

**BUSINESS RESCUE PLAN PREPARED AND PUBLISHED IN TERMS OF SECTION
150 OF THE COMPANIES ACT 71 OF 2008 (as amended)**



in relation to

SAFFER PLUMBING AND HARDWARE PROPRIETARY LIMITED

(Registration No. 1997/000615/07)

(in business rescue)

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with the
assistance of

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INTRODUCTION

- THIS DOCUMENT IS IMPORTANT AND REQUIRES THE IMMEDIATE ATTENTION OF ALL AFFECTED PERSONS. IF ANY AFFECTED PERSON IS IN ANY DOUBT AS TO THE IMPACT OF THIS BUSINESS RESCUE PLAN OR THE EFFECT IT WILL HAVE ON ITS IMPLEMENTATION, AND THE ACTION IT SHOULD TAKE, THE AFFECTED PERSON SHOULD CONSULT ITS OWN INDEPENDENT PROFESSIONAL ADVISERS.
- THIS IS A BUSINESS RESCUE PLAN PREPARED AND PUBLISHED IN TERMS OF SECTION 150 OF THE COMPANIES ACT. EACH AFFECTED PERSON IS RESPONSIBLE FOR ASSESSING THE MERITS OF THIS BUSINESS RESCUE PLAN WITH RESPECT TO ITS CLAIM AND/OR SHAREHOLDING IN THE COMPANY.
- THIS DOCUMENT CONTAINS THE TERMS AND CONDITIONS OF A BUSINESS RESCUE PLAN FOR THE COMPANY WHICH, IF ADOPTED BY THE REQUISITE STATUTORY MAJORITY OF CREDITORS AND, IF REQUIRED, SHAREHOLDERS, SHALL, UPON THE FULFILMENT OF THE CONDITIONS OF IMPLEMENTATION AS SET OUT IN THIS DOCUMENT, BECOME BINDING ON THE COMPANY, ITS CREDITORS AND SHAREHOLDERS.
- THIS BUSINESS RESCUE PLAN IS DIVIDED INTO THE FOLLOWING SECTIONS:
 - this introduction, followed by the interpretation and preliminary section.
 - Part A: Background (section 150(2)(a) of the Companies Act).
 - Part B: Proposals (section 150(2)(b) of the Companies Act).
 - Part C: Assumptions and Conditions (section 150(2)(c) of the Companies Act).
 - Part D: Administrative Provisions.
 - BRP's certificate.
 - Part A will set out the general background and statutory information of the Company, a summary of material events in its Business Rescue and the factors that resulted in the Company becoming Financially Distressed and being placed under Business Rescue.
 - Part B sets out the terms of the Business Rescue Plan and the options extended to Creditors and Shareholders as opposed to the Company being placed into liquidation.

- Part C sets out the conditions that must be fulfilled for this Business Rescue to become effective and binding and financial information, actual and projected, relating to the Company.
- Part D sets out certain administrative provisions relevant to this Business Rescue Plan.
- BUSINESS RESCUE IS AIMED AT FACILITATING THE REHABILITATION OF COMPANIES THAT ARE FINANCIALLY DISTRESSED BY PROVIDING FOR THE DEVELOPMENT AND IMPLEMENTATION, IF APPROVED, OF A PLAN TO RESCUE 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 ITS EXISTENCE ON A SOLVENT BASIS, ALTERNATIVELY, IN THE EVENT THAT IT IS NOT POSSIBLE FOR A COMPANY TO SO CONTINUE ITS EXISTENCE ON A SOLVENT BASIS, THAT WOULD RESULT IN A BETTER RETURN FOR ITS CREDITORS OR SHAREHOLDERS THAN WOULD RESULT FROM THE IMMEDIATE LIQUIDATION OF SUCH COMPANY.
- THIS BUSINESS RESCUE PLAN IS AIMED AT ACHIEVING THE OBJECTIVES OF BUSINESS RESCUE. IN SIMPLE TERMS, AND WITHOUT DEROGATING OR SIMPLIFYING THE ESSENCE OF THE BUSINESS RESCUE PLAN AS CONTAINED IN THIS DOCUMENT, THE PROPOSAL PUT FORWARD IN THIS BUSINESS RESCUE PLAN IS AS FOLLOWS:
 - FIRSTLY, AN ACCELERATED SALES PROCESS WHEREBY THE SHAREHOLDING IN THE COMPANY, ALTERNATIVELY, THE BUSINESS AND ALL ITS ASSETS ARE DISPOSED OF OR SOLD TO A PREFERRED BIDDER, AND.
 - SECONDLY, A WIND-DOWN PROCESS WHEREBY ALL OR PARTS OF THE COMPANY'S ASSETS ARE SOLD BY PRIVATE TREATY OR PUBLIC AUCTION SO AS TO ACHIEVE A BETTER RETURN OR OUTCOME FOR CREDITORS AS OPPOSED TO A WIND-DOWN OF THE COMPANY IN A LIQUIDATION.
- THE BRP BELIEVES THAT THIS BUSINESS RESCUE PLAN SHALL, UPON ITS IMPLEMENTATION, ACHIEVE A BETTER RETURN FOR CREDITORS THAN WOULD RESULT FROM AN IMMEDIATE LIQUIDATION OF THE COMPANY.
- THIS BUSINESS RESCUE PLAN IS BASED ON INFORMATION PROVIDED TO THE BRP BY MANAGEMENT. IN COMPILING THIS BUSINESS RESCUE PLAN, THE

BRP ACCEPTED AND RELIED UPON REPRESENTATIONS AND THE AUTHENTICITY OF ALL DOCUMENTS PROVIDED TO HIM AND TO HIS ADVISORS. SHOULD IT BECOME NECESSARY TO MAKE REPRESENTATIONS AND DOCUMENTS REFERRED TO IN THIS BUSINESS RESCUE PLAN AVAILABLE IN ANY LEGAL PROCEEDINGS CONNECTED TO OR ARISING FROM THE PUBLICATION OF THIS BUSINESS RESCUE PLAN, THE AUTHORS OF OR THOSE WITH KNOWLEDGE OF THE REPRESENTATIONS AND DOCUMENTS WOULD HAVE TO CONFIRM THEM IN THE LEGAL PROCEEDINGS.

- NOTHING CONTAINED IN THIS BUSINESS RESCUE PLAN SHALL CONSTITUTE TAX, ACCOUNTING OR LEGAL ADVICE TO ANY AFFECTED PERSON, AND THE BRP DOES NOT MAKE ANY REPRESENTATIONS IN RESPECT THEREOF, OTHER THAN AS MAY BE EXPRESSLY STATED IN THIS BUSINESS RESCUE PLAN.
- THE BRP SHALL NOT BE RESPONSIBLE FOR ACTS TAKEN (OR OMISSIONS) ARISING FROM ANY AFFECTED PERSON'S RELIANCE ON THIS BUSINESS RESCUE PLAN.
- ONCE THIS BUSINESS RESCUE PLAN IS ADOPTED, IT SHALL BE BINDING ON THE COMPANY, CREDITORS AND SHAREHOLDERS, WHETHER OR NOT ANY OF THEM WAS PRESENT AT A MEETING CONVENED IN TERMS OF THE COMPANIES ACT, VOTED IN FAVOUR OF ITS ADOPTION OR, IN THE CASE OF CREDITORS, HAD PROVEN THEIR CLAIMS AGAINST THE COMPANY.

[END OF SECTION]

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:

1.1. words importing –

1.1.1. any one gender includes the other gender;

1.1.2. the singular includes the plural and *vice versa*; and

1.1.3. 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);

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

1.2.1. “**Absa**” means Absa Bank Limited (Registration Number: 1986/004794/06), a company with limited liability incorporated in accordance with the Companies Act, carrying on business as a registered bank;

1.2.2. “**Accelerated Sales Proceeds**” means the proceeds generated from the Accelerated Sales Process, as defined in paragraph 15.3.1;

1.2.3. “**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 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;

1.2.4. “**Advisors**” means the advisors to the BRP, namely CDH, Mazars and their respective employees or representatives;

1.2.5. “**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, Employees (including labour brokers) and any registered trade union representing employees of the Company;

- 1.2.6. **“BRP”** means the business rescue practitioner appointed in terms of section 129 of the Companies Act, being Mkhombo, operating from premises situated at Eco-Fusion Office Park, Phase 4, Block A, Unit A06, First Floor, 300 Witch-Hazel Street, Eco Park, Highveld Ext59, Centurion;
- 1.2.7. **“Business”** means the distribution and specialist supplier of plumbing, hardware and related materials to the retail sector of the building and plumbing industry;
- 1.2.8. **“Business Day”** means any day other than a Saturday, Sunday or official public holiday in South Africa and **“Business Days”** has a corresponding meaning;
- 1.2.9. **“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 set out in the Introduction section earlier in this document and defined in section 128(1)(b) of the Companies Act;
- 1.2.10. **“Business Rescue Costs”** means the remuneration and expenses of the BRP (including, without limitation, all and any 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;
- 1.2.11. **“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;
- 1.2.12. **“CCMA”** means the Commission for Conciliation, Mediation and Arbitration established in terms of section 112 of the LRA;
- 1.2.13. **“CDH”** means Cliffe Dekker Hofmeyr, attorneys practising as such at 1 Protea Place, Sandton, Johannesburg;
- 1.2.14. **“CIPC”** means the Companies and Intellectual Property Commission, established in terms of section 185 of the Companies Act;
- 1.2.15. **“Claims”** means any claim of whatsoever nature and howsoever arising against the Company, including a Secured, Preferent or Concurrent Claim as envisaged in terms of the Insolvency Act, the origin, cause of action or

agreement in respect whereof arose or was concluded before the Substantial Implementation Date (and including each claim contemplated in this Business Rescue Plan) and without in any way derogating from the generality of the foregoing, shall include 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, including any claim the origin of which arose from statute, regulation or other legislation or arising out of any contract and/or agreement entered into before the Commencement Date and cancelled thereafter and, in no way derogating from the generality of the foregoing, shall include any Claim for Tax or Taxation;

- 1.2.16. **"Company"** means Saffer Plumbing and Hardware Proprietary Limited, Registration Number 1997/000615/07, a company incorporated in accordance with the laws of South Africa, currently under business rescue;
- 1.2.17. **"Commencement Date"** means 23 July 2020, being the date upon which Business Rescue commenced in accordance with section 129, read with section 132(1)(a)(i), of the Companies Act;
- 1.2.18. **"Companies Act"** means the Companies Act, 2008 (as amended) including the regulations promulgated thereunder;
- 1.2.19. **"Concurrent Claim"** means any Claim (other than a Disputed Claim) which is unsecured and enjoys no preference in accordance with the Insolvency Act and **"Concurrent Creditor"** has the corresponding meaning;
- 1.2.20. **"Contracts"** means any right, title or interest of the Company in any contract, agreement or understanding entered into between the Company and a person before the Commencement Date;
- 1.2.21. **"Costs"** means the costs associated with:
- 1.2.21.1 the Business Rescue, including, without limitation, the remuneration and expenses of the BRP, any claim arising out of the costs of the Business Rescue, and any other costs whatsoever incurred during the Business Rescue; and
- 1.2.21.2 Any PCF Employee and PCF creditor claims;

