

**Companies and Intellectual Property Commission
Republic of South Africa**

Business Rescue Status Report

Form CoR 125.1

About this Form

- This form is issued in terms of section 132 and 141 of the companies Act, 2008, and Regulation 125 of the Companies Regulations, 2011.
- This Notice and the attached report must be published to every affected person, and to-
 - a) The Commission, if the business rescue proceedings were started by the company; or
 - b) The court, if the proceedings were ordered by the court.
- A report and Notice must be issued at the end of the first three months of the business rescue proceedings, and at regular monthly intervals after that

Contacting the Commission

The Companies and Intellectual Property Commission of South Africa

Postal Address

PO Box 429
Pretoria
0001
Republic of South Africa
Tel: 086 100 2472

www.cipc.co.za

Date: 27 January 2023

Customer Code: WERKMP

Concerning

(Name and Registration Number of Company)

Name: Tongaat Hulett Limited

Registration No: 1892/000610/06

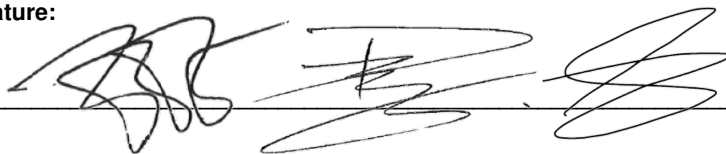
The above named company commenced business rescue proceedings on 27 October 2022.

Because the business rescue proceedings have not concluded within three months, the appointed business rescue practitioner provides the attached report in terms of section 132 (3).

Name and Title of person signing on behalf of the Practitioner:

TJ Murgatroyd, PF van den Steen & GC Albertyn
Joint Business Rescue Practitioners

Authorised Signature:





Est. 1892

TongaatHulett®

- Delivered by Email To:**
- All known Affected Persons of Tongaat Hulett Limited (in business rescue) (including: all known creditors, employees, trade unions and shareholders)
 - Companies and Intellectual Property Commission
- Displayed:**
- Registered office and principal place of business of the Company
 - Anywhere where employees are employed
- Published:**
- On the website maintained by the Company and accessible to Affected Persons
 - Availability recorded in an announcement to shareholders on the Stock Exchange News Service (SENS)
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27 January 2023

REPORT ON THE STATUS OF THE BUSINESS RESCUE PROCEEDINGS OF TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) ("COMPANY")

1. GENERAL

- 1.1. In accordance with section 132(3)(a) and section 132(3)(b) of the Companies Act 71 of 2008, as amended ("**Act**") when the business rescue proceedings of a company have not concluded within 3 months of the date on which they started, a business rescue practitioner is required to-
- 1.1.1. prepare a report on the progress of the business rescue, and update it at the end of each subsequent month until the end of the business rescue proceedings; and
- 1.1.2. deliver the report and each update to each affected person and to the Companies and Intellectual Property Commission ("**CIPC**").
- 1.2. The Company voluntarily commenced business rescue proceedings on 27 October 2022. We (Trevor Murgatroyd, Peter van den Steen and Gerhard Albertyn) were appointed as the joint business rescue practitioners ("**BRPs**") on 27 October 2022 by board resolutions, which were filed with the CIPC.

- 1.3. Accordingly, we hereby provide you with the first report, being the January 2023 report, on the status of the Company's business rescue proceedings.

2. BUSINESS RESCUE UPDATES

Since our appointment we have engaged in the following:

- 2.1. Management Control – In terms of section 140(1)(a) of the Act, we took full management control of the Company and delegated certain functions to management in terms of section 140(1)(b) of the Act.
- 2.2. Cash Management – In order to minimise the operating expenses of the Company, we continue to monitor the cash flow and financial position, control payments and enforce general cash management controls.
- 2.3. Announcements and Notices – The Company is listed on the Johannesburg Stock Exchange (“**JSE**”). A number of SENS announcements and notices regarding the business rescue proceedings of the Company have been published and circulated to Affected Persons of the Company. All relevant notices have additionally been published on the Company’s website and are available to Affected Persons at: www.tongaat.com, under the ‘Business Rescue’ tab.
- 2.4. Suspension of Trading – Trading of shares in the Company on the JSE were suspended in July 2022 and trading continues to be suspended.
- 2.5. Creditors' Meetings – The first statutory meeting of creditors, as contemplated in section 147 of the Act, was convened virtually, by way of an MS Teams Live Event, on 8 November 2022.
- 2.6. Creditors' Committee – At the first statutory meeting of creditors, the BRPs advised creditors of their right to form a committee. The first creditors committee meeting was convened virtually on 24 November 2022, with further meetings with the BRPs held on 14 December 2022 and 20 January 2023. The creditors committee elected Hans Klopper, who is a representative of a creditor of the Company, as the creditors committee chairperson. We remind all creditors that the creditors committee is open to all creditors who wish to participate in the committee. Creditors are advised to contact the chairman should they wish to be a part of the committee. We will continue to consult with the creditors committee, as necessary, throughout the business rescue proceedings.
- 2.7. Employees' Meetings – The first statutory meeting of employees, in terms of section 148 of the Act, was convened on 3 November 2022.

