



## Business Rescue Plan

Prepared in terms of section 150 of the Companies Act 71 of 2008 (as amended)

In respect of

### ARNOSTYLE (PTY) LTD

(Registration Number: 2016/075728/07)

Prepared by the business rescue practitioner Siphoniso of OPIS Advisory Proprietary Limited

Published on 5 December 2022



**Corporate Information and Advisors**

**Company**

Arnostyle Proprietary Limited (in business rescue)

**Business Rescue Practitioner**

Sipho Eric Sono

**Legal Advisor to the Business Rescue Practitioner**

Cliffe Dekker Hofmeyr Inc.

**Restructuring and Corporate Advisory**

OPIS Advisory Proprietary Limited

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## **CHAPTER 1 - INTRODUCTION**

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### **1. Important Notice and Actions to be taken by Affected Parties**

- 1.1. This document is important and is being sent to all known Affected Persons of Arnostyle (Pty) Limited in accordance with the provisions of the Companies Act 71 of 2008 (“the Act”).
- 1.2. The document contains the business rescue plan, prepared in accordance with the requirements of Chapter 6 of the Act, in particular Section 150(2) of the Act.
- 1.3. Your rights as a Creditor of the Company will be affected in the manner outlined herein and you are entitled to be present or represented, and vote, at a meeting of creditors to be convened in terms of Section 151 of the Act, for the purposes of considering the business rescue plan.
- 1.4. If any Affected Person is in doubt as to what action should be taken arising from the contents of this business rescue plan, such Affected Person is advised to consult an independent attorney, accountant or other professional advisor in addition to any consultation with or direction received from the business rescue practitioner.

### **2. Interpretation and Preliminary**

The headings of the clauses in this business rescue plan are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this plan nor any clause hereof. Unless a contrary intention clearly appears:

- 2.1. words importing:
  - 2.1.1. any one gender includes the other gender;
  - 2.1.2. the singular includes the plural and vice versa; and
  - 2.1.3. persons include natural persons, created entities (corporate and unincorporated and

the State) and vice versa.

2.2. In this plan, the following words shall have the meanings ascribed to them and cognate expressions shall have a similar meaning:

2.2.1. **“Act”** or **“Companies Act”** means the Companies Act 71 of 2008 (as amended), including the regulations promulgated thereunder;

2.2.2. **“Adopted”** and/or **“Adoption”** means that a business rescue plan has been approved in accordance with section 152(2), read with sub-sections 3(b) and 3(c)(ii)(aa) of the Act;

2.2.3. **“Advisor”** means advisor to the BR Practitioner and/or the Company, including the employees of the advisor(s);

2.2.4. **“Affected Persons”** shall bear the meaning ascribed thereto in section 128(1)(a) of the Act and in relation to the Company means shareholders, creditors, employees of the Company and any registered trade union representing employees of the Company;

2.2.5. **“Bingo Licence”** or **“Licence”** means, the Bingo operator licence with reference number 9-2-1-09576 as issued by the Mpumalanga Economic Regulator (as referred to as “Mpumalanga Gambling Board”) to the Company in terms of the Mpumalanga Gambling Act, 5 of 1995 (as amended).

2.2.6. **“Board”** means the board of directors of the Company as at the Commencement Date;

2.2.7. **“BR Plan”** means this business rescue plan together with all its annexures, prepared and published by the BR Practitioner for consideration and possible adoption by Creditors in accordance with Part D of Chapter 6 of the Act;

2.2.8. **“BR Practitioner”** or **“BRP”** means the business rescue practitioner of the Company appointed in terms of the provisions of section 129 (3)(b), being Siphon Sono;

2.2.9. **“Business Day”** means any day which is not a Saturday, Sunday or public holiday in the Republic of South Africa;

2.2.10. **“CIPC”** means the Companies and Intellectual Property Commission of South Africa, established by section 185 of the Act;

2.2.11. **“Claims”** means the secured, statutory, preferent or concurrent claims of Creditors of the

Company, irrespective of when the cause of action arose, including claims, actual and contingent, prospective, conditional and unconditional, liquidated or unliquidated, assessed or unassessed, whether or not due for payment or performance, including for the avoidance of any doubt all claims arising out of any agreements entered into by the Company, all such claims to be determined, calculated and admitted as secured, statutory preferent or concurrent in accordance with the same ranking as envisaged by the Insolvency Act, and attached to them upon the issue of a winding-up order against the Company, whether or not such claims are proved;

