

RESOLUTION 4 OF 2015

AGREEMENT ON THE OPERATION OF PHSDSBC CHAMBERS

1. PURPOSE

The purpose of this agreement shall be to re-align PHSDSBC Chambers in each province and at a national level, in terms of clause 16 of its Constitution. It repeals PHSDSBC's Resolution 2 of 2007.

2. LEGAL STATUS

A Chamber of the PHSDSBC shall, in terms of its Constitution, not be a juristic person.

3. SCOPE OF APPLICATION

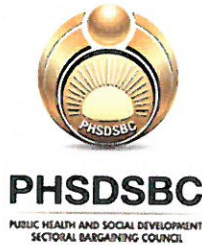
This agreement binds:

- 3.1 The state as the Employer;
- 3.2 Public Health and Social Development personnel employed by the Employer who are members of the Trade Union parties to this agreement; and
- 3.3 Public Health and Social Development personnel employed by the Employer who are not members of any Trade Union party to this agreement, but who fall within the registered scope of the Public Health and Social Development Sectoral Bargaining Council (PHSDSBC).



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4. FUNCTIONS OF CHAMBERS

A Chamber shall have the following functions –

- 4.1 Deal with such matters and conclude agreements, referred or delegated to it in terms of the Constitution of the Council.
- 4.2 Conclude agreements on matters applicable to employees employed in the area or sector for which the Chamber was established, falling within the scope, power and functions of the executive authority of the relevant organisational component of an employer represented in that Chamber, provided that such agreements may not conflict with any collective agreement concluded in the Council, and may not apply to more than one province;
- 4.3 Refer matters that fall outside its scope, and which matters should be dealt with by the PHSDSBC or the PSCBC, to the General Secretary;
- 4.4 Refer agreements reached within the Chamber to the PHSDSBC for endorsement and/or extension, failing which such collective agreement concluded at a Chamber shall be of no force and effect unless ratified by the Council in terms of the Constitution;
- 4.5 Report on its activities to the Council on a quarterly basis;
- 4.6 Implement and monitor agreements reached at the PHSDSBC and the PSCBC;
- 4.7 Periodically establish and disestablish task teams as required for a specific program identified by the Chamber and/or the Council

 
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5. DECISIONS OF THE CHAMBERS

- 5.1 All decisions of a Chamber excluding decisions on short term operational issues shall be reported to the Council for consideration.
- 5.2 Parties shall endeavour to reach decisions by consensus. If no consensus is reached, a decision shall be reached by a simple majority (50%+1 of the admitted trade union parties to the Chamber on one side and the Employer on the other side).
- 5.3 Any decision of a Chamber, excluding a decision on short-term operational issues shall not be implemented –
- 5.3.1 For at least thirty (30) days from the date that the report is received by the Council, or
- 5.3.2 Any other date as determined by the Council.
- 5.4 If a decision of a Chamber infringed upon the jurisdiction of the Council, the Council may vary or set aside the decision of such Chamber, within
- 5.4.1 The thirty day period in terms of the constitution, or
- 5.4.2 Such a longer period as the Council may, before the expiry of the thirty day period, determine, with regard to the specific decision.
- 5.5 Any decision of the meeting preceding the Councils' Annual General Meeting (AGM) shall be reported to the PHSDSBC for consideration and may be ratified, set aside or varied by the PHSDSBC, unless the PHSDSBC has specifically assigned the powers or functions to that Chamber.
- 5.6 Notwithstanding the provisions of paragraph 5.2 above, a Chamber may implement decisions on short term operational issues, such as dates of meetings of the Chamber. The Council may issue standing orders

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specifying in more detail the types of issues to be considered “short term operational issues” or those falling outside the ambit of that term. Chambers are bound by such standing orders.

