



**ADOPTED AMENDED BUSINESS RESCUE PLAN INCLUDING  
AMENDMENTS PROPOSED AND APPROVED AT MEETING OF  
CREDITORS ON 11 JANUARY 2024  
(VISION TRANSACTIONS)  
(MARKED UP VERSION)**

prepared in terms of section 150 of the Companies Act 71 of 2008

in relation to

**TONGAAT HULETT LIMITED  
(IN BUSINESS RESCUE)**

prepared by the Joint Business Rescue Practitioners

**As originally published on 29 November 2023 including amendments  
as approved and adopted on 11 January 2024**

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## **CHAPTER 1 – INTRODUCTION**

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### **1. Structure of the Business Rescue Plan**

In accordance with section 150(2) of the Companies Act, this Business Rescue Plan is divided into several chapters.

#### 1.1. Chapter 1 – Introduction

This chapter sets out general information about the Business Rescue Plan, the meaning of defined terms, and contains an executive summary of the Proposals put forward in terms of this Business Rescue Plan.

#### 1.2. Chapter 2 – Proposals

This chapter contains the Proposals in terms of the Business Rescue Plan and is comprised of several sub-parts.

##### 1.2.1. Part A – Background

This part sets out background information on the Company, the circumstances that resulted in the Company's Financial Distress and the events leading to the commencement of the Company's Business Rescue.

##### 1.2.2. Part B – Proposals

This part describes the Proposals to Affected Persons and the benefits and risks of Adopting the Business Rescue Plan.

##### 1.2.3. Part C – Assumptions and Conditions

This part sets out the conditions that must be fulfilled and the assumptions applied in respect of the Business Rescue Plan.

#### 1.3. Chapter 3 – General

This chapter sets out administrative and general matters pertaining to the Business Rescue and the Business Rescue Plan and deals, amongst other things, with potential amendments to the Business Rescue Plan and the

mandatory Dispute Mechanism to be employed to resolve disputed matters relating to this Business Rescue Plan.

1.4. Chapter 4 – Conclusion and BRPs Certificates

This chapter contains the BRPs' recommendation and the confirmatory certificate that is required to accompany the Business Rescue Plan.

**2. Executive Summary**

2.1. Capitalised terms and/or expressions used in this Executive Summary shall have the meanings assigned to them below in paragraph 3.

2.2. The BRPs have been advised that the Vision Parties will upon, and after, the Adoption of this Business Rescue Plan acquire the Claims and security held by the Lender Group. In this regard, the Vision Parties have a substantial cash deposit available for payment to the Lender Group and, if the Business Rescue Plan is approved, the Vision Parties will finalise the acquisition of the Lender Group's Claims. The Lender Group and the BRPs have received proof that the substantial cash deposit (referred to above) is held in a bank account in South Africa. ~~Vision Parties have sufficient cash to execute the contemplated transaction as per the Business Rescue Plan.~~ The BRPs are advised by the Vision Parties that know your client ("KYC") and Financial Intelligence Centre Act ("FICA") requirements have been complied with. The Vision Transaction does not involve, nor is it dependent on, financing to be provided by the Public Investment Corporation ("PIC").

2.3. The key feature of this Business Rescue Plan, pursuant to its Adoption and implementation, is the acquisition by the Vision Parties of the substantial Lender Group Claims (as noted above) and the subsequent conversion by the Vision Parties of a material portion of such Claims into new equity in THL ("**the Vision Transactions**"). This, together with the other Proposals put forward in this Business Rescue Plan, will result in (inter alia):

- 2.3.1. the continued trading of THL substantially in its pre-Commencement Date composition. In this regard it is noted that THD will remain a subsidiary of THL, subject to the implementation of THD's business rescue plan;
  - 2.3.2. the recapitalisation of the THL balance sheet through the Proposals put forward in this Business Rescue Plan, in particular the conversion by the Vision Parties of a material portion of the former Lender Group Claims into equity; and
  - 2.3.3. the continued listing of THL on the JSE, albeit with current Shareholders becoming minority shareholders and the Vision Parties in aggregate holding the bulk of the listed shares in the Company following the abovementioned debt to equity conversion.
- 2.4. The strategy to be adopted by the BRPs in the execution of this Business Rescue Plan, in summary, is to:
- 2.4.1. implement and complete the Vision Transactions;
  - 2.4.2. continue to run the operations of the THL businesses until completion of the Vision Transactions and the completion of the parallel business rescues of THD, THSSA and Voermol;
  - 2.4.3. secure working capital facilities, in the form of ongoing PCF (without any obligation on the part of the IDC to increase or extend its existing PCF advanced to the Company), sufficient to fund the THL businesses for the duration of the Business Rescue process;
  - 2.4.4. continue the process of business improvement which, may include some degree of rationalisation of the cost base of the THL operations and head office (which process may include some employee retrenchments);

- 2.4.5. resolve the current dispute with SASA in relation to the payment obligations owing by THL to SASA arising after commencement of Business Rescue (i.e. from 28 October 2022);
  - 2.4.6. oversee the parallel business rescues of THD, THSSA and Voermol;
  - 2.4.7. engage with and renegotiate to the satisfaction of IDC or any other third-party, and service in the normal course of business, any working capital facility approved and advanced by IDC or any other third party to the Company as PCF (it being recorded that no obligation exists on the part of the IDC to increase or extend its existing PCF advanced to the Company); and
  - 2.4.8. to the extent possible, make payment (in full or in part) in relation to all remaining claims held by the Company's Creditors as contemplated in this Business Rescue Plan. For the avoidance of doubt, where there are insufficient or no funds available for Distribution(s) or other means in respect of any payment against any Claim against the Company, the residual Claim that remains unpaid will become Unenforceable against the Company. This does not apply to the payment arrangement agreed to in relation to SASA nor to the R75m to be made available to Unsecured Creditors.
- 2.5. If approved and successfully implemented as contemplated herein, this Business Rescue Plan will result in:
- 2.5.1. the rescue of the Company (or as an alternative, the business of the Company) which will continue in business – albeit under new ownership;
  - 2.5.2. the avoidance of a major humanitarian and financial catastrophe in the KZN region in general, and in the sugar supply chain in particular as outlined in more detail in paragraph 9.3.5;



- 2.5.3. the opportunity for new jobs to be created as the business grows under new ownership with Vision Parties as SEPs;
- 2.5.4. the implementation of a partial debt-for-equity swap by the Vision Parties subscribing for new shares in the Company that would result in the Vision Parties collectively owning 97.3% of the total issued share capital of the Company. The consideration for such subscription will be c.R4.1bn based on current balances which will be discharged by a reduction in the former Lender Group Claims against THL (those purchased by the Vision Parties) to c.R3.6bn;
- 2.5.5. in addition to the c.R1.3bn already paid to various critical suppliers (see below), the Vision Parties have agreed to (either by making a loan to THL or otherwise ensuring THL is able to so) THL paying an amount of R75m as a Distribution to Unsecured Creditors, pro-rata to their respective Claims. Such Distribution is to be made subsequent to full implementation of the Vision Transactions;
- 2.5.6. a positive outcome for Unsecured Creditors. In this regard it is noted that in liquidation Unsecured Creditors would be anticipated to receive nil. Equally so – without the abovementioned amount being made available by the Vision Parties – Unsecured Creditors would be anticipated to receive nil in this business rescue;
- 2.5.7. existing Shareholders retaining an interest of 2.7% of the equity in THL with its positively recapitalised balance sheet. In this regard, it is noted that in liquidation shareholders would have been anticipated to receive nil. Equally so, in an alternatively structured transaction (the sale of the assets of THL to the Vision Parties), shareholders would again be anticipated to receive nil. Consequently, this proposal results in positive value accruing to shareholders through the retention of their shareholdings and

becoming minority shareholders in the still-listed, post-recapitalisation, Vision Parties-controlled THL;

- 2.5.8. a portion or the entire amount of the IDC PCF Facility is to be secured in a working capital facility which is sufficient to fund the working capital requirements of the Company for at least the duration of the Business Rescue proceedings, and thereafter it would be the goal of the Vision Parties to secure working capital facilities into the future beyond the Adoption and subsequent implementation of this Business Rescue Plan; and
  - 2.5.9. THL retaining its listing on the JSE.
- 2.6. Subsequent to the Adoption of this Business Rescue Plan, in the event of, for whatever reason, a failure to secure the consents and/or approvals required in order for the proposed issue of new THL shares to the Vision Parties to be effected, this Business Rescue Plan contemplates in substitution that the currently proposed Vision Transactions will be switched from transactions contemplating a new issue of THL shares to transactions contemplating the acquisition by the Vision Parties of all of THL's assets and businesses (as going concerns) (see paragraph 6.1.7 below).
- 2.6.1. Whilst employees, Unsecured Creditors and Secured Creditors would be largely unaffected by such a change, once it has sold its assets and businesses (leaving THL as an empty shell), THL will be delisted from the JSE and liquidated, resulting in its shares (those held by existing Shareholders) having nil value.
- 2.7. Once this Business Rescue Plan has been approved, Adopted and implemented in accordance with Chapter 6 of the Companies Act, including payment of the Distributions as provided for, any residual Creditor Claims will become Unenforceable, other than as specifically provided for in this Business Rescue Plan.

- 2.8. Affected Persons have been provided with two alternative business rescue plans (including this one) for their consideration and both such business rescue plans will be placed before a meeting of Creditors for approval of the proposed amendments, and if so approved thereafter for the approval and Adoption of one of the business rescue plans. Should either the first or the second business rescue plans not be approved, then the provisions of section 153 of the Companies Act will apply, with the variable outcomes contemplated in section 153(1).
- 2.9. Affected Persons are referred to Annexure **A** of this Business Rescue Plan which sets out the Claims that the BRPs have accepted and/or recognised, as well as the status assigned to Creditors.
- 2.10. If any Creditor disputes its status and/or Claim as reflected in this Business Rescue Plan, such Creditor is directed to paragraphs 5.3.7 and 16 of this Business Rescue Plan.
- 2.11. Creditors each have a Voting Interest equal to the value of their Claims, as accepted and/or recognised by the BRPs as set out in Annexure **A** (see paragraph 5.3.8).
- 2.12. For the Business Rescue Plan to be Adopted it must be supported by the holders of more than 75% of the Creditors' Voting Interests that were voted, **and** the votes in support of the Business Rescue Plan must include at least 50% of the Independent Creditors' Voting Interests, if any, that were voted.
- 2.13. As this Business Rescue Plan does not alter the rights of the holders of any class of the Company's securities, Shareholders are neither required nor entitled to vote on the plan in order for the plan to be Adopted.
- 2.14. Ad hoc meetings with certain Shareholders and their representatives have taken place since the commencement of business rescue proceedings with the aim of constructively engaging with information sharing and solution

seeking (under non-disclosure). In addition, a formal shareholders engagement meeting was held 26<sup>th</sup> September 2023, with the aim of informing Shareholders and engaging with them about the proposed business rescue plan and the impact thereof on their interests and consulting with the wider shareholder body in that regard.

- 2.15. Prior to the publication of this Business Rescue Plan the Lender Group held security over all material assets of the Company including, without limitation, a reversionary cession in security in respect of those assets over which IDC has prior ranking security as a PCF Lender; and would, in the absence of the Proposals contemplated in this Business Rescue Plan, likely be the recipients of most, if not all, Distributions arising from liquidation or any alternative proposals.
- 2.16. Upon, and after the Adoption of this Business Rescue Plan, the Vision Parties will acquire the Claims and security of the Lender Group (see paragraph 2.2 above) and will be substituted as the Secured Creditor.
- 2.17. In endeavouring to balance the rights of all stakeholders following the principles set out in section 7(k) of the Companies Act, the BRPs have reached agreement with Vision Parties in terms of which those parties will facilitate a Distribution of R75m in aggregate to the Unsecured Creditors, which Creditors would otherwise realise nil. This concession is coupled with the proposed structure of the Vision Transactions which will result in the Company's Shareholders retaining a 2.7% interest in the recapitalised (and still listed) THL – again noting that without the proposed structure Shareholders would have received nil.
- 2.18. The Vision Parties have accordingly agreed to make available R75m to be paid by THL to Unsecured Creditors following the implementation of the Vision Transactions (as referenced above in paragraph 2.5.5).
- 2.19. A constant factor at play in the execution of this Business Rescue is the enormous social impact that would result from a collapse of, in particular,

the South African sugar businesses, and thus the need to balance this alongside the interests of the other stakeholders in this Business Rescue. The Vision Transactions have at their heart, the intention of relieving THL of its Financial Distress, maintaining the operations of the underlying businesses of THL, building the businesses of THL into the future with the support of the Vision Parties as SEPs, and thus avoiding the otherwise catastrophic social impact that would result from a collapse of THL.

- 2.20. In assessing this Business Rescue Plan, cognisance should be taken of the extent of payments already made to third-party growers and other critical suppliers with pre-Commencement Date Claims. The amount of pre-Commencement Date Unsecured Creditors' Claims paid equates to c.R1.3bn as of 31 October 2023, of which c.R1.1bn related to payments made to cane growers in the interest of keeping the industry as stable as possible. In the absence of Business Rescue, these amounts would merely have been Concurrent Claims with little to no prospect of recovery.
- 2.21. Finally in assessing this Business Rescue Plan, cognisance should be taken of the importance of the role of IDC in providing significant PCF which has been the oxygen and lifeblood of this rescue process, without which it is probable that the liquidation of THL would have ensued. The BRPs have constantly been aware that working capital for this highly seasonal business is critical to its survival – both during the business rescue proceedings and beyond – and have consequently factored this ongoing PCF/working capital requirement into the decision making and processes embarked on in reaching the point of publication of this Business Rescue Plan. Having said that, the BRPs point out that there is no obligation on the part of IDC to increase or extend the terms of its existing PCF advanced to the Company.
- 2.22. For the benefit of the readers of this Business Rescue Plan, the BRPs have compiled a summary (refer to Annexure L) of their views and understanding of the key challenges currently facing the sugar industry and reflect on the challenges faced by THL before and during the Business Rescue process in this regard.

### **3. Interpretation**

- 3.1. In this Business Rescue Plan the following terms and/or expressions shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings;
- 3.1.1. **"Absa Corporate Finance (M&A Advisory)"** means the corporate finance business unit within the Corporate and Investment Banking Division of Absa Bank Limited (registration number: 1986/004794/06), a company registered and incorporated in accordance with the company laws of South Africa;
- 3.1.2. **"Adopted/Adoption/Adopting"** means that a Business Rescue Plan has been finally approved in accordance with section 152(2), read with section 152(3) of the Companies Act;
- 3.1.3. **"Advisors"** means the advisors to the BRPs and the Company, including but not limited to Metis, Matuson, Werksmans, BSM, Tenurey BSM, BDO and the advisors' respective officers, representatives, and employees;
- 3.1.4. **"Affected Person/s"** shall bear the meaning ascribed thereto in section 128(1)(a) of the Companies Act, being the Company's Shareholders, Creditors, employees and Trade Unions;
- 3.1.5. **"Agricultural Land"** means the c.11 300 hectares of agricultural land, owned by the Company, predominantly located along the north coast of KwaZulu-Natal, the majority of which is under sugarcane farming and which property is leased out to third parties with supply agreements in place to cater for the delivery of sugarcane to the Company (refer to Annexure **E**);

- 3.1.6. “**AFSA**” means the Arbitration Foundation of Southern Africa;
- 3.1.7. “**Agency Agreements**” means various written legal agreements, entered into by the Company and certain of its subsidiaries, which entail one or more subsidiaries acting as the agent for an undisclosed principal. In all such cases, the ultimate principal is THL, whereby the agent subsidiary conducts(ed) relevant business on behalf of the ultimate principal;
- 3.1.8. “**Albertyn**” means Gerhard Conrad Albertyn a BRP as contemplated in section 128(1)(d) of the Companies Act;
- 3.1.9. “**BDO**” means BDO Business Restructuring Proprietary Limited (registration number: 2002/025164/07), a company registered and incorporated in accordance with the company laws of South Africa;
- 3.1.10. “**Board**” means the board of directors of the Company as at the Publication Date as set out in paragraph 5.2;
- 3.1.11. “**BRPs**” means the joint business rescue practitioners of the Company, being van den Steen, Murgatroyd and Albertyn;
- 3.1.12. “**BSM**” means BSM Advisory Proprietary Limited (registration number: 2019/457342/07), a company registered and incorporated in accordance with the company laws of South Africa;
- 3.1.13. “**Business Day**” means any day other than a Saturday, Sunday, or official public holiday in South Africa;
- 3.1.14. “**Business Rescue**” means the business rescue proceedings of the Company conducted in terms of Chapter 6 of the Companies Act;

- 3.1.15. "**Business Rescue Costs**" means all relevant costs incurred in the execution of this Business Rescue, including the remuneration, expenses, disbursements and fees of the BRPs and of their Advisors;
- 3.1.16. "**Business Rescue Plan**" means this document together with all of its annexures, as amended from time to time in accordance with the Companies Act, and prepared in accordance with section 150 of the Companies Act;
- 3.1.17. "**CIPC**" means the Companies and Intellectual Property Commission, established in terms of section 185 of the Companies Act;
- 3.1.18. "**Claims**" means all actual and/or alleged monetary claims against the Company including claims which are disputed, contingent, conditional, liquidated, or unliquidated (including claims for damages), the cause of action in respect of which arose prior to or after the Commencement Date and/or under section 136(3) of the Companies Act;
- 3.1.19. "**Closing Date**" means the date of fulfilment of the last of the conditions precedent needing to be fulfilled in relation to the definitive agreements to be concluded in relation to the Vision Transactions;
- 3.1.20. "**Commencement Date**" means 27 October 2022, being the date upon which Business Rescue commenced in accordance with section 129 of the Companies Act;
- 3.1.21. "**Company**" or "**THL**" means Tongaat Hulett Limited (registration number: 1892/000610/06)), a public company incorporated in accordance with the laws of South Africa, listed on the JSE, which



shares are currently suspended from trading, at present under Business Rescue;

- 3.1.22. "**Companies Act**" means the Companies Act 71 of 2008, as amended, including the regulations promulgated thereunder;
- 3.1.23. "**Competition Act**" means the Competition Act 89 of 1998, as amended, including the regulations promulgated thereunder;
- 3.1.24. "**Competition Commission**" means the Competition Commission as constituted in the Competition Act;
- 3.1.25. "**Concurrent Claim**" means any Claim (other than a Disputed Claim) which is unsecured and which does not enjoy a statutory preference as envisaged in the Companies Act;
- 3.1.26. "**Creditor**" means any creditor, including without any limitation, PCF Lenders, Disputed Creditors and contingent Creditors, with a monetary Claim against the Company;
- 3.1.27. "**Disputed Claim**" – means any Claim where the existence, value, class of the Claim or security in respect of a Claim is disputed by the BRPs and/or by an Affected Person;
- 3.1.28. "**Disputed Creditor**" means a Creditor with a Disputed Claim;
- 3.1.29. "**Dispute Mechanism**" means the dispute resolution mechanism set out in paragraph 16;
- 3.1.30. "**Distributions**" means a transfer of money or other property of the Company, including its own shares, made to Creditors in respect of their approved Claims as provided for in this Business Rescue Plan, including any deemed Distributions as contemplated in this Business Rescue Plan;

- 3.1.31. **“Financially Distressed”** or **“Financial Distress”** shall bear the meaning ascribed thereto in section 128(1)(f) of the Companies Act;
- 3.1.32. **“Gledhow”** means Gledhow Sugar Company Proprietary Limited (in business rescue);
- 3.1.33. **“Gledhow s175 Claim”** means the claim of SASA against THL in respect of the special levy under clause 175 of the SI Agreement in respect of Gledhow in the amount of R97,015,921;
- 3.1.34. **“High Court”** means the High Court of South Africa;
- 3.1.35. **“IDC”** means Industrial Development Corporation of South Africa Limited (registration number 1940/014201/06), a company registered and incorporated in accordance with the laws of South Africa;
- 3.1.36. **“IDC PCF Facility”** means the PCF loan facility provided by the IDC to the Company in an initial principal amount of R1.2bn on or about 23 December 2022, the principal amount of which facility:
- 3.1.36.1. was increased to R1.725bn on or about 28 July 2023;
- 3.1.36.2. was increased to R2.3bn on or about 5 October 2023,
- and the principal amount of which facility may increase to approximately R2.6bn as contemplated by paragraph 5.3.5.7 below;
- 3.1.37. **“IDC Security”** means the first-ranking security cession of bank accounts and trade debtors and encumbrance over all inventories (and any related insurance claims) held by IDC to secure the IDC PCF Facility;

- 3.1.38. **"Independent Creditor"** means a Creditor, with a Claim as accepted and/or recognised by the BRPs, to whom the definition in section 128(1)(g) of the Companies Act applies;
- 3.1.39. **"Insolvency Law"** means the Insolvency Act 24 of 1936, as amended and Chapter 14 of the Companies Act 61 of 1973, read with item 9 of Schedule 5 of the Companies Act;
- 3.1.40. **"Kagera Sugar"** or **"Kagera"** means Kagera Sugar Limited (incorporation number 5036), a limited liability company registered and incorporated in accordance with the laws of Tanzania;
- 3.1.41. **"Lender Group"** means the group of lenders to the Company, all of whom are Secured Creditors, including The Standard Bank of South Africa Limited (acting through its Corporate and Investment Banking division), Absa Bank Limited, FirstRand Bank Limited (acting through its Rand Merchant Bank division), Investec Bank Limited (acting through its Investment Banking Division, Corporate Solutions), Investec Bank Limited (acting through its Corporate and Institutional Banking division), The Land and Agricultural Development Bank of South Africa, Sanlam Life Insurance Limited (acting through its Sanlam Specialised Finance Markets division), Sanlam Investment Management Proprietary Limited (acting on behalf of its third party clients), Sanlam Life Insurance Limited (acting through its Sanlam Investment Management division), Sanlam Specialised Finance Proprietary Limited, Momentum Metropolitan Life Limited, Nedbank Limited, and Ashburton Fund Managers Proprietary Limited (acting on behalf of its clients);
- 3.1.42. **"LRA"** means the Labour Relations Act 66 of 1995, as amended;
- 3.1.43. **"Management"** means the management team of the Company who have been responsible for managing the day-to-day operations

of the Company from the Commencement Date under the supervision and authority of the BRPs;

- 3.1.44. **"Matuson"** means Matuson and Associates Proprietary Limited (registration number 2009/008967/07) a limited liability company registered and incorporated in accordance with the laws of South Africa;
- 3.1.45. **"Meeting"** means the virtual meeting to be held in terms of section 151 of the Companies Act on Wednesday 10 January 2024 at 08:00am for the purpose of considering and if deemed appropriate amending or voting on this Business Rescue Plan;
- 3.1.46. **"Metis"** means Metis Strategic Advisors Proprietary Limited (registration number 2015/220685/07) a limited liability company registered and incorporated in accordance with the laws of South Africa;
- 3.1.47. **"Mills"** means the Company's three operational sugar mills in South Africa, being the mills located in Amatikulu, Felixton and Maidstone;
- 3.1.48. **"Murgatroyd"** means Trevor John Murgatroyd a BRP as contemplated in section 128(1)(d) of the Companies Act;
- 3.1.49. **"PCF"** means post commencement finance obtained by the Company from a PCF Creditor or PCF Lender as contemplated in section 135(2) of the Companies Act;
- 3.1.50. **"PCF Creditor"** means a Creditor, authorised and accepted as such by the BRPs, from whom the Company has obtained PCF during the Business Rescue;
- 3.1.51. **"PCF Employee"** means any employee of the Company who rendered services to the Company and is owed any remuneration,

reimbursement for expenses or other amount of money relating to employment that became due and payable during the Business Rescue as contemplated in section 135(1) of the Companies Act;

- 3.1.52. "**PCF Lenders**" means any/all financier(s) advancing PCF to the Company, it being recorded that as at the Publication Date, IDC and GuardRisk are the only PCF Lenders;
- 3.1.53. "**PIC**" means the Public Investment Corporation SOC Limited;
- 3.1.54. "**Proposals**" means the proposals set out in Chapter 2 of this Business Rescue Plan;
- 3.1.55. "**Publication Date**" means the date on which this Business Rescue Plan is published to Affected Persons in terms of section 150(5) of the Companies Act, being **29 November 2023**;
- 3.1.56. "**Rand**" or "**R**" or "**ZAR**" means the lawful currency of South Africa;
- 3.1.57. "**Refinery**" means the Company's central sugar refinery located in Durban, KwaZulu-Natal;
- 3.1.58. "**Rejection Date**" means the date on which a Claim is rejected by the BRPs in accordance with the provisions of this Business Rescue Plan;
- 3.1.59. "**RGS**" means RGS Group Holdings Limited (registration number C134230 – C2/GBL) a company registered and incorporated in accordance with the laws of Mauritius;
- 3.1.60. "**SARS**" means the South African Revenue Services;
- 3.1.61. "**SA Sugar**" means the Company's South African sugar operations comprising of the following divisions: Agricultural Land; the Mills;

Darnall sugar mill; cane procurement and cane supply management; trademarks and other intellectual property, marketing, sales and distribution; the Refinery; and Voermol animal feeds division;

3.1.62. **"SASA"** means the South African Sugar Association (registration number 1915/00023/00), an association incorporated in terms of section 2 of the Sugar Act 1978;

3.1.63. **"SASEXCOR"** means the S.A. Sugar Export Corporation (Pty) Ltd;

~~3.1.64. **"SASEXCOR Export Proceeds Receivable"** means export proceeds payable by SASEXCOR to THL in an aggregate amount of ZAR828,365,605 the payment of which to THL has been withheld by SASEXCOR on the basis that SASA has alleged that THL has not made payment of its redistribution levies to SASA;~~

~~3.1.65.~~3.1.64. **"Secured Creditor"** means a Creditor who holds security for a Claim against the Company in terms of Insolvency Law;

~~3.1.66.~~3.1.65. **"Securities"** means any shares or other similar instruments, irrespective of their form or title, issued or authorised to be issued by a company, as defined in the Companies Act;