- 2.2.12. "**Cliffe Dekker Hofmeyr**" or "**CDH**" means Cliffe Dekker Hofmeyr Incorporated, a firm of attorneys practicing as such at 1 Protea Place, Sandown;
- 2.2.13. "**Commencement Date**" means 10 October 2022, being the date on which the Proceedings commenced in terms of section 132 (1)(a)(i) of the Act;
- 2.2.14. "**Commencement Date Creditors**" means Creditors with Claims against the company as at the Commencement Date;
- 2.2.15. "**Company**" or "**Arnostyle**" means means Arnostyle Proprietary Limited with registration number 2016/075728/07, incorporated as a private company in accordance with the laws of the Republic of South Africa, herein duly represented by the BR Practitioner;
- 2.2.16. "**Contingent Claims**" means, as the context may require, a Claim that may or may not become due and payable during the Proceedings depending on the occurrence of a future event or determination of the claim;
- 2.2.17. "**Creditors**" and/or "**Concurrent Creditors**" and/or "**Pre-commencement Concurrent Creditors**", as the context may require, means Commencement Date Creditors or all persons, including legal entities and natural persons, having unsecured claims against the Company;
- 2.2.18. "**Creditors Committee**" means the committee formed in terms of section 145(3) of the Act;
- 2.2.19. "**Disputed Claim**" means any Claim, or part thereof, that is disputed by the Company and not recorded as a Claim in this BR Plan;
- 2.2.20. "**Disputed Creditor**" means a person with a Disputed Claim, alleging to be a Creditor for

an amount higher than is reflected in this BR Plan, alleging to be a Secured/Preferent Creditor contrary to what is reflected in this BR Plan, or disputing the value of their security as reflected in this BR Plan;

- 2.2.21. **“Employees”** means all employees of the Company that are in its employ;
- 2.2.22. **“Employee Representatives Committee”** means the committee formed in terms of section 144(3)(c) of the Act;
- 2.2.23. **“Great Bingo”** is the trade name that the Company uses to operate its business;
- 2.2.24. **“Insolvency Act”** means the Insolvency Act 24 of 1936 (as amended);
- 2.2.25. **“LRA”** means the Labour Relations Act 66 of 1995 (as amended);
- 2.2.26. **“Mpumalanga Economic Regulator”** means the regulatory authority overseeing the issuing of gambling licences. The Mpumalanga Gambling Board and the Mpumalanga Liquor Authority officially merged on 16 October 2017 to form the Mpumalanga Economic Regulator;
- 2.2.27. **“Management”** means pre-existing members of the Company’s management and board as at the Commencement Date;
- 2.2.28. **“Month”** means –
- in reference to a number of months, from a specific date, a period commencing on that date to the immediately preceding day on the same date of any subsequent month; and
- in any other context, a month of the calendar, that is, one of the 12 months of the calendar,
- and **“Months”** and **“Monthly”** has a corresponding meaning;
- 2.2.29. **“Moratorium”** means the automatic and general moratorium, as contemplated in Section 133(1) of the Act, on legal proceedings, including enforcement action, against the Company, or in relation to any property belonging to the Company, or lawfully in its possession;
- 2.2.30. **“OPIS”** means OPIS Advisory Proprietary Limited registration number 2007/012055/07, incorporated as a private Company in accordance with the laws of South Africa;

