

COURT ONLINE COVER PAGE

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

CASE NO: 2026-031780

In the matter between:

**Gerhard Conrad Albertyn NO ,Trevor
John Murgatroyd NO ,Petrus Francois
Van Den Steen NO**

Plaintiff / Applicant / Appellant

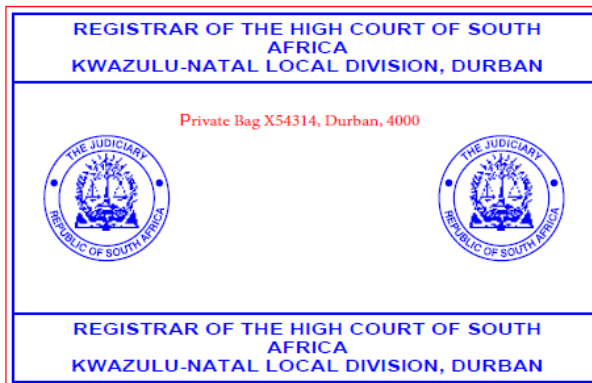
and

**Tongaat Hulett Limited,The Affected
Persons**

Defendant / Respondent

Founding Affidavit

NOTE: This document was filed electronically by the Registrar on 12/2/2026 at 11:11:10 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



**ELECTRONICALLY SIGNED
BY:**

**Registrar of The High Court,
KwaZulu-Natal, Durban.**

IN THE HIGH COURT OF SOUTH AFRICA
KWA-ZULU NATAL DIVISION, DURBAN

CASE NUMBER: _____

In the matter between:

GERHARD CONRAD ALBERTYN N.O.

First Applicant

TREVOR JOHN MURGATROYD N.O.

Second Applicant

PETRUS FRANCOIS VAN DEN STEEN N.O.

Third Applicant

and

TONGAAT HULETT LIMITED
(IN BUSINESS RESCUE)

First Respondent

THE AFFECTED PERSONS

Further Respondents



FOUNDING AFFIDAVIT

I, the undersigned,

GERHARD CONRAD ALBERTYN

do hereby make oath and state that: -

- 1 I am an adult male and a consultant to Metis Strategic Advisors (Proprietary) Limited which conducts business at Jindal Africa Building, 22 Kildoon Road, Bryanston, Johannesburg.


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- 2 The facts that I depose to in this affidavit are, to the best of my knowledge, true and correct. Such facts are also within my own personal knowledge - except where it is apparent from the context that they are not.

THE PARTIES

- 3 I am the first applicant in these proceedings, in my capacity as one of the three duly appointed joint business rescue practitioners of Tongaat Hulett Limited ("**Tonga**at").



- 4 The second applicant is Mr Trevor John Murgatroyd N.O. ("**Mr Murgatroyd**"), an adult male and a director of Metis. Mr Murgatroyd is cited in these proceedings in his capacity as one of the three duly appointed joint business rescue practitioners of Tongaat.
- 5 The third applicant is Petrus Francois van den Steen ("**Mr van den Steen**") an adult male and a director of Metis. Mr van den Steen is cited in these proceedings in his capacity as one of the three duly appointed joint business rescue practitioners of Tongaat.
- 6 I attach marked "**FA1**", the certificate of appointment issued by the Companies and Intellectual Property Commission ("**CIPC**") dated 2 November 2022, confirming the appointment of the applicants as the joint business rescue practitioners of Tongaat, the first respondent.

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- 7 Mr Murgatroyd and Mr van den Steen support the relief sought in these proceedings and the facts and assertions contained in this affidavit insofar as they pertain to each of them. This is confirmed by Mr Murgatroyd and Mr van den Steen in their respective confirmatory affidavits, which are attached marked "**FA2**" and "**FA3**", respectively.
- 8 For convenience, Mr Murgatroyd, Mr van den Steen and I will be collectively referred to in this application as "**the BRPs**" or "**the applicants**".
- 9 The first respondent is Tongaat Hulett Limited (Registration Number: 1892/000610/06) ("**Tongaat**"), a public company duly registered and incorporated in accordance with South African company laws, having its registered address and principal place of business at Amanzimnyama Hill Road, Tongaat, Kwazulu-Natal. A certificate from the Companies and Intellectual Property Commission ("**the CIPC**") confirming the company's registered address and particulars is attached, marked "**FA4**".
- 10 The further respondents are Tongaat's affected persons ("**Affected Persons**"), as defined in Section 128 of the Companies Act, 71 of 2008, as amended ("**the Companies Act**"), and which includes all Affected Persons as defined in the Companies Act. These respondents have a direct legal interest in the relief claimed in these proceedings.




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JURISDICTION

- 11 This Honourable Court has jurisdiction to entertain this application as Tongaat's registered address and principal place of business falls within its geographical area of jurisdiction.

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- 12 Section 141(2) of the Companies Act provides, *inter alia*, that -



"2. If, at any time during business rescue proceedings, the practitioner concludes that -

(a) there is no reasonable prospect for the company to be rescued, the practitioner must -

(i) inform the court, the company, and all affected persons in the prescribed manner; and

(ii) apply to the court for an order discontinuing the business rescue proceedings and placing the company into liquidation; ..."

- 13 This application is premised on the obligations of the BRPs as set out in Section 141(2) of the Companies Act, as set out above. The BRPs have concluded, on objective grounds, that there is no longer a reasonable prospect of rescuing Tongaat and accordingly we have instituted this application, as we are obliged to do, for an order in terms of which the business rescue proceedings of



Tongaat are discontinued and the company is placed into provisional liquidation as envisaged in terms of Section 132(2)(a)(ii) read together with Section 141(2) of the Companies Act.

THIS APPLICATION

14 In this application, an order is sought in the following terms -

14.1 that this application be heard as a matter of urgency in terms of the Uniform Rules of Court ("**the Rules**") 6(12)(a) and that the Court condones the ARP's failure to comply with the time limits and forms of service as prescribed in the Rules;



14.2 that Tongaat's business rescue proceedings be discontinued and that it be provisionally wound-up;

14.3 that a *rule nisi* be issued calling upon the respondents and all interested or Affected Persons to show cause, if any, to the Court on a date fixed by the Court, why -

14.3.1 Tongaat should not be provisionally wound-up;

14.3.2 the costs of this application should not be costs in the winding-up;

14.4 that service of the order, if granted, be effected -

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- 14.4.1 on Tongaat by the Sheriff at its abovementioned registered address;
- 14.4.2 on the Affected Persons by email;
- 14.4.3 by publication on Tongaat's website;
- 14.4.4 by one publication in the Business Day newspaper; and
- 14.4.5 by one publication in the Natal Mercury in English and in isiZulu.



15 It will become apparent from that which is traversed in this affidavit that Tongaat no longer has a reasonable prospect of being rescued within the meaning of Section 128(1)(b)(iii) of the Companies Act for the following reasons -

- 15.1 there is no longer a possibility of continuing to implement and therefore achieve substantial implementation of Tongaat's approved business rescue plan, nor is there any longer a reasonable prospect of the company being rescued within the meaning of Section 128(1)(b) and (h) of the Companies Act;
- 15.2 Tongaat does not have access to requisite further funding and, critically, does not have certainty in respect of the refinancing or restructuring of the existing post-commencement funding ("PCF") facility, which is required to

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restore a sustainable capital structure and to enable Tongaat to continue to fund, *inter alia*, its continued operations and working capital requirements;

15.3 adverse market conditions experienced particularly during the second half of 2025, arising primarily from increased volumes of imported sugar into South Africa, which were driven by a significant decline in global sugar prices, a stronger exchange rate, and delays in implementing both the necessary tariff adjustments and the review of the overall import duty framework, have materially reduced the level of duty protection available to domestic producers. This has led to a significant decline in Tongaat's sales volumes and margins, as well as an increased diversion of locally produced sugar into lower-priced export markets, which has cumulatively resulted in additional negative cash flows; and



15.4 a request by Tongaat to the South African Sugar Association ("**SASA**") to increase the manufacturing allowance for refined sugar resulted in an adjustment which remains insufficient to compensate Tongaat for the refining of sugar in excess of its quota, with the consequence that Tongaat continues to incur unrecovered refining costs. In addition, much-needed sugar industry reform has been slow to materialise, with various proposed amendments not yet gazetted. This continues to have a negative impact on Tongaat's cash flow;

15.5 the urgent need for short-term interim funding will not be met and the closing of the Sale of Business Agreement relating to Tongaat's South African sugar

operations and corporate office ("**the South African Sale of Business Agreement**") as provided for and required for the successful implementation of the adopted business rescue plan, will not take place for the reasons stated more fully below.

- 15.6 while the immediate funding shortfall has largely been mitigated through various management and operational initiatives, the challenging trading conditions continue to place pressure on Tongaat's cash flows and there is insufficient headroom within the existing PCF facility to absorb any further unforeseen adverse events;



- 15.7 the PCF facility, as provided thus far by the Industrial Development Corporation of South Africa ("**the IDC**"), has been substantially utilised and, absent a refinancing or restructuring thereof to separate working capital requirements from accumulated non-working capital items and to restore sustainable working capital facilities, is expected to be depleted during the forthcoming milling season. But for the PCF, Tongaat would not have been able to make payment of amounts due to employees, creditors in the business rescue and cane growers; and

- 15.8 Tongaat is commercially insolvent as it is unable to meet its liabilities in the ordinary course and ought to be placed into provisional liquidation.

- 16 I reiterate that this application has been instituted by the BRPs in accordance with their statutory obligations as prescribed in Section 141(2) of the Companies Act.

URGENCY

17 It is submitted that this application is urgent and that substantial redress will not be obtained by a hearing in the ordinary course. In this regard-

17.1 having regard to Tongaat's funding requirements which will not be met and the recent demand made by one of Tongaat's major secured creditors for payment, it is necessary for a *concurso creditorum* to urgently be established, to protect the interests of the general body of creditors of Tongaat;



17.2 due to the circumstances explained in this affidavit and, in particular, the absence of certainty regarding the refinancing or restructuring of the PCF facility and the consequent lack of sustainable working capital facilities, Tongaat is unlikely to be able to comply with its payment obligations as set out in the adopted business rescue plan, or to continue to meet its operational costs in the ordinary course. While short-term liquidity pressures have been managed through various interventions, there is insufficient headroom within existing funding facilities to absorb any further unforeseen adverse events and Tongaat is not expected to be able to sustain payments to employees or meet its ongoing working capital requirements into the forthcoming milling season; and

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- 17.3 there is an urgent need for a provisional liquidator to be appointed to take control of Tongaat and to attend to urgent matters that require immediate attention, including, but not limited to, the payment of critical expenses, the maintenance and preservation of Tongaat's IT systems and continued communication with relevant stakeholders as well as taking control of the remaining assets of Tongaat under his/her control in order to preserve value for Tongaat's creditors. Tongaat cannot be left in a position where the role of the BRPs has been discontinued due to the termination of the business rescue and there is no-one then responsible for the administration and management of the company for the benefit of its creditors.



- 18 In the circumstances, it is submitted that the matter is sufficiently urgent to warrant deviation from the usual procedure.

SUBSTITUTED SERVICE

- 19 The BRPs have been advised that our Courts allow service on Affected Persons to be effected by substituted service and by email, in order to join them collectively as a group to a liquidation application of this nature.
- 20 It will be impossible for the applicants to effect service on all Affected Persons, without this Court's assistance in ordering substituted service.
- 21 Tongaat's Affected Persons are identified in the schedule annexed marked "FA5" and include –

- 21.1 its current creditors, which include its lenders, post-commencement financiers, and trade creditors, which include, but are not limited to, their supplying growers – a large percentage of which are small-scale growers;
- 21.2 Tongaat's shareholders; and
- 21.3 approximately 2,500 employees, the majority of whom are represented by a number of trade unions.



- 22 There will be severe logistical and financial hurdles in serving a provisional winding-up order because there are literally thousands of Affected Persons, and in many cases, their exact whereabouts are unknown.
- 23 The physical addresses of some, but not all, of the Affected Persons, are known, or in Tongaat's possession. At best, physical service of the provisional winding-up order, if granted, could be effected on those known, but not all, the Affected Persons as envisaged in the Rules.
- 24 The BRPs have kept Tongaat's Affected Persons informed of the milestones achieved in implementing the Plan through their monthly status reports, which are emailed to Affected Persons and published on Tongaat's website at <https://www.tonga.com/business-rescue>. The BRP status reports for October, November and December 2025 are attached, marked "FA6" to "FA8".

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- 25 The only alternative available to the applicants is to seek this Court's leave to employ substituted service of the provisional winding-up order, if granted, on the Affected Persons in accordance with prior means of communication, namely email.
- 26 The BRPs accordingly seek this Court's leave to authorise substituted service of this application and the provisional winding-up order, if granted, on all Affected Persons as follows –

- 26.1 on Tongaat by Sheriff at its registered address;
- 26.2 on all Affected Persons by way of email;
- 26.3 by publication on Tongaat's website;
- 26.4 by one publication in the Business Day newspaper; and
- 26.5 by one publication in the Natal Mercury in English and in isiZulu.



THE BUSINESS RESCUE

- 27 On 26 October 2022, the board of directors of Tongaat passed a resolution to commence business rescue proceedings and to appoint the applicants as the joint business rescue practitioners of Tongaat in terms of Section 129 of the Companies Act.

- 28 On the same day, Tongaat filed the requisite notice with CIPC. The business rescue proceedings commenced on 27 October 2022. A copy of the filed notice to commence business rescue proceedings and sworn statement is attached, marked "**FA9**". A copy of the filed notice of appointment of the BRPs is attached marked "**FA10**".
- 29 Once appointed, the BRPs complied with their obligations in terms of the Companies Act and *inter alia* (i) convened all required meetings with employees and creditors, (ii) began investigating the business and affairs of Tongaat and (iii) liaised with Tongaat's creditors and prospective funders and investors. Thereafter, a proposed business rescue plan was published in December 2023.
- 30 There were a number of amendments made to the published business rescue plan in late 2023 and early 2024, and eventually the proposed business rescue plan (including amendments) was approved and adopted on 11 January 2024 by an overwhelming majority of the creditors present and voting at the creditors' meeting, which was convened in terms of Section 151 of the Companies Act. The adopted business rescue plan will hereinafter be referred to as "**the Plan**".
- 31 A copy of the Plan is attached, marked "**FA11**".
- 32 The Plan encompassed two alternative transactions: (i) a debt-for-equity exchange or, if the necessary resolutions were not passed by shareholders, then



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(ii) an asset sale transaction as referred to in the Plan, and as the alternate transaction, would proceed.

33 The shareholder resolutions necessary to approve and proceed with the debt-for-equity exchange failed to pass at a Special General Meeting ("the SGM") of the shareholders, which was convened and held on 8 August 2024.

34 The BRPs have been implementing the asset sale transaction provided for as the alternative in the Plan, which was similarly, albeit in the alternative, approved by an overwhelming majority of the creditors present and voting at the meeting held on 11 January 2024 in terms of s151 of the Companies Act, at which the Plan was approved and adopted.



35 An important provision in the Plan was that the purchaser would acquire the substantial Lender Group's security and claims¹. The above transaction proceeded on the basis of an acquisition agreement concluded between the Lender Group and a purchaser consortium known as the Vision Group ("Vision"). The BRPs are not in possession of the acquisition agreement as it is an agreement between the Lender Group and Vision and Tongaat is not a party thereto. The BRPs requested copies of the agreement from both the Lender

¹ The Lender Group included the following parties The group of lenders to THL, 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).

Group and Vision. While the Lender Group indicated a willingness to provide the agreement, Vision did not consent to its disclosure on confidentiality grounds.

36 The Lender Group voted in favour of the Plan (proposed by Vision) with the full knowledge of the status of the acquisition agreement and the two alternative transactions contemplated in the Plan.

37 "Vision" is made up of a number of parties².

38 The Plan (as proposed by Vision) and subsequently adopted included the following conditions, being :



38.1 confirmation of the refinancing of the IDC PCF which was to be assumed by Vision;

38.2 discharge of the SASA indebtedness in the amount of R517 million; and

38.3 provision of R75 million for concurrent creditors.

39 The Plan does not prescribe any condition or requirement relating to Vision raising funding for the payment of any amounts to the Lender Group or to

² The parties that make up the Vision Group are Vision Investments 115 (Proprietary) Limited, Terris Agripro (Mauritius), Remoggo (Mauritius) PCC, Juma Agri and Food Security Limited (Mauritius); and Almoiz NA Holdings Limited (United Arab Emirates).

obtaining any funding from the IDC (or any other party) in addition to the refinancing of the PCF.

40 In accordance with the Plan, and on 9 May 2025, Vision discharged the balance of the payment consideration payable by it to the Lender Group which, in turn, transferred the claims and security to Vision ("**the Claims and Security**"). Consequently, Vision is now the largest creditor in the Tongaat business rescue.

