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BASA/Agbiz Proposal: Commercial Financing for NDP Model on Land Reform

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INTRODUCTION

The South African agricultural sector, in its widest context of Government, organised agriculture, commercial lenders and agribusinesses, has realised the need for all parties to play an active and collaborative role in addressing land reform. To this extent Government requested that commercial lenders most active in land financing propose a mechanism for the commercial financing of land reform.

The Banking Association South Africa (BASA) and the Agricultural Business Chamber (Agbiz) subsequently formed an Agbiz/BASA Task Team in order to respond to this request. Several workshops were held to arrive at the proposals contained in this document.

The Agbiz/BASA Task Team and its respective members support the concept of land reform in order to address the historic inequalities created by South Africa's past. It also acknowledges the important role its members can play in the successful outcome of land transformation.

Commercial lenders as a rule have very strong credit and business case approval processes in order to protect their depositors and investors from lending losses. As such, they have a fiduciary responsibility to protect and ensure that depositor's funds are not unduly placed at risk and that only loans that are commercially viable and sustainable are afforded to borrowers. These processes should provide Government with a high level of comfort that only viable land reform projects will be approved for participation in the intended grant funding mechanism, since commercial lenders themselves will participate in the funding of these projects provided their commercial lending criteria have been met.

It should also provide Government with assurance on the market value of land acquired for land reform, as commercial lenders' land valuation processes will identify any discrepancies from market values. Commercial lenders will continue to apply their respective current valuation and extension methodologies in respect of agricultural finance. Furthermore, commercial lenders' credit approval processes provide many self-regulating checks and balances that will address Government's concerns around land reform failures or potential abuses of the intended grant funding mechanism. All registered financial service providers are governed by the relevant regulatory framework (National Credit Act, Consumer Protection Act, Banks Act, etc.) which governs good lending principles.

It should be noted however that Agbiz and BASA members do not view the proposals contained in this document as the solution *to all* land reform objectives. The proposal is aligned to Chapter 6 of the National Development Plan (NDP). As previously stated, commercial lenders have a commercial mandate and can only be active and participate in land reform within this mandate. They therefore cannot provide lending outside of normal commercial lending criteria, nor can they solve many of the other aspects of land reform that need to be addressed, e.g. previously failed projects, land held by Government, tribal or communal land, the land audit,

land claims, legislative amendments, etc. Furthermore, Government's responsibilities in respect of land reform cannot be delegated to commercial lenders and/or Agbiz. Agbiz/BASA members view it as critical that the numerous other aspects of land reform that fall outside of normal commercial lending practices should be addressed by Government, in order for the collective effort of all role players within the South African Agricultural sector to be a success.

The Agbiz/BASA Task Team trusts that the proposals contained in this document will be acceptable to Government and will contribute to the successful outcome of real and sustainable land reform.

