South African Airways (SOC) Limited (in business rescue)

Registration number 1997/022444/30

(“SAA”, “The Company”)

December 2020

Report to the Companies and Intellectual Property Commission

and to all Affected Persons

In terms of section 132(3)(a) of the Companies Act 71 of 2008 (“Act”)

Prepared by:

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Joint Business Rescue Practitioners (“BRPs”)

Directors

MG Qhena* (Interim Chairperson), JB Crawford* NO Fadugba*1 EL Van Harte* MP Tshisevhe * MMB Zwane*

*Interim Non-Executive Director

1 British Citizen

Company Secretary – RN Kibuuka

South African Airways SOC Ltd Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER ♠
1. **Introduction**

1.1. In terms of section 132(3) of the Companies Act 71 of 2008 ("Act"), if a company’s business rescue proceedings have not ended within three (3) months after the start of those proceedings, or such longer time as the court, on application by the practitioner, may allow, the practitioner must –

1.1.1. prepare a report on the progress of the business rescue proceedings, and update it at the end of each subsequent month until the end of those proceedings; and

1.1.2. deliver the report and each update in the prescribed manner to each affected person, and to the:

1.1.2.1. Court, if the proceedings have been the subject of a court order; or

1.1.2.2. Commission, in any other case.

1.2. Therefore, as required, this **Tenth Update Report** is being tabled in terms of section 132 (3) (a) of the Act.

2. **Since the Ninth Update Report of November 2020**

2.1. **Business Rescue Plan**

2.1.1. The 1st tranche of funding made available by the Department of Public Enterprises ("DPE") in respect of the restructuring of the Company was received in late November 2020.

2.1.1.1. Certain conditions were attached to how the money should be utilized which would not allow the full settlement of the salaries accrued and owing to employees for the period 1 April 2020 to 30 November 2020.

2.1.1.2. Following numerous engagements between the BRPs and the DPE, the DPE undertook to negotiate with the labour unions in respect of concluding a settlement agreement in respect of the outstanding salaries.
2.1.3. A settlement agreement was signed, on 24 December 2020, by 4 unions being NTM, SATAWU, AUSA and Solidarity as well as by non-unionized employees.

2.1.4. The settlement agreement was also extended to employees who are members of unions that had not signed the settlement agreement for individual acceptance. Due to the lock-out of the pilots as articulated in 2.1.2 below, the members of the South African Airways Pilots Association (“SAAPA”) are not eligible to accept the settlement agreement in their individual capacities at this time.

2.1.5. The 1st payments to eligible employees were made on 31 December 2020. To date a total of 3,599 of eligible employees have received payments as per the settlement agreement.

2.2. As was articulated in the Ninth Update Report, a dispute was lodged with the Commission for Conciliation, Mediation and Arbitration (“CCMA”) in respect of the deadlock in negotiations with SAAPA around the cancellation of the Regulating Agreement and other Terms and Conditions of employment for pilots within the restructured airline:

2.2.1. Following attempts on the record, and off the record negotiations with SAAPA during the month of November 2020 and early December 2020 no progress has been made.

2.2.2. A notice of lock out was issued to SAAPA with effect from midday on 18 December 2020. In terms of the lock-out, the Company has made the following demands:

2.2.2.1. The termination of the Regulating Agreement and all other collective agreements between the Company and SAAPA

2.2.2.2. The agreement of new terms and conditions and the Basic Conditions of Employment Act (“BCEA”) severance payment
of 1 week per year of service and

2.2.2.3. The agreement of new salary scales for Captains and First Officers

2.2.2.4. The impact of the lockout on pilots’ remuneration and benefits from the 18th December 2020 until the lock-out is lifted by the Company is as follows:

2.2.2.4.1. No salary is paid, is due or accrues to pilots. This includes all elements of remuneration, including *inter alia* normal cash component, computer allowance, car allowance, check pilot allowance, training Captain allowances, TERS, etc. There is also no interest due or that accrues;

2.2.2.4.2. No 13th cheque accrues or will be paid during the period of lock out;

2.2.2.4.3. No pension fund contributions are due or accrue or will be paid over to the relevant pension or provident funds;

2.2.2.4.4. No Risk & Administration contributions are due or accrue or will be paid over to the relevant pension or provident funds, effective from 1 January 2021 thus impacting on any death or disability claims;

2.2.2.4.5. No premiums are due and payable in respect of the SAA Group Funeral Scheme, thus impacting the potential of a death claim during the lockout period.

2.2.2.4.6. There is no leave and sick leave accrual during
2.2.2.5. As at the date of publication of this update, the lock-out remains in place.

2.3. Operations

2.3.1. No commercial operations have been undertaken since the suspension of operations at the end of September 2020.

2.4. Litigation

2.4.1. Legal Proceedings – The Airline Pilots Association of South Africa (ALP-SA), to which the South African Airways Pilots Association (“SAAPA”) is an affiliate.

2.4.1.1. Pursuant to the issuance of the lockout notice to SAAPA lodged an urgent application with the Labour Court regarding the legality of the lockout instituted by SAA.

2.4.1.2. The case was heard on 29 December 2020 with judgement being received on the same day.

2.4.1.3. The application was dismissed by the Labour Court and the lock-out remains in place.

2.5. Other Matters

2.5.1. On 9 December 2020, an interim board of six (6) non-executive directors was appointed by the DPE to the Company. The directors are:

2.5.1.1. Mr Geoff Qhena (Chairperson)

2.5.1.2. Mr Peter Tshisevhe,

2.5.1.3. Ms June Crawford,

2.5.1.4. Ms Bembe Zwane,

2.5.1.5. Professor Edna van Harte and

2.5.1.6. Mr Nick Fadugba.

2.5.2. The directors held numerous meetings with various parties within the Company as well as with the Business Rescue Practitioners during the period of lockout.
month of December 2020 in order to acquaint themselves with the current status of the Company and the business rescue process.

3. **Proof of Claims**

3.1. Many claims have been lodged with the BRPs for proof but there remain a large number of claims outstanding and creditors who have yet to submit their claims are encouraged to do so before 31 January 2021.

3.2. Claims can be submitted via the online form, which can be found on [www.matusonassociates.co.za/saa](http://www.matusonassociates.co.za/saa). A claim form has been provided ([Manual Claim Form](#)) for those unable to complete the online form.

3.3. A mechanism for the resolution of disputed claims has been provided in the Plan in the event that any dispute cannot be resolved between the BRPs and the creditor.