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**Open letter addressed to Lonmin CEO, Ben Magara, and a challenge to a TV debate –
“You cannot be trusted anymore and you do not have the interests of your skilled
workers and the mining sector at heart”**

Dear Mr Magara

I decided to address you in an open letter and to rather communicate with you in the public domain because I feel I cannot trust you anymore and hence I can no longer have discussions with you in private and behind closed doors.

I still recall our discussions in 2014 during and after Amcu's devastating five-month long platinum strike which not only brought Lonmin to its knees but also the platinum sector, destroying thousands of jobs in the process. One of Amcu's demands at the time of the strike and the negotiations was the insistence that the recognition of the other Lonmin recognised trade unions namely Solidarity, Uasa and NUM, had to be cancelled. As you will recall, under your influence Lonmin initially yielded to the demand but it became such a major public relations embarrassment for Lonmin that you had to come up with a Plan B for it simply could not be justified to penalise the three trade unions that did not want to participate in the devastating 2014 strike and whose members wanted to keep on working even in life-threatening circumstances. I also still remember how appalled members of your top management were when you decided to cancel our recognition.

In a bid to find a solution the two of us met often in seclusion and in secret behind closed doors at luxury hotels such as the Palazzo Montecasino, the African Pride in Melrose Arch, the Sandton Towers and at the Sandton Convention Centre, even having one on one talks behind closed doors in your office. Those talks centred on the dilemma Amcu had created for Lonmin; how Amcu's power should be managed; and how their unjust demand to be the only trade union enjoying recognition at Lonmin could be defused. In our discussions we agreed that, as far as trade union recognition was concerned, the winner takes all principle was undemocratic, unconstitutional and wrong. I recall Amcu had Lonmin in a tight corner though and for survival's sake Lonmin could not simply rescind the decision giving sole recognition to Amcu, and to reinstate the previous arrangement by recognising all four trade unions.

Fortunately, after many talks you had the courage of your conviction to revoke the decision and to partially restore the rights of minoritarian trade unions. The winner takes all decision was amended, although us three trade unions had to relinquish our salary bargaining rights and our right and privilege to have four full-time trade union representatives was ultimately diluted to having one full-time representative only. This



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concession made to Amcu was a major setback for Solidarity and came after we had supported Lonmin all along during and after the violent Marikana events and during a time in which Lonmin and the mining sector could, for the sake of political correctness, not express their opinion to bring balance into the debate and so Solidarity had to stick its neck out on behalf of Lonmin and took Amcu and their allies on, and this we did at the expense of our relationship with Amcu.

And so it was that during Amcu's devastating five-month long strike in 2014 Solidarity was the one who had to convey the hard messages on behalf of the other perturbed players, and as was the case during the Marikana incident, our members were the ones who put their lives on the line to keep production going.

What has me furious right now is that during our private discussions three years ago and even at the time of signing the limited rights agreement in August 2014, you gave your word that our recognition rights would be safeguarded in future and that you would personally look after the interests of Solidarity and its skilled members. Perhaps you will also recall that you had much praise for the key role C Band (skilled workers) play within Lonmin, admitting that their role was indispensable and that they should not be alienated.

After the said limited rights agreement had been in place for two years running, Amcu again started to pressure Lonmin last year trying to enforce an agency agreement. An agency agreement is one in which all your employees who are not Amcu members have to pay a fee equal to Amcu's monthly membership fee to Amcu, not so? Abey Kgotle, at the time your head of Human Resources and a person who had personally experienced the Marikana incident, protected the constitutional right to freedom of association of thousands of his colleagues who did not intend to and were not going to join Amcu through his opposing the agency agreement all along in the interests of your employees.

However, you recently appointed a new head of Human Resources in the person of Mr Kaya Ngcwembe who used his initial meetings with minority trade unions to inform us that our recognition was to be terminated. Was I not supposed to believe that Mr Ngcwembe would not do such a thing without your permission? But then again it was smart on your part to use him as he was not part of the talks we had in the past at which you and Mr Kgotle had solemnly promised that Lonmin would protect our recognition and our interests if we signed the revised limited rights agreement. I still



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recall that at the time of finalising the limited rights agreement you and I shook hands in the presence of our representatives and you solemnly promised that our rights would now be safeguarded and would be upheld. I took your word for it, but after you had left the room, I nevertheless mentioned to our caucus that "the future will tell whether or not you are indeed a man of your word".

On 2 August you were exposed when Lonmin poured a bucket of cold water over our head when it confirmed in a cold and clinical letter that Solidarity's recognition would end in three months.

The first thing that crossed my mind was that it simply could not be true for surely you are a man of your word and you gave your word in August 2014 in the presence of many witnesses.

Then I read in the newspaper on Monday, 7 August 2017 that you had announced a so-called operational revision plan, stating among other things that part of the plan was to: "ensure the protection of the long-term interests of your employees" and that you "wanted to position Lonmin so the company could benefit as soon as there is an improvement in commodity prices". On reading this, I immediately gave you the benefit of the doubt, and I wanted to notify you without delay that your new head of human resources was working against this plan and was taking away your employees' constitutional right to freedom of association and was totally disempowering them to participate in the revision plan, because I then also noted that on announcing the plan you had indicated that "further communication to staff on the plan would also take place through their trade union".

