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PATHER & PATHER

ATTORNEYS, NOTARIES & CONVEYANCERS

DATE: 15 JUNE 2020

OUR REF: SIVI PATHER/rg/

YOUR REF:

The Joint Business Rescue Practitioners of Edcon Limited
Mr Piers Michael Marsden & Mr Lance Shapiro
Matuson & Associates

Per Email: creditors@edconbr.co.za

BUSINESS RESCUE : EDCON LIMITED

INTRODUCTION

1. We advise that we act for and behalf of Kingsgate Clothing (Pty) Ltd ("Kingsgate"), a creditor of Edcon Limited ("Edcon") and a member of the Creditors Committee ("Committee") constituted under the Companies Act of 2008 ("The Act") in respect of the business rescue of Edcon, together with the creditors represented by Kingsgate on the Committee.
2. We also act for and behalf of Clematis Trading (Pty) Ltd ("Clematis"), a creditor of Edcon and a member of the Creditors Committee ("Committee") constituted under the Act in respect of the business rescue of Edcon, together with the creditors represented by Clematis on the Committee.

Pather & Pather Attorneys Incorporated (Registration No: 2015/051010/21) Attorneys, Notaries and Conveyancers

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LEVEL 1 CONTRIBUTOR TO B-BBEE ■ MEMBER OF THE BLACK CONVEYANCERS ASSOCIATION OF SA
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3. On 8 June 2020, you published a Business Rescue Plan ("Plan") in respect of Edcon.
4. In Clause 2.1 of the Plan, you advise Affected Persons to seek independent advice.
5. Our clients have indeed done so and arising therefrom we have received numerous instructions.
6. For immediate purposes, however, we are instructed to raise one substantive issue with you. More so, in light of the confirmed meeting scheduled between you and the Committee for 17h30 today.
7. We will, in all likelihood, be instructed to canvass other matters with you over the ensuing days.

OUR CLIENTS' UNDERSTANDING OF THE OVERALL FINANCIAL POSITION AS APPEARS FROM THE PLAN

8. For purposes of this letter only, our clients will proceed on the basis that what is contained in the Plan is factually accurate. For completeness, we should record that our clients have serious reservations about this accuracy but that is a matter for another day.
9. Our clients have not yet had an opportunity of discussing the content of the Plan with you. In the circumstances, it might well transpire that our clients' reading of the Plan is erroneous. Should that indeed be the case, then, no doubt, you will, with due expedition, explain to our clients what the correct position is.

10. That having been said, we now turn to deal with our clients' understanding of the overall position as appears from the Plan.
11. Whilst you have not furnished to our clients a balance sheet in the conventional sense, you have set out a schedule of assets which totals approximately R11-billion.
12. At the same time, you also set out schedules of liabilities which total approximately R6-billion.
13. Ignoring commercial insolvency for the moment, on the face of it, then, based on actual solvency or insolvency, it would appear that Edcon is factually solvent to the tune of some R5-billion.
14. Since you have not provided a schedule reflecting the value of equity, our clients can only assume that, based on the schedules aforesaid, the equity in Edcon is R5-billion.
15. Since you have also not furnished a specific schedule with regard to liability for so-called leased assets, our clients must also assume that the liability therefor is included in the schedules of liabilities.

ANTICIPATED AMOUNT TO BE REALISED BASED ON THE PLAN

16. Premised on the estimated dividend to secured creditors in the amount of sixteen cents in the rand [16 cents] and to concurrent creditors in the amount of four cents in the rand [4 cents], our clients have calculated that the amount that you anticipate realising under the Plan is approximately R1-billion.
17. In effect this will amount to you selling R11-billion worth of assets for R1-billion.

18. In the respectful view of our clients this is the equivalent of a fire sale and raises the fundamental question for our clients as to whether Edcon should not in fact be put into liquidation?

THE OPTION OF CONVERTING DEBT TO EQUITY

19. It will come as no surprise to you that our clients are highly aggrieved with the indication that they will receive a dividend of four cents in the rand [4 cents].
20. Our clients went along with the Rescue Process up until now based on intimations that they received from Executives at Edcon to the effect that concurrent creditors would be looking at a dividend in the region of fifty cents [50 cents].
21. Our clients have no idea as to where the Executives obtained this figure from and they accept that it would not necessarily be correct to hold you responsible for the intimation aforesaid. We are instructed to record this simply to explain why it is that our clients have gone along with the Process up until now as aforesaid.
22. While what is proposed under the Plan is not specifically countenanced in the Act, our clients accept that our Appeal Courts have held that a Plan can be premised on a sale of assets, rather than on a Rescue of a distressed business in the proper sense. However, it is their understanding that whilst this is permissible it is not the default position. Clearly, if despite best efforts to Rescue a distressed company in the classic sense it is found that this is not possible a sale which yields a better dividend will be allowed.



23. However, what troubles our clients is, given the anticipated dividend for secured and unsecured creditors, whether any consideration has been given in this matter for a conversion of debt to equity which is something that is expressly countenanced under the Act?
24. If this has not been considered as a possible expedient, then the question arises as to why not?
25. If it has been considered, then why have our clients not been taken into your confidence in regard thereto?
26. The only reference to this particular expedient is a bland statement in Clause 24.3.2.2 of the Plan which, with sincere respect, is entirely unintelligible to our clients.
27. If our clients' understanding of the overall financial position, as set out earlier, is in fact correct, surely both the secured as well as the unsecured creditors would be potentially far better off, given the anticipated dividends aforesaid, in having their debt in Edcon converted to equity?
28. Based on our clients' understanding of the financial position, you would then have a balance sheet consisting of R11-billion worth of assets against equity of R11-billion.
29. If that is indeed correct, then it surely cannot be a major challenge to secure working capital of say R2-billion because the lender would be secured five times over.
30. In addition, if such an expedient could be made to work, it would also result in the saving of thousands of jobs.



31. Of course, this does not mean that locations which are a drain on the company should not be rationalised. But the substantial bulk of Edcon's footprint could be retained to the benefit of the current creditors, who would hold equity, to the benefit of labour, which would retain their jobs, of landlords who would continue to receive rentals, of the concurrent creditors *qua* suppliers to Edcon as well as to the benefit to all the downstream parties in the supply chain.

CONCLUSION

32. We are instructed to require you to kindly address the specific issue contained herein during the meeting scheduled for this evening.
33. As already indicated, we will no doubt be instructed to address you on other issues over the ensuing days but well before the scheduled meeting of 22 June 2020.

Yours Faithfully

PATHER AND PATHER ATTORNEYS INC.

"Sivi Pather"

PLEASE DIRECT ALL RESPONSES TO:
sivi@patherandpather.co.za



From: Piers marsden <pmarsden@matusonassociates.co.za>
Sent: Monday, 15 June 2020 9:13 PM
To: Sivi Pather <Sivi@patherandpather.co.za>
Cc: Ischapiro@matusonassociates.co.za
Subject: Re: EDCON LIMITED IN BUSINESS RESCUE

Hi Sivi

Thanks for your correspondence. We have just completed the creditors committee meeting and we addressed these issues on the call. We understand that your client has requested additional information and where appropriate we will respond to the information request.

Regards
Piers





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"YV3"

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ATTORNEYS, NOTARIES & CONVEYANCERS

DATE: 17 JUNE 2020

OUR REF: SIVI PATHER/rg/

YOUR REF:

Joint Business Rescue Practitioners of Edcon Limited
Mr Piers Michael Marsden & Mr Lance Shapiro
Matuson Associates

Per Email: creditors@edconbr.co.za

Hi Piers

BUSINESS RESCUE : EDCON LIMITED

Thanks for your e-mail of Monday night.

Yesterday was the first opportunity that I and counsel had to meet with all our clients. Of course, this was done whilst maintaining all pandemic protocols. At this stage, at a broad brush level, three issues arise in regard to which we have received instructions and I will deal with these briefly, in turn, below.

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DEBT EQUITY

As we suspected might well be the case, the financial information contained in the Plan did not give the full picture. A balance sheet, as at 30 April 2020 was tabled at the Creditors Committee meeting on Monday evening and a copy of this was made available yesterday morning. From a consideration of the balance sheet, it appears that the nett equity position is a negative approximate R2.5-billion.

That said, however, in the respectful view of our clients this does not necessarily preclude a rescue based on a debt equity swap.

Be that as it may, our instructions are that our clients wish to hold this particular issue in abeyance for the moment.

POSTPONEMENT OF THE MEETINGS SCHEDULED FOR 22 JUNE 2020

Our clients are starting to get a better understanding of the overall position of Edcon in rescue.

However, they consider that they still have issues in respect of which they require clarification, either by way of information supplied by the practitioners and/or by way of documents also to be supplied by the practitioners. They are of the view that if the meetings are held on 22 June 2020, they will not be afforded a sufficient opportunity of understanding the position better and making an informed decision on the way forward. Furthermore, they remain concerned that the procedural issues surrounding the holding of such a meeting have not been satisfactorily resolved and that to do so will require a few additional days.

In the circumstances, we are instructed to request of you that the meetings scheduled for 22 June 2020 be adjourned for a week to Monday, 27 June 2020. The respective times of the meetings can remain as they presently are.

Our clients cannot imagine that you could conceivably have any difficulty with this request, more so considering what is recorded in the minutes of the meeting of the Creditors Committee held on 4 June 2020 where you are recorded as having said the following:-

"15.1 Marsden confirmed that the plan must be published on Monday, 8 June 2020. Creditors will have 5 to 10 business days to consider the plan. They are happy to give creditors the longest possible period. The main urgency is to publish the plan (not to vote on it) because as soon as there is a published plan they can commence the retrenchment processes."

Furthermore, our clients have had regard to the timeline set out in the plan to accomplish material steps and they cannot see how such an adjournment could possibly be prejudicial to the process.

Please let us know as a matter of urgency whether you and Lance are amenable to such a postponement. In any event, please let us know either way by no later than 10:00 tomorrow, being Thursday, 18 June 2020. Should we not hear from you by or before then, we will assume that you have declined to so postpone the meeting.



INFORMATION AND DOCUMENTS

As you are already aware, a substantial grievance of our clients is that they have not been provided with sufficient information and documents for them to make any informed decisions in the matter.

In this regard, we have received very detailed instructions from our clients as to the information and documents that they require. Because we represent so many different parties, each one of whom has requirements which sometimes overlaps with those of other parties and which sometimes do not, we are busy collating these requirements and will address you separately in regard thereto shortly.

Kind regards

PATHER AND PATHER ATTORNEYS INC.

"Sivi Pather"

PLEASE DIRECT ALL RESPONSES TO:

sivi@patherandpather.co.za



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"YV4"

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ATTORNEYS, NOTARIES & CONVEYANCERS

DATE: 17 JUNE 2020

OUR REF: SIVI PATHER/rg/

YOUR REF:

Joint Business Rescue Practitioners of Edcon Limited
Mr Piers Michael Marsden & Mr Lance Shapiro
Matuson Associates

Per Email: creditors@edconbr.co.za

Dear Piers

BUSINESS RESCUE : EDCON LIMITED

INTRODUCTION

1. Our letter of earlier today refers.
2. We indicated therein that we had received various instructions and would, in all likelihood, be addressing you further in regard thereto.

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3. Please note that what is set out herein is not necessarily exhaustive of our instructions and that, quite apart from issues that arise from your responses to the various matters raised herein and which responses may itself generate further enquiries or the like, it is possible that we will be again instructed to write to you in respect of further issues.
4. For the sake of convenience, we will deal with matters under the rubric of various headings.

THE ROLE OF BR PRACTITIONERS

5. Our clients certainly do not need to advise you of your obligations and responsibilities in law.
6. Suffice it to say that at the heart of the notion of Business Rescue lies the best interests of the creditors of a financially distressed entity.
7. Furthermore, the creditors are entitled to any and all information which they reasonably require in order to consider any Plan.
8. In addition, BR Practitioners appointed to a distressed entity serve as Officers of the Court thus placing on them an onerous responsibility in law.

LACK OF INFORMATION

9. One or more of our clients have written to you, from time to time, requesting information.

10. We are instructed to record that your responses thus far have fallen far short of their expectations and that they are not prepared to countenance this any longer.
11. Without derogating from the generality of the foregoing, they have, for instance, not been furnished with:-
 - 11.1 A copy of the unaudited financial statements for Edcon as at March 2020. (As also already advised, such statements were previously available on the Edcon website but that is no longer the case).
 - 11.2 A detailed itemisation of how the R2.7-billion, which was raised in June last year, was utilised.
 - 11.3 The revenue generated for the month of May 2020 as well as a breakdown of the expenses met by this revenue.
 - 11.4 The current bank balance as well as the current inventory.

Whilst we have itemised these above as having been previously sought from you, kindly note that we will be referring to some of these matters hereunder again.

12. Kindly ensure that the information that has been sought is immediately made available to all our clients. It will be acceptable if you forward that information and documents to our offices as we are quite happy to disseminate the information to our clients on your behalf.

ISSUES RELATING TO YOU IN YOUR CAPACITIES AS BR PRACTITIONERS TO EDCON

13. It has come to the attention of our clients that Mr Marsden is presently in Canada and has been there throughout the course of the Business Rescue of Edcon. We are instructed to enquire from you as to whether this is in fact correct. If it is not, then that is the end of this particular enquiry.

If it is correct, our clients enquire as to how Mr Marsden is able to discharge his obligations to Edcon in Business Rescue whilst being physically located abroad? This in light of the fact that the role of BR Practitioners is to effectively take over the management of a company to which they have been appointed.

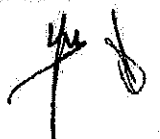
14. In the Plan, you advise that you estimate that your costs attendant upon your role as BR Practitioners of Edcon will be significantly less than the estimated R66-million for the costs of a liquidator. In light of this, why have you not disclosed to the concurrent creditors what fees you have earned up to now and what you anticipate your total fees will amount to? Whatever your answer in regard thereto, we are instructed to require that you make this information immediately available to our clients by way of response to this letter to our office.

15. You have made available a copy of a draft agreement between Edcon and yourselves in regard to increasing your remuneration per hour to what you assert to be a more market related rate. The only motivation that you put forward in regard thereto is that Edcon is a large company. In the respectful view of our clients, it does not axiomatically follow that because one is dealing with a large company BR Practitioners are entitled to an alleged market related rate per hour. In this regard, our clients require you to set out a full and proper motivation of why it is that you contend you are entitled to an increased hourly remuneration rate.

16. Whilst it is, in the respectful view of our clients, acceptable for you, in your role as BR Practitioners of Edcon, to advance reasons as to why your proposed Business Rescue Plan is better than a liquidation, surely it is self-serving for you to allude, in this regard, to your fees as BR Practitioners as compared to the fees which are anticipated will be earned by a liquidator, should the company be wound up, considering that, as a matter of law, you know full well that you cannot be appointed as liquidators to the company should it be wound up?

RESERVATION OF OWNERSHIP

17. The Plan published by you makes no provision, in its calculations, that our clients are able to discern, in regard to payments to be made to suppliers who have a reservation of ownership over their goods. This both in relation to goods sold to the company as well as those supplied on consignment.
18. In this regard we should advise that we have already investigated the veracity of such claims of a few of our clients and it appears, *prima facie* at least, that their claims to reservation of ownership are valid. Furthermore, some or more of our clients fully intend to assert these claims commencing right from the beginning of the lockdown through to the ensuing Business Rescue of Edcon. The question arises as to why it is that you have not invited suppliers, in any meaningful manner, to submit to you, for your consideration, their assertion to reservation of ownership alternatively why have you not engaged with them meaningfully in this regard? At the lowest, this exercise would be necessary for you to ringfence the proceeds due to these persons more especially as you undertook to attend to such ringfencing. The correspondence addressed to you in respect of this issue has simply been ignored. Why is this so?



19. Furthermore, one or more of our clients have supplied goods to Edcon on a consignment basis but have not received any payment from you in respect of the sale of such goods. Could you please explain why these payments have not been made.
20. What will the effect of this be on the proposed dividend?
21. Surely this is something that ought to have been considered and which continues to demand consideration?
22. The concern uppermost in the minds of our clients is that during the period that they have gone along with the Business Rescue, that is up until now, you have been busy disposing of merchandise over which they have legitimate claims of reservation of ownership and using the monies thereby generated to make payments to other persons.
23. Why should our clients accept this? Surely they are better off bringing an urgent winding up application so that the goods that remain are preserved intact such that they can then vindicate such goods? This in addition to requiring or demanding payment to them of the proceeds in respect of all such goods that have been sold from the time of the lockdown through to the Business Rescue as they are entitled to such proceeds in law?
24. We are also instructed to point out that despite protestations to the contrary emanating from some or more of the allegedly secured creditors, their assertion that the proceeds from goods realised are reserved for those allegedly secured/preferred creditors cannot trump the rights of suppliers, with a reservation of ownership over such goods, to such proceeds.



CURRENT INVENTORY AND CASH BALANCE

25. The Plan, as well as the balance sheet belatedly disclosed on 15 June 2020 and furnished on 16 June 2020, reflects inventory and cash balance as at 30 April 2020.
26. How does this assist in a consideration of a Plan as at 22 June 2020?
27. There can be no argument whatsoever that our clients are entitled to current information in regard to inventory and cash balance and can simply not understand your failure to make such figures available to them.

NO DISCLOSURE OF TRADING FROM 1 MAY 2020 TO 1 JUNE 2020

28. Why has this information not been made available to our clients?
29. You have furnished our clients with a cash balance as at 30 April 2020 and then an opening cash balance as at 8 June 2020.
30. How are our clients supposed to divine what it is that transpired between those dates?
31. This is fundamental and vital information which you are required to make available forthwith.