41 As stated above, the Plan provides for an asset sale transaction, which was approved by the majority of Tongaat's creditors. Four separate Sale of Business Agreements were concluded in respect of each of Tongaat's businesses, namely the South African Sale of Business Agreement, the Botswana Sale of Business Agreement, the Mozambican Sale of Business Agreement and the Zimbabwean Sale of Business Agreement (collectively "**the Tongaat Sale of Business Agreements**"). The South African Sale of Business Agreement is the principal agreement for the purposes of implementing the Plan and addressing Tongaat's liquidity requirements.



42 Furthermore, the SASA escrow agreement (as referred to in the Plan) was signed on or about 2 June 2025 by the requisite parties thereto, including SASA.

43 The BRPs have, on an ongoing basis, taken all steps available to them to progress the implementation of the Plan, which includes, *inter alia*:

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- 43.1 obtaining valuations from an independent valuation expert for each of Tongaat's major assets and tax allocations advised on by independent tax specialists for each major asset or category of assets;
- 43.2 engaging with the Johannesburg Stock Exchange ("JSE") through their advisors to ensure compliance (to the extent necessary) with the JSE rules and regulations;
- 43.3 engaging with the South African Reserve Bank for purposes of ensuring compliance with all exchange control regulations and exchange control approvals in Mozambique, Botswana and Zimbabwe;
- 43.4 obtaining the necessary approvals from, *inter alios*, the relevant authorities in the relevant jurisdictions and the formal registration of the South African Sale of Business Agreement with the B-BBEE Commission;
- 43.5 ensuring that all permits and licenses will be transferred from Tongaat to Vision; and
- 43.6 the refinancing of the PCF which would be approved by the IDC and which facility would migrate to Vision on terms and conditions to be agreed between IDC and Vision, as required in the Plan.
- 44 During April 2025, the IDC considered and granted in-principle approval to an indicative funding structure for Vision of approximately R4 062 million in relation



to the implementation of the Plan. This in-principle approval was subject to the finalisation of detailed terms, the conclusion of definitive legal agreements, and the fulfilment of numerous conditions precedent. Ultimately, final approval of the funding structure was only granted by the IDC in September 2025, and remained subject to extensive conditions precedent, legal documentation and implementation requirements.


45 Following the in-principle approval referred to above, it was anticipated by the relevant parties, that the South African Sale of Business Agreement would close on or about 1 June 2025, on the assumption that the conditions precedent and funding arrangements contemplated under the indicative approval would be satisfied in the ordinary course. However, as the process unfolded, the closing of the South African Sale of Business Agreement did not occur, and Tongaat did not obtain the benefit of the restructured capital framework, shareholder support or access to longer-term funding contemplated under the Plan, and continued to operate under interim and constrained funding arrangements, which contributed to the deterioration of its financial position.



46 In late September 2025, it became apparent that Tongaat faced a projected cash shortfall by the end of October 2025 of approximately R500 million. At the same time, Tongaat had imminent payment obligations due at the end of October 2025 to cane growers and to SASA, together totalling approximately R800 million to R900 million.

- 47 In these circumstances, the IDC was requested to provide urgent interim funding to Tongaat in the amount of R500 million as a temporary measure to enable the settlement of these October 2025 payment obligations. This interim funding was sought to provide the necessary time for the IDC and Vision to continue and conclude negotiations on the terms of the proposed facility agreement.
- 48 As engagement progressed during October 2025, it became apparent to the BRPs that, beyond addressing the immediate October 2025 funding requirements, a longer-term funding solution would need to be developed between the IDC and Vision in order to enable the implementation of the approved Plan, including the closing of the South African Sale of Business Agreement with Vision.
- 49 The BRP's ongoing communication with, *inter alia*, the IDC and Vision, in relation to both the immediate funding requirements and the longer-term funding solution, necessitated engagements with representatives of the Government of South Africa ("**the Government**"), given the scale of the funding required, the strategic importance of Tongaat's operations, and the broader economic implications.
- 50 Against this backdrop, and bearing in mind the urgency of the October 2025 funding requirements, Mr Murgatroyd engaged further with the representatives of the IDC during late September 2025, during which he advised them as follows –



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- 50.1 there was an awareness of an urgent need for the reconciliation of cashflow movements to enable the IDC to consider Tongaat's request for urgent interim funding;
- 50.2 Tongaat was working on an urgent updated cashflow forecast to take into account recent developments; and
- 50.3 the BRPs would communicate information to the IDC as soon as the review was complete, whereafter a meeting would then take place with the IDC and Vision representatives to consider the numbers.



- 51 On 6 October 2025, representatives of the IDC and Vision attended a workshop at Tongaat's offices so that, amongst other things, the composition of Tongaat's cashflow forecasts could be explained to the IDC's delegation. During this workshop, the Tongaat funding requirement and request to the IDC had increased to R600 million.
- 52 On 11 October 2025, Mr Murgatroyd addressed an email to representatives of the IDC following a meeting held on 10 October 2025. A copy of this email is attached, marked "FA12". Annexure "FA12" references a TERS application and records *inter alia* the following –
- 52.1 any funds received as a result of a TERS application, to the extent available, would be applied to repayment of the urgent funding requested from the IDC. It was unlikely that the funds from a TERS application would be received

before the end of October 2025, which necessitated the request to the IDC for approvals for funding to be granted by 17 October 2025 and for funds to flow by no later than 24 October 2025;

52.2 as a consequence of the urgent need for funding to ensure the continued liquidity of Tongaat and taking into account the BRPs' obligations in terms of Section 141(2) of the Companies Act, the BRPs requested the IDC to provide them with a list of questions which they may have in regard to Tongaat's urgent funding requirements by 13 October 2025; and



52.3 the BRPs recorded that if they received the list of questions by the requested date and time, they would endeavour to provide the information and/or written answers to the IDC by no later than 16h00 on 15 October 2025.

53 The BRPs received a response from the IDC (per Mr Lwandiso Makupula), a copy of which is attached marked "FA13", wherein the IDC informed the BRPs that the matter would be tabled at their next EXCO Credit and Investment Committee ("ECIC") meeting scheduled for 17 October 2025 and that the IDC was preparing a submission paper and would engage with the BRPs if further information was required by the IDC.

54 During Tongaat's business rescue, regular weekly meetings have been held between the BRPs and Vision, and between the BRPs and Tongaat's management team. This ensured that the BRPs were constantly appraised of

everything transpiring with regard to the trade, dealings and affairs of Tongaat, the implementation of the Plan and Tongaat's funding requirements.

55 At the weekly meeting with Vision's representatives on 13 October 2025, Vision advised the BRPs that it was finalising correspondence to the IDC outlining its requirements for contributions to a long-term solution. Vision confirmed to the BRPs that, subject to certain assurances being received from Government and the IDC, they were committed to closing the transaction foreshadowed in the Plan.



56 Further on 13 October 2025, Vision's representatives informed the BRPs that a paper was being submitted by Vision to the Government regarding the industry amendments required. A further paper had also been prepared by Tongaat's management in this regard.

57 The above said, Vision's requirements for a long term solution, specifically the SASA Industry changes or reforms, which includes various changes to the sugar industry regulations were not referred to in, nor were they a condition or term of the adopted Plan.

58 On 13 October 2025, during a weekly Tongaat management meeting attended by the BRPs, it was confirmed by Mr Rob Aitken, the present Chief Financial Officer of Tongaat ("**Mr Aitken**"), that the Local Market Redistribution ("**LMR**") payment to SASA was anticipated to be approximately R150 million lower than expected and that it was likely that a substantial transaction ("**the CCBSA**

Transaction") with Coca-Cola Beverages South Africa ("**CCBSA**") would close before the end of October 2025. Moreover, Mr Aitken advised that there was likely to be a decrease in the Recoverable Value ("**RV**") price which would reduce the amount payable to cane growers and in consequence of the further managing of cash flows, there was a good prospect of the anticipated October 2025 month-end cash crunch being delayed to a later period.

59 On 14 October 2025, Vision submitted a letter to the IDC setting out a number of material additional requirements, proposed amendments and concerns in relation to the funding structure and the conditions approved by the IDC during September 2025. These matters were expected to be considered by the ECIC on 17 October 2025.



60 Pursuant to the above advice and further engagements between the relevant parties, the BRPs contacted the IDC on 17 October 2025 and were advised that the ECIC had requested further due diligence on the urgent interim funding required by Tongaat. The BRPs were further informed that the request for urgent interim funding would have to be considered by the IDC's Board Investment Committee ("**BIC**"), which was only due to convene during November 2025.

61 Following the above advice, and the IDC's seemingly positive outlook on the matter, the BRPs concluded at that time that there remained a reasonable prospect of approval of the urgent interim funding requirement, as the IDC were seeking to conduct further due diligence for submission to its BIC.

62 On 20 October 2025, the scheduled weekly discussion was held between the BRPs and Vision's representatives. During this discussion, the parties addressed *inter alia*, the IDC's requirement for further due diligence to be conducted in order to substantiate the BRP's forecasts. It was agreed at the meeting that, in light of Tongaat's severely limited cash flow and funding needs, contact with the Government was also necessary. A meeting with the Minister of the Department of Trade, Industry and Competition ("**the Minister of the DTIC**") had been arranged by Vision for 23 October 2025.

63 In the weekly meeting between the BRPs and the Tongaat management team on 20 October 2025, the Tongaat management team discussed, *inter alia*, the status of the funding requested from the IDC and the status of the CCBSA Transaction. Tongaat management explained that the CCBSA Transaction could be supported by a discounting arrangement between CCBSA, the Standard Bank of South Africa Limited ("**SBSA**") and Tongaat, which would allow the invoice issued to CCBSA to be discounted and paid upfront. Tongaat management advised that they had requested the IDC's approval for Tongaat to participate in this discounting arrangement. Access to this discounting facility was dependent on such approval. In the absence of IDC consent, Tongaat determined that the CCBSA Transaction would proceed on the agreed 45-day credit terms, which were in the ordinary course of business.

64 As at 20 October 2025, the BRPs remained of the view that there would be a positive outcome regarding discussions with the IDC, as it was not the first time they had faced a similar delay involving IDC funding.



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65 It was appreciated that the IDC due diligence needed to be completed before a decision could be made on advancing further funds and/or any risk reallocation.

66 Experience showed that the IDC decision making processes take time, which, although a concern, was not reflective of the IDC's stance on the matter. The fact that the IDC wanted to conduct a due diligence resulted in the Tongaat "team" adopting a positive outlook.

67 Mr Murgatroyd engaged with the IDC's representative, Mr Bongani Miya ("Mr Miya"), during the afternoon of 21 October 2025. Mr Miya informed Mr Murgatroyd that he was continuing to process Tongaat's additional funding request. Mr Miya also advised that the Director General ("DG") of the Department of Trade, Industry and Competition ("DTIC") had called for a report from IDC and a meeting as soon as the report was finalised. Mr Miya's view was that it would be of great assistance to the application to the IDC Board if the DTIC were to confirm its commitment to the sugar industry changes expected by Vision and Tongaat. Mr Miya advised that he would finalise his report and then arrange for a meeting with the DG to progress matters. It was then anticipated that such meeting may still take place during the course of the week ending 24 October 2025.

68 There were subsequent discussions and engagements among the stakeholders, but no further progress was made regarding the closing of the South African Sale of Business Agreement or Tongaat's need for additional funding.



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- 69 During the weekly meeting between the BRPs and Vision on 27 October 2025, Vision advised that it had met with IDC and the DG of the DTIC on 22 October 2025, and *inter alia*, the following was communicated –
- 69.1 although Vision had been granted a facility by the IDC, there was no cash that was going to be utilised from this facility to be injected into Tongaat's business. The facility was designed to refinance Tongaat's existing PCF obligations and other historic liabilities;
- 69.2 the facility would be drawn down to refinance, amongst other things, interest earned by the IDC over the life of the PCF, and the restructuring costs incurred during the business rescue period;
- 69.3 Vision awaited confirmation from the IDC of the interest rate to be charged on the Vision facility and resolution regarding the PCF interest accrued ; and
- 69.4 the business of Tongaat should not be burdened with the substantial restructuring costs that had been incurred.
- 70 In addition, during a meeting held on 27 October 2025 between the BRPs and Vision, Vision advised the BRPs that the DG had queried the timing of the closing of the transaction. Vision advised that they had confirmed to the DG that closing the transaction in October 2025 was not feasible, but that November 2025 was a critical month due to the off-crop maintenance programme starting. Vision





indicated that it wanted to ensure that it became the owner of Tongaat before the off-crop period commenced so that it could assume responsibility for, and derive the benefit of, the off-crop maintenance programme. Mid-November 2025 was regarded as the crucial date.

71 Mid-November 2025 passed, and the closing of the South African Sale of Business Agreement did not occur.

72 Despite meetings and discussions and the seemingly positive outlook, it was becoming apparent that, although the IDC and Government appeared to appreciate the extent and urgency of Tongaat's funding requirements, the procedures and/or processes to obtain the approvals within the IDC and the DTIC were protracted.



73 Notwithstanding the BRPs' growing concerns due to severely constrained cash flows and the prospect of further urgent funding dwindling, because of assurances from Vision and the IDC, the BRPs remained of the view that there continued to be a reasonable prospect of the rescue of Tongaat. A concern did remain in that it appeared the stakeholders involved in ensuring the success of the rescue may not have fully appreciated that timing was critical in respect of Tongaat's cashflow shortfall.

74 By 28 October 2025, Tongaat's liquidity position had deteriorated to the tightest it had been since entering into business rescue. This was determined when a liquidity test was conducted by Tongaat's management team, and pursuant to

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which Tongaat's EXCO was advised that Tongaat was fully drawn on its R2.3 billion PCF facility and had approximately R300 million of cash available to cover approximately R750 million in payments due at the time. Despite the foregoing, it was anticipated that the month-end challenges would still be overcome through the careful management of the collection of sales proceeds and the strict sequencing of cash payments, albeit with only approximately R11 million of headroom.

- 75 There were various further engagements between the stakeholders, and on 31 October 2025, Mr Murgatroyd, on behalf of the BRPs, addressed an email to the representatives of the IDC, which was copied to Vision. A copy of Mr Murgatroyd's correspondence is attached, marked "FA14".



- 76 It will be noted that the subject header of the correspondence is "*Timing of Urgent Funding Request – Tongaat Hulett Limited*".
- 77 The content of annexure "FA14" is important because it is in this correspondence that Mr Murgatroyd sets out, as at 31 October 2025, a summary of the status of the business rescue and anticipated timing. Annexure "FA14" states *inter alia* as follows –

"2 Following various initiatives, the management of THL succeeded in delaying the date by when the anticipated cash flow shortfall would arise. It is now anticipated that the aforesaid funding will be required by mid to late November 2025.

3 Although the quantum of the funding required from the IDC has not changed, taking into account the timing of the obligations for which these funds will be deployed, the aforesaid R600m can be made available in lesser tranches as follows, which will enable THL to timeously discharge its obligations:

- a R300 million by 21 November 2025; and
- b a further R300 million by 12 December 2025, bringing the total to R600 million.

4 As you are aware, the BRPs, in discharge of their duties and responsibilities, consistently assess whether there is a reasonable prospect of the rescue of THL. The BRPs remain of the considered opinion that there remains a reasonable prospect of rescue, an opinion informed by, inter alia, the following:



- a the positive steps being taken by IDC in response to the urgent funding request from THL;
 - b the constructive engagements between IDC, Vision, the DTIC and SASA which have occurred since that date;
 - c what transpired during the various meetings with the DTIC DG as recently as 29 October 2025 and what is anticipated will be achieved during the planned workshop with SASA scheduled for today, 31 October 2025 with DG and IDC in attendance.
- 5 Whilst it is appreciated and understood that an internal process is required to be followed within the IDC to approve the sought after urgent funding request, the timing constraints referred to above require this process to be completed in the coming days failing which the BRPs current positive assessment of the prospect of a successful rescue will likely change.

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6 For the reasons set out above and for the BRPs to maintain their opinion that a reasonable prospect of rescue continues to exist, it is required for the IDC to confirm to the BRPs the following:

- a by no later than 12 November 2025 an amount of R300 million will be made available by the IDC to THL by 21 November 2025; and
- b by no later than 3 December 2025 a further amount of R300 million will be made available by the IDC to THL by 12 December 2025;
- c the funding so provided will be an interim facility, which will be reduced/repaid from ongoing trading operations and/or following the refinancing of the PCF Facility into the Vision facilities granted by the IDC and/or alternative arrangements agreed between IDC, Vision and/or DTIC;
- d the timing of the settlement or refinancing of the interim funding would be after the IDC and Vision have reached consensus on the composition and terms of the Vision facility and the treatment of the THL debt to be assumed by Vision."