- 2.2.31. **"PCF"** means post commencement finance as defined in section 135 of the Act;
- 2.2.32. **"Poppy Ice"** means Poppy Ice Trading 18 Proprietary Limited with registration number 2007/000899/07, incorporated as a private company in accordance with the laws of the Republic of South Africa;
- 2.2.33. **"Post Commencement Claims"** means the secured, statutory preferent or unsecured claims of creditors of the Company, the cause of action in respect of which arose after the Commencement Date, including claims, actual and contingent, prospective, conditional and unconditional, liquidated or unliquidated, assessed or unassessed, whether or not due for payment or performance, including for the avoidance of any doubt all claims arising out of any agreements entered into by the Company after the Commencement Date, all such claims to be determined, calculated and admitted as secured, statutory preferent or unsecured in accordance with the same ranking as envisaged by the Insolvency Act, and attached to them upon the issue of a winding-up order against the Company, whether or not such claims are proved;
- 2.2.34. **"Post Commencement Period"** means the period from the day immediately succeeding the Commencement Date up to and including the Substantial Implementation Date;
- 2.2.35. **"Preferent Creditor"** means, as the context may require, a Commencement Date Creditor or a Post Commencement Claim, that would rank in whole or in part as a statutory preferent claim as defined in section 2 of the Insolvency Act;
- 2.2.36. **"Proceedings"** means the business rescue proceedings of the Company that
- 2.2.37. **"SARS"** means the South African Revenue Services;
- 2.2.38. **"Secured Creditor"** means, as the context may require, a Creditor whose Claim would rank in whole or in part as a secured claim as defined in section 2 of the Insolvency Act;
- 2.2.39. **"Shareholder"** means the shareholder of the Company at the Commencement Date;
- 2.2.40. **"Substantial Implementation Date"** means the date on which the BR Practitioner files a notice with the CIPC in accordance with the requirements of section 152 (8) of the Act and as further articulated in clause 7.2;



- 2.2.41. **“Tsogo Sun”** or **“the buyer”** means Tsogo Sun Group, a South African gaming, hotels and entertainment group that operates 15 casinos and 24 Galaxy Bingo sites, amongst others;
- 2.2.42. **“Unsecured Creditors”** means a Commencement Date Creditor or a Creditor with a Post Commencement Claim, as the context may require, which is not a Secured Creditor or Preferent Creditor;
- 2.2.43. **“VAT”** means value-added tax in terms of the Value-Added Tax Act 89 of 1991; and
- 2.3. Any reference to:
- 2.3.1. a “clause” shall, subject to any contrary indication, be construed as a reference to a clause in this plan.
- 2.3.2. “law” shall be construed as any law (including common or customary law), or statute, constitution, degree, judgment, treaty, regulation, directive by-law, order or any other legislative measure of any government, supranational, local government, statutory or regulatory body or court.
- 2.3.3. a “person” shall be construed as a reference to any person, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality, of two or more of the foregoing).
- 2.4. If any provision in a definition is 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 were a substantive provision of this BR Plan.
- 2.5. Unless the context dictates otherwise, an expression which denotes any gender includes both the others; and to a natural person includes an artificial person and to the singular includes the plural, and vice versa in each case.
- 2.6. The annexures to this BR Plan form an integral part hereof and words and expressions defined in this plan shall bear, unless the context otherwise requires, the same meaning in such annexures.
- 2.7. When any number of days is prescribed in this BR Plan same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a Business Day, in which the last day shall be the next succeeding Business Day.

- 2.8. In the event that the day for payment of any amount due in terms of this arrangement shall fall on a day that is not a Business Day, the relevant date shall be the immediately succeeding Business Day.
- 2.9. Where any term is defined within the context of any particular clause in this BR Plan, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the same meaning as ascribed to it for all purposes in terms of this BR Plan, notwithstanding that the term has not been defined in the definitions clause.
- 2.10. Any reference in this BR Plan to an enactment is reference to that enactment as at the BR Commencement Date and as amended or re-enacted from time to time.
- 2.11. Words and expressions defined in the Act which are not defined in this BR Plan shall have the same meanings in this BR Plan as those ascribed to them in the Act.
- 2.12. Save where the contrary is indicated, any reference to this BR Plan shall be construed as a reference to this BR Plan as it may have been, or may from time to time be, amended, varied, novated or supplemented in terms of the Act.
- 2.13. Whilst every effort has been made to present an accurate and complete overview of the affairs of the Company the BR Practitioner has not independently verified all of the information contained herein. None of the BR Practitioner, the Company nor their respective affiliates, employees, officers, directors or agents make any representations or warranties (express or implied) as to the accuracy or completeness of the information contained in this BR Plan or any statements, estimates or projections contained herein. Consequently, none of those parties will have any liability for the recipient's use of the information contained herein. This BR Plan will include certain statements, estimates and projections.

