

3 Mar 26

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

CASE NO. 2026-031780

In the matter between:-

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|--------------------------------------|------------------|
| GERHARD CONRAD ALBERTYN | First Applicant |
| TREVOR JOHN MURGATROYD | Second Applicant |
| PETRUS FRANCOIS VAN DEN STEEN | Third Applicant |

and

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| TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) | First Respondent |
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| THE AFFECTED PERSONS | Respondents |
|-----------------------------|-------------|

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| MINISTER OF TRADE, INDUSTRY AND COMPETITION | Respondent |
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| INDUSTRIAL DEVELOPMENT CORPORATION OF SOUTH AFRICA | Respondent |
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| RGS GROUP HOLDINGS LIMITED | Respondent |
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and

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| ABRINA 9422 (PTY) LTD | First Intervening Party |
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| MUHAMMED FAIZ TURK | Second Intervening Party |
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| MUHAMMED SHAKEEL TURK | Third Intervening Party |
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| SOUTH AFRICAN CANE GROWERS' ASSOCIATION NPC | Intervening Party |
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SACGA opposing the main application
and seeking leave to intervene

**ANSWERING AFFIDAVIT TO MAIN APPLICATION
incorporating allegations in support of intervention**



I, the undersigned,

THOMAS BERNHARD FUNKE

do hereby make oath and say:

1. I am the Chief Executive Officer of the South African Cane Growers Association NPC and am duly authorised to depose to this affidavit on its behalf to oppose the main application and apply to intervene by virtue of the resolution of its board, a copy of which is annexed hereto marked "A".
2. The facts deposed to in this affidavit are within my personal knowledge, save where otherwise stated, and are true and correct.
3. The South African Cane Growers Association NPC, registration no: 1928/001125/08, ("**the SACGA**") is a non-profit company duly incorporated in terms of the laws of South Africa with its principal place of business at 170 Flanders Drive, Mount Edgecombe, KwaZulu Natal.
4. I have read the notice of motion and founding affidavit in this matter.
5. The Applicants are the business rescue practitioners of Tongaat Hulett Limited (in business rescue) ("**the BRPs**").
6. The First Respondent is Tongaat Hulett Limited (in business rescue) ("**THL**").
7. Further Respondents are cited as Affected Persons as defined in s128(1) and are parties to this matter by virtue of s145(1) of the Companies Act, 2008 ("**the Companies Act**") and the following have filed notices of opposition:



- 7.1. the Minister of Trade, Industry and Competition (“**the DTIC**”);
- 7.2. The Industrial Development Corporation of South Africa Limited (“**the IDC**”); and
- 7.3. RGS Group Holdings Limited (“**RGS**”).
8. Abrina 9422 (Pty) Ltd and Muhammad Faiz Turk and Muhammad Shakool Turk have sought leave to intervene in this matter.

THE SA CANE GROWERS’ ASSOCIATION

9. The SACGA is not a creditor nor an affected person in the THL business rescue (“**BR**”) proceedings and hence the need for leave to intervene.
10. On 13 February 2026, the Sugar Industry Agreement as amended (“**SI Agreement**”) was published in terms of the South African Sugar Act.
11. The South African sugar industry comprises approximately 28 000 registered sugar cane growers in KwaZulu-Natal and Mpumalanga (“**the Growers**”).
12. Set out below are the statistics for the THL mills for the 2025/2026 season:

| Mill | Cane supplied (tons) | Sugar produced (tons) | Estimated Sales (R) | Allocated to Growers (R) |
|-----------|----------------------|-----------------------|---------------------|--------------------------|
| Felixton | 1 857 913 | 207 586 | R2 469 727 136 | R1 548 849 389 |
| Amatikulu | 1 227 344 | 141 475 | R1 683 192 331 | R1 053 176 596 |
| Maidstone | 1 479 406 | 167 113 | R1 988 211 452 | R1 243 295 035 |
| Total | 4 564 663 | 516 174 | R6 141 130 918 | R3 845 321 020 |

13. The estimates for the approximately 15 500 Growers who supply cane to the THL mills (“**the THL Growers**”) for the 2026/2027 season are:
- 13.1. 4,4 million tons of sugarcane supplied to the mills; and
- 13.2. R3,8 billion paid to the THL Growers.

14. The 2025/2026 season ends on 31 March 2026. THL has been holding back retentions being a portion of the payment due to THL Growers in terms of the SI Agreement amounting to approximately R231 million.
15. Accordingly, there are 15 500 THL Growers with claims totalling R231 million who are creditors, affected persons and parties to this matter in terms of s145(1) read with s128(1) of the Companies Act.
16. The remaining Growers are stakeholders as contemplated in terms of s7(k) of the Companies Act.
17. Clause 3.1 of the SACGA Memorandum of Incorporation reads:

“The Association is established for the purposes of promoting and protecting the lawful interests of the South African sugar industry as a whole, and in particular, the interests of sugar cane growers”
18. For this reason, the SACGA is obliged to promote and protect the interests of the sugar industry and, in particular, the aforesaid 28 000 Growers who are affected persons or stakeholders.
19. I respectfully submit that the SACGA has a direct and substantial interest in the outcome of whether the court, in exercising its discretion, will convert the business rescue proceedings to liquidation proceedings in terms of s132(2)(ii) of the Companies Act.
20. Due to the urgency of the applications before court, it makes practical sense for the Growers to participate in the proceedings through their representative organization and to speak with one voice, rather than to have a flood of participants as affected persons.



21. The BRPs consent to SACGA's intervention in this matter.
22. I turn to deal with the opposition by SACGA to the conversion of the BR proceedings to liquidation proceedings.