ALLEGED MISREPRESENTATIONS

32. Some or more of our clients have brought to your specific attention alleged misrepresentations made by Executives of Edcon.

33. From the documents at hand, it appears that these concerns have simply been fobbed off by you.
34. You need not be reminded that our law requires BR Practitioners to investigate such allegations. Notwithstanding, there is no evidence whatsoever that you have done so. Why is this so?
35. Have you, for example, investigated why the Financial Director of Edcon resigned in February 2020? What is it that actuated him to do so?
36. You were specifically asked how it was that the CEO of Edcon made a statement that the value of the inventory as at the end of March 2020 was in excess of R3-billion when you now effectively reflect that inventory to be just over R2-billion as at that date? Your response was to say that may be the CEO was talking about the sale price of the merchandise. When it was pointed out to you, by one of our clients, that they have been dealing with Edcon, as constituted from time to time, for some fifty years now, that the suppliers (as part of their obligations) price the merchandise for retail sale and that they know, as a matter of fact, that the mark up is invariably 100%, you were not able to offer any explanation. Nor have you subsequently reverted on the matter which is one of considerable significance. You are duty bound to canvass this matter with the CEO. Have you done so? If not, then why not? Do you consider this to be trifling or unimportant in your greater scheme of things?
37. Some or more of our clients have brought to your attention that the CEO of Edcon made several public statements to the effect that the company was debt free after the restructuring at the middle of last year. It was based on these statements, *inter alia*, that our clients continued to supply merchandise to Edcon and to extend credit to it. It now appears that there is substantial long term debt.



It is no answer to say that a reference to the Edcon website at the time referred to "Notes". What is that supposed to mean to the lay businessperson? Especially when the CEO publicly states that the company is debt free. Even a business reporting entity such as Money Web recorded at the time that the company was debt free. If it did so, how can anyone conceivably expect our clients to have known that there was still substantial long term debt?

What is highly concerning, in regard to the debt of long term lenders which was not converted to equity, on the grounds that certain targets were not met, is the timing of the said targets not being met. Our clients do not believe or accept that this occurred in March 2020. This failure to attain certain targets clearly happened much earlier. At that point in time, at the very latest, Edcon was duty bound to advise all creditors that the targets had not been met, that long terms lenders were not going to convert debt to equity and that the consequence of this was that the company was now saddled with very substantial long term debt. If this had been done, the concurrent creditors would not have continued supplying goods to Edcon and would not find themselves in the position that they do today.

Have you investigated any of this? If not, then why not? What plausible justification can there be for not doing so?

38. Have you, for instance, investigated whether Directors and/or Officers of Edcon have been guilty of reckless trading? Our clients are experienced businesspeople and would not have sold goods to Edcon and extended credit to it if they had known that it was in a precarious financial position. These circumstances cry out for and demand an investigation, yet you show no interest or inclination to do so. Why not?

RELIANCE ON DELOITTE

39. It would appear that both the anticipated dividend under the Plan as well as the anticipated dividend under liquidation have been calculated by Deloitte.
40. Whilst the Act does not expressly require an independent party to determine this, surely the circumstances of the present matter militated very strongly in favour of engaging an independent party to make these determinations? Furthermore, it is also perplexing to our clients that you can refer to these determinations as emanating from an independent source. Independent of whom? Of yourselves? How does that assist?
41. Furthermore, what is the value of these determinations when Deloitte expressly record that they have not independently verified information but have relied on what was supplied to them by management?
42. We have already dealt with the issue of statements and alleged misrepresentations made by management at Edcon. These were brought to your attention timeously. Notwithstanding, you consider it appropriate to get the current auditors of Edcon to do the calculations in question based on information provided to them by management and you then tender that as part of your plan? And you expect our clients to accept that these calculations are reliable?
43. In the respectful view of our clients, these calculations are not worth the paper that they are printed on.



APPARENT FAVOURING OF SECURED/PREFERRED CREDITORS

44. Having reviewed the schedule relating to concurrent creditors, our clients are most disturbed to note the sloppy, shoddy and tardy manner in which this has been cobbled together.
45. There are glaring errors.
46. For example, figures are repeated and clients have advised that the amounts reflected in the claim column does not tie up with the claims that they have submitted.
47. The overall impression that is created is that there is little or no attention being given to the interests of the concurrent creditors. Almost as if you assume that there is going to be no dividend to them and it makes no difference as to how carefully or otherwise their figures are represented.
48. Our clients take very serious objection to this.
49. Our clients' concerns are not limited to the foregoing.
50. The overall impression created is that your only interest is that of the secured/preferred creditors. This appears, for example, from the position that you seem to adopt in regard to the proceeds of the sale of merchandise being ringfenced for such creditors in circumstances where you plainly disregard the rights of our clients to establish their reservation of ownership over this merchandise.

ALLEGED SECURED/PREFERRED CREDITORS

51. Our clients are aware that you have undertaken to make available to the Independent Chairperson alternatively have made available to the Independent Chairperson relevant documents relating to the alleged security or preference of some creditors.
52. Our clients find this entirely unsatisfactory.
53. There is no conceivable reason in law why they should have to rely on the opinion of the Independent Chairperson in regard to the efficacy of any such instruments. More so in circumstances where the Independent Chairperson, at the Committee of 4 June 2020, already opined, apparently without the benefit of any investigation, that in her view there was no impropriety attaching to the instruments in question.
54. Any and all creditors have a right to consider these instruments and to come to their own conclusions in the matter.
55. Our clients accordingly require that these documents be made available to them, through our office, and that this take place forthwith.

ADDITIONAL ENQUIRIES/INFORMATION AND DOCUMENTS

56. In addition to the foregoing, we are also instructed to require of you to respond to the following enquiries/request for information and to make available the documents referred to hereunder.

Enquiries/Information

57. As previously pointed out to you, although the Act does not expressly provide for a winding down process under the rubric of Business Rescue our appeal courts have permitted this. That, however, does not absolve duly appointed practitioners from adhering to the precepts of the Act to the extent that they are able to do so.

In this regard, we are instructed to enquire as to why no effort has been made to furnish creditors with a current balance sheet?

Furthermore, whilst you may not presently have the precise terms of a sale of one or more divisions of the business, it cannot be that you have no idea whatsoever as to what it is that you are hoping to realise in terms of such a possible sale. Premised on that, why have you not provided a *pro forma* balance sheet of what the position will be should a sale be realised? Surely this is not a difficult exercise at all?

58. Another way of expressing the enquiry immediately above is to ask as to why you cannot make the commercial terms of a possible sale available to the creditors, even if there is a legitimate reason not to disclose the identity of a suitor or suitors?
59. Another expedient would be for certain members of the Creditors Committee to be furnished with all the relevant details subject to them signing non-disclosure agreements. Why has this not been considered? In this regard you need to be advised that the fact that the Chairperson has been apprised of the details is cold comfort to our clients. They are business-people and they are the creditors, some or more of whom have been dealing with the Company, as constituted from time to time for fifty years as already mentioned. How does it assist them if a professional attorney is privy to these details? Surely they are in a better position to assess any offers made? We are instructed that one of the reasons tendered for the non-disclosure of the suitor or suitors is that it



is or they are public companies. With respect, this point makes no sense whatsoever for the simple reason that it would be entirely unlawful for such a company or companies to be flirting with the notion of acquiring Edcon or one or more of its divisions without actually placing a cautionary on its shares. Our clients simply do not accept this reason as being legitimate.

60. In terms of your Business Plan as presently published you are, in effect, asking for a blank cheque to decide whether or not to enter into a sale of any portion or a whole of the business and on what terms. What kind of a creditors approval is that supposed to be? It is unprecedented and audacious in the asking.

You should be advised that our clients have no appetite whatsoever to agree to such an expedient.

What impediment, if any, is there to you bringing back to the creditors, for their informed approval, any serious offer made? Why cannot an acceptance be conditional upon approval by the relevant stakeholders? This is an expedient that is adopted in commerce on a daily basis and there is nothing novel about it whatsoever.

61. The Hollard investment, presently sitting in Newco, is estimated by our clients to have a value of approximately R4-billion. Presumably, this investment was taken up from Edcon to the level of the Newco as a condition for securing the restructure consummated in the middle of 2019. We are instructed to enquire as to whether this transaction was effected at fair value? If the answer is yes, then you are required to provide the necessary investigation conducted by yourselves in order to establish this. If the answer is no, then the question is why have you not undertaken this exercise?

62. We are instructed to enquire as to whether the loans of the lenders have not been subordinated, regard being had to the fact that some or all of them are also shareholders in Newco through which the funding, in any event, in all likelihood emanates? More so considering that this is standard practice. If not, our clients require a proper explanation for this. If the loans have been subordinated, our clients require the documentation in support thereof.
63. The dividend which you set out in the published plan reflects an anticipated dividend to concurrent creditors of four cents in the Rand in the event of a wind down process. Apparently, this number was touted at six cents in the Rand at the meeting of the Creditors Committee held on Monday, 15 June 2020. What actuated this 50% increase? Where does it come from? What changed to take it from four cents to six cents in the Rand?
64. The plan suggests the expectation of a waterfall in the event of a sale of a part or the whole of the company. But is it not in fact correct that all the assets, save and except for stock in trade, constitute security for secured and/or preferred creditors? Is the reality not that any such sale will make not one iota of difference to the position of the concurrent creditors insofar as their expected dividend is concerned?
65. Edcon is one of the largest traders in mobile phones and their attendant contracts. It is notorious that such contracts provide a monthly annuity income. Why has this not been given any value in the financial information for the company that has been provided?
66. We are instructed to enquire as to what the executive remuneration of the company was for the twelve months leading up to the business rescue?

67. We are also instructed to enquire as to why a full and comprehensive schedule of creditors is not contained in the Business Plan? It is quite plain that the schedules of creditors forming part of the Business Plan are entirely different from the quantum of creditors that is reflected in the balance sheet as at 30 April 2020.

Documents

68. Our clients require a copy of the advice that you provided to Edcon, in 2019, in regard to a possible winding up of the company.
69. They also require a copy of the exercise in terms of which Deloitte calculated the anticipated dividend or lack thereof on liquidation.
70. Also required is a copy of the exercise in terms of which Deloitte calculated the anticipated dividend in a winding down process.
71. Copies of the minutes of all meetings of the Employees' Committee, the Landlords' Committee as well as the Lenders'/Secured Creditors' Committee are required.

CONCERNS WITH MEETING PROCEDURE

72. It is not acceptable to our clients that the meeting convened for the purposes of voting on the Plan should be held by way of webinar, as advised by you at the meeting on Monday, 15 June 2020. What is the rationale for this? How can that constitute a meeting where there can be a free exchange of thoughts and where there can be open discussion? Is this intended to suppress discussion? Our clients insist that an audio-visual platform be used, as it is on a daily basis, to hold such a meeting being one that

allows for normal discussion and debate. How is all of this going to be achieved by webinar?

Section 152 of the Act expressly provides that for the meeting in contemplation the practitioner must allow an opportunity for the employees' representative to address the meeting, invite discussion and entertain and conduct a vote on any motions to amend the proposed plan in any manner moved and seconded by holders of creditors' voting interests, and satisfactory to the practitioner, or direct the practitioner to adjourn the meeting in order to revise the plan for further consideration.

73. In addition, our clients were shocked to discover, at the Creditors Committee meeting of 15 June 2020, that no proper thought had been given to the mechanics of holding such a meeting. This includes, without derogating from the generality thereof, an independent verification of voting. The present suggestion that the Chairperson will perform this role is totally unacceptable to our clients for, *inter alia*, reasons which follow hereunder.
74. In addition, persons at Edcon are phoning various suppliers, including our clients, to enquire from them as to how they propose to vote on the Plan. On whose authority are they doing this? Such persons have no right to make these enquiries. Are you aware of this taking place? If not, what steps will you take to ensure that it does not continue?
75. Given that this kind of meeting is novel, have you thought through what process will be followed should the outcome of the vote be disputed on the day in question? If not, then why have you not done so? You are creating the impression that you are simply going through the motions? This will not be countenanced or accepted by our clients.



76. In light of all of this, in the respectful view of our clients, you are not yet in a position to convene and conduct a legitimate and lawful meeting. It is palpably plain that you have simply not done your homework in this regard.


ROLE OF INDEPENDENT CHAIRPERSON

77. Our clients note that there is no specific contemplation of a position of a Chairperson to a Creditors Committee or to any other Committee, constituted under Business Rescue, for that matter.
78. That said, however, our clients cannot, in principle, fault your suggestion that, for practical purposes, a Chairperson to a Committee should be appointed.
79. The difficulty that our clients have is the assertion that the person so appointed by you is "independent".
80. Our clients are aware that your firm, *inter alia*, was and continues to be involved in the Business Rescue of South African Airways SOE.
81. They are also aware that the present Chairperson of the Concurrent Creditors Committee also serves as the Chairperson on one or other such equivalent Committee in that Business Rescue.
82. Our clients are most aggrieved at the manner in which the Chairperson has conducted meetings, leaving them with an abiding perception that she is not acting in their interests.

83. Their concerns are exacerbated by the fact that she also acts as Chairperson, presumably under your instruction, in the South African Airways Business Rescue. Their sense is that she is beholden to you and is seeking to do your bidding rather than being concerned about the best interests of the Concurrent Creditors.
84. There is no point in debating whether or not, as a matter of fact, the Chairperson is or is not acting in the best interests of the Concurrent Creditors.
85. In our law, the test is one of perception and this is a perception that they genuinely and reasonably have.
86. In all the circumstances, our clients are not prepared to accept the continued Chairpersonship, by the present Chairperson, of the Concurrent Creditors Committee.
87. In the circumstances, we are instructed to enquire whether you will be prepared to forthwith terminate the mandate of that Chairperson and permit the Committee itself to appoint its own Chairperson?

URGENCY

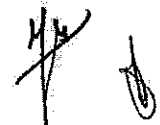
88. Our clients are experienced people and understand the concept of urgency.
89. However, we are instructed to point out that in their respectful view there is a huge difference between urgency and indecent haste.
90. It is the view of our clients that you are trying to steamroll this Plan through.



91. We are instructed to advise that our clients will not accept this.
92. If there are delays in the matter, this is as a direct result of your failure to make information available to our clients alternatively to make such information available timeously.
93. Our clients will not be cajoled into a vote and will only do so when they are in a position to arrive at a considered judgment in the matter.

CONCLUSION

94. It should be evident to you that there are various legal options open to our clients.
95. Our clients trust that it will not be necessary for them to pursue a litigious route, that you will provide the relevant information and documents to them, that you will consult and engage with them properly and meaningfully, as countenanced in law, such that a decision can be taken or an approach can be adopted which is to the general benefit of all parties in this matter.
96. We are instructed to require that the information and documents be made available to our clients, through our office, by no later than 16:00 on Friday, 19 June 2020.
97. Please be advised that what is set out in paragraph 96 above is premised on your agreeing to a one week adjournment of the meetings scheduled for Monday, 22 June 2020.



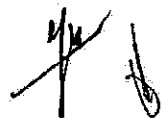
98. In the event that you are not so agreeable to a postponement, our clients will be constrained to approach the High Court for appropriate relief on an urgent basis.
99. Should they be so constrained, then you will understand and appreciate that, at a practical level, they will have no alternative but to include in such application a prayer or prayers for appropriate relief in regard to the enquiries/information and documentation sought herein. To put it differently, it will be inconvenient to the court for our clients to bring two separate applications namely one for a postponement and one for enquiries/information and documents, even if it should be that you are prepared to comply with the requirement for the latter.
100. We are recording, not as a threat, but simply because we are obliged to do so as a matter of procedural law, that should it become necessary for our clients to bring such an application, they will, in the first instance, seek costs against you *de bonis propriis*.
101. It is their sincere wish that an application, together with the attendant costs thereon, will not be necessary, that you will act reasonably, sensibly and in accordance with your obligations in law and that both the question of a postponement of the meeting as well as that of enquiries/information and documents can be resolved without any resort to legal process.

Yours Faithfully

PATHER AND PATHER ATTORNEYS INC.

