



ADAMANTEM



MATUSON  
ASSOCIATES

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**Basil Read Limited (in business rescue)**

**Registration number 1962/002313/06**

**("The Company")**

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**December 2022 and January 2023**

**28<sup>th</sup> Update Report to the Companies and Intellectual Property Commission ("CIPC")**

**and to all Affected Persons**

**In Terms of Section 132 (3) (a) of the Companies Act 71 of 2008**

Prepared by:

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**Joint Business Rescue Practitioners**

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# 28<sup>TH</sup> UPDATE REPORT TO THE COMPANIES AND INTELLECTUAL PROPERTY COMMISSION FOR THE BUSINESS RESCUE OF

## BASIL READ LIMITED (IN BUSINESS RESCUE)

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### 1. Introduction

- 1.1. The Company was placed in business rescue under the supervision of the joint business rescue practitioners (“the Practitioners”) in business rescue proceedings on 15 June 2018, and the Business Rescue Plan (“the Plan”) proposed by the Practitioners was presented to and approved by 99% of all creditors and 98% of independent creditors on 27 September 2018.
- 1.2. This report, being the **Twenty Eighth (28<sup>th</sup>) Update Report**, is being tabled in terms of Section 132 (3) (a) of the Companies Act 71 of 2008 (“the Act”) as the business rescue proceedings of the Company have not been concluded within three months of the date of commencement as required.
- 1.3. Reference is made in this report to the Plan, it is therefore important that this report be read in conjunction with the Plan and all the previous update reports.
- 1.4. Please refer to [www.matusonassociates.co.za/basilread/](http://www.matusonassociates.co.za/basilread/) for further information on the business rescue proceedings of the Company.

### 2. Current Status

#### 2.1. Construction Contracts (“Contracts”)

2.1.1. TCTA (Olifants River Water Resources Development Project – Phase 2) –The commercial closure, which involves the determination of the final account, inclusive of contract claims, remains on going and is anticipated to be finalized in 2023. A number of Dispute Adjudication Board decisions were referred to arbitration. It has been agreed to try and resolve these amicably as set-out in the contract, to avoid costly and lengthy arbitration proceedings.

2.1.2. Eskom (Various Medupi Contracts) –

2.1.2.1.1. The Company has declared a dispute with Eskom in respect of the delays in the finalization of the Buildings Contract and the Engineer’s determination for the return of the Performance Bond, as reported in the previous update.. The parties are in negotiations to implement the determination and we remain confident of an amicable resolution of the dispute.

#### 2.2. Guarantees

2.2.1. Since the last update report, no further guarantees have been called by any of the Employers

2.2.2. The value of guarantees outstanding remains at R72.6 million compared to R1.1 billion in June 2018 when the Company filed for business rescue.

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### **BASIL READ LIMITED (IN BUSINESS RESCUE)**

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2.2.3. The outstanding guarantees relate to three (3) contracts, two (2) in favour of one Employer, being the Department of Public Works in relation to a Port Shepstone Contract, which the company terminated in 2018 and is subject to litigation, and the other is referred to in 2.1.2.1.1 above, in relation to Eskom.

#### **2.3. Contract Claims Receivable**

2.3.1. The aggregate sum of contract claims is substantial and the Practitioners believe the extent to which the Company can recover these claims will impact materially on the result of the business rescue process.

2.3.2. The resolution of contract claims remains protracted, tedious and costly, particularly where matters are subject to court or arbitration proceedings.

2.3.3. Notwithstanding these challenges the Company has been successful in obtaining settlements and favourable rulings with respect to certain of these claims. Unfortunately, some Employers continue to unlawfully withhold payments due in terms of these rulings. Consequently, the Company has taken legal action to enforce the rulings. As a result, the timing of receipts of funds for these claims remains uncertain.

2.3.4. Whilst the Company remains committed to realising claims to meet its commitments, the Practitioners nevertheless wish to highlight that to the extent that the pursuit of these claims continues into the future, the benefit to be derived therefrom may diminish.

#### **2.4. Realisation of Non-Core Assets**

2.4.1. There has been no improvement in the market for the non-core assets of the Company, a position not assisted by the uncertainty associated with the Covid-19 pandemic and the general economic performance. However, we remain optimistic and continue to market these assets. Should any affected person know of or be interested in any of the properties for sale, please contact the business rescue team at [basilread@matusonassociates.co.za](mailto:basilread@matusonassociates.co.za).

#### **2.5. Retained Businesses (Mining and Developments)**

2.5.1. One of the primary objectives of the approved Plan was the optimisation, safeguarding and preservation of the retained businesses.

2.5.2. These businesses remain self-sustaining and continue to perform well notwithstanding the negative overhang of the business rescue of the Company on them

#### **2.6. Proceeds from Realisations**

Proceeds from the realisation of non-core assets and contract claims will be distributed in terms of the payment waterfall, as contained in the Plan, and in line with the Company Act.

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**3. Proof of Claims**

**3.1.** The claims submission period has closed.

Please refer any questions or queries relating to your claim to [basilread@matusonassociates.co.za](mailto:basilread@matusonassociates.co.za)

**4. Conclusion**

**4.1.** Owing to the above-mentioned delays and setbacks, the dividend to concurrent creditors, as anticipated in the Plan, is likely to be significantly reduced and will largely depend on the value of asset realisations and contract claims.

**4.2.** Notwithstanding the above-mentioned uncertainties, it is anticipated that:

4.2.1. subject to the anticipated realisation of Claims, all PCF and other post-commencement obligations will be settled in full; and

4.2.2. the risk of further guarantees being called, although not eliminated, has been significantly reduced.

4.2.3. It remains the opinion of the Practitioners that a full implementation of the Plan will achieve a better result than a liquidation.