~~3.1.67.~~3.1.66. **"Shareholder"** means a shareholder, as defined in section 1 of the Companies Act, of the Company;

~~3.1.68.~~3.1.67. **"South Africa"** means the Republic of South Africa;

~~3.1.69.~~3.1.68. **"Strategic Equity Partners" or "SEPs"** means potential strategic equity partners/investors in the Company and/or the THL Group and/or the potential acquirer of SA Sugar, THL Zimbabwe, THL Botswana and THL Mozambique and/or the potential acquirer of SA Sugar only;

~~3.1.70.~~3.1.69. **“Substantial Implementation Date”** means the date upon which the BRPs file a notice of substantial implementation of the Business Rescue with the CIPC, which filing will be made in the BRPs’ sole and absolute discretion, as envisaged in paragraph 13;

~~3.1.71.~~3.1.70. **“Sugar Act”** means the Sugar Act, 1978;

~~3.1.72.~~3.1.71. **“Tax”** includes any tax, imposition, levy, duty, charge, fee, deduction or withholding of any nature (including securities transfer tax and stamp, documentary, registration, or other like duty) and any interest, penalty or other amount payable in connection therewith, which is lawfully imposed, levied, collected, withheld or assessed under the laws of South Africa or any other relevant jurisdiction and **“Taxes”**, **“Taxation”** and other cognate terms shall be construed accordingly;

~~3.1.73.~~3.1.72. **“THA”** means Tongaat Hulett Acucareira de Mozambique, S.A. (registration number 100264501), a company duly incorporated in accordance with the laws of Mozambique;

~~3.1.74.~~3.1.73. **“THD”** means Tongaat Hulett Developments Proprietary Limited (registration number: 1981/012378/07), a private company with limited liability incorporated in accordance with the laws of South Africa, at present in Business Rescue;

~~3.1.75.~~3.1.74. **“THL Botswana”** means Tongaat Hulett (Botswana) Proprietary Limited (registration number: 5032), a private company with limited liability incorporated in accordance with the laws of Botswana;

~~3.1.76.~~3.1.75. **“THL Group”** means THL and each of its subsidiaries, joint ventures and associated companies;

~~3.1.77.~~3.1.76. **“THL Mozambique”** means all THL’s direct and indirect shares in its subsidiaries operating in the Republic of Mozambique and operating in accordance with the laws of Mozambique as set out in Annexure **C**;

~~3.1.78.~~3.1.77. **“THL Zimbabwe”** means all THL’s direct and indirect shares in its subsidiaries operating in the Republic of Zimbabwe and operating in accordance with the laws of Zimbabwe as set out in Annexure **C**;

~~3.1.79.~~3.1.78. **“THSSA”** means Tongaat Hulett Sugar South Africa Limited (registration number: 1965/000565/06), a private company with limited liability incorporated in accordance with the laws of South Africa, at present in Business Rescue;

~~3.1.80.~~3.1.79. **“Trade Unions”** means UASA – The Union (**“UASA”**), The Association of Mineworkers and Construction Union (**“AMCU”**) and the Food and Allied Workers Union (**“FAWU”**);

~~3.1.81.~~3.1.80. **“Unenforceable”** means the inability to enforce any and all Claims against the Company, as envisaged in section 154 and/or as read with section 152 of the Companies Act, upon the Adoption and implementation of the Business Rescue Plan;

~~3.1.82.~~3.1.81. **“Unsecured Creditors”** means all Creditors with Concurrent Claims against the Company;

~~3.1.83.~~3.1.82. **“van den Steen”** means Petrus Francois van den Steen a BRP as contemplated in section 128(1)(d) of the Companies Act;

~~3.1.84.~~3.1.83. **“VAT”** means the value-added tax levied in terms of the Value-Added Tax Act 89 of 1991, as amended;



~~3.1.85.~~3.1.84. **“Vision Parties”** means a grouping made up of the following participants: Terris AgriPro (Mauritius) (registration number: 171903 GBC), registered and incorporated in Mauritius; Remoggo (Mauritius) PCC (registration number 117836 C1/GBL), a fund registered and incorporated in accordance with the laws of Mauritius; Guma Agri and Food Security Ltd (Mauritius) (registration number: C192979), registered and incorporated in Mauritius; and Almoiz NA Holdings Ltd (registration number:67410836) registered and incorporated in accordance with the laws of the United Arab Emirates;

~~3.1.86.~~3.1.85. **“Vision Transactions”** means the acquisition by the Vision Parties of the substantial Claims and security previously held by the Lender Group and the subsequent conversion by the Vision Parties of a portion of such Claims into new equity in THL;

~~3.1.87.~~3.1.86. **“Voermol”** means Voermol Feeds Proprietary Limited (registration number 1936/007892/07), a private company with limited liability incorporated in accordance with the laws of South Africa, at present in Business Rescue;

~~3.1.88.~~3.1.87. **“Voting Interest”** means a voting interest as defined by section 128(1)(j) of the Companies Act, calculated on the value of a Creditor’s Claim as accepted and/or recognised by the BRP per this Business Rescue Plan;

~~3.1.89.~~3.1.88. **“Werksmans”** means Werksmans Incorporated (registration number: 1990/007215/21), a firm of attorneys practising as such at The Central, 96 Rivonia Road, Sandton, 2196.

3.2. Paragraph headings in this Business Rescue Plan are for the purpose of convenience and reference only and shall not be used in the interpretation of, nor modify or amplify the terms of this Business Rescue Plan or any paragraph hereof, unless a contrary intention clearly appears.

- 3.3. Words importing:
- 3.3.1. any one gender includes the other gender;
  - 3.3.2. the singular includes the plural and vice versa; and
  - 3.3.3. a natural person includes an artificial or juristic person and vice versa ("**Person**").
- 3.4. Any reference to any statute, regulation or other legislation in this Business Rescue Plan shall be a reference to that statute, regulation, or other legislation as at the Publication Date, and as amended or substituted from time to time.
- 3.5. Any reference in the Business Rescue Plan to any other agreement or document shall be construed as a reference to such other agreement, as may from time to time be amended, varied, novated, or supplemented.
- 3.6. If any provision in a definition in this Business Rescue Plan is a substantive provision conferring a right or imposing an obligation on any person or entity then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this Business Rescue Plan.
- 3.7. Where any term is defined in this Business Rescue Plan within a particular paragraph other than this paragraph 3, that term shall bear the meaning ascribed to it in that paragraph wherever it is used in this Business Rescue Plan.
- 3.8. Where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day, if the last day of such number so calculated falls on a day

which is not a Business Day, the last day shall be deemed to be the next succeeding day which is a Business Day.

- 3.9. Any reference to days (other than a specific reference to Business Days), months or years shall be a reference to calendar days, months or years, as the case may be.
- 3.10. Words or terms that are capitalised and not otherwise defined in the body of this Business Rescue Plan (excluding capitalised words or terms used for the purpose of headings or tables) shall bear the meaning assigned to them in the Companies Act.
- 3.11. The use of the word "**including**", "**includes**" or "**include**" followed by specific examples shall not be construed as limiting the meaning of the general wording preceding it and *the eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific examples.
- 3.12. To the extent that any provision of this Business Rescue Plan is ambiguous, it is to be interpreted in a manner that is consistent with the purposes of the business rescue provisions in Chapter 6 of the Companies Act.
- 3.13. Unless otherwise stated, all references to sections are references to sections in the Companies Act.
- 3.14. All information provided in the Business Rescue Plan is reflected as at the Publication Date, unless otherwise indicated in the Business Rescue Plan.

#### **4. Disclaimer**

- 4.1. The BRPs in the preparation of this Business Rescue Plan have relied on information obtained from the books and records of the Company, meetings held with relevant persons including the Company's directors, Management, staff, suppliers, clients, Advisors and other service providers of the Company,

and studies and reports commissioned from various technical and other professional advisors in connection with the affairs of the Company.

- 4.2. Whilst the BRPs have made efforts to ensure the accuracy of the information contained herein, it should be noted that the BRPs investigations have been limited in nature due to:
  - 4.2.1. the time constraints placed on the BRPs by the Companies Act and Creditors;
  - 4.2.2. pressure from Affected Persons to affect a reasonably paced rescue;
  - 4.2.3. limited financial and human resources available to the Company; and
  - 4.2.4. the state of affairs of the Company; and
  - 4.2.5. the non-completion of annual financial statement audits as at the date of Publication.
- 4.3. The BRPs have not carried out an audit of the Company's documents and/or records, nor have they had adequate opportunity to independently verify all information provided to them by the Company and/or relevant third parties.
- 4.4. This Business Rescue Plan contains forecast financial information that is not drafted in terms of the JSE Listings Requirements. This disclaimer is provided to clarify the nature and limitations of the information contained in this Business Rescue Plan.
- 4.5. By accessing and reviewing this Business Rescue Plan, you acknowledge and accept the above disclaimer. It is important to exercise caution and diligence when considering the contents of this Business Rescue Plan and to consult with relevant experts and advisors as necessary. The Company disclaims any liability for any loss or damage resulting from the use or reliance on the

information contained herein. It is important to note the information and forecasted data of this Business Rescue Plan have not been reviewed or audited by the Company's external auditor.

- 4.6. JSE Listings Requirement: The forecast financial information presented in this Business Rescue Plan has been prepared in accordance with section 150 of the Companies Act, but has not been prepared in accordance with the JSE's Listings Requirements. Therefore, it does not meet the specific reporting and disclosure standards set forth by the JSE.
- 4.7. Nothing contained in the Business Rescue Plan shall constitute any form of legal or other advice to any Affected Person, and the BRPs do not make any representations in respect thereof.
- 4.8. The BRPs have not independently assessed the forecast value of THL post the implementation of this Business Rescue Plan beyond satisfying themselves that the Proposals will result in a reasonable prospect of THL being rescued and trading successfully after implementation of the Plan and the Proposals.
- 4.9. Neither the BRPs nor their Advisors shall be responsible for any acts taken by (or omissions arising from) any Affected Persons' reliance on this Business Rescue Plan.
- 4.10. Affected Persons are advised and encouraged to consult with their own independent attorney, accountant, or other professional advisor in respect of this Business Rescue Plan should they so wish or require.

## CHAPTER 2 – BACKGROUND AND PROPOSALS

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### 5. PART A – Background

#### 5.1. Holding Company:

5.1.1. The Company is a public company listed on the Johannesburg Stock Exchange and is the parent company (directly or indirectly) of numerous entities. An organogram of the group of entities is contained in Annexure C.

#### 5.2. Directors of the Company:

5.2.1. As at the Publication Date, the executive directors of the Company, according to the CIPC, were Dan Marokane (acting Chief Executive Officer) and Robert Aitken (Chief Financial Officer).

#### 5.3. Company Information:

Financial Year End	31 March
Registered Business Address	Amanzimnyama Hill Road Tongaat KwaZulu-Natal 4400
Postal Address	P O Box 3 Tongaat KwaZulu-Natal 4400
Business Telephone Number	+27 (32) 439 4000
Auditors	Ernst & Young

#### 5.3.1. Company Background:

5.3.1.1. The Company is part of the THL Group which is an agri-processing business with a c.130-year history and a

strong socio-economic legacy in Southern Africa. The THL Group has operations in South Africa, Zimbabwe, Mozambique and Botswana which collectively make up the THL Group.

5.3.1.2. Across Southern Africa, the THL Group's operations are of significant scale geographically, economically, and socially, as set out below:

- the THL Group's production facilities have the capacity to crush 12.7 million tons of sugarcane (5.8 million tons provided by third-party growers) to produce 1.5 million tons of raw sugar, 750 000 tons of refined sugar, 400 000 tons of animal feed and 40 million litres of ethanol; and
- at the peak of the sugar season, the THL Group's operations employ more than 23 000 people, support more than 185 000 employment opportunities and provide a livelihood to more than 21 000 farmers (many of whom are small-scale growers).

5.3.1.3. In South Africa, the profile of the Company's sugar operation, property business and head office is set out below:

- the Company's operations are located in the KwaZulu-Natal province in the districts of Ethekwini, Zululand, Umkhanyakude, King Cetswayo, and iLembe;
- the Company's trading activities during the 2023 financial year generated revenue of c.R7.8bn;

- the Company has 5 production facilities with the capacity to crush 5.45 million tons of sugarcane to produce 600 000 tons of raw sugar, 600 000 tons of refined sugar (c.50% of the total South African sugar industry's market requirements) and 400 000 tons of animal feed;
- the Company's ongoing agriculture activities span 11 300 hectares and as such it owns a substantial and valuable land portfolio, of which some 9 600 hectares are considered developable and located within the primary growth corridors of KwaZulu-Natal;
- the Company sources c.91% of its sugarcane from independent farmers, over 15 000 of which are small-scale farmers and co-operatives, and its transformational partnership with Uzinzo Sugar Farming has established the largest black grower in the South African sugar industry;
- a total of c.2 500 people are employed by the Company, with a further c.23 000 indirect employment opportunities created within South Africa. The communities in which the Company operates not only benefit from employment opportunities, but also the Company's socio-economic development initiatives and investments; and
- as identified in an independent assessment of the Company's economic footprint, it has been estimated that arising from the Company's trading



activities during the 2021 financial year, an additional c.R28.8bn of output was produced within the South African economy, contributing c.R11bn to the GDP of South Africa (based on direct, indirect and induced impacts).

5.3.1.4. The current THL Group structure comprises of c.60 subsidiaries and associated companies, however many of the South African and Zimbabwean companies are dormant or investment holding entities with limited trading activity. A detailed group structure is reflected in Annexure **C**. From this it will be noted that certain of the legal entities trade as divisions of the Company pursuant to Agency Agreements that were entered into in the 1980's and which are in the process of being unwound.

5.3.1.5. The most relevant of the Agency Agreements are those in relation to THSSA and Voermol. THSSA and Voermol do not carry on any activities for their own benefit that would generate revenue for themselves, and they are wholly financially dependent on the Company. The Company's SA Sugar division is operated by the Company and pursuant to relevant Agency Agreements between the Company and THSSA and Voermol. These Agency Agreements entail:

- **Assets:** Assets of the agents are held nominally as they are those of the principal, being beneficially owned by the Company.
- **Tenure:** The agreements and agency arrangements are generally active for an indefinite period of time and terminable on one month's

written notice. The Agency Agreements are in the process of being unwound, which will result in the entire SA Sugar division being conducted solely in the Company, as a division, with no further agency relationship and/or representation.

- Disclosure: The existence of the Agency Agreements was previously undisclosed to third parties. However pursuant to a letter dated 20 December 2022 from THSSA and Voermol to all known creditors of those companies, the Agency Agreement arrangements were disclosed.
- Recourse: THSSA has at all times acted as the agent of the Company, on the basis that the Company has been its undisclosed principal. Consequently, all transactions that have historically been concluded by THSSA with any person or entity, have been so concluded by THSSA in its capacity as agent for an undisclosed principal, being the Company. Now that the existence of the Agency Agreement has been disclosed, any dealings with THSSA will be on the basis that it is contracting on behalf of the Company. Furthermore, Voermol has at all times acted as the agent of THSSA (and by virtue of the aforementioned THSSA agency, as the sub agent of the Company), on the basis that THSSA has been its undisclosed principal and the Company the ultimate undisclosed principal. Consequently, all transactions that have historically been concluded by Voermol with any person or entity, have been so concluded by Voermol in its capacity as agent for an undisclosed principal, being THSSA and, by

virtue of the aforementioned THSSA agency, as the sub agent of the Company.

- In summary: The effect is that all assets, liabilities, income and expenses are those of the Company, as principal. Any claims instituted against THSSA and/or Voermol will result in those entities having a corresponding claim against THL.

5.3.1.6. The extent of the challenges faced by the Company, and its current strained financial position, are well publicised and arose from years of high and increasing debt levels, financial misstatements and historic mismanagement. These factors have resulted in the loss of significant value for the Company's Shareholders and other stakeholders.

5.3.2. **Events which led to the Company commencing Business Rescue:**

5.3.2.1. It is the BRPs understanding that the cause of the Company's Financial Distress is set out in the statement, attached hereto as Annexure **B**.

5.3.3. **Aims and objectives of Business Rescue:**

5.3.3.1. In terms of the Companies Act, the Company's Business Rescue will aim to facilitate its rehabilitation by (inter alia) providing for –

- the temporary supervision of the Company by the BRPs, and the management of its affairs, business, and property by the BRPs;

- a temporary moratorium on the rights of claimants against the company or in respect of property in its possession; and
- the development and implementation of a Business Rescue Plan which has as its aim either or both of:
  - the rescue of the Company by restructuring its affairs, business, property, debt and other liabilities, and equity in a manner that maximises the likelihood of the Company continuing in existence on a solvent basis; and/or
  - achieving a better return for the Company's Creditors or Shareholders than would result from the immediate liquidation of the Company.

5.3.3.2. The proposed rescue of the Company as set out in this Business Rescue Plan seeks to meet both of the objectives set out in the immediate paragraphs above.

5.3.4. **Business Rescue events:**

5.3.4.1. The salient dates pertaining to the Business Rescue of the Company are set out below:

<b>BUSINESS RESCUE EVENT</b>	<b>DATE</b>
Board Resolution to commence the Business Rescue	26 October 2022
Commencement date of the Business Rescue	27 October 2022
Appointment of the BRPs	
Notice to Affected Persons of the commencement of Business Rescue and the appointment of the BRPs	27 October 2022
First statutory meeting of employees	3 November 2022

First statutory meeting of Creditors	8 November 2022
Requests for an extension of the date to publish the Business Rescue Plan	8 November 2022, 24 January 2023, 22 February 2023 29 March 2023, 31 August 2023, 26 October 2023 and 21 November 2023
Confirmation of the extension of the date to publish the Business Rescue Plan	15 November 2022, 27 January 2023, 27 February 2023 31 March 2023, 8 September 2023, 30 October 2023, and 23 November 2023
Meetings in terms of section 143 of the Companies Act to vote on the BRPs' remuneration agreement: Shareholders meeting Creditors meeting	9 December 2022 9 December 2022
Publication of the initial business rescue plan	31 May 2023
Meeting to consider the initial business rescue plan: Outcome – Meeting adjourned and Business Rescue Plan to be amended and meeting to be reconvened at a date no later than 30 September 2023	14 June 2023
Notice to Affected Persons regarding application to the High Court of South Africa, KwaZulu-Natal Local Division, Durban under case number D4472/2023 ("SASA Declarator Application")	15 June 2023
Court hearing dates in relation to the SASA Declarator Application	13 and 14 September 2023
Meeting with Shareholders	26 September 2023
Publication of the amended Business Rescue Plans	29 November 2023
Expiry and repayment of current IDC PCF Facility	30 November 2023
IDC PCF Facility extended to 28 February 2024	13 December 2023
Court hearing relating to various matters concluding with an order adjourning the S151 Meeting <i>sine die</i>	13 December 2023
Distribution of the proposed amendments to the Business	2 January 2024

Rescue Plans previously published on 29 November 2023	
Meeting to consider the amended Business Rescue Plans	10 January 2024

5.3.4.2. All notices that have been published to the Affected Persons of the Company can be obtained from the Company’s website at [www.tongaat.com](http://www.tongaat.com), under the “Business Rescue” tab.

5.3.5. **Steps taken since the appointment of the BRPs:**

5.3.5.1. Statutory Obligations – the Company and the BRPs have met and complied with statutory reporting and meeting obligations as required in terms of Chapter 6 of the Companies Act.

5.3.5.2. Management Control – In terms of section 140(1)(a) of the Companies Act, the BRPs took full management control of the Company and have delegated certain functions to Management in terms of section 140(1)(b) of the Companies Act.

5.3.5.3. Investigations – The BRPs have investigated the affairs of the Company and have satisfied themselves that, inter alia, the Company is in Financial Distress and that there is a reasonable prospect of the Company being rescued.

5.3.5.4. Operations

- A key priority for the BRPs has been to bring about stability and thereafter continuity to the business and operations of the Company. Shortly after the Commencement Date, the SA Sugar operations were brought to a standstill as there was no free

cash available to fund operations or to settle Creditors or Employees.

- Shortly thereafter the BRPs secured PCF to fund short-term working capital requirements, which facilitated the restart of the SA Sugar operations. Thereafter the BRPs secured further PCF (as detailed below) to complete the 2022/23 South African sugar season and to carry out the critical off-crop capital expenditure and/or maintenance (“**off-crop programme**”). The SA Sugar business is now funded (for a limited period) and is operating under the BRPs’ guidance. The existing, and only PCF facility secured by the Company, expires and is repayable on or before 30 November 2023.
  
- Cost Reduction Initiatives:
  - Since their appointment the BRPs have made ongoing efforts to reduce operating costs of the Company wherever possible.
  - It is envisaged that various cost reduction and efficiency improvement initiatives will continue to be implemented throughout the Business Rescue process.
  - See Annexure **D** for a detailed summary of all initiatives implemented and the associated outcomes.

5.3.5.5. Other business rescue proceedings - Included in the operations of the THL Group are wholly owned subsidiaries THSSA, THD and Voermol, each of which is in business rescue. The BRPs are also overseeing each of these inter-related business rescues, with each

of these subsidiaries having its own business rescue plan.

5.3.5.6. International operations - THL Zimbabwe, THL Botswana and THL Mozambique are not in business rescue, continue to operate as independent legal entities and are self-funding.

5.3.5.7. PCF Funding – Since their appointment, the BRPs have devoted significant time and resources towards engaging with the Lender Group and thereafter IDC, in order to secure and structure the requisite PCF to support the SA Sugar operations and avoid its collapse into liquidation – initially to restart operations, and latterly to complete the 2022/23 sugar season and carry out the off-crop programme necessary to commence the 2023/24 season. This was secured as follows:

- the raising of initial PCF from the Lender Group in an amount of R900m, which brought about short-term stability in order for the Company to restart the Mills and Refinery operations – which PCF was repaid from the proceeds of the IDC PCF Facility raised from IDC as outlined below;
- the subsequent increase in facilities to R1.2bn in PCF raised from IDC, on a secured basis, which enabled the Company to fund its working capital requirements to the end of June 2023, including its annual off-crop maintenance programme;
- the initial facility raised from the IDC PCF Facility was applied to repay the Lender Group PCF in order



for the Lender Group to release their security over the bank accounts, inventory and trade receivables (and any related insurance claims), which is now the first-ranking security of the IDC for its PCF Claim;

- the subsequent increasing of facilities to R1.725bn PCF from IDC, on a secured basis, which enabled the Company to fund its working capital requirements to 6 October 2023;
- the subsequent increasing of facilities to R2.3bn PCF from IDC, on a secured basis, which enabled the Company to fund its working capital requirements to 30 November 2023; and
- the facility has been extended to 28 February 2024 subject to, *inter alia*, Adoption of this Business Rescue Plan by 15 January 2024 and the provision of security to cover the security shortfall projected by IDC on its PCF Claim in a form and manner acceptable to IDC.

#### 5.3.5.8. Strategic Equity Partner –

- In February 2023, the BRPs embarked on an accelerated sales process aimed at engaging with potential SEPs interested in the acquisition of or investment in either:
  - 1) THL itself or the whole of the THL Group;
  - 2) all of SA Sugar, THL Zimbabwe, THL Botswana and THL Mozambique; or
  - 3) the SA Sugar operations.

- The logic for the abovementioned three acquisition options was premised on alignment with the basis on which the critical PCF funding had been secured. This PCF funding conditionality required that the sugar enterprise of THL in all jurisdictions was maintained as a whole and not disposed of in part, or on a piecemeal basis. SA Sugar was however separately included by the BRPs as an option to enable any such offers to be considered as an alternative to the disposal of the whole – and which would necessarily need to replace the PCF facility as part of such a transaction.
  
- SEPs were identified through a process referencing previous interested parties and key market participants who demonstrated the following criteria:
  - interest in investing in or acquiring the THL Group as a whole, or the SA Sugar businesses of THL;
  - relevant industry and regional technical expertise and operational ability;
  - balance sheet strength and funding capacity;
  - a plausible business case being presented for the future of the acquired businesses; and
  - valuation of the relevant assets and/or offer price that demonstrated a likely ability to conclude a transaction.
  
- Whilst a substantial number of potential SEPs were initially considered, a final list of eight potential SEPs that met the criteria (highlighted above) were provided access to conduct a comprehensive due

diligence. Final offers were received on 15 June 2023.

- After discussions with the Lender Group the preferred SEPs were approached again and provided with an opportunity to improve their offers (both in terms of certainty of price and overall certainty of closing), which culminated in a short listing of two final bidders.
- The BRPs and their advisors, carefully considered the respective SEP bids and analysed a number of qualitative and quantitative factors relating to each SEP's offer. Such considerations included (inter alia) financial, operational, strategic fit, cultural considerations and execution ability.
- After a rigorous process, and after consultation with numerous parties including the Lender Group, on 17 July 2023, Kagera Sugar was identified and confirmed as the preferred bidder by the BRPs and confirmed as the Strategic Equity Partner to be included in the business rescue plan for consideration by Creditors.
- Subsequent to the conclusion of the SEP process, the BRPs were advised by the Vision Parties and the Lender Group that the Vision Parties were to acquire the significant (from a Voting Interest perspective) secured Claims of the Lender Group. The Vision Parties had made it clear to the BRPs that subsequent to completion of the acquisition of the Claims of the Lender Group they would not vote such Claims in favour of a business rescue plan

predicated on any alternative proposal received by the BRPs, but would only support the Proposals agreed with the BRPs and put forward in this Business Rescue Plan.

- The BRPs have been advised that the Vision Parties will upon, and after, the Adoption of this Business Rescue Plan acquire the Claims and security held by the Lender Group. In this regard, the Vision Parties have a substantial cash deposit available for payment to the Lender Group and, if the Business Rescue Plan is approved, the Vision Parties will finalise the acquisition of the Lender Group's Claims.