6. CHAMBER REPRESENTATION

- 6.1 The trade union parties to the Council with members employed within the jurisdiction of a chamber shall each be represented in that Chamber by a maximum of two (2) representatives and shall be entitled to have a maximum of two (2) observers.
- 6.2 The Employer shall be represented in a Chamber by authorized representatives appointed by the executing authorities representing the employers that fall within the jurisdiction of the Chamber. The Employer shall be entitled to have a number of representatives equal to those of all the admitted trade unions participating in the Chamber.
- 6.3 The Employer shall be entitled to have a number of observers equal to its number of representatives.
- 6.4 A party exceeding its number of representatives shall be excused from the meeting with respect to representation in the Chamber.

7. TERMINATION OF MEMBERSHIP

- 7.1 Should a party's membership to the Council be terminated in terms of the Council's constitution, its representatives shall vacate their seats in the Chamber.

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8. ELECTION OF OFFICE BEARERS

8.1 Chairperson and Vice-Chairperson:

- 8.1.1 At the meeting preceding the Councils' AGM, unless otherwise agreed, the parties shall elect a Chairperson and a Vice-Chairperson, one from the Employer and the other from the Employee parties to the Chamber. Nominations must be submitted to the Secretary of the Chamber in writing, fourteen (14) working days prior to the meeting preceding the Councils' AGM. At this meeting the Chamber Secretary shall act as the presiding officer.
- 8.1.2 The Secretary of the Chamber shall send all nominations to parties, seven (7) working days prior to the meeting referred to in paragraph 8.1.1.
- 8.1.3 The person receiving the highest percentage of the total votes shall be declared the duly elected Chairperson. Should there be an equal number of votes cast for two or more candidates, the presiding officer shall write the name of such candidates on a piece of paper, insert them into a container and draw one out. The candidate whose name is drawn first shall be declared the elected Chairperson. If the Chairperson is from the Employer, the Vice-Chairperson shall be nominated and appointed by Labour and vice versa.
- 8.1.4 The Chairperson and Vice-Chairperson shall hold office from the meeting preceding the Councils' AGM to the next meeting preceding the Councils' AGM, unless removed by a decision of the Chamber, after consultation with the PHSDSBC. The Chairperson or Vice-Chairperson so removed, or any past Chairperson may be re-elected or Vice-Chairperson may be nominated and appointed, as the case may be.
- 8.1.5 The Chairperson shall preside over all meetings of the Chamber.


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8.1.6 The office bearers, that is, the Chairperson, Vice-Chairperson and the Chamber Secretary shall constitute a management committee as per the provisions of the procedure manual for co-ordination of PHSDSBC Chambers.

8.1.7 The Chairperson and, in the absence of the Chairperson, the Vice Chairperson, shall –

8.1.7.1 Enforce order in all meetings at which he/she is present in accordance with the normal meeting procedure;

8.1.7.2 Sign the minutes of the meeting after confirmation thereof;

8.1.7.3 Perform such other duties as by usage and custom pertain to the office of the Chairperson;

8.1.7.4 Whenever the Chairperson is not available, the Vice-Chairperson shall be the Acting Chairperson and shall exercise the powers and perform the functions and duties of the Chairperson.

8.1.7.5 Whenever the Chairperson or Vice-Chairperson are not available or are unable to perform their duties, the parties present shall elect from their number someone to act as Chairperson in that meeting.

8.1.7.6 The Chairperson or Vice-Chairperson shall not be entitled to vote on any matter, provided that if the Vice-Chairperson has not been replaced by another representative of that party to the Chamber, such Vice-Chairperson shall be entitled to vote on any matter, and the same applies to the representatives elected to act as Chairperson in the absence of the Chairperson or the Vice Chairperson.

8.1.7.7 The term of office of the Chairperson and Vice Chairperson may be terminated by written notice of either, such

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Chairperson or Vice-Chairperson, or by the PHSDSBC consequent to a resolution to that effect taken in the Chamber.

9. SECRETARIAT SERVICES

9.1 The Council shall avail an independent Chamber Secretary to perform secretariat services on a permanent basis. The Chamber Secretary shall be appointed and stationed at a national level.

9.2 The Chamber Secretary shall –

9.2.1 Attend the meetings of the Chamber and record the minutes of the meetings.

9.2.2 Conduct all correspondence of the Chamber.

9.2.3 Perform such other duties of the Chamber, as the PHSDSBC or Chamber Chairperson may direct.

9.2.4 Keep an accurate filing system relating to the affairs of the Chamber.

9.2.5 Conduct general office administration in support of the Chamber activities, including advice on the constitution and the Agreement on Operations of Chambers.

