SWORN STATEMENT

I, the undersigned,

JOHN GAVIN HUDSON
(Identity Number: 700818524082)

do hereby state as follows –

1 I am a director of Tongaat Hulett Developments Proprietary Limited (registration number 1981/012378/07) (the "**Company**"), a private company, with its registered address at Amanzimnyama Hill Road, Tongaat, Kwa-Zulu Natal, 4400, and principal place of business at Amanzimnyama Hill Road, Tongaat, Kwa-Zulu Natal, 4400.

2 I am duly authorised to depose to this sworn statement on behalf of the Company.

3 This Sworn Statement is made by me on behalf of the Company to support the commencement of business rescue proceedings ("**Business Rescue**") in terms of Section 129 of the Companies Act 71 of 2008 ("**Act**").

4 With this Sworn Statement, I intend to provide the relevant information that was presented to the Company's board of directors and is required in order to demonstrate that the Company should be placed in Business Rescue.

5 The information contained in this Sworn Statement and the opinions expressed in the Sworn Statement relate to the financial difficulties of the Company and how the Company can –

5.1 be rescued and continue as a going concern as an alternative to liquidation; or

5.2 pay a higher dividend to its creditors than that which would become payable to creditors if the Company were to be liquidated.

BACKGROUND

6 By way of background, the Company's shareholders are Tongaat Hulett Limited (registration number 1892/000610/06) (the "**Parent**") and Tongaat Hulett Estates

Proprietary Limited (registration number 1967/006009/07). Tongaat Hulett Estates Proprietary Limited is a wholly owned subsidiary of the Parent. The Parent is, together with its subsidiaries (the "**Group**"), a leading agri-business with a 130 year history and a strong socio-economic legacy in Southern Africa. It has operations in South Africa, Zimbabwe, Mozambique and Botswana. The Company, -

6.1 has, together with certain other members of the Group, granted an unlimited guarantee and provided security in respect of the obligations of the Parent under the debt facilities made available to the Parent by its lenders, as more fully described below;

6.2 is financially dependent on the Parent for its ongoing liquidity and cashflows,

and as such, the financial stability of the Company is inextricably linked to the financial stability of the Parent.

7 The Company is usually described as the Parent's property business.

8 The business carried on by the Company is the purchase of agricultural land from its Parent and embarking on the various processes and implementing the infrastructure necessary to convert this agricultural land into land that is capable of being used for a range of industrial, commercial, or residential purposes. The Company then markets and sells this land to third parties for further development.

9 The land owned by the Company is primarily located in KwaZulu Natal, north of Durban along the N2 highway corridor between the oHlanga and mDloti rivers, and west of Durban along the N2 highway corridor at Ntshongweni.

10 Over the past three decades, the Company has rezoned, serviced, and sold c.4 000 hectares of land, comprising 5.5 million square metres of bulk developable rights. Through the sale of the land, the Company has created prominent developments in the province, namely, Mount Edgecombe, La Lucia Ridge, Gateway, Umhlanga Ridge, Zimbali, Izinga and Cornubia.

11 The extent of the challenges faced by the Parent, and its current strained financial position, are well publicised and arose from years of high and increasing debt levels, financial

misstatements and historic mismanagement. These factors have resulted in the loss of significant value for the Parent's shareholders and other stakeholders.

12 Across Southern Africa, the Parent's operations are of significant scale geographically, economically, and socially, as set out below:

12.1 the Parent's 14 production facilities have the capacity to crush 12.7 million tons of sugarcane (5.8 million tons provided by third-party growers) to produce 1.5 million tons of raw sugar, 750 000 tons of refined sugar, 400 000 tons of animal feed and 40 million litres of ethanol; and

12.2 at the peak of the sugar season, the Parent's operations employ more than 23 000 people, create more than 185 000 employment opportunities and provide a livelihood to more than 21 000 farmers (many of whom are small-scale growers).