#### 5.3.5.9. Business Rescue Plan Publication

- In terms of section 150(5) of the Companies Act, a business rescue plan was required to be published on or before 1 December 2022 (i.e. within 25 business days from the date of the appointment of the BRPs). The BRPs obtained approval from the Creditors for various extensions of the Publication Date up to 31 May 2023.
- The BRPs in May 2023 were still reluctant to publish a business rescue plan until such time as they were able to put forward sufficiently detailed Proposals to Affected Persons. However, at that time, the Lender Group declined to agree to any further extensions and insisted that the BRPs put forward the initial business rescue plan. The BRPs therefore published the initial business rescue plan on 31 May 2023, a document which was, due to

the lack of clarity at the time, somewhat conditional.

- The meeting to vote on the published business rescue plan was convened and scheduled to take place on 14 June 2023.
- On or about 8 June 2023, an urgent application was brought by RCL Foods & Sugar Milling (Pty) Ltd ("**RCL**") to interdict the meeting to be held on 14 June 2023 to consider and vote on the published business rescue plan.
- At the meeting held on 14 June 2023 motions were proposed, seconded and carried to adjourn the meeting to vote on the business rescue plan to no later than 30 September 2023 and agreed that no less than 30 days' prior written notice of the intended date of the reconvening of the adjourned meeting must be provided to Creditors, as was deemed to be necessary and expedient.
- In addition to the adjournment of the meeting, the BRPs were requested to amend the business rescue plan to incorporate the details of the final transaction accepted and agreed with the selected SEP.
- At a meeting held on 8 September 2023 creditors approved a further adjournment of the meeting to vote on the business rescue plan to no later than 30 November 2023 and that no less than 30 days' prior written notice of the intended date of the adjourned meeting must be provided to Creditors.

- Creditors have also approved the consequently required extension of the publication date of the Company's amended business rescue plan to no later than 24 November 2023.
- A notice was issued on 6 October 2023 convening the meeting to vote on the business rescue plan to be held on 7 November 2023. In light of the request to extend the publication date of the Company's amended business rescue plan to no later than 24 November 2023 the notice convening the meeting on 7 November 2023 was withdrawn. The meeting will be held no later than 30 November 2023, in accordance with the agreement of Creditors at the meeting held on 8 September 2023.
- Subsequent to the above, the requisite majority of creditors agreed to an extension of the date for publication of the amended business rescue plan to no later than 24 November 2023 and to the application of the notice periods as detailed in Section 151(1) and (2) of the Companies Act.
- Additional information came to the attention of the BRPs that required further updating of the drafted amended Business Rescue Plan. It was therefore necessary and expedient to extend the publication date for a very short period and therefore also to adjourn the Meeting to a slightly later date, in order to allow creditors sufficient time to consider the contents of the amended Plan. The requisite majority of creditors agreed to an extension of the

date for publication of the business rescue plan to no later than 29 November 2023 and to the adjournment of the meeting to vote on the business rescue plan to no later than 8 December 2023.

- On 29 November 2023 the BRPs published the business rescue plan.
- On 5 December 2023 urgent applications were brought by RCL and SASA (“**the RCL and SASA Applications**”) to interdict the meeting to be held on 8 December 2023 to consider and vote on the published business rescue plans and to set aside the business rescue plans published on 29 November 2023. These applications were opposed by THL, the BRPs, IDC and RGS.
- In terms of an order handed down by Vahed J on 7 December 2023 the RCL and SASA Applications were adjourned to 13 December 2023 and the meeting to vote on the business rescue plans was adjourned from 8 December 2023 to 14 December 2023.
- On 10 December 2023 the BRPs filed a further answering affidavit in respect of the RCL and SASA Applications in terms of which the BRPs confirmed their support for the adjournment of the meeting to vote on the business rescue plans to a date not earlier than 8 January 2024 but not later than 11 January 2024.

- On 11 December 2023 an urgent application was brought by RGS to direct the BRPS to convene the meeting to vote on the published business rescue plans on 14 December 2023. This application was opposed by THL.
- On 13 December 2023 Vahed J ordered *inter alia* that:
  - the meeting to vote on the business rescue plans convened for 14 December 2023 be adjourned *sine die* and be reconvened on a date not later than 11 January 2023; and
  - the business rescue plans published on 29 November 2023 in their unamended form shall not be voted on.
- The business rescue of THL has been bedevilled by numerous challenges, not least of which has been the ongoing threat and/or institution of legal proceedings aimed at *inter alia* interdicting the business rescue process, made and/or brought at the instance of various groups and/or entities with frequently divergent interests, which if not adequately anticipated and/or fully dealt with will frustrate and possibly altogether halt the business rescue process, with the almost inevitable consequence of liquidation.
- In order to militate against further challenges to the business rescue process, and given the credibility of the two proposals to be presented to Affected persons, the BRPs have therefore elected



to implement the following methodology to ensure that Creditors have both the opportunity to review the alternative business rescue proposals currently available, and the right to vote on the proposal of their choosing:

- two alternative business rescue plans (this being one of them) were published on the Publication Date;
- amendments will be proposed to both such business rescue plans at the Meeting;
- following adoption of the amendments to each such business rescue plan (and only if such amendments are adopted) it will be presented to and voted on by Creditors with the expectation that one such business rescue plan will be approved and the other will be rejected; and
- should neither of the two amended business rescue plans be approved, then the provisions of section 153 of the Companies Act will apply, with the variable outcomes contemplated in section 153(1) of the Companies Act.

#### 5.3.5.10. SASA

- As at the Commencement Date, THL owed SASA an amount of c.R479m. However, it is noted that SASA has taken the liberty of withholding export proceeds that THL would otherwise be entitled to and unilaterally reduced the amount that SASA

alleged ~~is~~ ~~was~~ owed by THL to SASA to c.R59m. This treatment ~~is~~ ~~was~~ not accepted by the BRPs and the BRPs and THL reserves ~~d~~ the right to take the necessary steps to recover the unpaid amounts, **unless there is a settlement concluded with SASA.**

- The BRPs suspended THL's obligations to SASA for the duration of Business Rescue. The unpaid amount that has accrued since the Commencement Date amounts to c.R1.1bn. With effect from 1 April 2023, subject to availability of funding, THL recommenced its payment obligations to SASA.
- Various industry participants were of the view that the BRPs did not have the right to suspend the THL obligations to SASA and the matter was referred to the Sugar Industry Appeals Tribunal ("**SI Tribunal**"). The BRPs were of the view that the SI Tribunal does not have jurisdiction to make a ruling on matters related to the Companies Act (i.e. section 136 thereof). As a result, THL and its BRPs brought an application ("**the Declarator Application**") in the High Court of South Africa, KwaZulu-Natal Local Division, Durban ("**the High Court**") under case number D4472/2023, seeking the following orders:
  - declaring that the BRPs are empowered to suspend, for the duration of the business rescue proceedings, any obligation of THL which arises under the Sugar Industry Agreement, 2000 ("**the SI Agreement**");

alternatively, declaring that the BRPs are empowered to suspend, for the duration of the business rescue proceedings any redistribution payment, and related levies and interest that become due by THL, and which would otherwise become due during the business rescue proceedings. The BRPs seek this declaration in respect of their powers of suspension of a company's obligations under section 136(2)(a)(i) of the Companies Act; or

- alternatively to the preceding paragraphs, and in the event that the Court finds that the obligations under the SI Agreement are not amenable to suspension:
  - o declaring section 136(2)(a)(i) of the Companies Act unconstitutional and invalid insofar as it fails to provide for the suspension of regulatory charges that become due during business rescue proceedings; and
  - o reading in the words "or regulatory regime" after the word "agreement" in section 136(2)(a)(i) of the Companies Act.
- THL's payment obligations in terms of the SI Agreement referred to above include substantial and onerous levy and redistribution payments to SASA charged since the Commencement Date in excess of R1.1bn ("**the SASA Amounts**"). The provisions of the SI Agreement entail, inter alia, that THL as an over-performing miller is obliged to pay a substantial proportion of its refined white sugar proceeds over to SASA for redistribution to

other competitor millers who have sold less than their production share (i.e. under-performing sugar millers), despite such payments not being related to the commercial realities of the cost of such production.

- In order to temporarily insulate THL from these onerous obligations that would prevent it from being rescued, during February 2023 the BRPs suspended all of THL's payments obligations to SASA arising under the SI Agreement for the duration of the business rescue proceedings in terms of section 136(2) of the Companies Act. The BRPs did so having taken legal advice, including the advice of senior counsel.
- With the assistance of the post-commencement financiers, mainly the IDC (with the BRPs gratitude), THL has, since April 2023 recommenced payment of SASA obligations and an amount of c.R771m (as at 31 October) has been paid in settlement of amounts owing to SASA in respect of local market redistribution charges and levies that have arisen since 1 April 2023. The SASA Amounts charged between 28 October 2022 and 31 March 2023 have not been discharged and will be treated as set out in clause 6.1.6.1 below. The amounts owed to SASA as at the commencement of business rescue on 27 October 2022 amounting to approximately c.R420m, increased by levies in an amount of c.R59m, leaving a total amount of c.R479m, which has similarly not been discharged.

- In a letter dated June 2023, ~~t~~The BRPs ~~have~~ agreed with SASA that, without detracting from THL's and/or the BRPs' assertions in the SASA Declarator Application and subject to the continued availability of funding acceptable to THL, THL has and will make payment of all redistribution (“**LMR**”) levies due to SASA with effect from 1 April 2023.
  
- In the letter dated June 2023, SASA and THL ~~have~~ agreed that the payments will be made on condition that:
  - the payments made by THL will only be applied towards the LMR and Levies obligations that have arisen or will arise after 1 April 2023 and will not be applied to any of the amounts which SASA asserts are due, owing and payable in respect of the period prior to 1 April 2023; and
  - SASA will comply with its obligations with effect from 1 April 2023 and will not withhold any proceeds including future export and export carry-over payments (2023/2024 season and onwards) that THL may become entitled to from 1 April 2023. Those proceeds will be paid to THL by SASA as and when they fall due for payment.
  
- The above agreement is without prejudice to and in no way detracts from the rights of either SASA or THL relating to the SASA Declarator Application.

- On 29 November 2023, the Declaratory Application was dismissed with costs. The Declaratory Proceedings Judgement in respect of such order was handed down on 4 December 2023. THL and the BRPs have filed their leave to appeal the Declaratory Proceedings Judgement.

#### 5.3.5.11. Settlement of Litigation Matters:

- In anticipation of the commencement of a mediation process, the Company and Deloitte & Touche South Africa ("**Deloitte**") concluded a settlement agreement in February 2023. The settlement related to claims which the Company had asserted against Deloitte which arose from and relate to the appointment of Deloitte as auditor of the Company for the financial years ended 31 March 2012 to 31 March 2018 (both inclusive). Deloitte paid an amount of R260m to the Company without admission of liability. The BRPs, having taken legal advice in this regard, were of the considered opinion that an expeditious settlement on these terms was in the best interests of the Company.

#### 5.3.5.12. Growers

- Growers and grower representative boards have been engaged on a regular basis at the various sugar mills with the aim of fielding questions, dealing with uncertainties and to keep them updated. All cane payments pre- and post-commencement of business rescue proceedings have been honoured to date in an effort to shield

the growers from economic hardship. Payments made to the growers since the commencement of business rescue proceedings total R4.7bn (at 31 October 2023). Grower support and engagements have been robust and productive from both the view of the BRPs and that of the growers. Both the SACGA and SAFDA have also been engaged formally and informally in an effort to keep lines of communication open.

#### 5.3.5.13. Employees

- Employees have continued to be employed by the Company on the same terms and conditions as before the Commencement Date.
- The first statutory meeting of employees, in terms of section 148 of the Companies Act, was convened in person and virtually on 8 November 2022. Thereafter, an employees' committee was formed by employee representatives who volunteered or who were nominated by their colleagues to represent them on the committee. To date, the BRPs have held numerous virtual meetings with the employees' committee to discuss the Business Rescue of the Company, the most recent of which was held on 12 October 2023.
- The remaining executive directors and members of the THL Group executive committee of the Company have continued in the employ of the Company and have worked with and will continue to work with the BRPs while they remain in the employ of the Company. Mr Gavin Hudson and Mr

Simon Harvey resigned with effect 28 February 2023.

5.3.5.14. Creditors

- The first meeting of Creditors, as contemplated in section 147 of the Companies Act, was convened virtually on 8 November 2022.
- At the first statutory meeting of Creditors, the BRPs advised Creditors of the right to form a Creditors' committee. A Creditors' committee has since been formed with Mr Hans Klopper having been appointed by the Creditors as the chairman of the committee. The BRPs have agreed that the Company is prepared to remunerate the chairperson on the basis of time spent solely in such role. The chairperson is also an advisor to one of the Creditors, which Creditor is liable for the costs related to time spent by Mr Klopper in the fulfilment of his services to that Creditor.
- The first Creditors' committee meeting was convened virtually on 24 November 2022 and numerous subsequent Creditors' committee meetings have been held, the most recent of which was held on 12 October 2023.

5.3.5.15. Consultations – The BRPs have consulted with various Affected Persons relating to the developments within the Business Rescue and the development of the Business Rescue Plan, in addition to the publishing of regular notices and/or status reports to Affected Persons. The BRPs have consulted and engaged with a



number of key Shareholders (representing in excess of 30% of the shareholding in THL) during the Company's Business Rescue. In addition to this, after an appropriate SENS announcement a general update shareholders meeting was held virtually on 26<sup>th</sup> September 2023.

- 5.3.5.16. Claims Reconciliation – The BRPs have received Claims from numerous Affected Persons. A verification process has been undertaken to reconcile the Claims received with the amounts reflected in the records of the Company. For the avoidance of doubt, the BRPs will rely on the records of the Company unless proven otherwise, per paragraph 5.3.7 and 16. Further details relating to Claims are also set out in paragraph 5.3.7, read with Annexure **A**.
  
- 5.3.5.17. Contracts – None of the Company's obligations have so far been cancelled during Business Rescue, however the BRPs reserve the right to do so. The BRPs have exercised the right to suspend certain obligations and also reserve the rights to suspend other such obligations at the appropriate time in accordance with section 136 of the Companies Act.
  
- 5.3.5.18. Cash Management – The BRPs continue to manage and monitor the liquidity, cash flow and financial position of the Company, control payments and enforce general controls.
  
- 5.3.5.19. In-country engagements – Focussed stakeholder engagements were held in both Zimbabwe and Mozambique to ensure a common understanding of the reasons why the business in South Africa was placed

under business rescue, the implications of business rescue and the envisaged path to be travelled towards finding a rescue solution. The engagements were targeted at senior managers in the business, in-country independent board members, industry regulators, industry association bodies, minority shareholders in Mozambique and relevant government ministries in both countries. In Zimbabwe, the head of state has been kept updated through in-person briefings on the progress of the business rescue by the local Chairman and interim THL CEO. Further engagements by the BRPs will be arranged when required. The engagements are continuous where key milestones in the business rescue process trigger a focussed stakeholder management follow up with either written or in person communication as may be deemed appropriate.

5.3.6. **Material assets and security (Section 150(2)(a)(i)):**

5.3.6.1. The below summary of the material assets of the Company is the pre-Commencement Date **book values** of the Company's assets (not Group consolidated) as at 31 October 2022, the nearest practicable date to the Commencement Date, as extracted from the accounting records of the Company.

<b>MATERIAL ASSET LISTING</b>		<b>R'm</b>
<b>ASSETS</b>		<b>5 897</b>
<b>NON CURRENT ASSETS</b>		<b>2 638</b>
LAND AND BUILDINGS		331
PLANT AND MACHINERY		552
VEHICLES		23
FURNITURE AND OFFICE EQUIPMENT		9
COMPUTERS		2
OTHER		164
RIGHT-OF-USE ASSETS		7
BIOLOGICAL ASSETS		145
INTANGIBLE ASSETS		82
INVESTMENTS IN SUBSIDIARIES AND JOINT OPERATIONS		1 164
AMOUNTS OWING FROM GROUP COMPANIES		44
OTHER NON-CURRENT ASSETS		115
<b>CURRENT ASSETS</b>		<b>3 259</b>
INVENTORIES		1 876
BIOLOGICAL ASSETS		127
AMOUNTS OWING FROM GROUP COMPANIES		273
TRADE AND OTHER RECEIVABLES		639
CASH AND CASH EQUIVALENTS		344

#### **NOTES**

- 1) INTANGIBLE ASSETS:
  - (i) Software = R50,9m
  - (ii) Cane Supply Agreements = R63,3m
  - (iii) Capital WIP (Software) = R8,5m
- 2) OTHER NON-CURRENT ASSETS:
  - (i) Pension Fund ESA asset = R50,4m
  - (ii) NCR Lease Incentive = R26,6m
  - (iii) Unzinzo Lease Incentive = R38,1m

- 5.3.6.2. The gross (i.e. before costs) realisable value of the assets as determined by BDO in the Liquidation Estimated Outcome Statement amount to c.R5.1bn.
- 5.3.6.3. Movable assets, bank account monies, insurances, intellectual property rights, shares in subsidiaries, investments, claims, trade receivables, group claims, property disposal proceeds, debt reduction proceeds and properties were all encumbered and secured in favour of the Lender Group, save for IDC Security.
- 5.3.6.4. The Lender Group have a reversionary cession in favour of the Lender Group of all IDC Security.

5.3.6.5. By way of summary, the Lender Group hold the following security:

- Cession in security of:
  - all shares in and claims against THL Zimbabwe, THL Botswana, THL Mozambique and/or all other investments (including, without limitation, all shares and claims against all subsidiaries of the Company);
  - all claims of whatsoever nature (excluding trade receivables and any related insurance claims, which are the subject of IDC Security, but subject to the Lender Group's reversionary security cession) and/or recoveries related thereto and/or proceeds from sale transactions;
  - all bank accounts and all monies standing to the credit thereof from time to time (excluding those bank accounts which are subject to IDC Security, but subject to the Lender Group's reversionary security cession);
  - all intellectual property rights;
  - all insurances and claims payable in connection therewith (excluding those insurances which are subject to IDC Security, but subject to the Lender Group's reversionary security cession);
  - rights under all property disposal and other debt reduction transactions;

- general notarial bonds over all movable assets (which was perfected during November 2022 via an application to Court and with the BRPs consent, which was subsequently made an order of Court on or about 17 May 2023);
- mortgage bonds over immovable properties (including the Agricultural Land) registered in the relevant Deeds Office/s set out in Annexure E for ease of reference; and
- cross guarantees and indemnities provided to THL are summarised below:

No.	Name of Original Guarantor	Jurisdiction of Incorporation	Registration Number
1	Tongaat Hulett Developments (Pty) Ltd	South Africa	1981/012378/07
2	Voermol Feeds (Pty) Ltd	South Africa	1936/007892/07
3	Tongaat Hulett Sugar South Africa Ltd	South Africa	1965/000565/06
4	Tongaat Hulett Estates (Pty) Ltd	South Africa	1967/006009/07
5	The Natal Estates Limited	South Africa	1902/000899/06
6	Ohlanga Development Company (Pty) Ltd	South Africa	1968/009161/07

5.3.6.6. Cash balances, inventories and trade and other receivables are/were encumbered, with the consent of the Lender Group, in favour of the IDC, as security for the PCF provided by the IDC to the Company.

5.3.6.7. For completeness the table below shows the full summary balance sheet of the **Company (not consolidated)** as at 31 October 2022, the nearest practicable date to the Commencement Date.

<b>THL BALANCE SHEET AT 31 OCTOBER 2022</b>		<b>R'm</b>
<b>ASSETS</b>		<b>5 897</b>
<b>NON CURRENT ASSETS</b>		<b>2 638</b>
PROPERTY PLANT AND EQUIPMENT		1 227
RIGHT-OF-USE ASSETS		7
INTANGIBLE ASSETS		82
INVESTMENTS IN SUBSIDIARIES AND JOINT OPERATIONS		1 164
AMOUNTS OWING FROM GROUP COMPANIES		44
OTHER NON-CURRENT ASSETS		115
<b>CURRENT ASSETS</b>		<b>3 259</b>
INVENTORIES		1 876
BIOLOGICAL ASSETS		127
AMOUNTS OWING FROM GROUP COMPANIES		273
TRADE AND OTHER RECEIVABLES		639
CASH AND CASH EQUIVALENTS		344
<b>EQUITY &amp; LIABILITIES</b>		<b>5 897</b>
<b>CAPITAL &amp; RESERVES</b>	-	<b>4 184</b>
SHARE CAPITAL AND PREMIUM		1 679
ACCUMULATED LOSSES	-	5 866
OTHER RESERVES		3
<b>LIABILITIES</b>		<b>10 080</b>
<b>NON CURRENT LIABILITIES</b>		<b>601</b>
AMOUNTS OWING TO GROUP COMPANIES		220
POST-RETIREMENT BENEFIT OBLIGATIONS		357
GOVERNMENT GRANTS		19
LEASE LIABILITIES		4
<b>CURRENT LIABILITIES</b>		<b>9 479</b>
BORROWINGS		6 969
TRADE AND OTHER PAYABLES		2 488
GOVERNMENT GRANTS		20
LEASE LIABILITIES		3

5.3.7. **Creditors of the Company (Section 150(2)(a)(ii)):**

- 5.3.7.1. The BRPs will continue to accept the Company's records in respect of any Creditor as being correct, unless and until the relevant Creditor proves otherwise to the satisfaction of the BRPs, or through the Dispute Mechanism process as set out in paragraph 16 below.
- 5.3.7.2. Alleged Claims that are not reflected in Annexure **A** of this Business Rescue Plan will be regarded as Disputed Claims, and Disputed Creditors may be allowed a Voting Interest at the Meeting if so determined by the BRPs in their sole discretion. Any such allowance by the BRPs shall be without prejudice to the Company's rights to continue to dispute the Disputed Claim and will be further dealt with in accordance with the Dispute Mechanism contemplated in paragraph 16.
- 5.3.7.3. The Claims that the BRPs have accepted, in whole or in part, are set out Annexure **A**. A summary of the various classes of Creditors of the Company as at the Commencement Date, updated for subsequent movements/repayments and PCF advanced, is reflected in the table hereunder:

**Table 2: Summary of the Various Classes of Creditors of the Company  
(updated as at 31 October 2023)**

<b>CREDITOR TYPE / DESCRIPTION</b>	<b>ACCEPTED/PROVEN CLAIM AMOUNT</b>
<b>SECURED CREDITORS</b>	<b>8 045 562 161</b>
Lender Group Facilities	7 708 147 777
Lender Group Bilateral Arrangements	284 946 678
Other	52 467 707
<b>PCF CREDITORS</b>	<b>2 152 647 811</b>
IDC Facilities - Secured PCF facility	2 118 858 799
Guardrisk Insurance PCF facility	33 789 012
<b>PREFERENT CREDITORS</b>	<b>22 470 000</b>
Preferent creditors ( <i>N/A in business rescue</i> )	-
Preferent employees: Post-retirement medical aid liability for current employees	12 596 000
Preferent employees: Post-retirement gratuity for current employees	9 874 000
<b>SASA CLAIMS</b>	<b>1 601 365 245</b>
SASA pre-BR	479 936 395
SASA post-BR	1 121 428 850
<b>UNSECURED CREDITORS</b>	<b>989 268 897</b>
Trade Creditors *	520 385 641
Post-retirement medical aid liability for past/retired employees	326 449 000
Employee ex-gratia payments (past employees)	1 706 587
Other Provisions	8 073 891
Accrual for Leave pay	56 057 051
Accrual for Trade Payables	12 258 528
Other Accruals	14 122 387
SARS (potential VAT pre-BR clawback in terms of s22(3) of the VAT Act)	50 215 813
<b>NON-INDEPENDENT UNSECURED CREDITORS</b>	<b>248 077 086</b>
Inter-Company Loans	247 329 051
Intercompany BR claims (Agency Agreement)	
Voermol:	748 036
THSSA:	-
<b>TOTAL</b>	<b>13 059 391 201</b>

5.3.7.4. All Creditors who believe that they have a Claim against the Company are referred to Annexure **A** and should treat Annexure **A** as the BRPs' notification of the Claims (including the quantum thereof) that have been accepted by the BRPs for purpose of the Business Rescue and voting on the Business Rescue Plan. If any Creditor is in disagreement with the information provided in Annexure **A** (being a Disputed Creditor), such Disputed Creditor should utilise the Dispute Mechanism set out in paragraph 16.



5.3.7.5. Following the Adoption and implementation of this Business Rescue Plan, any remaining Claims of Creditors of the Company will become Unenforceable, other than as provided for in this Business Rescue Plan.

5.3.8. **Voting interests and voting by proxy:**

5.3.8.1. Voting Interests

- In accordance with section 145(4) of the Companies Act, a Creditor is entitled to vote on the Adoption of the Business Rescue Plan, as follows –
  - a Secured Creditor and/or Unsecured Creditor has a Voting Interest equal to the value of the amount owed to that Creditor by the Company; and
  - an Unsecured Creditor who would be subordinated in a liquidation has a Voting Interest, as independently and expertly appraised and valued at the request of the BRPs, equal to the amount, if any, that the Unsecured Creditor could reasonably expect to receive on a liquidation of the Company as set out in section 145(4)(b) of the Companies Act.
- Creditors are advised that a recent judgement handed down by Wilson J in the High Court, Johannesburg in the matter of Wescoal Mining stated that PCF creditors did not have a vote in business rescue proceedings. Subsequent to the judgment in the Wescoal Mining case, a judgment, contradicting that judgment, was handed down by

Norman J, sitting in the Eastern Cape High Court, in the case of Pruta Securities (Jersey) Limited v Roper N.O and Others, in which that court held that a PCF lender is a creditor for purposes of chapter 6 of the Companies Act. The BRPs are advised that the judgement in the Wescoal Mining case is in the process of being appealed and, as such the effect of the judgement has been suspended pending the outcome of the appeal. For the time being, the BRPs will afford IDC the right to vote its PCF claim at the proposed Section 151 Meeting until such time as there is a binding judgement to the contrary.

- It is recorded that there are subordinated non-independent Creditors in the total amount of R89m and that the value ascribed to those subordinated non-independent Creditors in line with the independent appraisal is nil. A notice concerning subordinated non-independent Creditors' Voting Interests was circulated on 3 March 2023.

