

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL LOCAL DIVISION, DURBAN

CASE NO.: D13763/2023

In the matter between:

RCL FOODS SUGAR & MILLING (PROPRIETARY) LIMITED	Applicant
and	
TONGAAT HULETT LIMITED (IN BUSINESS RESCUE)	First Respondent
TREVOR JOHN MURGATROYD N.O.	Second Respondent
PETRUS FRANCOIS VAN DEN STEEN N.O.	Third Respondent
GERHARD CONRAD ALBERTYN N.O.	Fourth Respondent
THE AFFECTED PERSONS IN THE FIRST RESPONDENT'S BUSINESS RESCUE	Fifth Respondent
SOUTH AFRICAN SUGAR ASSOCIATION	Sixth Respondent
S.A. SUGAR EXPORT CORPORATION (PROPRIETARY) LIMITED	Seventh Respondent
MINISTER OF TRADE, INDUSTRY AND COMPETITION	Eighth Respondent
SOUTH AFRICAN CANE GROWERS' ASSOCIATION NPC	Ninth Respondent
SOUTH AFRICAN FARMERS' DEVELOPMENT ASSOCIATION NPC	Tenth Respondent
UMFOLOZI SUGAR MILL (PROPRIETARY) LIMITED	Eleventh Respondent
GLEDHOW SUGAR COMPANY (PROPRIETARY) LIMITED (IN BUSINESS RESCUE)	Twelfth Respondent
HARRY SIDNEY SPAIN N.O.	Thirteenth Respondent
ILLOVO SUGAR (SOUTH AFRICA) (PROPRIETARY) LIMITED	Fourteenth Respondent



SOUTH AFRICAN SUGAR MILLERS' ASSOCIATION NPC	Fifteenth Respondent
UCL COMPANY (PROPRIETARY) LIMITED	Sixteenth Respondent
RGS GROUP HOLDINGS LIMITED	Seventeenth Respondent
TERRIS AGRIPRO (MAURITIUS)	Eighteenth Respondent
REMOGGO (MAURITIUS) PCC	Nineteenth Respondent
GUMA AGRI AND FOOD SECURITY LTD (MAURITIUS)	Twentieth Respondent
ALMOIZ NA HOLDINGS LIMITED	Twenty-first Respondent

and

CASE NO.: D13739/2023

In the matter between:

SOUTH AFRICAN SUGAR ASSOCIATION	Applicant
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and

TONGAAT HULETT LIMITED (IN BUSINESS RESCUE)	First Respondent
TREVOR JOHN MURGATROYD N.O.	Second Respondent
PETRUS FRANCOIS VAN DEN STEEN N.O.	Third Respondent
GERHARD CONRAD ALBERTYN N.O.	Fourth Respondent
RCL FOODS SUGAR & MILLING (PROPRIETARY) LIMITED	Fifth Respondent
ILLOVO SUGAR (SOUTH AFRICA) (PROPRIETARY) LIMITED	Sixth Respondent
SOUTH AFRICAN SUGAR MILLERS' ASSOCIATION NPC	Seventh Respondent
UCL COMPANY (PROPRIETARY) LIMITED (PROPRIETARY) LIMITED	Eighth Respondent



ANSWERING AFFIDAVIT

I, the undersigned,

GERHARD CONRAD ALBERTYN

do hereby make oath and say –

1 I am -

1.1 an adult male and a consultant to Metis Strategic Advisors (Proprietary) Limited ("**Metis**"), which has its registered address at Jindal Africa Building, 22 Kildoon Road, Bryanston, Johannesburg;

1.2 a duly appointed joint business rescue practitioner of Tongaat Hulett Limited ("**THL**"); and

1.3 authorised to oppose both these proceedings and depose to this affidavit on behalf of the first to fourth respondents (collectively, "**the THL respondents**").

2 In this affidavit, reference to "**the BRPs**" is a collective reference to me, Mr Murgatroyd (the second respondent in this application) and Mr Van den Steen (the third respondent in this application).



GerA

- 3 Unless the context indicates otherwise, the facts contained in this affidavit are within my personal knowledge and are, to the best of my belief, both true and correct.
- 4 Because they seek materially the same relief on similar time periods, and should ultimately be heard together, this affidavit is filed in respect of both -
- 4.1 the Part A interdict application brought by RCL under case number D13763/2023; and
- 4.2 the rule nisi brought by SASA under case number D13739/2023.
- 5 For ease of reference, I use the same abbreviations as are employed in the founding affidavits in the above applications, except where specified otherwise. I refer to RCL and SASA collectively as "**the applicants**".

THE THL RESPONDENTS' POSITION

- 6 On 27 October 2022, THL was placed in voluntary business rescue, pursuant to the Board's determination that the company was financially distressed but that there was a reasonable prospect that it could be rescued. The second and fourth respondents, and I, were appointed as THL's joint business rescue practitioners.

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- 7 The BRPs have prepared two alternative business rescue plans for consideration and possible adoption of one of those business rescue plans by THL's creditors and other holders of a voting interest, in the hope of rescuing THL – namely, the Vision/ Terris Plan and the RGS Plan (together, "**the proposed Plans**").
- 8 The proposed Plans were published on Wednesday 29 November 2023. A meeting in terms of section 151 of the Companies Act has been convened for Friday 8 December 2023, to vote on the proposed Plans. It was due to be preceded by a pre-meeting proxy-vote, scheduled for Thursday 7 December, to determine the order in which the proposed Plans will be presented and voted on.
- 9 In the THL respondents' view, the proposed Plans are lawful, and each presents a viable way of rescuing THL and achieving the objectives of business rescue. Their terms and/or implementation will not cause SASA or RCL irreparable harm, and the THL respondents deny the applicants' claims to this effect.
- 10 On the contrary, preventing the section 151 meeting and the vote on the proposed Plans, or otherwise precluding the adoption of a business rescue plan in respect of THL, will likely lead to THL's liquidation – laying to waste all the work done and the money expended in the business rescue, and redounding to the permanent and unjustifiable prejudice of THL, its creditors, employees, shareholders and other affected persons, as well as the sugar industry and the public at large.

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- 11 The THL respondents consequently intend to oppose Parts A and B of the RCL application, and all the relief sought in the SASA application.

TIMING

- 12 The applicants have brought their applications on unjustifiably short and punitive time periods.
- 13 It is clear from the correspondence exchanged over the last week that they have been preparing to institute these proceedings for some time but have waited until the last possible moment actually to do so, in order to force a postponement of the section 151 meeting.
- 14 The Order in the Declaratory Application was handed down at approximately 13h05 on Wednesday 29 November 2023 – the same day that the proposed Plans were due to be published. A copy of the email transmitting the Order is attached marked "AA1". Since both RCL and SASA were parties to the Declaratory Application, and their representatives were copied on that mail, they must have been aware of the Order by at least 13h30 that day.

