Africa Round Table

Celebrating a decade of insolvency reform in Africa and anticipating what lies ahead

21 - 22 November 2019
Swakopmund Hotel & Entertainment Centre
Swakopmund, Namibia
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To download the updated World Bank ICR Principles please use the following link:

UNCITRAL’s reports on insolvency can be found here:
Congratulations on your 10th anniversary

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Background to the Initiative

The 2019 World Bank Doing Business data shows that Sub-Saharan Africa has the lowest creditor recovery rate than any other region in the world (20.3 cents on the dollar, compared to 70.5 cents on the dollar in OECD High Income countries). Clearly, there are many different issues related to financial distress in the region, and the insolvency solutions are complex. There are inadequate mechanisms to prevent the stripping of assets of companies in financial difficulty heading towards insolvency, which means that a business rescue culture is minimal. Many directors lack accountability. In many cases, the insolvency profession is neither institutionalised nor regulated. Delays in finalising cases by courts negatively affect the efficiency of the system. The skills of stakeholders including the judiciary and insolvency practitioners need to be developed, and countries need to focus on both institutional and capacity-building reforms that will seek to preserve value in financially distressed businesses.

Since the introduction of the Africa Round Table initiative in 2010, the focus has been on introducing delegates across the continent to the various insolvency and restructuring tools that are available in an insolvency scenario, with the emphasis on encouraging and supporting insolvency reform. The themes of the events have ranged from value preservation to insolvency frameworks for micro, small and medium enterprises to examining how to encourage more effective implementation of insolvency regimes. At the last Africa Round Table event in Maputo, Mozambique in 2018, the focus was on cross-border insolvency. However, the main objective of the Africa Round Table initiative remains to develop professional ties with the goal of improving insolvency and restructuring regimes across the African continent.

Celebrating 10 years of ART provides us not only with an opportunity to look back at the past decade of insolvency reform in Africa, but also with an opportunity to pause and reflect as to the potential challenges that lie ahead, specifically in Sub-Saharan Africa. With this in mind, topics at this year’s ART will therefore offer both a retrospective view, as well as being forward-looking in scope. Topics will include practical sessions critiquing corporate rescue plans, the impact of secured transactions reform on the availability of credit, stakeholder negotiations in cross-border insolvency matters, challenges faced during the insolvency reform process, non-performing loan management in Africa, asset-tracing and fraudulent transactions, practical case studies and views from the judiciary.

INSOL International has a significant membership base in Africa. INSOL members, regulators, law-makers, insolvency practitioners, judges and other stakeholders from the region participating in INSOL activities have demonstrated keen interest in learning from the experience of other countries. INSOL and other international bodies have received requests for assistance to work towards the improvement of the insolvency systems in the various countries in the region. In addition to the Africa Round Table initiative, INSOL International is also expanding the services it provides to its membership base in Africa as part of its newly adopted strategy. Included in these plans are: i) the design and implementation of an introductory online course, the Foundation Certificate in International Insolvency Law, which commenced on 1 September 2019 (more information can be obtained here); ii) the sourcing and publication of technical books, projects and special reports that are relevant to the region; and iii) an electronic database that contains the insolvency laws of as many countries in Africa as possible. While the Africa Round Table initiative has been hugely successful, we aim to consolidate the progress made by providing more frequent and useful information to our African membership, both in the short and the long term.
ENSafrica’s sheer size, depth of senior resources and commitment to Africa coverage makes it a go-to firm for domestic and cross-border deals

Legal 500 2019
The World Bank and the International Finance Corporation (The World Bank Group) have been assisting countries in Africa to reform their insolvency regimes for more than 18 years. As the global standard setter for insolvency and creditor/debtor regimes (including secured transactions over moveable collateral), together with UNCITRAL, the World Bank Group is well placed to assist countries in Africa with reforms in this area. The World Bank Group’s Finance, Competitiveness and Innovation Global Practice has active insolvency projects in over fifty countries. The projects assist governments through detailed diagnostics and technical assistance.

Africa is a vast region with diverse legal systems and practices. Some multilateral bodies are already engaged in insolvency reforms in some countries and others carry a keen interest in working for the benefit of the insolvency industry in the region. The knowledge, experience and resources available within these global institutions and bodies can be optimised by way of a coordinated regional effort, aimed at addressing the needs of the insolvency industry. The Forum for Asian Insolvency Reforms (FAIR) and the Forum for Insolvency Reforms in MENA are two inspiring models of cooperation by international and regional organisations. It was for these reasons that INSOL International and the World Bank Group established the Africa Round Table: to provide a platform for international bodies, regional institutions, policymakers and stakeholders from the continent, as well as experts in the field from other, and sometimes more mature jurisdictions, to come together and adopt a coordinated approach towards reforms and capacity building in the region.

The Africa Round Table initiative was established at a meeting organised by INSOL International and the World Bank Group in Dubai, in February 2010. The objectives of the Africa Round Table were threefold:

- to have a high-level dialogue with both private practitioners and public policymakers regarding insolvency reform in Africa, thereby encouraging reform experiences to be shared and challenges to be discussed in an open and frank forum;

- to elevate insolvency reform on the African policy agenda; and,

- to encourage insolvency policymakers and professionals to establish an annual forum to stimulate discourse and learning across the region.

The first meeting was convened on September 30, 2010 in Abuja, Nigeria. Since then, annual ARTs have been held in Mauritius, Ghana, Uganda, Zambia, Kenya, Mozambique and South Africa. Delegates have been drawn from government, the judiciary and the private sector from over 16 African Anglophone and Francophone countries. A growing number of international experts have also been present, including from bodies such as UNCITRAL and the African Development Bank.

A full report of the past roundtable events can be found on the INSOL website: [www.insol.org](http://www.insol.org)

Details of the World Bank Group’s insolvency reform program can be found at: [www.worldbank.org/insolvency](http://www.worldbank.org/insolvency)
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Any questions? Get in touch

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Agenda
Thursday, 21 November 2019

Platinum Sponsors:

7.45 – 8.30 am  Registration and Welcome Refreshments

8.30 – 8.50 am  Welcome and Introduction to the Africa Round Table initiative
Yvonne Dausab, Law Reform & Development Commission, Namibia
Adam Harris, Past President, INSOL International, Bowmans, South Africa
Antonia Menezes, Fellow, INSOL International, World Bank Group

8.50 – 9.10 am  Keynote Address
The Hon Deputy Chief Justice Damaseb, Namibia

9.10 – 10.10 am  Peer to Peer Discussion: African Insolvency Cases
This peer to peer session, which is a common thread through all the Africa Round Tables, will highlight some of the major reforms in the region, including identifying important insolvency cases that have affected insolvency practice on the ground. A representative group of country delegates will share experiences from their jurisdictions.

10.10 – 10.30 am  Coffee Break

10.30 – 11.45 am  Critiquing Business Restructuring Plans
Moderator - Ntlhane Makena, ENSafrica, South Africa
Juanitta Calitz, University of Johannesburg, South Africa
Sonal Sejpal, Anjarwalla & Khanna, Kenya
Raj Thacoor, Quantuma Mauritius
Dawie van der Merwe, BDO, South Africa

Over the past ten years, many African countries have put business restructuring frameworks in place, but how successful are they in practice? This session will provide a reminder on the importance of business rescue regimes and will showcase domestic restructuring tools from different jurisdictions. Its primary goal will focus on the practicalities of preparing a successful business rescue plan and will familiarize participants with key components of the plan.

11.45 – 1.00 pm  What is Fintech?
Moderator - Elaine MacEachern, World Bank Group
Zvichapera Katiyo, Chief Banking Officer, Steward Bank
Langelihile Nkabinda, Financial Markets & Competitiveness, National Treasury, South Africa
Vincent Wakaba, Airtel Money, Kenya

Alternative lending through electronic platforms has grown quickly globally and has been subject to different regulatory frameworks...
and approaches, including in sub-Saharan Africa. Regulators are learning and keeping pace with the industry and building frameworks such as regulatory sandboxes to adapt to new and developing business models. Although the focus of regulators and businesses has been largely on origination, dealing with defaults and insolvency is also key to a sustainable business environment. This panel will provide an introduction to FinTech and discuss insolvency legal issues, including key risks and mitigating strategies from the perspective of both regulators and lenders on the continent.

1.00 – 2.00 pm  
Lunch

2.00 – 4.00 pm  
A Practical Workshop on Insolvency Practitioner Skills  
Neil Taylor, NTI Ltd, UK

This will be a case study highlighting practical skills that IPs need in conducting complex insolvencies. Participants are strongly encouraged to read the case study ahead of the session.  
(Refreshments available during this workshop)

4.00 – 5.00 pm  
From the Trenches  
Moderator - Dr David Burdette, INSOL International  
Scott Atkins, Vice President INSOL International, Fellow, INSOL International, Norton Rose Fulbright, Australia  
Nelson Jeque, Lawyer, Mozambique  
Dr Tadese Lencho, Assistant Professor, Addis Ababa University and, Mehrteab Leul & Associates Law Office, Ethiopia  
Hon. Mr. Sakeus E.T. Shanghala, Minister of Justice, Namibia

Country delegates will share the challenges faced in their domestic insolvency reforms and how they successfully overcame them in order to facilitate reform.

5.00pm  
Close

6.00 – 11.00 pm  
10th Anniversary Dinner in the Desert  
(Please ensure you are at the meeting point by 6.00pm. Coaches will depart at 6.15pm sharp. We recommend flat walking shoes and extra layers as the temperatures can drop in the desert at night)

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[Logo images of ENSafrica.com and Grant Thornton]
Friday, 22 November 2019

ART Open Forum

9.00 – 9.30 am  Registration and Welcome Refreshments

9.30 – 9.40 am  Welcome remarks
Adam Harris, Past President, INSOL International, Bowmans, South Africa

9.40 – 10.00 am  Bridging the Gap
Will Paterson, World Bank Group

In this introductory session to Day 2, delegates who did not attend Day 1 of the programme will be informed and updated as to what transpired during Day 1.

10.00 - 11.15 am  Non-Performing Loan Management in Africa
Moderator - Zube Mainz, World Bank Group (IFC)
Rowan Gordon, Nimble Group, South Africa
Ancois Plaatje, Central Bank of Namibia
Peter Watson, Nimble Group, South Africa

A number of African jurisdictions have experienced rising Non-Performing Loans, which have impacted bank stability. In response, countries have developed initiatives such as Asset Management Companies, distressed asset funds and debt trading. This session will focus on Namibia and highlight platforms and tools to address NPL management from both the Central Bank and the private sector.

11.15 – 11.35 am  Coffee Break

11.35 – 12.45 pm  Asset Tracing and Fraudulent Transactions
Moderator - Kevin Hellard, Grant Thornton, UK
Miriam Gaituri, Bowmans, Kenya
Jide Ogundipe, Sofunde, Osake, Ogundipe & Belgore, Nigeria
John Oxenham, Primerio, South Africa
Chris Parker, DLA Piper, UK

The ability to trace and recover assets that have been moved across borders can be vital for enabling insolvency practitioners to obtain the maximum possible recovery for creditors. As cross-border commerce increases, so does the potential for fraudulent transactions in different jurisdictions, to attempt to conceal the location of assets. Insolvency representatives will share tools, practical experiences and techniques for locating and reversing these transactions.

12.45 – 1.45 pm  Lunch
1.45 – 2.00 pm  **INSOL International Update**  
Scott Atkins, *Vice President INSOL International, Fellow, INSOL International*, Norton Rose Fulbright, Australia

This session will be used to update delegates on initiatives to improve and expand on the services and benefits INSOL International provides to its membership base in the Africa region.

2.00 – 2.15 pm  **World Bank Group Update**  
Antonia Menezes, *Fellow, INSOL International*, World Bank Group

This session will be used to update delegates on World Bank Group insolvency initiatives, particularly in the Sub-Saharan Africa region.

2.15 – 3.30 pm  **Stakeholder Negotiations in a Cross-border Insolvency**  
Moderator - Craig Martin, *Fellow, INSOL International*, DLA Piper, USA  
Nastascha Harduth, *Fellow, INSOL International*, Werksmans Attorneys, South Africa  
Friedrich von Kalternborn-Stachau, *Fellow INSOL International*, BRL Insolvenz, Germany  
George Weru, PwC, Kenya

Last year’s ART drilled down on cross-border insolvency. This session will provide a brief reminder of the salient issues in cross-border insolvencies such as identifying the COMI for recognition and examining domestic cross-border legislative frameworks. The session will focus on a cross-border case study.

3.30 – 3.50 pm  **Coffee Break**

3.50 – 5.00 pm  **Views from the Bench**  
Moderator - Hon Justice Harold Geier, High Court of Namibia  
Lady Justice Mary Kasango, The Judiciary, Kenya  
Judge Lebogang Modiba, The South African Judiciary, South Africa  
Sir Alastair Norris, Retired Judge of the High Court of England & Wales, UK  
Judge Elizabeth Stong, US Bankruptcy Court, USA

This session will invite discussion from a number of judges (from different countries) about key issues they have seen in insolvency cases over the past decade and what developments they anticipate going forward.

5.00 – 5.15 pm  **Closing Remarks**
We work alongside businesses to negotiate great outcomes at speed, finding the optimal solution to financial and operational challenges by reducing risk and protecting value where time and cash are tight.

Whether a company has gone from thriving to surviving an imminent crisis, or is just looking to ‘fix the roof while the sun is shining’, we can support management teams to:

- reduce balance sheet stress,
- generate cash and reduce costs,
- increase profitability,
- refinance and find the best source of capital to support business objectives; and
- reduce long-term pensions and other liability costs.

Whatever the solution, we pre-empt and manage road blocks until the job is done.
INSOL Africa Roundtable 2019 - Main Organising Committee

Adam Harris (Chair) – Past President INSOL International, Bowmans Law - South Africa
Elsie Beukes - Deputy Master of the High Court - Namibia
Prof. Andre Boraine - University of Pretoria - South Africa
David Burdette - INSOL International – UK
Ellis Haradoeb - Master of the High Court - Namibia
Taswald July - First National Bank – Namibia
Will Paterson - The World Bank Group
Gladice Pickering - Deputy Permanent Secretary, Ministry of Justice - Namibia
Tangi Shikongo - Ministry of Justice - Namibia
Valmary van Rooi - Law Society - Namibia
Victoria Weyulu - Ministry of Justice - Namibia

Africa Roundtable Curriculum Vitae – Moderators/speakers

Scott Atkins, Vice President INSOL International, Fellow, INSOL International, Norton Rose Fulbright, Australia
Scott is the Vice-President of INSOL International and an inaugural Fellow. Scott chairs TaskForce 2021, which is responsible for developing INSOL’s strategy, and chairs its Asian Advisory Council. Scott is the President of the Australian Restructuring Insolvency and Turnaround Association - ARITA which is the peak Australian restructuring and insolvency association. Scott is Deputy Chair & Head of Risk Advisory of Norton Rose Fulbright Australia. He is a Partner in the internationally-acclaimed Financial Restructuring & Insolvency practice and is a member of the firm’s Global Supervisory Board. He is ranked in leading global legal directories as a tier 1 practitioner. Scott's practice straddles the globe – a reflection of his deep expertise in cross-border restructuring and insolvency. He has unique experience in advising nations and their governments on insolvency and restructuring law reform, including the systemic and structural reforms required across economies to facilitate and support the effective operation of such laws with a particular focus in Asia. Scott is currently engaged to draft new insolvency and corporate rescue laws for Myanmar. He has also advised the governments of Brunei and Nauru. He was a member of the American Bankruptcy Institute's Commission to Study the Reform of Chapter 11 of the US Bankruptcy Code, resulting in the publication of a landmark report proposing extensive reforms. Scott is part of a World Bank global taskforce focused on MSME insolvency law reform.

David Burdette, INSOL International
Dr David Burdette is a graduate of the University of South Africa (BLLIS, LLB) and the University of Pretoria (LLD), South Africa. Prior to joining INSOL International as Senior Technical Research Officer in January 2017, David was a Professor of Law at the University of Pretoria (1997 to 2007) and a Professor of Insolvency Law at Nottingham Law School in the United Kingdom (2007 to 2016). David is co-author of the leading insolvency text book in South Africa, Meskin, Insolvency Law and its operation in winding-up (LexisNexis, loose-leaf edition) and contributor to the first issue of Henochsberg on the Companies Act 71 of 2008 in South Africa (LexisNexis, loose-leaf edition). The proposals made in his LLD thesis have been included in draft legislation for the introduction of a unified Insolvency Act in South Africa. In 2007/2008 he was appointed to the King III Committee on Corporate Governance (South Africa) as convener of the subcommittee on
corporate rescue. David is a Senior Consultant for the World Bank (Debt Resolution and Business Exit) and was the INSOL Scholar for the Europe, Middle East and Africa region for the 2006/2007 academic year. David holds appointments as Extraordinary Professor in the Department of Mercantile Law, Faculty of Law at the University of Pretoria, South Africa and as Extraordinary Professor in the Department of Mercantile Law, Faculty of Law, University of the Free State, South Africa. David has been an Honorary Member of the South African Restructuring and Insolvency Practitioner Association (SARIPA) since 2004, and is also a member of the Insolvency Lawyers Association (ILA) in the UK.