13 Specifically in South Africa, the profile of the Parent's South African sugar operation, property business and corporate office is set out below:

13.1 the Parent's operations are located in the KwaZulu-Natal province in the districts of Ethekwini, Zululand, Umkhanyakude, King Cetswayo (formerly Uthungulu), and iLembe;

13.2 the Parent's trading activities during the 2022 financial year generated revenue of c.R7.04 billion of which R6.92 billion arose from the South African sugar operation and R120 million from the sale of developable land by the Company;

13.3 the Parent has 5 production facilities with the capacity to crush 5.45 million tons of sugarcane to produce 600 000 tons of raw sugar, 600 000 tons of refined sugar (c.50% of the total South African sugar industry's capacity) and 400 000 tons of animal feed;

13.4 the Parent's ongoing agriculture activities span 13 200 hectares and as such it owns a substantial and valuable land portfolio, of which some 9 600 hectares are considered developable and located within the primary growth corridors of KwaZulu Natal;

13.5 the Parent sources c.43% of its sugarcane from independent farmers, over 15 000 of which are small-scale farmers and co-operatives, and its transformational partnership with Uzinzo Sugar Farming has established the largest black grower in the South African sugar industry;

13.6 a total of c.2 500 people are employed by the Parent, with a further c.23 000 indirect employment opportunities created within South Africa. The communities in which the Parent operates not only benefit from employment opportunities, but also the Parent's socio-economic development initiatives and investments; and

13.7 as identified in an independent assessment of the Parent's economic footprint, it has been estimated that arising from the Parent's trading activities during the 2021 financial year, an additional c.R28.8 billion of output was produced within the South African economy, contributing c.R11.0 billion to the GDP of the country (based on direct, indirect and induced impacts).

STRATEGIC AND FINANCIAL REVIEW

14 Over the four year period from April 2014 to March 2018, the Parent's published audited separate annual financial statements reflected that its net debt had increased by c.R4.14 billion from R4.80 billion to R8.94 billion being the net result of the cumulative cash flows set out in the following table:

Cash Flow Items	Inflow / (Outflow) R millions
Operating cash flows	5 759
Investment in capital expenditure (net of disposal proceeds)	(2 889)
Finance costs	(3 149)
Funding of group companies	(1 855)
Dividends to shareholders	(1 621)
Other (share incentives, tax, etc)	(385)
Amount funded by increased debt	**4 140**

15 At 31 March 2018, the Parent's lenders (on a bilateral basis) had advanced debt facilities totalling c.R12.7 billion (including trade finance related to the purchase of maize of R930 million) based on *inter alia* their reliance on the audited annual financial statements.

16 During 2018, when the Parent began to report lower profitability and increasing debt levels publicly, the financial difficulties experienced by the Parent became apparent. As a result of these financial difficulties, the Parent faced pressure on both the headroom on its debt facilities and the financial covenant ratios contained in the various facility agreements.

17 In February 2019, the Parent's newly appointed management initiated a strategic and financial review of its operations with a view to stabilise the business, address the high and increasing debt levels, and set the path toward acceptable returns for stakeholders. Concurrently, the Parent commenced discussions with each of its lenders with respect to concluding a standstill arrangement. Following these discussions, the Parent's lenders organised themselves into a lender working group (**"the South African lender group"**).

18 During the course of 2019, concerns were raised on the appropriateness of the Parent's accounting policies, the application thereof, and its accounting practices, which resulted in the financial review escalating into a forensic investigation that uncovered accounting misstatements and irregularities. The key themes of these accounting misstatements and irregularities can be broadly described as follows:

18.1 revenue from sales transactions was recognised too early;

18.2 certain financing transactions were misrepresented as revenue;

18.3 operating expenses and losses were capitalised as if they were assets with a useful life;

18.4 infrastructure obligations were either not recorded or understated;

18.5 sugarcane assets were overvalued; and

18.6 impairments of assets were never assessed or recorded.

19 The specific accounting misstatements and irregularities pertaining to the Company were:

19.1 the revenue from land sales was recognised earlier than permitted by the relevant accounting standards and, in certain circumstances, reflected artificially high revenue as a result of the inclusion of revenue transactions that lacked commercial substance.

