

**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 February 2023

Customer Code: WERKMP

Concerning

(Name and Registration Number of Company)

Name: Tongaat Hulett Limited

Registration No: 1892/000610/06

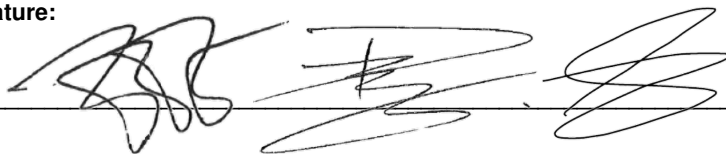
The above named company commenced business rescue proceedings on 27 October 2022.

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)
 - 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 February 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 second report, being the February 2023 report, on the status of the Company's business rescue proceedings.
- 1.4. The following matters have occurred or remain relevant since the distribution and publication of the January 2023 status update report:

2. BUSINESS RESCUE UPDATES

- 2.1. Announcements and Notices – Since the publication of the first status update report, we have distributed relevant Notices to Affected Persons regarding the business rescue proceedings of the Company, as and when necessary. Subsequent to and/or simultaneously with the circulation of the relevant Notices, we continue to release corresponding SENS announcements on the Johannesburg Stock Exchange (“**JSE**”). All relevant notices are published on the Company’s website and are available to Affected Persons at: www.tongaat.com, under the ‘Business Rescue’ tab.
- 2.2. Extension of the Date of Publication of the Company’s Business Rescue Plan – Section 150(5)(b) of the Companies Act requires that a business rescue plan (“**Plan**”) for the Company should be published within 25 business days after the date on which the BRPs were appointed, or such longer time as may be allowed by the holders of a majority of the creditors’ voting interests. The current date by when the Plan should be published is or before 28 February 2023. The business rescue proceedings are consistently evolving, and recent developments determined that it was necessary for the BRPs to request creditor consent for a further extension to the date of publication of the Plan, to 30 June 2023. A Notice to creditors, that provided detailed information explaining the reasoning for this request, was distributed to creditors of the Company on 22 February 2023. The Notice requested that creditors signify their consent to this request by 21:00 on Friday 24 February 2023. Having considered the BRPs request, a majority of the creditors' voting interests voted, provided consent to extend the publication date to 31 March 2023. In the circumstances, the date for the publication of the Plan has been extended to 31 March 2023 by the requisite majority of the creditors' voting interests voted.
- 2.3. Resignation of the CEO – The Company’s Chief Executive Officer, Gavin Hudson (“**Gavin**”), has tendered his resignation with effect from 28 February 2023. The Company’s core team of executives will continue to work with the BRPs. Gavin spearheaded efforts to restructure the group four years ago following the discovery of accounting irregularities in 2019. This involved reducing the group’s debt burden by R6.5 billion and turning around governance and operational processes. Unfortunately, these turnaround efforts were hampered by COVID-19, civil unrest and floods in KwaZulu-Natal and the Company commenced business rescue proceedings in October 2022. The BRPs thank Gavin for his contribution and wish him well in his future endeavours.

- 2.4. Appointment of Acting CEO – Mr Dan Marokane, an executive director of the Company, has been appointed as the acting Chief Executive Officer of the Company, with effect from 1 March 2023. Mr Marokane holds a BSc Chem Eng, MSc Pet Eng and an MBA. He has held various senior executive roles over the past 20 years in the oil and gas, power and agro-processing industries. He joined the Company in 2018 and in his role of Chief Business Transformation Officer, he has been part of the management team which led the turnaround journey of the Company. Mr Marokane was appointed as an executive director of the Company in November 2019 and was previously the chairman of the Company’s listed Zimbabwean subsidiary, Hippo Valley Estates Limited. The Company acknowledges his valuable contribution to Tongaat Hulett, most notably his impact on the internal cashflow optimisation programmes and the management of the Company’s asset disposals. The Company and the BRPs welcome Mr Marokane to his new role.
- 2.5. 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. We will accept the Company records as being correct unless the claimant can prove otherwise. Creditors who have not submitted a claim form and are intending to 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.
- 2.6. Post Commencement Finance (“PCF”) – The BRPs continue their ongoing negotiations with the relevant PCF providers to secure the further PCF required to see the Company through the 2023/2024 season.
- 2.7. Perfection of notarial bonds
- 2.7.1. Affected Persons are reminded of the Notice in terms of, *inter alia*, sections 144,145 and 146 of the Companies Act, distributed to all known Affected Persons on 15 November 2022. Soon after the commencement of business rescue, the Company obtained PCF from the lender group, which facilitated payments of salaries and certain critical suppliers and/or creditors of the Company in the beginning stages of business rescue. A condition of the granting of this PCF, was, *inter alia*, subject to the consent by the BRPs to the perfection of the general notarial bonds that pre-existed the commencement of business rescue. The lenders to the Company had instituted an

