**ANNEXURE B: ANALYSIS OF LEASE COMPLIANCE BY COMPANIES LEASING LAND FROM DAFF**

| # | **DESCRIPTION** | **RESPONSIBILITIES** | | **PROGRESS** |
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| **Government**  **(DAFF)** | **Companies**  **(MTO, Singisi, Amathola and SiyaQhubeka)** |
|  | Period & termination  Lease period is indefinite (minimum occupancy of 70 years) | Can cancel the lease license if:  - Material change in circumstances from those existing at the time the lease was concluded. | Can cancel the lease if:  - deprived of a portion of leased land due to land invasion rendering the continued use of the portion un economical.  - any portion of the leased land is subject to land claims and such land claimants receive the land free of the lease | No cancellation on any portion of the leased land has taken place to date. |
|  | Rentals  Payment of annual Lease rental | - To escalate the lease rentals and invoice companies on or prior to 15 December of every calendar year.  - Invest rentals into interest bearing account  -Payment of lease rental to land claimants. | - Payment of annual lease rentals to DAFF on or before the 1st of January of every calendar year.  - | - To date the companies have paid about R666m in lease rentals.  -Amathole, MTO and SiyaQhubeka are paying the lease rentals on annual basis in January of every calendar year.  - For the past five years, Singisi has been paying the lease rentals on quarterly basis as per an arrangement made between them and DAFF. |
|  | Rent review  Review of lease rental rates every 5 years | To participate in the rent review process, which involves:  -negotiating with the companies as to the rentals and annual escalation that should be payable for the review period.  - joint appointment of a registered valuer to determine the lease rental payable for the review period. | To participate in the rent review process, which include:  -negotiating with the companies as to the rentals and annual escalation that should be payable for the review period.  - Joint appointment of a registered valuer to determine the lease rental payable for the review period. | The Rent review process for SiyaQhubeka. AFC and MTO was last undertaken in 2015 and will be undertaken again in 2019  DAFF and Singisi are currently busy with a rent review process for the Singisi lease. A registered valuer has been appointed to review the lease rentals. |
|  | Grant of Lease Licence  The minister to issue the companies with a Lease licences | The minister to issue the companies with a Lease licences within three months of the commencement of the lease. | To comply with the conditions of the lease licence. | All the companies were issued a Lease Licence and is attached to the lease. |
|  | Bank guarantees | Entitled to cash out the guarantee any outstanding payments by the company | To deliver to DAFF bank guarantees for an amount equal to the annual rental of the calendar year escalated | All companies are delivering bank guarantees to DAFF at the beginning of each calendar year. |
|  | Use and changes of use of the leased land. | To consider and approve or reject proposal from the companies for a change of use of the leased land. | The companies may only use the leased land for forestry purposes.  The companies can only vary the use of the leased land with the approval of DAFF. | No major changes have taken place on the leased land.  Most changes that have taken place were due to delineation of water reserves and applications for power lines, road upgrades and communication towers. |
|  | Sustainable management of Forests | To monitor companies' compliance with sustainable Forest management practices. | To obtain certification from an international accredited organisation e.g. Forestry Stewardship Council (FSC). | All the companies are certified and they submit their updated FSC certificate to DAFF on an annual basis. |
|  | Access to research facilities | To monitor the condition of research plots | To protect research plots against damage or fire at their own expense. | All research plots are still in good condition.  Authorised institutions are allowed access to the research plots |
|  | Right to inspection and formation | To analyse companies reports to determine compliance with the following:  -Sustainable volumes of timber harvested.  -Temporally unplanted(TUP) are kept below 3% of the total plantable area.  Licences for new planting or virgin planting are obtained from the relevant authorities.  - Fire protection measures are executed. | To submit on or before the last day of December in each year reports on the following:  -Details of volumes and area of timber harvested.  -Details of planting and replanting of timber.  - Proof of Fire Protection Association membership  - Proof of planting license for new planting.  - details of improvements, additions of permanent structures, including roads, drainage systems  - Financial information in respect of activities other than forestry carried out on the leased land. | MTO and Amathola have applied for a planting licence for certain areas and the planting licences have not been issued yet |
|  | Transfer of land to land claimants | To negotiate head lease agreements with land claimants if leased land is restored to land claimants with the lease in place.  To compensate the companies if the leased land is restored to land claimants free of the lease agreements | To participate in the land reform process. . | DAFF, DRDLR, Singisi & SiyaQhubeka are currently engaged in discussions regarding the suitable settlement model for settling land claims lodged against the leased land. |
|  | Maintenance of improvements and alterations and additions | To monitor compliance with the maintenance of infrastructure. | To maintain and repair all improvements on the leased land at their own costs. | During land use verification audits, infrastructure such as the houses is inspected to verify whether they do receive maintenance and repairs from time to time. |
|  | Subletting | To consider applications from the companies for subletting and provide consent within 60 days of receipt of the aplication. | To apply for DAFF’s consent, if they intend to sub- let a portion of the leased land. | Singisi has sub-let a portion of the leased land to another company for forestry purposes.  The other companies have only done minor sub- letting of open land to operators of communication towers. |
|  | Proof of Asset insurance | Entitled to ensure but not obliged to ensure permanent fixtures on the leased land. | Should not keep on the leased land any item on the leased land that may result in any insurance policy held by the lessor rendered void. | Government has not taken any insurance for the permanent fixtures on the leased land. |
|  | Proof of Public Risk Insurance | To monitor that the companies have a public liability insurance at all times. | To keep current at all times during the term of the lease a policy of public risk insurance,  To provide DAFF with a copy of a Public Risk insurance policy and a certificate of currency annually  To provide DAFF with a list of claims against the Public Risk Insurance | All the companies provide DAFF with a copy of a Public Risk insurance policy and a certificate of currency on annual basis. |
|  | Third party rights  -Rights of communities living adjacent the leased land  - ESKOM Servitude rights  -Licences and contracts | - To monitor that third parties are allowed to exercise the rights they have on the leased land. | To permit third parties to exercise the rights they have on the leased land. | Certain communities have customary rights on the leased land, which include grazing rights, water, fuel wood, honey and thatching grass collection, which the companies are obliged to permit. |
|  | Licensing and contracting | The minister has delegated his licensing responsibility to the companies in accordance with the NFA | The companies have a delegated authority to issue licence and contract with third parties. |  |
|  | Schedule of land rights issues | To determine procedure for on- going company liaison between communities and companies.  To monitor whether companies engage in on-going liaison with communities living next to their operations. | - To be involved in on-going liaison with surrounding communities  -determine procedure for such liaison | Companies report on quarterly basis on their engagements with communities living next to their operations. |
|  | Public Access  Public access for recreational and other purposes in terms NFA | To monitor that the companies allow access to the leased land for recreational and other in terms NFA | To allow access to the leased land for recreational and other in terms NFA  Maps and access rules and conditions provided | Companies have designated areas for recreational and other purposes. They updated and submit maps and rules for the designated areas to DAFF on annual basis |
|  | Indemnity |  | To indemnify and keep the lessor harmless against claims, demands, damage as result of their operations |  |
|  | Breach of contract and remedies | Has a right to cancel the lease, If a company commits a material breach that goes to the root of the lease and fails to remedy it. |  | No material breach that warrants DAFF to cancel any lease agreement has been committed. |
|  | Registration of the lease in the Deeds Office | To provide assistance and to sign all such documents necessary to procure such registration.  -To survey un-surveyed properties to enable registration | To procure registration of the lease agreement in the relevant deeds office | No lease has been registered yet.  DAFF has appointed the State Attorney to assist with the registration  Companies to provide information required for the registration – information still outstanding |