OFF-CROP MAINTENANCE & OPENING OF THE MILLS

23. The South African sugar business is seasonal with variable working capital requirements.
24. The 2025 sugar cane crushing operation or season was completed during early December 2025. The end date of the crushing season for each mill is dependent on cane availability, weather conditions, mill capacity and operational and logistical factors.
25. The 2026 crushing season is expected to open during the first week April each year and, in this year, the position is as follows:
 - 25.1. the Felixton Mill was due to open on 13 April 2026 as reported in the 19 January 2026 Felixton Mill Update but this has been extended to 29 April 2026;
 - 25.2. the Amatikulu Mill was due to open on 22 April 2026 but the date has been extended to mid-May;
 - 25.3. initially, the Maidstone mill was to open on 22 April 2026 but that date has been extended to the 22 May 2026, following a communication by the Mill Group Board.

These extensions have arisen because of the liquidation application which led to the closure of the THL's bank accounts.

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26. The Overall Off-Crop Progress report for 2026 for the Amatikulu Mill dated 18 February 2026 published on the THL website records 87 working days required for the planned annual off-crop maintenance shutdown and refurbishment programme (“**off-crop maintenance programme**” or “**programme**”) and that the project was 5 days behind schedule with 53 days to go. This report is no longer current. The BRPs can update the court in respect of the programme and the estimated cashflow projections for the completion of maintenance before the opening of the mills.
27. During the off-crop period, Growers undertake critical agricultural activities including land preparation, replanting, ratoon management, fertilisation, weed and pest control and irrigation maintenance as well as mechanical maintenance of tractors and other farming equipment. Although cane deliveries cease during this period, growers incur significant input and operational expenditure in preparation for the next season.
28. Financially, this is a cash flow trough period and especially difficult for small-scale growers. This is also the time when planning meetings are held, production forecasts are finalised and delivery quotas are discussed.
29. In the context of a large integrated sugar milling operation (such as Maidstone, Amatikulu or Felixton), the off-crop maintenance programme is a structured engineering, mechanical and capital works campaign undertaken during the period when no cane is being crushed.
30. To illustrate the magnitude and cost of the off-crop maintenance programme, I refer to the THL website article dated 14 March 2025 which reported that THL has been allocating Industrial Development Corporation



(“IDC”) funding to off-crop maintenance as follows: ¹

2022/23: R472 million

2023/24: R493 million

2024/25: R460 million.

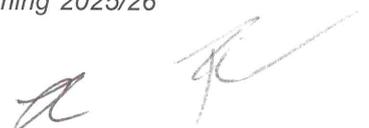
31. Based on the historical figures, and in the light of cashflow constraints, SACGA estimates that the budget for the 2025/26 off-crop maintenance is in the region of R400 million.

CONSEQUENCES OF MILLS FAILING TO OPEN

Overall impact

32. The relationship between a mill and a Grower is symbiotic. In order for a Grower to be viable, it needs a home mill within a radius of approximately 50 km from the farm. In order for a mill to be viable, it needs sufficient sugarcane so as to ensure that the mill continues to remain open and crushing throughout the sugar season. This is how the sugar industry is structured and it is because of this symbiotic relationship that Millers and Growers are governed by the SI Agreement and the Sugar Act.
33. Almost all THL Growers supply cane to the THL mills under their respective Cane Supply and Milling Agreements (“Cane Supply Agreement”). Each Grower is thus bound to supply their cane to the mill they are contracted to. It is a closed market and regulated by the SI Agreement balancing the interests of Growers, Millers and Refiners.
34. If the three THL mills do not open at the commencement of the milling

¹ Tongaat Hulett invests R460 million in off-season maintenance ahead of upcoming 2025/26 sugar season dated 14 March 2025

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season and remain open for the duration of the milling season and the THL Growers are not paid the anticipated R3,8 billion, it will devastate the economy of the entire KZN north coast and hinterland.

35. A small percentage (10%) of the current crop might be able to deliver their cane to another mill but these mills do not have capacity for all the cane and are, in any event, too far from the THL Growers' farms making it not economic. THL Growers would also not receive payment for cane deliveries (including past retentions held), levies and other legislated funding requirements. Operations at the mills would immediately cease and many growers in the THL serviced areas will lose access to the only mill economically viable to process their cane. Because sugarcane must be milled soon after harvesting to ensure a viable yield and due to the distance to other mills, it would leave vast amounts of the season's sugarcane unmilled.
36. Furthermore, the THL Growers, and in particular the large-scale commercial growers, operate their farming businesses with significant exposure to secured banking facilities. If the mills do not open, this would trigger widespread financial distress across the agricultural, banking and commercial sectors.

Small-scale Growers

37. Higgins Mdluli is the Chairman of SACGA and, on 6 August 2024, sets out the importance of small-scale Growers in his Opinion - *Sustainable small-scale sugarcane growers vital to SA sugar industry* - in which he stated that there are more than 24 000 small-scale Growers who:

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“...vary from small commercial farmers to Growers who farm small plots of land with the aim of keeping a family and community alive. Some have been growing sugarcane for three or four generations on the same land. What unites these growers is that they are critical to the rural economies of KwaZulu-Natal and parts of Mpumalanga. Small-scale growers anchor these rural communities with income and employment.

It is no secret that small-scale growers face unique challenges, and the industry has been grappling with this for years. Growing on smaller plots means that growers operate on tighter margins and higher costs, and any price shocks or external pressures have outsized effects on their livelihoods. This makes the best use of transformation funding to develop long-term sustainability, even more essential.

The sugar industry is aware of the scale of this challenge. In 2019, the industry committed to a transformation plan to assist growers. As part of this plan, over R1 billion was paid to developmental growers over five years, administered by the SA Sugar Association (SASA), a statutory body that regulates the industry.