Juanitta Calitz, University of Johannesburg, South Africa
Professor Juanitta Calitz graduated from the University of Pretoria with a LLD degree in 2009 and the objective of her LLD thesis, A Reformatory Approach to State Regulation of Insolvency Law in South Africa, had been to investigate certain aspects of state regulation with the ultimate view to propose a framework within which the legislator could pursue legal reform based on comprehensive policy objectives in this field of law. She is currently an Associate Professor of Law at the University of Johannesburg and is Head of the Department of Mercantile law. Her research interests include insolvency law; corporate rescue as well as constitutional law. She has presented at national and international conferences as well as written various articles on topics related to insolvency law and corporate rescue and is a co-author of Mars: The Law of Insolvency in South Africa 10TH edition. She is currently the Chair of the INSOL International Academic Group and a member of the INSOL Global Insolvency Practice Course, Course Committee; International Exchange of Experience of Insolvency Law (IEEI); INSOL Legislative & Regulatory Steering Committee and serves on the national council of the Southern Africa Restructuring & Insolvency Practitioners Association (SARIPA).

Yvonne Dausab, Law Reform and Development Commission, Namibia
Holds a BA (Law), LLB from University of the Western Cape and an LLM from the University of Pretoria. She is an admitted legal practitioner of the High Court of Namibia since 2000 and a Notary Public since 2015. The President of the Republic of Namibia appointed her Chairperson of the Law Reform and Development Commission for a five-year period in April 2015. Ms Dausab was previously the Deputy Dean of the Faculty of Law at the University of Namibia for a four-year period. She has published and has interest in the areas of access to justice, disability rights, children’s rights and constitutional and human rights law. The last publication was on “Visser v Minister of Finance: A Missed Opportunity to Clarify the Equality Provision within a Namibian Disability Rights Paradigm’ (2017)-published in a book she also co-edited with Dr Dunia P Zongwe titled: The Law Reform and Development Commission of Namibia at 25: A Quarter Century of Social Carpentry. As the Chairperson of LRDC she is endowed with the overall management of the various projects of the Commission, the mandate of which is set out in section 6 of the Law Reform and Development Commission Act, 1991(Act No 29 of 1991) and to participate in the Cabinet Committee on Legislation and build and maintain relationships with various key stakeholders including but not limited to the Law Makers in Namibia, the Minister of Justice, the Attorney General, Office of the Ombudsman, Traditional Authorities, Institutions of Higher Learning, and Civil Society. Ms Dausab has a 13-year-old son.

Miriam Gaituri, Bowmans, Kenya
Miriam Gaituri is an associate director in our Nairobi office’s Dispute Resolution department and a member of the forensics and investigations practice. Miriam is an advocate of the High Court of Kenya with over 15 years’ experience in governance, risk management and compliance, revolving around audit, ethics and integrity, fraud and corruption, forensic investigations, due diligence, compliance and corporate intelligence, internal controls, corporate governance and anti-money laundering.
Her experience comes from years of working with various multinational, private and public entities at senior levels whilst designing and implementing risk management, compliance and governance structures. Miriam’s background has further enabled her to offer a full range of advice, including but not limited to corporate compliance and legal audits, anti-money laundering audits, fraud/forensic investigations and expert testimony litigation support. She holds a Master of Laws degree in Corporate Governance and a Bachelor of Laws degree both from the University of Nairobi, a Diploma in Law from the Kenya School of Law and an International Diploma in Anti-Money Laundering from the International Compliance Association (UK). She is a Certified Fraud Examiner (CFE) by the Association of Certified Fraud Examiners (US), a Certified Public Accountant (Kenya) and a Certified Arbitrator (CIArb) by the Chartered Institute of Arbitrators (UK). Following a presidential appointment, she now sits on the Kenya Anti-Money Laundering Advisory Board.

Rowan Gordon, Nimble Group, South Africa
After completing his articles at Deloitte, Rowan began his career within the financial industry - spending a number of years at Standard Bank. He then joined Credit Management Solutions where he was primarily responsible for managing the corporate debt advisory business and was instrumental in creating its success. Rowan has spent the last 9 years developing the Nimble Group. It started with the acquisition of Nimble Collection Services in 2009, with about 30 employees. He now serves as CEO of Nimble Group’s full operations, which spans four cities and employs more than 2,000 people. Rowan has over ten years’ experience in credit, consulting, outsourced collections management, distressed debt advisory work, financial capital, debt restructuring, corporate finance, private equity and venture capital. Through Nimble, he has successfully built a substantial business servicing most of the largest credit granters in South Africa. B.Com, H Dip Acc, CA (SA), Diploma in Insolvency Law.

Adam Harris, Past President INSOL International, Bowmans, Chair, Africa Round Table, South Africa
Adam Harris is a partner in our Dispute Resolution Department and is based in our Cape Town office. Adam specialises in corporate restructuring, business rescue and insolvency-related matters. He represents lenders, creditors and other institutions (such as professional indemnity insurers), as also business rescue and insolvency practitioners, in the restructuring of companies, the administration of insolvent estates and the winding-up of companies. He also represents foreign appointees in relation to their recognition and asset recovery both in South Africa and in other African jurisdictions. Adam has advised a number of international creditors and practitioners of various mining operations regarding the disposal and/or recovery of assets in South Africa. Adam has attended to some of the leading cases on different aspects of business rescue and insolvency such as the constitutionality of interrogations, impeachable (“claw-back”) transactions, procedural aspects of liquidation applications and Practitioners' remuneration. He is the immediate past-president of INSOL International, having served as President for two years. INSOL International is the worldwide federation of member associations representing over 10,000 members, active across the globe in the fields of restructuring and insolvency (bankruptcy). He also served for several years as a national councillor of the South African Restructuring and Insolvency Practitioners Association (SARIPA) and chaired the Law Society of South Africa’s Insolvency Committee. He is one of the co-authors of “Mars, the Law of Insolvency”, 9th and 10th editions, a leading insolvency text in South Africa. He holds BA, LLB and LLM degrees from the University of Cape Town.
Nastascha Harduth, **Fellow, INSOL International, Werksmans Attorneys, South Africa**

Nastascha has been with Werksmans since 2008. She was admitted in 2010, and has been a director within the firm’s Insolvency, Business Rescue and Restructuring practice since 2014. She has wide ranging experience in dispute resolution and commercial litigation, as well as corporate debt recoveries, insolvency, business rescue and restructuring. Nastascha often advises on the duties and responsibilities of directors, the risk of incurring personal liability, and how to mitigate it.

Her experience in these areas of law extends well beyond the South African jurisdiction, and includes cross-border experience in the United States of America, Mauritius, Seychelles, Zambia and Botswana.

Nastascha regularly writes for various publications and contributes to the media on these topics among others. She is a member of the South African Restructuring and Insolvency Practitioners Association (SARIPA) and a fellow of The International Association of Restructuring, Insolvency & Bankruptcy Professionals (INSOL).

Kevin Hellard, **Grant Thornton, UK**

Kevin is the practice leader of Grant Thornton’s insolvency and asset recovery practice, which is the largest dedicated asset recovery team in the UK and across the offshore network. The team were recently awarded ‘Asset recovery expert firm of the year 2019’ by ACQ5 Law awards and Who’s Who Legal 2019. In addition, Kevin received the accolade of ‘Insolvency Practitioner of the Year’ by ACQ5 in 2019. The practice has traced and recovered assets from over 65 jurisdictions worldwide by working with our offshore and mid-shore member firms including the BVI, Cayman Islands, Dubai, Singapore, Switzerland, Bermuda, and Hong Kong. The team have recovered over £3billion of hidden and misappropriated assets over the last eight years. Kevin has more than 25 years’ experience of contentious insolvency including the investigation of fraud, misfeasance, grand corruption, professional negligence and asset tracing across multiple jurisdictions including Africa, the Middle East, South America, as well as Eastern Europe, Russia and many of the offshore centres. He is routinely appointed by lawyers, government, victims of fraud and regulatory agencies to trace and recover stolen funds and misappropriated assets from the perpetrators. Kevin is appointed in the UK and globally over structures that have suffered losses caused by corruption, fraud or malpractice, and has given evidence in court on numerous occasions as officeholder of companies. He presents internationally on corruption and asset tracing, he is also a counsel member of the Insolvency Practitioners Association, the leading regulator of insolvency activity in the UK, and will be president in 2020.

Nelson Jeque, **Lawyer, Mozambique**

Nelson Osman Jeque is lawyer, member of the Bar Association of Mozambique since 2007. He holds a Law Degree from Eduardo Mondlane University in Mozambique, from which he also has a Master in Law in 2008. He started a professional career in 2004. Mr. Jeque served as consultant or legal adviser in Mozambique for Procredit Bank (2004-2006), Central Bank (2007-2008) and Confederation of Business Association (2007/8-2010). He then served, from 2011 to 2017, as advisor to the Minister of Industry and Trade in Mozambique covering mainly the legal reforms to enabling the business environment. In 2017 he moved to British American Tobacco Mozambique. Currently he is Head of Legal and External Affairs for Mozambique, Malawi, Lesotho and Eswatini. He is lecturer for almost 15 years. Current he is teaching Civil Procedure at High Institute of Science and Technology of Mozambique- ISCTEM. Mr. Jeque is PhD candidate in Law at University of Porto writing about Commercial Arbitration in Mozambique. He also acts as arbitrator since 2007 and speaks Portuguese, English and understands French.
Lady Justice Mary Kasango, The Judiciary, Kenya
Lady Justice Mary Kasango is a High court judge in the Kenyan judiciary. She is presently the Presiding Judge of the Commercial & Tax Division of the High court in Nairobi. She is a judge with the COMESA Court of Justice from 2015 to date, and is also an Arbitrator, a Fellow of the Chartered institute of Arbitrators. Justice Kasango obtained Honours degree in law at the Middlesex University London and was called to the Bar (Barrister-at law) at Lincoln’s Inn in London. She is a holder of Master degree in Intellectual Property law at Golden Gate university San Francisco USA. She was a part time lecturer at the Kenya school of Law where she lectured on the subject Trust Accounts for 13 years. Before her appointment as a High Court judge she operated her own law firm under the name MUHANJI-KASANGO advocates. She practiced law in that firm as a sole proprietor with two other associate advocates.

Zvichapera Katiyo, Steward Bank, Zimbabwe
Zvichapera has over 20 years of experience in financial services, including the use of digital financial innovations for social transformation. He is passionate about promoting equal opportunity for all, alleviating extreme poverty and sponsoring shared prosperity through provision of affordable and patient capital to previously underserved communities. He holds a bachelor’s degree in economics and a master’s degree in banking and financial economics.

Taddese Lencho, Ethiopia
Dr Taddese Lencho is an Assistant Professor of Law at Addis Ababa University, College of Law and Governance Studies, School of Law. He is an expert in Ethiopian bankruptcy and tax law and has published numerous academic articles in reputable national and international law reviews. He is also the head of the Corporate and Tax Practice Group in Mehrteab Leul and Associates Law Office, a member of the DLA Piper Africa Group, and he has advised a number of international and national companies on corporate and tax matters. Dr. Taddese is a member of the National Drafting Team for the revision of the Commercial Code of Ethiopia (organized under the Ethiopian Office of the Attorney General) which has just submitted the Draft Ethiopian Insolvency Law to the Government. It is expected that the Draft will be passed into Law by the Ethiopian Parliament before the end of this Year.

Elaine MacEachern, World Bank Group
Elaine is currently a Global Product Specialist in Secured Transactions for WBG’s financial infrastructure secured lending product based in Washington, DC. Elaine works with WBG clients and team in the Asia and Africa regions extensively and contributes regularly to the ongoing Financial Inclusion development agenda of ASEAN and APEC Financial Infrastructure working groups, as well as the G20 Joint Action Plan on SME Financing and UNCITRAL (Asia Chapter). Elaine has over twenty years of public and private sector experience in legislative and business process reform projects, specifically in the area of public registry and policy development. Elaine was a former Registrar of both Land Titles (immoveable) and Personal Property (moveable) in Nova Scotia, Canada. She has participated in the design, development and implementation of secured transaction reform projects and registry systems in Canada, Russian, Caribbean, Asia and Africa regions under Common, Civil and Islamic law regimes. She has extensive experience in legislative and institutional reform projects involving various alternative operational and governance models. She actively monitors the global developments of secured transaction laws and operational frameworks. When Elaine is not traveling throughout Asia and Africa providing advisory services WBG’s clients on financial sector reforms, she and her husband enjoy the freedom of having an empty nest!
Zuberoa Mainz, World Bank Group (IFC)
Zuberoa Mainz is the Regional Lead of IFC’s Distressed Asset Recovery Program (DARP) for the Middle East and Africa. She manages IFC’s projects in the region for the acquisition and resolution of NPL portfolios from local banks, corporate restructuring and turnaround of local businesses. Previously, Zuberoa worked in DARP transactions in Latin America, Eastern Europe and Asia in a variety of assets from unsecured retail, mortgages and SMEs NPL portfolios to single distressed assets investments including special lending, corporate restructuring and special situations. Zuberoa has more than 15 years of experience working in emerging markets and deep expertise in a variety of financial products with a record of success managing complex business transactions. She holds a BA in Economics and an MBA from The University of Navarra in Spain.

Craig Martin, Fellow, INSOL International, DLA Piper, USA
Craig Martin has spent his legal career working on complex distressed situations. Craig has represented numerous parties in a variety of cases, including equity committees, committees of unsecured creditors, bank groups, indenture trustees and debtors. He has also advised purchasers of assets in bankruptcy auctions and court-approved sales and frequently provides bankruptcy-specific advice in complex mergers and acquisition situations involving distressed entities. While Craig has appeared in the bankruptcy courts all across the US, his work frequently focuses on cross-border situations. He has acted as counsel in cases in Canada, Germany, Ireland, Hong Kong, Spain, Bermuda, the Dominican Republic, Africa, the UK and Argentina. Craig has also acted as first-chair litigation counsel in a number of cases involving terms of bond indentures, such as x-clauses, permitted indebtedness clauses and other covenants.

Antonia Menezes, Fellow, INSOL International, World Bank Group
Antonia Menezes is a Senior Financial Sector Specialist based in Washington D.C. The focus of her work is providing technical assistance and advice to governments on insolvency and debt resolution reforms, including legal aspects of NPL management, with a particular emphasis on work in Sub-Saharan Africa, the Caribbean and South Asia. She has assisted more than 50 countries in reforming and strengthening their insolvency and creditor/debtor regimes. Ms. Menezes has published widely in the field of insolvency and represents the World Bank Group at Working Group V (Insolvency) of the United Nations Commission on International Trade Law (UNCITRAL). She is also a Co-Chair of the World Bank Group Insolvency & Creditor/Debtor Regimes (ICR) Task Force, which is responsible for testing and evaluating the effectiveness of the World Bank Group ICR Principles. Prior to joining the World Bank Group, Antonia was an attorney at two leading international law firms in Paris and London. Ms. Menezes holds an LLM from McGill University, an LPC from the Oxford Institute of Legal Practice, and an LLB from the London School of Economics & Political Science. She is a Member of the International Insolvency Institute, a 2014 INSOL Fellow and sits on the INSOL Fellow’s Cross-border Insolvency Committee.