- 1.2.22. “**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, as envisaged in the Insolvency Act, but not a Creditor with a Disputed Claim or claims that can be regarded as a PCF Claim or as being costs of or an expense of the Business Rescue;
- 1.2.23. “**Creditors’ Committee**” means a creditors’ committee, contemplated in terms of section 145(3) of the Companies Act;
- 1.2.24. “**DAWN**” means Distribution and Warehousing Network Proprietary Limited, Registration Number 1984/008265/07, a company incorporated in accordance with the laws of South Africa;
- 1.2.25. “**Directors**” means the directors of the Company as at the Commencement Date;
- 1.2.26. “**Disputed Claim**” means any Claim which may have been lodged with the BRP during Business Rescue and which Claim has been rejected either in whole or in part, including, *inter alia*, the Claims listed in **Annexure C**;
- 1.2.27. “**Disputed Creditors**” means persons who have Disputed Claims or alleged that they are Creditors or who dispute the amount for which their Claims are reflected in **Annexure B** or who dispute the class in which they are reflected in **Annexure B** and/or who dispute the existence, extent, nature and/or value of their security as reflected in **Annexure B**;
- 1.2.28. “**Dispute Resolution Mechanism**” means the dispute resolution mechanism set out in this Business Rescue Plan;
- 1.2.29. “**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;
- 1.2.30. “**DPI Plastics**” means DPI Plastics Proprietary Limited, Registration Number 1986/004295/07, a company incorporated in accordance with the laws of South Africa;
- 1.2.31. “**Employees**” means all persons employed by the Company as at the Commencement Date and who remain employed at the Adoption Date;

- 1.2.32. **"Employees' Committee"** means the committee established on 04 August 2020 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;
- 1.2.33. **"Employees Contracts"** means any right, title or interest of the Company in 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;
- 1.2.34. **"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;
- 1.2.35. **"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;
- 1.2.36. **"Financially Distressed"** shall bear the same meaning ascribed to this term in section 128(1)(f) of the Companies Act;
- 1.2.37. **"Final Claims Date"** means the final date for the filing of Claims, being 60 (sixty) days from the Adoption Date;
- 1.2.38. **"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 the BRP;
- 1.2.39. **"Group"** means the group of companies related to the Company;
- 1.2.40. **"Inclledon"** means Inclledon Proprietary Limited, Registration Number 2012/046132/07, a company incorporated in accordance with the laws of South Africa;
- 1.2.41. **"Insolvency Act"** means the Insolvency Act, 1936 (as amended);
- 1.2.42. **"LRA"** means the Labour Relations Act, 1995 (as amended);

- 1.2.43. "**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;
- 1.2.44. "**Management Restructuring Plan**" means the plan developed by Management for the restructuring of the Company prior to the commencement of Business Rescue;
- 1.2.45. "**Mazars Recovery and Restructuring**" means Mazars Recovery and Restructuring Proprietary Limited, with their business address at Mazar House, Glenhove Road, Melrose Estate, Johannesburg, 2196, Gauteng;
- 1.2.46. "**Mkhombo**" means Phahlani Lincoln Mkhombo, a business rescue practitioner as defined in section 128(1)(d) read with Regulation 126 to the Companies Act, a director of Genesis;
- 1.2.47. "**Notice of Meeting**" means the notice of meeting to all Affected Persons as contemplated in terms of section 151(2) of the Companies Act;
- 1.2.48. "**NUMSA**" means National Union of Metalworkers of South Africa being the registered trade union in terms of section 96 of the LRA;
- 1.2.49. "**Ordinary Shares**" means shares with a R1 par value issued by the Company;
- 1.2.50. "**PCF**" means post-commencement finance obtained by the Company, as authorised by the BRP in terms of section 135 of the Companies Act, after Commencement Date;
- 1.2.51. "**Post-commencement Claims**" means any claim against the Company, the cause of action in respect of which arose after the Commencement Date;
- 1.2.52. "**Post-commencement Creditors**" means all persons, including legal entities and natural persons, having Post-commencement Claims;
- 1.2.53. "**Pre-commencement Claims**" means any claim against the Company, the cause of action which arose prior to the Commencement Date;
- 1.2.54. "**Pre-commencement Creditors**" means all persons, including legal entities and natural persons, having Pre-commencement Claims;

- 1.2.55. **“Pre-commencement Secured Creditors”** means all Pre-commencement Creditors holding security for their Claims;
- 1.2.56. **"Preferent Claim"** means any Claim (other than a Disputed Claim) which is preferent in accordance with the provisions of the Insolvency Act and **"Preferent Creditor"** has the corresponding meaning;
- 1.2.57. **“Proposal”** means the proposal to rescue the Company, being firstly the Accelerated Sales Process, and secondly, the structured Wind-Down Process, more fully dealt with in Part B of this Business Rescue Plan;
- 1.2.58. **“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 11 September 2020;
- 1.2.59. **“Rand”** or **“R”** or **“ZAR”** means the lawful currency of South Africa;
- 1.2.60. **"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;
- 1.2.61. **“SACCAWU”** means South African Commercial Catering and Allied Workers Union, being the registered trade union in terms of section 96 of the LRA;
- 1.2.62. **“Sales Process”** means the sales process embarked upon by the BRP to rescue the Company, comprising the Accelerated Sales Process and the Wind-Down Process, more fully dealt with in paragraph 17 and 18 of this Business Rescue Plan;
- 1.2.63. **“SARS”** means the South African Revenue Services;
- 1.2.64. **“Section 151 Meeting”** means the meeting to determine the future of the company as contemplated in terms of section 151 of the Companies Act;
- 1.2.65. **"Secured Claim"** means any Claim (other than a Disputed Claim) which would be secured in accordance with the Insolvency Act and **"Secured Creditors"** has the corresponding meaning;
- 1.2.66. **"Shareholders"** means the shareholders of the company at the Commencement Date;

- 1.2.67. **“South Africa”** means the Republic of South Africa;
- 1.2.68. **“Substantial Implementation Date”** means the date upon which the BRP files with CIPC, a notice of substantial implementation of the Business Rescue Plan, whereupon Business Rescue will terminate in terms of section 132(2)(c)(ii) once all the transaction agreements have been concluded and the purchase consideration received and Distribution made in respect of the Accelerated Sales Process. However, in respect of the Wind-Down Process, Substantial Implementation Date will be the date upon which the BRP has successfully disposed of all the Company’s assets and the Distribution made in accordance with the sanctioned Business Rescue Plan;
- 1.2.69. **“Tax/Taxation”** means:
- 1.2.69.1. levies payable to government authorities;
 - 1.2.69.2. normal taxation;
 - 1.2.69.3. capital gains tax;
 - 1.2.69.4. value-added tax;
 - 1.2.69.5. 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;
 - 1.2.69.6. donations tax;
 - 1.2.69.7. customs duty;
 - 1.2.69.8. securities transfer tax;
 - 1.2.69.9. all Pay-As-You-Earn taxation (PAYE) not paid over;
 - 1.2.69.10. all other forms of taxation, other than deferred tax;
 - 1.2.69.11. any penalties or interest on any of the afore going;
- 1.2.70. **“UIF”** means the South African Unemployment Insurance Fund (a fund established in terms of section 4 of the Unemployment Insurance Act, 2001); and

1.2.71. “**VAT**” means the value-added tax levied in terms of the Value-Added Tax Act, No. 89 of 1991, as amended;

1.3. any reference in this Business Rescue Plan to:

1.3.1. a paragraph is a reference to the relevant paragraph of this Business Rescue Plan;

1.3.2. a Part is a reference to the relevant part of this Business Rescue Plan;

1.3.3. 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;

1.3.4. any section of the Insolvency Act is a reference to such section as read with chapter 14 of the Companies Act, 1973 and item 9 of schedule 5 of the Companies Act;

1.3.5. 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;

1.3.6. 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;

1.3.7. 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;

1.3.8. 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;

- 1.3.9. 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
- 1.3.10. 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.

[END OF SECTION]

PART A – BACKGROUND

2. COMPANY INFORMATION

2.1 Shareholding Structure

As at the Publication Date:

2.1.1 the authorised share capital of the Company is R1000 divided into 1000 Ordinary Shares;

2.1.2 the issued share capital of the Company is R1000 divided into 1000 Ordinary Shares, all of which are held and beneficially owned as follows:

Name of Shareholder	Shareholding	Number of Shares
Distribution and Warehousing Network (Pty) Ltd	100%	1000

2.1.3 the Company holds the following direct and indirect interests (controlling or otherwise) in any other Company as at Publication Date.

Name of Company	Shareholding
Dawn Human Resource Solutions (Pty) Ltd	100%
DMD Marketing SA (Pty) Ltd	100%
College of Production Technology (Pty) Ltd	49%

2.2 Directors

2.2.1 As at the Publication Date, the Directors are:

Name of Director	Active or Resigned	Date of Appointment
Bongani William Maroleni	Active	1 June 2007
Luis Goncalves Baeta	Active	25 February 2019
Derek Austin Tod	Active	25 February 2019

2.2.2 None of the Directors have resigned since the Commencement Date and, according to the records of CIPC, all the Directors listed in paragraph 2.2.1 remain in office as at the Publication Date.

2.3 Company Information

Financial Year End:	30 June
Registered Business Address and Head Office:	Cnr Barlow and Cavaleros Drive, Jupiter Ext3, Germiston, Gauteng Province
Auditors:	SizweNtsalubaGobodo Grant Thornton Inc Audit Partner: Alexandros Phillipou

3. COMPANY BACKGROUND

3.1. Background to the Company

- 3.1.1 The business of Saffer Plumbing and Hardware, previously known as Wholesale Housing Supplies (“**WHS**”), was started in 1997. In 1998 City Investment Holdings acquired WHS and the Saffer business from Boumat. In 1999, City Investment Holdings was renamed Distribution and Warehousing Network (“**DAWN**”) and its listing was transferred to the Retail sector of the Johannesburg Stock Exchange. In the same year, it acquired Hardware Distributors SA from Barlows, which then traded as WHDsa “WHD”. In the year 2000, the assets of Windoor (a focused hardware and tool wholesaler) were acquired, which then traded as Stability Hardware Wholesale “Stability”. Dawn Cargo was established in 2002 to service the DAWN group’s national footprint. In 2003 the Group acquired:- a 30.43% share in Incledon holding; and a 50% share in Incledon DPI, which focussed mainly on plumbing and engineering goods and equipment in the civil and construction sectors.
- 3.1.2 In 2004, the group achieved the milestone of R1 billion per annum turnover for the first time and sold a 38.8% shareholding to Ukhamba, a broad based black owned investment holding company. During the period 2004 to 2006 the group acquired:- Cobra Watertech (a manufacturer and supplier of taps and related accessories); AFF (a manufacturer and distributor of kitchen fittings, hinges and related products); Libra Bathrooms and Amanzi Bathworks (manufacturers and distributors of bathroomware), which were subsequently merged under one entity, Libra. Further acquisitions included:- a 49% share of Halstead Investments (Lasher Tools); Isca (a leading tap and mixer supplier); the business of Vaal Sanitaryware (manufacturer of ceramic sanitaryware through both vitreous china and fireclay production); DPI Holdings (leading supplier of PVC pipes and fittings to the infrastructure sectors); and the remaining interest of 69.57% of Incledon.
- 3.1.3 In the year 2007 the group’s revenue exceeded R3 billion and the group was rated first place in the Sunday Time’s Top 100 Companies. Over the period 2007 to 2008 the Group formed Africa Saffer Trading (offering warehouse and distribution facilities for branded product ranges in Africa and the adjacent Indian Ocean islands), acquired;- a 49% interest in Sangio Pipe (a manufacturer of HDPE); a 33.3% interest in Fibrex (a plastic pipe extrusion operation in Angola); the business of Roco Fittings (forming Dawn Kitchen Fittings), a 49% interest in Heunis Steel, and a 49% interest Electroline.

It was at this time that the Group moved its operations to a centralised distribution facility in Germiston. In the year 2008 the group's revenue was just short of R4 billion.

