
BUSINESS RESCUE PLAN PREPARED AND PUBLISHED IN TERMS OF SECTION

150 OF THE COMPANIES ACT 71 OF 2008 (as amended)



ARNOTOPCO

in relation to

ARNOT OPCO PROPRIETARY LIMITED

(Registration No. 2019/072282/07)

(in business rescue)

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MKHOMBO**

(Business Rescue Practitioner)

with the
assistance of



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1. INTERPRETATION AND PRELIMINARY

The headings of paragraphs in this Business Rescue Plan are for the purpose of convenience and reference only and shall not be used in the interpretation of or modify or amplify the terms of this Business Rescue Plan nor any paragraph hereof. Unless a contrary intention clearly appears:

1.2. words importing –

1.2.1. any one gender includes the other gender;

1.2.2. the singular includes the plural and vice versa; and

1.2.3. any person includes a natural or juristic person, firm, company, corporation, government, state, agency or organ of state, association, trust or partnership (whether or not having separate legal personality);

1.3. the following terms and/or expressions shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings –

1.3.1. **“3 H Mining”** means 3 H Mining and Commodities Proprietary Limited with registration number 2022/430221/07 a company registered in accordance with the laws of South Africa;

1.3.2. **“Accelerated Sales Process”** means the sales process to be embarked upon by the BRP and his Advisors to rescue the Company, more fully dealt with in paragraphs 20.7 and 20.9 of this Business Rescue Plan;

1.3.3. **“Adoption Date”** means the date upon which this Business Rescue Plan is approved in accordance with section 152(2), and section 152(3)(c)(ii) of the Companies Act or, if rejected as contemplated in section 152(3)(a) or section 152(3)(c)(ii)(bb) of the Companies Act, the date on which a court in terms of 153(1)(a)(ii) or 153(1)(b)(i)(bb) sets aside the result of the vote by holders of voting interests of Creditors and/or Shareholders, as the case may be, on the grounds that it was inappropriate;

1.3.4. **“Advisors”** means the advisors to the BRP, namely 3 H Mining, Cox Yeats Attorneys, Deloitte, Genesis Corporate Solutions, Mavhube and their respective employees or representatives;

- 1.3.5. **“Affected Person”** or **“Affected Persons”** shall bear the meaning ascribed to it in section 128(1)(a) of the Companies Act and, in relation to the Company, means Shareholders, Creditors and Employees of the Company;
- 1.3.6. **“Arnot Holdco”** means Arnot Holdco Proprietary Limited with registration number: 2019/019247/07, a private company incorporated in accordance with the laws of South Africa;
- 1.3.7. **“Arnot Investco”** means Arnot Investco Proprietary Limited with registration number: 2018/597843/07, a private company incorporated in accordance with the laws of South Africa;
- 1.3.8. **“BRP”** means the business rescue practitioner appointed in terms of section 131 of the Companies Act, being Mkhombo;
- 1.3.9. **“Business”** means the mining, processing, and supplying of thermal coal to its major customer, Eskom at the Arnot Power Station other markets including the domestic non-Eskom customers and export markets;
- 1.3.10. **“Business Day”** means any day other than a Saturday, Sunday or official public holiday in South Africa and **“Business Days”** has a corresponding meaning;
- 1.3.11. **“Business Rescue”** means proceedings under Chapter 6 of the Companies Act to facilitate the rehabilitation of a company, which is Financially Distressed, as more fully defined in section 128(1)(b) of the Companies Act;
- 1.3.12. **“Business Rescue Costs”** means the remuneration and expenses of the BRP (including, without limitation, all and any, advisory, legal costs and expenses incurred by the BRP in the Business Rescue) and all other claims arising out of the costs of the Business Rescue, including without limitation to legal costs and other costs of the Advisors;
- 1.3.13. **“Business Rescue Plan”** means this document together with all of its annexures, as amended from time to time, prepared and published by the BRP for consideration and adoption by Creditors in accordance with section 150 of the Companies Act;
- 1.3.14. **“CIPC”** means the Companies and Intellectual Property Commission, established in terms of section 185 of the Companies Act;

- 1.3.15. "**Claims**" means any claim of whatsoever nature and howsoever arising against the Company, including but not limited to a Secured, Preferent or Concurrent Claim as envisaged in terms of the Insolvency Act, as well as an actual, contingent, prospective, conditional or unconditional, liquidated or unliquidated, assessed or unassessed claim, whether due or yet to fall due for payment or performance, whether its origin arose before the Commencement Date from statute, regulation or other legislation; or arising out of any contract and/or agreement entered into before the Commencement Date; or arising from any other cause of action whatsoever; and, in no way derogating from the generality of the a foregoing, shall include any Claim for Tax or Taxation;
- 1.3.16. "**Coal**" means South African Thermal Coal emanating from the Mine;
- 1.3.17. "**Coal Supply Agreement**" means the ten-year Coal Supply Agreement concluded between Eskom and the Company in August 2021 for the supply and delivery of Coal to the Eskom's Arnot Power Station;
- 1.3.18. "**Commencement Date**" means 10 October 2022, being the date upon which Business Rescue commenced in accordance with section 131(4) of the Companies Act;
- 1.3.19. "**Company**" means Arnot Opco Proprietary Limited, Registration Number 2019/072282/07, a company incorporated in accordance with the laws of South Africa, currently under business rescue;
- 1.3.20. "**Companies Act**" means the Companies Act, 71 of 2008 (as amended) including the regulations promulgated thereunder;
- 1.3.21. "**Concurrent Claim**" means any Claim (other than a Disputed Claim) which is unsecured and enjoys no preference and "**Concurrent Creditor**" has the corresponding meaning;
- 1.3.22. "**Contracts**" means any contract, agreement or understanding entered into between the Company and a person before the Commencement Date;
- 1.3.23. "**Costs**" means the costs associated with the Business Rescue proceedings, including, without limitation, the remuneration of the BRP, and any costs of whatsoever nature and howsoever incurred by the BRP during the Business Rescue, including but not limited the costs of the Advisors;

- 1.3.24. “**Cox Yeats**” means Cox Yeats Attorneys, attorneys practising as such at 4 Sandown Valley Crescent, Sandton, Johannesburg;
- 1.3.25. “**Creditors**” means all persons, including legal entities and natural persons, having Claims accepted as such by the BRP as at the Commencement Date and for the period of the Business Rescue;
- 1.3.26. “**Creditors’ Committee**” means a committee of Creditors, contemplated in terms of section 145(3), read with section 147(1)(b), of the Companies Act;
- 1.3.27. “**Deloitte**” means Deloitte & Touche, a professional partnership established in accordance with the laws of South Africa, with IRBA registration number: 902276;
- 1.3.28. “**Directors**” means the directors of the Company as at the Commencement Date set out in 4.2;
- 1.3.29. “**Disputed Claims**” means all Claims which are disputed in the Business Rescue, which dispute relates, *inter alia*, to Claim amounts as are reflected in **Annexure B** and/or the classification of a Claim as reflected in **Annexure B** and/or the existence, extent, nature and/or value of an Encumbrance as reflected in **Annexure B**, and which dispute shall be determined in terms of the Dispute Resolution Mechanism;
- 1.3.30. “**Disputed Creditors**” means persons who have Disputed Claims;
- 1.3.31. “**Dispute Resolution Mechanism**” means the dispute resolution mechanism set out in paragraph 37 of this Business Rescue Plan;
- 1.3.32. “**Distribution/s**” means the respective payments to be made to Creditors by the BRP, to discharge their Claims, in accordance with the terms and conditions of this Business Rescue Plan;
- 1.3.33. “**DMRE**” or “**DMR**” means the National Department of Mineral Resources and Energy;
- 1.3.34. “**Employees**” means all persons employed by the Company as at the Commencement Date and who remain employed at the Adoption Date;
- 1.3.35. “**Employees’ Committee**” means the committee established on 21 October 2022 in terms of section 144(3)(c) of the Companies Act, to be used for the

purposes of consulting with the Employees on matters relating to the Business Rescue;

- 1.3.36. "**Employees Contracts**" means any contract, agreement or understanding entered into before the Commencement Date between the Company and any Employee for the employment of such Employee by the Company as an Employee;
- 1.3.37. "**Encumbrance**" means any claim, charge, mortgage, lien, burden, option, pledge, security, withholding, retention of title, right of pre-emption, right of first refusal or other third-party rights or claims, restrictions on the free transferability or security interest or an agreement, arrangement or obligation to create any of the foregoing;
- 1.3.38. "**Eskom**" means Eskom Holdings SOC Limited, a state-owned company incorporated in accordance with the laws of South Africa under registration number 2002/015527/30, or its duly constituted successors in title;
- 1.3.39. "**Expunged**" means the full and final discharge and extinguishing of Claims, or portions of Claims in terms of this Business Rescue Plan, and which Claims, or portions of Claims, are consequently no longer enforceable and recoverable, save and except as set out in this Business Rescue Plan;
- 1.3.40. "**Financial Distress**" or "**Financially Distressed**" shall bear the same meaning ascribed to this term in section 128(1)(f) of the Companies Act;
- 1.3.41. "**Final Claims Date**" means the final date for the filing of Claims, being 31 August 2023;
- 1.3.42. "**Genesis**" means Genesis Corporate Solutions Proprietary Limited, Registration Number 2016/479741/07, a company incorporated in accordance with the laws of South Africa, herein represented by Mkhombo;
- 1.3.43. "**Insolvency Act**" means the Insolvency Act, 24 of 1936 (as amended);
- 1.3.44. "**LRA**" means the Labour Relations Act, 66 of 1995 (as amended);
- 1.3.45. "**Management**" means the management team of the Company, including the Company's directors, who had, and continue to have, the delegated and

supervised responsibility of managing the day-to-day operations of the Company as at the Commencement Date;

- 1.3.46. **“Management Restructuring Plan”** means the plan developed by Management for the restructuring of the Company prior to the commencement of Business Rescue;
- 1.3.47. **“Mavhuve”** means Mavhuve Business Advisory Proprietary Limited with registration number 2021/945586/07, a company registered in accordance with the laws of South Africa;
- 1.3.48. **“Mkhombo”** means Phahlani Lincoln Mkhombo, a business rescue practitioner as defined in section 128(1)(d) read with Regulation 126 to the Companies Act;
- 1.3.49. **“Mooifontein Properties”**, means the Remainder, Portion 1 measuring 428.2660 hectares and Portion 7 measuring 211.2279 hectares of the farm Mooifontein 448 owned by Eskom;
- 1.3.50. **“Mine”** means Arnot Mine, Farm Rietkuil 491 JS, Middleburg, South Africa;
- 1.3.51. **“Mining Area”**, means the area to which the Mining Right relates, which is situated on various portions of the farms Arnot East 984 JS, Grootlaagte 449 JS, Grootpan 456 JS, Klippan 452 JS, Mooifontein 448 JS, Nooitgedacht 450 JS, Nooitgedacht 493 JS, Rietkuil 491 JS, Schoonoord 164 IS and Tweefontein 458 JS in the Magisterial/Administrative District of Middelburg, Mpumalanga Province, South Africa, measuring 16,740 hectares in extent and registered in the Mineral and Petroleum Titles Registration Office of South Africa on 1 May 2019;
- 1.3.52. **“Mining Right”**, means the converted old order mining right MP30/5/1/2/1/325 MRC granted to Exxaro over the Mining Area for the period 6 December 2012 to 5 December 2039, and which has since been transferred to the Company, per Ministerial consent granted on 26 April 2019, in terms of section 11 of the MPRDA, and thereafter registered on 28 August 2020 at the Mineral and Petroleum Titles Registration Office contemplated in section 2 of the Mining Titles Registration Act, No. 16 of 1967;
- 1.3.53. **“MPRDA”** means the Minerals and Petroleum Resources Development Act, 28 of 2002;

- 1.3.54. **“Nedbank”** means Nedbank Limited with registration number 1951/000009/06, incorporated as a public company with limited liability in accordance with the laws of South Africa, carrying on business as a registered bank;
- 1.3.55. **“Notice of Meeting”** means the notice of meeting to consider the Business Rescue Plan delivered to all Affected Persons as contemplated in terms of section 151(2) of the Companies Act;
- 1.3.56. **“Ordinary Shares”** means shares with a R1 no par value issued by the Company;
- 1.3.57. **“PCF”** means post-commencement finance obtained by the Company, as authorised by the BRP in terms of section 135 of the Companies Act, after the Commencement Date;
- 1.3.58. **“Post-commencement Claims”** means any claim against the Company, the cause of action in respect of which arose after the Commencement Date;
- 1.3.59. **“Post-commencement Creditors”** means all persons, including legal entities and natural persons, having Post-commencement Claims;
- 1.3.60. **“Pre-commencement Claims”** means any claim against the Company, the cause of action which arose prior to the Commencement Date;
- 1.3.61. **“Pre-commencement Creditors”** means all persons, including legal entities and natural persons, having Pre-commencement Claims;
- 1.3.62. **“Pre-commencement Secured Creditors”** means all Pre-commencement Creditors holding security for their Claims;
- 1.3.63. **“Preferent Claim”** means any Claim (other than a Disputed Claim or Costs) which is preferent only in accordance with the provisions of the Insolvency Act and **“Preferent Creditor”** has the corresponding meaning;
- 1.3.64. **“Proposal”** means the proposal to rescue the Company, more fully dealt with in Part B of this Business Rescue Plan;
- 1.3.65. **“Proposed Rescue Plan”** means the restructuring plan proposed by the BRP to rescue the Company;

- 1.3.66. "**Publication Date**" means the date on which this Business Rescue Plan is published to Affected Persons in terms of section 150(5) of the Companies Act, being 14 July 2023;
- 1.3.67. "**Rand**" or "**R**" or "**ZAR**" means the lawful currency of South Africa;
- 1.3.68. "**Receivable**" means any claim of whatsoever nature which the Company has as at the Commencement Date against any person indebted to it and includes any bank balances and deposits, and any claim of whatsoever nature against SARS;
- 1.3.69. "**ROM Coal**" means run of mine raw Coal as it is delivered by the mine cars, skips, or conveyors and prior to treatment of any sort;
- 1.3.70. "**SARS**" means the South African Revenue Services;
- 1.3.71. "**Section 151 Meeting**" means the meeting to determine the future of the company as contemplated in terms of section 151 of the Companies Act;
- 1.3.72. "**Secured Claim**" means any Claim (other than a Disputed Claim) over which there is an Encumbrance and "**Secured Creditors**" has the corresponding meaning;
- 1.3.73. "**Shareholders**" means the shareholders of the company at the Commencement Date as set out in 4.1.2;
- 1.3.74. "**South Africa**" means the Republic of South Africa;
- 1.3.75. "**Substantial Implementation Date**" means the date upon which the BRP files with CIPC, a notice of substantial implementation of this Business Rescue Plan in terms of section 152(8) of the Companies Act, whereupon the Company's Business Rescue will end in terms of section 132(2)(c)(ii) once all the transaction agreements have been concluded and implemented;
- 1.3.76. "**Tax/Taxation**" means:
- 1.3.76.1. levies payable to government authorities;
 - 1.3.76.2. normal taxation;
 - 1.3.76.3. capital gains tax;

- 1.3.76.4. VAT;
 - 1.3.76.5. any taxation arising from new assessments of taxation and/or the reopening of any income tax assessments of the Company for any period prior to the Commencement Date; and
 - 1.3.76.6. donations tax;
 - 1.3.76.7. customs duty;
 - 1.3.76.8. securities transfer tax;
 - 1.3.76.9. all Pay-As-You-Earn taxation (PAYE) not paid over;
 - 1.3.76.10. all other forms of taxation, other than deferred tax; and
 - 1.3.76.11. any penalties or interest on any of the afore going.
- 1.3.77. "**Unenforceable**" means that all Claims will, upon the adoption and implementation of the Business Rescue Plan, will become unenforceable against the Company as envisaged in section 154, and/or as read with section 152.
- 1.3.78. "**VAT**" means the value-added tax levied in terms of the Value-Added Tax Act, No. 89 of 1991, as amended;
- 1.3.79. "**Vis Major**" means any circumstances beyond the reasonable control of the BRP and/or the Company, and includes but is not limited to an act of nature or public enemy, fire, explosion, earthquake, flood, storm or other adverse weather conditions, war declared or undeclared, civil war, revolution, civil commotion or other civil strife, riot, strikes, industrial action, blockade, embargo, sanctions, epidemics, pandemics, act of any government or other authority, compliance with government orders, demands or regulations, as well as shortages, interruptions, fluctuations or the unavailability of electrical power, water supply or means of communication; and
- 1.3.80. "**Wescoal Mining**" means Wescoal Mining Proprietary Limited with registration number: 1999/005845/07, a private company incorporated in accordance with the laws of South Africa.