This was implemented by backdating sales agreements, using take-back arrangements, delaying the cancellation of sales until a replacement sale could be found, and using vendor financing to facilitate land sales;

19.2 the obligations incurred to secure development rights for the land were not reflected to the full extent or these obligations were disregarded, resulting in a material understatement of the costs associated with land sales and the outstanding liabilities; and

19.3 various overheads were capitalised to land development projects without satisfactory commercial rationale.

20 As such, on 31 May 2019, the Parent announced that its historical financial statements had to be restated and that reliance could no longer be placed on the financial information contained in its 2018 consolidated and separate annual financial statements.

21 In December 2019, the Parent released its 2019 annual financial statements, including restated comparative financial information. The cumulative restatement of the Parent's historical consolidated and separate financial statements resulted in a reduction in shareholders' equity of R11.0 billion and R8.29 billion respectively.

22 The 2019 annual financial statements also reflected that the Parent's net debt as at 31 March 2018 had been restated to R10.25 billion compared to the R8.94 billion originally published, an increase of R1.31 billion.

23 At 31 March 2019, the Parent's net debt had reduced to R9.87 billion having benefitted from the repayment of an intergroup loan owing to the Parent by the Mozambique operation. However, the corresponding increase in the external debt of the Mozambique operation meant it too encountered financial difficulties and had to enter into a debt standstill agreement with its lenders and restructure its own in-country debt facilities.

24 As a result of the above, the Company also had to restate its historical financial statements. The Company's 2019 annual financial statements, including restated comparative financial information, were finalised in May 2022. The cumulative restatement of the Company's historical separate financial statements resulted in a reduction in shareholders' equity of R2.2 billion.

25 The 2019 annual financial statements also reflected that the Company's trade and other payables at 31 March 2018 had been restated to R1.17 billion compared to the R570 million originally reported, an increase of R600 million. In addition, the Company's provisions and contract liabilities at 31 March 2018 had been restated to R1.20 billion compared to the R586 million.

DEBT RESTRUCTURE AND COVID-19 PANDEMIC

26 On 9 December 2019, the Parent and the South African lender group concluded a restructure of its debt facilities to provide funding until 31 March 2021. The facilities totalled R12.2 billion (including seasonal facilities) and comprised the following:

26.1 Senior Facility A of R9.1 billion which required the Parent to conclude sufficient transactions in line with various debt reduction milestones to repay an amount of R8.1 billion before 31 March 2021. The R8.1 billion represented the portion of the debt that was considered to be in excess of what the Parent could sustain from its trading activities;

26.2 Senior Facility B of R2.2 billion and overdraft facilities totalling R300 million which were to fund the Parent's working capital requirements;

26.3 Senior Facility C of R553 million which was a seasonal facility to support working capital requirements over the peak of the milling season; and

26.4 Senior Facility D of R47 million which was a seasonal facility to support various funding requirements over the peak of the milling season.

27 In order to deliver on its commitment to repay the R8.1 billion of excess debt, the Parent initiated multiple transaction workstreams and engaged extensively with interested parties concerning the following:

27.1 raising of equity capital through a rights offer or similar share issue;

27.2 disposal of an equity share in the South African sugar operation ('MillCo');

27.3 disposal of an equity share in the property portfolio ('PropCo');

27.4 disposal of the starch and glucose operation; and

27.5 disposal of the African sugar operations.

28 Despite good progress with the Parent's debt reduction obligations, the efforts were significantly hampered during 2020 and 2021 by the COVID-19 pandemic and various other factors summarised below:

28.1 DELAY IN CONCLUDING THE STARCH DISPOSAL – As a result of the COVID-19 pandemic, the purchaser of the starch and glucose operation claimed that a material adverse change had occurred in the financial performance of the business. A dispute of the facts followed which resulted in additional costs being incurred to successfully defend the claim. The closure of the transaction was delayed by some six months, resulting in additional interest being incurred.