- 3.1.4 In 2009 the Group conducted a capital raising of R300million by way of a rights issue. Over the period 2009 to 2012 the Group disposed of its interest in Lasher Tools, acquired the business of Plexicor, acquired a 49% interest in Apex Valves, extended its ownership in Electroline to 90% shareholding, and welcomed Kwikot as joint venture partner in AST.
- 3.1.5 Over the period 2013 to 2015 the Group obtained an inaugural rating from Standard & Poor's at zaA-, and:- acquired a further 11% interest, and then the remaining interest of 40% in Apex Valves; acquired a 51% interest in Ubuntu Plastics (a manufacturer of PVC and HDPE fabricated fittings); acquired a 60% interest in Pro-Max Welding Consumables (a manufacturer and distributor of welding products and safety equipment); extended its shareholding in Africa Saffer Trading to 90% and rebranded this business Dawn Africa Trading; acquired a 69% interest in Hamiltons Brushware (a manufacturer and distributor of paint brushes and related hardware and consumables); disposed of 51% of its shareholding in the Dawn Watertech Group to Grohe AG, forming Grohe Dawn Watertech Holdings; acquired a 49% interest in IPS & Distribution (a distributor of irrigation products and pumps to the agricultural market); acquired a 49% interest in Expiro (a manufacturer of plumbing brassware in Swaziland); acquired a 51% interest in Swan Plastics (a manufacturer of PVC pipes and fittings); and acquired the remaining shareholding in Sangio Pipe.
- 3.1.6 In 2015 the group acquired the remaining shareholding in IPS & Distribution, integrating this business with Includon and increased its shareholding in Pro-Max Welding Consumables to 89%. The group further increased its shareholding in Hamiltons Brushware to 74% and acquired a 76% shareholding in Boutique Baths (a manufacturer of high quality free standing cast baths).
- 3.1.7 In 2017 the Group disposed of its interests in Heunis Steel, Swan Plastics and Boutique Baths. The Group further conducted a rights issue yielding proceeds of R358 million to help to fund the planned turnaround, and a restructuring exercise was undertaken to stabilize the balance sheet of the Group. In December 2017, the Group sold its 49% interest in Grohe Dawn Watertech to the majority shareholder.
- 3.1.8 In May 2018 the Group disposed of Namibia Plastic Converters.

- 3.1.9 Due to ongoing strikes and substantial losses at DPI Plastics which had to be carried by the rest of the Group, the board took a decision in September 2018 to stop the bleeding and close DPI Plastics.
- 3.1.10 The Group continued to face major liquidity risks, and as it neared December 2018, solvency risk also loomed.
- 3.1.11 In December 2018 the Group received a firm offer from Polanofield (Pty) Ltd ("**Polanofield**") to acquire all of the issued shares of DAWN for R5.8m and the regulatory approval processes and due diligence commenced. Polanofield was jointly owned by Derek Tod and Luis Baeta, former executives employed by the Group. A condition to the sale was the continued support of the Group's banker's Absa, who provided a R25m bridge.
- 3.1.12 Polanofield in its offer, had identified that it could turn the Group around with the support of the Group's bankers, credit insurers, key suppliers and landlords. As it concluded negotiations with these parties and with the necessary regulatory approvals having been attained, the transaction was finally concluded on 25 February 2019.
- 3.1.13 Since February 2019, the new Group Shareholders with Management developed a Management Restructuring Plan which resulted in the following:
- New flatter management structure put in place to allow for quick and efficient decision-making.
 - Reviving and strengthening of supplier and customer relationships.
 - Reduction of operational expenses from R55 million (February 2019) to R36 million (March 2020) per month (pre-COVID-19). Initiatives to reduce costs included:
 - o Reduction in staff cost in line with declining revenue levels.
 - o Zero based budgeting.
 - o Consolidation and right-sizing of back office functions.
 - Restructuring of the rent in Bloemfontein, Durban, Germiston - cost saving of R35,8 million per annum plus the annual escalation.
 - Effective vehicle utilisation ensuring maximised load capacity.

- Reviewing of all processes across the business to identify efficiencies.
- Rationalisation of product range.
- Total remodelling of the business model to adapt to a post COVID-19 new economic reality. This includes aggressive cost cutting of operational expenditure to R20 million per month in order to ensure operational survival.
- Progressing consistently with the wind down of DPI plastics, which proved to be time consuming and came at a substantially greater cost than anticipated.
- Progressing consistently with an extensive backlog of outstanding financial statements (and correcting underlying system vs statement inconsistencies) for most of the entities.

3.1.14 As at the Commencement Date:

- the Company operated its business being that of, distribution and specialist supplier of plumbing, hardware and related materials to the retail sector of the building and plumbing industry from its head office, in Germiston, Gauteng and 6 other regions, namely, Limpopo (Polokwane), Mpumalanga (Nelspruit), Free State (Bloemfontein), KwaZulu Natal (Pinetown), Eastern Cape (Port Elizabeth) and Western Cape (Cape Town).
- the Company employed approximately 593 employees and 134 labour broker employees.

3.1.15 In addition, the Company is a shareholder of the following subsidiaries:

- Dawn Human Resources Solutions; and
- Dawn Marketing and Design.

Dawn Human Resources Solutions owns a 49% shareholding in College of Production Technology (Pty) Ltd.

3.1.16 As stated above, the Company is wholly owned by DAWN. DAWN is, in turn, owned 95.92% by Polanofield.

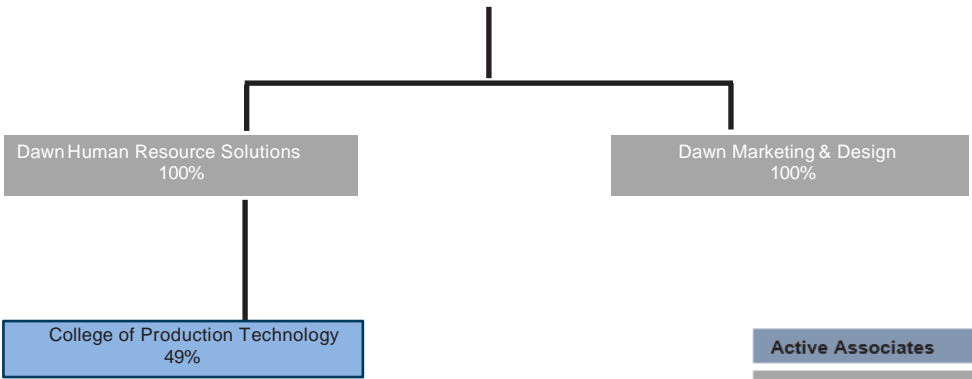


Name	Ownership%
Luis Baeta	0.002%
Derek Tod	1.81%
Polanofield (Pty) Ltd	95.92%
Wholesale Housing Supplies	2.27%

Distribution and Warehousing Network (Pty) Ltd



Saffer Plumbing and Hardware (Pty) Ltd
(100%)



Active Associates

Non-active subsidiaries

3.2. Background to the Company's Financial Distress

3.2.1 The main reasons for the Company becoming Financial Distressed, as set out in the documents filed by Management with CIPC for the commencement of this Business Rescue, can be summarised as follows:

3.2.1.1 The Company commenced business in 1997 and was included in the DAWN Group which was listed on the Johannesburg Stock Exchange. The Group's financial performance deteriorated from the 2008 financial crisis as a result of its onerous fixed cost base coupled with a continued decrease in market demand over time, ultimately to the point where it was facing potential business rescue in December 2018.

3.2.1.2 The current shareholders had a deep understanding of the market and of the Group (being former directors/employees) and recognised that they were able to turn the business around. This led to the sale of the shares of DAWN to the current shareholder Polanofield and the simultaneous delisting of DAWN in February 2019. Since entering the Business the new shareholder had a number of historical challenges to resolve but was making substantial progress in terms of the reduction of its cost base.

3.2.1.3 In addition, the Group experienced a challenging annual construction holiday shutdown over the December 2019 period and as a result started an aggressive process to restructure the entire business further accordingly. It was making good traction and was positive regarding a favourable outcome.

3.2.1.4 At this point the COVID-19 pandemic and the government mandated lockdown was implemented due to the National State of Disaster being declared. As a result, the Business was forced to shut down the operations with only a negligible select items being sold to authorised essential service providers.

3.2.1.5 The impact of the lockdown had a detrimental effect on the Group, not only because of a flat to minor market demand under lockdown conditions (due to not all manufacturing and construction operating or operating at full capacity) but especially because the Group operates a debtors funding facility with its bankers. The lack of invoicing by the core trading entities in the Group resulted in an immediate lack of access to liquidity to settle creditors and accordingly purchase stock to trade with and invoice (a circular effect) to recover from the COVID-19 economic situation.

3.2.1.6 An appeal for support for the Company was made by management to various parties including shareholders during the COVID-19 period for relief funding including requests for the COVID-19 to access relief funding provided by government through Absa. Absa as the main banker noted however that the Group did not qualify for such funding due to the SARB eligibility criteria that client must be “in good standing with their bank”. However, Absa did extend its facilities, which included the extension on the repayment of a R22m bridge loan until 30 June 2020. Various corporate activity prospects had been underway but although support was received from CGIC and key suppliersstakeholders, the decline of major financial support on an immediate basis placed the company in a position of financial distress.

3.2.1.7 Accordingly, the aforesaid factors resulted in the Company becoming financially distressed and accordingly the board resolved to commence voluntary business rescue proceedings on 23 July 2020.

4. SUMMARY OF THE BUSINESS RESCUE

4.1. Introduction and Business Rescue Timeline

4.1.1. 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 –

4.1.1.1. 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;

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

4.1.1.3. 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.

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

4.1.2.1. 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

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

4.1.3. The following summary sets out the salient dates on which certain events have taken and will take place during Business Rescue proceedings –

Event	Date
Board Resolution to commence Business Rescue filed with CIPC.	23 July 2020
BRP appointed	23 July 2020
First Employees' meeting	04 August 2020
First Creditors' meeting	05 August 2020
First Employees' Committee Meeting	17 August 2020
First Creditors Committee Meeting	07 September 2020
Second Employees' Committee Meeting	09 September 2020
Second Creditors Committee Meeting	11 September 2020
Publication of Business Rescue Plan	11 September 2020
Publication of Notice of Meeting to consider the Business Rescue Plan (in terms of section 151 of the Companies Act)	11 September 2020
Section 151 meeting to consider published Business Rescue Plan	23 September 2020

4.1.4. 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.saffer.co.za.

5. STEPS TAKEN SINCE THE APPOINTMENT OF THE BRP

5.1. ADMINISTRATIVE MATTERS

5.1.1. Appointment of BRP

The BRP was appointed on 23 July 2020 in terms of section 129.

5.1.2. 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 to Management in terms of section 140(1)(b).

5.1.3. Reporting to CIPC and Affected Persons

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

5.1.3.2. All other notices relevant to the Business Rescue are available on the Company's website (www.saffer.co.za).

5.1.4. 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.

5.1.5. Mazars Recovery and Restructuring Appointed to Calculate Potential Liquidation Dividend

5.1.5.1. The BRP appointed Mazars Recovery and Restructuring, a restructuring and insolvency practitioners, as an independent expert to: (i) calculate the potential liquidation dividend that would have been realised 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.

- 5.1.5.2. Mazars Recovery and Restructuring's mandate is to act as independent experts.
- 5.1.5.3. As will more fully appear below, if the Company had been placed into liquidation as at the Commencement Date, Concurrent Creditors would have received a dividend of 7.9 cents in the Rand.
- 5.1.5.4. If the Company had been placed into liquidation as at Publication Date, Concurrent Creditors would have still received a dividend of 7.9 cents in the Rand.
- 5.1.5.5. The figures in the liquidation scenario take into account the costs of administration associated with liquidation, as calculated in terms of section 89 of the Insolvency Act.
- 5.1.5.6. Having regard to the liquidation scenario independently and expertly calculated by Mazars Recovery and Restructuring, the liquidation dividend that would accrue to all subordinated creditors of the Company would equally be 0 (zero) cents. Accordingly, the voting interest attached to the claims of subordinated creditors, in accordance with section 145 is 0%.

5.1.6. 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 on 30 September 2020.

5.1.7. Publication of Notice of Meeting and Business Rescue Plan

- 5.1.7.1. This Business Rescue Plan will be published to all Affected Persons on 11 September 2020.

- 5.1.7.2. Publication will take place in the following manner:
- 5.1.7.2.1. via email to all known Creditors, to the extent that the email addresses of known Creditors are available to the BRP;
 - 5.1.7.2.2. publication on the website of the Company (www.saffer.co.za); and
 - 5.1.7.2.3. 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;
 - 5.1.7.2.4. copies will be available at the office of Genesis from Matimu Mandlhazi, from 08:00 to 17:00, between Mondays and Fridays.
- 5.1.7.3. The Notice of Meeting will be delivered to all Affected Persons simultaneously with the publication of the Business Rescue Plan.