According to SASA figures, over the five years R592 million was paid to small-scale black growers and R281 million to commercial black growers. Growers could use these funds as they wished based on individual needs or to invest in their operations, and to buy much needed inputs such as Seedcane or fertilizer.

The initial plan came to an end in 2023/24 season, but in this current season (2024/25) the industry associations who approve a contribution to this fund, including SA Canegrowers, committed to a renewal of transformation funding for another year.”

38. Since 2024/2025, at least R400 million has been spent on transformation funding.



39. If the THL mills are not saved, there will have been an enormous waste of resources, small-scale Growers will not be able to continue their farming operations and the wider community will be severely impacted.

Commercial Growers

40. Pratish Sharma is a commercial sugarcane farmer who farms 10km from the Maidstone sugar mill. The filing of the liquidation application came as a shock to his community. If the mill closes, he will have to speak to his 60 employees and say that the business is shutting down which will be a difficult conversation to have because they rely on him for their income – basically provide them with their livelihood and if he does not have a business, he cannot sustain them going down the line. The people on the ground will be the ones to suffer. He explained the impact on him to The Mercury on 18 February 2026 as follows:²

“With crops ready for the upcoming harvest season and no guarantee that the Tongaat Hulett Maidstone Sugar Mill will operate, farmers describe the situation as “catastrophic” and “distressing”.

Pratish Sharma, a fourth-generation sugar cane farmer in Isinembe, said his family had been supplying the Maidstone Sugar Mill in Tongaat, for decades. He said he was currently preparing for the harvesting season in April.

“The sugar cane harvesting season ended in early December. The off-season – which is now – is usually when we do all the maintenance on the farm. Farms are living entities so there is always a need for it to be cleaned and maintained. The Maidstone

² The Mercury 18 Feb 2026 *This season’s sugar cane could go unmilled ...*

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Sugar Mill also closed in December, and they used this time to do all their maintenance.”

Sharma, who is also a director of SA Canegrowers, and chairperson of its branch, Maidstone Local Grower Council, said the announcement of the provisional liquidation was “distressing”.

“It was a shock to the system because we had done so much of work to try and prepare a crop for next season. Now we are faced with the possibility that there may not be a mill to crush that cane. It is very distressing because our businesses are dependent on the ability to process the cane. We cannot sell our cane directly to any market. It has to be sent to a mill for processing.”

41. This is the reality facing the 15 500 commercial and small-scale Growers if the THL mills do not open. Collectively they would have expected to receive approximately R3,8 billion for this year’s crop if the THL mills were to open for the season. The BRPs must, with IDC concurrence, complete the off-crop maintenance programme without delay and ensure that the mills remain open.

PUBLIC INTEREST

42. In his judgment dealing with the question of whether the BRPs could suspend the obligation by THL to pay SASA, Vahed J outlined the social dynamic issue as follows:³

“[23] It is largely common cause that the sugar industry is important to the South African economy. An average of two million tons of sugar per season is produced placing the country regularly in the top quartile of sugar producing countries. The industry generates in excess of R18 billion annually in annual direct income and creates somewhere between 65 000 (according to 1st and

³ *Tongaat Hulett Limited (In Business Rescue) and Others v South African Sugar Association and Others* (D4472/2023) [2023] ZAKZDHC 93; [2024] 1 All SA 509 (KZD)



2nd respondents) and 85 000 (according to the applicants) direct jobs, and 350 000 indirect jobs, predominantly in rural areas where employment and economic opportunities are particularly hard to come by. Sugar is particularly significant for the rural economy, where sugar cane is a prolific and strategic crop, and local economies are boosted by the close proximity of sugar mills, and the infrastructural support and income generating benefits they bring. Sugarcane farms and sugar mills, in most cases, form the backbone of the nearest rural town and are major contributors to the development of secondary economic activity, services and infrastructure that otherwise would be absent. **Sustaining the sugar industry and its production levels, is a matter of national social and economic importance.”**

(emphasis added)

STAKEHOLDERS, PROPOSALS AND DISPOSAL OF ASSETS

43. Since early December 2025, I have been addressing the issue of what would be in the best interests of the Growers and whether to opt for BR proceedings or Liquidation proceedings.
44. The three sugar mills owned by THL, the central refinery and the marketing operations of THL, in selling refined sugar and sweeteners, have been carefully structured so as to benefit Growers, Millers and the public. The central refinery refines raw sugar produced, not only at the THL mills, but also at most of the other mills in South Africa. The central refinery is therefore critical for the continued viability of all of the 28 000 Growers.
45. The outcome that would best serve the interests of THL Growers is, in my view, that which ensures:
 - 45.1. the off-crop maintenance is completed in accordance with their budgets and programmes so that the mills open timeously; and
 - 45.2. the long term sustainability of the THL mills and refinery.



46. I have repeatedly stated this approach to all stakeholders and the press.

Engagement with Stakeholders

47. In my capacity as Chief Executive Officer of SACGA, I have engaged extensively with a broad range of stakeholders.

48. These engagements, in relation to the crisis that would eventuate if the mills did not open, have been with the following:

48.1. senior executives of the THL Sugar Division;

48.2. senior executives of the IDC;

48.3. The Honourable Minister Tau and his department of the Department of Trade, Industry and Competition (“the DTIC”);

48.4. The Honourable Minister Steenhuisen of the Department of Agriculture;

48.5. representatives of the Growers, the SACGA Task Team and individual Growers;

48.6. senior representatives of the Vision Parties and RGS;

48.7. representatives of Ingonyama Holdings, a division of Ingonyama Trust. A substantial number of black small-scale farmers cultivate sugarcane on Ingonyama Trust land and hence the socio-economic implications;

48.8. the South African Sugar Association (“SASA”), as the statutory body regulating the industry;

48.9. representatives of the milling companies to explore the capacity of



other mills should the THL mills not open;

48.10. members of the media and industry commentators, including David Woollam, to ensure accurate communication of developments; and

48.11. other stakeholders within the sugar industry.

