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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

Answering Affidavit

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

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

Case number: 2026 – 031780

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



RGS' PRELIMINARY ANSWERING AFFIDAVIT

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I, the undersigned,

MOMADE AQUIL RAJAHUSSEN

do hereby make oath and say that:

1. I am an adult male and the chairman of RGS Group Holdings Limited (“RGS”) which is an admitted creditor (i.e. affected person) in the business rescue of the first respondent (“THL”). I am duly authorised to oppose this application and depose to this preliminary answering affidavit on RGS’ behalf.

2. The facts contained in this affidavit are within my personal knowledge, save where the context indicates otherwise and are, to the best of my belief, both true and correct. Where I indicate that I rely on information provided to me by others,

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I believe such information to be true and correct. Where I make legal submissions, I do so on the advice of RGS' legal representatives, which I accept.

3. For ease of reference, I refer herein below to:

- 3.1. The applicants collectively as **"the BRPs"**;
- 3.2. The parties who proposed the business rescue plan that was adopted in THL's rescue proceedings as **"the Vision Parties"** or **"Vision"**;
- 3.3. The adopted business rescue plan as **"the Vision Plan"**;
- 3.4. The group of banks and financial institutions who were collectively the largest secured creditor in THL's business rescue as **"the Lender Group"**;
- 3.5. The claims and security of circa R11.73 billion¹ held by the Lender Group against THL as **"the LG Claims and Security"**;
- 3.6. The purported acquisition by Vision of the LG Claims and Security as **"the LG Claims Acquisition"**;
- 3.7. The agreement in terms of which Vision purportedly acquired the claims and security held by the Lender Group against THL as **"the LG Claims Acquisition Agreement"**;
- 3.8. The Industrial Development Corporation of South Africa Ltd as **"the IDC"**;



¹ Annexure "FA49", record 001-1343.

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- 3.9. The post commencement finance facility granted by the IDC to THL as **“the IDC PCF Facility”**;
- 3.10. The “further respondents” cited in the notice of motion, being all the affected persons in THL’s business rescue, as **“the Affected Persons”**;
- 3.11. The Department of Trade, Industry, and Competition as **“the DTI”**;
- 3.12. The South African Sugar Association as **“SASA”**;
- 3.13. The Companies Act 71 of 2008 as **“the Act”**.



OVERVIEW

4. Both the urgency and timing of this application are unjustifiable. This is so given the catastrophic implications of the relief sought by the BRPs as well as the facts leading up to the filing of this application.
5. While THL’s position is clearly desperate and does require urgent, level-headed intervention, this must occur in a reasonable, structured manner to ensure that the rights of Affected Persons are not further trampled in the process.
6. Given what is at stake, however, and subject to what is set out below, RGS does not intend to seek a postponement of the hearing scheduled for 27 February 2026.
7. As will become apparent, RGS is – and has always been – committed to stepping into THL’s failed rescue proceedings to provide the funds necessary to salvage the rescue and avoid THL’s liquidation. It is now in a position to do so if given the opportunity.

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8. RGS has persistently challenged the Vision Plan on the grounds *inter alia* that the plan is unlawful, not being implemented according to its terms (as approved by creditors), and that it has long-since lapsed for failure to be implemented within a reasonable time (i.e. because Vision has never had the funds to implement the plan despite falsely informing creditors at the meeting convened to adopt the plan that Vision had sufficient funds in cash to achieve implementation.)
9. I emphasise that when it became obvious that the Vision Plan was unlawful and could not be implemented (either according to its terms or at all) due to Vision not being in funds, RGS made three offers to the BRPs to step into the breach and provided proof of its access to the funding necessary to do so. These offers were made on 8 July 2024, 17 September 2025, and 27 March 2025 respectively and copies thereof are annexed marked "MAR1" to "MAR3".
10. All RGS' offers were rejected by the BRPs on grounds that the Vision Plan remained binding and they were dutybound to proceed with its implementation. It will become clear from what is set out below that the Vision Plan has in fact long since failed, was unlawful, and that the BRPs owed no fidelity to it. On the contrary, any reasonable understanding of the BRPs' statutory duties would have compelled them to declare the failure of the Vision Plan, and to afford THL's rescue a prospect of success on an alternative, viable basis.

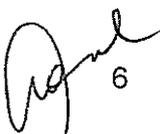


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11. By refusing RGS' offers, the BRPs doomed THL to a plan that was, at the very latest, by August 2024² clearly incapable of success, or at least incapable of being implemented in a lawful manner.
12. RGS has therefore been engaged in constant litigation against the BRPs and Vision since March 2024 (i.e. two months after the Vision Plan was adopted). Excluding litigation prior to the adoption of the Vision Plan, RGS has filed four applications in this Court against the BRPs and Vision to challenge the Vision Plan resulting in approximately eight hearings.
13. I fully appreciate that this application is not the forum in which to vent old grievances stemming from previous litigation and that all efforts must now be focussed on saving THL from liquidation, the consequences of which are correctly described in the Vision Plan as a "widespread economic and human catastrophe".
14. It is, however, unavoidably necessary for me to refer to certain facts and conduct on the part of both the BRPs and Vision to the extent that those facts must be advanced to substantiate the relief sought by RGS presently (i.e. to avoid liquidation).
15. In pursuing the previous litigation referred to above, including multiple costs orders granted in favour of the BRPs and Vision, and in conducting a due diligence on THL previously, RGS has incurred legal and consulting fees in



² i.e. when the Equity Conversion failed after the BRPs and Vision sought to proceed with the conversion in breach of the express provisions of the plan that require Vision to first acquire the LG Claims and Security before the Equity Conversion or the Asset Transaction were permitted to proceed. By this time the BRPs knew that the representations made by Vision at the creditors meeting on 10 and 11 January 2024 to the effect that Vision had sufficient funds in cash to implement the plan were false.


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excess of R48 000 000 which serves to demonstrate RGS' unwavering and continued commitment to save THL.

16. The BRPs and Vision succeeded in arguing that all but one of RGS' applications should be dismissed / struck for lack of urgency.

17. I am constrained to say that the position adopted by the BRPs and Vision in those applications cannot be reconciled with the facts that have now emerged for the first time from the founding affidavit in this application, i.e. the material facts relating to the status of the Vision Plan and its implementation were never previously disclosed to Affected Persons despite (i) the BRPs' mandatory statutory obligations to do so, and (ii) RGS' innumerable attempts to gain access to those facts.



18. I shall refer to the only successful application brought by RGS as "**the Disclosure Application**". In terms of the order obtained by RGS in the Disclosure Application on 4 July 2025, Vision was directed to provide, in summary, the following information ("**the Disclosure Order**"):

18.1. Proof of all the payments it made to the Lender Group to acquire the LG Claims and Security of circa R11.83 billion;³

18.2. A copy of the LG Claims Acquisition Agreement;

18.3. Proof that all the LG Claims and Security were transferred to Vision;

18.4. Confirmation that Vision had not used THL's assets as collateral to raise the funds necessary to pay for the LG Claims Acquisition (i.e. in

³ Annexure "FA49", record 001-1343.

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circumstances where Vision had misrepresented to creditors that it had sufficient cash to implement the plan);

18.5. Confirmation that none of Vision's financial obligations under the Vision Plan will be satisfied in whole or part from (i) funds raised by putting THL's assets up as collateral, or (ii) facilities granted by either the Lender Group, the IDC, or any funder.

19. The import of the information referred to above will become apparent from the facts I set out below. In short, it relates to the validity and enforceability of the egregious demand made by Vision (during the currency of its own "rescue" of THL) against THL for payment of R11.83 billion which was the direct catalyst for the launching of this application.⁴



20. Vision sought leave to appeal against the Disclosure Order, but this Court refused leave on 29 December 2025. Vision then applied for leave to appeal to the SCA on 28 January 2026. RGS' affidavit opposing the application for leave to appeal to the SCA was served timeously on 20 February 2026.

21. Access to the information contemplated in the Disclosure Order will play a critical role if liquidation is to be avoided for various reasons explained below. The issue arising from Vision' continued attempts to dodge compliance with the Disclosure Order is addressed in the relief RGS seeks in the counter application it has filed in response to this application ("**the Counter Application**"). I deal with these issues in more detail below.

⁴ Annexure "FA49", record 001-1342.

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22. RGS has in the meantime, i.e. the short time since this application was launched, concluded a fresh term sheet with the African Export-Import Bank ("Afreximbank") in relation to a facility of US\$ 280 million (i.e. circa R4.5 billion) specifically designated for purposes of a plan to be put forward to rescue THL from liquidation ("the Afrexim Facility"). The Afrexim Facility contemplates provision for working capital of US\$ 100 million. Afreximbank has moreover provided a letter of support which confirms *inter alia* that Tier 1 credit approval has already been granted. Tier 1 credit approval includes KYC (know your customer) approval. Copies of the term sheet and letter of support are annexed, marked "MAR4" and "MAR4A" respectively.
23. The term sheet is an updated version of a previous Afreximbank term sheet that RGS signed on 22 January 2025 and provided to the BRPs in terms of one of its offers, but which lapsed on 31 March 2025 after the BRPs' refusal of RGS' offer dated 27 March 2025.
24. To be clear, the Afrexim Facility has not yet been granted. Facilities of this nature and extent are always unavoidably dependent on *inter alia* the completion of a due diligence investigation. A due diligence will therefore have to be conducted before the facility can be granted. The term sheet does however indicate preliminary in principle approval of the Afrexim Facility.
25. Since the approval of the Afrexim Facility will take time, I explain in the body of this affidavit below: (i) the interim solutions in terms of which RGS proposes to address THL's short-term cash flow problems, and (ii) the reasons why a due diligence investigation can be completed in a relatively short period of time.



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26. RGS' case in opposition to this application and the relief RGS seeks in the Counter Application is in summary as follows:

26.1. I am advised that in adjudicating this application, this Court is bestowed with a double layer of discretionary powers:

26.1.1. First, the Court is expressly empowered in terms of section 141(3) of the Act to "make...any other order that the court considers appropriate in the circumstances" in response to the BRPs' application under section 141(2)(a) (the latter section being the express basis on which this application has been brought by the BRPs);⁵



26.1.2. Second, the Court has its usual residual discretion to refuse liquidation even where the technical requirements of insolvency have been demonstrated. RGS, however, in any event denies that the BRPs have in the founding affidavit demonstrated the factual requirements for a provisional liquidation order to be issued on the basis of commercial insolvency (i.e. they have done so on the basis that the Vision Plan has failed but this Court has the discretion referred to in the previous paragraph);

26.2. For the reasons set out fully below, RGS contends that the only valid order that can and must be issued on the basis of the facts set out in the founding affidavit is an order declaring that the Vision Plan is both unlawful and has failed, and therefore setting the Vision Plan aside;

⁵ FA at paragraphs 12 and 13, record pp 001-13 to 001-14.


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26.3. In terms of the Counter Application, RGS therefore seeks as against the BRPs / THL:

26.3.1. the dismissal of both the BRPs' prayers for (i) termination of business rescue (notice of motion prayer 2), and (ii) the provisional liquidation of THL (notice of motion prayer 4); and

26.3.2. an order setting the Vision Plan aside on the basis that it is unlawful and has failed;

26.4. The setting aside of the Vision Plan does not result in the termination of THL's rescue proceedings, neither does the failure of the Vision Plan is incorrectly suggested by the BRPs.⁶ In terms of the Act, rescue proceedings only terminate *inter alia* where a court order to that effect has been issued (i.e. setting aside the section 129 resolutions which commenced business rescue or converting the business rescue to liquidation);

26.5. An order setting aside the Vision Plan would therefore mean that the resolutions commencing business rescue, and the rescue proceedings themselves, would survive;

26.6. On this basis the BRPs would have to follow the procedures set out in section 153(1)(a)(i) / 153(1)(b)(i)(aa) read with sections 153(3) and 153(4) of the Act, i.e. determine either (i) whether a new plan can be



⁶ It is advanced in paragraph 17.3 of the FA, record page 001 – 19 that “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 of the company for the benefit of its creditors.” This is not correct.

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published for creditors' approval, or (ii) whether any creditor invokes the right to require the BRPs to prepare and publish a new plan;

26.7. RGS, as an admitted creditor of THL, has the abovementioned right and intends to invoke it if the relief it seeks is granted in order to propose a new plan to rescue THL;

26.8. For RGS' attempt to rescue THL to have good prospects of success, however, it is important that all the relief RGS seeks in the Counter Application be granted;

26.9. The additional relief sought in the Counter Application (i.e. additional to the relief referred to in paragraph 26.3 above) is sought variously against both Vision and the BRPs / THL and entails the following:

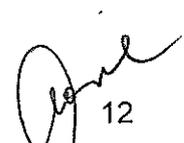


26.9.1. An order in terms of section 18(1) of the Superior Courts Act 10 of 2013 directing that the Disclosure Order be executed against Vision in the extraordinary circumstances of this case despite Vision's pending application for leave to appeal to the SCA;

26.9.2. An order directing Vision to produce the underlying security instruments from which the security attaching to the LG Claims (which Vision now holds) is derived;

26.9.3. An order directing THL to provide RGS with the "Agency Agreements" defined in paragraph 3.1.7 of the Vision Plan.⁷

⁷ Record 001-1014.


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27. I pause to emphasise that this is a preliminary answering affidavit. Due to (i) the unjustifiable timelines on which the BRPs have elected to bring this application, and (ii) the lack of access to material facts relating to the status / implementation of the Vision Plan in the years leading up to this application, it has been impossible to prepare a comprehensive answer to all the allegations contained in the founding affidavit.
28. RGS expressly reserves the right to file a full answering affidavit should this matter be postponed or it otherwise becomes necessary to do so. I deal with the issue of urgency in detail below at paragraph 126 since this affidavit is incomplete and the application may well be postponed at the instance of other opposing parties or the Court.
29. I turn now, however, to deal first and foremost with the most important issues which are those relating to the rescue of THL.



THL REMAINS CAPABLE OF RESCUE

(i) Liquidation is sought on the basis of the failure of the unlawful Vision Plan, not commercial insolvency

30. This application was brought in terms of section 141(2) of the Act which requires the BRPs to apply for an order discontinuing business rescue and placing THL into liquidation if they conclude that there is no longer a reasonable prospect for THL to be rescued.
31. It was undeniably necessary and proper for the BRPs to bring this application. They should in fact have done so a very long time ago.

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32. It is, however, patently clear from the founding affidavit that the BRPs' conclusion that THL no longer has a prospect of rescue is based primarily and materially on:

32.1. the abject failure of the Vision Plan;

32.2. Vision's attempt to enforce the LG Claims and Security of R11.73 billion against THL on 8 February 2026.

33. The 118 pages of the founding affidavit contain one solitary allegation of commercial insolvency at paragraph 15.8. The rest of the founding affidavit describes the emergency that confronts THL due to the unlawfulness and failure of the Vision Plan.



34. More specifically, the bulk of the founding affidavit explains how the IDC PCF Facility – which was by definition meant to be temporary – can no longer support THL's needs in circumstances where THL has not benefitted from any of Vision's chief obligations under the Vision Plan, all of which remain unfulfilled, and which were meant to result in THL's rescue.

35. The BRPs' allegation of commercial insolvency should be understood in the aforesaid context and considered in light of the following facts:

35.1. in terms of the projected income statement⁸ and balance sheet⁹ contained in the Vision Plan, THL would have been insolvent even if the Vision Plan were implemented successfully. Insolvency is regrettably something THL has "lived" with for a long time;

⁸ Vision Plan, record p 001-1128.

⁹ *Ibid*, record p 001-1131.

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35.2. while the BRPs have described THL's "cash crunch", their version shows that this is not by any means a new problem and that THL's senior management, who are known to be highly skilled and committed, have often succeeded in fighting the tide and finding solutions to short term cashflow problems which on various occasions resulted in projected deficits not arising, or arising at a significantly lower rand value than expected;

35.3. This is illustrated, for example, in paragraph 74 of the founding affidavit where the BRPs describe the "tightest liquidity position experienced since business rescue commenced", which occurred at a time when the revolving IDC PCF Facility was fully drawn, and THL had only R300 million in cash available to cover approximately R750 million in payments. Despite this crisis, the BRPs say that "it was anticipated that the month-end challenges would still be overcome through careful management of the collection of sales proceeds and the strict sequencing of cash payments, albeit with only approximately R11 million of headroom";



35.4. It is apparent from paragraph 167 of the founding affidavit that by 12 January 2026, cash "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 R168 million by the end of February 2026 as a result of ongoing management and operational interventions";

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35.5. In a letter from THL's CEO and senior executives of 3 December 2025 they record *inter alia* that "[m]anagement is implementing measures to reduce the R600 million liquidity bridge request and we have had success in delaying and reducing the near-term gap."¹⁰

35.6. this demonstrates the resilience of THL and its employees;

35.7. THL still has both valuable assets and the ability to operate as a going concern provided it has access to the necessary working capital (currently understood to be in the region of R600 million);

35.8. the BRPs do not attach the usual detailed financial information to the founding affidavit to demonstrate the allegation of commercial insolvency: no financial statements, management accounts, or formal cashflow projections have been provided.

36. The crux of the BRPs' case is summarised at paragraph 17.2 of the founding affidavit where they say the following:

"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

¹⁰ FA Annexure "FA22", record p 001-1235.



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any further unforeseen adverse events and Tongaat is **not expected** to be able to sustain payments to employees or meet it [sic] ongoing working capital requirements into the forthcoming milling season”

(emphasis added).

37. The conditionality of these allegations is striking.
38. The forthcoming milling season will, to the best of my knowledge, commence in April 2026.
39. The BRPs have **not demonstrated** with reference to objective financial evidence that THL is truly commercially insolvent or, alternatively, that it is significantly more commercially insolvent than it has regrettably become accustomed to being.
40. The founding affidavit does not even contain a table or other form of specific summary of THL’s current cash flow position. Instead, one is required to dredge through the exhaustive chronology of meetings and correspondence in search of those allegations that chronicle THL’s financial ebb and flow and then attempt to gain an understanding of more or less where the liquidity situation lands.
41. What is clear from the founding affidavit is that THL cannot survive under current circumstances for much longer and requires circa R600 million in working capital to stabilise its position.
42. The facts do not demonstrate an unsalvageable financial position. I elaborate on this at paragraph 84 below.



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43. The BRPs have, however, concluded that the failure of the Vision Plan equates to the failure of THL's rescue proceedings without apparently considering any alternatives. Instead, as the founding affidavit shows, they chose to simply persist in attempts to pressurise the IDC for additional funding on Vision's behalf.
44. The founding affidavit contains no allegations to the effect that the BRPs took any steps to determine whether, given the failure of the Vision Plan, an alternative solution could be found with an investor who has access to the funds necessary to implement a sustainable rescue.
45. It bears emphasis that section 141(2) of the Act does not say that the BRPs must apply for the termination of business rescue and its conversion to liquidation where an adopted plan has failed. It says they should do so when there is longer a prospect of rescue.



(ii) Vision's egregious conduct and purported ownership of the LG Claims and Security are not a barrier to THL's rescue

46. I deal with the facts relating to Vision's acquisition of the LG Claims and Security in detail below where I provide a summary of the rescue proceedings, much of which is absent from the founding affidavit (see paragraph 160 below).
47. The aforesaid facts are crucial to understanding both the extent of the abuse that THL has suffered at Vision's hands, as well as the solution thereto.
48. It is important to demonstrate at the outset, however, that Vision's possession of the LG Claims and Security is not a barrier to the success of an alternative rescue plan. I say this for three main reasons.

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49. **The first reason:** it is now for the first time apparent from the founding affidavit that Vision's acquisition of the LG Claims and Security on 9 May 2025 was funded by Standard Bank (possibility also with an IDC contribution).

50. It is undeniable that Vision has never been in funds to implement the Vision Plan lawfully (i.e. according to its terms) or at all. This is apparent both from the founding affidavit and the factual background I provide below.

51. Vision has, in the context of a previous application brought by RGS, disclosed that it paid R3.24 billion for the LG Claims and Security (see paragraph 299 below).

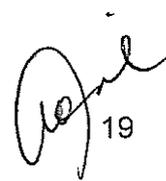


52. I pause to emphasise the implications of the above when considered in light of the facts set out from paragraph 160 below (which the Court would not yet have read):

52.1. Vision and the BRPs represented to creditors at the Creditors Meeting on 10 and 11 January 2024 that Vision had sufficient funds in cash to implement the Vision Plan (see paragraphs 180 below);

52.2. Vision's cash funding was confirmed in terms of a letter issued to that effect by Standard Bank and provided to the BRPs during December 2023 (see paragraph 181 below);

52.3. The Vision Plan was adopted pursuant to and on strength of these representations after serious concerns from creditors regarding Vision's access to funding;


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52.4. Vision failed to acquire the LG Claims and Security in the 16 months between the adoption of the Vision Plan and 9 May 2025 (a fact of which the BRPs were aware but did not disclose to Affected Persons);

52.5. Vision's failure to complete the LG Claims Acquisition during the aforesaid 16 month period resulted in *inter alia* (i) the failure of the Equity Conversion (paragraph 210 below), and (ii) devastating financial consequences for THL since it was left in limbo without the benefit of any of the relief contemplated in the Vision Plan having come to pass (paragraph 221 below);



52.6. Vision acquired the LG Claims and Security for R3.24 billion on 9 May 2025;

52.7. Vision paid for the LG Claims and Security using money borrowed from Standard Bank, not its own cash funding;

52.8. Vision has not to date injected any capital into THL (which has stayed afloat thanks solely to the IDC);

52.9. Vision then sought to enforce the LG Claims and Security against THL in the amount of R11.73 billion, during the currency of Vision's purported "rescue" of THL, on 8 February 2026.¹¹

53. Vision's predatory behaviour and rapacity cannot and must not be tolerated.

54. It is all but impossible, from a commercial perspective, to believe that Standard Bank advanced R3.24 billion (or any similar amount) to Vision without including

¹¹ FA Annexure "FA49", record p 001-1342.

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terms to the effect that the LG Claims and Security will revert to Standard Bank if Vision defaults on its repayment obligations.

55. I am informed, but naturally cannot prove, that Vision has already defaulted on its repayment obligations in terms of the LG Claims Acquisition Agreement.
56. The BRPs have at all times unjustifiably adopted the position that the LG Claims Acquisition Agreement does not concern them or THL and amounts in their assessment to a private agreement, concluded outside the scope of THL's rescue proceedings.
57. The BRPs' position is both incorrect on a plain reading of the Vision Plan and negligent.
58. As this court confirmed at paragraph 53 the Disclosure Judgment (see paragraph 277 below), the LG Claims Acquisition is a condition to the Vision Plan. Before and until the acquisition was concluded, the BRPs and Vision could not lawfully proceed with either the Equity Conversion or the Asset Transaction.¹²
59. The fact that the BRPs were content to remain ignorant of the terms of the LG Claims Acquisition Agreement materially contributed to the present predicament.
60. Vision's possession of the LG Claims and Security is, however, precarious given its indebtedness to Standard Bank and the latter's rights of reversion.



¹² Vision Plan at paragraph 2, record p 001-1005; paragraph 2.5.4, record p 001-1008; the definition of "Vision Transactions" in paragraph 3.1.85, record 001-1024; the definition of "Vision Debt" at record pp 001-1084 to 001-1085; paragraph 14.1.1.11, record p 001-1130, paragraph 14.1.2.8, record pp 001-1132 to 001-1133.

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61. The terms of the LG Claims Acquisition Agreement must be disclosed and analysed because:

61.1. They amount to conditions to the Vision Plan which must be disclosed in the plan in terms of section 150(2)(c)(i) of the Act;

61.2. Vision has previously admitted under oath that it attempted to leverage THL's assets in order to raise the funds it required to pay for the LG Claims Acquisition (see paragraph 256 below). It must therefore be established that this did not occur and/or that Vision did not use THL's assets as collateral in any other way in its agreement with Standard Bank.



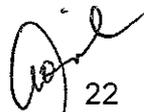
62. This Court ordered the production of (amongst other things) the LG Claims Acquisition Agreement in terms of the Disclosure Order, and when this Court refused Vision leave to appeal, Vision applied for leave to appeal to the SCA in a desperate attempt to avoid accountability and transparency.

63. I am advised that these circumstances, considered together with the facts set out in detail below, constitute extraordinary circumstances for purposes of section 18(1) of the Superior Courts Act 10 of 2013.

64. It is *inter alia* on this basis that RGS seeks the execution of the Disclosure Order pending Vision's application for leave to appeal to the SCA.

65. I submit that:

65.1. RGS, all Affected Persons, and THL would suffer irreparable harm if the Disclosure Order is not enforced immediately;


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65.2. Vision does not stand to suffer irreparable harm if the Disclosure Order is enforced.

66. **The second reason** why Vision's current possession of the LG Claims and Security is not a barrier to an alternative rescue plan is that the BRPs have not, to the best of my knowledge, ever independently confirmed the validity, extent, or efficacy of the security attaching to the LG Claims.

67. The mechanism by which the LG Claims are allegedly secured is referred to only in vague and mysterious terms in the Vision Plan, and is said to arise – to the extent that it has been disclosed and understood – on the basis that:¹³



67.1. THL's subsidiaries have been conducting business since the 1980s, unbeknownst to anyone, as agents for THL as their undisclosed principal (THL's subsidiaries include for example Tongaat Hulett Sugar South Africa Ltd, itself a listed company);

67.2. by virtue of the aforesaid alleged agency relationship, all of the subsidiaries' assets were allegedly in fact THL's assets;

67.3. since – on this version – the Lender Group held security over all THL's assets, such security allegedly extends to encompass all the assets held by its subsidiaries.

68. The BRPs state in the Vision Plan that the existence of the relevant agency agreements was "previously undisclosed to third parties" and was only revealed in correspondence dated 20 December 2022, i.e. two months after THL was

¹³ Vision Plan at paragraphs 3.1.7 and 5.3.1.5, record pp 001-1014 and 001-1032.

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placed in business rescue. Convenient timing for the submission of secured claims.

69. I recall that when the BRPs published the first proposed plan in THL's rescue proceedings, which was premised on an investment by a company called Kagera which later withdrew, the contents of that plan indicated that the BRPs were unable to provide warranties in relation to the efficacy of the security attaching to the LG Claims.

70. The extent, validity, and efficacy of the security alleged in terms of the LG Claims and Security is critical because I am advised that:



70.1. as is not uncommon for holding companies, the vast majority of THL's value lies in its subsidiaries, its Mozambican business alone is known to be valued at between US\$ 200 – 300 million depending on market conditions. Secured claims against THL are therefore worth immeasurably less than security that extends to encompass the assets of all its subsidiaries;

70.2. if the assets of THL's subsidiaries are not encumbered / validly encumbered by the LG Claims and Security, THL's ability to survive is all but guaranteed;

70.3. it does not normally follow, on the basis *inter alia* of the established principles of agency and separate corporate personality, that an agency relationship of the nature alleged would extend the security held by a creditor at holding company level (i.e. THL) to encompass all the assets

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of the holding company's subsidiaries (this is especially so in the context of listed public companies).

71. Since the BRPs have not independently verified the validity of the security attaching to the LG Claims (as they were obligated by law to do), it is imperative for this to be established urgently if THL is to be given the best prospect of survival.
72. RGS has therefore sought an order for the production of (i) the relevant agency agreements, and (ii) the security instruments asserted by Vision in terms of the Counter Application.
73. **The third reason**, why Vision's possession of the LG Claims and Security is not a barrier to an alternative rescue plan arises from the Act.
74. Vision has previously argued in litigation brought by RGS that RGS' attempts to step into Vision's shoes are doomed because Vision holds the LG Claims and Security and will never vote those claims in favour of a rescue plan proposed by RGS even if RGS succeeds in having the Vision Plan set aside.
75. I am advised, however, that the SCA has confirmed that a creditor's vote against the adoption of a business rescue plan will be set aside in terms of sections 153(1)(a)(ii) and 153(7) of the Act where the result of such vote is deemed "inappropriate".¹⁴
76. Assessing the appropriateness of the vote entails a value judgment and tests the result of the vote against the objectives of business rescue, i.e. the balancing of



¹⁴ FirstRand Bank Ltd v KJ Foods CC 2017 (5) SA 40 (SCA) at e.g. paragraph 80.

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the rights and interests of all affected persons. On this basis a creditor, no matter the extent of its claims or security, cannot vote down the best available plan in the pursuit of naked self-interest at the expense of all Affected Persons.

77. Thus, even assuming that (i) the LG Claims Acquisition Agreement is lawful, (ii) Vision's possession of the LG Claims and Security will not revert to Standard Bank due to Vision's default of payment, and (iii) the security underlying the LG Claims is verified to be valid as asserted, Vision will still not be able to shoot down an alternative rescue plan if that plan presents a lawful and feasible rescue and amounts to the best plan available to THL.



78. Vision's belief that it holds THL ransom is therefore misconceived.
79. So too are the statements Vision made in a press release of 13 February 2026 titled *THE FACTS: OUR TRUTH* where Vision states *inter alia* the following:
- 79.1. "Vision acquired Tongaat Hulett's Ltd 'THL' R11.7b of debt, security and claims from the SA major banks in January 2024. The final cash payment was made in May 2025." (emphasis added);
- 79.2. Vision "are the new owners" of THL's "claims and security (shares, plants & equipment / factories, land / properties etc.);"
- 79.3. Vision is "the major secured lender to Tongaat" (emphasis added.)

A copy of the statement is annexed, marked "**MAR5**".

80. Vision does not own THL or any of its property and did not acquire the LG Claims and Security in January 2024.


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81. The fact that Vision does not own THL or any of its property is obvious since the Vision Plan has failed and ownership of THL would only have passed to Vision upon closure of either the Equity Conversion or the Asset Transaction plus the fulfilment of all Vision's other obligations under the plan. This has not occurred.

82. The fact that Vision did not acquire the LG Claims and Security in January 2024 is evident *inter alia* from:

82.1. (i) information provided to shareholders by the BRPs during August 2024

when they unlawfully attempted to proceed with the Equity Conversion before Vision had completed the LG Claims Acquisition, and (ii)

subsequent correspondence from Standard Bank (on behalf of the Lender Group) confirming that the acquisition had not been achieved (i.e. because Vision had not paid) but that the Lender Group was willing to "make available" to Vision sufficient claims to implement the transactions required for Vision to take ownership of THL (see paragraphs 216 - 220 and 247 below);

82.2. The terms of a prior version of the LG Claims Acquisition Agreement (which lapsed due to Vision's non-payment on 6 December 2023) that was disclosed during litigation in December 2023 from which it is evident that ownership of the LG Claims and Security would – of course – only pass to Vision once the latter had paid. I annex a copy of the prior version of the agreement (which lapsed pursuant to non-payment by Vision), marked "MAR6".

83. Vision's principals, Mr Robert Gumede and Mr Rute Moyo, are well aware of the aforesaid facts and of the legal position. The misrepresentations made to the



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public in Vision's media statement of 13 February 2026 are, on the most generous interpretation possible, wildly reckless.

(iii) RGS' proposal is capable of implementation in the short term

84. As indicated, and on the assumption that RGS is successful in the relief it seeks in the Counter Application, the most significant timing challenge that arises is the imperative to conduct a due diligence investigation.

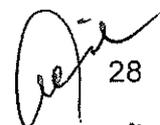
85. The BRPs have, however, since their appointment maintained what is referred to as a "virtual data room" or "VDR". The VDR is a vast digital repository of THL information and was used for purposes of previous due diligence investigations.



86. Should RGS be granted access to the VDR and to THL's pertinent up-to-date financial records (to the extent that this is not in the VDR already), a due diligence investigation will not take long but I do not have access to the facts that would enable me to estimate the expected duration of the investigation at this point.

87. RGS will, however, employ a large team of experienced consultants to conduct the investigation and ensure that no expense is spared in facilitating the conclusion of the investigation on the fastest possible basis.

88. Since the investigation will not have been completed by April 2026, when the forthcoming milling season starts and when THL's access to working capital will truly become critical (see paragraphs 36 to 37 above), interim measures will be necessary to float THL given that there is negligible headroom remaining in the IDC PCF Facility.


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89. RGS proposes in this regard, subject to the IDC's agreement, to issue bank guarantee(s) in the IDC's favour in a quantum to be determined, in consultation with THL and the IDC, with reference to the working capital requirement of R600 million.

90. As is evident from the founding affidavit (see e.g. paragraph 93), the IDC has not abandoned THL. The IDC has in fact signalled its intention to oppose this application in a recent media statement.

91. The problem is that the IDC does not have sufficient security to create more headroom in / increase the IDC PCF Facility.



92. When the IDC proposed a "security sharing" solution (i.e. where Vision would lift some of the security it purportedly holds over THL's assets by virtue of the LG Claims and Security to allow the IDC to make headroom in the PCF Facility), Vision refused, instead expressing the view that "Government ought to assist the IDC in relation to Tongaat's funding needs."

93. The provision by RGS of bank guarantee(s) in the IDC's favour can occur quickly if the relief sought in the Counter Application is granted. Bank guarantees can be issued in a matter of weeks since they are backed by the issuing party's own assets and no due diligence of THL is required.

94. This presents a viable near-immediate solution to THL's working capital crisis.

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WHY THIS COURT SHOULD EXERCISE ITS DISCRETION TO REFUSE LIQUIDATION AND THE TERMINATION OF BUSINESS RESCUE

95. I do not propose to dwell on what is at stake should THL be liquidated. The consequences of liquidation are known to all, with credible estimates to the effect that 250 000 jobs and livelihoods will be impacted.

96. The Vision Plan itself records the following at paragraph 6.1.1.1:¹⁵

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



97. Arguments may be advanced by the BRPs to the effect that the Court should grant the relief sought by them now since the law technically permits a company to be placed under business rescue supervision even after a final liquidation order is issued.

98. The reasons why this argument cannot be sustained were explained by THL's CEO and senior management in their letter to the BRPs, Vision, and the IDC of 3 December 2025.¹⁶ They highlight *inter alia* the following (emphasis added):

“1. Why liquidation is not a tolerable fallback

¹⁵ Record p 001-1078.

¹⁶ Annexure “FA22”, record p 001-1235.

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Liquidation transfers control to court-appointed liquidators whose mandate is to realise assets, **not to preserve integrated going-concern value**. Forced disposal, process delays, loss of critical skill, and heightened operational and security risks **erode value very quickly**. Even for secured creditors, net recoveries are reduced by preservation and realisation costs, time-related discounts, and **operational damage before sale**. The implications would not be confined to the South African operations. Through shared services, funding and covenant linkages, supplier networks, and brand association, the effects would ripple into Zimbabwe, Mozambique, and Botswana, destabilising trading continuity and ongoing refinancing processes in those jurisdictions.”



99. THL management also note that serious security concerns will arise if people are not paid (I say people because I assume the risk is not limited to the non-payment of employees but extends across the value-chain). They refer to the risk of “severe unrest” and the fact that THL’s mills hold substantial dry bagasse stockpiles which are highly combustible.
100. Vision was not joined to this application (other than as an Affected Person given that it is a creditor) and had not opposed this application when I deposed to this affidavit.
101. It is clear what Vision’s intentions are in the context of liquidation when regard is had to its media statement of 13 February 2026 (paragraph 79 above). It will assert the LG Claims and Security of R11.73 billion and embark on a corporate raid to no one’s benefit but its own.
102. Even if it extracts THL’s businesses from the liquidation process, Vision has demonstrated its complete inability to run those businesses given – amongst

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other things – the fact that it does not have access to cash and is incapable of raising financing sufficient to provide for THL’s working capital requirements.

103. To be clear, Vision has failed, despite ongoing attempts since 11 January 2024, to secure THL’s working capital requirements. It will not succeed in doing so in the context of liquidation.

104. It is submitted that the termination of rescue proceedings / provisional liquidation should not be considered until every possible avenue of alternative rescue has been exhausted.



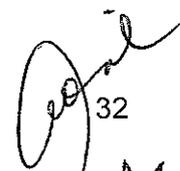
105. The correspondence from THL management demonstrates that any attempt to resuscitate rescue proceedings once THL has been placed under provisional liquidation is highly improbable to succeed. An order placing THL under provisional liquidation would have immediate, irreversible consequences.

106. The BRPs have not exhausted all alternative avenues for a successful rescue. THL and the Affected Persons should not suffer as a result.

107. I submit that the relief sought by RGS in the Counter Application is accommodated within the meaning of “any other order that the court considers appropriate in the circumstances” in terms of section 141(3) of the Act.

THE UNLAWFUL VISION PLAN MUST BE SET ASIDE

108. I am advised that there are only two options available to this Court. It can either grant the order sought by the BRPs or dismiss that order and keep THL’s business rescue alive.


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109. I am advised further that should this Court determine not to terminate THL's rescue proceedings (i.e. to refuse the relief sought in prayers 2 and 4 of the notice of motion), it cannot do so without at the same time setting the Vision Plan aside.

110. This is because the scope and ambit of the discretion bestowed on this Court in terms of section 141(3), i.e. to make "any other order that the court considers appropriate in the circumstances", does not extend to making an order to keep a failed plan in place.

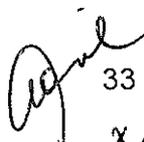
111. The failure of the Vision Plan has been demonstrated incontrovertibly  of the BRPs' version alone but there are many other objective grounds from which both the unlawfulness and the failure of the Vision Plan is evident.

112. These grounds are evident from the detailed factual background that I provide at paragraph 160 below, which is essential to understanding the nature and extent of the unlawfulness I summarise in the next paragraph.

113. I am advised that the main grounds from which the unlawfulness and failure of the Vision Plan can be established are, in summary, as follows:

113.1. Vision induced creditors to vote to adopt the Vision Plan on the basis of the material misrepresentation that it had sufficient cash to implement the plan (see the allegations dealing with the Creditors Meeting at paragraph 175 below);

113.2. The SCA has held that any change of the funding on which an adopted plan is premised must be approved by creditors and cannot simply be changed unilaterally by practitioners. Vision's change from cash funding to loan funding provided by Standard Bank / the IDC is therefore unlawful


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because it was concealed from Affected Persons and not approved by creditors;

113.3. The Vision Plan lapsed because it could not be implemented within a reasonable time (the plan itself is premised on the completion of the Vision transactions by 1 April 2024);

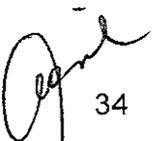
113.4. The implementation of the Vision Plan was unlawful because the BRPs proceeded with the Equity Conversion before the LG Claims Acquisition had been achieved by Vision. This was in breach of the Vision Plan (as confirmed by this Court in the Disclosure Judgment) and resulted in the failure of the main transaction on which the plan was premised;



113.5. The Asset Transaction is unlawful because it does not comply with the provisions of section 150 of the Act and therefore does not constitute a self-standing business rescue plan (see paragraph 226 below). The BRPs should, upon the failure of the Equity Conversion, have convened another creditors meeting to (i) request creditor approval to proceed with the Asset Transaction, and (ii) provide creditors with all the information contemplated in section 150;

113.6. Vision has, on the BRPs' own version, unilaterally imposed material conditions regarding the implementation of the Vision Plan that are extraneous thereto (i.e. not provided therein either expressly or by implication). These conditions include:

113.6.1. Conditions regarding the wholesale structural reform of the sugar industry at large, including the amendment of SASA's


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constitution, changes to the Sugar Agreement, and other reforms that are patently incapable of being achieved in the short term;¹⁷

113.6.2. Vision's insistence that the IDC fund the discharge of its chief obligations under the Vision, being (i) the payment of R74 million to unsecured creditors, (ii) payment of R525 959 121 into escrow in relation to SASA, and (iii) the provision of funds to meet THL's working capital requirement;¹⁸

113.6.3. Vision's insistence¹⁹ that the IDC fund the refinancing of the PCF Facility (in circumstances where the Vision Plan expressly states as one of its "key features" that there was no obligation on the IDC to do so, and that the provision of working capital was Vision's obligation);²⁰

113.7. The BRPs proceeded with the implementation of the plan for months despite knowing that the aforesaid conditions were extraneous to the plan. Moreover, the BRPs worked towards achieving these extraneous conditions themselves by e.g. repeatedly writing to the IDC and others to persuade them to implement the reforms sought / provide the funds demanded by Vision;

¹⁷ FA at paragraph 75, record p 001-31.

¹⁸ FA at paragraph 196, record 001-94.

¹⁹ FA at paragraph 197.3, record 001-95. Cf paragraph 5 of the IDC letter at record 001-1252.

²⁰ Vision Plan at paragraph 6.1.5.3 record p 001-1083, the relevant terms are not numbered but appear from the second bullet point at record 001-1086 and in particular from the last sub-bullet that runs from record 001-1086 to 001-1088.



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113.8. The BRPs failed at all material times to provide Affected Persons with real and meaningful information regarding the true factual status of the Vision Plan and its implementation. This was in breach of their obligations under section 132(3) of the Act;

113.9. Vision enforced the LG Claims and Security against THL during the currency of its own "rescue" plan.

114. I therefore respectfully submit that any order this Court may make to keep THL's rescue proceedings alive must of legal necessity be accompanied by an order setting the Vision Plan aside on the basis that it is unlawful and has failed.



THE ROLE OF THE IDC AND THE DTI

115. It is evident from the founding affidavit that the only meaningful benefit that THL received from the rescue proceedings was its access to the IDC PCF Facility, without which THL would certainly long since have been liquidated.

116. The IDC's vital role has, however, been abused and it is evident from its letter to the BRPs of 4 December 2024 that the IDC was being blamed for causing THL's collapse on the basis that it could not legitimately or lawfully provide THL with a further R600 million in PCF funding in the absence of either a contribution from Vision or security to cover that amount.²¹

²¹ FA Annexure "FA26" at paragraph 4, record 001-1252.

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117. To the extent that I understand the founding affidavit (it does not set these facts out clearly or in one place), this amount of R600 million was being sought in addition to:

117.1. The existing IDC PCF Facility of R2.3 billion;²²

117.2. The amount of R517 million for payment into escrow in favour of SASA;²³

117.3. A further amount of R5.3 billion (the nature of which is not disclosed in the founding affidavit but apparently relates to funding sought by Vision to conduct its new business after taking ownership of all THL's assets)²⁴



118. These figures, even if inaccurate due to the vagueness of the founding affidavit, are astonishing. What was being demanded by Vision is far in excess of what the Vision Plan contemplates and does not correlate with the valid conditions contained in the Vision Plan (i.e. the conditions which Vision could lawfully assert).

119. There can be no doubt that the IDC was correct in refusing to give in to the sustained pressure that had been exerted on it and the DTI by Vision and the BRPs. Including by the circulation of "courtesy copies" of this application in draft form by Mr Murgatroyd on 3 December 2025 (see paragraph 137.5).

²² FA at paragraph 100, record 001-50.

²³ FA at paragraph 196, record p 001-94.

²⁴ FA at paragraph 196.1, record 001-94.

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120. The nature and extent of the pressure placed on the IDC coupled with the ridiculous suggestion that it was somehow responsible for this application for liquidation is concerning.

121. It smacks of an attempt to draw the IDC and DTI out, upon and in response to the issuing of this application, and to create a situation that would make it as difficult as possible for them politically not to accede to Vision's increased funding demands considering the economic and human catastrophe that is at stake.

122. The fact that this application had been prepared by 25 November 2025 (see paragraph 137.4 below) and sent by the BRPs to the IDC on more than one occasion, accompanied by correspondence urging the IDC to provide further urgent funding within days, lends credence to what I have said in the previous paragraph.



123. I will constrain myself to the following comment: the assistance and cooperation of the IDC (and by extension the DTI) have been and will continue to be vitally important to THL.

124. RGS is entirely aligned with the goals and objectives expressed by the IDC and the DTI in the press release issued by them on 20 February 2026 signalling their intent to oppose the liquidation of THL. The two main objectives going forward must be the preservation of employment and stakeholder / institutional value.

125. I must, however, emphasise that whatever solutions may be identified should THL's business rescue survive this application must naturally remain within the ambit of Chapter 6 of the Act and must result in the setting aside of the unlawful Vision Plan.

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URGENCY AND ABUSE

126. Since it has been impossible for me to prepare a full answering affidavit, and in particular impossible to provide a sequential response to all the allegations contained in the founding affidavit, it remains necessary for me to deal with the abusive manner in which this application has been brought in case a postponement does become necessary.

127. This application was filed on Caselines at 10h50 on Thursday, 12 February 2026.

A copy of the notice of motion and founding affidavit – excluding annexures – was published by the BRPs on THL’s business rescue website later that day.



128. It will be noted that no physical service occurred. The business rescue website has been the main platform through which the BRPs have communicated with Affected Persons, including for purposes of notifying Affected Persons of litigation. Subject to what follows, RGS does not take issue with the manner of service.

129. A full copy of the application, including annexures, was only published by the BRPs on the website on Friday, 13 February 2026, meaning that the application was served on that day.

130. The founding affidavit spans 118 pages, and the full application runs to 1356 pages.

131. The dizzying degree of urgency with which this application has been pursued by the BRPs is evident from the fact that the notice of motion required respondents to:

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131.1. oppose this application by 17h00 on Friday, 13 February 2026 (i.e. the same day on which the application was served);

131.2. deliver answering affidavits by 17h00 on Tuesday, 17 February 2026.

132. RGS, and all Affected Persons, were thus given less than one day within which to oppose and a single further court day within which to prepare and file answering affidavits.

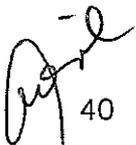
133. This is unacceptable conduct from a litigant, which amounts to an abuse. I understand that this Court has repeatedly warned against grossly unreasonable conduct by litigants in relation to the unjustifiable abridgement of filing periods in urgent applications.



134. This abuse is heightened by (i) the BRPs' conduct leading up to the filing of this application (i.e. their withholding of essential information from Affected Persons), and (ii) by the extraordinary nature and contents of this application and the catastrophic consequences that will ensue if it were to be granted.

135. I am advised that the BRPs were required, by the clearest authority, to justify urgency not merely in the abstract, but by pertinently (with reference to facts set out in its founding papers) justifying the degree by which they have abridged the ordinary entitlement of RGS and all Affected Persons to make out a case.

136. Patently the BRPs have not done so. The founding affidavit is formulaic. It does not even attempt to justify demanding notice of opposition on the same day as service and an answer one court day later.


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137. The extent of the abuse of the BRPs' conduct (i) in formulating the notice of motion, and (ii) in relation to the timing of this application is further illustrated by the following facts which emerge from the founding affidavit:

137.1. In the context of urgent funding not being forthcoming from the IDC, Mr Murgatroyd sent an email to the IDC on 11 October 2025 in terms of which he referred to the "BRPs' stringent obligations under the provisions of section 141(2)(a) of [the Act] (i.e. inter alia an obligation to apply to court for an order to place THL into liquidation in the event that the BRPs conclude that 'there is no reasonable prospect for the company (THL) to be rescued";²⁵



137.2. In a letter to the IDC, DTI, and Vision of 18 November 2025, the BRPs refer to a prior letter of 14 November 2025 in terms of which they were to "record and confirm that the BRPs would need to seriously consider applying for THL's liquidation if the requested funding was not committed to by the IDC in time.";²⁶

137.3. In a separate letter to the IDC, DTI, and Vision on the same day (i.e. 18 November 2025), the BRPs state that they had concluded that if the funding requested from the IDC was not provided by 21 November 2025 "the prospects of successfully rescuing THL have dissipated leaving the BRPs with no alternative but to apply for the liquidation of THL in accordance with their statutory obligations in this regard.";²⁷

²⁵ Annexure "FA13" record p 001-1182.

²⁶ Annexure "FA17" at paragraph 48, record p 001-1220.

²⁷ Annexure "FA16" at paragraph 2, record p 001-1197

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137.4. In a letter to the IDC, DTI, and Vision of 25 November 2025 the BRPs confirm that “[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.”;²⁸

137.5. On 3 December 2025, Mr Murgatroyd sent an email to the IDC, DTI, and Vision in terms of which he confirmed that “Werksmans have been instructed to provide you with a courtesy copy of the notice of motion and the supporting founding affidavit later today. Filing will occur on Friday 5 December 2025 (or shortly thereafter) with the matter to be set down for hearing on 17 December 2025...”;²⁹



137.6. On 20 January 2026, Werksmans sent a letter to the IDC informing it that (i) the BRPs were “operating in a vacuum of information, 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...”, and (ii) that the BRPs had concluded that there were no longer any reasonable prospects of rescuing THL;³⁰

137.7. As in common for templates used by law firms, the top left header to every page in the founding affidavit contains the MS Word file name, date, time and file reference. The header on every page of the founding affidavit is as follows: *THL Founding Affidavit 15 January 2026*

²⁸ Annexure “FA18” at paragraph 4, record p 001-1225.

²⁹ Annexure “FA21” record p 001-1232.

³⁰ Annexure “FA39” at paragraphs 2.15 and 2.18, record p 001-1300.

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(11:28)/#11391724v120102025. It indicates that the founding affidavit as issued was updated on 15 January 2026 at 11:28. If it was updated again after that date and time, the date and time in the header would in the ordinary course also have been updated accordingly.

138. The BRPs did not inform Affected Persons either of the events summarised above (and set out in detail in the founding affidavit) or provide even a vague indication that THL was on the very cusp of liquidation due to the failure of the Vision Plan which has been objectively apparent for many months. This conduct is consistent with the fact that the BRPs have consistently failed and refused to provide Affected Persons with the material facts relating to the Vision Plan and its implementation as is apparent from the factual background I provide below.



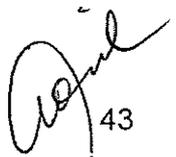
139. They had a mandatory statutory duty to do so under section 132(3) of the Act.

140. It bears emphasis against this backdrop that the BRPs have acknowledged in the founding affidavit that, by 5 and 7 December 2025 respectively, news of THL's imminent liquidation had leaked causing what they refer to as "concern"³¹ and "significant alarm"³² in the industry.

141. Indeed, on 8 December 2025, RGS received a copy of a document that had been widely circulated in the industry, and which contained a briefing to the Deputy Minister of Trade, Industry, and Competition which referred *inter alia* to "[t]he current financial collapse of [THL]" and "the [BRPs'] decision to proceed with

³¹ FA at paragraphs 126 – 127, record 001-59.

³² FA at paragraph 131, record 001-60.


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liquidation.” (“**the DTI Briefing**”). A copy of the DTI Briefing is annexed, marked “**MAR7**”.

142. On the same day, RGS’ attorneys sent a letter to Werksmans complaining of the manner in which the BRPs were breaching their statutory duties to Affected Persons by failing to provide any material facts regarding the status of the rescue proceedings, referring to and attaching the DTI Briefing, and demanding that the BRPs confirm *inter alia* whether (i) the BRPs had determined that the business rescue had failed, and (ii) whether the BRPs had prepared a liquidation application and, if so, when it had been set down for hearing (“the RGS 8 December Letter”). A copy of the RGS 8 December Letter is annexed, marked “**MAR8**”.



143. Werksmans responded at 22h52 on 9 December 2025 stating *inter alia* the following:

- “2. The content of your letter is another transparent attempt on the part of your client to belatedly attempt to construct grounds for yet another urgent application against, *inter alios*, our clients.
3. Our clients deny the assertions and allegations contained in paragraphs 1 to 16 of your letter.
4. Without conceding any obligation to respond to the interrogatories in paragraph 17 of your letter, or that your client is entitled to the information request in such paragraph, our client has instructed us to advise you that –
 - 4.1 the briefing document is replete with factual errors. The current position, from our clients’ perspective, is as recorded in its most recent Notice to Affected Persons. That notice has also been uploaded to THL’s website and can be found under the business rescue tab;
 - 4.2 the BRPs have not determined that THL’s business rescue proceedings have failed; and
 - 4.3 in the light of, *inter alia* paragraph 4.2 above no liquidation application has been issued.

...”

(emphasis added.)

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144. A copy of the abovementioned letter is annexed, marked "**MAR9**" ("**the Werksmans 9 December Letter**").

145. Werksmans' response was, at best, disingenuous. RGS asked, i.e. in the RGS 8 December Letter, whether this application had been "prepared" and Werksmans' response that the application had not been "issued" is deceiving.

146. More importantly, I do not understand on what basis the contents of the DTI Briefing were labelled as being "replete with factual errors" in circumstances where the material information contained therein has now been confirmed by the BRPs themselves in the founding affidavit.

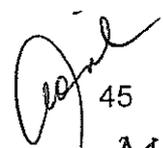


147. The "notice to affected persons" referred to in the Werksmans 9 December Letter was published by the BRPs on THL's website some hours before the Werksmans 9 December Letter was received (i.e. after RGS' letter was sent), a copy of the notice is annexed, marked "**MAR10**". The notice reads in relevant part as follows:

"We are aware of concerns about Tongaat Hulett's future. The factual position is set out below.

Vision Sugar and the [IDC] have confirmed that they remain committed to the implementation of the business rescue plan and are actively working together to progress its completion. A requirement of the adopted business rescue plan and the Sale of Business Transaction is the refinancing and migration of the IDC post-commencement finance facility from Tongaat Hulett to Vision. Although these negotiations are taking longer than originally anticipated, Vision and the IDC have now agreed to a structured process to resolve the outstanding matters as soon as possible.

Stakeholders are urged to avoid making decisions based on incomplete or inaccurate information. To provide clarity, we can confirm that payment of employee salaries and contractual 13th cheques, grower payments, and supplier / off -crop payments remain on track for December 2025..."


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148. The contents of the aforesaid notice are irreconcilable with the true factual and financial reality that confronted THL and the BRPs at the time and is inconsistent with the BRP' own version (as is apparent from the summary of events set out in paragraph 137 above.)

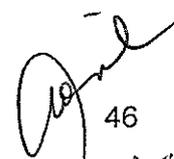
149. Had the BRPs complied with their statutory obligations under *inter alia* section 132(3) of the Act and informed Affected Persons contemporaneously of the material facts relating to the status of the business rescue, RGS and all Affected Persons would have been in a position to consult their legal representatives, consider their remedies, and take appropriate action with sufficient time to properly ventilate and vindicate their cases.



150. RGS and the members of its legal team have been totally inundated with unsolicited calls from Affected Persons, many from rural Kwa-Zulu Natal who do not have fleets of lawyers on standby, and who are desperate to join the opposition to this application.

151. More specifically, if the BRPs had acted transparently, as they were required by the Act to do in their capacities as officers of this Court, RGS would have been in a position *inter alia* to:

151.1. secure the Afrexim term sheet within a reasonable time and initiate the inherently time-consuming and multi-stakeholder-driven process necessary to realise its attempt to salvage THL's business rescue much sooner;


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- 151.2. instruct its legal team to start preparing this affidavit, the Counter Application, and heads of argument much sooner (i.e. in anticipation of imminent liquidation).
152. Serious concerns remain about RGS' ability to prepare comprehensive heads of argument ahead of the hearing on 27 January 2026 as its entire legal team have had to devote all their time exclusively to the preparation of this affidavit while the BRPs' lawyers were no doubt already refining their written arguments.
153. The position was not assisted by an email received from the BRPs' attorneys ("Werksmans"), at 11h44 on 18 February 2026 informing RGS that its answering affidavit was "out of time" and demanding a condonation application "explaining" RGS' "failure to adhere to the time periods provided for in the notice of motion." A copy of this email is annexed, marked "**MAR11**".
154. RGS' attorneys responded on the same day. They referred to the impossible time periods imposed by the BRPs in the notice of motion and informed Werksmans (i) that RGS was doing everything it could to prepare this affidavit in the shortest possible time, (ii) that RGS was aiming to file by Monday, 23 February 2026 (i.e. five court days after service), but stressed that RGS could not and did not guarantee that it would in fact be possible to do so. A copy of this email is annexed, marked "**MAR12**".
155. RGS filed its notice to oppose on Tuesday, 17 February 2026 and has prepared this affidavit with the maximum possible expedition.



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156. It has, however, proven impossible to deal in this affidavit with all the allegations contained in the founding affidavit, i.e. this affidavit does not include a sequential response thereto.

157. I am advised that the law requires respondents to an urgent application to do the best they can to comply with the deadlines unilaterally imposed in the notice of motion and that such deadlines are ignored by respondents at their own peril. I therefore proceeded to have this affidavit filed as soon as possible despite its incomplete state.

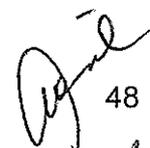


158. I reiterate, however, that this is merely a preliminary answering affidavit. RGS has not had anything even approaching a reasonable amount of time within which to (i) consider the founding papers, (ii) consult with its legal representatives, or (iii) fully ventilate its case opposing the relief sought and attempting to salvage the rescue proceedings. RGS therefore reiterates the reservation of its right to file a full answering affidavit in due course.

159. In addition, should RGS' counsel be unable to prepare comprehensive heads of argument prior to the hearing on 27 January 2026, RGS reserves the right to request this Court's leave to file supplementary written argument subsequent to the hearing.

FACTUAL BACKGROUND

160. Many of the facts relevant to the relief RGS seeks, and which offer direct explanations for what occurred in relation to the Vision Plan and its implementation, have either not been set out in the founding affidavit or do not emerge clearly therefrom. I therefore provide the following summary.


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(i) The Vision Plan and its failures

161. The Vision Plan was adopted at a creditors meeting convened in terms of section 151 of the Act on 10 and 11 January 2024 ("**the Creditors Meeting**").

162. The Lender Group has at all times been THL's largest secured creditor and held claims ultimately worth in excess of R11 billion which were allegedly secured over the full extent of the property and businesses owned by THL, i.e. including all its subsidiaries and their assets, i.e. the LG Claims and Security.

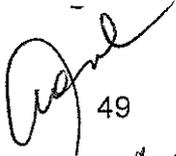
163. The Vision Plan as formulated and proposed by the BRPs and Vision is premised on a highly unusual – and as will be demonstrated, unlawful – feature.



164. Vision did not propose to pay any money or inject any equity into THL to acquire THL in terms of the Vision Plan. Instead, during November 2023 Vision and the BRPs announced that Vision had, privately and outside the ambit of the rescue proceedings, concluded an agreement with the Lender Group to fully acquire the LG Claims and Security (i.e. the LG Claims Acquisition and the LG Claims Acquisition Agreement).

165. In terms of its announcement of the LG Claims Acquisition, Vision informed the BRPs that once the acquisition – which remained subject to payment – was complete, Vision would cast its majority votes in THL's business rescue only in favour of the adoption of its own business rescue plan.

166. Vision further announced, and the BRPs confirmed, that it was expected that Vision would make payment to the Lender Group to complete the LG Claims Acquisition "in the very near term" (this was said in November 2023).


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167. When the first version of the Vision Plan was published by the BRPs on 29 November 2023, the executive summary to the Plan stated the following at paragraph 2.2 (this paragraph is now paragraph 2.3 in the Vision Plan).

"2.2 The **key feature** of this Business Rescue Plan, pursuant to the Adoption and implementation of this Business Rescue Plan, **is the acquisition by the Vision Parties of the substantial Claims and security held by the Lender Group** in the amount of cR7.7bn³³ (**which acquisition is anticipated to have been completed by the date of the Meeting**) and the **subsequent conversion by the Vision Parties of a material portion of such Claims into new equity in THL** ("the Vision Transactions"). This together with the other Proposals put forward in this Business Rescue Plan, will result in (inter alia):



- 2.2.1 the **continued trading of THL substantially in its pre-Commencement Date composition**. In this regard it is noted that THD [Tongaat Hulett Developments (Pty) Ltd] will remain a subsidiary of THL, subject to the implementation of THD's business rescue plan;
- 2.2.2 the **recapitalisation of the THL balance sheet** through the Proposal put forward in this Business Rescue Plan, **in particular the conversion by the Vision Parties of a material portion of the former Lender Group Claims into equity**; and
- 2.2.3 **the continued listing of THL on the JSE**, albeit with current Shareholders becoming minority shareholders and the Vision Parties in aggregate holding the bulk of the listed shares in the Company following the abovementioned debt to equity conversion."

(emphasis added.)

³³ This was the contemporaneous value of the LG Claims and Security as at 29 November 2023.

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168. The first version of the Vision Plan moreover included the following recordal at pages 45 – 46:

“Subsequent to the conclusion of the SEP process, the BRPs were advised by the Vision Parties and the Lender Group that the Vision Parties were to acquire the significant (from a Voting Interest perspective) secured Claims of the Lender Group. **The Vision Parties have made clear to the BRPs that subsequent to completion of the acquisition of the Claims of the Lender Group they would not vote such Claims in favour of a business rescue plan predicated on any alternative proposal received by the BRPs, but would only support the Proposals agreed with the BRPs and put forward in this Business Rescue Plan.**



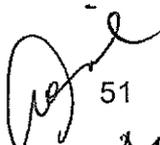
It is noted that as at the Publication Date, the acquisition of the Claims of the Lender Group by the Vision Parties have not been completed.”

(emphasis added.)

169. Copies of the aforesaid extracts from the first version of the Vision Plan are annexed, marked “**MAR13**” and “**MAR14**”.

170. The mechanism by which Vision was to acquire ownership of THL in terms of the Vision Plan as aforesaid, was therefore a conversion of the debt (i.e. the Lender Claims and Security) that it was to hold against THL pursuant to the conclusion of the LG Claims Acquisition into a 97.3% shareholding in THL (“**the Equity Conversion**”).

171. I pause to emphasise, that the BRPs' version has always been that they have never been provided with a copy of the LG Claims Acquisition Agreement arguing that it was a private agreement extraneous to the Vision Plan.


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172. This was and remains demonstrably wrong since, as this Court held in its judgment in the Disclosure Application (see paragraph 211 below), the Vision Plan expressly requires the acquisition of the LG Claims and Security to be completed in full before it permits the BRPs / Vision to proceed with either the Equity Conversion or, when that failed, the Asset Transaction.

173. The validity of this Court's finding in the Disclosure Application is so clear it need hardly be explained. The express and unambiguous wording of the Vision Plan requires the prior completion of the acquisition in terms,³⁴ and it does so because:



173.1. Vision was not to inject any equity into THL, the proposed mechanism of rescue was the reduction of THL debt (i.e. the LG Claims and Security) by means either of the Equity Conversion (i.e. where some of the debt would be swapped for shares), or the Asset Transaction (i.e. where Vision would "purchase" THL's businesses and assets in exchange for "payment" in the form of a reduction of the debt);

173.2. While in the event of either the Equity Conversion or the Asset Transaction, Vision would still retain R3.6 billion of the "ex-Lender Group Claims", the plan states that THL would benefit from an interest holiday, and Vision holding that residual debt would have meant that THL would be relieved of the default interest rates being charged by the Lender Group on that debt which has reliably been reported to be at 20%.

³⁴ Vision Plan at paragraph 2, record p 001-1005; paragraph 2.5.4, record p 001-1008; the definition of "Vision Transactions" in paragraph 3.1.85, record 001-1024; the definition of "Vision Debt" at record pp 001-1084 to 001-1085; paragraph 14.1.1.11, record p 001-1130, paragraph 14.1.2.8, record pp 001-1132 to 001-1133.

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174. Once both the LG Claims Acquisition and the Equity Conversion had been completed (in that order), Vision's chief obligations under the Vision Plan – and the mechanisms by which THL's rescue was supposed to be achieved – were in summary as follows:

174.1. Vision was to pay unsecured creditors a total combined distribution of R75 million (amounting to approximately 5 cents in the rand) ("**the Unsecured Creditors Distribution**");³⁵

174.2. Vision was to pay an amount of R525 959 121 into an escrow account in favour of the South African Sugar Association ("**SASA**") pursuant to an agreement with the latter, which funds were in the settled and reduced amount claimed by SASA against THL in relation to THL's financial obligations under the Sugar Act 9 of 1978 ("**the SASA Escrow Amount**").³⁶ The BRPs disputed SASA's claim in this Court, and when that application was dismissed, the BRPs pursued an appeal to the SCA. The SCA handed down judgment on 15 December 2025 again finding in SASA's favour.³⁷ The BRPs have sought leave to appeal to the Constitutional Court;

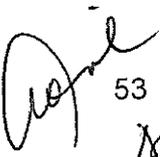
174.3. Vision was to secure working capital sufficient for THL's continued operations ("**the Working Capital Requirement**"). This included addressing the post commencement financing facility provided by the IDC to the value of circa R2.3 billion (, i.e. the IDC PCF Facility). The



³⁵ Vision Plan at paragraph 6.1.2.1, record p 001-1080.

³⁶ Vision Plan at paragraph 6.1.6.1, record 001-1088 to 001-1089.

³⁷ *Tongaat Hulett Ltd and Others v South African Sugar Association and Others* (945/2024) [2025] ZASCA 190 (15 December 2025).


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Vision Plan states that one of the “key details” of the plan was that Vision aimed to convert the IDC PCF Facility into a revolving loan post business rescue, but this was not a condition of the plan which in fact states expressly that the IDC is under no obligation to increase or extend the IDC PCF Facility. The obligation was simply for Vision to secure THL’s Working Capital Requirement.³⁸

(ii) The Creditors Meeting and Vision’s misrepresentation of funds

175. The Creditors Meeting was held virtually by video call on 10 and 11 January 2024. The meeting was recorded and the recordings have been provided to this Court on a memory stick. Where I refer below to representations made at the Creditors Meeting, I provide references to the times in the video recordings when the representations were made (e.g. Video Day 1 from 00:45:10 or Video Day 2 from 00:57:30).
176. By the time the Creditors Meeting was convened on 10 January 2024, Vision had not paid the Lender Group and the LG Claims Acquisition had not therefore been achieved despite Vision’s previous statement that (i) this would occur in the “very near term” in November 2023, and (ii) the recordal in the first version of the Vision Plan to the effect that the acquisition was anticipated to have been completed by the date of the creditors meeting (see paragraphs 166 and 167 above).
177. Creditors were therefore naturally concerned about Vision’s ability to fund the implementation of the plan and, as will be seen, the issue of Vision’s access to



³⁸ Vision Plan at paragraph 6.1.5.3 record p 001-1083, the relevant terms are not numbered but appear from the second bullet point at record 001-1086 and in particular from the last sub-bullet that runs from record 001-1086 to 001-1088.

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the funds necessary to implement the plan dominated the proceedings at the Creditors Meeting.

178. On the first day of the meeting Vision's representative, Mr Rob Bessinger, addressed creditors. He informed the meeting that Vision had completed a detailed due diligence on THL and had formulated a very detailed five-year plan for the company which plan Vision believed would result in a "long-term and sustainable Tongaat business and importantly will ensure that [sic] the continued trading of Tongaat and, what nobody wants, will definitely avoid a liquidation scenario." He also stated that Vision's plan for THL would result in the recapitalisation of the balance sheet and that Vision "will continue with the listing of Tongaat on the JSE."³⁹



179. Later during the first day of the meeting, the BRPs answered questions submitted by creditors. Creditors submitted questions in written form on the video conferencing platform and selected questions were then read out by Mr Albertyn and answered by Mr Murgatroyd (i.e. the BRPs).

180. A creditor asked the following question: for the collective benefit and understanding of all parties present please provide insights into the due diligence process undertaken to verify the sourcing and reliability of Vision's funding, understanding that these safeguards will greatly assist in understanding and evaluating the viability and integrity of the Vision Plan.⁴⁰

³⁹ Video Day 1 from 00:57:30.

⁴⁰ Video Day 1 from 01:21:10.

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181. Mr Murgatroyd's response was simply that the BRPs had received a letter from Standard Bank confirming that Vision had sufficient funding to implement the business rescue plan ("the Standard Bank Letter").⁴¹

182. The Standard Bank Letter is dated 21 December 2023 and was subsequently provided to RGS by the BRPs pursuant to Rule 35(12) notices filed in previous litigation. It provides in relevant part as follows (emphasis added):

"As requested by the Business Rescue Practitioners of Tongaat Hulett Limited, this letter serves to confirm the following regarding the customer Vision Investments 155 (Pty) Ltd ("Vision"):



- Vision holds a Standard Bank account;
- **The account has sufficient cash for Vision to execute the contemplated transaction as per the amended Vision business rescue plan dated 20 December 2023**
- The account has **sufficient cash** to meet the proposed **payment to unsecured creditors of R75 million** as per the amended Vision business rescue plan dated 20 December 2023..."

A copy of the Standard Bank letter is annexed, marked "MAR15".

183. Mr Albertyn then informed the meeting that another creditor had stated that neither the IDC nor the BRPs had addressed the funding / acquisition costs in relation to [the LG Claims Acquisition Agreement] which was critical to the success of the plan. Mr Albertyn mentioned that there were a couple more similar questions that had been submitted by other creditors regarding the transaction

⁴¹ Video Day 1 from 01:21:52.

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between Vision and the Lender Group and the fact that that transaction was not outlined in the plan.⁴²

184. Mr Murgatroyd's response was that the LG Claims Acquisition Agreement is a transaction and negotiation directly between Vision and the Lender Group and that the BRPs and / or THL were not party to. He said that the BRPs had a high-level understanding of what the transaction entails but that specific details of the transaction were between the parties.

185. Next, Mr Albertyn read out a statement followed by three questions that had been submitted by a creditor. The statement was as follows: the BRPs have been advised that Vision will upon the adoption of the plan acquire the Lender Group's claims and security, and the BRPs say that Vision has a substantial cash deposit available for payment to the Lender Group and that if the plan is approved Vision will finalise the acquisition of the claims. The BRPs say that the Lender Group and the BRPs have received proof that Vision has sufficient funds to execute the contemplated transaction as per the business rescue plan.⁴³



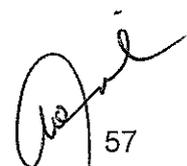
186. The three questions that followed the statement and Mr Murgatroyd's answers thereto were as follows:

186.1. Question 1: what does substantial deposit mean?

Answer: We haven't looked at what substantial deposit is but the Standard Bank Letter says that there is sufficient funding to implement the plan.

⁴² Video Day 1 from 01:22:11.

⁴³ Video Day 1 from 01:29:20.


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186.2. Question 2: What proof have the BRPs received that Vision have funds to finalise the acquisition and when will the acquisition occur?

Answer: The Standard Bank Letter but lets finish then I'll get to the point.

186.3. Question 3: What are the terms of the acquisition not set out in the plan and how do creditors assess the likelihood of the acquisition being completed?

Answer: That is between the Lender Group and Vision but the fact that the Lender Group approves the business rescue plan should give creditors comfort that the transaction will be implemented.



187. In response to queries by creditors as to whether the LG Claims Acquisition complies with the provisions of the Act, Vision's representative Mr Bessinger responded *inter alia* by saying that Vision will acquire the Lender Group position and then implement the Conversion.⁴⁴

188. Aligned with the concerns expressed by creditors, the chairman of the employee's committee, in his address to the Creditors Meeting, stated in relation to the Vision Plan that "security of funding is seen as a critical factor" given the collapse of rescue proposals made by previous interested parties [this was a reference to the failed Kagera plan].⁴⁵

⁴⁴ Video Day 1 from 1:34:35, Mr Bessinger's statement is from 1:36:20.

⁴⁵ Video Day 1 from 00:45:10.

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189. A creditor asked whether the transaction between Vision and the Lender Group (i.e. the LG Claims Acquisition) had been concluded and whether the Lender Group had been paid already or whether payment was conditional on Vision taking control of THL after business rescue.⁴⁶

190. Pursuant to the large degree of scrutiny from creditors, Mr Murgatroyd responded by informing the meeting that there had been a request from the Lender Group to stand the meeting down to finalise certain aspects of their transaction and that he therefore did not know the full answer to the question yet. He said that he would continue answering questions before the meeting was stood down.



191. A creditor then asked the following: in light of the BRPs not having details of Vision's acquisition funding, can the BRPs still contend that the plan has reasonable prospects of success.⁴⁷

192. Mr. Murgatroyd said that this had already been addressed and that confirmation of Vision's funding had been received [i.e. the Standard Bank Letter], and that if the IDC's security requirements could be met all would be good to go.

193. The meeting was then stood down until 14h00. When the meeting reconvened, it was stood down further at the Lender Group's request to 16h00. When the meeting resumed at 16h00 it was stood down to 14h00 the next day (i.e. 11 January 2024).

⁴⁶ Video Day 1 from 01:49:35.

⁴⁷ Video Day 1 from 01:52:40.

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194. When the meeting reconvened at 14h00 on 11 January 2024 Mr Murgatroyd said that there had been various discussions with the IDC and the Lender Group which had now been completed and that the meeting could therefore proceed.⁴⁸

195. Mr Murgatroyd then indicated that he would move straight on to motions that had been brought to amend the plan. He explained in this regard that there were two sets of amendments that needed to be considered and approved by the meeting:⁴⁹

195.1. First, the amendments that had been circulated in red mark up in the amended Vision Plan that was published on 2 January 2024 which related to the treatment of SASA's claim. Mr Murgatroyd said that these first set of amendments would be taken as having been read by creditors (i.e. since they were indicated in the amended Vision Plan which had already been circulated to creditors on 2 January 2024);

195.2. Second, further amendments that had been brought by the Lender Group and Vision after the first day of the Creditors Meeting which were not reflected in mark up in the amended Vision Plan of 2 January 2024 (**"the Additional Amendments"**);

196. While the Additional Amendments sought by Vision related solely to issues concerning SASA's claim and are irrelevant for present purposes, the Additional Amendments sought by the Lender Group related to Vision's proof of funding and are important. I therefore only deal with the latter below.

⁴⁸ Video Day 2 from 00:32:00.

⁴⁹ Video Day 2 from 00:33:09.



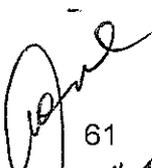
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197. Mr Murgatroyd then proceeded to address the Additional Amendments.
198. As indicated, the Vision Plan had been amended over December 2024 in order to address *inter alia* the status of SASA's claim. The plan had been published in its amended form on 2 January 2024.
199. At the time of the Creditors Meeting paragraph 2.2 of the amended Vision Plan (i.e. as published on 2 January 2024) read as follows (emphasis added):

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



200. The Additional Amendments to paragraph 2.2 of the amended Vision Plan that were proposed by the Lender Group were then displayed on screen. Pursuant to these amendments, paragraph 2.2. now read as follows (additions are indicated by underlining and deletions by strikethrough which are both original as published):


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



201. The Additional Amendments were not provided to creditors at all prior to adoption and were voted through on the basis of the Lender Group’s and Vision’s votes⁵⁰ with the amended text simply being displayed on screen and adopted immediately. Pursuant to queries from creditors,⁵¹ the BRPs undertook to publish the amendments following the meeting (i.e. following the adoption of the plan).

⁵⁰ The official voting results provided to RGS by the BRPs show that, in relation to the vote on the amendments proposed by the Lender Group only 69.43% of the voting interests participated in the vote. The Lender Group’s votes constitute approximately 67% of the total voting interests.

⁵¹ Video Day 2 from 00:38:40.

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202. I stress that since the plan itself was adopted directly after the Additional Amendments were voted in, creditors first received a copy of the amendments in the form of the adopted plan as published on THL's website after the meeting.
203. The BRPs and Vision did not inform creditors that the Additional Amendments, as they are now interpreted by Vision, vitiated all assurances that Vision was in funds as per the representations made on strength of the Standard Bank Letter. The BRPs in fact said nothing about the import or consequences of the amendments proposed by the Lender Group at all despite the nature and extent of the concerns regarding Vision's funding raised by creditors on the first day of the meeting.
204. The fact that the Additional Amendments included a reference to a deposit held by Vision was irrelevant since this was already stated in another pre-existing paragraph of the Vision Plan (as is evident from the words in brackets "referred to above" in the amended text of the plan quoted at paragraph 200 above).
205. The existence of the deposit was moreover specifically addressed by creditors in their questions to the BRPs in relation to Vision's funding (i.e. in that creditors were concerned about Vision's ability to fund the *balance* required for the implementation of the plan), in response to which the BRPs relied on the Standard Bank letter to assure creditors that Vision had sufficient cash to implement the plan (see paragraphs 185 and 186 above).
206. As indicated, the Vision Plan was then adopted directly after the amendments were voted through.



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207. Official voting results provided by the BRPs show that 71.95% of total voting interests participated in the vote on the adoption of the plan. The value of the Lender Group's voting interests was approximately 67% and it is common cause that both SASA and the IDC abstained from voting. The Vision Plan was therefore adopted solely on the basis of the votes cast by the Lender Group (pursuant to their prior agreement with Vision, i.e. the LG Claims Acquisition Agreement).

208. The following is apparent from the founding affidavit (read with the facts set out in this affidavit):



208.1. The essential assumptions and conditions disclosed in the Vision Plan, and on which it depends, state that the LG Claims Acquisition and the Conversion would be completed by 1 April 2024.⁵²

208.2. Vision did not have cash funds at the time of the Creditors Meeting sufficient to complete the LG Claims Acquisition let alone the entire plan;

208.3. Neither the BRPs nor Vision informed creditors that any aspect of the implementation of the Vision Plan was dependent on funding still to be procured by Vision, nor is such a condition disclosed in the Plan as it would have to have been in terms of section 150(2)(c)(i) of the Act;

208.4. Vision's belated completion of the LG Claims Acquisition, 16 months after the adoption of the plan, was funded by Standard Bank (possibly with some funding also being provided by the IDC) and Vision's possession of the LG Claims and Security therefore remains subject to

⁵² Vision Plan at paragraph 14.1.1.1, record p 001-1128 and paragraph 14.1.2.1, record p 001-1131.

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reversionary rights in the event that Vision defaults on its financial obligations to Standard Bank (which I am reliably informed it has already done);

208.5. Vision still does not have the funds required to implement the Vision Plan today;

208.6. Vision has not been able to settle the IDC PCF Facility or provide the IDC with the security required to convert the IDC PCF Facility into a long term revolving facility;



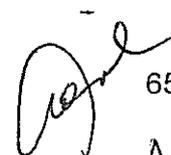
208.7. Vision has demanded that the IDC provide the funds necessary for Vision to settle the Unsecured Creditor Distribution, the SASA Escrow Amount, and the Working Capital Requirement (i.e. Vision has demanded that the IDC provide the funding required to discharge **all** of Vision's chief obligations under the plan);

208.8. Vision has requested separate and further funding in excess of R5 billion from the IDC;

208.9. The fact that Vision's above funding requests have not been successful has resulted *inter alia* in the failure of the Vision Plan.

209. The above demonstrates unequivocally that:

209.1. the representations made by Vision to the effect that it had sufficient cash to implement the Vision Plan were false (it did not even have sufficient funds to acquire the LG Claims and Security as at the date of the Creditors Meeting it only did so on 9 May 2025 using loan financing);


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209.2. the Vision Plan is, and has always been, unlawful because (i) it does not disclose that it was premised on the condition that Vision obtain loan financing to enable it to implement the plan in breach of section 150(2)(c)(i) of the Act, and (ii) such condition was in any event inconsistent with the material misrepresentations made by Vision to induce creditors to adopt the plan.

(iii) The unlawful attempt to implement the Equity Conversion and its failure



210. As I have said, the Vision Plan states clearly and unambiguously that the prior acquisition by Vision of all the LG Claims and Security is a condition to both the Equity Conversion and the Asset Transaction (referred to below).⁵³

211. The aforesaid fact was confirmed by this Court in its judgment in the Disclosure Application (“**the Disclosure Judgment**”) where it held as follows:

“[53] The Asset Transaction is premised on the prior Acquisition by the Vision Parties of all the Lender Group’s claims and security. Paragraph 2.3 of the Vision plan provides that: “The key feature of the business rescue plan, pursuant to its adoption and implementation, is the acquisition by the Vision Parties of the substantial Lender Group claims and the subsequent

⁵³ Vision Plan at paragraph 2, record p 001-1005; paragraph 2.5.4, record p 001-1008; the definition of “Vision Transactions” in paragraph 3.1.85, record 001-1024; the definition of “Vision Debt” at record pp 001-1084 to 001-1085; paragraph 14.1.1.11, record p 001-1130, paragraph 14.1.2.8, record pp 001-1132 to 001-1133.

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Conversion by the Vision Parties of a material portion of such claims into new equity in THL.” (emphasis added.)