28.2 SUGAR MILL MAINTENANCE AND CAPITAL EXPENDITURE – Although the published annual financial statements suggested otherwise, under the Parent's previous management, the South African sugar operation's milling and refining assets suffered from neglected asset care practices with a lack of maintenance and minimal capital reinvestment. While the South African sugar operation was classified as an essential service and was able to operate during COVID-19, the initial lockdown period disrupted both the supply chains that supported critical maintenance programmes and the completion of capital projects necessary to support the turnaround of the business.

28.3 'MILLCO' TRANSACTION NOT CONCLUDED – The 'MillCo' transaction sought to dispose of an equity share in the South African sugar operation to farmers with the combined objective of reducing debt and providing sufficient funds to reinvest in the business. While COVID-19 delayed the due diligence processes and added to economic uncertainties, the transaction was ultimately not concluded as the parties were unable to reach agreement on the valuation of the business, the equity contribution and the shareholding.

28.4 'PROPCO' TRANSACTION NOT CONCLUDED – The 'PropCo' transaction sought to secure a strategic equity partner to help develop the Parent's land portfolio. The dual objective of the transaction was to reduce debt and provide sufficient funding to invest in the infrastructure necessary to unlock the land's developable value. The potential

investor's due diligence process was initially delayed by the COVID-19 pandemic. The impact of the pandemic contributed to the investor reassessing its position on investing in land with long-term returns and changing its strategy to rather invest in short-term cash generating assets. The transaction was not concluded.

28.5 DEPRESSED PROPERTY MARKET – The Company was negatively impacted by the change in market sentiment, demand and prices of property caused by the COVID-19 pandemic. The market is yet to recover to pre-pandemic levels.

28.6 RESTRUCTURING COSTS – The Parent has incurred significant cost in respect of the forensic investigations, business restructuring and rightsizing costs, transaction costs in respect of asset disposals (i.e. advisors, legal, regulatory) and various debt restructuring initiatives.

28.7 AUDIT FEES – The Parent had to incur costs to restate its annual financial statements. In addition, the fees for each subsequent audit has attracted a significant audit risk premium associated.

29 In November 2020, and in response to the delays in finalising the debt reduction transactions described above, the South African lender group agreed to an extension of the Parent's debt facilities from 31 March 2021 to 30 September 2021. This extended the debt reduction milestones and allowed the Parent sufficient time to progress a refinance of its remaining debt of c.R6.4 billion. Work on this refinance commenced in February 2021.

30 By 31 March 2021, the Parent had concluded debt reduction transactions totalling R6.57 billion (excluding a further R507 million reduction in specific maize financing facilities that arose after the disposal of the starch and glucose operation) comprising:

30.1 the disposal of its starch and glucose operation (R5.16 billion);

30.2 the dissolution of its Tongaat Hulett Defined Benefit Pension Fund (R512 million);

30.3 the disposal of its shares in the sugarcane estate in Eswatini (R413 million);

30.4 the disposal of 9 properties comprising farms and developable land (R223 million);

30.5 the dissolution of its Tongaat-Hulett Pension Fund (R151 million); and

30.6 the disposal of its shares in Tongaat Hulett Namibia (Pty) Ltd (R111 million).

DEBT REFINANCE, SOCIAL UNREST AND DELAYED RIGHTS OFFER

31 With regards to the refinance mentioned in paragraph 29 above, a credit approved term sheet was agreed between the Parent and the South African lender group and signed on 12 July 2021. The facilities would mature on 30 June 2024, and comprised the following:

31.1 Senior Facility A of R1.5 billion which was to be repaid from the outstanding proceeds of c.R450 million from the disposal of the starch and glucose operation that were held in escrow, as well as surplus cash flows generated by the Parent, most notably dividends from the Zimbabwe operation;

31.2 Senior Facility B of R1.4 billion and overdraft facilities totalling R300 million which were to fund the Parent's working capital requirements;

31.3 Senior Facility C of R2.0 billion which was to be repaid with the proceeds of an equity capital raise, and in the event that did not materialise, the disposal of the non-South African sugar assets. At the time of signing the term sheet, the Parent was in negotiations with Magister Investments Limited ("**Magister**") for Magister to provide an underwrite of R2 billion to the equity capital raise; and

31.4 Senior Facility D of R1.2 billion which was to be repaid with the proceeds of property disposals. At the time of signing the term sheet, the Parent was finalising the heads of agreement for the disposal of the long-dated residential portion of the land portfolio for c.R770 million.