49. The purpose of these engagements has been to collect and share information and views and formulate my view on which alternative would be in the best interests of the Growers and the South African sugar industry as a whole.

50. The sugar cane crushing season proceeds on a biologically timed cycle. Sugarcane must be milled shortly after harvest and the mills not reopening timeously could leave large volumes of cane unprocessed and deteriorating in the field.

51. The IDC is pivotal in providing the financial support required by the BRPs and the THL executives with the immediate requirement to complete the off-crop maintenance programme and to carry on the business of the South African Sugar operations. This is in accordance with its policy of prioritising investments in sectors that drive immediate economic impact and job creation, and in investments that preserve industrial capacity and sustain employment.

52. Although it may be argued that the liquidation of THL will bring certainty, it will cause enormous destruction and lead to further litigation. Firstly, the Master will need to appoint liquidators and, already, there are a number of liquidators vying for appointment. Upon appointment, the liquidators would have to immediately apply to Court for powers to continue to trade. This

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would have to be backed by a creditor which had several billion Rand financial backing. Even if this did occur, it would inevitably lead to litigation and would delay the certainty of a determination of continuing the business of the SA Sugar operations and the opening of the mills.

53. Hence the business rescue process is the only process which I believe can viably be considered.
54. My advice, which has been accepted by the SACGA Board, is to align with the DTIC and the IDC and, in so doing, oppose the liquidation of THL.
55. This will allow the BRPs time to consider competing bids for the assets of THL and assess whether remaining in business rescue would yield a better return for creditors than would liquidation.

The alternatives to dispose of the THL assets

56. The alternative methods that I have been considering for disposal of the THL assets and which the court, I am advised, now needs to address are:
 - 56.1. firstly under BR proceedings; and then
 - 56.2. secondly, under liquidation proceedings

BR proceedings

57. In the founding affidavit, the BRPs disclose that the South African Sale of Business Agreement with Vision has lapsed and so the BRPs are, I reiterate, obliged to consider other proposals and assess whether business rescue would yield a better return for creditors than would liquidation.
58. During this period of considering competing bids, it is imperative that the



off-crop maintenance programme is completed timeously and the mills open to crush the cane before it deteriorates in the fields. Nature waits for no-one.

59. It is common cause that there are at least three parties who will submit bids to the BRPs for the acquisition of the THL assets, namely:

59.1. the Grower led Consortium which seeks only to make a proposal in respect of the SA Sugar assets. It is anticipated that the composition of the Consortium aims to include all Growers, THL SA employees, funders and other stakeholders;

59.2. the RGS Group who have repeatedly stated that they are prepared to make an offer to buy the THL assets and will be able to provide a bank guarantee underpinning their bid; and

59.3. the Vision Group who have stated categorically in their press release on 12 February 2026 that they intend to secure control over the assets under the proposed provisional liquidation. In the event of liquidation, I am advised that the Vision Group would avoid their liability to pay SASA what is referred to as the R517 million claim. I am also advised that Vision was and still is obliged to pay the R517 million claim in terms of the existing BR Plan and, I submit, such payment would inure to the benefit of the Growers and Millers.

60. Shortly after the disclosure in the founding papers that the sale agreements to the Vision Group had lapsed, the board of SACGA appointed a task team to consider resuscitating the Grower led Consortium proposal which had been made to the BRPs in 2023. A revised proposal

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was submitted to the IDC on 25 February 2026, a copy of which is annexed hereto marked "B". A proposal to the BRPs is being prepared on the basis of the attached executive summary, a copy of which is annexed hereto marked "C".

61. I am advised that the alternatives open to the BRPs for the disposal of the SA Sugar assets are to:

61.1. amend the existing BR Plan in terms of clause 18.2 of the BR Plan;

61.2. dispose of the SA Sugar operation assets in terms of s134(1)(a)(ii) of the Companies Act; or

61.3. submit a revised BR Plan.

62. Each alternative has differing requirements and hurdles to overcome which I turn to address.

Amending existing BR Plan

63. The BR Plan provides that if the BRPs wish to make any material amendments to the Plan, then:

"18.2 ... the BRPs shall consult with Affected Persons in terms of section 150 of the Companies Act and shall be entitled to propose an amendment for consideration and voting at a Meeting conducted in terms of Section 151 of the Companies Act. Such amendment shall only be effective should it be Adopted in the same manner as provided for in section 152 of the Companies Act."

Disposal of assets in terms of s134 of the Companies Act

64. Another alternative open to the BRPs is to dispose of assets in terms of s134(1)(a)(ii) read with s134(3)(a) of the Companies Act, 2008 which

reads:

“134. Protection of property interests

(1) Subject to subsections (2) and (3), during a company’s business rescue proceedings—

(a) the company may dispose, or agree to dispose, of property only—

(i) ... ;

*(ii) in a **bona fide** transaction at arm’s length for fair value approved in advance and in writing by the practitioner; ...*

(2) ...

(3) If, during a company’s business rescue proceedings, the company wishes to dispose of any property over which another person has any security or title interest, the company must—

(a) obtain the prior consent of that other person,”

65. A sale pursuant to an amendment of the BR Plan in terms of cl 18.2 or a sale in terms of s134(1)(a)(ii) read with s134(3) referred to above would, I am advised, not release the Vision Group of their obligation to pay the R517 million into the escrow account which obligation arose when THL was unable to do so during 2025.