9.2.6 Implement the Chamber vote weights as determined by the PHSDSBC in accordance with the provisions of the Constitution.

9.2.7 Keep in safe custody at the offices of the Council, for a period of not less than three (3) years, a copy of the approved minutes of each meeting of the Chamber, duly signed and dated by the Chairperson who presided at such meeting.

9.2.8 Compile the annual report of the Chamber, which report, approved by the Chamber, shall be submitted to the PHSDSBC by no later than 30 April of each year.

9.2.9 Provide the PHSDSBC with such information on Chambers as required.

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9.2.10 Refer all agreements reached in the Chamber to the PHSDSBC for ratification;

10. MEETINGS OF THE CHAMBERS

- 10.1 The Chambers shall meet bi-monthly, provided that requests for Special Meetings of the Chambers shall be made by parties through the General Secretary of the Council.
- 10.2 In respect of task teams of the Chamber, the meetings thereof shall take place as and when decided by the Chamber.
- 10.3 Reports of the task teams to the Chamber shall be communicated to members of the Chamber by the Chamber Secretary five (5) working days prior to the Chamber meeting.
- 10.4 The meeting of the Chamber preceding the PHSDSBC Annual General Meeting (AGM):
- 10.4.1 The Chamber shall meet bi-monthly, one of which shall be the meeting preceding the Councils' AGM, in which event the Chamber Secretary shall give at least 14 days written notice, or such shorter period agreed to by all parties, setting out the time, date and venue and business to be transacted, provided that such meeting shall be held at least 45 days prior to the Annual General Meeting of the PHSDSBC.
- 10.4.2 The following matters shall be dealt with at the meeting preceding the Councils' AGM:
- 10.4.2.1 The election of a Chairperson and Vice-Chairperson;
- 10.4.2.2 The confirmation of the annual report of the Chamber.

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10.5 Special Meetings

10.5.1 The Chairperson of the Chamber, shall upon receipt of a written request by any party to the Chamber, call a Special Chamber Meeting provided that the Chamber Secretary shall consult with the General Secretary of the Council first and parties to the Chamber, prior to the calling of such meeting.

10.5.2 The written request should state the nature of business to be transacted at the meeting.

11. VOTING WEIGHTS

The voting weight of each trade union to the Council that sits in a Chamber established under the Constitution shall be equal to the number of members in good standing of such a trade union who are employees within the scope of the Chamber as on 31 December of the previous year, expressed as a percentage of the aggregate number of trade union members of trade unions to the Council who are employees within the scope of the Chamber on that date.

11.1 Voting

11.1.1 The Employer has a collective vote of 50% which shall be exercised by its representatives; and the admitted trade unions shall hold the other 50% collectively.

11.1.2 Trade union representatives shall vote on the basis of their voting weights as determined by the PHSDSBC for such a Chamber

11.1.3 The voting shall be by show of hands, unless a party requests a ballot, in which event the voting shall be by way of secret ballot.

11.1.4 The Chamber Secretary shall act as Presiding Officer.

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12. INTERPRETATION AND APPLICATION

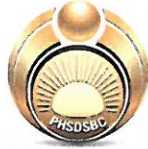
Where this Agreement is silent on matters contained in the Constitution or where there is conflict between the provisions of this Agreement and the Constitution, the provisions of the Constitution shall take precedence.

13. DISPUTE RESOLUTION

Any dispute about the interpretation or application of this Agreement should be dealt with according to the dispute procedure of the Council.

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THUS DONE AND SIGNED AT CENTURION ON
THIS 28 DAY OF OCTOBER 2015.