application to Court to perfect the general notarial bonds registered in favour of the lenders, which application was heard during the week commencing 14 November 2022. The BRPs reached agreement with the lenders that, notwithstanding the lenders perfecting their security rights in respect of the Company's operating assets, the Company retained ownership of the assets and may continue to access the applicable premises and continue to utilise the relevant assets, to enable the Company to continue operating in the ordinary course, subject to maintaining and preserving the security of the lenders.

2.7.2. A further Notice in this regard was circulated to Affected Persons on 14 February 2023, notifying Affected Persons of the High Court of South Africa, Kwa-Zulu Natal Division's ("the **High Court**"), *Rule Nisi* date arising from the High Court order inviting any interested party to appear before the High Court on 20 February 2023, to show cause why an order on the terms provided for in the *Rule Nisi*, should not be made final. The High Court extended the *Rule Nisi* date to 16 May 2023.

2.8. Cost Reduction Initiatives – We continue our gathering of information intended to be used to assess where opportunities may exist to reduce operating costs, wherever possible

2.9. Asset and Business Sales – In accordance with previous reporting in this regard, 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.

2.10. 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:

2.10.1. 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. A separate monthly status report is provided for THD, which may be found on the Company's website.

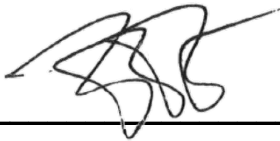
2.10.2. Tongaat Hulett Sugar South Africa Limited ("**THSSA**") – THSSA voluntarily commenced business rescue proceedings on 22 December 2022, and we were appointed as the joint BRPs of THSSA on 23 December 2022.

- 2.10.3. 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.
- 2.10.4. As the THSSA and Voermol businesses and financial distress, are inextricably linked to the Company, we considered it practical and necessary to align the publication dates for the THSSA and Voermol Plans, with the Company’s. Accordingly, we requested the THSSA and Voermol creditors consent for an extension of the date of publication of the THSSA and Voermol BR Plans to 30 June 2023. Having considered the BRPs request, a majority of the creditors' voting interests voted provided consent to extend the publication date to 31 March 2023. In the circumstances, the date for the publication of the Plan has been extended to 31 March 2023 by the requisite majority of the creditors' voting interests voted.
- 2.10.5. THSSA and Voermol have each acted as agent for an undisclosed principal, namely the Company as the principal and/or ultimate principal. This agency arrangement was disclosed to affected persons 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.
- 2.11. Settlement with Deloitte – The Company and Deloitte & Touche South Africa (“**Deloitte**”) have, in anticipation of the commencement of a mediation process, concluded an agreement in relation to claims which the Company had asserted against Deloitte which arise from and relate to the appointment of Deloitte as auditor of the Company for the financial years ending 31 March 2012 to 31 March 2018 (both inclusive). Deloitte has paid an amount of R260m without admission of liability. The BRPs, having taken advice in this regard, are of the considered opinion that a settlement on these terms is in the best interests of the Company and relevant stakeholders.
- 2.12. Sourcing of a Strategic Equity Partner – The Company has embarked on an exercise to source a strategic equity partner (“**SEP**”). There are a number of potential restructuring permutations which would likely flow from this SEP exercise, details of which should ideally be outlined in the Plan. However, it should be noted that final outcomes from this process will become known in mid-June 2023, post-the Plan’s agreed publication date.

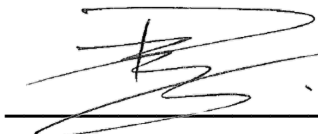
3. CLOSING REMARKS

- 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)