However, I was so astonished because your media spin doctor, reacting to Solidarity's recent media statement where we expressed our dismay about our future recognition, indicated that it was correct that minority trade unions had been notified because the company was simply giving effect to an agreement entered into with Amcu four years ago and that it was taking place within the framework of the Labour Relations Act.

I then, however, realised that, with your micro-management style, the head of human resources and the spin doctor would never have done so without your permission.

I would, however, like to correct your spin doctor concerning the argument that the cancellation of the recognition of Solidarity and the other unions was based on Lonmin's agreement with Amcu. It is indeed true that you signed away our rights in a



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2013 agreement with Amcu, but our limited-rights agreement to which I have referred repeatedly in this letter, was the result of the Amcu agreement.

Then I also have to point out to you that in the limited-rights agreement entered into between Solidarity and Lonmin on 29 August 2014, your company committed itself to the principle of freedom of association, which of course implies recognition of members. In the agreement, Lonmin also indicated that: "The purpose of this agreement is to regulate the future relationship between SOLIDARITY and Lonmin Platinum, to further develop and foster an equitable employer-employee relationship and to eliminate/reduce employer-employee conflict."

Apart from the fact that I will find it difficult to trust you again, I also feel obliged to point out to you in this open letter that your ill-considered decision not only could result in the collapse of Lonmin, but that you are now again putting Lonmin in a position where this company once again could drag the country and the mining sector to dark depths.

As you know, since it was shared between us during our conversations in the luxury hotels, the Marikana incident in 2012 was preceded by Amcu's President, Joseph Matunjwa, publicly expressing his displeasure with the exclusive status the NUM had been enjoying at Impala Platinum and Lonmin. Amcu therefore was strongly opposed to the winner-takes-all recognition principle. As they say, the rest is history, and a multitude of factors, including the competition between Amcu and the NUM, created a cauldron situation that resulted in the Marikana tragedy.

Furthermore, I have to remind you that Lonmin's labour relations practices were severely criticised during the Farlam Commission of Enquiry, and it probably was with this in mind that you restored the rights of Solidarity and other minority unions in August 2014, knowing what the results of union rivalry and the undemocratic stripping of employees' rights could be.

Mr Magara, with all respect, don't you realise that the unilateral termination of our union's recognition not only has destroyed your credibility but will also increase union rivalry? It will also result in skilled employees whose rights are violated losing their motivation and loyalty towards Lonmin and that it will lead to a drop in productivity. In addition, don't you and your new head of human resource realise that the fact that Lonmin has been picking up again during the past couple of months is also due to your skilled workers who have been going the extra mile to do more than what they are contractually and legally obliged to do?



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No, Mr Magara, of all the wrong decisions you have taken, this is surely the worst and the most ill-considered one.

At this point, however, I have to apologise for the long letter, because I know that for a long time now your priorities have not included listening to unions other than Amcu, but I would like to conclude by giving you a lesson in "industrial democracy" by quoting part of a letter written by Mr Flip Buys, Solidarity Movement's Chairman, some months before the Marikana incident to executive heads in the mining sector, who, like you, may not have grasped the principle:

The core of democracy is that everyone should be represented and heard. A political party only needs 1% of the vote to obtain parliamentary representation, because the essence of democracy is inclusion which rests on the principle of freedom of association. However, industrial democracy is sometimes different and one will find a growing insistence in some circles that only the majority trade union should be represented in the workplace. There have also been instances where employers and trade unions have colluded to drive out smaller trade unions. The general excuse given is that working with only one trade union is easier.

However, a balanced democratic system creates stability and simply works better. If only one union is recognised, high wage demands and frequent strike actions normally occur. Furthermore, the policy of "one industry, one union" comes from an era before the adoption of our country's Constitution and goes against the principle of pluralism. In our opinion, trade unions' long history of recognition is an important factor to bear in mind and the threshold should not be set in such a way that it keeps out smaller trade unions. Instead, all unions that currently enjoy recognition should retain it. Trade unions that abuse legislation in an attempt to force employees to join 'the only recognised union' against their will, thereby artificially increasing their power, membership base and income, act contrary to the spirit of democracy, the country's Constitution and the regulations of the International Labour Organisation. Employers who support this practice give an ideology preference over the interest of their employees.

Those who want to increase the threshold argue that numbers are the only factor that should be used when it comes to the recognition of trade unions. In our view, numbers do not tell the whole story of the contribution trade unions such as Solidarity make to the mining industry. Without exaggerating, we feel that a trade union such as Solidarity adds value to the mining industry that far exceeds its numbers. In the past, our members have also ensured continued production during many strikes in which we did not participate.



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Mr Magara, I have already started drafting a second open letter to you because I still have a lot to say to you. But first you now have the opportunity to restore your name and credibility.

Should you wish to react, I would not be willing again to converse with you privately in a luxury hotel or in your office, but I would prefer you to react by way of an open letter, or alternatively, I invite you to a live TV debate on your ill-considered decision.

I look forward to your prompt reply.

Kind regards

Gideon du Plessis
General Secretary of Solidarity



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