### **3. Structure of the Business Rescue Plan**

For the purposes of section 150(2) of the Companies Act, this BR Plan is divided into 3 parts as follows:

#### **3.1. Chapter 1 - Introduction**

This chapter sets out general information about the BR Plan, including the structure of the BR Plan and with whom Affected Persons should engage for independent advice.

#### **3.2. Chapter 2 – Business Rescue Proposal**

This chapter provides the detailed proposal, set out in the form required by the Companies Act.

##### **3.2.1. Part A - Background**

This part sets out the background to the Company, the circumstances that resulted in the Company's financial distress and an overview of the Proceedings.

##### **3.2.2. Part B - Terms of the Proposal**

This part describes the terms of the BR Plan and includes, inter alia, the benefits, for Affected Persons, of adopting the BR Plan as opposed to the Company being placed into liquidation.

##### **3.2.3. Part C – Assumptions And Conditions**

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

#### **3.3. Chapter 3 - General**

This chapter sets out certain administrative and general matters pertaining to the Proceedings and the BR Plan.

#### **3.4. Chapter 4 – Conclusion and the BRP's Certificate**

The chapter contains the BRP's recommendation and the certificate that is required to accompany each business rescue plan in terms of the Companies Act.

**4. Notifications**

- 4.1. Insofar as possible, notice has been given to the Affected Persons, in terms of the Companies Act and the Regulations thereto, that the Company has been placed under the Proceedings and placed under the control and supervision of the BR Practitioner, in accordance with the Companies Act.
- 4.2. In terms of section 132(3) of the Companies Act, a company whose business rescue proceedings have not ended within three months after the start of those proceedings, or such longer time as the court, on application by the practitioner, may allow, the practitioner must:
  - 4.2.1. prepare a report on the progress of the business rescue proceedings, and update it at the end of each subsequent month until the end of those proceedings; and
  - 4.2.2. deliver the report and each update in the prescribed manner to each affected person, and to the court, if the proceedings have been the subject of a court order; or the Commission, in any other case.
- 4.3. If these Proceedings have not ended within three months from Commencement, the BR Practitioner will prepare and file the progress reports in accordance with clause 4.2.

## CHAPTER 2 – BUSINESS RESCUE PROPOSAL

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### 5. Part A – Background Information

#### 5.1. Corporate and shareholding structure

5.1.1. Phelelani Percy Shabalala is the sole shareholder of Arnostyle;

5.1.2. The authorised share capital of the Company comprises of 1 000 ordinary par value shares of R1.00 each;

5.1.3. The issued share capital of the Company comprises of 100 ordinary par value shares of R1.00 each.

#### 5.2. Directors and Officers

5.2.1. As at the Publication Date, the directors and officers of the Company were as follows:

Name of Director	Designation	Status	Date Appointed
Phelelani Percy Shabalala	Executive	Active	02/03/2016

### 5.3. **Company Information at Commencement Date**

- 5.3.1. Financial year end: 31 March
- 5.3.2. Registered address: 11 Liberty Street  
Steiltes, Nelspruit  
Mpumalanga 1200
- 5.3.3. Business address: 24 Jerepico Street  
Mbombela, Nelspruit  
Mpumalanga 1200
- 5.3.4. Postal address: P.O. Box 12712  
Steiltes, Nelspruit  
Mpumalanga 1200
- 5.3.5. Auditors: HP Audit Chartered Accountants  
76 Lynburn Road  
Lynnwood Manor  
Pretoria, SA

### 5.4. **Company Background**

- 5.4.1. Arnostyle was incorporated on 2 March 2016 and commenced operations on 18 October 2017.
- 5.4.2. The Company operates a bingo business which consist of electronic bingo gaming terminals, restaurants and sports bars.
- 5.4.3. The Company trades under the business name “Great Bingo”, a trade name which is also used by Poppy Ice which operates similar businesses in Ladysmith and Vryheid. Although the businesses share common ownership, there is no cross-shareholding between Arnostyle and the aforementioned sister company (Poppy Ice).
- 5.4.4. The Company’s Bingo operations are regulated by the Mpumalanga Economic Regulator.
- 5.4.5. The Company is owned 100% by Mr Phelelani Percy Shabalala.