1.4. any reference in this Business Rescue Plan to:

- 1.4.1. a paragraph is a reference to the relevant paragraph of this Business Rescue Plan;
- 1.4.2. a Part is a reference to the relevant part of this Business Rescue Plan;
- 1.4.3. any section is a reference to that section in the Companies Act unless it is otherwise indicated in which event it shall be a reference to that legislation;
- 1.4.4. any section of the Insolvency Act is a reference to such section as read with chapter 14 of the Companies Act, 61 of 1973 and item 9 of annexure 5 of the Companies Act;
- 1.4.5. any reference to any statute, regulation or other legislation in this Business Rescue Plan shall be a reference to that statute, regulation or other legislation as at the Publication Date, and as amended or substituted from time to time;
- 1.4.6. any reference in this Business Rescue Plan to any other agreement or document shall be construed as a reference to such other agreement or document as same may have been, or may from time to time, be amended, varied, novated or supplemented;
- 1.5. if any provision in a definition in this Business Rescue Plan is a substantive provision conferring a right or imposing an obligation on any person or entity then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this Business Rescue Plan;
- 1.6. where any term is defined in this Business Rescue Plan within a particular paragraph other than this paragraph 1, that term shall bear the meaning ascribed to it in that paragraph wherever it is used in this Business Rescue Plan;
- 1.7. where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated falls on a day which is not a Business Day, the last day shall be deemed to be the next succeeding day which is a Business Day;
- 1.8. any reference to days (other than a reference to Business Days), months or years shall be a reference to calendar days, months or years, as the case may be; and

1.9. words or terms that are capitalised and not otherwise defined in the narrative of this Business Rescue Plan (excluding capitalised words or terms used for the purpose of tables) shall bear the meaning assigned to them in the Companies Act.

2. **ACTIONS TO BE TAKEN BY AFFECTED PERSONS**

2.1 If any Affected Person is in doubt as to what action should be taken arising from the contents of this Business Rescue Plan, such Affected Person or Affected Persons are advised to consult an independent attorney, accountant or other professional advisor in addition to any consultation with or direction received from the BRP.

2.2 Nothing contained in this Business Rescue Plan shall constitute legal, Tax or accounting advice to any Affected Person, nor does the BRP make any representations in respect thereof.

3. **STRUCTURE OF THE BUSINESS RESCUE PLAN**

For the purposes of section 150(2) of the Companies Act, this Business Rescue Plan is divided into 3 (three) parts as follows –

3.1 **PART A - BACKGROUND**

This part sets out the background to the Company and its business, and the factors that resulted in the Company being Financially Distressed and being placed under Business Rescue.

3.2 **PART B - PROPOSAL**

This part describes the terms of the Proposal and includes, *inter alia*, the benefits and/or effect of adopting the Business Rescue Plan as opposed to the Company being placed into liquidation.

3.3 **PART C - ASSUMPTIONS AND CONDITIONS**

This part sets out, *inter alia*, what conditions need to be fulfilled in order for the Business Rescue Plan to become effective, and to be implemented.

[END OF SECTION]

PART A – BACKGROUND

4. COMPANY INFORMATION

4.1 Shareholding Structure

As at the Publication Date:

4.1.1 the authorised share capital of the Company is:

- 1 000 (One thousand) Ordinary No Par Value Shares; and
- 111 (one hundred and eleven) A – Ordinary Shares.

4.1.2 the issued share capital of the Company is 200 (two hundred) Ordinary No Par Value Shares, all of which are held and beneficially owned as follows:

Name of Shareholder	Shareholding	Number of Shares
Arnot Holdco	100%	200

4.1.3 the Company held no direct or indirect interests (controlling or otherwise) in any other Company as at Publication Date.

4.2 Directors

4.2.1 As at the Publication Date, the Directors are:

Name of Director	Active or Resigned	Date of Appointment
Bontle Ivy Aphane	Active	12 February 2019
Mxolisi Hoboyi	Active	12 February 2019
Thivhafuni Tshithavhane	Active	21 February 2019
Paul Kalambayi Kasongo	Active	22 November 2021

Poppy Dorah Ditlehare Ranta	Active	22 November 2021
Enos Nkgwalepane Lentsoane	Active	03 May 2023
Mudanalwo Freddy Ndou	Resigned	29 May 2022

4.2.2 As at Publication Date, the Directors listed in paragraph 4.2.1 remain in office.

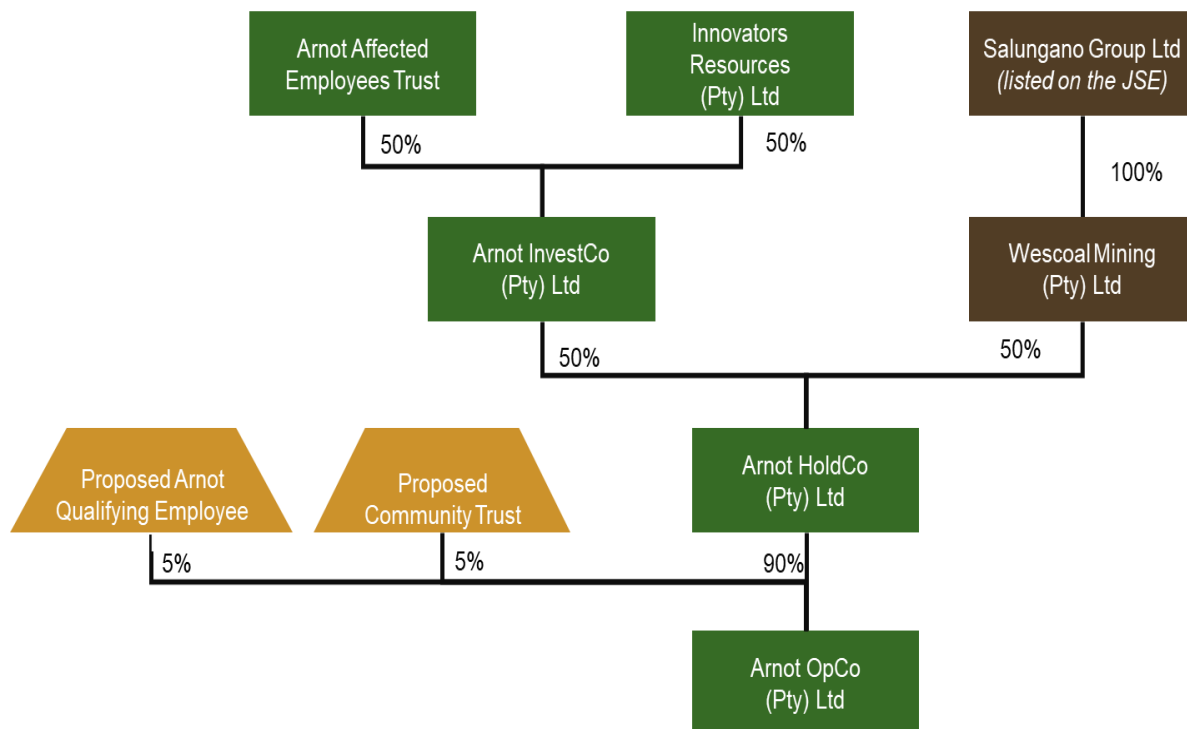
4.3 **Company Information**

Financial Year End:	March
Registered Business Address and Head Office:	142 Western Service Road Woodmead Business Park Woodmead Gauteng, 2191
Postal Address:	142 Western Service Road Woodmead Office Park Woodmead Gauteng, 2191
Auditors:	BDO South Africa Inc

5. COMPANY BACKGROUND

5.1. Background to the Company

- 5.1.1. The Company was established in 2019 as a joint venture between Wescoal (and affiliated companies) and Arnot Investco, being a consortium of employees (through various juristic entities). The consortium of employees, who are former employees of Exxaro Resources Limited (“Exxaro”) under the structure of a trust (being the Arnot Affected Employees Trust), and a company (being Innovators Resources Proprietary Limited) (“the Consortium”) who are equal shareholders in Arnot Investco.
- 5.1.2. The Company owns and operates Arnot mine which was acquired from Exxaro. The mine is in Middleburg, Mpumalanga with coal reserves amounting to more than 190 million tonnes (“Mt”) of thermal coal, making it one of the largest coal reserves in Africa. The mine is adjacent to the Arnot power station and within a 4-kilometer radius of the Rietkuil siding.
- 5.1.3. The Company was awarded a Coal Supply Agreement by Eskom to supply 180 tonnes per month to the Arnot Power Station.
- 5.1.4. The mine commenced supply to Eskom’s Arnot power station in February 2022, with production currently coming from 11 Shaft which is operated by a mining contractor.
- 5.1.5. It is envisaged that the mining operations will create at least 1500 direct jobs in peak production, replacing the jobs lost during the mine closure in 2015.
- 5.1.6. Arnot mine is a multi-product mine with opencast and underground reserves, a coal processing plant and various coal handling facilities.
- 5.1.7. Set out hereunder is a simplified group organogram:



5.2. Background to the Company's Financial Distress

5.2.1. The main reasons for the Company's Financial Distress, as set out in the court application by Wescoal can be summarised as follows:

5.2.1.1 At the outset, it should be noted that there are two aspects which have given rise to the Company's financial distress as cited in the court application by Wescoal to place the Company under supervision:

5.2.1.1.1 the first relates to the blurred lines between rehabilitation and re-establishment costs; and

5.2.1.1.2 the second relates to the mismanagement of the Company by certain figures of authority.

5.2.1.2 If regard is had to the arrangement between Eskom and the Company, it is apparent that Eskom makes payment to the Company on the understanding that the Company is a conduit for payment to the service providers and those funds are earmarked for the service providers – specifically for the rehabilitation of the mine.

- 5.2.1.3 This, however, is not how events have unfolded. This is as a result of the mismanagement of the Company, and the erstwhile management's enthusiasm to recommence operations at the mine and lack of foresight in respect of the management of funds.
- 5.2.1.4 To recommence operations, re-establishment work needed to be done and this required the Company to utilise the Working Capital Facility advanced by Wescoal, which facility was not sufficient to fully cover the re-establishment costs. Therefore, as opposed to the Company making payment to rehabilitation creditors with the funds received from Eskom, the Company utilised those funds to make payment for the re-establishment cost. This in turn meant that the rehabilitation creditors in the main remained unpaid.
- 5.2.1.5 This cycle was perpetuated for several months until it became apparent to the erstwhile board of the Company that the creditors of the Company were steadily increasing and moving from 30 days to 120 days outstanding. This was despite Eskom making monthly payments to the Company for the rehabilitation creditors. When this came to the board's attention, it became clear that funds were being incorrectly utilised by the then management of the Company.
- 5.2.1.6 The monies received from Eskom, were being utilised for re-establishment creditors in order to prepare the mine for operations as opposed to being utilised for rehabilitation creditors.
- 5.2.1.7 Pursuant to this realisation SizweNtsaluba Gobodo GrantThornton ("SNG") were appointed to perform an independent investigation into *inter alia* the affairs of the Company, in particular allegations of corruption and financial mismanagement by certain individuals in senior management relating to the issuing of contracts to suppliers as well as the issues around the non-payment of rehabilitation creditors.
- 5.2.1.8 Pursuant to the report which has been issued by SNG, two members of senior management were suspended pending disciplinary proceedings relating to *inter alia* the above issues investigated by SNG. These disciplinary proceedings commenced in May 2022 and are still ongoing as of the publication of the Business Rescue Plan.
- 5.2.1.9 In February and March 2022, a board meeting, and a special board meeting respectively, were held. At these meetings, the management accounts as at 31

January 2022 were presented. The accounts indicated assets in an amount of R41 686 218.00 (forty-one million, six hundred and eight six million, two hundred and eighteen Rand) and current liabilities of R297 201 739.00 (two hundred and ninety-seven million, two hundred and one thousand, seven hundred and thirty-nine rand).

5.2.1.10 In addition to this the board was advised that trade payables, in a total amount of R157 545 474.00 (one hundred and fifty-seven million, five hundred and forty-five thousand, four hundred and seventy-four Rand) were owing with more than 55% already in over 120 days. Consequently, it became clear that the Company had no liquidity and would not be able to discharge its short-term obligations when they fell due, placing the Company in financial distress.

5.2.1.11 The board of the Company and Wescoal verily believed that the financial state of the Company and the state of illiquidity could be resolved and therefore all attempts were undertaken, following the meetings in March 2022, to remedy these issues without the need for a legislative restructuring process. However, the liquidity position of the Company had not improved in the previous quarter as the Company lacked the required operational funding to continue trading. In the last quarter the Company's financial distress had worsened, as a result of lower-than-expected saleable tonnages. For example, since recommencing production in February 2022, the mine has not been able to produce in line with targets set out in the Eskom Coal Supply Agreement.

5.2.1.12 Immediately prior to the appointment of the BRP, the under delivered tonnages to Eskom amounted to 1.6 million tonnes. Without intervention, including aggressive ramp-up and increasing the number of sections to be mined, the under-delivery trajectory has worsened, further exposing the Company to potential penalties by Eskom.

5.2.1.13 The current management of the Company had been engaging with various potential funders to assist with the funding for the further development of the mine. Notwithstanding these engagements, a number of the potential financiers indicated that they are not prepared, considering the current financial situation of the Company and the current governance related issues, to progress such engagements and discussions.

5.2.1.14 In the circumstances, the Company was financially distressed as envisaged in section 128 (1) (f) of the Companies Act in that it was reasonably unlikely that

it will be able to pay all of its debts as they become due and payable within the immediately ensuing six months.

5.2.1.15 Pursuant to the board meetings held from February 2022 to date hereof, the report to the board of the Company was that to the extent that the shareholders are unable to revert and agree on shareholder funding, pending the securing of third-party funding, the Company should be placed into business rescue in order to facilitate the turnaround of the business.

5.2.1.16 As the shareholding in the Company is split 50/50 indirectly between Wescoal Mining and the Consortium, the board of the Company is likewise representative of the 50/50 split. Two of the directors of the Company are Wescoal appointed, while the remaining two directors are appointed by the Consortium. The directors representing the Consortium's shareholding did not believe that Business Rescue proceedings are necessary, and that the Company can trade out of its current financial distress, whereas the directors representing Wescoal Mining's shareholding believed it was prudent and essential to place the Company into Business Rescue proceedings.

5.2.1.17 This split in directorship resulted in a deadlock of the directors of the Company on certain key decisions relating to the Company. It was as a result of this deadlock that Wescoal Mining launched legal proceedings to place the Company in Business Rescue.

5.2.1.18 Furthermore, the Company was served with two liquidation applications in May 2022 and June 2022, further demonstrating the urgency within which the Company needed to be placed under supervision and in Business Rescue.

5.2.1.19 The creditors that issued the liquidation application were the only two creditors of the Company who had taken steps in enforcing their rights against the Company and there were several other creditors who intimated that they intend enforcing their rights against the Company.

5.2.1.20 A court application was issued by Wescoal Mining, in its capacity as a creditor of the Company, seeking to place the Company under supervision and in Business Rescue ("the Application").

5.2.1.21 The Application by Wescoal Mining seeking to place the Company under supervision and in Business Rescue was heard in the High Court of South

Africa, Gauteng Local Division, Johannesburg, and judgement was handed down on Monday, 10 October 2022 in terms of which:

5.2.1.21.1 The Company was placed under supervision and Business Rescue proceedings in terms of section 131 (4) of the Companies Act 71 of 2008, as amended.

5.2.1.21.2 Mr Phahlani Lincoln Mkhombo was appointed as the interim business rescue practitioner to the Company in terms of section 131 (5) of the Companies Act, with all the powers and duties entrusted to him in terms of the Companies Act, pending ratification of such appointment by the creditors at their first meeting.

5.2.1.22 The appointment of Mr Phahlani Mkhombo was ratified by the Creditors on 24 October 2022, as contemplated in section 147(3).

6. SUMMARY OF THE BUSINESS RESCUE

6.1. Introduction and Business Rescue Timeline

6.1.1. Business Rescue, as defined in section 128(1)(b), refers to proceedings to facilitate the rehabilitation of a company that is Financially Distressed by providing for –

6.1.1.1. the temporary supervision of a company by one or more business rescue practitioners, and of the management of its affairs, business and property by the appointed business rescue practitioner/s;

6.1.1.2. a temporary moratorium on the rights of claimants against a company or in respect of property in its possession; and

6.1.1.3. the development and implementation, if approved, of a plan to rescue the company in question by restructuring its affairs, business, property, debt and other liabilities, and equity in a manner that maximises the likelihood of the company in question continuing in existence on a solvent basis or, if it is not possible for the company to so continue in existence, results in a better

return for the company or creditors or shareholders than would result from the immediate liquidation of the company.