"Sivi Pather"

PLEASE DIRECT ALL RESPONSES TO:
sivi@patherandpather.co.za



"YV5"

BUSINESS RESCUE PLAN**Prepared in terms of section 150 of the Companies Act, No. 71 of 2008**

in relation to

EDCON LIMITED

(under business rescue)

(Registration No. 2007/003525/06)

Prepared by:

PIERS MICHAEL MARSDEN

(joint business rescue practitioner)

and

LANCE SCHAPIRO

(joint business rescue practitioner)

**MATUSON**
ASSOCIATES**PUBLICATION DATE: 8 JUNE 2020**

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1. INTERPRETATION AND PRELIMINARY

The headings of the paragraphs in this Business Rescue Plan are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Plan nor any paragraph hereof. Unless a contrary intention clearly appears -

1.1. words importing -

- 1.1.1. any one gender include the other two genders;
- 1.1.2. the singular include the plural and *vice versa*; and
- 1.1.3. persons include natural persons, created entities (corporate and un-incorporate and the State) and *vice versa*;

1.2. the following terms and/or expressions shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings -

- 1.2.1. "**2019 Restructuring**" means the restructuring undertaken in terms of the Group in or around June 2019, dealt with more fully below from paragraph 5.3.1 onwards;
- 1.2.2. "**Accelerated Sales Proceeds**" means the proceeds generated from the Accelerated Sales Process, as defined in paragraph 18.3.1, excluding the Second Look Book Sales Proceeds and Subsidiary Secured Proceeds;
- 1.2.3. "**Adoption Date**" means the date upon which the Business Rescue Plan is approved in accordance with section 152(2), read with section 152(3)(b), of the Companies Act;
- 1.2.4. "**Advisors**" means the advisors to the BRPs, namely Matuson & Associates and ENSAfrica, and their respective employees or representatives;
- 1.2.5. "**Affected Person/s**" shall bear the meaning ascribed thereto in Section 128(1)(a) of the Companies Act and in relation to the Company means ECSL, Creditors and Employees and SACCAWU;
- 1.2.6. "**Allocation Date**" means 31 August 2020;
- 1.2.7. "**Bowmans**" means Bowman Gilfillan Incorporated, attorneys practising as such at 22 Bree Street, Cape Town;
- 1.2.8. "**Brands**" means the intellectual property, brands and trademarks currently owned by the Company in respect of each trading Division;

- 1.2.9. "BRPs" means the joint business rescue practitioners of the Company, appointed in terms of section 129(3)(b) of the Companies Act, being Marsden and Schapiro, and shall include a reference to "Receivers" as the context requires in this Business Rescue Plan;
- 1.2.10. "Business" means the business of the Company from time to time being the retailing of non-food items through its Divisions, including, apparel, beauty products, cellular stock, footwear, homeware and financial services;
- 1.2.11. "Business Day" means any day other than a Saturday, Sunday or official public holiday in South Africa;
- 1.2.12. "Business Rescue" means proceedings to facilitate the rehabilitation of the Company, which is financially distressed, as more fully defined in section 128(1)(b) of the Companies Act and paragraph 6.1;
- 1.2.13. "Business Rescue Costs" means the remuneration and expenses of the BRPs and other claims arising out of the costs of the Business Rescue, including the costs of the Advisors;
- 1.2.14. "Business Rescue Plan" means this document together with all of its annexures, as amended from time to time and prepared in accordance with section 150 of the Companies Act;
- 1.2.15. "CCMA" means the Commission for Conciliation, Mediation and Arbitration established in terms of section 112 of the LRA;
- 1.2.16. "CIPC" means the Companies and Intellectual Property Commission, established in terms of section 185 of the Companies Act;
- 1.2.17. "Claims" means Pre-commencement Claims and Post-commencement Claims;
- 1.2.18. "Commencement Date" means 29 April 2020, being the date upon which Business Rescue commenced in accordance with section 129(1), read with section 132(1)(a)(i), of the Companies Act;
- 1.2.19. "Company" means Edcon Limited, Registration No. 2007/003525/06, a public company incorporated in accordance with the laws of South Africa, at present under Business Rescue and carrying on the Business under the name and style of the various Brands and through the Divisions;
- 1.2.20. "Companies Act" means the Companies Act, No. 71 of 2008, as amended;



- 1.2.21. **"Contracts"** means those contracts entered into by the Company and third parties, either prior to or after the Commencement Date;
- 1.2.22. **"Costs"** means the costs associated with:
- 1.2.22.1. the Business Rescue and Receivership, including, without limitation, the remuneration and expenses of the BRPs and the Receivership Administration Expenses, any claims arising out of the costs of the Business Rescue and Receivership, and any other costs whatsoever incurred during the Business Rescue and Receivership; and
- 1.2.22.2. any PCF Employee and PCF Creditor Claims;
- 1.2.23. **"Creditors"** means Pre-commencement Creditors and Post-commencement Creditors;
- 1.2.24. **"Creditors' Committee"** means the committee comprising Creditors, excluding Intercreditor Secured Creditors and Landlords, formed in terms of section 145(3), read with section 147(1)(b), of the Companies Act;
- 1.2.25. **"Deloitte"** means Deloitte Touche Tohmatsu Limited;
- 1.2.26. **"Disputed Claims"** means any and all Claims which are disputed in the Business Rescue and which dispute shall be determined in favour of or against such Creditors in terms of the Dispute Resolution in paragraph 39;
- 1.2.27. **"Distribution/s"** means distributions to be made to Creditors by the BRPs and/or the Receivers in terms of this Business Rescue Plan;
- 1.2.28. **"Divisions"** means the divisions of the Company, namely, Edgars, Jet and Thank U, more fully dealt with in paragraph 5.1.2;
- 1.2.29. **"ECSL"** means Edgars Consolidated Stores Limited, Registration No. 1946/022751/06, a public company incorporated in accordance with the laws of South Africa, of which the Company is a wholly owned subsidiary;
- 1.2.30. **"Employees"** means employees of the Company;
- 1.2.31. **"Employees' Committee"** means the committee elected for the purposes of representing the Employees during Business Rescue in terms of section 144(3)(c), read with section 148(1)(b), of the Companies Act;
- 1.2.32. **"ENSAfrica"** means Edward Nathan Sonnenbergs Incorporated, attorneys practising as such at Tower 1 | The Marc, 129 Rivonia Road, Sandton;

- 1.2.33. **"Final Claims Date"** means the final date for the filing of Pre-commencement Claims, being 90 days from the Adoption Date;
- 1.2.34. **"Financially Distressed"** shall bear the meaning ascribed thereto in section 128(1)(f) of the Companies Act;
- 1.2.35. **"Foreign Subsidiaries"** means the following wholly owned foreign subsidiaries of Edcon Limited, comprising:
 - 1.2.35.1. Jet Supermarkets Botswana (Proprietary) Limited, Registration No. CO709;
 - 1.2.35.2. Edgars Swaziland Limited, Registration No. 2 OF 1966;
 - 1.2.35.3. Edgars Stores Lesotho (Proprietary) Limited, Registration No. 69/102;
 - 1.2.35.4. Edgars Stores Namibia (Proprietary) Limited, Registration No. 78/02418/07;
 - 1.2.35.5. Edcon International (Singapore) PTE Limited, Registration No. 201210267K (dormant);
 - 1.2.35.6. Edcon International Hong Kong (Proprietary) Limited, Registration No. 1746908 (dormant);
 - 1.2.35.7. Edcon Limitada, Registration No. 100155079;
 - 1.2.35.8. Edcon Stores Limited, Registration No. 379/1948;
 - 1.2.35.9. Jet Supermarkets Zambia Limited, Registration No. 89464 (in liquidation);
 - 1.2.35.10. Edcon (Shanghai) Trading Co. Limited, Registration No. 310000400691682; and
 - 1.2.35.11. Jetcon Mart Ghana Limited, Registration No. CS121362012;
- 1.2.36. **"General Concurrent Creditors"** means those Creditors who do not hold security for their Claims and/or are not statutorily preferred in terms of section 135 of the Companies Act;
- 1.2.37. **"Group"** means the group of companies related to the Company, reflected in the

organogram in paragraph 5.2;

- 1.2.38. **"Insolvency Act"** means the Insolvency Act, No. 24 of 1936, as amended;
- 1.2.39. **"Instruments"** means the instruments issued by the Company pursuant to the 2019 Restructuring, detailed from paragraph 5.3.1 onwards, also referred to as "Notes";
- 1.2.40. **"Intercreditor Agreement"** means the agreement concluded between, among others, the Company, Newco, the Intercreditor Secured Creditors and the Security Administrator on or about 25 June 2019;
- 1.2.41. **"Intercreditor Secured Creditors"** means the secured parties as defined in the Intercreditor Agreement;
- 1.2.42. **"Landlords Agreement"** means the agreement concluded between the Company, Newco and Participating Landlords in or about June 2019, as part of the 2019 Restructuring, in terms of which agreement *inter alia* the relationship between the Landlords on the one hand and the Company and Newco on the other hand was regulated following the 2019 Restructuring;
- 1.2.43. **"Landlord/s"** means the landlord/s of the premises leased to the Company in terms of the Leases, including the Participating Landlords;
- 1.2.44. **"Landlords' Committee"** means the committee comprising Landlords, established in terms of section 145(3) of the Companies Act;
- 1.2.45. **"Leases"** means the lease agreements in respect of which the Company was a tenant as at the Commencement Date;
- 1.2.46. **"Lenders' Committee"** means the committee comprising Intercreditor Secured Creditors, excluding Participating Landlords, established in terms of section 145(3) of the Companies Act;
- 1.2.47. **"Local Subsidiaries"** means the following wholly owned local subsidiaries of the Company or companies in which the Company has a shareholding, comprising:
- 1.2.47.1. National Security Corporation Proprietary Limited, Registration No. 1946/023720/07 (dormant);
- 1.2.47.2. Securex Security Services Proprietary Limited, Registration No. 2009/013225/07 (dormant);

- 1.2.47.3. Rapid Dawn 132 Proprietary Limited, Registration No. 2002/004179/07;
- 1.2.47.4. Topics Proprietary Limited, Registration No. 1955/000568/07;
- 1.2.47.5. Cosyro Proprietary Limited, Registration No. 2013/065954/07 (dormant);
- 1.2.47.6. Kamnandi Retail Proprietary Limited, Registration No. 2002/006468/07 (dormant);
- 1.2.47.7. Bessie Retail Trading Proprietary Limited, Registration No. 2012/089060/07 (50% shareholding); and
- 1.2.47.8. TSTM SA Retail Proprietary Limited, Registration No. 2011/125186/07 (50% shareholding);
- 1.2.48. "LRA" means the Labour Relations Act, No. 66 of 1995, as amended;
- 1.2.49. "Management" means the executive management of the Company as at the Commencement Date;
- 1.2.50. "Management Restructuring Plan" means the plan developed by Management for the restructuring of the Company prior to the commencement of Business Rescue, more fully dealt with in paragraph 7.5.1;
- 1.2.51. "Marsden" means Piers Michael Marsden, the joint business rescue practitioner appointed by the Company in terms of section 129(2)(b) of the Companies Act;
- 1.2.52. "Matuson & Associates" means Matuson & Associates Proprietary Limited, Registration No. 2009/008967/07, a company duly incorporated in accordance with the laws of South Africa;
- 1.2.53. "Newco" means K2019216440 (South Africa) Limited, of which ECSL is a wholly owned subsidiary;
- 1.2.54. "Notice of Meeting" means the notice of the meeting to consider the Business Rescue Plan delivered to all Affected Persons as contemplated in terms of section 151(2) of the Companies Act;
- 1.2.55. "Participating Landlords" means those Landlords who concluded and are still party to the Landlords Agreement;
- 1.2.56. "PCF" means post-commencement finance as contemplated in section 135 of the Companies Act;

- 1.2.57. **"PIC"** means the South African Public Investment Corporation SOC Limited;
- 1.2.58. **"Post Allocation Date Trading Proceeds"** means all proceeds generated from the sale of stock and any other proceeds generated from the operations of the Company after the Allocation Date, excluding (i) all monies collected in respect the Second Look Book after the Allocation Date; (ii) Second Look Book Sales Proceeds; and (iii) the Subsidiary Secured Proceeds;
- 1.2.59. **"Post-commencement Claims"** means any claim against the Company, the cause of action in respect of which arose after the Commencement Date;
- 1.2.60. **"Post-commencement Creditors"** means all persons, including legal entities and natural persons, having Post-commencement Claims;
- 1.2.61. **"Pre-commencement Claims"** means any claim against the Company, the cause of action which arose prior to the Commencement Date;
- 1.2.62. **"Pre-commencement Creditors"** means all persons, including legal entities and natural persons, having Pre-commencement Claims;
- 1.2.63. **"Pre-commencement Secured Creditors"** means all Pre-commencement Creditors holding security for their Claims, excluding the Intercreditor Secured Creditors;
- 1.2.64. **"Proposal"** means the proposal to rescue the Company, being the Sales Process, more fully dealt with in Part B of this Business Rescue Plan;
- 1.2.65. **"Publication Date"** means the date on which this Business Rescue Plan is published to Affected Persons in terms of section 150(5) of the Companies Act, being 8 June 2020;
- 1.2.66. **"Rand" or "R" or "ZAR"** means the lawful currency of South Africa;
- 1.2.67. **"Receivers"** means the receivers to be appointed in terms of paragraph 29, being Marsden and Schapiro;
- 1.2.68. **"Receivership"** means the process which will commence on the Adoption Date, more fully dealt with in paragraph 29;
- 1.2.69. **"Receivership Administration Expenses"** means the remuneration and expenses of the Receivers and other claims arising out of the costs of the Receivership;
- 1.2.70. **"SACCAWU"** means South African Commercial Catering and Allied Workers



Union, being the registered trade union in terms of section 96 of the LRA, representing 3 327 employees of the Company;

- 1.2.71. **"Sales Process"** means the sales process embarked upon by the BRPs to rescue the Company, comprising the Accelerated Sales Process and Wind-Down Process, more fully dealt with in paragraph 0 and paragraph 21;
- 1.2.72. **"Schapiro"** means Lance Schapiro, the joint business rescue practitioner appointed by the Company in terms of section 129(2)(b) of the Companies Act;
- 1.2.73. **"Second Look Book"** means the Company's own funded second look credit book;
- 1.2.74. **"Second Look Book Sales Proceeds"** means the proceeds received from the sale of the Second Look Book, less realisation costs or expenses relating to or arising from the sale of the Second Look Book;
- 1.2.75. **"Section 151 Meeting"** means the meeting to determine the future of the Company as contemplated in terms of section 151 of the Companies Act;
- 1.2.76. **"Secured Creditors"** means those Creditors who hold security for their Claims against the Company, including, but not limited to, Intercreditor Secured Creditors and Pre-commencement Secured Creditors;
- 1.2.77. **"Secured Trading Proceeds"** means all proceeds generated from the sale of stock and any other proceeds generated from the operations of the Company, excluding the Second Look Book Sales Proceeds and Subsidiary Secured Proceeds, with effect from the Commencement Date up to and including the Allocation Date, less all and any Costs, excluding potential severance costs, incurred by or on behalf of the Company in respect of which Costs the cause of action arose between the Commencement Date and Allocation Date, both days included;
- 1.2.78. **"Security Administrator"** means the security administrator appointed in terms of the Intercreditor Agreement, namely ABSA Bank Limited;
- 1.2.79. **"South Africa"** means the Republic of South Africa;
- 1.2.80. **"Subsidiaries"** means the Local Subsidiaries and Foreign Subsidiaries of the Company;
- 1.2.81. **"Subsidiary Secured Proceeds"** means any proceeds received in respect of any shares in the Subsidiaries or in respect of any inter-company loans, less costs or expenses arising from or relating to the realisation of such shares or

inter-company loans;

1.2.82. **"Substantial Implementation Date"** means the date on which the BRPs will file with CIPC a notice of substantial implementation of this Business Rescue Plan in terms of section 152(8) of the Companies Act, whereupon the Company's Business Rescue will end in terms of section 132(2)(c)(ii);

1.2.83. **"Tax/Taxation"** means -

1.2.83.1. levies payable to government authorities;

1.2.83.2. normal taxation;

1.2.83.3. capital gains tax;

1.2.83.4. value-added tax;

1.2.83.5. any taxation arising from new assessments of taxation and/or the reopening of any income tax assessments of the Company for any period prior to the Commencement Date;

1.2.83.6. donations tax;

1.2.83.7. customs duty;

1.2.83.8. securities transfer tax;

1.2.83.9. all Pay-As-You-Earn taxation (PAYE) not paid over;

1.2.83.10. all other forms of taxation, other than deferred tax; and

1.2.83.11. any penalties or interest on any of the foregoing;

1.2.84. **"UIF"** means the South African Unemployment Insurance Fund (a fund established in terms of section 4 of the Unemployment Insurance Act, 2001) (represented by the PIC); and

1.2.85. **"VAT"** means the value-added tax levied in terms of the South African Value-Added Tax Act, No. 89 of 1991, as amended;

1.3. any reference to any statute, regulation or other legislation in this Business Rescue Plan shall be a reference to that statute, regulation or other legislation as at the Publication Date, and as amended or substituted from time to time;

1.4. any reference in this Business Rescue Plan to any other agreement or document shall be construed as a reference to such other agreement or document as same may have been, or

may from time to time be, amended, varied, novated or supplemented;

- 1.5. if any provision in a definition in this Business Rescue Plan is a substantive provision conferring a right or imposing an obligation on any person or entity then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this Business Rescue Plan;
- 1.6. where any term is defined in this Business Rescue Plan within a particular paragraph other than this paragraph 1, that term shall bear the meaning ascribed to it in that paragraph wherever it is used in this Business Rescue Plan;
- 1.7. where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated falls on a day which is not a Business Day, the last day shall be deemed to be the next succeeding day which is a Business Day;
- 1.8. any reference to days (other than a reference to Business Days), months or years shall be a reference to calendar days, months or years, as the case may be; and
- 1.9. words or terms that are capitalised and not otherwise defined in the narrative of this Business Rescue Plan (excluding capitalised words or terms used for the purpose of tables) shall bear the meaning assigned to them in the Companies Act.

2. ACTION TO BE TAKEN BY AFFECTED PERSONS

- 2.1. If any Affected Person is in doubt as to what action should be taken arising from the contents of this Business Rescue Plan, such Affected Person or Affected Persons are advised to consult an independent attorney, accountant or other professional advisor in addition to any consultation with or direction received from the BRPs.
- 2.2. Nothing contained in this Business Rescue Plan shall constitute legal or Tax advice to any Affected Person; nor do the BRPs make any representations in respect thereof.