212. A copy of the Disclosure Judgment is annexed, marked “MAR16”.

213. By August 2024 the BRPs had not informed Affected Persons that Vision had failed to complete the LG Claims Acquisition, they never did so. This amounted to a breach of their statutory obligations under section 132(3) of the Act.

214. Despite the fact that the LG Claims Acquisition had not been achieved, however the BRPs and Vision proceeded with the Equity Conversion during August 2024 and scheduled a shareholders meeting to this end for 8 August 2024.



215. Shareholder approval was required for the Equity Conversion because the conversion would have resulted in all existing shareholders’ collective interests in THL being diluted to only 2.7% while Vision would subscribe for shares constituting 97.3% of THL’s issued share capital.

216. It was apparent from financial information contained in a circular issued to shareholders on SENS⁵⁴ by the BRPs ahead of the shareholders meeting that the LG Claims Acquisition had not been completed (although this was not said expressly and the same information was not provided to creditors or other Affected Persons.) A copy of the circular is annexed, marked “MAR17”.

217. On the day before the shareholders meeting, prominent shareholders wrote to the BRPs and, in short, informed them that “a business rescue plan that dilutes

⁵⁴ The Johannesburg Stock Exchange News Service.

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the rights of the shareholders to 2.7% without the aforesaid wholesale acquisition [i.e. the LG Claims Acquisition] would be misplaced and grossly unreasonable.”

218. When the shareholders meeting was convened the next day on 8 August 2024, shareholders accordingly rejected the Equity Conversion.

219. By attempting to procure shareholder approval for the Equity Conversion in circumstances where they were aware that the LG Claims Acquisition had not been completed (and had failed to inform Affected Persons of this fact), both the BRPs and Vision acted in direct breach of the terms of the Vision Plan approved by creditors. This was unlawful (see the extract quoted from the Disclosure Judgment at paragraph 211 above).

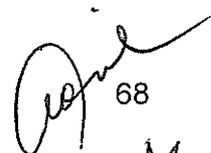


220. The fact that Vision had failed to pay for the LG Claims and Security by August 2024, despite its false representations to creditors regarding cash funding, therefore resulted directly in the failure of the Equity Conversion which was the main transaction on which the Vision Plan was premised.

(iv) The cost of Vision's delays suffocated THL

221. Both Vision's failure to pay the Lender Group and the consequent failure of the Equity Conversion resulted in inordinate delays in THL's rescue proceedings. This in turn resulted, among many other serious negative consequences, in default compound interest accumulating on THL's facilities and debts at eye-wateringly unsustainable rates (often at 20%).

222. The easiest illustration of this is the fact that the value of the LG Claims and Security is recorded in the Vision Plan at circa R7.7 billion as at 31 October


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2023.⁵⁵ By the time Vision sought to enforce that debt against THL on 8 February 2026 after the Vision Plan had failed, the amount had risen to circa R11.73 billion. That translates to interest of R4.03 billion being incurred in 2 years and 3 months.

(v) ***The Asset Transaction***

223. Following the rejection of the Equity Conversion, the BRPs issued a notice informing Affected Persons that the implementation of the Vision Plan would be switched from the Equity Conversion to the so-called “**Asset Transaction**”

224. The Asset Transaction is referred to in a single paragraph⁵⁶ of the Vision Plan (albeit that that paragraph appears in the plan twice) and was not mentioned by the BRPs or Vision at the Creditors Meeting at all.

225. In terms of the Asset Transaction, in the event of the failure of the Equity Conversion, Vision is to acquire THL’s assets and businesses on the basis that “payment for such assets will be effected by way of a set off against the Secured Claims [i.e. LG Claims and Security] then held by the Vision Parties.”⁵⁷

226. I am advised that the Asset Transaction does not constitute a self-standing, compliant business rescue plan as it does not meet the requirements of section 150 of the Act.

227. No information is provided in the plan (nor has it been provided subsequently despite innumerable demands) regarding, for example:

⁵⁵ Vision Plan at paragraph 2.5.4, record p 001-1008.

⁵⁶ Vision Plan at paragraph 6.1.7, record p 001-1093 *et seq.*

⁵⁷ Vision Plan at paragraph 6.1.7.1, record p 001-1094.



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227.1. the value at which the set off referred to in the previous paragraph will occur, i.e. the extent to which THL will be relieved of its indebtedness under the LG Claims;

227.2. the nature and main steps in the various sale of business agreements that are to be concluded in terms of the Asset Transaction;

227.3. the essential terms, conditions, and assumptions on which the sale agreements to be concluded in terms of the Asset Transaction depend.

228. In other words, while the BRPs announced that sale agreements had been concluded for the sale of THL's South African business as well as its Mozambican, Zimbabwean, and Botswanan businesses, the BRPs have never provided a detailed explanation of the terms and conditions of those agreements, i.e. what must occur for those agreements to be successfully concluded and implemented. This is especially relevant in relation to the new extraneous conditions unilaterally imposed by Vision of which the BRPs were aware but have disclosed for the first time in the founding affidavit to this application.



229. I should emphasise that by October 2024 the BRPs had still not informed Affected Persons that Vision had still not completed the LG Claims Acquisition (i.e. because it still did not have the money to do so.) RGS and many others were aware of this but could not prove it.

230. RGS therefore sent a letter to the BRPs on 2 October 2024. A copy of the letter is annexed, marked "**MAR18**".

231. In terms of this letter RGS *inter alia* complained that the Asset Transaction did not comply with section 150 of the Act and referred to a previous letter received

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from the BRPs on 10 September 2024, in which the BRPs confirmed that they had sent a demand to Vision “insisting” that Vision provide the LG Claims Acquisition Agreement to the BRPs for dissemination to Affected Persons. RGS reminded the BRPs that they had – subsequently to that letter – provided RGS with no updates.

232. RGS therefore demanded that the BRPs publish copies of the following on THL's website for the benefit of all Affected Persons by 7 October 2024:

232.1. A copy of the LG Claims Acquisition Agreement;

232.2. Proof of the amount paid by Vision to the Lender Group;

232.3. Proof that the Lender Group had transferred all its claims and security to Vision;

232.4. Details of the transactions to be implemented pursuant to the Asset Transaction;

232.5. A timeline for the completion of the aforesaid transactions.

(vi) RGS' November 2024 Application, proof that the Asset Transaction was being implemented unlawfully, and Vision's admission that it attempted to leverage THL's assets to raise its funding

233. When the BRPs did not react to RGS demands, RGS proceeded to file an application in this Court under case number D13702/2024 seeking relief in two parts (“**the November 2024 Application**”). In terms of the November 2024 Application, RGS sought the following substantial relief in terms of Part A:



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233.1. An interim interdict preventing the BRPs and Vision from proceeding with implementation of the Vision Plan ("the **November 2024 Interdict**");

233.2. that the BRPs comply with section 150 of the Act by (i) providing all the information contemplated in sections 150(2)(c), 150(3), and 150(4) of the Act in relation to the Asset Transaction, and (ii) by providing a description of all the agreements and transactions that have been concluded / were intended to be concluded in terms of the Asset Transaction, including all the main steps in those transactions;

233.3. that Vision provide the BRPs (for publication on the website) with (i) copies of the LG Claims Acquisition Agreement, (ii) proof of any payments that Vision had made to the Lender Group, (iii) proof that the LG Claims and Security had been transferred to Vision, and (iv) confirmation under oath that Vision had not and would not conclude any agreement(s) with the Lender Group pursuant to which THL's assets would be sold after the conclusion of business rescue to pay the Lender Group for the LG Claims Acquisition, or to pay any other Vision creditor.



234. In Part B of the November 2024 Application RGS sought the setting aside of the Vision Plan, i.e. on the expected basis that it would be proven by the production of the information sought in Part A (which should have been provided to Affected Persons by the BRPs as of right) that the Asset Transaction was both unlawful and had lapsed because Vision had not even paid the Lender Group in circumstances where both the LG Claims Acquisition and the failed Equity Conversion should have been completed by 1 April 2024.

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235. When the BRPs filed their answering affidavit in the November 2024 Application they included as annexures thereto an extraordinary exchange of correspondence between the BRPs, Vision, and the Lender Group relating to the demands made by the BRPs for the production of the information demanded of them by RGS.

236. Given the crucial importance of these letters to substantiate RGS' case in the Counter Application as it relates *inter alia* to the enforcement of the Disclosure Order, I provide a detailed account of their contents.

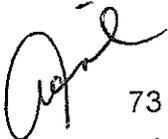


237. On 8 October 2024 the BRPs sent letters of demand to both Vision and the Lender Group, copies of which are annexed, marked "**MAR19**" and "**MAR20**" ("**the 8 October Demands**").

238. The 8 October Demands were substantively identical in wording and structure. In terms thereof the BRPs *inter alia*:

238.1. Referred to the Common Terms Agreement concluded between THL and the Lender Group on 3 December 2021 ("**the Common Terms Agreement**");

238.2. Referred to RGS' letter of demand of 2 October 2024 (attaching a copy thereof) and stated that RGS' attorneys had forewarned the BRPs that the latter's failure to provide copies of the LG Claims Acquisition Agreement, proof of the amount paid by Vision to the Lender Group, and proof that the Lender Group had transferred all its claims to Vision would result in RGS instituting proceedings against the BRPs;


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238.3. Recorded that the BRPs had previously, on 6 September 2024, sent a letter to Standard Bank in its capacity as the Lender Group facility agent, in terms of which the BRPs (i) reminded Standard Bank that in terms of clause 24.5.1 of the Common Terms Agreement, it was required to send to THL a copy of each executed "transfer certificate" (which is a reference to the LG Claims Acquisition Agreement), and (ii) requested that the BRPs be provided with a copy of an executed version of the LG Claims Acquisition Agreement, which the BRPs understood was referred to as "transfer certificate 3";



- 238.4. Recorded that, also on 6 September 2024, the BRPs had sent letters to the Lender Group and Vision and **"advised that the BRPs were of the considered view that shareholders / affected persons should be provided with copies of the documents that govern the contractual arrangements between Vision and [the Lender Group] and insisted that these documents be provided to the BRPs (this would include a copy of the LG Claims Acquisition Agreement)";** (emphasis added)
- 238.5. Recorded that despite the above, the BRPs had not been provided with the documents and information requested and that the BRPs were thus unable to (i) comply with the demands made in RGS's letter of demand of 2 October 2024, and (ii) provide RGS or the Court with a complete response to the averments and allegations contained in RGS' letter;
- 238.6. Stated that the BRPs are **"duty bound** to again call on" the Lender Group and Vision to provide them with the following by no later than 12:00 on Thursday, 10 October 2024:


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- 238.6.1. "A copy of each executed Transfer Certificate which relates to the transfer of the indebtedness owing by THL and the associated security to Vision (including the document which [the BRPs] understands is termed 'Transfer Certificate 3') in unredacted form";
- 238.6.2. ""proof of '*the amount*' paid by Vision to [the Lender Group]";
- 238.6.3. "proof that [the Lender Group] have transferred all of its claims and security to Vision";
- 238.6.4. "the terms of the contractual arrangements (including, but not limited to the [LG Claims Acquisition Agreement]) between [the Lender Group] and Vision";
- 238.6.5. "precise details of the amounts payable by Vision to [the Lender Group] and what the payment terms are";
- 238.6.6. "details regarding the transfer of [the Lender Group's] claims and security to Vision, including full details of the claims and security have [sic] been transferred by [the Lender Group] to Vision to date";
- 238.6.7. "proof of the payments that have been made by Vision to [the Lender Group] to (at the very least) demonstrated [sic] that Vision is currently not in default of [the LG Claims Acquisition Agreement]"; and



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238.6.8. "a factually accurate response to the content of the [RGS letter of demand of 2 October 2024] that will give RGS (and a Court) comfort that the transactions will be implemented and all amounts due to [the Lender Group] will be paid in full by Vision."

238.7. The BRPs concluded the 8 October Demands by informing the Lender Group and Vision that if their demands were not met, the **BRPs would provide copies of the 8 October Demands to RGS**, advise RGS that the Lender Group and Vision were not willing to provide the material requested, **and that the BRPs would adopt the same position in any urgent court proceedings which may follow.**



239. Standard Bank responded to the 8 October Demands on behalf of the Lender Group, i.e. in its capacity as the facility agent, in an email of 10 October 2024. In its email Standard Bank stated that:

239.1. it had previously informed the BRPs that the **Lender Group had no objection to the disclosure** of the full and unredacted transfer certificate [i.e. LG Claims Acquisition Agreement] to the business rescue practitioners, but that the Lender Group was unable to do so without Vision's consent due to the confidentiality undertakings made by the Lender Group in terms of that agreement;

239.2. the aforesaid position had not changed and that the BRPs were encouraged to engage with Vision to obtain their consent to the disclosure of the full and unredacted transfer certificate, which could then be provided.


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240. The BRPs responded to Standard Bank's aforesaid email on the same day (i.e. 10 October 2024). In their response, the BRPs requested Standard Bank to reconsider its position on the basis of the Lender Group's contractual obligation to provide THL (i.e. the BRPs) with a copy of each Transfer Certificate executed by it and stated that the Lender Group could not be criticised for complying with its contractual obligations to THL (i.e. in terms of the Common Terms Agreement). Copies of the aforesaid emails are annexed, marked "MAR21"

241. Vision responded to the 8 October Demand on 14 October 2024, a copy of its response is annexed, marked "MAR22".



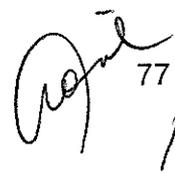
242. Vision commenced its strident response to the BRPs by expressing surprise that the BRPs had effectively demanded disclosure by Vision of the documentation sought by RGS in its demand of 2 October 2024. Vision then informed the BRPs that it considered it "vital" to reflect on the source of the demands, i.e. RGS, and proceeded to cast various unfounded aspersions on RGS, while highlighting the united approach that the BRPs had previously presented with Vision in response to litigation brought by RGS and other creditors.

243. In the remainder of its response to the BRPs, Vision *inter alia*:

243.1. refused to give its consent to the Lender Group providing the LG Claims Acquisition Agreement to the BRPs;

243.2. stated that affected persons were not "as a matter of principle" entitled to the information demanded;

243.3. stated its compounded discomfort in relation to the BRP's apparent willingness to share the 8 October Demands, which include allegations


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regarding non-compliances with the Common Terms Agreement, with RGS and warned that “[u]nder no circumstances should [the BRPs] ventilate such allegations [i.e. non-compliances with the Common Terms Agreement] before RGS.”

244. Having received the Lender Group and Vision's responses to the 8 October Demands, the BRPs sent further substantively identical demands to both parties on 16 October 2024 (“**the 16 October Demands**”), copies of which are annexed marked “**MAR23**” and “**MAR24**”.

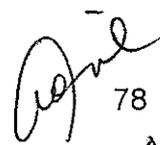


245. In terms of the 16 October Demands, the BRPs *inter alia*:

245.1. stated that Vision and the Lender Group were “undoubtedly aware that information and documentation of a similar nature to the [information demanded by RGS and then by the BRPs in the 8 October Demands] has been sought by THL’s shareholders and other creditors of THL (including but not limited to, Powertrans, Artemis and Mary Jane Morris). There exists every possibility that the support of shareholders and creditors will be critical to securing regulatory approvals necessary to successfully implement the [Asset Transaction]. A failure to obtain such regulatory approvals may render the Plan incapable of implementation.”;

245.2. stated that the failures on Vision and the Lender Group’s parts to provide the BRPs with a meaningful response to the content of RGS’ demand of 2 October 2024 was “concerning”.

246. The BRPs concluded the 16 October Demands **by abandoning the previous demands** that they had considered themselves duty bound to make and


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demanding instead that Vision and the Lender Group "demonstrate to [the BRPs'] satisfaction" that:

246.1. The transactions forming the subject matter of the transfer certificate (i.e. the LG Claims Acquisition Agreement) were on track;

246.2. Vision was in a position to timeously discharge its payment obligations to the Lender Group; and

246.3. That there was no impediment to the Asset Transaction in the context of the LG Claims Acquisition Agreement.

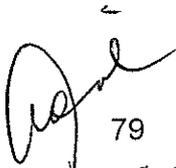


247. Standard Bank responded on 22 October 2024 by informing the BRPs that the Lender Group was of the view that the Asset Transaction "should" be capable of implementation on the same basis that the BRPs had sought to advance the failed Equity Conversion:

247.1. the Lender Group would "make available" to Vision a sufficient amount of the LG Claims and Security for purposes either of the conversion or the set-off "payment" in the Asset Transaction despite Vision having not paid the Lender Group in full.

247.2. The Lender Group (i.e. not Vision) would, however retain R3.6 billion worth of the LG Claims and Security.

248. I refer to the Lender Group's views referred to in the previous paragraph as "**the Partial Acquisition Argument**". A copy of the aforesaid letter is annexed, marked "**MAR25**".


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249. I wish to emphasise the following in relation to the above exchange of correspondence between the BRPs, the Lender Group, and Vision:

249.1. While the BRPs had considered themselves "duty bound" to obtain the relevant disclosure information and provide it to all Affected Persons, they failed to take any action to compel the production thereof when their demands were not met;

249.2. On the contrary, the BRPs capitulated to the stance adopted by Vision and the Lender Group and then in fact advanced the Partial Acquisition Argument in their answering affidavit to successfully oppose Part A of RGS' November 2024 Application despite previously informing the Lender Group and Vision that non-compliance with the BRPs' demands would result in the BRPs providing the correspondence to RGS, informing RGS of the Lender Group's and Vision's refusal to comply, and the BPRs "adopting the same position in court" (see paragraph 238.7 above);



249.3. The Partial Acquisition Argument as summarised in paragraph 247 above, is patently unlawful because it is in direct breach of the express provisions⁵⁸ of the Vision Plan which require (i) Vision to complete the LG Claims Acquisition in full before it is permitted to proceed with either the Equity Conversion or the Asset Transaction, and (ii) require Vision to

⁵⁸ Vision Plan at paragraph 2, record p 001-1005; paragraph 2.5.4, record p 001-1008; the definition of "Vision Transactions" in paragraph 3.1.85, record 001-1024; the definition of "Vision Debt" at record pp 001-1084 to 001-1085; paragraph 14.1.1.11, record p 001-1130, paragraph 14.1.2.8, record pp 001-1132 to 001-1133.

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acquire 100% of the LG Claims and Security (as confirmed by this Court in paragraph 53 the Disclosure Judgment, see paragraph 53 above);

249.4. The Partial Acquisition Argument had clearly been devised because Vision was not in funds and had not completed the LG Claims Acquisition;

249.5. The BRPs at no stage informed Affected Persons of these facts.

250. There is one more aspect of the litigation in the November 2024 Application that must be mentioned.



251. When Vision filed its answering affidavit to Part A of the November 2024 Application, it admitted that it had not paid the Lender Group or acquired the LG Claims and Security despite numerous extensions of the LG Claims Acquisition Agreement having been granted by the Lender Group.

252. Vision, however, stated in its answering affidavit that it would pay by 31 December 2024.

253. When Part A of the November 2024 Application was first heard in this Court on 28 November 2024 it was postponed by special allocation of the Honourable Judge President for hearing on 29 January 2025.

254. Prior to the postponed hearing date, Vision filed a supplementary affidavit on 27 January 2025. In that affidavit Vision admitted that it had not made payment by 31 December 2024 as it had indicated it would in its answering affidavit.

255. Vision was therefore in a precarious position, and the purpose of the supplementary affidavit was to explain why it had once again defaulted on

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payment to the Lender Group more than a year after the Vision Plan was adopted.

256. Eager to explain away its default of payment, Vision inadvertently admitted in its supplementary affidavit that it was attempting to leverage THL's Mozambique business – which is generally understood to be THL's most valuable asset – in order to raise the funds required to pay the Lender Group. Vision made the following allegations referring to the political unrest that occurred in Mozambique over the 2024 Christmas / New Year period:



- 256.1. "...The political unrest significantly eroded confidence in the country's ability to maintain order, protect investments, and uphold the rule of law, all of which are **essential for the integrity of the assets underlying the Lender Group's security and which would, in part, support the raising of the necessary funding.**"
- 256.2. "...This introduced greater risks of legal and administrative challenges for businesses operating in the region, **further jeopardising the enforceability and value of security interests.**"
- 256.3. "In this climate, the risks to the underlying assets went beyond immediate physical threats. The erosion of investor confidence and the broader economic downturn associated with the unrest had a compounding effect, **reducing the value and liquidity of these assets. Even assets considered robust or strategically significant faced devaluation, operational risks, and reduced marketability under such conditions.**"
- 256.4. "**As a result, it became increasingly difficult to place a definitive value on the assets, both for purposes of the sale agreements and the funding.** These dynamics made it imperative for Vision and the Lender Group to reassess the risks and adopt a flexible, collaborative approach to any arrangements involving Mozambican assets."

(emphasis added.)

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257. A copy of the section of Vision's supplementary affidavit of 27 January 2025 which contains the abovementioned paragraphs is annexed, marked "MAR26".

258. These allegations were made before Vision allegedly completed the LG Claims Acquisition on 9 May 2025. When these allegations were made, Vision did not own THL or any of its assets or foreign businesses. Vision still does not own THL or any of its assets today. The Vision Plan does not permit Vision to leverage THL's assets to raise its funding (which it falsely represented to hold in cash).

259. Heartbreakingly, despite all of the above, Part A of RGS' November 2024 Application was not just struck from the roll but dismissed on 18 February 2025 "for lack of urgency, and for failure to satisfy the requirements of [the November 2024 Interdict]" (the latter being a reference to the interdict referred to in paragraph 233.1 above). A copy of the judgment is annexed, marked "MAR27" ("the November 2024 Judgment").



260. RGS therefore did not have access to the information it required to prove its case in Part B. Although RGS attempted to progress Part B, events soon overtook the application when the BRPs and Vision filed short answering affidavits in Part B.

261. Their answering affidavits were mainly devoted to informing RGS that Vision had discharged its payment obligations to the Lender Group for the LG Claims Acquisition on 9 May 2025 and that this was destructive to RGS' case in Part B.

262. Neither the BRPs nor Vision attached any proof to their aforesaid affidavits to demonstrate that Vision had in fact done so.

263. More importantly, RGS' case was not simply that Vision had not paid, its case was that there were objective indications that Vision had completed the LG

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Claims Acquisition unlawfully *inter alia* by leveraging THL's assets to raise funds in circumstances where Vision had induced creditors to adopt the Vision Plan on the basis of the misrepresentation that Vision had sufficient cash to implement the plan.

264. After the delivery of their answering affidavit in Part B of the November 2024 Application, the BRPs sent RGS a letter enquiring whether RGS intended to persist with that application given the contents of the affidavits filed by the BRPs and Vision (i.e. the allegations that Vision had paid the Lender Group).

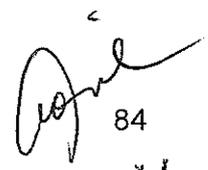


265. On 14 May 2025 RGS addressed a letter of demand to Vision, the BRPs, the Lender Group, and the IDC in terms of which it demanded that various information – including proof of Vision's payments to the Lender Group and proof of the transfer of the LG Claims and Security to Vision – be provided by those parties by close of business on 21 May 2025, failing which RGS would launch an urgent application to compel the production of that information. A copy of the demand is annexed, marked "**MAR28**".

266. Only the BRPs responded to the demand in a letter of 21 May 2025, a copy of which is annexed, marked "**MAR29**".

267. The BRPs indicated that the confirmation that they had received that Vision had discharged its payment obligations to the Lender Group on 9 May 2025 came in the form of an email from Vision's own attorneys stating that:

"Vision have made payment of the purchase consideration due to the Lender Group. In the circumstances, the transaction between Vision and the Lender group has been finalised."


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268. The BRPs further informed RGS that they had, in response to RGS' demand, but without conceding any obligation to have done so, requested the Lender Group's attorneys to "confirm the correctness of the advice received from" Vision's attorneys.

269. In terms of their response to the BRPs, a copy of which is attached to the BRPs' letter of 21 May 2025 above, the Lender Group's attorneys stated *inter alia* the following:

"The Lender Group hereby confirms that [Vision] has fully discharged all of its payment obligations vis-à-vis the purchase consideration due by it to the Lender Group relating to the transfer of the claims and the security of the Lender Group in respect of THL (and its subsidiaries) ("THL Group Claims and Security").

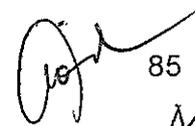


We are further instructed to confirm that the THL Group Claims and Security were unconditionally and irrevocably transferred to Vision on 9 May 2025."

270. Given what is set out in the preceding sections of this affidavit, it is submitted that the Lender Group's confirmation to the BRPs is insufficient to demonstrate that the LG Claims Acquisition was completed in a manner that is consistent with the terms of the Vision Plan / the Act.

271. In particular, the Lender Group's and Vision's allegations to the effect that Vision's "payment obligations" have been "discharged":

271.1. are capable of connoting something other than actual cash payment by Vision which would need to be explained given Vision's representations that it had sufficient cash at the Creditors Meeting (as confirmed in the Standard Bank Letter) and given that the Vision Plan was: (i) adopted by


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creditors on that basis, (ii) not contingent on Vision obtaining any loan financing for any aspect of the plan's implementation;

271.2. had to be considered in light of Vision's admissions that it was attempting to leverage THL's assets to raise the funds required to pay the Lender Group;

271.3. had to be considered in light of the Lender Group's previous views in terms of the Partial Acquisition Argument, i.e. that it was willing to part with the LG Claims and Security despite non-payment by Vision and allow the Asset Transaction to proceed to closure on that basis;



271.4. the Lender Group and Vision could therefore have agreed to terms in the LG Claims Acquisition Agreement which *inter alia* did not result in the reduction of THL's indebtedness that lies at the core of the Vision Plan (in circumstances where neither the BRPs nor Affected Persons would be aware of this because the LG Claims Acquisition Agreement has never been disclosed).

272. As indicated, the BRPs have always alleged that they have never had a copy of the LG Claims Acquisition Agreement. Moreover, in their answering affidavit to Part A of the November 2024 Application they stated that "[s]hould RGS continue with their insistence on sight of the Acquisition Agreement, it should pursue that relief against the Lender Group and/or Vision, without interfering or delaying the implementation of the Plan."

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(vii) The Disclosure Application

273. RGS therefore proceeded to file the Disclosure Application in this Court on 29 May 2025 under case number 2025-079452. It is necessary for me to elaborate on the Disclosure Application because of the relief RGS seeks in the Counter Application with regard to the enforcement of the Disclosure Order pending Vision's application for leave to appeal to the SCA.

274. In the Disclosure Application, RGS cited both Vision and the BRPs as respondents but sought the disclosure relief from Vision since the BRPs had repeatedly told RGS that they were not in possession of the disclosure information and expressly told RGS to pursue its disclosure relief directly against Vision / the Lender Group.

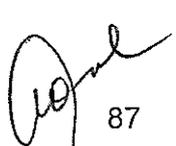


275. The BRPs did not oppose the Disclosure Application. The relief sought by RGS in the Disclosure Application is summarised in paragraph 18 above.

276. In summary, Vision's opposition to the Disclosure Application was premised on its arguments that:

276.1. Vision's payment on 9 May 2025 had been confirmed by (i) Vision under oath in terms of its answering affidavit, (ii) the Lender Group in terms of a letter to RGS' attorneys, (iii) an affidavit from Standard Bank that was attached to Vision's answering affidavit, and (iv) the BRPs in a SENS announcement;⁵⁹

⁵⁹ Vision AA in the Previous Urgent Application at para 8.


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276.2. RGS had no "cognisable right" to the disclosures it sought in terms of the Previous Urgent Application;

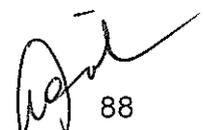
276.3. RGS had not made out a case for urgency;

276.4. The relief sought by RGS was either *res judicata* or *lis pendens* given the similarities between the relief sought in terms of the Disclosure Application and that sought in Part A of the November 2024 Application (see paragraph 233.3 above).

277. In granting the relief sought in the Disclosure Application, this Court made *inter alia* the following substantive findings:



- [53] **The Asset Transactions is premised on the Prior Acquisition by the Vision Parties of all the Lender Group's claims and security.** Paragraph 2.3 of the Vision plan provides that: "The key feature of the business rescue plan, pursuant to its adoption and implementation, is the acquisition by the Vision Parties of the substantial Lender Group claims and the subsequent Conversion by the Vision Parties of a material portion of such claims into new equity in THL.
- [54] In terms of **section 150(2)(c)(i) of the Act**, the business rescue plan must contain the assumptions and conditions which must include, at least, a statement of all the conditions that must be satisfied for the business rescue to come into operation and be fully implemented, In terms of **section 152(4) of the Act** a business rescued plan that has been adopted is binding on the company, and on each of the creditors of the company, and every holder of the company's securities.
- [55] **The BRPs did not object to RGS's request for the information. The Lender Group was willing to disclose the information provided the Vision Parties consented.** The Vision Parties accept that the key feature of the Vision Plan is the Acquisition by them of the substantial claims held by the Lender Groups. They have confirmed in correspondence and under oath their payment to the Lender Group and the acquisition. **It seems to me that the Vision Parties tacitly acknowledge that RGS is entitled to be informed of the steps taken in the implementation of the Vision Plan. Their refusal to back up their claims of payment and acquisition by documentary proof is baffling. They do not hide behind any claim of confidentiality, but rather raise the lack of a cognisable legal right to the confirmation and documents sought.**


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[56] The Vision Plan is binding not only to the Vision Parties but also to RGS. RGS does not have the only right to vote at the creditors' meeting. It also has a right to be informed of the progress of the implementation of the Vision Plan. **Therefore, it must have a corollary right to the documents and information that support the assertion that the Vision Plan is being implemented correctly and properly.** RGS, as an admitted creditor, has a right to ensure that the uncontentious purpose of business rescue, namely, to save flailing business entities and to avoid liquidation in achieved in relation to THL.

[57] **I can find no reason why the payments to the Lender Group, the acquisition of the Lender Group's claim, and the transfer of the Lender Group's claims should be shrouded in secrecy. RGS is entitled to know that the assets of THL are not encumbered as security for the payment by the Vision Parties to the Lender Group."**

(emphasis added.)



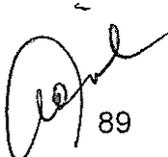
278. Vision's arguments regarding *res judicata* were dismissed despite the existence of similarities with the relief that was sought in Part A of the November 2024 Application. This Court's findings in that regard are at paragraphs 38 to 43 of the Disclosure Judgment.

279. In short, this Court correctly held that the dismissal of Part A of the November 2024 Application did not constitute a judgment on the merits of the disclosure relief sought in that application.

280. The Court's findings in this regard are unassailable as:

280.1. It is evident from the November 2024 Judgment (at paragraph 9) that the court did not identify the disclosure relief as one of the issues it determined;

280.2. The disclosure relief is not mentioned anywhere in the judgment except in a quote from the notice of motion listing the relief sought by RGS;


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280.3. The Court expressly dismissed the application “for lack of urgency, and for failure of the applicant to satisfy the requirements of an interim interdict”, the latter being a reference to the November 2024 Interdict referred to in paragraph 233.1 above that RGS had sought in Part A.

281. Vision’s *lis alibi pendens* argument proceeded on the outlandish basis that if the matter was not *res judicata* then RGS could proceed to re-enrol Part A of the November 2024 Judgment for hearing on the question of the disclosure relief.⁶⁰

282. The fact that the Court dismissed Part A of the November 2024 Application did not deter Vision from making the aforesaid argument which, I am advised, is demonstrably bad in law.



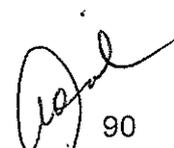
283. I am advised that the procedure adopted under section 18(1) of the Superior Courts Act 10 of 2013 does not involve this Court reconsidering the merits of the Disclosure Application or expressing any view on the Disclosure Judgment at all. I dealt with the aspects above simply for completeness’ sake.

284. Instead, section 18(1) of the Superior Courts Act 10 of 2013 requires RGS to:

284.1. demonstrate the existence of exceptional circumstances;

284.2. prove on a balance of probabilities (i) that irreparable harm will ensue if the interim execution of the Disclosure Order is not granted, (ii) that Vision does not stand to suffer irreparable harm if the Disclosure Order is executed.

⁶⁰ Disclosure Judgment at paragraphs 44 to 47.


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285. I submit that all three these requirements have clearly been demonstrated on the facts of this case. Full legal argument will be advanced in this regard at the hearing.

(viii) RGS' August 2025 Application

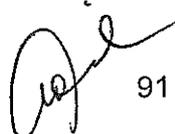
286. Pursuant to Vision's application for leave to appeal against the Disclosure Order, RGS launched a further urgent application in this Court on 12 August 2025 under case number 2025-136677 ("**the August 2025 Application**").

287. It is necessary for me to elaborate to a limited extent on the August 2025 Application because *inter alia* of the relief RGS seeks in the Counter Application with regard to the enforcement of the Disclosure Order pending Vision's application for leave to appeal to the SCA.



288. After Vision filed its application for leave to appeal against the Disclosure Order, the BRPs issued a notice on THL's website on 7 July 2025 informing Affected Persons that there would be no interruption to the rescue process as Vision was "preparing to appeal". This notice, a copy of which is annexed marked "**MAR30**", was issued before Vision had filed its application for leave to appeal in this Court and reads in relevant part as follows:

"The Durban High Court issued a ruling on 4 July 2025 in an urgent application brought by RGS Group Holdings Limited (RGS). The judgment handed down by acting Judge Zwane, directs the Vision Group to provide certain documents and disclosure relating to the Vision Group's acquisition of the former Lender Group's claims and security. The ruling is limited to disclosure and does not affect the implementation


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of the Business Rescue Plan or the integrity of the acquisition itself. Notwithstanding the limited nature of the relief, the Vision Group respectfully believes that the ruling is wrong and intends to appeal it.

The Vision Group confirmed, under oath, that THL's assets were not used to fund or secure the acquisition. This has been independently verified by the former Lender Group and accepted by the Business Rescue Practitioners." (emphasis added.)

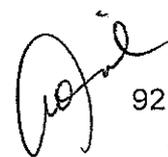
289. The underlined section above is false. To RGS' knowledge, the Lender Group has not confirmed let alone "independently verified" that THL's assets were not used to fund or secure the acquisition and no such confirmation let alone verification from the Lender Group has been provided to date.



290. On 11 July 2025, the day after Vision applied to this Court for leave to appeal against the Disclosure Order, RGS sent a letter to Werksmans, a copy of which is annexed, marked "MAR31".

291. In terms of this letter RGS *inter alia*:

291.1. Stated that Vision's objective in filing the application for leave to appeal was clearly to avoid having to make the disclosures contemplated in the Disclosure Order and that, for the reasons set out in RGS's founding affidavit in the Disclosure Application, RGS was of the view that Vision could not comply with that order without (i) perjuring itself, (ii) demonstrating that it has failed to comply with its obligations under the LG Claims Acquisition Agreement, (iii) demonstrating that the LG Claims Acquisition Agreement was concluded in a manner that is inconsistent


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with the express provisions of the Vision Plan, and / or (iv) demonstrating that the LG Claims Acquisition Agreement was concluded in a manner that is inconsistent with the provisions of the Act;

291.2. Stated that Vision's strategy in filing the application for leave to appeal was clearly intended to facilitate the closure of THL's business rescue process, the transfer of all THL's assets to Vision, and the delisting and liquidation of THL in circumstances where the Disclosure Order (i.e. and the transparency that it entails) would be rendered unenforceable;

291.3. Stated that the BRPs are solely responsible in terms of the Act for overseeing the implementation of the Vision Plan and moreover have fiduciary duties vis-à-vis THL, and that the BRPs could not therefore permit THL's assets to be transferred to Vision and for THL to be delisted and liquidated before Vision had demonstrated unequivocally – by way of verifiable evidence rather than mere say so – that it has (i) discharged its payment obligations to the Lender Group, (ii) taken unconditional transfer of the LG Claims and Security, and (iii) done so in a manner that is consistent both with the Vision Plan and the Act;

291.4. Demanded that the BRPs confirm how they intend to proceed in light of both the Disclosure Order and Vision's application for leave to appeal by no later than close of business on Wednesday, 16 July 2025;

291.5. Demanded that the BRPs moreover confirm whether the implementation of the Vision Plan (i) had been suspended since the Disclosure Order was handed down, and (ii) would be suspended pending the outcome of the application for leave to appeal.



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292. Werksmans responded in a letter dated 16 July 2025, a copy of which is annexed, marked "MAR32". In terms of this letter Werksmans referred to both Part B of the November 2024 Application and the Disclosure Application and stated *inter alia* the following (emphasis is original):

"3. Your client has no legally cognisable right to the undertakings ("the undertakings") sought in paragraph 14 of your letter dated 11 July 2025 nor does it have any legally cognisable right to the confirmation requested in paragraph 15 of the same letter. Our clients' have instructed us –

3.1 that the matters in issue in the second application [i.e. the Disclosure Application] to which the second Order [i.e. the Disclosure Order] and your letters relate have no impact on the facts set out in paragraph 8 of our 21 May letter;

3.2 to repeat what is stated in paragraph 9 of our 21 May letter (which we hereby do);

3.3 that they continue to hold the belief that the Plan is capable of lawful implementation;

3.4 that in the light of paragraphs 3.1 to 3.3 they remain statutorily obligated to continue to progress the implementation of the Plan, and to **confirm** that they intend to continue to comply with their statutory obligations.

4. Our clients have accordingly instructed us to advise you, as we hereby do, that they will not (and do not) provide the undertakings sought in your letter.

5. Without detracting from what is set out above, we have been instructed to remind your client that –

5.1 the relief sought by your client in paragraph 5 of the Notice of Motion in the first application [i.e. Part A of the November 2024 Application] is identical to the relief that was sought by your client



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in paragraph 2 of the second application [i.e. the Disclosure Application];

- 5.2 whilst Justice Nkosi [in dismissing Part A of the November 2024 Application] did not make a ruling vis-à-vis the relief sought by your client in paragraph 5 of the Notice of Motion in [Part A of the November 2024 Application] (which is now the subject matter of the [Disclosure Order] and the Vision Parties' application for leave to appeal in the [Disclosure Application]), he determined that your client was not entitled to the interdictory relief sought by your client in paragraph 3 of the Notice of Motion in the first application."

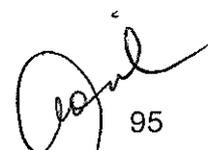


293. The reference in the BRPs' aforesaid letter to their letter of 21 May 2025 is a reference to the letter (referred to in paragraph 266 above) in terms of which the BRPs had informed RGS – prior to the launching of the Disclosure Application – that Vision had discharged its payment obligations under the LG Claims Acquisition Agreement.

294. The BRPs were therefore reasserting their views expressed prior to the Disclosure Order in the teeth of the findings made by this Court in the Disclosure Judgment (see paragraph 277 above).

295. RGS responded on 22 July 2025 by:

- 295.1. reminding the BRPs that the arguments they sought to advance had already been adjudicated by this Court in the Disclosure Application, in which the BRPs were joined as respondents but chose not to oppose, and were directly at odds with the material findings made by this Court in the Disclosure Judgment;


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- 295.2. reminding the BRPs that their confirmation that they will proceed to implement the Vision Plan was premised on the same information they had prior to the Disclosure Application and Order;
- 295.3. reminding the BRPs that the information on which they now continued to rely for purposes of proceeding with implementation, referred to in the previous paragraph, (i) does not amount to independently verifiable evidence that Vision has either discharged its payment obligations or done so in a manner that is consistent with both the Vision Plan and the Act, and (ii) amounts merely to the say-so of parties with vested interests in the successful implementation of the Acquisition;
- 295.4. That it was therefore evident that the BRPs had failed to discharge their statutory duties to verify for themselves, based on direct and objective information, that Vision has complied with the requirements of the Vision Plan and done so in a manner that is consistent with the provisions of the Act;
- 295.5. That taking into account (i) Vision's unexplained failure to raise the funds necessary to complete the LG Claims Acquisition (despite representing that it had sufficient cash to implement the Plan in terms of the Standard Bank Letter), (ii) Vision's statement under oath that it was using THL's assets to raise the funds necessary to complete the acquisition, and (iii) the Lender Group's previous confirmation to the BRPs that it would allow the Asset Transaction to proceed even if Vision failed to make payment to the Lender Group – there was an urgent need for the BRPs to independently verify that Vision has completed the acquisition lawfully;



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295.6. That until the BRPs had verified the lawful completion of the acquisition independently (which they could only do with access *inter alia* to the LG Claims Acquisition Agreement that they still do not have today), the implementation of the Vision Plan could not reasonably proceed;

295.7. That the BRPs could not accept the vague confirmation provided by Vision and the Lender Group since the Disclosure Judgment considered precisely the same information and this Court held it necessary to order Vision to disclose the proofs and confirmations contemplated in the Disclosure Order;



295.8. That the suspension of the enforceability of the Disclosure Order pursuant to Vision's application for leave to appeal to this Court was of no consequence since the BRPs (i) bear the sole statutory responsibility for implementing the Vision Plan on a lawful basis according to its terms, and (ii) have a duty to satisfy themselves, with reference to objective information, that the requirements of the Vision Plan and the Act had been met.

296. On this basis, and in the hope that the BRPs would come round, RGS afforded the BRPs a final opportunity to comply with their statutory obligations and demanded confirmation that the BRPs would in their own capacity, as the parties within whose discretion the continued lawful implementation of the plan lay:

296.1. demand the production of the relevant proofs and confirmations to demonstrate that Vision completed the LG Claims Acquisition lawfully;

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296.2. suspend the implementation of the Vision Plan until they had received the aforesaid proofs and confirmations;

296.3. provide the aforesaid proofs and confirmations to RGS and all Affected Persons.

297. The BRPs responded in a letter of 25 July 2025, a copy of which is annexed, marked "**MAR33**". In terms of this letter the BRPs stated *inter alia* that:

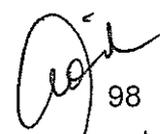
297.1. they remained satisfied that "Vision has discharged its payment obligations in terms of the Acquisition for the reasons previously articulated" and that the BRPs "**do not require the further 'proof of the matters'**" set out in RGS' letter of 22 July 2025;



297.2. the BRPs have previously requested Vision and the Lender Group to make a copy of the LG Claims Acquisition Agreement available to RGS;

297.3. the BRPs are not party to the LG Claims Acquisition Agreement **and do not require sight thereof** to confirm their "considered and reasonably held opinion that Vision has taken transfer of the Lender Group's claims and security...particularly in circumstances where [the BRPs] have received written confirmation from the Lender Group that this has occurred."

298. The BRPs however indicated that they had sent RGS' letter of 22 July 2025 to Vision which had responded in terms of a letter that the BRPs attached for RGS' consideration (this letter from Vision is included in the annexure referred to in the preceding paragraph).


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299. In terms of its letter *Vision inter alia*:

299.1. Provided the BRPs with purported proof of the payments it made to the Lender Group on 11 January 2024 and 9 May 2025 and stated that it did so without prejudice to its rights in its application for leave to appeal the Disclosure Order;

299.2. Stated that it had paid the Lender Group R270 million less than originally agreed for the LG Claims Acquisition (i.e. Vision paid R3.24 billion) and that this discount had been provided by the Lender Group because of (i) the taxes that had arisen in terms of the Asset Transaction (i.e. that would not have arisen if the Equity Conversion was implemented), and (ii) the payment of the SASA Escrow Amount (which has still not been made today);

299.3. Stated that the other documents that Vision was ordered to disclose in terms of the Disclosure Order were not "conceivably material to any issue sought to be raised by RGS."

300. This surprising disclosure by Vision of the "proofs of payment" referred to above, despite their pending application for leave to appeal, may be explained to some extent by the fact that:

300.1. the proof of payment provided by Vision in relation to its alleged payment of 11 January 2025 is riddled with patent abnormalities;

300.2. the proof it provided in relation to its payment of 9 May 2025 does not in fact constitute proof of any payment being made by Vision at all.



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301. I do not intend to address the abnormalities which appear from the face of the proof of payment of Vision's deposit allegedly paid on 11 January 2025 as this has become moot for present purposes in light of what I say below and given the fact that the Vision Plan has failed.

302. As regards the "proof of payment" provided by Vision in relation to its "payment of 9 May 2025":

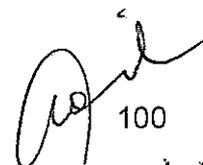
302.1. The document attached in this regard is an email from a Standard Bank employee to the members of the Lender Group;



302.2. In terms of which email Standard Bank – in its capacity as the Lender Group facility agent – informs the Lender Group that "the Vision Transfer amount" was received by Standard Bank on 9 May 2025 and provides a table showing different payments that Standard Bank made to the individual members of the Lender Group;

303. When RGS attempted to confirm certain aspects of Vision's payments directly with the Standard Bank, in its capacity as the facility agent representing the Lender Group, previously RGS was informed that Standard Bank had resigned from this role and that Vision was now the facility agent (i.e. its own facility agent). A copy of correspondence from Standard Bank to this effect is annexed, marked "MAR33A".

304. The contemporaneous mysteries that these documents gave rise to have now been explained by the facts set out in the founding affidavit from which it is apparent that Standard Bank (and possibly the IDC) provided Vision with financing to complete the LG Claims Acquisition on 9 May 2025.


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305. Since Standard Bank funded Vision, the transaction was likely paper based, i.e. Standard Bank paid the other members of the Lender Group and Vision became indebted to Standard Bank in that regard but no payment was directly made by Vision in the manner expected by creditors pursuant to Vision's misrepresentations that it had cash funding (as evidenced by the Standard Bank Letter).

306. It has therefore been proven beyond doubt that Vision's representations to creditors at the Creditors Meeting on 10 and 11 January 2024 that it had cash funding to implement the Vision Plan were false. I moreover reiterate that the Vision Plan does not include any reference to the plan being conditional on Vision obtaining loan financing in relation to any aspect of the plan or its implementation.



307. The fact that Vision obtained financing from Standard Bank to complete the LG Claims Acquisition moreover means that:

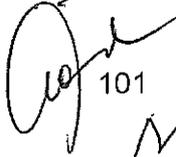
307.1. Should Vision default on its repayments under the terms of the financing agreement, the LG Claims and Security will revert to Standard Bank;

307.2. **It has still not been confirmed whether Vision used THL's assets as collateral in order to raise the financing.**

308. RGS therefore proceeded to file the August 2025 Application.

309. In terms of that application, the main relief sought by RGS was an order directing the BRPs to submit a comprehensive report to this Court on the status and legality of the Vision Plan in terms of section 140(3)(a) of the Act.

310. The BRPs and Vision both opposed the application.


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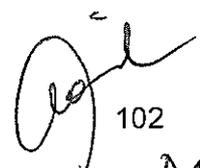
311. In their answering affidavit, the BRPs disregarded the material findings of this Court in the Disclosure Judgment (i.e. paragraph 277 above) in preference for their own views by *inter alia*:

311.1. again advancing the Partial Acquisition Argument, i.e. that the Equity Conversion and Asset Transaction could proceed before Vision had acquired the LG Claims and Security, at paragraphs 127 – 128 and 232.11 of their answering affidavit (cf Disclosure Judgment at paragraph 53), a copy of the relevant paragraphs is annexed, marked "**MAR34**",



311.2. arguing that Affected Persons were not entitled to the information contemplated in the Disclosure Order because the completion of the LG Claims Acquisition had been confirmed by Vision and the Lender Group in paragraph 157 of their answering affidavit (cf Disclosure Judgment at paragraph 56), a copy of which is annexed marked "**MAR35**";

311.3. arguing that Affected Persons were not entitled to confirmation that the LG Claims Acquisition had been completed lawfully (i.e. confirmation that THL's assets had not been encumbered by Vision in a manner not contemplated in the Vision Plan and in circumstances where Vision had (i) misrepresented that it had sufficient cash to implement the plan, and (ii) previously admitted that it had attempted to leverage THL's assets to raise funds (see paragraph 256 above)) These allegations were made in paragraphs 157 – 162 and 169 – 170 of their answering affidavit copies of which are annexed, marked "**MAR36**" (cf Disclosure Judgment at paragraph 57).


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312. To avoid prolixity, I have not attached a full copy of the answering affidavit filed by the BRPs in the August 2025 Application which ran to 506 pages but the affidavit is filed of record in this Court.

313. To be clear, it has never been RGS' case that the Disclosure Order is enforceable vis-à-vis the BRPs.

314. RGS' case was and remains that it was unreasonable and negligent for the BRPs as officers of this Court, and given their statutory obligations to verify for themselves with reference to first-hand information that the Vision Plan and its implementation is lawful, to disregard the findings made by this Court in the Disclosure Judgment in preference of their own views.

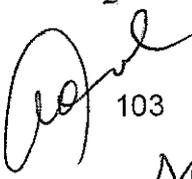


315. I am moreover advised that the High Court has held that practitioners cannot satisfy their statutory obligations as aforesaid by relying on the say-so of parties with vested interests in the rescue proceedings. That is precisely what the BRPs have done.

316. The August 2025 Application was struck for lack of urgency. The court accepted the BRPs' and Vision's arguments to the effect that RGS' urgency was self-created on the basis that RGS had not previously thought to seek the relief contemplated in the August 2025 Application against the BRPs in the Disclosure Application.

THE ALLEGATIONS OF IMPROPRIETY DIRECTED AGAINST RGS

317. RGS' role in THL's rescue proceedings has often been described by the BRPs and Vision as being that of a disgruntled unsuccessful bidder because RGS has


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made multiple offers to the BRPs and previously submitted a rescue plan alongside the Vision Plan.

318. RGS' plan was published at the same time as the first version of the Vision Plan during November 2023, but RGS withdrew the plan on 9 January 2024 after it became apparent that the BRPs favoured Vision improperly and unfairly.

319. The circumstances that gave rise to the withdrawal of RGS' plan were communicated to the BRPs and the IDC on 9 and 11 January 2024 respectively.

Copies of those letters are annexed, marked "MAR37" and "MAR38".



320. It is evident from the aforesaid letter to the BRPs that RGS was of the view that

the BRPs had acted inappropriately, amongst other things, by placing impediments in the way of RGS' proposals while showing bias in favour of Vision's proposals, and that RGS's board of directors did not trust that the BRPs were acting as honest independent professionals and believed that the BRPs would continue to work against RGS even if the RGS plan were to be adopted.

321. RGS had formed the view that the BRPs had made use of information confidential to the RGS plan – to which the BRPs had access – to assist Vision in addressing defects in the Vision Plan.

322. In terms of the letter to the IDC of 11 January 2024, RGS informed the IDC that it would be willing to re-engage in THL's business rescue process and reinstate the RGS plan if the IDC agreed to lead RGS' engagements with the BRPs.

323. Despite the above, the BRPs and Vision will likely argue that the withdrawal of the RGS plan was in fact related to an irregular and untruthful letter that had been issued by ABSA Mozambique in favour of RGS and which RGS unwittingly

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provided to the BRPs in circumstances where RGS was ignorant of the falsity of the letter (“the **ABSA Mozambique Letter**”).

324. The ABSA Mozambique Letter was procured for the following reasons and in the following context.

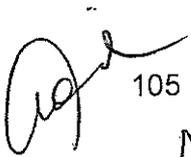
325. During October 2023 the Lender Group made enquiries as to whether RGS would consider potentially purchasing the Lender Group's claims prior to the vote to approve a business rescue plan. RGS agreed to consider this alternative approach.



326. It was in the context of these negotiations (i.e. not in the context of the RGS Plan) that the Lender Group indicated that since RGS' cash reserves – which were sufficient to fully fund the acquisition of the Lender Group's claims – were held in Mozambican bank accounts, the Lender Group would consider any offer to be made by RGS to be more attractive if RGS deposited an initial amount of R2 billion with a member of the Lender Group in South Africa.

327. However, given the requirement to obtain the approval of the Central Bank of Mozambique for any transfer of funds to South Africa, which could only be obtained under Mozambiquan law once a contract for the purchase of the Lender Group Claims had been concluded, the transfer of funds to a South African bank was not legally possible.

328. From RGS' point of view and after consultation with its advisers, the next best alternative was for RGS to place the R2 billion into an account held with a Mozambican branch or subsidiary of one of the South African banks that are members of the Lender Group. Given that RGS already has an established


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banking relationship with Absa Bank Mozambique, RGS considered Absa Bank Mozambique to be the most practical option for this purpose. RGS therefore took steps to implement this proof of funds mechanism by procuring the ABSA Mozambique Letter.

329. The ABSA Mozambique Letter was thus obtained and provided to members of the Lender Group.

330. RGS' negotiations with the Lender Group however collapsed.

331. At this stage the ABSA Mozambique Letter had therefore become moot. e. since it had not been provided as proof of funds in relation to the RGS Plan but rather as proof of funds in context of the Lender Group's offer that RGS acquire its claims and security in terms of a separate agreement).

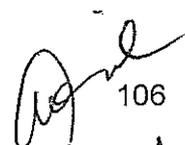


332. When the LG Claims Acquisition Agreement lapsed for the first time due to non-payment by Vision on 6 December 2023, the Lender Group reinitiated contact with RGS to ascertain whether RGS was still amenable to concluding an agreement to acquire the Lender Group's claims.

333. In response, an RGS representative in South Africa confirmed to the Lender Group (ABSA South Africa in particular) that:

333.1. the confirmation of funds set out in the Absa Bank Mozambique Letter was accurate at the time provided (as far as the representative was aware);

333.2. the funds were to be placed with Absa Bank Mozambique in connection with the proposed acquisition of the Lender Group's claims to prove


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availability of funds but since the Lender Group had concluded the LG Claims Acquisition Agreement a decision was taken to move the funds back to short term investment instruments as Absa Mozambique does not give good treasury rates; and

333.3. RGS would be willing to reinstate the deposit arrangements with Absa Bank Mozambique in connection with an agreed transaction between RGS and the Lender Group.

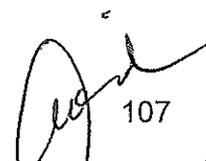
334. Therefore, by 20 November 2023, ABSA South Africa was already aware that there were no funds on deposit with Absa Bank Mozambique either in connection with RGS' possible acquisition of the Lender Group's claims or in connection with RGS' business rescue proposals for THL.



335. As to the veracity of the ABSA Mozambique Letter, upon investigation by RGS it emerged that:

335.1. A junior manager of RGS who had been instructed to make the deposit into an ABSA Mozambique account had reservations about doing so given the interest that would be forgone if the funds were moved to the ABSA Mozambique account;

335.2. This junior manager, without the knowledge of RGS senior management, took it upon himself to arrange for an ABSA Mozambique official to be provided with evidence of the funds held by RGS in other bank accounts and to issue the ABSA Mozambique Letter on that basis alone (i.e. in the knowledge that RGS held the funds but in the absence of the funds being deposited with ABSA Mozambique);


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335.3. Senior management of RGS only became aware of the issue for the first time when the genuineness of the Absa Bank Mozambique Letter was called into question by ABSA South Africa on 15 December 2023 (i.e. when the information set out in paragraph 333 was provided the more senior RGS official who provided it was unaware that the Absa Bank Mozambique Letter was untruthful.)

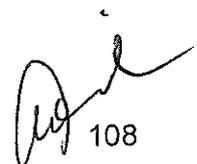
336. Although RGS regrets this unfortunate incident, its senior management played no part therein and was ignorant of the untruthful statements inadvertently made to ABSA South Africa.



337. In particular, I wish to point out that it would have been counter intuitive for RGS to have produced a "fraudulent" confirmation of funds letter purportedly from Absa Bank Mozambique, and which was provided to ABSA South Africa, when Absa South Africa could easily check the genuineness of the confirmation – as indeed occurred.

338. In fact, the whole point of placing the funds with Absa Bank Mozambique and obtaining the confirmation from Absa Bank Mozambique was so that the funds would be verifiable by, **and be visible to**, ABSA South Africa and thereby assist in demonstrating to the Lender Group that RGS was good for the money in connection with the possible acquisition by RGS of the Lender Group's claims.

339. The ABSA Mozambique Letter is therefore clearly of no continued significance. This is further demonstrated by the Afrexim Term Sheet in terms of which the funds in question will be advanced by Afreximbank directly.


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RGS HAS MADE OUT A CASE FOR THE RELIEF SOUGHT IN THE COUNTER APPLICATION

(i) *The relief sought against the BRPs and THL*

340. I submit, based on all the facts set out herein above, that a case has been made out to dismiss the BRPs' prayers for the termination of THL's rescue proceedings and its conversion to liquidation in the exercise of this court's discretion under section 141(3) of the Act.

341. As regards the other relief sought by RGS in the Counter Application, I understand that creditors would not in the ordinary course have a right of access to documents such as the Agency Agreements.

342. RGS' request that this Court order the production thereof is grounded in the extraordinary and unique circumstances of this case, the profound consequences of THL's rescue failing, and the centrality of the Agency Agreements to THL's rescue.

343. It is moreover supported by:

343.1. the fact that the validity, extent, and efficacy of the security attaching to the LG Claims have not been independently verified by the BRPs as they were required to do in terms of section 141 of the Act;

343.2. the fact that the production of the agency agreements would enable an investigation into the validity of the payment demand of R11.73 billion made by Vision against THL.



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344. The order sought in this regard is subject to RGS signing any confidentiality and / or non-disclosure agreement(s) that the BRPs and THL may reasonably require in this regard.

345. It is regrettably no longer possible for RGS to simply rely on the BRPs' say so given the facts I have set out above, and any procedure to remove the BRPs would be time-consuming and therefore delay the essential work that must commence immediately to rescue THL.

346. I moreover submit that I can think of no ulterior use to which RGS could conceivably be accused of putting the information that it would glean from the agency agreements.



347. RGS' sole purpose for requesting the production of the agency agreements is to determine the validity and extent of the security attaching to the LG Claims held by Vision like a gun to THL's head.

348. I submit further that it is in the interests of justice for this Court to grant RGS leave to bring this application in terms of section 133(1)(b) of the Act (to the extent that this is even necessary for purposes of the counter application).

349. The moratorium which shields a company in business rescue is intended to give the company breathing room to recover from its financial distress, not to insulate Vision and the BRPs from being held accountable.

350. I am advised that in order to make out a case for leave under section 133(1)(b) of the Act, RGS needs to (i) establish a prima facie case against THL / the BRPs, and (ii) give full reasons why the proceedings are necessary and appropriate.


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351. It is humbly submitted that RGS has satisfied both of the aforesaid requirements on the basis already set out above and that the granting of leave is both fair and convenient. Full legal argument will be advanced in this regard at the hearing of this application.

(ii) The relief sought against Vision

352. I reiterate that Vision's conduct in and influence on THL's rescue proceedings has been egregious and amounts to a corporate raid.

353. As this Court held at paragraph 55 of the Disclosure Judgment, Vision's refusal to back up its claims of payment and acquisition by documentary proof is "baffling" (see paragraph 277 above).



354. The Lender Group (which no longer exists pursuant to the completion of the LG Claims Acquisition Agreement) previously confirmed that it had no objection to the disclosure of the information sought in the Disclosure Order.

355. No reasonable party in Vision's shoes who had acted lawfully would refuse the production of the information contemplated in the Disclosure Order.

356. Vision has moreover already revealed how much money Standard Bank advanced to it to pay for the LG Claims Acquisition. There can thus be no argument that the purchase price amounts to commercially sensitive information.

357. Ultimately, this Court articulated the position best in paragraph 57 of the Disclosure Judgment (emphasis added):

"I can find no reason why the payments to the Lender Group, the acquisition of the Lender Group's claim, and the transfer of the Lender


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Group's claims should be shrouded in secrecy. **RGS is entitled to know that the assets of THL are not encumbered as security for the payment by the Vision Parties to the Lender Group.**"

358. Extraordinary circumstances for purposes of section 18(1) of the Superior Courts Act 10 of 2013 have clearly been demonstrated.

359. The information in the Disclosure Order would enable an investigation into the validity of the payment demand of R11.73 billion made by Vision against THL.

360. If Vision's demand is invalid or unlawful THL and all Affected Persons would clearly suffer irreparable harm – the Vision Plan confirms that unsecured creditors will receive a distribution of **R 0** in the event of liquidation.⁶¹



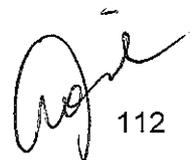
361. By contrast, the only harm Vision stands to suffer is the exposure of some sort of irregularity on its part. That is not a valid basis on which to resist the interim execution of the Disclosure Order.

362. The relief RGS seeks against Vision in terms of paragraph 8 of the Counter Application is justified on the same grounds advanced above in relation to the production of the Agency Agreements as against THL, i.e:

362.1. the extraordinary and unique facts and circumstances of this case;

362.2. the fact that access to the security documents would enable an investigation into the validity of the payment demand of R11.73 billion

⁶¹ Vision Plan, table 3 at page 70, record 001-1070.


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made by Vision against THL (which should long since have been undertaken and are essential to THL's prospects of survival).

COSTS

363. The abusive manner in which this application was brought, the BRPs concealment of facts and information to which all Affected Persons were entitled, and the complexity of the issues involved justify costs on the scale as between attorney and client on scale C.

364. Moreover, given the nature of this matter and the inevitability of opposition from multiple respondents, the BRPs could and should have foreseen that the hearing scheduled for 27 February 2026 could not practically proceed on that date.

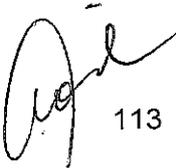
365. The BRPs could have written to RGS and other opposing respondents to seek agreement regarding a structured, short-term postponement of the matter for one or two weeks in consultation with the Office of the Honourable Judge President. This was not done.

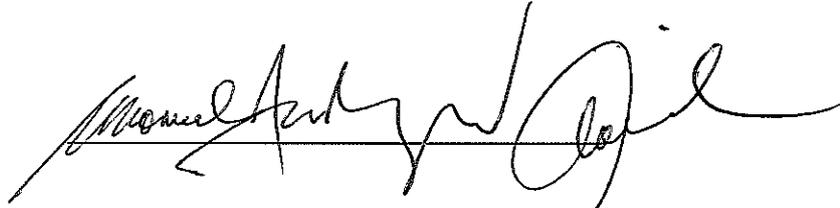
366. It is therefore submitted that the BRPs should bear the costs of any postponement that may occur in relation to the hearing on 27 February 2026, regardless of the eventual outcome of this application.

CONCLUSION

367. RGS therefore prays for an order in terms of the notice of motion to the Counter Application.




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MOMADE AQUIL RAJAHUSSEN

I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn to before me at Durban on this the 24th day of **February 2026**, the regulations contained in Government Notice No. 1258 of 21 July 1972, as amended by Government Notice No. 1648 of 17 August 1977, as amended having been complied with.



COMMISSIONER OF OATHS

**MUHAMMED AKOON
COMMISSIONER OF OATHS
PRACTISING ATTORNEY
331 ST THOMAS ROAD
MUSGRAVE, DURBAN**

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

Annexure 01

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:36:14 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.**



RGS GROUP HOLDINGS LTD

"MAR1"08th July 2024**BY EMAIL**

To: **Trevor Murgatroyd**
Peter van den Steen
Gerhard Albertyn

Joint Business Rescue Practitioners
Tongaat Hulett Limited (in Business Rescue)
Amanzimnyama Hill Road
Tongaat
4400
KwaZulu-Natal

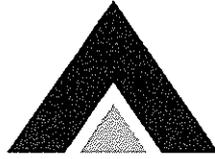


Dear Sirs,

Tongaat Hulett Limited (In Business Rescue): Proposed Acquisition

1. We refer to the Business Rescue Plan of Tongaat Hulett Limited ("THL") adopted on 11 January 2024 (the "**THL BR Plan**") and the related business rescue plans of THL's subsidiaries (together with the THL BR Plan, the "**BR Plans**").
2. We understand that the BR Plans as adopted may not be capable of implementation on their current terms.
3. Consequently, RGS Group Holdings Ltd ("**RGS**") wishes to confirm that it remains interested in acquiring, and is willing to acquire, a controlling interest in THL (the "**Transaction**") on the following terms:
 - o RGS will inject **ZAR 4,451,451,350** into THL (the "**Capital Injection**") on closing of the Transaction in consideration for which RGS will acquire 90% of the issued shares in THL.
 - o The Capital Injection to be used as follows:
 - ZAR 4,000,000,000 will be paid to the Senior Secured Lenders by THL in full and final settlement of their claims against THL and its subsidiaries and following such payment all security held by the Senior Secured Lenders from THL and all of its subsidiaries will be released. It should be noted that the Transaction does not contemplate that RGS will acquire the claims of the Senior Secured Lenders but that RGS will fund THL for the purposes of settling the Senior Secured Lenders;

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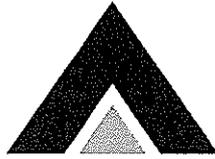
RGS GROUP HOLDINGS LTD

- Unsecured Creditors [other than the South African Sugar Association (“SASA”) and the Industrial Development Corporation of South Africa Limited (“IDC”)] will be settled 100% of their unsecured credit claims as follows:
 - ZAR 451,451,350 will be utilised at closing date to settle unsecured creditor claims as follows:
 - i. To pay up to the first ZAR 75,000 of each such unsecured creditor’s claim; and
 - ii. To pay up to 65 cents in the Rand of any balance of each such unsecured creditor’s claim.
 - The balance of unsecured creditors’ claims, up to 35 cents in the Rand, will be paid in instalments over a five-year period starting from the first anniversary of the closing date on an interest free basis.
 - RGS will advance a subordinated shareholder loan to THL of ZAR 525,956,121 plus an amount equal to interest thereon calculated at the prime overdraft rate of First National Bank from 30 June 2024 to the date of payment which will be used to settle the agreed compromised claim of SASA. This loan will be subordinated and only repayable to the extent THL’s assets exceed its liabilities and the IDC’s post commencement finance facility has been repaid in full.
 - RGS will make available the necessary working capital facility to THL on closing of the Transaction which will be used in whole or in part to settle the IDC’s post commencement financing facility.
 - The Transaction will be implemented through a subsidiary of RGS incorporated in South Africa.
4. All of the above payments will be made by RGS on closing of the Transaction.
5. In order to finance the Transaction, we propose to utilise:
- Up to USD 300,000,000 of a USD 500,000,000 Global Corporate Facility (the “**Afreximbank Facility**”) to be provided to RGS by African Export Import Bank (“**Afreximbank**”); and
 - To the extent required, RGS’ own internal cash resources.
6. We attach a copy of a letter addressed to RGS by Afreximbank confirming that Afreximbank is in the process of approving the Afreximbank Facility. To the extent you



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RGS GROUP HOLDINGS LTD

wish to verify the contents of this letter you may contact the following person at Afreximbank:

Mr Humphrey Nwugo
Regional Chief Operating Officer (Southern Africa)
Email: hnwugo@afreximbank.com

7. As additional comfort that RGS will meet its funding commitments under the Transaction we have arranged for credit guarantees to be issued in favour of the Senior Secured Lenders, SASA, and the IDC by EMOSE – Empresa Moçambicana de Seguros, S.A (“EMOSE”).
8. We attach a copy of a letter addressed to RGS by EMOSE confirming its willingness to issue the credit guarantees. To the extent you wish to verify the contents of this letter you may contact the following person at EMOSE:

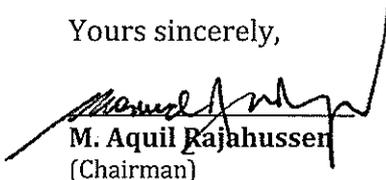


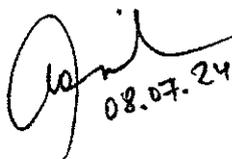
Mr Santos Magaia
Chief Operating Officer
Email: santos.magaia@emose.co.mz

9. We believe we will be in a position to close the Transaction before the end of this calendar year.
10. As we have previously advised, we believe that significant synergies exist between the respective operations of THL and RGS and that RGS has the technical expertise to effect a permanent turnaround of THL’s business that keeps THL whole without any requirement to dispose of any parts of the THL Group.
11. This letter does not constitute a binding obligation on RGS and is subject to the adoption of amended business rescue plans for THL and its subsidiaries and the conclusion of definitive documentation.

We would welcome the opportunity to re-engage with you on the proposed Transaction and look forward to your favourable response.

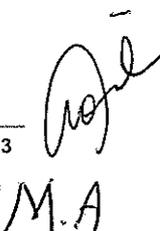
Yours sincerely,


M. Aquil Rajahussen
(Chairman)


08.07.24



RGS GROUP HOLDINGS LTD


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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

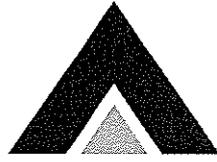
Annexure 02

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:36:47 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.**

"MAR2"

RGS GROUP HOLDINGS LTD

17 September 2024

BY EMAIL**To: The Joint Business Rescue Practitioners of Tongaat Hulett Ltd**

**Trevor Murgatroyd
Peter van den Steen
Gerhard Albertyn**

Dear Sirs,

**Tongaat Hulett Limited (In Business Rescue): Proposed Acquisition**

1. We refer to the Business Rescue Plan of Tongaat Hulett Limited ("THL") adopted on 11 January 2024 (the "THL BR Plan") and the related business rescue plans of THL's subsidiaries (together with the THL BR Plan, the "BR Plans") as well as to our previous letter dated 8 July 2024.
2. Subsequent to our previous letter and on 8 August 2024 shareholders voted to reject the debt-to-equity conversion that was the "key feature" of the THL BR Plan. It is evident from correspondence sent to the BRPs by shareholders prior to the shareholders' meeting that the debt-to-equity conversion was rejected on grounds of the same concerns that RGS has consistently brought to your attention since the adoption of the THL BR Plan.
3. Chief amongst these concerns is the fact that the Vision Parties have still not paid the purchase price due by them for the acquisition of the Lender Group's claims and security, and that the Vision Parties have thus neither acquired nor taken transfer of the Lender Group's claims. Despite numerous requests from RGS, Powertrans, and latterly the shareholders, the Vision Parties have refused to provide any clarity in this regard and the BRPs have repeatedly stated that they do not have a copy of the acquisition agreement.
4. The significance of this lack of transparency derives from the unusual nature of the THL BR Plan in that the Vision Parties never intended to inject any capital into THL but rather undertook, once they had acquired the Lender Group's claims and security, (i) to acquire a 97.3% shareholding in THL in exchange for a c.R4 billion reduction of the Lender Group's former claims against THL; and, (ii) to retain the remaining c.R.3.6 billion component of the Lender Group's former claims on terms "significantly more favorable" to THL. Shareholders therefore refused to approve the debt-to-equity conversion in

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RGS GROUP HOLDINGS LTD

the RGS Transaction does not contemplate that RGS will acquire the claims of the Senior Secured Lenders, but that RGS will fund THL for the purposes of settling the Senior Secured Lenders;

- Unsecured Creditors [other than the South African Sugar Association (“SASA”) and the Industrial Development Corporation of South Africa Limited (“IDC”)] will be settled 100% of their unsecured credit claims as follows:

- ZAR 451,451,350 will be utilised at closing date to settle unsecured creditor claims as follows:
 - i. To pay up to the first ZAR 75,000 of each such unsecured creditor’s claim; and
 - ii. To pay up to 65 cents in the Rand of any balance of each such unsecured creditor’s claim.
 - The balance of unsecured creditors’ claims, up to 35 cents in the Rand, will be paid in instalments over a five-year period starting from the first anniversary of the closing date on an interest free basis.
- RGS will advance a subordinated shareholder loan to THL of ZAR 525,956,121 plus an amount equal to interest thereon calculated at the prime overdraft rate of First National Bank from the date of advance to the date of payment which will be used to settle the agreed compromised claim of SASA. This loan will be subordinated and only repayable to the extent THL’s assets exceed its liabilities and the IDC’s post commencement finance facility has been repaid in full.
- RGS will make available the necessary working capital facility to THL on closing of the RGS Transaction which will be used in whole or in part to settle the IDC’s post commencement financing facility.



9. All of the above payments will be made by RGS on closing of the RGS Transaction.

10. In order to finance the RGS Transaction, we propose to utilize:

- Up to USD 300,000,000 of a USD 500,000,000 Global Corporate Facility (the “**Afreximbank Facility**”) to be provided to RGS by African Export Import Bank (“**Afreximbank**”); and,
- To the extent required, RGS’ own internal cash resources.

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RGS GROUP HOLDINGS LTD

11. We attach a copy of a letter addressed to RGS by Afreximbank confirming that Afreximbank is in the process of approving the Afreximbank Facility. To the extent that you wish to verify the contents of this letter you may contact the following person at Afreximbank:

Mr Humphrey Nwugo
Regional Chief Operating Officer (Southern Africa)
Email: hnwugo@afreximbank.com

12. As additional comfort that RGS will meet its funding commitments under the RGS Transaction we have arranged for credit guarantees to be issued in favour of the Senior Secured Lenders, SASA, and the IDC by EMOSE – Empresa Moçambicana de Seguros SA (“EMOSE”).



13. We attach a copy of a letter addressed to RGS by EMOSE confirming its willingness to issue the credit guarantees. To the extent you wish to verify the contents of this letter you may contact the following person at EMOSE:

Mr Santos Magaia
Chief Operating Officer
Email: santos.magaia@emose.co.mz

14. We believe we will be in a position to close the RGS Transaction within four (4) months of the adoption of the RGS Transaction as an approved business rescue plan.
15. As we have previously advised, we believe that significant synergies exist between the respective operations of THL and RGS and that RGS has the technical expertise to effect a permanent turnaround of THL’s business that keeps THL whole without any requirement to dispose of any parts of the THL Group.
16. RGS therefore requests that the RGS Transaction be considered by the BRPs as an alternative to the Vision Asset Transaction and that the BRPs then, in the exercise of their judgment, publish a plan that offers the best prospects of rescuing THL, offers the best return for creditors, and offers the best result for all affected persons including shareholders and employees.
17. This letter does not constitute a binding obligation on RGS and is subject to the adoption of amended business rescue plans for THL and its subsidiaries and the conclusion of definitive documentation.

File

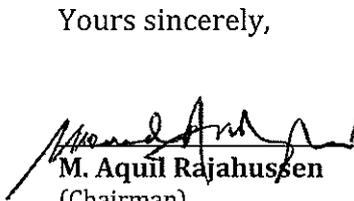
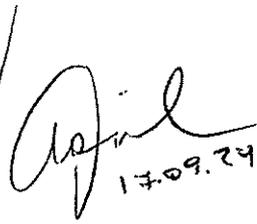
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RGS GROUP HOLDINGS LTD

We would welcome the opportunity to engage with you further on the proposed RGS BR Plan and look forward to your favorable response.

Yours sincerely,


M. Aquil Rajahussen
(Chairman)

17.09.24



RGS GROUP HOLDINGS LTD



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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

Annexure 03

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:37:02 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.**



"MAR3"

Date: 27 March 2025

Our Ref: Mr D Moodley/SG/RGS514

Your Ref:

URGENT

MESSRS WERKMANS ATTORNEYS

ATT: TREVOR BOSWELL AND SIMONE GAST

Per Email: tboswell@werksmans.com;
sgast@werksmans.com

CC: Vision Parties, the Lender Group, and the IDC

1st Floor
94 Florida Road
Durban, 4001

PO Box 35546
Northway, 4965

Tel: +27 31 301 8623

Email: reception@dmatt.co.za



Dear Sirs,

RE: TONGAAT HULETT LIMITED (IN BUSINESS RESCUE)

Introduction

1. As you are aware, we act on behalf of RGS Group Holdings Limited ("**RGS**").
2. RGS's supplementary affidavit for purposes of Part B of the application launched by it in the Durban High Court on 6 November 2024 (under case number D13702/2024) ("**the Application**") is at an advanced stage of completion. We expect to be in a position to serve and file the affidavit before close of business tomorrow, Friday 28 March 2025.
3. RGS indicated in the founding affidavit that it would seek to have Part B of the Application heard on an expedited basis. In their answering affidavit, the BRPs undertook to "co-operate in ensuring Part B is heard as expeditiously as possible." We trust that the BRPs will honour this undertaking and support correspondence

Senior Practitioner: D Moodley
Attorneys: T Naicker | B Henry
Candidate Attorneys: S Gathiram | S Naidoo | B Scheepers
Practice Manager: N Govender

which RGS intends to address to the Judge President in due course to request a preferential hearing allocation.

Vision's continued inability to fund the Acquisition

4. The BRPs first announced that Vision would acquire the Lender Group's claims via SENS on 9 November 2023. In terms of the first transfer certificate concluded by Vision and the Lender Group, payment by Vision was due on 6 December 2023, which payment did not occur.
5. The Vision Plan, which was adopted on 11 January 2024, assumes that the Vision Transactions, including the Acquisition, would have been completed by 1 April 2024 (see e.g. paragraphs 14.1.1.1 and 14.1.2.1 of the Plan), which also did not happen.
6. In its answering affidavit filed in the Application, Vision alleges that it paid a non-refundable deposit of R1.6 billion to the Lender Group on 11 January 2024 (i.e. by the close of the creditors meeting at which the Plan was adopted). No proof demonstrating that the deposit was paid as aforesaid has ever been provided.
7. At the creditors meeting Vision's ability to fund the Acquisition was raised numerous times by creditors, both the BRPs and Vision assured creditors that Vision had sufficient funds to implement the Plan and that the BRPs had received a letter from Standard Bank confirming this (i.e. that Vision had sufficient funds to fully implement the Plan). A copy of the Standard Bank letter is attached, marked "A".
8. Creditors voted to adopt the Vision Plan on the basis of the proof of funds ostensibly provided in terms of the Standard Bank letter. After 15 months in which Vision has failed to raise the funds necessary to either achieve the Acquisition or implement the plan, it is clear that the contents of the Standard Bank letter were untruthful.
9. RGS moreover recalls that when the BRPs announced that Kagera had been selected as the preferred Strategic Equity Partner and that Kagera would be funded by the IDC, Vision (aka Terris) publicly questioned how the IDC could provide funding



to a competing bidder. The queries raised by Vision in this regard ultimately contributed to the BRPs disqualifying Kagera and recommencing their search for a party to acquire THL out of business rescue.

10. Fifteen months after the Acquisition was announced, the prejudice which THL and all its stakeholders have suffered as a result of the continued implementation of the Vision Plan in circumstances where Vision has never had the requisite funding, is far worse than the prejudice which the aborted Kagera Plan ever brought to bear.
11. Vision's consistent failure to raise the funds necessary to complete the Acquisition has necessitated various indulgences, both from the BRPs and the Lender Group, and extensions of the payment deadline contemplated in the Acquisition Agreement, none of which were communicated to creditors.
12. In the answering affidavits filed by the BRPs and Vision in the Application during November 2024, it was alleged that there was nothing remiss about the timing of Vision's payment to complete the Acquisition and that such payment "was required to occur" by 31 December 2024. Once again, Vision failed to make payment by this extended date.
13. The fact that Vision had failed to make payment to the Lender Group by 31 December 2024 was confirmed in numerous sets of further affidavits that were filed by the BRPs and Vision during early January 2025 shortly before the hearing of Part A of the Application.
14. Both the BRPs and Vision, in terms of their aforesaid further affidavits, alleged that Vision would now make the necessary payment by a further extended deadline of 31 March 2025.
15. No explanation was provided as to why Vision failed to make payment by 31 December 2024. During the hearing of Part A of the Application, the presiding judge directly questioned counsel for Vision in relation to Vision's failures to make the



necessary payment and enquired as to when such continued defaults would, in Vision's view, entitle RGS to Part A relief.