6.1.2. The objective of Business Rescue in a general sense is the development and implementation, if approved, of a Business Rescue Plan which:

6.1.2.1. rescues a company by restructuring its affairs, business, property, debt and other liabilities, and equity in a manner that maximises the likelihood of the company continuing in existence on a solvent basis; or

6.1.2.2. results in a better return for the company's creditors and/or shareholders than would result from the immediate liquidation of the company.

6.1.3. The following summary sets out the salient dates on which certain events have taken place since the commencement of the Business Rescue and which will take place during the Company's ongoing Business Rescue –

Event	Date
Court Order issued by the High Court of South Africa, Gauteng Local, Johannesburg	10 October 2022
Interim appointment of the BRP	10 October 2022
First Employees' meeting	21 October 2022
First Creditors' meeting and ratification of the BRP's appointment – Adjourned to 31 October 2022	24 October 2022
Adjourned First Meeting of Creditors	31 October 2022
Request for extension to publish the Business Rescue Plan	08 November 2022
Request for extension to publish the Business Rescue Plan	26 January 2023
Request for extension to publish the Business Rescue Plan	26 February 2023
Request for extension to publish the Business Rescue Plan	30 March 2023
Request for extension to publish the Business Rescue Plan	29 May 2023
Request for extension to publish the Business Rescue Plan	26 June 2023

Event	Date
Publication of Business Rescue Plan	14 July 2023
Publication of Notice of Meeting to consider the Business Rescue Plan (in terms of section 151 of the Companies Act)	14 July 2023
Section 151 meeting to consider published Business Rescue Plan	28 July 2023

7. STEPS TAKEN SINCE THE APPOINTMENT OF THE BRP

7.1 ADMINISTRATIVE MATTERS

7.1.1 Appointment of BRP

The BRP was provisionally appointed by the Court on 10 October 2022 in terms of section 131 of the Company's Act. His appointment was ratified by holders of the majority of independent Creditors voting interest at the first meeting of creditors on 24 October 2022, as contemplated in section 147(3).

7.1.2 Management Control

In terms of section 140(1)(a), the BRP took over full management control of the Company but, as he was entitled to do, delegated certain functions including the day to day running of the Business to Management in terms of section 140(1)(b).

7.1.3 Reporting to CIPC and Affected Persons

7.1.3.1 The BRP has complied with all statutory obligations under chapter 6 of the Companies Act and has rendered and will render, monthly reports to CIPC and Affected Persons as contemplated in section 132(3).

7.1.3.2 The first report was submitted by the BRP to CIPC, the court and Affected Persons on 02 February 2023. This report and all subsequent monthly reports until the Publication Date have, as with all notices issued by the BRP, been circulated to CIPC, court and Affected Persons.

7.1.4 **Committee Meetings**

It was agreed between the BRP, the Directors of the Company and Management, that regular meetings would be held with the respective committees for purposes of providing updates on developments in the Business Rescue.

7.1.5 **Notices**

The BRP has been publishing notices to Affected Persons in terms of the Companies Act. All notices that have been published and circulated to Affected Persons during this Business Rescue can be accessed from the Company's website, being www.arnotopco.com.

7.1.6 **Genesis Corporate Solutions Appointed to provide support to the BRP**

7.1.6.1 Soon after the commencement of Business Rescue, the BRP appointed Genesis Corporate Solutions. The BRP relies on Genesis Corporate Solutions to provide back-office support, such as maintaining records, data management, finance, and technological functions.

7.1.7 **Deloitte Appointed to Calculate Potential Liquidation Dividend**

7.1.7.1 Soon after the commencement of Business Rescue, the BRP appointed Deloitte as an independent expert to: (i) calculate the potential liquidation dividend that would have been received by Creditors, in their specific classes, if the Company had been placed into liquidation as at the Commencement Date, (ii) determine a fair and reasonable estimate of the return to each Secured Creditor, Preferent Creditor and Concurrent Creditor if the Company was liquidated.

7.1.7.2 With regard to the potential liquidation dividend calculation, attached as **Annexure C**, if the Company had been placed into liquidation as at the Commencement Date, Concurrent Creditors would have received a dividend of 8.6c (eight point six) cents in the Rand.

7.1.7.3 More details regarding the potential liquidation dividend calculation are set out in 12.

7.1.8 Appointment of 3 H Mining as technical advisor

7.1.8.1 The BRP appointed 3H Mining as a lead independent mining consultant to undertake a comprehensive review of the technical data, review of financial model and to provide technical advice to the BRP.

7.1.9 Appointment of Cox Yeats as legal advisors

7.1.9.1 Shortly after the commencement of the Company's Business Rescue, the BRP appointed Cox Yeats Incorporated to provide legal advice.

7.1.10 Appointment of Mavhuvu to investigate, verify and validate claims by Creditors

7.1.10.1 Immediately after the commencement of Business Rescue proceedings and the appointment of the BRP, it became apparent that there were discrepancies between the Claims that were submitted by Creditors and Claims as per the Company's records.

7.1.10.2 Consequently, the BRP appointed Mavhuvu, an investigative and forensic accounting firm to investigate, verify and validate each and every claim that was submitted by Creditors.

7.1.10.3 The final claims verification report was submitted to the BRP by Mavhuvu on 17 February 2023.

7.1.11 Extension for Publication of Business Rescue Plan

In terms of section 150(5), this Business Rescue Plan was required to be published within 25 (twenty-five) Business Days from the date of appointment of the BRP. The BRP obtained extension from the Creditors, as contemplated in section 150(5)(b), for various reasons critical to the publication of a viable Business Rescue Plan, for the publication of the Business Rescue Plan to firstly

31 January 2023, secondly to 28 February 2023, thirdly to 31 March 2023, fourthly 31 May 2023, fifthly on 30 June 2023 and finally to 14 July 2023.

7.1.12 Publication of Notice of Meeting and Business Rescue Plan

7.1.12.1 This Business Rescue Plan will be published to all Affected Persons within the extended deadline, on 14 July 2023.

7.1.12.2 Publication will take place in the following manner:

7.1.12.2.1 via email to all known Affected Persons, to the extent that the email addresses of known Affected Persons are available to the BRP;

7.1.12.2.2 publication on the website of the Company (www.arnotopco.com);

7.1.12.2.3 copies will be available at the registered office of the Company, at the reception area, from 08:00 to 16:00, between Mondays and Fridays; and

7.1.12.2.4 copies will be available at the office of Genesis from Tsakisani Machebe, from 08:00 to 17:00, between Mondays and Fridays.

7.1.12.3 The Notice of Meeting will be delivered to all Affected Persons simultaneously with the publication of the Business Rescue Plan.

7.1.13 Cash Resources

7.1.13.1 As at Commencement Date, the Company had R21 413 313.53 (twenty-one million four hundred and thirteen thousand three hundred and thirteen Rands and fifty-three cents) cash available in its bank accounts, held with Nedbank. The funds were used to cover critical operating expenses during the Business Rescue.

7.1.13.2 The Company generates revenue through its normal trading activities.

7.1.13.3 In order to preserve the cash resources of the Company, the BRP implemented immediate cash relief initiatives and explored broader cost optimisation initiatives, including cancelling all discretionary payments and prioritising payments based on revenue generation and critical expenses.

7.2 EMPLOYEES

7.2.1 Employees' Meeting:

A first meeting of Employees, as contemplated in section 148, was held on 21 October 2022. During this meeting:

7.2.1.1 Business Rescue was explained, and possible outcomes were presented, to the Employees;

7.2.1.2 Assistance was also given to Employees by providing answers to various questions and concerns arising from Business Rescue process; and

7.2.1.3 Employees expressed their support for Business Rescue and implored on the BRP to rescue the Company.

7.2.1.4 The Employees Committee as at the Publication Date is set out below:

Name of Employee	Department
Elsje du Toit – Chairperson	Finance (Chairperson)
Mark Pitout	Finance
Vusi Sambo	Mineral Resource Management
Sello Mphali	Supply Chain Management
Johan van Tonder	Engineering
Adelaide Mokonyama	Mineral Resource Management
Diketso Chiloane	Supply Chain Management

Nonkosi Ikaneng	HR (Coordinator)
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7.2.1.5 The BRP has maintained contact with Employees through the Employees' Committee since the first meeting of Employees held on 21 October 2022.

7.2.1.6 The Employees' Committee met with the BRP on 08 June 2023 and 04 July 2023. In total, 2 (two) meetings of the Employees' Committee were held prior to the Publication Date.

7.2.2 Lay-off and Section 189 of the LRA Process

7.2.2.1 No Employee has been laid-off since the Commencement Date.

7.2.2.2 Notwithstanding the fact that none of the Employees of the Company have been laid-off, for the Business Rescue initiatives to be successful, and for liquidation to be avoided, it may be necessary at some stage during the Business Rescue proceedings for the Company to reduce its operational costs significantly including retrenchments. This is critical and necessary for any restructure or turnaround to be successful, and for the prospects of any Financially Distressed business to return to profitability.

7.2.2.3 Should the Company at any stage, decide to reduce its operating costs including retrenchments, the Company will engage with the affected Employees and consult in line with the LRA.

7.2.2.4 Should the Company reach a point at which retrenchments are being contemplated, it is proposed that the Company will issue notices in terms of section 189(3) read together with section 189A of the LRA ("**section 189(3) notices**") to all Employees.

7.2.2.5 The issuance of the section 189(3) notices will be the first step in a statutory consultation process. The Company will consult with the Employees on all the issues set out in the section 189(3) notices, read with the provisions of section 189A, or by consensus, use their best endeavours to accelerate the consultation process in order to have the consultation and the retrenchment process concluded

expeditiously as part of the implementation of the Business Rescue Plan.

7.2.3 Consultation During the Development of the Proposed Business Rescue Plan

7.2.3.1 On 04 July 2023, the BRP consulted with, *inter alia*, employees on the development of the proposed Business Rescue Plan to:

7.2.3.1.1 enable them to make representations to the BRP for consideration, subject to the BRP' overall responsibility to publish a Business Rescue Plan which the BRP regard as representing the best prospects of rescuing the Company as contemplated in the Companies Act; and

7.2.3.1.2 the BRP requested the employees to submit any questions in regard to the proposed Business Rescue Plan to enable the BRP to consider same prior to the Publication Date.

7.3 CREDITORS

7.3.1 Creditors' Meeting:

7.3.1.1 A first meeting of Creditors, as contemplated in section 147 was convened on 24 October 2022 and 31 October 2022.

7.3.1.2 At the first meeting of Creditors:

7.3.1.2.1 Business Rescue process was explained, and possible outcomes were presented to the Creditors;

7.3.1.2.2 assistance was also given to the Creditors by providing answers to various questions;

7.3.1.2.3 claims were submitted by some of the Creditors; and

7.3.1.2.4 Creditors elected to form a Creditors' Committee and nominations were subsequently received from Creditors.

7.3.1.3 The BRP expressed the view that there was a reasonable prospect of rescuing the Company, subject to obtaining PCF and support from Creditors.

7.3.2 Creditors' Committee

7.3.2.1 Pursuant to the First Meeting of Creditors, a Creditors' Committee was duly established.

7.3.2.2 Muzi Zwane ("Mr Zwane") was appointed as the independent chairperson of the Creditors' Committee. Mr Zwane resigned as independent chairperson of the creditors committee on 19 June 2023. He was replaced by Advocate Mthokozisi Xulu who was appointed as independent chairperson of the Creditors Committee on 19 June 2023.

7.3.2.3 The Creditors' Committee met with the BRP on 02 December 2022, 13 December 2022, 20 January 2023, 25 January 2023, 24 February 2023, 29 March 2023, 28 May 2023, 26 June 2023, and 07 July 2023. In total, 9 (nine) meetings of the Creditors' Committee have been held prior to the Publication Date.

7.3.3 Consultation During the Development of the Proposed Business Rescue Plan

7.3.3.1 During the Business Rescue, the BRP consulted with, *inter alia*, representatives of all the major and/or critical Creditors and other Affected Persons on the development of the proposed Business Rescue Plan to:

7.3.3.1.1 Enable them to make representations to the BRP for consideration, subject to the BRP' overall responsibility to publish a Business Rescue Plan which the BRP regards as representing the best prospects of rescuing the Company as contemplated in the Companies Act; and

7.3.3.1.2 Request the Creditors and other Affected Persons to submit any questions in regard to the proposed Business Rescue Plan to enable the BRP to consider same prior to the Publication Date.

7.4 LEGAL

7.4.1 Suspension of Contracts

7.4.1.1 Section 136(2)(2) authorises the BRP, during Business Rescue, to entirely, partially or conditionally suspend, for the duration of the Business Rescue, any obligation of the Company that arises under any Contract and would otherwise become due during the Business Rescue.

7.4.1.2 Contracts that were not deemed critical to the Company's operations during Business Rescue were suspended in an effort to reduce operating expenses.

7.4.2 Cancellation of contracts

7.4.2.1 The BRP has the right, in terms of section 136(2)(b), to entirely, partially or conditionally cancel any obligation of the Company that arises under any Contract and would otherwise become due during the Business Rescue (whether or not the BRP is entitled to do so in terms of the provisions of the contract), on application to court.

7.4.2.2 The BRP has not, as at the Publication Date, cancelled any Contract in terms of section 136(2)(b) of the Companies Act, but reserves the right to do so if the BRP deems necessary, prior to substantial implementation.

7.4.2.3 On the other hand, it should be noted that on 20 March 2023, Boipelo Mining Contractors ("BMC") informed the Company of its intention to terminate the underground mining contract between BMC and the Company with immediate effect. An interim arrangement between BMC and the Company was put place on the same terms and conditions while BMC and the Company renegotiate a new a mining contract. The negotiations between

BMC and the Company are still underway and as at date of Publication, the negotiations have not been concluded.

7.4.3 Continuation of Contracts

Where the BRP, has determined it to be in the best interests of the Company to continue with a contract, the Contract has continued and remains of full force and effect.

7.4.4 Other Contracts

Contracts not specifically dealt with in terms of the above paragraphs 7.4.1 to 7.4.3 are subject to ongoing evaluation and negotiations by the BRP in an effort to mitigate risks and optimise the Distribution to Affected Persons.

7.4.5 Investigation of the Affairs of the Company

7.4.5.1 Section 141(1) requires that “as soon as practicable after being appointed, a practitioner must investigate the company’s affairs, business, property, and financial situation, and after having done so, consider whether there is any reasonable prospect of the company being rescued”.

7.4.5.2 In the course of his investigations, into whether or not a reasonable prospect exists for the Company to be rescued, the BRP has concluded that by implementing the Proposed Rescue Plan there is a reasonable prospect of the Company continuing in existence on a solvent basis, alternatively, that a better return for Creditors or Shareholders can be achieved in Business Rescue than would result from the immediate liquidation of the Company.

7.4.5.3 Section 141(2) provides that if at any time during Business Rescue the BRP concludes that there is evidence, in the dealings of the Company before the Commencement Date of:

7.4.5.3.1 voidable transactions or the failure by the Company or any director to perform any material obligation relating to the Company, the BRP must take any necessary steps to rectify the matter and may direct management to take appropriate steps;

7.4.5.3.2 reckless trading, fraud or other contravention of any law relating to the Company, the BRP must forward the evidence to the appropriate authority for further investigation and possible prosecution and direct management to take any necessary steps to rectify the matter, including recovering any misappropriated assets of the Company.

7.5.6.4 The BRP is continuing to investigate the dealings of the Company prior to the Commencement Date, but have, to date, not found, or been presented with, any cogent evidence of any voidable transactions or misconduct that would require the BRP to take any further steps contemplated in Section 141(2). Should any such evidence surface, or be provided, after the Publication Date, the BRP will immediately report on it to all Affected Persons.

7.4.6 **General**

The BRP was required to engage the Advisors on, *inter alia*, issues relating to:

- 7.4.6.1 employment;
- 7.4.6.2 competition;
- 7.4.6.3 tax;
- 7.4.6.4 legal;
- 7.4.6.5 regulatory issues;
- 7.4.6.6 technical;
- 7.4.6.7 contractual disputes;
- 7.4.6.8 PCF;
- 7.4.6.9 PCF agreements;
- 7.4.6.10 the disposal process;
- 7.4.6.11 Claims against the Company; and

7.4.6.12 various issues arising out of the Business Rescue including this Business Rescue Plan.

7.5 BUSINESS RESCUE INITIATIVES

7.5.1 Management Restructuring Plan

7.5.1.1 Prior to the commencement of Business Rescue proceedings, Management had developed the Management Restructuring Plan in order to restructure the Business and ensure the continued survival of the Business of the Company.