3. STRUCTURE OF THE BUSINESS RESCUE PLAN

For the purposes of section 150(2) of the Companies Act, this Business Rescue Plan is divided into 3 (three) parts as follows –

3.1. PART A - BACKGROUND

This part sets out the background to the Company and its Divisions, and the factors that resulted in the Company being Financially Distressed and being placed under Business Rescue.

3.2. PART B - PROPOSAL

This part describes the terms of the proposal and includes, *inter alia*, the benefits and/or effect of adopting the Business Rescue Plan as opposed to the Company being placed into liquidation.

3.3. PART C – ASSUMPTIONS AND CONDITIONS

This part sets out, *inter alia*, what conditions need to be fulfilled in order for the Business Rescue Plan to become effective, and to be implemented.

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PART A – BACKGROUND

4. COMPANY INFORMATION

4.1. Shareholding Structure

As at the Publication Date, ECSL is the sole shareholder of the Company.

4.2. Directors

4.2.1. As at the Commencement Date, the Directors, according to the CIPC, are –

Name of Director	Date of Appointment
Grant Michael Pattison (chief executive officer)	01 February 2018
Abigail Rachel Bisogno	30 September 2019
Daphne Motsepe	30 September 2019
Gareth Peter Hebert Penny	30 September 2019
Mncane Esau Mthunzi	30 September 2019
Nigel Brian Palmer	30 September 2019
Rhidwaan Gasant	30 September 2019

4.2.2. The records of the Company are in the process of being updated with the CIPC, however, according to the Company records, the following are the Directors of the Company as at the Publication Date:

Name of Director	Date of Appointment
Grant Michael Pattison (chief executive officer)	01 February 2018
Abigail Rachel Bisogno	30 September 2019

4.3. Company Information

Financial Year: 31 March

Registered Business Address: Edgardale
1 Press Avenue
Crown Mines
2092

Postal Address: P.O. Box 100
Crown Mines
2025

Business Telephone Number: (011) 495 – 6000

Business Fax Number: (011) 837 – 5019

Accountants / Auditors: Deloitte

5. COMPANY BACKGROUND

5.1. Background to the Company

- 5.1.1. The Company was registered in 1929 to operate as a non-food retailer to consumers in Johannesburg, Gauteng. The Company has since expanded across Southern Africa and been restructured from time to time, with the last restructure being the 2019 Restructuring, dealt with from paragraph 5.3.1 onwards.
- 5.1.2. The Company is one of the largest non-food retailers in Southern Africa and operates through the following three Divisions:
- 5.1.2.1. Edgars Division, created in 1929 and is a leading retailer of clothing, footwear, textiles, cosmetics, accessories and cellular products, housing local and international brands, as well as the Edgars private label brand.
- 5.1.2.2. Jet Division, created in 1976 and has since pioneered the retail sector as a value fashion retailer that prides itself in selling quality products at the best prices. The products include clothing, shoes, accessories, beauty, homeware and cellular products.
- 5.1.2.3. Thank U Digital Division, created in 2012 and is one of South Africa's largest customer-relationship (loyalty) programmes, with over 14 million cardholders. This division comprises Thank U Insurance, Thank U Credit, and Thank U Loyalty and Rewards.



5.1.3. As at the Commencement Date:

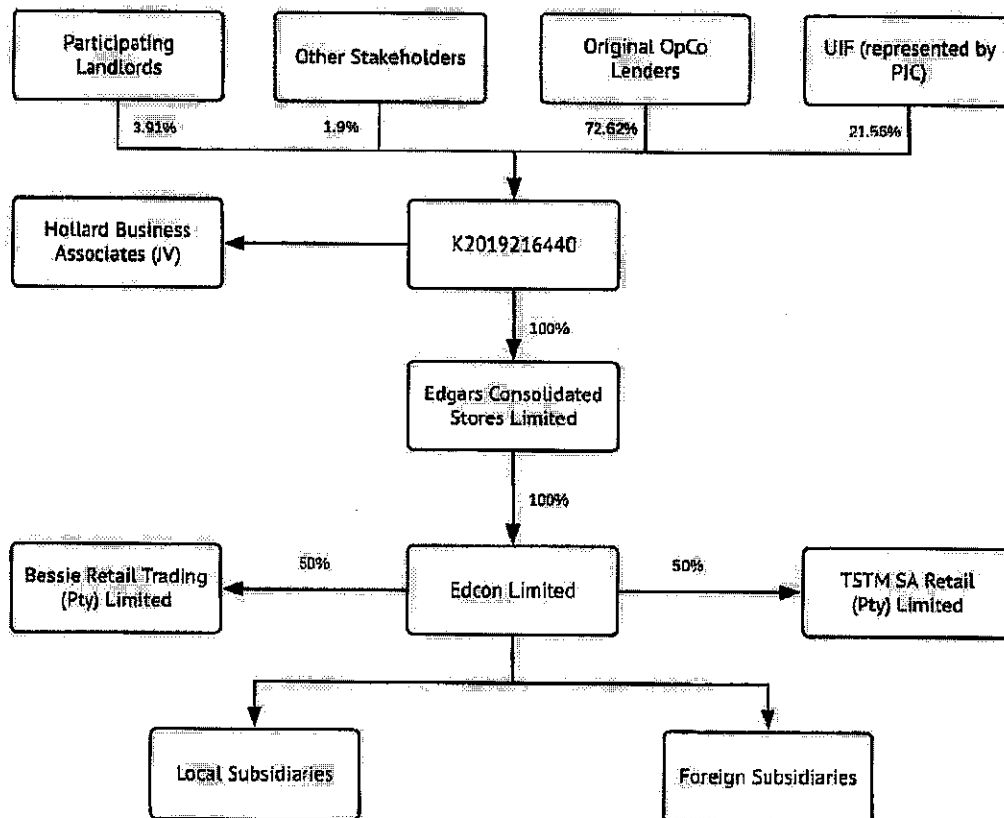
5.1.3.1. The Company operated its retail divisions through approximately 650 stores, all of which are situated on premises leased by the Company in terms of the Leases.

5.1.3.2. The Company employed approximately 17 292 employees and approximately 5 000 seasonal casual workers.

5.1.4. In addition, the Company is a shareholder of the Subsidiaries.

5.1.5. As stated above, the Company is wholly owned by ECSL. ECSL is, in turn, wholly owned by Newco.

5.2. Simplified Group Organogram



*Note: The "Other Stakeholders" in the diagram above are the subscribers pursuant to the tip-offer made on 3 September 2019 by the board of directors of K2016470219 (South Africa) Limited ("Holdco 2" which was the indirect holding company of the Company pre the 2019 Restructure and which is now dormant) to the A shareholders and B shareholders of HoldCo 2 ("Tip Offer Subscribers") in exchange for their release of all claims, in their capacity as shareholders and creditors of the HoldCo 2 and its subsidiaries, in connection with the share pledge enforcement over Edcon Acquisition Proprietary Limited's shares in ECSL under the 2019 Restructuring.

5.3. Background to the Company's Financial Distress

- 5.3.1. In June 2019, the Group, following various financial discussions and negotiations over the prior 13 months, underwent a restructuring exercise, being the 2019 Restructuring.
- 5.3.2. The 2019 Restructuring was a Group-wide debt restructuring and refinancing in order to ensure the continued operation of the largest retailer in sub-Saharan Africa and the retention of tens of thousands of jobs.
- 5.3.3. The 2019 Restructuring involved *inter alia*:
- 5.3.3.1. The capitalisation of R9.3 billion of intra-group debt;
 - 5.3.3.2. The restructure of R10 billion of existing financier debt, either through capitalisation or refinance as convertible indirectly-secured guaranteed Instruments;
 - 5.3.3.3. The sourcing of R2.7 billion of additional cash financing from existing financiers; the UIF (represented by the PIC); and Participating Landlords:
 - 5.3.3.3.1. The additional funding was sourced through the issuance by the Company of Instruments, and shares issued by the newly-incorporated holding company, Newco, with such shares and Instruments being stapled.
 - 5.3.3.3.2. The successful issuance required negotiation of the Instrument terms with a consortium of South African and international banks and funds who were lenders to the Company (referred to as the "OpCo Lenders"); the UIF (represented by the PIC); and approximately twenty six Landlord groups (who became the Participating Landlords).
 - 5.3.3.4. Subsequent to the 2019 Restructuring being implemented, the Tip Offer was launched and completed resulting in the Tip-Offer Subscribers becoming holders of 1.9% of the Instruments issued by the Company and shares issued by Newco.

- 5.3.3.5. The following Instruments were issued:
- 5.3.3.5.1. Tranche A Instruments (comprising Tranche A1 Instruments and Tranche A2 Instruments) - issued to the Opco Lenders to the Company to refinance their existing secured debt and as consideration for the provision of new money;
 - 5.3.3.5.2. Tranche B1 Instruments - issued to the UIF (represented by the PIC) in consideration for the provision of new money;
 - 5.3.3.5.3. Tranche C Instruments - issued to the Participating Landlords in exchange for (i) an upfront cash subscription, (ii) periodic/monthly cash subscriptions or (iii) periodic / monthly rent reductions, each in accordance with the Landlords Agreement; and
 - 5.3.3.5.4. Tranche D Instruments - issued to the Tip-Off Subscriber pursuant to the Tip-Off.
- 5.3.3.6. The following conditional Instruments were issued to the UIF (represented by the PIC) to provide downside protection in an enforcement scenario:
- 5.3.3.6.1. Tranche B2 Instruments, which would entitle the UIF (represented by the PIC) to a conditional claim and associated rights against the Company. Such claim is conditional upon an Acceleration Event (as defined in the terms and conditions of the Instruments) occurring which has not been rescinded. At all other times, the Tranche B2 Instruments do not constitute an obligation of the Company.
 - 5.3.3.6.2. This claim has arisen by virtue of the Business Rescue.
- 5.3.3.7. As mentioned above, the Instruments were issued by the Company and are "stapled" to ordinary shares issued by Newco.
- 5.3.3.8. Other than the Tranche B2 Instruments, the Instruments are convertible into ordinary shares in Newco should certain conversion

triggers be met. The Instruments are indirectly-secured (using the standard South African security SPV structure) and guaranteed by Newco and certain Subsidiaries. The Instruments are English law governed.

5.3.4. Pursuant to the 2019 Restructuring:

- 5.3.4.1. Existing shareholders of the group constituted by Holdco 2 (which was the indirect holding company of the Company prior to the 2019 Restructuring) ceased to own the Company following a share pledge enforcement over Edcon Acquisition Proprietary Limited's shares in ECSL under the 2019 Restructuring, and the transfer of such shares in ECSL to Newco;
- 5.3.4.2. Pursuant to the 2019 Restructuring, Newco became the indirect holding company of the Company;
- 5.3.4.3. The persons receiving shares in terms of the 2019 Restructuring became shareholders of the Group by the issuance of shares in Newco;
- 5.3.4.4. Newco also acquired 50 N ordinary shares in Hollard Business Associates Proprietary Limited ("HBA"), accepted cession of all rights and delegation of all obligations under and in terms of the joint venture agreement between HBA, Pickent Holdings Proprietary Limited and ECSL, the latter which regulates the rights and obligations associated with the shares in HBA;
- 5.3.4.5. Additional funding was obtained upfront from Participating Landlords who elected to contribute their subscription consideration upfront, in a single payment, as specified in the Landlords Agreement staggered throughout the period till 31 March 2021, through the issue of Instruments by the Company and shares in Newco;
- 5.3.4.6. Additional staggered funding from Participating Landlords (who did not contribute their funding upfront) was obtained by monthly rental commitments until 31 March 2021 under the Leases with such Participating Landlords, whereby –
- 5.3.4.6.1. the Participating Landlords elected to contribute their subscription consideration monthly, and whereby monthly they would be issued a specified amount of Instruments by the Company and transferred a

specified amount of shares in Newco as set out in the Landlords Agreement; or

- 5.3.4.6.2. such rental commitments were automatically discounted (resulting in a lower future rental burden for the Company), in consideration for which such Participating Landlords would be provided, monthly, with a specified amount of Instruments issued by the Company and a specified amount of shares in Newco as set out in the Landlords Agreement; and
- 5.3.4.7. The existing debt of the Company advanced by the Opco Lenders was restructured.
- 5.3.5. Following the 2019 Restructuring of the Group and with the capital injection from the new shareholders to the Group, it was anticipated that the Company would be in a less precarious financial position and begin to trade profitably.
- 5.3.6. Of the funding received pursuant to the 2019 Restructuring, the majority was utilised, as planned, to fund the losses experienced by the Company for the financial years ended March 2019 and March 2020.
- 5.3.7. The Company was on track in terms of the 2019 Restructuring until the end of December 2019.
- 5.3.8. However, in early 2020 the Company's financial position became distressed due to:
- 5.3.8.1. The recession in the South African economy, which coincided with load-shedding, disrupting purchasing patterns.
- 5.3.8.2. Poor sales as a result of the only partially-completed repositioning of its credit and product offering.
- 5.3.8.3. The advent of the COVID-19 pandemic which resulted in the Government of South Africa announcing and implementing measures, including an initial 45 day social distancing and lockdown period. This resulted in a further trading slump and the Company immediately experiencing a loss of R2 billion in sales.
- 5.3.9. The loss of sales, and consequently the Company's failure to meet the March 2020 and April 2020 sales targets, as well as the decline in collections of the debtors' book due to the lockdown resulted in the Company only having

sufficient liquidity to pay salaries for March 2020 and for April 2020, with the latter payment being in terms of the agreed banded reduction referred to in paragraph 7.5.6.3. The Company was unable to honour all of its contractual obligations with suppliers.

5.3.10. The aforesaid factors resulted in the Company becoming financially distressed and accordingly the board of the Company resolved to place the Company in Business Rescue.

6. SUMMARY OF THE BUSINESS RESCUE

6.1. Introduction

Business Rescue, as defined in section 128(1)(b) of the Companies Act, refers to proceedings to facilitate the rehabilitation of a company that is financially distressed by providing for –

- 6.1.1. the temporary supervision of a company by one or more business rescue practitioners, and of the management of its affairs, business and property;
- 6.1.2. a temporary moratorium on the rights of claimants against a company or in respect of property in its possession; and
- 6.1.3. the development and implementation, if approved, of a plan to rescue the company in question by restructuring its affairs, business, property, debt and other liabilities, and equity in a manner that maximises the likelihood of the company in question continuing in existence on a solvent basis or, if it is not possible for the company to so continue in existence, results in a better return for the company's creditors or shareholders than would result from the immediate liquidation of the company.

6.2. The following summary sets out the salient dates on which certain events have taken and will take place during Business Rescue –

Board Resolution to commence Business Rescue	28 April 2020
Commencement of Business Rescue (date on which the above resolution was filed by CIPC)	29 April 2020
Appointment of BRPs	4 May 2020
First Employees' Meeting	18 May 2020
First Creditors' Meeting	18 May 2020
First Employees' Committee Meeting	25 May 2020
First Landlords' Committee Meeting	27 May 2020
First Lenders' Committee Meeting	27 May 2020
First Creditors' Committee Meeting	28 May 2020

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Second Creditors' Committee Meeting (Consultation on the development of the Business Rescue Plan)	4 June 2020
Second Landlords' Committee Meeting (Consultation on the development of the Business Rescue Plan)	4 June 2020
Second Lenders' Committee Meeting (Consultation on the development of the Business Rescue Plan)	5 June 2020
Second Employees' Committee Meeting (Consultation on the development of the Business Rescue Plan)	5 June 2020
Meeting with SACCAWU	5 June 2020
Publication of the Business Rescue Plan	8 June 2020
Section 151 Meeting	22 June 2020

7. STEPS TAKEN SINCE THE APPOINTMENT OF THE BRPS

7.1. ADMINISTRATIVE MATTERS

7.1.1. Appointment of BRPs

The BRPs were appointed by CIPC on 4 May 2020.

7.1.2. Management Control

In terms of section 140(1)(a) of the Companies Act, the BRPs took over full management control of the Company, but as they were entitled to do, the BRPs delegated certain functions to some of Management.

7.1.3. Notices

The BRPs have been publishing notices to affected persons in terms of the Companies Act.

7.1.4. Reporting to CIPC

The BRPs have complied with all statutory obligations under the Companies Act and will render monthly reports to CIPC as contemplated in section 132(3) of the Companies Act.

7.1.5. Committee Meetings

It was agreed between the BRPs and the Directors of the Company, together with certain key senior Management, that regular meetings would be held with the respective committees for purposes of providing updates on developments in the Business Rescue.

7.1.6. Deloitte appointed to calculate potential Liquidation Dividend

- 7.1.6.1. The BRPs appointed Deloitte as independent experts to calculate the potential liquidation dividend that would be received by Creditors, in their specific classes, if the Company were to be placed in liquidation as at 30 April 2020.
- 7.1.6.2. As will more fully appear below, if the Company had been liquidated on 30 April 2020, General Concurrent Creditors would have received a dividend of **zero cents** in the Rand.

7.1.7. Publication of Business Rescue Plan and Notice of Meeting

- 7.1.7.1. The Business Rescue Plan will be published to all Affected Persons on the Publication Date.
- 7.1.7.2. The Notice of Meeting will be delivered to all Affected Persons simultaneously with the publication of the Business Rescue Plan.
- 7.1.7.3. Publication of the Business Rescue Plan and delivery of the Notice of Meeting will take place in accordance with the provisions of the Companies Act and the Regulations thereto.