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- 15 At approximately 20h49 that same day, 29 November 2023, SASA addressed a letter to the THL respondents advising that -
- 15.1 it expected the proposed Plans to take into account the effect of the Order; and
- 15.2 to the extent that the proposed Plans did not account for the Order, SASA would apply to Court to "*interdict the meeting to adopt the business rescue plan*".
- 16 A copy of SASA's letter dated 29 November 2023 is attached to its founding affidavit as **annexure FA8**. It is clear from **annexure FA8** that SASA had determined, already by that date, that it would likely bring urgent proceedings. It must have started preparing papers at that time.
- 17 The proposed Plans were published approximately 3 hours later. Suffice it for present purposes to state that – contrary to both RCL's and SASA's claims – the proposed Plans -
- 17.1 record that the Order had been handed down; and
- 17.2 made adequate provision for a final judgement in SASA's favour.
- 18 It meant that (a) the BRPs had complied with SASA's demands in its 29 November letter, and (b) as early as midnight on Wednesday 29 November



2023, the applicants would have been aware of the content of the proposed Plans and the manner in which each of them dealt with payment to SASA.

- 19 Almost a full business day after the proposed Plans had been published, at approximately 16h00 on 30 November 2023, SASA addressed a further letter to the BRPs in which they enquired whether the BRPs intended to amend the proposed plans "*in view of*" the Order. A copy of SASA's letter dated 30 November 2023 is attached marked "**AA2**".
- 20 That enquiry made no sense, given that the proposed Plans catered for the possibility of the Declaratory Application being finally determined in SASA's favour.
- 21 Nevertheless, the BRPs responded to SASA's letter at approximately 10h20 on 1 December 2023 (a mere 12 hours later), indicating that it was our view that the proposed Plans catered adequately for the Order.
- 22 Whilst the BRPs accepted that it was conceivable that the Judgment could necessitate an amendment to the proposed Plans, the BRPs advised SASA that this was unlikely. The BRPs also informed SASA that we could not, at that stage and in advance of seeing the Judgment, say whether the THL respondents would appeal the Order. SASA is thus incorrect to claim (in paragraph 53) that the proposed Plans were prepared and published on the basis that the Order and Judgment would be appealed.



- 23 A copy of the BRPs' letter to SASA of 1 December 2023 is attached marked "AA3".
- 24 If SASA was not content with that response, it ought to have launched urgent proceedings at that stage, within a day or two. It did not do so.
- 25 Just two hours later, at approximately 12h09 on 1 December 2023, RCL's attorneys, Webber Wentzel Attorneys, addressed a letter to attorneys for the THL respondents, Werksmans Attorneys, a copy of which is attached to RCL's founding affidavit as **annexure FA8**.
- 26 In Webber Wentzel's letter, RCL threatened to bring urgent proceedings in the event that the THL respondents refused to provide an undertaking (less than five hours later) that -
- 26.1 the BRPs would withdraw the proposed Plans as formulated, in order to amend them to accord with the effects of the Order and would defer the vote.
- 26.2 alternatively, if the BRPs did not intend to withdraw the proposed Plans, that the BRPs would defer the vote on the proposed Plans to no earlier than January 2024, apparently so as to allow RCL to bring proceedings for (unspecified) relief in less urgent circumstances.



GA

- 27 The BRPs had kept SASA fully abreast of developments regarding THL and SASA was obliged, in turn, to keep RCL informed and presumably did so. In circumstances where the BRPs had already made our position clear that we did not intend to amend either of the proposed Plans and where RCL must have been informed as much, Webber Wentzel's letter can similarly only be construed as an attempt to justify delay on their part. That letter sought to create the impression that RCL could not launch urgent proceedings until they had received a response from us.
- 28 The BRPs were not at liberty unilaterally to withdraw the proposed Plans or to delay the vote on them, particularly in circumstances where (as I will explain below), THL's access to continued and further post-commencement finance ("PCF") is dependent on an imminent vote on a business rescue plan. Werksmans therefore responded to Webber Wentzel's letter, at approximately 17h35 that same day, to advise that the BRPs declined to provide the undertakings sought in Webber Wentzel's letter. A copy of Werksmans' email dated 1 December 2023 is attached marked "AA4".
- 29 No application was received in short order. Worse, Webber Wentzel failed even to acknowledge receipt of Werksmans' email until approximately 11h06 on 4 December 2023 – almost 3 days later. In doing so, Webber Wentzel enquired whether Werksmans was willing to accept electronic service of RCL's intended application. Werksmans responded immediately in the affirmative. Copies of the relevant email exchange dated 4 December 2023 are attached marked "AA5".

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- 30 Ultimately, RCL launched its application more than 24 hours later, at 12h45 on Tuesday 5 December 2023 – even though its founding affidavit was deposed to on 4 December 2023. Werksmans had agreed, that same day, to accept electronic service. No explanation is offered for why the application was only served at lunchtime the next day. That delay cannot be justified, given the exigencies of this case.
- 31 SASA's application was served hours after RCL's, at 15h45 on Tuesday 5 December 2023.
- 32 Having taken 6 calendar days to prepare and launch their respective applications, RCL afforded the THL respondents just over 24 hours to deliver their answering affidavits, while SASA made no provision for answering papers at all. That is obviously prejudicial and unfair.
- 33 Moreover, both have set their applications down for hearing at 9h30 on Thursday 6 December 2023 – some 15 hours after answering papers in the RCL application are due, and less than 24 hours before the scheduled section 151 meeting.
- 34 The fact of the matter is that these proceedings could and should have been launched sooner than they were. RCL and SASA have both sat on their hands in preparing their papers, and then launched at the last possible moment, with the obvious intention to provide so little notice of their applications to the



respondents and the Court that an orderly hearing in advance of the 8 December meeting becomes impossible and they thereby procure a postponement of the vote by dint of circumstances. That is an abuse of process, and ought to be penalised with an appropriate costs order.

35 That said, the THL respondents have no choice but to accept that two applications of this importance and magnitude – even if consolidated – cannot be properly ventilated and sensibly determined on a mere two days' notice.

36 The THL respondents will consequently abide an order of this Court that directs that the section 151 meeting (presently scheduled for 8 December 2023) be adjourned to no later than Thursday 14 December 2024, to enable the applications to be heard by this honourable Court by Wednesday 13 December 2024.

37 We cannot support or agree to an adjournment of the meeting beyond that date, for reasons I now turn to address.

THE NEED FOR AN URGENT HEARING

38 A vote on the proposed Plans is needed urgently and must take place by no later than 14 December 2023 because THL is fast running out of post-commencement financing and cannot secure more.