5.1.8. **Cash Resources**

In order to preserve the cash resources of the Company, the BRP implemented immediate cash relief initiatives and explored broader cost optimisation initiatives, including:

- 5.1.8.1 In respect of rentals payable to landlords, implementing an interim measure payment based on 25% of the actual rental amount, with the difference between payments and contractual obligations being accrued as PCF.
- 5.1.8.2 In respect of Employees:
 - 5.1.8.2.1 consequent to engagement with employees, the Company continued with the principle of no work no pay for all the employees not working and a percentage salary reduction for those employees working, implemented from the start of the COVID-19 Alert level 4, which was necessitated as a result

of exceedingly poor trade conditions as well as operational conditions due to the COVID-19 health and safety regulations which will continue until 30 September 2020.

5.1.8.2.2 consequent to engagement with employees continued with an application for the temporary suspension of the provident fund contributions administered by Sanlam Umbrella Fund (“the Fund”), namely effective from 1 August 2020 to 31 October 2020. During the suspension period, no contributions will be payable by the Company to the Fund and no contributions will be payable by members. Each member’s accumulated savings known as the “member share” will remain vested in the Fund. Should a member resign during the suspension period, the member will remain entitled to all the withdrawal benefits as per the rules of the Fund.

5.1.8.2.3 Cancelling all discretionary payments.

5.1.9. **Leases**

In respect of leases, the cancellation and/or suspension, in terms of section 136 of the Companies Act, of those leases in some of the regions where the leases were onerous or where the Company decided to exit from those regions due to the region being loss making at current lease rental values.

5.1.10. **Contracts**

In respect of other Contracts, the cancellation and/or suspension, in terms of section 136 of the Companies Act, of Contracts concluded prior to the Commencement Date.

5.2 **EMPLOYEES**

5.2.1 **Employees’ Meeting:**

A first meeting of Employees, as contemplated in section 148, was held on 04 August 2020. During this meeting:

- 5.2.1.1 Business Rescue process was explained, and possible outcomes were presented, to the Employees;
- 5.2.1.2 assistance was also given to Employees by providing answers to various questions and concerns arising from Business Rescue process;
- 5.2.1.3 Employees expressed their support for Business Rescue and implored on the BRP to rescue the Company.

5.2.2 Employees Committee:

5.2.2.1 At the first meeting of Employees, nominations were requested for the establishment of an Employees' Committee. Thereafter, an Employees Committee was established in accordance with the Employees' nominations.

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

Name of Employee	Position
Lizelle Steenkamp	Representing non-union members
Norma Majama	Representing non-union members
Athini Nqodi aka Jason	PE - Numsa
Macdonald Ngqandende	PE - Saccawu
Brian Kunene	KZN - Numsa
Geoffrey Baloyi	Germiston - Saccawu
Frans Makgatho	Germiston - Saccawu
Mxolisi Mqwati	Germiston - Saccawu
Freddy Maphoto	Germiston - Numsa

Name of Employee	Position
Leigh Neud	Cape Town - Numsa
Mpumezi	Cape Town - Numsa
Gabriel Sidlayi	Saccawu – Union Official
Enock Manyoni	Numsa – Union Official

5.2.2.3 The Employees' Committee comprises the following:

5.2.2.3.1 representatives from NUMSA and SACCAWU;

5.2.2.3.2 representatives for the independent employees or non-unionised employees (being those employees not represented by either NUMSA or SACCAWU).

5.2.2.4 The BRP maintained contact with Employees through the Employees' Committee after the first meeting of Employees held on 04 August 2020.

5.2.2.5 The BRP has also suggested the Company apply for the CCMA TERS benefit offered by government for companies in distress.

5.2.2.6 The Employees' Committee met with the BRP on 17 August 2020 and 09 September 2020. In total, 2 (two) meetings of the Employees' Committee have been held prior to the Publication Date.

5.2.3 Consultation During the Development of the Proposed Business Rescue Plan

5.2.3.1 On 09 September 2020, the BRP consulted with, *inter alia*, representatives of the Employees' Committee on the development of the proposed Business Rescue Plan to:

5.2.3.1.1 enable them to make representations to the BRP for consideration, subject to the BRP's overall responsibility to publish a Business Rescue Plan which he regards as representing the best prospects of

rescuing the Company as contemplated in the Companies Act; and

5.2.3.1.2 the BRP requested the Employees' Committee to submit any questions in regard to the proposed Business Rescue Plan to enable the BRP to consider same prior to the Publication Date.

5.2.3.1.3 On 09 September 2020, the BRP and the Employees' Committee resolved to reinstate the employees' remuneration with immediate effect consequent to claims by Employees of the Company having allegedly unilaterally changed their remuneration and that the alleged unpaid portion of the Employees' remuneration will be treated as Pre-commencement Claim payable in terms of the payment waterfall as envisaged in section 144 of the Companies Act. Any unpaid portion of the Employees' remuneration from the Commencement Date will be treated as Post-commencement Claim and will be payable in terms of the payment waterfall as envisaged in section 144 of the Companies Act. For the avoidance of any doubt, it is recorded that all Employees' will be entitled to claim for the unpaid portion of their remuneration as pre and post commencement claims and this will be payable in terms of section 144 of the Companies Act.

5.2.3.1.4 In addition, the BRP and the Employees' Committee have resolved to embark on an accelerated retrenchment process with shortened timelines and to use their best endeavours to commence with the retrenchment process as soon as possible in order to ensure that the retrenchment process is concluded by no later than 30 September 2020, should it transpire, after the adoption of the Business Rescue Plan or by 25 September 2020 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.

5.2.4 Lay-off and Section 189 of the LRA Process

- 5.2.4.1 No Employee has been laid-off since the Commencement Date. However, the implementation of the Sales Process may lead to positions being declared redundant across various job categories and in significant numbers. This may, in turn, result in the dismissals of some of the Employees, for operational reasons subject to the outcome and implementation of the Sales Process.
- 5.2.4.2 It should be emphasised that no final decisions have yet been taken, nor will any final decisions be taken until the Employees and the Company have exhausted consultation (and hopefully achieved consensus).
- 5.2.4.3 However, should it transpire, after the adoption of the Business Rescue Plan or by 25 September 2020 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, the BRP shall immediately embark on an accelerated retrenchment process with shortened timelines as part of the Wind-Down Process envisaged in paragraph 18 in order to ensure that the retrenchment process is concluded expeditiously.
- 5.2.4.4 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, NUMSA and SACCAWU on or before 24~~8~~ September 2020.
- 5.2.4.5 The issuance of the section 189(3) notices will be the first step in a statutory consultation process which, it is envisaged, will commence on or before 24~~8~~ September 2020 to ensure that the retrenchment process is concluded expeditiously.
- 5.2.4.6 The Company and the consulting parties will hold consultation meetings as scheduled.

5.2.4.7 The Company will consult with the consulting parties on all the issues set out in the section 189(3) notice, 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.

5.2.5 **Wage Agreement**

On or about 21 September 2019, the Company concluded a wage agreement with SACCAWU to regulate salaries and other benefits for all permanent employees and deemed permanent employees in terms of section 198A(3)(b) of the LRA for a period of 2 (two) years effective from 1 October 2019 to 30 June 2021. In terms of this wage agreement, the Company agreed to pay salary increases in July 2020 in line with the wage agreement. Due to cashflow constraints, the Company has not yet implemented the salary increases for July 2020 and will keep the Employees updated of any developments. Any amounts which become contractually due and payable to Employees during Business Rescue will be treated as PCF in terms of section 136 of the Companies Act.

5.3 **CREDITORS**

5.3.1 **Creditors' Meeting:**

5.3.1.1 A first meeting of Creditors, as contemplated in section 147 was convened on 5 August 2020.

5.3.1.2 At the first meeting of Creditors:

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

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

5.3.1.2.3 claims were submitted by some of the Creditors;

5.3.1.2.4 Creditors elected to form a Creditors' Committee;

5.3.1.2.5 Nominations were requested for the Creditors Committee; and

5.3.1.2.6 Creditors voted in favour of the extension of the date of publication of the Business Rescue Plan to 30 September 2020.

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

5.3.2 Creditors' Committee

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

5.3.2.2 Gareth Cremen from Cox Yeats Attorneys was appointed as the independent chairperson of the Creditors' Committee.

5.3.2.3 The Creditors' Committee met with the BRP on 07 September 2020 and 11 September 2020. In total, 2 (two) meetings of the Creditors' Committee have been held prior to the Publication Date.

5.3.3 Consultation During the Development of the Proposed Business Rescue Plan

5.3.3.1 On 07 and 11 September 2020, the BRP consulted with, *inter alia*, representatives of the Creditors' Committee on the development of the proposed Business Rescue Plan to:

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

5.3.3.1.2 Requested the Creditors' Committee to submit any questions in regard to the proposed Business Rescue

Plan to enable the BRP to consider same prior to the Publication Date.

5.4 LEGAL

5.4.1 Moratorium

5.4.1.1 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.

5.4.1.2 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.

5.4.1.3 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.

5.4.1.4 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.

5.4.2 Suspension and Cancellation of contracts

5.4.2.1 Section 136(2)(a) of the Companies Act authorises the BRP, during Business Rescue, to entirely, partially or conditionally suspend, for the duration of the business rescue proceedings, any obligation of the Company that arises under an agreement to which the Company was a party at the Commencement Date and would otherwise become due during the Business Rescue.

5.4.2.2 Numerous contracts such as lease agreements, office supplies, material handling equipment, IT, car hire, telephone and data lines

and other service contracts were suspended in an effort to reduce operating expenses.

5.4.3 Continuation of contracts

Where the BRP, on his own or in consultation with Management, determines 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.

5.4.4 Other contracts

Contracts not specifically dealt with in the above paragraphs 5.4.2 to 5.4.3 are subject to ongoing evaluation and negotiations by the BRP in an effort to mitigate risks and optimise the Distribution.

5.4.5 Investigation of the Affairs of the Company

5.4.5.1 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”.

5.4.5.2 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 there is a reasonable prospect of the Company being rescued alternatively, that the process will yield a better return for Creditors or Shareholders than would result from the immediate liquidation of the Company.

5.4.5.3 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:

5.4.5.3.1 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;

5.4.5.3.2 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.

5.4.5.4 So far, the BRP, through his investigation of the Company's affairs before the Commencement Date, has identified the following:

5.4.5.4.1 The Company's last audited annual financial statements are for the financial year ended 28 February 2018. As at the Publication Date, the Company has prepared annual financial statements for the 2019 financial year, the audit of which is still outstanding. The Company is required in terms of the Companies Act to prepare and finalise financial statements within 5 months from the date of the Company's financial year end. Failure to prepare and finalise annual financial statements within the prescribed time period is deemed as non-compliance with the Companies Act and a reportable irregularity in terms of the Auditing Profession Act. The auditors reported this irregularity to the Independent Regulatory Board of Auditors ("IRBA") on 6 March 2020 and to the CIPC. The Company has explained the situation in writing to both the auditors and CIPC and provides these parties with updates in terms of its progress.

5.4.5.4.2 In June 2020 prior to commencement of Business Rescue, the Company sold or disposed of its entire shareholding in Distribution and Warehousing Network Africa (Pty) Ltd for an amount of: R1 821 740.00. As at Publication Date, the balance of R563 133.24 of purchase consideration has not been paid and remains outstanding. The BRP has

instructed Management to demand payment of the purchase consideration and to take all the necessary steps to collect the purchase consideration by no later than 31 December 2020.

5.4.5.4.3 An estimated amount of R14 million is owed to the Company by Incedon, a related party. The BRP has instructed Management to take all necessary steps to collect the outstanding debt from Incedon. As at Publication Date, the BRP and Management are still in discussion with Incedon to agree on the repayment terms.