78 On 3 November 2025, a further meeting was held between the BRPs and certain of Vision's principals, during which Vision's representatives advised that, in their considered opinion, there remained a reasonable prospect of rescue due to the speed at which the Government, specifically the DTIC, was attending to the matter. Vision confirmed to the DG of the DTIC that it is their intention to close (that is, with reference to the closing of the South African Sale of Business Agreement) before the end of November 2025 to ensure they take over the off-crop maintenance programme.

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- 79 In addition, and based on discussions on 3 November 2025 as stated above, the BRPs were requested to address a letter to SASA and DTIC (copying the IDC) setting out the importance of the industry regulatory changes as a key element of Tongaat's sustainability.
- 80 Thereafter, and at the weekly meeting held with Tongaat's management team on 3 November 2025, the following was discussed –
- 80.1 a further liquidity test had been performed by Tongaat's treasury team, and based on information available at the time, forecasts showed that cash flows were likely to be in order until late November 2025, at which time approximately R300 million would be needed;
- 80.2 it was conveyed to the management team of Tongaat that, on 31 October 2025, correspondence had been sent to the IDC calling on the IDC to confirm the availability of funds to meet the above possible shortfall. This is the correspondence attached as annexure "FA14"; and
- 80.3 further, it was conveyed by the Tongaat management team that Tongaat had successfully managed the October 2025 month-end liquidity pressures through a combination of –
- 80.3.1 the CCBSA Transaction and the discounting of the related invoice, following the IDC's consent for Tongaat to participate in this arrangement;



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80.3.2 lower LMR and cane payment obligations to SASA than forecast; and

80.3.3 tight control over discretionary and non-critical outflows.

81 Despite the above, the forecasts as at 3 November 2025 indicated a structural liquidity shortfall emerging from 24 November 2025, estimated in an amount of R280 million.

82 Mr Aitken highlighted the following -



82.1 the shortfall peaks of R285 million on 30 November 2025 would increase to R504 million on 31 December 2025 and R645 million by 31 January 2026;

82.2 while the R645 million exceeds the IDC facility request of R600 million, after taking into account available cash balances, the effective deficits would reduce to approximately R274 million, R464 million and R536 million, respectively; and

82.3 this would enable payments to be managed within the overall R600 million funding requirement through continued cash sequencing.

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83 Without detracting from what is set out above, the following important additional matters were traversed at the meeting -


83.1 domestic sales remained extremely constrained and challenged as import volumes appeared to be materially higher than those officially reported, further constraining the local market off-take and resulting cash inflows. This was primarily due to extreme delays in tariff adjustments needed to be implemented by the DTIC;

83.2 export proceeds had been delayed due to logistic bottlenecks and price-related adjustments in the global market; and

83.3 the current sugar dumping in the South African market by foreign sugar producers such as Brazil and India was having a material impact on the South African sugar industry.

84 Tongaat's management's overall assessment following the meeting referred to above was that the combination of positive developments including potential redistribution relief and tighter off-crop maintenance spending controls and a proposed 20 000-ton sale to Illovo Sugar (South Africa) (Proprietary) Limited ("**Illovo**"), which was under discussion, could deliver approximately R300 million in advance proceeds that would benefit Tongaat until it was required to pay the amount due and owing to SASA *vis-a vis* the redistribution payment.



85 This meant that there was then, at that time, reasonable confidence that Tongaat could balance cash flows over the interim period leading up to the reasonably possible receipt of the IDC increased facility. The assessment reflected all available data, information and assumptions at that point and remained subject to change as new information became available.

86 With the above in mind, on 4 November 2025, Mr Murgatroyd addressed correspondence on behalf of the BRPs to both the Minister of the DTIC and the Vice-Chairpersons of SASA. The IDC's representative, Mr Miya, was copied in on the correspondence. The subject heading of the letter is *"Urgent Request for Consideration and Fast-Tracking of Amendments to the Sugar Industry Agreement and the Constitution of the South African Sugar Association"*.




87 A copy of this correspondence is attached, marked "FA15".

88 I refer the Court to annexure "FA15" and to the amendments (termed measures) which were directed at -

88.1 levelling the competitive space in the milling and refining sectors, including addressing the impact of increasing import volumes from Eswatini;

88.2 improving the effectiveness and responsiveness of the tariff-setting process, including the timeliness of adjustments under the Dollar-based reference price mechanism, to ensure more predictable and adequate protection against imported sugar;

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- 88.3 enhancing the independence and objectivity of SASA's decision making processes, and ensuring a better balance between public interest considerations and the commercial interests represented within the industry;
- 88.4 ensuring a more equitable distribution of regulatory benefits across both the sugarcane growing and milling/refining segments of the industry; and
- 88.5 aligning the industry with South Africa's industrial policy objectives, including particularly transformation, competitiveness, and the protection of rural livelihoods.



- 89 More significantly, the letter states -

"In short, these interventions are critical to restoring sustainability, stability, fairness and competitiveness across the sugar value chain. They are also essential to ensure the future viability of THL and to conclude the ongoing business rescue of THL expeditiously on a sustainable and socially responsible basis. By way of context, THL directly employs several thousand people in KwaZulu-Natal and sources sugarcane from over 15,000 small-scale and community growers. The livelihoods of these stakeholders and indeed a significant portion of the approximately 65,000 direct jobs and one million plus livelihoods sustained by South Africa's sugar industry – hang in the balance. The urgency of reform cannot be overstated."

- 90 I mention that the Tongaat Sale of Business Agreements were revised and restated to cater for *inter alia* events which had occurred since the date of the original execution of these agreements and, to correct certain patent errors. The revised and restated South African Sale of Business Agreement, which is in agreed form as between its prospective signatories, was awaiting sign-off from

the IDC before it could be executed. The revised and restated South African Sale of Business Agreement is subject to the fulfilment of a number of suspensive conditions, which in the main relate to the provision of the IDC funding by the IDC to Vision, which would incorporate the migration of the PCF from Tongaat to Vision, as required in the Plan.

91 On 10 November 2025, and during a Tongaat team meeting update, the BRP's were advised by Mr Ross Miles ("**Mr Miles**") of Tongaat *inter alia* that -

- 91.1 the order from Illovo for 20,000 tons of sugar had been lost. This order had not been included in forecasts provided to the IDC by Tongaat, but the loss of the order was significant because it would, in all probability, have solved the first R300 million of the additional funding required by Tongaat;
- 91.2 there had been downside movements of approximately R40 million to R50 million in respect of the Voermol Feeds division due to the impact of foot-and-mouth disease on livestock demand, and approximately R100 million in respect of the marketing, sale and distribution of sugar arising from increased competition from low-priced imported sugar;
- 91.3 cash flows in Tongaat's Zimbabwe sugar operations were improving. The negotiation of an increased facility agreement (in the amount of approximately US\$50 million) was nearing finalisation, which would create capacity to commence repayment of Tongaat support fees. In the short



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term, this would result in at least US\$1 million to US\$2 million flowing into South Africa from Zimbabwe;

91.4 notwithstanding what is set out above, Tongaat still required funding in the amount of approximately R300 million on or before 24 November 2025, which would increase to approximately R421 million in December 2025 and to approximately R619 million in January 2026; and

91.5 the forecast for funding required by Tongaat in February 2026 was projected to be in the amount of approximately R750 million.



92 On 10 November 2025, various further discussions took place between the BRPs, Vision and the IDC during which the parties discussed *inter alia*:

92.1 the reforms required in the sugar industry;

92.2 the concerns regarding a letter sent by Vision to SASA in respect of Vision's foreshadowed claim against SASA;

92.3 the IDC's requirement that the Minister of the DTIC provide undertakings in respect of a reform programme for the sugar industry; and

92.4 the progression of Tongaat's funding request by the IDC.

93 On 13 November 2025, in an attempt to progress the funding request to the IDC, Mr Murgatroyd proposed, amongst other things, a security sharing arrangement between the IDC and Vision. Vision advised that it was not prepared to consider sharing security with the IDC, in a vacuum, and it expressed its view that the Government ought to assist the IDC in relation to Tongaat's funding needs because it has significant funds available to assist distressed companies.

94 On 17 November 2025, a weekly update meeting was held with Vision's principals, during the course of which the BRPs advised that:



- 94.1.1 the IDC was still considering Tongaat's urgent funding request;
- 94.1.2 the due diligence by the IDC was expected to be finalised by the end of that day whereafter an urgent BIC meeting would be arranged during the course of the week; and
- 94.1.3 Tongaat's current forecasted cash flow was that Tongaat would not be in a position to meet its financial obligations if the requested funding was not provided by the end of November 2025;
- 94.2 Vision reinforced its position that the closing of the South African Sale of Business Agreement must occur by the end of the month (November 2025), which required the IDC agreements to be signed by 24 November 2025 to permit the SAP accounting system switch over and other necessary operational transitions from Tongaat to the Vision structure to occur; and

94.3 Vision confirmed that it was ready to sign the revised and restated South African Sale of Business Agreement, but the IDC consent had to first be obtained which had not yet been received.

95 In addition to the above, and also on 17 November 2025, the weekly Tongaat team update meeting took place, during the course of which -

95.1 Mr Miles provided an update on Tongaat's cash flow forecasts and liquidity and advised that the available facility balance at the end of November 2025 could vary between a positive R41 million and a negative R28 million depending on, *inter alia*, the timing of export proceeds being received by Tongaat and other matters;



95.2 Mr Murgatroyd advised that he had requested Vision to share security with IDC to assist with the IDC's decision-making process, but Vision advised that it would not agree to do so, in a vacuum, until it had received a response and/or proposal to its request to the IDC and DTIC; and

95.3 it was determined that in light of Tongaat's funding requirements, the BRPs would dispatch a short letter setting out their stance in relation to having to apply to Court for a winding-up of Tongaat in compliance with their statutory obligations.

96 During the afternoon of 17 November 2025, Mr Murgatroyd received a call from the IDC representative, Mr Miya. Mr Miya advised Mr Murgatroyd that a discussion had taken place with Vision's representatives which clarified a number of outstanding issues. Mr Murgatroyd advised Mr Miya that the BRPs intended to send an email to the IDC confirming that in the absence of certainty in relation to funding by 21 November 2025, the BRPs would be left with no alternative but to apply for the liquidation of Tongaat.

97 During the late afternoon on 17 November 2025, a meeting with Vision took place. During the course of that meeting, Vision provided a summary of interactions that had taken place with the IDC earlier in the day. Vision advised that the IDC had confirmed that it was continuing to progress Tongaat's funding request.



98 On 18 November 2025, the BRPs addressed letters to the IDC, Vision and to the Minister of the DTIC. Copies of the letters are attached marked "FA16" and "FA17". Annexure "FA17" records that which is stated above and concludes :

"Regrettably, in the light of THL's funding request not yet being confirmed by the IDC despite ongoing engagements between representatives of inter alios the IDC and Vision to attempt to resolve THL's current financial predicament, the unresolved issues between the parties and the absence of certainty relating to the additional funding desperately required by THL, should the BRPs not receive the confirmation of the availability of the required funding by 17:00 on 20 November 2025, the BRPS will (unless financially positive intervening events occur which, in the considered opinion of the BRPs serve to address the immediate liquidity shortfall being experienced by THL) have no alternative but to comply with their statutorily imposed obligations in terms of section 141(2)(a)(ii)



of the Companies Act to discontinue and terminate the business rescue of THL and to apply to court for its liquidation."

99 Pursuant to the dispatch of the above correspondence, and on 19 November 2025, a meeting was held between the BRPs and Vision. During the meeting, the BRPs were informed that Vision's representative, Mr Gumede, had made contact with the Minister of the DTIC and had discussed the matter with the DG. Again, the timing of committee meetings and the due diligence required by the IDC was raised as an issue. Vision expressed its concerns regarding further delays which concerns were shared by the BRPs.



100 During the above meeting, Vision also made it clear that it was not prepared to assume responsibility for an increased PCF facility of R2.9 billion (increased from R2.3 billion). Vision advised that it required a solution to address *inter alia* Tongaat's immediate funding need of R600 million and also required the DTIC to commit to industry reform. The foregoing demands by Vision were of concern as the required reform was never a condition of the adopted Plan.

101 Further, on 19 November 2025, a meeting was held between the BRPs, Vision and the IDC. Mr Murgatroyd reiterated to those in attendance at the meeting that:

101.1 an urgent request for funding of R600 million was made to the IDC in late September 2025 but, despite the lapse of a further two months, many meetings and undertakings, no decision had been made in regard to the provision of the urgent funding requested;

101.2 whilst the BRPs appreciated that the IDC has processes to follow and committees are required to provide approvals, certainty and/or commitment regarding the further funding requested had to be provided by, at the latest, 24 November 2025; and

101.3 the BRPs have obligations pursuant to S141 of Companies Act and in the absence of certainty, the BRPs would have no alternatives available to them but to proceed with this application.

102 Based on the IDC's advice that it was committed to assisting the BRPs and Tongaat, the BRPs determined that a reasonable prospect of rescue remained



103 There were further engagements and meetings held relating, in the main, to Tongaat's urgent need for funding of R600 million and to Vision's requests. Timing remained an issue despite the IDC appearing to appreciate the urgency of the matter.

104 On 21 November 2025 another meeting was held between the BRPs, the IDC and Vision. The parties discussed *inter alia* (i) the IDC's ECIC meeting which was scheduled for 25 November 2025 to consider the various requests made (ii) the security shortfall on the PCF facility and (iii) the increase of the facility and the need for the IDC and Vision to meet to discuss and finalise various matters.

105 By 25 November 2025, and despite the meetings held and expressions of commitment by the IDC, no solutions had been achieved.

106 Accordingly, on 25 November 2025, Mr Murgatroyd addressed correspondence to the IDC and copied the Minister of the DTIC, the DTIC and Vision, a copy of which is attached marked "FA18". Annexure "FA18" states inter alia as follows:

"3. Management of THL has succeeded in managing the cash flows, which has extended the date for the sought after funding to be received from IDC by a few days, to Friday 28 November 2025.

4 Whilst the BRPs are grateful for the commitment demonstrated by representatives of the IDC, Vision and the DTIC in attempting to overcome the dire financial challenges facing THL, should the sought after initial amount of R300m of the additional facility required by THL not be approved by Friday 28 November 2025 and the funds advanced to THL by Monday 1 December 2025 the BRPs will be left with no alternative but to apply for the liquidation of THL in accordance with their statutory obligations in this regard. A liquidation application has been prepared and is currently being settled by Senior Counsel. It will be launched immediately should the sought after funding not be timeously received."



107 On 26 November 2025, further communications took place between the BRPs, Vision and the IDC. Mr Murgatroyd stressed to the IDC that the only way that the liquidation of Tongaat could possibly be avoided was by obtaining the funding from the IDC with at least the first tranche of R300 million to be paid by 1 December 2025 and the balance of R300 million to be paid by 11 December 2025.

108 Further, on 26 November 2025, Mr Murgatroyd was contacted by Mr Miya who advised, *inter alia*, that all necessary submissions regarding Tongaat's urgent

funding request had been finalised and that an IDC management meeting would take place on 28 November 2025.

109 On 29 November 2025, Mr Murgatroyd received communication from Mr Miya advising that Tongaat's R600 million funding request had been approved by the IDC ECIC. However, Mr Miya also informed Mr Murgatroyd that additional conditions would be imposed by the IDC in respect of the grant of the funds.

110 Mr Murgatroyd responded to Mr Miya requesting confirmation that Tongaat's R600 million urgent funding request had been approved and would be ready for drawn down on 1 December 2025.



111 On 1 December 2025, Mr Murgatroyd was contacted by Mr Miya who advised him that the IDC executive committee had approved the R600 million urgent funding request from Tongaat but he reiterated that there were conditions which would need to be fulfilled prior to the flow of funds. Mr Murgatroyd was also informed that the IDC company secretary would be convening an urgent BIC and board meeting of the IDC to sign off on the R600 million approval and that an attempt would be made by Mr Miya to revert to Mr Murgatroyd before the end of the day on 1 December 2025.

112 On 1 December 2025, Mr Murgatroyd addressed correspondence to Mr Jarvis and Mr Miya, a copy of which is attached marked "FA19". In his letter Mr Murgatroyd stated *inter alia* the following :

"I refer to the attached letter and e-mail below. I confirm that Bongani did send me a WhatsApp message on Saturday confirming that the **R600m urgent funding request had been approved** but that there were conditions to it. I also confirm that Bongani messaged me a little while ago confirming he would call me back shortly. In the meantime, I send this e-mail to confirm the **desperately urgent predicament that we find ourselves in.**"

113 On 1 December 2025, Mr Murgatroyd sent a further email to Mr Miya, a copy of which is attached marked "**FA20**". In his correspondence (annexure "**FA20**") Mr Murgatroyd referred to his previous discussion with Mr Miya during which it was confirmed that the IDC executive committee had approved the R600 million urgent funding required by Tongaat.