Revised BR Plan

66. The third alternative would be for the BRPs to submit a revised BR plan. I am advised that, in this instance, the obligation by Vision to pay the R517 million would fall away.

Funded Liquidation

67. If the company is placed in liquidation, then the liquidator has two alternatives to dispose of assets, namely:



67.1. to sell the assets prior to the general (second) meeting of creditors, with the approval of the Master under s386(2A) and (2B) or the Court under s386(5) read with 387(3) of the Companies Act, with such a sale requiring the consent of the secured creditor and, as a matter of practice, the shareholders.

The consent of the shareholders would also be required for a sale ahead of the finalization of an appeal in terms of s150(3) of the Insolvency Act read with s339 of the Companies Act, 1973; and

67.2. to sell assets pursuant to a resolution passed at the second meeting of creditors which usually takes place at least four months after the appointment of liquidators.

CONCLUSION

68. I respectfully submit that:

68.1. the *status quo* should remain in place with the IDC securing the funding to continue the business of THL as a going concern which includes the completion of the off-crop maintenance programme, the commencement of the crushing of cane and then the subsequent refining of raw sugar so that it can be sold to the South African public; and

68.2. The South African assets of THL can only viably be sold with the support of the IDC and, I submit, with the involvement of the Growers, the employees of THL and its management. This option is the only viable option which will secure the continued operation of the South African sugar industry.



68.3. If the Vision Group as the person or persons controlling the Lender Group claims endeavours to impose its will on the BRPs unreasonably, then the provisions of s153 of the Companies Act relating to an *inappropriate vote* can be resorted to.

WHEREFORE I pray that leave for SACGA to intervene be granted and that the main application be dismissed with costs.



I hereby certify that the deponent has acknowledged that he knows and understand the contents of this Affidavit which was signed and sworn to before me at MOUNT EDGECOMBE on this the 3rd day of MARCH 2026, the provisions of Government Notices No. R1258 and R1648 dated the 21st July 1972 and 19th August 1977 respectively having been complied with.



COMMISSIONER OF OATHS

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Ex Officio COMMISSIONER OF OATHS

Date: 03/03/2026.



SA CANEGROWERS

South African Cane Growers Association NPC (SA Canegrowers)
170 Flanders Drive, Mount Edgecombe | 1928/001125/08

008/2026
SU/su

25 February 2026

SOUTH AFRICAN CANEGROWERS ASSOCIATION NPC
(Registration Number: 1928/001125/08)

ROUND ROBIN RESOLUTION OF THE BOARD OF DIRECTORS
Passed in terms of the Memorandum of Incorporation

BACKGROUND

- A. Tongaat Hulett Limited (“THL”) is a systemically important participant in the South African sugar value chain, with material implications for sugarcane growers, rural communities and the broader industry.
- B. An application has been launched to place THL into liquidation, which—if granted—would have severe and far-reaching consequences for growers and the sustainability of the sugar industry.
- C. The Board has been receiving ongoing legal advice and strategic input regarding the comparative implications of business rescue versus liquidation, including engagement with government, the Industrial Development Corporation (“IDC”) and other stakeholders.
- D. In order to coordinate SACGA’s response and act in the best interests of growers, a dedicated task team has been established at management and Board level, which has already undertaken preliminary work and engagements.
- E. The Board wishes to formally ratify the establishment, mandate and authority of the Tongaat Hulett Task Team and to approve SACGA’s participation in legal proceedings opposing the liquidation of THL.

RESOLUTIONS

1. Establishment and Ratification of Tongaat Hulett Task Team

- 1.1 The Board hereby ratifies and formally appoints the Tongaat Hulett Task Team (“Task Team”) established to coordinate SACGA’s strategic, legal and stakeholder response in relation to the THL business rescue and liquidation proceedings.
- 1.2 The Task Team shall comprise such Board members, executive management and advisers as designated by the Chairperson and Chief Executive Officer from time to time. Initially, this team will comprise:
 - Thomas Funke
 - Graeme Stainbank
 - Rex Talmage
 - Dave Littley
 - Guy Heenan
 - Pratish Sharma

1.3 All actions, instructions and engagements already undertaken by or on behalf of the Task Team in good faith prior to the adoption of this resolution are hereby ratified and approved.

2. Mandate and Charter of the Task Team

- 2.1 The Task Team is mandated to act on behalf of SACGA, subject to Board oversight, to:
- (a) assess and respond to developments relating to the business rescue and liquidation proceedings of THL;
 - (b) engage with legal advisers, counsel, government departments, the IDC, financiers, industry bodies and other stakeholders;
 - (c) evaluate and pursue strategies aimed at avoiding liquidation and preserving value for growers and the sugar industry;
 - (d) coordinate SACGA's legal, strategic and communications approach in relation to THL;
 - (e) keep the Board timeously well-informed of developments on the matter; and
 - (f) make recommendations to the Board on all material decisions requiring Board approval.
- 2.2 The Task Team shall operate within a Board-approved mandate, as detailed in the Terms of Reference in Annexure A, and any material deviation, settlement, funding commitment or binding agreement shall require prior Board approval unless circumstances require urgent action, in which case such action shall be reported to and ratified by the Board as soon as reasonably practicable.

3. Opposition to Liquidation of Tongaat Hulett Limited

- 3.1 The Board hereby approves and authorises SACGA to oppose the liquidation of Tongaat Hulett Limited in the appropriate forum(s), on the basis that liquidation would be materially detrimental to sugarcane growers and the South African sugar industry.
- 3.2 SACGA's opposition is intended, inter alia, to align with efforts by government and other stakeholders to secure time and space to negotiate a viable, sustainable and industry-preserving outcome.