7.5.1.2 The Management's Restructuring Plan was predicated on the following initiatives:

7.5.1.2.1 the development of 11 shaft south main panel (the "SMD");

7.5.1.2.2 the recommissioning of the dense medium separation wash plant ("DMS Wash Plant");

7.5.1.2.3 the re-establishment of the 10 shaft ("10 Shaft Re-Establishment");

7.5.1.2.4 the acquisition of the Mooifontein Properties from Eskom ("Mooifontein Land");

7.5.1.2.5 the development of the Mooifontein Pit 1A and Pit 2 opencast pits including the associated surface and auxiliary infrastructure ("Opencast"); and

7.5.1.2.6 the Eskom Supply Under-delivery Rectification ("Coal Rectification").

7.5.1.3 Although the Management Restructuring Plan was initiated by the Company and Management prior to the Commencement Date, the BRP has utilised the expertise of Management as well as the

concepts and proposals developed by Management in the Management's Restructuring Plan during Business Rescue.

7.5.1.4 The Management Restructuring Plan is already underway pursuant to the Company raising more than R40 000 000.00 (forty million Rand) from various revenue generating initiatives outside of the PCF process.

7.5.1.5 The remainder of the Management Restructuring Plan requires funding of R308 000 000 (three hundred and eight million Rand) in phases.

7.5.2 Post-Commencement Finance

7.5.2.1 This special form of financing provided and made available for companies under Financial Distress, typically during a formal Business Rescue, is critical to avoid operations coming to a standstill and a company collapsing into liquidation.

7.5.2.2 PCF, as envisaged in Chapter 6 of the Companies Act, is one of the most imperative building blocks to a successful restructure of a distressed company. It also represents the biggest challenge for BRPs to enable the business to be successfully restructured.

7.5.2.3 The BRP approached and was approached by various PCF funders including shareholders of the Company and investigated all other options for PCF to cover critical operating requirements and general working requirements. Non-Disclosure Agreements were concluded with potential PCF funders in order to commence with the due diligence. The process of raising PCF took more than 5 (five) months as most PCF funders including shareholders were reluctant and not willing to provide PCF. As at Publication Date, the BRP was unsuccessful in securing PCF at the required level to support the Management's Restructuring Plan including working capital requirement.

7.5.3 Reduction of Operating Costs

7.5.3.1 In an effort to reduce operating costs and to preserve the already constrained cashflow position at the Company, the BRP

investigated the existence, if any, of unnecessary costs and immediately put in place cost-containment measures to reduce ongoing operating costs.

7.5.3.2 A moratorium was also placed on recruitment of new employees. 6 (six) employees have resigned since the commencement of Business Rescue proceedings and none of these employees have been replaced as of the Publication date.

7.5.3.3 Both the BRP and Management continue to investigate further cost-containment initiatives.

7.5.4 Strategic Equity Partner

7.5.4.1 The BRP has also been actively pursuing a strategic equity partner with capital, access to market, technical expertise, and know-how to partner with the Company in order to be more competitive and profitable.

7.5.4.2 To this end, two (2) parties were engaged as they were considering various arrangements that they might be interested in.

7.5.4.3 None of the parties were interested in being a SEP, however they were interested in forming a joint venture or partnership with the Company.

7.5.5 Potential Joint Venture between the Company and Siphesihle SS Mining

7.5.5.1 In March 2023, the BRP and Management concluded a term sheet with Siphesihle SS Mining Proprietary Limited (“SSS Mining”) with a view of securing PCF in order to implement the Management Restructuring Plan. In addition, the parties entered a 90-day exclusivity to conclude the due diligence and definitive funding agreements. An exclusivity fee of R5 000 000.00 (five million Rand) was paid by SSS Mining. The 90-day exclusivity period to conclude and sign definitive agreements, including provision of confirmation of funds expired on 06 June 2023.

7.5.5.2 In terms of the signed term sheet, Company and SSS Mining would establish or form an incorporated participative joint venture entity

(“JV” or “NewCo”) wherein the parties shall both hold shares as set out herein. The Company will hold 40% shareholding in NewCo with SSS Mining holding 60% shareholding. Once the JV or NewCo is formed, the Company shall transfer a portion of its mining operations which related to underground and the open cast mining to NewCo.

- 7.5.5.3 The JV shall be constituted with a view to facilitating the optimal conduct and management of the mining operations at the Company for the benefit of all stakeholders.
- 7.5.5.4 SSS Mining would provide funding and support to NewCo for working capital and capital expenditure. An amount of up to R400 million Rand (four hundred million Rand) subject to review by SSS Mining, would be made available as follows:
 - 7.5.5.4.1 R50 million Rand (fifty million Rand) for purchase of the Mooifontein Properties from Eskom. SSS Mining shall register a bond over the Properties as security;
 - 7.5.5.4.2 R50 million Rand (fifty million Rand) for working capital;
 - 7.5.5.4.3 R100 million (one hundred million Rand) for underground re-establishment capital expenditure;
 - 7.5.5.4.4 R200 million Rand (two hundred million Rand) for the Mooifontein opencast surface infrastructure capital expenditure;
- 7.5.5.5 Such funding will be provided in cash and/ or by way of services provided that will result in the commissioning of 10th shaft underground, opencast Pits 1A and 2, beneficiation plant and coal handling upgrades; and
- 7.5.5.6 Such funding and support shall be provided within 7 days after signing all the transaction agreements but shall be no later than 31 March 2023.
- 7.5.5.7 Upon signature of the Term Sheet, SSS Mining would immediately assist with the rectification of the Eskom Coal Supply Agreement,

any proceeds generated from this process will be utilized by the Company.

7.5.5.8 The definitive funding agreements have not been concluded between the Company and SSS Mining pending the finalisation and adoption of the Business Rescue Plan. The discussions between SSS Mining, BRP and Management are still ongoing.

7.5.5.9 The Company is currently engaging in a coal buy-in transactions with a related party to SSS Mining for the free-on-truck market.

7.5.6 Unsolicited Offers Received

7.5.6.1 The BRP received 4 (four) expressions of interests from interested parties for the acquisition of the business as a going concern or for the acquisition of the entire issued share capital or majority shareholding in the Company.

7.5.6.2 Non-disclosure agreements were concluded with the interested parties, and they were given access to data room. None of the 4 (four) interested parties made offers. However, any engagements with potential interested parties were stopped immediately after entering into exclusivity with SSS Mining as explained in 7.5.5.1 above.

7.5.6.3 It should be noted that at the same time, the Shareholders were in discussions with various interested parties, and this has resulted in 3 (three) binding offers being submitted on 15 June 2023. Details on the bidding process are set out in Part B.

7.5.7 Cash Administration

In order to minimise the operating expenses of the Company, the BRP, together with Management, continue to:

- 7.5.7.1 Monitor the cashflow and financial position;
- 7.5.7.2 Perform daily bank reconciliations;
- 7.5.7.3 Analyse costs;
- 7.5.7.4 Control payments; and
- 7.5.7.5 Enforce general controls.

7.5.8 Income Generating Initiatives:

- 7.5.8.1 The Company is currently generating revenue from producing and supplying coal to Eskom, in terms of which Eskom settles the coal delivery invoice within 30 (thirty) days from when the invoice is issued.
- 7.5.8.2 Some of the coal produced has not been meeting the minimum quality specification per the Coal Supply Agreement as a result of the Company not having its wash plant operational. The Coal Supply Agreement classifies this coal as reject coal (“Reject Coal”).
- 7.5.8.3 The Company has been able to sell the Reject Coal on the spot market ex-mine i.e., free-on-truck. The sale of Reject Coal has enabled the Company to generate additional cash within a relatively short period of time compared to sales to Eskom.
- 7.5.8.4 It was through such opportunities that the Company funded the process of commissioning its wash plant and developing the 11 Shaft South Main Development (“SMD”).
- 7.5.8.5 Once commissioned, the wash plant will enable the Company to process Coal such that it is within specification for Eskom supply

and further create opportunities for third-party coal processing on a tolling basis i.e., toll washing.

7.5.8.6 The SMD is the life extension project at 11 Shaft which will result in an additional section deployment and unlocking 3.3 million tonnes of Coal.

7.5.8.7 Both the wash plant and the SMD have been internally funded and will be completed mid to end July 2023.

7.5.9 **Stakeholder Engagement**

7.5.9.1 In order for Business Rescue to succeed, it was and remains, imperative that the BRP and Management constantly engaged with all the critical stakeholders.

7.5.9.2 As a result, the BRP and Management engaged with the following stakeholders throughout the Business Rescue proceedings, which stakeholders have been supportive of the BRP and Company's turnaround initiatives:

7.5.9.2.1 Eskom;

7.5.9.2.2 Shareholder representative;

7.5.9.2.3 South African Revenue Services;

7.5.9.2.4 Department of Mineral Resources and Energy; and

7.5.9.2.5 Critical Creditors.

7.5.10 **The Proposed Restructure**

7.5.10.1 The BRP, together with Management, conducted an objective assessment of the Company and evaluated various Business Rescue scenarios.

7.5.10.2 Pursuant to conducting the aforesaid assessment and evaluation, the BRP developed a proposal to restructure the Company's affairs, business, property, debt and other liabilities, and equity in a manner

that would maximise the likelihood of the Company being rescued and avoid liquidation.

7.5.10.3 The details of the Proposed Restructure are set out in paragraph 19 and 20.

8 TRADING ACTIVITIES FOLLOWING THE COMMENCEMENT DATE

- 8.1 The Company continued trading and remains operational. The Business Rescue process has provided an opportunity for the BRP to continue with the Business so as to preserve its goodwill through an effective moratorium in respect of all legal proceedings and claims against the Company. A failure of operations would have resulted in the financial collapse of the Company and an outcome detrimental to the interests of all stakeholders including Creditors and Employees.
- 8.2 The BRP's main focus has been to stabilise the Business in order to ensure that the Company continues with the business operations as normal without any disruptions, and that the economic value of the business is maintained, and that jobs are preserved.
- 8.3 Both Management and the BRP have continuously engaged with employees and critical suppliers, all of whom have expressed support to the Company. This is demonstrated largely, by the fact that service providers and other suppliers continued providing goods and services on the same terms and conditions that existed before the commencement of Business Rescue proceedings.
- 8.4 In order to maintain the solvency of the Company during this Business Rescue, the BRP continuously monitors cash flow and financial projections, performs regular bank reconciliations, controls payments and enforces general financial and operational controls.
- 8.5 The BRP and Management have identified and implemented a number of key strategic interventions and cost containment measures, which resulted in significant cost savings and at the same time improve operational efficiency.
- 8.6 The approval process for all expenditure has been rigorously policed.
- 8.7 As of the date of Publication, the Company remains trading and operational.

9 MATERIAL ASSETS OF THE COMPANY AS AT THE COMMENCEMENT DATE (INCLUDING ESTIMATED REALISATION VALUE ON LIQUIDATION)

As required in terms of section 150(2)(a)(i) of the Companies Act, a complete list of all material assets of the Company at book value, as well as an indication as to which assets were held as security by Creditors as at Commencement Date, is attached hereto as **Annexure A**.

10 CREDITORS OF THE COMPANY AS AT THE COMMENCEMENT DATE

10.1 A list of the Creditors, as reflected in the Company's records, as at the Commencement Date, is attached hereto as **Annexure B**.

10.2 As required in terms of the Companies Act, **Annexure B** indicates:

10.2.1 which Creditors have proved their Claims;

10.2.2 the Creditors' ranking in terms of the Insolvency Act;

10.2.3 the Creditors' voting interest determined and calculated in terms of the Companies Act, according to the Claim amount approved by the BRP; and.

10.2.4 which persons are Disputed Creditors, including the extent of their Disputed Claims.

10.3 The BRP accepts the Company records as being correct in respect of all Claims and Disputed Claims, unless proven otherwise in terms of the Dispute Resolution Mechanism.

10.4 All persons, who believe that they have a Claim, are referred to **Annexure B** and should treat **Annexure B** as the BRP' notification of the Claims in this Business Rescue for purposes of the Dispute Resolution Mechanism contemplated in 37. If any person is in disagreement with the information provided in **Annexure B** (being a Creditor with a Disputed Claim), such persons should utilise the Dispute Resolution Mechanism set out in this Business Rescue Plan.

10.5 Any person who is not recognised as a Creditor in **Annexure B** must follow the Dispute Resolution Mechanism set out in this Business Rescue Plan.

10.6 Payment waterfall in Business Rescue

- 10.6.1 In terms of section 135, to the extent that there are funds available in the waterfall for Distribution to Creditors, the Distribution to Creditors will be made in the following order of priority in terms of the Business Rescue Plan and while the Company is under Business Rescue:
- 10.6.1.1.1 firstly, Business Rescue remuneration and expenses;
 - 10.6.1.1.2 secondly, Employees in respect of any remuneration, reimbursement for expenses or other amount relating to their employment during the Business Rescue;
 - 10.6.1.1.3 thirdly, Secured PCF Claims;
 - 10.6.1.1.4 fourthly, unsecured PCF Claims;
 - 10.6.1.1.5 Employees in respect of any claims for any remuneration prior to the Commencement Date; and
 - 10.6.1.1.6 fifthly, unsecured Creditors (made up of Concurrent Creditors).
- 10.6.2 Secured Creditors will be paid the net proceeds after the deduction of all costs and expenses relating to the administration and realization of the security subject to an Encumbrance, up to the security value of their claim, on realization of the relevant asset subject to an Encumbrance.
- 10.6.3 To the extent that a portion of a Claim of a secured creditor is not fully discharged from the net proceeds after the deduction of all costs and expenses relating to the administration and realization of the security subject to an Encumbrance, the balance of the Claim shall be treated as a Claim forming part of the Claims of Concurrent Creditors.
- 10.6.4 Further to the above, and in line with the judgment by the High Court of the Gauteng Division, Pretoria in the case of *The South African Property Owners Association v Minister of Trade and Industry and Others 2018 (2) SA 523 (GP)*, any costs or liability that arise out of an agreement that was concluded prior to business rescue proceedings, and which costs were incurred during business rescue proceedings, will not constitute “post-commencement financing” or

“costs arising out of the costs of business rescue proceedings“. Such costs and/or liabilities, unless already secured, will merely form the subject of an unsecured (concurrent) claim against the company in business rescue and will not enjoy any preference above other creditors.

11 CREDITORS VOTING INTEREST AND VOTING BY PROXY

11.1 In terms of the Companies Act and for the purposes of any vote by Creditors:

11.1.1 a Creditor recognised with a Claim in **Annexure B** has a voting interest equal to the value of the amount owed to that Creditor by the Company as reflected in **Annexure B**; and

11.1.2 a Creditor who would have a subordinated claim in liquidation has a voting interest, as independently and expertly appraised and valued at the request of the BRP, equal to the amount, if any, that the Creditor could reasonably expect to receive in a liquidation of the Company.

11.2 A Creditor who has a Disputed Claim, contingent Claim, prospective Claim, damages or unliquidated Claim and/or a Disputed Creditor will only be entitled to vote on the approval of this Business Rescue Plan to the extent determined by the BRP.

11.3 A Creditor with a Claim for PCF will have a voting interest in the Business Rescue of the Company for the amount owed by the Company to that Creditor.

11.4 In order to ensure the maximum attendance by creditors of the Section 151 Meeting, the BRP proposes that the following process will apply in respect of the Section 151 Meeting (meeting to determine the future of the Company) and voting called for in terms of section 152 of the Companies Act (consideration of the Business Rescue Plan):

11.4.1 As set out above, the BRP has consulted with the critical Creditors, Employees and other key role players on the development of the proposed Business Rescue Plan prior to the Publication Date. The BRP has attempted to deal with all questions and/or suggestions prior the Publication Date.

11.4.2 Pursuant to the Publication Date, Affected Persons are requested to provide any further questions and/or proposed amendments to the BRP prior to the Section 151 Meeting so that the BRP can consider and address same prior to the Section 151 Meeting to ArnotOpcobr@gcs-sa.co.za.

11.4.3 The Section 151 Meeting will be held electronically. A Microsoft Teams hyperlink providing access to the Section 151 Meeting will be circulated prior to the Section 151 Meeting.

11.4.4 A form of proxy will be included in the Notice of the Section 151 Meeting. All forms of proxy given on behalf of a company, a legal entity or a trust must be accompanied by a valid and authorised resolution supporting the appointment of the proxy. Completed forms of proxy must be emailed to Arnotopcobr@gcs-sa.co.za.

11.4.5 Creditors are encouraged to lodge their forms of proxy as soon as possible, however, will be afforded an opportunity to lodge their proxy forms by no later than 17h00 on Thursday 27 July 2023.

11.5 The voting interests of Creditors, as at the Publication Date, is set out in **Annexure B**.

12 PROBABLE DIVIDEND ON LIQUIDATION

12.1 The BRP engaged Deloitte, as an independent expert, to calculate the potential dividend in a liquidation scenario as at Commencement Date.

