA and the NNR with regard to the maritime transport of radioactive material for the purpose of:

- i. ensuring the effective monitoring and control of nuclear hazards;
- ii. co-ordinating the exercise of such functions;
- iii. minimizing the duplication of such functions and procedures; and

- iv. promoting consistency in the exercise of such functions.

### ARTICLE I

#### Time period for implementation of this agreement

This agreement commences on the date of signature hereof and each party will bear its own costs in respect of the implementation thereof.

### ARTICLE II

#### Co-ordination of functions with respect to the monitoring and control of radioactive material and exposure to ionising radiation

Specific activity	Lead responsibility	Support responsibility	Mechanisms & procedures for co-operation
Develop legislation, safety standards and regulatory practices including conditions of authorisation (where applicable) and guidelines	The NNR to develop according to NNRA and other related legislation	The SAMSA to provide input	The NNR to involve SAMSA in the development process.
	The SAMSA to develop according to SAMSA Act and other related legislation	The NNR to provide input in relation to radiation matters	The SAMSA to involve the NNR in the development process.
Issue nuclear authorisations in terms of NNRA	The NNR	The SAMSA	The NNR to consult the SAMSA.
Issue authorisation change requests in terms of NNRA	The NNR	The SAMSA	The NNR to inform the SAMSA in writing of the status of authorisations.
Investigate accidents, incidents and other occurrences which impact on the public	The NNR to investigate according to NNRA and other related legislation	The SAMSA	Joint investigations to be conducted where practicable.
	The SAMSA to investigate according to the SAMSA Act and other related legislation	The NNR	
Conduct inspections and audits	The NNR to inspect and audit according to the NNRA and other related legislation	The SAMSA	The NNR to communicate findings to the SAMSA. The SAMSA to communicate any radiation anomalies

<b>Specific activity</b>	<b>Lead responsibility</b>	<b>Support responsibility</b>	<b>Mechanisms &amp; procedures for co-operation</b>
	The SAMSA to inspect and audit according to the SAMSA Act and other related legislation	The NNR	identified during its general inspections to the NNR for action.
Review of compliance with the NNRA	The NNR	The SAMSA	The NNR to deal directly with authorisation holders and provide the SAMSA with a report. The parties to communicate and co-ordinate corrective actions.
Conduct research and development on radiation hazards	The NNR	The SAMSA	The NNR to integrate with existing strategies in the SAMSA.
Enforce legislation in terms of NNRA	The NNR	The SAMSA	Offences and non-compliances to be communicated to both parties and the necessary action taken after consultation between the parties.
Enforce legislation in terms of the SAMSA Act and other related legislation	The SAMSA	The NNR	

### **ARTICLE III**

#### Measures to resolve non-compliance with this agreement

In the event of either of the parties failing to comply with any provision of this agreement, every effort will be made to rectify the non-compliance. Where the parties are unable to reach agreement on compliance after referral to the Joint Co-ordinating Committee referred to in Article V, the parties must report such details to the Minister of Minerals and Energy for determination.

### **ARTICLE IV**

#### Resolution of disputes in respect of the interpretation or application of this agreement

The parties agree that, in the event of any dispute relating to the interpretation or application of any provision contained in this agreement, every effort will be made to resolve the dispute between the parties. Where the parties are unable to resolve the dispute after referral to the joint co-ordinating committee referred to in Article V, the parties must report such details to the Minister of Minerals and Energy for determination.



**ARTICLE V****Mechanisms and procedures for co-operation between the parties**

In order to implement the provisions of this agreement, the parties agree to the following:

- i. A Joint Co-ordinating Committee will be established with the Chief Executive Officer of the NNR as its chair.
- ii. Membership of this committee will consist of an equal number of representatives from each party, and the Chief Executive Officer of the SAMSA will head the representation of the SAMSA.
- iii. The Joint Co-ordinating Committee will meet at least bi-annually.
- iv. The Joint Co-ordinating Committee will establish working groups, where the need arises, to conduct the tasks identified by the committee to comply with this agreement.
- v. The NNR will provide secretariat services for the Joint Co-ordinating Committee.

**ARTICLE VI****Safety standards**

Regulation No. R388, 28 April 2006, GG No. 28755 (attached) on safety standards and regulatory practices shall be applicable to all relevant provisions for the regulation, monitoring and control of radiation hazards falling within the respective responsibilities of the parties. Where Regulation R388 does not adequately address the safety standards relating to responsibilities of the SAMSA, the parties may agree that a recommendation be made to the Minister of Minerals and Energy to have the regulation amended accordingly.

Both parties agree to use the following guidelines or standards:

9. Regulation No. R388 on safety standards and regulatory practices.
10. Any other guidelines, standards, procedures, regulations etc that may be developed or promulgated from time to time in terms of each others' legislation.

**ARTICLE VII****Co-ordination of monitoring and enforcement functions**

The co-ordination of monitoring and enforcement functions will be carried out as indicated in Article II.

**ARTICLE VIII**  
Record of delegation

No delegations have been made under section 238 of the Constitution.

**ARTICLE IX**  
Expert assistance and support

As and when required, the parties agree to provide expert assistance to each other. The NNR will provide radiation expert assistance and support to the SAMSA. The SAMSA will provide relevant expertise and support in respect of maritime transport to the NNR.

**ARTICLE X**  
Sharing of relevant information

Relevant information will be shared by the parties by the quickest available means of communication. Information communicated orally will be confirmed in writing.

Means of communication include, but are not restricted to:

- Telephone
- E-mail
- Fax
- Ordinary mail
- Working groups
- The joint co-ordinating committee

**ARTICLE XI**  
Co-ordination of responses to incidents/accidents

The co-ordination of responses to incidents/accidents will be carried out as outlined in Article II.

**ARTICLE XII**  
Amendments to co-operative agreements

This agreement constitutes the entire agreement between the parties, and any amendment thereto will be effective only when reduced to writing after agreement by the joint co-ordinating committee and signed by both parties.

Thus done and signed at ..... on this ..... day of ..... 2007.

.....  
**For The National Nuclear Regulator**  
**Maurice Magugumela**  
**Chief Executive Officer**

WITNESSES

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Thus done and signed at ..... on this..... day of ..... 2007.

.....  
**For The South African Maritime Safety Authority**  
**Carl Briesch**  
**Acting Chief Executive Officer**

WITNESSES

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