114 Annexure "**FA20**" records *inter alia* the following: -

- 114.1 the BRPs acknowledged that formal approvals by the IDC would only be provided following the outcome of the IDC usual governance procedures and, to this end, it was confirmed that the IDC's company secretary was in the process of arranging urgent BIC and/or board committee meetings to obtain final internal approvals;
- 114.2 that the BRPs remained under extreme pressure to obtain the urgently required funding due to their legal obligations arising from Section 141 of Companies Act and, for this reason, an undertaking and/or commitment was required from the IDC that the necessary funding would be provided;

114.3 that the requisite confirmation that the relevant approvals had been given was to be provided by no later than 2 December 2025 together with confirmation that the funds would be made available for drawn down as soon as practicable thereafter; and

114.4 that any conditions that the IDC wished to impose on the funds to be advanced should not prevent the flow of funds but should rather be dealt with as conditions subsequent to the granting of the funds bearing in mind the desperate need for funding by Tongaat.



115 On 2 December 2025, a further discussion was held between Mr Murgatroyd and Mr Miya during which Mr Miya advised Mr Murgatroyd that further committees needed to "sign off" on the R600 million urgent funding request and the convening of these committees was still being arranged. During this discussion, Mr Miya further advised Mr Murgatroyd that it appeared to him that further security for the additional funding was likely to be necessary and that he, Mr Miya, had engaged with the SBSA in this regard.

116 Further, on 2 December 2025, a meeting was held between the BRPs and Vision's representatives during which *inter alia* the following was communicated: -

116.1 although the funding of the R600 million had been approved by the IDC, formal correspondence / documentation had not been received by 2 December 2025;

116.2 Vision had been attempting to communicate with the IDC to facilitate further discussions and resolution but was not receiving any response from the IDC. It was confirmed that the IDC company secretary had been attempting to convene a BIC and board member meeting but the matter of the provision of further security to the IDC remained in issue;

116.3 Vision remained committed to the business rescue of Tongaat, however, Vision could not be involved in any repayment arrangements to the IDC; and

116.4 Vision expressed its concerns and difficulties in light of the continued delays in obtaining the urgent funding from the IDC which would result in a significant deterioration of Tongaat's financial position.



117 On 3 December 2025, Mr Murgatroyd sent an e-mail to, amongst others, various representatives of the IDC and Vision. A copy of the e-mail is attached marked "FA21". The e-mail is headed "URGENT FUNDING REQUEST" and concludes by informing the addressees that if the issue of the desperately needed funding was not resolved imminently, the BRPs intended to apply for the liquidation of Tongaat.

118 For the reasons stated below, an application for the liquidation of Tongaat was not proceeded with, at that stage. The continued engagements between the parties and the assurances given by the IDC to the BRPs that its ECIC had approved the R600 million urgent funding required by Tongaat meant that the

BRPs retained a positive outlook and remained of the view that the Plan could be successfully implemented.

119 The IDC and Vision expressed their commitment to the business rescue of Tongaat and, particularly, to the solutions required to ensure its continued and successful rescue. These solutions included, *inter alia*, the R600 million urgent funding required, the closing of the South African Sale of Business Agreement and industry reform.

120 On 3 December 2025, Tongaat senior management sent a letter to the IDC and Vision and copied in the BRPs and their attorneys, the subject matter of which is "URGENT ENGAGEMENT REQUIRED TO PRESERVE VALUE, MITIGATE LIQUIDATION RISK AND PROTECT A GOING CONCERN OUTCOME". A copy of the letter is attached marked "FA22".



121 In annexure "FA22" it is recorded *inter alia* that :

"We respectfully request renewed engagement from Vision and the IDC with a view to constructively resolving the issues that stand in the way of implementing the business rescue plan. Management is implementing measures to reduce the R600 million liquidity bridge request and we have had success in delaying and reducing the near-term gap.

We will continue to narrow the liquidity gap as far as possible. However, without constructive participation from both parties to restore implementation of the plan, there remains a real risk that the process defaults to liquidation. Such an outcome would be materially value destructive for all stakeholders, including secured creditors, which we are keen to avoid."

122 On 4 December 2025, Mr Murgatroyd held a discussion with Mr Miya regarding a meeting held earlier that day between the IDC and Vision. Mr Miya informed Mr Murgatroyd that: -

122.1 the IDC would be approaching BIC for the approval of the R600 million urgent funding required by Tongaat;

122.2 a request was being submitted to BIC in regard to the change required pertaining to the IDC's required security;



122.3 it remained a reasonable likelihood that Vision and IDC would reach agreement particularly in relation to the security sharing required by IDC so that the closing of the South African Sale of Business Agreement could occur; and

122.4 Mr Murgatroyd, was required to address correspondence to the IDC requesting confirmation that there remains a reasonable prospect of the successful conclusion of negotiations which were under way between the IDC and Vision being achieved prior to 16 January 2026.

123 Pursuant to, and in accordance with the discussion between Mr Miya and Mr Murgatroyd, and on 4 December 2025, Mr Murgatroyd addressed emails to the IDC and to Vision, copies of which are attached marked "FA23" and "FA24".

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124 In annexures "FA23" and "FA24", the IDC and Vision were requested to provide confirmation that they believed that there existed a reasonable prospect that the successful conclusion of the negotiations underway between the IDC and Vision would be achieved on or before 16 January 2026. Insofar as the IDC is concerned, they were requested to confirm that the funds of R600 million would be advanced to Tongaat on or before 19 December 2025.

125 On 5 December 2025, a response to Mr Murgatroyd's correspondence was received from Vision, a copy of which is attached marked "FA25". In annexure "FA25", Vision states *inter alia* that: -



"Vision remains fully committed to working with IDC, DTIC, THL and BRPs in finding workable and implementable solutions that will result in adequate working capital and BRP exit as soon as possible latest January in the new year"

126 On 5 December 2025, during a discussion between Mr Murgatroyd and Vision's representative, Mr Moyo, Mr Moyo again expressed Vision's commitment and further advised that Vision would be willing to provide correspondence confirming the likelihood of the deal being concluded between Vision and the IDC however Vision required the IDC to confirm its commitment to the process.

127 Further to the above, and at the time of the above engagements between the BRPs, the IDC and Vision, concerns regarding the potential liquidation of Tongaat had arisen within the sugar industry particularly amongst the cane growers.

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128 On 7 December 2025, Mr Murgatroyd contacted Ms Ncumi Mhlauli ("**Ms Mhlauli**"), the Chief Director of Agro-Processing at the DTIC.

129 Ms Mhlauli informed Mr Murgatroyd *inter alia* that the DTIC was aware of the interactions between the IDC and Vision and that a process had been agreed to, but time was required to complete the process. Ms Mhlauli further advised Mr Murgatroyd that the negotiations, which would include the DTIC, the IDC and Vision, would likely only conclude by the end of January 2026 and that the IDC ought to have sent a letter to Vision regarding the foregoing.



130 Vision, upon enquiry, informed the BRPs that it had not received any communication from IDC as foreshadowed above.

131 Pursuant to the above, and also on 7 December 2025, Mr Murgatroyd and Mr Aitken held a discussion with Mr Miya during which Mr Miya was informed of heightened concerns and uncertainty that had arisen within the cane grower community in relation to the potential liquidation of Tongaat. It was conveyed that communications circulating within the industry regarding a possible imminent liquidation had caused significant alarm among growers and risked undermining the stability of grower relationships and supply arrangements at a critical juncture in the business rescue process.

132 Mr Miya advised Mr Murgatroyd and Mr Aitken that a meeting had been held on 5 December 2025 between Mr Miya and the Deputy Minister of the DTIC advising

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of the process being followed by the IDC and, accordingly, Mr Miya expressed surprise regarding the concerns of the cane growers.

133 It was during the above discussion that Mr Miya advised the BRPs that based on advice received from the IDC's lawyer, no further correspondence would be provided by the IDC to Tongaat or the BRPs regarding the IDC's commitment to the process and the successful conclusion of negotiations with Vision. The reason provided by Mr Miya for the foregoing was because the IDC's letter of 4 December 2025 clearly stated that the IDC was committed to the process and there was accordingly no need for any further correspondence. In this regard I refer to annexure "FA26".



134 On 7 December 2025, Mr Murgatroyd also communicated with Mr Simphiwe Hamilton ("**Mr Hamilton**"), the DG at the DTIC, regarding the panic that arose amongst the cane growers in regard to a possible liquidation of Tongaat. Mr Hamilton responded to Mr Murgatroyd requesting that all communications be centralised and that all parties be included in engagements to avoid any "*blind spots and miscomms*". Mr Hamilton suggested a meeting be held to discuss the matter.

135 During a meeting held between the BRPs and Vision on 8 December 2025, Mr Gumede of Vision advised that a meeting between the IDC and Vision was to be held on the same day following which Vision would then determine if, in their view, there remained a reasonable likelihood of Vision concluding a deal with the IDC. Mr Gumede also advised the BRPs that SASA's members and the cane

growers were aware of discussions pertaining to the possible liquidation of Tongaat.

136 Although the IDC and Vision appeared to be engaging on the issues between them and Vision's proposals to or requests from the IDC, at the above meeting, Mr Murgatroyd advised Vision of the DG's request that all parties attend a meeting to discuss the matter and that he, Mr Murgatroyd, was waiting for confirmation from the DG of the proposed attendees.

137 Further on 8 December 2025, the weekly management meeting was held between the BRPs and Tongaat during which, *inter alia*, the following was discussed and/or agreed: -



137.1 the townhall meeting held on 8 December 2025 which was attended by Tongaat's employees and at which a question and answer session addressed employee concerns;

137.2 IDC's confirmation of its commitment to the process in its letter of 4 December 2025;

137.3 the request for urgent funding which remained at R600 million, notwithstanding that management initiatives had, at that stage, temporarily reduced the immediate liquidity requirement to approximately R200 million (excluding any contingency buffer), while the IDC / Vision negotiation

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process which was advancing albeit that smaller IDC teams had been mandated to negotiate the terms between the IDC and Vision;

137.4 the issuing of an application for the liquidation of Tongaat would be deferred pending the outcome of discussions between the IDC and Vision and Vision's assurance that implementation of the South African Sale of Business Agreement remained likely; and

137.5 the meeting called for by the DG of the DTIC was to proceed so as to avoid any possible miscommunication between relevant parties.



138 On 8 December 2025, a meeting was held between the IDC and Vision. The IDC informed Vision that they were under the impression that the letter setting out a process timeline had been sent to Mr Murgatroyd. As this was not the case, the IDC undertook to send the letter after the conclusion of the meeting.

139 Vision was informed that the express aim of the IDC was to finalise submissions to BIC by 14 January 2026 and then to make the necessary submissions to the board of the IDC on 29 January 2026 for final approval.

140 As at 8 December 2025, the timetable agreed to between the IDC and Vision was as follows: -

140.1 the BIC meeting was scheduled for 11 December 2025 and the meeting of the board of the IDC was intended to take place on the same day;

- 140.2 Tongaat and/or the BRPs would receive approval of interim funding by 12 December 2025;
- 140.3 the IDC and Vision negotiations were to conclude in time for submissions to BIC on 14 January 2026; and
- 140.4 the outcome of the above discussions and negotiations were to be submitted to the board of IDC for the meeting to be held on 29 January 2026.



- 141 On 8 December 2025, the BRPs sent correspondence to the IDC confirming that the IDC had confirmed in its letter to the BRPs dated 4 December 2025, that the parties are working collectively to ensure a viable and successful restructure of Tongaat and that, accordingly, no further letter was required. A copy of this correspondence is attached marked "FA27".
- 142 During the 8 December 2025 weekly management meeting, Tongaat's management confirmed that the funding requirement had been revised to approximately R200 million by mid-January 2026 due to ongoing efforts to extend the liquidity runway.
- 143 On 9 December 2025, a letter was sent by the BRPs to IDC and Vision in which the BRPs recorded their acknowledgement and appreciation for the fact that all parties had worked with intensive urgency and heightened discipline to address the various matters. The constructive engagements that had taken place enabled

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the parties to reach a stage where the BRPs were satisfied that, at that stage, a reasonable prospect of rescue remained. A copy of this correspondence is attached marked "**FA28**".

144 On 9 December 2025, a letter was also received from the IDC which was addressed to Vision setting out the processes to be followed until 29 January 2026. Based on this, and the extensive prior communications and engagements as well as oral confirmations received, the BRPs determined that there remained a reasonable likelihood that Vision and IDC would reach agreement for the implementation of the Plan and the Tongaat Sale of Business Agreements. A copy of the letter from IDC to Vision dated 9 December 2025 is attached marked "**FA29**".



145 By 15 December 2025, the BRPs had not received any further communication from the IDC regarding the outcome of the BIC meeting which was held on 11 December 2025.

146 Accordingly, on 15 December 2025, Mr Murgatroyd contacted Mr Miya. Mr Murgatroyd was informed by Mr Miya *inter alia* that: -

146.1 the BIC did not approve Tongaat's urgent funding request of R600 million but would be agreeable to providing funding in a lesser amount of R200 million, if Vision matched the IDC's contribution to Tongaat's liquidity need, rand for rand; and

146.2 there had been no discussions between Vision and the IDC prior to the above IDC decision and the IDC had not yet arranged the required board meeting.

147 On 15 December 2025, meetings were held between certain of Vision's principals and the BRPs. Vision advised the BRPs *inter alia* that it had not been informed of the BIC's decision of 11 December 2025 and that the scheduled meetings that were arranged between Vision and the IDC and DTIC had not taken place. Vision's annoyance at this state of affairs, and the absence of positive progress from the IDC, was palpable.



148 On 17 December 2025, the BRPs received an email from Mr Miya, a copy of which is attached marked "**FA30**". The purpose of Mr Miya's e-mail was to update the BRPs in respect of the IDC's process to assist the BRPs in addressing Tongaat's liquidity challenges.

149 In his correspondence (annexure "**FA30**") Mr Miya advised that:

149.1 the IDC had initially planned to present the "*Liquidity Injection*" proposal at a special Board meeting during December 2025. However, final Board approval had not yet been received and Mr Miya advised that the IDC were looking to table the proposal at the Board Meeting scheduled to take place at the end of January 2026;

149.2 having submitted the request to increase the PCF by R600 million, together with other restructuring items, to both the ECIC and the BIC, the standing decision (which was not final) from the committees was as follows:

149.2.1 the IDC would increase the PCF by R200 million, raising it from R2.3 billion to R2.5 billion, which would be secured by the existing Stock and Debtors security package (no additional security);

149.2.2 as a condition to the above, Vision had to match the IDC's contribution of R200 million on an "equal footing" or 50/50 basis. That is, Vision was also required to provide funds of R200 million into Tongaat in parallel with the IDC's PCF increase;



149.2.3 for any shortfall beyond the R400 million as referred to above, the IDC would consider the SBSA stock finance proposal, provided that the collateral cover is acceptable to the IDC; and

149.2.4 the BIC Committee expected that a final IDC - Vision solution would be reached by the end of January 2026 in relation to certain funding structure adjustments and relief sought by Vision, including requests for the "write-off" of specified amounts associated with accumulated interest and restructuring.

150 On 17 December 2025, Vision addressed an email to the IDC, a copy of which is attached marked "FA31". In this email Vision recorded its appreciation of the

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IDC's willingness to explore solutions to address Tongaat's liquidity constraints, however advised that the proposal that Vision contribute to Tongaat's liquidity requirements was not something on which Vision had been consulted and funding the PCF was not a proposal to which Vision could agree. Vision declined the IDC's offer.

151 On 22 December 2025, Mr Murgatroyd addressed correspondence to Mr Miya, a copy of which is attached marked "**FA32**". In his correspondence, Mr Murgatroyd suggested that consideration be given by the IDC to a reduced amount of urgent funding in an amount of at least R300 million subject to existing security of the IDC and a temporary waiver of the collateral cover percentage to allow for utilisation of funds by Tongaat up to an amount of R2.6 billion. The rationale for Mr Murgatroyd's request was to provide time for the IDC and Vision to attempt to reach consensus in respect of the issues remaining between them.



152 Nothing material transpired over the Christmas period.

153 On 2 January 2026, correspondence was sent by the BRPs to the IDC, a copy of which is attached marked "**FA33**".

154 In annexure "**FA33**", the BRPs recorded as follows:

154.1 in the letter from the BRPs to IDC and Vision dated 9 December 2025, the BRPs had confirmed that two critical priorities had to be resolved in the short term to enable the BRPs to maintain their reasonable and considered

opinion that a reasonable prospect of rescue remains intact. These critical priorities were (i) securing the urgent funding required by Tongaat to continue trading in business rescue and (ii) finalising the implementation of the Vision transaction, including the refinancing of the PCF facility made available by IDC to Tongaat;

154.2 following the various assurances received from IDC and Vision, the BRPs concluded that there remains a reasonable prospect of rescue;

154.3 in the letter from the IDC to Vision dated 9 December 2025, it was suggested that a small group of IDC executives would be deployed to assist the deal team in negotiations with Vision to ensure the long-term sustainability of the Vision Sugar / Tongaat balance sheet;



154.4 it was further stated that all efforts will be made to adhere to the following IDC timelines:

154.4.1 ECIC on the 9th of January 2026;

154.4.2 BIC on the 14th of January 2026; and

154.4.3 IDC Board approval on the 29th of January 2026.

154.5 To achieve the above timetable, submissions were required to be made to each of the relevant committees approximately one week prior to the

scheduled committee dates. Accordingly, the submission to the ECIC would have been due by 2 or 5 January 2026, depending on the finalisation of internal processes;

154.6 the following confirmations were required from the IDC by 6 January 2026:

154.6.1 that the relevant submissions had been made to the ECIC for consideration on 9 January 2026; and

154.6.2 that IDC and Vision had reached agreement on the terms of the IDC facilities to be granted to Vision, the refinancing of the PCF Facility, and that the support of the THL funding request had been recommended to the ECIC for consideration on 9 January 2026.