4. Appointment of Legal Representatives

- 4.1 The Board hereby approves the appointment of AlexanderCox Attorneys, and such counsel as they may recommend, to act on behalf of SACGA in connection with the opposition to the liquidation of THL and all related proceedings.
- 4.2 The Chief Executive Officer is authorised to provide instructions to SACGA's legal representatives and to take all steps reasonably necessary to give effect to these resolutions.
- 4.3 Any preliminary instructions already given to AlexanderCox Attorneys prior to the adoption of this resolution are hereby ratified and confirmed.

SIGNED AS A ROUND ROBIN RESOLUTION

This resolution shall be valid and binding as if passed at a duly constituted meeting of the Board, upon email approval by the required majority of Directors.



Higgins Mdluli



Andrew Russell



Kurt Stock





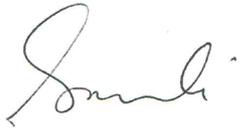
David Littley



Dieter Lutge



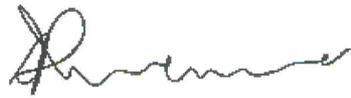
Graeme Stainbank



Kiki Mzoneli



Mark Schulz



Pratish Sharma



Rex Talmage



Ricks Eggers



Thobani Lubisi



Guy Heenan



Rustin Curtis



007/2026
TBF/tbf

u B v

25 February 2026

Industrial Development Corporation of South Africa
19 Fredman Drive
Sandown
Sandton, 2146
South Africa

Per email: lwandisom@idc.co.za ; bonganim@idc.co.za

RE PROPOSAL ON BEHALF OF THE TONGAAT HULETT SUPPLYING GROWERS' CONSORTIUM

Dear Sirs,

This letter is addressed to you by a consortium of cane growers and in particular, those growers who supply cane to the Tongaat Hulett mills in South Africa, as well as employees of Tongaat Hulett South Africa (the **Consortium**).

The purpose of this letter is to seek your intervention so as to prevent the liquidation of Tongaat Hulett Limited (**Tongaat Hulett**) and to request that the business rescue plan for Tongaat Hulett be amended so as to provide for the Consortium's acquisition of Tongaat Hulett South Africa, jointly with the Industrial Development Corporation (the **IDC**). The Consortium has no interest in acquiring the non-South African assets of Tongaat Hulett.

This approach is made to you so as to preserve the sugar industry in KwaZulu-Natal and prevent the destruction of 40 000 jobs, which in turn supports 1 million people.

1. **Tongaat Hulett South Africa**

1.1 Tongaat Hulett South Africa comprises of three sugar mills on the north coast of KwaZulu-Natal at Maidstone, Amatikulu and Felixton. It also owns the recently mothballed sugar mill at Darnall. These three operating sugar mills have a capacity to crush 5.5 million tons of sugar cane, annually. The Consortium currently delivers cane totalling 4.5 million tons to the three sugar mills.

1.2 Tongaat Hulett South Africa also owns:

- (a) a central refinery in Durban, which produces high quality refined sugar under the leading "*Hulett's*" brand. This sugar is then distributed throughout Southern Africa;
- (b) an animal feed operation, Voermol Feeds, based in Maidstone, which produces energy and supplementary feeds for the livestock farming community and which business is linked to the Maidstone mill; and
- (c) agricultural estates which supply cane to the three sugar mills.

1.3 The Consortium are of the considered opinion that it would not be prudent to break up the businesses of Tongaat Hulett South Africa, as collectively, they are most efficient as one unit. Details of this can be provided to you, if necessary.

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2. The Consortium

The Consortium comprises of some 400 large scale commercial growers and some 15 000 small scale, mainly black, growers. The grower consortium delivers cane worth some R4.5 billion to the Tongaat Hulett mills per annum. It also represents an investment of in excess of R12 billion. It is the main contributor to the economy of the north coast of KwaZulu-Natal and provides employment to 13 500 employees and supports some 40 000 people.

- 2.1 The employees of Tongaat Hulett South Africa represent some 2 500 individuals.
- 2.2 The Consortium has been put together so as to save the livelihoods of 1 million people. The Consortium is confident that, under its leadership, South African operations of Tongaat Hulett will be saved and, in due course, will thrive. The Consortium recognizes that this cannot be achieved without the support of the IDC as a key stakeholder and investor in the Consortium.
- 2.3 The restructuring proposed by the Consortium will succeed because:
 - (a) The Consortium has a vested interest so as to ensure that Tongaat Hulett South Africa continues to operate and remains sustainable.
 - (b) Tongaat Hulett South Africa is required for the Consortium's growing operations. Without Tongaat Hulett South Africa, the grower consortium will not be able to crush and sell its cane. There is simply no alternative.
 - (c) The participation of the employees of Tongaat Hulett South Africa will ensure the success of the Consortium's objectives.
 - (d) There is every incentive to ensure that mill reliability occurs, grower development arises and re-investment is hard wired.
- 2.4 With the support of the IDC, first in class governance can be established and the South African economy protected.
- 2.5 The proposal aligns the interest of growers, employees and management so as to optimize performance, efficiency and governance. Owners will grow the cane, run the mills and develop the economy. All of the incentives will point in the right and same direction. Existing management has the track record to ensure the success of the business going forward.
- 2.6 The existing management has assessed the viability of the Consortium structure and is able to provide meaningful input as to how this can be achieved.