5.4.5.5 The BRP is continuing to investigate the dealings of the Company prior to the Commencement Date, but has, 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.

5.4.6 **General**

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

- 5.4.6.1 employment;
- 5.4.6.2 competition;
- 5.4.6.3 tax;
- 5.4.6.4 regulatory issues;
- 5.4.6.5 contractual disputes;
- 5.4.6.6 PCF;
- 5.4.6.7 PCF agreements;
- 5.4.6.8 the disposal process;
- 5.4.6.9 Claims against the Company; and
- 5.4.6.10 various issues arising out of the Business Rescue including this Business Rescue Plan.

5.5 **BUSINESS RESCUE INITIATIVES**

5.5.1 **Management Restructuring Plan**

5.5.1.1 In February 2019, after the new shareholders took over, they together with Management developed a Management Restructuring Plan to restructure the business and reduce the operating costs, rationalise product range and consolidate and right-sizing of back office function within the Group amongst others, in order to ensure the continued survival of the Business of the Company.

5.5.1.2 The restructuring initiatives by Management culminated in the cost saving/reduction of approximately R19 million per month over a

period of 12 months (from R55 million (February 2019) to R36 million (March 2020) per month (pre-COVID-19).

5.5.1.3 Although the Management Restructuring Plan was initiated by the Company 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. Through the continuation of the Management's Restructuring Plan, a further cost saving of approximately R8 million was achieved.

5.5.2 **Post-Commencement Finance (PCF)**

5.5.2.1 This special form of financing provided and made available for companies under Financial Distress, typically during a formal chapter 6 Business Rescue, is critical to avoid operations coming to a standstill and the company collapsing into liquidation.

5.5.2.2 Post-commencement finance ("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 a BRP for the business to be successfully restructured.

5.5.2.3 The BRP approached various PCF funders and investigated all other options for PCF to cover critical operating requirements and general working requirements. Non-Disclosure Agreements were concluded with the PCF funders in order to commence with the due diligence. As at Date of Publication, 1 (one) of the PCF funders has indicated its unwillingness to provide PCF while the Company is still under Business Rescue. The other PCF funder is willing to advance R20 million as secured PCF subject to all securities being in place.

5.5.2.4 The BRP and Management are currently reviewing the term sheet and will update creditors on any development should a need arise. It should be noted though that the terms and conditions of the

R20 million PCF amount are too onerous and not capable at this stage of being achieved or met.

5.5.3 Reduction of Operating Costs

5.5.3.1 In an effort to reduce operating costs in order to preserve the already laced cashflow, the BRP investigated the existence, if any, of unnecessary costs and immediately put in place cost-containment measures to reduce operating costs.

5.5.3.2 Accordingly, all onerous contracts and other service contracts such as IT, material handling, telephone and data lines were immediately suspended and all vacant positions were frozen pending the review and restructure of the entire organisational plan. This will in the short to medium term have the effect of a further reduction of operational costs and ultimately improve the already constrained cashflow of the Company.

5.5.3.3 Both the BRP and Management continue to investigate further cost-containment initiatives, including relocating to cheaper and more affordable premises.

5.5.4 Sales Process

A preliminary sales process was embarked upon, with various parties expressing an initial expression of interest and the discussions are currently underway, more details of which are set out in Part B.

5.5.5 Cash Administration

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

5.5.5.1 Monitor the cashflow and financial position;

5.5.5.2 Perform daily bank reconciliations.

5.5.5.3 Analyse costs;

5.5.5.4 Control payments; and

5.5.5.5 Enforce general controls.

5.5.6 **Supplier Negotiations**

The BRP and Management negotiated with some of the major suppliers to continue supplying on acceptable terms to both the Company and the supplier. Certain suppliers were unwilling to continue supplying goods and services procured by the Company during Business Rescue on acceptable payment terms considering the Company's liquidity position.

5.5.7 **Temporary Employment Relief Scheme ("TERS")**

The Company continued with the application to the UIF for the COVID-19 Temporary Employment Relief Scheme ("TERS") for April 2020 – 15 August 2020. However, as at Publication Date, the Company had only received an amount of approximately R1 776 172.93 in respect of the April TERS. The other TERS amounts are still outstanding and have not been paid. In total, an amount of approximately R4 710 749.90 remains unpaid by the UIF.

6. **TRADING ACTIVITIES FOLLOWING THE COMMENCEMENT DATE**

- 6.1 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.
- 6.2 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 with minimal disruptions, and that the economic value of the Business is maintained, and that jobs are preserved.
- 6.3 Both Management and the BRP have continuously engaged with employees, organised labour, suppliers and customers, all of whom have expressed support to the Company. This is demonstrated partly, by the fact that most customers remained and continuously placed their orders for goods and services offered by the Company during Business Rescue proceedings.
- 6.4 Although trade and other Creditors or suppliers have been largely supportive of the on-going Business operations, this was done on the basis that suppliers continue to supply

goods and services procured by the Company on acceptable terms to both the supplier and the Company. However, certain suppliers were unwilling to continue supplying goods and services procured by the Company during Business Rescue on acceptable payment terms considering the Company's liquidity position, although a managed process was put in place to ensure that any goods or services ordered are critical to turnaround and convertible to inflows in the short term.

- 6.5 It should be noted that the unprecedented economic impact of the COVID-19 pandemic on economies across the world has changed the landscape for not only the Company and its Business Rescue initiatives, but for all businesses and customers of the Company.
- 6.6 In order to maintain the solvency of the Company during this Business Rescue proceedings, the approval process for all expenditure has been rigorously monitored. The BRP continuously monitors cash flow and financial projections, performs regular bank reconciliations, controls payments and enforces general financial and operational controls. The Company has also explored the South African government's economic relief measures geared to support businesses through this volatile financial environment occasioned by the COVID-19 pandemic without any success.
- 6.7 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 improve operational efficiency.
- 6.8 Employees' salaries were paid on 31 August 2020 including employee related statutory payments since 1 May 2020, and as described in paragraph 5.1.8.2.1 above. August remuneration continued on applied practices implemented from the commencement of the COVID-19 State of Disaster and National Lockdown due to necessity (prior to the commencement of Business Rescue proceedings) given the operational requirements and financial position of the Company. This includes the principle of no work no pay, advancement of the receivable TERS benefit (refundable only in the event that the UIF rejects the claim), a percentage salary reduction for employees that are currently working (at all levels of staff), the suspension of provident fund contributions, and payment of medical aid premiums and garnishees only where sufficient salary income allows such.
- 6.9 Of importance to note, is that the Company had various bank facilities including an invoicing discounting facility with Absa, which allowed the Company to use its unpaid invoices in the name of approved debtors companies, to accelerate its cash flow and

finance its operations through cash that are CGIC insured becoming available as soon as an invoice is rendered.

6.10 The Absa facilities expired on 31 July 2020. However, the BRP requested Absa to extend the bank facilities to enable the Company to continue trading during Business Rescue. Absa extended the bank facilities from 01 August to 31 August 2020 and now accept drawdown on a case by case basis while waiting for a further extension. The extension by Absa from 01 August 2020 was treated as secured PCF as envisaged in terms of section 135 of the Companies Act.

7. **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**.

8. **CREDITORS OF THE COMPANY AS AT THE COMMENCEMENT DATE**

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

8.2 As required in terms of the Companies Act, **Annexure B** indicates which of the aforesaid Creditors:

8.2.1 would qualify as a Creditor in terms of the laws of insolvency as set out in the Insolvency Act;

8.2.2 which of the Creditors have or are held to hold Disputed Claims;

8.2.3 have proved their Claims; and

8.2.4 would be entitled to exercise a vote in the Business Rescue and their voting interest determined and calculated in terms of the Companies Act, according to the Claim amount approved by the BRP.

8.3 The BRP accepts the Company records as being correct in respect of all Claims and Disputed Claims, unless a Creditor (including a Creditor holding a Disputed Claim) can prove otherwise.

8.4 All persons who believe that they have a Claim are referred to **Annexure B** and should treat **Annexure B** as the BRP's notification of the Claims in this Business Rescue proceedings. 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.

8.5 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.

8.6 Absa Security

8.6.1 The Company has various bank facilities including an Invoice Discounting facility with Absa as its main banker. The various bank facilities were provided at Group level with a maximum exposure limit of R157 500 000.00 (one hundred and fiftyseven million five hundred thousand Rand) as at Commencement Date.

8.6.2 The utilisation is split at Group level between the Company, DAWN, DPI and Incledon as follows:

8.6.2.1	Financial Guarantees	R	500 000.00
8.6.2.2	Letters of Credit	R	4 000 000.00
8.6.2.3	Credit Cards	R	50 000.00
8.6.2.4	Fleet Cards	R	750 000.00
8.6.2.5	Commercial Asset Finance Credit Line Facility	R	1 000 000.00
8.6.2.6	Receivables Finance Facility		R157 500 000.00
8.6.2.7	Bridge Loan Facility	R	22 000 000.00
8.6.2.8	Forward Exchange Contracts (Incledon)	R	4 000 000.00
8.6.2.9	Foreign Exchange Settlement Limit (Incledon)	R	5 000 000.00
8.6.2.10	Forward Exchange Contracts	R	1 000 000.00

8.6.2.11 Foreign Exchange Settlement Limit R 5 000 000.00

8.6.3 The bank facilities are secured by way of the following security instruments provided to Absa:

8.6.3.1 Cession of CGIC policies in Incledon, DPI and the Company;

8.6.3.2 Pledge and Cession by DAWN in favour of Absa;

8.6.3.3 Cession of Loan Account by Polanofield in favour of Absa;

8.6.3.4 Subordination of Loan Account by Polanofield in favour of Absa;

8.6.3.5 Cession of Book Debts in the Company;

8.6.3.6 Cession of Book Debts in Incledon;

8.6.3.7 Cession of Book Debts in DAWN;

8.6.3.8 Cession of Book Debts in DPI;

8.6.3.9 Cession of Clearing Accounts;

8.6.3.10 General Notarial Bond for R600 000 000.00 registered over all the Company's movable assets, stock and equipment;

8.6.3.11 General Notarial Bond for R200 000 000.00 registered over all Incledon's movable assets, stock and equipment;

8.6.3.12 General Notarial Bond for R200 000 000.00 registered over all DPI's movable assets, stock and equipment;

8.6.3.13 Limited Guarantee of R30 000 000.00 by Polanofield in favour of Absa; and

8.6.3.14 Unlimited Cross Guarantees by all companies within the Group.

- 8.6.4 As at the Commencement Date, the maximum exposure limited in respect of the Company was approximately R92 299 643.00 and for the Group was approximately R116 989 985.00.
- 8.6.5 As at Commencement Date, Absa's exposure in terms of the invoice discounting facility was approximately R60 806 505.00. As stated above, Absa held a cession of all debtors of the Company as part of its security for the facility. As a result, all payments received from the debtors of the Company since the commencement of Business Rescue proceedings were split between Absa and the Company according to the agreed facility level and were applied towards the reduction of the facility. As at Publication Date, the balance owing to Absa is approximately R59 417 266.00 and for the Group was approximately R85 517 580.00.
- 8.6.6 Absa perfected its security position over the stock, plant, equipment and machinery of the Company in terms of order of court granted against the Company on 30 October 2018, by taking possession, prior to the Commencement Date, and retaining such possession during the Business Rescue, of all stock.
- 8.6.7 In addition, Absa appointed a collateral manager to retain and exercise control over all stock.
- 8.6.8 Absa is accordingly a Secured Creditor of the Company over all stock, plant, equipment and machinery.

8.7 Payment waterfall in Business Rescue

- 8.7.1 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:
- 8.7.1.1 firstly, Business Rescue remuneration and expenses;
 - 8.7.1.2 secondly, Employees in respect of any remuneration, reimbursement for expenses or other amount relating to their employment during Business Rescue;
 - 8.7.1.3 thirdly, Secured PCF Claims;

- 8.7.1.4 fourthly, unsecured PCF Claims;
 - 8.7.1.5 Employees in respect of any claims for any remuneration prior to the Commencement Date; and
 - 8.7.1.6 fifthly, unsecured Creditors (made up of Preferent and Concurrent Creditors).
- 8.7.2 Secured Creditors will be paid the reasonable net proceeds after the deduction of all reasonable 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.
- 8.7.3 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.