16. In response, counsel for Vision in summary assured the Court that the delay between 31 December 2024 and 31 March 2025 was an understandable commercial delay but conceded that, should Vision fail to make payment by the latter date, there would be grounds for the type of relief sought by RGS in Part A of the Application.
17. RGS now understands that the BRPs and Standard Bank are attempting to procure funding on Vision's behalf from the IDC pursuant to an argument that if the IDC does not step in to provide funding to Vision, THL will be liquidated resulting in massive job losses and large scale damage to the KZN economy.
18. This is not in fact the case as RGS has repeatedly sent correspondence to the BRPs informing them of RGS's continued commitment to step into the breach left by the failed Vision Plan and to acquire THL out of business rescue.
19. RGS wishes to reiterate the terms of its most recent offer to the BRPs, dated 17 September 2024, to acquire THL out of business rescue. For ease of reference, a copy of RGS' letter of 17 September 2024 is attached, marked "B". The terms of that offer remain valid and open to acceptance by the BRPs.
20. In response to RGS's letter of 17 September 2024, the BRPs simply stated that they were unable to consider RGS' offer because the Vision Plan remained "binding" and they were thus "duty bound to continue to implement" it. A copy of the letter received from the BRPs in response to RGS's letter of 17 September 2024 is attached, marked "C".
21. We wish to remind you that in terms of the Companies Act, the failure of the Vision Plan due to having lapsed or due to impossibility of implementation, does not lead to the failure of the business rescue process and does not result in liquidation. The position would then be akin to one in which a business rescue plan had never been adopted. In terms of section 153 of the Act, a creditors meeting will thus have to be



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 Attorneys: T Naicker | B Henry
 Candidate Attorneys: S Gathiram | S Naidoo | B Scheepers
 Practice Manager: N Govender

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convened to consider the future of the company, at which meeting any creditor may table an alternative plan for consideration. Liquidation will only result pursuant to a court order converting the business rescue into liquidation as contemplated e.g. in section 132(3)(a)(ii) of the Act.

22. Should a creditors meeting be convened after the BRPs declare the Vision Plan to have lapsed and / or failed, RGS formally confirms and undertakes to table an alternative business rescue plan for creditors' consideration. As was the case with all previous offers made by RGS, the terms of such business rescue plan will be objectively superior to the terms presently offered in terms of the failed Vision Plan and will, in particular, result in more favourable returns for both creditors and shareholders.



Conclusion

23. To this end, RGS signed a facility term sheet with Afrexim Bank on 22 January 2025 which contemplates funding of up to USD 280 million specifically for purposes of the offer set out in RGS' letter of 17 September 2024 (i.e. Annexure "B" above). A copy of the Afrexim term sheet is attached, marked "D".
24. The BRPs have a duty to declare that the Vision Plan has lapsed due to the non-fulfilment of the conditions adhering thereto and to accept that Vision has never had the funds necessary either to achieve the Acquisition or to implement the Plan.
25. The BRPs must now consider other viable options to ensure the success of THL's business rescue and must appreciate that liquidation is not a foregone conclusion should the Vision Plan be declared to have lapsed and / or failed.
26. The BRPs cannot, with respect, continue to support the implementation of the Vision Plan indefinitely notwithstanding Vision's continued inability to consummate the terms and conditions thereof.

27. The BRPs are therefore requested to confirm urgently:

27.1. whether Vision will fully and finally discharge the purchase price due to the Lender Group by the further extended due date of 31 March 2025;

27.2. should Vision fail to make such payment by 31 March 2025, for how much longer the BRPs will continue to entertain the Vision Plan and proceed with its implementation in the teeth of overwhelming evidence to the effect that Vision does not have access to the funding necessary to implement the Plan.

28. Should the BRPs fail to provide the above confirmations, RGS's rights to launch further interdictory proceedings against the continued implementation of the failed Vision Plan are strictly reserved. RGS moreover reserves the right to launch independent forensic investigations into the irregularities that have characterised the business rescue process and, should those investigations identify unlawful conduct, RGS will fully protect its rights by way of delictual and / or criminal claims.



Yours faithfully,

 P.P
D MOODLEY

DMI Attorneys

Copies to:

The Vision Parties

c/o Stein Scop Attorneys
Ms A Rakitzis Ho
Email: alexandra@steinscop.com

The Lender Group

c/o The Lender Group Facility Agent
Standard Bank of South Africa
Corporate and Investment Banking Division

Senior Practitioner: D Moodley
Attorneys: T Naicker | B Henry
Candidate Attorneys: S Gathiram | S Naidoo | B Scheepers
Practice Manager: N Govender

 M.A

Mr Venashan Seerangam

Email: AgencySBSA@standardbank.co.za; alombard@ensafrica.com

The Industrial Development Corporation of South Africa

c/o Mr Haroon Laher

Faskens

Email: hlaher@fasken.com



Senior Practitioner: D Moodley
Attorneys: T Naicker | B Henry
Candidate Attorneys: S Gathiram | S Naidoo | B Scheepers
Practice Manager: N Govender

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African Export-Import Bank
Banque Africaine D'Import-Export

**USD280 MILLION INTRA-AFRICAN INVESTMENT FINANCING FACILITY TERM SHEET TO RGS
GROUP HOLDINGS LTD**

IMPORTANT NOTICE:

We, the African Export-Import Bank ("Afreximbank"), are pleased to provide you with a proposal of indicative terms in respect of the Facility (as defined below). This proposal is intended as a basis for discussions and should not be construed as a contractual offer or a binding commitment by the African Export-Import Bank to arrange or finance the Facility. Any commitment by the African Export-Import Bank shall be subject to conditions acceptable to it including but not limited to (i) satisfactory due diligence; (ii) receipt of internal credit and other relevant approvals; (iii) there being no material adverse change in respect of market conditions, the business or financial condition of the Borrower; and (iv) satisfactory documentation. Notwithstanding the above, the provisions of "Costs and Expenses" in this term sheet shall be immediately binding upon execution of this term sheet. The African Export-Import Bank will not be responsible for any losses or damages which any person suffers or incurs because of reliance on or using this term sheet. This term sheet and its contents are intended for the exclusive use of the Borrower and shall not be disclosed by the Borrower to any person other than the Borrower's affiliates and legal and financial advisors for the purposes of the proposed transaction unless the prior written consent of the African Export-Import Bank is obtained.



PARTIES

Borrower:	RGS Group Holdings Ltd ("RGS"), Mauritius
Co-Borrower:	RG Industries, SA, Mozambique
Guarantors:	Momade Aquil Rajahussen Momade Rafique Rajahussen Gulamo Momade Arif Rajahussen Gulamo Sukeina Rajahussen Gulamo Rozmin Rajahussen Gulamo Rajahussen Gulamo
Obligors:	The Borrower, Co-borrower and Guarantors
Acquisition Target:	Tongaat Hulett (South Africa)
Asset Seller:	Tongaat Hulett (South Africa)

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African Export-Import Bank
Banque Africaine D'Import-Export

Lender(s): African Export-Import Bank ("Afreximbank", the "Lender" or the "Bank")

Facility Agent and Security Trustee: African Export-Import Bank (the "Agent" and "Trustee").

Escrow Agent: African Export-Import Bank or any Agent acceptable to the Lender

Custodian: African Export-Import Bank or its appointed agents (the "Custodians")

The role of the Custodian shall be covered in a custodian agreement between the Lender, The Custodian and the Obligors.



Lender's Commercial/Technical/Financial Due Diligence Advisor/Consultant (LTA): To be advised

Local Administrative Agent (LAA): To be advised

Role of the LAA: The LAA is expected to perform the roles below:

- i. Provide a first demand bank guarantee in USD for 20% of the facility amount;
- ii. facilitate foreign exchange with meticaals for remittance to the Offshore Collection Account;
- iii. report to the Agent on any potential threats to the transaction as far as the Borrower's operations are concerned and provide recommendations on action to be taken;
- iv. ensure that all local law security documents are received and perfected in accordance with local law;
- v. ensure that all financial reports of the Borrower are prepared and sent to the Agent promptly;
- vi. keep the Local Collection Account and provide periodic statements as may be required by Afreximbank; and
- vii. any other role as may be agreed with the Agent from time to time.

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Due Diligence:

- a. The Lender's' Financial Advisor shall independently confirm the proposed funding structure for the transaction
- b. The Lender(s) will appoint legal advisors, at its sole discretion, but at the cost of the Borrower/Purchaser to provide advice in connection with the Facility. The legal advisors so appointed shall also be retained for the documentation of the Facility;
- c. The Lender(s) may also appoint other advisors to conduct due diligence on any other issues considered relevant for its assessment of the Facility; and
- d. The due diligence shall include a review of the Sale Agreement between the Seller and the Borrower/Purchaser, confirmation that the transaction structure will not invalidate existing regulatory requirements/ licenses, together with other checks as may be required.



THE TRANSACTION

- Transaction:** The acquisition 100% shareholding in Tongaat Hulett (South Africa,) at USD300 Million and provision of working capital of USD100 Million
- Funding Mix:** The funding mix for the Transaction will be maintained at:
 - Debt Funding: USD280 Million (not to exceed 70%)
 - Equity Funding: USD120 Million (not less than 30%)
- Equity Resources:**
 - Tranche A: Cash of USD90 Million (not less than 30% of Transaction amount)
 - Tranche B: Cash of USD30 Million (not less than 30% of Transaction amount)
- Acquisition Date:** The date on which the Acquirer assumes ownership of no less than 100% of the entire issued share capital Target Asset.

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TERMS OF FACILITY

Facility Type:	Intra-African Investment Financing Facility
Facility Amount:	Up to USD280 Million (Two Hundred and Eighty Million United States Dollars) divided into two tranches subject to the Facility Amount: <ul style="list-style-type: none"> • Tranche (A): Up to USD 210 Million • Tranche (B): Up to USD 70 Million
Purpose:	The Facility Amount will be available to the Borrower to make: <ol style="list-style-type: none"> 1. Tranche A¹: Up to USD 210 million to support the acquisition of Tongaat Hulett Group (South Africa), as a strategic opportunity for Obligor to enhance their presence in the sugar and agriculture sector in Botswana, Mozambique, South Africa and Zimbabwe. 2. Tranche B: USD 70 million for working capital to support commercial operations of the Obligors business.
Final Maturity Date:	Tranche A: 60 months from date of first disbursement/utilization. Tranche B: 60 months from date of first disbursement/utilization. Each advance under Tranche B shall be repaid in equal quarterly instalment within 12 months. Multiple drawdowns are permitted. However, final repayment should not exceed the final maturity date which is 60 months from date of first disbursement.
Grace Period:	The first advances under Tranche A shall have a 6-month moratorium on principal only from the date of first utilisation. Interest shall be serviced during the Grace Period. Repayments shall be made in equal quarterly instalments. Final repayment should not exceed the final maturity date.



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¹ Lender's debt financing amount will be based on a maximum of 70% of the asset valuation as provided by the LTA.

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Drawdown:

Tranche A

The Parties (the Lender, the Borrower, the Seller and Escrow Agent) will agree on the terms of a closing memorandum detailing the transaction/drawdown mechanism:

- a. The Borrower provides proof of payment of the Equity related to the Tranche A into the Escrow Account. The Equity amount must be sufficient to meet the purchase price agreed between the Borrower and Asset Seller upon disbursement of the debt component by the Lender.
- b. The Parties agree on the terms of the Acquisition Documents and the Finance Documents (including the Pledge over the Target's Shares) which are signed and kept in escrow by the Escrow Agent;
- c. On the acquisition Date, concomitantly with the release of the Acquisition Documents and the Finance Documents (including the Share Pledge Agreement to the Lender) the Lender disburses the Facility Amount into the Escrow Account;
- d. The Escrow Agent then turns over the funds to the Asset Seller;
- e. Within a maximum of [30]² business days, the Pledge over the Shares is perfected in accordance with local laws.
- f. The Custodian takes custody of the Shares

The parties to this term sheet agree that the transaction and completion mechanism will be agreed between the Lender and the Borrower, and this clause shall be revised, in the context of the completion mechanics outlined in the SPA as well as any local legal and regulatory requirements but in event in a manner satisfactory for the Lender.

- g. The acquisition will be conditional upon:

² Subject to local counsel opinion.

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- i. The carrying out of satisfactory legal and commercial due diligence in relation to the Acquisition Target;
- ii. There being no material adverse change in the position of the financial or trading position or prospects of the Acquisition Target between the date of this Term Sheet and the proposed Acquisition Date;
- iii. That no dividends are made or declared by the Acquisition Target between the date of this Term Sheet and the proposed Acquisition Date;
- iv. The net assets of the Acquisition Target not being less than those shown in the audited accounts as at 31st December 2024; and,
- v. The approval of the acquisition by the Board of the Borrower/Purchaser and the passing of a resolutions by the shareholders of the Borrower/Purchaser approving the acquisition and any related matters.



Obtaining in a form satisfactory to the Lender all regulatory/statutory approvals which are necessary in relation to the proposed acquisition of the shares and applicable regulatory licenses (including the consent or letter of no-objection of applicable regulatory authorities.

Tranche B

- a. Drawings under Tranche B shall be against invoices for raw materials and other payable.
- b. Borrower will transfer its 30% Equity under Tranche B into the Disbursement Account.
- c. Borrower then requests a disbursement of the Lenders 70% debt portion under the Facility.
- d. Payments will be made directly to the suppliers.

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Repayment:

Each advance under Tranche A Facility shall be repaid over 18 equal quarterly instalments, where the first instalment shall be paid on the date falling 6 months after the end of the Grace Period. The annual repayment schedule shall be as follows:

Year	#	%
Year 1	2	11.1%
Year 2	4	22.2%
Year 3	4	22.2%
Year 4	4	22.2%
Year 5	4	22.2%
Total		100.0%

The advance under Tranche B shall be repaid over 4 equal quarterly instalments, where the first instalment shall be paid on the date falling 3 months after the disbursement date.

Sources of Repayment:

The Facility will be repaid from the following sources, amongst others:

- The Obligors operating cash flows from RG Industries, SA, Mozambique.
- Dividends and management fees due to the Obligors.
- Operating cashflows from acquired businesses and direct beneficiaries of the facility.

Transaction Security and Assurances:

The Security shall be obtained in **two stages**:

Stage 1 – at the time of disbursement

- First Demand bank guarantee for an amount of 20% of the facility amount;
- Legal Mortgage over unencumbered assets of the Obligors to be stamped for a value of 1.5x the facility amount;
- Joint and Several Personal Guarantees of the Guarantors supported by their statement of net worth;

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- d) Assignment of unencumbered operating cashflows of the Obligors as well as dividends, management fees, royalties and rights under any management contracts in favour of the Obligors;
- e) Charge over Permitted Accounts;
- f) Assignment of a Global Insurance Policy to the Lender (with Lender named as 1st loss payee);
- g) Any additional security that may be required by Afreximbank.



Stage 2 – post disbursement

- h) Pledge over the acquired/issued shares (including dividends) in favour of the lender;
- i) First Ranking security over assets (legal mortgage, fixed and floating assets/debenture) acquired under the facility (including the receivables from those assets). *[This is not a day-one security but would be put in place after the relevant disbursement for the purchase of the assets to be pledged].*

The Borrower undertakes to effect the security over the assets to be acquired with the facility proceeds within a maximum period of one month post the utilization date.

Capital Repayment:

The Borrower shall repay the principal amount under Facility in full no later than the Final Maturity Date.

Voluntary Prepayment:

Permitted in whole or in part on 14 Business Days' prior notice, but, if in part, by a minimum of USD 1,000,000.00.

Amounts prepaid may not be redrawn.

Prepayments shall be made together with interest accrued on the amount prepaid and, subject to breakage costs, without penalty. No breakage costs are payable if the prepayments are made at the end of an Interest Period.

Permitted Accounts:

The Borrower shall maintain the following accounts which shall be blocked/controlled by the Agent:

- (a) Disbursement Account: The Borrower shall open a USD Disbursement Account with Afreximbank in which the disbursement proceeds of the facility will first be credited before release in line with the disbursement mechanism.

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- (b) The USD Offshore Collection Account shall be opened with Afreximbank into local collection sales converted into USD by the LAA shall transferred. All proceeds in USD from [specified sources] will be paid into the Offshore Collection Account. Funds in the Collection Account will be used to meet the loan instalment repayments.
- (c) A USD Escrow Account will be opened with an Escrow Agent to hold Equity from the Borrower and Debt funding from the Lender. Funds in this account shall be used to settle the transaction.
- (d) Local Collection Account: shall be opened with the LAA into which the assigned proceeds from local sales in local currency will be paid. The LAA will on a monthly basis convert funds in the Local Collection Account to USD and transfer the converted funds into the USD Offshore Collection Account.
- (e) The Borrower shall open with the Bank, a Debt Service Reserve Account ("DSRA") in USD prior to the first utilisation. The DSRA will be funded with one instalment principal and interest repayment and funds in the DSRA will be used in meeting principal / interest that falls due and not paid.



In the event that funds in the DSRA are utilised, the account should be replenished no later than 7 business days from the date the lender notifies the borrower of such shortfall. The DSRA to remain funded during the tenor of the facility.

(together the "Permitted Accounts")

Funds in the Permitted Accounts shall be applied towards:

1. fees, costs and expenses due under the Facility;
2. all interest and principal amounts payable by the Borrower in respect of the Facility; and,
3. any available excess cash after the next instalment loan repayment shall with the consent of the Borrower be used to prepay the facility without a penalty.

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PRICING

Annual Management Fees:	1.00% per annum commencing on the first anniversary of the facility on outstanding amount.
Advisory Fee:	1.00% flat to be calculated on the Facility Amount, due and payable by the Borrower, on notification of approval of the facility request.
Appraisal fee:	USD100,000 non-refundable flat fee, payable as follows: <ul style="list-style-type: none"> • 50% payable at signature of this Indicative Term Sheet • 50% payable at the communication of 1st level approvals.
Commitment Fee:	0.10% per annum, on the unused and uncanceled amount of the Facility for the Availability Period. Accrued commitment fee is payable quarterly in arrears during the Availability Period, on the last day of the Availability Period and on the cancelled amount of the Facility at the time a full cancellation is effective.
Margin:	4.5% per annum.
Interest Period:	Quarterly interest periods ending on 31 March, 30 June, 30 September and 31 December of each calendar year. Interest Periods shall not extend beyond the Final Maturity Date.
Interest Rate:	The aggregate of the applicable: <ul style="list-style-type: none"> (a) Margin; and (b) Base Rate
Base Rate:	USD 3 Months CME Term SOFR administered by CME Group Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant period published by CME Group Benchmark Administration Limited (or any other person which takes over the publication of that rate SOFR being the secured overnight financing rate If the rate is less than zero, it shall be deemed to be zero.
Interest Rate Benchmark Replacement:	The Facility Agreement will include replacement of interest rate benchmark provisions based on the current recommended LMA form of Revised Replacement of Screen Rate Clause to enable variations to the Facility Agreement to incorporate use of a replacement interest rate benchmark rate



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at the direction of the Lender acting in good faith and in a commercially reasonable manner.

Payment of Interest on Loans:

Interest is payable on the last day of each Interest Period (the "Interest Payment Date").

Default Interest:

Overdue amounts shall bear interest at 2% (two per cent.) above the applied Interest Rate.

OTHER FACILITY TERMS



Documentation:

The Facility will be made available under a facility agreement (the "**Facility Agreement**") and other documents in form and substance satisfactory to the Lender(s).

Prepayment and Cancellation:

(a) **Illegality**

A Lender may cancel its commitment and require prepayment of its share of the loans.

(b) **Change of Control**

If Momade Aquil Rajahussen; Momade Rafique Rajahussen Gulamo; Momade Arif Rajahussen Gulamo; Sukeina Rajahussen Gulamo; Rozmin Rajahussen Gulamo; Rajahussen Gulamo cease to control the Borrower or Co-Borrower or any person or group of persons acting in concert gains control of the Borrower or Co-Borrower:

- i. a Lender shall not be obliged to fund a utilisation; and
- ii. a Lender may by not less than 5 business days' notice cancel its commitment and require repayment of all its share of the loans.

(c) **Increased Costs, Tax Gross Up and Tax Indemnity**

The Borrower may cancel the commitment of and prepay a Lender that makes a claim under these provisions.

(d) **Voluntary Cancellation**

Permitted in whole or in part (minimum USD 1,000,000), if prior notice of 14 business days is given to the Bank. Amounts cancelled may not be re-borrowed.

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Status:

Direct, unconditional and general obligations of RGS ranking at least pari-passu with other present and future unsubordinated and secured obligations of RGS.

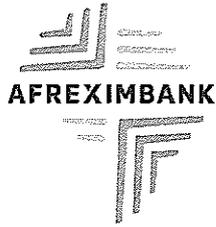
Representations:

The Borrower and Co-Borrower will make each of the representations on the date of the Facility Agreement and in the case of repeating representations (to be specified in the Facility Agreement), on the date of each Utilisation Request and the first day of each Interest Period, which shall include but will not be limited to the following:

- (a) status;
- (b) binding obligations;
- (c) non conflict with other obligations;
- (d) no reduction of capital;
- (e) power and authority;
- (f) validity and admissibility in evidence;
- (g) governing law and enforcement;
- (h) insolvency;
- (i) no deduction of tax;
- (j) no filing or stamp taxes;
- (k) no default;
- (l) no misleading information;
- (m) financial statements;
- (n) accounting reference date;
- (o) no proceedings pending or threatened;
- (p) no breach of laws;
- (q) security and financial indebtedness;
- (r) ranking of Permitted Account security/ Transaction Security;
- (s) good title to assets;



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- (t) legal and beneficial ownership of the Permitted Accounts / Charged Property;
- (u) intellectual property;
- (v) Group Structure Chart;
- (w) pari passu ranking;
- (x) environmental compliance and no environmental claims;
- (y) taxation compliance and no tax claims;
- (z) sanctions; anti-bribery and corruption;
- (aa) centre of main interests and establishments;
- (bb) no material adverse consequences.



Information Undertakings:

The Borrower's and Co-Borrower obligations to supply information shall include but will not be limited to the following:

- (a) as soon as they become available, but in any event within 90 days of the end of its financial years its audited consolidated financial statements together with those of each Obligor;
- (b) as soon as they become available, but in any event within 90 days of the end of its financial half years its consolidated financial statements
- (c) with each set of consolidated financial statements, a compliance certificate signed by two directors of the Borrower and, in the case of the audited consolidated financial statements reported on by the Company's auditors [in the form agreed by the Company and the Lenders prior to the date of the Facility Agreement by the Company's auditors]
- (d) all documents dispatched by the Borrower to its shareholders (or any class of them) or its creditors generally;
- (e) details of any material changes in insurance cover and any insured event in relation to the Charged Property;

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- (f) unless such disclosure would constitute a breach under applicable law or regulation, details of any violation of any anti-corruption laws and copies of any correspondence with any regulatory authorities related to such breach;
- (g) details of any material litigation, arbitration or administrative proceedings or any material judgment;
- (h) such other information regarding ~~the financial~~ condition, business and operations of any member of the Group as any Finance Party may reasonably request;
- (i) such other information regarding ~~the Permitted~~ Accounts/ the Charged Property and the compliance of the Borrower with the terms of the Permitted Account security documentation/any Security Document as any Finance Party may reasonably request.
- (j) The Borrower shall supply a certificate certifying no Default (or any Default and the steps being taken to remedy it) promptly upon request.
- (k) On the introduction of or any change in law, a change in the status or shareholders of an Obligor or a proposed assignment or transfer by a Lender, each Obligor shall promptly upon the request of any Lender supply such documentation and other evidence as is reasonably requested by the Agent in case of syndicated facilities (for itself and on behalf of any Lender) or any Lender (or prospective new Lender) in order for the Agent or such Lender (or prospective new Lender) to carry out and be satisfied with the results of all necessary "know your customer" or other checks in relation to the transactions contemplated in the Finance Documents.
- (l) The Borrower may satisfy their obligations to deliver information to those Lenders who agree by posting such information onto an electronic website.

Financial Covenants:

Customary covenants for the Borrower and Co-Borrower to include among others:

- Minimum Net Worth: the Consolidated Tangible Net Worth at all times shall not be less than US\$ 750m;
- Gearing: the ratio of Consolidated Net Debt to Consolidated Tangible Net Worth at all times shall not be greater than 1.25:1;

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- Leverage Ratio: The ratio of consolidated Term Debt to Consolidated EBITDA shall not be more than 1.25:1;
- Maintain an EBITDA Margin of at least 20%; and
- Maintain a Current Ratio of 1.5x

The financial covenants shall be calculated in accordance with accounting principles and tested by reference to each of the financial statements submitted by the Borrower.

General Undertakings:

Usual for financings of this nature (subject to such qualifications and exceptions as may be agreed) in respect of each Obligor including, without limitation, the following:



Authorisations and compliance with laws:

- (a) authorisations;
- (b) compliance with laws;
- (c) environmental compliance;
- (d) environmental claims;
- (e) taxation;
- (f) sanctions;
- (g) anti-bribery and corruption;

Restrictions on business focus

- (h) restriction on merger;
- (i) no change of business;
- (j) restriction on acquisitions;
- (k) restriction on joint ventures;
- (l) holding companies;

Restrictions on dealing with assets and Security

- (m) preservation of assets;
- (n) pari passu ranking;
- (o) negative pledge;
- (p) restriction on disposals;
- (q) arm's length basis;

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Restrictions on movement of cash - cash out

- (r) restriction on loans or credit;
- (s) restriction on guarantees or indemnities;
- (t) [restriction on dividends and share redemption;

Restrictions on movement of cash - cash in

- (u) restriction on financial indebtedness;



Miscellaneous

- (v) not to use the Facility proceeds for any other purpose than permitted under the Facility Agreement;
- (w) insurance;
- (x) access;
- (y) hedging / foreign exchange arrangements;
- (z) further assurance;
- (aa) conditions subsequent;
- (bb) A report to be provided on an annual basis or any shorter period as determined by Afreximbank in relation to the trade and development impact of the Facility in a form acceptable to Afreximbank.

Transaction and Permitted Account Undertakings:

Usual for financings of this nature, including, without limitation:

- (a) undertakings relating to On-Loans (including eligibility, On-Loan servicing and amendments to On-Loan Documents;
- (b) undertakings relating to the Permitted Accounts.

Events of Default:

Events of default customary and appropriate in financings of this type, including but not limited to the following:

- (a) non-payment of any amount due under the Facility unless failure to pay is caused by administrative or technical error and payment is not made within [3] Business Days of its due date;
- (b) any financial covenant not satisfied;

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- (c) failure to comply with Permitted Account Undertakings;
- (d) failure to comply with any other obligations subject to agreed remedy periods if capable of remedy;
- (e) misrepresentation;
- (f) cross default, subject to an agreed minimum amount;
- (g) insolvency;
- (h) insolvency proceedings;
- (i) creditors' process;
- (j) failure to comply with court judgment or arbitral award;
- (k) ownership of Obligors;
- (l) audit qualification;
- (m) expropriation/governmental intervention;
- (n) repudiation and rescission of agreements;
- (o) litigation;
- (p) cessation of business;
- (q) unlawfulness and invalidity;
- (r) convertibility / transferability;
- (s) any governmental consent, license or approval material to the relevant business of the Borrower no longer being in full force and effect;
- (t) moratorium;
- (u) political and economic risk;
- (v) material adverse change.



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Conditions Precedent to Approval:

Tranche A

1. Sale and Purchase Agreement between Asset Seller and Borrower;
2. Receipt of Business Valuation model & report used to arrive at the proposed purchase consideration;
3. Receipt of a base case Post Acquisition Financial & Business model covering the proposed Facility tenor;
4. Receipt of Financial due diligence report on the Acquisition Target;
5. Receipt of legal due diligence reports on the Acquisition Target;
6. Validation of the Valuation, Financial & Legal Due Diligence Reports by an independent consultant appointed by the Lender and at the Borrower's expense; and,
7. KYC clearance on Asset Seller and Obligors.



Dividends Distribution Clause:

The Borrower undertakes not to declare or pay any dividends throughout the Facility tenor, unless:

- a) The payment of all its Financial Obligations [Current Portion, Due Interest, Fees, and Commissions] due in the relevant year for distribution.
- b) All Financial Covenants are met.
- c) No Event of Default has occurred and/or is continuing or will occur as a result of such distribution.

Initial Conditions Precedent:

These will include (without limitation) the following in relation to the Borrower and Co-Borrower in form and substance satisfactory to the Lender:

- (a) constitutional documents;
- (b) certified resolution of board of directors authorizing the transaction;
- (c) specimen signatures;

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- (d) shareholders resolutions;
- (e) borrowing/guaranteeing certificate;
- (f) certification of copy documents;
- (g) receipt of executed copies of the Facility Agreement and all other finance documents in respect of the Facility;
- (h) receipt of executed Security Documents and the perfection of all Transaction Security to Afreximbank's satisfaction;
- (i) a copy of the Share Purchase Agreement;
- (j) Receipt of Valuation Report confirming the value of the Target Shares prepared by an acceptable independent firm (nominated by the Lender) and the relevant costs shall be at the Borrower's expense;
- (k) Evidence of fulfilment of all pre-Acquisition Date obligations in the Share Purchase Agreement;
- (l) Evidence of the release of any encumbrances affecting the Target Shares/ assets which have been created or otherwise have arisen prior to the execution of the Share Purchase Agreement;
- (m) Approval of the applicable regulatory body in respect of the acquisition of the Target;
- (n) Copies of financial, and legal due diligence reports in relation to the Acquisition Target conducted by Borrower's advisors and directed to the bank and to include tax and social insurance positions as well as the regulatory position on financial assistance rules as it concerns the transaction;
- (o) Payment of all fees due under the Facility Agreement on the first drawdown date or prior to it.
- (p) All the Borrower's warranties & representations to be true and correct.
- (q) Legal opinion from the Lender's and Borrower's legal counsel (as appropriate) confirming:
- (r) That all the legal aspects related to the Transaction are in accordance with the applicable Laws in the Borrower and Target Company jurisdictions;



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- (s) Confirming that all required consents are in place;
- (t) Compliance with Financial Assistance Rules in the respective jurisdictions of the Target Company and the Borrower/Purchaser;
- (u) Enforceability and control of the Borrower/Purchaser on the dividends distribution policy of the Target Company;
- (v) Capacity and authority from Borrower's legal advisors; and
- (w) Issuance of CPs satisfaction letter from Lender's legal counsel.
- (x) receipt of executed Permitted Account security documentation /Security Documents and the perfection of that security/all Transaction Security to Afreximbank's satisfaction;
- (y) a copy of all contracts that are the subject of the Transaction Security;
- (z) a copy of any relevant insurance policy, together with evidence that [the Security Agent / the Lender has been named as loss payee; the insurance cover will be taken out by the Obligors with an agreed independent insurance company through Afreximbank under its Managed General Agency insurance programme;
- (aa) a copy of any relevant insurance policy, together with evidence that [the Security Agent / the Lender has been named as loss payee; the insurance cover will be taken out by the Obligors with an agreed independent insurance company through Afreximbank under its Managed General Agency insurance programme;
- (bb) the audited financial statements of the Borrower and Co-Borrowers and each for its immediate past financial year;
- (cc) the initial budget;
- (dd) legal opinion of English and Mauritius and Mozambique counsel to the Lender;
- (ee) evidence of appointment of process agent;
- (ff) satisfactory conclusion of KYC;
- (gg) evidence that the Permitted Accounts have been opened and are fully operational;



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- (hh) evidence of payment of all fees, costs and expenses then due from the borrower under the Facility Agreement;
- (ii) a copy of any other document, authorisation, opinion or assurance specified by the Lender.

General Covenants:

The Borrower will provide each of the following undertakings, which shall include but will not be limited to the following:

- a) To provide the POA and its related documents to perfect the **Acquired Shares Transfer**.
- b) To ensure that the Acquisition Target will not bear any additional indebtedness/investments, except in the normal course of business consistent with the group's banking activity and for liquidity management purposes, exceeding those reflected in the Base case financial model, without obtaining prior written approval from Lender, such consent not to be unreasonably withheld or conditioned.
- c) Payments for capital expenditure, fees to affiliates, and dividends may be paid, so long as payment would not generate a violation of a financial covenant and current obligations are met.
- d) Borrower will have the right to settle sub-debt (Shareholder's Loan) from excess cash available (after servicing the Senior Debt financial payments) after elapse of grace period subject to a pro-rata settlement of Senior Debt and that outstanding amounts under sub-debt will never fall below outstanding amounts under Senior Debt at all levels.
- e) No amendment to the agreement between the Borrower & the Acquisition Target that could possibly have a negative effect on the Borrower's ability to repay debt, interest & any other financial obligations or that could possibly have a Material Adverse Effect;
- f) Provision of financial and other information subject to sufficient notification;
- g) Notification of any Potential Event of Default or Event of Default and deliver a certificate signed by a duly



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- authorised representative confirming that there is no Default and no Event of Default;
- h) Obtain, comply with and maintain all material authorizations; licenses and approvals required for the business to operate profitably.
 - i) Compliance with applicable commercial, employment and other material laws in the Acquisition Target's jurisdiction;
 - j) Providing a certified true copy of the memorandum and articles of association of the Acquisition Target and any amendments thereto one month after Closing Date;
 - k) Providing a certified true copy of the register of members of the Acquisition Target one month after Closing Date;
 - l) Execute the pledge of shares agreement of the Acquisition Target shares duly signed by the Borrower;
 - m) Copy of current insurance policies, which are specifically required by the Lender, within 30 days from the Acquisition Date as applicable;
 - n) Except for the pledge of shares agreement and liens mandatorily applicable by operation of law in the normal course of business, not to incur, create or permit to be created or to subsist any Financial Indebtedness, (other than the Financial Indebtedness agreed upon and except in the normal course of business consistent with the group's banking activity and for liquidity management purposes exceeding those reflected in the Base case financial mode) without the prior written approval of the Lender which will not unreasonably be withheld.



Other covenants may be added if seen necessary by the Lender post completion of due diligence and agreed on base case subject to mutual agreement with the Acquirer

Assignments and Transfers:

The Bank will be entitled to sell, transfer or grant participation in the Facility to any investor at any time, without the prior consent of Borrower and Co-Borrower.

The Borrower and Co-Borrower may not assign its rights or transfer rights or obligations in respect of the Facility.

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Information Covenants:

- a) Annual Audited Financial Statements of the Borrower, Co-Borrower and the Acquisition Target to be provided within a maximum of 150 days from the end of its fiscal year.
- b) Semi Annual Management Accounts of the Borrower, Co-Borrower and the Acquisition Target to be provide within 90 days after the end of every half year.
- c) Financial statements to be prepared in accordance with international Accounting Standards.
- d) Annual Budget and Projected Cash Flows of the Acquisition Target to be submitted by maximum 30 days after the first Board of Directors (BOD) meeting from the commencement of the fiscal year.
- e) Annual valuation report prepared by an acceptable IFA and addressed to Lender reflecting the acquired shares value (such report shall not be presented in case the shares were listed).



Covenants and Undertakings:

Customary for transactions of this nature including, but not limited to:

1. Obligors undertakes to provide Lender with a First Ranking security over assets acquired under the facility (including the receivables from those assets) not later than 30 days after disbursement and receipt of title deeds to the assets and property.
2. Undertaking by the Obligors not to arrange any significant financial commitments that could negatively influence its obligations regarding the Facility.
3. Undertaking from the Obligors to notify the Lender in case of Event of Default, and/or any significant events that might negatively affect the Borrower or its ability to meet its obligations under the finance documents.
4. Undertaking from the Obligors that by signing the Facility documents, the Obligors is not breaching any condition under any other contract or agreement.

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5. Undertaking from the Obligors to submit to the Lender (within 120 days from the fiscal year end), a copy of the financial accounts and financial statements.
6. Undertaking from the Obligors to submit to the Lender (within 60 days from each quarter end), a copy of quarterly management accounts.
7. Undertaking from the Obligor treat the Facility on pari-passu basis with all other facilities it has obtained.
8. The Obligor undertakes to effect the security over the assets acquired with the facility proceeds within a maximum period of 1 month post the utilization date.



Undertaking not to restrict dividend distribution to shareholders in the Obligors subsidiaries and other investments

Further conditions precedent to each Utilisation:

Utilisation of the Facility will be subject to:

1. there being no Default; and
2. all required representations being true.

Taxes & other Deductions:

All payments by the Obligors shall be made free and clear of any present and future taxes, levies, deductions and withholdings of whatever nature, either present or future. Should such taxes, levies, deductions or withholdings be required by law, the Obligors will make such additional payments to the Lender that will ensure that the relevant party receives, net of such deduction or withholding, the amounts that party would have received if such taxes, levies, deductions or withholdings had not been required.

MISCELLANEOUS

Miscellaneous Provisions:

The Facility Agreement will contain provisions relating to, among other things, default interest, market disruption, breakage costs, tax gross up and indemnities including FATCA, increased costs, set-off and administration.

Costs and Expenses:

All costs and expenses (including legal fees) reasonably incurred by the Lender in connection with the preparation, negotiation, printing, execution and syndication of the Facility Agreement and any other document referred to in it shall be

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paid by the Borrower promptly on demand whether or not the Facility Agreement is signed.

Governing Law:

English law including for any non-contractual obligations save were inappropriate for Transaction Security.

Enforcement (Courts):

Courts of England including for any non-contractual obligations save were inappropriate for Transaction Security. Any Finance Party may at its option submit any dispute to court proceedings in any other courts with jurisdiction.

Market Conditions:

The terms and conditions set out in this Term Sheet are subject to, in the opinion of Afreximbank, there being no



- (a) material adverse change in the international money, loan and capital markets;
- (b) material adverse change in the financial condition of the Obligors; and
- (c) material adverse change in socio-political and economic situation of the [Mauritius/Mozambique],
- (d) occurrence of any action or inaction by the Government of **South Africa**, or pursuant to such action or inaction by the Government of **South Africa**, by entities authorised under the laws of [South Africa], to engage in foreign exchange transactions, which prevents, directly or indirectly, the Borrower from legally:
 1. converting local currency proceeds into US Dollars, for the purposes of its payment obligations under the Facility Documents; or
 2. transferring outside of **South Africa**, US Dollars for the purposes of meeting its payment obligations under the Facility Documents,

in each case from the date of the signing of this Term Sheet to the date of the signing of the facility documentation.

AfrexInsure:

Afrexim Insurance Management Company ("AfrexInsure") shall have the right of first refusal to provide any insurance cover required in connection with the Facility, provided the terms upon which such insurance is provided are competitive and market related.

Trade and Development Impact Assessment (TDIA):

A report to be provided on an annual basis or any shorter period as determined by the Bank in relation to the trade and

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African Export-Import Bank
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development impact of the Facility in a form acceptable to the Bank.

Publication:

The Obligors acknowledge and accept the Afreximbank's intention to publish and to distribute information releases, reports, public statements, announcements and other communications to news media regarding the financial close of transactions with the Obligors. The Obligors shall not release such information containing the name of Afreximbank or any of its employees without the prior written consent of Afreximbank.



Expiry:

The terms set out in the Term Sheet are available for acceptance by the Borrower until 5.00 pm local time in Cairo on 31 March 2025 after which time they will expire.

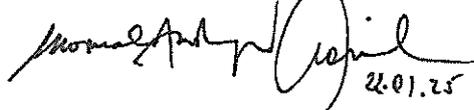
You should please indicate, at your earliest convenience, the acceptance of the above terms and conditions by countersigning and returning this document to the African Export-Import Bank no later than end of business in Cairo on 31 March 2025.

For and on behalf of the African Export-Import Bank

Name:

Designation:

Accepted on behalf of the Borrower


22.01.25

By: **Momade Aquil Rajahussen**



Designation: **Chairman**

Date: **22nd January 2025**


M.A. Aquil



African Export-Import Bank
Banque Africaine D'Import-Export

Accepted on behalf of the co-Borrower

By:

Designation:

Date:

Accepted on behalf of the LAA

By:

Designation:

Date:



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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

Annexure 04

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:37:25 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.**

"MAR4"



African Export-Import Bank
Banque Africaine D'Import-Export

23rd February 2026

USD280 MILLION INTRA-AFRICAN INVESTMENT FINANCING FACILITY TERM SHEET TO RGS GROUP HOLDINGS LTD

IMPORTANT NOTICE:

We, the African Export-Import Bank ("Afreximbank"), are pleased to provide you with a proposal of indicative terms in respect of the Facility (as defined below). This proposal is intended as a basis for discussions and should not be construed as a contractual offer or a binding commitment by the African Export-Import Bank to arrange or finance the Facility. Any commitment by the African Export-Import Bank shall be subject to conditions acceptable to it including but not limited to (i) satisfactory due diligence; (ii) receipt of internal credit and other relevant approvals; (iii) there being no material adverse change in respect of market conditions, the business or financial condition of the Borrower; and (iv) satisfactory documentation. Notwithstanding the above, the provisions of "Costs and Expenses" in this term sheet shall be immediately binding upon execution of this term sheet. The African Export-Import Bank will not be responsible for any losses or damages which any person suffers or incurs because of reliance on or using this term sheet. This term sheet and its contents are intended for the exclusive use of the Borrower and shall not be disclosed by the Borrower to any person other than the Borrower's affiliates and legal and financial advisors for the purposes of the proposed transaction unless the prior written consent of the African Export-Import Bank is obtained.



PARTIES

- Borrower:** RGS Group Holdings Ltd ("RGS"), Mauritius
- Co-Borrower:** RG Industrias, Mozambique
- Guarantors:** Momade Aquil Rajahussen
Momade Rafique Rajahussen Gulamo
Momade Arif Rajahussen Gulamo
Sukeina Rajahussen Gulamo
Rozmin Rajahussen Gulamo
Rajahussen Gulamo
- Obligors:** The Borrower, Co-borrower and Guarantors
- Acquisition Target:** Tongaat Hulett (South Africa,)
- Asset Seller:** Tongaat Hulett (South Africa)

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This item is classified as Confidential

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African Export-Import Bank
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Lender(s): African Export-Import Bank ("Afreximbank", the "Lender" or the "Bank")

Facility Agent and Security Trustee: African Export-Import Bank (the "Agent" and "Trustee").

Escrow Agent: African Export-Import Bank or any Agent acceptable to the Lender

Custodian: African Export-Import Bank or its appointed agents (the "Custodians")

The role of the Custodian shall be covered in a custodian agreement between the Lender, The Custodian and the Obligors.

Lender's Commercial/Technical/Financial Due Diligence Advisor/Consultant (LTA) : To be advised

Local Administrative Agent (LAA): To be advised

Role of the LAA:

The LAA is expected to perform the roles below:

- i. Provide a first demand bank guarantee in USD for 20% of the facility amount;
- ii. facilitate foreign exchange with meticals for remittance to the Offshore Collection Account;
- iii. report to the Agent on any potential threats to the transaction as far as the Borrower's operations are concerned and provide recommendations on action to be taken;
- iv. ensure that all local law security documents are received and perfected in accordance with local law;
- v. ensure that all financial reports of the Borrower are prepared and sent to the Agent promptly;
- vi. keep the Local Collection Account and provide periodic statements as may be required by Afreximbank; and
- vii. any other role as may be agreed with the Agent from time to time



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This item is classified as Confidential

Handwritten signatures and initials: "Ajil", "M.A", "A.P."



African Export-Import Bank
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Due Diligence

- a) The Lender's' Financial Advisor shall independently confirm the proposed funding structure for the transaction
- b) The Lender(s) will appoint legal advisors, at its sole discretion, but at the cost of the Borrower/Purchaser to provide advice in connection with the Facility. The legal advisors so appointed shall also be retained for the documentation of the Facility;
- c) The Lender(s) may also appoint other advisors to conduct due diligence on any other issues considered relevant for its assessment of the Facility; and
- d. The due diligence shall include a review of the Sale Agreement between the Seller and the Borrower/Purchaser, confirmation that the transaction structure will not invalidate existing regulatory requirements/ licenses, together with other checks as may be required.



THE TRANSACTION

Transaction: The acquisition of 100% shareholding in Tongaat Hulett (South Africa,) at USD300 Million and provision of working capital of USD100 Million

Funding Mix: The funding mix for the Transaction will be maintained at:

- Debt Funding: USD280 Million
- Equity Funding: USD120 Million

Equity Resources: Tranche A: Cash of USD90 Million
Tranche B: Cash of USD30 Million

Acquisition Date: The date on which the Acquirer assumes ownership of no less than 100% of the entire issued share capital Target Asset.



African Export-Import Bank
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TERMS OF FACILITY

Facility type:	Intra-African Investment Financing Facility
Facility Amount:	Up to USD280 Million (Two Hundred and Eighty Million United States Dollars) divided into two tranches subject to the Facility Amount: <ul style="list-style-type: none"> • Tranche (A): Up to USD 210 Million • Tranche (B): Up to USD 70 Million
Purpose:	The Facility Amount will be available to the Borrower to make: <ol style="list-style-type: none"> 1. Tranche A¹: Up to USD 210 million to support the acquisition of Tongaat Hulett Group (South Africa) as a strategic opportunity for Obligor to enhance their presence in the sugar and agriculture sector in Botswana, Mozambique, South Africa and Zimbabwe 2. Tranche B: USD 70 million for working capital to support commercial operations of the Obligors business.
Final Maturity Date:	Tranche A: 60 months from date of first disbursement/utilization. Tranche B: 60 months from date of first disbursement/utilization. Each advance under Tranche B shall be repaid in equal quarterly instalment within 12 months. Multiple drawdowns are permitted. However, final repayment should not exceed the final maturity date which is 60 months from date of first disbursement.
Grace Period	The first advances under Tranche A shall have a 6-month moratorium on principal only from the date of first utilisation. Interest shall be serviced during the Grace Period. Repayments shall be made in equal quarterly instalments. Final repayment should not exceed the final maturity date.
Drawdown:	<u>Tranche A</u> The Parties (the Lender, the Borrower, the Seller and Escrow Agent) will agree on the terms of a closing memorandum detailing the transaction/drawdown mechanism:



¹ Lender's debt financing amount will be based on a maximum of 70% of the asset valuation as provided by the LTA.

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- a. The Borrower provides proof of payment of the Equity related to the Tranche A into the Escrow Account. The Equity amount must be sufficient to meet the purchase price agreed between the Borrower and Asset Seller upon disbursement of the debt component by the Lender;
- b. The Parties agree on the terms of the Acquisition Documents and the Finance Documents (including the Pledge over the Target's Shares) which are signed and kept in escrow by the Escrow Agent;
- c. On the acquisition Date, concomitantly with the release of the Acquisition Documents and the Finance Documents (including the Share Pledge Agreement to the Lender), the Lender disburses the Facility Amount into the Escrow Account;
- d. The Escrow Agent then turns over the funds to the Asset Seller;
- e. Within a maximum of [30]² business days, the Pledge over the Shares is perfected in accordance with local laws.
- f. The Custodian takes custody of the Shares



The parties to this term sheet agree that the transaction and completion mechanism will be agreed between the Lender and the Borrower, and this clause shall be revised, in the context of the completion mechanics outlined in the SPA as well as any local legal and regulatory requirements but in event in a manner satisfactory for the Lender.

- g. The acquisition will be conditional upon:
 - i. The carrying out of satisfactory legal and commercial due diligence in relation to the Acquisition Target
 - ii. There being no material adverse change in the position of the financial or trading position or prospects of the Acquisition Target between the

² Subject to local counsel opinion.

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date of this Term Sheet and the proposed Acquisition Date

- iii. That no dividends are made or declared by the Acquisition Target between the date of this Term Sheet and the proposed Acquisition Date.
- iv. The net assets of the Acquisition Target not being less than those shown in the the audited accounts as at 31 December 2025
- v. The approval of the acquisition by the Board of the Borrower/Purchaser and the passing of a resolution by the shareholders of the Borrower/Purchaser approving the acquisition and any related matters.



Obtaining in a form satisfactory to the Lender all regulatory/statutory approvals which are necessary in relation to the proposed acquisition of the shares and applicable regulatory licenses (including the consent or letter of no-objection of applicable regulatory authorities.

Tranche B

- a. Drawings under Tranche B shall be against invoices for raw materials and other payable.
- b. Borrower will transfer its 30% Equity under Tranche B into the Disbursement Account.
- c. Borrower then requests a disbursement of the Lenders 37% debt portion under the Facility.
- d. Payments will be made directly to the suppliers

Repayment:

Each advance under Tranche A Facility shall be repaid over 18 equal quarterly instalments, where the first instalment shall be paid on the date falling 6 months after the end of the Grace Period. The annual repayment schedule shall be as follows:

Year	#	%
Year 1	2	11.1%
Year 2	4	22.2%
Year 3	4	22.2%

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Year 4	4	22.2%
Year 5	4	22.2%
Total		100.0%

The advance under Tranche B shall be repaid over 4 equal quarterly instalments, where the first instalment shall be paid on the date falling 3 months after the disbursement date.

Sources of Repayment:

The Facility will be repaid from the following sources, amongst others:

- The Obligors operating cash flows from RG Industrias, Mozambique
- Dividends and management fees due to the Obligors
- Operating cashflows from acquired businesses and direct beneficiaries of the facility



Transaction Assurances:

Security

and The Security shall be obtained in two stages:

Stage 1 - at the time of disbursement

- First Demand bank guarantee for an amount of 20% of the facility amount;
- Legal Mortgage over unencumbered assets of the Obligors to be stamped for a value of 1.5x the facility amount;
- Joint and Several Personal Guarantees of the Guarantors supported by their statement of net worth.
- Assignment of unencumbered operating cashflows of the Obligors as well as dividends, management fees, royalties and rights under any management contracts in favour of the Obligors;
- Charge over Permitted Accounts;
- Assignment of a Global Insurance Policy to the Lender (with Lender named as 1st loss payee).
- Any additional security that may be required by Afreximbank.

Stage 2 – post disbursement

- Pledge over the acquired/issued shares (including dividends) in favour of the lender.
- First Ranking security over assets (legal mortgage, fixed and floating assets/debenture) acquired under the facility (including the receivables from those assets). *[This is not a day-one security but would be put in place after the*

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relevant disbursement for the purchase of the assets to be pledged]

The Borrower undertakes to effect the security over the assets to be acquired with the facility proceeds within a maximum period of one month post the utilization date.

Capital Repayment:

The Borrower shall repay the principal amount under Facility in full no later than the Final Maturity Date.

Voluntary Prepayment:

Permitted in whole or in part on 14 Business Days' prior notice, but, if in part, by a minimum of USD 1,000,000.00.

Amounts prepaid may not be redrawn.

Prepayments shall be made together with interest accrued on the amount prepaid and, subject to breakage costs, without penalty. No breakage costs are payable if the prepayments are made at the end of an Interest Period.



Permitted Accounts:

The Borrower shall maintain the following accounts which shall be blocked/controlled by the Agent:

- (a) Disbursement Account: The Borrower shall open a USD Disbursement Account with Afreximbank in which the disbursement proceeds of the facility will first be credited before release in line with the disbursement mechanism.
- (b) The USD Offshore Collection Account shall be opened with Afreximbank into local collection sales converted into USD by the LAA shall transferred. All proceeds in USD from [specified sources] will be paid into the Offshore Collection Account. Funds in the Collection Account will be used to meet the loan instalment repayments.
- (c) A USD Escrow Account will be opened with an Escrow Agent to hold Equity from the Borrower and Debt funding from the Lender. Funds in this account shall be used to settle the transaction.
- (d) Local Collection Account: shall be opened with the LAA into which the assigned proceeds from local sales in local currency will be paid. The LAA will on a monthly basis convert funds in the Local Collection Account to USD and transfer the converted funds into the USD Offshore Collection Account.

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(e) The Borrower shall open with the Bank, a Debt Service Reserve Account ("DSRA") in USD prior to the first utilisation. The DSRA will be funded with one instalment principal and interest repayment and funds in the DSRA will be used in meeting principal / interest that falls due and not paid

In the event that funds in the DSRA are utilised, the account should be replenished no later than 7 business days from the date the lender notifies the borrower of such shortfall. The DSRA to remain funded during the tenor of the facility.

(together the "Permitted Accounts")

Funds in the Permitted Accounts shall be applied towards:

1. fees, costs and expenses due under the Facility;
2. all interest and principal amounts payable by the Borrower in respect of the Facility; and
3. Any available excess cash after the next instalment loan repayment shall with the consent of the Borrower be used to prepay the facility without a penalty.



PRICING

Annual Management Fees:	1.00% per annum commencing on the first anniversary of the facility on outstanding amount.
Advisory Fee:	1.00% flat to be calculated on the Facility Amount, due and payable by the Borrower, on notification of approval of the facility request.
Appraisal fee:	USD100,000 non-refundable flat fee, payable as follows: <ul style="list-style-type: none"> • 50% payable at signature of this Indicative Term Sheet • 50% payable at the communication of 1st level approvals.
Commitment Fee:	0.10% per annum, on the unused and uncanceled amount of the Facility for the Availability Period. Accrued commitment fee is payable quarterly in arrears during the Availability Period, on the last day of the Availability Period and on the cancelled amount of the Facility at the time a full cancellation is effective.
Margin:	4.5% per annum.

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Interest Period: Quarterly interest periods ending on 31 March, 30 June, 30 September and 31 December of each calendar year. Interest Periods shall not extend beyond the Final Maturity Date.

Interest Rate: The aggregate of the applicable.

(a) Margin; and

(b) Base Rate

Base Rate: USD 3 Months CME Term SOFR administered by CME Group Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant period published by CME Group Benchmark Administration Limited (or any other person which takes over the publication of that rate SOFR being the secured overnight financing rate



If the rate is less than zero, it shall be deemed to be zero

Interest Rate Benchmark Replacement: The Facility Agreement will include replacement of interest rate benchmark provisions based on the current recommended LMA form of Revised Replacement of Screen Rate Clause to enable variations to the Facility Agreement to incorporate use of a replacement interest rate benchmark rate at the direction of the Lender acting in good faith and in a commercially reasonable manner.

Payment of Interest on Loans: Interest is payable on the last day of each Interest Period (the "Interest Payment Date").

Default Interest: Overdue amounts shall bear interest at 2% (two per cent.) above the applied Interest Rate.

OTHER FACILITY TERMS

Documentation: The Facility will be made available under a facility agreement (the "Facility Agreement") and other documents in form and substance satisfactory to the Lender(s).

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Prepayment and Cancellation:

(a) **Illegality**

A Lender may cancel its commitment and require prepayment of its share of the loans.

(b) **Change of Control**

If Momade Aquil Rajahussen; Momade Rafique Rajahussen Gulamo; Momade Arif Rajahussen Gulamo; Sukeina Rajahussen Gulamo; Rozmin Rajahussen Gulamo; Rajahussen Gulamo cease to control the Borrower or Co-Borrower or any person or group of persons acting in concert gains control of the Borrower or Co-Borrower:

- i. a Lender shall not be obliged to fund a utilisation; and
- ii. a Lender may by not less than 5 business days' notice cancel its commitment and require repayment of all its share of the loans.



(c) **Increased Costs, Tax Gross Up and Tax Indemnity**

The Borrower may cancel the commitment of and prepay a Lender that makes a claim under these provisions.

(d) **Voluntary Cancellation**

Permitted in whole or in part (minimum USD 1,000,000), if prior notice of 14 business days is given to the Bank. Amounts cancelled may not be re-borrowed.

Status:

Direct, unconditional and general obligations of RGS ranking at least pari-passu with other present and future unsubordinated and secured obligations of RGS.

Representations:

The Borrower and Co-Borrower will make each of the representations on the date of the Facility Agreement and in the case of repeating representations (to be specified in the Facility Agreement), on the date of each Utilisation Request and the first day of each Interest Period, which shall include but will not be limited to the following:

- (a) status;
- (b) binding obligations;

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- (c) non conflict with other obligations;
- (d) [no reduction of capital];
- (e) power and authority;
- (f) validity and admissibility in evidence;
- (g) governing law and enforcement;
- (h) insolvency;
- (i) no deduction of tax;
- (j) no filing or stamp taxes;
- (k) no default;
- (l) no misleading information;
- (m) financial statements;
- (n) accounting reference date;
- (o) no proceedings pending or threatened;
- (p) no breach of laws;
- (q) security and financial indebtedness;
- (r) ranking of Permitted Account security/ Transaction Security;
- (s) good title to assets;
- (t) legal and beneficial ownership of the Permitted Accounts / Charged Property;
- (u) intellectual property;
- (v) Group Structure Chart;
- (w) pari passu ranking;
- (x) environmental compliance and no environmental claims;
- (y) taxation compliance and no tax claims;
- (z) sanctions; anti-bribery and corruption;
- (aa) centre of main interests and establishments;



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(bb) no material adverse consequences.

Information Undertakings:

The Borrower's and Co-Borrower obligations to supply information shall include but will not be limited to the following:

- (a) as soon as they become available, but in any event within 90 days of the end of its financial years its audited consolidated financial statements together with those of each Obligor;
- (b) as soon as they become available, but in any event within 90 days of the end of its financial half years its consolidated financial statements
- (c) with each set of consolidated financial statements, a compliance certificate signed by two directors of the Borrower and, in the case of the audited consolidated financial statements reported on by the Company's auditors (in the form agreed by the Company and the Lenders prior to the date of the Facility Agreement by the Company's auditors)
- (d) all documents dispatched by the Borrower to its shareholders (or any class of them) or its creditors generally;
- (e) details of any material changes in insurance cover and any insured event in relation to the Charged Property;
- (f) unless such disclosure would constitute a breach under applicable law or regulation, details of any violation of any anti-corruption laws and copies of any correspondence with any regulatory authorities related to such breach;
- (g) details of any material litigation, arbitration or administrative proceedings or any material judgment;
- (h) such other information regarding the financial condition, business and operations of any member of the Group as any Finance Party may reasonably request;
- (i) such other information regarding the Permitted Accounts/ the Charged Property and the compliance of the Borrower with the terms of the Permitted Account security documentation/any Security Document as any Finance Party may reasonably request.



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- (j) The Borrower shall supply a certificate certifying no Default (or any Default and the steps being taken to remedy it) promptly upon request.
- (k) On the introduction of or any change in law, a change in the status or shareholders of an Obligor or a proposed assignment or transfer by a Lender, each Obligor shall promptly upon the request of any Lender supply such documentation and other evidence as is reasonably requested by the Agent in case of syndicated facilities (for itself and on behalf of any Lender) or any Lender (or prospective new Lender) in order for the Agent or such Lender (or prospective new Lender) to carry out and be satisfied with the results of all necessary "know your customer" or other checks in relation to the transactions contemplated in the Finance Documents.
- (l) The Borrower may satisfy their obligations to deliver information to those Lenders who agree by posting such information onto an electronic website.



Financial Covenants:

Customary covenants for the Borrower and Co-Borrower to include among others:

- Minimum Net Worth: the Consolidated Tangible Net Worth at all times shall not be less than US\$750m;
- Gearing: the ratio of Consolidated Net Debt to Consolidated Tangible Net Worth at all times shall not be greater than 1.25:1; and
- Leverage Ratio: The ratio of consolidated Term Debt to Consolidated EBITDA shall not be more than 1.25: 1
- Maintain an EBITDA Margin of at least 20%
- Maintain a Current Ratio of 1.5x

The financial covenants shall be calculated in accordance with accounting principles and tested by reference to each of the financial statements submitted by the Borrower.

General Undertakings:

Usual for financings of this nature (subject to such qualifications and exceptions as may be agreed) in respect of each Obligor including, without limitation, the following:

Authorisations and compliance with laws:

- (a) authorisations;
- (b) compliance with laws;
- (c) environmental compliance;
- (d) environmental claims;

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- (e) taxation;
- (f) sanctions;
- (g) anti-bribery and corruption;

Restrictions on business focus

- (h) restriction on merger;
- (i) no change of business;
- (j) restriction on acquisitions;
- (k) restriction on joint ventures;
- (l) holding companies;

Restrictions on dealing with assets and Security

- (m) preservation of assets;
- (n) pari passu ranking;
- (o) negative pledge;
- (p) restriction on disposals;
- (q) arm's length basis;



Restrictions on movement of cash - cash out

- (r) restriction on loans or credit;
- (s) restriction on guarantees or indemnities;
- (t) [restriction on dividends and share redemption;

Restrictions on movement of cash - cash in

- (u) restriction on financial indebtedness;

Miscellaneous

- (v) not to use the Facility proceeds for any other purpose than permitted under the Facility Agreement;
- (w) insurance;
- (x) access;
- (y) hedging / foreign exchange arrangements;
- (z) further assurance;
- (aa) conditions subsequent;
- (bb) A report to be provided on an annual basis or any shorter period as determined by Afreximbank in relation to the trade and development impact of the Facility in a form acceptable to Afreximbank.

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Transaction and Permitted Account Undertakings:

Usual for financings of this nature, including, without limitation:

- (a) undertakings relating to On-Loans (including eligibility, On-Loan servicing and amendments to On-Loan Documents;
- (b) undertakings relating to the Permitted Accounts.

Events of Default:

Events of default customary and appropriate in financings of this type, including but not limited to the following:

- (a) non-payment of any amount due under the Facility unless failure to pay is caused by administrative or technical error and payment is not made within [3] Business Days of its due date;
- (b) any financial covenant not satisfied;
- (c) failure to comply with Permitted Account Undertakings;
- (d) failure to comply with any other obligations subject to agreed remedy periods if capable of remedy;
- (e) misrepresentation;
- (f) cross default, subject to an agreed minimum amount;
- (g) insolvency;
- (h) insolvency proceedings;
- (i) creditors' process;
- (j) failure to comply with court judgment or arbitral award;
- (k) ownership of Obligors;
- (l) audit qualification;
- (m) expropriation/governmental intervention;
- (n) repudiation and rescission of agreements;
- (o) litigation;



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- (p) cessation of business;
- (q) unlawfulness and invalidity;
- (r) convertibility / transferability;
- (s) [any governmental consent, license or approval material to the relevant business of the Borrower no longer being in full force and effect;
- (t) moratorium;
- (u) political and economic risk;
- (v) material adverse change.

Conditions Precedent to Approval:

Tranche A



1. Sale and Purchase Agreement between Asset Seller and Borrower;
2. Receipt of Business Valuation model & report used to arrive at the proposed purchase consideration;
3. Receipt of a base case Post Acquisition Financial & Business model covering the proposed Facility tenor;
4. Receipt of Financial due diligence report on the Acquisition Target;
5. Receipt of legal due diligence reports on the Acquisition Target; and
6. Validation of the Valuation, Financial & Legal Due Diligence Reports by an independent consultant appointed by the Lender and at the Borrower's expense;
7. KYC clearance on Asset Seller and Obligors;

Dividends Distribution Clause:

The Borrower undertakes not to declare or pay any dividends throughout the Facility tenor, unless:

- a) The payment of all its Financial Obligations [Current Portion, Due Interest, Fees, and Commissions] due in the relevant year for distribution.
- b) All Financial Covenants are met.
- c) No Event of Default has occurred and/or is continuing or will occur as a result of such distribution.

Initial Conditions Precedent:

These will include (without limitation) the following in relation to the Borrower and Co-Borrower in form and substance satisfactory to the Lender

- (a) constitutional documents;

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- (b) certified resolution of board of directors authorizing the transaction;
- (c) specimen signatures;
- (d) shareholder resolutions;
- (e) borrowing/guaranteeing certificate;
- (f) certification of copy documents;
- (g) receipt of executed copies of the Facility Agreement and all other finance documents in respect of the Facility;



- (w) receipt of executed Security Documents and the perfection of all Transaction Security to Afreximbank's satisfaction;
- (x) a copy of the Share Purchase Agreement;
- (y) Receipt of Valuation Report confirming the value of the Target Shares prepared by an acceptable independent firm (nominated by the Lender) and the relevant costs shall be at the Borrower's expense;
- (z) Evidence of fulfilment of all pre-Acquisition Date obligations in the Share Purchase Agreement;
- (aa) Evidence of the release of any encumbrances affecting the Target Shares/ assets which have been created or otherwise have arisen prior to the execution of the Share Purchase Agreement;
- (bb) Approval of the applicable regulatory body in respect of the acquisition of the Target;
- (cc) Copies of financial, and legal due diligence reports in relation to the Acquisition Target conducted by Borrower's advisors and directed to the bank and to include tax and social insurance positions as well as the regulatory position on financial assistance rules as it concerns the transaction;
- (dd) Payment of all fees due under the Facility Agreement on the first drawdown date or prior to it
- (ee) All the Borrower's warranties & representations to be true and correct.
- (ff) Legal opinion from the Lender's and Borrower's legal counsel (as appropriate) confirming:
 - i. That all the legal aspects related to the Transaction are in accordance with the

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- applicable Laws in the Borrower and Target Company jurisdictions;
- ii. Confirming that all required consents are in place;
 - iii. Compliance with Financial Assistance Rules in the respective jurisdictions of the Target Company and the Borrower/Purchaser;
 - iv. Enforceability and control of the Borrower/Purchaser on the dividends distribution policy of the Target Company;
 - v. Capacity and authority from Borrower's legal advisors; and
- (gg) Issuance of CPs satisfaction letter from Lender's legal counsel.
- (h) receipt of executed Permitted Account security documentation /Security Documents and the perfection of that security/all Transaction Security to Afreximbank's satisfaction;
- (i) regulatory approvals protecting the sugar market for Tongaat/RGS;
- (j) Confirmation from Tongaat's existing banks to take a stake in the transaction;
- (k) insurance companies to provide partial risk cover or take a stake in the transaction;
- (l) Satisfactory Due Diligence and valuation affirming that the acquisition is debt free;
- (m) a copy of all contracts that are the subject of the Transaction Security;
- (n) a copy of any relevant insurance policy, together with evidence that [the Security Agent / the Lender has been named as loss payee; the insurance cover will be taken out by the Obligors with an agreed independent insurance company through Afreximbank under its Managed General Agency insurance programme;
- (o) the audited financial statements of the Borrower and Co-Borrowers and each for its immediate past financial year;
- (p) final court approval after all appeals have been exhausted affirming that affirms RGS/RGI as acquirer



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- (q) legal opinion of English and Mauritius and Mozambique counsel to the Lender;
- (r) evidence of appointment of process agent;
- (s) satisfactory conclusion of KYC;
- (t) evidence that the Permitted Accounts have been opened and are fully operational;
- (u) evidence of payment of all fees, costs and expenses then due from the borrower under the Facility Agreement;
- (v) a copy of any other document, authorisation, opinion or assurance specified by the Lender.



General Covenants:

The Borrower will provide each of the following undertakings, which shall include but will not be limited to the following:

- a) To provide the POA and its related documents to perfect the Acquired Shares Transfer.
- b) To ensure that the Acquisition Target will not bear any additional indebtedness/investments, except in the normal course of business consistent with the group's banking activity and for liquidity management purposes, exceeding those reflected in the Base case financial model, without obtaining prior written approval from Lender, such consent not to be unreasonably withheld or conditioned.
- c) Payments for capital expenditure, fees to affiliates, and dividends may be paid, so long as payment would not generate a violation of a financial covenant and current obligations are met.
- d) Borrower will have the right to settle sub-debt (Shareholder's Loan) from excess cash available (after servicing the Senior Debt financial payments) after elapse of grace period subject to a pro-rata settlement of Senior Debt and that outstanding amounts under sub-debt will never fall below outstanding amounts under Senior Debt at all levels .
- e) No amendment to the agreement between the Borrower & the Acquisition Target that could possibly have a negative effect on the Borrower's ability to repay debt, interest & any other financial obligations or that could possibly have a Material Adverse Effect;
- f) Provision of financial and other information subject to sufficient notification;

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- g) Notification of any Potential Event of Default or Event of Default and deliver a certificate signed by a duly authorised representative confirming that there is no Default and no Event of Default;
- h) Obtain, comply with and maintain all material authorizations; licenses and approvals required for the business to operate profitably.
- i) Compliance with applicable commercial, employment and other material laws in the Acquisition Target's jurisdiction;
- j) Providing a certified true copy of the memorandum and articles of association of the Acquisition Target and any amendments thereto one month after Closing Date;
- k) Providing a certified true copy of the register of members of the Acquisition Target one month after Closing Date ;
- l) Execute the pledge of shares agreement of the Acquisition Target shares duly signed by the Borrower;
- m) Copy of current insurance policies, which are specifically required by the Lender, within 30 days from the Acquisition Date as applicable;
- n) Except for the pledge of shares agreement and liens mandatorily applicable by operation of law in the normal course of business, not to incur, create or permit to be created or to subsist any Financial Indebtedness, (other than the Financial Indebtedness agreed upon and except in the normal course of business consistent with the group's banking activity and for liquidity management purposes exceeding those reflected in the Base case financial mode) without the prior written approval of the Lender which will not unreasonably be withheld.



Other covenants may be added if seen necessary by the Lender post completion of due diligence and agreed on base case subject to mutual agreement with the Acquirer

Assignments and Transfers:

The Bank will be entitled to sell, transfer or grant participation in the Facility to any investor at any time, without the prior consent of Borrower and Co-Borrower.

The Borrower and Co-Borrower may not assign its rights or transfer rights or obligations in respect of the Facility.

Information Covenants:

- a) Annual Audited Financial Statements of the Borrower, Co-Borrower and the Acquisition Target to be provided

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- within a maximum of 150 days from the end of its fiscal year.
- b) Semi Annual Management Accounts of the Borrower, Co-Borrower and the Acquisition Target to be provide within 90 days after the end of every half year.
 - c) Financial statements to be prepared in accordance with international Accounting Standards
 - d) Annual Budget and Projected Cash Flows of the Acquisition Target to be submitted by maximum 30 days after the first Board of Directors (BOD) meeting from the commencement of the fiscal year.
 - e) Annual valuation report prepared by an acceptable IFA and addressed to Lender reflecting the acquired shares value (such report shall not be presented in case the shares were listed)



Covenants and Undertakings:

Customary for transactions of this nature including, but not limited to:

1. Obligors undertakes to provide Lender with a First Ranking security over assets acquired under the facility (including the receivables from those assets) not later than 30 days after disbursement and receipt of title deeds to the assets and property.
2. Undertaking by the Obligors not to arrange any significant financial commitments that could negatively influence its obligations regarding the Facility.
3. Undertaking from the Obligors to notify the Lender in case of Event of Default, and/or any significant events that might negatively affect the Borrower or its ability to meet its obligations under the finance documents.
4. Undertaking from the Obligors that by signing the Facility documents, the Obligors is not breaching any condition under any other contract or agreement.
5. Undertaking from the Obligors to submit to the Lender (within 120 days from the fiscal year end), a copy of the financial accounts and financial statements.

This item is classified as Confidential

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Amil M.A



African Export-Import Bank
Banque Africaine D'import-Export

- 6. Undertaking from the Obligors to submit to the Lender (within 60 days from each quarter end), a copy of quarterly management accounts.
- 7. Undertaking from the Obligor treat the Facility on pari-passu basis with all other facilities it has obtained.
- 8. The Obligor undertakes to effect the security over the assets acquired with the facility proceeds within a maximum period of 1 month post the utilization date.

Undertaking not to restrict dividend distribution to shareholders in the Obligors subsidiaries and other investments

Further conditions precedent to each Utilisation:

Utilisation of the Facility will be subject to:

- 1. there being no Default; and
- 2. all required representations being true.



Taxes & other Deductions:

All payments by the Obligors shall be made free and clear of any present and future taxes, levies, deductions and withholdings of whatever nature, either present or future. Should such taxes, levies, deductions or withholdings be required by law, the Obligors will make such additional payments to the Lender that will ensure that the relevant party receives, net of such deduction or withholding, the amounts that party would have received if such taxes, levies, deductions or withholdings had not been required.

MISCELLANEOUS

Miscellaneous Provisions:

The Facility Agreement will contain provisions relating to, among other things, default interest, market disruption, breakage costs, tax gross up and indemnities including FATCA, increased costs, set-off and administration.

Costs and Expenses:

All costs and expenses (including legal fees) reasonably incurred by the Lender in connection with the preparation, negotiation, printing, execution and syndication of the Facility Agreement and any other document referred to in it shall be paid by the Borrower promptly on demand whether or not the Facility Agreement is signed.

Governing Law:

English law including for any non-contractual obligations save where inappropriate for Transaction Security.

This item is classified as Confidential

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M.A



African Export-Import Bank
Banque Africaine D'Import-Export

Enforcement (Courts):

Courts of England including for any non-contractual obligations save where inappropriate for Transaction Security. Any Finance Party may at its option submit any dispute to court proceedings in any other courts with jurisdiction.

Market Conditions:

The terms and conditions set out in this Term Sheet are subject to, in the opinion of Afreximbank, there being no:

- (a) material adverse change in the international money, loan and capital markets;
- (b) material adverse change in the financial condition of the Obligors; and
- (c) material adverse change in socio-political and economic situation of the [Mauritius/Mozambique],
- (d) occurrence of any action or inaction by the Government of South Africa , or pursuant to such action or inaction by the Government of South Africa , by entities authorised under the laws of [South Africa] to engage in foreign exchange transactions, which prevents, directly or indirectly, the Borrower from legally:
 1. converting local currency proceeds into US Dollars. for the purposes of its payment obligations under the Facility Documents; or
 2. transferring outside of South Africa , US Dollars for the purposes of meeting its payment obligations under the Facility Documents.



in each case from the date of the signing of this Term Sheet to the date of the signing of the facility documentation.

Afrexinsure:

Afrexim Insurance Management Company ("Afrexinsure") shall have the right of first refusal to provide any insurance cover required in connection with the Facility, provided the terms upon which such insurance is provided are competitive and market related.

Trade and Development Impact Assessment (TDIA)

A report to be provided on an annual basis or any shorter period as determined by the Bank in relation to the trade and development impact of the Facility in a form acceptable to the Bank.

This item is classified as Confidential



African Export-Import Bank
Banque Africaine D'Import-Export

Publication:

The Obligors acknowledge and accept the Afreximbank's intention to publish and to distribute information releases, reports, public statements, announcements and other communications to news media regarding the financial close of transactions with the Obligors. The Obligors shall not release such information containing the name of Afreximbank or any of its employees without the prior written consent of Afreximbank

Expiry:

The terms set out in the Term Sheet are available for acceptance by the Borrower until 5.00 pm local time in Cairo on 31 March 2026 after which time they will expire.



You should please indicate, at your earliest convenience, the acceptance of the above terms and conditions by countersigning and returning this document to the African Export-Import Bank no later than end of business in Cairo on 31 March 2026.

For and on behalf of the African Export-Import Bank

Name: Humphrey Akrofo
Designation: Regional Director

Accepted on behalf of the Borrower

By: Muhamad Anif Anis-Hussaini Saing
Director
Designation:
Date: 23/02/2026

This item is classified as Confidential

M.A. Saing



African Export-Import Bank
Banque Africaine D'Import-Export

Accepted on behalf of the co-Borrower

By: 

Designation: Director

Date: 23/02/2026

Accepted on behalf of the LAA

By:

Designation:

Date:



This item is classified as Confidential

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

Annexure 04

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:37:41 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.**



African Export-Import Bank
Banque Africaine D'Import-Export
72B El-Maahad El-Eshteraky Street
Roxy, Heliopolis, Cairo 11341, Egypt
P.O. Box 613
Heliopolis, Cairo 11757, Egypt
T+{(202) 2456 4100/1/2/3/4
info@afreximbank.com

23rd February 2026

RGS Group Holdings Limited
c/o Trident Trust Company Mauritius Limited,
5/F Barclay Wharf, Le Caudan Waterfront,
Port Louis, Mauritius

Attn: Mr. Keeghan Sipahli

Dear Sir,



EXPRESSION OF INTEREST: LETTER OF SUPPORT TO RGS GROUP HOLDINGS LIMITED FOR THE FINANCING OF UP TO USD 280 MILLION FOR THE ACQUISITION AND RECAPITALIZATION OF TONGAAT HULETT LIMITED ("THL")

The African Export-Import Bank (Afreximbank) has been approached by RGS Group Holdings Limited ("RGS") to consider providing financing in support of its proposed acquisition and recapitalization of Tongaat Hulett Limited ("THL"), a strategic agro-industrial enterprise currently under business rescue in South Africa (the "Proposed Transaction"). THL is a critical regional player in the Southern African sugar value chain, integrating large-scale agriculture, milling, refining, and downstream processing across multiple SADC member states. The recapitalization initiative led by RGS seeks to prevent THL's liquidation, protect farmers and suppliers, stabilize creditors, and ensure the continuity of a value chain that underpins employment, food security, and cross-border trade.

Afreximbank recognizes the strong development impact of the Proposed Transaction in preserving industrial capacity, safeguarding thousands of direct and indirect jobs, protecting smallholder growers and regional supply chains, and maintaining productive assets central to intra-African trade. The intervention is fully aligned with the Bank's strategic objectives of promoting industrialization, supporting value addition, strengthening regional integration, and sustaining export-oriented agro-industrial activity within the SADC region. The Proposed Transaction also reinforces Afreximbank's commitment to supporting African-led solutions for distressed but economically strategic enterprises.

Afreximbank is therefore pleased to confirm its interest in considering the financing and/or arrangement of financing of up to USD 280,000,000 (Two Hundred and Eighty Million United States Dollars), or its equivalent in other major currencies, in support of RGS Group Holdings Limited's acquisition and recapitalization of Tongaat Hulett Limited. We also confirm that Tier 1

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African Export-Import Bank
 Banque Africaine D'Import-Export
 72B El-Maahad El-Eshteraky Street
 Roxy, Heliopolis, Cairo 11341, Egypt
 P.O. Box 613
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 T +(202) 2456 4100/1/2/3/4
 info@afreximbank.com

credit approval has been granted for the Bank to begin the process of considering the proposed US\$280 million financing, underscoring the Bank's interest in supporting this strategic intervention.

Please note that this is an expression of interest and Afreximbank does not make any firm or binding commitment to finance or arrange financing for the Proposed Transaction. Please note that this letter is provided on a non-exclusive and non-binding basis. Any binding commitment by Afreximbank shall be subject to conditions satisfactory to it including but not limited to:



- (i) Conduct of a technical, financial, legal, environmental & social and KYC due diligence exercise and the receipt of due diligence reports satisfactory to Afreximbank.
- (ii) Fulfilment of all necessary regulatory, statutory, governmental, and transactional approvals.
- (iii) Review and acceptance of the financial model and base case assumptions.
- (iv) Agreement on the final structure, terms, and pricing of the Facility.
- (v) Satisfactory regulatory, KYC, and compliance checks.
- (vi) Market conditions, and the business or financial conditions of RGS Group Holdings Limited or South Africa at the relevant time are satisfactory to Afreximbank.
- (vii) No material adverse change affecting the Proposed Transaction.
- (viii) Receipt of all relevant internal approvals; and
- (ix) The preparation, execution and delivery of loan and security documentation satisfactory to Afreximbank.

Please note that Afreximbank will require sufficient access to information to successfully conclude the due diligence process. In issuing this letter, Afreximbank has solely relied on the information provided by RGS Group Holdings Limited without any independent verification thereof.

In addition, this letter does not in any way bind Afreximbank to provide funding for the Proposed Transaction or any related endeavor and should not be treated as an offer for the provision of credit facilities by Afreximbank. Afreximbank reserves the right to issue similar letters to prospective bidders for the Proposed Transaction.

This letter is for your confidential use only. Neither its existence nor its terms will be disclosed by you to any other person without our consent, other than your employees and advisors and then, only on a 'need to know' and non-reliance confidential basis. Save for your obligation of

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confidentiality, this letter does not, and is not intended to, create legal relations between us or with any other person whatsoever.

This letter and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law, and the courts of England shall have exclusive jurisdiction to settle any disputes arising out of or in connection with this letter (including any non-contractual obligations arising out of or in connection with it).



Should you have any queries or wish to discuss any aspect of our expression of interest, please do not hesitate to contact us.

We look forward to working with you.

Yours sincerely,

For: African Export-Import Bank

Mr. Haytham Elmaayergi
Executive Vice President, Global Trade Bank

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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

Annexure 05

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:37:55 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.**

"MAR5"

Vision Sugar South Africa (Pty) Ltd.
 107a Forrest Road, Atholl, Sandton, 2196
 Reg. No: 2024/299828/07

13 February 2026

THE FACTS: OUR TRUTH

Vision acquired Tongaat Hulett's R11.7b of debt, security and claims from the SA major banks in January 2024. The final cash payment was made in May 2025.

Vision as the new owners of the claims and security (shares, plants & equipment/ factories, land /properties etc.) have, for the past 2 years, been working with the Business Rescue Practitioners "BRP's" who had been appointed in 2022 to implement the approved BR Plan. Regulatory approvals including Competition and Exchange Control approvals in South Africa, Zimbabwe, Mozambique and Botswana were obtained in record time by end of 2024. It was only the South African financing obligations that were outstanding and required another 2 months to conclude. Vision proposed a change in the implementation schedule to allow for transfer of the non-SA assets while the SA process was finalizing. The BRPs did not agree to this request which Vision's legal counsel confirmed as permissible under the approved BR plan and Sale of Business Agreements.