Hon. Madam Judge Lebogang Modiba, The South African Judiciary
Currently Judge of the High Court of South Africa, Gauteng Local Division
Education: B Proc, University of the Witwatersrand, 1995; Practical Legal Training (with distinction), 1997; Master of Laws (Human Rights and Constitutional Practice), University of Pretoria 1997; Masters in Public Administration, Harvard University USA, 2005; Edward Mason Fellowship Harvard University USA, 2005. Professional Background: Admitted as an attorney of the High Court of South Africa in 1997 and was elevated to the bench in 2016; Her professional background includes general litigation, public and regulatory law; She serves on the Commercial Court Committee, which steers a pilot Commercial Court at the Johannesburg High Court.; She is also a member of a Special Tribunal, established to expedite the recovery of assets lost by state institutions through irregular and corrupt means.
Sir Alastair Norris, High Court of England & Wales (Retired), UK
Sir Alastair has just retired after 18 years as a Chancery judge in England. After reading law at St John’s College, Cambridge he was called to the Bar by Lincoln’s Inn and practised in London as a barrister and as Queen’s Counsel until 2001. He was then appointed as the Chancery Judge at Birmingham, where he sat for 6 years, presiding over many insolvency cases (including those of multi-national groups). On appointment to the High Court (Chancery Division) he returned to London and undertook much significant insolvency, restructuring and cross-border work. From 2015 until 2018 he was the Chair of the Insolvency Rules Committee and oversaw the introduction of a new set of procedural rules for in-Court and out-of-Court insolvencies. He co-authored the current Insolvency Practice Direction. He has a particular interest in ART: and in retirement will continue to participate in international judicial training programmes.

Ntihane Makena, ENSafrica, South Africa
Ntihane Makena is a director in ENSafrica’s insolvency, corporate restructures and business rescue department. He has particular expertise in business rescue, having acted for various clients in respect of placing companies under business rescue, as well as representing the creditors and shareholders of companies under business rescue. He has acted for financial institutions, business rescue practitioners, liquidators and various corporate clients, and has experience advising on litigious matters arising during the course of the winding up of companies, as well as inquiries, trial proceedings and litigation related to companies under business rescue.

Jide Ogundipe, Sofunde, Osakwe, Ogundipe & Belgore, Nigeria
Babajide Ogundipe is a founding, and presently the senior, partner of Sofunde, Osakwe, Ogundipe & Belgore and has more than 40 years’ experience as a commercial litigator in Nigeria. He specialises in acting for the victims of fraud and other financial malfeasance to seek the recovery of value lost as a result of such activity, advising on compliance issues and the conduct of due diligence on behalf of non-Nigerians seeking to invest in Nigeria. He held leadership positions in the Nigerian branch of the Chartered Institute of Arbitrators, between 1997 and 2009, including Branch Chairman from 2006 to 2009. He is a former president of the Lagos Court of Arbitration, and current board member. He has served as an executive of a number of the International Bar Association’s committees, including the Anti-Corruption Committee. He is a member of the ICC Commission on Corporate responsibility and Anti-corruption and its Task Force “Addressing Issues of Corruption in International Arbitration”. He is ICC FraudNet’s Nigeria representative.

John Oxenham, Primerio, South Africa
John practices broadly in the regulatory field and has been principally involved in cartel, corruption and white-collar crime investigations throughout sub-Saharan Africa. John previously worked as a foreign antitrust adviser in the antitrust group at Howrey LLP in Washington, DC. John is also the sole South African representative of Fraudnet, the International Chamber of Commerce’s Anti-Crime arm. John regularly advises clients on local and foreign anti-corruption legislation including compliance with the Prevention and Combating of Corrupt Activities Act of South Africa; the Bribery Act of the United Kingdom and the Foreign Corrupt Practices Act of the United States of America and has represented clients in investigations before various African enforcement agencies, including, inter alia, the South African Competition Commission and the Directorate of Priority Crimes Investigation; Swaziland Anti-corruption Agency authorities.

John is Co-Editor of the first ever South African textbook on class action litigation, titled: Class Action Litigation in South Africa, Juta Publishers (2017). John moderated and presented various papers and presentations on Jurisdictional challenges in international Asset Recovery (ICC Fraudnet Conference) and Collective Redress outside the United States (American Bar Association’s 66th Annual; Spring Meeting).
Chris Parker, DLA Piper, UK
Chris Parker is the head of DLA Piper's Restructuring team in London and is also the co-lead of DLA Piper's global Bank Resolution group. Chris has over 15 years of experience specialising in special situations and contentious matters, generally involving cross-border investigations, asset tracking and disputes. Since 2012 he has led the Lehman Waterfall litigation on behalf of the administrators of Lehman Brothers Limited and has also taken a lead role in acting for the Special Administrators of FBME Bank Limited (Cyprus Branch).
Areas of Practice: Restructuring specialist focussing on investigations, contentious matters and complex insolvencies acting for banks, funds, central banks, insolvency practitioners as well as corporates; Very substantial experience of investigations, including two of the largest retail collapses of the last few years; Substantial experience dealing with distressed financial services situations, including under the Bank Recovery and Resolution Directive, having acted as international counsel on the first special administration of an EU branch of a non-EU; Extensive insolvency litigation practice with numerous reported judgments and currently advising one of the applicants in the Lehman Waterfall I proceedings in the Supreme Court; Interest in the sports insolvency sector having undertaken roles on numerous sports insolvencies.

Will Paterson, World Bank Group
Will Paterson is a Financial Sector Specialist with the Insolvency and Debt Resolution Team of the World Bank Group. Will has assisted over 30 countries with their insolvency frameworks and has published in the area of insolvency and corporate restructuring. Prior to joining the World Bank, Will was Principal Legal Counsel at the European Bank for Reconstruction and Development. He has also worked as a Senior Economist with the Canadian Department of Finance and as the legal and policy advisor to two Presidents of the United Nations International Criminal Tribunal for Rwanda. He began his career as an Associate at Clifford Chance LLP in London where he worked in the Capital Markets and Insolvency groups. Will holds a combined Bachelor of Laws and Bachelor of Civil Law from McGill University, an MSc in Public Policy and Public Administration from the London School of Economics and an Honours BA in International Studies (Economics) from Glendon College, York University. He is called to the bar in Ontario, Canada and is a qualified solicitor in England & Wales.

Ancois Plaatje, Central Bank of Namibia, Namibia
As the Deputy Director in the Banking Supervision Department at the Bank of Namibia, Ancois plays a key role in providing oversight over the banking institutions and credit bureaus in Namibia. Some of her responsibilities is to ensure that the risk management frameworks of banking institutions are effective in managing risks with the aim to safeguard financial stability. Ancois’ knowledge and experience in regulatory matters and central banking spans over a period of 15 years. Her career began in a financial accountant role at Alexander Forbes before she assumed the financial analyst role in the Credit Department at Nedbank Namibia in 2002. Thereafter she moved to the Bank of Namibia in 2004. Under her leadership, various successful projects have shaped the way the Bank and SADC region regulate and supervise institutions.

Sonal Sejpal, Anjarwalla & Khanna, Kenya
Sonal is a Partner at Anjarwalla & Khanna, one of the leading law firms in Kenya and has been with the firm for over 21 years. Sonal also provides support to A&K Tanzania, A&K’s affiliate firm in Tanzania. She has considerable experience in insolvency law. With Sonal leading the A&K team, the firm has spearheaded with the support of the Official Receiver the setting up of the first insolvency association in Kenya in which insolvency practitioners, professional firms and financial institutions will be members. Further, Sonal has been invited to sit on the task force established by the Official Receiver to review changes to the Insolvency Act. Sonal also advises on banking and project finance, restructuring, company
commercial matters and employment. She is described as a “foreign expert based in Kenya” by Chambers Global 2019 and is ranked as a leading lawyer in Kenya by Chambers Global, IFLR1000, and Legal 500 and other publications.

**Hon. Sakeus E.T. Shanghala, Minister of Justice, Namibia**

Sacky is a lawyer and politician by training. He has been in Government and public service since his university days starting out as an aide to the Prime Minister of Namibia, and later serving as Attorney-General amongst his various appointments in Government. He is a champion of change - passionate about improving the lives of all Namibians by reforming the legal and political landscape to address poverty, development and access to financial opportunities. He is a mentor of young professionals in business, public law and politics, an avid reader and firm believer in the value of education in advancing political growth and legal development.

**Judge Elizabeth Stong, US Bankruptcy Court, USA**

Judge Stong is a US Bankruptcy Judge for the Eastern District of New York. Previously, she was a litigation partner at Willkie Farr & Gallagher and law clerk to US District Judge David Mazzone. She is a member of the Council on Foreign Relations, the Council of the American Law Institute, the Advisory Committee to Columbia University’s Committee on Global Thought, and the ABA Center for Innovation. She holds leadership roles in the Practising Law Institute, PRIME Finance, American Bar Foundation, and ABA Business Law Section, International Law Section, and Judicial Division. Her past positions include Harvard Law School Association President, NCBJ International Judicial Relations Committee Chair, and New York City Bar ADR Committee Chair. She also served on the ABA’s Standing Committees on Pro Bono and Public Service, the American Judicial System, and Continuing Legal Education, and Commissions on Women in the Profession, and Homelessness and Poverty. Judge Stong is an adjunct professor at Brooklyn Law School and has trained judges in more than twenty-five countries on five continents, with INSOL, the World Bank, and US Commerce Department. She has received several awards for her work to improve access to justice. She received her AB magna cum laude and her JD from Harvard University.

**Neil Taylor, UK**

Neil Taylor is a trainer, coach, behavioural skills change trainer, facilitator and mentor with more than 30 years’ experience in the development and amelioration of insolvency, restructuring, management, financial and legal professionals. Neil qualified as a lawyer in the UK with Eversheds in 1982. He trained and worked as a lecturer at The College of Law, BNB plc, Right Training and ATC Ltd, discovering a passion for the development of people using his imagination, energy and creativity, before setting up his own training company in 1992. He now specialises in the training and development of insolvency and management professionals in the UK and has served a disparate variety of blue chip clients (ranging from KPMG, Lazard, Herbert Smith, PwC, Deloitte, EY and Barclays Capital, to HSBC, Walt Disney, Volkswagen, Legal & General and IPC Media) and focuses on his key strength and passion - the development of teams and individuals towards behavioural growth and business objectives. Neil leads Europe’s largest bespoke insolvency and restructuring training company, NTI Ltd, and has focused on exam training, continuing professional development and other technical and practical insolvency training. NTI is a qualification awarding body, offering accredited Financial Conduct Authority (UK) qualifications to the debt advice and other sectors. He worked with teams across England & Wales to set up the national licensing qualification (the Joint Insolvency Examinations Board) and his company is the technical partner of the Insolvency Practitioners Association in the UK. He is also a consultant with the World Bank Group and has worked as part of the team to design, write and implement insolvency licensing training regimes in India, Zimbabwe and Egypt. He has also assisted in writing materials for the Group’s global judicial training.
Yuvraj Thacoor, Quantuma Mauritius
Mr Yuvraj Thacoor (Raj) is a Fellow of the Institute of Chartered Accountants in England and Wales, a member of The British Institute of Management (MBIM) and an associate of The Chartered Institute of Arbitrators (ACiArb). He holds an Auditor’s License issued by the Financial Reporting Council (FRC) and is a member of The Mauritius Institute of Professional Accountants (MIPA) alongside being a Licensed Insolvency Practitioner. Raj is the Managing Director of Quantuma Mauritius and Thacoor Advisory Services Ltd following his retirement from Grant Thornton where he served as Managing Partner from October 1999 to July 2016. Prior to that, he was an audit partner at PwC Mauritius (Formerly Coopers & Lybrand). In his last two years at Grant Thornton, Raj served as Regional Head Member Firm Development Team for Grant Thornton International in Africa. In the past 43 years of his career, he has been involved in numerous high-profile assignments such as handling the receivership of the fifth biggest bank in Mauritius. Raj handled assignments such as the audit of The Central Bank of Rwanda and The Central Bank of Burundi. He also handled an investigation on demonetisation for The Central Bank of Rwanda. Raj served as Chairman of The Financial Reporting and Monitoring Panel and Assessor of The Commission of Enquiry on Sale by Levy. Raj also served on the Task Force set up to draft The Insolvency Act in Mauritius.

Dawie van der Merwe, BDO, South Africa
Dawie van der Merwe is an admitted attorney, liquidator and certified as a Senior Business Rescue Practitioner, with a B Comm LLB and various post graduate diplomas. He is a director at BDO Business Restructuring (Pty) Ltd and currently serves on the national board of the South African Restructuring and Insolvency Practitioners Association (SARIPA). Dawie qualified as an attorney in 1997 and immediately commenced his career working in the world of insolvency. Dawie was fortunate to be exposed to some of the largest liquidations and corporate restructurings of today, including the well-known matter of CNA. Dawie has always had a keen interest in the restructuring of distressed businesses and with the arrival of Business Rescue legislation, the migration of his restructuring activities was an obvious and smooth transition. Dawie has already tasted great success in the fledgling field of Business Rescue in South Africa, having acted as BRP in high profile matters such as, African Bank Investments Limited, Vanchem Vanadium Products and Shaft Sinkers and he is currently involved in the business rescue proceedings of ASA Metals, SA Calcium Carbide and Liviero Group.

Friedrich von Kalternborn-Stachau, Fellow, INSOL International, BRL Insolvenz, Germany
Friedrich Kraft von Kaltenborn-Stachau is partner at BRL, a MDP Law Firm with offices in Hamburg, Berlin, Hannover, Bochum and Dortmund. As a Specialist Lawyer for Insolvency Law („Fachanwalt für Insolvenzrecht“) his areas of expertise are Insolvency Administration, Reorganization of companies in distress and general Insolvency Law. As a Fellow INSOL International Mr von Kaltenborn-Stachau is also an expert in cross-border insolvencies. After completing law school in Hamburg, Mr von Kaltenborn-Stachau joined Haarmann Hemmelrath in 2001. Since 2006, he is with BRL where he became partner in 2007. Since 2004 Mr von Kaltenborn-Stachau is regularly being appointed as Insolvency Administrator and Trustee in Insolvency Proceedings in northern Germany. He qualified as a Specialist Lawyer for Insolvency Law in 2007 and became Fellow INSOL International in 2013. Mr von Kaltenborn-Stachau is a member of the Verband Insolvenzverwalter Deutschlands e. V." (VID) (Registered Association of Insolvency Administrators) as well as other insolvency related associations in Germany. In 2014 Mr. von Kaltenborn-Stachau joined the World Bank’s Insolvency and Creditor/Debtor Regimes (ICR) Task Force. In 2016 Mr von Kaltenborn-Stachau was appointed as Insolvency Administrator of the Pickenpack Group – one of Germany’s biggest processors of frozen fish products with more than 700
employees and annual revenue of EUR 270 Mio. Mr von Kaltenborn-Stachau is member of INSOL Europe and INSOL International and publishes on insolvency related topics.

Vincent Wakaba, Airtel Money, Kenya
Wakaba has 12 years’ experience in Financial services, half of that being in Card Business and the other half has in mobile financial services both from a Banking and Telco perspective. This has accorded him the unique opportunity to learn and implement on multi sectorial solutions noting to mitigate their associated risks whilst still delivering on anticipated targets. Wakaba is currently the Director of Airtel Money in Kenya. His prior experience in the Banking sector included heading the Mobile Banking Unit of the 3rd Largest Bank in Kenya where he was among the pioneers of Bank driven mobile lending solutions. In addition, while working for the largest Bank in Kenya, he played a role in innovating products around card business and dealing with High net worth and Diaspora customers to tailor make financial solutions for them revolving around various channels. He was also instrumental in the introduction of e-commerce as a viable option for merchant business. Wakaba holds a Bachelor’s degree in Mechatronic Engineering from Jomo Kenyatta University of Agriculture and Technology in Kenya and is currently finalising on an MBA majoring in Finance from the same institution. He holds membership in various professional bodies namely Institute of Directors Kenya (IoD) and Kenya Institute of Bankers (KIB)

Peter Watson, Nimble Group, South Africa
Peter is a qualified chartered accountant and holds a higher diploma in Insolvency Law. He joined Nimble Group in 2010 and is the head of distressed debt investing at Nimble Group. He is also on the Group’s investment committee. Peter has served as a senior consultant on a number of restructuring, work-out and advisory mandates. Prior to Nimble Group he spent four years as a manager in the financial services practice of Deloitte in South Africa and the United Kingdom. CA (SA), Bachelor of Business Science (Finance Honours), Diploma Insolvency Law

George Weru, PwC
George Weru is a Director in PwC’s Business Restructuring Services Practice with over 13 years’ experience in providing business restructuring, independent business reviews and insolvency services in various jurisdictions including Kenya, Ghana, Cayman Islands and Mauritius.
He is a Licensed Insolvency Practitioner in Kenya and he has been involved in and project managed a number of complex restructuring and insolvency assignments. Prior to joining PwC, George worked in the Cayman Islands where he was involved in a number of reorganization, independent business reviews and insolvency assignments concerning financial services firms (banks and hedge funds).
Some of the matters that George has been involved with over time include the Administration of ARM Cement Plc, Spencon Group of Companies, liquidation of the Bank of Credit and Commerce International (BCCI), Ghana Airways Liquidation, Administration of BAI (Mtius), Administration of ARM Cement Plc, Kenya Airways Restructuring, among others.
George holds an MBA in Finance from the University of Leicester, Bachelor of Laws degree from the University of Nairobi, is Certified Public Accountant (Kenya), Chartered Financial Analyst (CFA) and a Certified Fraud Examiner (CFE).
INSOL International™

About INSOL International

INSOL International is a world-wide federation of national associations of accountants and lawyers who specialise in turnaround and insolvency. There are currently over 40 Member Associations with approx. 10,000 professionals participating as members of INSOL International. Full details of INSOL International member associations are listed in this brochure.