9. CREDITORS VOTING INTEREST AND VOTING BY PROXY

- 9.1 In terms of the Companies Act and for the purposes of any vote by Creditors:
- 9.1.1 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**;
 - 9.1.2 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.
- 9.2 A Creditor who has a Disputed Claim, contingent Claim, prospective Claim, damages or unliquidated Claim and/or a Disputed Creditor will not be entitled to vote on the approval of this Business Rescue Plan.
- 9.3 A creditor with a PCF claim will not have a voting interest in the Business Rescue of the Company.
- 9.4 In light of the regulations and measures implemented by the Government of the Republic of South Africa pursuant to the global outbreak of COVID-19, 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):

- 9.4.1 As set out above, the BRP has consulted with the respective committees 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.
- 9.4.2 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 safferbr@gcs-sa.co.za.
- 9.4.3 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.
- 9.4.4 All voting will be conducted by way of proxy. A form of proxy will be included in the Notice of the Meeting. The form of proxy will also be available at www.saffer.co.za. 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 safferbr@gcs-sa.co.za.
- 9.4.5 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 Monday, 21 September 2020.
- 9.4.6 In the event that, during the Section 151 Meeting:
 - 9.4.6.1 Further questions are raised and/or proposed amendments are moved, which can be fully addressed during the Section 151 Meeting, the BRP will:
 - 9.4.6.1.1 adjourn the Section 151 Meeting for two (2) hours to receive any further forms of proxy or amended forms of proxy; and

- 9.4.6.1.2 reconvene the Section 151 Meeting to announce the outcome of the vote.
 - 9.4.6.2 Further questions are raised and/or proposed amendments are moved, which cannot be fully addressed during the Section 151 Meeting for whatsoever reason:
 - 9.4.6.2.1 The Section 151 Meeting will be adjourned for one week (“**Adjourned Period**”) to allow the BRP time to respond to the questions and consider whether the proposed amendments are seconded by the holders of creditors’ voting interests and satisfactory to the BRP;
 - 9.4.6.2.2 The BRP will publish the response/s to the question/s raised and/or the proposed amendments to the Business Rescue Plan to all Affected Persons during the Adjourned Period;
 - 9.4.6.2.3 Creditors and Affected Persons who have not lodged their forms of proxy or wish to change their forms of proxy will be afforded until 17h00 on Monday, 28 September 2020 to do so; and
 - 9.4.6.2.4 The Section 151 Meeting will be reconvened on 30 September 2020 to announce the outcome of the vote.
- 9.4.7 Creditors who provided forms of proxy prior to the Section 151 Meeting will be deemed to have accepted any amendments made to the Business Rescue Plan during and/or after the Section 151 Meeting, unless expressly advised otherwise in writing to the BRP prior to the reconvening of the Section 151 Meeting.
- 9.4.8 Notwithstanding what has been stated in this paragraph, the BRP has a discretion to accept any form of proxy submitted or change the process referred to above, which change will be notified to Affected Persons.
- 9.5 Notwithstanding what has been stated above, the BRP has discretion to accept any proxy submitted.

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

10. PROBABLE DIVIDEND ON LIQUIDATION

10.1 The BRP engaged Mazars Recovery and Restructuring, as an independent expert, to calculate the potential dividend in a liquidation scenario as at Commencement Date.

10.2 The calculation of a liquidation dividend as at Commencement Date is based on an independent exercise undertaken by Mazars Recovery and Restructuring. Affected Persons are encouraged to properly consider the calculation presented by Mazars Recovery and Restructuring and satisfy themselves as to the accuracy thereof. If any Affected Person requires a full copy of the liquidation and distribution account, please contact Matimu Mandhazi of Genesis at matimu@gcs-sa.co.za.

10.3 Mazars Recovery and Restructuring relied on financial and other information provided to it by the Company and discussions with Management and 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 Mazars Recovery and Restructuring.

10.4 The methodology used by Mazars Recovery and Restructuring in calculating the liquidation dividend is the methodology chosen by Mazars Recovery and Restructuring in their sole discretion and the BRP is not in a position, to comment on the methodology.

10.5 The probable dividend which Concurrent Creditors would receive if the Company were to be placed in liquidation, as at Commencement Date, is 7.9 cents in the Rand. The liquidation calculation is attached as **Annexure D**.

10.6 Based on the dividend calculation of Mazars Recovery and Restructuring as at Commencement Date, the BRP estimates that the probable dividend which Concurrent Creditors would receive if the Company were placed in liquidation, as at the Publication Date, would still be 7.9 cents in the Rand.

10.7 The figures in paragraph 10.5 and 10.6 take into account the costs associated with liquidation, as calculated in terms of the Insolvency Act.

11. HOLDERS OF THE COMPANY'S ISSUED SECURITIES

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

12. THE PRACTITIONERS' REMUNERATION

- 12.1 The regulations to the Companies Act prescribe an hourly tariff (inclusive of VAT) for the payment of the fees of a business rescue practitioner.
- 12.2 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 2345.
- 12.3 A company is regarded as a large-sized company if its public interest score is more than or over 500.
- 12.4 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 R3 250.00 per hour (excluding VAT), 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.
- 12.5 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 R4 500.00 exclusive of VAT.
- 12.6 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's appointment.
- 12.7 A separate meeting to approve the proposed agreement will be convened in accordance with the terms of section 143 of the Companies Act.

13. 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

14. OBJECTIVE AND PURPOSE OF BUSINESS RESCUE

14.1 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.

14.2 The objective of Business Rescue, as set out in section 128(1)(b)(iii), is to develop and implement a rescue plan that:

14.2.1 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

14.2.2 if the aforementioned is not possible, results in a better return for the Company's creditors or members than would result from the immediate liquidation of the Company.

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

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

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

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

15. SUMMARY OF THE PROPOSAL IN TERMS OF THIS BUSINESS RESCUE PLAN

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

15.2 Pursuant to conducting the aforesaid assessment and evaluation, and after consultation with the relevant Affected Persons, the BRP proposes the implementation of the Sales Process to rescue the Company.

15.3 The Sales Process comprises two parts:

15.3.1 First Part:

15.3.1.1 The first part entails the implementation of an accelerated sales process (“**Accelerated Sales Process**”).

15.3.1.2 In terms of the Accelerated Sales Process, the BRP:

15.3.1.2.1 First sought to achieve a sale of the entire Business as a going concern.

15.3.1.2.2 The aforesaid was not possible, therefore the BRP assisted by his Advisors intend to embark on an accelerated disposal process involving the entire or certain parts or business of, or assets 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.

15.3.2 Second Part:

15.3.2.1 The second part entails the implementation of a structured or orderly wind-down process (“**Wind-Down Process**”).

15.3.2.2 The Wind-Down Process entails a better return for the Company’s Creditors or Shareholder than would result from the immediate liquidation of the Company through the sale of all of the Company’s assets, by way of private treaty or public auction or any manner which the BRP, in his sole discretion, deems appropriate given the circumstances prevailing at that time, as opposed to the sale of the Business as a going concern.

- 15.4 The Sales Process is more fully dealt with in paragraph 17 and paragraph 18.
- 15.5 Since the Commencement Date, the Company has been operating the Business and as at the Publication Date, the Company remains operational.
- 15.6 The advantages of proceeding with this Business Rescue Plan are, *inter alia*, as follows:
- 15.6.1 if the Sales Process is implemented, the BRP will seek to obtain the sale of the Business as a going concern, thereby resulting in the transfer of the relevant Employees and many jobs being preserved or saved.
 - 15.6.2 Employees who are retrenched, if any, would be in a better position than in a liquidation.
 - 15.6.3 The total costs will be less than the costs of liquidation.
 - 15.6.4 The trade creditors will continue to have a sustainable customer to trade with going forward.
- 15.7 Affected persons are referred to paragraph 26 below for more information relating to the advantages of proceeding in terms of this Business Rescue Plan as opposed to a liquidation.
- 15.8 The Business Rescue will result in the rescue of the Company or at least certain parts of the Company and will balance the interests of all stakeholders.
16. **BACKGROUND TO THE PROPOSAL IN TERMS OF THIS BUSINESS RESCUE PLAN:**
- 16.1 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. It became apparent that the Management Restructuring Plan was based on support being received from both Credit Guarantee Insurance Corporation ("CGIC") and Absa.
- 16.2 Subsequent to this, the BRP and Management developed an operational turnaround plan as part of the Business Rescue initiatives. The operational turnaround plan was predicated on the Company being able to secure additional/new funding and the ongoing

support from some of the key suppliers by agreeing to continue to supply goods and services to the Company on the same terms and conditions that existed or were in place prior to the commencement of Business Rescue.

- 16.3 Customers expressed their willingness and commitment to continue supporting the Company by placing new orders going forward. In addition, customers were offered early settlement discounts if they settle their accounts within 30 (thirty) days or within a much shorter period.
- 16.4 The BRP and Management engaged with key suppliers. Most of the key suppliers are insured with CGIC in terms of the CGIC credit insurance cover and they, in turn, expressed their support and willingness to continue supplying goods and services procured by the Company during Business Rescue on condition that, the Company pays for all goods and services procured acceptable terms considering the Company's liquidity position, alternatively that CGIC extend credit insurance cover to the suppliers during Business Rescue for all the goods sold and delivered to the Company on credit.
- 16.5 However, with regard to CGIC, it became clear that CGIC would not be able to extend credit insurance cover to suppliers in respect of the Company, as according to the CGIC's terms and conditions for the credit insurance cover is that CGIC is prohibited from extending credit insurance cover once CGIC has paid a claim in respect of that entity.
- 16.6 The only other option was for the Company to procure goods and services on mutually acceptable payment terms. The BRP and Management approached various PCF funders without any success. The BRP and Management also explored accessing the South African government's economic relief measures geared to support businesses through this volatile financial environment occasioned by the COVID-19 pandemic without any success.
- 16.7 Due to challenges experienced in raising funding and the fact that CGIC was not able to extend credit insurance cover to the Company's key suppliers in order for suppliers to supply on credit during Business Rescue, it became clear that the operational turnaround plan would not be realised or cannot be implemented. The BRP had to consider other options including alternative proposals to realise value for all stakeholders as envisaged in the Companies Act, being the Accelerated Sales Process.

16.8 It also became apparent that, in the absence of any PCF, any proposal to rescue the Company would have to be implemented without delay. Accordingly, the BRP and Management decided to continue to explore other funding opportunities and, at the same time commenced with the Sales Process.

16.9 The BRP is of the view that one of the options available in order for the objectives of Business Rescue to be achieved is an orderly and accelerated sales/disposal process. The BRP is constrained by the unavailability of PCF and remains constrained going forward, to sustain a protracted Sales Process. Consequently, the BRP has prepared this Business Rescue Plan based on the Sales Process, which is detailed below.

16.10 Salient Considerations:

Creditors should note the following challenges the BRP was faced with, in respect of realising value for Creditors, including, *inter alia*:

16.10.1 The absence of PCF or Shareholder funding severely limited the options open to Management and the BRP, which led to alternative consideration of the Accelerated Sales Process.

16.10.2 The timing to implement the Sales Process was particularly demanding, considering getting suppliers to continue to supply goods and services in order to ensure the sustainability of the Business going forward while under Business Rescue.

16.10.3 Concerns around the impact on future sales levels as a result of the economic damage of the lockdown.

17. **FIRST PART: ACCELERATED SALES PROCESS**

17.1 As explained above, the BRP is of the view that one of the options available in order for the objectives of Business Rescue to be achieved is an orderly and accelerated disposal process. The BRP is constrained by the unavailability of PCF and remains constrained going forward, to sustain a protracted sales/disposal process.