After THL incurred almost R700m of Business Rescue fees and restructuring costs, it is unfortunate that the BRPs failed to rescue THL. Vision's transaction costs would be additional.

Yesterday, 12th February, the THL Business Rescue Practitioners namely (Trevor Murgatroyd, Gerhard Albertyn and Peter van den Steen) decided to apply for the provisional liquidation of Tongaat Hulett's Limited (RSA) at the Durban High Court.

The Vision Consortium addresses the people, families, and communities affected by the provisional liquidation of Tongaat Hulett Ltd with humility, care, and a deep sense of responsibility. We understand the uncertainty this moment brings, and we wish to reaffirm that the well-being of communities and the stability of the broader economy remain our highest priorities.

As the major secured lender to Tongaat, we have initiated engagements with other key stakeholders in the THL value chain and the KZN Sugar Industry that employs over 220 000 KZN rural communities to continue to explore solutions that will bring relief and more certainty even under this proposed liquidation process.

We will engage the sugar industry to explain our position and seek input and alignment on the way-forward. We started engagements with growers who are the lifeblood to THL. So far, we have met SAFDA and plan to meet SACGA as well as SASMA and SASA next week.

We have requested a meeting with THL Employees unions who represent a vital stakeholder and are a key

partner in our future.

Furthermore, we have also engaged with the KZN Traditional Leaders through the office of the King MisiZulu and Royal Counsellor iNkosi Malusi Zondi, whose leadership shall align the Traditional Leaders and Rural Communities who are and have been vital stakeholders in the KZN Sugar sector and THL for almost two centuries.

The Royal Counsellor's insight into community dynamics, economic continuity, and social stability is crucial to ensuring that this process unfolds in a manner that protects livelihoods and upholds dignity within the communities that THL operates.

We have been engaging with the KZN provincial government who remain a strategic partner to THL. We will be meeting with the representative MEC's.



Our engagement and partnership with all the above stakeholders reflect a shared commitment to safeguarding communities, maintaining economic confidence, and ensuring an orderly and humane transition from the failed and costly Business Rescue, onto Provisional Liquidation and back to full and sustainable growth of the THL assets under Vision Sugar ownership.

We call on all stakeholders to remain calm, patient, measured, and united in preserving THL & Sugarcane farmers investment. Periods of transition require patience and trust. Stability will be best preserved through cooperation, clear communication, and restraint, allowing responsible leadership to guide the process constructively.

The Vision Consortium remains fully engaged, transparent, and steadfast in working toward sustainable outcomes for all concerned. We will keep all our stakeholders and affected communities abreast on positive development in our quest to bring certainty and final sustainable solutions. It is just a matter of time.

Siyabonga

VISION CONSORTIUM

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

Annexure 06

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:38:09 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.**

"MAR6"

EXECUTION VERSION

TRANSFER CERTIFICATE

To: THE STANDARD BANK OF SOUTH AFRICA LIMITED (acting through its Corporate and Investment Banking division), as facility agent (the "Facility Agent")

From: ABSA BANK LIMITED ("Absa")
THE STANDARD BANK OF SOUTH AFRICA LIMITED (acting through its Corporate and Investment Banking division) ("SBSA")

FIRSTRAND BANK LIMITED (acting through its Rand Merchant Bank division) ("RMB")

INVESTEC BANK LIMITED (acting through its Corporate and Institutional Banking division)

INVESTEC BANK LIMITED (acting through its Investment Banking Division: Corporate Solutions)

NEDBANK LIMITED ("Nedbank")

THE LAND AND AGRICULTURAL DEVELOPMENT BANK OF SOUTH AFRICA

SANLAM LIFE INSURANCE LIMITED (acting through its Sanlam Specialised Finance 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

ASHBURTON FUND MANAGERS PROPRIETARY LIMITED (acting for and on behalf of its clients)

(collectively, the "Existing Lenders" and each an "Existing Lender" as the context may require)

And from: VISION INVESTMENTS 155 PROPRIETARY LIMITED (the "New Lender", and together with the Existing Lenders and the Facility Agent, collectively, the "Parties" and each a "Party" as the context may require)

20 November 2023

Dear Sirs,

TONGAAT HULETT LIMITED Common Terms Agreement, dated on or about 2 December 2021 (the "Agreement")

Transfer Certificate (Terris)
Execution Version

2

1. We refer to the Agreement. This is a Transfer Certificate. Terms defined in the Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate and:

1.1. "Consideration" shall bear the meaning ascribed thereto in clause 6.1;

1.2. "Facility Agent Account" means the following bank account of the Facility Agent:

Bank:	Standard Bank
Bank address:	88 Commissioner Street, Johannesburg, 2001
Branch / SWIFT code:	00 02 05
Account name:	Corporate Banking Disbursement Account No. 2
Account number:	00 970 538 4
Reference:	Thor – Acquisition of Claims

1.3. "Proportionate Share" means, in respect of each Existing Lender and as at the Transfer Date, that portion of the Consideration to which that Existing Lender is entitled in terms of clause 6.1, being such amount as set out at Schedule 1 (*Proportionate Share*);

1.4. "Senior Facility E Agreement" means the agreement titled "ZAR600 000 000 Senior Secured Borrowing Base Facility" entered into on or about 29 July 2022 between certain of the Existing Lenders, the Facility Agent and the Borrower; and

1.5. "Transfer Date" means date on which the New Lender has irrevocably and unconditionally effected payment of the Consideration into the Facility Agent Account in accordance with the provisions of clause 6 and the proceeds of such payment (in an amount equal to the Consideration) stand to the credit of the Facility Agent Account.

2. **Transfer of Senior Facility Commitments and Senior Facility Outstandings: Senior Facility A, Senior Facility B, Senior Facility C and Senior Facility D**

2.1. In terms of clause 24.5 (*Procedure for transfer*) of the Agreement, each Existing Lender, with effect from the Transfer Date, transfers to the New Lender, by cession and delegation:

2.1.1. its Senior Facility A Commitment, Senior Facility B Commitment, Senior Facility C Commitment and Senior Facility D Commitment (as applicable); and

2.1.2. all of its rights and obligations under the Finance Documents (in its capacity as Senior Facility A Lender, Senior Facility B Lender, Senior Facility C Lender and Senior Facility D Lender) (as applicable)).

2.2. On and with effect from the Transfer Date, the New Lender:

2.2.1. becomes party to the Agreement and each other relevant Finance Document as a Senior Facility A Lender, Senior Facility B Lender, Senior Facility C Lender and Senior Facility D Lender;



M.A. [Signature]

- 2.2.2. becomes party to the Intercreditor Agreement as a Senior Facility A Lender, Senior Facility B Lender, Senior Facility C Lender and Senior Facility D Lender;
- 2.2.3. undertakes to perform all the obligations expressed in the Agreement, the Intercreditor Agreement and the other applicable Finance Documents to be assumed by a Senior Facility A Lender, Senior Facility B Lender, Senior Facility C Lender and Senior Facility D Lender; and
- 2.2.4. agrees that it shall be bound by all the provisions of the Agreement, the Intercreditor Agreement and other applicable Finance Documents as if it had been an original party to those Finance Documents as a Senior Facility A Lender, Senior Facility B Lender, Senior Facility C Lender and Senior Facility D Lender.
- 2.3. On and with effect from the Transfer Date and against the implementation of the transaction set out at clauses 2.1 and 2.2, each Existing Lender shall:
- 2.3.1. cease to be a party to the Intercreditor Agreement and the Finance Documents to which it is a party in its capacity as Senior Facility A Lender, Senior Facility B Lender, Senior Facility C Lender and Senior Facility D Lender; and
- 2.3.2. shall have no further rights and obligations under the Intercreditor Agreement and the Finance Documents to which it is a party in its capacity as Senior Facility A Lender, Senior Facility B Lender, Senior Facility C Lender and Senior Facility D Lender.



3. Senior Facility E

- 3.1. It is recorded that, as at the date of this Transfer Certificate:
- 3.1.1. no "*Senior Facility E Outstandings*" are outstanding under the Finance Documents;
- 3.1.2. each "*Senior Facility E Commitment*" has been irrevocably and unconditionally cancelled; and
- 3.1.3. no "*Senior Facility E Commitment*" is capable of utilisation by any member of the South African Group.
- 3.2. On and with effect from the Transfer Date, each Existing Lender which is a "*Senior Facility E Lender*" shall:
- 3.2.1. cease to be a party to the Intercreditor Agreement and the Finance Documents to which it is a party in its capacity as "*Senior Facility E Lender*"; and

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3.2.2. shall have no further rights and obligations under the Intercreditor Agreement and the Finance Documents to which it is a party in its capacity as "*Senior Facility E Lender*".

3.3. Capitalised and italicised terms where used in this clause 3 herein shall bear the meanings ascribed thereto in the Senior Facility E Agreement.

4. Senior Overdraft Facilities

4.1. It is recorded that, as at the date of this Transfer Certificate:

4.1.1. no Senior Overdraft Facility Outstandings are outstanding under any Senior Overdraft Facility Agreement;

4.1.2. each Senior Overdraft Facility Commitment has been irrevocably and unconditionally cancelled; and

4.1.3. no Senior Overdraft Facility is capable of utilisation by any member of the South African Group.

4.2. On and with effect from the Transfer Date, each of SBSA and RMB (in its capacity as Senior Overdraft Facility Lender) shall:

4.2.1. cease to be a party to the Intercreditor Agreement and the Finance Documents to which it is a party in its capacity as Senior Overdraft Facility Lender; and

4.2.2. shall have no further rights and obligations under the Intercreditor Agreement and the Finance Documents to which it is a party in its capacity as Senior Overdraft Facility Lender.



5. Transfer of Ancillary Facility Outstandings

5.1. Each of SBSA, RMB and Nedbank (each in its capacity as an Ancillary Facility Lender), with effect from the Transfer Date, transfers to the New Lender, by cession and delegation:

5.1.1. all claims to payment and repayment of all Ancillary Facility Outstandings (save for any Ancillary Facility Outstandings under any credit card, Diners card, fleet card, corporate card or similar line made available by any such Ancillary Facility Lender to members of the South African Group); and

5.1.2. all of its rights and obligations under the Finance Documents (in its capacity as an Ancillary Facility Lender).

5.2. On and with effect from the Transfer Date the New Lender:

5.2.1. becomes party to the Agreement and each other relevant Finance Document as an Ancillary Facility Lender;

M.A
[Signature]

- 5.2.2. becomes party to the Intercreditor Agreement as an Ancillary Facility Lender;
- 5.2.3. undertakes to perform all the obligations expressed in the Agreement, the Intercreditor Agreement and the other applicable Finance Documents to be assumed by an Ancillary Facility Lender; and
- 5.2.4. agrees that it shall be bound by all the provisions of the Agreement, the Intercreditor Agreement and other applicable Finance Documents as if it had been an original party to those Finance Documents as an Ancillary Facility Lender.
- 5.3. On and with effect from the Transfer Date and against the implementation of the transactions set out at clauses 5.1 to 5.2 (inclusive), each of SBSA, RMB and Nedbank (each in its capacity as an Ancillary Facility Lender) shall:
- 5.3.1. cease to be a party to the Intercreditor Agreement and the Finance Documents to which it is a party in its capacity as Ancillary Facility Lender; and
- 5.3.2. shall have no further rights and obligations under the Intercreditor Agreement and the Finance Documents to which it is a party in its capacity as Ancillary Facility Lender.
- 5.4. On and with effect from the Transfer Date, Absa (in its capacity as an Ancillary Facility Lender) (the "Excluded Ancillary Facility Lender") shall, without derogating from its rights under the Ancillary Facility Documents concluded by it with members of the South African Group:
- 5.4.1. cease to be a party to the Intercreditor Agreement, the Common Terms Agreement and the Finance Documents to which it is a party in its capacity as Ancillary Facility Lender; and
- 5.4.2. shall have no further rights and obligations under the Intercreditor Agreement, the Common Terms Agreement and the Finance Documents to which it is a party in its capacity as Ancillary Facility Lender,

it being recorded that the Ancillary Facilities made available by the Excluded Ancillary Facility Lender, and the Ancillary Facility Documents concluded by it with members of the South African Group, shall remain unamended and of full force and effect.

6. Consideration and payment

- 6.1. In consideration for the transactions set out at clauses 2 and 5, the New Lender unconditionally and irrevocably agrees to pay to the Facility Agent (for the account of each Existing Lender in its Proportionate Share) an amount equal to ZAR3 510 000 000 (three billion five hundred and ten million Rand) (the "Consideration").



M.A.

- 6.2. The payment of the Consideration shall be made by the New Lender:
- 6.2.1. by no later than noon South Africa Time on 6 December 2023 (the "Required Payment Date and Time"); and
- 6.2.2. in cash, in immediately available funds, without withholding, set-off or deduction, into the Facility Agent Account.
- 6.3. The Facility Agent shall promptly (but in any event by no later than close of business, South African time on the date of receipt) notify the Existing Lenders and the New Lender of the proceeds of the payment contemplated in clause 6.1 being received and standing to the credit of the Facility Agent Account.
- 6.4. Should the New Lender fail to comply with its payment obligations in terms of clause 6.2 by the date and time specified in that clause, this Transfer Certificate shall terminate and shall be of no further force and effect and no Party shall have any claim, of whatsoever nature, against any other Party in connection with any of the transactions set out in this Transfer Certificate.



7. Information

- 7.1. The New Lender shall, promptly after becoming aware thereof, notify the Existing Lenders in writing of any committee of the Public Investment Corporation ("PIC") taking any decision to approve or reject the Proposed PIC Funding Transaction, which notification shall, if such approval is given, set out any conditions to which such approval may be subject. For the purposes of this clause 7.1, "Proposed PIC Funding Transaction" means the transaction proposed to be concluded between the New Lender and PIC in terms of which PIC shall, by no later than the Required Payment Date and Time, advance monies at least equal to ZAR2 000 000 000 (two billion Rand) to the New Lender to enable the New Lender to partially discharge the Consideration.
- 7.2. The New Lender shall, by no later than 28 November 2023, provide the Existing Lenders with evidence to their satisfaction that at least ZAR1 600 000 000 (one billion six hundred million Rand) of immediately available monies stand to the credit of a bank account maintained by the New Lender with a South African bank acceptable to the Existing Lenders.

8. Limitation of the responsibility of Existing Lenders

Without derogating from the provisions of clause 24.4 (*Limitation of responsibility of Existing Lenders*) of the Agreement:

- 8.1. the Existing Lenders make no representation or warranty and assumes no responsibility to the New Lender for:
- 8.1.1. the legality, validity, effectiveness, adequacy or enforceability of the Financing Agreements or any other documents;

M.A.

- 8.1.2. the financial condition of any Obligor, any Security Provider or any other member of the Group;
- 8.1.3. the performance and observance by any Obligor, any Security Provider and/or any other member of the Group of its obligations under the Financing Agreements or any other documents; or
- 8.1.4. the accuracy of any statements (whether written or oral) made in or in connection with any Financing Agreement or any other document,
- and any representations or warranties implied by law are excluded;

8.2. the New Lender confirms to the Existing Lenders that it:

- 8.2.1. has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor, each Security Provider, each member of the Group and its related entities in connection with its participation in the Agreement and the other Financing Agreements and has not relied on any information provided to it by any Existing Lender in connection with any Financing Agreement; and
- 8.2.2. will continue to make its own independent appraisal of the creditworthiness of each Obligor, each Security Provider, each member of the Group and its related entities whilst any amount is or may be outstanding under the Financing Agreement or any Senior Facility Commitment or Ancillary Facility Commitment is in force; and
- 8.2.3. agrees that nothing in this Transfer Certificate or any other Financing Agreement obliges an Existing Lender to:
- 8.2.3.1. accept a re-transfer from the New Lender of any of the rights and obligations transferred in terms of this Transfer Certificate; or
- 8.2.3.2. support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor, any Security Provider or any other member of the Group of its obligations under the Financing Agreements or otherwise.

9. **Resignation of The Standard Bank of South Africa Limited as Facility Agent**

With effect from the Transfer Date:

- 9.1. The Standard Bank of South Africa Limited (as facility agent) shall, notwithstanding the provisions of clause 26.1.11.2 of the Agreement, have resigned as Facility Agent; and



M.A
[Handwritten signature]

9.2. the New Lender shall have appointed Vision Investments 155 Proprietary Limited as Facility Agent.

10. General

10.1. The physical address, email address and attention details for notices of the New Lender for the purposes of clause 33 (*Notices*) of the Agreement are set out in the Schedule.

10.2. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.

10.3. This Transfer Certificate and any non-contractual obligations arising out of or in connection with it are governed by South African law.



M.A
[Handwritten signature]

Transfer Certificate (Terris)
Execution Version

SCHEDULE 1

PROPORTIONATE SHARE

Existing Lender	Proportionate Share
The Standard Bank of South Africa Limited (acting through its Corporate and Investment Banking division)	ZAR1 001 311 473.58
Nedbank Limited	ZAR730 354 034.38
Absa Bank Limited	ZAR435 092 480.03
FirstRand Bank Limited (acting through its Rand Merchant Bank division)	ZAR582 307 864.93
Investec Bank Limited (acting through its Corporate and Institutional Banking division)	ZAR155 394 086.62
Investec Bank Limited (acting through its Investment Banking Division: Corporate Solutions)	ZAR155 394 086.62
The Land and Agricultural Development Bank of South Africa	ZAR190 785 222.15
Sanlam Life Insurance Limited (acting through its Sanlam Specialised Finance division)	ZAR77 949 267.16
Sanlam Investment Management Proprietary Limited (acting on behalf of its third party clients)	ZAR15 860 750.29
Sanlam Life Insurance Limited (acting through its Sanlam Investment Management division)	ZAR66 318 232.85
Sanlam Specialised Finance Proprietary Limited	ZAR24 308 092.09
Momentum Metropolitan Life Limited	ZAR46 104 517.89
Ashburton Fund Managers Proprietary Limited (acting for and on behalf of its clients)	ZAR28 819 891.39

M.A



Transfer Certificate (Terris)
Execution Version

SCHEDULE 2

Administrative Details of the New Lender

Notice details:

Physical address: 134 Beethoven Street, Waterkloof Glen, Pretoria, Gauteng, 0010

Email: rute@remoggo.com

Addressee: Rute Moyo



M.A. 

Transfer Certificate (Terris)
Execution Version

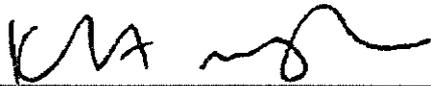
SIGNATURE PAGE

This Transfer Certificate is accepted by the Facility Agent.

SIGNED at Rosebank on this the 20th day of November 2023

For and on behalf of

The Standard Bank of South Africa Limited
(acting through its Corporate and Investment
Banking division)



Name: Kelly-Ann Myles
Capacity: Head: Agency
Who warrants his authority hereto

For and on behalf of

The Standard Bank of South Africa Limited
(acting through its Corporate and Investment
Banking division)

Name:
Capacity:
Who warrants his authority hereto



Transfer Certificate (Terms)
Execution Version

SIGNATURE PAGE

EXISTING LENDER

SIGNED at Sandton on this the 20th day of November 2023

For and on behalf of
Absa Bank Limited

For and on behalf of
Absa Bank Limited

DocuSigned by:
Christopher Li Green
C3CD8348CF63492...

DocuSigned by:
Anthony Evens
5087DBB066EB475...

Name: **Christoper Li Green**
Capacity: **Authorized**
Who warrants his authority hereto

Name: **Anthony Evens**
Capacity: **Authorised**
Who warrants his authority hereto



M.A *[Signature]*

Transfer Certificate (Terra)
Execution Version

SIGNATURE PAGE

EXISTING LENDER

SIGNED at Rosebank on this the 19 day of November 2023

For and on behalf of

The Standard Bank of South Africa Limited
(acting through its Corporate and Investment
Banking division)

Martin Baumgartner

Name: **Martin Baumgartner**
Capacity: **Head, BS&R, Risk, CIB**
Who warrants his authority hereto

For and on behalf of

The Standard Bank of South Africa Limited
(acting through its Corporate and Investment
Banking division)

Scott Lavery

Name: **Scott Lavery**
Capacity: **Investment Banking - Head Trade**
Who warrants his authority hereto



M.A
[Signature]

Transfer Certificate (Terrie)
Execution Version

SIGNATURE PAGE

EXISTING LENDER

SIGNED at Johannesburg on this the 20 day of November 2023

For and on behalf of

FirstRand Bank Limited
(acting through its Rand Merchant Bank division)

Christopher Alderson

Name: Chris Alderson
Capacity: Authorised
Who warrants his authority hereto

For and on behalf of

FirstRand Bank Limited
(acting through its Rand Merchant Bank division)



Name: Jean du Plessis
Capacity: Authorised
Who warrants his authority hereto



M.A
[Handwritten signature]

Transfer Certificate (Terris)
Execution Version

SIGNATURE PAGE

EXISTING LENDER

SIGNED at _____ on this the 20th day of November 2023

For and on behalf of

Investec Bank Limited
(acting through its Corporate and Institutional
Banking division)



Name: Igna Ferreira
Capacity: Authorised Signatory
Who warrants his authority hereto

For and on behalf of

Investec Bank Limited
(acting through its Corporate and Institutional
Banking division)



Name: Andrew Kunyamane
Capacity: Authorised Signatory
Who warrants his authority hereto



M.A


Transfer Certificate (Terms)
Execution Version

SIGNATURE PAGE

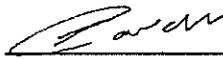
EXISTING LENDER

SIGNED at _____ on this the 20th day of November 2023

For and on behalf of

Investec Bank Limited

(acting through its Investment Banking Division,
Corporate Solutions)

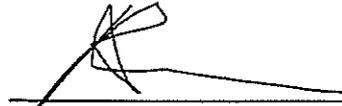


Name: Kerry Caldwell
Capacity: Authorised Signatory
Who warrants his authority hereto

For and on behalf of

Investec Bank Limited

(acting through its Investment Banking Division,
Corporate Solutions)



Name: Ricardo Lupini
Capacity: Authorised Signatory
Who warrants his authority hereto



Transfer Certificate (Terris)
Execution Version

SIGNATURE PAGE

EXISTING LENDER

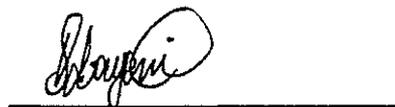
SIGNED at _____ on this the 20th day of November 2023

For and on behalf of
Nedbank Limited



Name: Priyan Govender
Capacity: Authorised
Who warrants his authority hereto

For and on behalf of
Nedbank Limited



Name: Vuyisa Sobayeni
Capacity: Authorised
Who warrants his authority hereto



For and on behalf of
Nedbank Limited



Name: Wellwood Nortier
Capacity: Authorised
Who warrants his authority hereto



Transfer Certificate (Terris)
Execution Version

SIGNATURE PAGE

EXISTING LENDER

SIGNED at _____ on this the 20th day of November 2023

For and on behalf of

**The Land and Agricultural Development
Bank of South Africa**

Stephen Sebueng

Stephen Sebueng
20/11/2023 13:54:41(UTC+02:00)

Name: **Stephen Sebueng**

Capacity: **EM: Legal Services**

Who warrants his authority hereto

For and on behalf of

**The Land and Agricultural Development
Bank of South Africa**

Faride Stiglingh

Faride Stiglingh
20/11/2023 14:26:41(UTC+02:00)

Name: **Faride Stiglingh**

Capacity: **EM: Post Investment Services**

Who warrants his authority hereto



M.A. [Signature]

Transfer Certificate (Teris)
Execution Version

SIGNATURE PAGE

EXISTING LENDER

SIGNED at Sandton on this the 20th day of November 2023

For and on behalf of

Sanlam Life Insurance Limited
(acting through its Sanlam Specialised Finance
division)

For and on behalf of

Sanlam Life Insurance Limited
(acting through its Sanlam Specialised Finance
division)



Howard van der Merwe

Name: Howard van der Merwe
Capacity: Authorised Signatory
Who warrants his authority hereto

Name:
Capacity:
Who warrants his authority hereto

Transfer Certificate (Tarris)
Execution Version

SIGNATURE PAGE

EXISTING LENDER

SIGNED at Prētoria on this the 20th day of November 2023

For and on behalf of

**Sanlam Investment Management
Proprietary Limited**
(acting on behalf of its third party clients)

For and on behalf of

**Sanlam Investment Management
Proprietary Limited**
(acting on behalf of its third party clients)



M. Madisha

Name: **Mokgatla Madisha**
Capacity: **Authorised Signatory**
Who warrants his authority hereto

Name:
Capacity:
Who warrants his authority hereto

M.A. [Signature]

Transfer Certificate (Ternis)
Execution Version

SIGNATURE PAGE

EXISTING LENDER

SIGNED at Cape Town on this the 20th day of November 2023

For and on behalf of

Sanlam Life Insurance Limited
(acting through its Sanlam Investment
Management division)

For and on behalf of

Sanlam Life Insurance Limited
(acting through its Sanlam Investment
Management division)



CLR

Name: **Cecilia Le Roux**
Capacity: **Authorised Signatory**
Who warrants his authority hereto

Name:
Capacity:
Who warrants his authority hereto

M.A *[Signature]*

Transfer Certificate (Tennis)
Execution Version

SIGNATURE PAGE

EXISTING LENDER

SIGNED at Sandton on this the 20th day of November 2023

For and on behalf of

**Sanlam Specialised Finance Proprietary
Limited**

Howard van der Merwe

Name: Howard van der Merwe
Capacity: Authorised Signatory
Who warrants his authority hereto

For and on behalf of

**Sanlam Specialised Finance Proprietary
Limited**

Name:
Capacity:
Who warrants his authority hereto



M.A. [Signature]

Transfer Certificate (Terms)
Execution Version

SIGNATURE PAGE

EXISTING LENDER

SIGNED at Cape Town on this the 20th day of November 2023

For and on behalf of

Sanlam Life Insurance Limited
(acting through its Sanlam Investment
Management division)

For and on behalf of

Sanlam Life Insurance Limited
(acting through its Sanlam Investment
Management division)



Name: Cecilia Le Roux
Capacity: Authorised Signatory
Who warrants his authority hereto

Name:
Capacity:
Who warrants his authority hereto

Transfer Certificate (Terra)
Execution Version

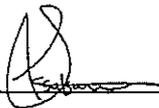
SIGNATURE PAGE

EXISTING LENDER

SIGNED at _____ on this the 20th day of November 2023

For and on behalf of

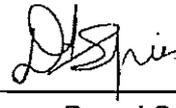
Momentum Metropolitan Life Limited



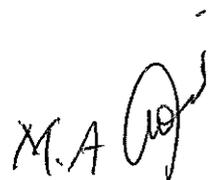
Name: Kagiso Tsatsane
Capacity: Authorised Signatory
Who warrants his authority hereto

For and on behalf of

Momentum Metropolitan Life Limited



Name: Duard Spies
Capacity: Authorised Signatory
Who warrants his authority hereto



Transfer Certificate (Terris)
Execution Version

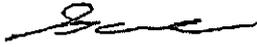
SIGNATURE PAGE

EXISTING LENDER

SIGNED at Sandton on this the 20th day of November 2023

For and on behalf of

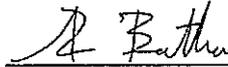
Ashburton Fund Managers Proprietary Limited
(acting for and on behalf of its clients)



Name: Santhuri Thaver
Capacity: Authorised Signatory
Who warrants his authority hereto

For and on behalf of

Ashburton Fund Managers Proprietary Limited
(acting for and on behalf of its clients)



Name: Albert Botha
Capacity: Authorised Signatory
Who warrants his authority hereto



Transfer Certificate (Terms)
Execution Version

SIGNATURE PAGE

NEW LENDER

SIGNED at _____ on this the 20th day of November 2023

For and on behalf of

Vision Investments 155 Proprietary Limited

For and on behalf of

Vision Investments 155 Proprietary Limited





 Name: **RUTENHURO MOYO**
 Capacity: **DIRECTOR**
 Who warrants his authority hereto

 Name:
 Capacity:
 Who warrants his authority hereto



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

Annexure 07

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 11:31:12 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.**



"MAR7"

Private Bag X84, PRETORIA, 0001, the dtic Campus, 77 Meintjies Street, Sunnyside, 0002, Tel: (012) 394 0000
the dtic Customer Contact Centre local: 0861 843 384 International: +27 12 394 9500, www.thedtic.gov.za

BRIEFING TO THE DEPUTY MINISTER ZUKO GODLIMPI ON STATUS UPDATE AND CRITICAL ISSUES RELATING TO TONGAAT HULETT LIMITED (THL) AND IMPLICATIONS FOR THE SUGAR INDUSTRY

1. PURPOSE

To brief the Deputy Minister on:

- The current financial collapse of Tongaat Hulett Limited (THL) and the Business Rescue Practitioners' (BRPs) decision to proceed with liquidation.
- The urgent issues raised by the BRPs, IDC and Vision Group regarding funding, regulatory reforms, and implications for the sugar industry.
- The strategic risks that THL's liquidation poses to the Sugar Master Plan, rural economies, and small-scale growers.
- Required actions from the dtic to manage immediate risks and coordinate Government's response.



2. BACKGROUND

The THL entered business rescue in **October 2022**, with the Business Rescue Plan approved in **January 2024**. The plan relied on a **Sale of Business (SOB)** transaction to the **Vision Group**, backed by **IDC facilities (~R4bn)**. Significant delays in fulfilment of Conditions Precedent between Vision, IDC and regulatory bodies led to severe liquidity deterioration.

3. CURRENT CRISIS SITUATION

3.1 Liquidity Collapse

THL is fully drawn on its R2.3bn PCF and has a cash shortfall of R300m required for November 2025 and rising deficits of R421m (December) and R619m (January). The IDC has not yet approved the urgent interim funding.

M.A. Qili



Private Bag X84, PRETORIA, 0001, the dtic Campus, 77 Meintjies Street, Sunnyside, 0002, Tel: (012) 394 0000
the dtic Customer Contact Centre local: 0861 843 384 International: +27 12 394 9500, www.thedtic.gov.za

3.2 Vision Group Position

Vision has indicated that it remains committed to closing the SOB transaction.

However requires certainty on **industry reforms**, including:

- amendments to the Sugar Industry Agreement (SIA);
- manufacturing allowance adjustments;
- redistribution rules;
- handling of Eswatini imports;
- treatment of IDC interest and restructuring costs.

3.3 BRPs' Position and Liquidation Application

- On 3 December 2025, Werksmans Attorneys, on behalf of the BRPs, formally notified IDC, Vision, and the dtic that the BRPs have concluded THL can no longer be rescued.
- The BRPs will apply to court to terminate the business rescue and place THL into provisional liquidation.
- The urgent liquidation application is set down for 17 December 2025.
- Draft liquidation court papers are already prepared and circulated.



4. REGULATORY ISSUES RAISED (SIA & SASA Constitution)

On 4 November 2025, the BRPs wrote to the Minister requesting urgent amendments to the Sugar Industry Agreement (SIA), and the SASA Constitution, arguing that current structures:

- create unbalanced governance and decision-making;
- disadvantage THL in milling margins and market sharing;
- do not adequately manage increasing deep-sea imports;
- slow down tariff responsiveness;
- hinder diversification initiatives.

SASA responded on **11 November 2025**, confirming that the BRP proposals will be tabled at the SASA Council; however, recently approved October



Private Bag X84, PRETORIA, 0001, the dtic Campus, 77 Meinjies Street, Sunnyside, 0002, Tel: (012) 394 0000
the dtic Customer Contact Centre local: 0861 843 384 International: +27 12 394 9500, www.thedtic.gov.za

amendments must first be gazetted and implemented before further structural changes proceed.

5. IMPLICATIONS FOR GOVERNMENT & THE INDUSTRY

5.1 Collapse of a strategic agro-processing asset

Liquidation would:

- Destabilise more than **1 million rural livelihoods**,
- Trigger immediate non-payment to growers and suppliers,
- Disrupt KZN social stability as seen previously in 2021.

5.2 Sugar Master Plan Risks

- THL is central to commitments under the Master Plan on localisation, grower retention, transformation and small-scale grower support.
- Liquidation threatens the entire downstream and upstream value chain.

5.3 Institutional Misalignment

- The IDC's funding delays, Vision's reform requirements, and SASA's statutory consultation timelines have created a misalignment which has pushed THL beyond rescue.

5.4 Fiscal and Political Reputational Risks

- The collapse of THL may reflect negatively on Government's responsiveness to a critical industrial crisis.
- Failure to coordinate timely industry reforms may undermine confidence in the Master Plan framework.

6. KEY ISSUES REQUIRING DEPUTY MINISTER ATTENTION

- Immediate Government position on the liquidation, whether dtic intends to oppose, support, or note the liquidation application.
- Position on Vision's conditions, whether Government will provide the assurance Vision requires on SIA amendments and broader industry reforms.



M.A. 



Private Bag X84, PRETORIA, 0001, the dtic Campus, 77 Meintjies Street, Sunnyside, 0002, Tel: (012) 394 0000
the dtic Customer Contact Centre local: 0861 843 384 International: +27 12 394 9500, www.thedtic.gov.za

- Engagement with IDC, whether dtic will guide them to act on the interim funding request, noting the BRPs have already declared rescue impossible.
- Contingency Planning ensuring SASA stabilisation mechanisms are activated to protect growers and ensure mill operations continuity.
- Engagement with provincial governments in KZN and Mpumalanga on rural economic implications.
- Communication Strategy on a clear messaging to avoid panic among growers, labour unions, and communities.



7. RECOMMENDATIONS

It is recommended that the Deputy Minister:

1. **Note** the liquidation application submitted by the BRPs.
2. **Support** urgent interdepartmental coordination (dtic, IDC, DALRRD, SASA, Provincial Govts).
3. Accelerate the **SIA and SASA constitutional reform processes**.
4. **Engage** the Minister on whether dtic should provide the commitment sought by Vision to unlock IDC decisions on the broader industry reform programme.
5. **Mandate** an urgent meeting with IDC and Vision to clarify Government's stance before the liquidation hearing.

-----End -----

M.A. [Signature]

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

Annexure 08

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:38:57 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.**



"MAR8"

8th December 2025

Our ref :RGS

Your ref :

PER EMAIL:

RE: RGS GROUP HOLDINGS LIMITED / THL (IN BUSINESS RESCUE)



The Business Rescue Practitioners of Tongaat Hulett Ltd

Werksmans Attorneys

Email: tboswell@werksmans.com; sgast@werksmans.com; dhertz@werksmans.com; dandropoulos@werksmans.com

8 December 2025

URGENT

Dear Sirs

TONGAAT HULETT LIMITED (IN BUSINESS RESCUE)

1. A central theme of the litigation brought by RGS over the past two years has been the BRPs' failure to discharge their statutory obligations to affected persons.
2. The monthly "status update reports" published by the BRPs pursuant to section 132(3) of the Companies Act 71 of 2008 have, for all the reasons set out in RGS court papers, never presented the true facts concerning, or status of, THL's rescue proceedings. Material information has been withheld by the BRPs on an ongoing basis.

Imran Bobat
 BA (UND) LLB (UND) LLM(UCLA)

M.A

3. Notably, in the past the BRPs chose not to inform affected persons that Vision had failed to complete the acquisition of the Lender Group's claims by the time the shareholder's meeting was called on 8 August 2024 (to seek approval for the implementation of the equity conversion). It was only when the BRPs issued the relevant circular to shareholders ahead of the shareholders meeting that affected persons learned *inter alia* that the BRPs were proposing an incomplete acquisition with the Lender Group retaining claims valued at R3.6 billion (which would have resulted in a continued interest expense for THL of R448 million per annum.)
4. Since the aforesaid was in breach of the express terms of the business rescue plan, shareholders rejected the equity conversion causing serious harm to THL and the prospects of its successful rescue.
5. This is but one past example of the BRPs' refusal to honour their statutory obligations to keep affected persons informed of the true state of the rescue proceedings, as well as the inexplicable commitment and loyalty they have shown to Vision. Many more examples are evident from RGS's court papers.
6. In recent weeks news has spread in the industry that THL is in serious financial peril, that its rescue proceedings are failing, and that the BRPs and Vision have adopted the view that the Sugar Industry Agreement and SASA constitution must both be amended in various material respects in order for THL's rescue to succeed.
7. None of the aforesaid issues, which the BRPs and Vision appear to view as preconditions to the successful rescue of THL, were disclosed in the business reuse plan. Nor has THL's financial position ever been disclosed since rescue proceedings commenced.
8. Rumours have moreover been circulating that the BRPs have determined that the rescue proceedings have failed at that they intend to apply for THL's liquidation.
9. These rumours – which are all affected persons have had to rely on given the BRPs' wholesale failure to provide any meaningful information regarding the status of the rescue proceedings – are confirmed in the attached briefing to the Deputy Minister of Trade and Industry.
10. The aforesaid document states *inter alia* that:
 - 10.1. The IDC fully funded Vision's acquisition of the Lender Group's claims, which demonstrates that Vision fraudulently informed the BRPs and creditors that it had sufficient funds in cash in a Standard Bank account to



M. A. [Signature]

- implement the business rescue plan at the creditors meeting on 10 January 2024;
- 10.2. "Significant delays in fulfilment of Conditions Precedent between Vision, IDC and regulatory bodies led to severe liquidity deterioration";
 - 10.3. THL has a cash shortfall of R300 million for November 2025 and its deficits are projected to be R421 million for December 2025 and R619 million for January 2026;
 - 10.4. On 3 December 2025 Werksmans, on behalf of the BRPs, formally notified the IDC, Vision, and the DTIC that the BRPs have concluded that ~~The can~~ no longer be rescued;
 - 10.5. The BRS will apply for the termination of rescue proceedings and the commencement of liquidation, with liquidation papers already having been prepared and the application having been set down for 17 December 2025;
 - 10.6. The BRPs have written to the Minister to request urgent amendments to the Sugar Industry Agreement and the SASA Constitution.
11. This information, if correct, beggars belief. None of this information has been communicated to affected persons in the BRPs' monthly status update reports for the past year.
 12. We reiterate that the business rescue plan does not identify any amendments to the Sugar Industry Agreement or the SASA constitution as amounting to conditions to the successful implementation thereof.
 13. In addition, THL's existential financial difficulties could clearly not have arisen overnight and the BRPs must have been aware of the true position when they published their vacuous monthly status update reports, including the most recent report published on 6 November 2025 (no report has been filed this month despite it being overdue) which simply repeats *inter alia* the following verbatim statement from prior reports:

"The implementation of the Asset Transaction in accordance with the Plan is an ongoing process, which contemplates the sale of the Company's business and assets as a going concern, as a group, to the Vision Parties ("Vision)...

The parties to the transaction are continuing to work towards the implementation of the Asset Transaction in the shortest possible timeframe.



M.A. [Signature]

The transaction is in the final stages of implementation aimed at fulfilling the requires conditions set out in the plan.”

14. The discrepancy between what the BRPs know and what they have chosen to share with affected persons is manifest.
15. It is moreover apparent that while the BRPs have consistently rejected RGS' proposals to replace Vision and be granted an opportunity to propose a feasible business rescue plan, the BRPs have been content to watch on as the Vision Plan fails leaving THL doomed to liquidation, all the while remaining inexplicably supportive of Vision.
16. The BRPs' conduct is both in breach of their various statutory obligations and grossly negligent.
17. We are therefore instructed to demand, as we hereby do, that the BRPs:
 - 17.1. Confirm in writing whether the contents of the attached ministerial briefing letter is correct, and if not, in which respects the BRPs' view differ from those expressed in the letter;
 - 17.2. Confirm whether the BRPs have determined that THL's rescue proceedings have failed;
 - 17.3. Confirm whether the BRPs have prepared a liquidation application and, if so, when it has been set down for hearing;



by no later than close of business on **Tuesday, 9 December 2025**

18. RGS reserves the right to approach the High Court forthwith seeking *inter alia* the removal of the BRPs and the provision of full reports on the status of the rescue proceedings in compliance with the BRPs' statutory obligations. RGS moreover reserves the right to seek relief, including costs and/or damages, from the BRPs in their personal capacities.
19. Any such urgent application will of necessity be brought with limited notice given the proximity of the year-end holiday, and you are therefore advised to confirm the availability of counsel urgently. The (non)availability of your counsel has consistently been advanced as an excuse not to have applications heard timeously but, as you are aware, this is not a consideration recognised at law and RGS will make no concessions in this regard.

M.A. [Signature]

Your faithfully

Yours faithfully



Digitally signed by
Imran Bobat
Attorney
Bobat & Associates



M.A. 

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

Annexure 09

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:39:12 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.



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BY:

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

"MAR9"**DELIVERED BY EMAIL**

Bobat & Associates
E-mail: admin@boblaw.co.za
Durban

Attention: Mr I Bobat

CC Stein Scop Attorneys

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

YOUR REFERENCE:

OUR REFERENCE: Mr D Hertz | Ms L Silberman | Mr T Boswell/tjb/TONG7430.26/#11352833v3

DIRECT PHONE: +27 11 535 8283 | +27 11 535 8134 | +27 11 535 8459

EMAIL ADDRESS: dhertz@werksmans.com | lsilberman@rksmans.com | tlboswell@werksmans.com

9 December 2025



Dear Sirs

TONGAAT HULETT LIMITED (IN BUSINESS RESCUE), T MURGATROYD N.O., P VAN STADEN N.O. AND G ALBERTYN N.O. (collectively "our clients") | THE VISION GROUP ("Vision") | RGS GROUP HOLDINGS (PROPRIETARY) LIMITED ("your client")

- 1 We refer to your letter of yesterday's date ("**your letter**") and to the document titled *BRIEFING TO THE DEPUTY MINISTER ZUKO GODLIMPI ON STATUS UPDATE AND CRITICAL ISSUES TO TONGAAT HULETT LIMITED (THL) AND IMPLICATIONS FOR THE SUGAR INDUSTRY* ("**the briefing document**") attached to your letter.
- 2 The content of your letter is another transparent attempt on the part of your client to belatedly attempt to construct grounds for yet another urgent application against, *inter alios*, our clients.
- 3 Our clients deny the assertions and allegations contained in paragraphs 1 to 16 of your letter.
- 4 Without conceding any obligation to respond to the interrogatories in paragraph 17 of your letter, or that your client is entitled to the information requested in such paragraph, our client has instructed us to advise you that -
 - 4.1 the briefing document is replete with factual errors. The current position, from our clients' perspective, is as recorded in its most recent Notice to Affected Persons. That notice has also been uploaded to THL's website and can be found under the business rescue tab;
 - 4.2 the BRPs have not determined that THL's business rescue proceedings have failed; and
 - 4.3 in the light of, *inter alia* paragraph 4.2 above no liquidation application has been issued.

Werksmans Inc. Reg. No. 1990/007215/21 Registered Office The Central 96 Rivonia Road Sandton 2196 South Africa
Directors D Hertz (Chairman) OL Abraham LK Alexander C Andropoulos JKOF Antunes L Appelgryn RL Armstrong DA Arteiro K Badal T Bata JD Behr AR Berman P Bhagattjee NMN Bhengu AL Bilaty RE Bonnet TJ Boswell W Brown PG Cleland JG Cloete PPJ Coetser C Cole-Morgan J Darling R Driman KJ Fyfe S Gast D Gewer JA Gobetz R Gootkin A Govuza GF Griessel NA Hlatshwayo J Hollesen MGH Honiball BB Hotz AE Human T Inno HC Jacobs TL Janse van Rensburg G Johannes S July J Kallmeyer A Kenny NK Kgame R Killoran N Kirby HA Kotze S Krige CJ Lailha H Laskov P le Roux MM Lessing E Levenstein JS Lochner K Louw JS Lubbe BS Mabasa PK Mabaso DD Magidson MPC Manaka JE Mardon PD Mashalane JE Meiring H Michael SM Moerane R Moitse C Moraitis B Moti NPA Molsiri CK Mthembu L Naidoo K Neluheni NNP Nkosi BW Ntuli BPF Olivier Z Oosthuizen M Pansegrouw S Passmoor D Pisanti T Potter AA Pyzikowski RJ Raath K Rajah A Ramdhin B Rammala V Ramson BR Roothman W Rosenberg NL Scott TA Sibida FT Sikhavhakhavha LK Silberman S Sinden S Singh DE Singo JA Smit BM Sono KP South CI Stevens PO Steyn J Stockwell DH Swart PW Tindle JJ Truter KJ Trudgeon DN van den Berg AA van der Merwe A van Heerden JJ van Niekerk FJ van Tonder JP van Wyk A Vatalidis T Volschenk RN Wakefield L Watson D Wegierski G Wickins DC Willans E Wood BW Workman-Davies Consultants DH Rabin DG Williams

M.A. [Signature]



5 The content of this letter is not exhaustive and should not be construed as having dealt with all matters affecting the issues. Our clients' right to deal with any such matters in greater detail, including those in your letter (most of which have been dispositively addressed in prior proceedings unsuccessfully instituted by your client) in due course and in the appropriate forum are reserved.

Yours faithfully

WERKSMANS



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

CASE NO: **2026-031780**

In the matter between:

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Van Den Steen NO**

Plaintiff / Applicant / Appellant

and

**Tongaat Hulett Limited,The Affected
Persons**

Defendant / Respondent

Annexure 10

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BY:

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KwaZulu-Natal, Durban.**



Est. 1892

TongaatHulett®

"MAR10"

- Delivered by Email To:**
- All known Affected Persons of Tongaat Hulett Limited (in business rescue)
 - Companies and Intellectual Property Commission
- Displayed:**
- Registered office and principal place of business of the Company
- Published:**
- On the website maintained by the Company and accessible to Affected Persons
 - Availability recorded in an announcement to shareholders on the Stock Exchange News Service (SENS), released after distribution



9 December 2025

NOTICE TO ALL KNOWN AFFECTED PERSONS OF TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) ("Company)

We are aware of concerns about Tongaat Hulett's future. The factual position is set out below.

Vision Sugar and the Industrial Development Corporation (IDC) have confirmed that they remain committed to the implementation of the business rescue plan and are actively working together to progress its completion. A requirement of the adopted business rescue plan and the Sale of Business Transaction is the refinancing and migration of the IDC post-commencement finance facility from Tongaat Hulett to Vision. Although these negotiations are taking longer than originally anticipated, Vision and IDC have now agreed to a structured process to resolve the outstanding matters as soon as possible.

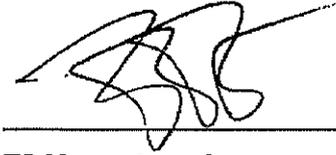
Stakeholders are urged to avoid making decisions based on incomplete or inaccurate information. To provide clarity, we can confirm that payment of employee salaries and contractual 13th cheques, grower payments, and supplier/off-crop payments remain on track for December 2025.

We thank all stakeholders for their continued support during what has been a challenging year. We remain focused on progressing the business rescue process in 2026 and will continue to provide updates.

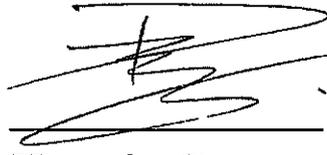
M.A.



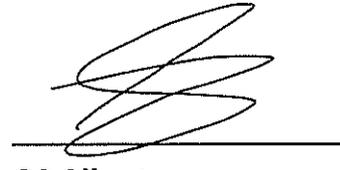
Yours faithfully



TJ Murgatroyd

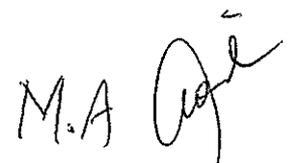


PF van den Steen



GC Albertyn

The Joint Business Rescue Practitioners of Tongaat Hulett Limited (in business rescue)



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IN THE HIGH COURT OF SOUTH AFRICA
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Van Den Steen NO**

Plaintiff / Applicant / Appellant

and

**Tongaat Hulett Limited,The Affected
Persons**

Defendant / Respondent

Annexure 11

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:39:46 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.**

Thursday, February 19, 2026 at 12:40:12 PM South Africa Standard Time

Subject: RGS/THL - CASE NUMBER: 2026-031780 [IMAN-LITIGATION.FID753129]
Date: Wednesday, 18 February 2026 at 11:44:30 South Africa Standard Time
From: Lisa Silberman
To: admin@boblaw.co.za
Attachments: 0.jpg

What makes us different,
makes all the difference.

Keep us close

THE CORPORATE & COMMERCIAL LAW FIRM
A member of the ILEX Africa Alliance

WERKSMANS ATTORNEYS

This email and its attachments are private, confidential, may be subject to legal professional privilege and are only for the use of the intended recipient.

Dear Sir

We refer to the above matter and to your client's notice of intention to oppose the urgent application instituted for the liquidation of Tongaat Hulett Limited.



In light of the urgency of the application, the notice of motion called for any notice of intention to oppose to be delivered by 13 February 2026 and thereafter any answering affidavits to be delivered by 17 February 2026.

Your client has not adhered to the time periods imposed in that the notice of intention to oppose was served on 16 February 2026 and an answering affidavit has not been delivered.

Your client's answering affidavit is out of time. Should your client intend to deliver an answering affidavit please ensure that it includes an application for condonation explaining its failure to adhere to the time periods provided for in the notice of motion.

All our clients' rights remain reserved.

Yours faithfully

Lisa Silberman
Director
+27 11 535 8134 | lsilberman@werksmans.com

The Central, 96 Rivonia Road, Sandton, Johannesburg, 2196
Private Bag 10015, Sandton, 2146, South Africa
+27 11 535 8000 | www.werksmans.com

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Criminal syndicates may attempt to induce you to make payments due to Werksmans Inc ("Werksmans") into bank accounts that do not belong to Werksmans. Fraud of this nature may be perpetrated using emails, letters or other forms of correspondence that may appear to have emanated from Werksmans. Before making any payment to Werksmans, please verify that the account into which payment will be made is a legitimate bank account of Werksmans. Please telephone us to confirm such details.

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A list of Werksmans Directors is available at [People Profiles](#).

M.A.

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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
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Van Den Steen NO**

Plaintiff / Applicant / Appellant

and

**Tongaat Hulett Limited,The Affected
Persons**

Defendant / Respondent

Annexure 12

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ELECTRONICALLY SIGNED
BY:

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

Thursday, February 19, 2026 at 12:48:00 PM South Africa Standard Time

Subject: RE: RGS/THL - CASE NUMBER: 2026-031780 [IMAN-LITIGATION.FID753129]
Date: Wednesday, 18 February 2026 at 14:22:41 South Africa Standard Time
From: admin@boblaw.co.za
To: 'Lisa Silberman'
Attachments: image001.jpg, image002.jpg, image003.jpg

Dear Ms Silberman

I refer to the above matter and to your email received at 11h44 today.

Your client filed its application at 10h50 on Thursday, 12 February 2026. In terms of the notice of motion your client elected to afford respondents:

1. A single day within which to oppose the application; and
2. three court days within which to file answering affidavits

in response to the application which spans 1356 pages.

The filing dates imposed by your client, in its discretion, are manifestly reckless and unreasonable and remain to be justified by your client in terms of Rule 6(12).



The extraordinary importance and potential consequences of the application, the multiplicity of interested parties, and the volume and complexity of the application - all factors of which your client is patently aware - should clearly have alerted your client to the fact that the filing dates imposed in the notice of motion could never realistically have been achieved by any respondent.

RGS is doing everything it possibly can to prepare and file its answering affidavit in the shortest possible time.

Current timing expectations, which may not be possible to achieve, are that RGS' answering affidavit will be filed on Monday, 23 February 2026.

For the avoidance of all doubt, while RGS will continue to use its best endeavours to file its papers by the aforesaid date, that is merely an aim towards which it is working and it cannot and does not guarantee that it will in fact be able to do so.

RGS rights, including its right to place this email before Court, remain fully reserved.

Regards
Imran Bobat
Bobat & Associates
Tel: 031 201 0060
Email: admin@boblaw.co.za
331 ST THOMAS ROAD, MUSGRAVE, DURBAN

• ATTORNEYS •
BOBAT
& associates



FRAUD ALERT: If we are one of your existing beneficiaries please confirm any changes in our bank details with Mr Imran Bobat. If we are a new beneficiary please confirm our bank details first. If you have any doubt please contact us.

M.A.
1 of 3

COURT ONLINE COVER PAGE

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

CASE NO: **2026-031780**

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Defendant / Respondent

Annexure 13

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KwaZulu-Natal, Durban.**

things, with potential amendments to the Business Rescue Plan and the mandatory Dispute Mechanism to be employed to resolve disputed matters relating to this Business Rescue Plan.

1.4. Chapter 4 – Conclusion and BRPs Certificates

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

2. Executive Summary

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



2.2. The key feature of this Business Rescue Plan is, pursuant to the Adoption and implementation of this Business Rescue Plan, the acquisition by RGS (through a South African incorporated subsidiary "**RGS Bidco**") of the substantial Claims and security held by the Lender Group in the amount of c.R7.7bn plus the subsequent conversion by RGS Bidco of 100% of such Claims into equity in THL ("**the RGS Transactions**"). This, together with the other Proposals put forward in this Business Rescue Plan, will result in (inter alia):

2.2.1. the continued trading of THL substantially in its pre-Commencement Date composition. In this regard it is noted that THD will remain a subsidiary of THL, subject to the implementation of THD's business rescue plan;

2.2.2. the recapitalisation of the THL balance sheet through the Proposals put forward in this Business Rescue Plan, in particular the conversion of the c.R7.7bn former Lender Group Claims into equity; and

2.2.3. the continued listing of THL on the JSE, albeit with current Shareholders becoming minority shareholders and RGS Bidco

M.A. ⁶ [Signature]

holding 95% of the then issued and listed shares in the Company immediately following the abovementioned debt to equity conversion (noting that RGS has stated its intention to subsequently sell down RGS Bidco's position such that RGS Bidco will retain a 51% - 60% shareholding within a year of concluding the RGS Transactions, thereby providing for a free float of some 40% - 49% of the then listed shares in issue).

2.3. The strategy to be adopted by the BRPs in the execution of this Business Rescue Plan is, in summary, to:

- 2.3.1. implement and complete the RGS Transactions comprising the acquisition by RGS Bidco of the Lender Group Claims and security and the conversion of such Claims into THL equity;
- 2.3.2. continue to maintain their control and oversight of the operations of the THL businesses until completion of the RGS Transactions and the completion of the parallel business rescues of THD, THSSA and Voermol;
- 2.3.3. secure working capital facilities, in the form of ongoing PCF (without any obligation on the part of the IDC to increase or extend its existing PCF advanced to the Company), sufficient to fund the THL businesses for the duration of the Business Rescue process;
- 2.3.4. RGS has confirmed to the BRPs its undertaking that it will not implement any retrenchments of any employees of THL (other than potentially senior management whose employment will be subject to the restructure of the senior management structure) for a period of at least two years from the date of substantial implementation of the Business Rescue Plan. RGS will assess the performance of the THL Group and the various businesses after the expiry of the two year period. It is the intention of RGS to limit job losses and, therefore, any job losses suffered would be a last resort and all



M.A. 7 *[Handwritten Signature]*

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Van Den Steen NO**

Plaintiff / Applicant / Appellant

and

**Tongaat Hulett Limited,The Affected
Persons**

Defendant / Respondent

Annexure 14

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

provided access to conduct a comprehensive due diligence. Final offers were received on 15 June 2023.

- After discussions with the Lender Group the preferred SEPs were approached again and provided with an opportunity to improve their offers (both in terms of certainty of price and overall certainty of closing), which culminated in a short listing of two final bidders.



- The BRPs and their advisors, carefully considered the respective SEP bids and analysed a number of qualitative and quantitative factors relating to each SEP's offer. Such considerations included (inter alia) financial, operational, strategic fit, cultural considerations and execution ability.
- After a rigorous process, and after consultation with numerous parties including the Lender Group, on 17 July 2023, Kagera Sugar was identified and confirmed as the preferred bidder by the BRPs and confirmed as the Strategic Equity Partner to be included in the business rescue plan for consideration by Creditors.
- Subsequent to the conclusion of the SEP process, the BRPs were advised by the Vision Parties and the Lender Group that the Vision Parties were to acquire the significant (from a Voting Interest perspective) secured Claims of the Lender Group. The Vision Parties made clear to the BRPs that subsequent to completion of the acquisition of the Claims of the Lender Group they would not vote

M.A ⁴⁵

such Claims in favour of a business rescue plan predicated on any alternative proposal received by the BRPs, but would only support the Proposals agreed with the BRPs and put forward in this Business Rescue Plan.

- It is noted that as at the Publication Date, the acquisition of the Claims of the Lender Group by the Vision Parties has not been completed. The RGS Proposals put forward in this Business Rescue Plan have therefore been based on numerous factors, including, but not limited to the benefits to the Company, the local community, Creditors, Shareholders and Employees – and on the ability of the proposer (in this case RGS) to make the financial commitments underpinning its proposals.



5.3.5.9. Business Rescue Plan Publication

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

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Persons**

Defendant / Respondent

Annexure 15

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BY:

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

"MAR 15"



Corporate and Investment Banking

21 December 2023

Vision Investments 155 (Pty) Ltd
134 Beethoven Street
Waterkloof Glen
Pretoria
South Africa
0010

Dear Mr Rute Moyo,

TONGAAT HULETT LIMITED (IN BUSINESS RESCUE)



As requested by the Business Rescue Practitioners of Tongaat Hulett Limited, this letter serves to confirm the following regarding the customer Vision Investments 155 (Pty) Ltd ("Vision"):

- Vision holds a Standard Bank account;
- The account has sufficient cash for Vision to execute the contemplated transaction as per the amended Vision business rescue plan dated 20 December 2023
- The account has sufficient cash to meet the proposed payment to unsecured creditors of R75 million as per the amended Vision business rescue plan dated 20 December 2023

We trust the above meets with your requirements.

This letter or your reliance on same does not give rise to any obligations or liability on the part of the Bank and/or its officials.

Yours sincerely,

[digitally executed]

Sean Wegerhoff
Executive, Advisory

21 December 2023

Date

The Standard Bank of South Africa Limited (Reg. No. 1962/000738/06) Authorised financial services and registered credit provider (NCRCP15)

Directors: NMC Nyembezi (Chairman) L Fuzile* (Chief Executive Officer) LL Bam PLH Cook
A Daehnke* GJ Fraser-Moleketi Xueqing Guan¹ GMB Kennealy BJ Kruger Li Li¹ JH Maree
NNA Matyumza ML Oduor-Otieno² ANA Peterside CON³ SK Tshabalala*

Company Secretary: K Froneman – 2023/06/12

* Executive Director ¹ Chinese ² Kenyan ³ Nigerian

M.A

Standard Bank **IT CAN BE.**

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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
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Van Den Steen NO**

Plaintiff / Applicant / Appellant

and

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Defendant / Respondent

Annexure 16 and More

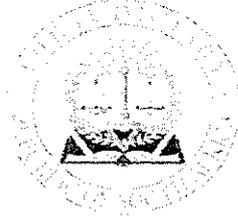
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BY:

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

"MAR16"



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

CASE NO: 2025/079452

In the matter between:



RGS GROUP HOLDINGS LIMITED

APPLICANT

and

**VISION INVESTMENTS 155(PTY)LTD
TERRIS AGRIPRO (MAURITIUS)
REMOGGO (MAURITIUS) PCC
GUMA AGRI AND FOOD SECURITY
LTD MAURITIUS
ALMOIZ NA HOLDINGS LIMITED (UAE)
TONGAAT HULETT LTD
(IN BUSINESS RESCUE)
TREVOR JOHN MURGATROYD N.O
PETRUS FRANCOIS VAN DEN STEEN N.O
GERHARD CONRAD ALBERTYN N.O.
THE LENDER GROUP OF TONGAAT HULETT LTD**

**FIRST RESPONDENT
SECOND RESPONDENT
THIRD REPENDENT
FOURTH RESPONDENT
FIFTH RESPONDENT
SIXTH RESPONDENT
SEVENTH RESPONDENT
EIGHTH RESPONDENT
NINTH RESPONDENT
TENTH RESPONDENT**

**THE INDUSTRIAL DEVELOPMENT
CORPORATION OF SOUTH AFRICA
THE AFFECTED PERSONS IN THE
SIXTH RESPONDENT'S BUSINESS RESCUE**

**ELEVENTH RESPONDENT

TWELFTH RESPONDENT**

This judgment was handed down electronically by circulation to the parties' representatives by email. The date for handing down is deemed to be 04 July 2025.

ORDER

Accordingly, I make the following order:



1. The applicant's non-compliance with the Uniform Rules of Court relating to service, time periods, be and is condoned; and the applicant be and is permitted to bring this application as a matter of urgency in terms of Rule 6(12).
2. The first to fifth respondents ("the Vision Parties") be and are directed to provide the applicant with the following within 5 days of the granting of this order:
 - 2.1 Proof of the payment of R1.51 billion made by the Vision Parties to the Lender Group on 11 January 2024;
 - 2.2 Proof of the payment of approximately R2 billion made by the Vision Parties to the Lender Group on 9 May 2025;
 - 2.3 A copy of the agreement concluded between the Vision Parties and the Lender Group in terms of which the Vision Parties have acquired all of the Lender Group's claims and security against Tongaat Hulett Limited ("THL");
 - 2.4 Proof that all of the Lender Group's claims and security against THL have been transferred to the Vision Parties;
 - 2.5 A written statement confirming whether or not:
 - 2.5.1. Any of THL's assets, or any rights in relation thereto, were proffered by the Vision Parties to its funders, whether as security, collateral, pledge, guarantee or any similar mechanism, in order to raise the funds necessary to acquire the Lender Group's claims and security;
 - 2.5.2. Any of the Vision Parties' financial obligations owed to the Lender Group or any of the Vision Parties' financial obligations relating to the implementation of the Vision plan will be satisfied in whole or in

M.A

part, whether in the first instance or in the event of a default of payment by the Vision Parties, from the proceeds of:

2.5.2.1 financing raised by selling THL assets or putting such assets up as collateral; or

2.5.2.2 any facility granted in favour of THL by the Lender Group, the Industrial Development Corporation of South Africa, or any funder.

3. The costs of this application shall be paid by the first to fifth respondents (the Vision Parties), jointly and severally, the one paying the other to be absolved on scale C.

JUDGMENT



Zwane AJ

Introduction

[1] This is an application in terms of which the applicant seeks the following order:

'1. That the applicant's non-compliance with the Uniform Rules of Court relating to service, time periods, and forms be condoned; and the applicant be permitted to bring this application as a matter of urgency in terms of Rule 6(12).

2. That the first to fifth respondents ("Vision") be directed to provide the applicant with the following within 5 business days:

2.1 Proof of the payment of R1.51 billion made by Vision to the Lender Group on 11 January 2024;

2.2 Proof of the payment of circa R2 billion made by Vision to the Lender Group on 9 May 2025;

2.3 A copy of the agreement concluded between Vision and the Lender Group in terms of which Vision has acquired all of the Lender Group's claims and security against Tongaat Hulett Limited ("THL");

2.4 Copies of all previous versions of the agreement referred to in the preceding paragraph;

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2.5 Proof that all of the Lender Group's claims and security against THL have been transferred to Vision;

2.6 A written statement confirming whether or not:

2.6.1. Any of THL's assets, or any rights in relation thereto, were proffered by Vision to its funders, whether as security, collateral, pledge, guarantee or any similar mechanism, in order to raise the funds necessary to acquire the Lender Group's claims and security;

2.6.2. Any of Vision's financial obligations owed to the Lender Group or any of Vision's financial obligations relating to the implementation of the business rescue plan will be satisfied in whole or in part, whether in the first instance or in the event of a default of payment by Vision, from the proceeds of:

2.6.2.1 financing raised by selling THL assets or putting such assets as collateral; or

2.6.2.2 any facility granted in favour of THL by the Lender Group, the Industrial Development Corporation of South Africa, or any funder.



3. That the costs of this application be paid by the first to fifth respondents, together with any party opposing the relief sought herein, jointly and severally the one paying the other to be absolved on scale C."

[2] The first to fifth respondents ("the Vision Parties") oppose the application.

Parties

[3] The applicant, together with the second to fourth respondents, are companies duly registered and incorporated in terms of the company laws of the Republic of Mauritius. The first respondent is a private company with limited liability, incorporated in terms of the company laws of the Republic of South Africa. The fifth respondent is a company registered in terms of the company laws of the United Arab Emirates. The sixth respondent is a public company incorporated in terms of the company laws of the Republic of South Africa. It is in business rescue. The seventh to ninth respondents are adult male directors who are cited in their nominal capacities as the duly appointed business rescue practitioners ("BRPs") of the sixth respondent. The tenth respondent is a group that comprises 13 banks and financial institutions, who collectively hold the admitted secured claims worth approximately R8.5 billion in the sixth respondent. The eleventh respondent is a corporation, state owned national development finance

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institution. The twelfth respondent are the affected persons in the sixth respondent's business rescue.

[4] For the purposes of this judgment the following acronyms will be used:

- (a) The applicant ("RGS");
- (b) The first to fifth respondents ("The Vision Parties");
- (c) The sixth respondent ("THL");
- (d) The seventh to ninth respondents ("The BRPs");
- (e) The tenth respondent ("The Lender Group"); and
- (f) The eleventh respondent ("The IDC").

Background

[5] On 27 October 2022, THL was placed under business rescue, and joint business rescue practitioners were duly appointed. RGS is one of the admitted creditors of THL. The Lender Group is by far the largest creditor, holding secured claims amounting to approximately R8.5 million. The BRPs convened and presided over a meeting of creditors held on 10 and 11 January 2024. At this meeting, a business rescue plan proposed by the Vision Parties ("the Vision plan") was approved and adopted. Notably, RGS withdrew its own proposed plan a day before the creditors' meeting.

[6] The Vision plan comprised of two key transactions. The first was the full acquisition by the Vision Parties of all the claims and security held by the Lender Group against THL ("the Acquisition"). The second transaction was the Conversion by the Vision Parties of approximately R4.9 billion of those acquired claims and security into a 97.3 per cent equity stake in THL ("the Conversion"). The remaining portion, valued at approximately R3.6 billion of Lender Group's claims and security, were to be retained by the Vision Parties on significantly more favorable terms to THL, including a three-year interest payment holiday. The Conversion would have resulted in all the existing shareholders collective interest in the THL being diluted to 2.7 per cent.

[7] At the request of the BRPs, Standard Bank of South Africa Ltd ("Standard Bank") had issued a letter on 21 December 2024 confirming that the first respondent's bank account had sufficient funds to execute the contemplated transaction for the Vision



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plan and to meet the proposed payment to the secured creditors of R75 million. At the creditors meeting, prior to the adoption of the Vision plan, creditors were unequivocally assured that the Vision Parties had sufficient funds to implement the Vision plan.

[8] The Vision plan contained two alternative transactions which would be implemented if the shareholders' approval of the Conversion could not be obtained. These alternative transactions provide that in the failure of the Conversion, the Vision Parties will acquire THL's assets and business on the basis that the payment for such assets will be effected by way of a set-off against the Lender's Group's secured claims then held by the Vision Parties ("the asset transaction"). In terms of the asset transaction, THL will be delisted and liquidated following the transfer of all of its assets and business to the Vision Parties. Regardless of which transaction is eventually implemented, the Vision plan requires the Vision Parties to acquire 100 per cent of the Lender Group's claims and before they can proceed with either the Conversion or the Asset Transaction.



[9] On 8 August 2024, the shareholders met to approve the Conversion. However, the shareholders voted against the resolution and rejected the Conversion. Following the rejection, the BRPs issued a notice on 16 August 2024 to the effect that the implementation of the Vision plan would be switched from the Conversion to the asset transaction. The BRPs advised that they would proceed with the alternative transaction in terms of which they would sell all THL's assets to the Vision Parties and then delist THL from the Johannesburg Stock Exchange ("JSE") and liquidate its shell ("the vision asset transaction"). The purchase consideration due in terms of the Vision Asset Transaction will discharge by set-off against the value of the secured claims of the Lender Group claims.

Pending application

[10] Following the BRPs' announcement that they would proceed to implement the Asset Transaction, RGS launched on an urgent application, which was brought in two parts. The substantive relief sought under part A was, amongst others, the following:

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"3. That pending the final determination of the relief sought under Part B, the first to ninth respondents (the THL, the BRPs and the Vision Parties) be interdicted from proceeding with or in any way progressing or implementing the so-called Vision Asset Transaction in terms of which all the first respondent's (THL) assets will be transferred to the fifth respondent (Vision Investments 155 Pty Ltd), or any other entity nominated by the Vision Parties, following which the first respondent (THL) will be delisted and liquidated.

4. That the second to fourth respondents ("the BRPs") be directed to publish the following information on the first respondent's (THL) business rescue website within 7 business days:

4.1 A statement providing all the information contemplated in sections 150(2)(c), 150 (3) and 150(4) of the Companies Act 71 of 2008 in relation to the Vision Asset Transaction.

4.2 A comprehensive description of all the agreements and transactions that have been concluded/are intended to be concluded in terms of the Vision Asset Transaction, including all the main steps in those transactions;

4.3 A statement confirming whether or not the Industrial Development Corporation of South Africa, in its capacity as a post commencement finance creditor of the first respondent (THL), has consented to the Vision Asset Transaction.

5. That the fifth to ninth respondents ("the Vision Parties") be directed to provide the following information to the BRPs for publication on the first respondent's (THL) business rescue website within 7 business days.

5.1 Copies of all the variations i.e. the current version as well as all past versions, of the acquisition agreement concluded between the Vision Parties and the Lender Group in terms of which the Vision Parties were/are to acquire the Lender Group's claims and security in the business rescue of the first respondent (THL) ("the Acquisition Agreement");

5.2 Proof of all payment(s) made by the Vision Parties to the Lender Group in terms of the Acquisition Agreement including the amount(s) of such payments;

5.3 Proof that the Lender Group has transferred all its claims and security in the THL business rescue to the Vision Parties, alternatively proof of the nature and extent of such claims and security as have been transferred;

5.4 Confirmation under oath that they have not concluded and will not in future conclude any agreement(s) with the Lender Group in terms of which, whether directly or indirectly, any of the first respondent's (THL) assets (including any such assets which are intended to be transferred under the Vision Asset Transaction) will be sold upon or after the conclusion of the



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first respondent's business rescue in order to apply the proceeds of such sale(s) to settle an amount(s) due:

5.4.1 by the Vision Parties to the Lender Group, whether under the Acquisition Agreement or otherwise;

5.4.2 to any other creditor(s) of the first respondent."

The substantive relief sought in part B was that the Vision Plan adopted in relation to THL on 11 January 2024 be set aside.

[11] RGS seeks the setting aside of the Asset Transaction on various grounds, including, the allegations that the Asset Transaction is unlawful on the basis of non-compliance with the peremptory provisions of s 150 of the Companies Act 71 of 2008 ("the new Act") relating to the minimum information that must be contained in the business rescue plan. RGS further contends that the Asset Transaction is in breach of the representations made to the creditors at the creditors' meeting and the central provisions of the Vision plan which apply to both the Conversion and the Asset Transaction, and on the strength of which the creditors voted to adopt the Vision plan. RGS avers that the Vision plan has lapsed since the plan has proven incapable of implementation within a reasonable time, mainly due to the Vision Parties' failure to raise the funds necessary to complete the Acquisition, including its repeated failure to pay the Lender Group. The Vision Parties have stated that under oath that it was using THL assets in support of raising the necessary funding to complete the Acquisition.



[12] RGS had contended that the Vision plan had failed due to the Vision Parties' failure to raise the necessary funds to implement the transactions on which the plan is premised. The Vision Parties had failed to fully acquire the claims and security of the Lender Group. The BRPs had preferred the Vision plan on the basis that THL is not party to the acquisition agreement despite the acquisition forming part of the key feature of the Vision plan. The terms of the acquisition agreement are not part of the Vision plan.

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[13] The Conversion required the shareholders' approval since it would dilute the value of all the pre-existing shareholding in THL to 2.7 per cent while allocating a 97.3 per cent interest to the Vision Parties. The BRPs had issued a circular to the shareholders prior to the shareholders' meeting to consider the approval of the Conversion. It was evident from the circular that the Conversion had not been yet been implemented and that, even if approved, the Lender Group would retain a claim of R3.6 billion against THL. This was contrary to the express terms of the Vision plan. At the shareholders' meeting on 8 August 2024, the shareholders rejected the Conversion on the basis that, inter alia, the Acquisition had not been achieved.

[14] RGS had contended that the BRPs acted unlawfully in seeking the shareholders' approval on the basis that the Lender Group would retain a claim of R3.6 billion against THL. The Vision plan authorised by the creditors permitted the Conversion to proceed once the Vision Parties had fully acquired the Lender Group's claims. The shareholders were of the view that it was misplaced and grossly unreasonable to be asked to agree to the dilution of the shareholding under the circumstances where the Vision Parties had failed to raise the funds necessary to implement the Acquisition. RGS contended that the Vision Asset Transaction, like the Conversion, cannot lawfully proceed unless the Vision Parties have achieved the Acquisition.



[15] A further contention by RGS was that the Vision Asset Transaction is unlawful, inter alia, because:

- (a) The Vision Asset Transaction is only addressed in one page of the Vision plan, and is addressed in a manner that does not comply with the provisions of s 50 of the Act since it fails to provide mandatory information required by that section in relation to:
 - (i) The conditions that must be satisfied for the Vision Asset Transaction to be implemented;
 - (ii) The effect that the Vision Asset Transaction will have on the employees and on the terms and conditions of their employment;

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- (iii) The financial information that is required to be provided in relation to the implementation of the Vision Asset Transaction (eg: the taxes and transactional costs that it will attract).
- (b) The Vision Asset Transaction was not explained to the creditors during the creditors meeting. The creditors were assured that the Vision Parties had sufficient funds to implement the Vision plan that would save THL from liquidation. The Vision Asset Transaction is intended to result in the liquidation of THL and it has been resorted to because the Vision Parties did not have the necessary funds to achieve the acquisition.
- (c) The Vision Asset Transaction is disguised to achieve precisely the result that the creditors were assured that the Vision plan would avoid, namely the delisting and liquidation of THL.
- (d) The Vision Asset Transaction amounts to a private or controlled liquidation conducted under the disguise of business rescue for the benefit of the Vision Parties and is therefore unlawful.



RGS contends that the Vision plan has lapsed given that has proven incapable of implementation within a reasonable time.

[16] After it became evident that the Vision Parties did not have the funds required to achieve the Acquisition, RGS submitted two formal offers to the BRPs to acquire THL out of the business rescue. RGS's offer would be incorporated into a new business rescue plan in terms of which R 4.4 billion would be injected directly into THL. This would enable THL to remain listed on the JSE and that THL's employees can retain their employment. However, the BRPs rejected RGS's offer on the basis that the Vision plan remains valid.

[17] RGS then demanded that the BRPs and the Vision Parties should publish the following information on THL's business rescue website for the benefit of the affected persons:

- (a) A copy of the Acquisition agreement;

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- (b) Confirmation of the amounts paid by Vision Parties to the Lender Group in respect of the Acquisition; and
- (c) Confirmation as to whether the Lender Group had transferred its claims to the Vision Parties despite the fact that Vision Parties had not paid the purchase price due.

In order to comply with RGS's demand, the BRPs sought the information from the Vision Parties and the Vision Parties refused to disclose the requested information. The BRPs are proceeding to implement the Vision Asset Transaction despite not being in possession of a copy of the Acquisition agreement.

[18] On 18 February 2025, ME Nkosi J dismissed part A of the pending application¹ for lack of urgency and for the failure of RGS to satisfy the requirements of an interim interdict. Part B of the application was adjourned *sine die*. The issue of the disclosure relief which was sought in part A was not addressed by ME Nkosi J.



The current application

[19] I now turn to consider the developments subsequent to ME Nkosi J's dismissal of part A of the pending application.

[20] On 11 January 2011, the Vision Parties paid to the Lender Group a non-refundable first instalment of R1.51 billion. In terms of their agreement, the balance of the purchase price was due to be paid by 31 December 2024. They failed to comply with their obligations and thereafter informed RGS that they intended to make payment to the Lender Group to conclude the Acquisition by 30 April 2025. However, Vision Parties failed to make payment on 30 April 2025. The BRPs and the Vision Parties subsequently alleged that the Vision Parties had discharged their payment obligations to the Lender Group by making payment on 9 May 2025. No proof of payment has been produced by the BRPs and the Vision Parties.

¹ Annexure "MAR 11" at Page 002-264 to 002 -285 of the bundle.

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[21] On 13 May 2025, the BRPs enquired whether RGS intended to persist with the pending application. In response, on 14 May 2025, RGS addressed a letter of demand to the Vision Parties, the BRPs, the Lender Group, and the Industrial Development Corporation ("IDC") in terms of which it demanded proof of payments by the Vision Parties to the Lender Group and proof of transfer to the Lender Group's claims to the Vision Parties. The proof had to be provided by close of business on 21 May 2025, failing which RGS would launch this application.

[22] On 21 May 2025, the BRPs responded to the RGS' demand and indicated that the confirmation of the discharge of payment obligations came in the form of an email from the Vision Parties attorneys stating that: "Vision have made payment of the purchase consideration due to the Lender Group. In the circumstances, the transaction between Vision and the Lender Group had been finalised." The BRPs had requested the Lender Group's attorneys to confirm the correctness of the advice received from the Vision Parties Attorneys.



[23] The Lender Group's attorneys responded to the BRPs and stated that the Vision Parties had fully discharged all their payment obligations via-a-vis the purchase consideration due to the Lender Group in respect of THL. They further confirmed that the THL group claims and security were unconditionally and irrevocably transferred to the Vision Parties on 9 May 2025.

[24] Since the Vision Parties did not respond to the first demand, RGS sent a second demand on 23 May 2025. RGS indicated that the BRPs response to the first demand did not amount to compliance with the demands made to other addressees. It reiterated the first demand and required responses by 26 May 2025. No response was received to the second demand, and this current application was launched on 29 May 2025.

The Vision Parties answers

[25] I now turn to the answer and the defences raised by the Vision Parties. These can be summarised as follows.

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[26] In their supplementary affidavit to the pending application, the Vision Parties stated that they had paid the Lender Group the entire purchase price and acquired the Lender Group's claim. With the payment of the second and final portion, the Vision Parties became the indisputable sole lender to THL. The payment and Acquisition claims are once more confirmed in the answering affidavit to this application. On 28 May 2025, Standard Bank confirmed in writing that the THL group claims and security were unconditionally and irrevocably transferred to the first respondent on 9 May 2025. The BRPs confirmed under oath in correspondence from their attorney's dated 21 May 2025 and in the notice to all affected persons, that the Acquisition has taken place.



[27] The Vision Parties aver RGS has no cognisable legal right to the relief as it has no greater rights to access information and disclosure of documents that existed before the commencement of the business rescue proceedings. RGS has no right to the information and documents to determine whether it should proceed with part B of the pending application.

[28] The Vision Parties further confirm that none of THL's assets or rights to such assets were utilised by them as security to raise the funds used to acquire the Lender Group's claims and security. There is no agreement before the Vision Parties and the Lender Group which contemplates a future sale of assets transferred to the Vision Parties to settle any payment obligations to the Lender Group, as no such future obligation exists. The Vision Parties have not used proceeds of any facility granted in favor of THL by the Lender Group, IDC or any funder to settle its obligations to the Lender Group. They have not discharged, nor will they discharge, any of their financial obligations relating to the implementation of the Vision plan from the proceeds of financing raised by selling THL assets or putting such assets up as collateral, or proceeds of any facility granted in favor of THL by the Lender Group, the IDC, or any other funder.

[29] The Vision Parties state that the relief sought mirrors the relief sought in part A of the pending application. It is submitted that such relief sought in this application is

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either precluded as having already been decided upon (*res judicata*), or must be pursued in what remains of part A after the judgment² of ME Nkosi J. The dismissal of part A of the pending application is a final and definitive judgment on the issue. If the issue is not *res judicata*, it follows that the Court did not finally and definitively determine the documents and information relief. Therefore, the matter is *lis pendens*.