INSOL also has ancillary groups that represent the judiciary, regulators, lenders and academics. These groups play an invaluable role within INSOL and provide valuable forums for discussions of mutual problems.

INSOL was formed in 1982 and has grown in stature to become the leading insolvency association in the world. It is a valuable source of professional knowledge, which is being put to use around the world on diverse projects to the benefit of the business and financial communities.

INSOL’S Vision and Purpose

INSOL, along with its Member Associations, will take the leadership role in international turnaround, insolvency and related credit issues; facilitate the exchange of information and ideas; and encourage greater international co-operation and communication amongst the insolvency profession, credit community and related constituencies.

Our Goals:

- To work with and involve our Member Associations in our activities
- To implement research into international and comparative turnaround and insolvency issues
- To participate in Government, NGO and intergovernmental advisory groups and to liaise with these institutions on relevant issues
- To assist in developing cross-border insolvency policies, international codes and best practice guidelines
- To provide a leadership role in international educational matters relating to turnaround and insolvency topics
- To facilitate the exchange of knowledge amongst our Member Associations through our conferences and publications

Through these goals INSOL International aims to assist its members with vital research, by developing internationally accepted legislation and guidelines, and providing through conferences, the website and publications, a forum to exchange knowledge and learn from the experiences of other countries.

For further information on INSOL International please contact:
Tony Ashton, INSOL International, 6-7 Queen Street, London, EC4N 1SP
Tel: (+44) (0) 20 7248 3333, E-mail: tony.ashton@insol.org
INSOL Member Benefits

In today’s shrinking global marketplace INSOL International offers the opportunity to network and exchange information with colleagues in over 100 countries around the world. All 10,500+ members are listed in our annual directory, and we work with over 40 members associations to ensure that members benefit from both local and international connections.

Financial savings

As a member of INSOL you can make substantial savings on conference registration fees. With member rates for both early bird and standard registration costs, your membership will help pay for itself!

Our conferences give you the opportunity to network with colleagues from your own country and world-wide, whilst the educational program keeps you up to date with the latest cases and changes in the profession. INSOL also arranges one-day seminars in various destinations to provide educational cross-border programs, members again are entitled to a discounted rate.

International knowledge resource straight to your desk

- INSOL World, quarterly journal. Features current events and developments concerning the profession world-wide.
- Technical Electronic Newsletter emailed monthly. This contains information on recent cases, new and pending legislation, journal articles and new items.
- INSOL Technical Papers Series (2006-) covers a wide variety of hot topics each year.
- Case Studies covering major cross-border cases. The objective of each case study is to give an insight into significant practical issues that have come up in these cases and to find out what lessons can be learned for the future.
- Publications once or twice a year - members of INSOL receive free of charge a personally mailed copy of any publications produced by INSOL.
- www.insol.org is updated regularly to give members current information regarding INSOL International. The members-only section contains past conference papers.
- Small Practitioners website for smaller practitioners to display their personal profiles for other practitioners to view.
- Younger Members website for younger members to display their personal profiles for other practitioners to view.
- www.GlobalINSOLvency.com website hosted by the American Bankruptcy Institute on behalf of the INSOL Member Associations. This is a valuable source of information for members. It provides INSOL members with a comprehensive overview of global insolvency issues.
- Membership Directory published annually. It is a focal point of reference for organisations and individuals working in the business-rescue and insolvency profession in over 80 countries world-wide.

So join today and start networking to maximise your business connections in your own country and throughout the world. Invest in your membership of INSOL and you will find that you benefit from this one small step to sign up and become part of the international profession.

For further information on INSOL International please contact:
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6-7 Queen Street, London, EC4N 1SP
Tel: (+44) (0) 20 7248 3333 Fax: (+44) (0) 20 7248 3384
E-mail: jelena.wenlock@insol.org
The Group of Thirty-Six features some of the most prominent and influential firms within the insolvency and turnaround profession. The aim of the Group of Thirty-Six is to work with INSOL to develop best practice guidelines and develop legislation to enhance the ability of practitioners globally to save businesses throughout the world.

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INSOL International™

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Herbivores use knowledge and experience to protect themselves from diseases. They allow oxpecker birds to perch on them to find ticks and other harmful irritants to eat.

It's the kind of knowing we value at Bowmans, the kind that only local experience can bring. With on-the-ground presence and more than 100 years of practising law, we know how to handle complex legal matters in Africa. There's value in knowing.

www.bowmanslaw.com
INSOL International Member Associations

American Bankruptcy Institute
Asociación Argentina de Estudios Sobre la Insolvencia
Asociación Uruguaya de Asesores en Insolvencia y Reestructuraciones Empresariale
Associação Portuguesa de Direito da Insolvência e Recuperação
Association of Business Recovery Professionals - R3
Association of Restructuring and Insolvency Experts
Australian Restructuring, Insolvency and Turnaround Association
Bankruptcy Law and Restructuring Research Centre, China University of Politics and Law
Business Recovery and Insolvency Practitioners Association of Nigeria
Business Recovery and Insolvency Practitioners Association of Sri Lanka
Business Recovery Professionals (Mauritius) Ltd
Canadian Association of Insolvency and Restructuring Professionals
Commercial Law League of America (Bankruptcy and Insolvency Section)
Especialistas de Concursos Mercantiles de Mexico
Finnish Insolvency Law Association
Ghana Association of Restructuring and Insolvency Advisors
Hong Kong Institute of Certified Public Accountants (Restructuring and Insolvency Faculty)
INSOL Europe
INSOL India
Insolvency Practitioners Association of Malaysia
Insolvency Practitioners Association of Singapore
Instituto Brasileiro de Estudos de Recuperação de Empresas
Instituto Iberoamericano de Derecho Concursal
Instituto Iberoamericano de Derecho Concursal - Capítulo Colombiano
International Association of Insurance Receivers
International Women’s Insolvency and Restructuring Confederation
Japanese Federation of Insolvency Professionals
Korean Restructuring and Insolvency Practitioners Association
Law Council of Australia (Business Law Section)
Malaysian Institute of Accountants
Malaysian Institute of Certified Public Accountants
National Association of Federal Equity Receivers
NIVD – Neue Insolvenzverwaltervereinigung Deutschlands e.V.
Recovery and Insolvency Specialists Association (BVI) Ltd
Recovery and Insolvency Specialists Association (Cayman) Ltd
REFOR-CGE, Register of Insolvency Practitioners within "Consejo General de Economistas, CGE"
Restructuring and Insolvency Specialists Association (Bahamas)
Restructuring and Insolvency Specialists Association of Bermuda
Restructuring Insolvency & Turnaround Association of New Zealand
South African Restructuring and Insolvency Practitioners Association
Turnaround Management Association (INSOL Special Interest Group)
Turnaround Management Association Brasil (TMA Brasil)
ADOPTED BUSINESS RESCUE PLAN
Prepared and published to Affected Persons of:

LIVIERO CIVILS PROPRIETARY LIMITED
REGISTRATION NUMBER (1984/009243/07)

In terms of Section 152 of the Companies Act
No. 71 of 2008 on 3 September 2018
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THESE DOCUMENTS ARE IMPORTANT AND REQUIRE YOUR IMMEDIATE ATTENTION

CIRCULAR

TO ALL CREDITORS, SHAREHOLDERS AND OTHER AFFECTED PERSONS RELATING TO THE PUBLICATION OF A PROPOSED BUSINESS RESCUE PLAN IN THE MATTER OF:

LIVIERO CIVILS PROPRIETARY LIMITED

REGISTRATION NUMBER: 1984/009243/07 (“THE COMPANY”)

- This document is a Circular to Creditors, Shareholders and other Affected Persons relating to a proposed Business Rescue Plan prepared in terms of Section 150 of the Companies Act, Act No. 71 of 2008, as amended (“the Companies Act”) and incorporates:
  - Important dates, times and venue schedule, stipulating the dates, times and venue of The Meeting;
  - All relevant and statutory information, required in terms of the provisions of Section 150 of The Act; and
  - Proxy forms for Creditors, Shareholders and Affected Persons.

- If you are in any doubt as to The Action you should take, please consult your legal advisor, accountant, banker, or any other professional adviser immediately.

- If you are unable to attend The Meeting of Creditors to be held on the date, at the time and at the venue stipulated in the Important Dates, Time and Venue schedule of this Circular in respect of The Meetings pertaining to The Company, please complete and return the proxy being the page immediately after this Circular in accordance with the instructions contained therein, to Independent Advisory, Unit B5, Clearview Office Park, 77 Wilhelmina Avenue, Constantia Kloof, Roodepoort, or fax same to (011) 991 5506 or e-mail same to businessrescuejhb@bdo.co.za to be received not later than the dates and times stipulated in the Important Dates, Times and Venue schedule of this Circular.
NOTICE OF MEETING

MEETING CONVENED IN TERMS OF SECTION 151 (AND READ WITH SECTION 152) OF THE COMPANIES ACT. (“THE MEETING”)

Notice is hereby given in terms of Section 150 of the Companies Act of The Meeting which is being convened by the Business Rescue Practitioners, LDR VAN DER MERWE & JF KLOPPER (“the BRPs”), for 11 September 2018 at 10am to be held at The Core, 1st Floor, Cnr Kikuyu & Leeuwkop Sts, Sunninghill for purposes of considering and, if deemed fit, approving with or without modification, the proposed Business Rescue Plan published by the BRPs.

IMPORTANT DATES, TIMES, AND VENUE

The Meeting:

10am on 11 September 2018

Last day to lodge form of proxy for The Meeting:

10am on 10 September 2018

Notes:

If a form of proxy is not received by the time and date shown above, it may be handed to the chairman of The Meeting by no later than 1 hour before the commencement of The Meeting,

These dates, times and venues are subject to change. Any such change will be published to all Affected Persons.
FORM OF PROXY
LIVIERO CIVILS (PTY) LTD
REGISTRATION NUMBER: 1984/009243/07

For use by the Creditors at a meeting convened in terms of Section 151 of the Companies Act 71 of 2008 at The Core, 1st Floor, Cnr Kikuyu & Leeuwkop Sts, Sunninghill on 11 September 2018 at 10am. ("the Meeting")

I/We ________________________________ being a secured/preferent/concurrent creditor of The Company for the sum of R_________ (_______________ Rand) do hereby appoint (see note 1)
1. __________________________________ ; or failing him/her
2. __________________________________ ; or failing him/her
3. the Chairman of the meeting;

as my/our proxy to act for me/us and on my/our behalf at the meeting which will be held for the purpose of voting for the adjournment of the meeting if necessary and for considering and, if deemed fit, agreeing and voting, with or without modification:

(indicate with an X)
For the proposed Business Plan: ______  Against the proposed Business Plan: ______  
(with or without modification) ______  Against the remuneration Proposal ______
For the remuneration Proposal ______  Against the remuneration Proposal ______

SIGNED at __________________on this_______ day of ________________ 2018.

____________________________
SIGNATURE
Assisted by me (where applicable)

NOTES
1. A creditor may insert the name of a proxy or the names of two alternative proxies of his/her choice in the space provided, with or without deleting "the Chairman of the meeting". The person whose name stands first on the form of proxy and who is present at the meeting will be entitled to act as proxy to the exclusion of those whose names follow.

2. Form of proxy must be lodged at Independent Advisory, Unit B5 Clearview Office Park, 77 Wilhelmina Avenue, Constantia Kloof, Roodepoort or fax same to 011 991 5506 or email same to businessrescuejhb@bdo.co.za, to be received by not later than 24 hours prior to the meetings. In addition, forms of proxy may be handed to the Chairman of the meeting by not later than 1 hour before the meeting is due to commence.

3. The completion and lodging of this form of proxy will not preclude the relevant creditor from attending the meeting and speaking and voting in person thereat to the exclusion of the proxy appointed in terms thereof, should such creditor wish to do so.
AGENDA FOR THE MEETING

The agenda for The Meeting is as follows: -

1. To introduce the Business Rescue Plan for consideration by the Creditors;

2. To inform The Meeting whether the BRPs continue to believe that there is a reasonable prospect of The Company being rescued;

3. Provide an opportunity for the employees’ representative to address The Meeting;

4. Invite discussion, and entertain and conduct a vote, on any motion to: -

   4.1. Amend the proposed BR Plan, in any manner moved and seconded by holders of Creditors’ voting interests, and to the satisfaction of the BRPs;

   4.2. Direct the BRPs to adjourn The Meeting in order to revise the BR Plan for further consideration;

5. Call for a vote for preliminary approval, by Creditors, of the proposed BR Plan, as amended if applicable;

Conclusion of The Meeting

Immediately upon the closure of The Meeting:

1. Conduct a separate vote as contemplated in section 143 (3) regarding the remuneration proposal as set out in the BR Plan.
1. INTRODUCTION

1.1. This document contains the terms and conditions of a proposed Business Rescue Plan for The Company which, if agreed to by the requisite statutory majority of Creditors, will become final and binding on The Company, its Creditors and the Shareholders upon the fulfilment of the conditions precedent referred in this BR Plan.

1.2. For ease of reference, this BR Plan is divided into the following sections:

- Introduction, Definitions Interpretation and Qualifications;
- Part A - Background, prepared in terms of section 150(2)(a) of The Act;
- Part B - Proposals prepared in terms of section 150(2)(b) of The Act;
- Part C - Assumptions and conditions prepared in terms of section 150(2)(c) of The Act;
- Part D - Administrative provisions;
- Annexures “A”- “K”
- Business Rescue Practitioner Certificate.

1.3. This introduction, the various parts of the BR Plan and its annexures all constitute one document are to be read together. It contains the substantive terms and conditions of the proposed Business Rescue Plan prepared by the BRPs.

1.4. Business rescue is aimed at facilitating the rehabilitation of companies that are financially distressed by providing for:

1.4.1. the temporary supervision of a company, and the management of its affairs, business and property;

1.4.2. a temporary moratorium on the rights of claimants against a company or in respect of property in its possession; and

1.4.3. the development and implementation, if approved, of a plan that balances the interests of all relevant stakeholders, to rescue a company by restructuring its affairs, business, property, debt and other liabilities, and equity in a manner:

1.4.3.1. a BR Plan that maximizes the likelihood of The Company continuing in existence on a solvent basis, alternatively, and in the event that it is not possible for a company to so continue in existence on a solvent basis that would result in a better return for its creditors or shareholders than would result from the immediate liquidation of such company.