GA

- 39 The IDC has, to date, provided THL with PCF of approximately R2,3 billion, in terms of a Post Commencement Finance Facility Agreement ("**the PCF Agreement**") entered into on about 23 December 2022, and amended from time to time since then. That facility was most recently extended to operate until 30 November 2023, and repayment of the PCF was due on that date.
- 40 In terms of a resolution taken at its board meeting of 28 November 2023, the IDC has agreed to approve the extension of the final repayment date for such PCF from 30 November 2023 to 8 December 2023 and to waive THL's breach of the PCF Agreement occasioned by its default in re-payment. A copy of the IDC letter to this effect is attached as "**AA6**". That extension was timed specifically so as to permit the vote on the proposed Plans at the 8 December meeting.
- 41 The IDC had previously also agreed to relax the existing security covenants provided for under the PCF Agreement and to extend the PCF to the end of February 2024, on condition that a vote was taken in respect of a business rescue plan by no later than 15 January 2024. The IDC envisaged that the buyer under the adopted Plan would provide for and share in the security available to the IDC, such that its position and prospects of recovering the PCF advanced, remained secure. An agreement to that effect was in the process of being negotiated, when the RCL and SASA applications were served.
- 42 In the face of those applications, the IDC is now unwilling to agree to such an extension. As I understand it, it is simply not satisfied with the security that it



holds, and that it is sufficiently assured of recovery if the PCF facility is extended.

- 43 The IDC has consequently indicated that it will now not permit any further drawdowns against the PCF facility until a business rescue plan has been adopted. If that happens on or before 14 December 2023, then the IDC will again permit drawdowns against the PCF facility and extend its availability to the end of January 2024. If no business rescue plan is adopted by that date, then neither drawdowns nor an extension will be permitted. Very simply, the post-commencement funding available to THL will very imminently dry up.
- 44 For completeness, I should add that even if extended, the current R2.3 billion PCF facility is insufficient to meet THL's needs beyond January 2024, at best. THL needs further funding to remain capable of rescue. The BRPs have previously requested the IDC to increase the PCF facility to R2.6 billion. The IDC is unwilling to do so until they have certainty that a business rescue plan is to be adopted and implemented, and that they can procure additional security. Again, their continued support for THL's rescue is contingent on a business rescue plan being voted on and implemented imminently, and by no later than 14 December 2023.
- 45 If THL's PCF dries up and/or is not extended, the consequences for the business rescue will be catastrophic. THL have to be liquidated, to the obvious prejudice of its creditors, shareholders, employees, and the sugar industry at



large. The socio-economic impact would also be catastrophic. In that regard, I point out that -

- 45.1 as at the end November 2023, THL employed 2704 employees in South Africa, of which 1789 are permanent employees. It currently buys cane from around 11 000 growers, the vast majority of whom are Small Scale Growers. In the 2022/23 season alone, THL made cane payments of R2,875 billion. It has paid R3.305 billion in this year, to date (calculated to the end of October 2023);
- 45.2 in addition to creating and supporting jobs, THL is an important buyer from local suppliers. In the 2022/23 season, it spent R3.310 billion on goods and services and has spent R2.135 billion in the year to date. Approximately 15 small towns are reliant on THL for their income and viability. They are Tongaat; Verulam; Ndwedwe; Ballito; Stanger; Mandeni; Gingindlovu; Eshowe; Mvoti; Melmoth; Empangeni; Mtubatuba; Mkuze; Jozini; and Pongola;
- 45.3 THL also makes significant Socio-Economic Development spend over around R15 million per year, which has a multiplier impact in the economy of R53 million by, among others, stimulating output, labour remuneration and like. By way of example, its direct labour remuneration bill is R7 million but has an estimated economy-wide impact of more than double, at R16 million. It has a gross operating surplus of R2 million, with an estimated economy-wide impact of R10 million. Its GDP at



market prices is R9 million, with an estimated economy-wide impact of R28 million. I attach an extract of THL's SED report recording as much as "AA7"; and

45.4 despite its straitened circumstances, THL remains the largest supplier of refined white sugar to the South African Market, supplying approximately 50% of its requirement. In total, THL will produce an estimates 540 000 tons of sugar in the current 2023/24 season accounting for 25% of the sugar industry's sugar production. Importantly, THL is the only refinery that runs during the period of January to March, and, if THL were to be liquidated , the sugar industry as a whole would be impacted and may be unable to supply the domestic demand for sugar – at the very least in the short term. In order to fulfil the shortfall in supply, this would require the industry to import sugar at **massive cost**. This would take *at least* a few months to procure given the extremely tight supply in the world sugar market.

46 A liquidation of THL will consequently visit immediate and ongoing prejudice to the sugar industry and the public at large. Thousands of jobs, and millions in revenue, will be lost in a sector that is of vital importance to the KZN, and the country's, economy.

47 For completeness, I point out that THL's liquidation would also be to the immediate but irreparable prejudice of SASA and RCL. It is not apparent to us as to what reputational benefit SASA and/or RCL intend to achieve by taking



steps that would result in a liquidation when there is clearly a commercial conclusion to be reached. Both seek to recover debts owing to SASA as against THL. If THL is rescued, those debts will be paid on terms set out in the proposed Plans; if it is liquidated, SASA will receive nothing. Their insistence on super-urgent proceedings to interdict the vote on the proposed Plans threatens to extinguish the very rights they claim to want to protect.

- 48 A lack of additional PCF will have more immediate, foreseeable consequences, too.
- 49 Financing is urgently needed to complete the off-crop maintenance campaign at THL's three raw sugar mills, and to start the new season in April 2024 timeously.
- 50 Off crop maintenance commences in early January 2024, and closes in early April 2024, and the mills then commence crushing for the new 24/25 sugar season. The IDC has provided PCF to cover the requirements of the off-crop programme until the end of February 2024. Additional cash flow expenditure will be required in March and April 2024, which must be submitted timeously to the IDC in order for them to process this through their committees. This work was planned to occur during December 2023 and January 2024, to allow sufficient time for scrutiny by the IDC team.
- 51 A delay in the adoption and finalisation of the implementation of a business rescue plan will potentially be catastrophic to this. The necessary funding may



not be forthcoming, which would require the maintenance program to be curtailed. That in turn would lead to an extremely disruptive start to the new crushing season and result inevitably in a poor 24/25 season with many breakdowns.

- 52 This will cause harm to THL in the form of reduced sugar production and additional maintenance costs required during the season. It will also reduce THL's contribution to the domestic supply and, given the redistribution mechanism provided for in the SI Agreement, its share of the local market proceeds – with a concomitant benefit to the other five milling companies.

ENGAGEMENTS WITH RCL AND SASA

- 53 It is simply not possible to procure that the applications are ripe for hearing tomorrow. They are substantial applications that raise important issues that affect the rights and interests of a broad array of parties (not all of whom have been joined in SASA's application). The applications were also initiated at the eleventh hour, as I have set out above. Fairness demands that they be removed from the roll of 7 December 2023, and heard once the relevant parties have had a proper opportunity to engage with the applications and respond.

- 54 For reasons set out above, however, it is essential that the applications are heard urgently, and by no later than 13 December 2023, to enable the section 151 meeting to proceed on or before 14 December 2024. The consequences if these deadlines cannot be achieved are genuinely catastrophic.