5.4.6. As at Commencement Date the Company operated its business in Mbombela (previously Nelspruit);

5.4.7. It has a staff complement of 10 employees.

5.4.8. Arnostyle generated gaming revenue of R1.7 million for the first six months of 2023 financial year and incurred a net loss of R3.4 million during the same period compared to gaming revenue of R3.7 million and a net loss R4.7 million for the whole year during the previous financial year (FY2022);

## **5.5. Reasons for the Financial Distress of the Company**

5.5.1. In March 2020 the government of the Republic of South Africa declared a national state of disaster due to the global Covid-19 pandemic. This placed the entire country on hard lock-down. The gaming industry was one of the most severely impacted of all the industries. The national state of disaster which lasted for a period of 2 years was ultimately lifted in April 2022. Restrictions thereafter continued until June 2022 when the last of the restrictions were lifted. The gaming industry was one of the last industries allowed to re-open its doors in terms of the Covid-19 restrictions and regulations.

5.5.2. Arnostyle's business, like many of the gaming businesses, was directly and severely affected by the aforementioned trading restrictions for a period of over 2 years. Most revenues are generated during the evening trade and highly dependent on the number of people allowed in the venues. Business revenues dropped to less than 50% of pre-Covid revenues with creditors also accumulating over the 2 year period.

5.5.3. Even after Covid restrictions were lifted, the company never fully recovered. Post Covid, the business continues to have insufficient cash resources for marketing and to keep levels of customer satisfaction to that of pre-Covid levels which has resulted in revenues not recovering to pre-Covid levels.

5.5.4. The Company has attempted to decrease costs by reducing staff costs and operational expenditure. The cost reductions have, however, been insufficient to offset the more than 50% decrease in revenues compared to the pre-Covid period.

5.5.5. Attempts to raise debt funding to support the operations have also not succeeded due to the company's already high gearing levels and challenging trading conditions.

5.5.6. The aforesaid factors resulted in the Company becoming financially distressed and accordingly the Board of Directors resolved to place the Company in business rescue.

5.5.7. The highlighted financial difficulties notwithstanding, the Company's Board is of the view that there remains a reasonable prospect of rescuing the Company and/or if it is not possible for the Company to continue in existence, there exists a reasonable prospect that the business rescue will result in a better return for the Company's creditors and/or shareholder, than would result from immediate liquidation. As a result thereof, on 4 October 2022, the Board of Directors of the Company passed a resolution for the Company to be placed under business rescue in terms of Section 129 of the Companies Act.

The Company has embarked on a process to sell its bingo licence and utilise the proceeds to settle creditors. The sale of the licence has been approved by the Mpumalanga Economic Regulator.

#### 5.6. Business Rescue Timeline

EVENT	DATE
Directors' resolution passed to commence Proceedings	4 Oct 22
Resolution of directors filed with CIPC	6 Oct 22
Commencement of business rescue	10 Oct 22
Notice of commencement of Proceedings published	18 Oct 22
Appointment of BR Practitioner	31 Oct 22
Notice of appointment of BR Practitioner published	31 Oct 22
Notice of first meeting of creditors published	4 Nov 22
First meeting of creditors held	14 Nov 22
First meeting of employee representatives held	14 Nov 22
Last date to publish the BR Plan	5 December 2022

#### 5.7. Management Control

5.7.1. In terms of section 140(1)(a) of the Act, the BR Practitioner took over full management control of the Company in substitution for its Board and pre-existing management, but as he was entitled to do, the BR Practitioner delegated certain functions to pre-existing senior management of the Company, as well as the Board where considered appropriate.



5.7.2. The BR Practitioner has paid particular attention to the functions entailing the administration of the affairs of the Company and to protect its assets, to ascertain the viability of the Company and to ascertain whether the Company could be rescued or whether it was necessary to dispose of certain of the Company's assets to achieve a better dividend for Creditors in business rescue as compared to the dividend that would accrue to Creditors in a liquidation.

**5.8. Tax Affairs**

5.8.1. At the date of publication the Company is up to date with all its submissions of tax returns to SARS in respect of all taxes including for Income Tax, VAT and employment taxes.