1.5. There is a reasonable prospect to develop and implement a plan for The Company to upon its acceptance continue in existence on a solvent basis, but this will a reorganization of the financial affairs of The Company and a consequential arrangement between The Company and its Creditors regarding its liabilities.
2. DEFINITIONS AND ABBREVIATIONS

2.1. “The Act” means the Companies Act No. 71 of 2008 as amended;

2.2. “Adoption Date” means the date upon which the BR Plan is adopted in accordance with section 152(2) of The Act;

2.3. “Affected Persons” means Affected Persons as defined in Section 128(1) of The Act and in relation to The Company means a shareholder, creditor, registered trade union and employee of The Company;

2.4. ‘Assets’ means all the assets of The Company of whatsoever nature, including but not limited to, Movable- and Intangible assets;

2.5. “Business day” means any calendar day excluding Saturdays, Sundays and proclaimed public holidays within South Africa;

2.6. “Business Rescue Practitioner/s” or “BRPs” means, Van der Merwe and Klopper, duly nominated by The Company as Business Rescue Practitioners and certified in terms of Section 138 of The Act by the Commission, both being Senior Business Rescue Practitioners as defined in Regulation 126 of The Act, as evidenced by the attached Annexure License Certificate issued by the CIPC;

2.7. “Business Rescue Plan” or “BR Plan” means this document which is a Business Rescue Plan prepared in terms of Section 150 of The Act published by the BRPs on the Publication Date and effective from the Commencement Date;


2.9. “Claims” means secured, preferent or concurrent Claims as envisaged in the Insolvency Act, against The Company, the cause of action in respect of which arose, prior to or on the Commencement Date, of whatsoever nature and from whatsoever cause, including claims, arising from contract or delict, actual and contingent, prospective, conditional and unconditional, liquidated and unliquidated, assessed and unassessed and whether or not due for payment of performance, specific or otherwise, and including all claims arisng out of any agreements entered into by The Company on or prior to the Commencement Date, all such claims to be determined, calculated and admitted as secured, preferent or concurrent in accordance with the same ranking, as envisaged in the Insolvency Act, that attached to them upon the issue of a winding up order in respect of The Company, whether or not such claims are proved and, in no way derogating from the generality of the foregoing, shall further include all claims for Tax (in the broadest possible sense in which such term is utilised) of whatsoever nature and howsoever arising and levies and penalties and interest of whatsoever nature, (and whether assessed or not) provided that notwithstanding anything to the contrary elsewhere contained, all claims shall, for the purpose of this Business Rescue Plan, be treated as if The Company had been liquidated on the Commencement Date, irrespective of whether returns for Value added Tax, Pay as you Earn or Income Tax have been submitted on the Commencement Date or not;

2.10. “Creditors” means all legal entities, including natural persons, having secured, preferent and/or concurrent or Contingent Claims against The Company as at the Commencement Date, as envisaged in the Insolvency Act;

1 Annexure A
2.11. “Concurrent Creditors” means those Creditors having concurrent Claims against The Company as envisaged in the Insolvency Act;

2.12. “Commencement Date” means 16 July 2018, being the effective date upon which Proceedings commenced pursuant to the Order of the High Court, dated 24 July 2018;

2.13. “Companies Commission” or “CIPC” means The Companies and Intellectual Property Commission;

2.14. “Contingent Claims” means those Claims, which may arise against The Company in respect of a liability which is dependent upon a contingent event, which event has not arisen prior to the Publication Date;

2.15. “Day/s” means calendar day/s. When any number of days is referred to in the BR Plan, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday in South Africa, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.

2.16. “Debtors Collection Plan Claims” or “DCP Claims” means the claims of the Company, listed in Annexure “C”, to be distributed to the Creditors of the Company by the Receiver, as provided for in the Debtors Collection Plan;

2.17. “Debtors Collection Plan” or “DCP” means the collection and distribution of the DCP Claims by the Receiver as provided for in this BR Plan;

2.18. “Disputed Claims” means those Claims which were as at the Commencement Date and remain, as at the Publication Date, disputed by The Company; or which the BRPs rejected as not being due and payable by The Company during Proceedings;

2.19. “Employees” means the employees employed by The Company as at the Commencement Date;

2.20. “Excluded Creditors” means FNB, Employees, The Shareholder, Guarantors and PCF Creditors and if applicable their respective legal successors, assignees or nominees in title;

2.21. “Effective Date” means the first day after this Business Rescue Plan has been adopted at a meeting as envisaged in terms of Section 152 of The Act and all conditions precedent have been met;

2.22. “First national Bank” or “FNB” means First Rand Bank Ltd of South Africa Limited, a public company with limited liability incorporated in accordance with the laws of the Republic of South Africa, whose shares are listed on the securities exchange operated by the JSE Limited and is a licenced financial services provider with registration number 1929/001225/06;

2.23. “Guarantors” means collectively CGIC, Guardrisk and Mutual and Federal, representing the guarantors in respect of the existing projects of The Company;

2.24. “Independent Creditors” means all Creditors other than creditors related to The Company and its subsidiaries and/or directors having Claims against The Company as at the Commencement Date as envisaged in The Act;

2.25. “Insolvency Act” means the Insolvency Act No 24 of 1936, as amended;

2.26. “Klopper” means Johannes Frederick Klopper, physical address: Unit B5, Clearview Office Park, 77 Wilhelmina Avenue, Constantia Kloof, Roodepoort, telephone (011) 991 5500 and, e-mail hklopper@bdo.co.za;

2.27. “LRA” means the Labour Relations Act No. 66 of 1995, as amended.

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2 Annexure B
2.28. “Movable Assets” means all movable assets of The Company of whatsoever nature including all communication equipment, computers, computer software, furniture, office equipment, equipment, tools and the like as per the attached Annexure;  
2.29. “Post Commencement Finance” or “PCF” means post-commencement funding as contemplated in section 135 of The Act;  
2.30. “PCF Creditors” means those payments as contemplated in section 135 of The Act and which are due to Creditors in respect of liabilities incurred after the Commencement Date and still due and payable to such Creditors as at the Publication Date and specifically includes any amounts that are due to Employees but remain unpaid after the Commencement Date;  
2.31. “Preferent Creditors” means Creditors having preferent Claims against The Company as envisaged in terms of the Insolvency Act;  
2.32. “Proceedings” means Business Rescue Proceedings as provided for in Chapter 6 of The Act;  
2.33. “Publication Date” means the date of publication of the proposed Business Rescue Plan, being 3 September 2018;  
2.34. “Receiver” or “Receiver for Creditors” means Van der Merwe  
2.35. “SARS” means The South African Revenue Services;  
2.36. “Secured Creditors” means Creditors having secured Claims as envisaged in the Insolvency Act;  
2.37. “Shareholders” means Liviero Group (Pty) Ltd a company duly incorporated in terms of the Laws of South Africa, and currently subject to its own Proceedings;  
2.38. “Substantial Implementation” means the date upon which the BRPs file with the CIPC a notice as required in terms of The Act. The BRPs shall be guided by the provisions of and events contemplated in this Business Rescue Plan in his determination of whether substantial implementation has occurred, such determination being in his sole discretion;  
2.39. “Tax” includes, inter alia, tax as defined under the Tax Administration Act, 28 of 2011 and without limitation all forms of taxation and other levies and charges payable to Governmental Authorities, including but not limited to income tax, value added tax, capital gains tax, donations tax, customs duty, stamp duty, securities transfer tax and any royalty, fee, contribution or other duty or levy and any penalties or interest on any of the aforesaid and any taxation arising from any assessments and/or the reopening of any assessments of The Company for any period prior to the Commencement Date;  
2.40. “The Meeting” means The Meetings in respect of The Company convened in terms of Section 151(1) of The Act;  
2.41. “Trade Creditors” means the Creditors of The Company excluding the Excluded Creditors;  
2.42. “Van der Merwe” means Liebenberg Dawid Ryk van der Merwe, B Comm LLB, physical address: Unit B5, Clearview Office Park, 77 Wilhelmina Avenue, Constantia Kloof, Roodepoort, telephone (011) 991 5500 and, e-mail dvandermerwe@bdo.co.za;  
2.43. “VAT” shall mean value added tax as levied in terms of the VAT Act; and  
2.44. “VAT Act” shall mean the Value-Added Tax Act, 89 of 199, as amended.

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3 Annexure D  
4 Section 132 (2) (c)(ii)
3. INTERPRETATION

3.1. Any reference in this BR Plan to:

3.1.1. the singular shall include the plural and vice versa;

3.1.2. any one gender shall include the others;

3.1.3. a natural person shall include an artificial person and vice versa;

3.1.4. a section or sections of the Insolvency Act is a reference to such sections as read with chapter XIV of the Companies Act of 1973 Act (the Old Companies Act) and item 9 of schedule 5 of The Act;

3.1.5. a section or sections hereinafter is a reference to sections of The Act, unless indicated otherwise.

3.2. If any definition contains a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it was a substantive provision in the body of the BR Plan.

3.3. Any reference to a statute, regulation or any legislation shall be a reference to such statute, regulation or other legislation at the Commencement Date and as amended or substituted from time to time.

3.4. Where any term is defined within a particular clause then that term shall bear the meaning ascribed to it in that clause wherever it is used in the BR Plan.

4. QUALIFICATIONS TO THIS BUSINESS RESCUE PLAN

4.1. This Business Rescue Plan is published in compliance with the provisions of The Act within the time constraints provided for in terms of The Act. This document is provided solely for the information of Affected Persons to the Proceedings.

4.2. Affected Persons are advised to seek independent legal advice in order to consider the proposal as presented.
4.3. This Business Rescue Plan is based upon information provided to the BRPs, since the commencement of Proceedings, by The Company, its management, Affected Persons and third parties.

4.4. In compiling this Business Rescue Plan the BRPs accepted and relied on representations and the authenticity of documents provided to them. Should it become necessary to make representations and documents referred to herein admissible for Court purposes, the authors of the representations and documents would have to confirm these in the relevant Court processes should it become necessary.

4.5. Since their appointment the BRPs have undertaken investigations into the affairs of The Company pursuant to their statutory obligations. Their investigations have been limited due to the time constraints placed on them by The Act and the scope of the BRPs’ statutory duties. There may therefore be certain issues that may require additional investigation for a final conclusion or determination to be formed. Whilst the BRPs have set out their conclusions in this BR Plan arising from the investigations conducted to date, please note that a liquidator (if appointed) may undertake further detailed investigations into the affairs of The Company.

4.6. The BRPs have during Proceedings and in their investigations taken and relied extensively on legal advice.

4.7. The statements and opinions expressed in this BR Plan are given in good faith and in the belief that such statements and opinions are not false or misleading. Should any new information become available between the Publication Date and the date of any subsequent meetings or reports the BRPs reserve their right to alter any conclusions reached on the basis of that new information.

4.8. In preparing this BR Plan and in formulating the proposals contained therein the BRPs have made the necessary forecasts with respect to asset realisations and the total value of Claims of Creditors. These forecasts and estimates may change as Assets are realised and Creditors prove their Claims against The Company. Whilst this BR Plan estimates the likely outcomes for Affected Persons, the forecasts are by their very nature uncertain and the ultimate outcome may therefore differ from the forecast contained in the Business Rescue Plan.

4.9. The BRPs reserves the right, should it come to their attention that material information has been withheld or additional information is brought to their attention, to amend this BR Plan.
4.10. For your convenience, this document may have been made available to you in electronic, as well as hard copy format. Multiple copies and versions of this document may, therefore, exist in different media. Only the final hard copy should be regarded as definitive.

5. CONFIDENTIALITY

5.1. This Business Rescue Plan is confidential to the Affected Persons of The Company and prepared solely for the purpose(s) set out in The Act. No person may refer to or use the names of the BRPs or the Business Rescue Plan for any other purpose, disclose or refer to them in any prospectus or other document, or make them available or communicate them to any other party.

5.2. No other party is entitled to rely on the Business Rescue Plan for any purpose whatsoever and the BRPs accept no duty of care or liability to any other party who is shown or gains access to this Business Rescue Plan;.

5.3. All of the information contained in this Business Rescue Plan is of a confidential and/or proprietary nature to The Company in whatever form, and without limiting the generality thereof and shall include any of the following information, documentation, data and/or material in any form (including oral, written, electronic or visual form) disclosed or communicated by The Company and/or any of its affiliates in connection with or arising out of the Business Rescue Plan or Meetings of Creditors:

5.3.1. technical, scientific, commercial, financial, operational or market information, or trade secrets in relation to the Business of The Company;

5.3.2. agreements to which The Company and/or its affiliates are a party;

5.3.3. operating know-how, processes, statistics, business methods, business plans, asset lists and models (whether of a financial nature or otherwise) and techniques used by The Company and/or its affiliates in the conduct of The Company;

5.3.4. copyright, patents, trademarks, service marks, design rights (whether registered or unregistered), database rights, proprietary information rights and all other similar proprietary rights and applications for such rights as may exist anywhere in the world in relation to The Company;
5.3.5. knowledge of details and particulars in regard to The Company and/or its affiliates' suppliers, contractors, business associates and customers;

5.3.6. The Company and/or its Affiliates' method/s and statistics of conducting its business;

5.3.7. the contractual arrangements and commitments between The Company and/or its affiliates and their suppliers and customers; and

5.3.8. any other matter or information which relates to the business in respect of which information is not readily available to the general public;

5.4. All confidential and/or proprietary information disclosed by The Company and/or its affiliates or which otherwise comes to the knowledge of Affected Persons in terms of the provision of this Business Rescue Plan or any meeting of Creditors, is acknowledged by Affected Persons:

5.4.1. to be proprietary to The Company and/or its Affiliates; and

5.4.2. not to confer any rights of whatsoever nature in the disclosure of such confidential and/or proprietary information on Affected Persons.

5.5. Affected Persons irrevocably and unconditionally agree and undertake:

5.5.1. to treat and safeguard the confidential and/or proprietary information as strictly private, secret and confidential;

5.5.2. not to use or permit the use of the confidential and/or proprietary information for any purpose other than purposes of the Business Rescue Plan and, in particular, not to use or permit the use of the confidential and/or proprietary information, whether directly or indirectly, to obtain a commercial, trading, investment, financial or other advantage over The Company and/or its affiliates or otherwise use it to the detriment of The Company and/or its affiliates;

5.5.3. except as permitted by this Business Rescue Plan, not to disclose or divulge, directly or indirectly, the confidential and/or proprietary information in any manner to any third party for any reason or purpose whatsoever without the prior written consent of the BRPs, which consent may be granted or withheld in the sole and absolute discretion of the BRPs;
5.5.4. not to copy or reproduce the confidential and/or proprietary information by any means without the prior written consent of the BRPs, it being recorded that any copies of the Business Rescue Plan shall be and remain the property of The Company; and

5.5.5. To keep all confidential and/or proprietary Information safely and securely and to take all such steps as may be reasonably necessary to protect it against theft, damage, loss, unauthorised access (including access by electronic means) and to prevent confidential and/or proprietary information from falling into the hands of unauthorised third parties.
PART A

6. BACKGROUND, HISTORICAL EVENTS AND GROUP STRUCTURE

The Act requires the Business Rescue Plan to contain certain background information which is, in compliance with The Act, recorded herein below.

6.1. Background and Historical Events

6.2. Group structure

6.2.1. The Company’s shares are held 100% by Liviero Group, as indicated in the above diagram.

6.2.2. Fellow subsidiaries of The Company:

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5 Section 150(2)(a)
6.3. Company information (as at the Commencement Date)

<table>
<thead>
<tr>
<th>Directors</th>
<th>M Groot; and A Discala</th>
</tr>
</thead>
<tbody>
<tr>
<td>Auditors</td>
<td>Price Waterhouse Coopers</td>
</tr>
<tr>
<td>Financial Year End</td>
<td>30 August</td>
</tr>
<tr>
<td>Registered Address</td>
<td>Corner Dytchley Road and Marcius Street, Barbeque Downs, Kyalami, Gauteng</td>
</tr>
<tr>
<td>Principle Address</td>
<td>Corner Dytchley Road and Marcius Street, Barbeque Downs, Kyalami, Gauteng</td>
</tr>
</tbody>
</table>

6.3.1. The last audited financial statements are for the period ending 2017.

6.4. Reasons for and factors influencing The Company’s financial distress

The main reasons for the financial distress of the Company are the following:

6.4.1. Work certified for payment by the Eastern Cape Department of Public Works for the Upgrading of the Mbinja Pass, in the amount of R26,135,689.00 was delayed by 90 days.

6.4.2. Work certified for payment by the Eastern Cape Department of Public Works for the Upgrading of the Centane to Kei Mouth road, in the amount of R25,346,414.00 was delayed by 90 days.

6.4.3. Work certified for payment by Amatola Water for the installation of a sewer line upgrade at Ngangelizwe (Umthatha), in the amount of R2,947,111.00 was not paid. As of the Commencement Date, this has still not been paid;

6.4.4. Work certified for payment by Roads Agency Limpopo (RAL) for the upgrading of various roads in the Waterberg district, in the amount of R24,549,245.00 was not paid. As of the Commencement Date, this has still not been paid;

6.4.5. A Joint Venture Partner of the Company reneged on its contractual obligations in executing a contract for the City of Ekurhuleni, and the resulting additional loss on the project was fully funded from the cash reserves of the Company to the value of R27m;

6.4.6. There are various sureties and cross-indemnities between the Company and other subsidiary companies of Liviero, most notable of which is the cession of the debtor book to
the bankers of Liviero, namely FNB. As a result of the financial distress of other Liviero subsidiary companies, the overdraft facility made available by FNB has been reduced; and

6.4.7. Guarantee facilities provided by various guarantors on behalf of other subsidiary companies within Liviero have been secured against a combination of sureties, indemnities and guarantees provided by the Company.