- 2.8. Employees' Committee – At the first statutory meeting of employees, the BRPs advised employees of their right to form a committee. Subsequently, an employees' committee was duly formed by employees of the Company and representatives of the employees of the Company, who volunteered or who were nominated by their colleagues to represent them on the committee. To date, we have convened four virtual meetings with the employees committee to discuss the business rescue proceedings of the Company. We will continue to communicate and engage with this committee throughout the business rescue proceedings.
- 2.9. Extension of the Date of Publication of the Company's Business Rescue Plan – In terms of section 150(5) of the Act, the business rescue plan was required to be published by 1 December 2022 (i.e. within 25 business days from the date of our appointment). We obtained approval for an extension of the publication date of the business rescue plan to 31 January 2023 from the requisite creditors at the first statutory meeting of creditors (as contemplated in section 150(5)(b) of the Act). Subsequently, we determined that a further extension was necessary, and accordingly, we requested the relevant consent from the creditors of the Company to extend the publication date of the business rescue plan to 28 February 2023. The requisite holders of a majority of the Company's creditors' voting interests have agreed to allow this extension. A notice in terms of section 150(5) of the Act was distributed to Affected Persons on 27 January 2023, duly notifying Affected Persons that the date of publication of the Company's business rescue plan has been extended to 28 February 2023.
- 2.10. Board of Directors – A number of non-executive directors (Mr Andile Sangqu, Mr David Noko, Ms Louisa Stephens, Mr Robin Goetzsche and Mr Graham Clark) resigned from the board of directors shortly following the commencement of business rescue proceedings. The BRP's have accepted these resignations and we thank the non-executive directors for their valuable contribution to the board and wish them well in their future endeavours.
- 2.11. Claims Reconciliation – To date, we have received claim forms from multiple creditors. A verification process is underway to reconcile the claims of creditors as reflected in the records of the Company against the claim forms received. Creditors who have not submitted a claim form are urged to do so as soon as possible before the publication of the business rescue plan. Claims may be submitted to the BRPs at the business rescue email address at: BR@tongaat.com. All claims that are accepted in whole or in part will be reflected in the business rescue plan. Other than that, which is disclosed in the business rescue plan, or in the case of disputed claims, no other direct communication will be given to creditors about whether a claim has been accepted or not. The business rescue plan will provide a process for creditors to deal with any disputes related to claims and creditors with disputed claims will be at liberty to follow such process if they so wish.

- 2.12. Estimated indebtedness - Based on the books and records of the Company current estimated total indebtedness is well in excess of c.R9bn.
- 2.13. Suspension of Obligations – Section 136(2)(a) of the Act allows business rescue practitioners, during business rescue proceedings 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 which would otherwise become due during the business rescue. We will continuously consider the various obligations and determine if any should be suspended.
- 2.14. Cancellation of Obligations – Section 136(2)(b) of the Act allows a business rescue practitioner during business rescue proceedings to cancel any obligation of the Company that arises under an agreement to which the Company was a party at the commencement date, and which would otherwise become due during the business rescue (whether or not he or she is entitled to do so in terms of the terms of the contract) on application to Court. We reserve the right to terminate any obligation that we deem necessary to terminate, on application to Court, in accordance with the provisions of section 136(2)(b) of the Act.
- 2.15. Post Commencement Finance (“PCF”)
- 2.15.1. Soon after the commencement of BR, the Company secured initial amounts of PCF which facilitated payments of salaries and certain critical suppliers and/or creditors. The initial PCF was provided by the Company’s lenders subject, *inter alia*, to the perfection of the existing general notarial bonds registered in favour of the lenders.
- 2.15.2. In late December 2022, the Company secured further PCF from Industrial Development Corporation of South Africa Limited (“**IDC**”), which was and will be applied to repay the initial lender PCF, to fund the Company’s working capital requirements in order to complete the current season and to carry out the necessary annual off-crop maintenance required to get operations ready for the next season.
- 2.16. Cost Reduction Initiatives – Since securing the necessary PCF (as mentioned above), we have started gathering information intended to be used to assess where opportunities may exist to reduce operating costs, wherever possible
- 2.17. Remuneration of the joint Business Rescue Practitioners
- 2.17.1. Section 143 of the Companies Act permits a business rescue practitioner, in agreement with the company in business rescue, to conclude a fee agreement with the Company.