155 On 4 January 2026, Mr Murgatroyd sent an email to the IDC, DTIC and Vision, a copy of which is attached marked "FA34". Attached to the letter of 4 January 2026 (annexure "FA34") was the BRP's letter dated 2 January 2026 and, for the sake of completeness, a copy of the prior email sent by the BRPs to IDC detailing the urgent funding request in respect of which urgent consideration and approval was required was also attached. It was stated by the BRPs in the letter of 4 January 2026 that failing approval of the urgent funding request, Tongaat would be left with no option (having regard to liquidity constraints) but to proceed with the application for the liquidation of Tongaat.

156 Mr Murgatroyd recorded in annexure "FA34" that, following the correspondence of 2 January 2026, it had come to the BRP's attention that the ECIC meeting previously anticipated to be held on 9 January 2026 had been scheduled for 6 January 2026.

157 In annexure "FA34" Mr Murgatroyd reiterated that which was contained in the BRP's email dated 22 December 2025 namely that: -

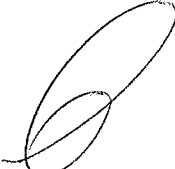
157.1 the conditions imposed by the IDC in relation to the transaction with Vision are, from the perspective of Vision, not practical and needed to be reconsidered before they are submitted to the necessary approval committees; and



157.2 the Tongaat urgent funding request remained at R600 million.

158 Mr Murgatroyd further advised that the consent of the IDC to a further transaction utilising the CCBSA discounting facility was required by no later than 9 January 2026 to facilitate a reduced interim amount of R300 million. In the absence of the foregoing, the full amount of R600 million was required to be provided as soon as possible during January 2026.

159 On 8 January 2026, Mr Murgatroyd was contacted by Vision's representative, Mr Gumede, who advised Mr Murgatroyd that the ECIC meeting appeared to have been scheduled to take place on 9 January 2026. However, the IDC had not yet properly engaged with Vision despite Vision having addressed

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correspondence to IDC setting out its proposal and conditions. Vision required confirmation that the funding of approximately R600 million in accordance with Tongaat's request would be agreed to by 12 January 2026.

160 On 9 January 2026, Mr Murgatroyd contacted Mr Miya to ascertain the outcome of the ECIC meeting which was held on the same day. Mr Miya informed Mr Murgatroyd that the IDC was finalising internal approvals which Mr Miya hoped would still be received on 9 January 2026.

161 On 11 January 2026, Mr Gumede of Vision contacted Mr Murgatroyd and advised him that an urgent BIC meeting was to be held to consider the R600 million funding request and the matters raised by Vision. Mr Gumede further advised that Vision remained opposed to the further utilisation of the CCBSA discounting facility and that, from the perspective of Vision, the full funding request of R600 million should be progressed, rather than a reduced amount.



162 On 11 January 2026, Mr Murgatroyd sent an email to Mr Miya, a copy of which is attached marked "FA35". In annexure "FA35", Mr Murgatroyd, on behalf of the BRPs, stressed that the IDC conditions were, from the perspective of Vision, not practical and needed to be reconsidered before they were submitted for the necessary committee approvals and Tongaat's urgent funding requirement remained at R600 million.

163 As the BRPs had received no further communication from the IDC regarding the outcome of the ECIC meeting, the BRPs had no alternative but to request the

IDC to provide written confirmation of its approval for the R600 million urgent funding required by no later than 12 January 2026.

164 On 12 January 2026, an email was sent by the BRPs to the DG of the DTIC, Mr Hamilton and to the IDC, a copy of which is attached marked "FA36".

165 In annexure "FA36", it was recorded *inter alia* that:

165.1 the previous lower amount of approximately R200 million referred to by Tongaat's management relied on the conclusion of a transaction with CCBSA. This transaction was unlikely to be concluded and therefore the requirement remained a total of R600 million, albeit that payment could be split into tranches with the first being R300 million by 12 January 2026;



165.2 for the avoidance of doubt, the BRPs clarified that the urgent funding request has always been R600 million, with a first tranche payable of R300 million. The foregoing could be established from the numerous emails and letters addressed to the IDC;

165.3 the BRPs had also previously confirmed that two critical priorities had to be resolved in the short term to enable the BRPs to maintain their reasonable and considered opinion that a reasonable prospect of rescue remains intact and to avoid liquidation. These are:

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- 165.3.1 securing the urgent funding required by Tongaat to continue trading in business rescue; and
- 165.3.2 finalising the implementation of the Vision transaction, including the refinancing of the post commencement finance facility made available by IDC to Tongaat; and
- 165.4 the approval of the urgent funding request of R600 million, albeit in tranches of R300 million, was required by 12 January 2026 to satisfy Tongaat's funding requirement and which, if timeously provided, would allow time for IDC and Vision to conclude their interactions to reach agreement in regard to the Vision transaction and the refinancing of the post commencement facility. In the absence of either or both of the foregoing, the BRPs' considered opinion would be that the reasonable prospect of rescue no longer remained.



166 The IDC's urgent approval was requested by 12 January 2026.

167 At the weekly Tongaat management meeting which was held on 12 January 2026, Tongaat's liquidity position was discussed. In summary, current projections reflected a material improvement in the timing and quantum of the anticipated liquidity shortfall, with forecasts indicating a shortfall of approximately R46 million by the end of January 2026, increasing to approximately R168 million by the end of February 2026, as a result of ongoing management and operational interventions.

168 Notwithstanding the above improvement, Tongaat continued to operate in a highly volatile trading environment, which required contingency planning. Adverse market conditions, including continued high volumes of imported sugar and associated loss of local market sales, remained a significant risk factor. In addition, certain suppliers had reduced credit terms to cash on delivery following market speculation regarding a potential liquidation, further constraining Tongaat's liquidity position.

169 On 12 January 2026, the IDC provided approval to Tongaat for the further instalment of the CCBSA transaction (the previous IDC approval only catered for a single sale and not future sales, notwithstanding Tongaat's request to the IDC that such approval be extended to cover future sales). However, unfortunately, due to the protracted approval timing of the request shared with the IDC on 21 November 2025, CCBSA confirmed on or about 19 January 2026 that the transaction would no longer proceed.



170 By 12 January 2026, the dates and deadlines provided to the IDC and Vision (and the others copied in on the correspondence) had come and gone. The BRPs took into account Tongaat's improved cashflow position thereby enabling Tongaat to continue operations until the potential cashflow shortfall of approximately R46 million, as referred to above, arose.

171 Mr Miya indicated, on 9 January 2026, that the IDC was still finalising internal approvals and hoping for full approval.

172 As at 12 January 2026, Mr Gumede, on behalf of Vision, communicated to the BRPs that his understanding was that an amount of R200 million had been approved by the IDC committee and that the IDC CEO would be leading a team to engage with Vision to negotiate the remaining Vision demands which would then be presented to the IDC board. Mr Gumede did not indicate from where that understanding had derived.

173 Further, on 12 January 2026, Mr Murgatroyd held a discussion with Mr Miya who advised Mr Murgatroyd *inter alia* that: -



- 173.1 Mr Gumede had engaged with the CEO of the IDC and the CEO would lead a team to negotiate with Vision regarding Vision's demands which had been presented to the IDC;
- 173.2 the IDC had approved an amount of R200 million, however the approval required Vision to contribute to the PCF in a similar amount. The previous approval requiring Vision to contribute PCF in a similar amount to that of the IDC (that is approximately R200 million each) was to be reconsidered by the BIC which meeting was scheduled for 15 January 2026, despite previous correspondence indicating that the meeting of the BIC would be held on 14 January 2026;
- 173.3 although not mandated, it was his opinion that the request for R600 million urgent funding required by Tongaat ought not to be a problem but the

proposal to be considered by the BIC was likely to be on the basis that IDC provided R300 million PCF and the SBSA provided R300 million stock finance facility for which the IDC would agree to release stock required by the SBSA for such a transaction;

173.4 the IDC board meeting to consider the outcome of the BIC was scheduled for 29 January 2026, however, it was intended that a special board meeting be convened to exclusively consider matters relating to Tongaat; and

173.5 confirmation of the outcome of the BIC was requested as soon as possible after the BIC meeting of 15 January 2026.



174 In light of the above positive communications by the IDC and Vision to the BRPs, it did not seem prudent to the BRPs to institute any liquidation proceedings at that time as there then remained a real and reasonable likelihood of the liquidity being available and of Vision and the IDC reaching agreement on the refinancing of the PCF and other Vision terms to allow for the Sale of Business Agreements to close.

175 On 13 January 2026, Mr Murgatroyd sent an email to Mr Miya, a copy of which is attached marked "FA37". In this correspondence, Mr Murgatroyd referred to his discussion with Mr Miya on 12 January 2026, during which it was confirmed that a BIC meeting had been scheduled for 15 January 2026 to consider the Tongaat's urgent funding request. Mr Murgatroyd stressed that the IDC was well aware of Tongaat's financial and timing constraints and the BRPs statutory duties

and responsibilities. In the circumstances, the BRPs requested the IDC's written confirmation of the decision of the BIC immediately following such meeting.

176 Despite the BIC meeting having been held on 14 January 2026, no correspondence was received from the IDC as to what transpired thereat and more particularly the IDC did not revert to the BRPs regarding Tongaat's urgently required funding or in respect of the Vision transaction.

177 On 15 January 2026, Mr Murgatroyd sent a follow-up e-mail to Mr Miya, a copy of which is attached marked "**FA38**".




178 Further to the dispatch of the above e-mail to Mr Miya, (annexure "**FA38**") and also on 15 January 2026, Mr Murgatroyd attempted twice to contact Mr Miya, to no avail.

179 Mr Miya did not respond to Mr Murgatroyd nor did he return his call. Accordingly, on 16 January 2026, Mr Murgatroyd unsuccessfully attempted, again, to contact Mr Miya.

180 By 18 January 2026, the BRPs had still not received any communication from the IDC.

181 On 19 January 2026, the weekly meeting between the BRPs and Vision was held. The following was discussed and/or agreed:

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- 181.1 Vision had not received any formal communication from the IDC since December 2025, despite multiple letters with deadlines;
- 181.2 the IDC deal team appeared to have been pulled from the transaction and it was possible that the matter may have been escalated within the IDC;
- 181.3 Vision's attempts to make contact with the IDC's CEO had been to no avail;
- 181.4 the IDC had engaged with SBSA but not with Vision;
- 181.5 it was agreed that one final attempt should be made by the BRPs to meet with the IDC's CEO, which meeting had to take place by no later than 20 January 2026, before taking further action;
- 181.6 Vision remained unwilling to absorb additional debt beyond parameters they had expected;
- 181.7 no PCF transfer to Vision would be possible without the IDC-Vision facility agreement being in place;
- 181.8 there is a situation of circular dependency in that liquidity needed implementability and implementability required the conclusion of the Vision-IDC deal; and



181.9 the BRPs would attempt to arrange a meeting with the IDC CEO by the latest 20 January 2026.

182 Further to the above meeting between the BRPs and Vision, the weekly meeting between the BRPs and Tongaat's management was held on 19 January 2026. The BRPs were advised, *inter alia*, that: -

182.1 Tongaat's potential shortfall by the end of January 2026 would be approximately R90 million;



182.2 the reasons for the increased shortfall was due to export proceeds being approximately R30 million less than expected due to the stronger Rand and the decreasing world price of sugar;

182.3 cane price and redistribution payments pending could possibly reduce the shortfall to approximately R60 million if adjustments materialized; and

182.4 in regard to the outlook for February 2026, the shortfall by the middle of the month would be approximately R200 million.

183 Pursuant to the conclusion of the above meetings, on 19 January 2026, Mr Murgatroyd attempted to contact Mr Miya on two further occasions. Neither call was answered or responded to by Mr Miya.

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184 In light of the above, Mr Murgatroyd sent a WhatsApp message to the IDC's CEO, Ms Mmakgoshi Lekhethe ("**Ms Lekhethe**") on 19 January 2026, which communication was as follows:

"Dear Ms Lekhethe

My name is Trevor Murgatroyd, one of the joint business rescue practitioners for Tongaat Hulett.

I am desperate to meet with you urgently to discuss the state of the Tongaat Hulett business rescue proceedings. If at all possible, could we please meet today or tonight to bring you up to speed with where we stand. Your urgent consideration will be greatly appreciated.



Regards

Trevor Murgatroyd"

185 As no response was forthcoming, Mr Murgatroyd attempted to contact Ms Lekhethe. There was no response. Mr Murgatroyd accordingly sent a further message as follows:

"Dear Ms Lekhethe, it is Trevor Murgatroyd again.

I know that you must be busy, but I implore you to allow some time for us to meet with you tonight.

May I take the liberty of suggesting a meeting at your offices in Sandton or a venue of your choosing nearby at 6pm tonight or anytime thereafter.

Thanking you in anticipation.

Regards

Trevor"

186 Ms Lekhethe then responded to Mr Murgatroyd as follows:

"Good afternoon Trevor. I am outside the country, on a business trip and in the middle of meetings. Let me ask David Jarvis to get in touch with you soonest."

187 In the late afternoon of 19 January 2026, Mr Murgatroyd discussed the matter with Mr Jarvis. A summary of the aforementioned discussion is *inter alia* as follows:



187.1 an in person face-to-face meeting was requested between Mr Jarvis and the BRPs in the absence of the IDC's CEO;

187.2 Mr Jarvis expressed his view that there remained a governance process to be followed before the IDC may provide confirmations regarding the interim funding need and the IDC formal decision regarding the Vision facility package;

187.3 Mr Murgatroyd advised Mr Jarvis that the requested face-to-face meeting may assist the BRPs in better explaining the position facing the BRPs as set out in the various letters sent to IDC. Mr Jarvis advised that the IDC had noted and fully understood the position of the BRPs but a governance process needed to be followed;

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187.4 the last response the BRPs had received was during the telephone discussion between Mr Murgatroyd and Mr Miya on 12 January 2026. There had been no formal communication of any nature from the IDC since then;

187.5 Mr Murgatroyd suggested that at least there should have been a confirmation that the BIC decision was not in the negative, because it would then be highly unlikely that the IDC Board would overturn a negative decision of the BIC;

187.6 Mr Jarvis advised Mr Murgatroyd that he could not share the details of the outcome of the BIC, but that there had not been a "hard no" and the decision involved the deal team exploring alternatives, in respect of which there was no elaboration;



187.7 Mr Jarvis advised that a governance process is still to be followed; and


187.8 Mr Murgatroyd informed Mr Jarvis that further correspondence will be sent to the IDC.

188 On 20 January 2026, and as Mr Murgatroyd advised Mr Jarvis above, correspondence was sent by the BRP's attorneys to, amongst others, the IDC and Vision. A copy of the letter is attached marked "**FA39**".

189 Due to the import of annexure "**FA39**", I have set out below the content of the letter in its entirety :

- "1 As you are aware, we act on behalf of the Business Rescue Practitioners ("**BRPs**") of Tongaat Hulett Limited (in business rescue) ("**our Client**").
- 2 We have been instructed by our Client to record the following
- 2.1 prior to dispatch of this letter the BRPs attempted to engage with the Ms Lekhethe, the Chief Executive Officer ("**CEO**") of the IDC, both telephonically and in writing, in a final attempt to avoid the consequences referred to in paragraph 2.18 of this letter. Due to the unavailability of the CEO, a telephonic discussion was held with Mr David Jarvis ("**Mr Jarvis**");
- 2.2 the conclusion of the discussion with Mr Jarvis was that an IDC Board meeting was scheduled for 29 January 2026 to consider the THL request for urgent interim funding as well as the Vision requested facility package, which would incorporate the migration of the PCF Facility granted to THL;
- 2.3 our Clients remain grateful to the IDC for their continued consideration and support for the business rescue of THL;
- 2.4 the BRPs and we, on our Client's behalf (and on the instructions of the BRPs), have on an ongoing basis, directed correspondence to you (referred to and quoted, in part, below for your ease of reference) relating to "the THL urgent funding request";
- 2.5 on 2 January 2026, a letter ("**the 2 January 2026 letter**") was addressed by the BRPs to, inter alia, Messrs Bongani Miya ("**Mr Miya**") and Mr Jarvis of the IDC. In the covering email, the following is recorded -



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"Please see attached hereto a self-explanatory letter addressed to the IDC. Your urgent confirmation per the attached letter request will be greatly appreciated, however, the BRPs and THL will operate on the premise that the timetable remains on track unless they hear from IDC or Vision to the contrary."