Urgency

[30] I now turn to consider whether or not this matter is of urgency. RGS contends that the Asset Transaction implementation was at an advanced stage prior to the Vision Parties' alleged discharge of their payment obligations on 9 May 2025. All the sale agreements relating to THL's assets have been concluded. The competition authority approvals have been obtained. The JSE has been engaged to ensure compliance with its regulations. The Vision Parties have engaged the Reserve Bank for purposes of ensuring compliance with all exchange control regulations. Irreversible steps relating to the transfer of THL's assets to the Vision Parties' nominees, the delisting and liquidating of THL can occur at any time. Therefore, RGS has no prospects of securing substantial redress at a hearing in due course since part B of the pending application has not been allocated for hearing. The only prospects that RGS has of protecting its interests in part B of the pending application is for it to have access to the information it seeks in this application before any irreversible implementation steps are taken in relation to the Asset Transaction.



[31] Since the steps taken by the Vision Parties to discharge its payment obligations to the Lender Group are destructive of part B of the pending application, RGS has a right to consider these steps and determine for itself how best to protect its interests (i.e. whether or not to withdraw part B of the pending application). This would prevent RGS, the Vision Parties and the BRPs from expending unnecessary time and expenses in relation to part B of the pending application. RGS is entitled to the relief it seeks, which warrants this Court's urgent attention.

² Annexure "MAR 11" at Page 002-264 to 002 -285 of the bundle.

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[32] The Vision Parties contended that RGS will suffer no legitimate harm in having to make its determination of how best to protect its interests without the documents and information sought. They assert that no litigant has a general right to require their opponents to provide additional documents and particulars regarding their case to decide whether or not to persist with litigation. The harm that RGS seeks to avoid is speculative and illusory.

[33] The Vision Parties further contended that the documents and information sought relate to the events subsequent to the adoption of the Vision plan and have no bearing on the content of the Vision plan or its lawfulness under s 150 of the Act. The documents and information are irrelevant to whether or not there was a misrepresentation that the Vision plan was fully funded. The Vision Parties have now acquired the totality of the Lender Group's claims and security. RGS is not entitled to further particulars and evidence of the Acquisition. The documents and information have no bearing on whether or not the Vision plan has already lapsed.



[34] RGS has approached the Court on an urgent basis. It must comply with the provisions of rule 6(12)(b) of the Uniform Rules of Court. The rule provides that: "In every affidavit filed in support of any application under paragraph (a) of this subrule, the applicant shall set forth explicitly the circumstances which it is averred render the matter urgent and the reasons why the applicant claims that applicant could not be afforded substantial redress at a hearing in due course."

[35] In dealing with the issue of urgency, I have a wide discretion. I must bear in mind that the procedure set out in rule 6(12) is not there for a taking "An applicant has to set forth explicitly the circumstances which he avers render the matter urgent. More importantly, the applicant must state the reasons why he claims that he cannot be afforded substantial redress at a hearing in due course. The question of whether a matter is sufficiently urgent to be enrolled and heard as an urgent application is underpinned by the issue of absence of substantial redress in an application in due course."³

³ *Cornerstone Logistics (Pty) Ltd and Another v Zacpak Cape Town Depot (Pty) Ltd* [2022] ZASCA 12; [2022] 2 All SA 13 (SCA) para 30.

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[36] The rules allow the Court to come to the assistance of a litigant because if the latter were to wait for the normal course laid down by the rules it will not obtain substantial redress. This is affirmed in *East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd and Others*⁴ as follows:

"It is important to note that the rules require absence of substantial redress. This is not equivalent to the irreparable harm that is required before the granting of an interim relief. It is something less. He may still obtain redress in an application in due course but it may not be substantial. Whether an applicant will not be able obtain substantial redress in an application in due course will be determined by the facts of each case. An applicant must make out his cases in that regard."



[37] The central issue to the pending application is that the Vision Parties have failed to raise the funds necessary for the implementation of the Vision plan. The relief sought is that the Vision plan adopted on 11 January 2024 be set aside. The Vision Parties allege and contend that it was only on 9 May 2025 that they fully paid the Lender Group and secured the Acquisition of the Lender Group's claims and security in THL. In the interim, irreversible steps relating to the delisting and liquidation of THL can occur at any time. The conclusion is inescapable that RGS will not obtain substantial redress at the hearing of Part B of the pending application. The refusal to come to the assistance of RGS now will render the hearing of the pending application academic. I am therefore satisfied that the matter is sufficiently urgent to be enrolled and heard on an urgent basis.

Res judicata

[38] The Vision Parties maintain that RGS seeks the urgent disclosure relief for materially the same reason as was the disclosure sought in the pending application. It was argued that ME Nkosi J finally disposed of RGS's disclosure relief and therefore RGS is precluded from again seeking this relief under the defence of *exceptio res judicata*. The argument on behalf of RGS is that despite the similarity in the relief sought, the disclosure relief in this application is grounded on the facts and

⁴ *East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd and Others* [2011] ZAGPJHC 196 para 7.

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circumstances which did not exist when part A of the pending application was heard. ME Nkosi J dismissed the part A disclosure relief on the basis that it was not urgent. That judgment does not constitute judgment on the merits of the disclosures sought.

[39] *Res judicata* "...is the legal doctrine that bars continued litigation for the same cause, between the same parties and where the same thing is demanded. The underlying rationale of the doctrine of *res judicata* is to give effect to the finality of judgments and an 'avoidance of a multiplicity of litigation or conflicting judicial decisions on the same issue or issues.'"⁵

[40] For the *exceptio res judicata* to succeed, the judgment must be final and definitive on the merits of the matter. "Thus, a judgment or order which does not have the effect of settling or disposing of the dispute between parties with finality cannot found the *exceptio rei judicatae*."⁶



[41] Part A of the pending application can be divided into three categories. The first category is interdictory. An interdict was sought against the Vision Parties, the BRPs and THL in terms of which they were to be prohibited from proceeding with or in any way progressing or implementing the Vision Asset Transaction. The second category was a mandamus directing the BRPs to publish certain information on the THLs business rescue website. The third category was a disclosure relief on more or less similar terms to the relief sought in this application.

[42] The issues that ME Nkosi J dealt with for purposes of part A of the pending application were:

- (a) " Whether the matter is urgent;

⁵ *Mashamaite and Others v Mogalakwena Local Municipality and Others, Member of the executive Council for Coghsta, Limpopo and Another v Kekana and Others* [2017] ZASCA 43; [2017] 2 All SA 740 (SCA) para 15.

⁶ *Rail Commuters' Action Group and Others v Transnet Ltd and Others* 2006 (6) SA 68 (C) at 74.

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- (b) Whether RGS was required to obtain leave of this court to commence legal proceedings in relation to property belonging to THL in terms of s133(1)(b) of the Companies Act;
- (c) Whether RGS has satisfied the requirements of an interim interdict; and
- (d) Whether RGS has made out a case to warrant this court ordering the BRPs not to proceed with implementation of the Vision Plan pending the final determination of the relief sought under Part B."

[43] After dealing with the issues for determination, ME Nkosi J found that RGS had failed, firstly, to make out a case for urgency and, secondly to satisfy the requirements for an interdict. Notably, that Court did not deal with the *mandamus* and the disclosure relief. In my view, ME Nkosi J's judgement is not final and definitive of the disclosure relief. The *res judicata* defense must, accordingly, fail.



Lis alibi pendens

[44] Counsel for the Vision Parties submitted that if the disclosure relief under part A is not *res judicata*, RGS could and should have re-enrolled this aspect of part A for hearing, and the disclosure relief would then be the subject of pending proceedings between the same parties. Counsel for RGS argued that since part A disclosure relief was dismissed, there is no relief of the nature presently sought pending in any court.

[45] In dealing with the doctrine of *lis alibi pendens*, Wallis JA stated as follows: "... a plea of *lis alibi pendens* is based on the proposition that the dispute (*lis*) between the parties is being litigated elsewhere and therefore it is inappropriate for it to be litigated in the court in which the plea is raised. The policy underpinning it is that there should be a limit to the extent to which the same issue is litigated between the same parties and that it is desirable that there be finality in litigation. The courts are also concerned to avoid a situation where different courts pronounce on the same issue with the risk that they may reach different conclusions."⁷

⁷ *Caesarstone Sdot-Yam Ltd v The World of Marble and Granite 2000 CC and Others* [2013] ZASCA 129; 2013 (6) SA 499 (SCA); [2013] 4 All SA 509 (SCA) para 2.

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[46] In *Hassan and Another v Berrange NO*,⁸ it is stated that:

"Fundamental to the plea of *lis alibi pendens* is the requirement that the same plaintiff has instituted action against the same defendant for the same thing arising out of the same cause ..."

[47] In this application, RGS seeks the disclosure of specific documents and information. In part B, it seeks an order for the dismissal of the Vision plan. The litigation is between the same parties. It arises out of the adoption and implementation of the Vision plan. However, the nature of the relief sought in each application is distinct. The Vision Parties have not, in my view, met all the requirements for a successful reliance on the defense of *lis alibi pendens*.



Cognisable legal right to disclosure

[48] Counsel for the Vision Parties submitted that RGS's case on its right to the disclosure relief is that RGS is an admitted creditor in THL's business rescue, the disclosure relief aligns with the spirit and objects of Chapter 6 of the Act, and RGS has a right to consider the alleged Acquisition to determine whether to withdraw part B. In response, and in support of the contention that RGS has no cognisable legal right to the disclosure relief, counsel referred the Court to *Reiscor Two (Pty) Ltd t/a Bootleggers v Anheuser-Busch Inbev Africa (Pty) Ltd and Others*,⁹ where the court mentioned that:

"Business rescue proceedings do not afford creditors of a company rights to information which they did not have prior to the company being placed in business rescue. If they have reason to suspect that the business rescue practitioners are not to be trusted their remedy is to remove them not to call for an opportunity to investigate the conduct of the business rescue process by the business rescue practitioners."

Counsel further argued that litigants do not have a general right to disclosure from their opponents to determine how to proceed with litigation.

⁸ *Hassan and Another v Berrange NO* 2012 (6) SA 329 (SCA) para 19.

⁹ *Reiscor Two (Pty) Ltd t/a Bootleggers v Anheuser-Busch Inbev Africa (Pty) Ltd and Others* [2024] ZAGPJHC 363; [2024] 2 All SA 902 (GJ); 2025 (1) SA 315 (GJ) para 68.

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[49] It is contended on behalf of RGS that the Act's two core purposes are to "promote the development of the South African economy by encouraging transparency and high standards of corporate governance as appropriate, given the significant role of enterprises within the social and economic life of the nation¹⁰ and 'provide for the efficient rescue and recovery of financially distressed companies in a manner that balances the rights and interests of all relevant shareholders."¹¹

[50] It was argued that the Vision plan should not bring about the financial irregularities which are characterised by lack of transparency and proper corporate governance which led to THL being placed under business rescue. RGS and all affected persons have a right to transparent information relating to THL's business rescue and the manner in and the circumstances under which the Vision plan is being implemented.



[51] It was further contended that the Vision Plan is regulated and subject to Chapter 6 of the Act, and that Vision Parties cannot treat its acquisition of THL as a normal commercial transaction where it is free to contract as it wishes. A business rescue entails the balancing of the rights and interests of all shareholders. Granting the disclosure relief would be in keeping with both the spirit and the rights of Chapter 6 of the new Act and the interests of justice.

[52] In *Reiscor Two*,¹² case the major creditors had requested the permission and co-operation of the business rescue practitioners to consent to a due diligence by a management accountant for a period of five to seven days and full access to all documents and records of the company in business rescue. In the present case RGS seeks disclosure and information relating to the implementation of the Vision plan. The

¹⁰ Section 7(b)(iii) of the Companies Act 71 of 2008.

¹¹ Section 7(k) of the Companies Act 71 of 2008.

¹² *Reiscor Two* above fn 10.

M.A. [Signature]

disclosure and the information sought do not relate to the affairs of THL. In my view the present matter is distinguishable from the *Reiscor Two*¹³ case.

[53] The Asset Transactions is premised on the prior Acquisition by the Vision Parties of all the Lender Group's claims and security. Paragraph 2.3 of the Vision plan provides that: "The key feature of the business rescue plan, pursuant to its adoption and implementation, is the acquisition by the Vision Parties of the substantial Lender Group claims and the subsequent Conversion by the Vision Parties of a material portion of such claims into new equity in THL."

[54] In terms of s 150(2)(c)(i) of the Act, the business rescue plan must contain the assumptions and conditions which must include, at least, a statement of all the conditions that must be satisfied for the business rescue to come into operation and be fully implemented. In terms of s 152(4) of the Act a business rescue plan that has been adopted is binding on the company, and on each of the creditors of the company, and every holder of the company's securities.



[55] The BRPs did not object to RGS's request for the information. The Lender Group was willing to disclose the information provided the Vision Parties consented. The Vision Parties accept that the key feature of the Vision Plan is the Acquisition by them of the substantial claims held by Lender Groups. They have confirmed in correspondence and under oath their payment to the Lender Group and the acquisition. It seems to me that the Vision Parties tacitly acknowledge that RGS is entitled to be informed of the steps taken in the implementation of the Vision Plan. Their refusal to back up their claims of payment and acquisition by documentary proof is baffling. They do not hide behind any claim of confidentiality, but rather raise the lack of a cognisable legal right to the confirmation and documents sought.

[56] The Vision Plan is binding not only to the Vision Parties but also to RGS. RGS does not have the only right to vote at the creditors' meeting. It also has a right to be

¹³ Ibid.

M. A. [Signature]

informed on the progress on the implementation of the Vision Plan. Therefore, it must have a corollary right to the documents and information that support the assertion that the Vision Plan is being implemented correctly and properly. RGS, as an admitted creditor, has a right to ensure that the uncontentious purpose of business rescue, namely, to save flailing business entities and to avoid liquidation is achieved in relation to THL.

[57] I can find no reason why the payments to the Lender Group, the acquisition of the Lender Group's claim, and the transfer of the Lender Group's claims should be shrouded in secrecy. RGS is entitled to know that the assets of THL are not encumbered as security for the payment by the Vision Parties to the Lender Group.



Costs

[58] The costs must follow the outcome. The Vision Parties' allegations of payment to the Lender Group remain unsubstantiated. The request for the information and documents was flatly refused. The refusal was unjustified and unclear. The Vision Parties must pay the costs, jointly and severally, the one paying and the other to be absolved on scale C.

Order

[59] In the circumstances, I make the following order:

1. The applicant's non-compliance with the Uniform Rules of Court relating to service, time periods, be and is condoned; and the applicant be and is permitted to bring this application as a matter of urgency in terms of Rule 6(12).
2. The first to fifth respondents ("the Vision Parties") be and are directed to provide the applicant with the following within 5 days of the granting of this order:
 - 2.1 Proof of the payment of R1.51 billion made by the Vision Parties to the Lender Group on 11 January 2024;
 - 2.2 Proof of the payment of approximately R2 billion made by the Vision Parties to the Lender Group on 9 May 2025;

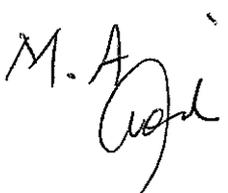
M. A. [Signature]

- 2.3 A copy of the agreement concluded between the Vision Parties and the Lender Group in terms of which the Vision Parties have acquired all of the Lender Group's claims and security against Tongaat Hulett Limited ("THL");
- 2.4 Proof that all of the Lender Group's claims and security against THL have been transferred to the Vision Parties;
- 2.5 A written statement confirming whether or not:
- 2.5.3. Any of THL's assets, or any rights in relation thereto, were proffered by the Vision Parties to its funders, whether as security, collateral, pledge, guarantee or any similar mechanism, in order to raise the funds necessary to acquire the Lender Group's claims and security;
- 2.5.4. Any of the Vision Parties' financial obligations owed to the Lender Group or any of the Vision Parties' financial obligations relating to the implementation of the Vision plan will be satisfied in whole or in part, whether in the first instance or in the event of a default of payment by the Vision Parties, from the proceeds of:
- 2.5.2.1 financing raised by selling THL assets or putting such assets up as collateral; or
- 2.5.2.2 any facility granted in favour of THL by the Lender Group, the Industrial Development Corporation of South Africa, or any funder.
3. The costs of this application shall be paid by the first to fifth respondents (the Vision Parties), jointly and severally, the one paying the other to be absolved on scale C.





 ZWANE AJ



Date of hearing : 11 June 2025

Date of judgment : 04 July 2025 electronically

APPEARANCES

For Applicant : Adv. Kotze
Instructed by : Bobat & Associates
331 St Thomas Road
Musgrave
Tel: 031-201 0060
Email: admin@boblaw.co.za



For 1st and 5th Respondents : Adv. Van Kerkhoven
Instructed by : c/o Stein Scop Attorneys Inc.
2nd Floor, Capital Hill
6 Benmore Road, Morningside
Sandton
Tel: 011 380 8081
Email: bradley@steinscop.com

M.A. [Signature]

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

Annexure 16 and More

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:41:27 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.**

"MAR17"**THIS CIRCULAR IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION**

The definitions and interpretations commencing on page 6 of this Circular apply throughout this Circular, including this front cover.

Action required by Shareholders:

This Circular is important and should be read in its entirety, with particular attention to be given to the section entitled: "*Action required by Shareholders*" commencing on page 2 of this Circular, which sets out the detailed actions required of Shareholders in respect of the matters dealt with in this Circular.

If you are in any doubt as to what action you should take in relation to this Circular, please consult your CSDP, Broker, agent, banker, accountant, attorney or other professional advisor immediately.

If you have disposed of all your Shares, this Circular should be handed to the purchaser of such Shares or to the CSDP, Broker or other agent through whom such disposal was effected.

THL does not accept responsibility, and will not be held liable, under any applicable law, regulation or otherwise, for any action of, or omission by, any CSDP, Broker or other service provider to, or other agent of, any beneficial owner of Shares including, without limitation, any failure on the part of the CSDP, Broker or other service provider to, or agent of, any beneficial owner of Shares to notify such beneficial owner of the General Meeting or of the matters set out in this Circular.

This Circular does not constitute or form part of any offer, or invitation for or solicitation of any offer, to purchase, otherwise acquire, subscribe for, sell, otherwise dispose of, or issue, any security in any jurisdiction, nor shall it or any part of it form the basis of, or be relied on in connection with, any agreement or commitment whatsoever in any jurisdiction.



Est. 1892

TongaatHulett®**Tongaat Hulett Limited**

(Incorporated in South Africa)

(Registration Number: 1892/000610/06)

ISIN: ZAE000096541 JSE share code: TON

("THL" or the "Company")

**CIRCULAR TO SHAREHOLDERS**

seeking the approvals which the Company requires from Shareholders to enable it to proceed with the Equity Subscription, including, *inter alia*, the proposed:

- authorisation to issue additional Shares for the purpose of implementing the Equity Subscription considering that the voting power of such Shares, upon issue, will exceed 30% of the voting power of the Shares currently in issue and in order to issue Shares under the Equity Subscription contemplated in sections 41(1) and 41(3) of the Companies Act;
- the specific issue of in aggregate 4 864 887 494 shares to Vision Investments allowing the implementation of the Equity Subscription;

and incorporating:

- a notice convening a General Meeting of Shareholders; and
- a Form of Proxy (*blue*) in respect of the General Meeting (to be completed by Certificated Shareholders and Own-Name Dematerialised Shareholders only).

Business Rescue
Practitioners



Corporate Advisor
to THL



BIRKETT
STEWART
MCHENDRIE
CORPORATE FINANCE

JSE Sponsor
to THL



PSG CAPITAL

Financial Advisor to
Vision Investments



Standard Bank

Legal Advisor to THL

WERKSMANS
ATTORNEYS

Corporate Advisor to Vision Investments

VALOREM
CAPITAL
CREATING SUSTAINABLE VALUE

Legal Advisor to Vision Investments

STEIN SCOP
ATTORNEYS

Date of issue: **Wednesday, 10 July 2024**

This Circular is available in English only. This Circular will be available electronically on the THL website (<https://www.tongaat.com>) from the date of issue of this Circular up to and including **Thursday, 8 August 2024** (both days inclusive).

M.A. [Signature]

IMPORTANT INFORMATION, DISCLAIMERS AND FORWARD-LOOKING STATEMENTS

The definitions and interpretations commencing on page 6 of this Circular apply to this section.

GENERAL

This Circular does not constitute or form part of any offer, or invitation for or solicitation of any offer, to purchase, otherwise acquire, subscribe for, sell, otherwise dispose of, or issue, any security in any jurisdiction, nor shall it or any part of it form the basis of, or be relied on in connection with, any agreement or commitment whatsoever in any jurisdiction (including, without limitation, South Africa, Australia, Canada, Japan, the United Kingdom, the United States of America, its territories and possessions, any state of the United States and the District of Columbia ("**United States**") or any member state of the European Economic Area).

The Equity Subscription referred to in this Circular will be made in accordance with the applicable South African laws and regulations. The Circular will only be addressed to Persons to whom it may lawfully be made.

This Circular is not for distribution, directly or indirectly, in or into any jurisdiction outside of South Africa (including, without limitation, Australia, Canada, Japan, the United Kingdom, the United States or any member state of the European Economic Area) if such distribution is restricted or prohibited by, or would constitute a violation of, the relevant laws or regulations of such jurisdiction. If the distribution of this Circular and any accompanying documentation in or into any jurisdiction outside of South Africa is restricted or prohibited by, or would constitute a violation of, the laws or regulations of any such jurisdiction, this Circular is deemed to have been sent for information purposes only and should not be copied or redistributed.



The information contained in this Circular constitutes factual information as contemplated in section 1(3)(a) of the Financial Advisory and Intermediary Services Act No. 37 of 2002, as amended, and should not be construed as an express or implied recommendation, guide or proposal that the Vision Transaction and Equity Subscription or the present or future business or investments of THL is appropriate to the particular investment objectives, financial situations or needs of any Shareholder or prospective investor, and nothing in this Circular should be construed as constituting the canvassing for, or marketing or advertising of, financial services in South Africa.

DATE OF INFORMATION PROVIDED

Unless the context clearly indicates otherwise, all information in this Circular is provided as at the Last Practicable Date.

M.A. [Signature]

CORPORATE INFORMATION AND ADVISORS

Registered Office

Tongaat Hulett Limited
 (Registration number: 1892/000610/06)
 Amanzimnyama Hill Road, Tongaat,
 KwaZulu-Natal,
 South Africa
 (PO Box 3, Tongaat, KwaZulu-Natal,
 4400, South Africa)

Place of incorporation

South Africa

Date of incorporation

7 September 1892

Website: www.tongaat.com

Investor Enquiries

Michelle Jean-Louis Tel: +27 32 439 4000
 E-mail: investor.relations@tongaat.com

Legal Advisor to Vision Investments

Stein Scop Attorneys Inc.
 (Registration Number: 2015/306625/21)
 Second Floor, Capital Hill, 6 Benmore Rd,
 Morningside, Sandton, 2057
 Johannesburg, South Africa

Corporate Advisor to Vision Investments

Valorem Capital Limited
 (Registration number: 11370741)
 6 The Drive, Cobham, KT11 2JQ
 United Kingdom

Financial Advisor to Vision Investments

The Standard Bank of South Africa Limited
 (Registration Number 1962/000738/06)
 30 Baker Street
 Rosebank, 2196
 Johannesburg, South Africa

Company Secretary

JJ van Rooyen B.Proc, MBA
 Amanzimnyama Hill Road, Tongaat,
 KwaZulu-Natal, South Africa
 (PO Box 3, Tongaat, KwaZulu-Natal,
 4400, South Africa)
 E-mail: johann.vanrooyen@tongaat.com

Corporate Advisor to THL

BSM Advisory Proprietary Limited
 (Registration Number: 2019/457342/07)
 22 Kildoon Road
 Bryanston
 Gauteng
 2191

Legal Advisor to THL

Werksmans Incorporated
 Werksmans Attorneys
 (Registration number: 1990/007215/21)
 The Central, 96 Rivonia Rd, Dennehof, Sandton, 2196
 Johannesburg, South Africa

Sponsor to THL

PSG Capital Proprietary Limited
 (Registration Number 2006/015817/07)
 1st Floor, Ou Kollege
 35 Kerk Street
 Stellenbosch, 7600
 (PO Box 7403, Stellenbosch 7599)
 and
 Suite 1105, 11th Floor Sandton Eye Building
 126 West Street
 Sandton, 2196

Business Rescue Practitioners

Metis Strategic Advisors
 Registration Number 2015/220685/07
 22 Kildoon Road
 Bryanston
 Gauteng
 2191



2.2 Own-Name Dematerialised Shareholders and Certificated Shareholders

If you are a Certificated Shareholder or an Own-Name Dematerialised Shareholder, then the following actions are relevant to you in connection with the General Meeting:

Voting, attendance and representation at the General Meeting

- You may speak and vote at, and participate in, the General Meeting yourself or through a representative by registering to do so in the manner provided in the "Electronic Participation" section in the Notice of General Meeting.
- Alternatively, you may appoint one or more proxies to represent you at the General Meeting by completing the attached Form of Proxy (*blue*) in accordance with the instructions contained therein. In order for your proxy to speak and vote at, and participate in, the General Meeting, your proxy will additionally need to take the steps required in order to access the electronic facility, as provided in the "Electronic Participation" section in the Notice of General Meeting. A proxy need not be a Shareholder. For the purpose of effective administration, it is requested that the Form of Proxy (*blue*) be lodged with, emailed to or posted to the Transfer Secretaries, to the addresses provided below, so as to reach the Transfer Secretaries at or before **10:00 on Tuesday, 6 August 2024**:

Hand deliveries to:

Computershare Investor Services
Proprietary Limited
Rosebank Towers, 15 Biermann Avenue,
Rosebank, Johannesburg, 2196,
South Africa

Postal deliveries to:

Computershare Investor Services
Proprietary Limited
Private Bag X9000, Saxonwold,
Johannesburg, 2132, South Africa

Email deliveries to:

proxy@computershare.co.za



If you do not lodge, email or post the Form of Proxy (*blue*) so as to reach the Transfer Secretaries at or before **10:00 on Tuesday, 6 August 2024**, you will nevertheless be entitled to email the Form of Proxy (*blue*) to the Transfer Secretaries at proxy@computershare.co.za so as to reach them prior to the time of commencement of the General Meeting.

3. Identification of Shareholders and proxies and representatives

In terms of section 63(1) of the Companies Act, before any person may speak or vote at, or participate in, the General Meeting, that Person must present reasonably satisfactory identification, and the person presiding at the General Meeting must be reasonably satisfied that the right of the person to speak and vote at, and participate in, the General Meeting, either as a Shareholder, or as a proxy or a representative for a Shareholder, has been reasonably verified. Acceptable forms of identification include a valid green barcoded or smart card identification document issued by the South African Department of Home Affairs, a South African driver's licence or a valid passport. A Shareholder or its proxy or representative must electronically provide the necessary proof of its identification in accordance with the relevant provisions of the Notice of General Meeting before such person will be entitled to speak and vote at, and participate in, the General Meeting. If the Shareholder is not an individual, the necessary proof of identification of the representative (such as her/his valid green barcoded, or smart card identification document issued by the South African Department of Home Affairs, South African driver's licence or valid passport) must be accompanied by a copy of a resolution by the relevant entity which sets out that the representative is authorised to represent the relevant entity at the General Meeting.

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FORM OF PROXY	Attached



M.A. [Signature]

IMPORTANT DATES AND TIMES

The definitions and interpretations commencing on page 6 of this Circular apply to this section.

2024

Record date to determine which Shareholders are entitled to receive the Circular incorporating the Notice of General Meeting	Friday, 5 July
Announcement advising of the posting of this Circular and giving the date and place of the General Meeting released on SENS on	Wednesday, 10 July
Circular and Notice of General Meeting posted to Shareholders on	Wednesday, 10 July
Last date to trade	Tuesday, 30 July
Record date to participate in and vote at the General Meeting	Friday, 2 August
Last day to lodge forms of proxy for the General Meeting by 10:00, for administrative purposes only, on	Tuesday, 6 August
General Meeting held at 10:00 on	Thursday, 8 August
Results of the General Meeting released on SENS on	Thursday, 8 August



Notes:

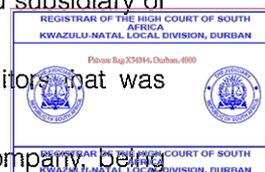
1. All dates and times above and elsewhere in this Circular are South African Standard Time.
2. The above dates and times are subject to amendments. Any material amendments will be released on SENS.
3. If the General Meeting is adjourned or postponed, Forms of Proxy (*blue*) submitted for the General Meeting will remain valid in respect of the resumption of the adjourned meeting, and the recommencement of the postponed meeting.

M.A. 5

DEFINITIONS AND INTERPRETATIONS

In this Circular (including the Notice of General Meeting and Form of Proxy) (*blue*), unless otherwise stated or the context indicates otherwise: (i) the words or expressions in the first column below shall have the meaning assigned to them in the second column; (ii) a reference to the singular shall include the plural and *vice versa*; (iii) a word or an expression which denotes one gender includes all other genders; (iv) a natural person includes a juristic person and *vice versa*; and (v) cognate words and expressions shall bear corresponding meanings:

“Almoiz”	means Almoiz NA Holdings Limited, a private limited liability company incorporated in accordance with the laws of the United Arab Emirates, with registration number 67410836;
“Almoiz SA”	means Almoiz SA Industries Proprietary Limited, a private limited liability company incorporated in accordance with the laws of South Africa, with registration number 2023/178806/07, and a wholly owned subsidiary of the Almoiz;
“Approved Plan”	means the business rescue plan proposed to the creditors that was formally approved and adopted on 11 January 2024;
“BRPs”	means the joint business rescue practitioners of the Company, being Peter van den Steen, Trevor Murgatroyd and Gerhard Albertyn;
“Board” or “Directors”	means the board of directors of THL. The names of the directors of THL as at the date of this Circular are listed on page 13 of this Circular;
“Broker” or “Stockbroker”	means as defined in the Financial Markets Act, or its nominee;
“Business Day”	means a day, other than a Saturday, a Sunday or a statutory public holiday in South Africa, on which banks are generally open for business in South Africa, save where a reference to “Business Day” is made within the context of a law in which case it shall bear the meaning ascribed to it by that law, if any;
“Capital Portion”	means on any date, that component of the Lender Group Facility Balance as at that date, which comprises solely of capital i.e. excluding all accrued interest, fees, penalties and the like, and whether capitalised or not;
“Certificated Share”	means a Share which has not been Dematerialised, title to which is evidenced by a share certificate, or other physical document of title acceptable to the Company;
“Certificated Shareholders”	means Shareholders who hold Certificated Shares;
“CIPC”	means the Companies and Intellectual Property Commission, established in terms of section 185 of the Companies Act;
“Circular”	means this bound document dated Wednesday, 10 July 2024, including, without limitation, the Notice of General Meeting and the Form of Proxy (<i>blue</i>);
“Claims”	means all actual and/or alleged monetary claims against the Company including claims which are disputed, contingent, conditional, liquidated, or unliquidated (including claims for damages), the cause of action in respect of which arose prior to or after the Commencement Date and/or under section 136(3) of the Companies Act;



M.A. [Signature]

“Claims Balance”	means an amount of R3.6 bn, constituting the Lender Group Facility Balance outstanding on the Subscription Date immediately following the implementation of the Equity Subscription, comprising the outstanding balance of the Capital Portion, accrued interest, fees (including, <i>inter alia</i> , restructuring, commitment, agency and administration fees) and/or other amounts howsoever named or described, in each instance then owing;
“Commencement Date”	means 27 October 2022, being the date upon which Business Rescue commenced in accordance with section 129 of the Companies Act;
“Competition Act”	means the Competition Act 89 of 1998, as amended, including the regulations promulgated thereunder;
“Companies Act”	means the Companies Act 71 of 2008, as amended, including the regulations promulgated thereunder;
“Companies Regulations”	means the Companies Regulations, 2011, promulgated in terms of section 223 of the Companies Act, as amended from time to time;
“Company” or “THL”	means Tongaat Hulett Limited (Registration Number: 1892/000610/06), a limited liability public company incorporated in accordance with the laws of South Africa;
“Company Secretary”	means the company secretary of THL. The name of the company secretary as at the Last Practicable Date is stated in the “Corporate Information and Advisors” section of this Circular;
“Concurrent Claim”	means any Claim in accordance with the Approved Plan (other than a Disputed Claim) which is unsecured, and which does not enjoy a statutory preference as envisaged in the Companies Act;
“Conditions Precedent”	means the conditions precedent to the agreement regulating the Equity Subscription as set out in paragraph 5.5 of this Circular;
“Creditor”	in accordance with the Approved Plan means any creditor, including without any limitation, PCF lenders, disputed Creditors and contingent Creditors, with a monetary Claim against the Company;
“CSDP”	means a central securities depository participant, being a “participant” as defined in section 1 of the Financial Markets Act;
“Day”	means a calendar day, whether or not a Business Day;
“Dematerialised” or “Dematerialisation”	means the process whereby physical share certificates are replaced with electronic records evidencing ownership of shares in accordance with the rules of Strate, as contemplated in the Financial Markets Act;
“Dematerialised Share”	means a Share which has been Dematerialised;
“Dematerialised Shareholders”	means Shareholders who hold Dematerialised Shares;
“Distributions”	means a transfer of money or other property of the Company, including its own shares, made to Creditors in respect of their approved Claims as provided for in the Approved Plan, including any deemed Distributions as contemplated in the Approved Plan, and outlined in paragraph 6.1.2 of the Approved Plan;
“DNA”	means Distribuidora Nacional de Açúcar Limitada, a company incorporated to purchase, store, distribute and sell all of the sugar produced by the millers in Mozambique;
“Exchange Control Regulations”	means the Exchange Control Regulations, 1961 in South Africa means made in terms of the Currency and Exchanges Act No. 9 of 1933, as amended from time to time, and all directives and rulings issued thereunder;



“Equity Claim(s)”	means that component of the Capital Portion as at the Subscription Date, which when applied to effect the Equity Subscription, will result in the Lender Group Facility Balance, being in the amount of the Claim Balance;
“Equity Subscription Agreement”	means the agreement between THL, Vision Investments and the Vision SPVs governing the terms of the Equity Subscription concluded on the Signature Date, as restated and revised on or about 1 July 2024;
“Equity Subscription”	means the specific issue of in aggregate 4 864 887 494 shares in THL to be subscribed for by Vision Investments, and allotted and issued to Vision Investments by THL in accordance with and pursuant to the Equity Subscription Agreement, and which will be upon subscription and subject to compliance with the relevant provisions within the Equity Subscription Agreement, be distributed to the Vision Parties in the proportions set out in paragraph 5.3 of this Circular;
“Facility Agreements”	means the loan facilities in which facilities are provided by the Lender Group to THL, as amended from time to time;
“Financial Markets Act”	means the Financial Markets Act 19 of 2012, as amended from time to time;
“Form of Proxy”	means the form of proxy (<i>blue</i>) incorporated into this Circular for use by Certificated Shareholders and Own-Name Dematerialised Shareholders only, for purposes of appointing a proxy to represent such Shareholders at the General Meeting;
“General Meeting”	means the meeting of Shareholders to be held electronically only at 10:00 on Thursday, 8 August 2024 for the purpose of Shareholders considering, and if deemed fit, adopting, the Shareholder Resolutions, including a resumption of an adjourned meeting, and a recommencement of a postponed meeting;
“Guma Agri”	means Guma Agri and Food Security Limited, a private company limited by shares incorporated in Mauritius, with company file number C192979, having its registered office address at B45 Twenty Foot Road, 5th Floor La Croisette, Grand Baie Mauritius;
“IDC”	means Industrial Development Corporation of South Africa Limited, registration number 1940/014201/06;
“IDC PCF Facility”	means the PCF loan facility provided by the IDC to the Company in an initial principal amount of R1.2 bn on or about 23 December 2022, the principal amount of which facility: <ul style="list-style-type: none"> • was increased to R1.725 bn on or about 28 July 2023; • was increased to R2.3 bn on or about 5 October 2023; and the principal amount of which facility may increase from time to time;
“Independent Shareholders”	means THL Shareholders who are independent as contemplated in Takeover Regulation 86(4);
“Insolvency Law”	means the Insolvency Act 24 of 1936, as amended and Chapter 14 of the Companies Act 61 of 1973, read with item 9 of Schedule 5 of the Companies Act;
“Implementation”	means the Equity Subscription and implementation of the Approved Plan and the arrangements with other Persons;
“JSE”	means as the context requires, either the: (i) JSE Limited (Registration Number: 2005/022939/06), a limited liability public company incorporated in accordance with the laws of South Africa and licensed as an exchange under the Financial Markets Act; or (ii) securities exchange operated by the aforementioned company;

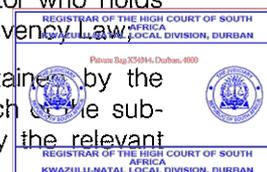


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M.A. Agri

“Keni 62”	means Keni 62 Proprietary Limited, a private limited liability company incorporated in accordance with the laws of South Africa, with registration number 2023/178882/07 and wholly owned subsidiary of the Guma Agri;
“Last Practicable Date”	means Thursday, 4 July 2024, being the last practicable date prior to the finalisation of this Circular;
“Lender Group”	<p>means THL's South African debt providers being, as at the Last Practicable Date:</p> <ul style="list-style-type: none"> • Absa Bank Limited; • The Standard Bank of South Africa Limited (acting through its Corporate and Investment Banking division) (including in its capacity as facility agent); • FirstRand Bank Limited (acting through its Rand Merchant Bank division); • Investec Bank Limited (acting through its Corporate and Institutional Banking division and its Investment Banking Division, Corporate Solutions); • Nedbank Limited; • The Land and Agricultural Development Bank of South Africa; • Sanlam Life Insurance Limited (acting through its Sanlam Investment Management division); • Sanlam Investment Management Proprietary Limited (acting on behalf of its third-party clients); • Sanlam Specialised Finance Proprietary Limited; • Momentum Metropolitan Life Limited; and • Ashburton Fund Managers Proprietary Limited (acting on behalf of its clients);
“Lender Group Facilities”	means the loan facilities provided by the Lender Group to THL from time to time on or about December 2021;
“Lender Group Facility Balance”	means on any date, the outstanding balance owing under the Lender Group Facilities on that date, whether or not then due and owing and comprising capital, interest, fees and any other amounts required (including, <i>inter alia</i> , restructuring, commitment, agency and administration fees) or otherwise scheduled to be paid under the Lender Group Facilities;
“MOI”	means the memorandum of incorporation of the Company;
“Ngwenyama 62”	means Ngwenyama 62 Proprietary Limited, a private limited liability company incorporated in accordance with the laws of South Africa, with registration number 2023/203278/07 and wholly owned subsidiary of the Guma Agri;
“Notice of General Meeting”	means the notice convening the General Meeting to conduct the business described therein and to consider and, if deemed fit, adopt, with or without modification, the Shareholder Resolutions, and which notice is attached to, and forms part of, this Circular;
“Own-Name Dematerialised Shareholders”	means Dematerialised Shareholders who have instructed their CSDP to hold their Dematerialised Shares in their own name on the sub-registers maintained by the CSDP;
“PCF”	means post commencement funding in respect of business rescue processes as governed within chapter 6 of the Act;
“Person”	means a natural person, firm, company, body corporate, juristic person, unincorporated association, regulatory authority or any association, trust, partnership, consortium, or other entity (whether or not having separate legal personality, and in each case in any jurisdiction);



“PIC”	means Public Investment Corporation SOC Limited registration number 2005/009094/30;
“Record Date”	means the date on which Shareholders must be entered in the Securities Register in order to be eligible to speak and vote at, and participate in, the General Meeting, being Friday, 2 August 2024;
“Related”	means the meaning ascribed to it in the Companies Act, irrespective of the place of registration, establishment or incorporation of the relevant Person;
“Remoggo”	means Remoggo (Mauritius) PCC a private company limited by shares incorporated in Mauritius, with company file number C117836;
“the Requirements”	means the listings requirements of the JSE, as amended from time to time;
“SARS”	means South African Revenue Services;
“Secured Creditor”	in accordance with the Approved Plan means a Creditor who holds security for a Claim against the Company in terms of Insolvency Law;
“Securities Register”	means the register of Certificated Shareholders maintained by the Transfer Secretaries on behalf of the Company and each of the sub-registers of Dematerialised Shareholders maintained by the relevant CSDP's in terms of the Financial Markets Act;
“SENS”	means the Stock Exchange News Service of the JSE;
“Shareholder Resolutions”	means the resolutions contained in the Notice of General Meeting;
“Shareholders”	means the registered holders of issued Shares from time to time;
“Share(s)”	means an ordinary share or shares in THL, listed on the JSE;
“Signature Date”	means the date on which the Equity Subscription Agreement was signed and executed meaning 9 May 2024;
“South Africa”	means the Republic of South Africa;
“Sponsor”	means PSG Capital Proprietary Limited (Registration Number: 2006/015817/07), a limited liability private company incorporated in accordance with the laws of South Africa;
“Strate”	means Strate Proprietary Limited (Registration Number: 1998/022242/07), a limited liability private company incorporated in accordance with the laws of South Africa being a licensed central securities depository in terms of the Financial Markets Act, which is responsible for the electronic settlement system for transactions that take place on the JSE and off market trades;
“Subscription Date”	means the third Business Day following the date on which all of the Suspensive Conditions are fulfilled or waived in accordance with the Equity Subscription Agreement;
“Suspensive Conditions”	means the suspensive conditions applicable to the Equity Subscription Agreement;
“Takeover Regulations”	means the Takeover Regulations promulgated in terms of section 120 of the Companies Act, and forming part of the Companies Regulations;
“Terris”	means Terris AgriPro (Mauritius) (registration number: 171903 GBC), registered and incorporated in Mauritius;



“Terris Sugar”	means Terris Sugar South Africa Proprietary Limited, a private limited liability company incorporated in accordance with the laws of South Africa, with registration number 2023/185173/07, and a wholly owned subsidiary of Terris;
“THD”	means Tongaat Hulett Developments Proprietary Limited (registration number: 1981/012378/07), a private company with limited liability incorporated in accordance with the laws of South Africa, at present in Business Rescue;
“THSSA”	means Tongaat Hulett Sugar South Africa Limited (registration number: 1965/000565/06), a private subsidiary company of THL with limited liability incorporated in accordance with the laws of South Africa, at present in Business Rescue;
“Tokwe One”	means Tokwe One Proprietary Limited, a private limited liability company incorporated in accordance with the laws of South Africa, with registration number 2023/203285/07, and a wholly owned subsidiary of Remoggo;
“Tokwe Two”	means Tokwe Two Proprietary Limited, a private limited liability company incorporated in accordance with the laws of South Africa, with registration number 2023/203278/07, and a wholly owned subsidiary of Remoggo;
“Tokwe Three”	means Tokwe Three Proprietary Limited, a private limited liability company incorporated in accordance with the laws of South Africa with registration number 2023/203299/07, and a wholly owned subsidiary of Remoggo;
“Total Shares”	means at a point in time, the total number of Shares then in issue;
“Transfer Secretaries”	means Computershare Investor Services Proprietary Limited (Registration Number: 2004/003647/07), a limited liability private company incorporated in accordance with the laws of South Africa, and transfer secretaries to the Company;
“TRP”	means the Takeover Regulation Panel, established by section 196 of the Companies Act;
“Unsecured Creditors”	means all Creditors with Concurrent Claims against the Company
“Vision Investments”	means Vision Investments 155 Proprietary Limited, a private limited liability company incorporated in accordance with the laws of South Africa, with registration number 2023/178789/07, which is owned and controlled by the remaining Vision Parties and acts for and on behalf of the Vision Parties;
“Vision Parties”	means a grouping made up of the following participants, none of which are related parties to THL, as defined in the Requirements: <ul style="list-style-type: none"> • Terris; • Remoggo; • Guma Agri; • Almoiz; • Vision Investments; • Ngwenyama 62; • Keni 62; • Almoiz SA; • Tokwe One; • Tokwe Two; • Tokwe Three; and • Terris Sugar; as the context requires, be a reference to any one of them;



“Vision Principals”

means:

- Terris;
- Remoggo;
- Guma Agri; and
- Almoiz;

“Vision SPVs”

means:

- Ngwenyama 62;
- Keni 62;
- Almoiz SA;
- Tokwe One;
- Tokwe Two;
- Tokwe Three; and
- Terris Sugar SA;

“Vision Transactions”

means Vision Investments' acquisition of the Lender Group Facility Balance held by the Lender Group and the subsequent Equity Subscription as contemplated in this Circular to Shareholders, and

“ZAR”, “R” or “Rand”

means the South African Rand, the lawful currency of South Africa.





TongaatHulett®

Tongaat Hulett Limited

(Incorporated in South Africa)
(Registration Number: 1892/000610/06)
ISIN: ZAE000096541 JSE share code: TON
("THL" or the "Company")

DIRECTORS

Executive Director:

RD Aitken (Interim *Chief Executive Officer*)

Non-executive Directors:

None

BRPs:

Trevor Murgatroyd
Peter van den Steen
Gerhard Albertyn



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CIRCULAR TO SHAREHOLDERS

1. INTRODUCTION AND PURPOSE OF THIS CIRCULAR

- 1.1 Shareholders are referred to the announcement released on SENS on 12 January 2024 in relation to the Approved Plan and the acquisition of the Lender Group Facility Balance amounting to *circa* R8.5 bn and the intended utilisation of a portion of such claims to be discharged, by means of exchange, through the subscription by Vision Investments for new equity in THL.
- 1.2 Shareholders should review this Circular in conjunction with the Approved Plan. The Approved Plan is available for inspection as indicated in paragraph 21 and is available on the Company website: <https://www.tongaat.com/1-3-thl-business-rescue-plan-29-november-2023-with-amendments-vision-clean/>.
- 1.3 THL is in severe financial distress as extensively detailed in the Approved Plan. Due to time constraints, as well as cost constraints, THL is not in a position to fully apply the provisions of the Requirements in as far as they apply to the implementation of the Approved Plan. THL and this Circular are, however, compliant with the Act and the specific carve outs provided in the Act in relation to the implementation of transactions contemplated in the Approved Plan.
- 1.4 THL's current position (*inter alia* due to processes still underway with regards to the auditing of annual financial statements and the financial distress which is to be addressed partly by the subject matter of this Circular to Shareholders) does not enable the Company to comply with all elements of the Requirements as would otherwise be required.
- 1.5 Considering the conditions contained in Schedule 11 of the Requirements and given the current circumstances, this Circular includes information required in terms of a specific issue of shares as governed by the Act and the Requirements with the exception of up-to-date audited financial information and financial impacts in terms of paragraph 11.19A(f).
- 1.6 The purpose of this Circular is to:
 - (i) outline key aspects of the Approved Plan and expand on the rationale for the implementation thereof;
 - (ii) provide Shareholders with additional information in relation to the Equity Subscription which requires Shareholder approval; and
 - (iii) convene the General Meeting in order for Shareholders to consider and vote on the Shareholder Resolutions for which Shareholder approval is sought.



2. THL BUSINESS DESCRIPTION AND MANAGEMENT INSIGHTS

- 2.1 THL is a leading agri-business in sugar, ethanol and animal feeds, with a significant asset base and footprint in Southern Africa. THL has ongoing agriculture activities with a substantial land portfolio within the primary growth corridors of KwaZulu-Natal, which has the potential to be converted to developable land at the appropriate time.
- 2.2 THL has consistently focused on creating mutually beneficial relationships by partnering with key stakeholders for the benefit of the people impacted by the Company's operations.
- 2.3 THL has four operations in Southern Africa with significant sugarcane facilities and extensive agricultural landholdings with the potential for future development, a growing animal feeds position and opportunities to further grow ethanol production and electricity generation.
 - (i) THL's sugar business focuses on cane growing, sugar milling and refining throughout the Southern African region. There are three operational mills in South Africa with an installed capacity to produce 600 000 tons of sugar per annum.

Voermol Feeds, an animal feeds business, is also part of the South African operations, manufacturing and marketing a range of energy and supplementary feeds to the livestock farming community.
 - (ii) In Mozambique, there are two operations that have a combined milling capacity in excess of 300 000 tons of sugar per annum.

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- (iii) In Zimbabwe, there are two operations that have a combined installed milling capacity of 600 000 tons per annum, while the total refined sugar installed capacity is 60 000 tons per annum.
- (iv) The Botswana operation has the capacity to pack and distribute 45 000 tons of sugar per annum.
- 2.4 In South Africa, in the season ended in December 2023, a strong operational performance has been driven by improved reliability and efficiency of the sugar operations. This was supported by good local market demand and higher export pricing, together with improved refining cost recoveries.
- 2.5 In Mozambique, overall performance was marginally affected by damage to fields caused by flooding that occurred at the beginning of the 2024 season. Sugar sales volumes have been impacted by the presence of imported sugar in the local market which has led to surplus exports at lower margins. The current Mozambique debt facilities are repayable in July 2024 and the process to refinance or extend these facilities is underway.
- 2.6 Zimbabwe's performance was negatively impacted by operational challenges in the milling operations. The impact of duty-free sugar imports depressing local market prices and the doubling of the minimum wage together with increasing cane purchase costs has significantly reduced margins.
- 2.7 In Botswana, local market price increases exceeded assumptions, while a shift towards higher brown sugar mix contributed to lower revenue per ton.



3. IMPLEMENTATION OF THE VISION TRANSACTIONS

3.1 Background to the Approved Plan

- (i) On 27 October 2022, the Board announced its decision to commence with voluntary business rescue proceedings in accordance with Chapter 6 of the Act, having determined that the Company faced circumstances constituting severe "financial distress" within the definition contained in section 128 of the Act. This was after the JSE suspended trading of THL's Shares on the exchange operated by the JSE on 20 July 2022, for failure to timeously publish its audited annual financial statements for the financial year ended 31 March 2022.
- (ii) The key feature of the Approved Plan, pursuant to its adoption and implementation, is the acquisition by Vision Investments of the Lender Group Facility Balance and the subsequent utilisation of the Equity Claims by Vision Investments to subscribe for Shares in THL. The intention is that this will result in (*inter alia*):
- the continued trading of THL substantially in its pre-Commencement Date composition. In this regard it is noted that THD will remain a subsidiary of THL, subject to the implementation of THD's business rescue plan;
 - the recapitalisation of the THL balance sheet, in particular the utilisation of a material portion of the former Lender Group Facility Balance to subscribe for equity; and
 - the possible continued listing of THL on the JSE, albeit with current Shareholders becoming minority Shareholders and Vision Investments holding the majority of the listed Shares in the Company on behalf of the Vision SPVs following the abovementioned Equity Subscription.
- (iii) If approved and successfully implemented as contemplated, the Approved Plan will result in:
- the rescue of the Company (or as an alternative, the business of the Company) which will continue in business, albeit under new ownership;
 - the avoidance of a major humanitarian and financial catastrophe in the KwaZulu-Natal region in general, and in the sugar supply chain in particular as outlined in paragraph 9.3.5 of the Approved Plan;
 - the opportunity for new jobs to be created as the business grows under new ownership with Vision Parties;

- d. the implementation of the Equity Subscription by Vision Investments subscribing for new Shares in the Company which will result in Vision Investments owning *circa* 97.3% of the total issued Shares of the Company. The approximate value of the Equity Claim acquired by the Company for the Equity Subscription will be *circa* R4.9 bn based on the Lender Group Facility Balance as at the Signature Date of the Equity Subscription Agreement. The proportion of the Equity Claim (totalling an amount of *circa* R4.9 bn as at the Signature Date of the Equity Subscription Agreement, which amount will increase as explained and illustrated in note 6 in paragraph 8.8 below), utilised by Vision Investments in respect of the Equity Subscription, shall disappear by merger thereby discharging such Equity Claim portion of the Lender Group Facility Balance;
- e. in addition to the *circa* R1.3 bn already paid to various critical suppliers by THL since the Commencement Date, Vision Investments has agreed to (either by making a loan to THL or otherwise ensuring THL is able to do so) THL paying an amount of R75 m as a Distribution to Unsecured Creditors, pro-rata to their respective Claims. Such Distribution is to be made subsequent to full implementation of the Vision Transactions;
- f. a positive outcome for Unsecured Creditors. In this regard it is noted that in liquidation Unsecured Creditors would be anticipated to receive nil. Equally so, without the abovementioned amount being made available by Vision Investments, Unsecured Creditors would be anticipated to receive nil in the business rescue;
- g. existing Shareholders retaining an interest of *circa* 2.7% of the equity in THL with its positively recapitalised balance sheet. In this regard it is noted that in liquidation Shareholders would have anticipated receipt of nil. Equally so, in an alternatively structured transaction (the sale of the assets, *as a going concern*, of THL to Vision Investments), Shareholders would again be anticipated to receive nil. Consequently, and should it be possible to remain listed on the JSE, this results in positive value accruing to Shareholders through the retention of their shareholdings and becoming minority shareholders in the still-listed, post recapitalisation, Vision Investments' controlled THL;
- h. a portion or the entire amount of the IDC PCF Facility is to be secured in a working capital facility which is sufficient to fund the working capital requirements of the Company for at least the duration of the Business Rescue proceedings, and thereafter it would be the goal of Vision Investments to secure working capital facilities into the future beyond the implementation of the Approved Plan; and
- i. if possible, THL retaining its listing on the JSE post reinstatement of trade of the Shares in issue, subject to compliance with the Requirements. Shares could potentially start trading again by as early as the beginning of 2025, if all the necessary Requirements in terms of the JSE Listing can be complied with, following which THL's share value will be re-established and Shareholders will have the option to sell THL Shares held, if intended to recognise and crystallise any losses.
- (iv) Shareholders are advised that although it is the intention of the Vision Parties and THL to retain THL's status as a listed company on the JSE, it is possible that the implementation of the Vision Transactions, and the potential mandatory offer that could result therefrom, may result in THL Shares being delisted from the JSE.
- (v) In the event of, for whatever reason, a failure to secure the consents, voting support and/or approvals required in order for the proposed issue of new THL Shares to Vision Investments (i.e., the Equity Subscription) to be effected, the Approved Plan contemplates in substitution that the currently proposed Vision Transactions will be switched from transactions contemplating the issue of new Shares to transactions contemplating the acquisition by Vision Investments of all of THL's assets and businesses (as going concerns) in terms of section 112(1)(a) of the Act which would not require Shareholder approval. Whilst employees, Unsecured Creditors and Secured Creditors would be largely unaffected by such a change, once it has sold its assets and businesses (leaving THL as an empty shell), THL will be delisted from the JSE (as it will no longer qualify to be listed on the exchange) and liquidated, resulting in its Shares (those held by existing Shareholders) having nil value.



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3.2 Overview of Vision Parties

- (i) The Vision Parties represent a group of investors with notable experience in the sugar industry, THL's operating jurisdictions, and capital investment in Southern Africa. An overview of each Vision Party is set out below:
- Terris Sugar has a successful track record of investing in and operating large scale businesses in South Africa (and internationally). Terris Sugar's most recent realised investment was Samancor Chrome;
 - Remoggo is a Mauritian based investment holding company with investments in FMCG retail, agribusiness, logistics, and facilities management services in Zimbabwe and seven other African countries;
 - Guma Agri is a Pan African hands-on operational and multi-industry investment powerhouse intensely focused on adding value and initiating growth by means of its entrepreneurial, operational and managerial participation; and
 - Almoiz is one of the largest agribusiness groups in Pakistan, with substantial interests in the sugar, energy, steel, animal feed, textiles and food and beverages sector. Amongst its holdings, the group owns and operates 5 sugar mills procuring cane from 40,000 farmers annually to produce over 650,000 tons of refined sugar. It is the only sugar milling group in Pakistan to be "Bonsucro Certified" for sustainable sugar production.
- (ii) Additionally, the Vision Parties have previously engaged with both the PIC and IDC regarding their participation in the Vision Transactions, and the Vision Parties are committed to work with the PIC, IDC, and the Government Employees Pension Fund to the extent they wish to participate in the Vision Transactions.



3.3 Background to the Equity Subscription

- (i) The Approved Plan outlines Vision Investments acquiring *circa* R8.5 bn of the Lender Group Facility Balance (including accrued interest and fees), followed by the Equity Subscription. The consideration for such Equity Subscription will be determined as the total Lender Group Facility Balance on the Subscription Date less R3.6 bn (which, as at the Signature Date of the Equity Subscription Agreement was *circa* R4.9 bn based on current balances) which will be discharged, by means of exchange, of such amount of the former Lender Group Facility Balance against THL (i.e. those purchased by Vision Investments).
- (ii) The utilisation of the Equity Claims for the Equity Subscription will result in an equity issue of 4 864 887 494 Shares to Vision Investments holding *circa* 97.3% of the issued share capital of THL, post the Equity Subscription. Existing Shareholders will hold *circa* 2.7% which is 135 112 506 Shares, post the Equity Subscription.
- (iii) Based on the value of the Equity Claim as at the Signature Date of the Equity Subscription Agreement, a deemed share price of 101 cents per Share can be mathematically calculated. However, the deemed Share price has not been arrived at through any empirical determination of fair value given the financial distress of the Company, but rather as the total quantum of debt required to be discharged, by means of exchange for the issuance of the maximum number of available new equity shares in order to restore the company to solvency.
- It is the view of the Vision Parties that:
 - in the circumstance as described above, a deemed share price of 101 cents per Share is not representative of the fair value per Share; and
 - if a mandatory offer were to be triggered following the implementation of the Equity Subscription, the mandatory offer price would be determined based on the fair value and not on the deemed Share price of 101 cents per Share.
 - The weighted average trading price of the Shares is not available as THL has been suspended from the JSE as of July 2022.
 - The Equity Subscription will achieve a reduction in Lender Group Facility Balance to more sustainable levels. The commercial terms of the Claims Balance of R3.6 bn of debt, known as the Claim Balance, are equivalent to the existing Lender Group Facilities' terms, which

are expected to be amended when the revision of such terms are finalised between the parties after the Equity Subscription.

- (iv) With this further reduction in debt to more sustainable levels, the intention is to bring THL out of business rescue and for the Company to remain listed on the JSE.

4. RATIONALE

4.1 Shareholder approval

- (i) In accordance with section 146(d) of the Act, a Shareholder is entitled to vote on a business rescue plan in the event it alters the rights associated with the class of securities held by that Shareholder. The Approved Plan did not alter any such rights and therefore, Shareholders were not required nor entitled to vote on the Approved Plan for its approval and adoption.

- a. The Approved Plan contemplated (*inter alia*) the Equity Subscription, which ultimately results in the equity issue which also would not alter the rights associated with the class of securities held by Shareholders, and therefore Shareholders were not required nor entitled to vote on the Approved Plan in terms of section 152(3)(c) of the Companies Act.

- b. During the implementation of the Approved Plan, the Equity Subscription will lead to the issuance of Shares exceeding 30% of THL's current share capital. Given that section 41(3) of the Act in relation to other business rescue carve outs is unclear, shareholder approval is sought via a special resolution, requiring 75% or more of the votes cast in favour for clarity and avoidance of doubt.



- c. Considering THL is a JSE listed entity, albeit in a suspended state, the JSE has considered the application of Schedule 11 of the Requirements and indicated that THL must seek Shareholder approval in the context of paragraph 5.51(g) of the Requirements with a 75% majority vote of the votes cast in favour of the JSE specific ordinary resolution. Various dispensations have been allowed considering Schedule 11 of the Requirements and the details of these dispensations and its impact on this Circular are outlined below:

- Considering THL has been suspended since July 2022, providing share trading history for the time frame required by paragraph 7.C.14 cannot be complied with;
- Financial impacts as are required in terms of paragraph 11.19A(f) of the Requirements will be outlined in paragraph 8 instead of detailed *pro forma* financial effects due to the detailed *pro forma* effects based on the year ended 31 March 2022 unaudited results being possibly misleading to Shareholders;
- Considering there are no *pro forma* financial effects, no reporting accountants report on such *pro forma* financial effects is required; and
- Audited financial statements for the period ended 31 March 2021, unaudited financial results for the period ended 31 March 2022 as published on 31 October 2023 (i.e. only comprise of the summarised consolidated statement of financial position, summarised consolidated statement of profit or loss and other comprehensive income, and the summarised consolidated statement of cash flows) are available on the THL website here: <https://www.tongaat.com/investors/integrated-reports/>
 - The financial results for the periods ended 31 March 2023 and 31 March 2024 are not yet completed and hence unavailable for incorporation by reference in the Circular.

4.2 The strategic rationale of the Approved Plan

- (i) The Vision Parties have been tracking the performance of THL for approximately five years and believe the underlying assets and operating segments have value with the appropriate financing structures and operational expertise that the Vision Parties bring.
- (ii) Given THL's historical and current critical role in the agricultural sector of Southern Africa, and specifically its contribution to the local KwaZulu-Natal economy, and the employment of approximately 27 000 people, who on average feed seven dependents each, THL and the Vision Parties believe the value created will be holistic and will make a significant sustainable contribution to all stakeholders in the region.

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- (iii) To date, the Vision Parties have already engaged in numerous discussions with THL and the BRPs to better understand the current situation of THL. Additionally, the Vision Parties have engaged technical consultants to evaluate the current operations and have reviewed the contents of the virtual data room previously made available. These activities have provided a further underpin to the strategic rationale for the Vision Transactions.
- (iv) As the first step in implementing the Approved Plan, THL and Vision Investments envisage the Equity Subscription supporting the most effective method to harness the full potential of THL and effectively extract the Company from the business rescue process and set THL on the path to pre-Commencement Date trading and operations.

4.3 Counterfactual in the event of THL liquidation

- (i) In the event that the Equity Subscription is not implemented timeously, and the sale of business is not implemented either in terms of the Approved Plan, pursuant to section 153 of the Act, the Tongaat Group would be placed in liquidation.
- (ii) This will have a number of significant effects on creditors, stakeholders in the market, the competitive dynamics of the South African sugar market as well as animal feed industries, and the public interest broadly, in addition to Shareholders, including the following:

a. Employees:

- Subject to the implementation of the Equity Subscription, the majority of THL's employees will retain their jobs. Conversely, in the event of liquidation, all 2 668 South African jobs would be immediately suspended, potentially leading to immediate job losses unless the liquidator opts to continue trading, which is deemed highly improbable due to the lack of indemnification against trading losses. Employees in liquidation scenarios would be treated as unsecured creditors, only receiving payment after the final liquidation process. It's highlighted that THL's South African employees earned around R850 m in remuneration, significantly impacting numerous households, including those in rural areas. Moreover, THL's operations contributed to a total economy-wide impact of 25 563 employment opportunities, accounting for 0.22% of employment in South Africa, and approximately R7.95 bn in household income. Consequently, the absence of the Equity Subscription would not only result in direct job losses but also substantial ripple effects throughout the economy.

b. THL's Creditors:

- In comparison to adopting the Approved Plan, the distributions to creditors in a liquidation scenario would be notably lower, affecting both secured and unsecured creditors. Additionally, the duration of business rescue proceedings is typically much shorter than liquidation proceedings, potentially taking years to conclude. Notably, under business rescue in sections 128 to 155 of the Act, SARS will be ranked as an unsecured creditor, while in liquidation in terms of sections 96 to 102 of the Insolvency Act 24 of 1936, SARS would be ranked as a statutory preferred creditor. Consequently, in a liquidation scenario, any dividend to unsecured creditors, including employees, would be diminished by SARS' claims against the company, which is additional support for avoidance of a liquidation scenario.

c. Shareholders:

- It is not anticipated that there will be any return to the Company's Shareholders in the event of liquidation or in the event of an asset sale pursuant to the Approved Plan.

d. Substantial Socio-Economic Impact:

- THL's commitment to empowerment farming is evident through its significant payments to growers, particularly benefitting over 15 000 black farmers and cooperative members. However, in the event of liquidation, these crucial relationships and livelihoods would be jeopardised, impacting sugarcane sourcing and the empowerment of local communities. Similarly, THL's partnership with restitution communities, facilitating land reform and rural development, would abruptly cease, halting progress in economic empowerment and local development efforts.



- The ripple effects of THL's potential liquidation extend beyond farming communities, encompassing tax revenues and supplier networks. THL's tax contributions, despite corporate tax losses, play a vital role in the South African economy, generating substantial direct, indirect, and induced impacts. Likewise, THL's liquidation would disrupt its extensive supplier base, significantly comprising black-owned and small enterprise suppliers, further exacerbating economic consequences and eroding valuable contributions to the country's fiscus and Gross Domestic Product.

4.4 Business case and turnaround plan

- (i) The Vision Parties and Vision Investments have reviewed the sugar assets across all geographies and have identified scope for improvement.
- (ii) In the short-to-medium term, the Vision Parties intend to continue THL management's strategy of stabilising and growing the operations and returning the business to sustainable profitability. Many of the challenges faced by THL's operations, such as issues related to delayed and deferred maintenance, old and improperly functioning machinery, frequent breakdowns and lost time, and low milling efficiency, relate to many years of underinvestment in the operations under the previous leadership. While significant progress has been made over the past four years in reinvesting into the production assets, the ability to address all these issues has been limited by the funding available and the capacity of THL. These are areas where the Vision Parties and Vision Investments have deep and distinctive expertise. Their detailed review of milling operations has given the Vision Parties confidence that Vision Investments will be able to bring operations up to acceptable speed and efficiency within a reasonable timeframe and at a manageable cost.
- (iii) In the medium term, the Vision Parties intend to enhance grower confidence that their cane will be processed timeously to address cane security concerns, and to deploy agricultural expertise to support the expansion of THL's cane supply. The ultimate aim is to help THL's South African operations to maximise their installed capacity in annual crush. A significant investment in capital expenditure over this period is intended to transition milling operations from medium-pressure at present to high-pressure steam, providing the platform to further expand and/or diversify into downstream activities where the Vision Parties have significant expertise.
- (iv) Additionally in Zimbabwe and Mozambique, the Vision Parties intend to engage regulators and other stakeholders to ensure that operating environments are stabilised, and the land tenure issues are resolved (as outlined in paragraph 10.1.21 of the Approved Plan) and that cane yields are improved for both owned fields and third-party cane farmers. In Botswana, the focus will be on ensuring that market share within the retail trade is enhanced through sustainable and low-cost sugar supply arrangements.
- (v) The Vision Parties believe that the underlying THL assets have value, that jobs can be saved, and that THL can continue to play a critical role in the agricultural sectors in South Africa, Mozambique, Botswana and Zimbabwe.
- (vi) The Vision Parties have significant breadth of experience in the sugar industry and in THL's operating jurisdictions and have a successful track record of investing in and operating large-scale businesses in South Africa, Zimbabwe and Mozambique, as well as internationally. It is the Vision Parties' belief that their collective expertise will create significant value in the business if an appropriate capital structure is implemented, and operational enhancements drive the business going forward.
- (vii) The Vision Parties have invested significant resources into understanding THL and the current status of its operations. Their due diligence teams attended several site visits, conducted an extensive review of the data provided in the virtual data room and engaged in numerous sessions with THL's management team to understand the technical, operational and financial status of THL's operations.
- (viii) Their findings support their investment thesis and confirm their belief that through their collective experience, the Vision Parties will be able to affect the ongoing successful turnaround of THL through the implementation of their aforementioned business plan.



M.A. [Signature]

- (ix) Across the jurisdictions in which THL operates, the Vision Parties have also had extensive preliminary consultations with the relevant authorities.

5. SALIENT TERMS OF THE EQUITY SUBSCRIPTION AND THE VISION TRANSACTIONS

The Equity Subscription and the Vision Transactions shall comprise *inter alia* the following elements:

5.1 Vision Transactions

- (i) Acquisition by Vision Investments of the Lender Group Facility Balance amounting to *circa* R8.5 bn (balance as at the Signature Date of the Equity Subscription Agreement);
- (ii) Subject to the fulfilment or waiver of the Suspensive Conditions of the Equity Subscription Agreement, the allotment and issue of the Shares to Vision Investments and Vision Investment complying with the provisions of section 46 of the Act, Vision Investments will utilise the Equity Claims to implement the Equity Subscription, and will have the right to distribute the Shares, by way of a *distribution in specie* in terms of section 46 of the Act, to the Vision SPVs in the proportions set out in paragraph 5.3 below, resulting in the Vision SPVs holding *circa* 97.3% of the Shares in THL. Please note the following:
- a. Vision Investments is a newly incorporated special purpose vehicle that has been formed specifically to facilitate the implementation of the Equity Subscription;
 - b. The Vision SPVs are wholly owned subsidiaries of each of the respective Vision Principals;
 - c. Each of the Vision SPVs shall capitalise Vision Investments;
 - d. The Equity Claim consists of the Capital Portion of the loan facilities advanced by the Lender Group to THL in accordance with the Facility Agreements;
 - e. The proportion of the Equity Claim utilised by Vision Investments in respect of the Equity Subscription, shall disappear by merger, thereby discharging such proportion of the Lender Group Facility Balance; and
 - f. Pursuant to the implementation of the Equity Subscription by Vision Investments, the Vision SPVs will collectively become the holders of *circa* 97.3% of the Shares in THL;
- (iii) Existing Shareholders retain an interest of *circa* 2.7% in THL equity after the Equity Subscription;
- (iv) A replacement IDC facility will be negotiated with the IDC, in a manner that will result in the extinguishment of the PCF;
- (v) Following the outcome of an appeal process, the settlement (or provision therefore) of the South African Sugar Association (SASA) Claims is not a Suspensive Condition to the Equity Subscription however the signing of an appropriate escrow agreement is; and
- (vi) A R75 million distribution, paid *pro rata* to Unsecured Creditors' respective claims.



5.2 Confirmations from the Vision Parties and THL

- (i) The Vision Parties advise that:
- a. they are not party to any agreement with any director of THL, or any Person who was a director of THL within the period of 12 (twelve) months preceding the Last Practicable Date; and
 - b. they are not party to any agreement with any Shareholder, or any Person which was a Shareholder within the period of 12 (twelve) months preceding the Last Practicable Date, which is considered by it to be material to a decision whether to vote in favour of the Shareholder Resolutions.
- (ii) The Company is not party to any agreement with:
- a. Vision Investments and the Vision Parties, any director of Vision Investments and the Vision Parties, or any Person who was a director of Vision Investments or Vision Parties within the period of 12 (twelve) months preceding the Last Practicable Date, other than the Vision Transaction agreement and a non-disclosure agreement entered into with Vision Investments and the Vision Parties prior to the commencement of discussions in relation to the Vision Transaction; and

- b. any Shareholder, or any Person which was a Shareholder within the period of 12 (twelve) months preceding the Last Practicable Date, which is considered by the Company to be material to a decision whether to vote in favour of the Shareholder Resolutions.
- (iii) Rutenhuro Moyo ("**Rute**") is a principal (meaning that Rute is the primary party with significant authority and interest in these entities) in Tokwe One, Tokwe Two, Tokwe Three and Vision Investments, which are entities that are party to the Vision Transactions. Rute is not a related party in terms of the Requirements but for transparency Rute is a non-executive director of a material subsidiary of THL and he has recused himself from meetings up until the Approved Plan was adopted and resumed his duties from 14 February 2024.
- (iv) The Vision Parties have advised that neither it nor any other member of the Vision Parties have had any dealings in Shares during the 6 (six) month period ending on the Last Practicable Date nor will have any dealings in Shares up until Implementation.
- (v) As at the date of posting of this circular, the subscribers for the new equity to be issued in THL comprise Vision Investments as outlined in paragraph 5.3 or Annexure A of the Equity Subscription Agreement. The company has been advised that post the allotment and issue of such new equity, one or more direct shareholders may be introduced into the shareholder body of THL. The Company is not party to any of the negotiations which may result in the introduction of such direct shareholders but has been assured that the commercial parameters of the transactions described in this circular will not change pursuant thereto and all necessary regulations will be complied with.



5.3 **Please see below table outlining the Shares to be held by the Vision SPVs following implementation of the Equity Subscription:**

No	Details of Vision Party	Shares	Percentage interest in THL immediately after subscription
1	Ngwenyama 62	425 677 656	8.51%
2	Keni 62	425 677 656	8.51%
3	Almoiz SA	608 110 937	12.16%
4	Tokwe One	972 977 499	19.45%
5	Tokwe Two	912 166 405	18.24%
6	Tokwe Three	912 166 405	18.24%
7	Terris Sugar	608 110 937	12.16%
TOTAL		4 864 887 494	circa 97.3%

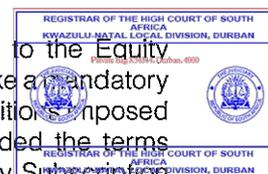
5.4 **Provisions contained in the Equity Subscription Agreement**

- (i) Vision Investments shall subscribe for the relevant Shares in THL pursuant to the Equity Subscription.
- (ii) The Equity Claim will be utilised by Vision Investments to discharge, by exchange, the Equity Subscription.
- (iii) As a consequence of the Vision Transactions, immediately post implementation of the Equity Subscription, the Claims Balance of the loan facilities (in an amount of R3.6 bn), advanced by the Lender Group in terms of the Facility Agreements, shall remain due by THL to Vision Investments, on terms which are no worse than the terms currently contained in the Facility Agreements.

5.5 **Suspensive Conditions in the Equity Subscription Agreements**

- (i) The implementation of the Equity Subscription is subject to the fulfilment or waiver of the following suspensive conditions:
- a. the passing of all resolutions (of whatsoever nature) required to give lawful effect to any agreements contemplated in the Equity Subscription agreement;
- b. the execution of the written agreements governing the concurrent creditor dividend escrow arrangements and such agreements becoming unconditional in accordance with their terms;

- c. the execution of the written agreements governing the SASA escrow arrangements and such agreements becoming unconditional in accordance with their terms;
- d. the consent of the applicable Competition Authorities to the Equity Subscription and the change of control of THL's group resulting therefrom and insofar as such consent is subject to the fulfilment of any terms and/or conditions, imposed by the Competition Authorities, that such terms and conditions are acceptable to the parties affected thereby and that such consent becomes unconditional;
- e. to the extent legally required, the passing of an ordinary resolution by the Shareholders of THL, waiving the requirement for a mandatory offer to be made by the Vision SPVs to any minority Shareholders of THL, to acquire all or a portion of the Shares held by such minority Shareholders, in accordance with regulation 86(7) of the Companies Regulations;
- f. the TRP exempting the Vision SPVs from any obligation to make a mandatory offer to existing Shareholders of THL consequent upon the Equity Subscription, on the basis that the majority of such Shareholders will have waived their entitlement to be made the mandatory offer by resolution passed by them in accordance with regulation 86(4) of the Companies Regulations;
- g. insofar as the above suspensive condition is waived by all the parties to the Equity Subscription Agreement and the Vision SPVs are required by the TRP to make a mandatory offer to minorities which is subject to the fulfilment of any terms and/or conditions imposed by the TRP, the Vision SPVs agree to make such mandatory offer provided the terms and conditions so imposed are acceptable to all the parties of the Equity Subscription Agreement affected thereby, and such conditions are fulfilled;
- h. to the extent legally required, the consent of the Financial Surveillance Department of the South African Reserve Bank to the transactions contemplated in the agreement regulating the Equity Subscription; and
- i. this Circular being posted by THL to its Shareholders and the Shareholders approving the resolutions proposed pursuant to such Circular, including without limitation, the approval of the proposed (i) special resolution of Shareholders required to implement the Equity Subscription pursuant to section 41(3) of the Companies Act and (ii) JSE ordinary resolution of Shareholders required in respect of a specific issue of shares.



6. AUTHORITY TO ISSUE SHARES IN TERMS OF THE EQUITY SUBSCRIPTION AND THE VISION TRANSACTIONS

- 6.1 As the voting power of the new Shares to be issued will exceed 30% (thirty percent) of the voting power of all the Shares in issue immediately prior to Implementation, and the issue of those new Shares will, in terms of section 41 of the Act which is uncertain in relation to business rescue carve outs of the Act, require the approval of at least 75% (seventy five percent) of the votes exercised by Shareholder's voting (personally, by proxy or by representative) at the General Meeting for clarity and avoidance of doubt.
- 6.2 Special Resolution Number 1 set out in the Notice of General Meeting is the resolution proposing the issue of Shares under Vision Transactions. In order for Special Resolution Number 1 to be adopted, it must be supported by at least 75% (seventy five percent) of the voting rights exercised on it.
- 6.3 In terms of section 152(6) of the Act provides that: "To the extent necessary to implement an adopted business rescue plan—(a) the practitioner may, in accordance with that plan, determine the consideration for, and issue any authorised securities of the company, despite section 38 or 40 of the Act to the contrary." Therefore, it is not deemed necessary to seek the 50% Ordinary Resolution required to place the Shares under the control of the directors.
- 6.4 In terms of the Requirements, paragraph 5.51(g) mandates the ordinary resolution relating to the Specific Issue of Shares requiring approval by at least 75% of Shareholders. Ordinary Resolution Number 1 set out in the Notice of General Meeting, is accordingly the resolution in terms of the Requirements proposing the Specific Issue of Shares to Vision Investments in terms of the Equity Subscription. Such approval must comprise 75% of Shareholders constituting public Shareholders, as defined in the Requirements.

7. OTHER REGULATORY CONSIDERATIONS

- 7.1 The Equity Subscription, if approved by Shareholders and thereafter implemented accordingly, may result in Vision Investments or one of the Vision SPVs, acquiring more than 35% of the voting rights attaching to the Shares in terms of section 123 of the Act. In such an event and in terms of section 123 of the Act, such a person would be obliged to make a mandatory offer to the remaining Shareholders of THL. In accordance with regulation 86(4) of the Companies Regulations, Shareholders may waive their right to receive a mandatory offer.
- 7.2 In the event Shareholders provide the requisite authorities as outlined in this Circular and the Equity Subscription is approved, and an obligation to make a mandatory offer is triggered, Shareholders will be engaged further, through a TRP specific circular, to consider either:
- A mandatory offer in terms of section 123 of the Act; or
 - To waive their Shareholder right to receive a mandatory offer in accordance with regulation 86(4) of the Companies Regulations.

8. SHARE CAPITAL AND DEBT

8.1 At the Last Practicable Date, the authorised and issued shares in the Company are as follows:

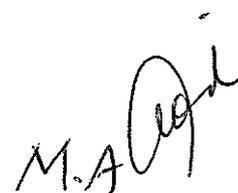
- (i) Prior to the Equity Subscription:

Class of Shares	Number of Shares
Authorised Shares with no par value	5 000 000 000
Issued Shares with no par value	135 112 506
<i>Total stated capital of ZAR 1 678 804 483 (one billion six hundred and seventy-eight million eight hundred and four thousand four hundred and eighty-three Rand).</i>	

- (ii) Post the adoption of the required Shareholder Resolutions and the Equity Subscription which will issue a maximum number of Shares of 4 864 887 494, the authorised and issued shares of the Company will be as follows:

Class of Shares	Number of Shares
Authorised Shares with no par value	5 000 000 000
Issued Shares with no par value	5 000 000 000
<i>Total stated capital of ZAR 6 396 108 614 (Six billion three hundred and ninety-six million one hundred and eight thousand six hundred and fourteen Rand).</i>	

- 8.2 The number of Shares in issue post the Equity Subscription will be 5 000 000 000.
- 8.3 The pricing is unrestricted due to the fluctuation of the debt, considering the interest accrued on the capital portion of such debt, allocated for the Equity Subscription of 4 864 887 494 Shares. The final price will be contingent upon the date of Share issuance and the corresponding quantum of debt that is converted at that point.
- 8.4 Vision Investments will hold 4 864 887 494 Shares post the Equity Subscription which equates to circa 97.3%.
- 8.5 At the Last Practicable Date, 219 168 (two hundred and nineteen thousand one hundred and sixty-eight) Shares are held by Subsidiaries of THL in treasury for the purposes of fulfilling share awards outstanding in terms of the Company's management share ownership plan. These shares will be cancelled, as permissible in terms of the Company's management share ownership plan and MOI, and therefore there is no impact on the number of shares that can be issued in terms of the Equity Subscription.
- 8.6 There has been no issue of Shares in the 3 (three) years preceding the Last Practicable Date.