1. THE BASA/AGBIZ TASK TEAM PROPOSAL

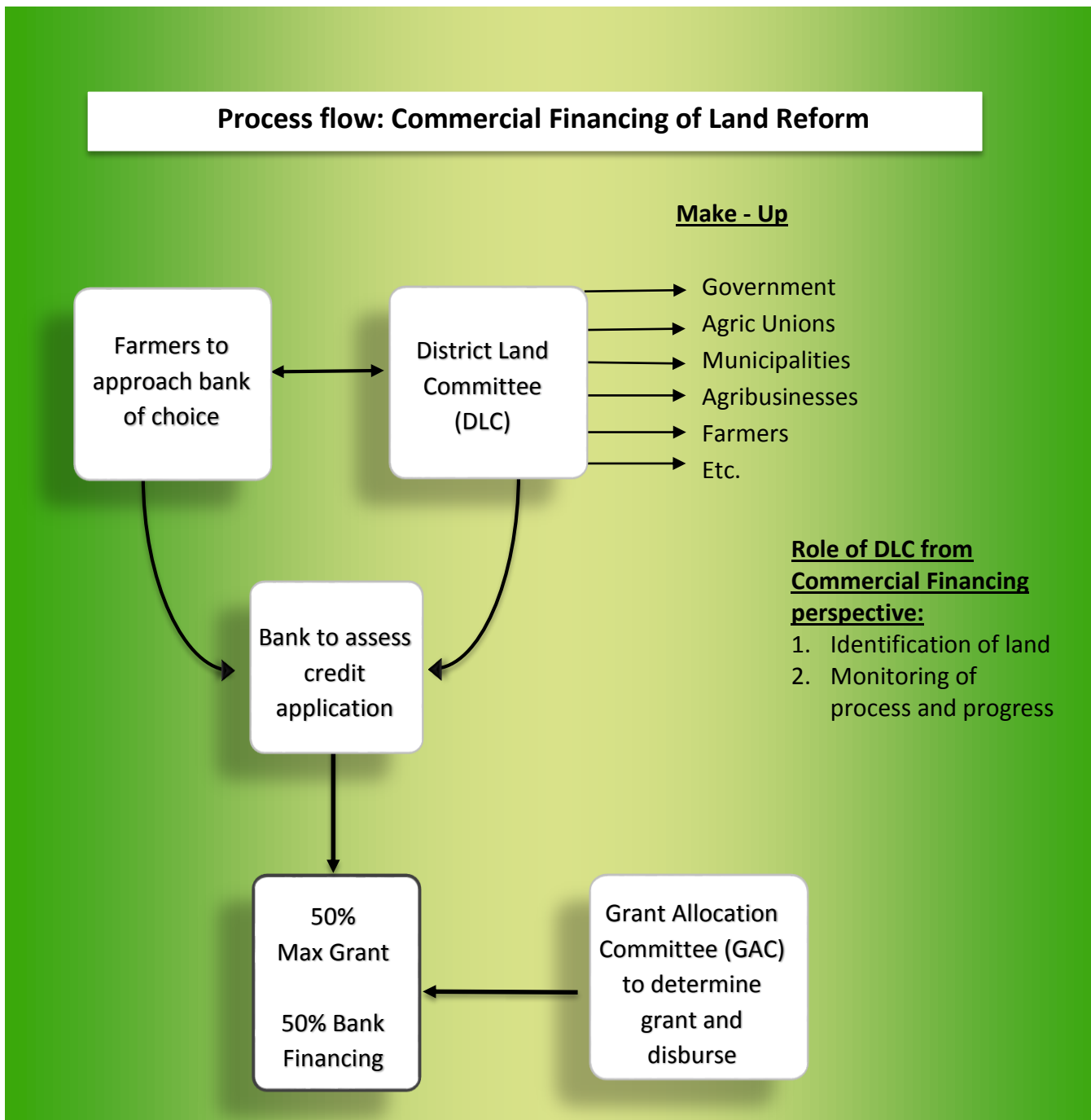
- 1.1 This proposal suggests a mechanism and process for the commercial financing of the land reform model as detailed in Chapter 6 of the NDP.
- 1.2 Tangible land reform results are the measure of success of the financing process.
- 1.3 In this proposal, the Task Team representing the South African commercial banking and agricultural business sectors, offers a commercial banking solution for an element of land reform.
- 1.4 Land reform as per NDP is a national imperative for ensuring the country's stability, food security, rural development and security of tenure. The NDP model on Land Reform is essentially a proposed framework for land reform and not a "one size fits all" model or plan. It does however provide a number of principles for orderly land reform implementation. It is supported by both Agbiz/BASA as it is underpinned by market principles which support the retention of commercial agriculture. At the same time it does not undermine agriculture property values on which lenders place reliance for loans which they afford to commercial farmers.
- 1.5 The active participation of commercial farmers in the financing of land reform and establishment of a viable Black commercial farming sector is a critical success factor. Commercial farmers offer commercial acumen and skills to enable the financing process. They will be responsible for originating commercially viable land acquisition transactions.
- 1.6 Commercial farmers (those who derive their primary income from farming ventures on a sustainable and profitable basis) need to be incentivised to participate in these joint ventures with measures such as protection from risks, i.e. land claims and exemption from further land reform obligations, benefitting from incentives such as access to grants, BEE ratings and recognition. All existing and future land claims on projects in this financing scheme will have to be settled through restitution (the settlement of claims

either on a cash or the acquisition of alternative land basis). These incentives should be guaranteed by Government and communicated to all parties involved.