55 Accordingly, on 6 December 2023, Werksmans called both RCL's and SASA's attorneys, requesting that they agree to an order directing the adjournment of the section 151 meeting to no later than 14 December 2023, to allow the applications to be properly ventilated and heard on 13 December 2023. A copy of the letter addressed to SASA is attached as "AA8". The response that appears below pre-empted the despatch of similar correspondence to RCL's attorneys.

56 The response of RCL, through its attorneys, Webber Wentzel, was high handed and inappropriate. With a shocking lack of regard for the respondents' rights of access to court, they responded that -

*"1. Your proposal is rejected;
2. The extreme urgency and alleged lack of fair notice is entirely of your client's own making;*

We are proceeding tomorrow. We will agree to move Part A of our application by consent and then to an early, urgent hearing of Part B of our application."

57 A copy of that email is attached as "AA9".

58 As at the date of signature, SASA's attorneys have yet to respond.

CONCLUSION

59 The THL respondents accept that the applications require additional time to be properly ventilated and determined. However, we emphasise the importance,



to THL's future and the interests of its affected persons, of the section 151 meeting taking place imminently.

60 The THL respondents will consequently abide an order of this Court that directs that the section 151 meeting (presently scheduled for 8 December 2023) be adjourned to no later than 14 December 2024, to enable the applications to be heard by this Honourable Court on 13 December 2024.



GERHARD CONRAD ALBERTYN

I certify that this affidavit was signed and sworn to before me at Johannesburg on this the 6th day of December 2023 by the deponent who acknowledged that he knew and understood the contents of this affidavit, had no objection to taking this oath, considered this oath to be binding on his conscience and uttered the following words: 'I swear that the contents of this affidavit are both true and correct, so help me God.'



COMMISSIONER OF OATHS

Name:

Address:

Capacity:

DALE JUSTIN BALKIN CA(SA)
COMMISSIONER OF OATHS EX OFFICIO (RSA)
16 ISLAND COURT, THE VILLAGE AVENUE
WOODMEAD, 2191, JHB, SOUTH AFRICA

Simone Gast

From: C Ramharakh <CRamharakh@judiciary.org.za>
Sent: 29 November 2023 13:05
To: Trevor Boswell; Howard Stephenson; Maphumulo Thembile; Jenna Rodd; Simone Gast; Danny Andropoulos; David Hertz; Andre Liebenberg; Loryn Liberty; Tracy Wilde; Lubumba Kamukwamba; Prelisha Singh; Lara Kahn; Thys Scheepers; Lauren Mapiki; Michael Jackson; nerissa.pillay@wylie.co.za
Subject: Case No. D4472/2023 - Tongaat Hullet Ltd (in business rescue) & others / South African Sugar Association & others - Order
Attachments: D4472.23 - Tongaat Hullet LTD & Ors v SASA & ors.pdf

Dear all

RE: Case No. D4472/2023 - Tongaat Hullet Ltd (in business rescue) & others / South African Sugar Association & others - Order

As discussed in the below email, attached please find the Order issued in the abovementioned matter.

Regards



Chiara Ozora Ramharakh
Judge Vahed's Registrar
KwaZulu-Natal High Court: Durban / Pietermaritzburg
Office of the Chief Justice
Tel: 031 492 7995 / 033 3458211
Email: CRamharakh@judiciary.org.za

From: C Ramharakh
Sent: Wednesday, November 29, 2023 10:02 AM
To: 'Howard Stephenson' <howard.stephenson@gb.co.za>; 'Trevor Boswell' <TBoswell@werksmans.com>; 'Simone Gast' <sgast@werksmans.com>; 'Danny Andropoulos' <dandropoulos@werksmans.com>; 'David Hertz' <DHertz@werksmans.com>; 'Erik van Huyssteen' <erik@evhinc.co.za>; 'Maphumulo Thembile' <ThMaphumulo@justice.gov.za>; 'Andre Liebenberg' <andre.liebenberg@gb.co.za>; 'Loryn Liberty' <loryn.liberty@gb.co.za>; 'Tracy Wilde' <TWilde@gb.co.za>; 'Thomas Funke' <thomas.funke@sacanegrowers.co.za>; 'central@canegrowers.co.za' <central@canegrowers.co.za>; 'Olivia Finnemore' <Olivia.Finnemore@sacanegrowers.co.za>; 'info@sa-fda.org.za' <info@sa-fda.org.za>; 'tsibiya@sa-fda.org.za' <tsibiya@sa-fda.org.za>; 'Prelisha.Singh@webberwentzel.com' <Prelisha.Singh@webberwentzel.com>; 'Lara Kahn' <Lara.Kahn@webberwentzel.com>; 'Waseem Moosa' <Waseem.Moosa@webberwentzel.com>; 'Lubumba Kamukwamba' <Lubumba.Kamukwamba@webberwentzel.com>; 'Thys Scheepers' <TScheepers@coxyeats.co.za>; 'Jenna Rodd' <jrodd@coxyeats.co.za>; 'Lauren Mapiki' <lmapiki@coxyeats.co.za>; 'Michael Jackson' <mjackson@coxyeats.co.za>; 'afd@wylie.co.za' <afd@wylie.co.za>; 'nerissa.pillay@wylie.co.za' <nerissa.pillay@wylie.co.za>



"AA2"

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Telephone: +27 31 508 7000
Website: www.sasa.org.za

EX/181/23
MKT/MR
30 November 2023

Messrs Murgatroyd, van den Steen, and Albertyn
The Business Rescue Practitioners
Tongaat Hulett Ltd
Amanzimnyama Hill Road
Tongaat
KwaZulu-Natal

By Email: br@tongaat.com
trevor@metis.co.za
peter@metis.co.za
gerhard@metis.co.za

CC: Mr Howells
dave.howells@tongaat.com

Dear Trevor, Peter and Gerhard

TONGAAT HULETT LTD (BUSINESS RESCUE) / SOUTH AFRICAN SUGAR ASSOCIATION AND SA SUGAR EXPORT CORPORATION (PTY) LTD – PROPOSED SETTLEMENT

1. We refer to the following two recent developments:
 - 1.1. The Durban High Court order issued on 29 November 2023 in terms of which your application under case number D4472/2023 was dismissed; and
 - 1.2. The publication by you of the two amended business rescue plans on 29 November 2023.
2. Please advise as follows:
 - 2.1. Whether you are able, at this point, to indicate whether you have an intention to appeal the decision of the High Court?
 - 2.2. Whether you intend to amend the plans in view of the order made by the High Court?

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3. Given that the date of the 151 Meeting is soon we request that you respond urgently.