5.8.2. The following taxes are due to SARS:

VAT in the amount of R815,396 and employees tax in the amount of R96,201

It is unlikely that there would be any Income Tax liability due by the Company as it has incurred tax losses since it started operating.

## 5.9. Historical Financial Information

The Company's historic financial position is set out below:

	Sept 2022	March 2021	March 2020	March 2019
	Unaudited	Audited	Audited	Audited
	R	R	R	R
<b>Assets</b>				
Property, Plant & Equipment (PPE)	5 318 290	6,460,649	8,587,426	4,483,448
Loan to group companies	-	15,461	72,954	3
Inventories	36 409	56,061	81,781	119,284
Trade and other receivables	-	672,306	919,130	96,533
Deferred tax assets	478 992	478,992	585,549	2,404,616
Cash and cash equivalents	87 798	74,062	92,136	185,119
<b>Total Assets</b>	<b>5 921 489</b>	<b>7,757,531</b>	<b>10,338,976</b>	<b>7,289,003</b>
<b>Equity and liabilities</b>				
Shareholders' equity	(28 687 615)	(19,934,523)	(15,187,547)	(7,365,433)
Shareholder's loan	2 406 355	3,053,920	3,441,202	3,604,640
Finance lease obligations		10,835,552	10,336,364	-
Loans from related parties	23 989 418	7,973,646	7,195,117	8,303,168
Provisions	594 710	197,094	154,869	-
Trade and other payables	6 803 225	5,509,929	4,301,245	2,688,518
VAT	815 396	-	-	-
Bank overdraft	-	121,913	97,726	58,110
<b>Total Equity and Liabilities</b>	<b>5 921 489</b>	<b>7,757,531</b>	<b>10,338,976</b>	<b>7,289,003</b>

**Notes**

- 5.9.1. The Company's liabilities exceed its assets. This has been the case since the Company commenced its operations in 2017 due to a slow take off of its operations and the situation was exacerbated by the Covid-19 impact in 2020 and 2021;
- 5.9.2. PPE mainly comprises of leased gaming and security equipment which is owned by 3rd parties;
- 5.9.3. The company does not have debtors as it does not conduct its business through credit;
- 5.9.4. The company does not have a bank overdraft facility;
- 5.9.5. Cash and Cash Equivalents comprises of cash on hand and deposits;
- 5.9.6. Finance lease obligations relates to leased gaming equipment;
- 5.9.7. Shareholders and related party loans which constitute a substantial component of creditors are owed to the sole shareholder of the Company, and its related company Poppy Ice. Both loans have been subordinated in favour of other creditors.

The Company's historical financial performance is set out below:

	6 Months To Sept 2022 Unaudited R	12 Months To March 2021 Audited R	12 Months To March 2020 Audited R	13 Months To March 2019 Audited R
<b>Revenue</b>	1,916,343	4,511,458	6,785,503	6,961,846
Gaming	1,719,517	3,695,053	5,186,299	5,479,651
Food & beverages	196,826	816,405	1,599,204	1,482,195
Cost of sales	(1,011,008)	(1,694,743)	(4,395,174)	(3,849,889)
<b>Gross profit</b>	<b>905,335</b>	<b>2,816,715</b>	<b>2,390,329</b>	<b>3,111,957</b>
Other income	-	558	92,235	3,733
Operating expenses	(2,978,238)	(4,700,880)	(4,908,658)	(5,896,960)
<b>Operating loss</b>	<b>(2,072,903)</b>	<b>(1,883,607)</b>	<b>(2,426,094)</b>	<b>(2,781,270)</b>
Depreciation	(1,319,064)	(2,126,777)	(3,081,334)	(2,342,137)
Net finance costs	-	(630,036)	(495,622)	54
<b>Profit/loss before taxation</b>	<b>(3,391,967)</b>	<b>(4,640,420)</b>	<b>(6,003,050)</b>	<b>(5,213,353)</b>
Income tax expense	-	(106,556)	(1,819,065)	1,222,848
<b>Loss for the year</b>	<b>(3,391,967)</b>	<b>(4,746,976)</b>	<b>(7,822,115)</b>	<b>(3,990,505)</b>

## Notes

5.9.8. The Company's financial performance has been under pressure over the years because of the slow take-off of its operations since it commenced operations in 2017. This was exacerbated by the Covid-19 impact in 2020 and 2021 as the company continued to incur expenses even when it was not generating any revenue during the height of Covid and the lockdown period. The Company has not been able to recover post Covid lockdown.