12.2 The calculation of a liquidation dividend as at Commencement Date is based on an independent exercise undertaken by Deloitte. Affected Persons are encouraged to carefully consider the calculation presented by Deloitte and satisfy themselves as to the accuracy thereof. If any Affected Person requires a full copy of the liquidation and distribution report, please contact Tsakisani Machebe of Genesis at tsakisani@gcs-sa.co.za. The report is available to Affected Persons on signature of a Hold Harmless Agreement, as further detailed in paragraph 12.8.6.

12.3 Deloitte relied on financial and other information provided to it by the Company and discussions with the BRP, for the purpose of calculating the liquidation dividend as at Commencement Date, and the approximate realisation value is set out in the full liquidation calculation document prepared by Deloitte.

12.4 Deloitte were requested to undertake the liquidation calculation on the basis of a final liquidation order being granted against the Company. In a final liquidation, where the Company's mining right is lost, value is expected to be significantly eroded and where certain assets within the Company would need to be sold on a fire sale basis.

- 12.5 The probable dividend which Concurrent Creditors would receive if the Company was to be placed in liquidation, as at Commencement Date, is 8.6c (eight, point six) cents in the Rand. The liquidation calculation is attached as **Annexure C**.
- 12.6 Based on the dividend calculation of Deloitte as at Commencement Date, the BRP estimates that the probable dividend which Concurrent Creditors would receive if the Company was placed in liquidation, as at the Publication Date, would still be 8.6c (eight, point six) cents in the Rand.
- 12.7 The figures in paragraph 12.5 and 12.6 take into account the costs associated with liquidation, as calculated in terms of the Insolvency Act.
- 12.8 Deloitte wish to highlight the following:
- 12.8.1 the probable liquidation dividend may not necessarily meet the Affected Persons' requirements or objectives or address the specific circumstances of the purpose for which access to the probable liquidation dividend is required by the Affected Persons;
 - 12.8.2 the probable liquidation dividend does not constitute tax, accounting or legal advice to any Affected Persons and Affected Persons are advised to consult an independent attorney, accountant or any other professional advisor;
 - 12.8.3 Deloitte shall not be held responsible for any acts or omissions taken by an Affected Persons' reliance on the liquidation dividend. Any reliance by the Affected Persons on the probable liquidation dividend is entirely at the Affected Persons' own risk;
 - 12.8.4 Deloitte does not warrant or represent that the information set out in the probable liquidation dividend calculation is sufficient or appropriate for the purpose for which access to the probable liquidation dividend is required by the Affected Persons;
 - 12.8.5 Deloitte neither owes nor accepts any legal duty to the Affected Persons whether in contract or in delict (including without limitation, negligence and breach of statutory duty), or howsoever otherwise arising, and shall not be liable in respect of any loss, damage or expense of whatsoever nature which is caused by the Affected Persons' use of (or conclusions drawn by it) the Output, or upon any representation, statement, judgement, explanation or other information obtained from Deloitte or made in relation thereto; and

12.8.6 Deloitte requires that any Affected Person requesting a copy of the detail supporting the liquidation dividend sign a hold-harmless letter in favour of Deloitte. The liquidation estimated outcome statement, if supplied under a hold harmless letter, will be a redacted version due to the commercial sensitivity of the information contained therein and in order to protect the interests of all Affected Persons.

13 HOLDERS OF THE COMPANY'S ISSUED SECURITIES

As required in terms of section 150(2)(a)(iv) of the Companies Act, the Shareholder is the holder of the Company's issued securities.

14 THE PRACTITIONERS' REMUNERATION

14.1 The regulations to the Companies Act prescribe an hourly tariff (inclusive of VAT) for the payment of the fees of a business rescue practitioner.

14.2 The BRP's remuneration is based on the tariff, in the Companies Act, in respect of a large-sized company. This is based on a company's public interest score as at Commencement Date. The Company's public interest score, calculated in terms of Regulation 26(2) of the Companies Act, as at Commencement Date, was 2046.

14.3 A company is regarded as a large-sized company if its public interest score is more than or over 500.

14.4 To date, Mkhombo has charged out his time at the prescribed tariff rates set out in Regulation 128 of the Companies Act. In terms of section 143(2), the BRP hereby propose an agreement providing for further remuneration, additional to the prescribed tariff, resulting in an increase in the charge out rate of the BRP from R1 740.00 per hour to R4 500.00 per hour (excluding VAT) in respect of Mkhombo, retrospectively, with effect from the date of his appointment. This fee is payable on the Adoption Date and is based on an approximation of the BRP's standard hourly rates and the tariff rates.

14.5 It should be recognised that the hourly rate prescribed by the tariff in the regulations is not market related and is outdated as it was determined in or about 2011. The current market related hourly rate is between R3 500.00 and R6 500.00 exclusive of VAT.

14.6 On approval of the Business Rescue Plan the Creditors and the Company agree to this increase and the payment of the difference in the prescribed tariff and the agreed increased hourly rate since the date of the BRP' appointment.

14.7 In addition to the above, Phahlani Mkhombo or Genesis Corporate Solutions will be entitled to:

14.7.1 a capital raising fee of 2% (two percent), exclusive of VAT of the post-commencement finance or funding in whatever form including prepayment for coal obtained in terms of section 135(2) of the Companies Act upon the successful execution of the post-commencement finance agreement.

14.7.2 to a success of 2% (two), exclusive of VAT, calculated based on the total liabilities of the Company as at commencement date of business rescue proceedings or a deal fee (whichever is applicable) of 2% (two percent), exclusive of VAT, in respect of any successful transaction concluded with a third party calculated based on the total liabilities of the Company as at the commencement date of business rescue proceedings. This fee will be payable to Phahlani Mkhombo or Genesis Corporate Solutions, on the date of filing of Substantial Implementation of the adopted Business Rescue Plan with CIPC.

14.8 A separate meeting to approve the proposed agreement will be convened in accordance with the terms of section 143 of the Companies Act.

15 STATEMENT ABOUT WHETHER THE BUSINESS RESCUE PLAN INCLUDES A PROPOSAL MADE INFORMALLY BY A CREDITOR

As required in terms of section 150(2)(a)(vi) of the Companies Act, this Business Rescue Plan does not include any informal proposal made by a Creditor or Creditors of the Company.

[END OF SECTION]

PART B – PROPOSAL

16. MORATORIUM

- 16.1 The moratorium imposed by section 133 read with section 150(2)(b)(i) prohibits any legal proceedings, including enforcement actions, against the Company, or in relation to any property belonging to the Company or lawfully in its possession, from being commenced or being proceeded with for the duration of the Business Rescue of the Company.
- 16.2 This means that no person is entitled to proceed in any forum against the Company for non-payment of debts during the Business Rescue of the Company unless the BRP or a High Court consents to any such proceedings.
- 16.3 The intention of a moratorium, within the context of a Business Rescue, is to give the Company breathing space and a window of opportunity while it establishes and publishes a Business Rescue Plan.
- 16.4 The moratorium in relation to the Company took effect from the Commencement Date and will remain in place until the termination of the Business Rescue of the Company in accordance with the provisions of the Companies Act.

17. OBJECTIVE AND PURPOSE OF BUSINESS RESCUE

- 17.1 The purpose of Business Rescue as outlined in Chapter 6 of the Companies Act, read with section 7(k), is to provide for the efficient rescue and recovery of Financially Distressed companies, in a manner that balances the rights and interests of all relevant stakeholders.
- 17.2 The objective of Business Rescue, as set out in section 128(1)(b)(iii) of the Companies Act, is to develop and implement a rescue plan that:
- 17.2.1 rescues the Company by restructuring its affairs, business, property, debt and other liabilities, in a manner that maximises the likelihood of the Company continuing in existence on a solvent basis; or
 - 17.2.2 if the aforementioned is not possible, results in a better return for the Company's creditors or Shareholders than would result from the immediate liquidation of the Company.

17.3 This Business Rescue Plan seeks to rescue the Company by implementing the proposal set out in this document.

17.4 This Business Rescue Plan further seeks to provide Affected Persons with information, so that they may:

17.4.1 assess the likely outcome of the dividend yield calculation under Business Rescue, and

17.4.2 be assured of the likelihood of obtaining a better outcome under Business Rescue for all Affected Persons, when compared to a liquidation.

18 PROPOSED RESTRUCTURING PLAN IN TERMS OF THIS BUSINESS RESCUE PLAN

18.1 Immediately after the BRP was appointed, he embarked on a process to consider the Management Restructuring Plan, the operational capabilities of the Business and the value residing in the Business. In addition, the BRP, together with Management and the Advisors, conducted an objective assessment of the Company and evaluated various Business Rescue scenarios. In doing so, the BRP established that Management had prior to the Commencement Date developed a Management Restructuring Plan which was predicated on, *inter alia*, the following restructuring initiatives:

18.1.1 the SMD;

18.1.2 the recommissioning of the DMS Wash Plant;

18.1.3 the 10 Shaft Re-Establishment;

18.1.4 the acquisition of the Mooifontein Properties;

18.1.5 the Opencast development including the associated surface and auxiliary infrastructure; and

18.1.6 the Coal Rectification.

18.2 Although the Management Restructuring Plan was initiated by the Company and Management prior to the Commencement Date, the BRP has utilised the expertise of Management as well as the concepts and proposals developed by Management in the Management's Restructuring Plan during Business Rescue.

18.3 The Management Restructuring Plan is already underway pursuant to the Company raising more than R40 000 000.00 (forty million Rand) from various revenue generating initiatives outside of the PCF process.

18.4 The funds raised to date in respect of the Management Restructuring Plan have been utilized to fund the SMD and the DMS Wash Plant costs. The remaining initiatives are dealt with in detail in 19 below.

18.5 Pursuant to conducting the aforesaid assessment and evaluation, and after consultation with the relevant Affected Persons, the BRP propose two options to rescue the Company:

18.5.1 Option A – the implementation of the Management Restructuring Plan; or

18.5.2 Option B – a Sales or Disposal Process.

OPTION A

19 MANAGEMENT RESTRUCTURING PLAN

19.1 The Management Restructuring Plan as developed by Management seeks to achieve the following in the immediate term:

19.1.1 Increase current production from 11 shaft through the SMD development and 10 Shaft Re-Establishment;

19.1.2 The DMS Wash Plant must be operational by the time the 10 Shaft Re-Establishment is complete to manage qualities for the Eskom supply;

19.1.3 Diversify revenue-generating streams through third-party coal washing at the DMS Wash Plant (“Toll Washing”);

19.1.4 Commence Coal Rectification at a margin to reduce future Eskom penalties; and

19.1.5 Restructure and/or terminate onerous material contracts for the nature and scale of the Company’s operation.

19.2 The Opencast Development which requires Mooifontein Land to be purchased from Eskom would have to be implemented in the short to medium term subject to availability of funding and mobilisation of a contractor to develop Opencast.

19.3 The following paragraphs outline detailed description of each of the Management's Restructuring Plan initiatives:

19.3.1 **The SMD**

19.3.1.1 The reserve in the currently mined sections at 11 Shaft will deplete in August 2023. The Company is extending the life of mine ("LoM") at 11 Shaft through SMD development which will unlock 3.3 Mt of run-of-mine ("ROM") equivalent to 2 years and 9 months life extension.

19.3.1.2 To date, the borehole drilling, drilling and blasting activities have been completed.

19.3.1.3 The SMD outstanding activities are as follows:

19.3.1.3.1 structural delineation of the extrapolated geological anomaly ahead of mining;

19.3.1.3.2 in-fill drilling for coal resources and coal reserve upgrades for de-risking the scheduled panels ahead of mining;

19.3.1.3.3 determine the coal qualities and washability; and

19.3.1.3.4 the geotechnical sampling and analyses from the immediate coal seam roof involving roof support design impact splits tests for accurate roof ratings and roof conditions forecasting using gritstone thickness.

19.3.1.4 The SMD project will be completed in July 2023 and capital spent to date on the SMD is R 8 000 000 (eight million Rand) with R 3 000 000.00 (three million Rand) outstanding capital.

19.3.2 **The DMS Wash Plant**

19.3.2.1 The mine is currently undergoing the process of refurbishing the DMS plant at cost of R10 300 000.00 (ten million three hundred thousand Rand). The re-establishment commenced in early May 2023 and is expected to be

completed by 31 July 2023. Full capital has been paid to contracted parties on this workstream.

19.3.2.2 The DMS section aims to upgrade the raw coal by separating the shales out using dense medium separation means. The separation is particularly aimed at achieving the following objectives for coal:

19.3.2.2.1 increasing the calorific value;

19.3.2.2.2 decreasing the ash content;

19.3.2.2.3 decreasing the sulphur content; and

19.3.2.2.4 increasing the volatiles content.

19.3.2.3 The DMS plant forms an integral part of the Company's growth strategy. Approximately 40% (forty percent) of the coal coming from 10 Shaft, Pit 1A and Pit 2 will go through the processing plant to ensure that the final product meets the minimum coal specifications as per the Coal Supply Agreement with Eskom.

19.3.2.4 The DMS Wash Plant will create an opportunity to generate additional revenue through Toll Washing for third-party coal. The DMS Wash Plant will also enable washing multiple products, including washing for the export market.

19.3.3 **The 10 Shaft Re-Establishment**

19.3.3.1 To increase the volume output from the underground reserve area, additional sections should be brought online at Arnot mine. These additional sections are required to be established at 10 Shaft.

19.3.3.2 The 10 Shaft reserve area is endowed with currently mineable 9.8Mt of ROM coal at a calorific value ("CV") 21.1 megajoules ("MJ") per kilogram ("kg") on an air-dried basis.

19.3.3.3 To access and mine the reserve area at 10 Shaft requires the resuscitation of various infrastructure both on surface and underground for both primary and auxiliary support.

19.3.3.4 The 10 Shaft surface infrastructure includes the following:

- 19.3.3.4.1 a sewage pipeline linking the ablution system from 10 shaft to the sewage plant located at 11 Shaft;
 - 19.3.3.4.2 the mechanical, electrical and instrumentation resuscitation of surface and underground conveyor belt installations;
 - 19.3.3.4.3 the completion of refurbishment work on the office and change-house buildings with the further equipping of the change-house; and
 - 19.3.3.4.4 equipping the lamp room and control room with the necessary instruments to support coal-winning activities.
- 19.3.3.5 The initial LoM for the 10 Shaft reserve area is shown in Figure 1 below. It can be noted from this plan that significant amount of underground infrastructure is required to access the panel T4 which would therefore require a substantial amount of capital as a start.
- 19.3.3.6 As such, this plan was revised to access a panel perpendicular to the G1 panel (Figure 2) in which conveyor G1 is constructed. This plan lays itself to several advantages in comparison to the initial LoM, which advantages are:
- 19.3.3.6.1 the panel is relatively close to the shaft which will minimize the travelling distance to and from the sections;
 - 19.3.3.6.2 has a significantly reduced capital requirement in comparison to the original LoM;
 - 19.3.3.6.3 the resuscitation timeframes for the underground scope is significantly reduced owing to the reduced infrastructure footprint; and
 - 19.3.3.6.4 it will unlock a reserve area of 762 thousand tonnes (“Kt”) relatively quickly.