Yours sincerely



MK TRIKAM
Executive Director





Est. 1892

"AA3"

TongaatHulett®

The South African Sugar Association

Kwa-Shukela
170 Flanders Drive
Mount Edgecombe
4302

Attention: **Mr T Trikam**

Per email: Trix.Trikam@sasa.org.za

1 December 2023

Dear Mr Trikam,

TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) | SASA AND SASEXCOR

- 1 We refer to your letter dated 30 November 2023.
- 2 We cannot say whether we will seek to appeal the High Court's order until we have read, considered and taken advice on the High Court's judgment.
- 3 At this stage, it is our view that both plans cater adequately for the High Court's order and are unlikely to require amendment - but our position could conceivably change depending on the content of the High Court's judgment.
- 4 The content of this letter is not exhaustive and should not be construed as having dealt with all matters affecting the issues. Our right to deal with any such matters in greater detail in due course and in the appropriate forum are reserved.

Yours faithfully,

TJ Murgatroyd
Business Rescue Practitioner

PF van den Steen
Business Rescue Practitioner

GC Albertyn
Business Rescue Practitioner

For Tongaat Hulett Limited (in business rescue)

Amanzimnyama Hill Road, Tongaat, 4400 • P O Box 3, Tongaat, 4400, KwaZulu-Natal, South Africa

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Tip-offs anonymous - Email: Tongaat@tip-offs.com Website: www.tip-offs.com FreeCall: 0800 212 187

Tongaat Hulett Limited Registration Number 1892/000610/06

Simone Gast

From: Simone Gast
Sent: 01 December 2023 17:35
To: 'Junaid Nyker'
Cc: Lubumba Kamukwamba; Lara Kahn; Prelisha Singh; howard.stephenson@gb.co.za; thmaphumulo@justice.gov.za; Andre.liebenberg@gb.co.za; Loryn.liberty@gb.co.za; Olivia.Finnemore@sacanegrowers.co.za; thomas.funke@sacanegrowers.co.za; jsenekal@dankasenekal.com; Danny Andropoulos; Trevor Boswell; David Hertz; vsingh@dankasenekal.com; tscheepers@coxyeats.co.za; jrodd@coxyeats.co.za; lmapiki@coxyeats.co.za; mjackson@coxyeats.co.za; Nerissa.pillay@wylie.co.za; afd@wylie.co.za; Kay Morgan
Subject: RE: Tongaat Hulett Limited (in business rescue) ("THL") and Others // South African Sugar Association and Others ("SASA") [WW-WS_JHB.FID2571882] [IMAN-LITIGATION.FID633068]

Dear Sirs

We refer to your letter of today's date.

We do not intend dealing with each assertion in your letter which failure should not be construed as an admission as to the correctness thereof or as a waiver of our clients' rights to deal therewith in due course, which rights are, both in this respect and generally, fully reserved.

Our clients have instructed us to record that they decline to provide the undertakings sought in your letter.

We are authorised to accept service of any application foreshadowed in your letter.

Yours faithfully
Werksmans



Simone Gast

Director

+27 11 535 8131 +27 11 535 8566 sgast@werksmans.com

The Central, 96 Rivonia Road, Sandton, Johannesburg, 2196
Private Bag 10015, Sandton, 2146, South Africa

+27 11 535 8000 +27 11 535 8600 www.werksmans.com

From: Junaid Nyker <Junaid.Nyker@webberwentzel.com>
Sent: 01 December 2023 12:37 PM
To: Danny Andropoulos <dandropoulos@werksmans.com>; Trevor Boswell <TBoswell@werksmans.com>; David Hertz <DHertz@werksmans.com>; Simone Gast <sgast@werksmans.com>
Cc: Lubumba Kamukwamba <Lubumba.Kamukwamba@webberwentzel.com>; Lara Kahn <Lara.Kahn@webberwentzel.com>; Prelisha Singh <Prelisha.Singh@webberwentzel.com>; howard.stephenson@gb.co.za; thmaphumulo@justice.gov.za; Andre.liebenberg@gb.co.za; Loryn.liberty@gb.co.za; Olivia.Finnemore@sacanegrowers.co.za; thomas.funke@sacanegrowers.co.za; jsenekal@dankasenekal.com; vsingh@dankasenekal.com; tscheepers@coxyeats.co.za; jrodd@coxyeats.co.za; lmapiki@coxyeats.co.za; mjackson@coxyeats.co.za; Nerissa.pillay@wylie.co.za; afd@wylie.co.za; Kay Morgan <Kay.Morgan@webberwentzel.com>; Max du Plessis <maxduplessis@mac.com>; catherine@thulamelachambers.co.za; Dugald Robertson <dugaldr@capebar.co.za>
Subject: RE: Tongaat Hulett Limited (in business rescue) ("THL") and Others // South African Sugar Association and

Simone Gast

From: Simone Gast
Sent: 04 December 2023 11:21
To: 'Lubumba Kamukwamba'; Junaid Nyker
Cc: Lara Kahn; Prelisha Singh; Kay Morgan; Danny Andropoulos; Trevor Boswell; David Hertz
Subject: RE: Tongaat Hulett Limited (in business rescue) ("THL") and Others // South African Sugar Association and Others ("SASA") [IMAN-LITIGATION.FID633068]

Dear Madam

We consent to electronic service on our clients' behalf.

For this purpose, please serve on **all of** the following email addresses -

1. DHertz@werksmans.com
2. dandropoulos@werksmans.com
3. TBoswell@werksmans.com
4. sgast@werksmans.com

Kind regards



Simone Gast

Director

+27 11 535 8131 +27 11 535 8566 sgast@werksmans.com

The Central, 96 Rivonia Road, Sandton, Johannesburg, 2196

Private Bag 10015, Sandton, 2146, South Africa

+27 11 535 8000 +27 11 535 8600 www.werksmans.com

From: Lubumba Kamukwamba <Lubumba.Kamukwamba@webberwentzel.com>
Sent: 04 December 2023 11:06
To: Simone Gast <sgast@werksmans.com>; Junaid Nyker <Junaid.Nyker@webberwentzel.com>
Cc: Lara Kahn <Lara.Kahn@webberwentzel.com>; Prelisha Singh <Prelisha.Singh@webberwentzel.com>; Kay Morgan <Kay.Morgan@webberwentzel.com>; Danny Andropoulos <dandropoulos@werksmans.com>; Trevor Boswell <TBoswell@werksmans.com>; David Hertz <DHertz@werksmans.com>
Subject: RE: Tongaat Hulett Limited (in business rescue) ("THL") and Others // South African Sugar Association and Others ("SASA") [IMAN-LITIGATION.FID633068] [WW-WS_JHB.FID2571882]

Dear Ms Gast

We acknowledge receipt of your email below.

Please urgently confirm whether you consent to electronic service of the application on behalf of your clients.