**5.10. Status of Trading During the Post Commencement Period**

5.10.1. The Company was trading at the commencement of business rescue and continued to trade until operations ceased on 30 November 2022 following termination of the lease.

5.10.2. The Company had in any case sustained losses since its inception in 2017 and had been unsuccessful at all attempts to recover to pre-covid levels which included restructuring of operations or to bring onboard an investor to inject the working capital required to sustain the trading operations of the Company.

5.10.3. The Company concluded an agreement for disposal of its bingo licence to a credible and renowned investor in the sector, Tsogo Sun ("Sale Agreement"). The sale was approved by the Mpumalanga Economic Regulator on 30 November 2022.

5.10.4. It is therefore the BR Practitioner's view that the sale of the bingo licence will achieve a better dividend for Creditors in Business Rescue compared to the dividend that would accrue to Creditors and Employees in a liquidation.

5.10.5. Based on the sale of the licence, the Company will be in a position to pay a dividend that would achieve a better result for the Creditors and Employees than would be the case in a liquidation. The probable dividend emanating from this scenario is set out in **Annexure C**.

5.10.6. The probable dividend in case of liquidation is set out in **Annexure B**.

**5.11. Creditors**

5.11.1. The Company's known Creditors as at Commencement Date are set out in **Annexure A** hereto, and in aggregate amounted to R5,6 million, all of which are unsecured.

5.11.2. Amounts payable in respect of Shareholder Loans of R2,4 million and related parties amounting to R24 million have been sub-ordinated in favour of other creditors.

5.11.3. There are currently no Disputed Claims but the BR Practitioner reserves the right to dispute any Claim at any time during the BR proceedings.

5.11.4. There are currently no Contingent Claims that have come to the attention of the BR Practitioner.

## 5.12. Material Assets and Security

5.12.1. The material assets of the Company as at 30 September 2022 comprised:

Description	Book Value
	R
Property, plant and equipment	R5,318,290
Inventories	R36,409
Other (including cash on hand and deposits)	R87,798
<b>Total (excluding the possible sale of Bingo Licence)</b>	<b>R5,442,497</b>

5.12.2. At Commencement Date none of the assets of the Company were subject to any security arrangements. However, over 80% of the above assets comprises PPE with a book value of over R4.3 million that belongs to 3<sup>rd</sup> parties, particularly in respect of Gaming Equipment and Security Equipment.

5.12.3. The BR Practitioner does not expect to realise any material amount from the possible sale of the remaining assets. For the purpose of calculation of the dividend, the BR Practitioner has estimated to receive Rnil for the possible sale of assets.

5.12.4. Based on the current sale process of the Company's Bingo Licence, the net proceeds expected to be realised from the sale of the licence are in the amount of R10 million.

## 5.13. Probable Liquidation Dividend

5.13.1. The probable liquidation dividend is as set out in **Annexure B**.

## 5.14. Creditors Committee

5.14.1. Section 145(3) of the Act provides that the creditors of a company are entitled to form a Creditors' Committee, and through that committee are entitled to be consulted by the business rescue practitioner during the development of the business rescue plan.

5.14.2. At the first meeting of creditors held in terms of section 147 of the Companies Act, the Creditors of the Company decided not to form a Creditors' Committee as the only viable plan in business rescue was the sale of the licence and that process was awaiting approval by the regulatory body.

**5.15. Engagement with Creditors**

5.15.1. The BR Practitioner has dealt with queries from various Creditors, pertaining to their individual claims as and when necessary.

5.15.2. It came to the attention of the BR Practitioner that some contracts, namely the property lease and the the bingo machine leases, were concluded in Poppy Ice and therefore those creditors are creditors of Poppy Ice and not of Arnostyle.

**5.16. Investigation of the Affairs of the Company**

5.16.1. In terms of section 141(1) of the Act, the business rescue practitioner is required to investigate the affairs, business, property, and financial situation, and after doing so, consider whether there is any reasonable prospect of the company being rescued.