7.1.8. Cash Resources

In order to preserve the cash resources of the Company, the BRPs implemented immediate cash relief initiatives and explored broader cost optimisation initiatives, including:

- 7.1.8.1. In respect of rentals payable to Landlords, implementing an interim measure payment based on a percentage of the gross turnover generated in each respective store, with the difference between payments and contractual obligations being accrued as PCF.
- 7.1.8.2. In respect of Employees:
- 7.1.8.2.1. continuing with the banded salary reductions implemented in early April 2020, which will continue until June 2020, referred to in paragraph 7.5.6.3, and non-payment of contractual increases which become due and payable during Business Rescue, the latter being treated as PCF; and
- 7.1.8.2.2. cancelling all discretionary payments.

7.1.9. Stock

In respect of purchase orders for stock:

7.1.9.1. Limited fast moving stock is being acquired on a cash on delivery basis.

7.1.9.2. Local purchase orders placed prior to the Commencement Date will only be proceeded with upon confirmation from the BRPs.

7.1.9.3. International purchase orders placed prior to the Commencement Date were put on hold, with no orders being shipped.

7.1.10. Leases

In respect of Leases, the consensual cancellation and/or suspension, in terms of section 136 of the Companies Act, of those Leases where the Company is no longer trading and has vacated the premises ("**Onerous Leases**").

7.1.11. Contracts

In respect of other Contracts, the consensual cancellation and/or suspension, in terms of section 136 of the Companies Act, of Contracts concluded prior to the Commencement Date.

7.1.12. Own Funded "Second Look" Credit Book

In respect of the Company's own funded second look credit book ("**Second Look Book**"), the suspension of all new account openings and tightening the provision of credit by only allowing credit to customers of good standing (i.e. CDD and CDD1 or customers with no level of arrears allowed to rotate within current limits).

7.2. LABOUR**7.2.1. Employees' Meetings**

7.2.1.1. A first meeting of Employees, as contemplated in section 148(1) of the Companies Act, was convened on 18 May 2020.

7.2.1.2. At this meeting, *inter alia*:

7.2.1.2.1. the business rescue process was explained;

7.2.1.2.2. Employees were informed of the BRPs' belief regarding the reasonable prospect of rescuing the Company; and

7.2.1.2.3. nominations were requested for the establishment of the Employees' Committee.

7.2.2. Employees' Committee

7.2.2.1. Pursuant to the first meeting of Employees, the Employees' Committee was duly established.

7.2.2.2. The Employees' Committee comprises the following:

7.2.2.2.1. representatives from SACCAWU; and

7.2.2.2.2. representatives for the independent employees (being those employees not represented by SACCAWU).

7.2.2.3. The Employees' Committee met with the BRPs on 25 May 2020 and 5 June 2020.

7.2.3. Consultation During the Development of the Proposed Business Rescue Plan

7.2.3.1. On 5 June 2020, the BRPs consulted with, *inter alia*, representatives on the Employees' Committee on the development of the proposed Business Rescue Plan to:

7.2.3.1.1. enable them to make representations to the BRPs for consideration, subject to the BRPs' overall responsibility to publish a Business Rescue Plan which they regard as representing the best prospects of rescuing the Company as contemplated in the Companies Act; and

7.2.3.1.2. requested the Employees' Committee to submit any questions in regard to the proposed Business Rescue Plan to enable the BRPs to consider same prior to the Publication Date.

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7.2.4. Section 189 of the LRA Process

- 7.2.4.1. Regrettably, the implementation of the Sales Process may lead to positions being declared redundant across various job categories and in significant numbers. This may, in turn, result in the dismissals of some or all of the Employees, for operational reasons subject to the outcome and implementation of the Sales Process.
- 7.2.4.2. It should be emphasised that no final decisions have yet been taken, nor will any final decisions be taken until the Employees and the Company have exhausted consultation (and hopefully achieved consensus).
- 7.2.4.3. It is proposed that the Company will issue notices in terms of section 189(3) read together with section 189A of the LRA ("section 189(3) notices") to all Employees and SACCAWU on or about 10 June 2020.
- 7.2.4.4. The issuance of the section 189(3) notices will be the first step in a statutory facilitated consultation process which, it is envisaged, will commence on or about 10 June 2020 under the auspices of facilitation at the CCMA. The Company and the consulting parties will hold consultation meetings on dates to be determined by the CCMA.
- 7.2.4.5. The Company will, for a minimum period of 60 (sixty) days as prescribed in terms of the LRA, consult with the consulting parties, on all the issues set out in the section 189(3) notice. This consultation process will be facilitated by a commissioner from the CCMA and is set to end on or around 10 August 2020 to the extent that agreement cannot be reached sooner and/or subject to the exhaustion of consultations.

7.2.5. Wage Agreement

On or about 27 May 2019, the Company concluded a wage agreement with SACCAWU to regulate salaries until 6 May 2021. In terms of this wage agreement, the Company agreed to pay salary increases for the period 7 May 2019 to 6 May 2020 and 7 May 2020 to 6 May 2021. The Company implemented the salary increases for the period 7 May 2019 to 6 May 2020. To date, the BRPs have not yet authorised the payment of the salary increases from 7 May 2020 or incentives and will keep the Employees updated of any developments. Any amounts which become contractually due and payable to

Employees during Business Rescue will be treated as PCF in terms of section 136 of the Companies Act.

7.3. CREDITORS

7.3.1. Creditors' Meeting

7.3.1.1. A first meeting of Creditors, as contemplated in section 147(1) of the Companies Act, was convened on 18 May 2020.

7.3.1.2. At the First Meeting of Creditors, *inter alia*:

7.3.1.2.1. the business rescue process was explained;

7.3.1.2.2. Creditors were informed of the BRPs' belief regarding the reasonable prospect of rescuing the Company;

7.3.1.2.3. the BRPs notified Creditors where proof of Pre-commencement Claims by Pre-commencement Creditors could be submitted; and

7.3.1.2.4. nominations were requested for the establishment of various committees according to the categories of Creditors.

7.3.2. Creditors' Committee

7.3.2.1. Pursuant to the First Meeting of Creditors, a Creditors Committee was duly established.


7.3.2.2. Juliette De Hutton from Bowmans was appointed as the independent chairperson of the Creditors' Committee.

7.3.2.3. The Creditors' Committee met with the BRPs on 28 May 2020 and 4 June 2020.

7.3.3. Lenders' Committee

7.3.3.1. Pursuant to the First Meeting of Creditors, a Lenders' Committee was duly established.

7.3.3.2. The Lenders' Committee met with the BRPs on 27 May 2020 and 5 June 2020.

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7.3.4. Landlords' Committee

7.3.4.1. Pursuant to the First Meeting of Creditors, a Landlords' Committee was duly established.

7.3.4.2. The Landlords' Committee met with the BRPs on 27 May 2020 and 4 June 2020.

7.3.5. Consultation During the Development of the Proposed Business Rescue Plan

On 4 and 5 June 2020, the BRPs consulted with, *inter alia*, representatives on the Creditors' Committee on the development of the proposed Business Rescue Plan to:

7.3.5.1. enable them to make representations to the BRPs for consideration, subject to the BRPs' overall responsibility to publish a Business Rescue Plan which they regard as representing the best prospects of rescuing the Company as contemplated in the Companies Act; and

7.3.5.2. requested the respective committees to submit any questions in regard to the proposed Business Rescue Plan to enable the BRPs to consider same prior to the Publication Date.

7.4. LEGAL

7.4.1. Legal Proceedings

7.4.1.1. Pan African Shopfitters Applications:

7.4.1.1.1. An application was launched by Pan African Shopfitters Proprietary Limited on 4 May 2020 out of the High Court of South Africa, Gauteng Local Division, Johannesburg for the liquidation of the Company.

7.4.1.1.2. Pan African Shopfitters Proprietary Limited thereafter launched an urgent application out of the High Court of South Africa, Gauteng Local Division, Johannesburg to set aside the resolution to commence Business Rescue proceedings.

7.4.1.1.3. The BRPs have opposed both applications launched by Pan African Shopfitters Proprietary Limited.



7.4.1.1.4. The applications have been referred to the Commercial Court. A timetable still has to be determined for the filing of further documents and the hearing date/s.

7.4.1.1.5. Affected Persons will be advised of further updates.

7.4.1.2. Prime Freight Logistics:

7.4.1.2.1. The Company instituted an urgent application against Prime Freight Distributors Proprietary Limited t/a Prime Logistix on 2 June 2020 for the release of stock being withheld from the Company. The urgent application is set-down for hearing in the week of 8 June 2020.

7.4.1.2.2. The urgent application has been opposed.

7.4.1.2.3. Affected Persons will be advised of further updates.

7.4.2. Suspension and Cancellation of Contracts

7.4.2.1. Section 136(2)(2) of the Companies Act authorises the BRPs during Business Rescue to entirely, partially or conditionally suspend, for the duration of the business rescue proceedings, any obligation of the Company that arises under an agreement to which the Company was a party at the Commencement Date and would otherwise become due during the Business Rescue.

7.4.2.2. The BRPs are in the process of establishing which obligations of the Company must be suspended and/or cancelled.

7.4.3. Investigation into the Affairs of the Company

7.4.3.1. In terms of section 141(1) of the Companies Act, the BRPs must investigate the Company's affairs, business, property and financial situation.

7.4.3.2. Immediately following their appointment, the BRPs consulted with Management in order to *inter alia* –

7.4.3.2.1. ascertain the financial position of the Company;

7.4.3.2.2. identify the assets and liabilities of the Company;

and

7.4.3.2.3. identify all of the Leases and outstanding rentals.

7.4.3.3. The BRPs will continue to exercise their statutory obligations in terms of section 141 of the Companies Act.

7.4.3.4. The Creditors' Committee have requested that the chairperson of the Creditors' Committee review the security in terms of the 2019 Restructuring and have reserved their rights to challenge the security.

7.4.4. Directors' responsibilities

In a meeting held with the Directors of the Company, the BRPs handed a copy of a letter to the Directors of the Company wherein the BRPs –

7.4.4.1. advised the Directors of the duties of the BRPs during Business Rescue;

7.4.4.2. advised the Directors of their duties and responsibilities during Business Rescue; and

7.4.4.3. requested certain documentation to be furnished by the Directors to the BRPs.

7.4.5. General

The BRPs were required to engage attorneys to advise on, *inter alia*, issues relating to competition, employment, Tax, regulatory issues, the Sales Process, contractual disputes, post-commencement agreements, Claims against the Company, including reservation of ownership and liens, and various issues arising out of the Business Rescue.

7.5. BUSINESS RESCUE INITIATIVES

7.5.1. Management Restructuring Plan

Prior to the Commencement Date, Management considered a further restructuring of the Business, i.e. after the 2019 Restructuring, entailing an accelerated closure of its loss-making stores and a reduction of overhead expenses, in order to ensure the continued survival of the Business of the Company. The BRPs have utilised the expertise of Management as well as

considered the proposals in the restructuring plan for the purposes of the Business Rescue.

7.5.2. Categorisation of Leases

7.5.2.1. In terms of the Management Restructuring Plan, certain stores were identified as:

7.5.2.1.1. Onerous stores (i.e. the Onerous Leases);

7.5.2.1.2. Non-viable stores;

7.5.2.1.3. Marginal stores; and

7.5.2.1.4. Viable stores.

7.5.2.2. The list of stores, according to the aforesaid categories, is attached as Annexure A.

7.5.2.3. The BRPs and Management have reviewed the aforesaid categories.

7.5.2.4. In term of the onerous stores, as stated above, these are stores which are no longer trading and where the Company vacated the store prior to the Commencement Date.

7.5.2.5. In terms of the non-viable stores:

7.5.2.5.1. These stores were identified as the remaining loss-making stores within the store footprint, where the trading density was too low for the store to become viable or in certain instances where the store rentals were at a level where the store could not generate a profit.


7.5.2.5.2. The Company has no option but to allow the cancellation of the Leases of these stores during the course of Business Rescue.

7.5.2.5.3. The Company has not made a decision on these store closures and is willing to listen to the Employees and consider their views. Should the Company be persuaded, reopening of stores could be a possibility which can be canvassed.

- 7.5.2.5.4. Should the Sales Process generate interest in these stores, the decision around these stores closures will be reconsidered.
- 7.5.2.5.5. Should retrenchments be unavoidable, the Company will ensure that an agreed or fair and objective selection criteria is used. Therefore, a conclusion cannot be drawn that the Employees in the non-viable stores are the specific Employees who would definitely be retrenched.
- 7.5.2.6. In terms of the marginal stores, these stores are not necessarily loss making, however, require negotiated Lease terms.
- 7.5.2.7. In terms of the viable stores, these stores are profitable and within nodal strategy.
- 7.5.2.8. Should it become clear that there is no interest in certain of the marginal stores or viable stores, the BRPs will then consider the cancellation of the respective Leases of those stores during the course of Business Rescue.

7.5.3. Investment Process

- 7.5.3.1. Part of the Management Restructuring Plan contemplated an investment process ("Investment Process"), which entailed the following:
- 7.5.3.1.1. a capital investment through the existing shareholders, alternatively, a new investor/s; and
- 7.5.3.1.2. if such investment was obtained, a restructure of the Company's current organisational structure to ensure the continued operation of the Company on a solvent basis.
- 7.5.3.2. Prior to the Commencement Date, Management approached the Newco shareholders and the Intercreditor Secured Creditors to ascertain if they were interested in the Investment Process, however, there was no interest in same.
- 7.5.3.3. Notwithstanding the aforesaid, and after the Commencement Date, the BRPs considered it prudent and necessary to establish if the



Company could be rescued through the Investment Process, however, there was no interest in the aforesaid Investment Process.

7.5.4. Sales Process

The Sales Process was embarked upon, dealt with in paragraph 0 and paragraph 21.

7.5.5. Monitoring of stock and sales

7.5.5.1. The BRPs, together with Management, have performed an analysis of the stock on hand to identify the 'good' stock as well as the discontinued, phased out, damaged and end of season stock.

7.5.5.2. The buying process has been carefully controlled and concurrently the BRPs have been approving the buying of stock by the Company.

7.5.5.3. The BRPs' management of stock was done to achieve the appropriate balance of stock levels for the Business during Business Rescue.

7.5.5.4. The BRPs have been monitoring sales, setting sales strategies and setting realistic and reliable forecasts.

7.5.5.5. Sales and expenses have been carefully monitored and controlled on a daily basis.

7.5.6. Cost Cutting

7.5.6.1. Since their appointment, the BRPs together with Management have made ongoing efforts to cut operating costs, wherever possible.

7.5.6.2. Numerous Contracts relating to IT service providers, catering, security, cleaning and other service providers have been renegotiated or cancelled by mutual agreement to reduce costs. The cancellation or renegotiation of these Contracts results in further savings of approximately R39.7 million per month.

7.5.6.3. The BRPs also elected to continue with the banded salary reductions implemented in early April 2020, which will continue until June 2020. Salary reductions ranged from 10% for middle Management to 30%



for the Executive Committee and 100% for the Group CEO. These salary reductions result in savings of R11 million per month.

7.5.7. Cash Administration

In order to minimise the operating expenses of the Company, the BRPs, together with Management, continue to:

- 7.5.7.1. monitor the cash flow and financial position;
- 7.5.7.2. perform daily bank reconciliations;
- 7.5.7.3. analyse costs;
- 7.5.7.4. control payments; and
- 7.5.7.5. enforce general controls.

7.5.8. Supplier Negotiations

The BRPs have agreed consignment and SBT (sales based terms) agreements and have managed to retain supply from key merchandise suppliers on a discounted cash on delivery basis.

7.5.9. Letters of Credit ("LC")

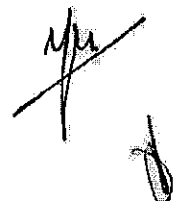
All open LCs / standby LCs, covering stock that has not yet been shipped, to the value of approximately R80m are in the process of being cancelled.

7.5.10. Temporary Employment Relief Scheme ("TERS")

- 7.5.10.1. On 13 May 2020, the BRPs appointed Solvd, a consulting firm to assist in the UIF Covid-19 TERS application for the shortfall of the April salary payment during level-5 lockdown in which the Company was unable to trade.
- 7.5.10.2. On 18 May 2020, the Company received approximately R84 million in this regard.

7.5.11. Thank U Store Card

Reinstated the usage of the Thank U store card with certain merchants.

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8. MARKET CONDITIONS, COVID-19 AND TRADING FOLLOWING THE COMMENCEMENT DATE

8.1. Market Conditions and COVID-19

8.1.1. The Government imposed lockdown prevented the Company from trading, which resulted in a loss of sales, and therefore a negative cash flow impact of approximately R2 billion. The lockdown, coupled with restrictions on trading certain stock lines in level 4, prevented the Company from following its normal trading and clearing patterns.

8.1.2. This has further compounded the financial position of the Company as well as the stock holding and aging of certain categories.

8.2. Trading

8.2.1. The Company is currently generating cash through daily trading.

8.2.2. Trade throughout the month of May 2020 was better than initially forecasted, despite Covid-19 restrictions on operations and ranges which could be sold. Trading hours and ranges of merchandise were also significantly reduced relative to the prior year.

8.2.3. Management anticipate a slowdown in turnover in June 2020 as the pent up demand in the market has worked itself through.

9. MATERIAL ASSETS AND SECURITY OF THE COMPANY AS AT THE COMMENCEMENT DATE

As required in terms of section 150(2)(a)(i) of the Companies Act, a complete list of all the material assets of the Company at book value, as well as an indication as to which assets were held as security by Creditors as at the Commencement Date, is attached hereto as **Annexure B**.