#### 5.3.8.2. Voting

- All Creditors will have a Voting Interest as set out in Annexure **A** in respect of any vote conducted at the Meeting, subject to the BRPs' discretion contemplated in paragraph 5.3.7.2 and directly below.
- Disputed Creditors may be allowed a Voting Interest at the Meeting as may be determined by the BRPs in their sole discretion and any such determination shall be without prejudice to the

Company's rights to continue to dispute the Disputed Claim.

- Disputed Creditors are invited to seek an amendment to their Voting Interest (relative to Annexure **A**) up to 24 hours before the Meeting. Any BRP agreement to amend a Disputed Creditor's Voting Interest shall not be construed as an acceptance of the existence or quantum of such Claim, as such determination will be made solely for the purposes of determining that Disputed Creditor's Voting Interest at the Meeting. Unless the BRPs specifically advise a Disputed Creditor otherwise, Disputed Creditors will still be required to follow the Dispute Mechanism set out in paragraph 16 below.

#### 5.3.8.3. Independent Creditors

- In accordance with sections 145(5)(a) and 145(5)(c) of the Companies Act, the BRPs are required to determine whether or not a Creditor is an Independent Creditor for purposes of the Business Rescue.
- For purposes of this Business Rescue Plan, the BRPs have determined that all Creditors with accepted and/or recognised Claims are Independent Creditors and will be counted as such for purposes of any votes cast at the Meeting to approve this Business Rescue Plan.

#### 5.3.8.4. Shareholders

- In accordance with section 146(d) of the Companies Act, a Shareholder is entitled to vote on the Business Rescue Plan if it alters the rights associated with the class of Securities held by that Shareholder.
- This Business Rescue Plan contemplates (inter alia) the issue of new shares to the Vision Parties. Such issue will not, however, alter the rights associated with the class of Securities held by Shareholders. Accordingly, Shareholders are not required nor entitled to vote on the Business Rescue Plan in terms of section 152(3)(c) of the Companies Act.
  - To the extent required, Shareholders will, during the implementation of this Business Rescue Plan, be invited to vote (*inter alia*) on the issue of shares in relation to the debt to equity conversion in terms of section 41(3) of the Companies Act.

#### 5.3.8.5. Vote by Proxy

- Voting by proxy for the Meeting is permitted. A proxy form for Creditors voting on this Business Rescue Plan at the Meeting is enclosed as Annexure **F**.
- Creditors should carefully note the different proxies to be used for:

- (i) voting on this Business Rescue Plan at the Meeting (which proxy is enclosed as Annexure **F** to this Business Rescue Plan); and
  - (ii) voting for the alternative business rescue plan at the Meeting (which proxy will be enclosed as an annexure in that business rescue plan).
- Notwithstanding these forms, the BRPs have the discretion to accept any proxy submitted, acceptable to the BRPs, no matter its form.
  - Proxy forms must include an appropriate resolution (for a juristic entity or trust) or power of attorney (for an individual) giving such representative the authority to attend and vote at the meeting on behalf of the juristic person, trust or individual.
  - Affected Persons who are voting by proxy are reasonably required to lodge each or any of their proxy forms for the vote on the business rescue plan at the Section 151 Meeting, by no later than **17h00 on Monday 8 January 2024** if delivered by hand or if by email, by no later than **17h00 on Tuesday, 9 January 2024**.

5.3.9. **Probable Liquidation Dividend Estimate (Section 150(2)(a)(iii)):**

5.3.9.1. The BRPs engaged BDO as an independent expert to determine the probable dividend that Creditors and Shareholders would likely receive if, instead of being

placed into Business Rescue, the Company was placed in liquidation as at the Commencement Date.

5.3.9.2. From the **Table 3** below the following is noted:

- The cash, inventories and debtors, previously security assets held in favour of the Lender Group, are instead now security held by IDC as the PCF Lender. The Lender Group has security over other movable assets, immovable assets and investments which in aggregate (based on the BDO estimates below) equate to a gross amount of c.R3.095bn.

5.3.9.3. A summary of the BDO estimated liquidation realisations, costs and probable Distribution to Creditors per Creditor class, is reflected in Table 3 below:

**Table 3: Probable Liquidation Dividend per Class of Creditor/Shareholder** (in the event that the Company were to have been placed in liquidation as at the Commencement Date)

	<i>c/R</i>	<i>R'm</i>
<b>Gross proceeds from the realisation of assets by a liquidator</b>		<b>5,080</b>
Movable Assets		473
Inventory		1,387
Immovable Assets		433
Investments		2,189
Cash		437
Debtors		163
<b>Less expenses incurred by liquidator during liquidation process</b>		<b>1,100</b>

<b>Net proceeds after expenses available for distribution to creditors</b>		<b>3,980</b>
<b>Order of preference – Application of the net proceeds of the realisation of assets</b>		
1 <sup>st</sup> payment by law – Secured Creditors	55,02	3,980
2 <sup>nd</sup> payment by law – Statutory preferent creditors	0,00	0
Available for distribution to Unsecured Creditors	0,00	0

Note: As the net proceeds available for distribution to Creditors in liquidation would be insufficient to enable a full recovery for Creditors, **Shareholders would not be entitled to a surplus distribution on liquidation.**

- 5.3.9.4. If an Affected Person requires details relating to the Probable Liquidation Dividend Estimate calculation, such Affected Person is invited to contact the BRPs using the details set out in paragraph 17.1.2.
- 5.3.9.5. BDO requires that any Creditor requesting a copy of the Probable Liquidation Dividend Estimate report sign a hold-harmless letter in favour of BDO.
- 5.3.9.6. The following disclaimers are attached to the BDO Probable Liquidation Dividend Estimate:
- *"Any person who is not an addressee of this report or who has not signed and returned to BDO either a "no-reliance" or an "assumption of duty" release letter is not authorised to have access to this report. We do not accept or assume responsibility to any unauthorised person to whom this report is shown or any other person who may otherwise gain access to it.*

- *"If any unauthorised person chooses to rely on the contents of this report, they do so entirely at their own risk. Should any unauthorised person obtain access to and read this report, such person accepts and agrees that:*
  - *This report was prepared in accordance with instructions provided by the BRPs exclusively for the sole benefit and use of the BRPs and inclusion in their BR Plan;*
  - *BDO, its partners, employees and agents neither owe, nor accept any duty or responsibility to the reader, whether in contract or otherwise (including without limitation, negligence and breach of statutory duty), or howsoever otherwise arising. We make no representations regarding this report or the accuracy of the contents including that the information has not changed since the date of this report;*
  - *We shall not be liable in respect of any loss, damage or expense of whatsoever nature which results from any use the reader may choose to make of this report, or any reliance the reader may seek to place on it, or which is otherwise consequent upon access to this report by the reader;*
  - *The report is not to be referred to or quoted, in whole or in part, in any other document, other than the BR Plan or made available to any third party, without BDO's express written consent."*



5.3.10. **List of the holders of the Company's issued Securities (Section 150(2)(a)(iv)):**

5.3.10.1. Please refer to Annexure **H** for the full securities listing as at 3 November 2023.

5.3.11. **BRPs' remuneration (Section 150(2)(a)(v)):**

5.3.11.1. The regulations to the Companies Act prescribe an hourly tariff (inclusive of VAT) for the payment of the fees of a BRP.

5.3.11.2. The Company is classified, in terms of regulation 26(2) read with regulation 127(2)(b)(i) of the Companies Act, as a large company in that it has a public interest score greater than 500 points.

5.3.11.3. The Company's public interest score at the Commencement Date was 33,752 points.

5.3.11.4. Accordingly, in terms of regulation 127(5), the Company required the appointment of at least one senior BRP.

5.3.11.5. The BRPs' remuneration agreement was approved in terms of section 143 of the Companies Act and is final and binding on the Company. It was supported by:

- 100% of the Shareholders present and voting at the meeting convened in terms of section 143(3)(b) on 9 December 2022; and

- 99% of the holders of Creditors' Voting Interests present and voting at a meeting that was called in accordance with section 143(3)(a) on 9 December 2022.

5.3.11.6. A copy of the remuneration agreement is enclosed with Annexure **I**.

#### 5.3.12. **Other Advisors**

5.3.12.1. Metis has an advisory mandate with the Company paid on hourly rates for services rendered, and in addition has an agreed success fee arrangement with the Lender Group linked to the repayment of PCF. These latter fees were recovered from proceeds received and attributable to the Lender Group from the realisation of their security (thus did not impact on other classes of Creditors).

5.3.12.2. Matuson has an advisory mandate with the Company linked to the sale of THL Zimbabwe and THL Mozambique, with such fees being recovered, with the Lender Group's approval, from proceeds received from the sale of assets over which the Lender Group holds security (thus not impacting other classes of Creditors). P Marsden of Matuson was a non-executive director of the Company and previously held the position of chief restructuring officer. P Marsden resigned as director on 8 September 2023.

5.3.12.3. Absa Corporate Finance (M&A Advisory) has an advisory mandate with the Company relating to the sale of THL Zimbabwe, THL Mozambique and THL Botswana. Should Absa Corporate Finance (M&A

Advisory) not be required to run a sale process, they are entitled to a break fee, which has been approved by the Lender Group and which will be paid from the proceeds of the realisation of the Lender Group security (thus not impacting other classes of Creditors).

5.3.12.4. BSM has an advisory mandate with the Company paid on hourly rates for services rendered. In addition BSM has an agreed success fee arrangement linked to the outcome of Project BSM. Such costs are treated as Business Rescue Costs and will be deducted from the proceeds of relevant sales received by THL and/or from other facilities.

5.3.12.5. All other Advisors have advisory mandates with the Company paid on hourly rates for services rendered. Such costs are treated as Business Rescue Costs.

5.3.13. **Proposals made informally by Creditors (Section 150(2)(a)(vi)) and other parties:**

5.3.13.1. In terms of section 150(2)(a)(vi) of the Companies Act, the BRPs are required to disclose proposals made by a Creditor or Creditors of the Company with regard to this Business Rescue Plan.

5.3.13.2. Vision Parties' Proposals:

- This Business Rescue Plan is constructed around the Vision Parties' Proposals. Please refer to paragraph 6.1.5 for details of the Vision Transactions.

#### 5.3.13.3. RGS Proposals:

- Subsequent to acquiring a claim in order to be a Creditor, RGS provided the “**RGS Proposals**” to the BRPs.
- The key elements of the RGS Proposal are provided for the benefit of readers in a separate business rescue plan to be published simultaneously with this Business Rescue Plan.

#### 5.3.13.4. Kagera Proposal:

- Subsequent to being selected in the SEP process, Kagera provided the “**Kagera Proposals**” to the BRPs.
- The Proposals put forward by Kagera have (*inter alia*) conditionality attached (relating to required exclusivity as a bidder) which cannot be accommodated by the BRPs at this time and, consequently, the Kagera Proposals will not be under consideration at the Meeting.
- The Vision Parties have furthermore advised that they would vote down any plan not contemplating the Vision Transactions.

#### 5.3.13.5. SARS Proposal:

- SARS has proposed certain wording for insertion into business rescue plans. The effect of the proposed clauses would be that SARS is granted a

preference above all other Unsecured Creditors in respect of certain pre-business rescue Claims.

- In business rescue, however, SARS is treated as an Unsecured Creditor, in line with relevant previous judgements. The BRPs have frequently engaged with SARS to understand their views on these additional clauses which they have submitted to THL in this Business Rescue. The liability that may arise from a potential SARS "VAT clawback" claim would result in a lower distribution to Unsecured Creditors.
- The BRPs have sought legal advice on this matter which confirmed that any VAT clawback claim which arises in Business Rescue, in respect of a vat-able transaction which was concluded before the Commencement Date, should be treated as a pre-Business Rescue Concurrent claim because the provisions of the VAT Act/Tax Administration Act relating to the VAT clawback are inconsistent with and cannot be applied concurrently with Chapter 6 of the Companies Act without infringing upon provisions of Chapter 6 of the Companies Act. That is, the VAT clawback provisions would grant SARS a benefit over other Affected Persons that is not contemplated in Chapter 6 of the Companies Act. Accordingly, and upon a proper construction of the Companies Act, the advice concludes that the provisions of Chapter 6 of the Companies Act should prevail.

## 6. PART B – The Proposals

### 6.1. Terms of the Proposals

#### 6.1.1. Relevant Factors:

6.1.1.1. THL has an extensive social and economic impact on the region within which it operates. It is beyond question that a successful rescue of THL's SA Sugar operations in South Africa will save tens of thousands, possibly hundreds of thousands, of direct and indirect jobs, and avoid a possibly widespread (upstream and downstream) economic and human catastrophe.

6.1.1.2. The Lender Group has security over all material assets of THL (other than certain bank accounts, inventory and trade receivables (and any related insurance claims), which are the security of IDC in respect of IDC's Claim as a PCF Lender). These security rights are in the process of being acquired by the Vision Parties in terms of the Vision Transactions. The Vision Parties will upon, and after, the Adoption of this Business Rescue Plan acquire the Claims and security held by the Lender Group. In this regard, the Vision Parties have a substantial cash deposit available for payment to the Lender Group and, if the Business Rescue Plan is approved, the Vision Parties will finalise the acquisition of the Lender Group's Claims. In this part of the Business Rescue Plan the words "**Lender Group**" and "**Vision Parties**" will be used thus interchangeably (and/or the rights held by such parties shall be referred to as "**Vision Lender Rights**") as they relate to the exercising of the rights being acquired by the Vision Parties.

- 6.1.1.3. In view of the magnitude of the Lender Group Claims and voting interests being acquired, assuming the transaction is successfully completed the Vision Parties will collectively become the majority Creditor of THL.
- 6.1.1.4. Following their extensive discussions with the Lender Group for the acquisition of the Lender Group Claims and security, the Vision Parties presented their proposals to the BRPs for consideration. The BRPs, have thereafter consulted with the Vision Parties in relation to the development of the Vision Parties' Proposals ("**the Vision Proposals**") and the preparation of this Business Rescue Plan. This Business Rescue Plan encompasses the Vision Proposals.
- 6.1.1.5. As indicated in paragraph 5.3.5.8 above, Kagera Sugar were selected as the SEP. On 20 November 2023 the Lender Group notified the BRPs that they had entered into an agreement with the Vision Parties to sell its Claims against the Company, the agreement being unconditional but required payment in order to close the transaction. The BRPs were accordingly advised that the Vision Parties, once the beneficial owner(s) of the Lender Group Claims, would no longer support a Proposal entailing anything other than the Vision Transactions. Accordingly, and given that the Lender Group's Claims comprise some c.62% of the total Voting Interests, the BRPs formulated this Business Rescue Plan in line with the Vision Proposals.
- 6.1.1.6. The BDO report concludes that Unsecured Creditors would be unlikely to receive any recovery relating to their Claims in the event of a liquidation of THL. Given

the status quo with regards to the Company, the same outcome would result from the Business Rescue of the Company were the Claims to be settled strictly in accordance with the business rescue provisions of the Companies Act.

**6.1.2. Distributions:**

- 6.1.2.1. Notwithstanding the provisions of the Companies Act, however, the Vision Parties have undertaken that they will make available to Unsecured Creditors an amount of R75m. Unsecured Creditors will (pro rata) receive Distributions of (in aggregate) R75m upon full implementation of this Business Rescue Plan.
- 6.1.2.2. This will provide a benefit uplift to Unsecured Creditors in the Business Rescue Plan Proposals relative to the anticipated liquidation dividend of nil that would likely be received by Unsecured Creditors if the Company were to be placed in liquidation.
- 6.1.2.3. In order not to dilute this deemed Distribution to Unsecured Creditors, the relevant secured claims shortfall, if any, which the Lender Group/Vision Parties retain as Unsecured Creditor Claims (i.e. any remaining Lender Group/Vision Parties Claims which may remain following repayment from their respective security realisation proceeds) would not participate in the aforementioned R75m Distribution. It is recorded that the secured Claim of IDC, as PCF Lender, must be discharged in full by THL.
- 6.1.2.4. It should also be noted that, in addition to the above, to date Claims of Unsecured Creditors of c.R1.3bn



have, in the course of the Business Rescue, already been paid, the majority of which related to payments to cane growers, many of which are small-scale farmers.

### 6.1.3. **Equity Conversion:**

6.1.3.1. As noted above, following the acquisition of the c.R8bn of Lender Group Debt by Vision Parties, THL will implement a partial debt-for-equity swap by way of the Vision Parties individually subscribing for new shares in the Company. The aggregate consideration for such subscription will be c.R4.1bn based on current balances which will be discharged by a reduction in the former Lender Group Claims against THL (those purchased by the Vision Parties) to c.R3.6bn. Resulting from this:

- the balance sheet of THL will be strengthened by c.R4.1bn based on current balances through debt-equity swap;
- the previous terms of the Lender Group Debt in respect of the R3.6bn retained by the Vision Parties will be renegotiated on terms anticipated to be significantly more favourable to THL;
- current Shareholders will retain value as 2.7% (in aggregate) shareholders in the still-JSE-listed, newly recapitalised THL (compared to nil in the event of a liquidation or completion of the Vision Proposals by way of an asset sale (rather than a share issue); and

- the balance of the issued shares (97.3% in aggregate) will be held variously by the members of the Vision Parties.

Readers are referred to Annexure **G** which, inter alia, contains details about who Vision Parties is and the Turnaround Plan.

#### 6.1.4. **Strategy Underlying the Proposed THL Business Rescue Plan**

6.1.4.1. The Business Rescue will seek to:

- continue the process to optimise the operations and cost base of THL's businesses and its head office;
- complete the Vision Transactions detailed above and below;
- renegotiate to the satisfaction of IDC, and service in the normal course of business, subject to the usual credit terms and requirements of IDC, a working capital facility to be approved and advanced by IDC to the Company as PCF; and
- manage and optimise the legally separate but interlinked business rescue proceedings of THD, Voermol and THSSA in parallel with the THL Business Rescue.

#### 6.1.5. **The Vision Transactions**

6.1.5.1. The Vision Parties are:

- Terris AgriPro (Mauritius), registered and incorporated in Mauritius;
- Remoggo (Mauritius) PCC, a fund registered and incorporated in accordance with the laws of Mauritius;
- Guma Agri and Food Security Ltd (Mauritius), registered and incorporated in Mauritius; and
- Almoiz NA Holdings Ltd, registered and incorporated in accordance with the laws of the United Arab Emirates.

6.1.5.2. The Vision Parties' primary objective is to ensure both the successful turnaround of THL in the short-term as well as the continuity of the business in the long-term. To achieve this objective, the Vision Parties have formulated a detailed business plan for THL, which includes a substantial capital expenditure programme to optimise the THL's South African operations. It is the parties' belief that this business plan can facilitate THL's return to sustained profitability and growth over time.

6.1.5.3. Key details of the Vision Transactions are summarised below:

- Pursuant to extensive discussions and engagements between the Lender Group and the Vision Parties, the Vision Parties are in a position to acquire the Claims of the Lender Group. In this regard, the Vision Parties have a substantial cash deposit available for payment to the Lender Group

and, if the Business Rescue Plan is approved, the Vision Parties will finalise the acquisition of the Lender Group's Claims. The funding requirements of the Vision Transaction are not dependent on financing to be provided by the PIC. Confirmation of available funding has been provided to the BRPs.

- The Vision Parties will, subsequent to acquisition of the Lender Group Debt, and subject to meeting all required regulatory conditions, implement a debt for equity swap, converting c.R4.1bn based on current balances of the former Lender Group debt by subscribing for new shares in THL.
- On a diluted basis, the above will result in existing Shareholders owning 2.7% (in aggregate) of all THL shares then in issue, and the Vision Parties collectively holding 97.3% (in aggregate) of all shares in issue.
- The authorised shares of THL amount to 5 000 000 000 shares. The issued shares of THL amounts to 135 112 506 shares. In terms of section 152(6)(a), the BRPs are authorised to determine the consideration for, and issue of, any authorised securities of the Company. The proposed issue would not require any increase in the currently authorised share capital of THL therefore not altering the rights associated with the class of Securities held by the existing Shareholders.
- There will be c.R3.6bn in remaining ex-Lender Group debt outstanding and owing by THL to the

Vision Parties ("**Vision Debt**") and this will remain in place and will be restructured accordingly between THL and the Vision Parties on market related terms.

- Subject to the approval and Adoption of this Business Rescue Plan, the Vision Transactions will be subject to certain conditions, including legal, regulatory and other approvals common for transactions of this nature (in all relevant jurisdictions as applicable), which will potentially include (inter alia) Competition Commission approval (subject to legal counsel opinion on the matter) and potentially Takeover Regulation Panel ("**TRP**") approval. In order to maintain the JSE listing, THL (and the Vision Parties) will need to obtain certain dispensations and/or approvals as may be required from the JSE and/or TRP in order to implement the proposed transactions. In addition, the Company and BRPs, with the support of the Vision Parties, will need to secure confirmation from IDC that IDC will continue to provide a working capital facility to THL until at least the Closing Date.
- The aggregate of Distributions to Unsecured Creditors (over and above those already made,) will equate to R75m. The relevant Distributions will be shared among the Unsecured Creditors on a pro-rata basis. The entitlement of each Unsecured Creditor will be the percentage that their Claim bears to the total Concurrent Claims.

- Upon payment of the Distributions, any remaining Claims held by Unsecured Creditors will be Unenforceable against THL.
  
- For the avoidance of doubt, it is recorded that (i) IDC is under no obligation to continue providing a working capital facility to the Company and (ii) IDC will require the amount payable in respect of its Claim for PCF advanced to the Company to be paid in full or secured in full to its satisfaction before it will consider an application by the Company to advance a new working capital facility. The IDC will be under no obligation to increase or extend its existing PCF advanced to the Company. In this regard, on adoption of the Business Rescue Plan, the Vision Parties will engage with the IDC regarding:
  - the detailed operational business plans supporting a turn-around plan and new growth areas;
  
  - the extension of the PCF (without any obligation on the part of IDC, as existing PCF Lender, to extend its current PCF facility) in a manner that will result in the extinguishment of the PCF;
  
  - the working capital requirements of THL;
  
  - the provision of any security (whether cash or assets) required in the interim and on an on-going basis, with an aim to convert the PCF to

a sustainable working capital facility on terms acceptable to IDC; and

- potential support for small scale growers.

6.1.6. **Applicable to the Vision Transactions:**

6.1.6.1. Key Stakeholders:

- SASA:

- THL will discharge its future payment obligations towards SASA in accordance with the Sugar Industry Agreement, including ~~continuous~~ ongoing payment of SASA levies and the local market redistributions duly owed to SASA by THL.
- On 29 November 2023, the Declaratory Application was dismissed with costs by Vahed J. The judgement of Vahed J in respect of such order was handed down on 4 December 2023 ("**the Vahed Judgement**"). THL and the BRPs have applied for leave to appeal the decision. THL will abide by the final outcome of the appeal process of the Declaratory Application (i.e. after any and all appeals have been finally exhausted).
- SASA asserts that the outstanding amount as at 23 November 2023 (which takes into account the final 2023 season's local market redistribution and SASA levies and the set off of export proceeds payable by the

SASEXCOR/~~SASA Export Proceeds Receivable~~ to THL and which obligation to pay such proceeds has been assigned by SASEXCOR to SASA) is R525 956 121, which is in full and final settlement of SASA's statutory obligations ("SASA Claim"). THL agrees with the calculation of the SASA Claim and also agrees not to dispute the foregoing assignment or set off of the obligation to pay export proceeds by SASEXCOR to SASA.

- THL will, within twenty (20) Business Days after the Closing Date, but prior to substantial implementation~~implementation of the Business Rescue Plan:~~
  - o pay the SASA Claim into an escrow account ("**SASA Escrow**"); or
  - o should THL be unable to pay the full SASA Claim into the SASA Escrow within twenty (20) Business Days after the Closing Date~~implementation of the Business Rescue Plan by Creditors~~, Vision shall, on behalf of THL, pay the full SASA Claim into the SASA Escrow;
- THL agrees that the SASA Escrow shall be ringfenced in that the amounts retained in the SASA Escrow shall be solely payable to SASA. The SASA Escrow account shall be in the name of an independent reputable firm of attorneys ("**Independent Attorneys**") in a suitable interest bearing account, and for the benefit of



such party as is ultimately successful in the Declaratory Application;

- in the event that the outcome of the appeal process is that the Vahed Judgement is:
  - o upheld THL will make payment of its full liability to SASA (including any order as to interest and costs of the appeal and costs of the Declaratory Application), within 10 Business Days after the handing down of the final appeal judgement by means of SASA calling on the Independent Attorneys to release funds from the available amount held in the SASA Escrow and pay same to SASA;
  - o overturned, THL shall be entitled to call on the Independent Attorneys to withdraw the SASA Claim from the SASA Escrow and pay same to THL;
- SASA will use all reasonable endeavours to recover the full amount of the outstanding levy claimed by SASA in respect of Gledhow Sugar Company (Pty) Ltd (in business rescue) ("**Gledhow**") in the amount of R97 015 921 in terms of section 175 of the SI Agreement ("**Gledhow Special Levy**"). Any shortfall from SASA's recovery of the Gledhow Special Levy will subsequently be settled by THL on conclusion of the Gledhow Business process.

6.1.6.2. In order for the Vision Transactions to be completed, this will require (inter alia):

- the Adoption of this Business Rescue Plan;
- agreement being reached with IDC with regard to the ongoing provision of PCF to THL until at least the completion of the Substantial Implementation Date; and
- the meeting of all conditions precedent contained in the final Vision Transactions agreement(s), including all required regulatory approvals (in all relevant jurisdictions as applicable).

6.1.6.3. The BRPs and their advisors expect to conclude binding terms of agreement with the Vision Parties (including any agreements with IDC) during January 2024. The final Closing Date for the Vision Transactions will be dependent on the timelines for the relevant regulatory approvals (in all relevant jurisdictions as applicable) being secured.