6.5. Commencement of Business Rescue Proceeding and important dates:

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effective Date of the Commencement of Proceedings</td>
<td>16 July 2018</td>
</tr>
<tr>
<td>Court Order placing The Company in BR</td>
<td>24 July 2018</td>
</tr>
<tr>
<td>File notice to CIPC re BRPs appointment on</td>
<td>24 July 2018</td>
</tr>
<tr>
<td>Notice to affected parties regarding Business Rescue on</td>
<td>30 July 2018</td>
</tr>
<tr>
<td>Publish notice to Affected Persons of BRPs appointment on</td>
<td>30 July 2018</td>
</tr>
<tr>
<td>First meeting of Creditors held on</td>
<td>6 August 2018</td>
</tr>
<tr>
<td>First meeting of Employees held on</td>
<td>6 August 2018</td>
</tr>
</tbody>
</table>

6.5.1. Following a Court application by Liviero Group, issued on 16 July 2018, an order was granted on 24 July 2018 placing The Company in Business Rescue. The required notices were filed with CIPC on 24 July 2018.

6.5.2. The BRPs convened and presided over the first meeting of Employees which was held on 6 August 2018, where the Employees of The Company elected to form an employees’ committee.

6.5.3. The BRPs further convened and presided over the first meeting of Creditors, which was held on 6 August. At the first meeting of Creditors, the Creditors of The Company elected not to form a Creditors’ committee.

6.5.4. The minutes and a full transcript of the first meeting of Creditors is available from the BRPs, having already been circulated to all known Affected Persons.

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6 Annexure B
6.6. Status of The Company when business rescue commenced:

6.6.1. Prior to the Commencement Date, the Shareholder and The Company’s other fellow subsidiaries, Liviero Mining (Pty) Ltd, Liviero Plant (Pty) Ltd and Liviero Building (Pty) Ltd, all voluntarily commenced their own Proceedings.

6.6.2. As was articulated in the application to Court to place The Company in business rescue, The Company was and remained financially distressed as defined in The Act.\(^7\)

6.6.3. The Company remains fully operational with work continuing during Proceedings on a number of sites.

6.7. Initial Actions during Business Rescue:

6.7.1. Initially the BRPs focused their attention on stabilising The Company and in consultation with Affected Persons considering and identifying all possibilities to restructure the affairs of The Company.

6.7.2. The BRPs have also regularly engaged with the Shareholders, on the requirements of resuscitating The Company or its business. The BRPs have critically assessed all the options available in order to restructure either The Company or its business.

6.8. Further aspects dealt with during proceedings:

6.8.1. During Proceedings the BRPs have, in addition to what is stated above, \textit{inter alia} attended to the following:

- Taken managerial control of the operations of The Company, assisted by key individuals employed on limited duration contracts;
- Met with and consulted extensively with Shareholders;
- Met with and consulted with Creditors;
- Met with and consulted with Employees and organised labour;

\(^7\) Section 128 (1) (f)
7. ASSETS OF THE COMPANY AND SECURITY HELD

7.1. Other than some small tools, office equipment and sundries the Company’s only asset is its various claims against third parties- debtors, in the form of either retentions, disputed claims, claims for damages and invoiced, but as yet unpaid revenue.

7.2. A list of the Assets of The Company at the Commencement Date is attached hereto, as is required and in order to assess the financial position of The Company. Considering the small value attributed to the movable assets and in the interest of time the BRPs did not commission an independent valuation of the movable assets and have for purposes of this BR Plan assume the value to be as reflected in the books of the Company.

7.3. Movable Property:

The movable assets of The Company as they are reflected in the accounts of The Company comprises of small tools, office equipment and sundries valued at R2,396 492.00. These assets are unencumbered.

7.4. Claims in favour of the Company- debtors

As at the Publication Date the company debtors can be categorised as:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current debtors (1 to 90 days)</td>
<td>R13,640,000.00</td>
</tr>
<tr>
<td>Historical debtors and disputed claims</td>
<td>R 69,000,000.00</td>
</tr>
<tr>
<td>Retentions due</td>
<td>R 18,400,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>R 101,040,000.00</strong></td>
</tr>
</tbody>
</table>

7.4.1. The amounts reflected above represent the realistic value that The Company and the BRPs believe can be realised from the debtors of The Company. There is a significant likelihood that recovery from these debtors over time will exceed these values.

7.4.2. These claims- debtors- are held as security by FNB in terms of a cession of bookdebts.

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8 Section 150(2)(a)(i)
9 Annexures D
8. CREDITORS OF THE COMPANY

8.1. A detailed list of the Creditors of The Company as verified by The Company and incorporating the Claims received and accepted by the BRPs from Creditors, as at the Commencement Date, is annexed hereto.

8.2. The amounts reflect the amounts owing to Creditors as at the Commencement Date. These amounts represent the voting interest of each Creditor for purposes of voting at The Meeting to determine the future of The Company. These amounts will also, subject to the provisions contained in this Business Rescue Plan in respect of the submission of late Claims, be used to distribute monies to Creditors in terms hereof, and will bear no interest as from the Commencement Date.

8.3. Secured Creditors

8.3.1. FNB

8.3.1.1. The Company was, as at the Publication Date, indebted to FNB in the amount of R171,000,000.00 consisting of both capital and interest.

8.3.1.2. The claim of FNB was as at the Commencement Date secured by way of a cession of debtors.

8.3.2. Lion of Africa Insurance Company Ltd, holds as security for the amounts due to them a revisionary cession of the debtors, after FNB

8.4. Preferent Creditors

8.4.1. Employees:

8.4.1.1. As at Commencement Date, The Company employed 604 employees. Had The Company been liquidated as at the Commencement Date, the Employees would collectively have had claims in excess of R14,380,000.00 and the preferent portion of these claims of Employees would have been limited to a maximum of R28,000.00 per employee or an

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10 Section 150(2)a)(ii)
11 Annexure E
12 Preferences in accordance with the laws of Insolvency, if The Company were to be liquidated as at the Commencement Date
estimated R25,500,000.00 in total, the balance ranking as concurrent claims against The Company.

8.4.1.2. There is no recognition agreements with organized labour, however communication and workplace matters are managed in conjunction with the BCCEI.

8.4.2. SARS
As at the Commencement Date, The Company was indebted to SARS in the amount of R7,090,000.00. The Company is fully compliant with all Tax obligations post the commencement of Proceedings.

8.5. Concurrent Creditors

8.5.1. All other verified Claims of Creditors against The Company are regarded as Concurrent Claims as is provided for in terms of the Laws of Insolvency.

8.5.2. As at the Publication Date the BRPs received and verified Claims from Concurrent Creditors, at a value as they would have been as at the Commencement Date amounting to R161,800,000.00.

8.6. PCF and PCF Creditors

8.6.1. The Company had not during Proceedings entered into any formal arrangements in respect of PCF. All services and supplies by PCF Creditors to The Company after the Commencement date are regarded by the BRPs as PCF and will in the event of the liquidation of The Company enjoy the preferences afforded to such creditors in terms of The Act\(^\text{13}\).

8.6.2. The amounts owing to such PCF creditors continue to be settled in the normal course of business, whilst the business of The Company continues.

8.7. Post Commencement Claims of Employees

8.7.1. During Proceedings the Company, under the auspices of the BRPs continued the consultative process, with Employees that commenced prior to the Commencement Date, as required in terms of the provisions of the LRA\(^\text{14}\). These consultations may ultimately result in the retrenchments of some of the Employees of The Company due to operational considerations.

\(^{13}\) Section 135
\(^{14}\) Section 189A
8.7.2. The extent of the potential retrenchment obligation of the Company to the Employees affected by the current consultative process amounts to approximately R4,150,000.00.

8.7.3. These affected Employees will enjoy the preference afforded to such claims in terms of The Act\(^{15}\), such Claims being considered PCF and are to be paid to these employees as provided for in this BR Plan.

8.8. Contingent Liabilities:

8.8.1. The attached schedule\(^{16}\) represents the contingent claim of the Guarantors as at the Publication Date.

8.9. Non Independent Creditors \(^{17}\)

8.9.1. Except for the amounts due to the Shareholder the Claims of all Creditors of The Company are regarded as independent in terms of The Act.\(^{18}\)

8.10. Probable Dividends to Creditors: Liquidation Scenario

8.10.1. In the event of the liquidation of a company, it is the appointed liquidators’ duty to realise the assets of the liquidated estate for the benefit of all creditors as soon as possible.

8.10.2. In compliance with The Act\(^{19}\), and in order to calculate the expected liquidation dividend that Creditors, in various classes, may expect to receive in the event of the liquidation of The Company, the BRPs have prepared what they deem to be the probable dividends that creditors would have received had the Company been liquidated as at the Publication Date. These calculations are attached hereto\(^{20}\).

8.10.3. This assessment by the BRPs utilises the fair values of the Assets of The Company, as well as the expected expenses that would be incurred by an appointed liquidator, in order to calculate the probable dividend that Creditors, in their various classes may have expected to receive had The Company been liquidated as at the Publication Date.

\(^{15}\) Section 135(1)
\(^{16}\) Annexure F
\(^{17}\) Section 128(g)
\(^{18}\) Section 145(5) (a)
\(^{19}\) Section 150(2)(a)(iii)
\(^{20}\) Annexure J
8.10.4. The calculation of the probable dividend that Creditors would conceivably have received, in their respective classes, applying the above-mentioned principles, should The Company have been liquidated as at the Publication Date, is set out in the attached annexure\textsuperscript{21}.

8.10.5. In attending to this calculation, the BRPs made the following assumptions regarding the realisation of the assets in the event of the liquidation of The Company:

8.10.5.1. The Assets of The Company would have been sold by the appointed Liquidator, by public auction, at the expected auction (forced sale) value;

8.10.5.2. By its very nature the collection of outstanding debtors of a construction related insolvency is notoriously difficult. Once appointed liquidators are often faced with the reality of having to elect whether or not to complete unfinished projects and more often than not elect not to do so. In such circumstances the collection of outstanding debtors are seldom possible.

8.10.6. The estimated liquidation dividends that would accrue, to the different classes of Creditors, had The Company been liquidated as at the Publication Date is summarised below, representing an extract of the BRPs calculation\textsuperscript{22} determination:

8.10.6.1. The Secured Creditor-

FNB could have expected to receive a secured dividend of approximately R30,400,000.00 or 17,7 cents in the Rand had The Company been liquidated as at the Publication Date.

8.10.6.2. Preferent Creditors:

8.10.6.2.1. Employees collectively could have expected to receive payment of R Nil of the preferent portion of their Claims of approximately of R16,9 million, as at the Publication Date.

8.10.6.2.2. SARS, would have as at the Publication Date received no dividend were the Company to be liquidated as at the Publication Date.

\textsuperscript{21} Annexure F
\textsuperscript{22} Annexure J
8.10.6.3. Concurrent Creditors

Considering the extent of the Secured- and statutory Preferent Creditors, Concurrent Creditors would have received no dividend in the event of the liquidation of The Company either as at the Publication Date.

9. HOLDER/S OF COMPANY’S ISSUED SECURITIES

9.1. According to the records of The Company and as at the Commencement Date, the shares of The Company were held by:

➢ Liviero Group - 100%

9.2. No other shares have been issued and the directors declared that no shares were promised to any third parties and that there are no outstanding shares to be issued. In view of The Company’s present financial position, the shares of The Company have no commercial value at this stage.

10. PRACTITIONER’S REMUNERATION OR AGREEMENT CONCERNING PRACTITIONER’S REMUNERATION

10.1. For purposes of determining the BRPs hourly remuneration, The Company has been classified in terms of the regulations to The Act as “a large company”.

10.2. BRPs have to date been remunerated in terms of the provisions of The Act and regulations based on the actual time spent on the matter. The disbursements relating to consultants employed and legal fees expended by the BRPs and other sundry disbursements have also been paid by The Company in terms of The Act.

10.3. As is provided for in The Act the BRPs propose, as part of this BR Plan, a success fee arrangement with The Company, which fee is payable by The Company during Proceedings, as provided for in the proposal, upon the arrival of specific events.

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23 Section 150(2)(a)(iv)  
24 Section 150(2)(a)(v)  
25 Section 143 (2) read with regulation 128(2)
10.4. Accordingly, it is proposed that the BRPs will, subsequent to the Adoption Date, continue to be remunerated based on actual time spent on the matter, but will upon their filing for Substantial Implementation be entitled to an additional success fee as proposed in this Business Rescue Plan.

10.5. Accordingly, the BRPs therefore proposes an agreement as contemplated in The Act, in respect of the remuneration subsequent to the Adoption Date of the BR Plan as recorded in the attached annexure\(^{26}\), subject to the requisite majority of Creditors ratifying such proposal at The Meeting as envisaged in The Act.

11. **INFORMAL PROPOSAL\(^{27}\)**

This BR Plan was prepared after engagement and consultations, as referred to above, with Affected Persons and contains certain proposals informally made by Affected Persons.

\(^{26}\) Annexure G

\(^{27}\) Section 150(2)(a)(vi)
PART B - PROPOSAL

12. DURATION OF MORATORIUM

It is proposed that the moratorium be extended for a period of 90 days after the filing a notice of Substantial Implementation, by the BRPs.

13. PROPOSED CONVERSION OF DEBT TO EQUITY

This Business Rescue Plan does not propose the conversion of debt for any of the equity of The Company.

14. EXTENT TO WHICH COMPANY IS TO BE RELEASED FROM PAYMENT OF ITS DEBTS

14.1. The BRPs are of the view that the successful finalisation of Proceedings will only be achieved upon adoption of a Business Rescue Plan in terms of which The Company will be released from the payment of some of its debts, by way of a compromise of the Claims of the Trade Creditors and an arrangement regarding the Claims of the Excluded Creditors as dealt with more fully herein below.

14.2. Accordingly, the BRPs are of the opinion, based on the information currently at their disposal that The Company as a legal entity, can continue in existence on a solvent basis upon the adoption and subsequent implementation of this proposed Business Rescue Plan.

14.3. The adoption of this Business Rescue Plan will result in a better return for The Company’s Creditors that would otherwise result from the liquidation of The Company as the immediate liquidation of The Company will, in the opinion of the BRPs, be extremely prejudicial to the Creditors of The Company, whilst the implementation of the proposals contained in this Business Rescue Plan will not only increase the payments to all Creditors, but ultimately ensure

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28 Section 150(2)(b)
29 Section 150(2)(b)(i)
30 Section 133 of the Act
31 Section 150(2)(b)(ii) of The Act
32 Section 150(2)(b)(ii)
the long term future and sustainability of The Company and the opportunity of continued employment of a substantial number of the Employees of The Company.

15. ONGOING ROLE OF THE COMPANY

15.1. The Primary Objective of this BR Plan is for The Company to return to solvency by rearranging its financial affairs to such an extent that the Claims of Trade Creditors are compromised and limited to the proceeds of the DCP, as provided for more fully below and for the Claims of the Excluded Creditors to be rearranged in such a manner as to assist the ongoing financial viability of the Company.

15.2. The Secondary Objective of this Business Rescue Plan is subsequent to Substantial Implementation for The Company with the ongoing assistance of the Excluded Creditors, to retain and maintain (expect for the DCP Claims) its Assets to be able to secure sufficient new work and in doing so to secure the continued viability of its business.

15.3. Upon the adoption and subsequent implementation of the proposed BR Plan, the Company would have during proceedings substantially rearranged its financial affairs.

16. TREATMENT OF EXISTING CONTRACTS

None of the terms of any existing agreements were suspended, altered or cancelled by the BRPs during Proceedings and unless specifically mentioned in this BR Plan neither does this BR Plan envisage any amendments to existing agreements going forward.

17. PROPERTY AVAILABLE TO PAY CREDITORS

17.1. This Business Rescue Plan envisages that The Company will make available the proceeds of the DCP Claims to be collected and distributed by the Receiver for Creditors to the Creditors of the Company and except for FNB, excluding the Excluded Creditors, as contained herein below.

33 Section 150(2)(b)(iii)
34 Section 150(2)(b)(iii)
35 Section 136 (2)(a) & (b)
36 Section 150(2)(b)(iv)
18. PROPOSED SETTLEMENT WITH CREDITORS

18.1. The Company makes the proposal contained in this Business Rescue Plan and undertakes to perform its obligations in terms of the arrangement and compromise detailed below. In consideration for the right of Creditors to receive payments in terms of the Business Rescue Plan, and upon the fulfilment of all of the conditions contained herein below, the rights of all Creditors, against The Company including the rights of all disputed or contingent Creditors, shall be confined to the right to Claim payment from The Company in terms of this Business Rescue Plan and no other Creditor shall have any other Claim against The Company after the Effective Date.\(^{37}\)

18.2. Accordingly, Creditors are presented with a proposal that will, upon the adoption of this Business Rescue Plan and the fulfilment of all of the conditions precedent to the proposal, maximise the likelihood of The Company continuing in existence on a solvent basis\(^{38}\).

18.3. The proposal shall however not affect the rights of any holder of a guarantee or surety obligation from individuals or entities who have bound themselves as guarantors or sureties and co-principal debtors, jointly and severally with The Company, from enforcing their rights in terms of any such surety and/or guarantee.