10. CREDITORS OF THE COMPANY AS AT THE COMMENCEMENT DATE

10.1. As required in terms of section 150(2)(a)(ii) of the Companies Act, a complete list of the Pre-commencement Creditors of the Company, as reflected in the Company's records, as at the Commencement Date, is attached hereto as **Annexure C**.

10.2. Annexure C indicates which of the aforesaid Pre-commencement Creditors:

10.2.1. would qualify as secured, statutorily preferent or concurrent in terms of the laws of insolvency; and

10.2.2. have proved their Pre-commencement Claims.

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11. CREDITORS VOTING INTEREST AND VOTING BY PROXY

11.1. In terms of section 145 of the Companies Act, for the purpose of any vote by Creditors:

11.1.1. a Creditor has a voting interest equal to the value of the amount owed to that Creditor by the Company on the date of the vote on the Business Rescue Plan; and

11.1.2. a Creditor who would have a subordinated claim in liquidation has a voting interest, as independently appraised and valued at the request of the BRPs, equal to the amount, if any, that the Creditor could reasonably expect to receive in a liquidation of the Company.

11.2. Post-commencement Creditors, including Employees with Post-commencement Claims in terms of section 135(1) of the Companies Act, will have a voting interest equal to the value of the amount owed to that PCF Creditor on the date of the vote on the Business Rescue Plan.

11.3. A Creditor who has a Disputed Claim, contingent Claim, prospective Claim, damages or unliquidated Claim will only be allowed to vote in the sole discretion of the BRPs.

11.4. A Creditor whose Claim amount does not reconcile with the Company's records will only be allowed to vote on the amount determined in the sole discretion of the BRPs.

11.5. In light of the regulations and measures implemented by the Government of South Africa pursuant to the global outbreak of COVID-19, the following process will apply in respect of the Section 151 Meeting (meeting to determine the future of the Company) and voting called for in terms of section 152 of the Companies Act (consideration of the Business Rescue Plan):

11.5.1. As set out above, the BRPs have consulted with the respective committees on the development of the proposed Business Rescue Plan prior to the Publication Date. The BRPs have attempted to deal with all questions and/or suggestions prior the Publication Date.

11.5.2. Pursuant to the Publication Date, Affected Persons are requested to provide any further questions and/or proposed amendments to the BRPs prior to the Section 151 Meeting so that the BRPs can consider and address same prior to the Section 151 Meeting to plan@edconbr.co.za.

11.5.3. The Section 151 Meeting will be held electronically. A hyperlink providing access to the Section 151 Meeting will be circulated prior to the Section 151 Meeting.

11.5.4. All voting will be conducted by way of proxy. A hyperlink providing access to the form of proxy will be included in the Notice of the Meeting. The form of proxy will also be available at www.matusonassociates.co.za/edcon. All forms of proxy



given on behalf of a company, a legal entity or a trust must be accompanied by a valid and authorised resolution supporting the appointment of the proxy. Completed forms of proxy must be emailed to creditors@edconbr.co.za.

11.5.5. Creditors are encouraged to lodge their forms of proxy as soon as possible, however, will be afforded an opportunity to lodge their proxy forms by no later than 17h00 on Friday, 19 June 2020.

11.5.6. In the event that, during the Section 151 Meeting:

11.5.6.1. Further questions are raised and/or proposed amendments are moved, which can be fully addressed during the Section 151, the BRPs will:

11.5.6.1.1. adjourn the Section 151 Meeting for two (2) hours to receive any further forms of proxy or amended forms of proxy; and

11.5.6.1.2. reconvene the Section 151 Meeting to announce the outcome of the vote.

11.5.6.2. Further questions are raised and/or proposed amendments are moved, which cannot be fully addressed during the Section 151 Meeting for whatsoever reason:

11.5.6.2.1. the Section 151 Meeting will be adjourned for one week ("Adjourned Period") to allow the BRPs time to respond to the questions and consider whether the proposed amendments are seconded by holders of creditors' voting interests and satisfactory to the BRPs;

11.5.6.2.2. the BRPs will publish their response/s to the question/s raised and/or the proposed amendments to the Business Rescue Plan to all Affected Persons during the Adjourned Period;

11.5.6.2.3. Creditors and Affected Persons who have not lodged their forms of proxy or wish to change their forms of proxy will be afforded until 17h00 on Friday, 26 June 2020 to do so; and



11.5.6.2.4. the Section 151 Meeting will be reconvened on 29 June 2020 to announce the outcome of the vote.

- 11.5.7. Creditors who provided forms of proxy prior to the Section 151 Meeting will be deemed to have accepted any amendments made to the Business Rescue Plan during and/or after the Section 151 Meeting, unless expressly advised otherwise in writing to the BRPs prior to the reconvening of the Section 151 Meeting.
- 11.5.8. Notwithstanding what has been stated in this paragraph, the BRPs have a discretion to accept any form of proxy submitted or change the process referred to above, which change will be notified to Affected Persons.

12. PROBABLE DIVIDEND ON LIQUIDATION

- 12.1. As required in terms of section 150(2)(a)(iii) of the Companies Act, the probable dividend which would be received by Concurrent Creditors if the Company was placed in liquidation on 30 April 2020 is 0 zero cents in the Rand. Affected Persons are referred to the table in paragraph 27 for a comparison of Business Rescue and liquidation dividends that would be received by Creditors in their respective classes.
- 12.2. In order to establish the aforesaid probable dividend, the BRPs engaged Deloitte as an independent expert to calculate the potential dividend in a liquidation scenario.
- 12.3. The calculation in support of a liquidation dividend as at 30 April 2020 is based on an independent exercise undertaken by Deloitte.
- 12.4. Deloitte relied on financial and other information provided to it by the Company and its Subsidiaries, and discussions with Management and the BRPs, for the purpose of calculating the liquidation dividend as at 30 April 2020, and the approximate realisation value is set out in the full liquidation calculation document prepared by Deloitte.
- 12.5. The methodology used by Deloitte in calculating the liquidation dividend is the methodology chosen by Deloitte in their sole discretion and the BRPs are not in a position to comment on the methodology.
- 12.6. The figures in this paragraph take into account all the costs associated with a liquidation, including all the costs associated with Section 89 of the Insolvency Act.

13. HOLDERS OF THE COMPANY'S ISSUED SECURITIES

As required in terms of section 150(2)(a)(iv) of the Companies Act, EC SL is the sole holder of the Company's issued securities.



14. THE BRPs' REMUNERATION

- 14.1. The Company's public interest score, calculated in terms of Regulation 26(2) of the Companies Act, as at the Commencement Date was 43 708. A company is regarded as a large sized company if its public interest score is over 500.
- 14.2. Section 143 of the Companies Act provides for the remuneration of business rescue practitioners.
- 14.3. In terms of section 143 of the Companies Act, the BRPs have proposed an agreement with the Company providing for further remuneration in the form of an increase in the hourly tariff to market related hourly rates of R4 500.00 per hour, effective from the Commencement Date until the Substantial Implementation Date, which agreement is subject to the adoption of this Business Rescue Plan. A separate meeting to approve the proposed agreement will be convened in accordance with the terms of section 143 of the Companies Act.
- 14.4. In terms of section 150(2)(a)(v) of the Companies Act, a copy of the written agreement concerning the BRPs' remuneration, as contemplated in terms of section 143 of the Companies Act, is attached hereto as **Annexure D**.

15. STATEMENT ABOUT WHETHER THE BUSINESS RESCUE PLAN INCLUDES A PROPOSAL MADE INFORMALLY BY A CREDITOR

As required in terms of section 150(2)(a)(vi) of the Companies Act, this Business Rescue Plan does not include any informal proposals made by a Creditor or Creditors of the Company.

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PART B – PROPOSAL

16. MORATORIUM

- 16.1. In terms of section 133 of the Companies Act, the commencement of Business Rescue places a moratorium on legal proceedings and enforcement action against the Company. This means that, subject to the exceptions provided for in section 133 of the Companies Act, Creditors will not be able to proceed in any forum against the Company for non-payment of debts during Business Rescue.
- 16.2. The intention of a moratorium is to give the Company the best possible chance to implement the Business Rescue Plan.
- 16.3. As required in terms of section 150(2)(b)(i) of the Companies Act, the moratorium in relation to the Company commenced on the Commencement Date and is expected to remain in place until the Substantial Implementation Date. After the Substantial Implementation Date, Creditors will only be entitled to payment in accordance with the provisions of this Business Rescue Plan.

17. OBJECTIVE

- 17.1. The purpose of the Business Rescue provisions contained in the Companies Act, as set out in section 7(k) of the Companies Act, is to provide for the efficient rescue and recovery of financially distressed companies, in a manner that balances the rights and interests of all relevant stakeholders.
- 17.2. The objective of Business Rescue, as set out in section 128(1)(b)(iii) of the Companies Act, is to develop and implement a plan that rescues the Company:
- 17.2.1. by restructuring its affairs, business, property, debt and other liabilities, and equity in a manner that maximises the likelihood of the Company continuing in existence on a solvent basis; or
- 17.2.2. if the aforementioned is not possible, results in a better return for the Company's creditors or shareholders than would result from the immediate liquidation of the Company.
- 17.3. This Business Rescue Plan seeks to:
- 17.3.1. Rescue the Company by implementing the Proposal set out herein.



- 17.3.2. Provide Affected Persons with information reasonably required to facilitate them in deciding upon this Business Rescue Plan, including information upon which Affected Persons may:
- 17.3.2.1. assess the likely outcome of the dividend yield calculation under Business Rescue, as set out in 27; and
 - 17.3.2.2. be reasonably assured of the likelihood of obtaining a better outcome under Business Rescue, when compared to a liquidation.

18. SUMMARY OF THE PROPOSAL IN TERMS OF THIS BUSINESS RESCUE PLAN

- 18.1. The BRPs, together with Management, conducted an objective assessment of the Company and evaluated various Business Rescue scenarios.
- 18.2. Pursuant to conducting the aforesaid assessment and evaluation, and after consultation with the relevant Affected Persons, the BRPs propose the implementation of the Sales Process to rescue the Company.
- 18.3. The Sales Process comprises two parts:
- 18.3.1. First Part:
 - 18.3.1.1. The first part entails the implementation of an accelerated sales process ("Accelerated Sales Process").
 - 18.3.1.2. In terms of the Accelerated Sales Process, the BRPs:
 - 18.3.1.2.1. First sought to achieve a sale of the entire Business as a going concern.
 - 18.3.1.2.2. The aforesaid was not possible, therefore the BRPs are seeking the sale of the Divisions as going concerns.
 - 18.3.2. Second Part:
 - 18.3.2.1. The second part entails the implementation of a wind-down process ("Wind-Down Process").
 - 18.3.2.2. In terms of the Wind-down Process, the BRPs will seek to realise all remaining assets (including Brands) and/or Divisions which are not sold pursuant to the Accelerated Sales Process, by way of a trade out process, private treaty, auction or any other manner which the



BRPs, in their sole discretion, deem appropriate given the circumstances prevailing at that time.

- 18.4. The Sales Process is more fully dealt with in paragraph 0 and paragraph 21.
- 18.5. Since the Commencement Date, the Company has been operating the Business and trading the Divisions.
- 18.6. The Intercreditor Secured Creditors are secured (via an SPV security structure) pursuant to various security documents, including a general notarial bond registered over the Company's movable assets and a security cession and pledge (which inter alia secures all bank accounts held by the Company and claims against third parties including the Second Look Book). The Intellectual property including the Brands have not been secured. As at the Commencement Date, the general notarial bond had not been perfected by the Intercreditor Secured Creditors. Consequently, the stock owned by the Company and the Brands are unencumbered.
- 18.7. To ensure that Creditors receive a better return in Business Rescue and to facilitate the Business Rescue process, the BRPs have developed an allocation mechanism to achieve an equitable sharing of the costs incurred and proceeds generated during the Business Rescue.
- 18.8. This allocation is summarised in the table below:

PROCEEDS	ALLOCATION
Secured Trading Proceeds	Intercreditor Secured Creditors
Second Look Book Sales Proceeds	Intercreditor Secured Creditors
Subsidiary Secured Proceeds	Intercreditor Secured Creditors
Post Allocation Date Trading Proceeds	Payment waterfall in paragraph 30
Accelerated Sales Proceeds	Payment waterfall in paragraph 30

- 18.9. Affected Persons are referred to paragraph 22 and paragraph 30 for more details relating to the allocation and payment of the proceeds.
- 18.10. The advantages of proceeding with this Business Rescue Plan are, *inter alia*, as follows:
- 18.10.1. If the Sales Process is implemented, the BRPs will seek to obtain the sale of the Business or its Divisions as going concerns, thereby resulting in the transfer of the relevant Employees and many jobs being preserved.

- 18.10.2. Employees who are retrenched, if any, would be in a better position than in a liquidation.
- 18.10.3. The bulk of the retail footprint would continue to trade resulting in ongoing rentals for landlords.
- 18.10.4. The total costs will be less than the costs of liquidation.
- 18.10.5. The trade creditors, many of whom rely on the Edgars and Jet Divisions as a trading partner, will continue to have a sustainable customer to trade with going forward.
- 18.11. Affected Persons are referred to paragraph 32 below for more information relating to the advantages of proceeding in terms of this Business Rescue Plan as opposed to a liquidation.
- 18.12. The Business Rescue will result in the rescue of the Company and will balance the interests of all stakeholders.
- 19. BACKGROUND TO THE PROPOSAL IN TERMS OF THIS BUSINESS RESCUE PLAN:**
- 19.1. The BRPs were appointed to the Company at a challenging time. In particular, the Company had just come out of the level 5 lockdown and was re-opening its stores in accordance with the measures implemented in respect of the level 4 lockdown.
- 19.2. Prior to the Commencement Date:
- 19.2.1. Management of the Company developed the Management Restructuring Plan, which contemplated either an injection of funding and restructuring of the Business, or an outright sale of the Business (i.e. the Investment Process).
- 19.2.2. Management commenced engaging in discussions with several finance providers, including *inter alia* the Group's shareholders and developmental finance organisations in regard to the Management Restructuring Plan.
- 19.3. Subsequent to the Commencement Date:
- 19.3.1. The BRPs immediately embarked on a process to consider the Management Restructuring Plan, the operational capabilities of the Business and the value residing in the Business and respective Divisions.
- 19.3.2. The BRPs engaged with Management to investigate the likelihood of the Investment Process being successful. Due to the challenges experienced in raising funding, it became apparent to the BRPs that a parallel process was required by the BRPs as an alternative proposal to realise value for all



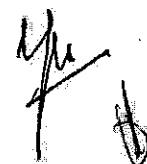
stakeholders as envisaged in the Companies Act, being the Accelerated Sales Process.

- 19.3.3. It also became apparent that, in the absence of any PCF, any proposal to rescue the Company would have to be implemented without delay.
- 19.3.4. The BRPs accordingly decided to continue seeking an investment in terms of the Investment Process and, at the same time, the BRPs commenced with the Accelerated Sales Process.
- 19.3.5. It is imperative that an Accelerated Sales Process yields a favourable result prior to the end of June 2020 in order to provide sufficient lead time for supplier negotiations to be finalised and procure summer stock. Without this, the Business would likely fail in the summer season due to a lack of product to sell. As mentioned above, the BRPs already established prior to the Publication Date that there was no interest in the Investment Process (please refer to paragraph 7.5.3).
- 19.3.6. Consequently, the BRPs have prepared this Business Rescue Plan based on the Sales Process, which is detailed below.

19.4. Salient Considerations:

Creditors should note the following challenges the BRPs were faced with, in respect of realising value for Creditors, including, *inter alia*:

- 19.4.1. The absence of PCF or shareholder funding severely limited the options open to Management and the BRPs, which required the Accelerated Sales Process.
- 19.4.2. The timing to implement the Sales Process was particularly demanding, considering the requirement to provide sufficient comfort to suppliers to put summer stock into production in order to ensure the sustainability of the business going forward.
- 19.4.3. Concerns around the impact on future sales levels as a result of the economic damage of the lockdown.



20. FIRST PART: ACCELERATED SALES PROCESS

20.1. The first part of the Sales Process is the implementation of the Accelerated Sales Process.

20.2. As set out above:

20.2.1. Due to timing and the absence of post-commencement funding, the BRPs embarked on the Accelerated Sales Process in parallel with the Investment Process.

20.2.2. In terms of the Accelerated Sales Process, the BRPs:

20.2.2.1. First sought to achieve a sale of the entire Business as a going concern.

20.2.2.2. The aforesaid was not possible, therefore the BRPs are seeking the sale of the Divisions as going concerns.

20.3. The Accelerated Sales Process comprises a two phased process whereby each interested party has been requested to submit an indicative offer in the first phase of the Accelerated Sales Process, followed by a binding offer in the second phase of the Accelerated Sales Process.

20.4. The Accelerated Sales Process can be summarised as follows:

20.4.1. Phase 1:

20.4.1.1. Initially 19 parties expressed their interest in participating in the Accelerated Sales Process. The BRPs addressed a formal letter to all interested parties on or around 13 May 2020 which, *inter alia*, set out the terms, timelines, requirements and process to be followed and adhered to by interested parties ("Process Letter").

20.4.1.2. The Process Letter required all interested parties to comply with the following requirements in order to participate in the Accelerated Sales Process and be granted access to the virtual data room containing information relevant to the Accelerated Sales Process:

20.4.1.2.1. Signature of a confidentiality agreement; and

20.4.1.2.2. Demonstration to the BRPs, in their sole discretion, that the interested parties have the operational and financial capacity to implement a transaction of the Company's size and complexity within the stipulated



timeframes, before being allowed to participate in the Accelerated Sales Process and being granted access to a virtual data room containing the information relevant to the Sales Process.