- 1.7 The proposal is premised on the retention of competition between lenders.
- 1.8 Farmers must have the right to choose or select partner beneficiaries – process must be demand driven, i.e. selection must be apolitical and voluntary.
- 1.9 Normal commercial lending criteria principles will apply. Freedom of choice of financier is endorsed.
- 1.10 This proposal is informed by the following principles:
 - a) Transfer of title into any legally accepted entity, for example a trust or company, which is no less than 50% Black-owned, is a prerequisite.
 - b) State-owned land, communal land and other land transactions not meeting normal commercial agricultural lending criteria are excluded. Separate funding models for such transactions will require development by Government.
 - c) A Land Audit is an imperative and all available knowledge on whom owns what, needs to be consolidated and maintained in one database by the Deeds Office. This includes State and Parastatal entities, as well as municipalities.
 - d) All existing and future land claims on projects in this financing scheme will have to be settled through financial restitution or comparable alternative land.
 - e) Speed of decision-making relating to the grant approval process is critical and should happen within 45 days to allow funds to flow within 14 days thereafter.
 - f) The grant allocation committee will operate according to its own terms of reference relating to funding decisions. BASA/Agbiz representation must be specified by BASA and Agbiz.
 - g) Incentivisation is required to ensure participation by a critical mass of commercial farmers.
 - h) The task team acknowledges the need for housing tenure security considerations. This should be dealt with within the envisaged 2015 Human Settlements Department White Paper.

- i) Normal recovery processes under the Insolvency Act will apply.
- j) Close co-operation between private sector and Government technical task teams is essential.
- k) Working Capital (production input costs), as well as plant and equipment finance (asset based finance), will be subject to normal commercial agricultural lending criteria. These requirements will not be funded from the land reform grant fund.

1.11 The Task Team proposes the following process model:



2. NOTES TO THE PROCESS MODEL

2.1 Origination (Identification of beneficiaries and application procedure)

This proposal recognises the role of District Land Committees (DLCs) in assisting the commercial financing of land reform, by serving as a source of information and in offering monitoring of processes.

The NDP proposes the role of DLC's as follows:

- Each district municipality with commercial farming land in South Africa should convene a committee (the District Land Committee) with all agricultural landowners in the district as well as key stakeholders such as the private sector (agribusinesses), Government (the National Department of Water Affairs and provincial departments that deal with rural development, land reform and agriculture) and government agencies (the Land Bank and the Agricultural Research Council).
- This committee will be responsible for identifying 20 percent of the commercial agricultural land in the district and giving commercial farmers the option of assisting with its transfer to Black farmers.
- According to the NDP, this can be done as follows: Identify land readily available from the following categories: land already in the market; land where the farmer is under severe financial pressure; land held by an absentee landlord willing to exit; and land in a deceased estate.

BASA/Agbiz envisage that the DLCs will retain overall responsibility for rural development within their respective districts. As regards the commercial land reform transactions as described in this proposal, the DLCs responsibilities would be limited to the identification of land and monitoring progress.

2.2 Grant Allocation Committee (GAC)

2.2.1 Composition

Representatives of BASA, Agbiz and Government (DRDLR).

2.2.2 Mandate

A specially-established Grant Allocation Committee will assess and approve applications submitted by authorized and registered credit providers for grant allocation relating to land transformation of up to 50% of the full transaction value for all land reform transactions meeting the criteria as stipulated below.

2.2.3 Governance (rules of decision-making)

- Independence of decision-making will be guaranteed by government.
- Decision-making will be by unanimity.
- Equal access on a competitive basis.
- No delays with disbursement.
- Reasons for decline of grant allocation will be provided.
- An arbitration mechanism will consider and settle disputes.
- The GAC will only deal with land earmarked for land reform.
- The process must be clear to all parties including intended beneficiaries.
- The annual budget for grant allocation should be made available to the GAC. Once the annual budget is allocated, it may be adjusted during the financial year so as to ensure efficient utilization of the national budget, i.e. GAC may apply to national Government (DRDLR) for unutilized GAC monies to be reallocated between provinces.
- Residential ownership and lifestyle farms fall outside the remit of the committee.

2.2.4 Grant Funding

- Minimum of R1bn per annum from Government (DRDLR).

2.2.5 Location of GAC (Venue)

- Meeting facilities to be provided by the GAC.

2.3 Disbursement (Implementation, monitoring and evaluation)

To be developed in collaboration with government.

Note

This document provides a conceptual framework for engagement with government and other stakeholders and role players in order to speed up land reform on a sustainable and predictable basis.