19. DEBTORS COLLECTION PLAN:

19.1. Upon the adoption of this BR Plan, the Company shall, under the auspices of the Receiver, continue to collect the DCP Claims.

19.2. The proceeds of the DCP Claims shall be deposited into a bank account, opened in the name of the Company, but operated by the Receiver and thereafter distributed to the Creditors of the Company as provided for in this BR Plan.

19.3. Any and all costs incurred by the Company and the Receiver in the collection of the DCP Claims shall be paid from the proceeds of the collection of the DCP claims and not from the ongoing operations of the Company. For the avoidance of all doubt and although the

\(^{37}\) Section 152(4) and 154(2) of the Act

\(^{38}\) Section 128(1)(b)(iii)
Company, under the auspices of the Receiver, shall take all reasonable steps to collect the DCP Claims, the DCP is envisaged as a self-funding mechanism.

20. PROPOSED ARRANGEMENT BETWEEN THE COMPANY AND THE EXCLUDED CREDITORS:

20.1. The Claims of the Excluded Creditors are not compromised in terms of the provisions of this BR Plan, but rather rearranged as specifically provided for in terms of this BR Plan.

20.2. The claim of FNB against the Company remains unaltered and all current and future debtors (expect the DCP claims) shall remain subject the FNB’s cession of debtors.

20.3. The claim of the Shareholder shall likewise remain unaltered, but shall be subordinated in favour of the claims of all other creditors incurred after the adoption of this BR Plan, until such time as the Company’s auditors determine the Assets of the Company exceeds its liabilities to such an extent that it would justify the un-subordination of the claim, or part thereof of the Shareholder. The Shareholder is specifically excluded from sharing in the proceeds of the DCP.

20.4. The claims of Employees remain unaltered as they will upon the adoption of this BR Plan remain in the employ of the Company.

20.5. The claims of all PCF Creditors are entirely excluded from the provisions of this BR Plan and the Company shall settle such claims in the normal course of business.

20.6. The contingent Claims of the Guarantors\(^{39}\) are likewise excluded from the arrangement contained in this BR Plan and shall reduce over time and become extinguished by The Company being able to continue to perform in respect of the particular contracts that each of the issued guarantees relate to.

\(^{39}\) Annexure F
21. PROPOSED COMPROMISE BETWEEN THE COMPANY AND ITS TRADE CREDITORS:

21.1. The Company makes the proposal contained in this compromise in particular as contained in this paragraph to all of its Trade Creditors.

21.2. In consideration for the right of Trade Creditors to receive payments in terms of this Business Rescue Plan, and with effect from the Effective Date, the Claims of the Trade Creditors as at the Commencement Date as against the Company shall become compromised and shall be limited to receiving such payment from the Receiver from the proceeds of the DCP Claims, as provided for in this BR Plan, in settlement of any and all Claims as against the Company.

22. APPLICATION OF THE PROCEEDS OF THE DC PLAN AND THE ORDER OF PREFERENCE TO APPLY:

Subject to the terms of this Business Rescue Plan and after Substantial Implementation, the Receiver shall pay, quarterly (subject to sufficient funds being available) from the proceeds of the DCP Claims and any interest earned thereon in the following manner and order of preference:

22.1. To the BRPs, for payment of all fees, administration expenses and charges outstanding prior to Substantial Implementation (if any); thereafter

22.2. To the Receiver, for payment of all fees and administrative expenses and charges incurred; thereafter

22.3. To any and all legal and related collection expenses, incurred in order to collect the DCP Claims, such cost in total not to exceed 10% of the gross proceeds of the DCP Claims and unless expressly agreed to other wise by FNB, limited to the lesser of 10% of any one claim or R100,000.00 per claim; thereafter

22.4. To FNB, payment of 100% of the proceeds of the DCP claims up to R20,000,000.00 (twenty million Rand) and thereafter payment of 60% of the proceeds of the DCP Claims; thereafter, if any
22.5. **To Employees**, any and all amounts due to them in consequence of any retrenchment process conducted post the commencement of Proceedings; thereafter if any

22.6. **To All other Creditors**, excluding the Excluded Creditors, payment in proportion to their Claims as against the Company.

### 23. EXPECTED COLLECTIONS FROM THE DCP CLAIMS:

23.1. The DCP Claims are listed in the attached schedule.\(^{40}\) The extent of the recovery is unknown as the DCP claims contain a variety of claims consisting of retentions, liquidated claims and claims for damages. For purpose of illustration a schedule is attached\(^{41}\) illustrating the probable payments to Creditors based on a base, best and worst case scenario.

### 24. BENEFITS OF ADOPTING THE BUSINESS RESCUE PLAN COMPARED TO BENEFITS TO CREDITORS IN LIQUIDATION\(^{42}\)

24.1. **For the Shareholders**:-Although the Shareholder is excluded from receiving any benefit from the proceeds of the collection of the DCP Claims and although it is required to subordinate its claim in favour of all future creditors, it is left with the opportunity to resuscitate the business of The Company and in doing so this creates the ultimate opportunity of a profitable business.

24.2. **For Employees**:-Although some of the Employees of the Company will be affected by possible retrenchment pursuant to the ongoing consultations in terms of the LRA referred to above, the majority of the current employees of the Company shall upon the adoption of this BR Plan remain so employed in the foreseeable future. Those Employees who will be required to exit the business upon the conclusion of the consultative process will receive payment to the full extent of the amounts owing to them as opposed to almost no payment had the Company been liquidated.

\(^{40}\) Annexure C

\(^{41}\) Annexure K

\(^{42}\) Section 150(2)(b)(vi)
24.3. For the Guarantors: - The adoption of the BR plan and the ability of the Company to continue to operate its business will see the gradual reduction of the contingent claims of the Guarantors.

24.4. All other Creditors:

24.4.1. The expected dividends that each and every Creditor, irrespective of their ranking in terms of the laws of Insolvency, will receive from the proceeds of the DCP pursuant to the adoption of this BR Plan are in excess of what they would have received had the Company been liquidated on the Publication Date. The following graph illustrates these benefits:

<table>
<thead>
<tr>
<th>Class of Creditor</th>
<th>Liquidation</th>
<th>Business Rescue</th>
</tr>
</thead>
<tbody>
<tr>
<td>FNB</td>
<td>0.18</td>
<td>0.31</td>
</tr>
<tr>
<td>Employees</td>
<td>0.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Trade Creditors</td>
<td>0.00</td>
<td>0.07-0.29*</td>
</tr>
</tbody>
</table>

*Based on the value of claims received as at the Publication Date

24.4.2. Over and above the benefit of a substantial benefit in the quantum of payment form the proceeds of the DCP as opposed to that of a formal liquidation process, Creditors can expect to receive payment far sooner than what would otherwise have occurred in the event of the liquidation of The Company. Given the complexity of the Company’s affairs, and the contractual obligations to clients and guarantors, it is expected that a liquidation may last longer than 24 months with no ability to pay an interim dividend to Concurrent Creditors.

24.4.3. Further to the above the estimated costs of administration incurred as a result of a formal liquidation process will far exceed the costs needed to be incurred during the collection process of the DCP.

25. EFFECT ON SHAREHOLDERS

25.1. This BR Plan does not envisage an effect on the Shareholders of The Company.

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43 Section 150(2)(b)(vii)
26. SPECIAL CONDITIONS TO BE SATISFIED

26.1. The following are the conditions which must be satisfied for the Business Rescue Plan to come into operation:

26.1.1. The adoption of the Business Rescue Plan by the Creditors having the majority voting interest as defined in The Act;

26.2. The conditions which must be satisfied for Substantial Implementation are exclusively subject to the determination of the BRPs.

27. CIRCUMSTANCES IN WHICH THE BUSINESS RESCUE WILL END

It is proposed that the Business Rescue Proceedings will end once The BRPs file their notice of Substantial Implementation.

28. EFFECTS OF THE PROPOSED BUSINESS RESCUE PLAN ON THE NUMBER OF EMPLOYEES

28.1. As at the Commencement Date, The Company employed 604 employees, but as indicated above it is anticipated that this number will reduce as a result of the completion of current contracts and the reduction in the size of the overhead structure required in order to remain competitive in the current market.

28.2. Since the Company intends to continue trading, all affected employees will retain their legal rights afforded them under the provisions of the LRA, and adequate financial provisions have been made to fund the associated termination costs.

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44 Section 150(2)(c)
45 Section 150(2)(c)(i)
46 Section 150(2)(c)(iii) of the Act
29. PROJECTED BALANCE SHEET AND DETAILED STATEMENT OF INCOME AND EXPENSES FOR THE ENSUING THREE YEAR PERIOD\textsuperscript{47}

29.1. In compliance with the provisions of The Act, the following documents are attached to The BR Plan a projected balance sheet\textsuperscript{48}; and a statement of income and expenses\textsuperscript{49}, for the ensuing 3 years from the arrival of the Recommencement Date.

\textsuperscript{47} Section 150(2)(c) (iv) of the Act
\textsuperscript{48} Annexure H
\textsuperscript{49} Annexure I
PART D - ADMINISTRATIVE PROVISIONS

30. Duties and Powers of the Receiver

30.1. The Receiver shall have all such powers as the BRPs would have had, including the right to take action against any debtor/s of the Company.

30.2. In addition, the Receiver shall after Substantial Implementation:

30.2.1. notify all known Creditors that the BR Plan has been substantially implemented and in particular draw their attention to the provisions of the BR Plan and their rights and obligations thereunder;

30.2.2. notify all Creditors reflected in the books of account of the Company or acknowledged as being Creditors of the Company by the BRPs, that they are regarded by him as being Creditors for purposes of participating in the distribution in terms of the BR Plan and stating the amount for which they so appear to be Creditors in the books of account of the Company; and

30.2.3. provided he is satisfied that the Claim of any particular Creditor, as it appears in the books of account of the Company, is incorrect or for any other reason rejectable by him, advise such Creditor, in writing, of the fact that he rejects such Claim and that such Creditor thereupon is obliged to prove its Claim in terms of the provisions of the adopted BR Plan;

30.3. The Receiver shall have the right in consultation with FNB to:

30.3.1. take all steps necessary to enforce due compliance by the Company of any obligations imposed upon or assumed by the Company in terms of the BR Plan;

30.3.2. institute any proceedings against any person which may be required to give effect to the BR Plan;

30.3.3. defend any proceedings brought against him arising out of this BR Plan;
30.3.4. dispute any Claim, or the validity of any preference or security claimed by any Creditor or the valuation placed by any secured Creditor on any security;

30.3.5. in his discretion, to compromise and/or otherwise determine by agreement the amount of any Claim, preference or security proved or to be proved. In the event that the Receiver and FNB are unable to reach consensus regarding any proposed compromise, FNB shall have the right to continue with the recovery of such claim for its own benefit and at its own expense. In such an event the amount at which the Receiver was willing to compromise the particular claim, shall then be considered the amount at which the particular claim has been recovered for purposes of this BR Plan and the Receiver shall apply that amount in his calculation of the distribution of the proceeds of the DCP Claims;

30.3.6. engage the services of legal and other professional advisors in connection with any matter concerning his functions and duties, to dispense with taxation of and to agree the amount of the reasonable fees and charges of such legal and other professional advisors and to pay the remuneration and disbursements of the person/s so engaged;

30.3.7. at all times to have access to all books, records, documentation and trading figures of the Company as he may reasonably and properly require for the execution of his duties as Receiver in terms of the BR Plan;

30.3.8. in his discretion, be entitled to settle any disputes of whatsoever nature with the regard to the Assets or the implementation of the BR Plan; and

30.3.9. make payments to Creditors, as provided for in this BR Plan as and when he deems fit, notwithstanding that all Claims against the Company have not yet been proved.

30.4. The Receiver shall in quarterly intervals, following Substantial Implementation, prepare and distribute a comprehensive report to Creditors detailing:

30.4.1. the progress with the collection of the DCP Claims;

30.4.2. the progress of distribution of the DCP proceeds to Creditors as provided for in the BR Plan;

30.4.3. the status of all Late- and Disputed Claims.
31. PROOF OF CLAIMS PROCEDURE

31.1. The attached list\(^{50}\) represent the Claims of Creditors submitted and adjudicated and accepted by the BRPs as at the Publication Date and the values reflected constitute the voting interest of such Creditor/s for purposes of voting at The Meeting to determine the future of The Company.

31.2. In order to participate in any distribution in terms of this BR Plan, all Claims of Creditors shall be submitted to, considered and adjudicated upon by the BRPs, up to Substantial Implementation and thereafter by the Receiver for purposes of sharing in the distribution envisaged in this BR Plan.

31.3. The BRPs and the Receiver require of Creditors to submit their Claims in writing with the required supporting documentation as if such claims were claims submitted in terms of the provisions of Section 44 of the Insolvency Act.

32. CREDITORS NOT REFLECTED OR AMOUNTS DISPUTED

32.1. Creditors who do not appear on the attached list\(^{51}\) or who disagree with the amount so reflected may, for a period of 60 days after the Effective Date, submit to the BRPs or the Receiver as the case may be documentation in support of such Claim, and if acceptable to the Receiver such Claim will be added to the attached list of Creditors.

32.2. If such Claims are received and adjudicated upon by the BRPs prior to The Meeting, the attached list will be amended to reflect such Creditors for purposes of participation at The Meeting to determine the future of The Company and would upon such acceptance constitute the voting interest of such Creditor/s.

32.3. If the Claim/s of Creditor/s are received and or adjudicated by either the BRPs or the Receiver after The Meeting, the Creditor in question will have forfeited its right to participate in the Meeting, but the attached list will be amended to include such a Claim as a late Claim, as provided for herein below, in order to participate in the distribution to Creditors in terms of this BR Plan.

\(^{50}\) Annexure D
\(^{51}\) Annexure E
33. LATE CLAIMS

33.1. Creditors who, for whatever reason, do not submit their Claims to the BRPs prior to the Publication Date, may at any time after the Publication Date, and for a period of 60 days after The Effective Date, submit to either the BRPs or the Receiver documentation in support of their Claim against The Company and upon receipt and acceptance thereof by either the BRPs or the Receiver, such Claims will be considered valid and form part of the adopted Business Rescue Plan. Claims not submitted to the Receiver within 60 days the Effective Date will be deemed to have been forfeited as against The Company.

34. DISPUTED CLAIMS

34.1. As at the Commencement Date and during Proceedings The Company may have received various Claims purported to emanate either from contractual disputes or Claims for damages allegedly suffered and to the extent that the BRPs, or subsequent to Substantial Implementation by the Receiver, have rejected these Claims, The Company, the BRPs and the Receiver dispute these Claims as liabilities as against The Company.

34.2. To the extent that these disputed liabilities are for purposes of this BR Plan referred to and dealt with in this BR Plan it is done so for the sake of disclosure and in doing so neither The Company nor the BRPs admit such liabilities and hereby specifically record its continued dispute with regard to these Claims against The Company.

34.3. Upon the adoption of this BR Plan such Claims previously disputed and the rights of The Company to dispute such Claims remain unaffected by this BR Plan, except to the extent that in the event that such Disputed Claims either become settled between the parties or determined or finally liquidated in any appropriate legal forum, then such agreed or liquidated Claims will be subject to the provisions of this Business Rescue Plan and such Creditors would then be entitled to payments from The Company equal to those of the other Concurrent Creditors of The Company.

35. DISPUTE RESOLUTION MECHANISM

35.1. In respect of all or any disputes raised by either the BRPs or the Receiver on Claims submitted by any Affected Person or PCF Creditors and disputed claims for contractual damages as a result of the termination of agreements, in terms of this BR Plan, which disputes include but are not
limited to disputes on the existence or otherwise of such claim(s), on quantum of claim, security claimed by a creditor, the nature of the security, the extent and value of the security and the like ("the dispute") such dispute/s can only be resolved in accordance with the dispute mechanism outlined below.

35.1.1. This dispute mechanism will work as follows:

35.1.1.1. all Creditors who have received notification from either the BRPs or the Receiver of a dispute are to contact the BRPs or the Receiver as the case may be within 7 days of approval of this plan or from receiving such notification, whichever is the later, and to meet with him during this period in an attempt to reach agreement on the dispute.