ON BEHALF OF THE EMPLOYER:

STATE AS EMPLOYER	NAME	SIGNATURE
	NTINGANE	

ON BEHALF OF EMPLOYEE PARTIES:

TRADE UNION	NAME	SIGNATURE
DENOSA	Thandeka Msibi	
HOSPERSA	Syden Mtshali	
NEHAWU	Miko Shingange	
NUPSAW	Puleg Rachel Mphahlele	
PSA		

PHSDSBC PROCEDURE MANUAL FOR COORDINATION OF CHAMBERS



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FOREWORD

This Procedure Manual shall serve as guide to PHSDSBC's Chambers to ensure that the meetings of the chambers are conducted in the most effective and efficient manner towards the realization of the objectives of the PHSDSBC.



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Therefore this document must be read with the relevant resolutions and the PHSDSBC Constitution.

PURPOSE

The purpose of the manual is to:

- 2.1. Give effect to PHSDSBC 4 of 2015: Agreement on the Operations of Chambers;
- 2.2. Provide for the establishment of a Management Committee of a Chamber;
- 2.3. Provide for a procedure for placing proposals on the agenda of the Chamber;
- 2.4. Provide for the management and coordination of meetings;
- 2.5 Provide for an environment conducive to expedite negotiations and deliberations during meetings;
- 2.6 Facilitate for expeditious resolution of matters presented to the Chamber and its structures;
- 2.7 Clarify the roles and functions of the different structures of the chamber once an item has been placed in the Chamber for negotiations.



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3. MANAGEMENT COMMITTEE

- 3.1 The Chairperson, Vice-Chairperson and Secretary shall constitute a Management Committee.
- 3.2 The Role of the Management Committee is outlined in Clause 7.1 below.

4. PROCEDURE PRIOR TO MEETINGS

4.1 Submission of agenda items

- 4.1.1 Where a party to the Chamber wishes to place on the agenda of a Chamber meeting an item that needs to be considered by the Chamber, that party shall submit its proposal in writing to the Secretary of the Chamber
- 4.1.2 The proposal shall contain where possible, but not be limited to the following:
 - 4.1.2.1 A well-motivated Problem statement.
 - 4.1.2.2 Where possible provide the cost implications in dealing with issue/s problem/s.
 - 4.1.2.3 Provide recommendations if applicable and proposals for a way forward.
 - 4.1.2.4 Provide an indication of whether or not there would be time required for presentation in the chamber.
- 4.1.3 The Secretary shall arrange that the proposal be circulated to the management committee and to the parties to the Chamber.



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- 4.1.4 The proposal shall be submitted to the Secretary five (5) working days before the meeting of the Management Committee and shall be circulated to the members at least three days before their meeting.
- 4.1.5 The Management Committee shall prepare an agenda, which shall be circulated to all chamber members five (5) working days before the meeting of the Chamber.
- 4.1.6 The Management Committee shall in its report list those items not placed on the agenda and provide reasons. The Chamber shall have the final decision on whether to place such items on the agenda.
- 4.1.7 If a matter/issue arises between the agenda being circulated and the meeting of the Chamber, or if a party fails to utilize the process stated above, the Chamber shall consider the issue and take an appropriate decision on whether to allow the matter/issue to be placed on the agenda or not.
- 4.1.8 Based on the urgency of a written request, the Chairperson may on his/her own initiative, or must at the request of a party to the Chamber, call a special meeting of the Chamber to deal with an urgent matter, provided that the employer plus a number of admitted trade unions representing the majority of the votes on the side of labour consent thereto.



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4.2. Notices of meetings

4.2.1 The Secretary must serve on the parties to the Chamber a written notice of a meeting showing the date, time and the business to be transacted, at least 5 working days before the date of such a meeting or in the case of clause 3.1.8 above, as the Chairperson determines before the date of such a meeting.

4.2.2. It shall be deemed that due notice had been given to a party, if notice of any meeting was given, by:

4.2.2.1 the Secretary of the Chamber serving notice on any representative of the party concerned;


4.2.2.2 the posting of registered letter containing the notice to the party, at the registered address;
or

4.2.2.3 telefaxing the notice to the office, provided that the telefax receipt shows that the notice had been transmitted to and received by the addressee; and

4.2.2.4 Emailing the notice

4.2.3 The Secretary must also compile a bundle of documents, including the agenda, minutes of previous meetings, the proposals/ motivations on each agenda item, reports etc. and distribute these to parties to the Chamber at least 3 working days before the scheduled meeting.