- 8.7 At the Last Practicable Date, all the authorised and issued shares in THL are of the same class and rank *pari passu* in every respect and accordingly, no shares have any special or preferent right to dividends, capital or profits or any other special or preferent right, including special or preferent redemption rights and special or preferent rights on liquidation or distribution of capital assets.
- 8.8 Financial analysis of the Equity Subscription post a proportionate *circa* R4.9 bn reduction of the Lender Group Facility Balance (based on the quantum of the Lender Group Facility Balance on the Signature Date of the Equity Subscription Agreement):

	Before Transaction March 2024	Total consolidated adjustment	Post transaction
Gross borrowings			
South Africa	9 528.4	(4 893.0)	4 635.4
<i>Lender Group</i>	8 493.0	(4 893.0)	3 600.0
<i>IDC PCF Facility</i>	1 006.6		1 006.6
<i>Other</i>	28.8		28.8
Mozambique	1 175.7		1 175.7
Zimbabwe	633.9		633.9
Total gross borrowing	11 338.0	(4 893.0)	6 445.0
Gross borrowings			
Non-current borrowings	1 479.7	3 600.0	5 079.7
Current borrowings	9 908.3	(8 493.0)	1 365.3
	11 338.0	(4 893.0)	6 445.0

Commentary:

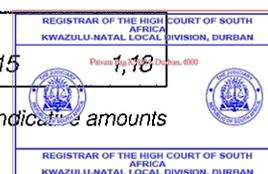
- The Equity Subscription will achieve a reduction of *circa* R4.9 bn (based on the quantum of the Lender Group debt balance on the Signature Date of the Equity Subscription Agreement) in debt to more sustainable level through a reduction of the Lender Group Facility Balance to a balance of *circa* R3.6 bn. The final commercial terms of the remaining *circa* R3.6 bn of debt are still to be finalised.
- The movement of R3.6 bn in the long-term borrowings is the net movement of the increase in the non-current portion of borrowings, moving the current (short term) portion of borrowings relating to the Lender Group debt in full to non-current borrowings.
- The utilisation of the *circa* R4.9 bn (based on the quantum of the Lender Group debt balance on the Signature Date of the Equity Subscription Agreement) debt to subscribe for equity will result in an equity issue of 4 864 887 494 Shares and Vision Investments holding *circa* 97.3% of the issued share capital of THL, post the Equity Subscription. Previous Shareholders will hold *circa* 2.7% which is 135 112 506 Shares, post the Equity Subscription.
- At 31 March 2024, and prior to the Equity Subscription, the Lender Group Facility Balance owing by THL to the Lender Group totalled R8.5 bn. The finance costs incurred on the Lender Group Facility Balance for the year ended 31 March 2024 was R1.03 bn. Assuming the Equity Subscription occurred on 1 April 2023, the finance costs for the year incurred on the residual claim of R3.6 bn would reduce by R585 m to R448 m.
- In relation to the share capital to be issued, the Lender Group Facility Balance is unrestricted due to the fluctuation of the debt, considering the interest accrued on the capital portion of such debt. The final Equity Claim will be contingent upon the date of Share issuance and the corresponding quantum of the Lender Group Facility Balance, which is to be discharged, by means of exchange. Lender Group Facility Balance of *circa* R4.9 bn discharged, by means of exchange, for the issue of 4 864 887 494 Shares will result in a deemed Share value of 101c in relation to the exchange.

6. In the event the Subscription Date occurs at a later stage, the below outlines the expected indicative Share value over the next six months:

	Signature Date	31 May	30 June	31 July	31 August	30 September	31 October
Total Lender Group Facility Balance*	8 493.0	8 600.4	8 741.0	8 886.5	9 031.9	9 172.7	9 318.2
Claim Balance (as defined in the Equity Subscription Agreement)	3 600.0	3 600.0	3 600.0	3 600.0	3 600.0	3 600.0	3 600.0
Equity Claims	4 893.0	5 000.4	5 141.0	5 286.5	5 431.9	5 572.7	5 718.2
Shares issued	4 864 887 494						

Deemed Share value	1,01	1,03	1,06	1,09	1,12	1,15	1,18

* The Total Lender Group Facility Balance may vary depending on the prevailing interest rates. The indicative amounts presented above are prepared on the basis of the interest rates remaining at the current rates.



9. DIRECTORS

9.1 Directors' remuneration

The remuneration of the Directors will not be varied as a consequence of Vision Transactions.

9.2 Directors' interests in Shares

The direct and indirect beneficial interests of Directors (and their associates), including, to the best of the Board's knowledge, any director of THL who resigned during the 18 (eighteen) months preceding the Last Practicable Date, in the issued Shares as at the Last Practicable Date were as follows:

Name	Number of Shares beneficially owned	Percentage of Total Shares
RD Aitken	57 580	0.04
JG Hudson	161 379	0.11
Total	218 959	0.15

There have been no changes in these beneficial interests as of the Last Practicable Date.

- 9.3 There have been no transactions in the past 18 months and therefore no directors have had a material beneficial interest in any such transactions.

10. SHAREHOLDERS

10.1 Major Shareholders and other top 5 shareholders prior to the new issue of Shares:

Details	Percentage	Number of Shares
Public Investments Corporation Limited	<i>circa</i> 16.62%	22 455 698
Artemis Investments Proprietary Limited	<i>circa</i> 14.88%	20 104 741
Braemer Trading Limited	<i>circa</i> 9.98%	13 484 228
PSG Fund Management:	<i>circa</i> 7.80%	10 538 775
Ushukela Investments Proprietary Limited (formerly Betelgeux Investments Proprietary Limited)	<i>circa</i> 2.94%	3 972 308
Ebrahim Ahmed Adamjee	<i>circa</i> 2.01%	2 715 761
Total	<i>circa</i> 54.23%	73 271 511

M.A. [Signature]

11. MATERIAL CONTRACTS

THL and its subsidiaries have not entered into any restrictive funding arrangements, as defined in the Requirements.

The details of the material terms of the historical Facility Agreements are set out in the reviewed condensed consolidated interim financial for the six months ended 30 September 2021, released 9 December 2021. Please see pages 49 to 51. This is available on the company's website here: at the following link: <https://www.tongaat.com/wp-content/uploads/2021/12/Interim-results-for-the-six-months-ended-30September-2021.pdf>

There have not been any material changes to the terms and conditions as disclosed above and incorporated by reference in paragraph 20 below and the Equity Subscription will not result in any change in the existing terms and conditions of the Facility Agreements.

12. RESOLUTIONS TO BE PROPOSED TO SHAREHOLDERS

The BRPs propose the Shareholder Resolutions for consideration, and if deemed fit, adoption, by Shareholders. The Shareholder Resolutions are set out in the Notice of General Meeting.

13. RECOMMENDATIONS

13.1 The BRPs are of the view that Vision Transactions are in the best interests of the Company. It follows that each of the BRPs unanimously recommends that Shareholders vote in favour of the Shareholder Resolutions. One of the reasons for this recommendation being that in the potential alternative transaction of a sale of the business and assets as a going concern, the Shareholders would realise Rnil, whereas, under this transaction the Shareholders retain *circa* 2,7%, which over time is likely to hold value and may be traded, subject to reinstatement by the JSE post restoration of outstanding compliance elements with the aim of reinstating the THL listing on the JSE.

13.2 Each Director who beneficially owns Shares will vote those Shares in favour of all the Shareholder Resolutions.

**14. CONSENTS**

Each advisor whose name appears on the inside front cover of this Circular has consented in writing to act in the capacity stated and to its name appearing in this Circular and has not withdrawn its consent prior to the Last Practicable Date.

15. EXPENSES

The estimated total amount of expenses (excluding VAT) relating to the specific issue as contemplated in the Requirements which have been incurred by the Company or that are expected to be incurred are set out below:

Expense Details	Payable to	Rand
JSE Documentation Fee	JSE	<i>circa</i> R26 815.13
JSE Listing Fee	JSE	<i>circa</i> R750 741.67

16. DIRECTORS' RESPONSIBILITY STATEMENT

The BRPs whose names are stated on page 13 collectively and individually accept full responsibility for the accuracy of the information contained in this Circular in relation to THL, and certify that, to the best of their knowledge and belief, there are no facts which have been omitted which would make any statement in this Circular in relation to THL false or misleading, and that all reasonable enquiries to ascertain such facts have been made and that this Circular contains all information required by the Act.

17. VISION INVESTMENTS DIRECTORS' RESPONSIBILITY STATEMENT

Vision Investments accepts full responsibility for the accuracy of the information contained in this Circular in relation to Vision Investments and the Vision Parties, and certify that, to the best of its knowledge and belief, there are no facts which have been omitted which would make any statement in this Circular in

relation to Vision Investments false or misleading, and that all reasonable enquiries to ascertain such facts have been made and that this Circular contains all information required by the Act.

Vision Investments confirms that none of the parties who are defined as Vision Parties, including all associates, are related parties to THL, as defined in the Requirements.

18. LITIGATION STATEMENT

18.1 THL Existing Litigation

Plaintiff/ Defendant/ Applicant/ Respondent	Description	Status and/or Reason	Quantum
THL (Plaintiff) Against Ex-Directors Staude, Munro and Slabbert	Recovery: For losses suffered from the findings of the PwC forensic report.	The pleadings in the matter have not closed as yet. The current status is that Staude and Slabbert have pleaded and THL has replicated. Once this is resolved we expect that pre-trial processes will only be finalised towards the end of 2024 where after we will likely seek a date of set down.	R450 m
THL (Plaintiff) against Hollard Insurance Company Limited/ Global Alliance or Global Alliance Insurance	Recovery: Insurance claim for damages suffered as a result of the failure of a diffuser	The claim is based on 2 Insurance Policies which it contends covered an insurable event, namely the failure of the diffuser at its Xinavane expansion project. Both parties have exchanged Heads of Argument on the jurisdictional point that was raised, and the matter was argued before the court a quo. Judgement was handed down in favour of the defendant and leave to appeal was granted by consent. The matter will now be heard by the Supreme Court of Appeal and a date for the hearing of the Appeal is awaited.	R52 m
THL (Plaintiff) against Emerald Insurers	Recovery: Business Interruption Claim against insurers for closure during KwaZulu-Natal riots	TH Refinery and mills in question were closed down as a consequence of the damage and looting activity in KwaZulu-Natal during July 2021. The loss or damage was described as being in close proximity to the mills thereby preventing any free or safe access to and from the sites. TH lodged a claim under the Riot Wrap Policy with Emerald Insurers which has been repudiated based on no actual damage preventing access to the facilities. Attempts to settle the matter have been unsuccessful. Summons has been issued and the matter is being defended. Defendant has filed a Plea and pre-trial preparation is underway. The matter is proceeding in the normal course.	R105 m
THL (Applicant)	South African Sugar Association (SASA)	An application has been made to the High Court of South Africa, KwaZulu-Natal Local Division, Durban, seeking the High Court's declaration that the BRPs were entitled in terms of section 136(2)(a) of the Companies Act to suspend THL's obligations to SASA under the Sugar Industry Agreement read together with the Sugar Act 9 of 1978. On 29 November 2023, the Declaratory Application was dismissed with costs by the Honourable Vahed J. The judgement in respect of such order was handed down on 4 December 2023. THL and the BRPs have applied for leave to appeal the decision. The leave to appeal hearing was held on 20 March 2024. Judgement is reserved by Vahed J. The parties have received judgement that the leave to appeal was not granted and THL has subsequently submitted a notice of intention to appeal to the Supreme Court of Appeal.	R526 m



M.A. [Signature]

Plaintiff/ Defendant/ Applicant/ Respondent	Description	Status and/or Reason	Quantum
THSSA (Respondent) together with other sugar manufacturers in a complaint investigated by the Competition Commission of SA ("CCSA")	THSSA	The CCSA commenced with an investigation into complaints of excessive pricing lodged by Coca-Cola Beverages South Africa ("CCBSA"). THS cooperated with the Competition Commission's investigation into the CCBSA complaint and provided relevant information to the Commission where requested to do so. The Commission completed its investigation into the complaint in July 2021 and decided not to refer the complaint to the Competition Tribunal for adjudication. CCBSA has brought a review application. Further CCBSA has requested that the application be "transferred" to the Competition Appeal Court. The Respondents have replied that there is no provision in the Competition Act for a "transfer" and any such application will be opposed. A formal application to have the matter transferred has been filed by CCBSA which has been opposed by THL, Illovo and RCL.	Fine of 10% of turnover
THL (Plaintiff) against GR Cane Haulage	Recovery and counterclaim: Diversion Overcharge (THSSA)	THS SA instituted an action against GR Cane Haulage – the claim is for GR Cane having charged the incorrect rate and not having deducted the growers' portion during the 2015 Darnall/Maidstone diversion. GR Cane has brought a counterclaim for, <i>inter alia</i> , penalties, tolls and damages for mill inefficiencies. A pre-trial conference has been held, and dates for the delivery of a number of procedural notices were set. The matter has, however, been placed on hold given the unavailability of Tongaat witnesses. Attempts to settle the matter continue.	R2.9 m
THSSA (Plaintiff) against Ex- employee Mara Moyolo	Fraud (THSSA)	Recovery against the employee who defrauded the company over an extended period. She was dismissed in 2019. The matter is proceeding.	R10 m
THSSA (Defendant) in a claim by Amanda Randeira	Civil action instituted (THSSA)	The Plaintiff instituted a delictual claim against Tongaat Hulett Sugar South Africa and an ex-employee in the amount of some R31 m in relation to employment issues. The matter continues to be defended. Plaintiffs' attorneys have requested BRP's to agree to waive the s133 moratorium in the matter so it can be set down for trial. This request has been refused by the BRPs. This is still in process.	R32 m
THL (Respondent) in a claim by Mohini Singari Naidoo trading as Powertrans Sales & Services	Court Application in process	Powertrans has sought, <i>inter alia</i> , the following relief in the application: <ul style="list-style-type: none"> • declaring the Vision business rescue plan adopted in relation to THL at the meeting of creditors held on 11 January 2024 to be unlawful and setting it aside; • directing THL and the BRPs to comply, in the manner contemplated in section 7(k) of the Companies Act, with their duties and the procedures which are set out in sections 140(1)(d), 141(1) & (2)(a), 145(1)(a) and 150 to 152 of the Companies Act; and costs of the application. 	NIL

Save as set out above, as at the Last Practicable Date, there were no additional legal or arbitration proceedings, including any such proceedings which are pending or threatened, of which the directors of THL are aware and which may have or have had during the 12-month period preceding the date of issue of this Circular, a material effect on the financial position of THL.

19. NOTICE OF GENERAL MEETING

The General Meeting will be held at **10:00** on **Thursday, 8 August 2024** in order for Shareholders to consider and, if deemed fit, adopt, with or without modification, the Shareholder Resolutions.

The General Meeting will be conducted entirely by electronic communication as contemplated in the MOI and section 63(2)(a) of the Companies Act, and Shareholders will accordingly only be able to access the General Meeting electronically via an electronic facility. More information in this regard is provided in the Notice of General Meeting.

20. DOCUMENTS INCORPORATED BY REFERENCE

The following document has been incorporated by reference and is available for viewing on the Company's website at the link below, as well as being available for inspection as set out in paragraph 21 below:

Material terms of the historical Facility Agreements set out in reviewed condensed consolidated interim financial results for the six months ended 30 September 2021, released 9 December 2021. Please see pages 49 to 51.	https://www.tongaat.com/wp-content/uploads/2021/12/Interimresults-for-the-six-months-ended-30September-2021.pdf
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**21. DOCUMENTS AVAILABLE FOR INSPECTION**

The documents listed below will be available for inspection by Shareholders from Wednesday, 10 July 2022, being the issue date of this Circular, up to and including the date of the General Meeting, on a virtual platform to which Shareholders will be granted access on a "read only" basis upon a request being sent to the Company Secretary (johann.vanrooyen@tongaat.com):

- 21.1 a signed copy of this Circular;
- 21.2 the Approved Plan;
- 21.3 the Equity Subscription Agreement;
- 21.4 Directors' service contracts;
- 21.5 THL and all of its subsidiary companies' memorandum of incorporation;
- 21.6 the audited consolidated annual financial statements of THL for the 3 (three) financial years ended 31 March 2019, 31 March 2020 and 31 March 2021;
- 21.7 the reviewed condensed consolidated interim financial results for the six months ended 30 September 2021; and
- 21.8 the unaudited interim financial results of THL for the 12 (twelve) months ended 31 March 2022.

By order of the Business Rescue Practitioners

TONGAAT HULETT LIMITED**REGISTERED OFFICE OF TONGAAT HULETT:**

Amanzimnyama Hill Road Tongaat, KwaZulu-Natal South Africa

M.A. [Signature]

ANNEXURE 1: NOTICE OF GENERAL MEETING



Est. 1892

TongaatHulett®

Tongaat Hulett Limited

(Incorporated in South Africa)
 (Registration Number: 1892/000610/06)
 ISIN: ZAE000096541 JSE share code: TON
 ("THL" or the "Company")

NOTICE OF GENERAL MEETING



NOTICE IS HEREBY GIVEN to the Shareholders that a general meeting of the Shareholders will be held at **10:00 (South African Standard Time) on Thursday, 8 August 2024.**

The General Meeting will be conducted entirely by electronic communication as contemplated in the MOI and in section 63(2)(a) of the Companies Act, and Shareholders will accordingly only be able to access the General Meeting electronically via an electronic facility. More information in this regard is provided under the heading "Electronic Participation" near the end of this Notice of General Meeting.

Purpose:

The purpose of the General Meeting is to consider and, if deemed fit, adopt, with or without amendment, the resolutions set out hereunder in the manner required by the Companies Act.

Notes:

- The definitions and interpretations commencing on page 6 of the Circular to which this Notice of General Meeting is attached, and of which it forms part, ("**Circular**") apply throughout this Notice of General Meeting.
- **In terms of section 63(1) of the Companies Act, before any person may attend or participate in the General Meeting, that person must present reasonably satisfactory identification, and the person presiding at the General Meeting must be reasonably satisfied that the right of the person to speak and vote at, and participate in, the General Meeting, either as a Shareholder, or as a proxy or a representative for a Shareholder, has been reasonably verified. Acceptable forms of identification include a valid green barcoded or smart card identification document issued by the South African Department of Home Affairs, a South African driver's licence or a valid passport. A Shareholder or its representative or proxy must electronically provide the necessary proof of its identification before such person will be entitled to speak and vote at, and participate in, the General Meeting. Such identification must be delivered by a Shareholder or its representative or proxy either:**
 - on registration, if such Shareholder or its representative or proxy is registering to participate in the General Meeting using the Computershare Summit platform; or
 - by email to the Transfer Secretaries at proxy@computershare.co.za, together with the request to participate in the General Meeting, if such Shareholder or its representative or proxy is requesting to participate in the General Meeting via email.
- If the Shareholder is not an individual, the necessary proof of identification of the representative (such as the representative's valid green barcoded or smart card identification document issued by the South African Department of Home Affairs, South African driver's licence or valid passport) must be accompanied by a copy of a resolution of the Shareholder which sets out that the representative is authorised to represent the Shareholder at the General Meeting.

Record Dates:

In terms of section 59(1)(a) and (b) of the Companies Act, the Board has set the following record dates for the purposes of determining which Shareholders are entitled to:

- receive notice of the General Meeting (being the date on which a Shareholder must be registered in the Securities Register in order to receive this Notice of General Meeting), which date is **Friday, 5 July 2024**; and
- speak and vote at, and participate in, the General Meeting (being the date on which a Shareholder must be registered in the Securities Register in order to participate in, and speak and vote at, the General Meeting), which date is **Friday, 2 August 2024**.

Special Resolution Number 1 – Authorisation to issue additional Shares under Section 41 of the Companies Act

“Resolved as a special resolution that, in the event that the Shares to be issued pursuant to the Equity Subscription will have voting power which is equal to or exceeds 30% of the voting power of all the issued Shares immediately prior to such issue, and in order to issue Shares under the Equity Subscription to Shareholders contemplated in section 41(1) of the Companies Act, the Directors be and are hereby authorised, in terms of section 41(1) and section 41(3) of the Companies Act, to issue such Shares, which will rank pari passu with existing issued Shares.”

For Special Resolution Number 1 to be passed, votes in favour of the resolution must represent at least 75% (seventy-five percent) of the voting rights exercised at the General Meeting. None of the Vision Parties or their associates are currently Shareholders of THL and therefore will not be voting nor do they require to be excluded from such a vote.

**Reason and effect:**

The reason for the Special Resolution Number 1 is to enable the Company to issue Shares in terms of, or for the purposes of implementing, the Vision Transaction in relation to the Equity Subscription which have voting power equal to or in excess of 30% (thirty percent) of the voting power of all issued Shares immediately prior to the proposed issuance.

The effect of adopting Special Resolution Number 1 is that subject to the Board being authorised, on behalf of the Company, to issue Shares in terms of, or for the purposes of implementing, the Vision Transactions relating to the Equity Subscription having voting power equal to or in excess of 30% (thirty percent) of the voting power of all Shares in issue immediately prior to the proposed issuance.

Ordinary Resolution Number 1 – Specific authority to issue Shares

“Resolved that, subject to special resolution number 1 being passed by the requisite majority of Shareholders, the Company is authorised to allot and issue 4 864 887 494 new Shares in the authorised but unissued share capital of the Company, to Vision Investments, pursuant to the terms of the implementation agreement and specific issue, which will rank pari passu with existing issued Shares, as detailed in this Circular to which this notice of general meeting is attached.”

For Ordinary Resolution Number 1 to be passed, votes in favour of the resolution must represent at least 75% (seventy-five percent) of the voting rights exercised at the General Meeting. None of the Vision Parties or their associates are currently Shareholders of THL and therefore will not be voting nor do they require to be excluded from such a vote.

Reason and effect:

The reason for the Ordinary Resolution Number 1 is to enable the Company to issue Shares in terms of, or for the purposes of implementing, the Vision Transactions in relation to the Equity Subscription which have voting power and are a specific fresh issue of Shares in terms of the Requirements.

The effect of adopting Ordinary Resolution Number 1 is that subject to the Board being authorised, on behalf of the Company, to issue Shares in terms of, or for the purposes of implementing, the Vision Transactions relating to the Equity Subscription which have voting power and are a specific fresh issue of Shares in terms of the Requirements.

VOTING

The above resolutions will be voted on by way of a poll. On a poll every Shareholder, present personally or represented by proxy or by representative, shall be entitled to cast one vote per Share held.

CERTIFICATED SHAREHOLDERS AND OWN-NAME DEMATERIALISED SHAREHOLDERS

A Certificated Shareholder or Own-Name Dematerialised Shareholder or its representative may speak and vote at, and participate in, the General Meeting by registering to do so in the manner provided in the "Electronic Participation" section below.

Alternatively, a Certificated Shareholder or Own-Name Dematerialised Shareholder may appoint one or more proxies to represent it at the General Meeting by completing the attached Form of Proxy (blue) in accordance with the instructions contained therein. The Certificated Shareholder's or Own-Name Dematerialised Shareholder's proxy may then speak and vote at, and participate in, the General Meeting if the proxy registers to do so in the manner provided in the "Electronic Participation" section below. A proxy need not be a Shareholder.

For the purpose of effective administration, it is requested that the Form of Proxy (blue) be lodged with, emailed to or posted to the Transfer Secretaries, to the addresses provided below, so as to reach the Transfer Secretaries by no later than **10:00 on Tuesday, 6 August 2024**:

Hand deliveries to:

Computershare Investor Services
Proprietary Limited
Rosebank Towers, 15 Biermann Avenue,
Rosebank, Johannesburg, 2196,
South Africa

Postal deliveries to:

Computershare Investor Services
Proprietary Limited
Private Bag X9000, Saxonwold,
Johannesburg, 2132, South Africa

Email deliveries to:

proxy@computershare.co.za



If a Certificated Shareholder or Own-Name Dematerialised Shareholder does not lodge, email or post the Form of Proxy (blue) to reach the Transfer Secretaries by **10:00 on Tuesday, 6 August 2024**, the Shareholder will nevertheless be entitled to email the Form of Proxy (blue) to the Transfer Secretaries at proxy@computershare.co.za so as to reach them prior to the time of commencement of the General Meeting.

DEMATERIALISED SHAREHOLDERS OTHER THAN OWN-NAME DEMATERIALISED SHAREHOLDERS

A beneficial owner of Shares which has Dematerialised its Shares, other than a Dematerialised Own-Name Shareholder should note the following:

- its CSDP or Broker should contact it to ascertain how it wishes to cast its vote (or to ascertain whether it wishes to abstain from casting its vote) at the General Meeting, and thereafter cast its vote (or abstain from casting its vote) in accordance with those instructions;
- if it has not been contacted by its CSDP or Broker, it is advisable that it contact its CSDP or Broker and furnish it with its voting instructions; and
- if its CSDP or Broker does not obtain voting instructions from it, the CSDP or Broker should vote in accordance with the instructions contained in the mandate agreement between the beneficial owner and the CSDP or Broker.

In accordance with the mandate agreement with its CSDP or Broker, a beneficial owner of Shares which has Dematerialised its Shares, other than a Dematerialised Own-Name Shareholder must advise its CSDP or Broker if it wishes to speak and vote at, and participate in, the General Meeting itself or through a representative. If it does so, its CSDP or Broker should issue the necessary letter of representation to it or its representative to speak and vote at, and participate in, the General Meeting. In order to speak and vote at, and participate in, the General Meeting, the beneficial owner or representative will additionally need to take the steps required in order to access the electronic facility, as provided in the "Electronic Participation" section below.

ELECTRONIC PARTICIPATION

In accordance with the provisions of the Companies Act and the MOI, the General Meeting will be conducted entirely through electronic communication. The electronic meeting facility will enable all participants to communicate concurrently with each other without an intermediary, and to participate reasonably effectively in the General Meeting.

Voting via the electronic facility will be the only method available to Shareholders to vote their Shares at the General Meeting. The electronic facility which has been selected by THL for purposes of the General Meeting is the **Computershare Summit platform**, an electronic facility which may be accessed by using a smartphone, tablet or computer. Votes can be exercised between the commencement of the General Meeting and the closure of voting as announced by the Chairman during the General Meeting.

A Shareholder or its representative or proxy which wishes to participate in the General Meeting will be required to either:

- register its personal details (including providing reasonably satisfactory identification, as contemplated earlier in this Notice of General Meeting), using the link <https://meetnow.global/ZA>, to enable it to participate in the General Meeting. For the purposes of effective administration, it is requested that such registration be completed by no later than **10:00 on Tuesday, 6 August 2024**. A Shareholder or its representative or proxy who does not complete registration by that time may still participate in the General Meeting via electronic communication by completing registration prior to the time of commencement of the General Meeting. If any Shareholder or its representative or proxy experiences any difficulty with such registration process, such Shareholder or its representative or proxy, as the case may be, should request an agent of the Transfer Secretaries to assist such Shareholder or representative or proxy with such difficulty by sending an email to proxy@computershare.co.za; or
- send a notice by email to the Transfer Secretaries at proxy@computershare.co.za advising that it wishes to participate in the General Meeting and attaching reasonably satisfactory identification, as contemplated earlier in this Notice of General Meeting. For the purpose of effective administration, it is requested that the email be sent so as to reach the Transfer Secretaries by no later than **10:00 on Tuesday, 6 August 2024**. A Shareholder or its representative or proxy who does not send an email so as to reach the Transfer Secretaries by that time may still participate in the General Meeting via electronic communication by emailing the Transfer Secretaries at proxy@computershare.co.za so as to reach them prior to the time of commencement of the General Meeting and attaching reasonably satisfactory identification.



Following successful completion of that registration process, a Shareholder or its representative or proxy can connect to the General Meeting by using the link <https://meetnow.global/ZA> and following the prompts on that website. A Shareholder or its representative or proxy will need the latest versions of Chrome, Safari, Internet Explorer 11, Edge or Firefox. A Shareholder or its representative or proxy should ensure that its browser is compatible.

Once a Shareholder or its representative or proxy has successfully authenticated, the info screen will be displayed. The Shareholder or its representative or proxy can then view company information, ask questions and watch the webcast.

If the General Meeting is being viewed on a computer, the webcast will automatically appear at the side once the meeting has started.

Voting:

- the chairman will open voting on all resolutions at the start of the meeting. Once the voting has opened, a Shareholder or its representative or proxy can navigate to the voting icon. From there, the resolutions and voting choices will be displayed;
- to vote, a Shareholder or its representative or proxy selects the voting direction from the options shown on screen. A confirmation message will appear to show the vote has been received;
- if a Shareholder or its representative or proxy wishes to change its vote, it should click on the change vote link and select another voting direction; and
- once the chairman has opened voting on the resolutions, voting can occur at any time during the meeting until the chairman closes the voting.

If a Shareholder or its representative or proxy experiences any difficulty with logging into the General Meeting, that Shareholder or its representative or proxy, as the case may be, should request an agent of the Transfer Secretaries to assist that Shareholder or representative or proxy with such difficulty by sending an email to proxy@computershare.co.za.

The cost of procuring the electronic facility will be for the account of the Company. The costs of accessing the electronic facility will be borne by the Shareholder.

It is recommended that Shareholders or their representatives or proxies log into the facility at least 15 (fifteen) minutes prior to the scheduled start time of the General Meeting.

M.A.

The Company shall not be liable in the case of loss of network connectivity or other network failure, whether due to insufficient airtime, internet connectivity, internet bandwidth and/or power outages or otherwise, which prevents any Shareholder or its representative or proxy from participating in and/or voting at the General Meeting.

By order of the Business Rescue Practitioners

TONGAAT HULETT LIMITED

Registered office of Tongaat Hulett:

Amanzimnyama Hill Road
Tongaat, KwaZulu-Natal
South Africa

Transfer Secretaries

Computershare Investor Services Proprietary Limited
(Registration Number: 2004/003647/07)
Rosebank Towers, 15 Biermann Avenue, Rosebank
Johannesburg, 2196, South Africa
Private Bag X9000, Saxonwold,
Johannesburg 2132, South Africa
proxy@computershare.co.za



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M.A. [Signature]



M.A. [Signature]



TongaatHulett®

Tongaat Hulett Limited

(Incorporated in South Africa)
 (Registration Number: 1892/000610/06)
 ISIN: ZAE000096541 JSE share code: TON
 ("THL" or the "Company")

FORM OF PROXY

FOR USE BY CERTIFICATED SHAREHOLDERS AND OWN-NAME DEMATERIALIZED SHAREHOLDERS AT THE GENERAL MEETING OF THL TO BE HELD ELECTRONICALLY AT 10:00 (SOUTH AFRICAN STANDARD TIME) ON THURSDAY, 8 AUGUST 2024.



For completion by Certificated Shareholders and Own-Name Dematerialised Shareholders who are unable to attend and vote at the General Meeting of the Company to be held electronically at 10:00 on Thursday, 8 August 2024, including a resumption of an adjourned meeting, and the recommencement at a postponed meeting ("General Meeting").

The definitions and interpretations commencing on page 6 of the Circular to which this Form of Proxy is attached apply throughout this Form of Proxy.

Each Certificated Shareholder and Own-Name Dematerialised Shareholder is entitled to appoint a proxy (who need not be a Shareholder) to speak and vote in place of that Shareholder at the General Meeting. Please read the notes to this Form of Proxy below.

I/We _____ (please print names in full)

of _____ (address)

Telephone/Cellphone number: _____ Email address: _____

being the holder/s of _____

Shares in the Company, do hereby appoint:

1. _____ or, failing him/her

2. _____ or, failing him/her

3. the chairman of the General Meeting,

as my/our proxy to attend, speak and vote for me/us and on my/our behalf at the General Meeting, and to vote or to abstain from voting at the General Meeting as follows on the ordinary and special resolutions to be proposed at such meeting:

	For	Against	Abstain
Special Resolution Number 1: Authorisation to issue additional shares under section 41 of the Companies Act			
Ordinary Resolution Number 1: Specific Authority to Issue Shares in terms of paragraph 5.51(g) of the Requirements			

Signed at _____ this _____ day of _____ 2024

Signature _____

Assisted by me, where applicable (name and signature) _____

Please read the notes and instructions below.

M.A.

NOTES TO THE FORM OF PROXY

1. This Form of Proxy is only to be completed by Certificated Shareholders and Own-Name Dematerialised Shareholders.
2. A Shareholder may insert the name of a proxy or the names of two alternative proxies of the Shareholder's choice in the space provided. The Person whose name stands first on the Form of Proxy and who is present at the General Meeting will be entitled to act to the exclusion of those whose names follow.
3. The above resolutions will be voted on by way of a poll. On a poll, every Shareholder present personally or represented by proxy or by representative, shall be entitled to cast one vote per Share held.
4. A Shareholder's instructions to the proxy must be indicated by inserting the relevant numbers of votes exercisable by the proxy in the appropriate box or by inserting "X" should the Shareholder wish to vote all Shares held by it. Failure to comply will be deemed to authorise the proxy to vote or to abstain from voting, as the case may be, in respect of all the Shareholder's votes. A Shareholder or the proxy is not obliged to exercise all the votes exercisable by the Shareholder or by the proxy, but the total of votes cast and in respect of which abstention is recorded may not exceed the total of votes exercisable by the Shareholder or by the proxy.
5. Forms of Proxy must be dated and signed by the Shareholder appointing a proxy.
6. For purpose of effective administration, it is requested that the Form of Proxy be lodged with, emailed to or posted to the Transfer Secretaries, to the addresses provided below, so as to reach the Transfer Secretaries at or before **10:00 on Tuesday, 6 August 2024**:

Hand deliveries to:

Computershare Investor Services
Proprietary Limited
Rosebank Towers, 15 Biermann Avenue,
Rosebank, Johannesburg, 2196,
South Africa

Postal deliveries to:

Computershare Investor Services
Proprietary Limited
Private Bag X9000, Saxonwold,
Johannesburg, 2132, South Africa
Email deliveries to:
proxy@computershare.co.za

If a Certificated Shareholder or Own-Name Dematerialised Shareholder does not lodge, email or post the Form of Proxy to reach the Transfer Secretaries by **10:00 on Tuesday, 6 August 2024**, the Shareholder will nevertheless be entitled to email the Form of Proxy to the Transfer Secretaries at proxy@computershare.co.za so as to reach them prior to the time of commencement of the General Meeting.

7. Completing and lodging, emailing or posting this Form of Proxy will not preclude the relevant Shareholder from attending the General Meeting, speaking, and voting personally to the exclusion of any proxy appointed in terms hereof.
8. Documentary evidence establishing the authority of a Person signing this Form of Proxy in a representative capacity or other legal capacity must be attached to this Form of Proxy, unless previously recorded by the Transfer Secretaries or waived by the chairperson of the General Meeting.
9. The completion of blank spaces need not be initialled. Any alteration or correction made to this Form of Proxy must be initialled by the signatory/ies.
10. If any Shares are jointly held, all joint Shareholders must sign this Form of Proxy. If more than one of those Shareholders is present at the General Meeting either personally or by proxy, the Person whose name appears first in the Securities Register will be entitled to vote to the exclusion of the others.
11. Despite the foregoing, the chairman of the General Meeting may waive any formalities that would otherwise be a prerequisite for a valid Form of Proxy.

TRANSFER SECRETARIES' OFFICES

South Africa

Computershare Investor Services Proprietary Limited
(Registration Number: 2004/003647/07)
Rosebank Towers, 15 Biermann Avenue, Rosebank
Johannesburg, 2196, South Africa (Private Bag X9000, Saxonwold, 2132, South Africa)
Tel: +27 11 370 5000
Email: proxy@computershare.co.za

Summary of terms of section 58(8)(b)(i) of the Companies Act

- Section 58(8)(b)(i) provides that the form of proxy supplied by a company for the purpose of appointing a proxy must bear a reasonably prominent summary of the rights established by section 58 of the Companies Act, 2008, as amended, which summary is set out below:
- a shareholder of a company may, at any time, appoint any individual, including an individual who is not a shareholder of that company, as a proxy to, among other things speak and vote at, and participate in, a shareholders meeting on behalf of the shareholder;
- a shareholder may appoint two or more persons concurrently as proxies;
- a shareholder may appoint more than one proxy to exercise voting rights attached to different securities held by the shareholder;
- a proxy may delegate the proxy's authority to act on behalf of the shareholder to another person;
- a proxy appointment must be in writing, and dated and signed by the shareholder; and remains valid only until the meeting (including any resumption thereof pursuant to an adjournment or recommencement thereof pursuant to a postponement) ends, unless the proxy appointment is revoked, in which case the proxy appointment will be cancelled with effect from such revocation;
- a shareholder may revoke a proxy appointment in writing;
- a proxy appointment is suspended at any time and to the extent that the shareholder chooses to act directly and in person in the exercise of any rights as a shareholder; and
- a proxy is entitled to exercise, or abstain from exercising, any voting right of the shareholder without direction, except to the extent the form of proxy provides otherwise.



M.A. [Signature]



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M.A. [Signature]



M.A. 

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

Annexure 16 and More

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:41:46 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.**



24/2/2026-10:41:46 AM
"MAR18"

Date: 02 October 2024

URGENT

Our Ref: Mr D Moodley/SG/RGS

Your Ref: Mr T Boswell/Ms S Gast/ag/TONG7430.15/
#10135080v1;
TER2/0004/B Scop

**TO: THE BUSINESS RESCUE PRACTITIONERS OF
TONGAAT HULETT LTD c/o WERKSMANS
ATTORNEYS**

THE VISION PARTIES c/o STEIN SCOP ATTORNEYS

**ATT: Mr Trevor Boswell and Ms Simone Gast
Ms A Rakitzis Ho**

Per Email: tboswell@werksmans.com;
sgast@werksmans.com;
alexandra@steinscop.com

1st Floor
94 Florida Road
Durban, 4001

PO Box 35546
Northway, 4965



Tel: +27 31 301 8623

Email: reception@dmiaatt.co.za

Dear Mr Boswell, Ms Gast and Ms Rakitzis Ho,

RE: TONGAAT HULETT LIMITED (IN BUSINESS RESCUE)

1. We refer to the above matter and confirm that we act on behalf of RGS Group Holdings ("RGS"). We refer also to our previous letter of 5 September 2024 and to the letters received from the BRPs and the Vision Parties in response on 10 September 2024.
2. Subsequent to the aforesaid correspondence, and on 17 September 2024, RGS submitted an updated offer to acquire THL out of business rescue ("the RGS Offer").

Senior Practitioner: D Moodley
Attorneys: T Naicker | B Henry
Candidate Attorneys: S Gathiram | S Naidoo | B Scheepers
Practice Manager: N Govender

3. The terms of the RGS Offer are in summary as follows:
- 3.1. RGS will inject R4 451 451 350 into THL in return for a 90% shareholding in the company;
- 3.2. R4 billion will be applied by THL to settle the Lender Group's claims and security in full;
- 3.3. R451 451 350 will be applied to settle unsecured creditors as follows:
- 3.3.1. The first R75 000 of each claim will be settled immediately;
- 3.3.2. Up to 65 cents in the rand of any balance of each claim will be settled immediately;
- 3.3.3. The balance of all claims (i.e. up to 35 cents in the rand) will be paid in full in instalments over a five-year period starting from the first anniversary of the closing date of the RGS transaction;
- 3.4. RGS will advance a subordinated shareholder loan to THL in the amount of R525 956 121 plus interest which will be used by THL to settle SASA's agreed compromised claim in full. The appeal proceedings pending in this regard will not be pursued.
4. The RGS offer therefore *inter alia* offers the Lender Group c. R400 million more than the Vision Parties have offered and moreover settles unsecured creditors in full (whereas Vision offers c. 5 cents in the rand), settles SASA in full (whereas Vision disputes this liability on appeal), and dilutes pre-existing shareholding to 10% (whereas the Vision Asset Transaction will destroy all pre-existing shareholding completely).
5. The BRPs were requested to table the RGS Offer for creditors' consideration at a meeting to be convened in terms of section 151 of the Companies Act. This request



Senior Practitioner: D Moodley
 Attorneys: T Naicker | B Henry
 Candidate Attorneys: S Gathiram | S Naidoo | B Scheepers
 Practice Manager: N Govender

was made on the basis that the Vision Asset Transaction, which is now being pursued subsequent to the rejection by shareholders of the Vision debt-to-equity conversion on 8 August 2024, cannot be implemented without creditors' approval given that the current Vision BR Plan does not provide the mandatory information contemplated in section 150 of the Companies Act in relation to the Vision Asset Transaction.

6. On 18 September 2024 the BRPs responded to the RGS Offer in a letter in terms of which they stated that the Vision BR Plan complied with section 150 of the Companies Act in relation to the Vision Asset Transaction, denied that the Vision BR Plan had failed pursuant to the rejection of the debt-to-equity conversion (insisting that the plan remained "binding"), and informed RGS that they would not therefore consider the RGS Offer.
7. RGS has subsequently awaited the publication of details regarding the nature of the transactions that will be concluded in terms of the Vision Asset Transaction, the conditions which apply thereto, and the timeline for their implementation.
8. Despite having had the opportunity to do so since 8 August 2024, the BRPs have yet to provide creditors and other affected persons with any of these essential details. The status update reports issued by the BRPs on the THL business rescue website simply refer to competition filings that have been made and states that the BRPs are *"continuing to take the necessary steps to satisfy all conditions on which the Plan is contingent, aimed at ensuring the successful implementation of the Plan."*
9. RGS and all affected persons therefore remain ignorant as to how the BRPs and Vision Parties propose to transfer all THL's assets to a company nominated by the Vision Parties and then delist and liquidate the *"shell"* of THL pursuant to the Vision Asset Transaction.
10. The express requirements of section 150 of the Companies Act have therefore patently not been met in relation to the Vision Asset Transaction.



Senior Practitioner: D Moodley
 Attorneys: T Naicker | B Henry
 Candidate Attorneys: S Gathiram | S Naidoo | B Scheepers
 Practice Manager: N Govender

M.A. [Signature]

11. Critically, since under the Vision Asset Transaction the Vision Parties are to acquire all THL's assets in return for a reduction of / set off against the Lender Group's claims and security, the Vision Asset Transaction – even if otherwise lawful – cannot proceed unless and until the Vision Parties have fully acquired the Lender Group's claims and security in THL.
12. The Acquisition Agreement concluded between the Vision Parties and the Lender Group was announced via SENS on 9 November 2023, some 11 months ago. RGS and other affected persons have continuously called for confirmation that the Vision Parties have paid the full purchase price due under the Acquisition Agreement and taken transfer of all the Lender Group's claims and security. No such confirmation has been forthcoming, not even in partially redacted form.
13. As you are aware, one of the chief concerns expressed by shareholders ahead of the vote on the debt-to-equity conversion was that, despite confirmed previous failures on Vision's part to raise and settle the purchase price due under the Acquisition Agreement, no confirmation was provided to the effect that Vision had in fact settled the purchase price and taken transfer of the Lender Group's claims and security prior to the shareholders meeting of 8 August 2024.
14. That the lack of transparency in this regard was one of the main reasons why the debt-to-equity conversion was rejected is evident from correspondence in RGS's possession which was addressed to the BRPs by shareholders before the shareholders meeting.
15. It is therefore, with respect, insufficient for the BRPs to state as they did in their letter of 10 September 2024 that they have been advised that the Vision Parties have acquired the Lender Group's claims while only having paid a deposit under the Acquisition Agreement and remaining liable for payment of c. R2 billion.
16. It is evident from the copy of the Acquisition Agreement attached as annexure "A" to our letter of 5 September 2024 that the Lender Group would not transfer any claims or security until full payment of the purchase price due thereunder had been settled.



Senior Practitioner: D Moodley
 Attorneys: T Naicker | B Henry
 Candidate Attorneys: S Gathiram | S Naidoo | B Scheepers
 Practice Manager: N Govender

17. This is consistent with the terms known to RGS from its own negotiations with the Lender Group in relation to the RGS BR Plan that was published in November 2023. Indeed, it would not make commercial sense for the Lenders to transfer their claims against receipt of the deposit only since this would obviously leave them exposed should the Vision Parties default on the balance of the purchase price.
18. It bears mention too that at the creditors meeting held on 10 and 11 January 2024 the BRPs and Vision Parties assured creditors that the latter were fully funded and ready to implement the Vision BR Plan.
19. Both the BRPs and the Vision Parties attempt to gloss over the undeniable implications of the fact that the Vision Parties have still not settled the purchase price due under the Acquisition Agreement more than eight months hence.
20. The prior acquisition by the Vision Parties of the Lender Group's full claims and security is a condition precedent to the Vision Asset Transaction (proceeding for argument's sake on the basis that the transaction is otherwise lawful).
21. The position adopted by the BRPs and Vision Parties to the effect that they can simply proceed with the Vision Asset Transaction without having provided affected persons with either:
 - 21.1. Unequivocal confirmation that the Vision Parties have acquired all of the Lender Group's claims and security; or
 - 21.2. Details of the transactions that will be implemented in terms of the Vision Asset Transaction and the expected timeframes in relation thereto.

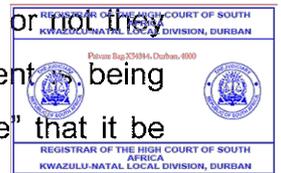


is unjustifiable and patently inconsistent with the governing provisions of the Companies Act

22. After stating that the BRPs do not have a copy of the current version of the Acquisition Agreement (the so-called "Third Acquisition Agreement)", paragraph 7.4 of the BRPs' letter of 10 September 2024 provides as follows:

"We have, however, addressed correspondence on our clients' instructions to the Lender Group and Vision insisting that the Third Acquisition Agreement be furnished to BRPs [sic] for dissemination to, inter alia, affected persons. As at the time of despatching this letter, the third Acquisition Agreement has not yet been received."

23. To date, the BRPs have neither disseminated the Third Acquisition Agreement to affected persons nor provided any feedback to RGS regarding whether or not they have received a copy of the agreement and, if not, why the agreement is being withheld from the duly appointed BRPs of THL despite their "insistence" that it be disseminated.



24. The reasonable inference to be drawn from the fact that the Acquisition Agreement has not been forthcoming is that it remains conditional on the fulfilment by the Vision Parties of their outstanding payment obligations and that none of the Lender Group's claims or security has been transferred to the Vision Parties.

25. In an attempt to avoid the necessity of an urgent application RGS has provided ample time for the Acquisition Agreement to be produced and for details of the transactions relevant to the Vision Asset Transaction to be disclosed to affected persons on the THL business rescue website and/or via SENS.

26. However, since no timeline for the implementation of the Vision Asset Transaction has been provided but the BRPs have stated in their business rescue progress reports published on the THL website that all steps are being taken in relation to the implementation thereof, RGS will have no choice but to bring an application for urgent relief if the requested documents and information is not provided in the coming week.

27. RGS repeats once again its suggestion that the Acquisition Agreement and documents evidencing (i) proof of the amount paid by the Vision Parties to the Lender Group, and (ii) the transfer of all the Lender Group's claims and security to the Vision Parties be provided to all affected persons with any confidential information redacted therefrom if necessary.
28. We are therefore instructed to demand, as we hereby do, that the following be published on the THL business rescue website by no later than **close of business on Monday, 7 October 2024**:
- 28.1. A copy of the current version of the Acquisition Agreement;
- 28.2. Proof of the amount paid by the Vision Parties to the Lender Group;
- 28.3. Proof that the Lender Group has transferred all its claims and security to the Vision Parties;
- 28.4. Details of the transactions to be implemented pursuant to the Vision Asset Transaction;
- 28.5. A timeline for the completion of the aforesaid transactions.
29. Should this information not be provided, RGS will have no option but to launch proceedings for urgent relief and reserves its right to place this letter (as well as the previous correspondence referred to herein) before the urgent judge.

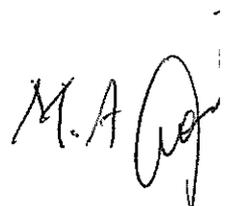


Yours faithfully,

 P.P
D MOODLEY

DMI Attorneys

Senior Practitioner: D Moodley
Attorneys: T Naicker | B Henry
Candidate Attorneys: S Gathiram | S Naidoo | B Scheepers
Practice Manager: N Govender



Copies to: **The Lender Group**

c/o The Lender Group Facility Agent

Standard Bank of South Africa

Corporate and Investment Banking Division

Mr Venashan Seerangam

Email: AgencySBSA@standardbank.co.za

The Industrial Development Corporation of South Africa

c/o Mr Haroon Laher

Faskens

Email: hlaher@fasken.com



Senior Practitioner: D Moodley
Attorneys: T Naicker | B Henry
Candidate Attorneys: S Gathiram | S Naidoo | B Scheepers
Practice Manager: N Govender

A handwritten signature in blue ink, appearing to be "M.A. [initials]".

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

Annexure 16 and More

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:42:02 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.



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BY:

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

"MAR 19"

WERKSMANS
ATTORNEYS

DELIVERED BY EMAIL

ENSafrica
E-mail: goertel@ENSafrica.com
Sandton

Attention: Mr Gary Oertel

Johannesburg Office
The Central
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Sandton 2196 South Africa
Private Bag 10015
Sandton 2146
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Tel +27 11 535 8000
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YOUR REFERENCE:

OUR REFERENCE: Mr D Hertz/Mr T Boswell/tjb/Ms S Gast/tjb/TONG7430.17/#10458006v5
DIRECT PHONE: +27 11 535 8283 / +27 11 535 8459/+27 11 535 8131
EMAIL ADDRESS: dhertz@werksmans.com /tboswell@werksmans.com/sgast@werksmans.com

8 October 2024



Dear Sirs

RGS GROUP HOLDINGS LIMITED | TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) AND ITS BUSINESS RESCUE PRACTITIONERS | TERRIS AGRIPRO (MAURITIUS), REMOGGO (MAURITIUS) PCC, GUMA AGRI AND FOOD SECURITY LTD (MAURITIUS), ALMOIZ NA HOLDINGS LIMITED (collectively "Vision") | THL'S SOUTH AFRICAN DEBT PROVIDERS IN TERMS OF THE COMMON TERMS AGREEMENT

1 As you are aware, we represent -

- 1.1 Trevor Muragtroyd N.O.;
- 1.2 Peter van den Steen N.O.;
- 1.3 Gerhard Albertyn N.O.; and
- 1.4 Tongaat Hulett Limited (in business rescue) ("THL").

2 For ease of reference, the parties referred to in paragraphs -

- 2.1 1.1 to 1.3 above will collectively be referred to in this letter as "the BRPs"; and
- 2.2 1.1 to 1.4 above will collectively be referred to as "our clients".

3 Reference in this letter to "your clients" is a collective reference to THL's South African debt providers (often referred to as the Lender Group), being the parties to the to the Common Terms

Werksmans Inc. Reg. No. 1990/007215/21 Registered Office The Central 96 Rivonia Road Sandton 2196 South Africa
Directors D Hertz (Chairman) OL Abraham LK Alexander C Andropoulos JKOF Antunes RL Armstrong DA Arleiro K Badal T Bata JD Behr AR Berman P Bhagalljee NMN Bhengu AL Bilaty RE Bonnet TJ Boswell W Brown HLE Chang PG Cleland JG Cioete PPJ Coetser C Cole-Morgan J Daring R Driman KJ Fyle S Gast D Gewer JA Gobetz R Goolkin A Govuza GF Griessel NA Hlatshwayo J Hollisen MGH Honiball BB Holz AE Human T Inno HC Jacobs TL Janse van Rensburg G Johannes S July JKallmeyer A Kenny NK Kgame R Killoran N Kirby HA Kolze S Krige CJ Laltha H Laskov P le Roux MM Lessing E Levenslein JS Lochner K Louw JS Lubbe BS Mabasa PK Mabaso DD Magidson MPC Manaka JE Mardon PD Mashalane JE Meiring H Michael SM Moerane R Moitse C Moraitis PM Mosebo NPA Molsiri L Naidoo K Neluheni BW Nluli BPF Olivier Z Oosthuizen S Padayachy M Pansegrouw S Passmore D Pisanli T Polter AA Pyzikowski RJ Raath K Rajah A Ramdhan B Rammala MDF Rodrigues BR Roothman W Rosenberg NL Scoil TA Sibidla FT Sikhavhakhavha LK Silberman S Sinden DE Singo JA Smit BM Sono C Stevens PO Steyn J Stockwell DH Swart PW Tindle JJ Truter KJ Trudgeon DN van den Berg AA van der Merwe A van Heerden JJ van Niekerk FJ van Tonder JP van Wyk A Vatalidis RN Wakefield L Watson D Wegierski G Wickins M Wiehahn DC Willans E Wood BW Workman-Davies Consultants DH Rabin DG Williams

JOHANNESBURG • CAPE TOWN • STELLENBOSCH

[Handwritten signatures]
M.A
G.C
G.E.A



Agreement ("**CTA**") concluded with THL on or about 3 December 2021 as read with the various Facility Agreements referred to therein.

- 4 On 2 October 2024, we received a letter ("**the DMI letter**") from DMI Attorneys ("**RGS's attorneys**") who now, in addition to representing Mohini Singari Naidoo t/a Powertrans Sales and Services (the applicant in the proceedings instituted against, *inter alios*, our client in the Durban High Court under case number D3902/2024), also represent RGS Group Holdings Limited ("**RGS**").
- 5 We attach marked "**X**", a copy of the DMI letter, which is provided with RGS's consent, which letter was copied to your clients when sent.
- 6 In the DMI letter, a number of demands are made by RGS of, *inter alios*, our clients. These include demands that our clients urgently provide RGS with, *inter alia*, -
 - 6.1 a copy of the third Acquisition Agreement ("**the Acquisition Agreement**") concluded in January 2024 as between your clients and Vision (see paragraph 28.1 of the DMI letter);
 - 6.2 proof of "**the amount**" paid by Vision to your clients (paragraph 28.2 of the DMI letter); and
 - 6.3 proof that your clients have transferred all of their claims and security to Vision (paragraph 28.3 of the DMI letter).
- 7 RGS's attorneys have forewarned our clients that failure to produce these items will result in urgent proceedings being instituted against, *inter alios*, our clients.
- 8 Our clients have instructed us to record that -
 - 8.1 on 6 September 2024, they addressed a letter to The Standard Bank of South Africa Limited (acting in its capacity as Facility Agent for the Consortium of Lenders to Tongaat Hulett Limited (in Business Rescue) ("**the Facility Agent**") in which our clients -
 - 8.1.1 reminded the Facility Agent that in terms of clause 24.5.1 of the CTA, the Facility Agent is required to send to THL (as the Borrower) a copy of each Transfer Certificate (as defined therein) executed by it in accordance with the clause 24.5 of the CTA;
 - 8.1.2 reminded the Facility Agent that, in terms of clause 1.1.224 of the CTA, it is required that the Transfer Certificate be substantially in the form as set out in Schedule 3, attached to the CTA (Form of Transfer Certificate) or otherwise in the agreed form; and
 - 8.1.3 requested that the BRPs be provided with a copy of an executed version of the Transfer Certificate which relates to the transfer of the indebtedness owing by THL and the associated security to Vision (which our client understands is termed 'Transfer Certificate 3'); and
 - 8.2 on the same day, our clients addressed a letter to your clients (care of your offices) and to Vision, in which our clients -
 - 8.2.1 advised that the BRPs were of the considered view that shareholders/affected persons should be provided with copies the documents that govern the contractual arrangements between Vision and your clients and insisted that these documents be provided to the BRPs (this would include a copy of the Acquisition Agreement);



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- 8.2.2 recorded that the Facility Agent is required to send to THL (as the Borrower) a copy of each Transfer Certificate (as defined therein) executed by it in accordance with clause 24.5 of the CTA (see clause 24.5.1 of the CTA); and
- 8.2.3 insisted the Transfer Certificate be substantially in the form as set out in Schedule 3, attached to the CTA (Form of Transfer Certificate) or otherwise in the agreed form (see clause 1.1.224 of the CTA).
- 9 Notwithstanding the above, your clients have not provided our clients with the documents and information referred to above, citing confidentiality obligations. We are instructed that Vision has provided our clients only with a highly redacted version of Transfer Certificate 3.
- 10 In consequence, our clients are currently not able comply with the demands that appear in paragraphs 28.1 to 28.3 of the DMI letter, and in particular cannot provide RGS with -
- 10.1 material information and documents relating to the terms of the contractual arrangements (including, but not limited to the Acquisition Agreement) between your clients and Vision;
- 10.2 precise details of the amounts payable by Vision to your clients, and what the payment terms are;
- 10.3 details regarding the transfer of your clients' claims and security to Vision; and
- 10.4 proof of the amounts that have been paid by Vision to your clients so as to (at the very least) demonstrate that Vision is not in default of the Acquisition Agreement.
- 11 In the light of what is set out above, our clients are also not in a position to provide RGS's attorneys (or a Court in due course) with a complete response to the averments and allegations that appear in the DMI letter.
- 12 Our clients have instructed us that they are duty bound to again call on your clients to provide them with -
- 12.1 a copy of each executed Transfer Certificate which relates to the transfer of the indebtedness owing by THL and the associated security to Vision (including the document which our client understands is termed 'Transfer Certificate 3') in unredacted form;
- 12.2 proof of "*the amount*" paid by Vision to your clients;
- 12.3 proof that your clients have transferred all of its claims and security to Vision;
- 12.4 the terms of the contractual arrangements (including, but not limited to the Acquisition Agreement) between your clients and Vision;
- 12.5 precise details of the amounts payable by Vision to your clients and what the payment terms are;
- 12.6 details regarding the transfer of your clients' claims and security to Vision, including full details of the claims and security have been transferred by your clients to Vision to date;
- 12.7 proof of the payments that have been made by Vision to your clients to (at the very least) demonstrated that Vision is currently not in default of the Acquisition Agreement; and



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12.8 a factually accurate response to the content of the DMI letter that will give RGS (and a Court) comfort that that the transactions will be implemented and all amounts due to your clients will be paid in full by Vision,

by no later than 12:00 on Thursday, 10 October 2024.

13 In the event of your clients declining to comply with our clients' requests as detailed in paragraph 12 and its sub paragraphs above, our clients have instructed us that they will have no alternative but to provide this letter to DMI's attorneys and advise them that, *inter alios*, your clients are not willing to provide the material information and documents demanded in the DMI letter and that they are consequently unable to do so. They will adopt the same position in any urgent proceedings that may then ensue.

14 We look forward to hearing from you.

Yours faithfully

Werksmans



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M.A

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

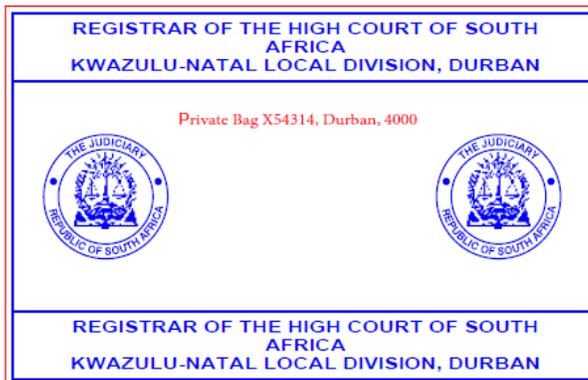
and

**Tongaat Hulett Limited,The Affected
Persons**

Defendant / Respondent

Annexure 16 and More

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**ELECTRONICALLY SIGNED
BY:**

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

DELIVERED BY EMAIL

Stein Scop Attorneys
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 Sandton

Attention: Mr Bradley Scop

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YOUR REFERENCE:

OUR REFERENCE: Mr D Hertz/Mr T Boswell/tjb/Ms S Gast/tjb/TONG7430.17/#10460059v2
DIRECT PHONE: +27 11 535 8283 / +27 11 535 8459/+27 11 535 8131
EMAIL ADDRESS: dhertz@werksmans.com /tboswell@werksmans.com/sgasti@werksmans.com

8 October 2024

Dear Sirs



RGS GROUP HOLDINGS LIMITED | TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) AND ITS BUSINESS RESCUE PRACTITIONERS | TERRIS AGRIPRO (MAURITIUS), REMOGGO (MAURITIUS) PCC, GUMA AGRI AND FOOD SECURITY LTD (MAURITIUS), ALMOIZ NA HOLDINGS LIMITED (collectively "Vision") | THL'S SOUTH AFRICAN DEBT PROVIDERS IN TERMS OF THE COMMON TERMS AGREEMENT

1 As you are aware, we represent -

- 1.1 Trevor Muragtroyd N.O.;
- 1.2 Peter van den Steen N.O.;
- 1.3 Gerhard Albertyn N.O.; and
- 1.4 Tongaat Hulett Limited (in business rescue) ("THL").

2 For ease of reference, the parties referred to in paragraphs -

- 2.1 1.1 to 1.3 above will collectively be referred to in this letter as **"the BRPs"**; and
- 2.2 1.1 to 1.4 above will collectively be referred to as **"our clients"**.

3 We refer to -

- 3.1 the Vision Parties collectively as **"Vision"**;

Werksmans Inc. Reg. No. 1990/807215/21 Registered Office The Central 96 Rivonia Road Sandton 2196 South Africa
 Directors D Hertz (Chairman) OL Abraham LK Alexander C Andropoulos JKOF Antunes RL Armstrong DA Arteiro K Badal T Bata JD Behr AR Berman P Bhagatjee NMN Bhengu
 AL Bilalayi RE Bonnet TJ Boswell W Brown HLE Chang PG Cleland JG Cloete PPJ Coetser C Cole-Morgan J Darling R Driman KJ Fyfe S Gast D Gewer JA Gobetz R Goolkin
 A Govuza GF Griesse! NA Hlatshwayo J Hollesen MGH Honiball BB Hotz AE Human T Inno HC Jacobs TL Janse van Rensburg G Johannes S July J Kallmeyer A Kenny
 NK Kgame R Killoran N Kirby HA Kotze S Krige CJ Latha H Laskov P le Roux MM Lessing E Levenstein JS Lochner K Louw JS Lubbe BS Mabasa PK Mabaso DD Magidson
 MPC Manaka JE Mardon PD Mashalane JE Meiring H Michael SM Moerane R Mollise C Moraitis PM Mosebo NPA Molsiri L Naidoo K Neluheni BW Ntuli BPF Olivier Z Oosthuizen
 S Padayachy M Pansegrouw S Passmoor D Pisanli T Potler AA Pyzikowski RJ Raath K Rajah A Ramdhin B Rammala MDF Rodrigues BR Roothman W Rosenberg NL Scott
 TA Sibidla FT Sikhavhakhavha LK Silberman S Sinden DE Singo JA Smit BM Sono CI Stevens PO Steyn J Stockwell DH Swart PW Tindie JJ Truter KJ Trudgeon DN van den Berg
 AA van der Merwe A van Heerden JJ van Niekerk FJ van Tonder JP van Wyk A Vatalidis RN Wakefield L Watson D Wegierski G Wickins M Wiehahn DC Willans E Wood
 BW Workman-Davies Consultants DH Rabin DG Williams

JOHANNESBURG • CAPE TOWN • STELLENBOSCH

 M.A
 G.C
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- 3.2 THL's South African debt providers, being the parties to the to the Common Terms Agreement ("**CTA**") concluded with THL on or about 3 December 2021 as read with the various Facility Agreements referred to therein, as "**the Lender Group**".
- 4 As you know, on 2 October 2024, we received a letter ("**the DMI letter**") from DMI Attorneys ("**RGS's attorneys**") (which was also addressed to yourselves) who now, in addition to representing Mohini Singari Naidoo t/a Powertrans Sales and Services (the applicant in the proceedings instituted against, *inter alios*, our client in the Durban High Court under case number D3902/2024), also represent RGS Group Holdings Limited ("**RGS**").
- 5 In the DMI letter, a number of demands are made by RGS of our respective clients. These include demands that our clients urgently provide RGS with, *inter alia*, -
- 5.1 a copy of the third Acquisition Agreement ("**the Acquisition Agreement**") concluded in January 2024 as between the Lender Group and Vision (see paragraph 28.1 of the DMI letter);
- 5.2 proof of "*the amount*" paid by Vision to the Lender Group (paragraph 28.2 of the DMI letter); and
- 5.3 proof that the Lender Group have transferred all of their claims and security to Vision (paragraph 28.3 of the DMI letter).
- 6 Our clients have instructed us to record that -
- 6.1 on 6 September 2024, they addressed a letter to The Standard Bank of South Africa Limited (acting in its capacity as Facility Agent for the Consortium of Lenders to Tongaat Hulett Limited (in Business Rescue) ("**the Facility Agent**") in which our clients -
- 6.1.1 reminded the Facility Agent that in terms of clause 24.5.1 of the CTA, the Facility Agent is required to send to THL (as the Borrower) a copy of each Transfer Certificate (as defined therein) executed by it in accordance with the clause 24.5 of the CTA;
- 6.1.2 reminded the Facility Agent that, in terms of clause 1.1.224 of the CTA, it is required that the Transfer Certificate be substantially in the form as set out in Schedule 3, attached to the CTA (Form of Transfer Certificate) or otherwise in the agreed form; and
- 6.1.3 requested that the BRPs be provided with a copy of an executed version of the Transfer Certificate which relates to the transfer of the indebtedness owing by THL and the associated security to Vision (which our client understands is termed 'Transfer Certificate 3'); and
- 6.2 on the same day, our clients addressed a letter to the Lender Group and to Vision, in which our clients -
- 6.2.1 advised that the BRPs were of the considered view that shareholders/affected persons should be provided with copies the documents that govern the contractual arrangements between Vision and the Lender Group and insisted that these documents be provided to the BRPs (this would include a copy of the Acquisition Agreement);
- 6.2.2 recorded that the Facility Agent is required to send to THL (as the Borrower) a copy of each Transfer Certificate (as defined therein) executed by it in accordance with clause 24.5 of the CTA (see clause 24.5.1 of the CTA); and

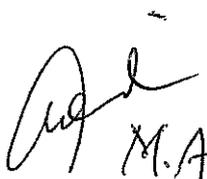


 M.A.
  G.C.
G.R.A.



- 6.2.3 insisted the Transfer Certificate be substantially in the form as set out in Schedule 3, attached to the CTA (Form of Transfer Certificate) or otherwise in the agreed form (see clause 1.1.224 of the CTA).
- 7 Notwithstanding the above, the Lender Group have remained unwilling to provide our clients with the unredacted documents and information referred to above. In consequence, our clients are currently not able comply with the demands that appear in paragraphs 28.1 to 28.3 of the DMI letter, and in particular cannot provide RGS with -
- 7.1 material information and documents relating to the terms of the contractual arrangements (including, but not limited to the Acquisition Agreement) between the Lender Group and Vision;
- 7.2 precise details of the amounts payable by Vision to the Lender Group, and what the payment terms are;
- 7.3 details regarding the transfer of the Lender Group's claims and security to Vision; and
- 7.4 proof of the amounts that have been paid by Vision to the Lender Group so as to (at the very least) demonstrate that Vision is not in default of the Acquisition Agreement.
- 8 RGS's attorneys have forewarned our clients that failure to produce these items will result in urgent proceedings being instituted against, *inter alios*, our clients.
- 9 In the light of what is set out above, our clients are also not in a position to provide RGS's attorneys (or a Court in due course) with a complete response to the averments and allegations that appear in the DMI letter.
- 10 Our clients have instructed us that they are duty bound to again call on Vision to provide them with -
- 10.1 a copy of each executed Transfer Certificate which relates to the transfer of the indebtedness owing by THL and the associated security to Vision (including the document which our client understands is termed 'Transfer Certificate 3') in unredacted form;
- 10.2 proof of "the amount" paid by Vision to the Lender Group;
- 10.3 proof that the Lender Group have transferred all of its claims and security to Vision;
- 10.4 the terms of the contractual arrangements (including, but not limited to the Acquisition Agreement) between the Lender Group and Vision;
- 10.5 precise details of the amounts payable by Vision to the Lender Group and what the payment terms are;
- 10.6 details regarding the transfer of the Lender Group's claims and security to Vision, including full details of the claims and security have been transferred by the Lender Group to Vision to date;
- 10.7 proof of the payments that have been made by Vision to the Lender Group to (at the very least) demonstrated that Vision is currently not in default of the Acquisition Agreement; and
- 10.8 a factually accurate response to the content of the DMI letter that will give RGS (and a Court) comfort that that the transactions will be implemented and all amounts due to the Lender Group will be paid in full by Vision,




 M.A.

G.C.
 GEA



by no later than 12:00 on Thursday, 10 October 2024.

- 11 In the event of Vision declining to comply with our clients' requests as detailed in paragraph 10 and its sub paragraphs above, our clients have instructed us that they will have no alternative but to provide this letter to DMI's attorneys and advise them that, *inter alios*, Vision are not willing to provide the material information and documents demanded in the DMI letter and that they are consequently unable to do so. They will adopt the same position in any urgent proceedings that may then ensue.
- 12 We look forward to hearing from you.

Yours faithfully

Werksmans



Handwritten initials: M.A. G.C. GeA

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

Annexure 16 and More

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**ELECTRONICALLY SIGNED
BY:**

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

"MAR21"

Trevor Boswell

From: Trevor Boswell <TBoswell@werksmans.com>
Sent: 10 October 2024 14:50
To: Agency SBSA
Cc: Gary Oertel; Sean Lederman; Johann Basson; Adam Lombard; David Hertz; Danny Andropoulos; Simone Gast
Subject: RE: Project Thor (Tongaat) (In Business Rescue) - RGS GROUP HOLDINGS AND OTHERS - Syndicated Lender Group Response [WERK-LITIGATION.FID694177]

Dear Ven

Thank you for your email.

Our clients have instructed us to ask that the Lender Group reconsider their position as articulated in your email for the reasons which follow below.

As you are aware, the CTA places an obligation on the Lender Group to furnish THL with a copy of each Transfer Certificate executed by it that is substantially in the form as set out in Schedule 3 the CTA.



The Lender Group could not be subject to criticism for complying with this contractual obligation and is, we respectfully submit, contractually obliged to do so.

We accordingly reiterate our clients' request that your clients provide THL with copies of the relevant Transfer Certificates.

Yours sincerely
Trevor Boswell / Simone Gast



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Agency SBSA <AgencySBSA@standardbank.co.za>
 Thursday, October 10, 2024 12:14 PM

Trevor Boswell <TBoswell@werksmans.com>

Agency SBSA <AgencySBSA@standardbank.co.za>; Gary Oertel <goertel@ensafrica.com>; Sean Lederman <slederman@ensafrica.com>; Johann Basson <jobasson@ensafrica.com>; Adam Lombard <alombard@ensafrica.com>; David Hertz <DHertz@werksmans.com>; Danny Andropoulos <dandropoulos@werksmans.com>; Simone Gast <sgast@werksmans.com>

Project Thor (Tongaat) (In Business Rescue) - RGS GROUP HOLDINGS AND OTHERS [WERK-LITIGATION.FID694177] - Syndicated Lender Group Response
 High

Good Afternoon Mr. Boswell,

We refer to your letter dated 8 October 2024 addressed to ENS as legal advisor to the lender group.

[Handwritten signatures]
 M.A. G.C.
 G.G.

As a quick introduction, my name is Venashan (you may call me Ven, if it is easier?) Seerangam, a member of the Standard Bank of South Africa Limited Agency Team ("Agency").

Agency has been mandated by the lender group to respond to your letter.

The lender group has previously informed the business rescue practitioners that the lender group has no objection to the disclosure of the full and unredacted transfer certificate to the business rescue practitioners, however, the lender group was unable to disclose the transfer certificate or any of the contents thereof without the consent of the Vision parties due to the confidentiality undertakings contained in the transfer certificate.

The position has not changed, and the business rescue practitioners are encouraged to engage the Vision parties to obtain their consent to the disclosure of the full and unredacted transfer certificate, upon which the transfer certificate can be provided.

I trust that this is in order.

Kind Regards.



Corporate and Investment Banking, Vice President, Agency Front Office
Tel: +27 11 721 9584 / Mobile: +27 77 479 8355 www.standardbank.co.za



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[Handwritten signature]
M.A
G.C
Gef

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

Annexure 16 and More

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:43:07 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.



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BY:

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

"MAR22"

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 Our ref: **TER2/0004/C Badenhorst**
 Your ref: **Mr D Hertz/Mr T Boswell/tjb/Ms
 SGast/tjb/TONG7430.17/#10460
 059v2**

Date: 14 October 2024

Werksmans Attorneys

Attention: **David Hertz
 Trevor Boswell
 Simone Gast**

Per Email: **dhertz@werksmans.com
 tboswell@werksmans.com
 sgast@werksmans.com**



Dear Sirs,

RGS Group Holdings Limited / Tongaat Hulett Limited (In Business Rescue) / the Vision Parties

1. We refer to your letter received on 8 October 2024 (**your Letter**) and the letter received from DMI Attorneys on 2 October 2024 (**DMI Letter**). As you correctly note in your Letter, we act on behalf of Terris AgriPro (Mauritius) Limited, Almoiz NA Holdings Limited, Remoggo (Mauritius) PCC and Guma Agri Food Security Limited (collectively referred to as "**our clients**").
2. We are instructed as follows:
 - 2.1 The approach taken by your clients, in effectively demanding disclosure by our clients of documentation sought in the DMI Letter, comes as a surprise.
 - 2.2 Our clients believe that it is vital for all parties involved in the transaction of Tongaat Hulett Limited (in business rescue) (**THL**) to reflect on the source of the demands in the DMI Letter, namely RGS Group Holdings Limited (**RGS**), given RGS's tainted involvement in the business rescue of THL.
 - 2.2.1 RGS competed with our clients in acquiring control of THL or its business. In doing so, RGS has gone to extreme lengths to advance its interests as a competing bidder, including seeking to place itself ahead of our clients and to

Second Floor, Capital Hill, 6 Benmore Road, Morningside, Sandton, Gauteng, 2057, South Africa

Directors: **G Stein; B Scop; S van der Weele; A Rakitzis Ho; S Buckas and C Badenhorst** | Consultant: **A Berman**
 Senior Associates: **B Roxburgh; J Muller and L Grobler** | Associates: **B Badenhorst; C Strachan and J Erasmus**
 Chief Operating Officer: **Y de Waal**

BGI | GLOBAL

obstruct the implementation of the business rescue plan, which was adopted on 11 January 2024 (**the BR Plan**).

2.2.2 During December 2023, several urgent applications were instituted, one by RGS seeking to have its plan tabled first, before our clients' business rescue plan, clearly in an attempt to favour itself.

2.2.3 On 9 January 2024, a day before the section 151 meeting was scheduled to commence, RGS withdrew its proposed business rescue plan (**RGS Plan**), alleging that it did so because:

2.2.3.1 the business rescue practitioners (**BRPs**) *"have not conducted themselves appropriately in accordance with their duties and obligations as business rescue practitioners, nor in the interests of THL and its stakeholders"*; and

2.2.3.2 the BRPs had *"consistently taken steps to place impediments in the way of RGS's proposals and have been patently biased in favour of the proposals put forward by the Vision Parties"*.



2.2.4 As a result, RGS claimed that its *"board simply does not trust that the BRPs are honest independent professionals in this process as they should be and believes that the BRPs will continue to work against RGS even if the RGS plan were to be adopted"*.

2.2.5 As was later revealed, the RGS Plan was based on a fraudulent proof of funds to implement that plan.

2.2.6 On or about 26 January 2024, Mohini Singari Naidoo t/a Powertrans Sales and Services (**Powertrans**) instituted its first urgent application (**the First Powertrans Application**) seeking in Part A an urgent interdict against implementing the BR Plan and in Part B orders declaring the BR Plan unlawful and setting it aside.

2.2.7 Both of our respective clients stated in their respective answering affidavits that the First Powertrans Application appeared to have been orchestrated by RGS to stall the implementation of the BR Plan. In this regard, your client stated the following in paragraph 41 of its answering affidavit as to the questionable motives of Powertrans:

*"In all of the above circumstances, the respondents find it difficult to accept that at this late stage, **the applicant's [referring to Powertrans] challenge to the lawfulness of the Vision Plan is bona fide.** The applicant is challenged to state under oath in its replying papers whether it has been encouraged, persuaded and/or induced by a third party to do so and if so, on what basis."*

(Emphasis added)

2.2.8 Not long after the parties to the First Powertrans Application had filed their answering affidavits, RGS entered the fray (represented by White and Case Inc.) with its intervening application, which was served on or about 1 February 2024 (**Intervention Application**). This validated our respective clients'

M.A. ²

suspicious. The purpose of RGS's Intervention Application was to support the relief sought by Powertrans and to motivate the benefits of a "New RGS Plan" that it considered superior to the adopted BR Plan.

- 2.2.9 In the affidavit of Momade Aquil Rajahussein (**Rajahussein**) in the Intervention Application, he disclosed that during the bidding process, RGS provided the Lender Group and your clients with a forged letter (**the Forged ABSA Letter**) purporting to emanate from Absa Bank Mozambique. The purpose of the Forged ABSA Letter was to create the impression that RGS held an amount of approximately R2 billion with ABSA, which money could be used to acquire the claims of the Lender Group.
- 2.2.10 RGS used the Forged ABSA Letter to induce the Lender Group to be satisfied that RGS was capable of acquiring the Lender Group's secured claims, and to induce your clients to believe that the Amended RGS Plan was ~~viable and in purported compliance with the relevant condition of the Amended RGS Plan.~~
- 2.2.11 RGS later withdrew its Intervention Application and Part A of the First Powertrans Application was struck from the roll. Powertrans (clearly at RGS's instance) later withdrew the application, tendering costs (that RGS, no doubt, ultimately paid).
- 2.2.12 RGS, however, persisted in its attempts to impede the implementation of the BR Plan through Powertrans.
- 2.2.13 On 5 April 2024, Powertrans brought its second application (**the Second Powertrans Application**), effectively based on the same arguments as the withdrawn First Powertrans Application.
- 2.2.14 In their answering affidavits, both our clients set out the incontrovertible facts that warranted your clients observing that the *"inescapable inference is that RGS was instrumental in the preparation and launching of the first Powertrans application, and that RGS has in some shape or form incentivised the applicant to institute proceedings targeted at setting the Vision Plan aside"*.
- 2.2.15 Despite all of the denials made by Powertrans and attempts to avoid an admission that RGS has been spearheading the applications instituted by it, RGS's involvement has now become so blatant that DMI Attorneys (who have previously represented only Powertrans) are now addressing demands for information and documentation on RGS's behalf.
- 2.3 RGS's use of Powertrans (which did not even bother to attend the section 150 meeting) as a stalking horse to drive urgent litigation against our respective clients has all been in a dilatory and baseless pursuit to stall the implementation of the BR Plan. Worst of all, RGS has been involved in a fraud against your clients, the Lender Group and creditors of THL (who could have potentially voted on a plan tainted by a fraud). They have also made it clear that they harbour a view that your clients are not parties with whom they can ever have a productive relationship with.
- 2.4 All of this considered, it is disconcerting that RGS is being entertained and taken seriously. RGS's only interest and motivation in this business rescue is to advance its interests as a



competing and disgruntled bidder by attacking the adopted BR Plan that your clients are duty bound to implement under section 140(1)(d) of the Companies Act, 2008 (**the Act**).