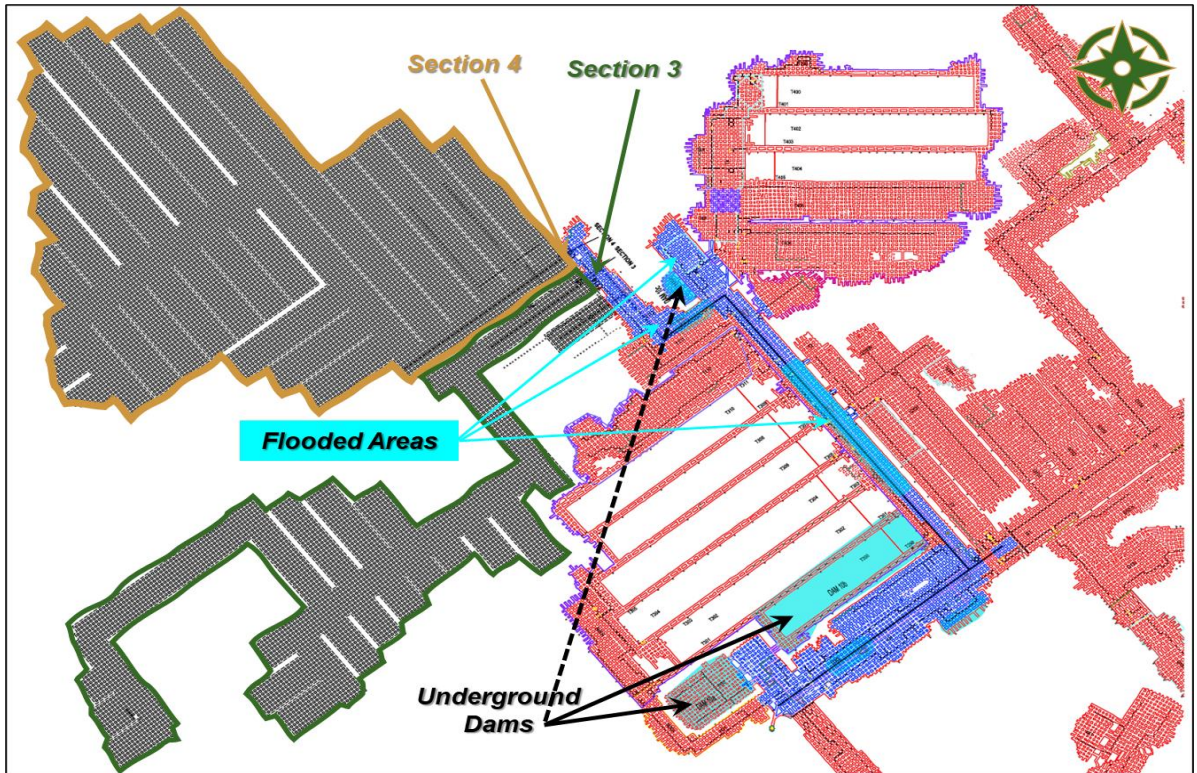


Figure 1: Original LOM-Access to T4 panel

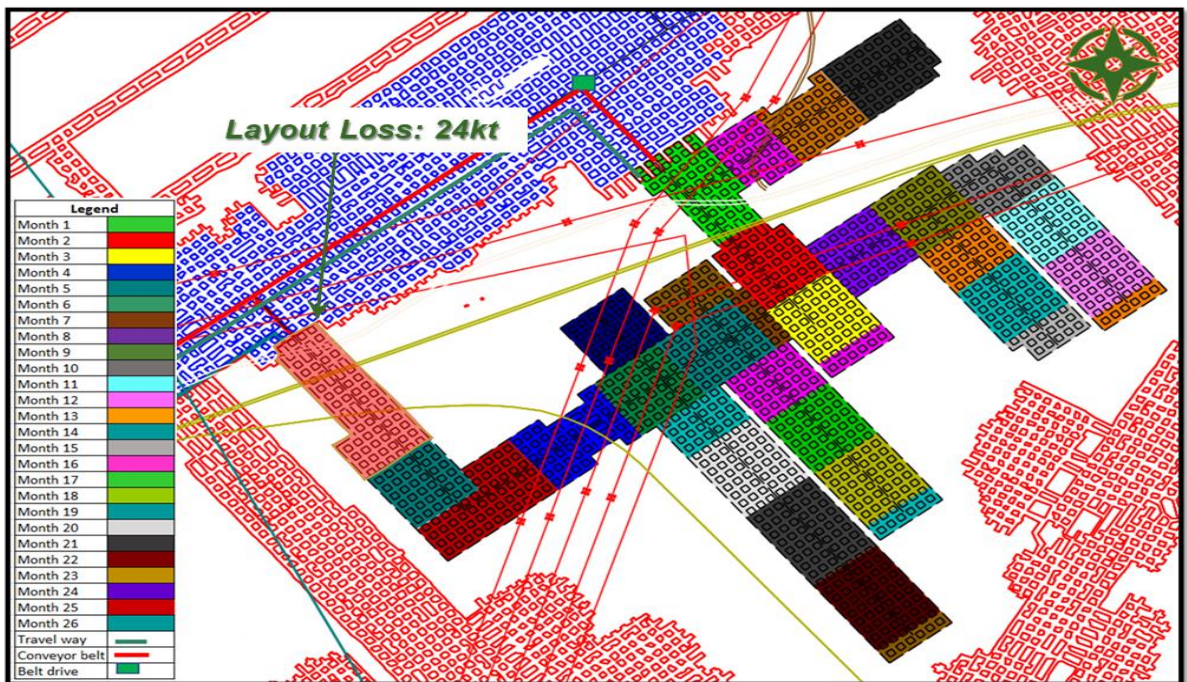


Figure 2: Revised G4 panel access - 762kt

19.3.3.7 The total capital required to access 10 Shaft is R48 999 465.40 (forty-eight million nine hundred and ninety-nine four hundred and sixty-five Rands and forty cents) excluding VAT.

19.3.3.8 The details of the CAPEX required are described below:

10 Shaft Project	Cost	Duration
Sewage Pipeline	R 2 118 106.00	4 weeks
Surface Conveyors – Mechanical Works	R 9 411 178.66	8 weeks
Surface conveyors – Electrical Works	R 9 962 962.00	5 weeks
Lamp-room	R 2 661 260.50	12 weeks
Underground Conveyors – Mechanical Works	R 15 342 679.00	10 weeks
Underground Conveyors – Electrical Works	R 7 194 209.27	6 weeks
Lockers, laundry and heating	R 2 309 070.00	5 weeks
Total	R48 999 465.40	12 weeks

19.3.3.9 Arnot mine needs to access the 10 Shaft reserve area for both business continuity and improving ROM volumes through an increase in the number of sections. To do so in the quickest means possible, two options of accessing the underground reserves via the existing infrastructure layout were investigated.

19.3.3.10 The option of accessing the G4 panel at 10 Shaft significantly outweighs the option of accessing the T4 panel from both a time and capital perspective. The G4 panel will allow sections to be deployed quickly to access a 762 Kt reserve area within three months of site establishment. The total cost to enable this resuscitation amounts to R48 999 465.40 (forty-eight million nine hundred and ninety-nine four hundred and sixty-five Rands and forty cents) excluding VAT.

19.3.4 **Opencast Development**

19.3.4.1 The Opencast reserves comprise two opencast areas namely the Mooifontein Pit 1A and Pit 2. The Opencast reserves will unlock 14Mt over a life of mine (“LoM”) of 10 years. Opencast reserves are not scheduled for immediate exploitation, mainly due to pending Integrated Water Use Licence and the conclusion of the Mooifontein Land acquisition.

19.3.4.2 The Company has reached final terms with Eskom on the Mooifontein Land acquisition.

19.3.4.3 Both mining pits are scheduled to commence infrastructure and box-cut development at the beginning of 2024 subject to funding availability.

19.3.4.4 The Opencast operations are critical to ensure Arnot mine continues to service the Eskom CSA, especially when 11 Shaft decommissions.

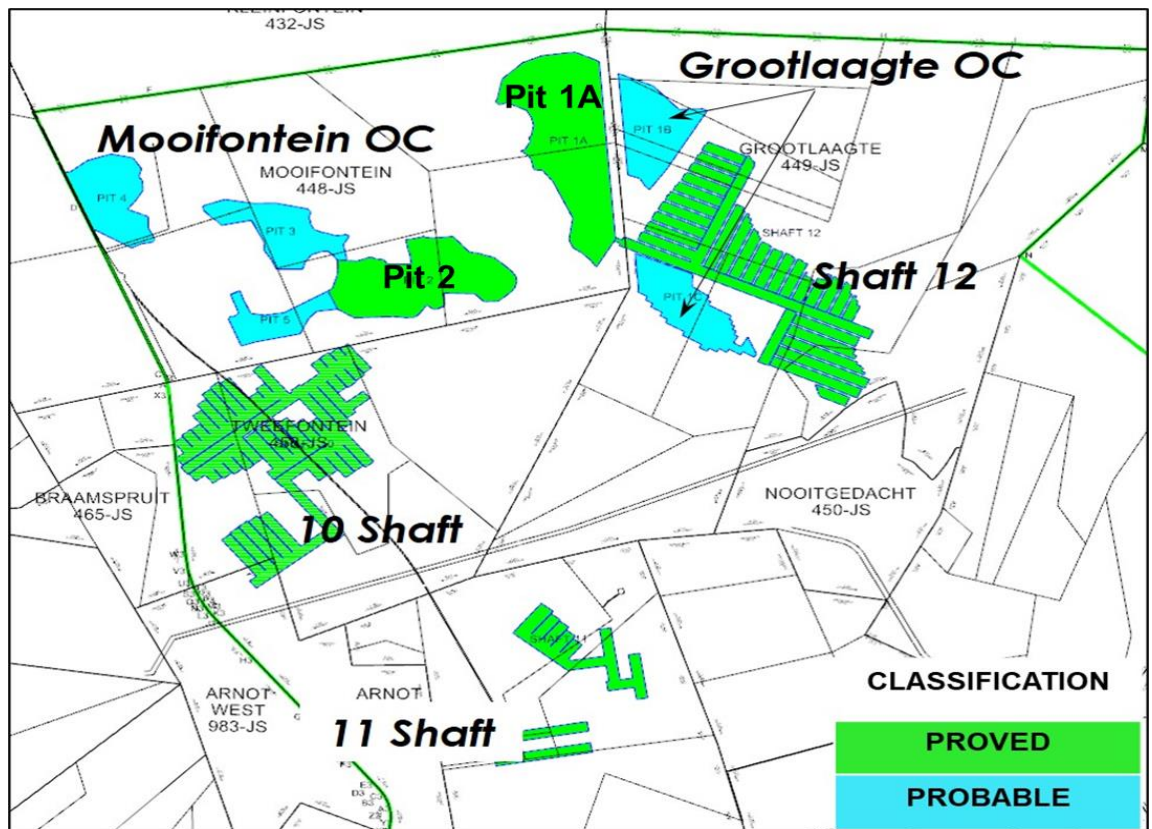


Figure 3: A Coal Reserve plan showing Pit 1A and Pit 2 relative to other UG and OC Reserve areas within Arnot Opco

- 19.3.4.5 ROM coal from Pit 1A is expected to exceed the minimum specification per the Eskom CSA in all parameters.
- 19.3.4.6 Similarly, ROM from Pit 2 will exceed the minimum specification across all parameters.
- 19.3.4.7 ROM product qualities for Eskom are generally achieved from 60% (sixty percent) crushing and screening and full bypass of the ROM feed to plant, with the remaining 40% (forty percent) fully beneficiated in the DMS Wash Plant.
- 19.3.4.8 Below are the CAPEX items requiring funding in respect of the Opencast development:
 - 19.3.4.8.1 Construction of the access road;
 - 19.3.4.8.2 Site establishment;
 - 19.3.4.8.3 Boxcut and ramps;
 - 19.3.4.8.4 Pollution control dams;
 - 19.3.4.8.5 Storm water management;
 - 19.3.4.8.6 Electrical reticulation; and
 - 19.3.4.8.7 Workshop.
- 19.3.4.9 The mining of the opencast pits 1A and 2 will assist with bridging the supply deficit with Eskom subject to:
 - 19.3.4.9.1 The purchasing of the Mooifontein Properties from Eskom;
 - 19.3.4.9.2 surface and auxiliary infrastructure development, including amongst others:
 - 19.3.4.9.2.1 Access road;
 - 19.3.4.9.2.2 Site establishment;
 - 19.3.4.9.2.3 Box cut and ramps;
 - 19.3.4.9.2.4 Stormwater management systems;

19.3.4.9.2.5 Weighbridges; and

19.3.4.9.2.6 In-pit crushing.

19.3.4.10 The capital estimate for the Opencast development is estimated at R150 million to R200 million.

19.3.5 **Coal Rectification**

19.3.5.1 As of the Publication of this Business Rescue Plan, the Company has underdelivered the required nominal energy by 60.8 million gigajoules to Eskom per the Contract Supply Agreement.

19.3.5.2 The Company had multiple engagements with Eskom on underdelivered energy, presenting the rectification strategies, which included coal buy-ins and ramping up production from other investment areas (10 Shaft, Pit 1A and Pit 2)

19.3.5.3 Pursuant to the above, the Company is in the process of procuring Eskom Coal Supply Rectification coal through buy-ins and awaits feedback from Eskom on the proposed qualifying alternative source.

19.3.5.4 Any coal procured through buy-ins must be done under favourable terms for the Company. The coal qualities must meet minimum CSA specifications and the qualifying alternative source must be within a reasonable distance from the Arnot mine.

19.3.5.5 The Company has been engaging various parties for rectification purposes. Sourcing coal for rectification purposes has proven to be a strenuous exercise due to parties needing to find each other on commercial terms.

19.3.5.6 The Company is currently engaging potential qualifying sources to assist with the Coal Rectification supply of between 40Kt and 70Kt monthly.

19.3.5.7 It is important that the Company commences with the Coal Rectification with immediate effect to reduce the risk of potential penalties from Eskom. In particular, the Company if it concludes the Coal Rectification on favourable commercial terms, can generate a margin and utilize same to fund working capital requirements.

- 19.3.5.8 Additionally, the Company will be able to reduce the supply under delivery to Eskom by ramping-up production from 10 Shaft Re-Establishment and developing its Opencast reserve.
- 19.3.5.9 Accordingly, the Company does not view the Coal Rectification Supply as a revenue generation strategy but to reduce the supply deficit to Eskom while ramping up production. The Company is of the view that should funding be secured to assist with the Management Restructuring Plan that it will catch up on the under-delivered energy within a period of three years.

19.4 Key Highlights of the Management Restructuring Plan

- 19.4.1.1 The Management Restructuring Plan set out herein requires funding of up to ZAR308 000 000.00 (three hundred and eight million Rand) and has implications set out in the paragraphs that follow below.
- 19.4.2 As can be seen from Annexure E, the projected *pro-forma* financial statements show a marked improvement relative to the position immediately prior to the Company being placed under Business Rescue.
- 19.4.3 Should the Management Restructuring Plan be funded and implemented as envisaged, the Company will be able to:
- 19.4.3.1 achieve average annual coal production of 3.5Mt per annum from FY2025 onwards;
 - 19.4.3.2 aggressively catch up on the under-delivered tonnages to Eskom by the end of FY2027;
 - 19.4.3.3 fully service the capital and interest repayment in respect of the Management Restructuring funding raised; and
 - 19.4.3.4 settle payments in line with the Business Rescue Waterfall. that the statement of income and expenses as reflected is delivered upon as per the base case model.

19.4.4 Distribution to Creditors:

Creditor	Approximate Claim value	Potential distribution	Comment
PCF	R80 million	100c	PCF creditors will be paid in full over a period of 7 (seven) months commencing from February 2024.
Employees		100c	Employees will continue to be employed as the Company is returned to going concern status.
Unsecured creditors	R334 million	50c	Concurrent Creditors will be paid a minimum 50c in a Rand over a period of 3 (three) months commencing from September 2024

19.5 In the event that the Management Restructuring Plan is approved by the required majority of creditors, and it is successfully implemented, then it will have the following effects:

19.5.1 Creditors will get comfort in the fact that the Management Restructuring Plan, if it gets the required support of Creditors, will be implemented by the BRP. The BRP has an obligation, in terms of this Business Rescue Plan and the Companies Act, to implement this Business Rescue Plan (as adopted by Creditors) in accordance with its terms. Consequently, the BRP has an obligation to ensure that Creditors receive their dividends in accordance with this Business Rescue Plan.

19.5.2 A Management Restructuring Plan will see the Company restored to solvency when the objectives of the Management Restructuring Plan achieved;

19.5.3 Creditors will receive a dividend of at least 50 (fifty) cents in the Rand;

19.5.4 Preservation of approximately 60 jobs and creation of new jobs;

19.5.5 Employees, if retrenched, would be in a better position than in a liquidation;

19.5.6 The total costs will be less than the costs of liquidation;

19.5.7 The trade creditors will continue to have a sustainable customer to trade with going forward; and

19.5.8 the on-going operations will benefit the fiscus.

OPTION B

20 SALES OR DISPOSAL PROCESS

20.1 In an attempt to secure the best possible outcome for all stakeholders, including Affected Persons, affected by this Business Rescue proceedings, the BRP is also of the view that one of the other option available in order for the objectives of Business Rescue to be achieved is a Sales or Disposal Process. The BRP is constrained by the unavailability of PCF and remain constrained going forward, to sustain a protracted Sales or Disposal Process.

20.2 Since the commencement of Business Rescue, the BRP has received 4 (four) expressions of interests from interested parties for the acquisition of the Business as a going concern or for the acquisition of the entire issued share capital or majority shareholding in the Company.

20.3 Non-disclosure agreements were concluded with the 4 (four) interested parties and were given access to the data room to enable them to conduct a due diligence on the operational, financial, technical, environmental, and legal aspects of the Company. None of the 4 (four) interested parties submitted offers. However, post the conclusion of the term sheet with SSS Mining and 90-day exclusivity granted to SSS Mining, all the engagements with potential interested parties were suspended.