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5 PROCEDURE DURING MEETINGS

5.1. Starting time and Quorum of meetings

- 5.1.1 All Chamber meetings shall start promptly at the scheduled time.
- 5.1.2 The employer plus the number of admitted trade Unions representing a majority of the votes on the side of labour constitute a quorum at any duly constituted meeting of the Chamber.
- 5.1.3 If, after thirty (30) minutes of the time fixed for any meeting, a quorum is not present, the meeting stands adjourned to such other date, time and place to be determined by the Chairperson after consultation with the parties present, on condition that the Secretary notifies all parties of the new date, time and venue for the re-convened meeting.
- 5.1.4 At such a reconvened meeting the parties present shall form a quorum. The date and time for such re-convened meeting shall not be later than seven (7) working days after the date of the original meeting.

5.2 General Rules/ Protocol

- 5.2.1 Each delegation shall as far as possible designate amongst its ranks a chief spokesperson.
- 5.2.2 A point of order shall only be called during a meeting if a member is of the opinion that the speaker has deviated from the rule of order. If a point of order has been called, the Chairperson shall conclude the point of order before proceeding with the meeting. The finding of the



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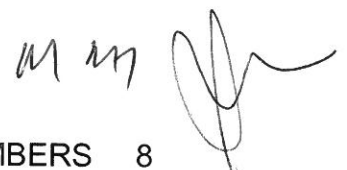
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Chairperson in this regard shall be final and shall not be amended or questioned by the meeting.

- 5.2.3 A point of order shall only be in the form of a question directed to the Chairperson and the latter shall under no circumstances allow a discussion to take place on the matter. The Chairperson may at his/her discretion also determine whether a point of order called is itself out of order and should he/she rule it as such.
- 5.2.4 Rulings of the Chairperson shall be final and binding and in accordance with the provisions of the constitution.
- 5.2.5 Members who want to speak must do so by show of hand and the Chairperson shall recognize indicating that they want to speak and shall announce their turn in order of such indication. No person shall speak unless recognized by the Chairperson.'
- 5.2.6 Rowdy or rude behaviour (including disrespect towards others) shall not be tolerated and any person making himself/herself guilty of such conduct must excuse himself/herself when requested to do so by the Chairperson.
- 5.2.7 The operation of cellular phones is prohibited while meetings are in progress, except by prior agreement with the Chairperson in which case the cellular phone shall be silent.



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5.3 Procedure to be followed when third parties are invited to make presentations at Chamber meetings.

5.3.1 Requests for a presentation by a third party at Chamber meeting should be approved by the Management Committee and the Chamber should be informed accordingly, prior to the presentation.

6 PROCEDURE AFTER MEETINGS

6.1 Minutes of meetings

6.1.1 The Secretary shall forward to all parties concerned copies of the minutes of the meeting within a period of 7 calendar days prior to the next meeting, unless the Chamber determines otherwise at the meeting.

6.1.2 Unless circulated beforehand, the minutes of the meeting held immediately prior to the relevant meeting, shall be read at the meeting, and shall be signed and dated by the Chairperson immediately after confirmation thereof.

6.2 Agreements of a Chamber

6.2.1 Agreements of a Chamber determined by way of voting shall be on the basis of the vote of the Employer on the one side and a majority vote of the trade unions on the other side.

6.2.2 Agreements of a Chamber must be submitted to the PHSDSBC at its next ordinary meeting for ratification.



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7. POSTPONEMENT OF MEETINGS

- 7.1 Requests for postponement of a meeting by a party should be done in writing with reasons to the Secretary.
- 7.2 Should circumstances arise which require the postponement of a meeting the Secretary shall obtain the view of each party to Council before such a postponement is made.
- 7.3 A postponement can only be granted upon the approval of the employer party and the majority of labour parties to the Chamber and in the case where a party has requested the meeting, the consent of that party.
- 7.4 The Secretary shall inform the parties in writing on the postponement of an ordinary meeting.

