



- Delivered by Email To:**
- All known Affected Persons of Tongaat Hulett Sugar South Africa Limited (in business rescue)
  - Companies and Intellectual Property Commission
- Displayed:**
- Registered office and principal place of business of the Company
- Published:**
- On the website maintained by Tongaat and accessible to Affected Persons
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June 2023

## **REPORT ON THE STATUS OF THE BUSINESS RESCUE PROCEEDINGS OF TONGAAT HULETT SUGAR SOUTH AFRICA 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. Accordingly, we hereby provide you with the fourth report, being the June 2023 report, on the status of the Company's business rescue proceedings.

### **2. BUSINESS RESCUE UPDATES**

The following matters have occurred or remain relevant since the distribution and publication of the May 2023 status update report:

#### **2.1. Publication of the Company's Proposed Business Rescue Plan**

- 2.1.1. The joint business rescue practitioners of the Company ("**BRPs**") published the proposed Business Rescue Plan for the Company ("**Plan**") on **Wednesday, 31 May**

**2023.** The Plan was distributed to all known Affected Persons and is available to view and download under the “Business Rescue” tab on the Tongaat website at: [www.tongaat.com](http://www.tongaat.com).

2.1.2. Capitalised words not otherwise defined in this report shall have the meaning ascribed to them in the Plan.

## 2.2. Meeting in terms of Section 151 of the Act

2.2.1. The BRPs distributed a notice to Affected Persons, in terms of Section 151(2) of the Act (“s151 Notice”) which provided details regarding the meeting to determine the future of the Company (“Meeting”), in accordance with section 151(2) of the Act. The Meeting was convened virtually for **Wednesday, 14 June 2023 at 11:00**.

2.2.2. At the Meeting, the BRPs provided a brief update on the current status of the business rescue proceedings of the Company and reminded Affected Persons that the business rescue proceedings of the Company are inextricably linked with those of Tongaat Hulett Ltd (“**THL**”), its ultimate parent and legal “principal.” The Company has operated as an agent for a previously undisclosed principal, being THL and as a result, the business rescue proceedings of the Company are wholly dependent on the business rescue proceedings and plan of THL. The BRPs further advised that in the ordinary course of business rescue proceedings, the Meeting would normally be held for the purposes of considering and voting on the Plan.

2.2.3. The BRPs advised that following the insistence of the majority of the Company’s Creditors process type Plans have been published for both the Company and THL, as opposed to plans containing details of a specific transaction(s). In its current form, the Plan and THL’s plan, contemplate the sale of all of THL’s material assets, following the outcome of the THL Strategic Equity Partner (“**SEP**”) process, which has culminated in eight SEPs expressing interests in THL’s assets/businesses. The objective of the anticipated disposals in THL, is to realise value and apply such proceeds towards THL’s relevant creditors’ claims, while simultaneously securing the survival and continued operation of the underlying Tongaat Hulett businesses, under new ownership.

2.2.4. The next step in THL’s SEP process, was the submission of final binding offers, by Thursday, 15 June 2023. The BRPs reiterated that they have always preferred the publication of a plans, which provide detailed information regarding a specific transaction and/or transactions. In light thereof, the BRPs continued their engagements with various relevant parties subsequent to the publication of the plans for the Company’s and for THL.

- 2.2.5. The BRPs explained that the outcome of THL’s SEP process will likely result in the sale of the asset(s) of THL, which is/are related to the security held by the THL Lender Group and Industrial Development Corporation of South Africa Limited (“**IDC**”). As a result, the BRPs are required to actively engage with THL’s Lender Group and the IDC, to determine the most appropriate transaction to pursue, in order for them to release their security provided by THL.
- 2.2.6. The SEPs were expected to submit final binding offers by 15 June 2023 (which were subsequently received), the day after the Meeting. Taking this into account as well as certain ongoing litigation matters, the BRPs advised the Meeting that they deemed it appropriate, necessary and expedient to adjourn the Meeting to consider and vote on the Plan.
- 2.2.7. The BRPs acknowledged that an adjournment to the Meeting may be unsettling if it was not clearly understood. It was emphasized that the motions to adjourn the Meeting and to allow the BRPs to amend of the Plan, will result in an amended Plan being proposed, which will provide detailed provisions based on the outcome of the SEP process and the resultant consequences on the claims lodged against THL and the Company. As such, the proposed motions were aimed at creating a greater degree of certainty for all Affected Persons and should thus be considered a positive step in the business rescue process.
- 2.2.8. Accordingly, the BRPs called on Creditors to consider the following motions in terms of Section 151(3) and/or Section 152(1)(d)(i) and/or Section 152(1)(d)(ii) of the Act, for:
- 2.2.8.1. an adjournment of the Meeting to **no later than 30 September 2023** and that Creditors must be provided with no less than 30 days prior written notice of the intended date of the adjourned Meeting, as it is deemed to be necessary and expedient; and
- 2.2.8.2. the **BRPs to amend the proposed Plan** insofar as necessary, taking into account the aforementioned developments and other factors that may be relevant.
- 2.2.9. The BRPs advised that these motions had been proposed by Standard Bank and seconded by Absa. Representatives from both banks were in attendance at the Meeting. Standard Bank confirmed the proposed motion, which was seconded by Absa Bank.
- 2.2.10. Votes were cast by Creditors and any other holders of a voting interest, present and