20.4.1.3. 15 interested parties complied with the Phase 1 requirements and were accordingly granted access to the virtual data room.

20.4.1.4. The BRPs received expressions of interest from various interested parties for all or part of the Divisions.

20.4.2. Phase 2:

20.4.2.1. Interested parties were invited to proceed to the second phase of the Accelerated Sales Process as preferred bidders ("**Preferred Bidders**").

20.4.2.2. The Process Letter provided the initial requirements for Preferred Bidders to *inter alia* complete their due diligence and final binding offers ("**Binding Offers**"), and advised that more detailed information relating to Phase 2, including timing and restrictions, would be provided separately to the Preferred Bidders.

20.5. Upon receipt of the Binding Offers, the BRPs will evaluate same and thereafter convene meetings with the respective committees to discuss the Binding Offers and the acceptance of one or more of the Binding Offers. The BRPs will, notwithstanding the views of the committees, have the authority to make the final determination of the acceptable Binding Offer/s.

20.6. For ease of reference a summary of the Accelerated Sales Process timeline is set out below:

Procedure	Date (2020)
Distribution of a process letter	13 May
Compliance with participation requirements	14 May
Access to the virtual data room granted	14 May
Management meetings by arrangement	From 18 May
Indicative Offer submission deadline	29 May
Selection and notification of preferred bidders and the commencement of Phase 2	2 June
Due diligence finalisation and close of virtual data room	30 June

Binding Offer submission deadline	30 June
Consultation with committees to consider the Binding Offers	Early July 2020
Selection of the successful Binding Offer	Early July 2020
Completion of the transaction documents and implementation of same	As soon as practical thereafter.
Note: The above timetable is an abridged timetable and is subject to change in the BRPs' sole discretion.	

- 20.7. The transaction documents concluded in the Accelerated Sales Process will provide for payment by the respective purchasers into the bank account opened and operated by the Receivers in terms of paragraph 29.2.2, if necessary.
- 20.8. Should it transpire, after the Allocation Date or such earlier date determined by the BRPs in their sole discretion, that there is no interest in acquiring certain assets and/or Divisions through the Accelerated Sales Process, then the BRPs will proceed to realise such assets and/or Divisions in terms of the second part of the Sales Process, being the Wind-Down Process.

21. SECOND PART – WIND-DOWN PROCESS

- 21.1. The second part of the Sales Process is the implementation of the Wind-Down Process, which will be implemented after the Allocation Date or such earlier date determined by the BRPs in their sole discretion.
- 21.2. The Wind-Down Process entails the following:
- 21.2.1. Realisation of all of the Company's assets (including Brands) and/or Divisions which are not sold pursuant to the Accelerated Sales Process, by way of a trade out process, private treaty, auction or any other manner which the BRPs, in their sole discretion, deem appropriate given the circumstances prevailing at that time, including the trade out of inventory over a period determined by the BRPs in their sole discretion;
- 21.2.2. Proposed cancellation of Leases and Contracts which could not be assigned; and
- 21.2.3. Proposed retrenchment of all remaining Employees.
- 21.1. The BRPs will convene meetings with the respective committees to provide updates on the Wind-Down Process. The BRPs will, notwithstanding the views of the committees, have the

authority to make the final determination in regard to the processes adopted and acceptance of offers.

- 21.2. Any transaction documents concluded in the Wind-Down Process will provide for payment by the respective purchasers into the bank account opened and operated by the Receivers in terms of paragraph 29.2.2, if necessary.

22. ALLOCATION OF PROCEEDS IN THE BUSINESS RESCUE

- 22.1. As stated above, to ensure that Creditors receive a better return in Business Rescue and to facilitate the Business Rescue process, the BRPs have developed the following allocation mechanism to achieve an equitable sharing of the Costs incurred and proceeds generated during the Business Rescue:

22.1.1. The Secured Trading Proceeds will be allocated to the Intercreditor Secured Creditors;

22.1.2. The Subsidiary Secured Proceeds will be allocated to the Intercreditor Secured Creditors;

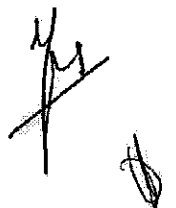
22.1.3. The Second Look Book Sales Proceeds will be allocated to the Intercreditor Secured Creditors;

22.1.4. The Post Allocation Date Trading Proceeds will be allocated in terms of the payment waterfall in paragraph 30, and

22.1.5. The Accelerated Sales Proceeds will be allocated in terms of the payment waterfall in paragraph 30.

- 22.2. This Business Rescue Plan provides for a Receivership to deal with the Secured Trading Proceeds, Post Allocation Date Trading Proceeds, Second Look Book Sales Proceeds, Accelerated Sales Proceeds, the Subsidiary Secured Proceeds, Claims and Distributions detailed in this Business Rescue Plan, which Receivership will arise upon the Adoption Date. The Receivership is dealt with in paragraph 29 below.

- 22.3. The Secured Trading Proceeds, Post Allocation Date Trading Proceeds, Accelerated Sales Proceeds, Subsidiary Secured Proceeds and Second Look Book Sales Proceeds will be paid into the bank account opened and operated by the Receivers in terms of paragraph 29.2.2, if necessary, who will make payment in accordance with the terms of this Business Rescue Plan.



22.4. The amounts payable to the Intercreditor Secured Creditors in terms of this Business Rescue Plan will be paid by the Receivers to the Security Administrator. In this regard:

22.4.1. the Intercreditor Secured Creditors, in consultation with the Security Administrator, can decide whether to submit their respective Claims to the Security Administrator (who will also exercise the respective Intercreditor Secured Creditors' votes in the Business Rescue through the Security Administrator); and

22.4.2. the Security Administrator will then administer payment to the Intercreditor Secured Creditors in accordance with the Intercreditor Agreement.

23. ONGOING ROLE OF THE COMPANY

As required in terms of section 150(2)(b)(iii) of the Companies Act, if the Business Rescue proceeds in accordance with the Sales Process, the Company will no longer operate as the Business and/or Divisions, including any remaining assets, will be sold.

24. EFFECT ON CREDITORS

24.1. Contracts

As required in terms of section 150(2)(b)(iii) of the Companies Act, in the event that the Business Rescue proceeds in terms of the Sales Process, certain Contracts will have to be cancelled, modified or restructured. To the extent that Contracts are cancelled, Claims for damages will be limited as contemplated in paragraph 24.2.

24.2. Damages

24.2.1. In the event that Creditors claim damages, whether contractual or delictual, against the Company, which damages Claim is accepted by the BRPs or proved by way of the Dispute Resolution or by Court or similar proceedings, such damages Claims:

24.2.1.1. Shall be a concurrent Claim, unless the Creditor holds security for such claim.

24.2.1.2. Must be mitigated and can only be claimed if proven.

24.2.1.3. In respect of damages related to Leases:

24.2.1.3.1. Will be deemed to be limited to a maximum Claim equivalent to 3 (three) month's rental (not operational costs) in respect of Onerous Leases and

6 (six) month's rental (not operational costs) in respect of other Leases, as payable at the Commencement Date. For the sake of clarity, it is recorded that the damages are limited in nature to re-instatement costs and early termination; and

24.2.1.3.2. If a Landlord was given an opportunity to assign a lease, but refused to do so on reasonable grounds, such Landlord will be precluded from submitting a claim for damages:

24.2.1.4. In respect of damages related to other Contracts, will be deemed to be limited to general damages suffered over the lesser of three months from the date on which the alleged claim for damages arose or the balance of the Contract duration:

24.2.1.5. For purposes hereof, general damages are those which, on an objective basis, would be reasonably foreseeable at the time of entering into the relevant Contract as a probable consequence of, and with a sufficiently close connection to, any breach by the Company of such Contract so as to be said to flow naturally and generally and not to be too remote.

24.2.1.6. Will be deemed to exclude all consequential (including loss of profit) and indirect damages.

24.2.1.7. if disputed, will be resolved in terms of the Dispute Resolution detailed in paragraph 39.

24.3. Claims and release of the Company from the payment of debts

24.3.1. Creditors and Claims will be dealt with in accordance with paragraphs 22 and 30.

24.3.2. As required in terms of section 150(2)(b)(ii) of the Companies Act:

24.3.2.1. Creditors shall retain their Claims against the Company for any balance that may still be due to them by the Company after receipt of the final Distribution; and

24.3.2.2. There is no proposal to convert any debt to equity in the Company or another Company in terms of this Business Rescue Plan.

24.3.3. Therefore if the Business Rescue Plan is implemented in accordance with its terms and conditions, a Creditor will not be deemed to have acceded to the

discharge of the whole or part of a debt owing to that Creditor and will not lose its rights to enforce the relevant debt or part of such debt against the Company and the provisions of section 154(1) of the Act will not apply.

- 24.3.4. A Creditor will also notwithstanding the fact that this Business Rescue Plan has been adopted and implemented, will be entitled to enforce any debt owed to it by the Company immediately before the beginning of Business Rescue, except for any payment that is made pursuant to this Business Rescue Plan.

24.4. Section 22 of Value Added Tax Act:

No Claims will be compromised in terms of this Business Rescue Plan and Creditors will retain their Claims against the Company for any balance that may still be due to them by the Company after payment of the final Distribution.

25. PROPERTY OF THE COMPANY AVAILABLE TO PAY CREDITORS

As required in terms of section 150(2)(b)(iv) of the Companies Act, the Business Rescue Plan contemplates the sale of the Company's Business, Divisions and/or assets, and the distribution of the proceeds by the Receivers in accordance with paragraph 22 and the payment waterfall in paragraph 30.

26. EFFECT OF THE BUSINESS RESCUE PLAN ON THE HOLDERS OF EACH CLASS OF THE COMPANY'S ISSUED SHARES

As required in terms of section 150(2)(b)(vii) of the Companies Act, if the Sales Process is implemented, the rights of the sole shareholder, being ECSL, will not be altered.

27. COMPARISON OF THE BUSINESS RESCUE TO LIQUIDATION

- 27.1. As at the Publication Date, the outcome of the Accelerated Sales Process is unknown. Consequently, the estimated Business Rescue dividend set out in this Business Rescue Plan has been determined based on the Wind-Down Process, as envisaged in paragraph 21.
- 27.2. The following table sets out a comparison of the outcomes that are likely to arise under the Business Rescue (in terms of the Wind-Down Process) as compared to a liquidation (the liquidation calculation is based on the information provided in Deloitte's liquidation calculation):

	Liquidation	Business Rescue (Based on Wind-Down Process)
Intercreditor Secured Creditors	5.5 cents / Rand	19 cents / Rand
Employees	Limited to R32 000	100 cents / Rand

PCF	N/A	100 cents / Rand
Concurrent / Unsecured creditors	0 cents / Rand	4 cents / Rand

28. ASSUMPTIONS MADE WITH REGARD TO FORECAST OF THE BUSINESS RESCUE DIVIDEND

28.1. Trading Assumptions

28.1.1. Revenue:

28.1.1.1. Revenue has been forecasted by Management, taking into account current trading conditions and historical performance. In addition further factors such as the current inventory on hand, inventory aging, historical sell through rates, anticipated margins and relevant adjustments to factor in the Covid-19 restrictions as well as consumers' available disposable income in the current economic environment.

28.1.1.2. Revenue for June 2020 is anticipated to be R738m, under current trading terms and conditions.

28.1.1.3. From 1 July 2020 onwards:

28.1.1.3.1. The store trade out will commence and continue for a two month period ("Trade Out Period").

28.1.1.3.2. The Company will start discounting stock to clear its inventory and maximise recovery over the Trade Out Period.

28.1.1.3.3. The below table sets out the discount percentages as well as the forecast sell through rate:

Week Commencing	28-Jun	07-May	07-Dec	19-Jul	26-Jul	08-Feb	08-Sep	16-Aug	23-Aug
Trading Week	14	15	16	17	18	19	20	21	22
Trading Month	July	July	July	July	July	August	August	August	August
Jet									
Discount %	30%	30%	50%	50%	75%	75%	90%	90%	90%
Sell through Rate of Inventory	12%	10%	15%	12%	20%	15%	5%	5%	5%
Edgars									
Discount %	30%	30%	40%	50%	50%	75%	75%	90%	90%
Sell through Rate of Inventory	9%	8%	7%	7%	6%	18%	10%	9%	5%

Y/L

28.1.2. Purchases:

28.1.2.1. In June 2020, inventory is to be purchased selectively, only for fast moving seasonal items in order to support the Accelerated Sales Process.

28.1.2.2. An average of R80 million of inventory is to be purchased per week (excluding the consignment, sales-based terms and reservation of title inventory which is being settled on a weekly basis).

28.1.2.3. Inventory purchases will cease from 1 July 2020. In addition consignment, sales-based terms and reservation of title inventory will also cease and such stock will be returned to suppliers.

28.1.3. Other income:

Other income, including various fee related income, will continue to be earned until 30 June 2020, following which such income will cease.

28.1.4. Rental and utility costs:

28.1.4.1. Store rental is based on turnover rental arrangements.

28.1.4.2. Head office and distribution centre rentals are based on the ratio of actual rental incurred to contractual rental on the store portfolio based on turnover rental arrangements.

28.1.4.3. The differences between the contractual rental and the rental contemplated in 28.1.4.1 and 28.1.4.2 above will be paid at the end of the Trade Out Period.

28.1.4.4. Utilities will be paid monthly throughout the Trade Out Period.

28.1.5. Payroll costs:

Payroll costs, including benefits and related taxes, will be paid throughout the Trade Out Period.

28.1.6. Other expenses:

28.1.6.1. Critical IT costs required to run the Business will be paid as required.

28.1.6.2. Store critical costs, such as security and cleaning costs, will be paid as required.

28.1.6.3. Logistics costs will be paid as required.

28.2. Proposed Retrenchments

The total liability for the proposed retrenchments has been calculated at approximately R597 million and will be paid at the end of the Trade Out Period subject to cash availability and the section 189 process.

28.3. Other Assets

28.3.1. Second Look Book:

28.3.1.1. The Company will collect in stores for two months during the Trade Out Period.

28.3.1.2. After the Trade Out Period, stores would be closed and debtors handed over to a collection agency for 6 months to a year, following which the residual book as well as the written off book will ultimately be sold.

28.3.1.3. The estimated total realisation of the Second Look Book (including the written off book) is approximately R318 million.

28.3.2. Property Plant and Equipment, Inter Group Loans and Other Receivables and Prepayments:

The realisation of the remaining assets is based on the estimates provided in the liquidation calculation, which is approximately R253 million.

29. RECEIVERSHIP

29.1. With effect from the Adoption Date, the BRPs will also be appointed as the Receivers in order to:

29.1.1. receive the Accelerated Sales Proceeds, Post Allocation Date Trading Proceeds, Second Look Book Sales Proceeds, Subsidiary Secured Proceeds and Secured Trading Proceeds; and

29.1.2. distribute the aforesaid proceeds in accordance with the provisions of this Business Rescue Plan.

- 29.2. The Receivers will have all such powers as may be necessary for them to discharge their obligations in terms of the Receivership and without in any way restricting the generality of such powers, the Receivers shall have the following powers and obligations:
- 29.2.1. to perform all acts and discharge all duties which the Receivers are required to perform and discharge in order to give effect to the implementation of terms of the Receivership;
 - 29.2.2. to open and operate banking accounts and investments, if necessary, as if they were trustees in terms of section 70(1) of the Insolvency Act, *mutatis mutandis*;
 - 29.2.3. to admit or reject any Claims tendered for proof as provided for in paragraph 31;
 - 29.2.4. to compromise the Claims and defend any proceedings which may be instituted against the Receivers for the enforcement of Claims disputed by the Receivers;
 - 29.2.5. to abandon to Secured Creditors any property held as security at a value agreed to between the secured Creditor and the Receivers;
 - 29.2.6. to proceed in terms of the Dispute Resolution or institute any legal proceedings in their capacities as the Receivers, as they may in their sole discretion deem appropriate, against any person as may be required to give effect to the Receivership and to defend any proceedings brought against the Receivers arising out of the Receivership where the subject matter of the dispute relates to their powers and obligations in terms of the Receivership;
 - 29.2.7. to have access to all books, records, documentation and trading figures of the Company as they may reasonably and properly require for the execution of their duties as Receivers in terms of the Receivership;
 - 29.2.8. to engage the service of attorneys, advocates, other professional advisers and service providers in connection with any matter concerning the Receivership, their functions and duties, to dispense with taxation and to agree on the amount of their reasonable fees and charges and to pay such fees and disbursements of such persons out of the monies becoming available to the Receivers in terms of the Receivership;
 - 29.2.9. to receive any and all amounts payable to them in terms of transaction documents concluded pursuant to the Sales Process and the power to disburse all such amounts to any relevant person/s and Creditors contemplated in this Proposed Transaction; and



- 29.2.10. to investigate the Company's affairs, business, property and financial situation and take appropriate steps as contemplated in section 141(1)(c) of the Companies Act.
- 29.3. The Receivers will be entitled to charge out their time at the rate of R4 500.00 per hour, excluding VAT.