32 However, in and around the negotiation and finalisation of the term sheet, the following events posed a significant impediment to the turnaround of the Parent's business:

32.1 SUGAR LOSS AT REFINERY – Operational and asset care challenges at the refinery resulted in the loss of c.27 400 tons of sugar. The financial impact of the loss to the Parent was c.R369 million. Subsequently, the necessary corrective action has been taken and the refinery is currently operating normally.

32.2 SOCIAL UNREST OF JULY 2021 ON THE SOUTH AFRICAN SUGAR OPERATION – The riots negatively impacted the South African sugar operation and had a longer-term effect than just the initial ten days of unrest. While the direct loss to the business is estimated to be c.R158 million based on the loss of c.34 500 tons of sugar, the indirect costs have been far higher. The emergency shut down of the mills and refinery resulted in increased costs to carry out a "cold" restart of operations. In addition, with c.1 700 hectares of farmland under sugarcane set alight during the riots, the mills had to crush a significant volume of sugarcane that had been burnt during the riots and had degraded which caused damage to milling equipment. Overall, raw sugar production for the 2022 financial year was 463 000 tons (compared to 535 000 tons and 602 000 tons in the 2021 and 2020 financial years respectively). The related compensation from the Parent's insurance policies has not yet been received as the claims have not yet been accepted by insurers the reasons for which are under review.

32.3 SOCIAL UNREST OF JULY 2021 ON THE COMPANY – In respect of the impact to the Company, the riots caused further fear and apprehension around investments into landholdings, resulting in buyers re-considering their investment decision and the cancellation of several property sales that were in progress. The municipality also shifted its focus from delivering infrastructure for new developments, to repairing damage caused by the riots, which has stalled several sales negotiations. The final negotiations in respect of the c.R770 million property sale that was pivotal to repaying a significant portion Senior Facility D were terminated, with the riots cited as a major contributing factor.

33 Considering the above, and to support the business, the South African lender group agreed that the Parent could retain the R450 million proceeds received from the disposal of the starch and glucose operation to support its liquidity rather than settle Senior Facility A as had been agreed in the term sheet. In response to this the quantum of the facilities in the term sheet was amended with the commitment under Senior Facility A decreasing from R1.5 billion to R1.1 billion and the commitment under Senior Facility D increasing from R1.2 billion to c.R1.7 billion.

34 On 17 November 2021, the Parent announced a rights offer of up to R4 billion that was partially underwritten to the extent of R2 billion by Magister. The proceeds from the enlarged rights offer were intended to repay Senior Facility C as well as a substantial portion of Senior Facility D given the depressed state of the property market.

35 On 6 December 2021, the refinancing of the Parent's debt facilities c.R6.3 billion debt was finally concluded.

36 On 18 January 2022, the Parent's shareholders voted in favour of the resolutions necessary to proceed with a rights offer of up to R4 billion, including the waiver of the requirement for Magister to make a formal offer for all of the Parent's shares in terms of the Companies Act. On 24 January 2022, the Takeover Regulation Panel ("TRP") granted the said waiver, but this was taken under review on 28 January 2022 by a consortium of shareholders. Following a hearing by the Takeover Special Committee, the TRP was asked to investigate specific concerns raised about the existence of concert parties.