2.6

it is recorded in the 2 January 2026 letter -

"You will recall that, in the letter from the BRPs to IDC and Vision dated 9 December 2025, we confirmed that two critical priorities must be resolved in the short term to enable the BRPs to maintain their reasonable and considered opinion that a reasonable prospect of rescue remains intact."



These are:

- 1. securing the urgent funding required by THL to continue trading in business rescue; and*
- 2. finalising the implementation of the Vision transaction, including the refinancing of the post commencement finance facility ("PCF Facility") made available by IDC to THL.*

Following the various assurances received from IDC and Vision, the BRPs concluded that there remains a reasonable prospect of rescue

In the letter from the IDC to Vision dated 9 December 2025 it was suggested that a small group of IDC executives will be deployed to assist the deal team in negotiations with Vision to ensure the long-term sustainability of the Vision Sugar / THL balance sheet.

It was further stated that all efforts will be made to adhere to the following IDC timelines:

- 1. ECIC on the 9th of January 2026;*
- 2. BIC on the 14th of January 2026; and*
- 3. Board on the 29th of January 2026.*

To achieve the above timetable, we understand that submissions need to be made to each of the committees about a week prior to the committee dates. Therefore, the submission to the ECIC is probably due by 2nd or 5th of January 2026, if we are correct in our assumption.

In this regard, the BRPs request the following confirmations from the IDC by 6 January 2026:



- that the relevant submissions have been made to the ECIC for consideration on 9 January 2026.; and*
- that IDC and Vision have reached agreement on the terms of the IDC facilities to be granted to Vision, the refinancing of the PCF Facility and that the support of the THL funding request has been recommended to the ECIC for consideration on 9 January 2026.*

Your urgent assistance with regard to the above confirmations will be greatly appreciated."

2.7 *on 4 January 2026 an email was addressed by the BRPs to, inter alia, Mr Miya and Mr Jarvis recording -*

"I refer to the BRPs' letter dated 2 January 2026 (copy attached) and, for sake of completeness, include a copy of a prior email sent to IDC detailing the urgent funding request (e-mail dated 22

December 2025 attached), in respect of which urgent consideration and approval is now required. Failing such approval THL will be left with no option, (having regard to its current liquidity constraints) but to proceed with an application for the liquidation of THL. Following the aforementioned correspondence, it has now come to our attention that the ECIC meeting previously anticipated on 9 January 2026 has been scheduled for 6 January 2026.

As is clearly recorded in the BRPs' e-mail dated 22 December 2025:

- The IDC conditions are, from the perspective of Vision, not practical and need to be reconsidered before they are submitted to the necessary approval committees.
- The THL urgent funding request remains R600m.



The **consent of IDC to the CCBSA discounting facility is required by 9 January 2026** to facilitate a reduced interim amount of R300m. In the absence of this, the full amount of R600m is required as soon as possible during January 2026.

In the letter to IDC dated 2 January 2026, the BRPs requested the following confirmations from the IDC by 6 January 2026:

- that the relevant submissions will have been made to the ECIC for consideration on 9 January 2026.; and
- that IDC and Vision have reached agreement on the terms of the IDC facilities to be granted to Vision, the refinancing of the PCF Facility and that the support of the THL funding request has been recommended to the ECIC for consideration on 9 January 2026.

In light of the ECIC meeting being rescheduled to 6 January 2026, the above requested confirmation is required to be provided as soon as possible following the ECIC meeting, but by no later than 9 January 2026 failing which the BRPs will be left with no alternative but to proceed as foreshadowed above."

2.8

on 11 January 2026 at 17:44, the BRPs addressed a further email to, inter alia, Mr Miya and Mr Jarvis recording -

"I refer to the BRPs' letter dated 2 January 2026, e-mail dated 22 December 2025 and e-mail dated 4 January 2026 detailing the matters in respect of which urgent consideration and approval was required.



By way of reminder for all, the BRPs stressed the following:

- *The **IDC conditions are, from the perspective of Vision, not practical and need to be reconsidered** before they are submitted to the necessary approval committees.*
- *The **THL urgent funding request remains R600m.***

The BRPs requested the following confirmations from the IDC by 6 January 2026:

- *that the relevant submissions will have been made to the ECIC for consideration on 9 January 2026; and*
- *that IDC and Vision have reached agreement on the terms of the IDC facilities to be granted to Vision, the refinancing of the PCF Facility and that the support of the THL funding request has been recommended to the ECIC for consideration on 9 January 2026.*

The above requested confirmation was required to be provided as soon as possible following the ECIC meeting, but by no later than 9 January 2026, failing which the IDC was informed that the BRPs would be left with no alternative but to proceed as previously advised.

As of today, Sunday 11 January 2026, we have received no reply from the IDC regarding the outcome of the ECIC meeting leaving the BRPs with no alternative but to call on the IDC to provide written confirmation of its approval for the R600m urgent funding request by no later than tomorrow, Monday 12 January 2026.



You will recall that the BRPs have previously confirmed that two critical priorities must be resolved in the short term to enable the BRPs to maintain their reasonable and considered opinion that a reasonable prospect of rescue remains intact. These are:

- 1 securing the urgent funding required by THL to continue trading in business rescue; and*
- 2 finalising the implementation of the Vision transaction, including the refinancing of the post commencement finance facility ("PCF Facility") made available by IDC to THL.*

The approval of the urgent funding request is required to satisfy the requirement in numbered paragraph 1 above which, if timeously provided, will allow time for the satisfaction of the requirement in numbered paragraph 2. above. In the absence of either or both of the above, the BRPs' considered opinion would be that the reasonable prospect of rescue no longer remains.

The IDC urgent approval is required by tomorrow, 12 January 2026."

2.9 *on 13 January 2026 yet a further email was addressed by the BRPs to, inter alia, Mr Miya. It is recorded in that email -*

"I refer to our discussion of yesterday, 12 January 2026, during which you confirmed that a BIC meeting has been scheduled for Thursday 15 January 2026 to consider the THL urgent funding request.

You are well- aware of THL's financial and timing constraints and the BRPs statutory duties and responsibilities. We would, in the circumstances, appreciate receiving the IDC's written confirmation of the decision of the BIC immediately following such meeting."



As at the date of this letter, confirmation has not been received that the BIC has agreed to recommend to the IDC board that the IDC approve the facilities requested, nor any other advices;

2.10 *the BRPs and management of THL have continued to make all efforts in an ongoing attempt to manage, optimise and extend the current constrained liquidity position in what is, on any metric, an incredibly tough trading environment, particularly as experienced during the second half of 2025;*

2.11 *even in the event that the liquidity constraints were eased, the BRPs need certainty, or at least reasonable assurances, that the BR Plan remains implementable and therefor that the IDC and Vision will or have reached agreement regarding the Vision funding request, which incorporates the refinance of the PCF;*

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- 2.12 *it has always been envisaged that implementation of the Vision transactions, as outlined in the Business Rescue Plan, would occur as expeditiously as circumstances permit with the objective of enabling Vision to assume control of the business of THL. It has been of paramount importance that the business of THL is extricated from business rescue and migrates to Vision as a matter of urgency for a number of reasons, including customer continuity, supplier terms restoration and employee and grower certainty;*
- 2.13 *the IDC PCF being refinanced from THL into Vision Sugar has remained one of the key outstanding matters preventing closure of the relevant sale agreement since 9 May 2025, when Vision discharged the outstanding amounts owing to the Lender Group;*
- 2.14 *had the trading conditions not deteriorated or had there been more favorable trading conditions prevailing, further time would likely have been available to THL, and consequently to Vision and IDC, to reach agreement in relation to the Vision facility request to IDC, which would include the PCF refinance;*
- 2.15 *the BRPs are presently operating in an information vacuum, having, since the 2 January 2026 letter referred to above, received no formal communications from either the IDC or Vision, which would provide the BRPs with a reasonable degree of comfort that the critical priorities of (i) securing the urgent funding required by THL to continue trading in business rescue and (ii) finalising the implementation of the Vision transaction, including the refinancing of the post commencement finance facility ("**PCF Facility**") to be made available by IDC to THL will be achieved in the very short term (and whilst THL's remaining liquidity is sufficient to meet its immediate cash flow needs);*



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- 2.16 *Vision has verbally advised the BRPs that they require the closing date of the Sale of Business Agreement to be no later than 31 January 2026, noting that the currently signed sale agreements lapse on 31 January 2026;*
- 2.17 *the BRPs are aware that the IDC's final approval of the funding request from THL is subject to IDC Board approval which is only scheduled to occur on 29 January 2026. There is presently no reasonable assurance that such approval will be forthcoming. Furthermore, the BRPs have been advised by Vision, that there have been no recent engagements between the IDC and Vision intended to advance the required imperative recorded in 2.15(ii) above;*
- 2.18 *based on past history and experience in dealing with both the IDC and Vision in relation to this matter, and given (a) the frequently communicated and time consuming internal governance structures of the IDC required to be followed in order for the IDC to arrive at decisions pertaining to the imperative recorded in 2.15(i) above and (b) the time consuming process of negotiating, agreeing on and documenting the arrangements required to conclude the imperative recorded in 2.15(ii) above, the BRPs have concluded that based on THL's current liquidity profile there no longer exists any reasonable prospect of the timeous rescue of THL. Accordingly, subject to what is set out in 2.19 below, it is regrettable, but the BRPs intend to proceed on an urgent basis with an application to court for the provisional liquidation of THL in discharge of their statutory obligations as prescribed in section 141(2)(a)(ii) of the Companies Act 71 of 2008;*
- 2.19 *in addition to recording the matters set out above, this communication serves as a final and urgent request to the IDC to formally and in writing, on or before 22 January 2026, advise the BRPs of any events and circumstances within the knowledge or*



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belief of the IDC which may result in the BRPs reasonably concluding that a reasonable prospect of the rescue of our THL remains, so that the BRPs may consider same. A similar request will be made by the BRPs to Vision.

3 *We await to hear from you urgently."*

190 On 22 January 2026, Mr Murgatroyd contacted Mr Jarvis to discuss the matter.

Mr Murgatroyd was advised by Mr Jarvis that Mr Miya would contact him.

191 Mr Miya did not contact Mr Murgatroyd and, despite the urgency of the matter, the IDC did not provide the response requested either by 22 January 2026 or at all.



192 On 23 January 2026, Mr Murgatroyd discussed the matter with Mr Miya.

Mr Murgatroyd was informed by Mr Miya *inter alia* that a letter from the IDC to the BRPs should be forthcoming and the content of the letter would record the IDC's governance process which needed to be followed. Mr Miya did advise that a meeting had taken place between the IDC and SBSA.

193 Further on 23 January 2025, a discussion between Mr Murgatroyd and Mr Moyo took place during which Mr Murgatroyd was advised *inter alia* that there had been interactions between SBSA and the IDC and that the Vision proposal to the IDC had been submitted to the IDC Board, for consideration at its meeting to be held on 29 January 2026.

194 During the above discussion, Mr Moyo made it clear to Mr Murgatroyd that whilst Vision's proposal as submitted to the IDC was capable of negotiation, there were certain principles in the proposal which were not subject to negotiation.

195 On 26 January 2026, meetings were held between :

195.1 the IDC (attended by its CEO) and Vision and thereafter between the BRPs and Vision;

195.2 the BRPs and IDC; and

195.3 the BRPs and Tongaat's management.



196 In regard to the meeting between the IDC and Vision as referred to immediately above, the BRPs were informed by Vision's representatives at their subsequent meeting that despite the agenda items which ought to have been discussed relating to Tongaat's request for funding and the R517 million SASA request, the following was canvassed between IDC and Vision :

196.1 Vision enquired from the IDC whether it was going to support the request of Vision in its letter of 8 January 2026, being its R5.3 billion request. The response to Vision was that Vision's letter would be dealt with at the IDC's board meeting on 29 January 2026; and

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196.2 Vision stressed to the IDC that they required the closing date of the South African Sale of Business Agreement to be no later than 31 January 2026, noting that the currently signed sale agreements lapse on 31 January 2026. Vision advised that it was not willing to consider any extension in respect of the closing date.

197 In respect of the meeting between the IDC and the BRPs (paragraph 195.2 above), the meeting was attended by the BRPs, Ms Lekhethe, Mr Jarvis, Mr Miya Tryphosa Ramano (Ms Ramano) and Scott Lavery (Mr Lavery) of SBSA. At the meeting, amongst other things, the following was discussed :



- 197.1 the history of the business rescue of Tongaat and the role and function of the three BRPs;
- 197.2 the history of the Plan and its current implementation status particularly with regard to Vision. It was explained that the due diligence had been completed by Vision, the Tongaat Sale of Business Agreements signed and the South African Sale of Business Agreement would expire on 31 January 2026;
- 197.3 the only main remaining condition in order for the closing of the transaction with Vision was in relation to the refinancing of the IDC PCF;
- 197.4 the IDC confirmed that R200 million PCF had been approved subject to a co-contribution by Vision;

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- 197.5 the issue of circular dependency in relation to the closing of the transaction with Vision in that the South African Sale of Business Agreement requires PCF refinancing and the PCF refinancing is dependent upon the Vision facility package with the IDC. The aforementioned facility package is dependent on Vision and IDC agreeing it terms;
- 197.6 the critical timelines specifically in respect of the Tongaat Sale of Business Agreements concluded with Vision, which agreement lapses on 31 January 2026;
- 197.7 Tongaat's current (and reduced) liquidity requirements of approximately R200 million to R300 million to reach the end of the season and the two outstanding draws which, as at the date of the meeting, had not yet been paid;
- 197.8 the BRPs legal obligation to terminate the business rescue and apply for the liquidation of Tongaat in the event of the lapsing of the Tongaat Sale of Business Agreements on 31 January 2026 and therefore the failure of the Plan and in the event of there being no funding being provided as requested;
- 197.9 Mr Miya and Mr Jarvis undertook to arrange a technical session prior to the IDC Board meeting on 29 January 2026 between Vision, the IDC and the BRPs;



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- 197.10 Mr Miya undertook to revert to the BRPs regarding the IDC's approval of the draws submitted for payment;
- 197.11 alternatives would be considered by the IDC Board in regard to Vision's proposal and its non-contribution requirement; and
- 197.12 the implementability of the Plan which remained possible subject to Vision/the IDC reaching agreement on process and terms.

198 The last meeting held on 26 January 2026, was the meeting between the BRPs and Tongaat's management. Tongaat's management were updated regarding the meeting held with Vision's representatives. They were informed that Vision was not willing to extend the closing in respect of the Tongaat Sale of Business Agreements beyond the 31st of January 2026 and that Vision would not be prepared to provide further funding.



- 199 The BRPs further conveyed to Tongaat's management *inter alia* that :
- 199.1 the IDC had approved funding of R200 million conditional upon Vision contributing the same amount; and
- 199.2 one of the main conditions precedent to be fulfilled in respect of the South African Sale of Business Agreement was the refinancing of the PCF. Only once that was fulfilled, could the agreement close and the assets transferred.

The foregoing remained entirely dependent on the IDC and Vision reaching agreement in this regard.

200 On 27 January 2026, a meeting was held between the BRPs, Vision and the IDC.

The following was discussed:

200.1 Mr Miya advised that the IDC Board meeting was scheduled to take place on 29 January 2026 at which the Tongaat / Vision transaction as approved in terms of the Plan, would be canvassed together with Tongaat's urgent liquidity requirements;



200.2 Vision advised that it would not grant an extension of the Tongaat Sale of Business Agreements beyond 31 January 2026 in the absence of concrete proposals from the IDC - a clear deal structure was required. Vision informed the meeting that Vision would not exclusively bear the ongoing SBSA bridge facility interest and in Vision's opinion an impasse had been reached;

200.3 the IDC proposed a process to address long term solutions and Vision proposed that an alternative might be for the IDC to purchase the South African sugar assets of Tongaat. A splitting of obligations would allow the IDC and Vision to move forward together; and

200.4 in summary, the IDC conveyed that it would not be able to meet Vision's deadline of 31 January 2026 to submit a comprehensive proposal and Vision

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refused to grant any extension of time without concrete terms having been reached.

201 The circular discussions at the meeting on 27 January 2026 between the BRPs, the IDC and Vision did not reach a positive conclusion and the parties acknowledged a potential transaction failure.