20.4 As explained above, since the commencement of Business Rescue proceedings, the Shareholders have been engaging with various interested parties as part of the Shareholder led initiative to raise PCF or find a strategic equity partner with the requisite technical expertise, capital and management expertise. This Shareholder led initiative was excluded from the 90-day exclusivity period granted to SSS Mining.

20.5 Consequently, 3 (three) expressions of interests were received from 3 (three) interested. All 3 (three) interested parties signed the non-disclosure agreements and were granted access to the data room to enable them to conduct a due diligence on the operational, financial, technical, environmental, and legal aspects of the Company. All 3 (three)

interested parties were requested to submit their binding offers by no later than 15 June 2023 at 17h00 addressing the following:

- 20.5.1 whether the transaction will involve the acquisition of the assets and business of, or shareholding in the Company;
- 20.5.2 the purchase consideration setting out full reconciliation of the bridge between enterprise value and equity value. The purchase consideration must be provided in South African Rands and as a price point payable fully in cash subject to fulfilment of conditions precedent.
- 20.5.3 the form in which the purchase consideration will be settled – in other words, in cash or otherwise;
- 20.5.4 if not in cash, how will the purchase consideration be converted or realised in cash;
- 20.5.5 the binding offer must clearly set out proposal for the pre-BR claims;
- 20.5.6 the working capital requirements of the Company and how and when these will be advanced to the Company;
- 20.5.7 all technical expertise and resources experience and track record, aimed at turning around the operations of the Company and continuing with its Business operations;
- 20.5.8 all internal approvals required in respect of any proposed transaction envisaged and the timing to obtain such approvals;
- 20.5.9 a commitment to retain Employees in accordance with the provisions of section 197 of the LRA;
- 20.5.10 an undertaking to conclude the proposed transaction, in a timely manner; and
- 20.5.11 additional benefits that will contribute towards accelerated and sustainable growth of the business and reduction of expenses, for example, whether additional customers will be introduced to the Company with the consequential increase in sales volumes; whether certain operational expenses can be merged into existing infrastructure so as to reduce the operating cost and thereby increase profitability.

- 20.6 On 15 June 2023, the BRP received 3 (three) binding offers from the 3 (three) interested parties. The 3 (three) interested parties have already conducted and concluded due diligence on the operational, financial, technical, environmental and legal aspects of the Company.
- 20.7 The offers will be presented to the Creditors and in the event the Creditors vote in favour of the Sale Process, the Creditors will thereafter be expected to vote on the preferred offer.
- 20.8 Should Creditors vote in support of the Sales Process and any of the 3 (three) binding offers not be accepted by the Creditors, then in such event, the BRP, assisted by his Advisors, will embark on an Accelerated Sales Process involving the entire business or parts thereof, or shareholding, in the Company. This process will reach out to all potential bidders and others identified by the BRP and Management and will be subject to the procedures and terms established by the BRP and its Advisors.
- 20.9 On Monday, 31 July 2023 before 17h00, interested parties will be invited to submit the following to the BRP and Advisors, by Wednesday, 02 August 2023:
- (a) an expression of interest covering letter in the form specified by the BRP;
 - (b) a completed credentials questionnaire in the form specified by the BRP;
 - (c) a signed non-disclosure and confidentiality agreement (if not already executed).
- 20.10 Each of the documents listed in clause 20.8 must be submitted in order to qualify for an expression of interest. The submission of the documents, and the acceptance thereof, will result in the closure of phase 1 of the Accelerated Sales Process.
- 20.11 After the completion of phase 1, the parties expressing an interest, and accepted by the BRP, will receive access to the data room. The BRP will not provide access to any additional information, nor update any information in the data room, to anyone.
- 20.12 The parties selected by the BRP at the end of Phase 1, and to whom access to the data room is provided, will be invited to submit indicative bids in respect of the assets or business of, or shares in, the Company by 17h00 on Friday, 01 September 2023 (“Bids” or “indicative Bids”). Where considered necessary or appropriate by the BRP, the BRP and his Advisors may seek clarity regarding the content of the Bids.
- 20.13 The following, *inter alia*, must be addressed and contained in the Indicative Bids:
- 20.13.1 whether the transaction will involve the acquisition of the assets and business of, or shareholding in, the Company;
 - 20.13.2 the purchase consideration and proof of funds and/or funding;

- 20.13.3 the form in which the purchase consideration will be settled – in other words, in cash or otherwise;
- 20.13.4 if not in cash, how will the purchase consideration be converted or realised in cash;
- 20.13.5 the working capital requirements of the Company and how and when these will be advanced to the Company;
- 20.13.6 all technical expertise and resources experience and track record, aimed at turning around the operations of the Company and continuing with its business operations;
- 20.13.7 all internal approvals required in respect of any proposed transaction envisaged and the timing to obtain such approvals;
- 20.13.8 a commitment to retain Employees in accordance with the provisions of section 197 of the LRA;
- 20.13.9 an undertaking to conclude the Sales Process, and proposed transaction, in a timely manner; and
- 20.13.10 additional benefits that will contribute towards accelerated and sustainable growth of the business and reduction of expenses, for example, whether additional customers will be introduced to the Company with the consequential increase in sales volumes; whether certain operational expenses can be merged into existing infrastructure so as to reduce the operating cost and thereby increase profitability.
- 20.14 Prior to the submission of the Bids, and from the date on which the parties selected by the BRP at the end of Phase 1, a due diligence phase will ensue permitting the parties and/or their respective employees, advisors, agents and representatives (provided all of them have countersigned the non-disclosure and confidentiality agreement) to visit the premises and operations of the Company on pre-arranged dates and times, under supervised conditions. During this period, the parties so selected will also be given access to Management and all operational personnel of the Company.
- 20.15 A draft sale agreement, one incorporating an acquisition of the business of the Company as a going concern and another incorporating the acquisition of shares in the Company,

will be circulated to the parties selected at the end of Phase 1 during the due diligence phase.

20.16 The Bids can be submitted in any format including a marked-up format of the draft sale agreement provided by the BRP during the due diligence phase. The Bids must be in respect of the business of the Company, as a going concern, or shares in the Company. To the extent that a Bid is contained in an edited and marked-up version of the draft sale agreement, the Bid will be taken into account in assessing whether or not it is acceptable.

20.17 The BRP will consider the Bids and enter into negotiations with any of the bidders which, in the BRP' sole and absolute discretion, is in principle acceptable to the BRP. The aim and objective of this engagement will be to conclude a sale and all other definitive agreements in relation to any proposed transaction.

20.18 Once the Bids are received, and the BRP has indicated in principle which Bid is acceptable to him, the BRP will be entitled, at any stage prior to the execution of transaction agreements, to request the acceptable bidder, within 2 Business Days of being notified that it has been selected as the accepted bidder, to pay a deposit equal to 10% of the purchase consideration, to be held by the Advisors, as escrow agent, on behalf of the BRP, on the terms and conditions of an escrow agreement to be provided by the Advisors simultaneously with such notification from the BRP.

20.19 While the BRP recognise that interested parties may require additional time to assimilate and consider all information provided to them, and to formulate, complete and submit their Bids, the BRP remain desirous to complete the Accelerated Sales Process on an accelerated basis and as quickly as possible. The following is accordingly the envisaged timetable:

Invitation to submit initial expression of interest	Monday, 31 July 2023 at 17h00
Submission of Initial Expression of Interest	Wednesday, 02 August 2023 at 17h00
Access to data room	Thursday, 03 August 2023 from 08h00
Commencement of due diligence	Thursday, 03 August 2023 from 08h00
Submission of draft sale agreement to bidders	Monday, 28 August 2023 by 17h00

End of due diligence, including site visit and engagement with personnel	Tuesday, 29 August 2023 at 17h00
Submission of Bids	Friday, 01 September 2023 at 17h00
Notify preferred bidder/s	Wednesday, 06 September 2023 at 17h00
Payment of Deposit into escrow agent account by the selected bidder	Friday, 08 September 2023 at 17h00
Negotiations of final definitive transaction agreements commence with selected bidder	Monday, 11 September 2023 at 08h00
Execution of definitive transaction agreements with the selected bidder	Wednesday, 13 September 2023 at 17h00
Note: The above timelines are an abridged timetable and are subject to change in the BRP' sole discretion.	

20.20 Should it transpire, after the publication or adoption of the Business Rescue Plan or such earlier date determined by the BRP in his sole discretion, that there is no interest in acquiring the Business as a going concern or acquire shares in the Company or certain assets through the Accelerated Sales Process, then in such event, the Business Rescue proceedings will automatically proceed in term of the Management Restructuring Plan as outlined in 19 above.

20.21 It should be noted that the Management Restructuring Plan is predicated on the BRP and Management raising PCF. Should it transpire, after the publication or adoption of the Business Rescue Plan or such earlier date determined by the BRP in his sole discretion, that the BRP and Management have failed to raise PCF to implement the Management Restructuring Plan, then the BRP will proceed to implement a Structured Wind Down or a Wind Down Process as outlined in 21 below.

21 WIND-DOWN PROCESS

21.1 As explained in 20.20 above, should it transpire, after the publication or adoption of the Business Rescue Plan or such earlier date determined by the BRP in his sole discretion, that the BRP and Management have failed to raise the requisite PCF to implement the Management Restructuring Plan, then the BRP will proceed to realise all the assets of the Company in terms of a Wind-Down Process.

21.2 In such event, the BRP proposes and is hereby mandated in terms of this Business Rescue Plan that the Business Rescue proceed in terms of the Wind-Down Process as set out below.

21.3 The Wind-Down Process will result in the Sales or Disposal Process being reopened and the BRP engaging in discussions with the parties that have to date provided Binding Offers, and will also entails the following:

21.3.1 Realisation of all of the Company's shares and/or assets (including trademarks if any) by way of but not limited to, private treaty, auction or any other manner which the BRP, in his sole discretion, deem appropriate given the circumstances prevailing at that time; and

21.3.2 Proposed retrenchment of all Employees or all remaining Employees.

21.4 This will be done to maximise the value of the assets and also to reduce the duration of the Wind-Down Process as a liquidation process could easily last 24 – 36 months to finalize or even longer and would be value destructive.

21.5 The BRP will convene meetings with critical Creditors as and when the need arises to provide updates on the Wind-Down Process. The BRP will have the authority to make the final determination with regard to the processes adopted and acceptance of offers.

21.6 The BRP is hereby mandated and authorised by the Creditors, shareholders and all Affected Persons to pursue third parties and/or other debtors for recovery of, *inter alia*, funds and/or damages, litigate and investigate the affairs of the Company in order to realise cash to pay Creditors in accordance with the provisions of this Business Rescue Plan. The BRP shall have final say on all legal proceedings (including but not limited to, settlement of matters) and the disposal price of the assets. Creditors waive any or all claim/s (of whatsoever nature or kind and howsoever arising, including but not limited to damages) against the BRP, his Advisors, Genesis and the Company.

21.7 Proceeds from the Wind-Down Process will be paid into the bank account opened and operated by the BRP, if necessary, who will make payment in accordance with the terms of this Business Rescue Plan.

21.8 The advantages of proceeding with the Wind-Down Process are as follows:

21.8.1 professional fees and administration costs would be lower compared to liquidation proceedings;

21.8.2 SARS claim ranks as concurrent creditors and not as a preferential creditor as would be the case under liquidation;

21.8.3 timing of distribution/s should be faster than in liquidation proceedings; and

21.8.4 the assets will be realised at market related values, where possible as opposed to forced sale values in liquidation proceedings.

22 ONGOING ROLE OF THE COMPANY

As required in terms of section 150(2)(b)(iii) of the Companies Act, and if the Business Rescue proceeds in accordance with the Management Restructuring Plan, the Company will continue operating and restored to solvency. However, if the Business Rescue proceeds in terms of the Sales or Disposal Process, and a sale of business or assets transaction is concluded, the Company will no longer operate as the Business and/or assets, will be sold.

23 EFFECT OF THE BUSINESS RESCUE PLAN

23.1 Creditors, including Disputed Creditors

23.1.1 Once the Distribution is made to Creditors, all Claims against the Company will become Unenforceable. For the avoidance of doubt, upon payment of the Distribution, all Claims against the Company will become Unenforceable as against the Company terms of section 154 read with section 152(4).

23.1.2 That is, for the avoidance of doubt, any past or prospective Claim which SARS may have against the Company, under section 22(3) of the Value Added Tax Act No. 89 of 1991, or in respect of an audit under the Tax Administration Act 28 of 2011, or otherwise for any years of assessment preceding the Substantial Implementation Date, will become Unenforceable under and in terms of this Business Rescue Plan. In other words, SARS will be unable to initiate and/or take any recovery steps to collect such tax debt.

23.2 Contracts

As required in terms of section 150(2)(b)(iii) of the Companies Act, in the event that the Business Rescue proceeds in terms of the Proposed Rescue Plan, certain Contracts will have to be cancelled, modified or restructured. To the extent that Contracts are cancelled, Claims for damages will be limited as contemplated in paragraph 23.3.

23.3 Damages

In the event that Creditors claim damages, whether contractual or delictual, against the Company, which damages Claim is accepted by the BRP or proved by way of the

Dispute Resolution Mechanism or by Court or similar proceedings, such damages Claims:

- 23.1.1 will include any claim based on a guarantee or a suretyship given by the Company to any Creditor where the guaranteed debt (in the case of a guarantee), or the principal debt (in the case of a suretyship), comprises a damages claim arising from any Contract, including any delictual claim against the Company.
- 23.1.2 must be brought against the Company before the Final Claims Date, failing which, a Creditor in these circumstances will be precluded from bringing a damages claim against the Company.
- 23.1.3 shall be a Concurrent Claim, unless the Creditor holds security for such claim.
- 23.1.4 Must be mitigated and can only be claimed if proven.
- 23.1.5 In respect of damages related to Contracts, will be deemed to be limited to general damages suffered over the lesser of 3 (three) months from the date on which the alleged claim for damages arose or the balance of the Contract duration.
- 23.1.6 For purposes hereof, general damages are those which, on an objective basis, would be reasonably foreseeable at the time of entering into the relevant Contract as a probable consequence of, and with a sufficiently close connection to, any breach by the Company of such Contract so as to be said to flow naturally and generally and not to be too remote.
- 23.1.7 will be deemed to exclude all consequential and indirect damages, loss of profit, penalty; and
- 23.1.8 if disputed, will be resolved in terms of the Dispute Resolution Mechanism, detailed in part C.

24 PROPERTY OF THE COMPANY AVAILABLE TO PAY CREDITORS

As required in terms of section 150(2)(b)(iv) of the Companies Act, the Business Rescue Plan contemplates the implementation of a Proposed Rescue Plan and the distribution by the BRP in accordance with the payment waterfall in paragraph 10.6 and 26.

25 EFFECT OF THE BUSINESS RESCUE PLAN ON THE HOLDERS OF THE COMPANY'S ISSUED SHARES

As required in terms of section 150(2)(b)(vii) of the Companies Act, if the Business Rescue proceeds in terms of the Proposed Rescue Plan, the rights of the Company's shareholders will be altered.

26 COMPARISON OF THE BUSINESS RESCUE TO LIQUIDATION

26.1 The following table sets out a comparison of the outcomes that are likely to arise under the Business Rescue (in terms of the Proposed Rescue Plan) as compared to a liquidation (the liquidation calculation is based on the information provided in Deloitte's liquidation calculation):

	Liquidation	Business Rescue (Based on Proposed Rescue Plan)
Secured Creditors	0 cents/Rand	0 cents/Rand
Employees	Limited R32 000	100 cents/Rand
PCF	N/A	100 cents/Rand
Concurrent/unsecured Creditors	8.6 (eight point six) cents/Rand	50 cents/Rand*

27 ORDER OF DISTRIBUTION – PAYMENT WATERFALL IN BUSINESS RESCUE

27.1 As required in terms of section 150(2)(b)(v) of the Companies Act, the order of preference in which proceeds will be applied to pay Creditors if the Business Rescue Plan is adopted and the payment waterfall is set out below.

27.2 In terms of sections 135 and 144 of the Companies Act, Creditors are to be paid in the following order of priority (to the extent that there are funds available to pay all categories of Creditors) (i.e. the payment waterfall):

- 27.2.1 The Business Rescue Costs, including but not limited to legal costs, the costs of the Advisors, operating costs and other costs associated with the Business Rescue;
 - 27.2.2 Employees for any remuneration, reimbursement for expenses or other amount of money relating to employment which becomes due and payable by the Company to the Employees during the Business Rescue (to the extent that they have not been paid);
 - 27.2.3 Secured PCF Creditors;
 - 27.2.4 Unsecured PCF Creditors;
 - 27.2.5 Unsecured / Concurrent Creditors, including Secured Creditors in respect of any residual Claim remaining after realisation of their security.
- 27.3 In respect of Pre-commencement Secured Creditors, their Claims will rank in respect of such secured asset in priority to all other claims, other than the BRPs' remuneration and expenses, as contemplated in section 143 of the Companies Act.