30. ORDER OF DISTRIBUTION – PAYMENT WATERFALL IN BUSINESS RESCUE & RECEIVERSHIP

- 30.1. As required in terms of section 150(2)(b)(v) of the Companies Act, the order of preference in which proceeds will be applied to pay Creditors if the Business Rescue Plan is adopted is set out in paragraph 22 and the payment waterfall referred to therein is set out below.
- 30.2. In terms of sections 135 and 144 of the Companies Act, Creditors are to be paid in the following order of priority (to the extent that there are funds available to pay all categories of Creditors) (i.e. the payment waterfall):
- 30.2.1. The Business Rescue Costs, including but not limited to legal costs, the costs of the Advisors, operating costs and other costs associated with the Business Rescue;
- 30.2.2. Employees for any remuneration, reimbursement for expenses or other amount of money relating to employment which becomes due and payable by the Company to the Employees during the Business Rescue (to the extent that they have not been paid);
- 30.2.3. Secured PCF Creditors;
- 30.2.4. Unsecured PCF Creditors;
- 30.2.5. Employees for any remuneration, reimbursement for expenses or other amount of money relating to employment which became due and payable by the Company to the Employees prior to the Business Rescue (to the extent that they were not paid); and
- 30.2.6. Unsecured / General Concurrent Creditors, including Secured Creditors in respect of any residual Claim remaining after realisation of their security.
- 30.3. In respect of Pre-commencement Secured Creditors, their Claims will rank in respect of such secured asset in priority to all other claims, other than the BRPs' remuneration and expenses, as contemplated in section 143 of the Companies Act.



- 30.4. All unpaid amounts in terms of Leases as at the Commencement Date, will be treated as unsecured Pre-Commencement Claims as no Landlord had perfected its landlord's hypothec as at the Commencement Date.
- 30.5. All unpaid amounts in terms of Leases after the Commencement Date will be treated as PCF.
- 30.6. The Receivers will make Distributions as soon as it is practically possible to do so.

31. PROOF OF CLAIMS BY CREDITORS

- 31.1. The exchange rate in respect of all Claims expressed in foreign currency will be determined as at the Commencement Date.
- 31.2. General Concurrent Creditors will not be entitled to charge interest on their Pre-commencement Claims from the Commencement Date.
- 31.3. Creditors are required to lodge their Claims with the Receivers online at www.matusonassociates.co.za/edcon prior to the Final Claims Date for purposes of participating in Distributions made by the Receivers:
- 31.3.1. Those Claims which have already been submitted to the BRPs will be deemed to have been submitted to the Receivers in terms of this Business Rescue Plan;
- 31.3.2. The BRPs or the Receivers, as the case may be, have a discretion as to whether to allow a Creditor to lodge any Claim after the Final Claims Date; and
- 31.3.3. Creditors who have lodged Claims after the Final Claims Date, and whose Claims have been accepted by the BRPs or the Receivers in the exercise of the BRPs' or Receivers' aforesaid discretion, forfeit their right to participate in Distributions that have been made prior to the lodgement of their Claims.
- 31.4. The provisions in paragraph 31.3 will apply *mutatis mutandis* to Creditors asserting a claim for damages.
- 31.5. Claims, including claims for damages, shall be proved to the satisfaction of the BRPs or the Receivers.
- 31.6. In the event that the BRPs or the Receivers, as the case may be, dispute any Claim or security, such disputed Claims will be dealt with in accordance with the Dispute Resolution more fully dealt with in paragraph 39.

32. BENEFITS OF ADOPTING THE BUSINESS RESCUE PLAN COMPARED TO LIQUIDATION

As required in terms of section 150(2)(b)(vi) of the Companies Act, the benefits of adopting the Business Rescue Plan compared to a liquidation are as follows:

32.1. Continuity of Business or Divisions

32.1.1. To the extent that the Business or Divisions are sold in terms of Sales Process:

32.1.1.1. A significant number of the jobs pertaining to the Business or Divisions would be preserved.

32.1.1.2. The trade creditors, many of whom rely on Edgars and Jet as a trading partner will continue to have a sustainable customer to trade with going forward.

32.1.1.3. The remaining store footprint will provide Landlords with a sustainable tenant going forward.

32.2. Quantum

32.2.1. Creditors will receive a better dividend in Business Rescue than on a liquidation of the Company.

32.2.2. By way of illustration, please refer to paragraph 27.

32.3. Timing

32.3.1. The Business Rescue Plan will be implemented in a far shorter time frame than liquidation proceedings.

32.3.2. The anticipated time period estimated for completing the Business Rescue is approximately 6 months.

32.3.3. The average time it takes to conclude a liquidation process can be between 18 - 24 months, or longer depending on the complexity of the business and affairs of a company.

32.4. Employees

32.4.1. Employees have continued to receive salaries since the Commencement Date.

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32.4.2. In a liquidation:

32.4.2.1. Employees would be entitled to receive a maximum amount of R32 000.00 (thirty two thousand Rand) per employee, to the extent that there are funds available; and

32.4.2.2. Employees will only receive payment once the final liquidation and distribution account has been approved at the end of the liquidation process.

32.5. Fees

32.5.1. The BRPs submit that the entire costs of the Business Rescue will be significantly lower than the liquidation costs.

32.5.2. The estimated fees a liquidator would be entitled to in terms of the liquidation calculation prepared by Deloitte is approximately R66 million based on the realisation of the assets.

32.6. Landlords

32.6.1. After the Commencement Date, Landlords have been paid in terms of the interim measure payments detailed in the First Landlord Notice, dated 2 May 2020, and Second Landlord Notice, dated 14 May 2020, with any shortfalls in terms of the Leases being treated as PCF.

32.6.2. Certain Leases will be ceded and assigned in terms of the Sales Process.

32.6.3. Landlords in respect of Leases which are suspended and/or cancelled will be entitled to a claim for damages in accordance with the provisions of paragraph 24.2.

32.7. General Benefits of Business Rescue

32.7.1. Stock

The sale of stock in terms of a liquidation typically results in minimal value being realised, generally less than cost.

32.7.2. Protecting Goodwill

32.7.2.1. By virtue of uninterrupted trading, the BRPs were able to preserve the goodwill in relation to the Divisions. Accordingly, in the absence of an investor, the BRPs are able to sell the various Divisions of the

Company as going concerns with goodwill which has a value.

32.7.2.2. In a liquidation scenario the various stores of the Company would have to be closed down immediately if the liquidator determines not to continue trading. A liquidator would only continue to trade if he or she received an indemnity to cover him or her for any losses in trading – given the circumstances it is highly unlikely that this would happen.

32.7.3. Avoiding breakdown of controlled environment

32.7.3.1. During Business Rescue because the Company is continuing to trade in the ordinary course of business, the BRPs are able to wind-down the affairs of the Company to the extent required in an orderly fashion.

32.7.3.2. Stricter controls remain over all assets of the Company, which avoids or minimises risks of theft and damage.

33. RISKS OF THE BUSINESS RESCUE PLAN

33.1. Notwithstanding what has been stated in this Business Rescue Plan, the Business Rescue and the amount which Creditors could receive in terms of the Business Rescue may be adversely affected by, *inter alia*, the following factors:

- 33.1.1. the uncertainty surrounding the economic climate in light of COVID-19 and the risk that the country or certain provinces, metropolitan districts or hotspots are placed back into lockdown;
- 33.1.2. the budgeted sales figures not being achieved;
- 33.1.3. the approval of any proposed transaction by the Competition Commission taking longer than expected;
- 33.1.4. the discrepancies in the asset registers and inventory lists differing materially (more than 10%) from the actual assets and inventory on hand, thus reducing the purchase price as being received on the sale of such assets;
- 33.1.5. the expected realisation value for stock, fixtures and fittings that the BRPs anticipate to achieve at a sale or at an auction or through trading differs materially (more than 10%) from the actual realised value;
- 33.1.6. the final verification and agreement of the quantum of the Creditors' Claims takes longer than expected or if the records of the Company are irreconcilable with the Claims received;

- 33.1.7. the closure, consolidation and stock verification process during the period of handover of the Company to a successful purchaser being more complex and costly than anticipated thereby resulting in a downward adjustment of the purchase consideration;
 - 33.1.8. deteriorating market conditions;
 - 33.1.9. labour action as a result of potential store closures and the section 189(3) notices issued by the Company preventing or delaying the potential closure of any stores as contemplated in this Business Rescue Plan;
 - 33.1.10. unforeseen litigation of any nature whatsoever, howsoever arising, from any cause of action whatsoever;
 - 33.1.11. unforeseen claims for damages arising from the cancellation of any Contracts or agreements of any nature whatsoever, howsoever arising;
 - 33.1.12. any changes in legislation that impacts Business Rescue;
 - 33.1.13. any challenges to this Business Rescue Plan, the rejection thereof or any amendments thereto;
 - 33.1.14. any regulatory challenges of any nature whatsoever, howsoever arising;
 - 33.1.15. any unforeseen circumstances, outside of the control of the BRPs of any nature whatsoever howsoever arising that impacts on Business Rescue;
 - 33.1.16. the revocation of support from any Affected Persons, service providers and/ or suppliers;
 - 33.1.17. material discrepancies in the information made available to the BRPs by the Directors and Management;
 - 33.1.18. increase in claims for damages for certain Leases not being ceded and assigned; and
 - 33.1.19. poor collections/recovery rates in respect of the Second Look Book due to the deteriorating economic environment.
- 33.2. It should be noted that, in the unlikely event of an immediate liquidation of the Company, the risks set out in this paragraph 33 would still apply.



PART C – ASSUMPTIONS AND CONDITIONS

34. CONDITIONS FOR THE BUSINESS RESCUE PLAN TO COME INTO OPERATION AND BE FULLY IMPLEMENTED

34.1. As required in terms of section 150(2)(c)(i)(aa) of the Companies Act, the Business Rescue Plan will come into operation upon the Adoption Date.

34.2. As required in terms of section 150(2)(c)(i)(bb) of the Companies Act, the Business Rescue Plan will be fully implemented upon the finalisation of the Sales Process, payment of the Final Distribution and upon the Substantial Implementation Date.

35. EFFECT OF THE BUSINESS RESCUE PLAN ON EMPLOYEES

As required in terms of section 150(2)(c)(ii) of the Companies Act, the effect of the Business Rescue Plan on Employees is set out in paragraph 7.2.4.

36. CIRCUMSTANCES IN WHICH THE BUSINESS RESCUE PLAN WILL END AND THE DURATION OF BUSINESS RESCUE

36.1. As required in terms of section 150(2)(c)(iii) of the Companies Act, the Business Rescue Plan will end when the Business Rescue ends.

36.2. In terms of section 132(2) of the Companies Act, the Business Rescue will end when:

36.2.1. the Business Rescue Plan is:

36.2.1.1. proposed and rejected and the BRPs and Affected Person/s do not take any action to extend the Business Rescue in any manner contemplated by the Companies Act; or

36.2.1.2. adopted and implemented (with the conditions fulfilled) and the BRPs have filed a notice of substantial implementation of the Business Rescue Plan with the CIPC (i.e. on the Substantial Implementation Date); or

36.2.2. a High Court orders the conversion of the Business Rescue into liquidation proceedings; or

36.2.3. the BRPs file a notice of termination of the Business Rescue with CIPC.

37. PROJECTED BALANCE SHEET AND PROJECTED STATEMENT OF INCOME AND EXPENSES

- 37.1. In terms of section 150(2)(c)(iv) of the Companies Act, a projected balance for the Company and statement of income and expenses for the ensuing three years must be included in the Business Rescue Plan.
- 37.2. If the Business Rescue proceeds in terms of the Sales Process, there will be no continuation of the Company and as such no projected balance sheet or statement of income and expenses for the ensuing three years.
- 37.3. In light of the aforesaid, this Business Rescue Plan includes a cash flow forecast for the anticipated duration of the Business Rescue, which is attached as **Annexure E**.

38. EXISTING LITIGATION

All parties who have instituted legal proceedings, including any enforcement action, prior to the Commencement Date in respect of any Claims against the Company in any forum will be subject to the provisions of paragraph 31, dealing with the proof of Claims.

39. DISPUTE RESOLUTION

- 39.1. Reference in this paragraph to BRPs will include a reference to Receivers.
- 39.2. Subject to paragraph 39.5, save as provided for in section 133 of the Companies Act, in respect of all or any disputes by the BRPs on Claims, which disputes include, but are not limited to, disputes on the existence or otherwise of Claim(s), on quantum of Claim(s), security claimed by a Creditor, the nature of the security, the extent and value of the security and the like ("dispute"), such dispute may be resolved in accordance with the dispute mechanism outlined below ("Dispute Mechanism").
- 39.3. The Dispute Mechanism procedure will be as follows:
- 39.3.1. All creditors who have received notification from the BRPs of a dispute are required within 15 (fifteen) days of receipt of such notice to contact the BRPs and to meet with the BRPs during this period in an attempt to reach agreement on the dispute ("Settlement Meeting").
- 39.3.2. If the Creditor does not avail itself of this 15 (fifteen) day opportunity, the Creditor will be deemed to have accepted the BRPs' position in regard to the dispute.
- 39.3.3. If the Creditor does avail itself of the Settlement Meeting, however, the dispute is not resolved and the Creditor persists with the dispute, the BRPs and Creditor must agree to the appointment of a retired judge as an expert (not as an arbitrator or mediator) to preside over and to resolve the dispute.



- 39.3.4. Should the BRPs and the Creditor fail to reach an agreement on the expert, then the Arbitration Foundation of South Africa will be requested to make the appointment.
- 39.3.5. The appointed expert must endeavour to complete his/her mandate within 30 (thirty) days of his/her appointment or within such further time period as the expert in his/her sole discretion may determine.
- 39.3.6. The expert will in his/her sole and absolute discretion determine:
- 39.3.6.1. the venue at which the dispute is to be resolved;
 - 39.3.6.2. the rules, regulations and procedures that will govern the determination of the dispute;
 - 39.3.6.3. the date(s) for the determination of the dispute;
 - 39.3.6.4. will give his award / determination within 5 (five) days of the completion of the process as determined by him;
 - 39.3.6.5. will as part of his award / determination determine who is liable for the costs of the determination such costs to include his costs, legal costs, venue costs, recording equipment (if applicable), transcript of evidence (if applicable) and the like.
- 39.3.7. The Creditor/s agree/s that, save for any manifest error the determination of the expert will be final and binding on the Creditor/s, the Company and the BRPs and will not be subject to any subsequent review or appeal application / procedure / process.
- 39.3.8. The expert shall be entitled to make an award for costs in his/her discretion.
- 39.3.9. The Creditor, the Employee/s, the Company and the BRPs agree to use their utmost endeavours to ensure that the entire dispute is determined by the expert as expeditiously as possible.
- 39.4. To the extent necessary, should the BRPs be of the view that certain disputes may be settled or compromised, the BRPs shall be authorised to settle and compromise such a dispute.
- 39.5. The BRPs may in their sole and absolute discretion decide that the Dispute Mechanism is not appropriate for resolving the dispute and/or that the application of the Dispute Mechanism may result in prejudice to other Creditors or Employees or the Company. In such event, the BRPs shall be entitled in terms of 133 of the Companies Act to refer the dispute to Court and if an expert has already been nominated, such nomination will lapse and be of no force or effect.

40. ABILITY TO AMEND THE BUSINESS RESCUE PLAN

- 40.1. Provided that any amendment will not be prejudicial to any of the Affected Persons, the BRPs shall have the ability, in their sole and absolute discretion, to amend, modify or vary any provision of this Business Rescue Plan, provided that at all times the BRPs act reasonably. The amendment will be deemed to take effect on the date of written notice of the amendment to all Affected Persons.
- 40.2. Should an amendment be contemplated which would prejudice Affected Persons, then the BRPs shall be entitled to propose same for consideration and voting at a subsequent meeting of those Affected Persons who would be prejudiced thereby. Such amendment shall only be effective should such Affected Persons vote in favour thereof and it is adopted in the same manner as provided for in section 152 of the Companies Act.
- 40.3. It is specifically recorded that the provisions of paragraph 40.1 and paragraph 40.2 shall *mutatis mutandis* apply to the extension or reduction of any timeframes by the BRPs.

41. SEVERABILITY

Any provision in this Business Rescue Plan which is or may become illegal, invalid or unenforceable shall be ineffective to the extent of such prohibition or unenforceability and shall be treated *pro non scripto* and severed from the balance of this Business Rescue Plan, without invalidating the remaining provisions of this Business Rescue Plan or affecting the validity or enforceability of such provision in any other jurisdiction.

42. CONCLUSION


For the reasons set out above, the BRPs are of the view that if the Business Rescue proceeds in terms of the Sales Process, same will result in an efficient rescue of the Company, in a manner that balances the rights and interests of all relevant stakeholders.

43. BRPs' CERTIFICATE

- 43.1. We, the undersigned, Piers Michael Marsden and Lance Schapiro, hereby certify to the best of our knowledge and belief that –
- 43.1.1. any actual information provided herein appears to be accurate, complete and up to date;
- 43.1.2. the BRPs have relied on financial information including opinions and reports furnished to them by Management and Advisors;
- 43.1.3. any projections provided are estimates made in good faith on the basis of factual information and assumptions as set out herein; and




43.1.4. in preparing the Business Rescue Plan, the BRPs have not undertaken an audit of the information provided to them by Management, the Company's auditors and by the Advisors, although where practical, the BRPs have endeavoured to satisfy themselves of the accuracy of such information.



Piers Marsden, in his capacity as the duly appointed
business rescue practitioner (in terms of the Companies Act)

Date: 8 June 2020



Lance Schapiro, in his capacity as the duly appointed
business rescue practitioner (in terms of the Companies Act)

Date: 8 June 2020