202 On 28 January 2026, Mr Miya contacted Mr Murgatroyd and advised him that the delays in the IDC approving the outstanding draws by Tongaat of approximately R50 million was not to be viewed negatively as the matter remained subject to consideration by the IDC's Board at the meeting to be held on 29 January 2026.



203 On 28 January 2026, Mr Murgatroyd was contacted by Mr Gumede of Vision who advised Mr Murgatroyd *inter alia* that no further communications had taken place between the IDC and Vision and he undertook to liaise with the IDC to follow up.

204 On 29 January 2026, Mr Murgatroyd was contacted by Mr Gumede who informed Mr Murgatroyd that he had had discussions with the IDC CEO and Ms Romano as a result of which an e-mail from Mr Rob Bessinger to SBSA (Mr Lavery) was shared with the IDC.

205 On 29 January 2026, Mr Murgatroyd sent an e-mail to the IDC, including its CEO and BIC Chairperson urging them to respond. A copy of the e-mail is attached marked "FA40".

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206 On 29 January 2026, correspondence was received from the IDC's attorneys, Bell Dewar Incorporated trading as Fasken (**Fasken**). A copy of the letter received from Fasken is attached marked "**FA41**". Whilst lacking in substance, bearing in mind the issues raised with the IDC and the required confirmation regarding the way forward, the letter does state *inter alia* that:

206.1 the BRPs recognise the IDC's governance process;

206.2 the IDC were still awaiting additional financial and commercial information to assist in its decision making process;



206.3 the IDC was of the view that instituting an application for the provisional liquidation of Tongaat would, in the context, be premature; and

206.4 the IDC requested that the BRPs reconsider the threatened application for the provisional liquidation of Tongaat to "*allow all avenues and engagements underway to evolve in the best interests of all stakeholders*".

207 During the evening of 29 January 2026, Mr Miya contacted Mr Murgatroyd to advise him of the outcome of the meeting of the IDC Board. Mr Miya informed Mr Murgatroyd that:

207.1 the IDC Board had not made a decision in respect of the Vision request / proposal as they still required Vision's forecasts in order to do so;

- 207.2 the IDC would require time to consider Vision's forecasts when received and for the IDC's financial advisors to be able to give due consideration thereto;
- 207.3 an extension of time was required from Vision of approximately 6 weeks and any covenant breaches would be condoned;
- 207.4 the R50 million draw submitted by Tongaat to IDC was approved but could only be withdrawn if Vision agreed to an extension; and
- 207.5 the interim funding facility of R200 million was also approved but subject to SBSA also providing funding of R200 million.



208 Being aware of the legal obligations of the BRPs, the IDC acknowledged that an extension of time by Vision was critical.

209 On 30 January 2026, the BRPs received a letter dated 29 January 2026 from the IDC. A copy of the letter is attached marked "FA42". The letter echoes that which Mr Miya advised Mr Murgatroyd in regard to the conditionality of funding and the extension required from Vision. The letter states *inter alia* that the IDC had approved the increase of the PCF by R200 million with a condonation of the security cover ratio, conditional upon SBSA matching the IDC's increase of R200 million and Vision granting an extension in respect of the Tongaat Sale of Business Agreements beyond 31 January 2026.

210 Mr Murgatroyd responded to the above letter from the IDC by corresponding with one of its authors, Mr Reshlin Naidoo ("**Mr Naidoo**") on 30 January 2026. A copy of Mr Murgatroyd's correspondence is attached marked "**FA43**". Mr Murgatroyd sought confirmation from Mr Naidoo in respect of the following :

210.1 that Tongaat's previously requested draws totalling approximately R50 million would be paid and that collateral cover breaches had been condoned; and

210.2 the IDC's stance in respect of the Vision request as communicated in its letter of 8 January 2026 (a copy of which is attached marked "**FA43**") and the extension of time which the IDC expects to be able to conclude with Vision.



211 On 30 January 2026, the BRPs met with Vision. The following was discussed:

211.1 the letter from the IDC requiring an extension to be agreed to by Vision as a condition to the granting of the additional PCF of R200 million;

211.2 the proposal by Vision that the extension be granted on condition that the sale of shares in Tongaat's subsidiaries in Zimbabwe, Botswana and Mozambique be given effect to before the SA Sale of Business Agreement;

211.3 the BRPs' non-acceptance of the above as certainty is required in regard to the closure of the SA Sale of Business Agreement;

211.4 the BRPs' need for certainty regarding the refinancing of the PCF and the availability of the R517 million SASA funds prior to the possible contemplation of any other transactions; and

211.5 Vision would grant an extension of 1 week until 7 February 2026 and on 6 February 2026 a further meeting between the BRPs and Vision would be convened.

212 On 30 January 2026, the IDC sent a letter to Vision, a copy of which is attached as annexure "FA44". IDC communicated to Vision *inter alia* that the IDC Board had approved a PCF facility increase of R200 million with a condonation of the security cover ratio subject to the conditions referred to above, being that SBSA match the increase of R200 million on terms acceptable to the IDC and that Vision extends the Tongaat Sale of Business Agreements beyond 31 January 2026.



213 Vision was further informed in the above correspondence that Alwyne Partners ("Alwyne"), independent corporate financial advisors, had been appointed to assist the IDC in various areas of concern including, but not limited to, the facilitation of a long-term solution considering all options and proposals. The process was expected to take approximately 6 to 8 weeks.

214 On consideration of the correspondence exchanged, the BRPs determined that a 1 week extension would be reasonable to consider the various conditions attached to the IDC approvals and the letter which the IDC had sent to Vision.

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215 The BRPs considered it necessary to take into account all the facts, including the conditions imposed by the IDC, prior to making any definitive decisions in respect of the continued business rescue of Tongaat and the prospects of being able to continue to implement the Plan.

216 During the afternoon of 30 January 2026, Mr Moyo sent a WhatsApp message to Mr Murgatroyd regarding the SA Sale of Business Agreement expressing surprise at the thought of an abandonment of the South African business.



217 Mr Murgatroyd responded to Mr Moyo on 30 January 2026. In his WhatsApp message, Mr Murgatroyd addressed the content of Mr Moyo's correspondence and highlighted the main issues of concern.

218 Copies of the above two WhatsApp messages between Mr Moyo and Mr Murgatroyd are attached marked "FA45".

219 On 30 January 2026, Mr Moyo sent further correspondence to Mr Murgatroyd to which Mr Murgatroyd (on behalf of the BRPs) responded on 2 February 2026. The complete exchange of correspondence, being Mr Moyo's communication and the BRPs response is attached marked "FA46".

220 I have not repeated the content of the correspondence exchanged and as referred in annexure "FA46" above but essentially it states the following:


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- 220.1 Vision proposed and approved the Plan in its current form and as adopted;
- 220.2 the Plan is binding on all creditors / affected persons including secured lenders;
- 220.3 the BRPs are implementing the Plan in accordance with its terms; and
- 220.4 all the Sale Agreements concluded are premised on two key conditions precedent being fulfilled being the refinancing of the PCF facility of R2.3 billion and the payment of the R517 million SASA amount into Esigodini.



- 221 In the absence of the fulfilment of the above conditions precedent, none of the transactions concluded can close.
- 222 The weekly meeting between the BRPs and Vision took place on 2 February 2026.
- 223 During the above meeting, the BRPs again highlighted, amongst other things, the requirements for the continued implementation of the Plan being the fulfilment of the two key conditions precedent as referred to above.
- 224 The BRPs reiterated to Vision that:
- 224.1 the Plan is that which Vision proposed and which was approved by the Lender Group and is binding on all creditors, including the secured creditors;


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- 224.2 confirmation was required from the IDC that it will refinance the PCF in Vision Sugar SA ("VSSA") and that the R517 million SASA funds had been paid into Escrow;
- 224.3 until such time that both conditions have been fulfilled, the Plan does not permit the BRPs to implement the sale transactions (ie as regulated by the provisions of the Tongaat Sale of Business Agreements);
- 224.4 due to the manner in which Vision structured its funding, Tongaat/the BRPs were reliant on the IDC to agree to Vision's requests;
- 224.5 the IDC were considering different options which might require an extension of the Tongaat Sale of Business Agreements for 6 to 8 weeks to allow their process to come to a conclusion;
- 224.6 although it may have taken some time, it appeared that the IDC was devoting the necessary attention to the matter;
- 224.7 the IDC had provided a letter to Vision setting out a process to be followed, which required time for their advisor, Alwyne, to consider the matter and for IDC to consider and possibly implement the recommendations made by Alwyne. In order to fulfil the conditions presented to the BRPs, the IDC required an extension of the Tongaat Sale of Business Agreements for 6-8 weeks;



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- 224.8 the BRPs suggested that Vision agree to the IDC's extension and then actively engage with the IDC advisors (Alwyne) to reach an in-principle agreement with them in as short a time as possible; and
- 224.9 although the BRPs would not be party to funding agreements between the IDC and Vision, their objective remained to continue to implement the Plan. However, the implementation of the Plan was dependent upon the IDC and Vision reaching an amicable resolution of their issues.



225 Mr Moyo responded to the BRP's and informed them *inter alia* as follows:

- 225.1 regard had to be had of Vision's e-mail to the IDC which was sent on 1 February 2026 and in which Vision made its stance regarding a "Group deal" clear;
- 225.2 in so far as the IDC's request for a 6–8-week extension in respect of the Tongaat Sale of Business Agreements, Vision would never agree to a group deal with the IDC and there remained two critical interrelated issues, being the uncertainty regarding the PCF amount and the long-term funding requirements which Vision considered to be dynamic and would be directly impacted by current decisions;
- 225.3 the industry reforms which Vision required were the responsibility of Tongaat's management/BRPs;

225.4 Vision would not subsidise industry structure holes and the growth of the PCF was partly due to unaddressed industry reform issues;

225.5 as a secured creditor, the protection of Vision's security value remained paramount and any possible extension must not deteriorate security value;

225.6 Vision's business plan assumed a business rescue exit during the current financial year due to increased risks associated with the rescue of Tongaat continuing into a new financial year; and



225.7 Mr Hans Klopper ("**Mr Klopper**") of BDO South Africa (who had previously acted in the capacity as Chair of the Creditors Committee) had been re-engaged as an advisor to assist Vision with advice regarding the business rescue and in regard to, amongst other things, the considerations relating to the extension required from Vision in respect of the Sale of Business Agreements, while protecting Vision's security.

226 The above meeting between the BRPs and Vision concluded on the basis that daily calls would take place between the BRPs, Vision, Alwyne and SBSA which the BRPs (Mr Albertyn) would arrange. It was also agreed that Alwyne would conclude its process and provide its findings by 5 February 2026 so that a final determination on the matter could be made by IDC by no later than 6 February 2026.

227 At the weekly meeting between the BRPs and Tongaat's management on 2 February 2026, the following was discussed:

- 227.1 the IDC's approval of R200 million funding on 29 January 2026, conditional upon SBSA making an equal contribution of R200 million;
- 227.2 the covenant breaches which would have to be condoned and the security cover percentages considered;
- 227.3 the R50 million unpaid draw request which had been approved by the IDC albeit that no payment had been made as all approvals were subject to the extension of the Tongaat Sale of Busuiness Agreements;
- 227.4 the IDC request that Vision to follow a valuation process with its advisors, Alwyne;
- 227.5 Vision's initial agreement to an extension, subject to demand for the immediate sale of Tongaat's subsidiaries in Mozambique, Zimbabwe and Botswana;
- 227.6 the two major conditions precedent which had to first be fulfilled before any sales could proceed being the PCF refinancing and the R517 million SASA payment to Escrow; and



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227.7 Tongaat's positive cashflow position to the middle of February 2026, excluding IDC's unpaid draws, particularly as a Zimbabwean 36-kiloton export loaded as a result of which payment for support fees of approximately \$1,5m was expected within 10 days.

228 On 2 February 2026 a discussion took place between Mr Murgatroyd and Mr Lavery from SBSA. Mr Lavery advised Mr Murgatroyd that SBSA was prepared to consider the IDC condition imposed for the advance of further funding in the sum of R200 million, being that SBSA also commit to providing funding of R200 million. However, SBSA were waiting for the detailed terms from the IDC to understand the IDC's security requirements.



229 Further on 2 February 2026, Mr Murgatroyd was advised by Mr Miya that the IDC remained committed to attempting to secure the implementation of the transaction with Vision but the IDC required further financial information in order to enable it to make a considered commercial decision. It remained necessary for the IDC's financial advisors, Alwyne to complete their investigations.

230 On 3 February 2026, Mr Murgatroyd was informed by Mr Lavery that SBSA had met with the IDC team to discuss the R200 million that the IDC required from SBSA to match the IDC's funding of R200 million. A resolution in respect of the foregoing was not achieved as SBSA continued to have an issue with funding Tongaat on the unsecured basis as proposed by the IDC. SBSA made proposals in regard to options which it indicated it may consider in respect of its security requirements.

231 It was agreed between Vision and the BRPs that by 6 February 2026, Alwyne would revert to Vision with a clear roadmap on deliverables in regard to the IDC approvals and process which would inform the implementation of the Tongaat Sale of Business Agreements with particular regard to the closing of the South African Sale of Business Agreement.

232 The BRPs and Vision agreed that it was necessary for the IDC to conduct an accelerated due diligence.



233 Prior to the meeting to be held between Vision and the BRPs on 6 February 2026, and on 5 February 2026, Vision's attorneys addressed correspondence to the BRPs' attorneys, a copy of which is attached marked "FA47".

234 Annexure "FA47" is a lengthy letter with significant detail. It concludes with Vision's proposals as to the "Proposed Way Forward" which could not be responded to by the BRPs prior to their meeting with Vision on 6 February. For ease of reference, Vision's proposals as set out in paragraph 4 of its letter are set out below:

"4.1 *Vision cannot agree to further extensions of the Sale Agreements without certainty of an implementation in respect of the Offshore Agreements (and THD) and without receiving a firm commitment from the IDC both on the timeframe for completion of the process and meaningful engagement on Vision's prior submissions.*

4.2 *Vision proposes that :*

4.2.1 *the Offshore Agreements and THD are implemented as a matter of urgency and subject to fulfilment of the final outstanding conditions and the waiver of any and all conditions requiring the implementation of the SA Sale Agreement first;*

4.2.2 ...

4.2.3 *Vision will continue to comply with its obligations which are to be completed in the SA Sale Agreement so as to ensure that all concurrent creditors who are owed funds under the BR Plan are paid the distribution of R75 million, that SASA's claim is paid and the IDC PCF is settled; and*



4.2.4 *Vision will assent to the increase of the IDC PCF facility, subject to :*

4.2.4.1 *a firm commitment from the IDC on a pathway that deals with the long-term settlement of the IDC PCF facility;*

4.2.4.2 *a breakdown of what the increase of the IDC PCF facility will be used for, how long it will be in place and how this will be managed or controlled; and*

4.2.4.3 *confirmation in writing from the BRPs of the events required or the point in time in which a reasonable prospect of concluding the business rescue proceedings would no longer exist.*

4.3 *Any other layer of complexity would result in nothing more that a delay of an inevitable liquidation of THL while eroding the value of the secured creditors' security, whereas a continued business rescue with implemented Offshore Agreements and a collaborative approach to*

finalise the process with the IDC would keep the prospect of a successful business rescue alive for the BRPs and creditors.

4.4 *If the proposal set out above is not satisfactory to the BRPs, then we are instructed that Vision will not extend beyond 7 February 2026 or such later date as Vision would be prepared to extend in order for the BRPs to consider Vision's position."*

235 On 6 February 2026, the meeting was held between Vision and the BRPs.

Vision's legal representatives and Mr Klopper were in attendance as were the BRPs' legal representatives.



236 Regrettably, and despite the extensive discussions between the BRPs and

Vision's representatives, the meeting did not proceed as hoped for by the BRPs.

In short, Vision made it clear that unless the BRPs agreed to the implementation of that part of the Plan in regard to the Offshore Agreements prior to the fulfilment of the conditions relating to the PCF refinancing and the SASA R517m Escrow amount and, as stated in its correspondence, it would not agree to the extension required for the implementation of the South African Sale of Business Agreement and the other sale agreements.

237 During the meeting, demand was made of the BRPs to immediately respond to Vision's proposals as set out in its correspondence of 5 February 2026 and as further addressed during the meeting. The BRPs could not, in the circumstances, responsibly accede to such a demand bearing in mind the extensive and ongoing discussions between Vision, the IDC and SBSA. The BRPs did offer to consider the request provided Vision agreed to a one week extension.

238 The conditions sought to be imposed by Vision on the IDC and the demands made by Vision are not reflected in the Plan. The BRPs could not simply accede to their demand for an immediate response. It was inconceivable to the BRPs that Vision expected an immediate response to its proposals absent the support of the IDC in light of the central role played by the IDC in the business rescue process.

239 Vision's advice contained in its letter of 5 February 2026 that *"Vision will not extend beyond 7 February 2026 or such later date as Vision would be prepared to extend in order for the BRPs to consider Vision's position"* was reiterated to the BRPs at the meeting held on 6 February 2026.