3. The Business Rescue Plan

- 3.1 The current business rescue plan with Vision has lapsed and as a result of its failure, the liquidation application has been lodged.
- 3.2 The Consortium requires the business rescue practitioners to withdraw the liquidation and for the IDC to support the Consortium in the submission of a revised and new business rescue plan.



- 3.3 The revised and new business rescue plan will involve the Consortium, together with the IDC, acquiring the business of Tongaat Hulett South Africa.
- 3.4 It would appear that Vision may wish to continue to acquire the non-South African assets of Tongaat Hulett, particularly its interests in Mozambique and Zimbabwe.
- 3.5 There is every prospect of the business of Tongaat Hulett being rescued. The revised plan needs to be submitted to creditors in terms of Section 152(2) of the Companies Act.
- 3.6 Should the business rescue plan not be adopted by creditors with the requisite majority, the Consortium believes that it would be justifiable to seek the Court's intervention in terms of Section 153(7) of the Companies Act, on the grounds that it is reasonable and just to do so.
- 3.7 If Tongaat Hulett is liquidated, there is every prospect that its business will be split up or closed, and that this will not be in the interests of the growers, management and the employees. The purpose of business rescue proceedings will be defeated.
- 3.8 In the very limited time available, it has not been possible to provide details of the rescue plan contemplated by the Consortium.
- 3.9 Further detail will be provided to the IDC. At this stage, it is important to point out:
 - (a) Tongaat Hulett South Africa is indebted to the grower members of the Consortium for a final payment for cane delivered to its mills (retention payment as per SIA 2000 (amended 2026)), which payment must be made on 31 March 2026. This final payment is estimated to be in the order of R231 million.
 - (b) Binding structures can be created through the inter-relationship between the Consortium and Tongaat Hulett via long term cane supply agreements. Tongaat Hulett pays to the Consortium for cane deliveries of approximately R4.5 billion per annum.

4. **IDC Support**

- 4.1 The Consortium requires the IDC to provide to it a letter of support which can be submitted to the business rescue practitioners confirming that the IDC will support a business rescue plan proposed by the Consortium and IDC so as to acquire Tongaat Hulett South Africa.
- 4.2 This will enable the business rescue practitioners to withdraw the liquidation and to submit a revised business plan to creditors.
- 4.3 It is envisaged that this revised business rescue plan will be favourably received by the Competition Authorities as it will support the retention of jobs and enable broad based ownership of Tongaat Hulett South Africa.
- 4.4 The Consortium would like to discuss with the IDC its suggestions regarding how to include the employees in the ownership structure and how to fund their equity stake.



Yours faithfully

A handwritten signature in black ink, appearing to be 'G. Stainbank', written in a cursive style.

**GRAEME STAINBANK
CHAIRMAN
THL TASK TEAM
SA CANEGROWERS**

Handwritten initials in black ink, possibly 'A F', located in the bottom right corner of the page.

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EXECUTIVE SUMMARY

Grower Stakeholder Company: Business Case to Acquire the Tongaat Hulett SA Sugar Milling & Refining Assets
SA Cane Growers Task Team | March 2026 | IDC as Cornerstone Partner | DTIC Policy Support

The Crisis

Tongaat Hulett Limited—KZN’s second-largest employer, operator of three sugar mills and the nation’s premier refinery—is in business rescue and now facing provisional liquidation. The selected Strategic Equity Partner’s sale agreement has lapsed. A court hearing on 27 February 2026 was adjourned; the new crushing season starts **1 April 2026—one month away**. If these mills close, there is no alternative capacity: 4.4 million tons of cane per season is stranded, and the growers who supply it lose their market permanently.

| | | | | |
|------------------------------------|--|---|---|------------------------------------|
| R24.3bn Industry Revenue | 35–40,000 Direct Livelihoods at Risk | 17,000+ Small-Scale Growers (THL) | 4.4m Cane at Risk (tons/season) | 77% KZN Share of Revenue |
|------------------------------------|--|---|---|------------------------------------|

The Opportunity

The court adjournment creates a window. A **Grower and Stakeholder Company (“Newco”)** would acquire THL’s SA assets (including the three mills, refinery, Voermol and cane farms) and all associated brands. A rational separation sees the Vision Consortium—which has acquired THL’s lender debt—pursue the African operations (Zimbabwe, Mozambique), while Newco takes the SA assets. Newco assumes no legacy debt.

A Stakeholder-Inclusive Model

This is not a conventional acquisition. It is an ecosystem model uniting everyone who drives the value chain into one aligned entity—designed around reinvestment, not extraction:

Ownership

All supplying growers (17,500 registered, incl. 15,446 SSGs — 60% of national total); THL employees & management; growers from other mill areas; strategic & technology partners; IDC as cornerstone partner.

Reinvestment-First Principles

Capital returned to mill & refinery maintenance; cane agriculture and replanting; workforce development; diversification into bio-energy (bagasse), bio-ethanol, and bio-plastics before any distributions.

Transformation

Genuine broad-based BEE from inception. 17,000+ small-scale growers hold equity via trust (proven Amatikulu SSG Trust model). Majority of stakeholders are previously disadvantaged individuals.

Governance

Board reflecting all stakeholder constituencies; independent professional management; transparency to all groups; reinvestment-first financial policy embedded in founding structure.

Why the IDC

Every dimension of the IDC’s mandate is engaged: **industrial preservation** (irreplaceable century-old infrastructure); **job protection** (35–40,000 livelihoods); **transformation** (17,000+ PDI grower-owners); **rural development** (KZN’s largest agricultural sector); **green industrialisation** (bio-energy, bio-ethanol, bio-plastics); and **Sugar Industry Master Plan delivery**. This is not a bailout—it is a partnership to build a replicable model for stakeholder-inclusive industrial ownership.