It is the agreed intention of the BRPs, Management and the Vision Parties to complete the Vision Transactions (and thereafter full implementation of the Business Rescue Plan) as time efficiently as possible. Below is a high-level forecast timetable following voting on the Business Rescue Plan, assuming plan Adoption on 10 January 2024. Note the dates below are purely estimates based on past experience and should be used as a rough guide only.

**Shareholder approval process (if required):**

- Definitive transaction agreements signed in January 2024:
  - o Subscription agreement;
  - o Shareholder loan agreements for residual debt;
  - o Other (as may be required).
  
- SENS announcement detailing the transaction on the next business day after signing.
  
- JSE circular and dispensations submissions to JSE around end-January 2024.
  
- JSE circular approval by JSE (noting dispensations may be required) around end-February 2024.
  
- JSE circular distribution to shareholders around early March 2024.
  
- General meeting of shareholders to vote on the transaction (if so required) around late March 2024.
  
- Announcement of general meeting outcome on the same or next business day after general meeting.

**Competition approval process (if required):**

- Managed in parallel with the general meeting of shareholder's process.

- Large merger in SA: 40 Business Days is the maximum for Competition Commission to consider plus unlimited 15 Business Days extensions to complete the investigation. The Competition Tribunal has a further 10 Business Days thereafter to set the matter down for hearing.
- However, given failing firm submission and concerns, it is anticipated that this process could be accelerated significantly.
- Competition filings may be required in Mozambique, Zimbabwe and Botswana, which are expected to take no more than 6 months.

**Secured lender release of security:**

To be managed in parallel with shareholder approvals.

**IDC approval process in respect of PCF and any additional facilities for working capital:**

To be managed in parallel with shareholder approvals.

**Exchange control application process (if applicable):**

Expected in 2 months from submission. To be managed in parallel with shareholder approvals.

- 6.1.6.4. The BRPs continue with their endeavours to secure the ongoing PCF funding required from the IDC for the balance of the 2023/2024 sugar season and the closing of the Vision Transactions – and subsequent to full implementation of the Business Rescue Plan.

**6.1.7. Alternative transactions in the event of a failure to secure approval for the issue of new THL shares to the Vision Parties by way of a debt/equity swap**

6.1.7.1. In the event of, for whatever reason, a failure to secure the consents and/or approvals required in order for the proposed issue of THL shares to the Vision Parties to be effected (resulting in such parties not holding the anticipated 97.3% of the then shares in issue), the BRPs and the Vision Parties have agreed that, as an integral part of the Proposals and this Business Rescue Plan, the currently proposed Vision Transactions will be switched from those contemplating an issue of THL shares to transactions contemplating the acquisition by the Vision Parties of THL's assets and businesses (as going concerns) on the basis that:

- payment for such assets will be effected by way of a set off against the Secured Claims then held by the Vision Parties;
- suitable arrangements being made for payment of the full balance outstanding in respect of the IDC PCF Facility;
- the sale of THL's assets and businesses will be to an entity nominated by the Vision Parties;
- Unsecured Creditors and Secured Creditors would otherwise be treated as contemplated in the currently contemplated Vision Transactions;

- the Vision Parties will ensure that THL has sufficient funds to enable it to implement this Business Rescue Plan;
- the sale of THL's assets will be subject to the requisite regulatory and other approvals common for transactions of this nature in each jurisdiction;
- once it has sold its assets and businesses (as going concerns), THL will be delisted from the JSE and liquidated (noting that its shares would have nil value); and
- to the fullest extent possible Vision Parties and the BRPs will seek to structure the implementation of this Business Rescue Plan such that all stakeholders, other than Shareholders and the JSE as a result of the delisting/liquidation of THL, will be in substantially the same position as they would have been had the originally contemplated Vision Transactions been implemented.

**6.1.8. Alternative transactions in the event of a failure at the Meeting to Adopt this Business Rescue Plan encompassing the Vision Transactions**

- 6.1.8.1. In the event of a failure of this Business Rescue Plan to be Adopted at the Section 151 Meeting, the following factors should be carefully considered in relation to any subsequent conclusion of an alternative transaction, noting in particular the required timing to achieve same.

- The SA Sugar business operates on a highly seasonal basis with materially variable working capital requirements (entailing annual additional peak funding estimated at around R1.7bn) – dependent on industry dynamics, production and sales cycles.
- A significant investment process is undertaken annually from December to March (referred to as off-crop capital expenditure and/or maintenance (“**off-crop programme**”)) to enable critical proactive maintenance work to be performed ahead of the next season. Spending commitment towards the off-crop programme is required from as early as September onwards. For the ensuing off-crop programme, THL will look to the investing parties for guidance and assistance in securing the required funding.
- The introduction, negotiation, documentation and closing of any alternative transaction would require a significant amount of time to achieve. The time available to meet this requirement and the likelihood of success would be dependent on (i) Lender Group/Vision Parties support by virtue of both their voting power and (significantly) their security rights (the underlying Claims have been purchased by the Vision Parties); (ii) significant working capital funding support (i.e. agreement with IDC or an alternative financier in replacement of IDC); and (iii) creditor support in respect of any delays related to the further amendment of the Business Rescue Plan or its implementation etc.

- In the absence of continued Lender Group/SEP and working capital funding support, there would be a limitation on the ability to continue running the SA Sugar business in the ordinary course (in particular in relation to the off-crop programme).
- Any alternative transaction proposals should therefore be carefully considered in terms of the required support as outlined above, in addition to the timing and execution risks that may be relevant. Should Creditors wish for any such alternative proposal to be pursued, this Business Rescue Plan would need to be revised and a new Section 151 meeting of creditors convened to vote on such a revised Business Rescue Plan at a future date.
- Any motion (at the Meeting) to amend the Business Rescue Plan and consequently adjourn the Meeting should therefore be accompanied by clear plans for working capital funding and off-crop programme funding from such parties proposing such a motion, to the satisfaction of the BRPs.

#### **6.1.9. Other Features of the Proposals**

- 6.1.9.1. The THSSA and Voermol business rescues will operate in tandem with this Business Rescue Plan and will thus not result in any additional cash realisations to THL.
- 6.1.9.2. Voermol is a dormant company in business rescue with no assets and which is earmarked to eventually be wound up/deregistered. The division of THL, named Voermol, will remain in the Company. There will be no



Distributions to the creditors of the Voermol legal entity as a result of the agency relationship explained earlier in this Business Rescue Plan. Creditor claims submitted to Voermol will result in Voermol having a commensurate claim in THSSA and THSSA in turn against THL, its principal. Any distribution received by Voermol from THSSA will be distributed by Voermol to the Creditors who chose to submit their claims with Voermol.

- 6.1.9.3. THSSA (as agent of THL) nominally owns THL's (the beneficial owner) 100% shareholding in THA and 100% of the shares in Sociedade de Assistencia a Agricultura e Industria S.A. (registration number 500253153), a company duly incorporated in accordance with the laws of Portugal. There will be no Distributions to the creditors of the THSSA legal entity as a result of the agency relationship explained earlier in this Business Rescue Plan. Creditor claims submitted to THSSA will result in THSSA having a commensurate claim in THL, its principal. Any distribution received by THSSA from THL will be distributed by THSSA to the Creditors who chose to submit their Claims with THSSA.

## 6.2. **Employee Matters**

- 6.2.1. Whilst the Vision Transactions do not contemplate retrenchments, the BRPs are continuing with their process of business optimisation, together with Management, and as such have not yet entirely ruled out the possibility of employee retrenchments. As a result, this Business Rescue Plan envisages a possible section 189 retrenchment process (in terms of the LRA), if so required. The Business Rescue Plan contemplates the Company meeting its

relevant retrenchment financial obligations to all employees affected by any proposed section 189 process (in terms of the LRA) and/or in accordance with the Basic Conditions of Employment Act 75 of 1997.

6.2.2. THL is currently contractually obliged to provide monthly post-retirement medical aid benefits for approximately 900 persons. Such persons are either (i) former employees of THL or other members of the THL Group, or their beneficiaries, who are now retired pensioners, or (ii) current employees of THL or other members of the THL Group, who may become entitled to these benefits when they retire. In this regard:

- These benefits were provided to employees who joined the company on or before 30 June 1996 following which this scheme was closed to new entrants.
- In terms of THL's post-retirement medical aid benefits policy, the post-retirement medical aid benefit provided is limited to 50% of the cost of contributing to the Discovery Health scheme's Classic Comprehensive Plan. Presently, this equates to a maximum monthly contribution of R6,626.00 in respect of a married recipient, and R3,405.00 for a single recipient.
- At present, the expected accrued liability for the provision of post-retirement medical aid benefits to all recipients, as at 31 October 2023, is c.R347m (determined actuarially in line with International Financial Reporting Standards). Of this amount, c.R12.6m relates to current employees and c.R325.8m relates to retired employees. The monthly cash flow impact to THL is c.R3.6m.

- In the event of liquidation of THL the above claims would be entitled to nil value/distributions and the beneficiaries would thus receive no benefits from this scheme at all.
- As there are no unencumbered assets of significance, there is currently no available funding to settle any of the abovementioned obligations in respect of these Business Rescue proceedings. The BRPs are exploring ways in which to mitigate this situation.
- In light of the current Business Rescue proceedings, and subject to funding availability, the BRPs intend and hereby reserve their rights to engage with the recipients of these post-retirement medical aid benefits, to offer once-off lump sum payments or a payment arrangement to buy THL out of its current liabilities to provide these post-retirement medical aid benefits on an ongoing basis.
- These buy-out offers will be negotiated and concluded on terms and conditions acceptable to the BRPs and to the extent necessary the Vision Parties, and are aimed at ensuring not only that THL is able to reduce and/or eliminate its unfunded liabilities, but also in an endeavour to secure a financial benefit to the recipients who accept a buy-out offer, where there are currently none. In the absence of such agreement being concluded any such Claim will be regarded as an Unsecured Claim held by an Unsecured Creditor and after any Distributions will become Unenforceable as against the Company.

### 6.3. **Effects of the Proposal:**

6.3.1. Extent to which the Company is to be released from the payment of its debts and the extent to which any debt is proposed to be converted to equity (Section 150(2)(b)(ii)):

6.3.1.1. Distributions will be made to Creditors as outlined in paragraph 6.3.4. Following the final Distributions being made, any remaining unpaid portions of the Claims will become Unenforceable and no Creditor will be entitled to enforce the balance of its Claim, or any portion of its Claim, against the Company.

6.3.1.2. The ex-Lender Group Claims acquired by the Vision Parties will be partially converted into equity in THL as described in paragraph 6.1.5.3.

6.3.2. Ongoing role of the Company and the treatment of existing contracts (Section 150(2)(b)(iii)):

6.3.2.1. Upon the implementation of the Vision Transactions, the Business Rescue will be terminated and the Company handed back to its directors. Subject to the Vision Transactions being successfully implemented (and the alternative transactions not being employed), THL will remain listed on the JSE and at the appropriate time a request will be made to the JSE for the suspension of the shares to be lifted.

6.3.2.2. Where the BRPs have determined it to be in the best interests of Creditors to continue with counterparty agreements concluded with the Company, such agreements have continued.

6.3.2.3. Agreements concluded with the Company are, however, subject to ongoing evaluation and

negotiations by the BRPs in an effort to mitigate risks and optimise the success of the Business Rescue.

- 6.3.2.4. Section 136(2)(a) of the Companies Act allows the BRPs to entirely, partially, or conditionally suspend, for the duration of the Business Rescue, any obligation of the Company that arises under an agreement (including any form of *sui generis* agreement) to which the Company was a party at the Commencement Date and would otherwise become due during the Business Rescue. All Company obligations are continuously under review and the BRPs reserve their rights in this regard.
- 6.3.2.5. It is recorded that, where the BRPs have elected to suspend the Company's payment obligations, the aggrieved party may assert a Claim against the Company only for damages in terms of section 136(3) of the Companies Act. Such damages claim and/or suspended obligation amounts owing and unpaid will be treated as an Unsecured Claim of an Unsecured Creditor, and any balance remaining after any Distribution in terms of this Business Rescue Plan will become Unenforceable against THL.
- 6.3.2.6. As a reminder to Affected Persons, it is confirmed that an application was made to the High Court seeking the High Court's declaration that the BRPs have the right to suspend THL obligations to SASA under the SI Agreement. Separate notices have been circulated to Affected Persons in this regard. The relevant Court hearing was held on 13 and 14 September 2023. On 29 November 2023, the Declaratory Application was dismissed with costs. The judgement in respect of such

order was handed down on 4 December 2023. THL and the BRPs have applied for leave to appeal the decision.

6.3.2.7. The BRPs further have the right, in terms of section 136(2)(b) of the Companies Act, to apply to the High Court to cancel and/or terminate any obligation of the Company that arises under an agreement to which the Company was a party at the Commencement Date and that would otherwise become due during the Business Rescue.

6.3.2.8. Counterparties to all agreements in which the Company's obligations are suspended or cancelled should be guided by the moratorium which excludes a claim by a contractual counterparty for specific performance. Such party will have a Claim for damages in terms of section 136(3) of the Companies Act. Where that Claim is not reflected in Annexure **A**, the course of action available to that party is to submit a claim for damages as a Disputed Creditor and to follow the Dispute Mechanism set out in paragraph 16.

6.3.3. Property of the Company that is to be available to pay Creditors' Claims in terms of the Business Rescue Plan (Section 150(2)(b)(iv))

6.3.3.1. Other than the issue of shares by the Company, or as otherwise specifically provided for in this Business Rescue Plan, it is not contemplated that any assets of the Company will be available to pay Creditors' Claims.

6.3.3.2. To the extent that any assets were to be made available to pay Creditors' Claims, readers are referred to paragraph 5.3.6.5 which outlines all the assets of the Company that have been encumbered via security

held by the Lender Group, and now to be acquired by the Vision Parties.

- 6.3.3.3. As a result, all movable assets, bank accounts, inventory and trade debtors (and any related insurance claims) are encumbered.
- 6.3.3.4. In relation to fixed assets, refer to Annexure **E** which outlines all related properties and relevant encumbrances.
- 6.3.3.5. Following the BRPs review, there are a very small number of properties which are unencumbered which have either small or negligible values attributed.
- 6.3.3.6. Accordingly, there are no material unencumbered assets available which would result in any value of significance being distributed to Unsecured Creditors in satisfaction of their claims other than as specifically provided for in this Business Rescue Plan.

6.3.4. Effect on Creditors (Section 150(2)(b)(v))

- 6.3.4.1. Secured Creditors:
  - No Distributions are expected to be made in relation to the Secured Creditors' Claims;
  - c.R4.1bn, based on current balances of the Lender Group's Claims which are being acquired by the Vision Parties, will be converted to equity resulting in the Vision Parties owning 97.3% of the issued shares of THL;

- The remaining Lender Group/Vision Parties indebtedness of c.R3.6bn will be restructured on terms anticipated to be more favourable to THL;
- The Company, with the support of the Vision Parties, will secure working capital facilities, in the form of ongoing PCF (without any obligation on the part of the IDC to increase or extend its existing PCF advanced to the Company), sufficient to fund the THL businesses for the duration of the Business Rescue process.

6.3.4.2. Unsecured Creditors:

- Notwithstanding a strict application of the provisions of the Companies Act, under which it would be anticipated that Unsecured Creditors would not be entitled to any recovery on their claims:
  - payments made to date to Unsecured Creditors (primarily small scale farmers) amount to R1.3bn; and
  - further Distributions will be made to Unsecured Creditors (on a pro-rata basis) in the amount of R75m. The entitlement of each Unsecured Creditor will be the percentage that their Claim bears to the total Concurrent Claims.
- Subsequent to these Distributions having been paid to Unsecured Creditors, any remaining Claims will become Unenforceable.



6.3.4.3. Other than as specifically provided for in this Business Rescue Plan, Distributions will be made in the following order of priority in accordance with the Business Rescue Plan for the duration of Business Rescue. This ranking is in accordance with the provisions of the Companies Act.

6.3.4.4. Proceeds from Unencumbered Assets, if any, will be applied as follows:

- Business Rescue Costs will be funded out of the ongoing PCF Facility. To the extent that there is insufficient funding available to cover these costs, funds will be deducted from the net proceeds of any asset disposals or claim recoveries;
- PCF Employees to the extent that amounts due and payable, for services rendered during Business Rescue, that remain unpaid;
- Unsecured PCF Creditors, who will rank in the order in which the PCF was provided;
- Preferent employees;
- Unsecured Creditors (if there is any residual); and
- Shareholders (if there is any residual).

6.3.5. Expected Distributions to Creditors:

6.3.5.1. Distributions arising pursuant to the implementation of this Business Rescue Plan are expected to significantly

exceed those calculated by BDO in the alternative scenario of an immediate liquidation of the Company.

- 6.3.5.2. This is already the case for Unsecured Creditors due to the pre-Commencement Date Unsecured Creditors' Claims which have been paid amounting to c.R1.3bn. Furthermore, Distributions to Unsecured Creditors will be enhanced by the concessions agreed to by the Vision Parties, which will result in a further R75m being paid to Unsecured Creditors.
- 6.3.5.3. To the extent that agreements concluded between the Company and counterparties and/or obligations are cancelled, modified, suspended or restructured, any proven and accepted Claim for damages will be treated as an Unsecured Creditor and will accordingly be entitled to participate, pro-rata, in the R75m aggregate Distribution noted above.
- 6.3.5.4. Claims for damages, whether contractual or delictual against the Company, once determined through the Dispute Mechanism paragraph 16 or by the High Court or similar proceedings, as the BRPs may consent to, will be treated as follows–
- as an Unsecured Creditor, unless the claimant holds security for such Claim;
  - shall be limited to general damages as determined through the Dispute Mechanism or by the High Court or similar proceedings as the BRPs may in their sole discretion consent to. For purposes hereof, general damages are those which, on an objective basis, would be reasonably foreseeable

at the time of entering into the relevant contract as a probable consequence of, and with a sufficiently close connection to, any breach by the Company of an agreement so as to be said to flow naturally and generally and not to be too remote; and

- shall exclude all indirect, punitive, special, incidental, or consequential loss, including injury to business reputation, loss of profits and/or loss of business opportunities.

6.3.5.5. If this Business Rescue Plan is Adopted and implemented by payment of a final Distribution in accordance with this Business Rescue Plan, any remaining Claims will become Unenforceable against the Company by the relevant Creditor unless otherwise provided for in this Business Rescue Plan.

6.3.5.6. For the avoidance of doubt, any Claims which SARS may have against the Company in respect of tax debts owed prior to the Commencement Date, among other things, under section 22(3) of the Value Added Tax Act 89 of 1991, the Income Tax Act 58 of 62 or in respect of an audit under the Tax Administration Act 28 of 2011 for any date or year of assessment preceding the Commencement Date, will be Unenforceable under and in terms of this Business Rescue Plan. Any income tax debt owed to SARS prior to the Commencement Date will become unenforceable upon Adoption of the Plan.

6.3.5.7. Any VAT related claims from SARS and any other SARS Claims arising from transactions that occurred prior to the Commencement Date have been recognised as

Concurrent Claims in the Business Rescue Plan and SARS will be treated in the same manner as all other Unsecured Creditors and therefore will be entitled to the same Distribution as all other Unsecured Creditors.

- 6.3.5.8. This means that upon payment of a final Distribution in terms of this Business Rescue Plan, any remaining unpaid portions of the Claims will have become Unenforceable (unless otherwise provided in this Business Rescue Plan) and no Creditor, including SARS, will be entitled to enforce the balance of its Claims, or any portion of its Claims, against the Company.
- 6.3.5.9. Creditors voting in favour of the Business Rescue Plan do not thereby accede to the discharge of the whole or part of their debt in terms of section 154(1) of the Companies Act. The consequence of the Adoption and implementation of the Business Rescue Plan, Creditors' remaining Claims will become Unenforceable against the Company in terms of section 154(2) of the Companies Act.
- 6.3.5.10. After payment of the final Distributions and prior to a notice of substantial implementation being filed with the CIPC, the Company will be returned to its director(s).
- 6.3.5.11. Claims will only become Unenforceable in accordance with the Business Rescue Plan upon both the Adoption and subsequent implementation of this Business Rescue Plan. In the event of any breach by the Company of its obligations to creditors in terms of the Business Rescue Plan, or in the event the Company is

placed in liquidation other than as catered for in this Business Rescue Plan under paragraph 6.3.5.9, the full balance due to Creditors in terms of their original Claims against the Company shall immediately become due, owing and payable by the Company to the creditors, subject to the provisions of section 135 of the Companies Act.

6.3.6. Effect on Holders of the Company's issued Securities

- The authorised shares of THL amount to 5 000 000 000 shares. The issued shares of THL amounts to 135 112 506 shares. In terms of section 152(6)(a), the BRPs are authorised to determine the consideration for, and issue of, any authorised securities of the Company.
- The Vision Parties will subscribe for shares in THL such that, after the issue of the new shares, the Vision Parties will in aggregate own 97.3% of the issued shares in THL.
- The Vision Parties will settle the subscription price for such shares by means of set off against its Claims against THL in an amount of c.4.1bn based on current balances, leaving a Secured Vision Lender Claim of c.R3.6bn.
- The effect of this on existing Shareholders will be to dilute the existing Shareholders to a shareholding equating to 2.7% of the then issued shares.

6.3.7. Conditions that must be satisfied in order for the Business Rescue plan to come into operation (Section 150(2)(c)(i)(aa)) –

- 6.3.7.1. For this Business Rescue Plan to come into operation it must be approved by more than 75% of the creditors' voting interests that were voted and at least 50% of independent creditors' voting interest, if any, that were voted in accordance with the provisions of section 152(2) of the Companies Act at the meeting convened for this purpose in terms of Section 151 of the Companies Act.
- 6.3.7.2. To the extent that a Business Rescue Plan alters the rights associated with any class of Securities held by Shareholders, such Shareholders are entitled to vote on the Business Rescue Plan. This Business Rescue Plan will not alter the rights associated with the class of Securities held by Shareholders. Accordingly, Shareholders are not required nor entitled to vote on the Business Rescue Plan in terms of section 152(3)(c) of the Companies Act.
- 6.3.7.3. It is noted furthermore that, once this Business Rescue Plan has been Adopted, it may be necessary, pursuant to section 41(3) of the Companies Act, and pursuant to the JSE's Regulations, *inter alia* a special resolution of Shareholders will be required as a condition precedent to the implementation of the Vision Transactions.
- 6.3.7.4. Implementation of the Proposals implicit in this Business Rescue Plan will be conditional upon (inter alia) the following:

- agreement between the Company, the Vision Parties and IDC with regards to the ongoing provision of working capital to THL by IDC and the treatment of the relevant underlying security; and
- the meeting of all conditions precedent contained in the final transaction agreements.

6.3.8. Effect on Employees (Section 150(2)(c)(ii)) - The BRPs are continuing with their process of business optimisation, together with Management, and as such have not yet entirely ruled out the possibility of employee retrenchments. This Business Rescue Plan therefore contemplates a possible section 189 retrenchment process (in terms of the LRA), should it be required.

6.3.9. Effect on Director(s) and Management - Directors have continued to exercise the functions of a director, subject to the authority of the BRPs. The majority of the board members that were in office as at the date of commencement of business rescue proceedings have resigned. Currently there are two remaining board members, both of whom are executives.

6.3.10. Effect on subsidiaries - The investments in and claims against subsidiaries of the Company will be treated in accordance with the Proposals section of this Business Rescue Plan. With the requisite support of PCF Lenders, the Company will provide direct or indirect financial assistance to its related and inter-related companies/equity interests, which financial assistance may include without limitation the provision of loans, the issuance of guarantees (or other like instruments and/or Securities) and/or the subordination of claims owing to the Company by related or inter-related companies.

## **7. Binding nature of this Business Rescue Plan**

- 7.1. The BRPs draw the attention of Affected Persons to the provisions of section 152(4) of the Companies Act.
- 7.2. This section provides that once a Business Rescue Plan has been Adopted, it is binding on the Company, its Creditors (including all Claims, whether accepted by the BRPs as Creditors, whether Disputed Creditors, conditional Claims, prospective Claims, damages Claims and/or unliquidated Claims) and every holder of the Company's Securities (the latter in terms of the provisions of section 146(d) and 152(3)(c) of the Companies Act) whether or not such a Person was –
  - 7.2.1. present at the Meeting to determine the future of the Company;
  - 7.2.2. voted in favour of the Adoption of the Business Rescue Plan; or
  - 7.2.3. in the case of Creditors, has proven a Claim against the Company.

## **8. Moratorium (Section 150(2)(b)(i))**

- 8.1. The moratorium imposed by section 133 of the Companies Act prohibits any legal proceedings, including enforcement action, against the Company, or in relation to any property belonging to the Company or lawfully in its possession, from being commenced or proceeded with for the duration of the Business Rescue except with the written consent of the BRPs or with the leave of the High Court.
- 8.2. This means, among other things, that Affected Persons will not be able to proceed in any forum against the Company for, among other things, the non-payment of debts during Business Rescue, except with the written consent of the BRPs or with the leave of the High Court.



8.3. The moratorium in relation to the Company took effect on the Commencement Date and will remain in place for the duration of Business Rescue, until the termination of Business Rescue as defined in paragraph 12.

**9. Benefits of Adopting the Business Rescue Plan compared to liquidation (Section 150(2)(b)(vi))**

9.1. Through the implementation of this Business Rescue Plan the BRPs intend to optimise the returns for Creditors by implementing the Vision Transactions.

9.2. With this, the Business Rescue of the Company is intended to rescue the Company or, in the alternative, achieve a better return compared to liquidation as outlined in paragraph 5.3.3.

9.3. The financial benefits to Affected Persons through the Adoption and implementation of the Business Rescue Plan, as compared to a liquidation of the Company, are as follows –

9.3.1. Creditors / Liquidation Dividend –

9.3.1.1. the Distributions that all Creditors would have received in the alternative scenario of a liquidation of the Company as at the Commencement Date would be materially lower than the Distributions that have already been paid, together with those that are contemplated to be received by Creditors as a result of this Business Rescue Plan. This is expected to be true for both Secured Creditors and Unsecured Creditors.