17.2 A total of 2 (two) potential bidders initially expressed their interest in a potential transaction involving the Company. One of the 2 (two) interested parties has executed a non-disclosure and confidentiality agreement. Discussions are underway.

- 17.3 In an attempt to secure the best possible outcome for all stakeholders, including Affected Persons, affected by this Business Rescue proceedings, the BRP, assisted by its Advisors, intend to embark on a 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.
- 17.4 On Wednesday, 16 September 2020 before 17h00, interested parties will be invited to submit the following to the BRP and Advisors, by Tuesday, 22 September 2020:
- (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).
- 17.5 Each of the documents listed in clause 17.4 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 Sales Process.
- 17.6 After the completion of phase 1, the parties expressing an interest, and accepted by the BRP, will receive access to the data room populated by the BRP with the assistance of the Management of the Company. The BRP will not provide access to any additional information, nor update any information in the data room, to anyone.
- 17.7 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, 09 October 2020 (the Bids). Where considered necessary or appropriate by the BRP, the BRP and its Advisors may seek clarity regarding the content of the Bids.
- 17.8 The following, *inter alia*, must be addressed and contained in the Indicative Bids:
- 17.8.1 whether the transaction will involve the acquisition of the assets and business of, or shareholding in, the Company;
 - 17.8.2 the purchase consideration;
 - 17.8.3 the form in which the purchase consideration will be settled – in other words, in cash or otherwise;

- 17.8.4 not in cash, how will the purchase consideration be converted or realised in cash;
 - 17.8.5 the working capital requirements of the Company and how and when these will be advanced to the Company;
 - 17.8.6 all technical expertise and resources experience and track record, aimed at turning around the operations of the Company and continuing with its business operations;
 - 17.8.7 all internal approvals required in respect of any proposed transaction envisaged and the timing to obtain such approvals;
 - 17.8.8 a commitment to retain Employees in accordance with the provisions of section 197 of the LRA;
 - 17.8.9 an undertaking to conclude the Sales Process, and proposed transaction, in a timely manner;
 - 17.8.10 additional benefits that will contribute towards accelerated and sustainable growth of the business and reduction of expenses, for example, whether additional customers introduced to the Company with the consequential increase in sales volume; whether certain operational expenses can be merged into existing infrastructure so as to reduce the operating cost and thereby increase profitability.
- 17.9 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.
- 17.10A 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.

17.11 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 Bid 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.

17.12 The BRP will consider the Bids and enter into negotiations with any of the bidders which, in the BRP's 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.

17.13 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.

17.14 While the BRP recognises 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 remains desirous to complete the 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	Wednesday, 16 September 2020
Submission of Initial Expression of Interest	Tuesday, 22 September 2020 at 17h00
Access to data room	Wednesday, 23 September 2020 from 08h00
Commencement of due diligence	Wednesday, 23 September 2020 from 08h00
Submission of draft sale agreement to bidders	Friday, 25 September 2020 by 17h00
End of due diligence, including site visit and engagement with personnel	Thursday, 8 October 2020 at 17h00

Submission of Bids	Friday, 9 October 2020 at 17h00
Notify preferred bidder/s	Wednesday, 14 October 2020 at 17h00
Payment of Deposit into escrow agent account by the selected bidder	Friday, 16 October 2020 at 17h00
Negotiations of final definitive transaction agreements commence with selected bidder	Monday, 19 October 2020 at 08h00
Execution of definitive transaction agreements with the selected bidder	Wednesday, 21 October 2020 at 17h00
Note: The above timelines is an abridged timetable and is subject to change in the BRP's sole discretion.	

17.15 Projected waterfall

17.15.1 Following the adoption of the Business Rescue Plan, the BRP, acting with his Advisors, having been authorised to do so by the holders of the requisite majority of the Creditors voting interests, shall embark upon a Sales Process as outlined above in this Business Rescue Plan. Once the BRP is in a position to identify the selected bidder, the BRP will execute all agreements required to give effect to a disposal and implementation of this Business Rescue Plan.

17.15.2 According to section 154(1), a Business Rescue Plan may provide that, if implemented in accordance with its terms and conditions, a creditor who has acceded to the discharge of the whole or part of a debt owing to that creditor will lose the right to enforce the relevant debt or part of it.

17.15.3 According to section 154(2), if a business rescue plan has been approved and implemented, in accordance with chapter 6, a creditor is not entitled to enforce any debt owed by the Company immediately before the Commencement Date, except to the extent provided for in the Business Rescue Plan.

17.15.4 For the avoidance of doubt, it is expressly recorded that:

17.15.4.1 this Business Rescue Plan is an offer in full and final settlement of all Claims;

17.15.4.2 the Company will make a Distribution from any sale in accordance with the following waterfall or order of preference:

17.15.4.2.1 the BRP's remuneration and expenses (s135(3) read with s143);

17.15.4.2.2 the costs and expenses of the Business Rescue which will include, but are not limited to, the costs and charges of CDH, the Advisors and Mazars Recovery and Restructuring (s135(3));

17.15.4.2.3 remuneration, reimbursement for expenses and other amounts relating to employment which became due and payable after the Commencement Date (s135(3)(a) read with s135(1));

17.15.4.2.4 secured PCF in the order incurred (s135(3)(b) read with s135(2));

17.15.4.2.5 unsecured PCF in the order incurred (s135(3)(b) read with s135(2));

17.15.4.2.6 secured debt;

17.15.4.2.7 remuneration, reimbursement for expenses and other amounts relating to employment which became due and payable before the Commencement Date (s144(2)); and

17.15.4.2.8 unsecured debt as the Substantial Implementation Date.

17.15.5 The mechanism of any transaction concluded pursuant to the disposal process outlined above will take the form of either a disposal of 100% of the shareholding of the Company or the entire business and its assets as a going-concern. In order to illustrate the sequence of payments outlined above, the table provides an illustration and estimate of the potential distribution to Creditors of the Company in terms of this Business Rescue Plan. Affected Persons must however note that this table is no more than an illustration of the waterfall and is by no means binding on the BRP or its Advisors. Furthermore,

the table assumes a transaction value, derived from the Sales Process, of R162 000 000:

Waterfall	Amount
Proceeds realised on disposal	R162,000,000.00
BRP remuneration and expenses (s135(3))	R3,500,000.00
Estimate costs of Business Rescue proceedings (s135(3))	R1,500,000.00
Employees post-Commencement Date Claims (s135(3)(a) and 135(1))	R6,463,901.33
PCF	R10,153,615.68
Secured creditor – Absa	R54,160,088.00
Employees pre-Commencement Date Claims	R15,397,804.00
Unsecured creditors (excluding subordinated creditors)	R254,991,734,17

17.15.6 The illustration above postulates a distribution in full settlement of the secured Claim of Absa, employee related costs together with all Business Rescue related costs and expenses.

17.15.7 The balance, after settlement of all the employee costs, Business Rescue costs and expenses and the Secured Claim of Absa will be applied pro-rata in part payment of the Claims of the unsecured Creditors. On the figures postulated on the table above, this will result in an estimated Distribution to unsecured Creditors of 27 cents in the Rand.

17.16 Should it transpire, after the 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 the BRP will proceed to realise all the assets of the Company in terms of the second part of the Sales Process, being the Wind-Down Process.

18. SECOND PART - WIND-DOWN PROCESS

- 18.1 The second part of the Sales Process is the implementation of the Wind-Down Process, which will be implemented should it transpire, after the 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.
- 18.2 In such event, the BRP proposes and is hereby mandated in terms of this Business Rescue Plan that the Business Rescue proceeds in terms of the Wind-Down Process as set out below.
- 18.3 The Wind-Down Process entails the following:
- 18.3.1 Realisation of all of the Company's assets (including trade marks) and those assets which are sold pursuant to the Accelerated Sales Process, by way of but not limited to, trade out process, private treaty, auction or any other manner which the BRP, in his sole discretion, deems appropriate given the circumstances prevailing at that time, including trading out of inventory over a period determined by the BRP in his sole discretion subject to written consent by the Secured Creditor;
 - 18.3.2 Proposed cancellation of leases and Contracts which could not be assigned; and
 - 18.3.3 Proposed retrenchment of all Employees or all remaining Employees.
- 18.4 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 18 - 24 months to finalize even longer especially taking into account the COVID-19 pandemic.
- 18.5 The BRP will convene meetings with the respective committees to provide updates on the Wind-Down Process. The BRP will, notwithstanding the views of the committees, have the authority to make the final determination with regard to the processes adopted and acceptance of offers.
- 18.6 The BRP is hereby mandated and authorised by the Creditors, shareholder 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, their Advisors, Genesis and the Company.

18.7 Proceeds from the Accelerated Sales Process and 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.

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

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

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

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

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

19 ONGOING ROLE OF THE COMPANY

As required in terms of section 150(2)(b)(iii) of the Companies Act, if the Business Rescue proceeds in accordance with the Sales Process, the Company will no longer operate as a Business and/or including any remaining assets, will be sold.

20 EFFECT OF THE BUSINESS RESCUE PLAN

20.1 Creditors

Once the Distribution is made to Creditors, all Claims against the Company will be Expunged. For the avoidance of doubt, upon the Distribution, all liabilities, provisions and obligations, of whatsoever nature, howsoever and when so ever arising of the Company will be deemed to be discharged in full in terms of section 154 read with section 152(4).

20.2 **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 Sales Process, 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 20.3.

20.3 **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:

20.3.1 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.

20.3.2 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.

20.3.3 shall be a Concurrent Claim, unless the Creditor holds security for such claim.

20.3.4 Must be mitigated and can only be claimed if proven.

20.3.5 In respect of damages related to leases:

20.3.5.1 Will be deemed to be limited to a maximum Claim equivalent to 3 (three) month's rental (not operational costs), as payable at the Commencement Date. For the sake of clarity, it is recorded that the damages are limited in nature to re-instatement costs and early termination; and

20.3.5.2 If the landlord was given an opportunity to assign a lease, but refused to do so on reasonable grounds, such landlord will be precluded from submitting a claim for damages.

20.3.6 In respect of damages related to other 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.

20.3.7 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.

20.3.8 will be deemed to exclude all consequential and indirect damages, loss of profit, penalty; and

20.3.9 if disputed, will be resolved in terms of the Dispute Resolution Mechanism, detailed in part D.

21 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 sale of the Company's Business, and/or assets, and the distribution of the proceeds by the BRP in accordance with the payment waterfall in paragraph 24.

22 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 Sales Process is implemented, the rights of the sole shareholder, being DAWN, will not be altered.

23 COMPARISON OF THE BUSINESS RESCUE TO LIQUIDATION

23.1 As at the Publication Date, the outcome of the Accelerated Sales Process is unknown. Consequently, the estimated Business Rescue dividend set out in this Business Rescue Plan has been determined based on the Wind-Down Process, as envisaged in paragraph 18.

23.2 The following table sets out a comparison of the outcomes that are likely to arise under the Business Rescue (in terms of the Wind-Down Process) as compared to a liquidation (the liquidation calculation is based on the information provided in Mazars Recovery and Restructuring's liquidation calculation):

	Liquidation	Business Rescue (Based on Wind-Down Process)
Secured Creditors	100 cents/Rand	100 cents/Rand
Employees	Limited R28 000	100 cents/Rand
PCF	N/A	100 cents/Rand
Concurrent/unsecured Creditors	7.9 cents/Rand	14 cents/Rand

24 ORDER OF DISTRIBUTION – PAYMENT WATERFALL IN BUSINESS RESCUE

24.1 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.

24.2 In terms of section 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):

24.2.1 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;

24.2.2 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);

24.2.3 Secured PCF Creditors;

24.2.4 Unsecured PCF Creditors;

24.2.5 Employees for any remuneration, reimbursement for expenses or other amount of money relating to employment which became due and payable by the Company to the Employees prior to the Business Rescue (to the extent that they were not paid); and

- 24.2.6 Unsecured / Concurrent Creditors, including Secured Creditors in respect of any residual Claim remaining after realisation of their security.
- 24.3 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 BRP's remuneration and expenses, as contemplated in section 143 of the Companies Act.
- 24.4 All unpaid amounts in terms of the leases as at the Commencement Date, will be treated as unsecured Pre-Commencement Claims as no landlord had perfected its landlord's hypothec as at the Commencement Date.
- 24.5 All unpaid amounts in terms of leases after the Commencement Date will be treated as PCF.
- 24.6 The BRP will make Distributions as soon as it is practically possible to do so.