This agreement will be binding on the Company if the requisite support is obtained from the creditors and shareholders of the company.

2.17.2. In this regard, meetings with creditors and shareholders were convened in terms of Section 143. Details of the remuneration agreement were presented to creditors and to shareholders. An overwhelming majority of both creditors and shareholders voted in favour of the acceptance of the BRPs remuneration agreement, which then became binding on the Company. The BRPs express their gratitude to the creditors and shareholders for their support.

2.18. Asset and Business Sales – We have begun investigating various potential sales processes related to assets of the Company and which are available to realise potential value for the Company’s Affected Persons, including subsidiary companies, operating divisions, properties and/or shareholdings, projects/claims and movable assets that may be disposed of. These potential disposals will be dealt with in greater detail in the business rescue plan.

2.19. Business Rescue Proceedings of other Tongaat Hulett group entities - Three other wholly owned, separate legal entities within the Tongaat Hulett group of companies, are currently in business rescue, as outlined below:

2.19.1. Tongaat Hulett Developments Proprietary Limited (“**THD**”) – THD voluntarily commenced business rescue proceedings on 27 October 2022, and we were appointed as the joint BRPs of THD on 27 October 2022.

2.19.2. Tongaat Hulett Sugar South Africa Limited (“**THSSA**”) – THSSA voluntarily commenced business rescue proceedings on 22 December 2022, and we were appointed as the joint BRPs of THSSA on 23 December 2022.

2.19.3. Voermol Feeds Proprietary Limited (“**Voermol**”) – Voermol voluntarily commenced business rescue proceedings on 23 December 2022, and we were appointed as the joint BRPs of Voermol on 23 December 2022.

2.19.4. THD, THSSA and Voermol are all subsidiaries of the Company (collectively referred to as the “**Subsidiaries**”), and thus their financial distress, is inextricably linked to the financial distress and business rescue of the Company.

2.19.5. In terms of section 150(5) of the Act, the THD business rescue plan was required to be published by 1 December 2022 and the THSSA and Voermol business rescue plans were required to be published by 1 February 2023 (i.e. within 25 business days from the date


of our appointments). As the financial distress and business rescue proceedings of the Subsidiaries and the Company are inextricably linked, we determined that it was necessary to align the publication dates of the business rescue plans of the Subsidiaries, with the publication date of business rescue plan of the Company. Accordingly, we requested and obtained the relevant consent from the creditors of the Subsidiaries, to extend the publication dates of the THD, THSSA and Voermol business rescue plans, to 28 February 2023. Notices in terms of section 150(5) of the Act were distributed to affected persons of the Subsidiaries on 27 January 2023, duly notifying them that the publication dates of the THD, THSSA and Voermol business rescue plans have been extended to 28 February 2023.

2.19.6. For current purposes, it ought to be noted that THSSA and Voermol have each acted as agent for an undisclosed principal, namely the Company as the ultimate principal. This agency arrangement was disclosed in December 2022. As a result, it is the view of the Company that in light of the agency arrangements in place the Company is liable for the obligations of its agent(s). Therefore, the BRPs suggest that counterparties to any agreements with THSSA and/or Voermol should submit their claims directly to the Company as soon as possible. Affected Persons are advised to seek their own advice in this regard.

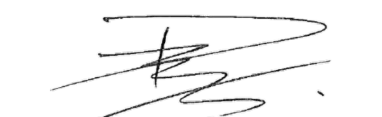
3. CLOSING REMARKS

- 3.1. We trust that with your assistance and co-operation the Company stands a reasonable chance of being rescued, within the meaning of section 128(1)(h) of the Companies Act, in a manner that will balance the rights and interests of all Affected Persons.
- 3.2. Affected Persons are reminded that all notices and documents regarding the business rescue proceedings of the Company that have been and/or will be circulated to all known Affected Persons are or will be published and made available to all Affected Persons on the Company's website at: <https://www.tongaat.com> under the 'Business Rescue' tab.
- 3.3. If you have any queries, they may be directed to the business rescue email address at: BR@tongaat.com.

Yours faithfully,



TJ Murgatroyd



PF van den Steen



GC Albertyn

The Joint Business Rescue Practitioners of Tongaat Hulett Limited (in business Rescue)