Regards,

Lubumba Kamukwamba | Senior Associate | Webber Wentzel

T:+27115305256 | M:+27711907731 | lubumba.kamukwamba@webberwentzel.com | www.webberwentzel.com

From: Simone Gast <sgast@werksmans.com>
Sent: Friday, December 1, 2023 5:35 PM
To: Junaid Nyker <Junaid.Nyker@webberwentzel.com>
Cc: Lubumba Kamukwamba <Lubumba.Kamukwamba@webberwentzel.com>; Lara Kahn <Lara.Kahn@webberwentzel.com>; Prelisha Singh <Prelisha.Singh@webberwentzel.com>;

howard.stephenson@gb.co.za; thmaphumulo@justice.gov.za; Andre.liebenberg@gb.co.za; Loryn.liberty@gb.co.za; Olivia.Finnemore@sacanegrowers.co.za; thomas.funke@sacanegrowers.co.za; jsenekal@dankasenekal.com; [Danny Andropoulos <dandropoulos@werksmans.com>](mailto:Danny.Andropoulos@dandropoulos@werksmans.com); [Trevor Boswell <TBoswell@werksmans.com>](mailto:Trevor.Boswell@werksmans.com); [David Hertz <DHertz@werksmans.com>](mailto:David.Hertz@werksmans.com); vsingh@dankasenekal.com; tscheepers@coxyeats.co.za; jrodd@coxyeats.co.za; Imapiki@coxyeats.co.za; mjackson@coxyeats.co.za; Nerissa.pillay@wylie.co.za; afd@wylie.co.za; [Kay Morgan <Kay.Morgan@webberwentzel.com>](mailto:Kay.Morgan@webberwentzel.com)

Subject: RE: Tongaat Hulett Limited (in business rescue) ("THL") and Others // South African Sugar Association and Others ("SASA") [WW-WS_JHB.FID2571882] [IMAN-LITIGATION.FID633068]

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A member of the ILEX Africa Alliance


WERKSMANS
ATTORNEYS

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Dear Sirs

We refer to your letter of today's date.

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We are authorised to accept service of any application foreshadowed in your letter.

Yours faithfully
Werksmans

Simone Gast

Director

+27 11 535 8131 +27 11 535 8566 sgast@werksmans.com

The Central, 96 Rivonia Road, Sandton, Johannesburg, 2196

Private Bag 10015, Sandton, 2146, South Africa

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From: Junaid Nyker <Junaid.Nyker@webberwentzel.com>

Sent: 01 December 2023 12:37 PM

To: [Danny Andropoulos <dandropoulos@werksmans.com>](mailto:Danny.Andropoulos@werksmans.com); [Trevor Boswell <TBoswell@werksmans.com>](mailto:Trevor.Boswell@werksmans.com); [David Hertz <DHertz@werksmans.com>](mailto:David.Hertz@werksmans.com); [Simone Gast <sgast@werksmans.com>](mailto:Simone.Gast@werksmans.com)

Cc: [Lubumba Kamukwamba <Lubumba.Kamukwamba@webberwentzel.com>](mailto:Lubumba.Kamukwamba@webberwentzel.com); [Lara Kahn <Lara.Kahn@webberwentzel.com>](mailto:Lara.Kahn@webberwentzel.com); [Prelisha Singh <Prelisha.Singh@webberwentzel.com>](mailto:Prelisha.Singh@webberwentzel.com); howard.stephenson@gb.co.za; thmaphumulo@justice.gov.za; Andre.liebenberg@gb.co.za; Loryn.liberty@gb.co.za; Olivia.Finnemore@sacanegrowers.co.za; thomas.funke@sacanegrowers.co.za; jsenekal@dankasenekal.com; vsingh@dankasenekal.com; tscheepers@coxyeats.co.za; jrodd@coxyeats.co.za; Imapiki@coxyeats.co.za; mjackson@coxyeats.co.za; Nerissa.pillay@wylie.co.za; afd@wylie.co.za; [Kay Morgan <Kay.Morgan@webberwentzel.com>](mailto:Kay.Morgan@webberwentzel.com); [Max du Plessis <maxduplessis@mac.com>](mailto:Max.duPlessis@mac.com); catherine@thulamelachambers.co.za; [Dugald Robertson <dugaldr@capebar.co.za>](mailto:Dugald.Robertson@dugaldr@capebar.co.za)

Subject: RE: Tongaat Hulett Limited (in business rescue) ("THL") and Others // South African Sugar Association and


GGA

19 Fredman Drive, Sandown 2196
PO Box 784055, Sandton 2146, South Africa
Tel: +27 11 269 3000
Fax: +27 11 269 3116
www.idc.co.za



To:

Trevor John Murgatroyd, N.O

22 Kildoon Road,
Jindal Building
Ground Floor
Bryanston
Email: trevor@metis.co.za

Petrus Francois van den Steen, N.O.

22 Kildoon Road,
Jindal Building
Ground Floor
Bryanston
Email: peter@metis.co.za

Gerhard Conrad Albertyn, N.O.

22 Kildoon Road,
Jindal Building
Ground Floor
Bryanston
Email: gerhard@metis.co.za

Tongaat Hulett Limited (In Business Rescue)

Attention: Johann van Rooyen
Address: Amanzimnyama Hill Road
Tongaat
Kwa-Zulu Natal
4400
Email address: Johann.vanRooyen@tongaat.com

30 November 2023

Dear Sir/s

Tongaat Hulett Limited (in business rescue) Post Commencement Finance: Lender's Approval and Waiver Letter

1. Introduction

1.1 We refer to:

1.1.1 the Post Commencement Finance Facility Agreement entered into on or about 23 December 2022 between, among others, IDC (as Lender), the Borrower and the Business Rescue Practitioners, as amended from time to time, including pursuant

Industrial Development Corporation of South Africa Limited Reg.No. 1940/014201/06

Directors: B A Mabuza (Chairperson), D A Jarvis (Acting Chief Executive Officer), P Mthethwa, L I Bethlehem, N P Mxasana, B Dames, N D B Orleyn, R M Godsell, Dr S Magwentshu-Rensburg, A Kriel

Group Company Secretary: M Kganedi

GMA

to the "PCF Agreement Amending Agreement No 3" entered into on or about 6 October 2023 between IDC (as lender) and the Borrower (as borrower) (the "PCF Facility Agreement"), for the advance of a secured post commencement financing facility by the Lender to the Borrower for R2,300,000,000 (two billion three hundred million Rand);

- 1.1.2 the Business Rescue Practitioners' and the Borrower's request for:
 - 1.1.2.1 us to approve the extension of the Availability Period in terms of clause 2.7 of the PCF Facility Agreement; and
 - 1.1.2.2 consent to extend the Final Repayment Date and a waiver, if and to the extent necessary, of any breach in relation to the Final Repayment Date under the PCF Facility Agreement.
- 1.2 Terms used but not otherwise defined in this letter shall, unless the context otherwise requires, have the meanings given to them in, or incorporated into, the PCF Facility Agreement.
- 1.3 We write to you in our capacity as the Lender.

2. Lender's Approval and Waiver

Without prejudice to any of our rights under the Finance Documents and without limiting any of the Borrower's obligations under the Finance Documents, we hereby approve the extension of the Final Repayment Date from 30 November 2023 to 8 December 2023 and if and to the extent necessary, waive the Borrower's breach under clause 10.1.3 the PCF Facility Agreement and any Event of Default that has occurred as a result of any such breach (the "Lender's Approval and Waiver").