- 2.5 This is made absolutely clear from the DMI Letter in which the terms of a new "RGS Offer" are recorded, which RGS apparently seeks to be voted on- again, despite its position that it would abandon its last proposal and could not fairly make another one to your clients. Your clients correctly rejected RGS's attempts to put this offer before the section 150 meeting. Our clients fail to understand on what basis your clients are now entertaining RGS's aligned requests for information and documentation that are plainly aimed at disrupting the BR Plan.
- 2.6 There is no basis for treating RGS as an ordinary affected person. RGS's motives are patently tainted, and our clients object to providing RGS with any information and documentation that it clearly seeks to use to achieve this purpose. As the BRPs responsible for implementing the BR Plan, your clients should also not be **complicit in assisting RGS in this purpose.**
- 2.7 Even if RGS can be treated as an ordinary legitimate affected party, our clients are unclear on what basis. RGS is not reflected as either a creditor or shareholder of THL in the BR Plan. In its Intervention Application, RGS states that it is a creditor of THL, although it does not state on what grounds. Even if it were a creditor by having acquired a claim during business rescue proceedings, it could only have done so to pursue its manifestly inappropriate and obstructive agenda, and not for genuine reasons.
- 2.8 In addition, affected persons are not entitled to the information and documentation requested as a matter of principle.
- 2.9 The position of **both** our respective clients in the litigation referred to is that affected persons are not entitled to the information and documentation sought by RGS. For example, your clients' representatives state the following in their answering affidavit filed in the Second Powertrans Application:

"242 *The applicant's obsession with the terms of that agreement [referring to the Acquisition Agreement, being a document sought in the DMI Letter] is perplexing. **In the context of information required by a creditor to vote on a proposed business rescue plan, all that is relevant to a creditor is whether the adopted BR Plan is capable of implementation.***

243 *The substantial deposit paid by Vision (which has since been disclosed, in the first Powertrans application, to be in excess of R1,5 billion) was sufficient to vest it with a right to acquire the Lender Group's claims/debt which, in turn, was sufficient to be exchanged for shares in THL, if and when the debt-to-equity conversion goes ahead. **The Plan is thus capable of implementation.***

289 *As I have stated previously, **creditors did not need to know (and were not entitled to know) the terms of the Third Acquisition Agreement to properly consider and vote on the Vision Plan.** The only relevant information is the fact that the debt-to-equity conversion proposed in the Plan was viable. **Creditors are not entitled to know every transaction document, structure, detail, or term that informs a transaction included in a proposed business rescue plan, in order to vote on that plan. To require such extensive disclosure would make the business rescue process unworkable and would force bidders to disclose commercially sensitive and confidential information. The***



information in question is not required for affected persons to vote meaningfully on the Plan.

292 **Without detracting from what is set out above, the applicant has no legal entitlement, in her capacity as creditor, to documents that have been concluded between third parties, particularly in circumstances where THL and the BRPs are not party to that agreement. The alleged legal entitlement does not exist in the context of a business rescue, or at all.**

(Emphasis added)

- 2.10 Evidently, documents, such as the Acquisition Agreement, were not necessary for disclosure to affected persons, and they only needed to be concerned about whether the business rescue plan was capable of implementation. The vast majority of creditors voted to adopt our clients' proposed business rescue plan, which they determined to be capable of implementation. No legitimate "concerned" creditors have emerged to suggest the contrary.
- 2.11 Your clients were satisfied as to our clients' financial capabilities and therefore stated that the business rescue plan "*is thus capable of implementation*". It is common cause that our clients paid a deposit in excess of R1.5 billion. Your clients are aware and have advised DMI in their letter of 10 September 2024 that the balance of R2 billion is only due by 31 December 2024. Moreover, we reiterate that RGS has at all times been and remains *mala fide*.
- 2.12 Affected parties only have the right, after the adoption of a business rescue plan, to receive reports from the BRPs on the progress of the business rescue process (section 132(3)(a) of the Act). Such a right does not encompass the extent of information sought by RGS. The information provided to affected parties on 16 August 2024 regarding the implementation of the alternative transaction and the monthly updates since are more than sufficient for any affected person.
- 2.13 Furthermore, your clients have been supplied with the redacted details relating to the acquisition by our clients of the Lender Group claims. This document supplies sufficient information to shed light on our clients' ability to implement the transactions contemplated in the BR Plan. There should, accordingly, be no debate whether our clients are capable of executing the contemplated transactions
- 2.14 To be clear – our clients do not consent to you providing even the redacted document to RGS.
- 2.15 Our clients' discomfort is compounded by your clients' apparent willingness to share your Letter with RGS, in which your clients also advance allegations as to purported non-compliance with the Common Terms Agreement as far as it deals with the provision of the "Acquisition Agreement". Under no circumstances should your clients ventilate such allegations before RGS. We will deal with such allegations separately.
- 2.16 Our clients, therefore, decline to provide the information and documentation sought in paragraph 10 of your Letter on the basis that your clients seek it to provide it to RGS. Under suitable conditions as to confidentiality and disclosure, our clients may agree to provide this information and document to your clients as the BRPs. However, this is not the basis on which your clients presently seek this information and documentation.



5
M.A. [Signature]

3. Before your clients proceed to share your Letter with RGS, which will only result in the aggravation of this current issue by both RGS and our clients, we strongly recommend that our clients' respective legal teams engage in an effort find an appropriate way to deal with RGS's demands. This is necessary, particularly in circumstances where both our respective clients have duties to implement the adopted BR Plan.
4. We accordingly request that you confirm by no later than 12:00 on Tuesday, 15 October 2024 that:
 - 4.1 you will not share your Letter or the redacted Acquisition Agreement with RGS; and
 - 4.2 confirm that your clients are willing to engage with ours for the aforesaid purpose.
5. Our clients' rights remain reserved.

Yours faithfully

C Badenhorst
Director

Sent electronically and therefore unsigned



6
M.A. [Signature]

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

Annexure 16 and More

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BY:

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

"MAR23"
WERKSMANS
 ATTORNEYS

DELIVERED BY EMAIL

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YOUR REFERENCE:

OUR REFERENCE: Mr D Hertz/Mr T Boswell/Ms S Gast/tjb/TONG7430.17/#10473927v7

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EMAIL ADDRESS: dhertz@werksmans.com / tboswell@werksmans.com / sgast@werksmans.com

16 October 2024



Dear Sirs

RGS GROUP HOLDINGS LIMITED | TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) AND ITS BUSINESS RESCUE PRACTITIONERS | TERRIS AGRIPRO (MAURITIUS), REMOGGO (MAURITIUS) PCC, GUMA AGRI AND FOOD SECURITY LTD (MAURITIUS), ALMOIZ NA HOLDINGS LIMITES (collectively "Vision") | THL'S SOUTH AFRICAN DEBT PROVIDERS IN TERMS OF THE COMMON TERMS AGREEMENT

1 We refer to -

- 1.1 our letter addressed to you dated 8 October 2024 ("**our letter**");
- 1.2 the email received from Mr Venashan Seerangam ("**Mr Seerangam**") of behalf of your clients dated 10 October 2024 ("**your clients' email**") in response to our letter; and
- 1.3 our email ("**our email**") in response to your clients' email dated 10 October 2024, which was sent directly to Mr Seerangam and copied to you.

2 In our email, we urged your clients to reconsider their response as set out in your clients' email. As at the date of the despatch of this letter, we have not received any further communication from your clients, or from your offices. For the reasons that follow, we have been instructed to again request your clients to reconsider their position *vis-à-vis* the documentation and information requested in our letter.

Werksmans Inc. Reg. No. 1990/007215/21 Registered Office The Central 96 Rivonia Road Sandton 2196 South Africa
 Directors D Hertz (Chairman) OL Abraham LK Alexander C Andropoulos JKOF Antunes RL Armstrong DA Arteiro K Badal T Bata JD Behr AR Berman P Bhagatjee NMN Bhengur AL Bilaty RE Bonnet TJ Boswell W Brown HLE Chang PG Cieland JG Cloete PPJ Coetser C Cole-Morgan J Darling R Drman KJ Fyfe S Gast D Gewer JA Gobetz R Gootkin A Govuza GF Griessel NA Hlatswayo J Hollesen MGH Honiball BB Holz AE Human T Inno HC Jacobs TL Janse van Rensburg G Johannes S July J Kallmeyer A Kenny NK Kgame R Killoran N Kirby HA Kotze S Krige CJ Laltha H Laskov P le Roux MM Lessing E Levenstein JS Lochner K Louw JS Lubbe BS Mabasa PK Mabasa DD Magidson MPC Manaka JE Mardon PD Mashalane JE Meiring H Michael SM Moerane R Moitse C Moraitis PM Mosebo NPA Motsiri L Naidoo K Neluheni BW Ntuli BPF Olivier Z Ooshuizen S Padayachy M Pansegrouw S Passmoor D Pisanli T Potler AA Pyzikowski RJ Raath K Rajah A Ramdthin B Rammala MDF Rodrigues BR Roothman W Rosenberg NI Scott TA Sibidia FT Sikhavhakhavha LK Silberman S Sinden DE Singo JA Smit BM Sono CI Stevens PO Steyn J Stockwell DH Swart PW Tindle JJ Truter KJ Trudgeon DN van den Berg AA van der Merwe A van Heerden JJ van Niekerk FJ van Tonder JP van Wyk AVatalidis RN Wakefield L Watson D Wegierski G Wickins M Wiehahn DC Willans E Wood BW Workman-Davies Consultants DH Rabin DG Williams

JOHANNESBURG • CAPE TOWN • STELLENBOSCH



- 3 As you are aware, on 2 October 2024, we received a letter from DMI Attorneys (the attorneys who now represent RGS Group Holdings Limited ("RGS")) ("DMI's letter"), a copy of which is, for your ease of reference, attached.
- 4 In paragraph 28 of DMI's letter, RGS has demanded that our clients produce -
- 4.1 a copy of the current version of the acquisition agreement;
 - 4.2 proof of the amount paid by Vision;
 - 4.3 proof of transfer of all the claims and security to Vision;
 - 4.4 details of the transactions to be implemented pursuant to the Vision Sale of Asset Transaction; and
 - 4.5 a timeline for the completion of the aforesaid transaction.
- 5 DMI has made it clear that, in the absence of our clients providing the documents and information referred to in paragraphs 4.1 to 4.5 above ("**the demanded information**"), their client will bring urgent proceedings against, *inter alios*, our clients (see paragraph 29 of DMI's letter). We do not believe that the threatened application will necessarily be limited to relief relating to the production of the demanded information but may for instance include an order setting aside the Plan.
- 6 Following receipt of DMI's letter, we advised DMI that we had requested the demanded information from, *inter alios*, your clients.
- 7 On 10 October 2024, we received an email from DMI making it clear that if our clients did not provide a date by when they would provide a substantive response to DMI's letter, they would "*have no choice but to proceed to court.*"
- 8 It is our client's *bona fide* belief that if the demanded information is not provided to our clients and to RGS imminently, our clients will face urgent court proceedings.
- 9 Without detracting from what is set out above, your clients are undoubtedly aware that information and documentation of a similar nature to the demanded information has been sought by THL's shareholders and other creditors of THL (including, but not limited to, Powertrans, Artemis and Mary Jane Morris). There exists every possibility that the support of shareholders and creditors will be critical to securing regulatory approvals necessary to successfully implement the Vision Sale of Asset Transaction. A failure to obtain such regulatory approvals may render the Plan incapable of implementation.
- 10 The position adopted by your clients in your client's email has placed our clients in a position where they are incapable of responding substantively to DMI's letter. In these circumstances, should the foreshadowed urgent proceedings be brought, our clients may be able to do no more than abide by the Court's decision.
- 11 Against the background of what is set out in paragraphs 9 and 10 above, your clients' failure to provide our clients with a meaningful response to the content of DMI's letter, such that will give RGS (and a Court) comfort that the transactions will be implemented and all amounts due to your clients will be paid in full by Vision (as requested in our letter), is concerning.
- 12 The BRPs are enjoined to implement creditors' wishes and carry the alternate Business Rescue plan into effect and, whilst discharging their statutory duties and responsibilities, (which they have and









continue to do to date), to take all appropriate steps to facilitate implementation of the Vision Sale of Asset transaction.

- 13 Our clients have instructed us to call upon your clients to demonstrate, to our clients' satisfaction, that -
 - 13.1 the transactions forming the subject matter of the transfer certificate (ie the debt sale) are on track;
 - 13.2 your clients are confident that Vision will timeously discharge their payment obligations to your clients; and
 - 13.3 there is no impediment to the Sale of Asset Transaction in the context of the sale of debt transaction.

Yours faithfully

Werksmans



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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

Annexure 16 and More

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BY:

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

"MAR24"



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EMAIL ADDRESS: dhertz@werksmans.com / tboswell@werksmans.com / sgast@werksmans.com



16 October 2024

Dear Sirs

RGS GROUP HOLDINGS LIMITED | TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) AND ITS BUSINESS RESCUE PRACTITIONERS | TERRIS AGRIPRO (MAURITIUS), REMOGGO (MAURITIUS) PCC, GUMA AGRI AND FOOD SECURITY LTD (MAURITIUS), ALMOIZ NA HOLDINGS LIMITES (collectively "Vision/your clients") | THL'S SOUTH AFRICAN DEBT PROVIDERS IN TERMS OF THE COMMON TERMS AGREEMENT

- 1 We refer to your letter dated 14 October 2024 ("your letter").
- 2 For the reasons that follow, we have been instructed to again request your clients to reconsider their position *vis-à-vis* the documentation and information requested in our letter dated 8 October 2024 ("our letter").
- 3 As you are aware, on 2 October 2024 we received a letter from DMI Attorneys (the attorneys who now represent RGS Group Holdings Limited ("RGS")) ("DMI's letter"). In paragraph 28 of DMI's letter, RGS has demanded that our clients produce -
 - 3.1 a copy of the current version of the acquisition agreement;
 - 3.2 proof of the amount paid by Vision;
 - 3.3 proof of transfer of all of the claims and security to Vision;
 - 3.4 details of the transactions to be implemented pursuant to the Vision Sale of Asset Transaction; and

Werksmans Inc. Reg. No. 1990/007215/21 Registered Office The Central 96 Rivonia Road Sandton 2196 South Africa
Directors D Hertz (Chairman) OL Abraham LK Alexander C Andropoulos JKOF Antunes RL Armstrong DA Arteiro K Badal T Bala JD Behr AR Berman P Bhagatjee NMN Bhengu AL Bilaty RE Bonnet TJ Boswell W Brown HLE Chang PG Cleland JG Cloete PPJ Coetser C Cole-Morgan J Darling R Driman KJ Fyfe S Gast D Gewer JA Gobetz R Goolkin A Govuza GF Griessel NA Hlalshwayo J Hollesen MGH Honiball BB Holz AE Human T Inno HC Jacobs TL Janse van Rensburg G Johannes S July J Kalmeyer A Kenny NK Kgame R Killoran N Kirby HA Kolze S Krige CJ Latha H Laskov P le Roux MM Lessing E Levenshtein JS Lochner K Louw JS Lubbe BS Mabasa PK Mabaso DD Magidson MPC Manaka JE Mardon PD Mashalane JE Meiring H Michael SM Moerane R Moitse C Moraitis PM Mosebo NPA Molsiri L Naidoo K Neluheni BW Ntuli BPF Olivier Z Oosthuizen S Padayachy M Pansegrouw S Passmoor D Pisanli T Potter AA Pyzikowski RJ Raath K Rajah A Ramdhiin B Rammala MDF Rodrigues BR Roothman W Rosenberg NL Scott TA Sibidla FT Sikhavhakhavha LK Silberman S Sinden DE Singo JA Smit BM Sono CI Stevens PO Steyn J Stockwell DH Swart PW Tindle JJ Truter KJ Trudgeon DN van den Berg AA van der Merwe A van Heerden JJ van Niekerk FJ van Tonder JP van Wyk A Valatidis RN Wakefield L Watson D Wegierski G Wickins M Wiehahn DC Willans E Wood BW Workman-Davies Consultants DH Rabin DG Williams

JOHANNESBURG • CAPE TOWN • STELLENBOSCH

[Handwritten signatures]
M.A. G.C. G.C.



- 3.5 a timeline for the completion of the aforesaid transaction.
- 4 DMI has made it clear that in the absence of our clients providing the documents and information referred to in paragraphs 3.1 to 3.5 above ("**the demanded information**"), their client will bring urgent proceedings against, *inter alios*, our respective clients (see paragraph 29 of DMI's letter). We do not believe that the threatened application will necessarily be limited to relief relating to the production of the demanded information but may include an order setting aside the Plan.
- 5 Following receipt of DMI's letter, we advised DMI that we had requested the demanded information from, *inter alios*, your clients.
- 6 On 10 October 2024, we received an email from DMI making it clear that if our clients did not provide a date by when they would provide a substantive response to DMI's letter, they would "*have no choice but to proceed to court.*"
- 7 It is our clients' *bona fide* belief that if the demanded information is not provided to our clients and to RGS imminently, our respective clients will face urgent court proceedings.
- 8 Without detracting from what is set out above, your clients are undoubtedly aware that information and documentation of a similar nature to the demanded information has been sought by THL's shareholders and other creditors of THL (including but not limited to Powertrans, Artemis and Mary Jane Morris). There exists every possibility that the support of shareholders and creditors will be critical to securing regulatory approvals necessary to successfully implement the Vision Sale of Asset Transaction. A failure to obtain such regulatory approvals may render the Plan incapable of implementation.
- 9 The position adopted by your clients in your letter has placed our clients in a position where they are incapable of responding substantively to all of the issues traversed DMI's letter. In these circumstances, should the foreshadowed urgent proceedings be brought, our clients may be able to do no more than abide by the Court's decision.
- 10 Against the background of what is set out in paragraphs 8 and 9 above, your clients' failure to provide our clients with a meaningful response to the content of DMI's 2 October 2024 letter, such that will give RGS (and a Court) comfort that the transactions will be implemented and all amounts due will be paid in full by Vision (as requested in our letter), is concerning.
- 11 The BRPs are enjoined to implement creditors' wishes and carry the alternate Business Rescue plan (the Vision Sale of Asset Transaction) into effect and, whilst discharging their statutory duties and responsibilities (which they have and continue to do to date), to take all appropriate steps to facilitate implementation of the Vision Sale of Asset transaction.
- 12 Our client has instructed us to call upon your clients to demonstrate, to our clients' satisfaction, that -
- 12.1 the transactions forming the subject matter of the transfer certificate (ie the debt sale) are on track;
- 12.2 your clients are in a position to timeously discharge their payment obligations to Lender Group; and
- 12.3 there is no impediment to the Sale of Asset Transaction in the context of the sale of debt transaction.



[Handwritten signature]
M.A
G.C
G.A

TONG7430 17/#10473968v5
16102024



13 We await to hear from you.

Yours faithfully

Werksmans



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G.C
Gen

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

Annexure 16 and More

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:44:56 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.**

"MAR25"

Corporate and
Investment Banking



WERKSMANS ATTORNEYS

Attention: Trevor Boswell

Per e-mail: TBoswell@werksmans.com

22 October 2024

Dear Trevor,

TONGAAT HULETT LIMITED (IN BUSINESS RESCUE)

- 1. We refer to your letter dated 16 October 2024.
- 2. Capitalised words will have the meaning ascribed thereto in the Business Rescue Plan unless defined herein.
- 3. The Lender Group has instructed us to respond to your letter as follows:



- 3.1. The Business Rescue Plan should be capable of implementation irrespective of whether the secured Claims are owned by the Lender Group or Vision / Vision Parties. The status of the implementation of the transfer certificate concluded between Vision and the Lender Group ("**Transfer Certificate**") is therefore not determinant of whether the Business Rescue Plan is capable of implementation.
- 3.2. In this regard:
 - 3.2.1. The Business Rescue Plan contemplates a partial debt-for-equity swap of cR4.1 billion ("**Equity Conversion**"), which would be discharged by a reduction in the Lender Group Claims against THL (those purchased by the Vision Parties) to cR3.6 billion. The Equity Conversion would result in the Vision Parties collectively owning c97.3% of all the THL shares in issue. Following the Equity Conversion, there would be cR3.6 billion in remaining ex-Lender Group Claims ("**Remaining Debt**") owing by THL to the Vision Parties and will remain in place, with the accompanying security, and will be restructured accordingly between THL and the Vision Parties on market related terms.
 - 3.2.2. The Lender Group confirmed in a letter dated 24 July 2024 that the portion of the secured Claims held by the Lender Group that was required to implement the Equity Conversion would be made available to Vision for the purposes of the Equity Conversion.
 - 3.2.3. If the Equity Conversion had been implemented, Vision would have held c97.3% of the issued shares in THL, and as a result of the confirmation as described in clause 3.2.2, the Lender Group would have held the Remaining Debt with the accompanying security. Upon fulfilment of all conditions of the

WERKSMANS ATTORNEYS
 111, 113, 115, 117, 119, 121, 123, 125, 127, 129, 131, 133, 135, 137, 139, 141, 143, 145, 147, 149, 151, 153, 155, 157, 159, 161, 163, 165, 167, 169, 171, 173, 175, 177, 179, 181, 183, 185, 187, 189, 191, 193, 195, 197, 199, 201, 203, 205, 207, 209, 211, 213, 215, 217, 219, 221, 223, 225, 227, 229, 231, 233, 235, 237, 239, 241, 243, 245, 247, 249, 251, 253, 255, 257, 259, 261, 263, 265, 267, 269, 271, 273, 275, 277, 279, 281, 283, 285, 287, 289, 291, 293, 295, 297, 299, 301, 303, 305, 307, 309, 311, 313, 315, 317, 319, 321, 323, 325, 327, 329, 331, 333, 335, 337, 339, 341, 343, 345, 347, 349, 351, 353, 355, 357, 359, 361, 363, 365, 367, 369, 371, 373, 375, 377, 379, 381, 383, 385, 387, 389, 391, 393, 395, 397, 399, 401, 403, 405, 407, 409, 411, 413, 415, 417, 419, 421, 423, 425, 427, 429, 431, 433, 435, 437, 439, 441, 443, 445, 447, 449, 451, 453, 455, 457, 459, 461, 463, 465, 467, 469, 471, 473, 475, 477, 479, 481, 483, 485, 487, 489, 491, 493, 495, 497, 499, 501, 503, 505, 507, 509, 511, 513, 515, 517, 519, 521, 523, 525, 527, 529, 531, 533, 535, 537, 539, 541, 543, 545, 547, 549, 551, 553, 555, 557, 559, 561, 563, 565, 567, 569, 571, 573, 575, 577, 579, 581, 583, 585, 587, 589, 591, 593, 595, 597, 599, 601, 603, 605, 607, 609, 611, 613, 615, 617, 619, 621, 623, 625, 627, 629, 631, 633, 635, 637, 639, 641, 643, 645, 647, 649, 651, 653, 655, 657, 659, 661, 663, 665, 667, 669, 671, 673, 675, 677, 679, 681, 683, 685, 687, 689, 691, 693, 695, 697, 699, 701, 703, 705, 707, 709, 711, 713, 715, 717, 719, 721, 723, 725, 727, 729, 731, 733, 735, 737, 739, 741, 743, 745, 747, 749, 751, 753, 755, 757, 759, 761, 763, 765, 767, 769, 771, 773, 775, 777, 779, 781, 783, 785, 787, 789, 791, 793, 795, 797, 799, 801, 803, 805, 807, 809, 811, 813, 815, 817, 819, 821, 823, 825, 827, 829, 831, 833, 835, 837, 839, 841, 843, 845, 847, 849, 851, 853, 855, 857, 859, 861, 863, 865, 867, 869, 871, 873, 875, 877, 879, 881, 883, 885, 887, 889, 891, 893, 895, 897, 899, 901, 903, 905, 907, 909, 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1259, 1261, 1263, 1265, 1267, 1269, 1271, 1273, 1275, 1277, 1279, 1281, 1283, 1285, 1287, 1289, 1291, 1293, 1295, 1297, 1299, 1301, 1303, 1305, 1307, 1309, 1311, 1313, 1315, 1317, 1319, 1321, 1323, 1325, 1327, 1329, 1331, 1333, 1335, 1337, 1339, 1341, 1343, 1345, 1347, 1349, 1351, 1353, 1355, 1357, 1359, 1361, 1363, 1365, 1367, 1369, 1371, 1373, 1375, 1377, 1379, 1381, 1383, 1385, 1387, 1389, 1391, 1393, 1395, 1397, 1399, 1401, 1403, 1405, 1407, 1409, 1411, 1413, 1415, 1417, 1419, 1421, 1423, 1425, 1427, 1429, 1431, 1433, 1435, 1437, 1439, 1441, 1443, 1445, 1447, 1449, 1451, 1453, 1455, 1457, 1459, 1461, 1463, 1465, 1467, 1469, 1471, 1473, 1475, 1477, 1479, 1481, 1483, 1485, 1487, 1489, 1491, 1493, 1495, 1497, 1499, 1501, 1503, 1505, 1507, 1509, 1511, 1513, 1515, 1517, 1519, 1521, 1523, 1525, 1527, 1529, 1531, 1533, 1535, 1537, 1539, 1541, 1543, 1545, 1547, 1549, 1551, 1553, 1555, 1557, 1559, 1561, 1563, 1565, 1567, 1569, 1571, 1573, 1575, 1577, 1579, 1581, 1583, 1585, 1587, 1589, 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1923, 1925, 1927, 1929, 1931, 1933, 1935, 1937, 1939, 1941, 1943, 1945, 1947, 1949, 1951, 1953, 1955, 1957, 1959, 1961, 1963, 1965, 1967, 1969, 1971, 1973, 1975, 1977, 1979, 1981, 1983, 1985, 1987, 1989, 1991, 1993, 1995, 1997, 1999, 2001, 2003, 2005, 2007, 2009, 2011, 2013, 2015, 2017, 2019, 2021, 2023, 2025, 2027, 2029, 2031, 2033, 2035, 2037, 2039, 2041, 2043, 2045, 2047, 2049, 2051, 2053, 2055, 2057, 2059, 2061, 2063, 2065, 2067, 2069, 2071, 2073, 2075, 2077, 2079, 2081, 2083, 2085, 2087, 2089, 2091, 2093, 2095, 2097, 2099, 2101, 2103, 2105, 2107, 2109, 2111, 2113, 2115, 2117, 2119, 2121, 2123, 2125, 2127, 2129, 2131, 2133, 2135, 2137, 2139, 2141, 2143, 2145, 2147, 2149, 2151, 2153, 2155, 2157, 2159, 2161, 2163, 2165, 2167, 2169, 2171, 2173, 2175, 2177, 2179, 2181, 2183, 2185, 2187, 2189, 2191, 2193, 2195, 2197, 2199, 2201, 2203, 2205, 2207, 2209, 2211, 2213, 2215, 2217, 2219, 2221, 2223, 2225, 2227, 2229, 2231, 2233, 2235, 2237, 2239, 2241, 2243, 2245, 2247, 2249, 2251, 2253, 2255, 2257, 2259, 2261, 2263, 2265, 2267, 2269, 2271, 2273, 2275, 2277, 2279, 2281, 2283, 2285, 2287, 2289, 2291, 2293, 2295, 2297, 2299, 2301, 2303, 2305, 2307, 2309, 2311, 2313, 2315, 2317, 2319, 2321, 2323, 2325, 2327, 2329, 2331, 2333, 2335, 2337, 2339, 2341, 2343, 2345, 2347, 2349, 2351, 2353, 2355, 2357, 2359, 2361, 2363, 2365, 2367, 2369, 2371, 2373, 2375, 2377, 2379, 2381, 2383, 2385, 2387, 2389, 2391, 2393, 2395, 2397, 2399, 2401, 2403, 2405, 2407, 2409, 2411, 2413, 2415, 2417, 2419, 2421, 2423, 2425, 2427, 2429, 2431, 2433, 2435, 2437, 2439, 2441, 2443, 2445, 2447, 2449, 2451, 2453, 2455, 2457, 2459, 2461, 2463, 2465, 2467, 2469, 2471, 2473, 2475, 2477, 2479, 2481, 2483, 2485, 2487, 2489, 2491, 2493, 2495, 2497, 2499, 2501, 2503, 2505, 2507, 2509, 2511, 2513, 2515, 2517, 2519, 2521, 2523, 2525, 2527, 2529, 2531, 2533, 2535, 2537, 2539, 2541, 2543, 2545, 2547, 2549, 2551, 2553, 2555, 2557, 2559, 2561, 2563, 2565, 2567, 2569, 2571, 2573, 2575, 2577, 2579, 2581, 2583, 2585, 2587, 2589, 2591, 2593, 2595, 2597, 2599, 2601, 2603, 2605, 2607, 2609, 2611, 2613, 2615, 2617, 2619, 2621, 2623, 2625, 2627, 2629, 2631, 2633, 2635, 2637, 2639, 2641, 2643, 2645, 2647, 2649, 2651, 2653, 2655, 2657, 2659, 2661, 2663, 2665, 2667, 2669, 2671, 2673, 2675, 2677, 2679, 2681, 2683, 2685, 2687, 2689, 2691, 2693, 2695, 2697, 2699, 2701, 2703, 2705, 2707, 2709, 2711, 2713, 2715, 2717, 2719, 2721, 2723, 2725, 2727, 2729, 2731, 2733, 2735, 2737, 2739, 2741, 2743, 2745, 2747, 2749, 2751, 2753, 2755, 2757, 2759, 2761, 2763, 2765, 2767, 2769, 2771, 2773, 2775, 2777, 2779, 2781, 2783, 2785, 2787, 2789, 2791, 2793, 2795, 2797, 2799, 2801, 2803, 2805, 2807, 2809, 2811, 2813, 2815, 2817, 2819, 2821, 2823, 2825, 2827, 2829, 2831, 2833, 2835, 2837, 2839, 2841, 2843, 2845, 2847, 2849, 2851, 2853, 2855, 2857, 2859, 2861, 2863, 2865, 2867, 2869, 2871, 2873, 2875, 2877, 2879, 2881, 2883, 2885, 2887, 2889, 2891, 2893, 2895, 2897, 2899, 2901, 2903, 2905, 2907, 2909, 2911, 2913, 2915, 2917, 2919, 2921, 2923, 2925, 2927, 2929, 2931, 2933, 2935, 2937, 2939, 2941, 2943, 2945, 2947, 2949, 2951, 2953, 2955, 2957, 2959, 2961, 2963, 2965, 2967, 2969, 2971, 2973, 2975, 2977, 2979, 2981, 2983, 2985, 2987, 2989, 2991, 2993, 2995, 2997, 2999, 3001, 3003, 3005, 3007, 3009, 3011, 3013, 3015, 3017, 3019, 3021, 3023, 3025, 3027, 3029, 3031, 3033, 3035, 3037, 3039, 3041, 3043, 3045, 3047, 3049, 3051, 3053, 3055, 3057, 3059, 3061, 3063, 3065, 3067, 3069, 3071, 3073, 3075, 3077, 3079, 3081, 3083, 3085, 3087, 3089, 3091, 3093, 3095, 3097, 3099, 3101, 3103, 3105, 3107, 3109, 3111, 3113, 3115, 3117, 3119, 3121, 3123, 3125, 3127, 3129, 3131, 3133, 3135, 3137, 3139, 3141, 3143, 3145, 3147, 3149, 3151, 3153, 3155, 3157, 3159, 3161, 3163, 3165, 3167, 3169, 3171, 3173, 3175, 3177, 3179, 3181, 3183, 3185, 3187, 3189, 3191, 3193, 3195, 3197, 3199, 3201, 3203, 3205, 3207, 3209, 3211, 3213, 3215, 3217, 3219, 3221, 3223, 3225, 3227, 3229, 3231, 3233, 3235, 3237, 3239, 3241, 3243, 3245, 3247, 3249, 3251, 3253, 3255, 3257, 3259, 3261, 3263, 3265, 3267, 3269, 3271, 3273, 3275, 3277, 3279, 3281, 3283, 3285, 3287, 3289, 3291, 3293, 3295, 3297, 3299, 3301, 3303, 3305, 3307, 3309, 3311, 3313, 3315, 3317, 3319, 3321, 3323, 3325, 3327, 3329, 3331, 3333, 3335, 3337, 3339, 3341, 3343, 3345, 3347, 3349, 3351, 3353, 3355, 3357, 3359, 3361, 3363, 3365, 3367, 3369, 3371, 3373, 3375, 3377, 3379, 3381, 3383, 3385, 3387, 3389, 3391, 3393, 3395, 3397, 3399, 3401, 3403, 3405, 3407, 3409, 3411, 3413, 3415, 3417, 3419, 3421, 3423, 3425, 3427, 3429, 3431, 3433, 3435, 3437, 3439, 3441, 3443, 3445, 3447, 3449, 3451, 3453, 3455, 3457, 3459, 3461, 3463, 3465, 3467, 3469, 3471, 3473, 3475, 3477, 3479, 3481, 3483, 3485, 3487, 3489, 3491, 3493, 3495, 3497, 3499, 3501, 3503, 3505, 3507, 3509, 3511, 3513, 3515, 3517, 3519, 3521, 3523, 3525, 3527, 3529, 3531, 3533, 3535, 3537, 3539, 3541, 3543, 3545, 3547, 3549, 3551, 3553, 3555, 3557, 3559, 3561, 3563, 3565, 3567, 3569, 3571, 3573, 3575, 3577, 3579, 3581, 3583, 3585, 3587, 3589, 3591, 3593, 3595, 3597, 3599, 3601, 3603, 3605, 3607, 3609, 3611, 3613, 3615, 3617, 3619, 3621, 3623, 3625, 3627, 3629, 3631, 3633, 3635, 3637, 3639, 3641, 3643, 3645, 3647, 3649, 3651, 3653, 3655, 3657, 3659, 3661, 3663, 3665, 3667, 3669, 3671, 3673, 3675, 3677, 3679, 3681, 3683, 3685, 3687, 3689, 3691, 3693, 3695, 3697, 3699, 3701, 3703, 3705, 3707, 3709, 3711, 3713, 3715, 3717, 3719, 3721, 3723, 3725, 3727, 3729, 3731, 3733, 3735, 3737, 3739, 3741, 3743, 3745, 3747, 3749, 3751, 3753, 3755, 3757, 3759, 3761, 3763, 3765, 3767, 3769, 3771, 3773, 3775, 3777, 3779, 3781, 3783, 3785, 3787, 3789, 3791, 3793, 3795, 3797, 3799, 3801, 3803, 3805, 3807, 3809, 3811, 3813, 3815, 3817, 3819, 3821, 3823, 3825, 3827, 3829, 3831, 3833, 3835, 3837, 3839, 3841, 3843, 3845, 3847, 3849, 3851, 3853, 3855, 3857, 3859, 3861, 3863, 3865, 3867, 3869, 3871, 3873, 3875, 3877, 3879, 3881, 3883, 3885, 3887, 3889, 3891, 3893, 3895, 3897, 3899, 3901, 3903, 3905, 3907, 3909, 3911, 3913, 3915, 3917, 3919, 3921, 3923, 3925, 3927, 3929, 3931, 3933, 3935, 3937, 3939, 3941, 3943, 3945, 3947, 3949, 3951, 3953, 3955, 3957, 3959, 3961, 3963, 3965, 3967, 3969, 3971, 3973, 3975, 3977, 3979, 3981, 3983, 3985, 3987, 3989, 3991, 3993, 3995, 3997, 3999, 4001, 4003, 4005, 4007, 40

Corporate and Investment Banking



Transfer Certificate, the ownership of the Remaining Debt would transfer from the Lender Group to Vision.

- 3.2.4. The Transfer Certificate was not a hurdle to the Equity Conversion. The Equity Conversion failed due to the THL shareholders not approving the issuance of further shares to implement the proposed Equity Conversion.
- 3.2.5. The Business Rescue Plan provides for an alternative transaction in the event that consents and/or approvals are not secured to issue THL shares in order to implement the Equity Conversion, namely the sale of THL's assets and businesses (as going concerns) to the Vision Parties on the basis that payment for the assets and businesses will be effected by way of set off against the secured Claims then held by the Vision Parties ("Alternative Transaction").
- 3.2.6. In the same way that the Equity Conversion was capable of implementation, notwithstanding that the Lender Group still held the secured Claims, the Alternative Transaction is also capable of implementation.
- 3.2.7. Accordingly, the Lender Group hereby requests that the draft sale agreements and any related documents (including any opinions obtained) relating to the Alternative Transaction be made available to the Lender Group and ENS to determine what is required of the Lender Group to enable the Alternative Transaction to be implemented.
- 3.2.8. The Transfer Certificate is therefore not an impediment to the implementation of the Business Rescue Plan.



4. We await your feedback and copies the draft agreements as requested.

Yours faithfully,

For and on behalf of:

The Standard Bank of South Africa Limited
(acting through its Corporate and Investment Banking division)
(in its capacity as Facility Agent for and on behalf/the instructions of the Syndicated Lender Group)

Name: Venkatesh Seerangam
Capacity: Vice-President: Agency Front Office
Who warrants his/her authority hereto



Standard Bank

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

Annexure 16 and More

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BY:

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

Group in early December 2024 to agree on an extension to pay the balance. These factors are set out below.

POLITICAL UNREST IN MOZAMBIQUE

55. On 9 October 2024, the results of the Mozambican election were announced, declaring the incumbent party the winner. During late October 2024, violent protests concerning the results commenced. In December 2024, and in particular after Mozambique's apex court confirmed the election results, the ongoing political unrest in Mozambique escalated further, reaching a critical level of instability. This created uncertainties surrounding the value of the assets located in the region. The political unrest significantly eroded confidence in the country's ability to maintain order, protect investments, and uphold the rule of law, all of which are essential for the integrity of assets underlying the Lender Group's security and which would, in part, support the raising of the necessary funding.



56. These protests have been widely reported. I have attached two such news articles:

56.1. The first is an Al Jazeera report on 24 December 2024 (attached as SA1) detailing the protests and their escalation after the court confirmation.

56.2. The second is a report in Mining Review Africa on 3 January 2025 (attached as SA2), which details the loss of 278 lives, widespread vandalism of over 500 companies, the loss of over 12,000 jobs and, in particular, targeting of foreign mining operations in the country.

57. The disputed elections triggered widespread protests, many of which escalated into violence, looting of businesses, arson and vandalism. As a result, public infrastructure and private facilities were increasingly exposed to attacks, creating an environment where assets were no longer secure. Businesses, particularly South African businesses operating in Mozambique, faced

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operational disruptions. This all threatened the stability and reliability of the assets in the country.

58. The lack of a clear resolution to the political crisis severely undermined governance structures, with critical institutions either incapacitated or under immense strain. This introduced greater risks of legal and administrative challenges for businesses operating in the region, further jeopardising the enforceability and value of security interests.

59. In this climate, the risks to the underlying assets went beyond immediate physical threats. The erosion of investor confidence and the broader economic downturn associated with the unrest had a compounding effect, reducing the value and liquidity of these assets. Even assets considered robust or strategically significant faced devaluation, operational risks, and reduced marketability under such conditions.



60. As a result, it became increasingly difficult to place a definitive value on the assets, both for purposes of the sale agreements and the funding. These dynamics made it imperative for Vision and the Lender Group to reassess the risks and adopt a flexible, collaborative approach to any arrangements involving Mozambican assets.

61. Although the unrest in Mozambique remains in existence, since the inauguration of the Mozambican president, protests have seemingly become calmer. Notwithstanding this, tensions remain high.

THE RGS AND POWERTRANS LITIGATION AND INTERFERENCE

62. Vision and the BRPs have had to dedicate significant resources to address litigation initiated by RGS. This has diverted many of Vision's resources from implementing the Vision Plan and introduced uncertainty surrounding the Vision Plan.

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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

Annexure 16 and More

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

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

Reportable

Case no: D13702/2024



In the matter between:

RGS GROUP HOLDINGS LIMITED

Applicant

and

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

First Respondent

TREVOR JOHN MURGATROYD N.O

Second Respondent

PETRUS FRANCOIS VAN DER STEEN N.O

Third Respondent

GERHARD CONRAD ALBERTYN N.O

Fourth Respondent

VISION INVESTMENTS 155 (PTY) LTD

Fifth Respondent

TERRIS AGRIPRO (MAURITIUS)

Sixth Respondent

REMOGGO (MAURITIUS) PCC

Seventh Respondent

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**GUMA AGRI AND FOOD SECURITY LTD
(MAURITIUS)**

Eighth Respondent

**ALMOIZ NA HOLDINGS LIMITED
(UNITED ARAB EMIRATES)**

Ninth Respondent

**THE LENDER GROUP OF TONGAAT
HULETT LIMITED**

Tenth Respondent

**MOHINI SINGARI NAIDOO t/a POWERTRANS
SALES AND SERVICE**

Eleventh Respondent



**THE AFFECTED PERSONS IN THE FIRST
RESPONDENT'S BUSINESS RESCUE**

Twelfth Respondent

Coram: M E Nkosi J

Heard: 29 January 2024

Delivered: 18 February 2024

ORDER

1. Part A of the application is dismissed for lack of urgency, and for failure of the applicant to satisfy the requirements of an interim interdict.
2. Part B of the application is adjourned *sine die*.

3. RGS is granted leave to supplement its founding affidavit prior to the hearing of Part 'B', and the second to ninth respondents are granted leave to deliver further affidavits in response to such affidavit.
4. The applicant is ordered to pay the costs of Part 'A' of the application on scale C, such costs to include the costs of two counsel, where employed.

JUDGMENT



M E Nkosi J

Introduction

[1] Tongaat Hulett Limited (THL), the first respondent herein, has significant sugarcane processing facilities in the Province of KwaZulu-Natal (KZN). It employs approximately 22 927 people,¹ and is the primary source of income to the sugarcane growing communities in various parts of KZN. The company's contribution to the economy of KZN is significant, and its operations transcend the borders of South Africa to other neighbouring countries, including Botswana, Mozambique and Zimbabwe. It is for this reason that the announcement that THL had voluntarily began business rescue proceedings on 27 October 2022 sent shockwaves that threatened not only the KZN economy, but the broader South African economy as well.

¹ Information sourced from the THL website (available at www.tongaat.com).


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[2] It is within the context of its economic role in KZN that THL has been the centre of protracted litigation between some of its creditors and the Business Rescue Practitioners ('BRPs') who are appointed jointly in terms of Chapter 6 of the Companies Act ('the Companies Act')² tasked with overseeing THL during business rescue proceedings and to facilitate its rehabilitation. This application is brought by RGS Group Holdings Limited ('RGS'), which is one of THL's many creditors. RGS is challenging the business rescue plan that was adopted by the creditors of THL on the basis that an alternative version thereof is unlawful and/or has failed.

Nature of the application and the relief sought

[3] The application was launched as a matter of urgency on 6 November 2024 and was set down for hearing on 28 November 2024. The relief sought by RGS in the application is divided into two parts, the salient features of which are couched in the following terms:



Part A

1. An interim interdict preventing the first to ninth respondents from proceeding with or in any way progressing or implementing the 'Vision Asset Transaction' in terms of which all the assets of THL will be transferred to the fifth respondent ('Vision'), or any other entity nominated by the fifth to ninth respondents ('the Vision Parties'), following which THL will be delisted and liquidated.
2. An order directing the BRPs to publish the following information required by RGS on THL's business rescue website within seven business days:

² Companies Act 71 of 2008.

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- (a) A statement providing all the information contemplated in sections 150(2)(c), 150(3), and 150(4) of the Companies Act in relation to the Vision Asset Transaction;
- (b) A comprehensive description of all the agreements and transactions that have been concluded / are intended to be concluded in terms of the Vision Asset Transaction, including all the main steps in those transactions;
- (c) A statement confirming whether or not the Industrial Development Corporation of South Africa ('the IDC'), in its capacity as a post commencement finance creditor of THL, has consented to the Vision Asset Transaction.
3. An order directing the Vision Parties to provide the following information (and/or documentation) to the BRPs for publication on THL's business rescue website within seven business days:
- (a) Copies of all the versions, that is, the current version as well as the past versions, of the Acquisition Agreement concluded between the Vision Parties and the Lender Group³ of THL in terms of which the Vision Parties were / are to acquire the Lender Group's claims and security in the business rescue of THL ('the Acquisition Agreement');
- (b) Proof of all payment(s) made by the Vision Parties to the Lender Group in terms of the Acquisition Agreement, including the amount(s) of such payments;
- (c) Proof that the Lender Group has transferred all its claims and security in the THL business rescue to the Vision Parties, alternatively proof of



³ A group of 13 banks and financial institutions which together hold the largest claim against THL in the approximate amount of R8,5 billion.

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the nature and extent of such claims and security as have been transferred;

- (d) Confirmation under oath that they have not concluded and will not in future conclude any agreement(s) with the Lender Group in terms of which, whether directly or indirectly, any of THL's assets (including any such assets which are intended to be transferred under the Vision Asset Transaction) will be sold upon or after the conclusion of THL's business rescue in order to apply the proceeds of such sale(s) to settle any amount(s) due:

- (i) by the Vision Parties to the Lender Group, whether under the Acquisition Agreement or otherwise:
- (ii) to any other creditor(s) of THL.



4. An order granting RGS leave to supplement its founding affidavit prior to the hearing of Part B.
5. An order that the costs of Part A be paid by the first to ninth respondents, in addition to any party opposing the relief sought in Part A, on scale C, including the costs of two counsel where so employed.

Part B

1. An order that the business rescue plan adopted in relation to THL on 11 January 2024 be set aside.
2. An order that the costs of Part B be paid by the first to ninth respondents, in addition to any party opposing the relief sought in Part A, on scale C, including the costs of two counsel where employed.

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Factual background

[4] The factual background to the matter, briefly stated, is that on 27 October 2022 THL was placed in business rescue, and the BRPs were appointed as its joint business rescue practitioners. RGS is one of more than 1 000 admitted creditors of THL, with proven claims exceeding R13 billion. The Lender Group is by far the largest creditor, with secured claims of approximately R8,5 billion.

[5] On 10 and 11 January 2024 the BRPs convened and presided over a meeting of creditors for the purpose of considering the business rescue plan for adoption by the creditors. Prior to the date of the meeting there were two proposed business rescue plans that the BRPs were planning to put before the creditors for a vote. One was proposed by Vision ('the Vision Plan') and the other by RGS ('the RGS Plan'). However, RGS withdrew its Plan a day before the meeting, which left the Vision Plan as the only plan that was put by the BRPs before the creditors for consideration.



Approval of the Vision Plan

[6] Being the only Plan available for approval, the Vision Plan was approved and adopted by 98.51 per cent of the creditors who voted at the meeting. RGS voted against its approval. The salient features of the Vision Plan are essentially a debt-to-equity conversion ('the Conversion') in terms of which Vision would acquire shares in THL in exchange for acquiring some or all of the Lender Group's claims against THL.

[7] Alternatively, if for whatever reason Vision failed to secure the consents and/or approvals required for the Conversion, as an integral part of the proposals in the Vision Plan the transaction would be switched from the Conversion to the sale of THL assets and businesses as going concerns ('the Asset Sale') on the basis that:

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- '(a) payment for such assets will be effected by way of a set off against the Secured Claims then held by the Vision Parties;
- (b) suitable arrangements being made for payment of the full balance outstanding in respect of the IDC PFC Facility;
- (c) the sale of THL's assets and businesses will be to an entity nominated by the Vision Parties;
- (d) unsecured Creditors and Secured Creditors would otherwise be treated as contemplated in the currently contemplated Vision Transactions;
- (e) the Vision Parties will ensure that THL has sufficient funds to enable it to implement this Business Rescue Plan;
- (f) the sale of THL's assets will be subject to the requisite regulatory and other approvals common for transactions of this nature in each jurisdiction;
- (g) once it has sold its assets and businesses (as going concerns), THL will be delisted from the JSE and liquidated (noting that its shares would have nil value); and
- (h) to the fullest extent possible Vision Parties and the BRPs will seek to structure the implementation of this Business Rescue Plan such that all stakeholders, other than Shareholders and the JSE as a result of the delisting / liquidation of THL, will be in substantially the same position as they would have been had the originally contemplated Vision Transactions been implemented.'



[8] On 8 August 2024 a Special General Meeting of THL's shareholders ('the SGM') was convened and held where the special resolution for the adoption of the Conversion was tabled for consideration by the THL's shareholders. The Conversion was rejected by the shareholders. This resulted in the BRPs causing notices to be published on the JSE Stock Exchange News Services on the same date advising the affected persons and shareholders that consequent upon the rejection of the Conversion by the shareholders, the BRPs would continue to implement the Asset Sale alternative that formed an integral part of the Vision Plan.

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The issues

- [9] Against the factual background set out above, the issues for determination by this court for purposes of Part A are:
- (a) whether the matter is urgent;
 - (b) whether RGS was required to obtain leave of this court to commence legal proceedings in relation to property belonging to THL in terms of s 133(1)(b) of the Companies Act;
 - (c) whether RGS has satisfied the requirements of an interim interdict; and
 - (d) whether RGS has made out a case to warrant this court ordering the BRPs not to proceed with the implementation of the Vision Plan pending the final determination of the relief sought under Part B.



Urgency

[10] On the issue of urgency, an applicant in an urgent application is required in terms of Uniform rule 6(12)(b) to set forth explicitly in its founding affidavit the circumstances which it is averred render the matter urgent, as well as the reasons why the applicant claims that it could not be afforded substantial redress at a hearing in due course. In practice that requirement extends to the legal practitioners, who must carefully analyse the facts of each case to determine whether there are, indeed, circumstances which render the matter urgent before they sign a certificate to that effect in accordance with the requirements of the various divisions of the High Court.⁴

[11] In the present case, it is contended by RGS in its founding affidavit that the matter is urgent because of the following reasons:

⁴ *Luna Meubel Vervaardigers (Edms) Bpk v Makin and Another (t/a Makin's Furniture Manufacturers)* 1977 (4) SA 135 (W) at 137E-F.

- (a) the Asset Sale will culminate in the delisting and liquidation of THL, the result which can never be undone as it would signal the death of a 132-year-old company; precisely the outcome that the business rescue process in general and the Adopted Plan in particular are designed to avoid;
- (b) the BRPs have confirmed that they are proceeding to implement the Asset Sale without first seeking further approval from either the creditors or the shareholders, and despite their ignorance regarding the status of the Acquisition; and
- (c) in correspondence exchanged prior to the filing of the application, the BRPs indicated that they were informed by the Vision Parties and the Lender Group that (i) the Acquisition Agreement remains in place; and (ii) that the balance of the purchase price due by Vision thereunder is payable by 31 December 2024.



[12] In addition to the above, it was argued by Mr *Dickerson SC*, who appeared with Mr *Kotze* on behalf of RGS, that neither the BRPs nor Vision have given any indication as to whether and when the acquisition will be achieved, and when the Asset Sale will be implemented. Furthermore, so he argued, RGS's demands for both an implementation timetable and the production of essential information have been ignored and/or refused.

[13] With due respect to Mr *Dickerson*, the fact of the matter is that the reasons advanced by RGS for urgency have been in existence since November 2023 when the Vision Plan was first published. As indicated elsewhere in this judgment, it was expressly stipulated in that Plan that if for whatever reason the Conversion failed, the transaction would be switched from the Conversion to the Asset Sale as an alternative. Therefore, if RGS had any concerns about the alleged unlawfulness of

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the Asset Sale contained in the Plan, as an alternative, it should have applied for an interdict to stop the vote on such Plan. Instead, RGS participated in the vote and voted against the adoption of the Vision Plan.

[14] Furthermore, it was not disputed by RGS that it opposed an application that was brought by another creditor, namely, RCL Foods and Sugar Milling (Pty) Ltd, in December 2023 to interdict the holding of the creditors' meeting. A month thereafter, on 1 February 2024, RGS intervened in an application that was brought by Powertrans Sales and Service ('Powertrans'), which is another creditor of THI, and is cited as the eleventh respondent in this application. Just like RGS in this case, the relief sought by Powertrans in the aforesaid application was to interdict the implementation of the Vision Plan pending an application to set it aside. RGS supported that relief.



[15] Part A of the Powertrans application was struck from the roll for want of urgency, and RGS elected not to persist with its challenge of the Vision Plan. Powertrans withdrew Part B of its application, but only to bring a second application on 5 April 2024 seeking similar relief. The pleadings in the second Powertrans application closed in July 2024, but no steps have been taken by Powertrans to date to bring that application to finality. RGS did not intervene in the second Powertrans application, but is believed by the Vision Parties to have funded Powertrans in that litigation.

[16] In any event, RGS has not provided any explanation for its delay in instituting proceedings to interdict the implementation of the Vision Plan, nor has it shown to the satisfaction of this court that it cannot be afforded substantial redress at a hearing

in due course.⁵ If RGS was genuinely concerned about the Asset Sale being unlawful and/or in contravention of s 150 of the Companies Act, it ought to have interdicted the BRPs from tabling that Plan for consideration at the creditors' meeting held on 10 and 11 January 2024.

[17] RGS failed to seek interdictory relief even after a notice was published by the BRPs on 8 August 2024 advising THL shareholders and other affected persons that they were proceeding to implement the Asset Sale alternative following the rejection of the Conversion by the shareholders. There is also no legal basis for the submission made by Mr *Dickerson* that the Asset Sale alternative was supposed to be tabled before the THL creditors for approval prior to its implementation by the BRPs. The Asset Sale alternative was an integral part of the Vision Plan that was approved by the creditors on 11 January 2024.



[18] In view of the foregoing, I see no reason for this court to entertain Part A of RGS's application on the basis of urgency. Ordinarily, the proper order in the circumstances of this case would be to strike off with costs Part A of RSG's application, thus leaving it open for RGS to reinstate the matter on the roll for determination by this court in the normal course. However, this will be pointless, in my view, if the relief sought in Part A of the application would be without any prospects of success even if it is reinstated on the roll for hearing in due course.

[19] Therefore, for the sake of completeness, I am now proceeding to consider the other issues that are raised by the parties for determination by this court, including the requirements of an interdict. This will leave Part B of the application pending for

⁵ *East-Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd and Others* [2011] ZAGPJHC 196 para 9; *AG v DG* 2017 (2) SA 409 (GJ) para 7.

determination by the court at a later stage, that is, if RGS decides to set it down for hearing.

Whether RGS required leave of the court in terms of s 133(1)(b) of the Companies Act to commence legal proceedings against, inter alia, THL and the BRPs?

[20] To put this issue in a proper context, a point *in limine* was raised by the BRPs that RGS failed to obtain leave of the court to institute legal proceedings against, *inter alia*, THL and the BRPs when it was legally required to do so in terms of s 133(1)(b) of the Companies Act. For a sense of perspective, s 133 of the Companies Act imposes a general moratorium on legal proceedings against a company in business rescue or in relation to any property belonging to such company. It is only with the consent of the business rescue practitioner of the company, or with the leave of the court on such terms as it may consider suitable, that legal proceedings may be commenced or proceeded with against a company in business rescue.



[21] It was submitted by Mr *Subel SC*, who appeared with Messrs *Goodman SC* and *Mathiba* on behalf of the BRPs, that it was mandatory for RGS to obtain leave of the court as a prerequisite to commence legal proceedings against THL, or in relation to any property belonging to it. The submission of Mr *Dickerson*, on the other hand, was that although there are conflicting decisions on the issue,⁶ the preponderance of authority is that leave to commence legal proceedings under s 133(1)(b) of the Companies Act is not required in matters pertaining to the 'implementation' of a business rescue plan.

⁶ See the commentary in Delpont *Henochsberg on the Companies Act 71 of 2008* (Service Issue 36) at 526(12)-(18).

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[22] According to Mr *Dickerson*, leave of the court was not a prerequisite for RGS to institute legal proceedings in this case. The reason, in his submission, is because these proceedings are not directed against the company and/or its property. Therefore, they do not disturb the objectives of the moratorium, which is to give the company financial breathing space by preventing the enforcement of its debts.⁷ For authority in support of his argument, Mr *Dickerson* referred me to the case of *Moodley v On Digital Media (Pty) Ltd and Others*,⁸ where the court held, *inter alia*, that:

'[10]...Legal proceedings ... which seek that an adopted business rescue plan be executed and implemented strictly according to its terms and in accordance with the applicable provisions of the Companies Act, are legal proceedings against the business rescue practitioner *and* the company in business rescue in connection with the business rescue plan. They are not legal proceedings against the company or property belonging to the company or lawfully in its possession within the meaning of s 133(1).



[11] Section 133, therefore, finds no application in legal proceedings against a company in business rescue and its business rescue practitioner in connection with the business rescue plan, including its interpretation and execution towards implementation...'

[23] With due respect to the Learned Judge in *Moodley*, I think the proposition that s 133 is not applicable to legal proceedings against a company in business rescue and its business rescue practitioner in connection with the business rescue plan, including its interpretation and execution towards implementation, is rather dangerous. For one, there is no guarantee that if the legal proceedings against a company in business rescue and its business rescue practitioner are in connection with the business rescue plan such proceedings will not have an effect, directly or

⁷ *Moodley v On Digital Media (Pty) Ltd and Others* 2014 (6) SA 279 (GJ) para 9; *Arendse and Others v Van Der Merwe and Another NNO* 2016 (6) SA 490 (GJ) para 14.

⁸ *Moodley* *ibid*.

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indirectly, on the property belonging to the company. Although the decision in *Moodley* was subsequently followed in a number of other decisions⁹, I share the view expressed by *Sher AJ* in *Booyesen v Jonkheer Boerewynmakery (Pty) Ltd and Another*¹⁰ that it was not correctly decided.

[24] Taken to its logical conclusion, the proposition in *Moodley* would inevitably hinder any business rescue practitioner from discharging his or her statutory duty of implementing the adopted business rescue plan so that the company in financial distress can return to financial viability as expeditiously as possible. In my view, it is for this very reason that written consent of the practitioner or the leave of the court is a prerequisite for legal proceedings against the company in business rescue or in relation to any property belonging to it.



[25] Based on my interpretation of the relevant provisions of s 133(1) of the Companies Act, the requirement of written consent of the practitioner or the leave of the court is required irrespective of whether or not the legal proceedings concerned are in connection with the business rescue plan. However, I am mindful of the fact that this issue has a bearing on not only Part A, but also Part B of this application. Therefore, notwithstanding the views I expressed in relation to this issue, I think it is appropriate to leave it for final determination by the court that will hear Part B of the application.

[26] At this stage, I digress momentarily to place it on record that Mr Blou SC appeared with Mr Van Kerckhoven on behalf of the Vision Parties. For obvious

⁹ See *Resource Washing (Pty) Ltd v Zululand Coal Reclaimers (Pty) Ltd and Others* [2015] ZAKZPHC 21; *Hlumisa Investment Holdings (RF) Ltd and Another v Van der Merwe NO and Others* [2015] ZAKZPHC 21

¹⁰ *Booyesen v Jonkheer Boerewynmakery (Pty) Ltd and Another* 2017 (4) SA 51 (WCC)

reasons, the legal arguments advanced by Mr Blou were aligned with those of Mr Subel, hence I did not deem it necessary to restate same in this judgment. Besides, I think the arguments of Mr Blou are directed primarily at Part 'B' of the application, as opposed to Part 'A.'

Whether RGS has satisfied the requirements for an interim interdict?

[27] The requirements for an interim interdict are trite. Therefore, I do not think that it is necessary to provide an elaborate explanation of the circumstances under which the court may be prepared to grant such relief. It suffices to merely mention the basic requirements for an interdict for the purposes of this judgment. These include:

- (a) a *prima facie* right that might be open to some doubt;
- (b) a reasonable apprehension of irreparable and imminent harm to the applicant if the interdict is not granted;
- (c) the absence of an alternative remedy; and
- (d) the balance of convenience.¹¹

A prima facie right

[28] Starting with the requirement of a *prima facie* right, it is contended by RGS that by virtue of being a creditor of THL, it has a right to a lawful business rescue process that adheres to the mandatory governing provisions of the Companies Act. In response, the BRPs' contention is that RGS is essentially seeking to interdict them from exercising the statutory powers entrusted upon them in terms of s 140(1)(d) read with s 152(5) of the Companies Act. In support of the BRPs' argument I was referred by Mr Subel to the case of *Tshwane City v Afriforum and Another*,¹² where

¹¹ See *Setlogelo v Setlogelo* 1914 AD 221 at 229; *Webster v Mitchell* 1948 (1) SA 1186 (W).

¹² *Tshwane City v Afriforum and Another* 2016 (6) SA 279 (CC) para 43.



the Constitutional Court quoted with approval the following statement that was made by a full bench of the Cape Provincial Division in *Gool v Minister of Justice and Another*:¹³

‘...Even the common law recognises that courts should exercise the power to grant an interdict restraining the exercise statutory powers, “only ... in exceptional circumstances and when a strong case is made out for relief”.’

[29] Of course, the contention of RGS is based on the premise that the implementation of the alternative version of the Vision Plan by the BRPs is unlawful, which is the relief sought in Part B of RGS’s application. In the circumstances, it accordingly follows that it is only in the event that RGS is successful in respect of Part B of its application that the court hearing that part of the application may make a determination as to whether or not RGS had a *prima facie* right to interdict the BRPs from exercising the statutory powers entrusted upon them in terms of the Companies Act. Such determination is not necessary at this stage of the proceedings.



Reasonable apprehension of irreparable harm

[30] This brings me to the second requirement of a reasonable apprehension of irreparable and imminent harm. It is contended by RGS that a combined delisting and liquidation envisaged in the Asset Sale is the worst-case scenario for THL, its employees, creditors, trading partners and the KZN economy. Should the Vision Asset Transaction be implemented in circumstances where Vision has not paid for the acquisition and/or will sell the THL’s assets in order to repay the Lender Group, all affected persons in THL’s business rescue would suffer irreparable harm.

¹³ *Gool v Minister of Justice and Another* 1955 (2) SA 682 (C) at 688FC.

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[31] The BRPs' contention, on the other hand, is that RGS's contentions are baseless because: firstly, the implementation of the Alternative Plan will be more beneficial to all concerned, including the employees and creditors of THL, because the existing contractual relationships between THL and other parties will be transferred seamlessly to the relevant Vision entity or its nominee, and; secondly, the Lender Group and Vision have confirmed that the Alternative Plan should be capable of implementation irrespective of whether the secured claims are owned by the Lender Group or by Vision.

[32] According to my understanding, the irreparable harm alleged by RGS is based on mere speculation that Vision may not be in a position to raise sufficient funding for the acquisition of THL assets. By its own admission, RGS was not privy to the actual contents of the Acquisition Agreement between Vision and the Lender Group, which is one of the reasons it decided to bring this application. In my view, mere speculation as to what may or may not happen cannot be equated to the well-grounded apprehension of irreparable harm to justify the drastic remedy of an interim interdict sought by RGS in these proceedings.



Alternative remedy

[33] RGS contends that it has no alternative remedy by which to protect its rights. However, the fact of the matter is that if it genuinely believes that the Alternative Plan is unlawful, it can proceed to set down for hearing Part B of its application with a view to impugn such Plan. Judging by the time it has taken the BRPs to implement the Alternative Plan, my view is that RGS could have very well proceeded with its challenge of the lawfulness of that Plan without first seeking an interim interdict.

Balance of convenience

[34] It is alleged by RGS that the balance of convenience favours the granting of an interdict because, *inter alia*, THL and Vision stand to suffer little to no prejudice if the interim relief is granted. With respect, I disagree with such proposition. As I indicated at the hearing of this matter, the granting of an interdict, whether final or interim, will result in the business rescue proceedings virtually collapsing because of the time it is likely to take for the matter to be set down for hearing on the opposed motion roll. Even then, chances are that whatever decision is made by the court after hearing the application is more than likely to be taken on appeal, which would probably take years to finalise and surely result in the final liquidation of THL.



[35] The other cause for concern is, of course, the conditional extension of the THL Post-Commencement Finance Facility (“the PCFF”) by the IDC until 29 August 2025. It was expressly stipulated by the IDC in its letter dated 12 December 2024 addressed to the BRPs that the RGS application was, on its launch, an event of default in terms of the relevant Agreement with the BRPs in that it constitutes a challenge by a party to the business rescue proceedings or the implementation of the adopted Plan by the BRPs. The IDC reserved its right to cancel the Agreement if the interdict sought by RGS is granted. This, in my view, weighs the balance of convenience heavily against the granting of an interim interdict.

[36] In the result, I find that RGS has failed, firstly, to make out a case for urgency and, secondly, to satisfy the requirements for an interdict. I accordingly make an order in the following terms:

M.A.

Order

1. Part A of the application is dismissed for lack of urgency, and for failure of the applicant to satisfy the requirements of an interim interdict.
2. Part B of the application is adjourned *sine die*.
3. RGS is granted leave to supplement its founding affidavit prior to the hearing of Part 'B', and the second to ninth respondents are granted leave to deliver further affidavits in response to such affidavit.
4. The applicant is ordered to pay the costs of Part 'A' of the application on scale C, such costs to include the costs of two counsel, where employed.



**ME NKOSI
JUDGE**

M.A.

Appearances

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Ref: Mr D Moodley /SG/RGS514 /
 D Moodley / DM / RSG

For the first to fourth respondents: Mr A Subel SC and Ms I Goodman SC
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 Mr D Andropoulos / Ms S Gast /
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Ref: W2409/0005



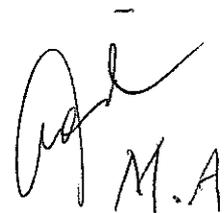
M.A.

For the fifth to ninth respondents: Mr J Blou SC and Mr M van Kerckhoven
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Date of Hearing: 29 January 2025
Date of Judgment: 18 February 2025




M.A

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**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

Annexure 16 and More

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**ELECTRONICALLY SIGNED
BY:**

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

Date: 14 May 2025

Our Ref: Mr D Moodley/SG/RGS514

Your Ref:

URGENT

**MESSRS WERKMANS ATTORNEYS;
STEIN SCOP ATTORNEYS;
THE LENDER GROUP
c/o The Lender Group Facility Agent;
and
THE INDUSTRIAL DEVELOPMENT
CORPORATION OF SOUTH AFRICA**

Per Email: tboswell@werksmans.com;
sgast@werksmans.com;
alexandra@steinscop.com;
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Dear Sirs,

RE: TONGAAT HULETT LIMITED (IN BUSINESS RESCUE)

1. We refer to the above matter and confirm that we act on behalf of RGS Group Holdings ("RGS").
2. The BRPs and Vision filed their answering affidavits in relation to Part B of the RGS application on Friday, 9 May 2025 and Saturday, 10 May 2025 respectively ("**the BRP AA**" and "**the Vision AA**").
3. In paragraph 19 of the BRP AA, the BRPs state that they "have been provided with confirmation that, on 9 May 2025, Vision discharged its payment obligations owed to

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Attorneys: T Naicker | B Henry
Candidate Attorneys: S Gathiram | S Naidoo | B Scheepers
Practice Manager: N Govender



the Lender Group in full” and that “[i]n the circumstances, RGS’s repeated contention that Vision is unable to meet its payment obligations, has been proved to be wrong.” The BRPs proceed to conclude that “[t]he full discharge by Vision of its payment obligations owed to the Lender Group is destructive of the very foundation upon which RGS’s case in Part B has been based.”

4. The BRPs characteristically failed to disclose what confirmation they received, from whom the confirmation came, or what precisely is meant by the “discharge of payment obligations”, which is capable of denoting a transaction other than an actual payment from Vision to the Lender Group.
5. By contrast, it is simply stated in the Vision AA at paragraph 7 that “Vision has now (on 9 May 2025) paid the Lender Group the entire purchase price payable by Vision to the Lender Group and, as such, there can now be no debate that it has acquired the Lender Group’s claims such that, even on RGS’s version, the Vision Plan can be fully implemented and RGS’s application must fail.”
6. Unsurprisingly, Vision too attaches nothing by way of proof either that it made full payment to the Lender Group or that it has taken unconditional cession of the Lender Group’s claims in THL’s business rescue.
7. It is equally unclear where Vision has allegedly now at long last found the funds to pay the Lender Group more than 16 months after the adoption of the Vision Plan despite its well documented inability to raise the funds in the intervening period, but it is evident that the funds were not advanced by the IDC since the BRP AA states at paragraph 18.12 that the agreements in relation to a proposed new IDC facility are still being drafted (the purpose of this facility has similarly not been explained).
8. RGS denies that the contents of the BRP AA and the Vision AA constitute proof of the discharge by Vision of its payment obligations to the Lender Group. Not a shred of such proof has in fact been provided.



9. The BRPs and Vision have elected to conduct THL's business rescue in secret and to withhold the most pertinently relevant information from affected persons from the adoption of the Vision Plan to date, by way of example:

9.1. Vision has refused to disclose the Acquisition Agreement despite the BRPs' having demanded it and the Lender Group having stated on record that it has no objection to the disclosure thereof;

9.2. The BRPs and Vision have refused to provide proof that Vision paid the deposit due to the Lender Group in terms of the Acquisition Agreement on 11 January 2024 as alleged by Vision;

9.3. The BRPs and Vision have refused to provide proof that the Lender Group's claims have been transferred to Vision;



9.4. The BRPs have unjustifiably reneged on their tender to provide RGS with copies of the various Sale Agreements that have been concluded pursuant to the Vision Asset Transaction (i.e. in terms of which all THL's assets are to be transferred to Vision).

10. Without access to the Acquisition Agreement affected persons have no way of establishing whether Vision has discharged its obligations thereunder, and by extension whether Vision has obtained the right to acquire all of THL's assets and proceed to delist and liquidate the entity in terms of the Vision Asset Transaction (assuming for present purposes that the Vision Asset Transaction is in fact lawful, which is denied) while paying creditors a paltry dividend of only 5 cents in the rand.

11. The fact that the BRPs and Vision have further refused to disclose any of the most pertinently relevant information relating to the Vision Plan and its implementation, referred to in summary above, has compounded this lack of transparency and means that affected persons have been provided with no verifiable proof that Vision has discharged its obligations properly, lawfully or at all.

12. This issue takes on special significance in the context of the RGS application given *inter alia* that:

12.1. Vision's ability to fund the Acquisition and by extension the Vision Plan was the subject of much concern and many questions during the Creditors' Meeting and was raised both by creditors and the Chairman of the Employees Committee, the latter stating in his address that "security of [Vision's] funding is seen as a critical factor";

12.2. In response to the numerous concerns expressed by creditors in relation to Vision's access to funding, Mr Murgatroyd informed the Creditors' Meeting that the BRPs had received a letter from Standard Bank which confirmed that Vision had sufficient funds to implement the Vision Plan;



12.3. No explanation was subsequently provided when Vision failed repeatedly, and despite numerous extensions, to raise the funds necessary to complete the Acquisition;

12.4. When the BRPs issued a circular to shareholders on 10 July 2024 ahead of the shareholders meeting that had been called for 8 August 2024 in order to obtain shareholder approval for the Equity Conversion, it for the first time became known from the information provided in the circular that the BRPs were attempting to proceed with the Equity Conversion despite the Acquisition not having been achieved and that the Lender Group would retain R3.6 billion of claims which, in terms of the Vision Plan, had to be acquired by Vision;

12.5. Shareholders' decision to reject the Equity Conversion was largely influenced by the fact that Vision had not achieved the Acquisition (i.e. because Vision did not have the funds to do so), this is evident from correspondence sent by shareholders to the BRPs ahead of the shareholders meeting in terms of which they state that they considered it "misplaced and grossly unreasonable" to expect them to approve the dilution of their shareholding in circumstances where Vision had not achieved the Acquisition;

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12.6. Vision's lack of funds and its consequent inability to complete the Acquisition therefore contributed materially to (i) the rejection by shareholders of the Equity Conversion which would have seen THL retain its listing on the JSE, and (ii) the "switch" to the Vision Asset Transaction in terms of which THL will be delisted and liquidated;

12.7. After the Equity Conversion failed and the BRPs "switched" to the Vision Asset Transaction, Vision repeatedly failed to honour its payment obligations to the Lender Group, most recently despite stating under oath in affidavits filed in the RGS application that the outstanding payment required to achieve the Acquisition of the Lender Group' claims would be made variously by 31 December 2024 and 31 March 2025, both of which deadlines Vision failed to meet without proper explanation.



13. The aforesaid more recent pattern of non-payment by Vision must moreover be considered in the light of the fact that Vision initially undertook to make payment to the Lender Group in full by the date of the Creditors Meeting, and when they failed to do so, the Vision Plan was amended to state unequivocally that the Vision Transactions, including the Acquisition, would be completed by April 2024 (i.e. more than a calendar year ago).
14. It is against this background of Vision's well-documented failures to raise the funds necessary to achieve the Acquisition and implement the Vision Plan that both the BRPs and Vision stated in previous affidavits filed in the RGS application that the Lender Group had confirmed that the deposit paid by Vision alone "would vest Vision with sufficient debt held by the Lender Group to enable the debt-to-equity conversion provided for in the Plan, to occur".¹
15. The BRPs attached correspondence from Standard Bank confirming the above to their answering affidavit in Part A of the RGS application.

¹ See for example BRP AA in Part A at paragraph 174.

M.A. [Signature]

- 16. On this basis, the BRPs stated further in their affidavit that “[i]f Vision were, for some reason, not to pay the balance of the purchase price owed to the Lender Group under [the Acquisition Agreement], that would not invalidate the Vision Plan...”
- 17. The allegations made by the BRPs and Vision as summarised in paragraphs 14 and 16 above were referred to by RGS in its founding affidavit as “*the Partial Acquisition Argument*”.
- 18. RGS’ founding affidavit contains an entire section dedicated to addressing the Partial Acquisition Argument. In short, RGS’s case in this regard has consistently been that:

18.1. the Partial Acquisition Argument is irreconcilable with both the terms of the Vision Plan and with the representations made to creditors by the BRPs at the Creditors’ Meeting;



18.2. The Vision Plan expressly and unequivocally requires Vision to acquire 100% of the Lender Group’s claims;²

18.3. In the context of business rescue, it is irrelevant whether the Lender Group is willing to forgo payment of the balance outstanding for the Acquisition, the BRPs must implement the Vision Plan as adopted and the plan requires the full (i.e. 100%) Acquisition of the Lender Group claims which constitutes the mechanism of rescue on which the Vision Plan is premised (i.e. constitutes the result towards improving THL’s financial health that the plan undertakes to achieve);

² Vision Plan at e.g. paragraph 2.3, paragraph 2.5.4, the definition of “Vision Transactions” contained in paragraph 3.1.85, page 9 of the plan where “Vision Debt” is defined as follows “[t]here will be c.R3.6bn in remaining ex-Lender Group debt outstanding and owing by THL to the Vision Parties (“Vision Debt”) and this will remain in place and will be restructured accordingly between THL and the Vision Parties on market related terms”, paragraph 14.1.1.11 of the plan which lists one of the material assumptions of the projected Income Statement contained in the plan to be *inter alia* as follows: “Vision Debt – The forecast assumes that Vision Debt of R3.6bn will remain owing as term debt. The Vision Parties have agreed to an interest payment holiday for the first three years, subsequently interest will be incurred at a market-related interest rate and will not be serviced in cash but capitalized...”, paragraph 14.1.2.8 of the plan were a similar provision appears in relation to the projections contained in the projected Balance Sheet provided in the plan

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 Candidate Attorneys: S Gathiram | S Naidoo | B Scheepers
 Practice Manager: N Govender

18.4. The Partial Acquisition Argument strongly suggests that Vision and the Lender Group have negotiated further terms / amendments to the Acquisition Agreement in response to Vision's failure to raise the required funds to complete the Acquisition;

18.5. If the Lender Group is to retain security of R3.6 billion over THL assets it will be in a position to permit the Vision Plan to be implemented despite Vision's default of payment and subsequently to enforce that security over THL's assets after the close of business rescue (in circumstances where the amount of such security is notably equal to the purchase price contemplated in the Acquisition Agreement);

18.6. That on this basis the Lender Group and Vision could logically have agreed that the former would permit the Vision Plan to be implemented and THL's business rescue to be closed in the absence of payment on condition that Vision then sell THL assets directly after business rescue in order to settle the amount owing to the Lender Group under the Acquisition Agreement;



18.7. That any agreement to this or similar effect would effectively allow Vision to secretly pay for the Acquisition, and therefore for the acquisition of THL itself, from the proceeds of a sale of THL's property post business rescue.

19. It was on this basis that RGS sought, in prayer 5.4 of its notice of motion, confirmation under oath from Vision that it has not and will not in future conclude any agreement with the Lender Group in terms of which any of THL's assets would be sold upon or after the conclusion of the rescue process in order to apply the proceeds of such sales to settle any amount due to the Lender Group or any other creditors.

20. The contents of a supplementary affidavit dated 27 January 2025 filed by Vision in relation to Part A of the RGS application gave credence to the above.

M. A. (A)

21. In Vision's supplementary affidavit it made *inter alia* the following allegations in relation to the effect of the political unrest in Mozambique and the effect that the RGS application had on Vision's ability to achieve the Acquisition (bold emphasis supplied):

21.1. "...The political unrest significantly eroded confidence in the country's ability to maintain order, protect investments, and uphold the rule of law, all of which are **essential for the integrity of the assets underlying the Lender Group's security and which would, in part, support the raising of the necessary funding.**"³

21.2. "...This introduced greater risks of legal and administrative challenges for businesses operating in the region, **further jeopardising the enforceability and value of security interests.**"⁴



21.3. "In this climate, the risks to the underlying assets went beyond immediate physical threats. The erosion of investor confidence and the broader economic downturn associated with the unrest had a compounding effect, **reducing the value and liquidity of these assets. Even assets considered robust or strategically significant faced devaluation, operational risks, and reduced marketability under such conditions.**"⁵

21.4. "**As a result, it became increasingly difficult to place a definitive value on the assets, both for purposes of the sale agreements and the funding.** These dynamics made it imperative for Vision and the Lender Group to reassess the risks and adopt a flexible, collaborative approach to any arrangements involving Mozambican assets."⁶

³ Vision supplementary affidavit of 27 January 2025 at paragraph 55.

⁴ *Ibid* at paragraph 58.

⁵ *Ibid* at paragraph 59.

⁶ *Ibid* at paragraph 60.

22. In RGS' supplementary affidavit filed in Part B of the application, it alleges at paragraphs 77 to 78 that the above allegations made by Vision demonstrate that Vision was seeking to leverage THL's assets (which Vision does not own) to raise the funding required to acquire those very assets, and that this gives rise to the potential for serious abuse of the business rescue process.

23. RGS moreover pointed out at paragraph 79 of its supplementary affidavit that "[c]reditors were not informed at the creditors meeting that Vision would fund its acquisition of the LG Claims by using THL's assets as collateral. Creditors were informed that Vision had sufficient funds to implement the Plan." (original emphasis.)

24. In all of the above circumstances, RGS does not accept the BRPs' and Vision Parties' say so to the effect that the latter "fully discharged its payment obligations" to the Lender Group in relation to the outstanding amount due under the Acquisition Agreement on 9 May 2025.



25. Even if Vision has in fact paid the Lender Group, Vision's abovementioned concessions in its supplementary affidavit that it has sought to leverage THL's assets to raise funding remains a live element of RGS' case in the pending RGS application, and the contents of the BRP AA and Vision AA does not therefore dispose of the RGS application at all.

26. **We are therefore instructed to demand the following information by no later than close of business on Wednesday, 21 May 2025:**

26.1. First, that the BRPs provide a copy of the confirmation that they received to the effect that Vision has discharged its payment obligations to the Lender Group as per paragraph 19 of the BRP AA;

M.A. [Signature]

26.2. Second, that the Vision Parties -

26.2.1. Provide proof of the payments they allege to have made to the Lender Group of (i) the deposit of R1.51 billion on 11 January 2024, and (ii) the balance owed of c.R2 billion on 9 May 2025;

26.2.2. Provide proof that all of the Lender Group's claims in and security against THL have been transferred to Vision unconditionally (i.e. the Lender Group's claims and security of c.R8.5 billion⁷ which Vision has allegedly acquired by paying the Lender Group c.R3.51bn in terms of the Acquisition Agreement);

26.2.3. Provide confirmation under oath that they have not concluded an agreement with the Lender Group or any other funder or related party in terms of which they have either offered or put up THL's assets as security / collateral for any debt they incurred in raising the funds required to discharge any of their payment obligations to either (i) the Lender Group, or (ii) any other parties who are to receive distributions in terms of the Vision Plan;



26.3. Third, that the Lender Group provide:

26.3.1. Written confirmation that Vision has itself paid to the Lender Group, in cash, the full amount owed by Vision under the Acquisition Agreement amounting to c.R3.51 billion, with the deposit of R1.51 billion having been paid on 11 January 2024 and the balance having been paid on 9 May 2025;

26.3.2. Proof that the Lender Group has unconditionally transferred all of its claims in and security against THL to Vision (i.e. the Lender Group's

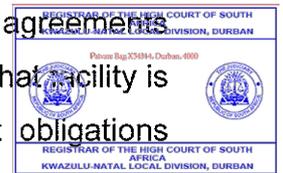
⁷ This is the latest figure available publicly as contained in the circular to shareholders of 10 July 2024. The amount should be taken to denote the current figure including updated interest etc.