9.3.2. Timing –

9.3.2.1. It is the view of the BRPs that typically a business rescue is concluded in a far shorter time frame than a liquidation of this nature.

### 9.3.3. Employees –

9.3.3.1. Subject to the Business Rescue Plan being implemented the majority of employees of the various entities will remain employed. This will, however, be subject to:

- the Company possibly commencing with a section 189 process (in terms of the LRA);
- any retrenched employees will be entitled to their full retrenchment packages.

9.3.3.2. By comparison, in a liquidation –

- All jobs will immediately be suspended and, subject to the liquidator(s)'s intentions, may be lost immediately unless the liquidator agrees to continue trading against an indemnity. In the current circumstances, it is considered to be highly unlikely that a liquidator would agree to continue trading or that a liquidator would be indemnified against trading losses.
- Employees would in such circumstances be entitled to receive a maximum amount of R32,000 per employee, to the extent that there are funds available, and would be treated as an Unsecured Creditor for any balance.
- Employees will only receive payment once the final liquidation and distribution account has been approved at the end of the liquidation process.

9.3.3.3. SARS –

- SARS ranks as an Unsecured Creditor under Business Rescue, whereas, under liquidation, SARS would rank as a statutory preferent creditor. In a liquidation, any dividend to Unsecured Creditors would be reduced by the Claim of SARS.

9.3.4. Shareholders –

- 9.3.4.1. In comparison to a liquidation scenario, in which shareholders would receive no return or nil cents in the Rand, this Business Rescue Plan envisages shareholders retaining 2.7% of the then issued shares of the Company, which shareholding remains listed on the JSE.

9.3.5. Socio-economic impact in South Africa –

9.3.5.1. Direct employment:

- In South Africa, THL’s total employment comprises 2,563 employees as of 31 March 2023 who earned remuneration totalling c.R850 million which contributed substantially to thousands of households, including those within rural areas.  
**Through the Proposals, the vast majority of employment positions will be saved.**

9.3.5.2. Indirect employment:

- In South Africa, THL generated a total economy-wide impact of 25,563 employment opportunities. The economy-wide impact contributed 0.22% to employment in South Africa along with an

economy-wide effect measuring c.R7.95bn. **The rescuing of SA Sugar as contemplated in this Business Rescue Plan will result in the avoidance of any material impact of the tens of thousands of indirect employment positions noted above.**

9.3.5.3. Growers (including small-scale growers):

- THL remains committed to large and small-scale empowerment farming and during the 2023 financial year paid its growers c.R2.9bn for sugarcane delivered to its Mills. The Company's SA Sugar operation sources c.43% of its sugarcane from over 15,000 black farmers and cooperative members. Uzinzo Sugar Farming, THL's transformational partnership, remains the largest black grower in the South African sugar industry. **This Business Rescue Plan provides for continuity for growers.**

9.3.5.4. Land reform and restitution:

- THL recognises that land reform is primarily an issue of basic human rights. Under the land reform programme, the Company works with two categories of farmers: restitution communities and land reform growers farming for their own account. Typically, restitution communities acquire land, through a land claims process, as a group for the benefit of many beneficiaries. With land reform growers, on the other hand, the beneficiary is the applicant.
- The main objective of the restitution programme is to unlock the economic benefit of the land for the previously marginalized communities. It is also to

enable communities, majority being rural communities, to drive the local economic development efforts in their local municipalities.

- THL has partnered with 13 restitution communities overseeing 6,000 hectares across South Africa in the sugarcane growing areas. Through this partnership, THL has been able to accelerate the implementation of the sugarcane development programme and rural development efforts. Communities have created employment opportunities, facilitated the transfer of agricultural and administrative skills and supported community upliftment activities.
- **This Business Rescue Plan provides for continuity in respect of such initiatives.**

#### 9.3.5.5. Local taxes:

- Tax revenue consists of corporate taxes, personal taxes paid by the Company on behalf of its employees (including for example any taxes on salaries and wages and unemployment insurance) as well as any indirect taxes paid.
- Despite the Company having an assessed tax loss in respect of corporate taxes, it paid c.R82 million in taxes as a result of its operational and capital expenditure. The estimated direct, indirect and induced impact of THL's tax payments elsewhere in the economy are to the value of c.R482 million, c.R448 million, and c.R930 million, respectively.

#### 9.3.5.6. Suppliers:

- THL's contribution to output, if its initial operational and capital expenditure are included, was c.R6.47bn in 2021. Adding all the direct, indirect

and induced impacts generated an estimated economy-wide effect measuring R24.8bn.

- Number of suppliers as of March 2023 (excluding cane growers, statutory spend, imports): 1,420.
- Number of black owned suppliers: 701 or 49,4%.
- Number of black women owned suppliers: 610 or 43%.
- Number of Exempt Micro Enterprises and Qualifying Small Enterprises Suppliers (<R50 million per annum revenue): 1,169 or 82,3%.
- The Company has placed an emphasis on its Localisation Policy (refer below) within the operations and through the procurement department, which would increase these percentages in future.
- **This Business Rescue Plan provides for continuity for such suppliers.**

#### 9.3.5.7. Other local businesses:

- Local communities and governments look up to the Company to facilitate equitable access to economic opportunities that empower individuals and enterprises to develop through employment, skills development, enterprise development and procurement opportunities. Rural and farming communities also look to the Company to support them in addressing issues of safety, health and environment.
- The Company's Localisation Policy was developed for THL to be proactive in the communication, management and facilitation of inclusive development and local participation opportunities with its local stakeholders and facilitate the implementation of Enterprise and Supplier

Development interventions to improve the competitiveness or business-readiness of local Small, Micro and Medium Enterprises (“**SMME’s**”).

- Aligned with the policy, THL is in the process of implementing iThuba Centre, a community-based platform which local businesses can approach to be informed of available opportunities and requirements to qualify.
- **This Business Rescue Plan provides for continuity for such businesses.**

#### 9.3.5.8. Mill clinics:

- The Company continues to be committed to supporting the government’s commitment to the Sustainable Development Goals and participating in all associated initiatives. THL values the contribution made by its employees and the Company works with them to invest in their health and well-being. Employees access primary healthcare services at on-site clinic facilities. THL funded clinics and hospitals screen, test, treat and seek to prevent diseases among employees and community members. Stakeholder engagement and corporate communication efforts regularly include matters of health and disease prevention in messages to workers and communities. An amount of c.R100 million was invested in health-related activities during 2021.

#### 9.3.5.9. Education:

- Education is vital for the social and economic development and upliftment of any community and

an essential tool to alleviate poverty and uplift future generations. The Company actively participates in the improvement of education in South Africa by partnering with government and other organisations, as well as schools to support literacy, science, technology, engineering, and mathematics (“**STEM**”) programmes as well as the provision of quality school infrastructure for schools in rural KwaZulu-Natal. To date, the Company has invested c.R10 million in 13 rural schools in the iLembe and King Cetshwayo District Municipalities in KwaZulu-Natal and c.R7 million in education initiatives, including the ongoing provision of water and electricity to several schools, transport, maintenance, schoolbooks, furniture and bursaries.

- Within KwaZulu-Natal, THL has supported PROTEC, a leading South African non-profit organisation, operating in the field of developing STEM skills for gifted under-privileged students. This year, PROTEC together with its sponsors, are celebrating the graduation of 31 former students as they qualify with tertiary degrees ranging from B Eng Technology through to BSc Chemical Engineering.
- THL continues to play an active role in nurturing and growing talent for our own business, the sugar industry and the broader KwaZulu-Natal economy. The Company has 106 learners completing a range of programmes (engineers-in-training, interns, apprenticeships, learnerships and graduates) of which 92% are African, and 42% are female. The Company’s focus on nurturing talent plays a critical role in the province’s broader agenda of accelerating diversity and ensuring representation



of Africans and females within management roles. Outside of these programmes, the Company continues to invest in its employees and over the last three years has invested R10.5 million in training and development.

## **10. Risks of the Business Rescue Plan**

10.1. The implementation of the Proposals contained in this Business Rescue Plan may be subject to factors potentially not known to the BRPs as at the Publication Date. The following risks should be borne in mind, as they may adversely impact the ultimate outcome of the implementation of this Business Rescue Plan:

- 10.1.1. Unforeseen litigation of any nature whatsoever, howsoever arising, from any cause of action whatsoever.
- 10.1.2. Existing litigation not progressing in the manner anticipated.
- 10.1.3. Any changes in legislation that impact the Business Rescue.
- 10.1.4. Any legal challenges to this Business Rescue Plan, the rejection thereof or any amendments thereto.
- 10.1.5. The non-availability of PCF for the duration of the Business Rescue and/or the available PCF not being sufficient for the duration of the Business Rescue and/or the PCF providers withdrawing their facilities due to insufficient security, the litigation and/or delaying of the Adoption of this Business Rescue Plan and/or the implementation thereof. The consequence of this will be dire for the continued operation of THL and the future of the Business Rescue.

- 10.1.6. Any regulatory delays and/or challenges of any nature whatsoever, howsoever arising, which includes multi-jurisdictions as well as any consequential statutory liability.
- 10.1.7. The ability to effect the flow of funds between international jurisdictions and legal entities.
- 10.1.8. Any unforeseen circumstances, outside of the control of the BRPs, of any nature whatsoever, howsoever arising, that impact the Business Rescue, which may include disruptions to trading from suppliers who are Unsecured Creditors.
- 10.1.9. Any damages or penalties claimed against the Company which were unforeseen.
- 10.1.10. Any potential retrenchment processes taking longer than expected.
- 10.1.11. Any labour action arising as a result of the retrenchment process or Business Rescue.
- 10.1.12. Unexpected liquidity events, withdrawal or restricted access to PCF provided by the PCF Lenders or delays thereto.
- 10.1.13. The final verification and agreement of Claims taking longer than expected.
- 10.1.14. Material discrepancies in the information made available to the BRPs by Management.
- 10.1.15. The deterioration and worsening of market conditions.
- 10.1.16. Any events and outcomes that may lead to the discovery of fraud, misrepresentation, corrupt practices, or other such matters relating

to the Company prior to the implementation of the Business Rescue Plan.

- 10.1.17. The variation in exchange rates and/or commodity prices affecting the Business Rescue.
- 10.1.18. Ambiguous provisions in the Companies Act which are subject to varied interpretation.
- 10.1.19. Adverse judgements or rulings which may have the effect of reducing cash flow available for the Distributions, given that the estimated Distributions have been calculated on the basis that the Company's legal interests are preserved in terms of section 134(1)(c) of the Companies Act.
- 10.1.20. JSE, financial reporting and transaction approval mechanisms proving problematic.
- 10.1.21. The macro-economic conditions in Zimbabwe remain a concern. The poor economic outlook is exacerbated by the suspension of duties on basic commodities including sugar, which resulted in lower cost imported sugar (which has unfair cost advantages) competing against locally produced sugar. This is slowing down sales significantly domestically, which is the preferred market, with the lost sales volumes being redirected into lower-priced export markets. Government interventions in respect of grower issues as well as the wage arbitration where minimum wages were increased to USD280 before the elections, had a significant impact on the cost base and cash flow of the business. The lack of security over land tenure due to the 99-year leases not signed creates further uncertainty.

## **11. PART C – Assumptions and Conditions of Proposal**

## 11.1. **PCF:**

- 11.1.1. The successful implementation of the Business Rescue Plan and the Proposal is subject to receipt of the necessary PCF referred to in this Business Rescue Plan to the extent required and within the timing considered appropriate by the BRPs.
- 11.1.2. The BRPs remain in constant communication with the relevant PCF Lender(s) in this regard. It must be noted that any extension of the current PCF provided by IDC, as the sole PCF Lender, will at all times be required to satisfy the credit criteria of IDC, with IDC under no obligation to extend its PCF, the security provided is at all times sufficient to discharge the PCF obligation in full and without any shortfall.
- 11.1.3. The BRPs shall use their reasonable endeavours to procure the fulfilment of the required PCF drawdowns as soon as practically possible.
- 11.1.4. If the above-mentioned PCF is withdrawn without replacement, the BRPs may be faced with little alternative but to apply to the High Court to terminate Business Rescue and commence liquidation proceedings.

## **12. Termination of Business Rescue (Section 150(2)(c)(iii))**

### 12.1. The Business Rescue will end:

- 12.1.1. if the Business Rescue Plan is proposed and rejected, and no Affected Person/s or the BRPs act in any manner contemplated by the Companies Act to propose an amended Business Rescue Plan;

- 12.1.2. if this Business Rescue Plan is Adopted and implemented and the BRPs have filed a notice of substantial implementation of the Business Rescue Plan with the CIPC;
- 12.1.3. if the BRPs make application to the High Court to terminate the Business Rescue; or
- 12.1.4. if a High Court orders the conversion of the Business Rescue into a liquidation.

### **13. Substantial Implementation (Section 150(2)(c)(i)(bb))**

- 13.1. Substantial Implementation will be deemed to have occurred upon the BRPs deciding, in their sole discretion, that the following has taken place:
  - 13.1.1. the transactions contemplated this Business Rescue Plan have been concluded. For the avoidance of any doubt, payment into the SASA Escrow is a transaction contemplated in this Business Rescue Plan;
  - 13.1.2. all amounts owing to IDC as PCF Lender, together with interest and all other amounts due and/or payable under the agreements concluded for the advance by IDC of PCF to THL, have been discharged or settled, in full or alternative arrangements are agreed;
  - 13.1.3. final Distributions have been paid to Creditors and/or an appropriate mechanism, acceptable to the BRPs in their sole discretion has been put in place for the payment of any remaining Distributions to Creditors; and
  - 13.1.4. all Business Rescue Costs relating to the Business Rescue have been paid and settled in full or suitable arrangements acceptable to the BRPs have been put in place in this regard.

13.2. Notwithstanding the above, the Substantial Implementation of this Business Rescue will remain within the sole and reasonable discretion of the BRPs.

**14. Projected Balance Sheet and Projected Income Statement (Section 150(2)(c)(iv))**

14.1. The Vision Transactions constitute the acquisition by the Vision Parties of the Claims and security held by the Lender Group and the subsequent conversion by the Vision Parties of a portion of such Claims into new equity in THL. The projected balance sheets and projected income statements reflected below have been prepared based on Management's assumptions and do not incorporate any business improvement plans and/or other initiatives that the Vision Parties may implement. In respect of the forecasts for the 2024 financial year, the underlying assumptions are based on the information available as at 31 October 2023. In respect of the forecasts for the 2025, 2026 and 2027 financial years, the underlying assumptions are based on the information available at 31 May 2023, with adjustments made for material changes to assumptions that have emerged since that date.

*For comparability, the information in the projected balance sheets have been reflected in the same way as the balance sheet at 31 October 2022 with reference to paragraph 5.3.6.7.*

THL INCOME STATEMENT	31 March 2025	31 March 2026	31 March 2027
<b>REVENUE</b>	<b>9 973</b>	<b>10 767</b>	<b>11 597</b>
SUGAR INDUSTRY RELATED ADJUSTMENTS	- 251	- 696	- 819
COST OF SALES	- 8 472	- 8 758	- 9 355
<b>GROSS PROFIT</b>	<b>1 250</b>	<b>1 313</b>	<b>1 423</b>
MARKETING AND SELLING EXPENSES	- 221	- 235	- 250
ADMINISTRATIVE AND OTHER EXPENSES	- 1 008	- 1 003	- 1 070
EXPECTED CREDIT LOSSES	- 1	- 1	- 1
FAIR VALUE ADJUSTMENTS TO BIOLOGICAL ASSETS	37	3	2
OTHER OPERATING INCOME	331	366	392
<b>PROFIT/(LOSS) FROM OPERATIONS BEFORE IMPAIRMENTS AND NON-TRADING ITEMS</b>	<b>388</b>	<b>443</b>	<b>496</b>
IMPAIRMENT (LOSS)/REVERSAL	-	-	-
OTHER NON-TRADING ITEMS	-	-	-
<b>PROFIT/(LOSS) FROM OPERATIONS</b>	<b>388</b>	<b>443</b>	<b>496</b>
NET FINANCE ( COSTS) / INCOME	- 1 140	- 883	- 939
DIVIDEND INCOME	12	12	13
<b>PROFIT/(LOSS) BEFORE TAXATION</b>	<b>- 740</b>	<b>- 428</b>	<b>- 430</b>
TAXATION	- 90	-	-
<b>PROFIT/(LOSS) FOR THE PERIOD</b>	<b>- 830</b>	<b>- 428</b>	<b>- 430</b>

#### 14.1.1. Material Assumptions as per section 150(3)

14.1.1.1. The Projected Income Statement assumes that the Vision Transaction is completed on 1 April 2024.

14.1.1.2. Inflationary rates utilised in the forecast:

- FY 2025: 5.5%
- FY 2026: 5.0%
- FY 2027: 4.75%

14.1.1.3. Exchange rates utilised in the forecast:

- FY 2025: R18.25 : USD1
- FY 2026: R18.50 : USD1
- FY 2027: R18.75 : USD1

14.1.1.4. World sugar prices utilised in the forecast:

- FY 2025: US¢ 20 per pound
- FY 2026: US¢ 19 per pound
- FY 2027: US¢ 18 per pound

- 14.1.1.5. Sugar production includes the continued benefit of the reinvestment in milling efficiencies and assumes that there are no adverse weather conditions (e.g. drought) during the forecast period.
- 14.1.1.6. Local market demand for sugar is forecast to grow at c.1% per annum and assumes that there will be no further changes to the Health Promotion Levy.
- 14.1.1.7. THL will remain listed on the JSE, therefore the associated costs including non-executive director fees are included in the forecast.
- 14.1.1.8. Business Rescue and other restructuring costs:
- FY 2025:
    - no business rescue costs have been forecast on the assumption that the business rescue will be substantially implemented once the Vision Transactions have been implemented; and
    - legal costs on progressing the various criminal and civil cases in respect of the accounting irregularities identified in 2019 have been included in the forecast.
  - FY 2026 and FY 2027: No such costs have been included in the forecast.
- 14.1.1.9. In respect of the Post Retirement Medical Aid ("**PRMA**") obligation, the forecast assumes that the monthly contribution in respect of pensioners continues to be met by the Company. (This is not binding on the Company, but merely for illustration purposes. The wording set out in paragraph 6.2 remains applicable.)
- 14.1.1.10. Operational support fees and direct cost recoveries from the non-South African sugar operations:
- Botswana:
    - dividends are declared and paid annually (assuming same profit profile);



- all direct costs are recovered in cash; and
- all operational support fees recovered in cash.
- Mozambique:
  - no dividends are assumed to be declared;
  - all direct costs are recovered in cash; and
  - operational support fees:
    - FY25: 50% of FY25 fee recovered in cash;
    - FY26: balance of FY25 fee and 100% of FY26 fee recovered in cash; and
    - FY27: 100% of fee recovered in cash.
- Zimbabwe:
  - no dividends are assumed to be declared;
  - all direct costs are recovered in cash; and
  - operational support fees:
    - FY25: 50% of FY25 fee recovered in cash;
    - FY26: balance of FY25 fee and 100% of FY26 fee recovered in cash; and
    - FY27: 100% recovered in cash.

#### 14.1.1.11. Vision Debt

- The forecast assumes that Vision Debt of R3.6bn will remain owing as term debt. The Vision Parties have agreed to an interest payment holiday for the first 3 years, subsequently interest will be incurred at a market-related interest rate and will not be serviced in cash but capitalised. (This is not binding on the Vision Parties, but merely for illustration purposes).

#### 14.1.1.12. The IDC post-Commencement Date funding has been assumed to remain in place at the current facility terms.

THL BALANCE SHEET	31 March 2025	31 March 2026	31 March 2027
<b>ASSETS</b>	<b>5 534</b>	<b>5 907</b>	<b>6 109</b>
<b>NON CURRENT ASSETS</b>	<b>3 156</b>	<b>3 266</b>	<b>3 350</b>
PROPERTY PLANT AND EQUIPMENT	1 878	2 015	2 135
RIGHT-OF-USE ASSETS	8	2	10
INTANGIBLE ASSETS	84	69	26
INVESTMENTS IN SUBSIDIARIES AND JOINT OPERATIONS	1 168	1 168	1 168
NET DEFERRED TAX	-	-	-
OTHER NON-CURRENT ASSETS	18	12	11
<b>CURRENT ASSETS</b>	<b>2 378</b>	<b>2 641</b>	<b>2 759</b>
INVENTORIES	838	945	1 061
BIOLOGICAL ASSETS	233	236	239
AMOUNTS OWING FROM GROUP COMPANIES	193	233	127
TRADE AND OTHER RECEIVABLES	1 073	1 179	1 285
CASH AND CASH EQUIVALENTS	41	48	47
<b>EQUITY &amp; LIABILITIES</b>	<b>5 534</b>	<b>5 906</b>	<b>6 109</b>
<b>CAPITAL &amp; RESERVES</b>	<b>- 2 426</b>	<b>- 2 574</b>	<b>- 2 702</b>
SHARE CAPITAL AND PREMIUM	6 389	6 389	6 389
ACCUMULATED LOSSES	- 8 806	- 8 954	- 9 082
OTHER RESERVES	- 9	- 9	- 9
<b>LIABILITIES</b>	<b>7 960</b>	<b>8 480</b>	<b>8 811</b>
<b>NON CURRENT LIABILITIES</b>	<b>364</b>	<b>358</b>	<b>361</b>
AMOUNTS OWING TO GROUP COMPANIES	-	-	-
POST-RETIREMENT BENEFIT OBLIGATIONS	354	350	346
DEFERRED INCOME - NC	-	-	-
PROVISIONS - NC	8	8	8
LEASE LIABILITIES - NC	2	-	7
<b>CURRENT LIABILITIES</b>	<b>7 596</b>	<b>8 122</b>	<b>8 450</b>
BORROWINGS	5 741	6 226	6 507
CREDITORS - PRE BR	580	580	580
SASA - PRE BR	59	59	59
SASA - POST BR	467	467	467
TRADE AND OTHER PAYABLES	743	788	834
DEFERRED INCOME	-	-	-
NET TAX LIABILITY	-	-	-
LEASE LIABILITIES	6	3	3

#### 14.1.2. Material Assumptions as per section 150(3)

14.1.2.1. The Projected Balance Sheet assumes that the Vision Transaction is completed on 1 April 2024.

- 14.1.2.2. As per the Vision Parties' Proposal, Unsecured Creditors will be entitled to a distribution of R75m.
- 14.1.2.3. THD:
- THD is being wound down in accordance with its business rescue plan.
  - The THD intergroup debtor is Unenforceable in line with the impact of THD's approved business rescue plan which entails a zero cents in the Rand distribution to Unsecured Creditors.
- 14.1.2.4. Intergroup creditors and/or debtors are taken over by the Vision Parties (excluding the THD balance as per 14.1.2.3 which remains unenforceable).
- 14.1.2.5. The site restoration provision in respect of a mothballed sorbitol facility will be subject to the Unsecured Creditor Distribution should a Claim materialise.
- 14.1.2.6. SASA: SASA asserts that the net outstanding amount as at 23 November 2023 is R525 956 116. The terms of settlement in respect of the SASA Claim shall be treated in the manner as set out in clause 6.1.6.1 above. For ease of reference and only for purposes of these forecasts it is assumed that the Declarator Judgement appeal process takes longer than three years, so SASA is not paid from the SASA Escrow before that.
- 14.1.2.7. PRMA: The forecast assumes that the PRMA obligations are met by the Company through the continued payment of the monthly medical aid contributions in respect of pensioners. (This is not binding on the Company, but merely for illustration purposes. The wording set out in paragraph 6.2 remains applicable.)
- 14.1.2.8. Vision Debt:

- The forecast assumes that Vision Debt of R3.6bn will remain owing as term debt. The Vision Parties have agreed to an interest payment holiday for the first 3 years, subsequently interest will be incurred at a market-related interest rate and will not be serviced in cash but capitalised. (This is not binding on the Vision Parties, but merely for illustration purposes).
- The balance of the Vision Parties' claim is assumed to be converted to equity.

14.1.2.9. The forecast assumes that the IDC PCF Facility is refinanced and that the replacement lender will provide sufficient facilities to support the working capital and capital reinvestment requirements of THL at market-related interest rates.

14.1.2.10. Trade Payables includes pre-Commencement Date claims as per Annexure **A** after the Unsecured Creditor Distribution has been made as per paragraph 6.3.4.2 above.

## CHAPTER 3 – ADMINISTRATIVE MATTERS

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### 15. Existing litigation or alternate dispute resolution proceedings

- 15.1. Annexure J lists the matters already subject to a dispute resolution process as at the Publication Date.
- 15.2. Save as is otherwise provided for in this Business Rescue Plan and/or the Companies Act, all Affected Persons who have instituted legal proceedings, including any enforcement action, in respect of any Claims against the Company in any forum will be required to submit a Claim for consideration by the BRPs in accordance with the provisions of this Business Rescue Plan.
- 15.3. The BRPs shall be entitled to institute any proceedings against any Affected Person in any forum (and will not be subject to the Dispute Mechanism in paragraph 16 below) for any purpose, including, recovering money that is due to the Company or preventing Affected Persons from delaying the implementation of the Business Rescue Plan or bringing any application to liquidate the Company.

### 16. Dispute Mechanism

- 16.1. Subject to paragraph 15 above and save as provided for in section 133 of the Companies Act, any disputes related to the interpretation or application of this Business Rescue Plan, the Business Rescue proceedings, and/or the Disputed Claims of all Disputed Creditors ("**Disputed Matters**") must be resolved in accordance with the Dispute Mechanism outlined below, other than in circumstances where the BRPs and the relevant counterparty (the "**Disputing Party**") otherwise mutually agree in writing. Even in circumstances where an agreement legally requires otherwise as to how a Disputed Matter must be resolved, Disputing Parties and the Company are encouraged, and may elect and agree in writing, to resolve such matters through the Dispute Mechanism.