3. Limited Nature of the Waiver

- 3.1 The waiver granted in paragraph **Error! Reference source not found.** above is:
 - 3.1.1 limited strictly to the circumstances expressly stated therein; and
 - 3.1.2 granted on the sole basis of the information provided by the Business Rescue Practitioner and the Borrower to us as at the date of this letter.
- 3.2 Save as expressly set out in paragraph 2 above, no consent in terms of, or waiver of any provision of, any Finance Document is given by the terms of this letter and this letter is issued without prejudice to any our rights under the Finance Documents.

4. General

- 4.1 Save as expressly set out in this letter, we confirm that this letter is issued without prejudice to any of rights of our rights under the Finance Documents.
- 4.2 In accordance with clause 2.41 of the PCF Facility Agreement, this letter is hereby designated as a Finance Document.
- 4.3 If there is any conflict between the provisions of this letter and the provisions of the PCF Facility Agreement, the provisions of this letter shall prevail.
- 4.4 This letter shall be effective on the date on which it is signed by us.

To give us feedback on our service levels, please email your comments to service@idc.co.za

Handwritten signature and initials, possibly 'GGA', in the bottom right corner.

4.5 This letter shall be governed by the laws of the Republic of South Africa.

Yours faithfully

Signed at Sandton on 1 December 2023

INDUSTRIAL DEVELOPMENT CORPORATION OF SOUTH AFRICA LIMITED

(as Lender)

Tutu Bongani Miya
Divisional Executive : Agriculture & Services



Who warrants authority



Who warrants authority

Sunil Kooverjee
Acting Head: Project Development Unit

To give us feedback on our service levels, please email your comments to service@idc.co.za



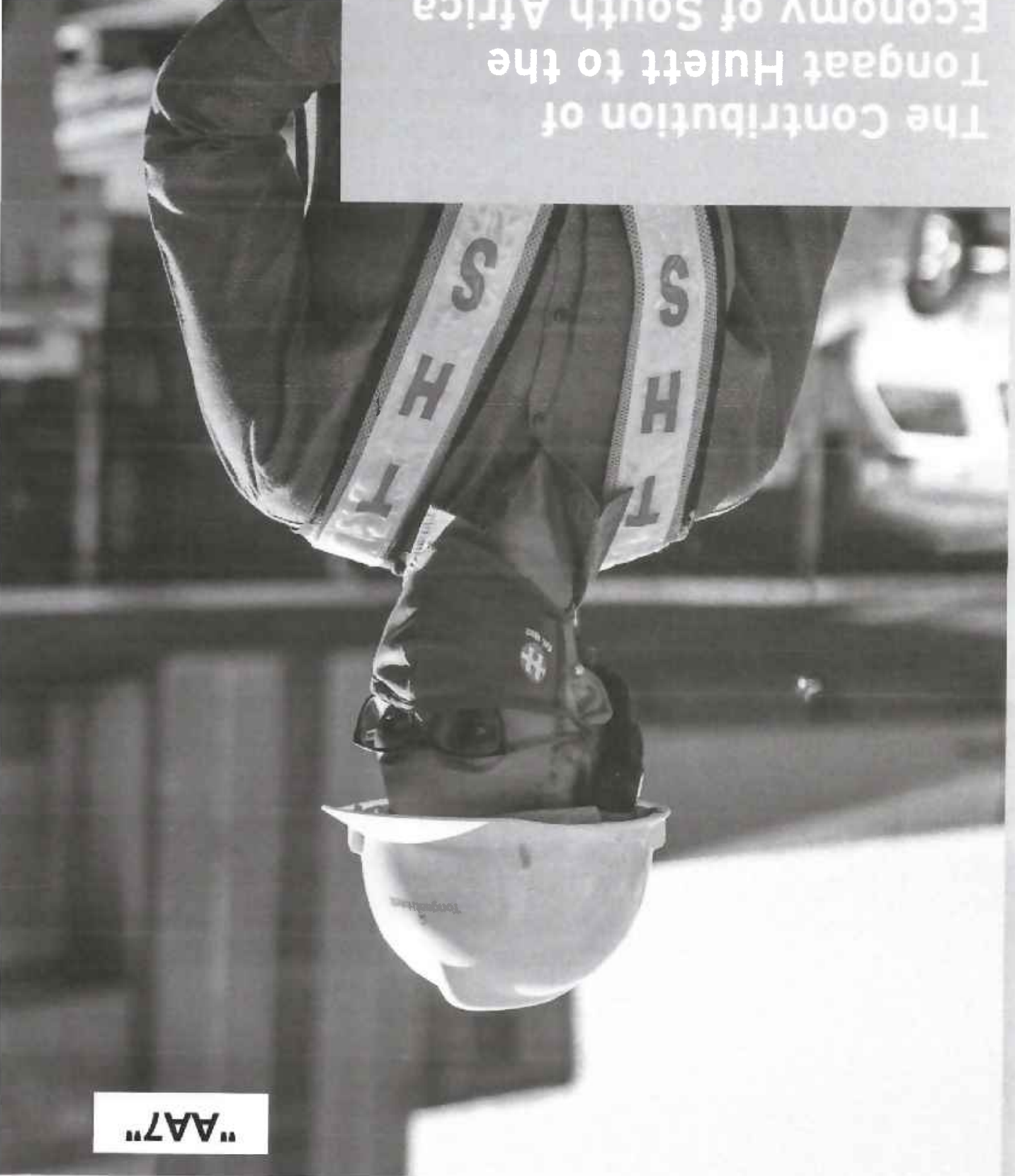
GA



Tongaathulett



The Contribution of
Tongaathulett to the
Economy of South Africa



"AA7"

Economic Impact of SED Spending

Tongaat Hulett South Africa's SED spending also has a multiplier impact in the economy by stimulating output, labour remuneration and like; similar to its operational and capital expenditure. This section summarises the economic impact of the direct SED spending as well as the economy-wide impact on key variables in the economy. The direct impact of the company's SED spending represented:

- Output of R15 million, with an estimated economy-wide impact of R53 million.
- Labour remuneration of R7 million, with an estimated economy-wide impact of R16 million.
- Gross operating surplus of R2 million, with an estimated economy-wide impact of R10 million.
- GDP at market prices of R9 million, with an estimated economy-wide impact of R28 million.
- Taxes of R1 million, with an estimated economy-wide impact of R5 million.
- Household income of R7 million, with an estimated economy-wide impact of R24 million.
- Employment of 69 jobs, with an estimated economy-wide impact of 114 jobs.

Health and welfare

Spending on health and welfare comprised by far the largest SED item in 2021. Through its SED spending Tongaat Hulett South Africa supports individuals and health facilities that provide public health and monitoring services which are vital in the sustainable management and eradication of diseases such as HIV and AIDS. The company also operates clinics at its milling facilities.