37 On 3 June 2022, after the conclusion of the investigation, the TRP ruled that parties related to Magister (i.e. the underwriter) had dealt in the Parent's shares during a prohibited period in terms of the takeover regulations, and the TRP consequently nullified the waiver it had granted previously. The TRP's ruling resulted in the Parent terminating the underwriting agreement on 24 June 2022 and not being recapitalised by an expected c.R4 billion. Although Magister initially appealed the TRP ruling, their appeal was subsequently withdrawn.

LIQUIDITY SHORTFALL

38 While the rights offer was on hold for the regulatory processes to run their course, the Parent was again faced with negative unforeseen events that placed further pressure on liquidity:

38.1 LOWER SUGAR SALES – In the last quarter of the 2022 financial year, there was a shift in the sales mix towards low margin bulk sugar sales to satisfy industrial demand, while cash-strapped consumers turned to "house brands" rather than the "miller brands". The situation was made worse by an influx of these "house brands" from neighbouring Eswatini. In addition, the historical trend of a "buy-in" ahead of the inflationary price increase was muted, as customers opted to purchase additional stocks of other commodities, that were predicted to have above inflationary price increases, rather than sugar, which, based on an industry-wide commitment in line with the Sugar Masterplan, retained price increases in line with inflation.

38.2 FLOODING IN APRIL 2022 – Crushing capacity at the sugar mills was lost as sugarcane could not be harvested during the flooding of April 2022, and time was required to allow drying of the fields before harvesting could resume. The situation was exacerbated by additional transportation costs from the fields to the mills due to damage to the roads and railway lines. Following the resumption of sugar production, the floods had a long-lasting and negative impact on sugarcane quality which has lowered sugar production expectations for the season. The animal feeds business was also impacted as access to the by-products from sugar production, which are used in animal feed production, were not being produced by the mills. Damage to the water treatment plant and dam in Tongaat further resulted in a loss of water revenue for the Maidstone mill. In addition, damage to existing infrastructure caused by the floods, has impacted on the ability to deliver the new infrastructure necessary to support the timeous conclusion of future land sales.

38.3 REDUCING SUPPLIER TERMS – In June 2022, the final credit insurer that was willing to provide cover to the Parent's suppliers withdrew its support. This caused sudden and unexpected disruptions to the business, particularly the animal feeds business, while the Parent renegotiated payment terms which resulted in lost sales opportunities. Generally, over recent months, supplier payment terms have been reducing and this continues to place the Parent's liquidity under pressure.

38.4 INCOME FROM AFRICAN SUBSIDIARIES – In the past months there have been several monetary and economic policy measures announced within Zimbabwe that have seen the pricing and cash flows of the Zimbabwe operation come under pressure. This has reduced the availability of surplus cash to support dividend and operational support fee payments from the Zimbabwe sugar operation to the Parent. The repatriation of funds from Mozambique to the Parent is restricted in terms of the in-country debt agreements.

38.5 WAR IN UKRAINE – The war between Russia and Ukraine has resulted in significant cost increases in commodities and raw materials such as coal, fertiliser and urea. With the commitment to inflation-linked sugar price increases in terms of the Sugar Masterplan, these costs increases have largely had to be absorbed by the Parent.

39 The challenges described in paragraphs 32 and 38 above, have meant the Parent's cash flow performance to 31 March 2022 was considerably worse than what had been forecast as part of the debt refinance. Consequently, a shortfall of c.R1.5 billion emerged in the

Parent's debt facilities available to fund the peak working capital funding requirement and to complete the 2023 financial year.

40 With the numerous delays and challenges described above, the turnaround initiative has taken much longer than anticipated as well as increased the overall funding requirements. These factors, together with higher interest rates associated with the Parent's increased credit risk and monetary policy decisions, have resulted in finance costs of c.R2.4 billion being incurred from 1 April 2019 to 30 September 2022. To date, the South African lender group has not invoked the contractually agreed interest rate margin ratchets.