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claims and security of c.R8.5 billion⁸ which Vision has allegedly acquired by paying the Lender Group c.R3.51bn in terms of the Acquisition Agreement);

26.3.3. Written confirmation of whether or not the Lender Group or any member thereof advanced to Vision the funds used by Vision to settle the balance of the amount due to the Lender Group above the deposit;

26.4. Fourth, that the IDC provide written confirmation regarding the nature and purpose of the facility referred to in paragraph 18.12 of the BRP AA (i.e. “a new facility has been approved by IDC for Vision Sugar and the relevant agreements are currently being drafted”) and to confirm whether any amount of that facility is intended to be used by Vision to discharge any of its payment obligations pursuant to either (i) the Acquisition Agreement, or (ii) the Vision Plan.



27. **In addition, RGS demands from the BRPs, the Vision Parties, and the Lender Group that** (i) a copy of the Acquisition Agreement, and (ii) copies of any and all previous versions of the Acquisition Agreement be provided to RGS and published on the THL business rescue website for the benefit of all affected persons **also by no later than close of business on Wednesday, 21 May 2025.**

28. Should the payments by Vision to the Lender Group of 11 January 2024 and 9 May 2025 in fact have been made there can be no reasonable objection by or prejudice to any of the parties involved to provide proof thereof.

29. Similarly, if the Acquisition has now been achieved and the Acquisition Agreement does not contain any terms that are inconsistent with the Vision Plan, there can be no reasonable objection by or prejudice to any of the parties involved to act transparently and provide the Acquisition Agreement to affected persons.

⁸ This is the latest figure available publicly as contained in the circular to shareholders of 10 July 2024. The amount should be taken to denote the current figure including updated interest etc.

M.A. [Signature]

30. Should the demands contemplated in paragraphs 26 and 27 above not be met by close of business on **Wednesday, 21 May 2025**, RGS will have no option but to assume that the BRPs will proceed to close THL's business rescue, or alternatively progress the Asset Sales to Vision to such an extent that they will become impossible to reverse, before Part B of its application is heard.
31. RGS will in that event have no choice but to approach the High Court on an urgent basis for orders *inter alia* directing that the information demanded be disclosed to affected persons

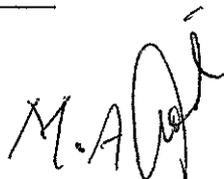
Yours faithfully,

 P.P.
D MOODLEY

DMI Attorneys



Senior Practitioner: D Moodley
Attorneys: T Naicker | B Henry
Candidate Attorneys: S Gathiram | S Naidoo | B Scheepers
Practice Manager: N Govender



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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

Annexure 16 and More

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BY:

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

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21 May 2025

Dear Sirs

RGS GROUP HOLDINGS LIMITED ("your client") // TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) ("THL") AND ITS BUSINESS RESCUE PRACTITIONERS ("the BRPs") (collectively, "our clients") AND ELEVEN OTHERS, CASE NO. D13702/2024 ("your client's application")

- 1 We refer to your letter ("**your letter**") dated 14 May 2025.
- 2 A number of the assertions in your letter have been raised repeatedly by your client, whether in affidavits or in correspondence. Our clients' responses to your client's repeated, unfounded, ill-conceived (and now defamatory and unlawful) assertions are already well-documented, and no useful purpose will be served in repeating our clients' responses thereto.
- 3 Our clients' failure to (again) address the assertions which litter your letter should, in the circumstances, not be construed as an admission thereof, or as a waiver of our clients' rights in this regard, which rights are again reserved.
- 4 Our clients take umbrage to the accusation that our clients "*characteristically failed to disclose what confirmation they received*". The reference to the confirmation in our clients' answering affidavit is a reference to the following confirmation that was received from Messrs Stein Scop on 9 May 2025 (prior to our clients' answering affidavit having been delivered) -

"Vision have made payment of the purchase consideration due to the Lender Group. In the circumstances, the transaction between Vision and the Lender Group has been finalised."

- 5 A copy of the email received from Stein Scop dated 9 May 2025 is attached marked "**A**".

Werksmans Inc. Reg. No. 1990/007215/21 Registered Office The Central 96 Rivonia Road Sandton 2196 South Africa
 Directors D Hertz (Chairman) OL Abraham LK Alexander C Andropoulos JKOF Antunes L Appelgryn RL Armstrong DA Arteiro K Badal T Bata JD Behr AR Berman P Bhagattjee NMN Bhengu AL Bilaty RE Bonnet TJ Boswell W Brown HLE Chang PG Cleland JG Cloete PPJ Coetser C Cole-Morgan J Darling R Driman KJ Fyfe S Gast D Gewer JA Gobetz R Gootkin A Govuza GF Griessel NA Hlatshwayo J Hollisen MGH Honiball BB Hotz AE Human T Inno HC Jacobs TL Janse van Rensburg G Johannes S July J Kallmeyer A Kenny NK Kgame R Killoran N Kirby HA Kotze S Krige CJ Laltha H Laskov P le Roux MM Lessing E Levenstein JS Lochner K Louw JS Lubbe BS Mabasa PK Mabaso DD Magidson MPC Manaka JE Mardon PD Mashalane JE Meiring H Michael SM Moerane R Moitse C Moraitis PM Mosebo B Moti NPA Motsiri CK Mthembu L Naidoo K Neluheni NNP Nkosi BW Ntuli BPF Olivier Z Oosthuizen S Padayachy M Pansegrouw S Passmoor D Pisanti T Potter AA Pyzikowski RJ Raath K Rajah A Ramdin B Rammala V Ramson BR Roothmal W Rosenberg NL Scott TA Sibidla FT Sikhavhakhavha LK Silbermann S Sindens S Singh DE Singo JA Smit BM Sono KP South CI Stevens PO Steyn J Stockwell DH Swart PW Tindie JJ Truter KJ Trudgeon DN van den Berg AA van der Merwe A van Heerden JJ van Niekerk FJ van Tonder JP van Wyk A Vatalidis T Volschenk RN Wakefield L Watson D Wegierski G Wickins DC Willans E Wood BW Workman-Davies Consultants DH Rabin DG Williams



- 6 In amplification of paragraph 4 above, it is risible for your client to accuse our clients of having conducted THL's business rescue in secret and of withholding relevant information, and Mr Albertyn of having deposed to an affidavit containing assertions which are untrue. As is demonstrated below such allegations are recklessly made and defamatory-
- 6.1 once again, your client self-servingly disregards the fact that the acquisition by the Vision parties of the Lender Group's security and claims *vis-à-vis* THL is not a transaction to which our clients are a party, and that our clients are not in possession of all documents relating thereto. They cannot disclose information and records that they do not have. They have, however, met their disclosure obligations to the affected persons in THL's business rescue;
- 6.2 your client unsurprisingly has produced no evidence (whether in relation to what is stated in our clients' answering affidavit, or any other affidavit deposed to by Mr Albertyn) of Mr Albertyn having advanced assertions which are false; and
- 6.3 Mr Albertyn's assertions in his recently delivered affidavit not been contradicted by the Lender Group and/or their attorneys both of whom have had sight thereof.
- 7 Your client's attempt to suggest an inconsistency between what is stated in Vision's answering affidavit and our clients' answering affidavit is contrived and constitutes a transparent attempt on the part of your client to resuscitate its doomed application. Should your client persist with its application, we are instructed to seek a punitive costs award on the highest scale.
- 8 Without conceding that our clients had any obligation to do so, we requested the Lender Group's attorney of record to confirm the correctness of the advice received from Messrs Stein Scop. We attach marked "B" a letter received from Messrs ENSAfrica, in which it is confirmed that -
- 8.1 full payment of the amount due by Vision to the Lender Group has been made in relation to transfer of the claims and the security of the Lender Group in respect of THL (and its subsidiaries); and
- 8.2 the THL Group Claims and Security were unconditionally and irrevocably transferred to Vision on 9 May 2025.
- 9 Our clients have no reason to disbelieve Vision and the Lender Group's confirmations in this regard.
- 10 Insofar as paragraph 7 of your letter is concerned, that is a matter to be dealt with by the Vision parties, should they deem it necessary to do so. Your client's repeated complaints *vis-à-vis* timing have been dealt with previously, and to that extent, we repeat what is set out in paragraph 2 above.
- 11 The content of paragraph 13 of your letter is meretricious. The Plan has never "*state[d] unequivocally*" that the Vision Transactions would be completed by April 2024. Our clients have repeatedly and painstakingly explained (both in correspondence and in affidavits) that in a business rescue of the magnitude of THL's, timetables provided can only be regarded as indicative (and not "unequivocal" as alleged in your letter). This is yet again a reality which your client steadfastly refuses to accept.
- 12 Our clients decline to comment any further on the assertions in paragraphs 14 to 25 of your letter and stand by what is stated in the affidavits filed in the pending application. If your client does not withdraw its application, these issues will be dealt with when Part B of your client's application is called for hearing.



MA
2
M.A



- 13 Without in any way conceding that your client has any right or entitlement to make the demand in paragraph 26.1 of your letter, as appears from the above, the confirmation has been attached.
- 14 Insofar as paragraph 27 is concerned, it is bewildering that your client continues to demand of our clients that they deliver an agreement which, to your client's knowledge, is simply not in their possession. The threat made in paragraph 27 of your letter once again demonstrates the vexatious manner in which your client has approached this matter.
- 15 Finally, we dispute that your client has any grounds for yet again approaching a court for disclosure of the documents sought – whether urgently or at all. Should your client bring yet another urgent application, it will be acting vexatiously and abusing the court's processes. Our clients reserve their rights to seek appropriate relief in respect thereof.

Yours faithfully

Werksmans Inc

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[Handwritten signature]
3
M.A

"A"**Simone Gast**

From: Casper Badenhorst <Casper@steinscop.com>
Sent: 09 May 2025 16:51
To: Trevor Boswell
Cc: Simone Gast; Danny Andropoulos; Bradley Scop; Alexandra Rakitzis; Jacques Erasmus
Subject: Tongaat Hulett Limited (in business rescue) / Vision Group

Dear Sirs

We refer to the business rescue proceedings of Tongaat Hulett Limited (in business rescue) (**THL**) and the "Vision Transactions" arising therefrom between Vision Investments 155 (Pty) Ltd (**Vision**) and the Lender Group.

We hereby confirm that Vision have made payment of the purchase consideration due to the Lender Group. In the circumstances, the transaction between Vision and the Lender Group has been finalised.

Kind regards

Casper Badenhorst
 Director



BGI | GLOBAL

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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

Annexure 16 and More

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ELECTRONICALLY SIGNED
BY:

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

"MAR30"

No Interruption to THL Business Rescue Plan as Vision Prepares to Appeal Ruling

7 July 2025

The Vision Group remains fully focused on the successful implementation of the Tongaat Hulett Business Rescue Plan, a recovery process restoring operations, protecting livelihoods, and rebuilding a business for long-term value and sustainability.

The Vision Group's acquisition of Tongaat Hulett Limited (THL) is well underway, supported by new leadership, fresh capital, and operational discipline. Across THL sites, performance continues to improve. Jobs are being safeguarded, supplier relationships are being stabilised, and regional value chains are regaining strength. This is not just a commercial recovery, it is a vital economic and social one too.



The Durban High Court issued a ruling on 4 July 2025 in an urgent application brought by RGS Group Holdings Limited (RGS). The judgment handed down by acting Judge Zwane, directs the Vision Group to provide certain documents and disclosure relating to the Vision Group's acquisition of the former Lender Group's claims and security. The ruling is limited to disclosure and does not affect the implementation of the Business Rescue Plan or the integrity of the acquisition itself. Notwithstanding the limited nature of the relief, the Vision Group respectfully believes that the ruling is wrong and intends to appeal it.

The Vision Group confirmed, under oath, that THL's assets were not used to fund or secure the acquisition. This has been independently verified by the former Lender Group and accepted by the Business Rescue Practitioners.

This is the fourth application instituted or driven by RGS regarding the business rescue process, and the implementation of the Business Rescue Plan. An earlier urgent application in which RGS sought to interdict the Business Rescue Plan and sought the same disclosure from the Vision Group was dismissed in February 2025 by Judge Nkosi. RGS had also submitted its own business rescue plan, however, withdrew its plan shortly before the creditor vote, following media reports that RGS had submitted fraudulent proof of funding. The existence of the fraudulent proof of funding has since been admitted by RGS in an affidavit filed by it in February 2024.

Throughout, the Vision Group has remained focused on delivery, not distraction. The acquisition is progressing, implementation is taking hold, and early results are evident. Our commitment is to see this recovery through – for employees, creditors, farming communities, and all those whose livelihoods are dependent on a stable, growing THL. For us, this is what matters.

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
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Plaintiff / Applicant / Appellant

and

**Tongaat Hulett Limited,The Affected
Persons**

Defendant / Respondent

Annexure 16 and More

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ELECTRONICALLY SIGNED
BY:

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



"MAR31"

The Business Rescue Practitioners of Tongaat Hulett Ltd

Werksmans Attorneys

Email: tboswell@werksmans.com; sgast@werksmans.com; dhertz@werksmans.com; dandropoulos@werksmans.com



Dear Sirs

TONGAAT HULETT LIMITED (IN BUSINESS RESCUE)

1. We refer to the above matter and confirm that we act on behalf of RGS Group Holdings ("**RGS**").
2. As you are aware, RGS filed an application in the Durban Division of the High Court on 29 May 2025 under case number 2025/079452 ("**the Application**").
3. In terms of the Application, RGS sought an order compelling Vision to produce *inter alia* (i) proof of all the payments it has made to the Lender Group in terms of the Acquisition Agreement, (ii) proof that the Lender Group's claims have been transferred to Vision, (iii) a copy of the Acquisition Agreement, and (iv) confirmations under oath that Vision has not leveraged or in any way encumbered THL's assets in order to raise the funds necessary to discharge its payment obligations to the Lender Group.
4. The Application was heard by Mr Justice Zwane on 11 June 2025 and judgment was handed down on 4 July 2025 ("**the Zwane Judgment**"). For ease of reference a copy of the Zwane Judgment is annexed, marked "**A**".
5. Predictably, and in keeping with their consistent refusal to act transparently in compliance with the provisions of the Companies Act 71 of 2008, Vision filed an

Imran Bobat
BA (UND) LLB (UND) LLM(UCLA)

application for leave to appeal the Zwane Judgment on 10 July 2025 (**"the Application for Leave to Appeal"**).

6. Vision's objective in filing the Application for Leave to Appeal is clearly to avoid having to make the disclosures contemplated in the order contained in the Zwane Judgment in terms of which substantively all of the prayers contained in the notice of motion to the Application were granted (**"the Zwane Order"**).
7. For the reasons set out in the affidavits filed by RGS in the Application, RGS is of the view that Vision's refusal to comply with the order contained in the Zwane Judgment is due to the fact that Vision cannot do so without:
 - 7.1. perjuring itself; and/or
 - 7.2. demonstrating that it has failed to comply with its obligations under the Acquisition Agreement; and/or
 - 7.3. demonstrating that the Acquisition Agreement was concluded in manner that its inconsistent with the express provisions of the Vision Plan; and/or
 - 7.4. demonstrating that the Acquisition Agreement was concluded in manner that its inconsistent with the express provisions of the Companies Act.
8. Vision's strategy in filing the Application for Leave to Appeal is clearly intended to facilitate the closure of THL's business rescue process, the transfer of all THL's assets to Vision, and the delisting and liquidation of THL in circumstances where the Zwane Judgment would be rendered unenforceable due to pending appeal procedures.
9. This demonstrates the lengths to which Vision is willing to go to avoid transparency and accountability vis-à-vis not only THL's creditors and shareholders but also THL itself.
10. RGS has taken legal advice and is of the view that the implementation of the Vision Plan cannot reasonably or lawfully proceed before Vision has produced the information contemplated in the Zwane Order, regardless of whether or not Vision is granted leave to appeal the Zwane Judgment.
11. This is *inter alia* because Vision has no right or entitlement to take transfer of THL's assets if it has not fully and lawfully (i) discharged its payment obligations to the Lender Group, (ii) taken unconditional transfer of the Lender Group's claims, and



M.A. (Signature)

(iii) done so in a manner that is consistent both with the Vision Plan and the Companies Act (i.e. without having leveraged THL's assets).

12. The findings contained in the Zwane Judgment, at bare minimum, cast serious doubt over Vision's right and entitlement to take transfer of THL's assets.

13. The BRPs are solely responsible for overseeing the implementation of the Vision Plan and moreover have fiduciary duties vis-à-vis THL. As such, the BRPs cannot permit THL's assets to be transferred to Vision and for THL to be delisted and liquidated before Vision has demonstrated unequivocally – by way of verifiable evidence rather than mere say so – that it has (i) discharged its payment obligations to the Lender Group, (ii) taken unconditional transfer of the Lender Group's claims, and (iii) done so in a manner that is consistent both with the Vision Plan and the Companies Act (i.e. without having leveraged THL's assets).



14. We are therefore instructed to demand, as we hereby do, that the BRPs confirm how they intend to proceed in light of both the Zwane Judgment and the Application for Leave to Appeal **by no later than close of business on Wednesday, 16 July 2025.**

15. In particular, the BRPs are requested to confirm whether the implementation of the Vision Plan:

- 15.1. has been suspended since the Zwane Judgment was handed down to date;
- 15.2. will be suspended pending the outcome of the Application for Leave to Appeal.

Yours faithfully

Digitally signed by
Imran Bobat
Attorney
Bobat & Associates

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

Annexure 16 and More

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ELECTRONICALLY SIGNED
BY:

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

DELIVERED BY EMAIL

Bobat & Associates
E-mail: admin@boblaw.co.za
Durban

Attention: Mr I Bobat

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YOUR REFERENCE: Mr I Bobat
OUR REFERENCE: Mr D Hertz/Mr T Boswell/lw/TONG7430.21/#11015669v7
DIRECT PHONE: +27 11 535 8283/+27 11 535 8459
EMAIL ADDRESS: dhertz@werksmans.com/tboswell@werksmans.com



16 July 2025

Dear Sirs

TONGAAT HULETT LIMITED (IN BUSINESS RESCUE), MR T MURGATROYD N.O., MR P VAN DEN STEEN N.O. AND MR G ALBERTYN N.O. (collectively "our clients") | RGS GROUP HOLDINGS (PROPRIETARY) LIMITED ("your client")

- 1 We refer to -
- 1.1 your letters dated 11 and 14 July 2025 ("**your letters**");
 - 1.2 our letter ("**our 21 May letter**") that was addressed to your predecessor dated 21 May 2025, a copy of which is attached for ease of reference;
 - 1.3 your client's application ("**the first application**") instituted in the Durban Division of the KwaZulu-Natal High Court under case number D13702/24, and in particular to the relief sought by your client in paragraphs 3 and 5 of the Notice of Motion *vis-à-vis* Part A of that application;
 - 1.4 the Order ("**the first Order**") granted by Justice ME Nkosi in the first application;
 - 1.5 your client's application ("**the second application**") instituted in the Durban Division of the KwaZulu-Natal High Court under case number D079452/24, and in particular to the relief sought by your client in paragraph 2 of the Notice of Motion to that application; and
 - 1.6 the Order ("**the second Order**") granted by Justice Zwane on 4 July 2025 *vis-à-vis* the second application (which has been suspended pending determination of an application for leave to appeal).

Werksmans Inc. Reg. No. 1990/007215/21 Registered Office The Central 96 Rivonia Road Sandton 2196 South Africa
Directors D Hertz (Chairman) OL Abraham LK Alexander C Andropoulos JKOF Antunes L Appelgryn RL Armstrong DA Arteiro K Badal T Bata JD Behr AR Berman P Bhagattjee NMN Bhengu AL Bilaty RE Bonnet TJ Boswell W Brown PG Cleland JG Cloete PPJ Coetser C Cole-Morgan J Darling R Driman KJ Fyfe S Gast D Gewer JA Gobetz R Goolkin A Govuza GF Griessel NA Hlatshwayo J Hollesen MGH Honiball BB Hotz AE Human T Inno HC Jacobs TL Janse van Rensburg G Johannes S July J Kallmeyer A Kenny NK Kgame R Killoran N Kirby HA Kotze S Krige CJ Laltha H Laskov P le Roux MM Lessing E Levenstein JS Lochner K Louw JS Lubbe BS Mabasa PK Mabaso DD Magidson MPC Manaka JE Mardon PD Mashalane JE Meiring H Michael SM Moerane R Moitse C Moraitis B Moti NPA Motsiri CK Mthembu L Naidoo K Neluheni NZP Nkosi BW Ntuli BPF Olivier Z Oosthuizen S Padayachy M Pansegrouw S Passmoor D Pisanti T Potter AA Pyzikowski RJ Raath K Rajah A Ramdhin B Rammala V Ramson BR Roothman W Rosenberg NL Scott TA Sibidla FT Sikhavhakhavha LK Silberman S Sinden S Singh DE Singo JA Smit BM Sono KP South CI Stevens PO Steyn J Stockwell DH Swart PW Tindle JJ Truter KJ Trudgeon DN van den Berg AA van der Merwe A van Heerden JJ van Niekerk FJ van Tonder JP van Wyk A Vatalidis T Volschenk RN Wakefield L Watson D Wegierski G Wickins DC Willans E Wood BW Workman-Davies Consultants DH Rabin DG Williams



- 2 We do not intend to deal with each of the assertions contained in your letters. Our failure to do so should not be construed as an admission as to the correctness of the content of any unanswered assertion, nor as a waiver of our clients' right to deal more fully with the content of your letters in due course (should it become necessary to do so), which right is hereby reserved.
- 3 Your client has no legally cognisable right to the undertakings ("**the undertakings**") sought in paragraph 14 of your letter dated 11 July 2025 nor does it have any legally cognisable right to the confirmation requested in paragraph 15 of the same letter. Our clients' have instructed us -
 - 3.1 that the matters in issue in the second application to which the second Order and your letters relate have no impact on the facts set out in paragraph 8 of our 21 May letter;
 - 3.2 to repeat what is stated in paragraph 9 of our 21 May letter (which we hereby do);
 - 3.3 that they continue to hold the belief that the Plan is capable of lawful implementation;
 - 3.4 that in the light of paragraphs 3.1 to 3.3 they remain statutorily obligated to continue to progress the implementation of the Plan, and to **confirm** that they intend to continue to comply with their statutory obligations.
- 4 Our clients have accordingly instructed us to advise you, as we hereby do, that they will not (and do not) provide the undertakings sought in your letter.
- 5 Without detracting from what is set out above, we have been instructed to remind your client that -
 - 5.1 the relief sought by your client in paragraph 5 of the Notice of Motion in the first application is identical to the relief that was sought by your client in paragraph 2 of the second application; and
 - 5.2 whilst Justice Nkosi did not make a ruling *vis-a-vis* the relief sought by your client in paragraph 5 of the Notice of Motion in the first application (which is now the subject matter of the second Order and the Vision Parties' application for leave to appeal in the second application), he determined that your client was not entitled to the interdictory relief sought by your client in paragraph 3 of the Notice of Motion in the first application.



Yours faithfully

Werksmans


DELIVERED BY EMAIL

DMI Attorneys
 Email: devin@dmiatt.co.za
 Durban

Attention: Mr D Moodley

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21 May 2025

Dear Sirs

RGS GROUP HOLDINGS LIMITED ("your client") // TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) ("THL") AND ITS BUSINESS RESCUE PRACTITIONERS ("the BRPs") (collectively, "our clients") AND ELEVEN OTHERS, CASE NO. D13702/2024 ("your client's application")

- 1 We refer to your letter ("**your letter**") dated 14 May 2025.
- 2 A number of the assertions in your letter have been raised repeatedly by your client, whether in affidavits or in correspondence. Our clients' responses to your client's repeated, unfounded, ill-conceived (and now defamatory and unlawful) assertions are already well-documented, and no useful purpose will be served in repeating our clients' responses thereto.
- 3 Our clients' failure to (again) address the assertions which litter your letter should, in the circumstances, not be construed as an admission thereof, or as a waiver of our clients' rights in this regard, which rights are again reserved.
- 4 Our clients take umbrage to the accusation that our clients "*characteristically failed to disclose what confirmation they received*". The reference to the confirmation in our clients' answering affidavit is a reference to the following confirmation that was received from Messrs Stein Scop on 9 May 2025 (prior to our clients' answering affidavit having been delivered) -

"Vision have made payment of the purchase consideration due to the Lender Group. In the circumstances, the transaction between Vision and the Lender Group has been finalised."

- 5 A copy of the email received from Stein Scop dated 9 May 2025 is attached marked "**A**".

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

(Handwritten signature)



- 6 In amplification of paragraph 4 above, it is risible for your client to accuse our clients of having conducted THL's business rescue in secret and of withholding relevant information, and Mr Albertyn of having deposed to an affidavit containing assertions which are untrue. As is demonstrated below such allegations are recklessly made and defamatory-
- 6.1 once again, your client self-servingly disregards the fact that the acquisition by the Vision parties of the Lender Group's security and claims *vis-à-vis* THL is not a transaction to which our clients are a party, and that our clients are not in possession of all documents relating thereto. They cannot disclose information and records that they do not have. They have, however, met their disclosure obligations to the affected persons in THL's business rescue;
- 6.2 your client unsurprisingly has produced no evidence (whether in relation to what is stated in our clients' answering affidavit, or any other affidavit deposed to by Mr Albertyn) of Mr Albertyn having advanced assertions which are false; and
- 6.3 Mr Albertyn's assertions in his recently delivered affidavit not been contradicted by the Lender Group and/or their attorneys both of whom have had sight thereof.
- 7 Your client's attempt to suggest an inconsistency between what is stated in Vision's answering affidavit and our clients' answering affidavit is contrived and constitutes a transparent attempt on the part of your client to resuscitate its doomed application. Should your client persist with its application, we are instructed to seek a punitive costs award on the highest scale.
- 8 Without conceding that our clients had any obligation to do so, we requested the Lender Group's attorney of record to confirm the correctness of the advice received from Messrs Stein Scop. We attach marked "B" a letter received from Messrs ENSAfrica, in which it is confirmed that -
- 8.1 full payment of the amount due by Vision to the Lender Group has been made in relation to transfer of the claims and the security of the Lender Group in respect of THL (and its subsidiaries); and
- 8.2 the THL Group Claims and Security were unconditionally and irrevocably transferred to Vision on 9 May 2025.
- 9 Our clients have no reason to disbelieve Vision and the Lender Group's confirmations in this regard.
- 10 Insofar as paragraph 7 of your letter is concerned, that is a matter to be dealt with by the Vision parties, should they deem it necessary to do so. Your client's repeated complaints *vis-à-vis* timing have been dealt with previously, and to that extent, we repeat what is set out in paragraph 2 above.
- 11 The content of paragraph 13 of your letter is meretricious. The Plan has never "*state[d] unequivocally*" that the Vision Transactions would be completed by April 2024. Our clients have repeatedly and painstakingly explained (both in correspondence and in affidavits) that in a business rescue of the magnitude of THL's, timetables provided can only be regarded as indicative (and not "unequivocal" as alleged in your letter). This is yet again a reality which your client steadfastly refuses to accept.
- 12 Our clients decline to comment any further on the assertions in paragraphs 14 to 25 of your letter and stand by what is stated in the affidavits filed in the pending application. If your client does not withdraw its application, these issues will be dealt with when Part B of your client's application is called for hearing.



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21052025



- 13 Without in any way conceding that your client has any right or entitlement to make the demand in paragraph 26.1 of your letter, as appears from the above, the confirmation has been attached.
- 14 Insofar as paragraph 27 is concerned, it is bewildering that your client continues to demand of our clients that they deliver an agreement which, to your client's knowledge, is simply not in their possession. The threat made in paragraph 27 of your letter once again demonstrates the vexatious manner in which your client has approached this matter.
- 15 Finally, we dispute that your client has any grounds for yet again approaching a court for disclosure of the documents sought – whether urgently or at all. Should your client bring yet another urgent application, it will be acting vexatiously and abusing the court's processes. Our clients reserve their rights to seek appropriate relief in respect thereof.

Yours faithfully
Werksmans Inc

THIS LETTER HAS BEEN ELECTRONICALLY TRANSMITTED WITHOUT SIGNATURE



3

"A"

Simone Gast

From: Casper Badenhorst <Casper@steinscop.com>
Sent: 09 May 2025 16:51
To: Trevor Boswell
Cc: Simone Gast; Danny Andropoulos; Bradley Scop; Alexandra Rakitzis; Jacques Erasmus
Subject: Tongaat Hulett Limited (in business rescue) / Vision Group

Dear Sirs

We refer to the business rescue proceedings of Tongaat Hulett Limited (in business rescue) (THL) and the "Vision Transactions" arising therefrom between Vision Investments 155 (Pty) Ltd (**Vision**) and the Lender Group.

We hereby confirm that Vision have made payment of the purchase consideration due to the Lender Group. In the circumstances, the transaction between Vision and the Lender Group has been finalised.



Kind regards

Casper Badenhorst
Director



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"B"



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Werksmans Attorneys
Attention: Trevor Boswell
Email: tboswell@werksmans.com

Mr Gary Oertel our ref
21 May 2025 your ref
date

Dear Sirs

TONGAAT HULETT LIMITED (IN BUSINESS RESCUE)



1. We have been instructed by the Lender Group to address this letter to you in your capacity as the legal representatives of the Business Rescue Practitioners of Tongaat Hulett Limited (in business rescue) ("THL").
2. The Lender Group hereby confirms that Vision Investments 155 (Proprietary) Limited ("**Vision**") has fully discharged all of its payment obligations *vis-à-vis* the purchase consideration due by it to the Lender Group relating to the transfer of the claims and the security of the Lender Group in respect of THL (and its subsidiaries) ("**THL Group Claims and Security**").
3. We are further instructed to confirm that the THL Group and Claims and Security were unconditionally and irrevocably transferred to Vision on 9 May 2025.

Yours faithfully

ENS

Per: 

GARY OERTEL AND NEPHTALIE SITHOLE



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

Annexure 16 and More

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:47:02 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.**

"MAR33"

**DELIVERED BY EMAIL**

Bobat & Associates
E-mail: admin@boblaw.co.za
Durban

Attention: Mr I Bobat

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

YOUR REFERENCE: Mr I Bobat
OUR REFERENCE: Mr D Hertz/Mr T Boswell/Ms S Gast/lw/TONG7430.21/#11015669v7
DIRECT PHONE: +27 11 535 8283/+27 11 535 8459
EMAIL ADDRESS: dhertz@werksmans.com/tboswell@werksmans.com



25 July 2025

Dear Sirs

TONGAAT HULETT LIMITED (IN BUSINESS RESCUE), MR T MURGATROYD N.O., MR P VAN DEN STEEN N.O. AND MR G ALBERTYN N.O. (collectively "our clients") | RGS GROUP HOLDINGS (PROPRIETARY) LIMITED ("your client")

- 1 We refer to your letter dated 22 July 2025 ("**your letter**").
- 2 We do not intend to deal with each of the assertions contained in your letter. Our failure to do so should not be construed as an admission as to the correctness of the content of any unanswered assertion, nor as a waiver of our clients' right to deal more fully with the content of your letter in due course (should it become necessary to do so), which right is hereby reserved.
- 3 Our clients dispute the content of paragraphs 2 to 11 of your letter.
- 4 The Business Rescue Practitioners dispute your client's assertions that they have failed to comply with their statutory obligations and have not taken appropriate steps to satisfy themselves that Vision has discharged its payment obligations to the Lender Group. Their position remains that the Vision Plan remains capable of implementation, in full.
- 5 Our clients are satisfied that Vision has discharged its payment obligations in terms of the Acquisition Agreement for the reasons previously articulated. They do not require further "proof" of the matters set out in paragraphs 19.1.1 to 19.1.2 of your letter. That said, pursuant to the dispatch of your letter which was forwarded to Vision's legal representatives, we received the attached letter from Vision's legal representatives which reinforces this fact.

Werksmans Inc. Reg. No. 1990/007215/21 Registered Office The Central 96 Rivonia Road Sandton 2196 South Africa
Directors D Hertz (Chairman) OL Abraham LK Alexander C Andropoulos JKOF Antunes L Appelgryn RL Armstrong DA Arteiro K Badal T Bata JD Behr AR Berman P Bhagattjee NMN Bhengu AL Bilaty RE Bonnet TJ Boswell W Brown PG Cleland JG Cloete PPJ Coetser C Cole-Morgan J Darling R Driman KJ Fyfe S Gast D Gewer JA Gobetz R Gootkin A Govuza GF Griessel NA Hlatshwayo J Hollesen MGH Honiball BB Hotz AE Human T Inno HC Jacobs TL Janse van Rensburg G Johannes S July J Kallmeyer A Kenny NK Kgame R Killoran N Kirby HA Kotze S Krige CJ Lailha H Laskov P le Roux MM Lessing E Levenstein JS Lochner K Louw JS Lubbe BS Mabasa PK Mabaso DD Magidson MPC Manaka JE Mardon PD Mashalane JE Meiring H Michael SM Moerane R Moitse C Moraitis B Moti NPA Molsiri CK Mthembu L Naidoo K Neluheni NZP Nkosi BW Ntuli BPF Olivier Z Oosthuizen S Padayachy M Pansegrouw S Passmoor D Pisanti T Potter AA Pyzikowski RJ Raath K Rajah A Ramdhin B Rammala V Ramson BR Roothman W Rosenberg NL Scott TA Sibidla FT Sikhavhakhavha LK Silberman S Sinden S Singh DE Singo JA Smit BM Sono KP South CI Stevens PO Steyn J Stockwell DH Swart PW Tindle JJ Truter KJ Trudgeon DN van den Berg AA van der Merwe A van Heerden JJ van Niekerk FJ van Tonder JP van Wyk A Vatalidis T Volschen RN Wakefield L Watson D Wegierski G Wickins DC Willans E Wood BW Workman-Davies Consultants DH Rabin DG Williams



- 6 Insofar as the demand in paragraph 19.1.3 of your letter is concerned, our client cannot be expected to provide "proof" of action that has not yet occurred.
- 7 Our clients have previously requested the Vision Parties and the Lender Group to make a copy of the Acquisition Agreement available to your client, notwithstanding the fact that your client is not entitled to same. Be that as it may, our clients, as repeatedly advised, (i) are not party to that agreement; (ii) do not require sight of that agreement to confirm their considered and reasonably held opinion that Vision has taken transfer of the Lender Group's claims and security in THL particularly in circumstances where our clients have received written confirmation from the Lender Group that this has occurred.
- 8 Insofar as your client's demand in paragraph 19.3 is concerned, our clients will continue to provide your client and all other affected persons with all information to which they are lawfully entitled.

Yours faithfully

Werksmans





Co. Name: **Stein Scop Attorneys Inc.**
Registration No: 2015/306625/21
Landline: +2711 380 8080
Email: alex@steinscop.com
Mobile: +2772 587 6361
Our ref: TER2/0008/A Rakitzis Ho
Your ref: Mr D Hertz/Mr T Boswell/lw/
TONG7430.21/#11015669v7

Date: 24 July 2025

Werksmans Attorneys

Attention: Trevor Boswell

Per Email: tboswell@werksmans.com

Dear Sirs,



RGS Group Holdings Limited / Tongaat Hulett Limited (in business rescue) & Others
Case Number: 2025-079452

1. We refer to the letter from Bobat & Associates addressed to you dated 11 July 2025 in which, among other things, the business rescue practitioners (BRPs) of Tongaat Hulett Ltd (THL) were requested to confirm whether the implementation of the Vision Plan has been, or will be, suspended pending the outcome of our clients' application for leave to appeal under case number 2025-079452 (**the Application for Leave to Appeal**).
2. We have also been provided with a copy of your response to Bobat & Associates dated 16 July 2025 and their subsequent letter of 22 July 2025.
3. The letters sent on RGS's behalf are self-evidently precursors to yet a further unmeritorious urgent application to interdict the implementation of the Vision Plan based on the BRPs allegedly not having "verifiable evidence" of:
 - 3.1 Vision's discharge of its payment obligations to the Lender Group;
 - 3.2 the unconditional transfer of the Lender Group's claims to Vision; and
 - 3.3 the acquisition being consistent with the Vision Plan and the Companies Act, 2008, (paragraph 13 of Bobat and Associates' letter).
4. Our clients are of the view that the BRPs do have verifiable evidence of the above. It is clear that the BRPs are of the same view. Our clients and the Lender Group have both confirmed the transfer of the Lender Group's claims and security to our client, including

Second Floor, Capital Hill, 6 Benmore Road, Morningside, Sandton, Gauteng, 2057, South Africa

Directors: **G Stein; B Scop; S van der Weele; A Rakitzis Ho; S Buckas; C Badenhorst and B Roxburgh**
Senior Associates: **J Brasler; L Grobler and S Meades** | Associates: **B Badenhorst; C Strachan; J Erasmus; B Hurwitz and N Lekena** | Consultants: **A Berman and N Napier**
Chief Operating Officer: **Y de Waal** | Chief Financial Officer: **F Smit**



under oath. For this, and many other reasons, our clients believe that the Application for Leave to Appeal has merit and that RGS has no right to the disclosure relief it seeks.

5. During the hearing, RGS argued that it still harbours (unfounded) suspicions that the Lender Group has not transferred all of its claims to Vision. It also referenced the confirmation by Vision in its answering affidavit that no assets of THL have been subjected to any encumbrance in order to fund the purchase of the Lender Group claims and stated that the Court need not grant that relief if it was satisfied with the confirmation - (an aspect not mentioned in the judgment).
6. All this said, our clients have elected to provide the BRPs with proof of the payments made to the Lender Group on 11 January 2024 and 9 May 2025. Our clients have provided these proofs of payment in the hope of averting yet a further urgent application by RGS seeking to interdict the Vision Plan and to facilitate RGS's withdrawal of Part B of its pending application so that the implementation of the Vision Plan can continue smoothly and with the focus remaining on the ultimate rescue of THL. The proofs of payment are provided to you, on behalf of the BRPs, without prejudice to our clients' rights, particularly in the Application for Leave to Appeal.
7. The amount reflected in the proofs of payment is the total final consideration agreed to and paid by Vision to the Lender Group for the entire Lender Group's claims and security, and constitutes a complete discharge of Vision's obligations for the acquisition of the Lender Group's claims under the provisions of Vision's agreement with the Lender Group ("TC3").
8. The total of the first and second payments is R3 240 000 000.00 and differs from the original amount of R3 510 000 000.00 (by 7.69% or R270 million). This was the final amount agreed upon by the respective parties for the complete discharge of Vision's obligations to the Lender Group under TC3 and took into account the following circumstances:
 - 8.1 Following the failure to secure shareholder approval for the equity transaction in terms of the Vision Plan (**the Equity Transaction**), the alternative Asset Transaction was triggered and pursued in accordance with the Vision Plan. In implementing the Asset Transaction, THL notified Vision that it would be unable to settle its tax obligations arising from the conclusion of the various sale agreements to give effect to the Asset Transaction due to its business rescue and the unavailability of funds. In terms of the various sale agreements, Vision has agreed to procure that funds are made available to THL in order for it to settle its tax obligations; and
 - 8.2 In terms of the Vision Plan, THL is required to pay R525 956 121.00 (**the SASA Claim**) into an escrow account which will be payable to the South African Sugar Association in the event that the judgment of Judge Vahed is upheld. In circumstances where, following the adoption of the Vision plan, THL advised Vision that it will be unable to pay the full SASA Claim into the escrow account, Vision has agreed to pay the SASA Claim into the escrow account on behalf of THL.
9. Although it had always been contemplated between Vision and the Lender Group that there may be a reduction in the total purchase consideration due to the Lender Group, which reduction would be necessitated as a result of the potential payment by Vision of the SASA Claim, the same cannot be said of the tax liability. Accordingly, in light of THL's requirement that Vision procure the payment of THL's tax obligations, Vision and the



[Handwritten signature] 2
M.A

Lender Group agreed to an immediate reduction of the total purchase consideration by the sum mentioned in paragraph 8 above. It is worth noting that upon these two contingencies materialising and even with the agreed reduction by the Lender Group against the purchase consideration, Vision will effectively be paying an amount in excess of R500 million, over and above the agreed purchase consideration.

10. The agreement to reduce the purchase price is as a result of a decision taken by Vision and the Lender Group in terms of their private commercial agreement and has no bearing on the implementation of the Vision Plan.
11. The proofs of payment are attached hereto marked "A" and "B". The second proof of payment ("B") reflects the distribution of the second payment by the former Facility Agent to each member of the Lender Group following payment by Vision of the agreed second instalment.
12. We again confirm that Vision has paid the full purchase consideration for all of the Lender Group's claims and security. Vision **alone** holds such claims and security and **does not** owe the Lender Group any further amounts in respect thereof. We further again confirm that none of THL's assets were utilised by Vision as security to raise the funds used to acquire the Lender Group's claims and security. This obviously isn't the case as the BRPs themselves would have needed to agree to any such encumbrance on behalf of THL, which has never arisen.
13. Vision is incontestably the owner of the Lender Group's claims and security and there is no impediment of the nature contended for by RGS to Vision and the BRPs implementing the Vision Plan. Any alternative to the implementation of the Vision Plan will not have the support of Vision, as the largest secured creditor of THL. The Vision Plan remains capable of implementation and any allegation to the contrary cannot be sustained. Vision maintains that any other documents that are part of the Order are not conceivably material to any issue sought to be raised by RGS.
14. Vision has no objection to the BRPs providing this letter and its annexures to RGS, particularly to avert a further urgent application and facilitate RGS's withdrawal of Part B.
15. Vision obviously retains its rights to address RGS directly should it be necessary to do so in due course. Furthermore, nothing contained in this letter detracts from any of Vision's rights to prosecute the Application for Leave to Appeal.



Yours faithfully

A Rakitzis Ho
Director

Sent electronically and therefore not signed

*Agh*³
M.A



5 Simmonds Street
Marshalltown
2001

Date Contact Details
11th January 2024 Cibopstransfers25sauerstreet@standardbank.co.za

Re: Confirmation of payment processed.

We hereby confirm that we have successfully processed the following payment from account 10209864247.

Beneficiary Name	Corporate Banking Disbursement Account No 2	
Beneficiary Account No	009705384	
Amount	R1 510 000 000.00	
Bank name	Standard Bank	
Payment Reference No	Thor – Acquisitions of Claims	
Date of Transaction	11 th January 2024	

Should you require more information please contact Jadon Moodley on +27 11 636 8917 .

Yours faithfully

The Standard Bank of South Africa Limited (Reg. No. 1962/000738/06) Authorised financial services and registered credit provider (NCRCP15)

Directors: NMC Nyembezi (Chairman) L Fuzile* (Chief Executive Officer) LL Bam PLH Cook
A Daehnke* GJ Fraser-Moleketi Xueqing Guan¹ GMB Kennealy BJ Kruger Li Li¹ JH Maree
NNA Matyumza ML Oduor-Otieno² ANA Peterside CON³ SK Tshabalala*

Company Secretary: K Froneman – 2023/06/12

* Executive Director ¹ Chinese ² Kenyan ³ Nigerian

Corporate and Investment Banking

Standard Bank Moving Forward™

Wednesday, July 23, 2025 at 4:39:13 PM South Africa Standard Time

Subject: Fw: Project Thor (Tongaari) (In Business Rescue) - TC3 Addendum - Payment for today
Date: Wednesday, 16 July 2025 at 17:11:58 South Africa Standard Time
From: Agency SBSA
To: Lavery, Scott S
Attachments: image001.png

Dear Scott,

Please see below e-mail with the proof of payment to Lenders for the Vision Transfer.

Regards
Zaakirah

From: Agency SBSA <AgencySBSA@standardbank.co.za>

Sent: Monday, May 12, 2025 1:29 PM

To: Abdul Sheik Yassim <abdul.sheik.yassim@absa.africa>; Adam Lombard <alombard@ensafrica.com>; Andre Geldenhuys <AndreG@Nedbank.co.za>; Anthony Evans <anthony.evans@absa.africa>; Ashburton Credit <AshburtonCredit@ashburton.co.za>; Ashleigh Huxter <ahuxter@ensafrica.com>; Baumgartner, Martin M <Martin.Baumgartner@standardbank.co.za>; Belinda M3 <BelindaM3@Nedbank.co.za>; Bennie Schraader <Bennie.Schraader@mmltd.co.za>; Cele, Mpumelelo <lashi.cele@rmb.co.za>; CFS Transaction Management <CFS.TransactionManagement@standardbank.co.za>; Christopher Li Green <Chris.Li.Green@absa.africa>; Christopher Powels <christopher00@nedbank.co.za>; Claire Botha <claire.botha@mmltd.co.za>; Clinton Clarke <Clinton.Clarke@absa.africa>; Corry, Nicola <Nicolia.Corry@rmb.co.za>; Dale Spencer <dale.spencer@absa.africa>; Dimakatso Mkhabela (SanFin) <DimakatsoM@sanlaminvestments.com>; DL RMB Project Thor <rmb.co.za>; Docrat, Feroza F <Feroza.Docrat@standardbank.co.za>; Du Toit, Dayan <Dayan.DuToit@rmb.co.za>; Estelle Fong (SanFin) <EstelleF@sanlaminvestments.com>; Fernandes, Genene GC <Genene.Fernandes@standardbank.co.za>; Gareth Little (SanFin) <Gareth.L@sanlaminvestments.com>; Garth Abrahamse <Garth.Abrahamse@investec.com>; Govender, Neshalani N <Neshalani.Govender@standardbank.co.za>; Harry Philippou <Harry.Philippou@investec.com>; Howard van der Merwe (SCM) <Howardvdm@sanlaminvestments.com>; Jidobs <rmb.co.za>; Irshaad Paruk <Irshaad.Paruk@rmb.co.za>; Jacobs, Newen <N.Jacobs1@landbank.co.za>; Jean du Plessis <jean.duplessis@rmb.co.za>; Kara, Mahendra <MKara@landbank.co.za>; Kemisetso Keikelame <KemisetsoK@specialisedfinance.sanlam.com>; Kerry Caldwell <Kerry.Caldwell@investec.com>; Khathu Mavhandu <Khathu.Mavhandu@mmltd.co.za>; Khonzinkosi Silondiwe Nkosi <Silondiwe.Nkosi@absa.africa>; Kyamulesire, Moseley MK <Moseley.Kyamulesire@standardbank.co.za>; Le Grange, C (Catrina) <Catrina@Nedbank.co.za>; Liam Roels (ZA) <Liam.Roels@absa.africa>; Mahomed, Tahir <TMahomed@landbank.co.za>; Maite Leshabane <Maite.Leshabane@rmb.co.za>; Makarudze, Jotham <Jotham.Makarudze@ashburton.co.za>; Manohadi Kekana (ZA) <Manohadi.Kekana@absa.africa>; Marli Theunissen (ZA) <Marli.Theunissen@absa.africa>; Martin, Robert R <Robert.Martin@standardbank.co.za>; Mbewe, Z. (Zanele) <Zanele@nedbank.co.za>; Midzuk, Jeffrey J <Jeffrey.Midzuk@standardbank.co.za>; Mokhatshane, Mosala <MMokhatshane@landbank.co.za>; Moodley, Nireshnee <Nireshnee.Moodley@ashburton.co.za>; Natalie Louria (SanFin) <natalie@sanlaminvestments.com>; NCIB LMO - Diversified Finance <LevFin@Nedbank.co.za>; Nwizikhungo, Siwetsha <absacapital.com>; Priyan Govender <priyan@nedbank.co.za>; Prinsloo, Rene R <Rene.Prinsloo@standardbank.co.za>; Rick Lupini <Rick.Lupini@investec.com>; Tudy Wute <tudy.wute@absa.africa>; Salome Rankapole <srankapole@ensafrica.com>; Shabalala, Tshepo <Tshepo.Shabalala@ashburton.co.za>; Shaegan Pillay <Shaegan.pillay@momentum.co.za>; Silondiwe Nkosi <absacapital.com>; Sobayeni, V. (Vuyisa) <VuyisaS@Nedbank.co.za>; Stephen, Zola Z <Zola.Stephen@standardbank.co.za>; Swart, A. (Alexa) <AlexaS@Nedbank.co.za>; Tiadi, Mosala <MTiadi@landbank.co.za>; Transaction Management <AssetManagement49@absa.africa>; Umang Ramlal <Umang.Ramlal@absa.africa>; Weiwood Nortier <WeiwoodN@Nedbank.co.za>; Yonke Soga (SanFin) <yonkes@sanlaminvestments.com>; Young, Kerry KL <Kerry.Anne.Young@standardbank.co.za>; Annelique Salsone <absa.africa>; Azwihangwasi Muthelo <absa.africa>; BSM Operations <mmltd.co.za>; BSMFixedIncome <mmltd.co.za>; Chantelle P <sanlaminvestments.com>; CIBOPS-LoansAdminJHB <CIBOPS.LoansAdminJHB@standardbank.co.za>; DL Ashburton AshburtonInstoOperations <ashburton.co.za>; DL RMB CBM Idgie Office <rmb.co.za>; Funani Sithole (ZA) <Funani.Sithole@absa.africa>; Gary Oertel <goertel@ensafrica.com>; Jobasson <ensafrica.com>; Kagiso Tsalsane <mmltd.co.za>; kalogo kgabane <mmltd.co.za>; Lorraine Khoza <mmltd.co.za>; Naidoo, Nivashini N <Nivashini.Naidoo@standardbank.co.za>; Prasheena I <Nedbank.co.za>; Project Thor <Nedbank.co.za>; Rene S <Nedbank.co.za>; Mackay, Rory R <Rory.Mackay@standardbank.co.za>; Samantha Singh (SanFin) <SamanthaS@specialisedfinance.sanlam.com>; Sanreesh Haripersad (Bodasing) <Sanreesh.Haripersad@investec.com>; Santluri Thaver <ashburton.co.za>; Seipati VanSchalkwyk <rmb.co.za>; slederman@ensafrica.com, stcl-tm@rmb.co.za, Tamara C @Nedbank.co.za
Subject: Re: Project Thor (Tongaari) (In Business Rescue) - TC3 Addendum - Payment for today



This is an external email. Please verify the sender before responding, clicking on links or opening attachments. Please use the Mimecast button or forward any suspicious or phishing emails to phishing@investec.com

Dear Lenders,

The Vision Transfer amount was received by the agent on the 09 May 2025.

The payment was received after our cut off times.

Please see proof of payment today to lenders:

Table with 10 columns: ID, Date, Time, Status, From, To, Amount, Currency, Status, To. Contains transaction details for MT103 messages.

Handwritten signature: M.A.

										BANK LTD
8	2025-05-12 12:19:56.0	2025-05-12 00:00:00.0	MT103 MESSAGE 2505122805SC3918	Ashburton Fund Managers (Pty) Ltd.	000688197	13,731,875.00	NGABAT	O	FNB	FNB
9	2025-05-12 12:19:56.0	2025-05-12 00:00:00.0	NO MESSAGES CREATED	SANLAM INVESTMENT MANAGEMENT	000688197	7,557,210.90	NGABAT	O	STANDARD BANK	STANDARD BANK
10	2025-05-12 12:19:56.0	2025-05-12 00:00:00.0	MT103 MESSAGE 2505122805SC3924	Momentum Metropolitan Life Ltd.	000688197	21,967,522.70	NGABAT	O	FNB	FNB
11	2025-05-12 12:19:56.0	2025-05-12 00:00:00.0	MT103 MESSAGE 2505122805SC3923	The Land and Agricultural Developo	000688197	90,903,853.40	NGABAT	O	FNB	FNB
12	2025-05-12 12:19:55.0	2025-05-12 00:00:00.0	MT103 MESSAGE 2505122805SC3922	ABSA BANK	000688197	207,309,481.10	NGABAT	O	ABSA	ABSA
13	2025-05-12 12:19:55.0	2025-05-12 00:00:00.0	MT103 MESSAGE 2505122805SC3926	INVESTEC BANK LIMITED	000688197	74,040,972.50	NGABAT	O	INVESTEC	INVESTEC
14	2025-05-12 12:19:55.0	2025-05-12 00:00:00.0	NO MESSAGES CREATED	THE STANDARD BANK OF SA LTD	000688197	496,394,453.30	NGABAT	O	STANDARD BANK	STANDARD BANK
15	2025-05-12 12:19:55.0	2025-05-12 00:00:00.0	MT103 MESSAGE 2505122805SC3921	RMB DIV OF FIRSTRAND BK LTD	000688197	315,738,684.30	NGABAT	O	FNB	FNB
16	2025-05-12 12:19:54.0	2025-05-12 00:00:00.0	MT103 MESSAGE 2505122805SC3920	NEDBANK LTD	000688197	347,993,409.60	NGABAT	O	NEDBANK	NEDBANK
17	2025-05-12 12:19:54.0	2025-05-12 00:00:00.0	MT103 MESSAGE 2505122805SC3925	SANLAM LIFE INSURANCE LTD	000688197	37,140,660.70	NGABAT	O	STANDARD CHARTERED BANK	STANDARD CHARTERED BANK



Regards
Zaakirah

Zaakirah M.A.

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

Annexure 16 and More

NOTE: This document was filed electronically by the Registrar on 24/2/2026 at 10:47:17 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.**



To: Bobat and Associates

Attention: Imraan Bobat

28 May 2025

Dear Sirs,

TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) ("THL")

1. We refer to your letter dated 23 May 2025 addressed to the Standard Bank Agency.
2. Please find attached a letter addressed by ENS Attorneys on behalf of each Lender to Werksmans in their capacity as the legal advisers to THL. You will note from the attached letter:
 - 2.1 The Lender Group confirmed that Vision had fully discharged all of its payment obligations *vis-à-vis* the purchase consideration due by it to the Lender Group relating to the transfer of the claims and the security of the Lender Group in respect of THL (and its subsidiaries) ("THL Group Claims and Security").
 - 2.2 The Lender Group confirmed that the THL Group and Claims and Security were unconditionally and irrevocably transferred to Vision on 9 May 2025.
3. Standard Bank accordingly resigned as the Facility Agent in respect of the THL Group Claims and Security and the new Facility Agent is Vision Investments 155 Proprietary Limited ("**Vision**").
4. Accordingly, please communicate with Vision as the new Facility Agent and Lender, going forward.
5. Please note for the sake of good order, any failure to deal with any aspect of your letter must not be construed to be an admission thereof.



Yours faithfully,

For and on behalf of:

The Standard Bank of South Africa Limited
(acting through its Corporate and Investment Banking division)
(in its capacity as former Facility Agent on behalf of the Syndicated Lenders)

Name: Venashan Seerangam
Capacity: Vice-President: Agency Front Office
Who warrants his/her authority hereto

3rd Floor, East Wing, 30 Baker Street Rosebank 2196
PO Box 6075 Johannesburg 2000 South Africa
Tel. Switchboard: +27 (0)11 721 9000
AgencySBSA@standardbank.co.za

The Standard Bank of South Africa Limited (Reg. No 1952/000738/06) Authorised financial services and registered credit provider (NCRCP15)

Directors: NMC Nyembezi (Chairman) SK Tshabalala* (Chief Executive Officer) LL Bam
PLH Cook A Daehnke* OA David-Borha1 GJ Fraser-Moleketi GMB Kennealy
BJ Kruger Li Li2 JH Maree NNA Matyurnza ML Oduor-Otieno3 RN Ogega3
Fenglin Tian2

Company Secretary: K Froneman – 2025/04/08

* Executive Director 1 Nigerian 2 Chinese 3 Kenyan

COURT ONLINE COVER PAGE

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

CASE NO: 2026-031780

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John Murgatroyd NO ,Petrus Francois
Van Den Steen NO**

Plaintiff / Applicant / Appellant

and

**Tongaat Hulett Limited,The Affected
Persons**

Defendant / Respondent

Annexure 16 and More

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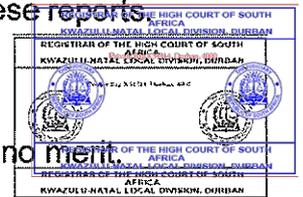
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BY:**

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

required to contain, we are satisfied that the reports have included the material information from time to time, and have kept Affected Persons properly apprised of relevant matters.

125 Notably, the only complaints received about those reports are from RGS itself and its puppet, Powertrans, and from one other minor shareholder (Ms Mary Jane Morris) whose main complaint was that the updates did not cater for lay people. All other Affected Persons appear to be satisfied with the content of these reports.

126 The complaint in paragraphs 228 to 230 of the founding affidavit is of no merit.



The special general meeting

127 RGS then contends, in paragraphs 231 to 234, that the BRPs breached our duties by convening the special general meeting of 8 August 2024 before Vision had acquired the Lender Group's Claims and Security. That is premised on RGS's interpretation of the Adopted Plan as requiring the acquisition to precede the debt-for-equity conversion.

128 RGS is well aware that the BRPs do not share that interpretation of the Adopted Plan. That issue was traversed extensively in the founding affidavit in the first Powertrans application (paragraphs 54-69 and 105 to 112), and in the first RGS urgent (founding affidavit paragraphs 10.2 and 10.3), and the THL respondents answered the complaint fully in both proceedings. We deny that there was

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anything that precluded the SGM being called in advance of Vision acquiring the Claims and Security.

129 That is borne out by the fact that none of the shareholders complained that the SGM was pre-emptive. That was their complaint – not RGS's – to raise. But they were content to go ahead with the vote on the resolutions tabled.

130 The complaint has, in any event, become academic. The SGM was convened more than a year ago, and the Asset Sale Transaction has been implemented ever since. In the intervening period, Vision has acquired all of the Claims and Security. Whatever flaw RGS wishes to complain of (and it is by no means clear), has long since been cured.



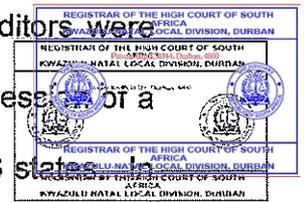
131 It is also not true that the business rescue process has been delayed by any conduct by the BRPs or, indeed, at all. As regards the implementation of the Adopted Plan -

- 131.1 the Adopted Plan is unique both in terms of the structure and complexity;
- 131.2 the implementation of the Adopted Plan has been incremental. By way of example, it has been necessary to obtain a series of regulatory approvals before "the next step" could be taken. The THL respondents were not able to dictate time periods to regulatory authorities in multiple jurisdictions. That is one of the reasons why the Adopted Plan only included a "forecast

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232.11 The substantial non-refundable deposit paid by Vision to the Lender Group was sufficient to vest Vision with sufficient debt to enable the conversion to take place.

232.12 On that basis, the debt-to-equity transaction was capable of implementation, which would have resulted in the debt reducing to R3,6 billion and the balance converted into equity notwithstanding the fact that the outstanding balance of the purchase price had not yet been settled. Creditors were advised at the section 151 Meeting that the BRPs were in possession of a letter from the Lender Group confirming this, despite what RGS stated in any event the Adopted Plan always contemplated a conversion of a portion of the debt, leaving debt of R3,6 billion.



232.13 The payment of a substantial non-refundable deposit provided the BRPs with greater comfort that Vision was committed to the transaction, and could meet its payment obligations under it, than a bank letter confirming availability of funds could.

233 Ad paragraphs 104 to 115

233.1 I have already dealt with the SGM that took place on 8 August 2024. It took place unimpeded by interdict proceedings or shareholder objections and the two resolutions put to vote failed – with the result that the Debt-to-equity Conversion could not proceed. Shareholders chose not to support the Debt-to-equity Conversion, so the Asset Sale Transaction is now being

M. Z
104
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M. A

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

Annexure 16 and More

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153 The THL assets are in the process of being sold in accordance with the Adopted Plan, which was the only plan available for the creditors to consider – a situation that arose from RGS's own conduct and their admitted fraudulent activity.

154 The allegations in paragraphs 239 to 242 of the founding affidavit are accordingly unfounded and are denied.

The Zwane judgment



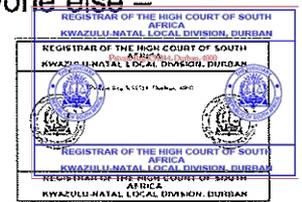
155 The BRPs have certainly not ignored the Zwane judgment. We have carefully considered that judgment and its accompanying order. The Zwane judgment makes findings and orders that relate to Vision – not the THL respondents. As RGS is aware, Vision has applied for leave to appeal that judgment and order, and it is currently suspended.

156 The BRPs do not accept that the Zwane judgment required the BRPs to act, or refrain from acting, in any of the ways suggested by RGS, and we consequently deny the conclusions drawn in paragraphs 192 and 245 of the founding affidavit, as well as the defamatory aspersions cast on us in paragraphs 243, 246 and 247.

157 The only finding potentially of relevance to the present proceedings is Zwane AJ's statement, in paragraph 56, that RGS has "a corollary right to the documents and information that support the assertion that the Vision Plan is being implemented correctly and properly". That finding must be read along with, and reconciled to,

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M.A GFA

the High Court's earlier findings in *Reiscor Two (Proprietary) Limited (in business rescue) v Anheuser-Busch Inbev & Others* 2025 (1) SA 315, that business rescue affords no better rights to information and documentation than a creditor had before business rescue, and that a creditor is not entitled, through the business rescue, to call for its own investigation into the company's affairs. Affected Persons are entitled to be kept apprised of the implementation of the Adopted Plan. The BRPs have given effect to that, through our monthly status reports in terms of section 132. The THL respondents deny that RGS – or anyone else – was entitled to more.



Verification of payment by Vision

158 RGS most unfairly contends, in paragraph 248, that the BRPs have been negligent in failing to verify the authenticity of Vision's proof of payment. The complaint is bizarre because, as paragraphs 211 to 214 of the founding affidavit disclose, RGS records that it has itself confirmed with Standard Bank's employee that the proof of payment is authentic.

159 The confusion and contradiction is compounded by paragraph 8 of the founding affidavit (the content of which is disputed) in which the following indecipherable assertion is made -

- "8. While the aforesaid irregularity regarding Vision's funding, and the hitherto unexplained circumstances regarding the 'incorrect' proof of funds submitted by it, are relevant to RGS's case, RGS's case is not predicated on the questions that remain regarding whether Vision has fully and lawfully discharged its payment obligations relating to the Adopted Plan."

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M.A. Gen

COURT ONLINE COVER PAGE

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

CASE NO: **2026-031780**

In the matter between:

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Plaintiff / Applicant / Appellant

and

**Tongaat Hulett Limited,The Affected
Persons**

Defendant / Respondent

Annexure 16 and More

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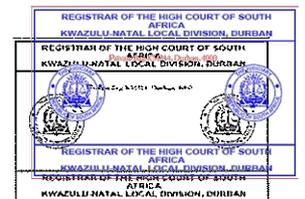
**Registrar of The High Court,
KwaZulu-Natal, Durban.**

"MAR36"

153 The THL assets are in the process of being sold in accordance with the Adopted Plan, which was the only plan available for the creditors to consider – a situation that arose from RGS's own conduct and their admitted fraudulent activity.

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155 The BRPs have certainly not ignored the Zwane judgment. We have carefully considered that judgment and its accompanying order. The Zwane judgment makes findings and orders that relate to Vision – not the THL respondents. As RGS is aware, Vision has applied for leave to appeal that judgment and order, and it is currently suspended.

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the High Court's earlier findings in *Reiscor Two (Proprietary) Limited (in business rescue) v Anheuser-Busch Inbev & Others* 2025 (1) SA 315, that business rescue affords no better rights to information and documentation than a creditor had before business rescue, and that a creditor is not entitled, through the business rescue, to call for its own investigation into the company's affairs. Affected Persons are entitled to be kept apprised of the implementation of the Adopted Plan. The BRPs have given effect to that, through our monthly status reports in terms of section 132. The THL respondents deny that RGS – or anyone else – was entitled to more.



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71 M-2
M.A. Gea

160 It accordingly appears to be common cause, and RGS accepts as a fact, that
"Vision has fully and lawfully discharged its payment obligations relating to the
Adopted Plan".

161 The BRPs are satisfied that Vision has indeed effected payment to the Lender
Group. In May of this year, Vision stated under oath that it had paid the Lender
Group in full.¹¹ The Lender Group and their attorneys have also confirmed that
Vision has discharged its obligations to them and has transferred the Claims and
Security. Since it is fanciful to suggest that the entire Lender Group (comprising
approximately 13 different financial institutions) would have permitted such
transfer in the absence of being paid, the BRPs were justifiably satisfied that the
Acquisition had been duly completed.



162 Inexplicably and despite any evidence to the contrary, RGS maintained its
intransigent, unreasonable and inexplicable stance by suggesting, without more,
that these unequivocal records, which were foundational to the application then
in issue, could not be accepted without "proof". In addition to Vision's own
attorneys stating -

*"Vision have made payment of the purchase consideration due to the Lender
Group. In the circumstances the transaction between Vision and the Lender Group
has been finalised",¹²*

¹¹ Vision's answering affidavit in the second RGS urgent application, paragraphs 8 and 9, pp 002-8

¹² Founding affidavit in the present application, Annexure A of "MAR34", 001-508

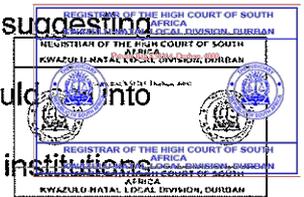
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(which confirmation was received on 9 May 2025), on 21 May 2025, the Lender Group's attorneys recorded , *inter alia*, the following -

"The Lender Group hereby confirms that [Vision] has fully discharged all of its payment obligations vis-à-vis the purchase consideration due by it to the Lender Group relating to the transfer of the claims and the security of the Lender Group (in respect of THL) and (its subsidiaries) ("THL Group Claims and Security").

*We are further instructed to confirm that the THL Group Claims and Security were unconditionally and irrevocably transferred to Vision on 9 May 2025."*¹³

163 It is therefore hardly surprising that RGS now concedes that it is not suggesting *"that the Lender Group's above response was untruthful"*. Doing so would question the integrity of many of South Africa's pre-eminent financial institutions who are all members of the Lender Group, without any basis for doing so whatsoever.



164 This clear and unequivocal recordal given by ENS on behalf of the Lender Group (being South Africa's pre-eminent lenders) is nevertheless not sufficient to satisfy RGS. It advances the untenable proposition that the payment obligations referenced in the abovementioned extract are obligations discharged in a manner inconsistent with the express provisions of the Adopted Plan. In amplification, they allege that the terms *"payment obligations"* and *"discharged"* are -

164.1 capable of connoting something other than actual cash payment; and

¹³ Founding affidavit in the present application, Annexure B of "MAR34", 001-509

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GAJ

164.2 consistent with Vision having leveraged THL's assets in order to obtain "last minute loan finance to discharge its payment obligations to the Lender Group".

165 These allegations are not just untenable – they are absurd in the extreme and suggest complicity and dishonesty on the part of the members of the Lender Group who are well aware of the express provisions of the Adopted Plan and would not tolerate any variation which would be capable of undermining the validity of the transaction which has now been carried into effect. More importantly, there is no conceivable way that the Lender Group would unconditionally and irrevocably transferred the Claims and Security which they held absent a complete and proper discharge of Vision's payment obligations.



166 Nevertheless, not content with the proof of payment provided by Vision ("the POP"), Bobat has engaged in an *ad nauseam* attack on the documentation by conducting a self-serving forensic analysis. They have persisted with this stance despite the fact that a representative of Standard Bank was contacted and confirmed that -

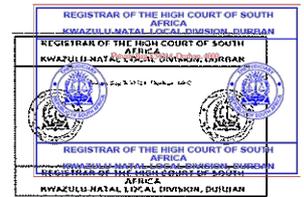
"The document sent by yourself (a reference to RGS' attorney) to me (a reference to Mr Moodley of Standard Bank) with the proof of payment is indeed valid and was created by myself."

167 With respect, Mr Rajahussen, the applicant's chairman, should be embarrassed deposing to an affidavit that contains assertions of the nature set out in paragraphs 208 to 210.4 of the founding affidavit. The Lender Group who, on RGS's own version, was the largest creditor in the business rescue of THL, have

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stated under oath that they have received payment in full for any and all security and claims that they had against THL. They would never have made a statement of this nature, which would strip them of any ability to recover amounts due, owing and payable to them, unless it was true. For RGS to claim otherwise defies logic and smacks of desperation.

168 The THL respondents dispute that the BRPs ought to have taken any further steps to verify payment by Vision, or that we have in any way breached our fiduciary duties.



Compliance with the Vision Plan

169 Finally, RGS states, in paragraph 249 of the founding affidavit, that *"the BRPs were negligent in failing to appreciate that mere payment by Vision to the Lender Group on 9 May did not render the Acquisition lawful and did not amount to compliance with the Vision Plan"*.

170 The complaint is incomprehensible. The THL respondents are not, as RGS is well aware, party to the Acquisition Agreement and are not obliged to check compliance with its terms. But there is nothing to suggest that the Acquisition is unlawful. Nor has RGS placed anything tangible before this Honorable Court which belies the veracity of the information communicated by the parties to that agreement, which justify the BRPs or the Court from mistrusting their conduct.

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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

Annexure 16 and More

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

"MAR37"

RGS GROUP HOLDINGS LTD

09 January 2024

BY EMAIL

To: Trevor Murgatroyd
 Peter van den Steen
 Gerhard Albertyn
 Joint Business Rescue Practitioners
 Tongaat Hulett Limited (in Business Rescue)
 Amanzimnyama Hill Road
 Tongaat
 4400
 KwaZulu-Natal



Dear Sirs,

RGS Group Holdings Ltd ("RGS") / Tongaat Hulett Limited ("THL") (In Business Rescue)

1. We refer to the meeting scheduled to be held on 10 January 2024 (the "**Meeting**") to consider the two business rescue plans published by the business rescue practitioners (the "**BRPs**") of THL on 29 November 2023 and setting out the respective proposals of RGS (the "**RGS BR Plan**") and the so-called "*Vision Parties*" (the "**Vision BR Plan**"), as such business rescue plans are proposed to be amended at the Meeting.
2. We hereby notify you that the Board of Directors of RGS (the "**Board**") has unanimously resolved to withdraw RGS' proposal for the acquisition of THL through the implementation of the RGS BR Plan. Consequently, it will no longer be necessary for the proposed amendments to the RGS BR Plan to be tabled for consideration or for the RGS BR Plan (as amended) to be placed before the Meeting for a vote.
3. We have previously written to the BRPs to express our serious concerns at the manner in which the Business Rescue Process of THL has been conducted by the BRPs. In the RGS' view the BRPs have not conducted themselves appropriately in accordance with their duties and obligations as business rescue practitioners nor in the interests of THL and its stakeholders. The BRPs have consistently taken steps to place impediments in the way of RGS' proposals and have been patently biased in favour of the proposals put forward by the Vision Parties (and the Terris Consortium, the former guise of the Vision Parties). The Board simply does not trust that the BRPs are honest independent professionals in this process as they should be and believes that the BRPs will continue to work against RGS even if the RGS BR Plan were to be adopted.
4. The events of the past week where the BRPs have actively taken steps to assist the Vision Parties to address defects in the Vision BR Plan and have again, in RGS' view,

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RGS GROUP HOLDINGS LTD

made use of information confidential to the RGS proposal for this purpose have only reinforced the Board's view that the BRPs are not independent and are in fact hostile to RGS. Additionally, confidential information relating to RGS and the RGS proposal has again been leaked to journalists with a view to discrediting RGS and the RGS proposal.

5. In such circumstances the Board cannot justify the risk of paying away ZAR2 billion to the Lender Group prior to the closing of the transaction. In a normal course M&A transaction for the acquisition of a business payment would only occur at or shortly after closing of the transaction. This is the only basis on which the Board would be willing to proceed but we understand this will not be acceptable to the Lender Group who require upfront payments to be made to them. Given the risks, in the Board's view, of:

- (a) the Vision Parties most likely challenging the outcome of the vote at the Meeting were the RGS BR Plan to be adopted; and,
- (b) the BRPs actively working to assist the Vision Parties in such challenge and/or to delay the implementation of the RGS BR Plan,

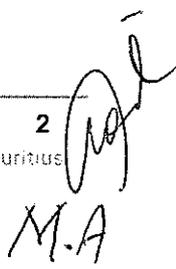
the Board is not able to authorise paying the consideration for the acquisition of THL until the closing date of the transaction occurs. However, since this structure of transaction will not be successful, the Board considers it more appropriate to withdraw RGS' proposal at this time.

6. This is not a decision the Board has taken lightly. This is especially so as RGS believes strongly that the RGS BR Plan is the most advantageous plan for THL and all its stakeholders and offers a fair price for the business and that RGS is the most appropriate partner for the future success of THL. Had the process been run fairly and independently and in the interests of THL and its stakeholders, RGS is firmly of the view that, the RGS BR Plan would be the only one of the two plans up for consideration at the Meeting.
7. We hope the business rescue process of THL will conclude successfully and that THL will be rescued. We have no desire to see THL fail and wish THL every success in the future.

Yours sincerely,


M. Aquil Rajahussen
 (Executive Chairman) 09.01.24



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 M.A

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

CASE NO: **2026-031780**

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Annexure 16 and More

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BY:

**Registrar of The High Court,
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"MAR38"

RGS GROUP HOLDINGS LTD

URGENT & CONFIDENTIAL

11 January 2024

BY EMAIL

To: **IDC - Industrial Development Corporation of South Africa Limited**
 19 Fredman Drive
 Sandown
 South Africa

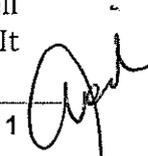
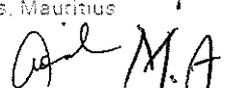
Attention: Mr David Jarvis / Ms Joanne Bate

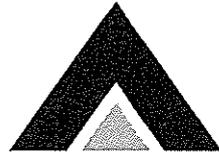


Dear Sirs

RGS Group Holdings Ltd ("RGS") / Tongaat Hulett Limited ("THL") (In Business Rescue)

1. We refer to the meeting held on 10 January 2024 (the "**Meeting**") to consider the business rescue plan published by the business rescue practitioners (the "**BRPs**") of THL on 29 November 2023 and setting out the proposal of the so-called "*Vision Parties*" (the "**Vision BR Plan**"), as such business rescue plan is proposed to be amended at the Meeting.
2. As you are aware, RGS notified the BRPs on 9 January 2024 that that the board of directors of RGS (the "**Board**") had unanimously resolved to withdraw RGS' proposal for the acquisition of THL through the implementation of the business rescue plan proposed by RGS (the "**RGS BR Plan**").
3. The background to the withdrawal of the RGS BR Plan is that RGS has serious concerns regarding the manner in which the business rescue process of THL has been conducted by the BRPs. In the RGS' view the BRPs have not conducted themselves appropriately in accordance with their duties and obligations as business rescue practitioners nor in the interests of THL and its stakeholders. The BRPs have consistently taken steps to place impediments in the way of RGS' proposals and have been patently biased in favour of the proposals put forward by the Vision Parties (and the Terris Consortium, the former guise of the Vision Parties). The Board simply does not trust that the BRPs are honest independent professionals in this process as they should be and believes that the BRPs will continue to work against RGS even if the RGS BR Plan were to be adopted. We attach a copy of our letter of 9 January 2024 addressed to the BRP for your information (which is self-explanatory).
4. RGS (together with its advisers) attended the Meeting in its capacity as a creditor of THL. The events at the Meeting clearly indicated to RGS that its views of the process are well founded and that the Vision Parties do not have a viable business rescue plan for THL. It

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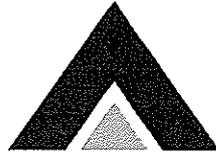
RGS GROUP HOLDINGS LTD

is also quite apparent that the Vision Parties do not have an agreed transaction with the Lender Group or the Industrial Development Corporation of South Africa Limited (“IDC”). Their offers to the South African Sugar Association (“SASA”), the unsecured creditors, the shareholders of THL and the employees of THL are also woefully inadequate when compared to the RGS BR Plan.

5. RGS is consequently willing to reengage in this process subject to the condition that the engagement is led by IDC. IDC together with SASA has sufficient voting interests to ensure that the Vision BR Plan is not adopted, and IDC can guide the process to achieve an outcome that is more advantageous to all affected persons than the outcome envisaged by the Vision BR Plan and will ensure that IDC’s post-commencement financing for THL (the “IDC PCF”) is recovered in full. We are of the view that the Vision BR Plan is also unlawful in that, *inter alia*, it does not restore the solvency of THL.
6. We understand that IDC requires additional security for the IDC PCF. We have understood this fact since December 2023 when this was clearly stated in IDC’s court papers filed in connection with the various interdict proceedings relating to THL launched in December 2023. RGS has consequently envisaged in its planning that IDC’s requirement for additional security has to be accommodated.
7. For the purposes of providing IDC with additional security for the IDC PCF, RGS is willing to procure credit guarantee insurance of up to ZAR1 billion to cover the difference between ZAR1.8 billion and ZAR2.3 billion (which we understand to be the previous limit of the IDC PCF and the current limit of the IDC PCF) and to provide headroom should the IDC PCF need to be increased for the coming growing season. RGS will pay the premium for this credit guarantee insurance. In addition, RGS would subordinate all Lender Group Claims acquired to in favour of IDC’s claims under the IDC PCF until closing of the transaction envisaged by the RGS BR Plan (whereupon such Lender Group Claims will be fully converted into equity in THL).
8. Upon closing of the transaction contemplated by the RGS BR Plan, RGS have always envisaged that the full amount of the Lender Group Claims acquired will be converted to equity in THL thus freeing up the assets that are presently encumbered in favour of the Lender Group. RGS’ intent has been, and is, that all the assets presently securing the Lender Group Claims would be offered to IDC to secure a refinancing of the IDC PCF at closing of the transaction on appropriate terms – with the IDC PCF being changed to a fully secured senior term loan and revolving credit facility. This is in addition to RGS providing an additional unsecured working capital facility to THL on closing of the business rescue process. None of this can presently be accommodated within the construct of the Vision BR Plan.
9. RGS can therefore agree to bring the RGS BR Plan back to the table if IDC takes the lead in the process and subject to the following changes being made to the proposal to the Lender Group to acquire the Lender Group Claims:



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RGS GROUP HOLDINGS LTD

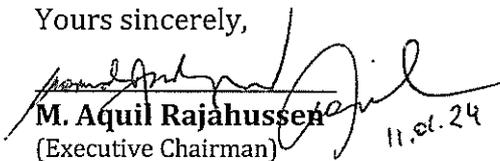
- 9.1 A deposit of ZAR500 million will be paid into a bank account in Mozambique with Nedbank (the “**Nedbank Account**”) for the benefit of the Lender Group as a non-refundable deposit (the “**Lender Group Deposit**”). The Lender Group Deposit will be paid into the Nedbank Account prior to voting on the RGS BR Plan and locked up in the Nedbank Account. The Lender Group Deposit will be paid to the Lender Group on receipt of approval from the Central Bank of Mozambique (“**CBM**”), however, subject to the Lender Group signing the necessary agreement for the purchase of the Lender Group Claims (the “**Purchase Agreement**”); and
- 9.2 ZAR1.5 billion will be paid to the Lender Group within 5 (five) business days of receiving the approval of the CBM. In order to provide comfort to the Lender Group that this sum will be paid to them, RGS will procure credit guarantee insurance guaranteeing the payment of this sum which credit guarantee will be capable of being called on the 6th (sixth) business day of receiving the approval of the CBM, if RGS fails to deposit the referred balance amount, as we estimate that this should be done within 30 (thirty) days after signature of the Purchase Agreement.



Therefore, other than changing the basis upon which the initial ZAR2 billion payment is made to the Lender Group, all other terms of the amended RGS BR Plan as circulated on 2 January 2024 would remain unchanged.

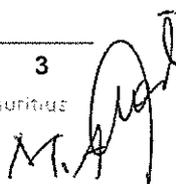
10. We hope our proposals set out in this letter will be viewed favourably. We would welcome a meeting with IDC at your earliest convenience this morning to discuss our proposals. We would envisage the Meeting being adjourned to 15 January 2024 to allow the parties to finalise these proposals.
11. We look forward to hearing favourably from you.

Yours sincerely,


M. Aquil Rajahussen
 (Executive Chairman) 11.01.24



RGS GROUP HOLDINGS LTD


M. Aquil Rajahussen