35.1.1.2. if the creditor does not avail itself of this 7-day opportunity or if after having availed itself and the dispute is not resolved within the 7 day period, or the creditor and the BRPs (or the Receiver as the case may be) agree on alternative terms for the determination of the dispute, the creditor will be afforded a further 7 days (reckoned from the date of expiry of the first 7 days) to nominate one of the retired judges from the list below as an expert (not as an arbitrator or mediator) to preside over and to resolve the dispute. Should the creditor not make this nomination, the BRPs will do so on his/her/its behalf and this nomination will be binding on the creditor(s). The list of these retired judges is:

- E Bertelsman
- P Boruchowitz
- J. Heher
- J. Kriegler
- P. Streicher

35.1.1.3. The retired judge when nominated and who agrees to accept such appointment (hereinafter referred to as “the expert”) will endeavour to complete his mandate within 30 days of his appointment or within such further time period as the expert in his sole discretion may determine. To the extent that any expert as nominated by the creditor refuses to act or is not available to act, the creditor or, if he refuses or does not do so within three days of being requested by the BRPs to do so, the BRPs on his behalf are then obliged to choose another retired judge(s) from the above list until one such judge is available to act and is agreeable to act.

35.1.2. The expert will in his sole and absolute discretion determine:
35.1.2.1. the venue at which the dispute is to be resolved;

35.1.2.2. the rules, regulations and procedures that will govern the determination of the dispute;

35.1.2.3. the date(s) for the determination of the dispute;

35.1.2.4. will give his award / determination within 5 days of the completion of the process as determined;

35.1.2.5. 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.

35.1.3. The Creditor/s agrees that save for any manifest error the determination of the expert will be final and binding on him / her / it / The Company and the BRPs and will not be subject to any subsequent review or appeal application / procedure / process.

35.1.4. The creditor, The Company and the BRPs agree to use their utmost endeavours to ensure that the entire dispute is determined by the expert within the 30 day period as set out above.

35.1.5. Insofar as any of the provisions in this paragraph are subsequent to the Adoption Date found, by an appropriate Court of Law, to be unenforceable, it is specifically recorded that the dispute resolution mechanism contained in this Business Rescue Plan is severable from the remaining provisions of this plan.

36. DEFAULT CLAUSE:

36.1. The compromise contemplated in this BR Plan is conditional upon The Company and the Receiver collectively fully meeting the obligations to Creditors as set out in this BR Plan. In the event of any material breach by The Company of its obligations to Creditors in terms of the BR Plan not being remedied within a reasonable period of time, or in the event The Company is placed in liquidation prior to the finalisation of the DCP, then the full balance due to Creditors in terms of their original Claims against The Company shall revive and immediately become due, owing and payable by the Company to the Creditors.
37. DOMICILIAM AND NOTICES

37.1. Each Creditor is hereby deemed to have chosen domicilium citandi et executandi for all purposes arising out of or in connection with the Plan at the e-mail address stated by that Creditor in his proof of claim form, or, in the event of any Creditor not having lodged a proof of claim form, then at the Creditor’s last recorded e-mail address with The Company.

37.2. Van der Merwe and Klopper have chosen their domicilium citandi et executandi for all purposes arising out of or in connection with the Plan at e-mail address: dvandermerwe@bdo.co.za.

37.3. The Company has chosen its domicilium citandi et executandi for all purposes arising out of or in connection with the Plan at the e-mail addresses of the BRPs.

37.4. Notices dispatched by the BRPs in accordance with the BR Plan shall rebuttably be deemed to have been received by the addressee reflected on such notices on the Business Day after dispatch or transmission thereof by electronic mail or to the addressee’s domicilium citandi.

38. GENERAL PROVISIONS

38.1. Affected Persons who vote against this Business Rescue Plan are referred to the provisions of The Act in terms of which any affected person or combination of affected persons may make a binding offer to purchase the voting interest of one or more persons who opposed the adopted of the Business Rescue Plan, at a value independently and expertly, on the request of the BRPs, to be a fair and reasonable estimate of the return to that person if the business was to be liquidated.

38.2. The BRPs will retain all powers, as provided for in The Act, up to Substantial Implementation.

38.3. In the event of the failure of any condition precedent, alternatively in the event that an unforeseen factual circumstance arises, which prohibits the implementation of this BR Plan, the BRPs reserve the right to be able to provide notice of a further meeting of Creditors, and to re-convene the Creditors meeting.

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52 Section 153(1)(b)(iii) of the Act
53 Section 151 of the Act
38.4. 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.

38.5. It is specifically recorded that the provisions of paragraph 33.4 shall mutatis mutandis apply to the extension or reduction of any timeframes by the BRPs.
CERTIFICATE

We the undersigned,

LDR van Der Merwe &

JF Klopper

hereby certify that the information provided herein is accurate and projections provided herein are made on the basis of good faith based on factual information.

SIGNED AT JOHANNESBURG ON THIS 31st of August 2018

LDR van der Merwe

JF Klopper

* Original Document signed by BRPs
Introduction

Arun-Stat Sun Hotels (“the Company”) was established in 1985 by siblings Abioye and Scanite Sekibo, having inherited their grandfather’s sprawling property in the center of Chinlai, one of the world’s fastest expanding cities. Within five years they converted it into a “business tourism hotel”.

The sister and brother inherited the property in the early 1980s, a time when Nova Ghan, in common with many African countries, was shifting to a more market-based economy, and took advantage of this. Within 12 years a second hotel was purchased in the leafy suburb of St Limmington, a green oasis of Chinlai favored by expats and a focal point for a burgeoning business community. After Abioye died in 1996 Sacnite and her daughter Jacomena borrowed heavily to purchase a third abandoned property at Isle Framo on the “Turquoise Riviera”, on the west shore of the Gulf of Qasan. This was set up as Arun-Stat Sun Hotels’ first resort property, offering all-inclusive accommodation and spa and leisure package deals to domestic and foreign tourists.

By 2008 the Company had earned mixed feedback from suppliers, travel agencies and guests alike, the Chinlai-based hotels seemingly offering only “acceptable” accommodation, with many customers demanding greater service and facilities which traditional properties could not provide without a great deal of investment in both infrastructure and utilities. Several damning entries on Trip Advisor and in the African Journal of Hospitality, Tourism and Leisure severely affected booking levels in the past two years, particularly with construction work on a neighbouring property negatively impacting many of the rooms and public spaces at the property in central Chinlai.

The Properties of Arun-Stat Sun Hotels, Nova Ghan

<table>
<thead>
<tr>
<th>Property</th>
<th>Overview</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chinlai Central</td>
<td>Negative reputation with faltering services</td>
</tr>
<tr>
<td>St Limmington, Chinlai</td>
<td>Good location, with “acceptable” services</td>
</tr>
<tr>
<td>Isle Framo</td>
<td>Resort hotel on the Gulf of Qasan, with construction issues</td>
</tr>
</tbody>
</table>

Financial Information

Financial pressures on the business in 2016 and 2017 led to suppliers being paid between 120 to 180 days late after submitting invoices and many travel agents withdrew the Company’s two city-based properties from their lists of recommended accommodation.

The aged creditors list grew and, by the end of 2017, trade creditors had reached $12.41 million. Some creditors became aggressive in pursuit of the amounts owed to them. Causing the main Company backers to become nervous. There are two
principal lenders and financial backers, Africia BG Bank ("the Bank") and Tai Chai Foreign Funding ("TC"). Over a period of 13 years these two organisations issued finance to cover renovations at both the Chinlai and Isle Framo properties, as well as availing credit facilities in the form of revolving credit facilities, term loans and funded interest term loans to a total of $17.2 million.

The Company issued bonds to the bank and are contractually obliged to repay the bond value with interest within a period of six years from February 1, 2017. The interest may or may not be exempt from tax depending on a number of factors. However, the total debt remains unchanged.

You discover that financial assistance to the Company was made up of:

| $Million |
|------------------|--------|
| Revolving Credit Facilities (“RCF”) | 6.9 |
| Term Loan | 3.5 |
| Funded Interest Term Loan (“FITL”) | 2.1 |
| Bonds (“B”) | 4.7 |

The Company’s loan and financing details are as follows:

<table>
<thead>
<tr>
<th>S. No</th>
<th>Facility Details</th>
<th>A/c Number</th>
<th>Amount Outstanding as at Oct. 2019 $</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>RCF</td>
<td>33557901-A</td>
<td>5.37 million</td>
</tr>
<tr>
<td>2</td>
<td>Term Loan</td>
<td>5562121092</td>
<td>3.61 million</td>
</tr>
<tr>
<td>3</td>
<td>FITL</td>
<td>P/L-U813580</td>
<td>1.76 million</td>
</tr>
<tr>
<td>4</td>
<td>Bonds</td>
<td>6700012/HJ6</td>
<td>4.35 million</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td></td>
<td><strong>15.09 million</strong></td>
</tr>
</tbody>
</table>

A summary of the Company’s financial statements is set out below:

<table>
<thead>
<tr>
<th>$ Million</th>
<th>Y/e April 2017</th>
<th>Y/e April 2018</th>
<th>Y/e April 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Turnover (Sales)</td>
<td>17.2</td>
<td>23.6</td>
<td>18.6</td>
</tr>
<tr>
<td>Cost of Sales</td>
<td>32.0</td>
<td>34.8</td>
<td>37.1</td>
</tr>
<tr>
<td>Net Profit (Loss)</td>
<td>(14.8)</td>
<td>(11.2)</td>
<td>(18.5)</td>
</tr>
<tr>
<td>Outstanding Debtors @ Y/e</td>
<td>6.23</td>
<td>8.98</td>
<td>5.3</td>
</tr>
<tr>
<td>Outstanding Trade Creditors @ Y/e</td>
<td>4.10</td>
<td>5.72</td>
<td>12.41</td>
</tr>
</tbody>
</table>
An essential part of the investigation involves the viability of each of the Company’s three hotels. The latest information about all three properties is summarized below:

<table>
<thead>
<tr>
<th>Hotel</th>
<th>Estimated Value $</th>
<th>Charges and Lending Against Property</th>
<th>Occupancy Rate</th>
<th>Local Occupancy Rate (average)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Chinlai</td>
<td>50,000</td>
<td>2.25 million</td>
<td>14%</td>
<td>62%</td>
</tr>
<tr>
<td>St Limmington</td>
<td>7.45 million</td>
<td>5.14 million</td>
<td>46%</td>
<td>62%</td>
</tr>
<tr>
<td>Isle Framo</td>
<td>13.8 million</td>
<td>8 million</td>
<td>41%</td>
<td>74%</td>
</tr>
</tbody>
</table>

**Changing Fortunes**

In 2016 the family appointed a Chief Executive Officer, Amira Adebayo who was famed for her no-nonsense style and hard-hitting negotiation skills. She introduced an investor who took 35 percent of the equity of the Company in exchange for an unsecured loan of $3.5 million. However, from January 2017 Nova Ghan experienced some political turbulence as part of the Peoples Summer Uprising which affected large swathes of the north-east of the continent. Some of the issues the country experienced were extensively reported in the international media and this had an immediate and direct effect on both hotel occupancy rates and costs related to security.

These events coincided with an unhappy alliance at a very senior level of the Company, with squabbles at board level and clashes between the team working with Ms Adebayo and members of the Sekibo family. Two high level director resignations in 2017 and a three month default on the principal secured lending facility led to the Bank demanding a seat on the operational board.

By October 2019 the debts of the Company had accumulated to such a level that they could not be paid and there were threats by at least two major creditors that Bankruptcy proceedings were imminent.

**Appointment of Restructuring Expert**

You lead a team of Restructuring Experts appointed by the two principal lenders to the Company.

Having set up a meeting with each of the Bank and TC you discover that business has been extremely difficult since November 2016, when the Nova Ghan Central Bank floated their currency in an attempt to stabilize the country’s economy. The currency was initially devalued by 32.3 percent to about 13 Linn per dollar, down
from the previous peg of 8.8 per dollar, which had been in place since March 2016. It has fallen since, and at the present day is down by about 50 percent of the early 2016 value.

This has had a prejudicial effect on the P&L of the Company, as almost 90 percent of reservations at the two Chinlai properties have traditionally been made by Nova Ghan nationals.

Despite this the Bank’s board believes in the management and business skills of Ms Adebayo and her team, who have written a robust business plan involving immediate closure of the original property in Chinlai and adapting the two remaining properties to accommodate a reinvigorated tourist industry.

The cost of necessary renovations in Isle Framo amounted to $2.5 million, but the process was only half complete when the Company ran out of funds in early April 2019. As a consequence, one third of the hotel is uninhabitable and remains closed at a time when there has been a general uplift in bookings in both the property and the region. The manager of the resort, Jonas Gerhart, has an antagonistic relationship with two major travel agencies which previously sent a significant number of tourists to the resort. One of them has refused to deal with him and has posted some negative reviews on TripAdvisor which appears to have had a deleterious affect on business.

The resort is situated in an area renowned for its natural beauty and other resorts and hotels in the area are reported to have enjoyed increased occupancy rates in the past 12 months, whilst those at Isle Framos have decreased. The area in which the property is situated has also been affected by a number of shark attacks, one of which killed a Czech tourist swimming in the Qasan Sea. Your initial impressions are that this resort hotel will need an investment of more than $5 million to bring it to a state where it can be an asset to the group. It appears that the resort would need to be closed down for a minimum of 12 months for essential works to be completed, during which time it would have a negative impact upon the Company’s P&L.

In respect of the two properties in Chinlai, the Nova Ghan government has focused on increasing airport capacity, particularly in the region south of the city within five kilometers of St Limmington. The new Chinlai International Airport will serve major destinations on the Turquoise Riviera as well as destinations all over the Middle East, Africa and on to Europe and the Americas. On the other side of Chinlai the new Celene International Airport is opening in 2021, serving the capital towards the east.

Despite this, the property in central Chinlai is the least successful. It was closed for six months in 2018 due to vermin infestation and many of its public rooms are uninhabitable. The directors have valued the property at $50,000 and one of them has offered to purchase it from the Company.

The property in St Limmington is well positioned in the neighborhood. The suburb in southern Chinlai is known for its maze-like network of public squares as well as for
its tree-lined boulevards and well-appointed villas, although some of these have been demolished to make way for more modern buildings in recent years. Despite being part of this populous city St Limmington retains a sense of serenity and its position makes it a good choice for business travelers and tourists alike who want to visit offices and Government buildings and Nova Ghan’s famous sites respectively.

You briefly interviewed Sacnite Sekibo on the first day of your appointment and she voiced a conviction that this property is most valuable to the Company. It requires the least work to bring it up to a good standard and has the greatest potential commercial value. Two other hotel groups have made enquiries about the possibility of purchasing the property, but they were not entertained by Ms Adebayo and her team who insisted that none of the properties in the Company’s portfolio were for sale.

You are an insolvency professional and have been appointed as a Restructuring Expert in this matter. On the first day you and two members of your team spent securing a room to be used whilst you assume the role of the management team at the Company. You had three or four brief conversations from which you have gleaned the above information.

Other Issues

You also discovered:

(i) That the staff at the St Limmington property have refused to work for the past three days, complaining that they have not been paid and expressing real concern about the future of their jobs

(ii) The main boiler at the property in central Chinlai recently caught fire and caused an explosion at the premises, from which toxic fumes have been escaping

(iii) Notices have been posted by the regional government about the compulsory purchase of the property in central Chinlai. You hear that the site on which the property is located is urgently needed for the construction of a hospital as part of the federal Government’s flagship Social and Medical Care Initiative (“SAMCAI”)

(iv) Legal action by two of the Company’s main creditors has been initiated, for the recovery of moneys owed to them

(v) One of the senior members of the management team at Isle Framo has strongly suggested that the Resort Manager, Jonas Gerhart, has been receiving cash payments from contractors in exchange for allocation of contracts at the property. There is also an implication that he has been receiving salaries and other remuneration for fictitious personnel at the
resort.

(vi) On the second day of your appointment a key member of your team asks to meet with you privately. He tells you that, whilst working with a previous employer, he gave tax advice to Sacnite and Jacomena Sekiba and during the course of their meetings (between August 2016 and October 2018) discussed with them the effectiveness of Ms Adebayo, as well as giving them advice about the Company’s mounting debt issues. He says that he is informing you as he wishes to be excused from a meeting with the Chief Executive Officer as he feels there may be a clash of personalities.

**Action Points**

1. What legal and practical steps will you take as a matter of urgency in this matter?

2. In addition to the above, what meetings will you set up in the first seven days of your tenure?

   Consider the people you need to interview, the questions that need to be asked and the documentation you require them to bring to the meetings to inform and substantiate the conversations.

3. What are the potential challenges raised by point (vi) above, under ‘Other Issues’? What further information will you seek from your colleague and why? What action will you take?

4. Your partner requests a draft Restructuring Plan by the end of the week as she has a meeting with the Company’s two principal backers. Draft the backbone to this Plan, with assumptions and reasons.