DEBT REDUCTION PLAN

41 From the outset, the Parent's turnaround initiative was a substantial task that needed to concurrently address the high debt levels, stabilise the business operationally and resolve the accounting misstatements and irregularities. By 31 March 2022, the Parent had reduced its net debt by c.39%. Despite this progress, the Parent remained unable to service its residual debt, the majority (c.87%) of which is carried by the cash flows of the South African sugar operation, the Company, and dividends and operational support fees from the non-South African sugar operations.

42 The South African sugar operation requires a substantial reinvestment in its milling and refining assets over the next three years to compensate for a historic lack of maintenance. In addition, the proceeds from property sales are being used to settle legacy infrastructure obligations and the policy changes in Zimbabwe have reduced the certainty around future dividend income. Consequently, the Parent's debt carrying capacity in South Africa is limited, and the excess debt that is unable to be serviced by the Parent is currently estimated to be c.R6.3 billion. In the absence of a recapitalisation, this debt burden will continue to increase as interest accrues.

43 Over the past three and a half years, the South African lender group has remained supportive of the Parent and has worked constructively with management.

44 To assist with funding the c.R1.5 billion liquidity shortfall, the South African lender group initially made the seasonal overdraft facility available earlier than anticipated in the facility agreements. Thereafter, the lenders proposed a new Borrowing Base facility of R600 million ("**Borrowing Base Facility**"), and the related agreements were concluded on 29 July 2022. The facility was initially repayable on 30 September 2022, but this was

subsequently extended to 25 October 2022. The borrowing base against which this facility was made available comprises the South African sugar operation's working capital assets (namely eligible sugar inventory and eligible trade receivables).

45 On 23 June 2022, as part of the commitments made in terms of the Borrowing Base Facility, and after a due nomination process, the board of directors appointed a Chief Restructuring Officer, namely Mr Piers Marsden, who has been responsible for the development of a debt restructuring plan.

46 The debt restructuring plan considered several options, including an equity capital injection by strategic partners (based on multiple expressions of interest received from credible potential investors), and the disposal of some or all of the African operations or a combination thereof.

47 An initial outline of the restructuring plan was presented to the Parent's board of directors on 27 July 2022, and a draft plan was presented to the South African lender group on 31 August 2022.

48 On 14 October 2022, the Parent's board of directors approved the final restructuring plan. The restructuring plan broadly envisaged the following:

48.1 the disposal of the non-South African sugar operations;

48.2 securing a sponsor to support the capital reinvestment required by the South African sugar operation;

48.3 introducing a five-year debt instrument repayable through the disposal of certain of the Parent's landholdings;

48.4 progressing the respective legal claims arising from the accounting misstatements and irregularities; and

48.5 aligning the Parent's corporate office with the smaller operating footprint.

FINANCIAL DISTRESS

49 In the year to date, the Parent's South African sugar operation has shown a marked improvement in operational performance relative to the previous 2021/22 season and is benefitting from the investments made in technical capability, industry expertise, and an extensive maintenance programme carried out before the start of the season. The improved operational performance has coincided with stronger commercial demand for locally produced sugar.

50 With the operational and cash flow performance of the Parent's South African sugar operation ahead of expectations, and the Zimbabwe sugar operation starting to remit fee income to the Parent, the resultant improvement in liquidity has succeeded in delaying the onset of the shortfall in debt facilities and allowed additional time to develop the debt restructuring plan. While this is a positive outcome, due to delays in concluding property sales and higher restructuring costs, the Parent has not managed to reduce the peak funding requirement materially.

51 While sufficient interest in the Parent's assets has been registered by potential purchasers, efforts to raise the balance of the liquidity requirement through the disposal of these assets has not been possible in the time available, particularly with the shareholder approvals that would be required.

52 Furthermore, there are existing shareholders and potential new equity investors who are willing to support the recapitalisation of the Parent, subject to the existing operating footprint being retained. Whilst the quantum indicated expressed by these parties is material, it has not yet been possible to align the interests of these parties in the time available.