8. STRUCTURES/ OFFICE BEARERS

8.1 The Role of the Management Committee shall be to;

- 8.1.1 Receive proposals on items to be placed on the agenda of the Chamber
- 8.1.2 Ensure that the item placed on the agenda falls within the jurisdiction of the Chamber
- 8.1.3 Set the agenda for the Chamber
- 8.1.4 Report to the Chamber on its meetings, and list the items not placed on the agenda, with reasons. The Secretary shall be responsible for compiling the report to the Chamber



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- 8.1.5 Compiling the year program of the Chamber.
- 8.1.6 Performing any task referred to it by the Chamber
- 8.1.7 Management of financial matters of the Chamber, in liaison with PHSDSBC Secretary
- 8.1.8 Attend strategic meetings with PHSDSBC, when required
- 8.1.9 Managing the day-to-day business of the Chamber
- 8.1.10 Reach decisions through consensus. In the event that decisions cannot be reached through consensus, such matters shall be referred directly to the chamber.

8.2 Task Teams

- 8.2.1 The Chamber may refer any agenda item to a task team either to a standing task team or to a special task team.
- 8.2.2 All items referred to a task team shall:
 - 8.2.2.1 Remain on the agenda of the Chamber unless otherwise agreed to;
 - 8.2.2.2 Have clearly stated time frames, including timeframes for reporting back to the chamber;
 - 8.2.2.3 Have unambiguously stated terms of reference; and
 - 8.2.2.4 Indicate the composition of the team in the case of special task teams.



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8.2.3 The period during which the item is being discussed in a task team shall be considered as being part of the negotiation process.

8.2.4 A recommendation of a task team must first be endorsed by the Chamber before it is executed.

8.2.5 All parties to the Chamber retain the right to place before the Chamber a proposal on any matter referred to a task team, if the party is of the view that the task team process is not taking the matter forward.

9. PHSDSBC Code of Good Practice for Bargaining in Chambers

The parties to the PHSDSBC have committed themselves to a mutual gains approach to bargaining.

The following ground rules for engagement, which shall assist in developing trust between the parties, shall apply to the Chambers:

9.1 Personal conduct

9.1.1 Refrain from making personal attacks on any party or individual.

9.1.2 Focus on the issue not the person

9.1.3 Ensure punctuality and attendance at meetings

9.1.4 Strive for mutual respect towards each other

9.1.5 Strive for attentive listening



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9.2 Media/ Communication

- 9.2.1 Avoid negotiating through the media, and pre-empting outcomes through media
- 9.2.2 Where possible strive to make joint press statements.
- 9.2.3 Develop guidelines on dealing with the media

9.3 Disclosure of information

- 9.3.1 Ensure information sharing sessions to negotiations (pre-negotiations meeting)
- 9.3.2 Identify and share needs, interests, priorities, constraints (joint identification)
- 9.3.3 Strive for a deeper understanding of issues
- 9.3.4 Share information that shall allow parties to develop proposals.

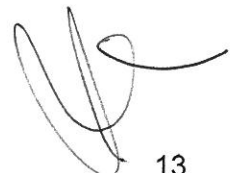
9.4 Timeframes

- 9.4.1 Harmonise negotiating processes without budgeting processes;
- 9.4.2 Allocate more time to pre-negotiation meetings; and
- 9.4.3 Negotiations should be concluded within three (3) normal Meetings.

9.5 Parties should strive for;

- 9.5.1 Full participation at all levels

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9.5.2 Involvement of all parties at the initial stage when developing proposals in order to build trust and facilitate negotiations; and

9.5.3 Continuity and consistency of negotiating Teams.

9.6 Compliance

9.6.1 Comply with agreements reached.

9.7 Mandates

9.7.1 Parties must come to the negotiating process with clear mandates.

9.7.2 Parties must act in good faith.

9.8 Alternative deadlock mechanisms

9.8.1 Parties shall endeavor to reach a negotiated settlement.

9.8.2 In the event of a deadlock in negotiations, the parties shall endeavor to reach a consensus on alternative dispute resolution mechanisms.

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