28 PROOF OF CLAIMS BY CREDITORS

- 28.1 The exchange rate in respect of all Claims expressed in foreign currency will be determined as at the Commencement date.
- 28.2 Concurrent Creditors will not be entitled to charge interest on their Pre-Commencement Claims from the Commencement Date. Thus, any arrangement/agreement relating to interest are hereby suspended.
- 28.3 Creditors are required to lodge their Claims with the BRP at Arnotbr@gcs-sa.co.za prior to the Final Claims Date for purposes of participating in the Distributions made by the BRP:
- 28.3.1 The BRP has a discretion as to whether to allow a Creditor to lodge any Claim after the Final Claims Date; and
 - 28.3.2 Creditors who have lodged Claims after the Final Claims Date, and whose Claims have been accepted by the BRP in the exercise of the BRP' aforesaid discretion, forfeit their right to participate in Distributions that have been made prior to the lodgement of their Claims.

28.4 The provisions in paragraph 28.3 will apply mutatis mutandis to Creditors asserting a claim for damages.

28.5 Claims, including claims for damages, shall be proved to the satisfaction of the BRP.

28.6 The BRP has a discretion as to whether to allow a Creditor to lodge any Claim after the Final Claims Date.

28.7 In the event that the BRP disputes a Claim or security, such disputed Claims will be dealt with in accordance with the Dispute Resolution Mechanism more fully dealt with in Part C.

28.8 With reference to paragraph 10.4 and 10.5 above, insofar any person's Claim is not reflected in Annexure B, that person must follow the Dispute Resolution Mechanism set out in this Business Rescue Plan.

29 BENEFITS OF ADOPTING THE BUSINESS RESCUE PLAN COMPARED TO LIQUIDATION

As required in terms of section 150(2)(b)(vi) of the Companies Act, the benefits to Creditors of adopting the Business Rescue Plan compared to a liquidation are as follows:

29.1 Continuity of Business

29.1.1 If the Business proceeds in terms of the Proposed Rescue Plan, and the Proposed Rescue Plan is successfully implemented the Company's business, affairs, and debt will be restructured in a manner that will allow the Company to continue operating its Business on a solvent basis.

29.1.2 The trade creditors, many of whom rely on the Business for distributing their goods/products will continue to have a sustainable customer to trade with going forward.

29.2 Quantum

29.2.1 Creditors will receive a better dividend in Business Rescue than on a liquidation of the Company.

29.2.2 By way of illustration, please refer to paragraph 26.

29.3 Timing

29.3.1 The Business Rescue Plan will be implemented in a far shorter time frame than liquidation proceedings.

29.3.2 The anticipated time estimated for completing the Business Rescue is approximately 6 - 12 months.

22.1.1 The average time it takes to conclude a liquidation process can be between 3 – 6 years, or longer depending on the complexity of the business and affairs of the company. Further the mining right will be lost in the event the Company goes into liquidation.

29.4 Employees

29.4.1 Employees continue to receive salaries since the Commencement Date.

29.4.2 In liquidation:

29.4.2.1 Employees would be entitled to receive a maximum amount of R32 000.00 (thirty-two thousand Rand) per employee as a Preferent Creditor, to the extent that there are funds available.

29.4.2.2 Employees will only receive payment once the final liquidation and distribution account has been approved at the end of the liquidation process.

29.5 General Benefits of Business Rescue

29.5.1 Protecting Goodwill

29.5.1.1 By virtue of uninterrupted trading, the BRP was able to preserve the goodwill in relation to the Business. In the event of the Business Rescue proceeding in terms of the Sales Process, the BRP will be able to sell the Business of the Company as a going concern with goodwill which has value.

29.5.1.2 In a liquidation scenario the Company will have to be closed down immediately if the liquidator determines not to continue trading. A liquidator would only continue to trade if he or she received indemnity to cover him or her for any losses in trading – given the circumstances it is highly unlikely that this would happen.

29.5.2 Avoiding Breakdown of Controlled Environment

29.5.2.1 During Business Rescue, because the Company is continuing to trade in the ordinary course of business, the BRP is able to wind-down the affairs of the Company to the extent required in an orderly fashion.

29.5.2.2 Stricter controls remain over all assets of the Company, which avoids or minimises risks of theft and damage.

29.5.3 In General:

29.5.3.1 Creditors will receive 50 (fifty) cents in the Rand.

29.5.3.2 Payment of Concurrent Claims to Creditors will be implemented in a period not exceeding 15 months.

29.5.3.3 SARS ranks as a concurrent creditor under Business Rescue, whereas, under liquidation, SARS would rank as a preferential creditor.

29.5.3.4 Retention of +- 60 direct jobs and +- 400 indirect jobs contribution by the Company to the alleviation of very high levels of unemployment if the Business Rescue Plan is implemented. In a liquidation, Employees risk losing jobs which will be disastrous taking into account the very low prospect of them finding new jobs.

29.5.3.5 The avoidance of the Company incurring administration costs associated with liquidation. In liquidation, the estate of the Company will be further burdened with costs of administration associated with liquidation and calculated in terms of the Insolvency Act.

30 RISKS OF THE BUSINESS RESCUE

30.1 Notwithstanding what has been stated in this Business Rescue Plan, the Business Rescue and the amount which Creditors could receive in terms of the Business Rescue may be adversely affected by, *inter alia*, the following factors:

30.1.1 unforeseen litigation of any nature whatsoever, howsoever arising, from any cause of action whatsoever, including but not limited to industrial action;

30.1.2 deteriorating market conditions;

30.1.3 the revocation of support from Affected Persons, service providers and/or suppliers;

30.1.4 unforeseen damages claims arising from the cancellation of any contracts or agreements of any nature whatsoever, howsoever arising;

30.1.5 any changes in legislation that impact Business Rescue;

30.1.6 any challenges to this Business Rescue Plan, the rejection thereof or any amendments thereto;

30.1.7 any regulatory challenges of any nature whatsoever, howsoever arising;

30.1.8 any unforeseen circumstances, outside of the control of the BRP of any nature whatsoever howsoever arising that impacts on Business Rescue;

30.1.9 the final verification and agreement of the quantum of the Creditors' Claims takes longer than expected or if the records of the Company are irreconcilable with the Claims received; and

30.1.10 material discrepancies in the information made available to the BRP by the Directors and Management.

30.2 If the BRP and the Company is, in whole or in part, prevented from implementing this Business Rescue Plan as a result of Vis Major, the BRP and/or Company's failure to implement this Business Rescue Plan will not be deemed to be a breach of the Business Rescue Plan, nor will it subject either of them to any liability to the Creditors and/or other Affected Persons.

30.3 It should be noted that, in the unlikely event of an immediate liquidation of the Company, the risks set out in this paragraph would still apply.

[END OF SECTION]

PART C – ASSUMPTIONS AND CONDITIONS

31 CONDITIONS FOR THE BUSINESS RESCUE PLAN TO COME INTO OPERATION AND FULLY IMPLEMENTED

31.1 As required in terms of section 150(2)(c)(i)(aa) of the Companies Act, the Business Rescue Plan will come into operation upon the Adoption Date.

31.2 As required in terms of section 150(2)(c)(i)(bb) of the Companies Act, the Business Rescue Plan will be Substantially Implemented, unless paragraph 30.2 applies, upon:

31.2.1 Distribution or payment of dividend of 50c (fifty cents) in a Rand to Concurrent Creditors in terms of this Business Rescue Plan;

31.2.2 Competition Act No 89 of 1998 approval, if required; and

31.2.3 Such regulatory approvals and consents as may be required by law.

32 EFFECT OF THE BUSINESS RESCUE PLAN ON EMPLOYEES

As required in terms of section 150(2)(c)(ii) of the Companies Act, the effect of the Business Rescue Plan on Employees is set out in paragraph 7.2.2.

33 CIRCUMSTANCES IN WHICH THE BUSINESS RESCUE WILL END AND THE DURATION OF BUSINESS RESCUE

33.1 As required in terms of section 150(2)(c)(iii) of the Companies Act, the Business Rescue will end in terms of section 132(2) of the Companies Act, when:

33.1.1 The Business Rescue Plan is:

33.1.1.1 Proposed and rejected and the BRP and Affected Person/s do not take any action to extend the Business Rescue in any manner contemplated by the Companies Act; or

33.1.1.2 Adopted and implemented (with the conditions fulfilled) and the BRP has filed a notice of substantial implementation of the Business Rescue Plan with CIPC (i.e. on the Substantial Implementation Date); or

33.1.2 A High Court orders the conversion of the Business Rescue into liquidation proceedings; or

33.1.3 The BRP file a notice of termination or notice of substantial implementation of the Business Rescue with the CIPC.

34 PROJECTED BALANCE SHEET AND PROJECTED STATEMENT OF INCOME AND EXPENSES

34.1 In terms of section 150(2)(c)(iv) of the Companies Act, a projected balance sheet for the Company and statement of income and expenses for the ensuing 3 (three) years must be included in the Business Rescue Plan.

34.2 The projected balance sheet, income statement and cash flow in respect of Management Restructuring Plan is attached as **Annexure E**.

34.3 The projected balance sheet and income statement is based on the Company exiting Business Rescue after all Claims are discharged in accordance with the terms of this Business Rescue Plan.

34.4 It further postulates the Claims of the PCF Creditors being paid in full while the Unsecured Creditors or Concurrent Creditors will be compromised.

35 EXISTING LITIGATION

All parties who have instituted legal proceedings, including any enforcement action, in respect of any Claims against the Company in any forum will be subject to the provisions of clause 28 dealing with proof of claims.

36 EFFECT OF BUSINESS RESCUE ON CLAIMS

36.1 If the Business Rescue Plan is implemented in accordance with its terms and conditions, each Concurrent Creditor will be deemed to have acceded to the discharge of the whole or part of the debt owing to that Concurrent Creditor, immediately before the Commencement Date, after having received any payment due to it in terms of this Business Rescue Plan and will lose its rights to enforce the relevant debt or part thereof against the Company in terms of section 154 of the Companies Act.

36.2 Upon the Substantial Implementation Date, a Concurrent Creditor shall not be entitled to enforce any debt owed to it immediately before the Commencement Date except for any payment due to it in respect of that debt in terms of this Business Rescue Plan.

37 DISPUTE RESOLUTION MECHANISM

37.1 Save as provided for in section 133 of the Companies Act, in respect of all or any Disputed Claims, and/or any disputes regarding the interpretation of this Business Rescue Plan, such dispute may be resolved in accordance with the Dispute Resolution Mechanism outline below.

37.2 The Dispute Resolution Mechanism procedure will be as follows:

37.2.1 Disputed Creditors, or where a dispute arises in respect of the interpretation of this Business Rescue Plan ("**Interpretive Dispute**") those parties ("**Claimant**"), are required to contact and meet with the BRP within 15 (fifteen) days of receipt of the notice contemplated in 10.4, or such longer period as the BRP may agree, in an attempt to reach agreement on the Disputed Claim and/or Interpretive Dispute.

37.2.2 If the Disputed Creditor/Claimant does not avail itself of the opportunity contemplated in 37.2.1 above, the Disputed Creditor/Claimant will be deemed to have accepted the BRP's position in regard to the Disputed Claim/Interpretive Dispute.

37.2.3 If the Disputed Creditor/Claimant does avail itself of the of the opportunity contemplated in 37.2.1 above, but without any resolution, and the Disputed Creditor/Claimant persists with the dispute surrounding the Disputed Claim/Interpretive Dispute ("**dispute**"), the Disputed Creditor/Claimant must propose and agree with the BRP to the appointment of the retired judge as an arbitrator to preside over and to resolve the dispute.

37.2.4 Should the parties fail to reach an agreement on a retired judge as an arbitrator, then the Arbitration Foundation of South Africa will be requested to make the appointment.

37.2.5 The appointed arbitrator must endeavour to complete his/her mandate within 30 (thirty) days of his/her appointment or within such further time period as the arbitrator in his/her sole discretion may determine.

- 37.2.6 The arbitrator will in his/her sole and absolute discretion determine:
- 37.2.6.1 the venue at which the dispute is to be resolved;
 - 37.2.6.2 the rules, regulations and procedures that will govern the determination of the dispute;
 - 37.2.6.3 the date(s) for the determination of the dispute;
- 37.2.7 The arbitrator will give his award/determination within 10 (ten) days of the completion of the process as determined by him, and will give a costs award as he deems appropriate and which will include his/her costs, legal costs, venue costs, recording equipment (if applicable), transcript of evidence (if applicable) and the like.
- 37.2.8 Save for any manifest error the award/determination of the arbitrator will be final and binding on the Disputed Creditor/ Claimants, the Company and the BRP and will not be subject to any subsequent review or appeal application/procedure/process.
- 37.2.9 If the Disputed Creditor/Claimant does not at any point avail itself of the opportunity contemplated in 37.2.3 to 37.2.8 above, the Disputed Creditor/Claimant will be deemed to have accepted the BRP's position in regard to the Disputed Claim/Interpretive Dispute.

37.3 To the extent necessary, should the BRP be of the view that certain disputes may be settled or compromised, the BRP shall be authorised at any point to settle and compromise such a dispute.

37.4 The BRP may in his sole and absolute discretion decide that the Dispute Resolution Mechanism is not appropriate for resolving the disputes and/or that the application of the Dispute Resolution Mechanism may result in prejudice to other Creditors or Employees or the Company. In such event, the BRP shall be entitled in terms of section 133 of the Companies Act to refer the dispute to Court and if an expert has already been nominated, such nomination will lapse and be of no force or effect.

38 ABILITY TO AMEND THE BUSINESS RESCUE PLAN

38.1 An amendment to correct a clerical error and that will not be prejudicial to the rights of Creditors as set out herein, the BRP shall have the ability, in his sole and absolute

discretion, to amend, modify or vary any provision of this Business Rescue Plan. The amendment will be deemed to take effect on the date of written notice of the amendment to all Affected Persons.

- 38.2 In the event of any other amendments, the BRP shall consult with Affected Persons in terms of section 150(1), and be entitled to propose an amendment for consideration and voting at a meeting in terms of section 151. Such amendment shall only require a simple majority.

39 SEVERABILITY

Any provision in this Business Rescue Plan which is or may become illegal, invalid or unenforceable shall be ineffective to the extent of such prohibition or unenforceability and shall be treated *pro non scripto* and severed from the balance of this Business Rescue Plan, without invalidating the remaining provisions of this Business Rescue Plan or affecting the validity or enforceability of such provision in any other jurisdiction.

40 PRESERVATION OF CLAIMS AGAINST OTHERS

- 40.1 The liability of Directors and/or prescribed officers for the Company's debts, under section 218 of the Companies Act, as read with sections 77(3)(b) and 22 of the Companies Act, is not affected by this Business Rescue Plan.
- 40.2 The liability of the Company's sureties for the Company's debt is not affected by this Business Rescue Plan.
- 40.3 Any investigation of misconduct by Directors and Shareholders shall be funded by the Creditors requesting such investigation.
- 40.4 Similarly, to matters where section 103(4) of the Insolvency Act applies, no Creditor who was not a party to the funding of investigation proceedings shall derive any benefit from any monies or from the proceeds of any property recovered as a result of such proceedings before the claim and costs of every Creditor who was a party to such proceedings have its Creditors' outstanding claims and disbursements, including the cost of forensic investigators, accounts or lawyers.
- 40.5 The BRP shall oversee these investigations and their costs will have to be paid by these Creditors and not the Company unless a surplus is available after Distribution.

41 CONCLUSION

For the reasons set out above, the BRP is of the view that if the Business Rescue proceeds in terms of proposed Business Rescue Plan, same will result in an efficient rescue of the Company, in a manner that balances the rights and interests of all relevant stakeholders.

42 BRPs CERTIFICATE

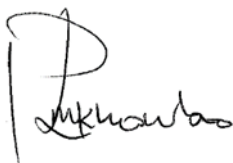
42.1 I the undersigned, Phahlani Lincoln Mkhombo, hereby certify to the best of our knowledge and belief that –

42.1.1 any actual information provided herein appears to be accurate, complete and up to date;

42.1.2 the BRP has relied on financial information including opinions and reports furnished to me by Management and the Advisors;

42.1.3 any projections provided are estimates made in good faith on the basis of factual information and assumptions as set out herein; and

42.1.4 in preparing the Business Rescue Plan, the BRP has not undertaken an audit or forensic investigation on the Company or the information provided to me by Management and by the Company's auditors, although where practical, the BRP has endeavoured to satisfy himself of the accuracy of such information.



Date: 14 July 2023

Phahlani Lincoln Mkhombo, in my capacity as the appointed
Business Rescue Practitioner (in terms of the Companies Act)