16.2. The Dispute Mechanism procedure will be as follows –

16.2.1. The BRPs have incorporated into this Business Rescue Plan a Dispute Resolution Process that has been jointly established and endorsed by the Arbitration Foundation of South Africa (“**AFSA**”) and the South African Restructuring and Insolvency Practitioners Association NPD (“**SARIPA**”) specifically for the purpose of resolving disputes arising in connection with business rescue proceedings (“**the AFSA/SARIPA Process**”). The advantages of adopting the AFSA/SARIPA Process are (inter alia) that it:

16.2.1.1. is specifically designed for use in business rescue plans;

16.2.1.2. will be populated by arbitrators experienced in business rescue law and proceedings;

16.2.1.3. is designed to avoid the costs and time delays experienced in court proceedings, and in certain overcomplicated and extended arbitration proceedings;

16.2.1.4. has a mechanism which enables the arbitrator to adapt each arbitration to fit the specific circumstances; and

16.2.1.5. brings with it a flexibility which allows the BRPs and claimant’s, by mutual agreement, to opt out of the AFSA/SARIPA Process if so elected.

16.2.2. All Disputing Parties are referred to Annexure **A** in relation to their Disputed Matters and are required to contact the BRPs at [br@tongaat.com](mailto:br@tongaat.com) within 30 days of the Disputing Party becoming aware of the Disputed Matters in order to register their disagreement (“**Disagreement**”).

- 16.2.3. The Disputing Party must endeavour to reach agreement with the BRPs on the Disputed Matter within the ensuing 15 days after their Disagreement has been registered, or such longer period as the BRPs may allow. If the Disputing Party does not avail itself of this opportunity within the time period allowed, then the Disputing Party shall be deemed to have abandoned its Claim and will not, in accordance with section 154 of the Companies Act, be entitled to enforce, at a later date, any Claim that that Disputing Party believes it has against the Company.
- 16.2.4. If the Disagreement is not so resolved, the BRPs will inform the Disputing Party accordingly and this will be known as the Rejection Date.
- 16.3. Any Disputed Matter of whatsoever nature relating to:
- 16.3.1. the acceptance or rejection of any Claim whether in whole or in part or the value or ranking of any Claim or the recognition of any security or preference, lien or hypothec attaching to such claim;
- 16.3.2. Claims which are not reflected in the records of the Company and are not recognised under the Business Rescue Plan; and/or
- 16.3.3. the proper interpretation or implementation of any provision or matter addressed in this Business Rescue Plan;
- which is not resolved in terms of paragraph 16.2.3 shall be submitted for final determination in accordance with the AFSA-SARIPA RULES, attached hereto as Annexure **K**, by an accredited arbitrator appointed by the Secretariat of the AFSA-SARIPA Division.
- 16.4. The BRPs may, however, in their sole and absolute discretion agree with the Disputed Creditor that the Disputed Claim/s be settled. To the extent that

any amount remains unpaid after such settlement, the remaining amount will become Unenforceable.

- 16.5. Should any monetary award be made against the Company, including a costs award, then that award will be treated as a Concurrent Claim in the Business Rescue.
- 16.6. Notwithstanding anything to the contrary in this paragraph 16 or elsewhere in the Business Rescue Plan, the BRPs shall not, in any circumstance, be obliged to prosecute, progress or further the Claim of any Creditor beyond the provisions of this paragraph 16. The Company may, however, in the discretion of the BRPs, continue to prosecute any one or more of its counterclaims.

## **17. Domicilium**

- 17.1. The BRPs choose *domicilium citandi et executandi* ("**Domicilium**") for all purposes relating to the Business Rescue up until the Substantial Implementation Date, including the giving of any notice and the serving of any process, at the physical and e-mail addresses set out below:
  - 17.1.1. Physical address: Amanzimnyama Hill Road, Tongaat, KwaZulu-Natal, 4400
  - 17.1.2. E-mail address: [br@tongaat.com](mailto:br@tongaat.com)
  - 17.1.3. Attention: Peter van den Steen, Trevor Murgatroyd and Gerhard Albertyn
- 17.2. The BRPs shall be entitled, up until the Substantial Implementation Date, by giving written notice to Affected Persons, to vary their physical Domicilium to any other physical address (not being a post office box or poste restante) and to vary their e-mail Domicilium to any other e-mail address.



- 17.3. Any notice given or process served by any Affected Person to the BRPs, which is delivered by hand between the hours of 09h00 and 17h00 on any Business Day to the BRPs' physical Domicilium for the time being, shall be deemed (unless the contrary is proved by the BRPs) to have been received by the BRPs at the time of delivery.
- 17.4. Any notice given or process served by any Affected Person to the BRPs, which is transmitted by e-mail to the BRPs' e-mail Domicilium for the time being, shall be deemed (unless the contrary is proved by the BRPs) to have been received by the BRPs on the Business Day immediately succeeding the date of successful transmission thereof.
- 17.5. Any notice or process in terms of, or in connection with, this Business Rescue Plan shall be valid and effective only if in writing and if received or deemed to have been received by the BRPs.
- 17.6. For the avoidance of doubt, it is recorded that –
- 17.6.1. following the Substantial Implementation Date, the Business Rescue of the Company would have terminated; and
- 17.6.2. no notice or process served in terms of this paragraph shall be taken into consideration by the BRPs (unless they in their sole discretion choose to consider such notice or process) on or after the Substantial Implementation Date.

## **18. Ability to amend the Business Rescue Plan**

- 18.1. In respect of an amendment to correct a clerical error and that will not be prejudicial to the rights of Creditors as set out herein, the BRPs shall have the ability, in their sole and absolute discretion, to amend, modify or vary any provision of this Business Rescue Plan. The amendment will be deemed to take effect on the date of written notice of the amendment to all Affected Persons.

18.2. Other than as specifically contemplated in this Business Rescue Plan to the contrary, in the event of any other material amendments to this Business Rescue Plan, the BRPs shall consult with Affected Persons in terms of section 150 of the Companies Act and shall be entitled to propose an amendment for consideration and voting at a Meeting conducted in terms of Section 151 of the Companies Act. Such amendment shall only be effective should it be Adopted in the same manner as provided for in section 152 of the Companies Act.

~~18.2.~~18.3. The Vision Parties or any Creditor may at any time after the Adoption Date submit to the BRPs a proposed material amendment to the Business Rescue Plan, and if such proposed material amendment (i) is supported by creditors who hold at least 50% of the total Voting Interests of creditors, and (ii) is acceptable to BRPs, then the BRPs will be required to propose the proposed material amendment for consideration and voting at a meeting of creditors in the manner contemplated in clause 18.2.

## 19. **Severability**

19.1. Each provision of this Business Rescue Plan is, notwithstanding the grammatical relationship between that provision and the other provisions of this Business Rescue Plan, severable from the other provisions of this Business Rescue Plan.

19.2. Any provision of this Business Rescue Plan, which is or becomes invalid, unenforceable, or unlawful in any jurisdiction shall, in such jurisdiction only, be treated as *pro non scripto* to the extent that it is so invalid, unenforceable, or unlawful, without invalidating or affecting the remaining provisions of this Business Rescue Plan which shall remain of full force and effect.

## **CHAPTER 4 – CONCLUSION AND BRPs’ CERTIFICATES**

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### **20. Conclusion**

20.1. For the reasons set out above it is the view of the BRPs, notwithstanding the risks and challenges inherent in this Business Rescue Plan, that:

20.1.1. there is a reasonable prospect of a successful Business Rescue, that balances the rights and interests of all relevant stakeholders and Affected Persons, in accordance with the objectives of Chapter 6 of the Companies Act;

20.1.2. the aggregate Distribution is likely to result in Creditors receiving a higher return in the Business Rescue than would be anticipated to receive on a liquidation of the Company. This is already the case due to the extent of the pre-Commencement Date Claims that have already been paid and the fact that the values of the Secured Creditor security over the investments in THL Zimbabwe, THL Botswana and THL Mozambique materially exceed the liquidation estimate of BDO.

20.1.3. a substantial majority of employees will retain their employment positions (albeit under different ownership);

20.1.4. a successful Business Rescue will have a materially positive impact on employment and the local economy and avoid a social and economic catastrophe in the KwaZulu-Natal region; and

20.1.5. should the Business Rescue Plan not be Adopted, the BRPs are of the view that the Business Rescue will probably be terminated and converted to liquidation proceedings immediately following the provisions of section 153 of the Companies Act.

### **21. BRPs’ certificates**

21.1. We, the undersigned, hereby certify that to the best of our knowledge and belief:

21.1.1. any information provided herein appears to be reasonably accurate, complete, and up to date;

21.1.2. we have relied on financial information including opinions and reports furnished to us by the Board and Management;

21.1.3. any projections provided are reasonable estimates made in good faith based on factual information and assumptions as set out herein;

21.1.4. in preparing the Business Rescue Plan, we have not undertaken an audit of the information provided to us, although where practical, we have endeavoured to satisfy ourselves of the accuracy of such information.

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**Peter van den Steen**

**Date:**

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**Trevor Murgatroyd**

**Date:**

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**Gerhard Albertyn**

**Date:**

**ANNEXURE A - LIST OF THE CREDITORS OF THE COMPANY**

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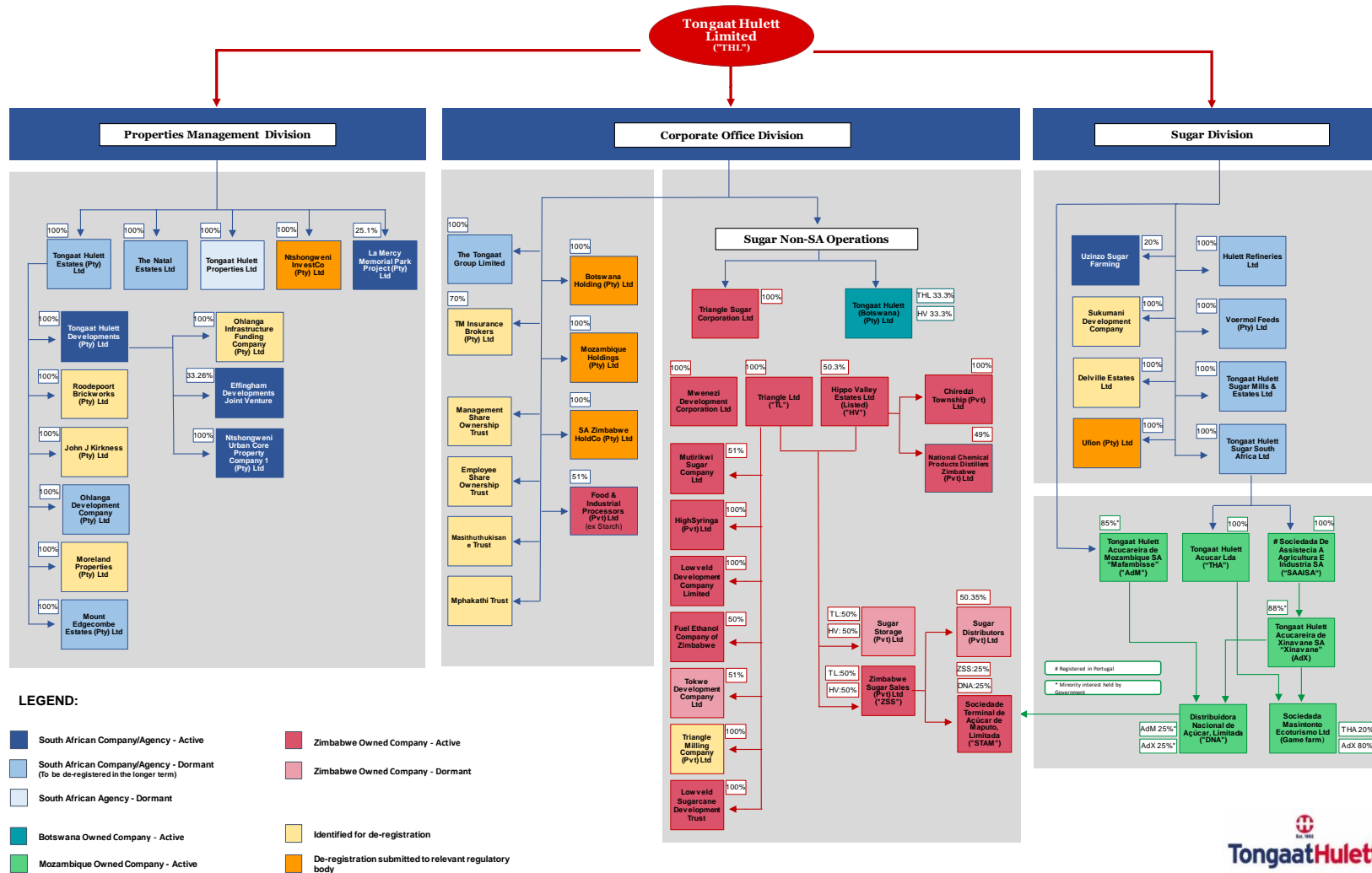
**(ATTACHED SEPARATELY BELOW)**

**ANNEXURE B – EVENTS WHICH LED TO THE COMPANY COMMENCING  
BUSINESS RESCUE**

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**(DIRECTORS STATEMENT ATTACHED SEPARATELY BELOW)**

# ANNEXURE C- GROUP STRUCTURE



Source: Extract from the Company's Organogram updated as of 20/11/2023.

## **ANNEXURE D – SUMMARY OF OPERATIONAL INITIATIVES AND INTERVENTIONS**

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Tongaat Hulett Ltd is an organisation that has been subjected to multiple and (arguably) continuous disruptions over roughly the last 5 years since the “accounting scandal” became known. The management and operational teams have been bombarded relentlessly with workstreams related to disposals of assets, restructuring initiatives, demands from stakeholders etc.

The new management team had to wrap their hands around the tasks (a) of ensuring that controls and governance systems were implemented in a far more rigorous manner than before and (b) improving the operational efficiencies and production of raw and refined sugar and animal feeds . This required a large amount of time and resources over a protracted period. Focused attention and a sustained effort over the period has certainly brought these elements up to an acceptable standard.

By the time business rescue proceedings commenced, the BRPs walked into an environment where the people were already exceptionally fatigued. The increased uncertainty brought about by business rescue made matters worse.

In a mature organisation with an entrenched corporate culture there are easily identifiable areas that can be targeted for improvement. At the scale of Tongaat Hulett, small improvements have a material impact on the bottom line. Whilst engaging with the lenders and financiers and developing a business rescue strategy and plan, the logical other (parallel) workstreams would have to include chasing and encouraging intense focus on operational (and related) improvements with limited skilled resources.

The BRPs were fortunate enough to secure sufficient funding from the IDC to invest a substantial amount of capital into the milling operations during the January to March 2023 off-crop period and for the Refinery and the Animal Feeds Plant shutdowns in the December 2022 and January 2023 period. The various operations had identified the focus areas for investment to maximise positive operational impact



and the same focus areas were independently verified to be correct and confirmed to the IDC to ensure that the money was being spent efficiently and in the right areas.

Stakeholders in the sugar value chain are price takers (refer to Annexure L). Therefore, the survival and prosperity of an organisation (in the sugar industry) depends on its ability to produce its output (be it cane, raw or refined sugar and/or related products and animal feeds) at low cost and as efficiently as possible. This has to be done in an economically sustainable manner. Environmental, social and related responsibilities can only be honoured provided there is economic sustainability, otherwise such benefits will be short-lived. Suffice to say a whole lot depends on how well one runs the operations (aka the engine room of the firm).

Together with the TH Executive and Senior Management, certain business improvement initiatives that had been identified and been in progress in recent periods were further managed and supported post BR commencement by the BRPs and are continuously being monitored and updated. Most of these initiatives relate to management and operations within South Africa. However, there have been interactions and interventions along similar themes in Mozambique and Zimbabwe but each tailored unique to their environment and specific challenges.

#### 1. Basic Cost Reduction Initiatives:

Selected workstreams that were under consideration by the operational and technical support teams were identified. The teams were then encouraged to push implementation as hard and as quickly as possible to drive towards positive impact. Interdependencies were often topics of discussion to create an elevated awareness for example: the impact of raw sugar quality on refining costs and efficiencies as well as the impact of various factors on cane quality and therefore milling efficiencies and costs.

Examples include:

- 1.1. Identifying key variables and metrics in the sugar value chain that significantly reduce production costs inclusive of:

- 1.1.1. Increased support for the agricultural team to enhance cane sourcing and harvesting initiatives positively impacting cane quality with initiatives in-field and at source.
- 1.1.2. Obtaining buy-in from commercial and small-scale farmers on the importance of their role in relation to:
  - Shortening burn to crush time which influences cane quality;
  - Elimination and or reduction of foreign matter in the harvesting and cane delivery process; and
  - The delivery of cane according to allocated time slots.
- 1.1.3. Re-emphasis of the quality of raw sugar production covering minimum colour, starch and dextran levels at the Mills which positively impacts the Refinery's efficiencies, yields, and costs reduction initiatives.
- 1.2. Increased emphasis in procurement on meeting quality and delivery standards in procuring goods and services at competitive prices.
- 1.3. Aggressive reduction in use of coal in favour of bagasse which reduces operational costs as well as environmental emissions.
- 1.4. Meeting with suppliers to negotiate payment terms and improved reliability in the provision of goods and services. These meetings also assured suppliers of their payments for goods and services and were effective in dealing with recalcitrant suppliers.
- 1.5. Enhanced control and oversight measures in relation to:
  - 1.5.1. Contracts;
  - 1.5.2. Payments;

- 1.5.3. Cash flow; and
- 1.5.4. Operational processes.

## 2. Efficiency/Improvement and Cultural Initiatives:

- 2.1. Understanding and applying capital expenditure in the appropriate target areas in order to maximise operational and environmental benefits (including an independent specialist verification thereof).
- 2.2. Providing clarity on decision making through an enhanced decision-making matrix (neutralising the fear of making a decision and encouraging people to do so).
- 2.3. Greater empowerment of management at various levels to make decisions within their level of authority, with adequate and readily available support from senior, executive management and the BRPs (cutting through "red tape").
- 2.4. Frequent planned physical visits to all the operations to provide visibility, conducting business reviews using scorecards and exploring opportunities for efficiency improvements /cost reduction.
- 2.5. Removing structural/cultural impediments in the recruitment and retention of key technical skills .
- 2.6. Quicker decision making through engaging key stakeholders as required in shorter time frames (communication and engagement).
- 2.7. Speedy resolution of queries that arise from stakeholders leading to increased trust and confidence.
- 2.8. The continuation and the support of the rebuilding of personnel and team capacity which was lost as a result of previous restructuring initiatives (bolstering domain expertise).

- 2.9. Influencing organisational structures, systems, and culture to move towards being a more agile, responsive, collaborative, open, performance and reward driven environment.
- 2.10. Supporting and encouraging the introduction of small performance incentives to drive improved and consistent performance and cost reductions in shorter performance periods (monthly).
- 2.11. Problem solving involving various support functions of the operations to improve collaboration and breaking down silos.
- 2.12. Increased the frequency of communication to reduce uncertainty and noise, allowing the employees to focus on the goals and objectives of the company, whilst in business rescue.
- 2.13. Reduction of concentration risks associated with legacy dependency on single sources of supply of goods and services i.e. introduction of multiple suppliers for similar goods and services allowing for improved procurement processes and competitive pricing.
- 2.14. Regular face-to-face update meetings with growers where Q&A sessions provide an opportunity to collaborate closely and eliminate rumours.
- 2.15. Where possible, reductions on the reliance of rail transportation in order to control and manage the value chain more reliably.

3. Statistical Performance Comparisons – Selected Key Metrics Pre-Commencement Business Rescue versus in Business Rescue

- 3.1. The below table represents a few of many key metrics that have improved and continued to improve this season, based in part on prior year capex, when compared to last season, year to date.

<b>TRIO OF MILLS SOUTH AFRICA</b>	
<b>MEASURE</b>	<b>COMPARISON YTD 2023 V 2022</b>
<b>Tons Cane Crushed</b>	<ul style="list-style-type: none"> <li>• slight improvement despite delayed start-up</li> <li>• material improvement forecast in full year crush</li> </ul>
<b>Tons Sugar (Made &amp; Estimated)</b>	<ul style="list-style-type: none"> <li>• &gt;4% improvement</li> </ul>
<b>Electricity Exported (MWh)</b>	<ul style="list-style-type: none"> <li>• 103% improvement</li> </ul>
<b>Lost Time % Available</b>	<ul style="list-style-type: none"> <li>• &gt;11% better</li> </ul>
<b>Mech Efficiency</b>	<ul style="list-style-type: none"> <li>• &gt;3% more efficient</li> </ul>
<b>Overall Time Efficiency</b>	<ul style="list-style-type: none"> <li>• &gt;1% more efficient</li> </ul>
<b>Overall Sucrose Recovery</b>	<ul style="list-style-type: none"> <li>• &gt;2% improvement</li> </ul>
<b>UDL % (Sucrose)</b>	<ul style="list-style-type: none"> <li>• &gt;26% improvement</li> </ul>
<b>Sugar Colour</b>	<ul style="list-style-type: none"> <li>• significant improvement in raw sugar colour</li> </ul>
<b>Cane to Sugar Ratio</b>	<ul style="list-style-type: none"> <li>• improvement on prior year</li> </ul>

**ANNEXURE E – LISTING OF IMMOVABLE PROPERTIES**

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**(ATTACHED SEPARATELY BELOW)**

**ANNEXURE F - PROXY FORM FOR CREDITORS OF TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) ("COMPANY")**

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For use by the Creditors of the Company at a meeting convened in terms of Section 151 of the Companies Act to be held electronically via a video-conferencing platform on **Wednesday 10 January 2024 at 08:00am** or at any subsequently reconvened meeting resulting from an adjournment of such Section 151 meeting (the original meeting and any reconvened meeting collectively constituting the "**151 Meeting**").

Entity represented (per Annexure A): \_\_\_\_\_

I/We \_\_\_\_\_ do hereby appoint:

- i. \_\_\_\_\_; or failing him/her
- ii. \_\_\_\_\_; or failing him/her
- iii. the BRP, who acts as Chairman of the meeting,

as my/our proxy to act for me/us and on my/our behalf at the 151 Meeting which will be held for the purpose of considering and, if deemed fit, voting as follows: (indicate with an X)

1. Approval of the proposed amendments to the RGS Plan (in accordance with section 152(1)(d)(i) of the Act):

In Favour \_\_\_\_\_ Against \_\_\_\_\_ Abstain \_\_\_\_\_

2. Approval of the proposed amendments to the Vision Plan (in accordance with section 152(1)(d)(i) of the Act):

In Favour \_\_\_\_\_ Against \_\_\_\_\_ Abstain \_\_\_\_\_

3. Approval of the Business Rescue Plan, as amended if applicable (in accordance with section 152(1)(e) of the Act):

<b>VOTE IN FAVOUR OF RGS PLAN</b>	<b>VOTE IN FAVOUR OF VISION PLAN</b>	<b>ABSTAIN FROM VOTING</b>

4. To direct the BRPs to adjourn the meeting in order to revise the Business Rescue Plan for further consideration (in accordance with section 152(1)(d)(ii) of the Act), or for any other purpose:

In Favour \_\_\_\_\_ Against \_\_\_\_\_ Abstain \_\_\_\_\_

**SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_  
2024.**

\_\_\_\_\_

**SIGNATURE**

**Power of Attorney / Authorising Resolution attached (where applicable)**

\_\_\_\_\_

**NOTES:**

1. A Creditor may insert the name of a proxy or the names of two alternative proxies of his/her choice in the space provided, with or without deleting "the Chairman of the meeting". The person whose name stands first on the form of proxy and who is present at the 151 Meeting will be entitled to act as proxy to the exclusion of those whose names follow.
2. The form of proxy must either be:



- i. Delivered and lodged at Amanzimnyama Hill Road, Tongaat, KwaZulu-Natal, 4400, to be received by not later than **17h00 on Monday 8 January 2024**, two business days prior to the meeting; or
  - ii. emailed to [br@tongaat.co.za](mailto:br@tongaat.co.za) by not later than **17h00 on Tuesday 9 January 2024**.
3. The completion and lodging of this form of proxy will not preclude the relevant Creditor from attending the 151 Meeting and speaking and voting in person thereat to the exclusion of the proxy appointed in terms thereof, should such Creditor wish to do so.
4. Capitalised words not otherwise defined in this proxy form shall have the meaning ascribed to them in the Business Rescue Plan.
5. If this proxy is signed under power of attorney or on behalf of a company, such authority (i.e. power of attorney (for an individual) or authorising resolution (for a juristic person), as applicable) must accompany it.

## **ANNEXURE G – VISION PARTIES TURNAROUND PLAN**

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*EXTRACTS FROM THE VISION PARTIES' INITIAL EXPRESSION OF INTEREST AND FINAL BINDING OFFER DOCUMENTS RECEIVED BY THE COMPANY*

### **About the Vision Parties**

1. The Vision Parties represents a group of investors with notable experience in the sugar industry, Tongaat's operating jurisdictions, and capital investment in Southern Africa. The Vision Parties are made up of the following parties:
  - 1.1. Terris Sugar Limited, an SPV of Terris Fund SPC ("**The Fund**"). The Fund has a successful track record of investing in and operating large scale businesses in South Africa (and internationally). The Fund's most recent realised investment was Samancor Chrome;
  - 1.2. Remoggo (Mauritius) PCC ("**Remoggo**"). Remoggo is a Mauritian based investment holding company with investments in FMCG retail, agribusiness, logistics, and facilities management services in Zimbabwe and seven other African countries;
  - 1.3. The Guma Group of Companies ("**Guma Group**") is a Pan African diversified global business with activities in ICT, mining, clean energy, tourism and leisure, manufacturing, trading, water & sanitation, railways, infrastructure development and construction, and agriculture. Based in South Africa, the Guma Group is a 100% black owned, hands-on operational and multi-industry investment powerhouse intensely focused on adding value and initiating growth by means of its entrepreneurial, operational and managerial participation. The Guma Group employs over 10 000 employees. The Guma Group operates globally and has an active presence in 32 countries on the African continent, including Mozambique, Zimbabwe, Mauritius, Botswana, DRC, Zambia, Kenya; and

- 1.4. Almoiz Group (“**Almoiz**”) is one of the largest agribusiness groups in Pakistan, with substantial interests in the sugar, energy, steel, animal feed, textiles and food and beverages sector. Amongst its holdings, the group owns and operates 5 sugar mills procuring cane from 40,000 farmers annually to produce over 650,000 tons of refined sugar. It is the only sugar milling group in Pakistan to be “Bonsucro Certified” for sustainable sugar production.
2. Additionally, the Vision Parties have previously engaged with both the PIC and IDC regarding their participation in the Proposed Transaction, and the Vision Parties is committed to work with the PIC, IDC, and GEPF to the extent they wish to participate in the Proposed Transaction.
3. The Vision Parties include a fully empowered entity (black-owned and controlled) in South Africa (through Guma) and Zimbabwe (through Remoggo) where THL has operations and empowerment credentials are necessary for regulatory approval and support.