voting at the Meeting and the BRPs had additionally received several votes by Proxy, prior to the meeting. All votes cast were duly recorded and subsequently tallied during the meeting, and of the votes cast:

2.2.10.1. **100.00% voted in favour of** the motions; and

2.2.10.2. **0.00% voted against** the motions.

2.2.11. As a result, the BRPs reported to the Meeting and hereby confirm that: the Meeting has been adjourned to no later than 30 September 2023 and Creditors must be provided with no less than 30 days' prior written notice of the intended date of the adjourned Meeting, and; the BRPs will amend the proposed Plan insofar necessary, taking into account the abovementioned developments and other factors that may be relevant.

2.2.12. The BRPs will keep Affected Persons updated on the progress of the business rescue proceedings and all other relevant developments and/or outcomes in this regard.

### 2.3. THL's Project Totum Update

2.3.1. Affected Persons are advised that the bidders have submitted their final offers to THL, as contemplated above. The BRPs are currently in negotiations with the THL Lender Group and IDC, being the THL secured creditors, to determine the optimal way forward.

2.3.2. Affected Persons will be advised of progress in this regard once the outcome is known.

### 2.4. Post Commencement Finance ("PCF")

2.4.1. The BRPs are pleased to report that THL's PCF has been extended for a further period beyond 30 June 2023. Further negotiations are ongoing aimed at obtaining a longer-term extension to allow for the finalisation of the current bid process that is ongoing in the THL SEP process. Affected Persons will be updated as matters unfold.

### 2.5. Creditor Claims

2.5.1. Post the publication of the Plan, we have not received any further claims against the Company. Thus, the process of claim verification and the reconciliation of creditor claims against the Company, is currently up to date. Creditors are reminded that all claims lodged against the Company, which are accepted in whole or in part, will be reflected in the amended business rescue plan. The amended business rescue plan will provide a process for Creditors to deal with any remaining disputes related to claims

and Creditors who dispute their claims reflected in the amended business rescue plan, will be at liberty to follow such process, if they so wish.

## 2.6. Litigation Matters

2.6.1. Affected Persons are advised that an important Notice to Affected Persons and additional information pertaining to an ongoing litigation matter within the Tongaat Hulett group, was distributed to Affected Persons on 15 June 2023. The BRPs request that Affected Persons consider the Notice and the supplementary information associated with the Notice, and further advise Affected Persons to contact the relevant persons detailed in the documents, if you have any further queries or concerns in this regard. The Notice and all the additional documentation has been published and made available to all Affected Persons on the Company's website at: [www.tongaat.com](http://www.tongaat.com), under the 'Business Rescue' tab.

## 3. **CLOSING REMARKS**

3.1. It remains our view that the Company stands a reasonable prospect 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.

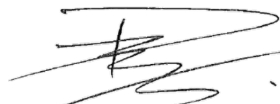
1.1. Affected Persons are reminded that all notices and documents regarding the business rescue proceedings of the Company that have been and/or will be circulated to all known Affected Persons are or will be published and made available to all Affected Persons on the Tongaat website at: <https://www.tongaat.com>, under the 'Business Rescue' tab.

1.2. If you have any queries, they may be directed to the business rescue email address at: [BR@tongaat.com](mailto:BR@tongaat.com).

Yours faithfully,



**TJ Murgatroyd**



**PF van den Steen**



**GC Albertyn**

**The Joint Business Rescue Practitioners of Tongaat Hulett Sugar South Africa Limited (in business Rescue)**