THE ASK

A signal of interest from the IDC to explore this transaction. That signal may provide the legal basis for the business rescue practitioners to withdraw the provisional liquidation application and pursue a going-concern outcome—before the 1 April 2026 crushing season begins. The cost of a structured solution is a fraction of the cumulative cost of failure: community collapse, permanent infrastructure loss, social instability, and fiscal burden across KwaZulu-Natal’s north coast.

3 Mar 26

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

CASE NO. 2026-031780

In the matter between:-

| | |
|--------------------------------------|------------------|
| GERHARD CONRAD ALBERTYN | First Applicant |
| TREVOR JOHN MURGATROYD | Second Applicant |
| PETRUS FRANCOIS VAN DEN STEEN | Third Applicant |

and

| | |
|--|------------------|
| TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) | First Respondent |
|--|------------------|

| | |
|-----------------------------|-------------|
| THE AFFECTED PERSONS | Respondents |
|-----------------------------|-------------|

| | |
|--|------------|
| MINISTER OF TRADE, INDUSTRY AND COMPETITION | Respondent |
|--|------------|

| | |
|---|------------|
| INDUSTRIAL DEVELOPMENT CORPORATION OF SOUTH AFRICA | Respondent |
|---|------------|

| | |
|-----------------------------------|------------|
| RGS GROUP HOLDINGS LIMITED | Respondent |
|-----------------------------------|------------|

and

| | |
|------------------------------|-------------------------|
| ABRINA 9422 (PTY) LTD | First Intervening Party |
|------------------------------|-------------------------|

| | |
|---------------------------|--------------------------|
| MUHAMMED FAIZ TURK | Second Intervening Party |
|---------------------------|--------------------------|

| | |
|------------------------------|-------------------------|
| MUHAMMED SHAKEEL TURK | Third Intervening Party |
|------------------------------|-------------------------|

| | |
|--|-------------------|
| SOUTH AFRICAN CANE GROWERS' ASSOCIATION NPC | Intervening Party |
|--|-------------------|

SACGA opposing the main application
and seeking leave to intervene

CONFIRMATORY AFFIDAVIT



I, the undersigned,

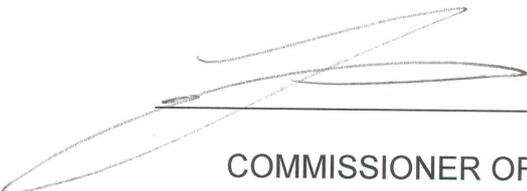
PRATISH SHARMA

do hereby make oath and say:

1. I have read the answering affidavit of Thomas Bernhard Funke and, as a THL Grower, I support the SACGA.
2. Insofar as his affidavit relates to me and the quote in The Mercury, I confirm the correctness thereof.



I hereby certify that the deponent has acknowledged that he knows and understand the contents of this Affidavit which was signed and sworn to before me at MOUNT EDGECOMBE on this the 3rd day of MARCH 2026, the provisions of Government Notices No. R1258 and R1648 dated the 21st July 1972 and 19th August 1977 respectively having been complied with.



COMMISSIONER OF OATHS

James Robinson CFP®
FPI Membership: 128028
Wealth Associate
Alexander Forbes Financial Planning Consultants (Pty) Ltd
10 Torsvale Crescent, Torsvale Office Park, La Lucia Ridge
Office Estate. 4320
Ex Officio COMMISSIONER OF OATHS

03/03/2026.

3 Mar 26

**IN THE HIGH COURT OF SOUTH AFRICA
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CASE NO. 2026-031780

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| GERHARD CONRAD ALBERTYN | First Applicant |
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and

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| TONGAAT HULETT LIMITED (IN BUSINESS RESCUE) | First Respondent |
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| | |
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| THE AFFECTED PERSONS | Respondents |
|-----------------------------|-------------|

| | |
|--|------------|
| MINISTER OF TRADE, INDUSTRY AND COMPETITION | Respondent |
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| INDUSTRIAL DEVELOPMENT CORPORATION OF SOUTH AFRICA | Respondent |
|---|------------|

| | |
|-----------------------------------|------------|
| RGS GROUP HOLDINGS LIMITED | Respondent |
|-----------------------------------|------------|

and

| | |
|------------------------------|-------------------------|
| ABRINA 9422 (PTY) LTD | First Intervening Party |
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| MUHAMMED FAIZ TURK | Second Intervening Party |
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| MUHAMMED SHAKEEL TURK | Third Intervening Party |
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| SOUTH AFRICAN CANE GROWERS' ASSOCIATION NPC | Intervening Party |
|--|-------------------|

SACGA opposing the main application
and seeking leave to intervene

CONFIRMATORY AFFIDAVIT



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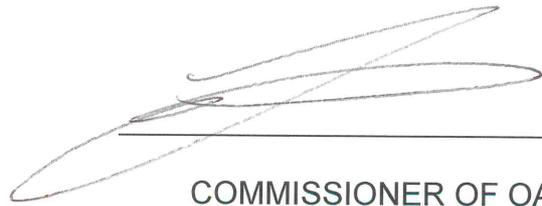
GRAEME STAINBANK

do hereby make oath and say:

1. I have read the answering affidavit of Thomas Bernhard Funke.
2. Insofar as the affidavit relates to me and the proposal by the consortium, I confirm the correctness thereof.



I hereby certify that the deponent has acknowledged that he knows and understand the contents of this Affidavit which was signed and sworn to before me at MOUNT EDGECOMBE on this the 3rd day of MARCH 2026, the provisions of Government Notices No. R1258 and R1648 dated the 21st July 1972 and 19th August 1977 respectively having been complied with.



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