25 PROOF OF CLAIMS BY CREDITORS

- 25.1 The exchange rate in respect of all Claims expressed in foreign currency will be determined as at the Commencement date.
- 25.2 Concurrent Creditors will not be entitled to charge interest on their Pre-Commencement Claims from the Commencement Date.
- 25.3 Creditors are required to lodge their Claims with the BRP at safferbr@gcs-sa.co.za prior to the Final Claims Date for purposes of participating in the Distributions made by the BRP:
- 25.3.1 The BRP has a discretion as to whether to allow a Creditor to lodge any Claim after the Final Claims Date; and
- 25.3.2 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's aforesaid discretion, forfeit their right to participate in Distributions that have been made prior to the lodgement of their Claims.
- 25.4 The provisions in paragraph 25.3 will apply *mutatis mutandis* to Creditors asserting a claim for damages.
- 25.5 Claims, including claims for damages, shall be proved to the satisfaction of the BRP.

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

25.7 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 D.

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26 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:

26.1 Continuity of Business

26.1.1 To the extent that the Business is sold in terms of Sales Process:

26.1.1.1 A significant number of the jobs pertaining to the Business would be preserved.

26.1.1.2 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.

26.2 Quantum

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

26.2.2 By way of illustration, please refer to paragraph 23.

26.3 Timing

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

26.3.2 The anticipated time period estimated for completing the Business Rescue is approximately 6 months.

26.3.3 The average time it takes to conclude a liquidation process can be between 18 – 24 months, or longer depending on the complexity of the business and affairs of the company.

26.4 Employees

26.4.1 Those employees who were working continued to receive salaries since the Commencement Date albeit, at a reduced level.

26.4.2 In liquidation:

26.4.2.1 Employees would be entitled to receive a maximum amount of R28 000.00 (twenty-eight thousand Rand) per employee as a preferent claim, to the extent that there are funds available.

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

26.5 Fees

26.5.1 The BRP submits that the entire costs of the Business Rescue will be significantly lower than the liquidation costs.

26.5.2 The estimated fees a liquidator would be entitled to in terms of the liquidation calculation prepared by Mazars Recovery and Restructuring is approximately R14 million based on realisation of the assets.

26.6 General Benefits of Business Rescue

26.6.1 Stock

The sale of stock in terms of liquidation typically results in minimum value being realised, generally less than cost.

26.6.2 Protecting Goodwill

26.6.2.1 By virtue of uninterrupted trading, the BRP was able to preserve the goodwill in relation to the Business. Accordingly, in the absence of an investor, the BRP is able to sell the Business of the Company as a going concern with goodwill which has value.

26.6.2.2 In a liquidation scenario the Company would 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.

26.6.3 **Avoiding breakdown of controlled environment**

- 26.6.3.1 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.
- 26.6.3.2 Stricter controls remain over all assets of the Company, which avoids or minimises risks of theft and damage.

26.6.4 **In general:**

- 26.6.4.1 Secured Creditors' Claims will be settled as set out in this Business Rescue Plan;
- 26.6.4.2 Creditors will receive a better outcome than the dividend of 7.9 cents in the Rand in the event of the liquidation of the Company;
- 26.6.4.3 payment of Claims to Creditors will be implemented in a period not exceeding 6 months;
- 26.6.4.4 retention of 593 jobs and contribution by the Company to the alleviation of very high levels of unemployment if the Business is sold. In a liquidation, Employees risk losing jobs which will be disastrous taking into account the very low prospect of them finding new jobs in a country experiencing severe recession and possible retraction of its growth as a result of the COVID-19 pandemic and lockdown restrictions;
- 26.6.4.5 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. Creditors also run the risk of pro rata contributions towards the administration costs as set out in Annexure D;
- 26.6.4.6 sale of Business will result in continuity of existing business relationships between the Company and its suppliers/Creditors

as well as contributions to the South African economy and tax fiscus;

27 RISKS OF THE BUSINESS RESCUE

27.1 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:

- 27.1.1 the uncertainty surrounding the economic climate in light of COVID-19 and the risk that the country or certain provinces, metropolitan districts or hotspots are placed back into lockdown;
- 27.1.2 the approval of any proposed transaction by the Competition Commission taking longer than expected;
- 27.1.3 the discrepancies in the asset registers and inventory lists differing materially from the actual assets and inventory on hand, thus reducing the purchase price as being received on the sale of such assets;
- 27.1.4 the expected realisation value of stock and other assets that the BRP anticipate to achieve at a sale or at an auction or through trading differs materially from the actual realised value;
- 27.1.5 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;
- 27.1.6 unforeseen litigation of any nature whatsoever, howsoever arising, from any cause of action whatsoever;
- 27.1.7 the closure, consolidation and stock verification process during the period of handover of the Company to a successful purchaser being more complex and costly than anticipated thereby resulting in a downward adjustment of the purchase consideration;
- 27.1.8 deteriorating market conditions;
- 27.1.9 the revocation of support from any Affected Persons, service providers and/or suppliers;

- 27.1.10 increase in claims for damages for certain leases not being ceded and assigned;
 - 27.1.11 unforeseen damages claims arising from the cancellation of any contracts or agreements of any nature whatsoever, howsoever arising;
 - 27.1.12 any changes in legislation that impact Business Rescue;
 - 27.1.13 any challenges to this Business Rescue Plan, the rejection thereof or any amendments thereto;
 - 27.1.14 any regulatory challenges of any nature whatsoever, howsoever arising;
 - 27.1.15 any unforeseen circumstances, outside of the control of the BRP of any nature whatsoever howsoever arising that impacts on Business Rescue; and
 - 27.1.16 material discrepancies in the information made available to the BRP by the Directors and Management.
- 27.2 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

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

28.1 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.

28.2 As required in terms of section 150(2)(c)(i)(bb) of the Companies Act, the Business Rescue Plan will be fully implemented upon the finalisation of the Sales Process or Wind-Down Process, as the case may be, payment of the Final Distribution and upon the Substantial Implementation Date.

29 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 5.2.3 and 5.2.4.

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

30.1 As required in terms of section 150(2)(c)(iii) of the Companies Act, the Business Rescue Plan will end when the Business Rescue ends.

30.2 In terms of section 132(2) of the Companies Act, the Business Rescue will end when:

30.2.1 The Business Rescue Plan is:

30.2.1.1 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

30.2.1.2 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

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

30.2.3 The BRP files a notice of termination of the Business Rescue with the CIPC.

31 PROJECTED BALANCE SHEET AND PROJECTED STATEMENT OF INCOME AND EXPENSES

31.1 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.

31.2 If the Business Rescue proceeds in terms of the Sales Process or Wind-Down Process, there will be no continuation of the Company and as such no projected balance sheet or statement of income and expenses for the ensuing 3 (three) years.

32 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 Part B dealing with proof of claims.

33 EFFECT OF BUSINESS RESCUE ON CLAIMS

33.1 After the adoption and implementation of this Business Rescue Plan, Creditors shall not retain their Claims against the Company for any balance that may still be due to them by the Company after receiving any payment made in terms of this Business Rescue Plan.

33.2 If the Business Rescue Plan is implemented in accordance with its terms and conditions, a Creditor will be deemed to have acceded to the discharge of the whole or part of the debt owing to that Creditor and will lose its rights to enforce the relevant debt or part of such debt against the Company with the provisions of section 154 applying to the debt.

33.3 A 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.

[END OF SECTION]

PART D – ADMINISTRATIVE PROVISIONS

34 DISPUTE RESOLUTION

34.1 Subject to the paragraph 34.45, save as provided for in section 133 of the Companies Act, in respect of all or any disputes by the BRP on Claims, which disputes include, but are not limited to, disputes on the existence or otherwise of Claim(s), on quantum of Claim(s), security claimed by a Creditor, the nature of the security, the extent and value of the security and the like (“**dispute**”), such dispute may be resolved in accordance with the dispute resolution mechanism outline below (“**Dispute Resolution Mechanism**”).

34.2 The Dispute Resolution Mechanism procedure will be as follows:

34.2.1 All Creditors who have received notification from the BRP of a dispute are required within 15 (fifteen) days of receipt of such notice to contact the BRP and meet with the BRP during this period in an attempt to reach agreement on the dispute (“**Settlement Meeting**”).

34.2.2 If the Creditors does not avail itself of this 15 (fifteen) day opportunity, the Creditor will be deemed to have accepted the BRP’s position in regard to the dispute.

34.2.3 If the Creditor does avail itself of the Settlement Meeting, however, the dispute is not resolved and the Creditor persists with the dispute, the BRP and the Creditor must agree to the appointment of the retired judge as an expert (not as an arbitrator or mediator) to preside over and to resolve the dispute.

34.2.4 Should the BRP and the Creditor fail to reach an agreement on the expert, then the Arbitration Foundation of South Africa will be requested to make the appointment.

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

34.2.6 The expert will in his/her sole and absolute discretion determine:

- 34.2.6.1 the venue at which the dispute is to be resolved;
 - 34.2.6.2 the rules, regulations and procedures that will govern the determination of the dispute;
 - 34.2.6.3 the date(s) for the determination of the dispute;
 - 34.2.6.4 will give his award/determination within 5 (five) days of the Completion of the process as determined by him;
 - 34.2.6.5 will as part of his award/determination determine who is liable for the costs of the determination such costs to include his/her costs, legal costs, venue costs, recording equipment (if applicable), transcript of evidence (if applicable) and the like.
- 34.2.7 The Creditor/s agree/s that, save for any manifest error the determination of the expert will be final and binding on the Creditor/s, the Company and the BRP and will not be subject to any subsequent review or appeal application/procedure/process.
- 34.2.8 The expert shall be entitled to make an award for costs in his/her discretion.
- 34.2.9 The Creditor, the Employee/s, the Company and the BRP agree to use their utmost endeavours to ensure that the entire dispute is determined by the expert as expeditiously as possible.
- 34.3 To the extent necessary, should the BRP be of the view that certain disputes may be settled or compromised, the BRP shall be authorised to settle and compromise such a dispute.
- 34.4 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.

35 ABILITY TO AMEND THE BUSINESS RESCUE PLAN

Provided that any amendment will not be prejudicial to any of the Affected Persons, the BRP shall have the ability, in his sole and absolute discretion, to amend, modify or vary any provision of this Business Rescue Plan, provided that at all times the BRP acts reasonably. The BRP shall give 5 (five) days written notice to All Affected Persons of his intention to amend, modify or vary any of the provisions 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.

36 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.

37 PRESERVATION OF CLAIMS AGAINST OTHERS

37.1 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.

37.2 The liability of the Company's sureties for the Company's debt is not affected by this Business Rescue Plan.

37.3 Any investigation of misconduct by Directors and Shareholders shall be funded by the Creditors requesting such investigation or if a surplus remains after the sale, the surplus funds will be utilised to investigate.

37.4 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 Creditors outstanding claims and disbursements including the cost of forensic investigators, accounts or lawyers.

37.5 The BRP shall oversee these investigations and his costs will have to be paid by these Creditors and not the Company unless a surplus is available after Distribution.

3738 CONCLUSION

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

3839 BRP CERTIFICATE

~~38.139.1~~ I the undersigned, Phahlani Lincoln Mkhombo, hereby certify to the best of my knowledge and belief that –

~~38.1.139.1.1~~ any actual information provided herein appears to be accurate, complete and up to date;

~~38.1.239.1.2~~ the BRP has relied on financial information including opinions and reports furnished to me by Management and the Advisors;

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

38.1.439.1.4 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: 11 September 2020

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