Tongaat Hulett South Africa has implemented a comprehensive programme to manage HIV and AIDS over a number of years, including company-sponsored antiretroviral therapy (ART) for employees. While the number of employees making use of these facilities continues to decrease – with the improvement in State facilities employees have moved to state-sponsored programmes – this is nevertheless a testament to Tongaat Hulett South Africa's commitment to improving health and welfare in the areas in which the company operates.

Tongaat Hulett South Africa provided occupational health screenings to employees which have the added benefit of acting as a means of early detection to identify and treat, or manage, underlying conditions which may otherwise not have been found. This was particularly important in the context of COVID-19, where the screening activities helped to manage the response to the pandemic, and also assisted those with underlying conditions to effectively manage and mitigate the risks associated with contracting COVID-19.

Through its SED spending, Tongaat Hulett South Africa not only improves the short-term health and wellbeing of its staff and the greater community, but the long-term improvements in health are vital to community development and far outweigh the initial costs of these interventions.



DELIVERED BY EMAIL

Garlicke & Bousfield Inc
Email: howard.stephenson@gb.co.za
Durban

Attention: H Stephenson

Johannesburg Office
The Central
96 Rivonia Road
Sandton 2196 South Africa
Private Bag 10015
Sandton 2146
Docex 111 Sandton
Tel +27 11 535 8000
Fax +27 11 535 8600
www.werksmans.com

YOUR REFERENCE: TS/jr/050I00400000003
OUR REFERENCE: Mr T Boswell/ Mr D Andropoulos/Mr D Hertz/Ms S Gast /tjb/TONG7430.11/#9876802v1
DIRECT PHONE: +27 11 535 8248
EMAIL ADDRESS: tboswell@werksmans.com/dandropoulos@werksmans.com/dhertz@werksmans.com/sgast@werksmans.com

6 December 2023

Dear Sirs

URGENT APPLICATION

TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) ("THL") AND OTHERS ("our clients") // SOUTH AFRICAN SUGAR ASSOCIATION ("your client") AND OTHERS, CASE NO. D13739/2023

- 1 We refer to your client's application dated 5 December 2023 ("the application") and to the telephone discussion between our Mr Boswell and your Mr Stephenson earlier this afternoon.
- 2 As you are aware, our clients have delivered a notice of intention to oppose the application, and intend to deliver an answering affidavit, but cannot do so before tomorrow's hearing.
- 3 We have been instructed to propose that the hearing of your client's *rule nisi* be adjourned to **Wednesday, 13 December 2023** on the basis that -
 - 3.1 the respondents who opposed the application deliver their answering affidavits to Part A of the application by **12h00 on Monday, 11 December 2023**;
 - 3.2 your client delivers its replying affidavit in your client's *rule nisi* application by **10h00 on Tuesday, 12 December 2023**; and
 - 3.3 the parties will file Heads / Supplemented Heads of Argument by **17h00 on Tuesday, 12 December 2023**.
- 4 If your client agrees to our clients' proposals our client will not oppose an interim order (on a without prejudice basis) Court Order being taken by your client tomorrow that the THL creditors meetings scheduled for Friday, 8 December 2023 be adjourned to **Thursday, 14 December 2023**.

Werksmans Inc. Reg. No. 1990/007215/21 Registered Office The Central 96 Rivonia Road Sandton 2196 South Africa
Directors D Hertz (Chairman) OL Abraham LK Alexander C Andropoulos JKOF Antunes RL Armstrong DA Arreiro K Badal T Bata JD Behr AR Berman P Bhagattjee NMN Bhengu AL Bilaty RE Bonnet HGB Boshoff TJ Boswell MC Brönn W Brown PF Burger HLE Chang PG Cleland JG Cloete PPJ Coetser C Cole-Morgan J Darling R Driman KJ Fyfe S Gast D Gewer JA Gobetz R Gootkin A Govuza GF Gressel N Harduth NA Hlatshwayo J Hollesen MGH Honiball BB Hotz AE Human T Inno HC Jacobs TL Janse van Rensburg G Johannes S July J Kallmeyer A Kenny R Killooran N Kirby HA Kotze S Krige CJ Latha H Laskov P le Roux MM Lessing E Levenstein JS Lochner K Louw JS Lubbe BS Mabasa PK Mabaso DD Magidson MPC Manaka JE Mardon PD Mashalane NT Matshebela JE Meiring H Michael SM Moerane R Moitse C Moraitis PM Mosebo NPA Motsiri L Naidoo K Neluheni JJ Niemand BW Ntuli BPF Olivier WE Oosthuizen Z Oosthuizen S Padayachy M Pansegrouw S Passmoor D Pisanti T Potter AA Pzykowski RJ Raath K Rajah A Ramdhir MDF Rodrigues BR Rootham W Rosenberg NL Scott TA Sibida FT Sikhavhakhavha LK Silberman S Sinden DE Singo JA Smit BM Sono CI Stevens PO Steyn J Stockwell DH Swart PW Tindle SA Tom JJ Truter KJ Trudgeon M Tyfield DN van den Berg AA van der Merwe A van Heerden JJ van Niekerk FJ van Tonder JP van Wyk A Vatalidis RN Wakefield L Watson D Wegierski G Wickins M Wiehahn DC Willans DG Williams E Wood BW Workman-Davies Consultant DH Rabin





5 Please urgently let us have your clients' response to the proposal contained in this letter.

Yours faithfully

A handwritten signature in black ink, appearing to be 'E. G. H.' or similar, written over a horizontal line.

Werksmans Inc

CC: Berkowitz Cohen Wartski Attorneys

EFG Attorneys

EVH Attorneys

A handwritten signature in black ink, appearing to be 'E. G. H.' or similar, written over a horizontal line.

Simone Gast

Begin forwarded message:

From: Lara Kahn <Lara.Kahn@webberwentzel.com>
Date: 06 December 2023 at 16:08:43 SAST
To: Danny Andropoulos <dandropoulos@werksmans.com>
Cc: Kay Morgan <Kay.Morgan@webberwentzel.com>, Prelisha Singh <Prelisha.Singh@webberwentzel.com>, Lubumba Kamukwamba <Lubumba.Kamukwamba@webberwentzel.com>
Subject: RCL / THL BRPs and others

Dear Danny

We refer to your proposal that our client's application be adjourned to next week Wednesday, that you deliver an answering affidavit by Monday 12pm and that our client reply by Tuesday 10am, with Heads to be exchanged on Wednesday at 9:30am, to which we have been instructed to reply as follows:

1. Your proposal is rejected;
2. The extreme urgency and alleged lack of fair notice is entirely of your client's own making;

We are proceeding tomorrow. We will agree to move Part A of our application by consent and then to an early, urgent hearing of Part B of our application.

Kind Regards

Lara

Lara Kahn | Partner | Webber Wentzel

T:+27214317283 | M:+27832999941 | lara.kahn@webberwentzel.com | www.webberwentzel.com

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**B-BBEE
LEVEL 1
CONTRIBUTOR**

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