240 Following the meeting on 6 February 2026, Vision's attorneys sent another letter to the BRPs' attorney, a copy of which is attached marked **"FA48"**.

241 The content of annexure **"FA48"** reflects a self-serving narrative. The factual inaccuracies recorded in the letter in regard to the *inter alia* the Plan (as proposed by Vision), and the proposals ventilated between all stakeholders over the preceding weeks, are not indicative of a party with an intention to assist to save and progress the business rescue. The letter's content is destructive of such intent.

242 As stated above and as appears from the Plan, the South African Sale of Business Agreement is the principal agreement for the purpose of implementing


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the Plan, because it is that agreement that has the requirement to fulfil the PCF refinancing and the confirmation of the R517m SASA Escrow amount. Therefore the demand by Vision that the Offshore Agreements be immediately implemented prior to the closing of the South African Sale of Business Agreement, and by implication the fulfilment of the two critical conditions, was ludicrous and untenable.

243 Further to the above and on 8 February 2026, Vision addressed correspondence to the BRPs a copy of which is attached marked "FA49". Annexure "FA49" states *inter alia* as follows:



- "1. We write to you in our capacity as the Facility Agent, on instruction of the Lender, Vision Investments 155 (Pty) Ltd (**V155**), under the Common Terms Agreement (**CTA**) concluded on or about 3 December 2021.
2. ...
3. As you are aware, V155 acquired the rights and obligations of the Original Lenders on 9 May 2025 in terms of Transfer Certificate 3 (**TC3**), as amended and restated. With effect from the date of acquisition, V155 was appointed as the Facility Agent for and on behalf of itself.
4. One or more Events of Default, contemplated under clause 23 of the CTA, have occurred, and are continuing, as a result of, among other things, the Borrower's failure timeously to pay on the due date the amounts payable under a Finance Document (clause 23.1), and the Borrower's continued business rescue proceedings since October 2022 (clause 23.12). Further Events of Default are imminent an/or have occurred in that:

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- 4.1 *the Borrower is and continues to be "financially distressed" (as defined in the Companies Act);*
- 4.2 *we have received notice from the Borrower's business rescue practitioners that they have concluded that there no longer remains a reasonable prospect of a successful business rescue of the Borrower, and that they intend to apply for the winding up of the Borrower;*
- 4.3 *the conditions precedent under the sale agreements concluded to give effect to the Borrower's business rescue plan lapsed on 7 February 2026; and*
- 4.4 *a Material Adverse Effect has occurred and has had an effect on:*
- 4.4.1 *the business, assets, condition (financial or otherwise) and prospect of the Security Providers and the South African Group; and*
- 4.4.2 *the ability of the Security Providers to perform each of their obligations under the Finance Documents.*
5. *Accordingly, and in terms of clause 2.3.25 of the CTA, V155 hereby writes to the Borrower to:*
- 5.1 *declare that all the Senior Facility Outstandings (as defined in the CTA) remain immediately due and payable, alternatively are now immediately due and payable, in the amount of R11,738,406,991.00 as evidenced by the Certificate of Balance attached as Annexure A (**Outstanding Balance**);*
- 5.2 *claim immediately repayment of the Outstanding Balance; and*
- 5.3 *exercise or direct the Debt Guarantor to exercise any or all of its rights, remedies, powers or discretions under the Security Agreements (a*



[Handwritten signature]
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separate letter to the Debt Guarantor will be addressed simultaneously with this letter)."

244 A letter was also sent by Bowwood and Main No 296 (RF) Proprietary Limited ("**Bowwood and Main**") to Tongaat on 8 February 2026, a copy of which is attached marked "**FA50**". Its contents are essentially the same as the letter sent by Vision to the BRPs.

245 On 9 February 2026, the BRPs' attorneys sent a letter to Vision's attorneys in response to the letters of 5 and 6 February 2026 (annexures "**FA47**" and "**FA48**"). A copy of the letter is attached marked "**FA51**". In light of the content of the letters from Vision, I have set out below the response thereto in its entirety:



- "1 *We refer to your letter dated 5 February 2026 ("**your 5 February letter**") and your letter dated 6 February 2026 (collectively "**your letters**") and have been instructed by our clients to reply thereto as set out below. This response is not exhaustive and will be amplified should it become necessary. Our failure to respond to any assertion in your letters should not be construed as an admission thereof, or as a waiver of our clients' rights in this regard, which rights are, both in this respect, and generally, fully reserved.*
- 2 *The proposal ("**the 5 February proposal**") articulated in your letter must be considered in the following context and against the background detailed below.*
- 3 *The approved and adopted business rescue plan ("**BR Plan**") is that which your clients had proposed and which was approved by the Lender Group, whose claims your client has acquired. Your client's BR Plan included the following critical conditions ("**the critical conditions**"):*

- 3.1 Discharge of the SASA indebtedness in the amount of R517m;
- 3.2 Provision of R75m for concurrent creditors; and
- 3.3 Confirmation of the refinancing of the IDC PCF, which would be assumed by Vision.
- 4 The sale agreements, including in respect of South Africa, are all subject to the critical conditions. The apparently non- negotiable proposal enunciated in your 5 February letter fails to substantively address the most complex South African component.
- 5 Our respective clients' previous agreement to conclude the South African sale first was specifically due to the complexities surrounding the critical conditions. The Offshore Asset sale agreements were, and remain, conditional upon the critical conditions being fulfilled.
- a. The BR Plan was predicated on, inter alia, Vision acquiring the Lender Group claims; and
- b. The repayment/refinancing of the IDC PCF; and
- c. The funding of the SASA Escrow amount of R517m; and
- d. The payment of the R75m for distribution to the concurrent creditors.
- 6 Once the Lender Group claims were acquired by Vision, the IDC agreement to the refinancing of the PCF into a RCF in the name of Vision was required to be secured.
- 7 With the Lender Group claims having been acquired, there was a high likelihood of IDC agreeing to only the refinance of the PCF into a Vision revolving credit facility ("RCF").



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- 8 The assets of the SA Sugar business would have transferred (in accordance with the BR Plan) and IDC would then have had security over all the assets transferring into Vision Sugar SA, not just the stock and debtors.
- 9 Vision chose not to use their own funds to complete the acquisition of the Lender Group claims. Instead, Vision chose to finance the payment of the outstanding purchase price to the Lender Group. In addition, Vision chose to seek additional funding for the Vision Sugar SA business, which was not a condition of the BR Plan, but Vision has made it their own condition of the BR Plan implementation.
- 10 It will be recalled that the Standard Bank of South Africa ("SBSA") letter received prior to publication of BR Plan confirmed that Vision had sufficient funds to complete the transaction. The transaction contemplated in the SBSA letter would have referred to at least the acquisition price for the Lender Group claims. The price was confidential and therefore no specific amount was stated in the letter, but the letter did state:
- "This letter serves to confirm the following regarding the customer Vision Investments 155 (Pty) Ltd ("Vision"):
1. Vision holds a Standard Bank account;
 2. The account has sufficient cash for Vision to execute the contemplated transaction as per the amended Vision business rescue plan."
- 11 The BR Plan does not prescribe any condition or requirement relating to Vision raising funding for the payment of any amounts to the Lender Group, nor any funding from the IDC (or others), in addition to the refinance of the PCF.
- 12 Following payment to the Lender Group of the balance of the purchase price as contemplated by the BR Plan, all that remained was for the PCF to be refinanced.



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- a. *The BR Plan is not expressed to be conditional on Vision obtaining any additional finance from IDC, nor was this even contemplated during the development of the BR Plan.*
- b. *The request to IDC to provide finance in excess of the PCF refinance is a matter between Vision and IDC and should have no bearing on the BR Plan implementation.*
- c. *In addition, the demands of Vision (articulated during the latter part of 2025) to the effect that as a condition to the implementation of the Sale Agreements, an in principle reform to the sugar industry and its legislative framework had to be agreed upon between all relevant participants in that industry or similarly was not an element of the adopted business rescue plan and only served to cause further confusion, complications and delays.*
- d. *Vision has introduced this requirement by linking it to the closing of the SA Sale of Business Agreement and the other sale agreements.*
- e. *As a result, it is clear that the so- called offshore sales are now subject to IDC funding arrangement and resolution and should not be dealt with in isolation.*



- 13 *For avoidance of doubt, the meeting with your clients on 30 January 2026 did not conclude on the basis that our clients would consider the offshore sales. Instead, it was agreed that the extension of one week, to 7 February 2026, would allow time for our respective clients to ascertain the progress of Alwyne and for an appropriate timetable to be provided by Alwyne setting out a process to be followed by your client and IDC.*
- 14 *You are aware that the IDC and its appointed advisors have, over the past two weeks, been actively engaged in formulating a proposal aimed at resolving the current impasse between Vision and the IDC, particularly*

as it relates to IDC funding and the implementation mechanics of the Vision transactions. We are advised that such proposal is imminent.

- 15 *The continuation of the business rescue process is inextricably linked to the IDC's ongoing provision of post-commencement finance. A material component of the IDC's most recent credit approval feedback is the extension of the THL/Vision sale agreements. In circumstances where the 5 February proposal has not been discussed with, nor considered by, the IDC, it would be reckless for the BRPs to proceed on that basis without first understanding the implications thereof on IDC funding, thereby placing the business rescue process at risk. This is one of the reasons why, on the call with your clients at 1pm on 6 February 2026, our clients requested a limited extension of one week to make the necessary enquiries and to properly consider the 5 February proposal*



- 16 *In the PCF Agreement with the IDC it is stated that:*

"The Borrower and the Business Rescue Practitioners undertake that they shall not dispose of or attempt to dispose of any of the assets of the Borrower and/or THSA, Voermol and/or any other member of the Group, other than the sale of Inventory in the ordinary course of business and in particular that they shall not dispose of or permit any disposal by the Borrower, THSA and/or Voermol of any business, company, capital assets, equipment or machinery".

- 17 *During the meeting with Vision on Friday, 6 February 2026, it was conveyed by Vision that should the BRPs consider there to be any requirement to obtain IDC approval in order to proceed on the basis of the 5 February proposal, no extension would be granted. The BRPs confirmed their willingness to genuinely explore the proposal, subject only to having sufficient time to properly assess its implications.*

- 18 *It is inconceivable to the BRPs that Vision would expect its proposal to be implemented immediately and absent IDC support, given the central*

role the IDC has played, and continues to play, in the business rescue process from both a legal and commercial perspective. This position is all the more puzzling given that the IDC is imminently due to present its feedback/proposals to Vision.

19 *Your client has been instrumentally involved in the business rescue since the adoption of the Plan. Weekly meetings have been held with your client and it has been extensively involved in the discussions and negotiations with the IDC. For at least these reasons, the veiled threats contained in your letter of 6 February are contemptuous, legally unsound and are rejected.*

20 *Whilst our clients were prepared to explore the 5 February proposal in conjunction with the IDC and others, the intransigent and unreasonable take it or leave it approach articulated during the call on Friday 6 February 2026, and the content of your letter of 6 February 2026, has left our clients with no alternative but to proceed as previously advised.*



21 *Kindly acknowledge receipt hereof."*

246 The response to the letter from Bowwood and Main is attached marked "FA52".

247 In light of what is recorded above and despite the repeated and ongoing assurances provided to Tongaat and its BRPs, the closing of the South African Sale of Business Agreement and/or any of the other sale agreements with Vision cannot now be achieved.

248 Vision has made it clear that unless its demands in regard to *inter alia* the Offshore Agreements and industry reform are met, it will not provide the further time of 6 to 8 weeks which the IDC requires to allow its financial advisors to

complete their investigations and to make proposals regarding the facilitation of a long term solution which will allow for the implementation of the Plan and the further conduct of the business rescue.

249 The demands of Vision that, as a condition to the implementation of the Tongaat Sale of Business Agreements, an in principle reform to the sugar industry and its legislative framework had to be agreed upon between all relevant stakeholders is not a feature of the Plan. It caused nothing but further complications and delays and the refusal to extend the closing date in respect of the South African Sale of Business Agreement and other sale agreements and the refusal in respect of the extension of the condition precedent fulfilment date as referred to above means that the Plan can no longer be implemented.



250 Moreover, notwithstanding the extensive engagements between representatives of the IDC, Vision and various third parties, including the DTIC, to attempt to resolve the impasses (as admitted by Vision) between the respective parties, the current financial challenges which Tongaat faces cannot be ignored. There has been no resolution to the urgent need for interim funding for Tongaat and the outstanding draws of approximately R50 million have not been paid.

251 For the reasons outlined above, the Plan cannot be implemented because:

251.1 the failure to implement the Plan arises in material part from Vision's inability or unwillingness to conclude binding funding arrangements with the IDC, notwithstanding prior confirmations that Vision had sufficient funding

available to conclude the transaction, coupled with Vision's opposition to interim funding alternatives and its continued pursuit of relief and write-offs which prevented final IDC approval;

251.2 Tongaat has no access to urgently required further funding, nor does it appear it will be provided with the much-needed interim further funding to sustain its operations and meet its payment obligations from the end of March 2026. This is particularly so as a consequence of the recent correspondence exchanged between Vision and the IDC and the imposition of conditions which neither of the parties are prepared to meet;



251.3 Tongaat's liabilities vastly exceed its assets;

251.4 the refusal by Vision to extend the closing date in respect of the various sale agreements means that those agreements have lapsed and the BRPs will not be able to continue to implement the Plan; and

251.5 permitting Tongaat to continue trading is likely to worsen Tongaat's already precarious and dire financial position, to the detriment and prejudice of its creditors, and will be contrary to the BRP's statutory obligations under Chapter 6 of the Companies Act.

252 The BRPs have been endeavouring to meet essential payment obligations, but we cannot continue to do so at the risk of compromising any creditors' position in a liquidation scenario through impeachable transactions proceeding.

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253 In the considered view of the BRPs, based on the fact that despite months of extensive engagement, negotiations and many discussions and meetings between the various stakeholders, the communications from Vision on 6 February 2026 means that the Plan can no longer be implemented and as a result, there is presently no longer any prospect of the requested interim funding being timeously received.

254 Tongaat will not be a position to operate sustainably or access working capital facilities required for the forthcoming milling season. In these circumstances, the Plan is accordingly no longer capable of being substantially implemented



255 As a result of the above, there is no longer a reasonable prospect of the BRPs being able to continue to implement the Plan and to continue with the restructuring envisaged in terms thereof, which will allow Tongaat to continue in business and which may have resulted in a better return for Tongaat's creditors than liquidation.

256 Accordingly, the BRPs have no alternative, in light of their obligations under Section 141(2) of the Companies Act, but to apply to discontinue and terminate the business rescue of Tongaat and to apply for its liquidation.

STATUTORY REQUIREMENTS

257 The BRPs will comply with the formal requirements of an application of this nature in that -

257.1 a certificate will be obtained from the Master of the High Court to the effect that sufficient security has been given for the prosecution and administration of the winding-up proceedings;

257.2 a copy of this application will be served on the Master of the High Court;

257.3 a copy of this application will be served on the South African Revenue Services; and

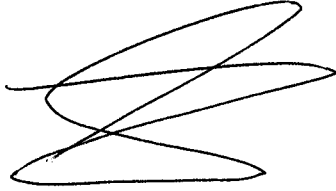


257.4 a copy of this application will be served on the employees of Tongaat and on any trade union/s representing such employees. In this regard, the Sheriff effecting service of the application will be instructed to direct enquiries to the employees to establish the existence and identity of any trade unions so that service is properly effected.


CONCLUSION

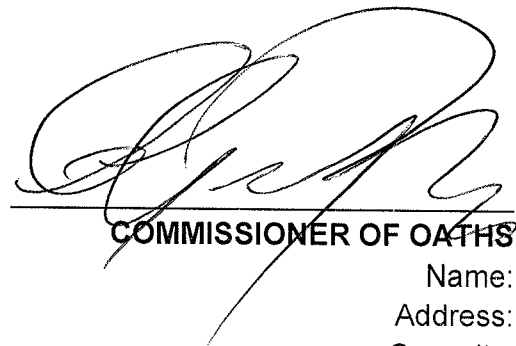
258 I respectfully submit that in all the circumstances, the BRPs have made out a case for the relief sought.

259 The costs of this application should be costs in the winding-up of Tongaat, save in the event of any opposition, in which case the BRPs will request that the party opposing the application be liable for costs.



GERHARD CONRAD ALBERTYN

 11 I certify that this affidavit was signed and sworn to before me at LA Lucia on 11 FEBRUARY 2026, by the deponent who acknowledged that the deponent knows and understands the contents of this affidavit, that the deponent has no objection to taking the prescribed oath, considered this oath to be binding on the deponent's conscience and uttered the following words: 'I swear that the contents of this affidavit are both true and correct, so help me God.'



COMMISSIONER OF OATHS

Name:

Address:

Capacity:

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