53 To secure the balance of the c.R1.5 billion liquidity requirement and ensure the completion of the 2023 financial year, the Parent also initiated engagements with potential funders outside the existing lender group. While negotiations with one potential funder were well progressed, including the completion of a due diligence process, the Parent was informed on 29 September 2022 that the additional funding would not be forthcoming in the immediate future.

54 In the absence of alternate sources of liquidity, the Parent requested the South African lender group to consider providing the necessary funding to support the implementation of the restructuring plan.

55 On 21 October 2022, the South African lender group informed the Parent that they are unable to support the restructuring plan and, by implication, the additional funding required would not be provided and the repayment date for the Borrowing Base Facility would not be extended.

56 The lenders have, however, indicated that, within the confines of business rescue proceedings, they are in principle agreeable to advance post-commencement funding, subject to certain conditions. These conditions include the lenders being comfortable with the appointed business rescue practitioners and the Chief Restructuring Officer being retained (subject to a co-operation agreement being reached with those business rescue practitioners).

57 The Parent's board of directors believe that if adequate bridge funding is provided, it will be able to restructure the Parent's affairs, progress the implementation of the debt restructuring plan and generate revenue to repay the Parent's remaining debts over time. However, the Parent has not been able to secure such funding from potential funders given its level of indebtedness and current lack of liquidity.

58 In light of the above, the Parent is financially distressed, within the meaning of Section 128 of Chapter 6 of the Act, in that, *inter alia* –

58.1.1 it is estimated that the Parent, under current market conditions, requires an amount of R1.5 billion to repay its debts and fund its working capital requirements. The Parent is currently not able to generate these funds itself, nor is it able to raise it from the companies within the Group, its shareholders and/or third parties in the immediate future; and

58.1.2 the Parent is unable to pay all of its debts as they fall due and payable within the immediately ensuing six months (in terms of section 128(1)(f)(i) of the Act; and

58.2 due to the circumstances set out in paragraph 6 and 57 above, the Company is financially distressed, within the meaning of Section 128 of Chapter 6 of the Act, in that, *inter alia* –

58.2.1 the Company is currently not able to generate funds itself to repay its debts and fund its working capital requirements, nor is it able to raise it from the companies within the Group, the Parent and/or third parties in the immediate future; and

58.2.2 it therefore appears to be reasonably unlikely that the Company will be able to pay all of its debts as they fall due and payable within the immediately ensuing six months, in terms of Section 128(1)(f)(i) of the Act.

REASONABLE PROSPECT OF RESCUE

59 Notwithstanding the above, the directors of the Company believe that there is a reasonable prospect of rescuing the business of the Company, if action is taken immediately and if the Company commences Business Rescue. If the Company is placed under supervision, initiatives can be taken by business rescue practitioners, when duly appointed, to take the following steps -

59.1 imposing an immediate temporary moratorium on all payments to creditors in terms of Section 133 of the Act;

59.2 engaging in discussions with various parties regarding the provision of post commencement financing and/or equity funding to the Company in order to adequately capitalise the Company;

59.3 considering the possible suspension or cancellation of various contracts in terms of Section 136(2) of the Act;

59.4 continuous engagement with stakeholders to retain value in the Company and its assets; and

59.5 a restructure of, *inter alia,* the debt of the Parent, and by implication, the Company, with its creditors.

60 Accordingly, the Company through its board of directors, is of the view that the Company is financially distressed, but that there remains a reasonable prospect of rescuing the Company and accordingly that the Company should be placed in Business Rescue.

JOHN GAVIN HUDSON

I certify that this statement was signed and sworn to before me at Tongaat on this the 26 of OCTOBER 2022 by the deponent after he declared that he knew and understood the contents of this statement, that he had no objection to taking the prescribed oath and has taken the prescribed oath which he considered binding on his conscience, having complied with regulations contained in government notice R1258 of 21 July 1972, as amended.

COMMISSIONER OF OATHS

Name:

Address:

Capacity:

SUHAIL EBRAHIM
LPCM NUMBER 77897
NOTARY PUBLIC & CONVEYANCER
COMMISSIONER OF OATHS
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