### **Strategic rationale for the Proposed Transaction**

1. The Vision Parties have been tracking the performance of Tongaat for approximately 5 years and believes the underlying assets and operating segments have value with the correct financing structures and operational expertise.
2. Given Tongaat’s historical and current critical role in the agricultural sector of Southern Africa, and specifically its contribution to the local KZN economy, and the employment of approximately 40,000 people, who on average feed 7 dependents, the Vision Parties believe the value it will create will be holistic and make a significant sustainable contribution to all stakeholders in the region.
3. To date, the Vision Parties have already engaged in numerous discussions with management and the joint Business Rescue Practitioners to better understand the current situation of Tongaat. Additionally, the Vision Parties have engaged technical consultants to evaluate the current operations and have reviewed the

contents of the virtual data room previously made available. These activities have provided a further underpin to their strategic rationale for the Proposed Transaction.

### **Business case and Turnaround Plan**

1. The Vision Parties have reviewed the sugar assets across all geographies and have identified scope for improvement.
2. In the short-to-medium term, the Vision Parties intend to stabilise and grow the operations and return the business to sustainable profitability. Many of the challenges faced by Tongaat's operations – issues related to delayed and deferred maintenance, old and improperly functioning machinery, frequent breakdowns and lost time, low milling efficiency – are areas where the Vision Parties have deep and distinctive expertise. Their detailed review of milling operations has given the Vision Parties confidence that they will be able to bring operations up to acceptable speed and efficiency within a reasonable timeframe and at a manageable cost.
3. In the medium term, the Vision Parties intend to give growers confidence that their cane will be processed timely to address cane security concerns, and to deploy Agri expertise to support further cane supply. The ultimate aim is to help Tongaat's SA operations to reach six million plus in annual crush. An estimated c.R4bn in capital expenditure over this period is intended to transition milling operations from medium-pressure at present to high-pressure steam, providing the platform to diversify into downstream activities such as power export, green steel and ethanol where the Vision Parties have significant expertise.
4. Additionally in Zimbabwe and Mozambique, the Vision Parties intend to engage regulators and other stakeholders to ensure that operating environments are stabilised, and the land tenure issues are resolved and that cane yields are improved for both owned fields and third-party cane farmers. In Botswana, the focus will be on ensuring that market share within the retail trade is enhanced through sustainable and low-cost sugar supply arrangements.

5. The Vision Parties have been actively tracking the performance of Tongaat for a significant period of time and believe that the underlying Target assets have value, that jobs can be saved, and that the Target can continue to play a critical role in the agricultural sectors in South Africa, Mozambique, Botswana and Zimbabwe.
6. The Vision Parties have significant breadth of experience in the sugar industry and in Tongaat's operating jurisdictions and have a successful track record of investing in and operating large-scale businesses in South Africa, Zimbabwe and Mozambique, as well as internationally. It is the Vision Parties' belief that their collective expertise will create significant value in the business if the correct capital structure and operational enhancements drive the business going forward.
7. Lastly, the Vision Parties has invested significant resources into understanding the Target and the current status of its operations. Their due diligence teams attended several site visits, conducted an extensive review of the data provided in the virtual data room and engaged in numerous sessions with Tongaat's management team to understand the technical, operational and financial status of the Target's operations.
8. Their findings support their investment thesis and confirm their belief that through their collective experience, the Vision Parties will be able to affect the successful turnaround of the Target through the implementation of their aforementioned business plan.
9. Across the jurisdictions in which the Target operates, the Vision Parties have also had extensive preliminary consultations with the relevant authorities.

**ANNEXURE H – LISTING OF ISSUED SECURITIES OF THL**

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**(ATTACHED SEPARATELY BELOW)**

**ANNEXURE I – BRPS' REMUNERATION AGREEMENT**

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**(ATTACHED SEPARATELY BELOW)**

**ANNEXURE J - EXISTING LITIGATION AND ALTERNATIVE DISPUTE PROCEEDINGS**

Plaintiff/ Defendant/ Applicant/ Respondent	Description	Status	Quantum
THL (Plaintiff) Against Ex-Directors Staude, Munro and Slabbert	Recovery: For losses suffered from the findings of the PwC forensic report.	The pleadings in the matter have not closed as yet. The current status is that Staude and Slabbert have pleaded and THL has replicated. Once this is resolved we expect that pre-trial processes will only be finalised towards the middle of 2023 , where after we will likely seek a date of set down.	R450m
Ex-Directors	Criminal matter	SA – At the seven accused’s last appearance on 24 July 2022, the matter has been transferred to the High Court and racketeering has been added to the charges. The matter continues to follow the criminal court processes with THL actively involved in providing information to the NPA for the prosecution.  Zimbabwe - PwC is assisting compiling the information to assist the police to hand over the investigation to the prosecuting authorities in Zimbabwe. The PwC team will be visiting the Zimbabwe operation to provide further assistance to the police.	n/a
THL (Plaintiff) against Hollard Insurance Company Limited / Global Alliance or Global Alliance Insurance	Recovery: Insurance claim for damages suffered as a result of the failure of a diffuser	The claim is based on 2 Insurance Policies which it contends covered an insurable event, namely the failure of the diffuser at its Xinavane expansion project. Both parties have exchanged Heads of Argument on the jurisdictional point that was raised, and the matter was argued before the court a quo. Judgment is awaited.	R52m



<p>THL (Plaintiff) against Emerald Insurers</p>	<p>Recovery: Business Interruption Claim against insurers for closure during KwaZulu-Natal riots</p>	<p>TH Refinery and mills in question were closed down as a consequence of the damage and looting activity in KwaZulu-Natal during July 2021. The loss or damage was described as being in close proximity to the mills thereby preventing any free or safe access to and from the sites. TH lodged a claim under the Riot Wrap Policy with Emerald Insurers which has been repudiated based on no actual damage preventing access to the facilities. Attempts to settle the matter have been unsuccessful. Summons has been issued and the matter is being defended. Defendant has filed a Plea and pre-trial preparation is underway. The matter is proceeding in the normal course.</p>	<p>R105m</p>
<p>THL (Applicant)</p>	<p>South African Sugar Association (SASA)</p>	<p>An application has been made to the High Court seeking the High Court's confirmation that the BRPs have the right to suspend THL obligations to SASA under the Sugar Industry Agreement. On 29 November 2023, the Declaratory Application was dismissed with costs. The judgement in respect of such order will be handed down on 4 December 2023. THL and the BRPs have applied for leave to appeal the decision.</p>	<p>R 757m</p>
<p>THSSA (Respondent) together with other sugar manufacturers in a complaint investigated by the Competition Commission of SA ('CCSA')</p>	<p>THSSA</p>	<p>The CCSA commenced with an investigation into complaints of excessive pricing lodged by CCBSA. THS cooperated with the Competition Commission's investigation into the CCBSA complaint and provided relevant information to the Commission where requested to do so. The Commission completed its investigation into the complaint in July 2021 and decided not to refer the complaint to the Competition Tribunal for adjudication. CCBSA has brought a review application. Further CCBSA has requested that the application be "transferred" to the Competition Appeal Court. The Respondents have replied that there is no provision in the Competition Act for a "transfer" and any such application will be opposed. A formal application to have the matter transferred has been filed by CCBSA which has been opposed by THL, Illovo and RCL.</p>	<p>Fine of 10% of turnover</p>

THL (Plaintiff) against GR Cane Haulage	Recovery & counterclaim: Diversion Overcharge [THSSA]	THS SA instituted an action against GR Cane Haulage – the claim is for GR Cane having charged the incorrect rate and not having deducted the growers’ portion during the 2015 Darnall/Maidstone diversion. GR Cane has brought a counterclaim for, inter alia, penalties, tolls and damages for mill inefficiencies. A pre-trial conference has been held, and dates for the delivery of a number of procedural notices were set. The matter has, however, been placed on hold given the unavailability of Tongaat witnesses. Attempts to settle the matter continue.	R2.9m
THL (Defendant) in a claim by Viven Naidoo	Civil action instituted [THL]	The Plaintiff instituted a claim in relation to services allegedly rendered in terms of a Fixed Term Contract. The Pleadings have closed and the parties have agreed to file a joint list of issues to be determined and witness summaries in terms of Rule 37A whereafter the Plaintiff and/or the Defendant will be in a position to apply for a trial date. Since business rescue Plaintiff’s attorneys have requested confirmation on whether a tender made previously by THL is still valid. THL has confirmed the previous tender noting that this would be a Concurrent Claim under BR.	R550k
THSSA (Plaintiff) against Ex-employee Mara Moyolo	Fraud [THSSA]	Recovery against the employee who defrauded the company over an extended period. She was dismissed in 2019. The matter is proceeding.	R10m
THSSA (Defendant) in a claim by Amanda Randeira	Civil action instituted [THSSA]	The Plaintiff instituted a delictual claim against Tongaat Hulett Sugar South Africa and an ex-employee in the amount of some R31m in relation to employment issues. The matter continues to be defended.  Plaintiffs’ attorneys have requested BRP’s to agree to waive the s133 moratorium in the matter so it can be set down for trial. This request has been refused by the business rescue practitioners.	R32m

Source: The Company’s litigation register updated as of 16/11/2023

**ANNEXURE K – AFSA-SARIPA RULES**

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**(ATTACHED SEPARATELY BELOW)**

## ANNEXURE L – SUGAR INDUSTRY CONSIDERATIONS

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### Introduction

By way of introduction it would be useful to see below an analysis from an individual with a keen and astute understanding of the sugar industry's complexities.

The BRPs believe that the note accurately reflects the sentiments held by a wide cross-section of those intimately tied to Tongaat Hulett, and beyond. This includes suppliers, employees, growers, and various other stakeholders affected by the company's trajectory. The Business Rescue Practitioners (BRPs) consider this commentary to be a touchstone that captures the nuanced dynamics with acuity.

*"Shared Bounty, Shared Responsibility: The Pragmatic Case for Tongaat Hulett"*

*Annually, the substantial boon of multibillion Rand import tariff protections illuminates the intricate, interwoven strength and socio-economic importance of the sugar industry. At the nexus of this collaborative achievement lies Tongaat Hulett, which transcends mere participation to serve as an indispensable linchpin. It provides not only stability and strategic orientation but also functions as a hub for a substantial segment of South Africa's sugarcane farmers, especially a notably large demographic of black small-scale sugar farmers. Additionally, Tongaat Hulett plays a pivotal role in refining sugar for the domestic market thereby obviating the need for costly imported refined sugar. As an anchor tenant its influence extends to sustaining and energizing multiple interdependent rural economies, providing a bedrock for both socio-economic and socio-political stability. In doing so Tongaat Hulett acts as an anchor tenant within a myriad of interconnected rural economies.*

*This collective bounty, a testament to the mutual value, underlines the doctrine of shared responsibility. When a central pillar like Tongaat Hulett finds itself in need of bolstering, the challenge transcends its internal circumstances to*

*become a collective endeavour. As beneficiaries of the import tariff protections, it is our collective duty to rally support for key players - particularly one as vital as Tongaat Hulett - when they require steadying interventions.*

*Endorsing Tongaat Hulett is not solely a matter of ethical uprightness - it also exemplifies astute business acumen. At stake here are jobs, industry and regional stability, and the prospective future of a sector within a country grappling with some of the world's highest unemployment rates.*

*The sustainability and prosperity collectively shared calls for an implicit pact of mutual understanding and obligation: to stand as a united front in turbulent times. Given Tongaat Hulett's central role, its stability or instability reverberates throughout the entire delicate web of this bedrock industry. Support for its resurgence should not be perceived merely as an ancillary expense, but rather as a strategic investment in our collective destiny - a pragmatic decision aimed at fortifying the resilience and continued success of the entire industry.*

The BRPs have compiled the below summary subsequent to developing their own understanding of the industry, the key challenges that it faces and finally reflecting on the unique challenges faced by THL before and during the Business Rescue process. The following are the relevant observations:

1. Before exploring industry related matters, it is worth noting that the distress within THL – specifically in South Africa – has been a long time in the making. Various accounting irregularities applied over a number of years had the effect of overstating both the profitability and debt carrying capacity of THL's SA Sugar operations. In THL's situation, this was made easier on the back of its unique and vast property development business. It is public knowledge that multiple legal claims are being pursued in order to bring some accountability for the impact of these past practices. This is a matter specific to THL and was not influenced by, or any consequence of, the broader matters faced by the industry a whole - as are explored below.

2. By way of context, the South African sugar industry comprises approximately 23 000 registered sugarcane growers in KwaZulu-Natal and Mpumalanga. Sugar is manufactured by six milling companies with 12 sugar mills operating in these cane growing regions. The industry produces an estimated average of 2.0 million tons of sugar per season. About 1.5 million tons of this sugar is marketed in the Southern African Customs Union ("**SACU**") and the remainder is exported as raw sugar to markets in Africa, Asia and the Middle East where it is further processed for direct consumption. The sugar industry is administered by the South African Sugar Association ("**SASA**") under the Sugar Act and the Sugar Industry Agreement .
3. Commercially, the South African sugar industry operates a revenue sharing model whereby the proceeds from the sale of brown and refined sugar in the local SACU market (accounted for at agreed notional prices), the proceeds from the export of raw sugar and the proceeds from the sale of molasses are pooled together and allocated between sugar millers (c.36%) and sugarcane growers (c.64%). The impact is that every miller across the industry receives the same weighted average price for the sugar it produces, and every grower in the industry is paid the same price for the cane they delivers to the mill (they are "price takers" – refer Annexure **D**).
4. Within the industry, some millers have the added ability to produce refined sugar, while others do not. All millers have invested in the capability to produce and package sugar for local market consumption to various extents and that which they are unable to sell on the local SACU market is kept in raw sugar format and is exported by SASA for further reprocessing. Some millers have established strong brands, while others have not. These factors all contribute to the extent to which a particular miller is able to supply the local SACU market and deliver to SASA for the export markets.
5. In order to clear the surplus from the industry's total production of c.2 million tons after supplying the needs of the SACU market of c.1.5 million tons and ensure all millers and growers alike share equally in all markets, the industry has established a 'redistribution mechanism'. In terms of the redistribution

mechanism, the sugar millers are allocated a pro-rata share of the refined and brown local sugar markets based on their saleable sugar production. Where a sugar miller sells sugar in excess of its proportional local market entitlement (i.e. an overseller), it is required to pay SASA an amount for this excess sugar sold (at the notional price, net of a manufacturing allowance). SASA in turn redistributes this to the sugar millers who have sold less than their entitlement (i.e. an underseller).

6. Typically, the underseller would supply more raw sugar for export and every miller is paid their pro-rata share of the export proceeds regardless of whether or not their physical sugar was exported. Without the redistribution mechanism, the underseller would only have access to export markets where price realisations are typically significantly lower than those of the local SACU market.
7. THL, with its large capacity to produce refined sugar, currently supplies all of its sugar into the local SACU market and is consequently a large overseller in the refined market. Gledhow sugar mill is also an overseller of refined sugar. It is also probably not a coincidence that the two South African large overseller refined sugar producers are both in business rescue. The volatility in these redistribution payments, which are based on the forecast year to date adjustment approach, and the absolute quantum of these redistribution payments, ensure that they have a material impact on cashflow needs and cost and were (inter alia) a significant contributor to the R1.5bn facility THL required in the build-up to its Business Rescue proceedings.
8. The reasons for SA Sugar's weak historic performance roughly falls into three categories, namely 1) company-based factors, 2) external factors and 3) industry-based factors.
9. Company-based factors arise in large part due to management practices prior to 2019 (which are, as noted, the subject of litigation) which are being addressed internally and deal largely with strategy, structure, operational improvements (recapitalisation of the plant and equipment being a key focus)

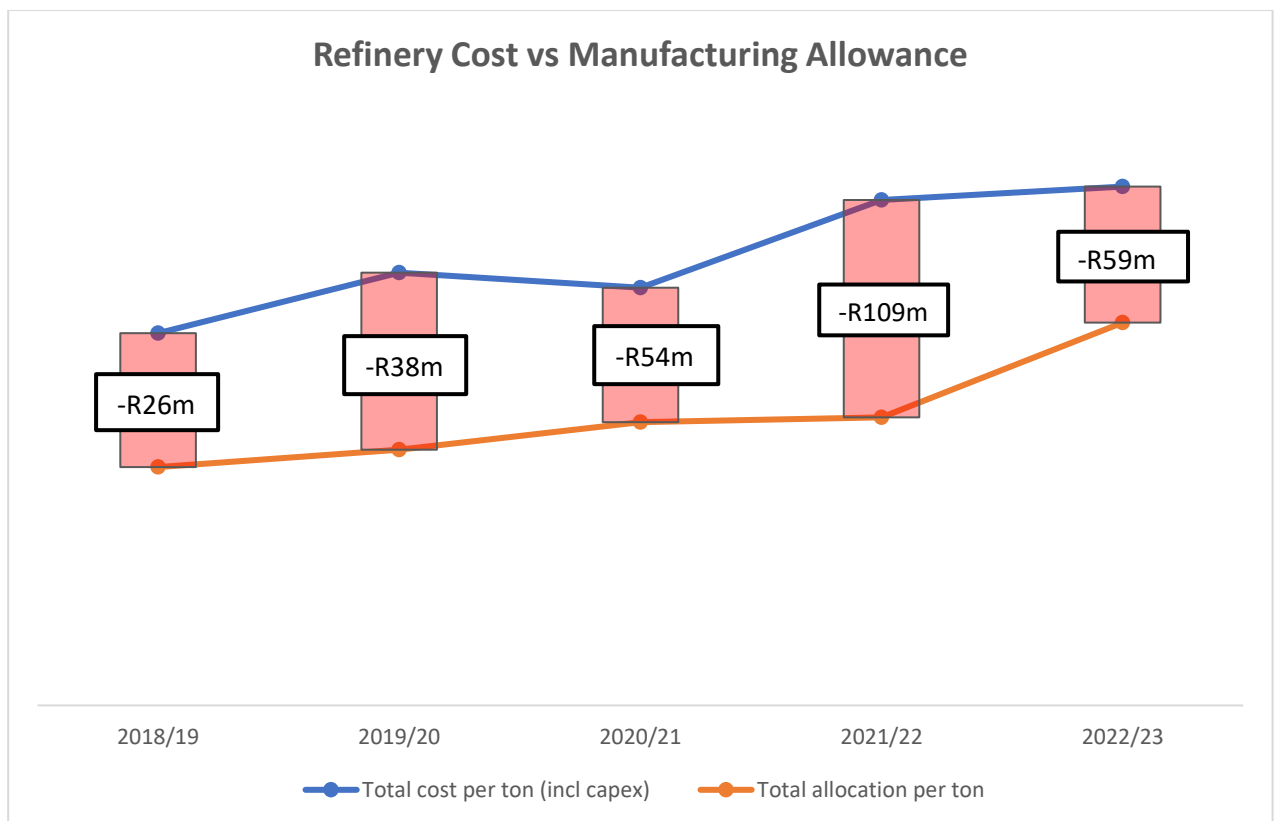
and efficiencies. Post the sugar loss at the refinery in March 2021, management secured additional sugar industry expertise and began the journey to reinvest in the maintenance of the plant through the introduction of a three-year planned maintenance programme. The continuation of this initiative is now a joint effort by BRPs and management and consists of various work streams (refer to Annexure **D** for examples). It is a process that requires investment and interventions across the sugar value chain. These work streams are all either under development or already under way.

10. The external factors comprise primarily severe drought conditions in the 2015/16 season, the introduction of the Health Promotion Levy in the 2017/18 season, delays in revising the import duty upwards followed by a period in 2017 where there was zero import duty applied and c.500 000 tons of sugar was imported, and more recently the impact of both the civil unrest and then the flooding in KwaZulu-Natal.
11. The purpose of this section is, however, largely to share some notes on the industry-based factors for consideration by Affected Persons – in particular those directly involved in the sugar industry – to hopefully help shape an agenda for discussions towards finding viable and sustainable solutions in the sugar industry as a whole by addressing and resolving these factors.
12. A key asset of THL is its Refinery which is a standalone production facility that has the capacity to produce 600,000 tons of refined sugar. Currently, it produces approximately half of the SA Sugar industry's refined sugar output. The importance to the industry was emphasised in 2022 when it greatly assisted the sugar industry as a whole (and at their request) by supplying the local market whilst other local refineries were facing severe operational challenges. When the refinery produces sugar in excess of its pro-rata share, THL does receive some compensation in terms of a manufacturing allowance, but this payment is only intended to cover the variable costs of production, presumably on the (invalid) assumption that all millers are running a refinery and would have had a similar fixed cost structure. When this manufacturing allowance was initially introduced in its current format around 2000, the



refined sugar supply dynamics were significantly different to those that exist now (23 years later) and were largely in balance between the three large milling companies as described in more detail below.

13. The effect of the current approach (covering variable costs of production) is notable in the below table which highlights the perpetual divide between the actual refining cost (total cost i.e. fixed and variable cost) incurred by THL's refinery and the manufacturing allowance provided as compensation for the service provided annually. This effectively highlights a significant under recovery, a continual loss burden and material financial impact, totalling at least R286 million cumulative over a sample of the last 5 years (note that this has been running since 2000), notwithstanding the cost saving initiatives implemented by the business.



14. The process to review the manufacturing allowance has recently been added to the industry agenda, but it is essential that the review takes into account

the changed supply dynamics (referred to below) and all applicable refining costs.

15. The South African sugar industry's refined sugar supply dynamics amongst the milling companies have changed materially since the Sugar Industry Agreement was amended in 2000 and the legislation requires an urgent intervention. Over a period of 23 years, milling companies have sold mills and refineries and some have closed or downsized refineries, or deliberately reduced throughput and the supply dynamics have materially changed. This has placed a significantly increased burden on some industry players (e.g. THL) to shoulder the weight of the South African industry's refined sugar supply with its oversell burden moving from approximately 10% of its production (when the legislation was amended in 2000) to approximately 80% of its production currently. With the reduction of refining capacity, other millers have been able to reduce their refining related fixed costs significantly while THL has had to relatively increase its refined sugar production to compensate and ensure the local market is supplied.
16. This has been further exacerbated by refining costs significantly increasing without these being recovered from the market, particularly the fixed cost base has increased to compensate for changes in today's business environment, such as safety, environment and the sustainability agenda.
17. This skewed redistribution mechanism of overselling millers redistributing proceeds they have earned on the local SACU market to underselling millers with a quid pro quo of a manufacturing allowance that is non-remunerative is partly demonstrated by both the two primary large overselling refining millers now being in business rescue. Whilst discussions within the sugar industry to explore a new model and more equitable principles within the Sugar Industry Agreement are progressing (at a pedestrian rate), it is imperative that a sustainable and commercially viable solution is urgently agreed to immediately address this imbalance. Any manufacturing allowance payable to the overselling refining millers needs to adequately reflect all costs of

production of refining including an appropriate return on investment in the surplus refining capacity.

18. As mentioned, there is a fixed pool of proceeds that needs to be redistributed which, by implication, means that if the manufacturing allowance is to be increased (to adequately compensate the refiner), there will be a reduction of proceeds going to the non-refining mills and other net recipients of proceeds. It is not in the interest of the majority of voting parties (that make up the sugar industry) to vote in favour of a fair and remunerative manufacturing allowance because ultimately they would have to agree to it coming out of their slice of the proceeds. If ever there was an incentive encouraging the wrong behaviour, this would be it.
19. Attention should also be given to the elements in the SA Sugar industry value chain and "eco system" with the sole purpose of driving efficiencies that may have evaporated over time. By way of example, (this is not an exhaustive list) a review of:
  - a. all costs associated with the administration of the industry including benchmarking for services provided;
  - b. costs of raw materials including cane supply. (If mills are paying a premium for cane either by way of procurement and/or logistics to assist small growers, then perhaps such premiums should be recoverable or alternatively shared by the industry); and
  - c. manufacturing allowance to be commercially sensible and sustainable and consider variable and fixed costs as well as fair returns on investment.
20. Logically speaking, the imbalances that have manifested in the sugar "eco system" over the past 23 years thus need to be rectified and/or updated to better reflect current circumstances. There needs to be real urgency, but it stands to reason that there is little incentive for the majority of SASMA's

members to do so (see paragraph 18 above), as they are net recipients of the refined redistribution payments. Assuming that industry dynamics will continuously change over time the Sugar Industry Agreement needs to change appropriately to accommodate the latest and ongoing prevailing conditions, which has clearly not been the case so far. Perhaps the business rescue proceedings of both refined sugar oversellers needs to mark the moment in time where there is a tipping point that can finally get everyone in the industry to sit upright and work together to adapt.

21. In order to modernise the industry and endeavour to ensure its survival as well as the survival of all growers on the KwaZulu-Natal north coast including some 15 000 small scale growers who deliver to THL mills, it is vital that the concept of redistribution is addressed. THL is arguably the biggest contributor to grower transformation in the industry and, should it fail, the impact on the north coast of KwaZulu-Natal would be devastating. Ultimately, THL's sugar mills provide the refinery with a supply of high-quality raw sugar for refining, and it is critical that the refinery continues to operate in order to avoid the need for refined sugar to be imported into South Africa (which would further damage the remaining sugar industry participants through an unstructured industry unwind as seen in other sectors).