5.16.2. Furthermore, if in the course of such an investigation, a business rescue practitioner concludes that there is evidence of misconduct as contemplated in section 141(2)(c) of the Companies Act, then the business rescue practitioner must forward that evidence to the relevant authorities for further investigation and direct the management of the company to take any necessary steps to rectify the matter.

5.16.3. The BR Practitioner has carried out the investigations contemplated in section 141(1) for the specific purpose of determining whether there are reasonable prospects, and has concluded that there are indeed reasonable prospects of the Company being rescued in the manner dealt with in this BR Plan.

5.16.4. With regards to misconduct contemplated in section 141(2)(c), the BR Practitioner has not come across any evidence of reckless trading, fraud or voidable transactions that occurred in the last 12 months.

**5.17. Moratorium**

5.17.1. The moratorium imposed by section 133 (as read with section 150(2)(b)(i)) of the Companies Act prohibits any legal proceedings, including enforcement action, against the Company, or in relation to any property belonging to the Company or lawfully in its possession, from being commenced or being proceeded with for the duration of the Proceedings.

5.17.2. This means that Creditors will not be able to take action against a Company for non-payment of debts during the Proceedings.

5.17.3. In the current circumstances, the moratorium in relation to the Company commenced on the BR Commencement Date and will remain in place until the BR Practitioner files a notice of Substantial Implementation of the BR Plan with the CIPC.

**5.18. Conversion of Claims to Equity**

5.18.1. There are no claims that will be converted to equity.

**5.19. Creditors Voting Interest**

5.19.1. A Creditor has a voting interest equal to the value of the amount owed to that Creditor by the Company on the date of the commencement of business rescue.

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

5.19.3. A Creditor that has a Disputed Claim or a Contingent Claim, will only be allowed to vote to the extent of the undisputed or non-contingent portion of their claim. For the avoidance of doubt, this will not affect the final distribution to such Creditors as the quantum of their Claims will be finalised mutually between the parties or through the dispute resolution mechanism as set out in clause 9.

5.19.4. All liquid proven Claims, including Contingent and suretyship or guarantee Claims will be allowed to vote if the claim has been accepted and approved by the BR Practitioner. The decision of the BR Practitioner in this regard will, subject to any manifest error, be final and binding on the Creditor concerned.

5.19.5. If the value of a Claim of a Commencement Date Creditor has reduced since Commencement Date, that Creditor's voting interest will be the amount of the Claim as at Publication Date.

**5.20. Fee Agreement**

5.20.1. The BR Practitioner's remuneration is at the hourly tariff for a small company based on Business Rescue Plan



the Company's public interest score at the Commencement Date.

- 5.20.2. A company is regarded as a small company if its public interest score is below 100.
- 5.20.3. The public interest score of the Company, calculated in terms of Regulation 26(2) of the Companies Act, was 52 points at Commencement Date.
- 5.20.4. Regulation 128 of the Companies Act sets out the hourly tariffs that a practitioner is entitled to charge, in accordance with section 143(1). The hourly tariff applicable for small companies is R1250 (including VAT).
- 5.20.5. To date, the BR Practitioner has charged out his time at the prescribed tariff rates set out in regulation 128 of the Act for a small company.
- 5.20.6. The BR Practitioner does not propose additional remuneration and, accordingly, there is no need to conclude a separate remuneration agreement.

**5.21. Proposals Made Informally by a Creditor**

- 5.21.1. This BR Plan does not include any informal proposals made by a Creditor of the Company.

**5.22. Voting by Proxy**

- 5.22.1. Voting by proxy will be allowed as long as the form of proxy attached to the Notice of the Meeting is lodged with the BR Practitioner in terms of section 152 of the Companies Act.
- 5.22.2. All forms of proxy given on behalf of a company, a legal entity or a trust must be accompanied by a valid and duly authorised resolution supporting the appointment of the signatory to the proxy.

**5.23. General**

- 5.23.1. There will be no resumption of Arnostyle operations. The bingo licence is being sold and the lease for the premises has been terminated by the landlord.

## **6. Part B – Terms of the Proposal**

### **6.1. Objective of the Proposal**

6.1.1. The main objective of business rescue, as set out in section 128(1)(b)(iii) of the Act, is to develop and implement a plan that either:

6.1.1.1. rescues the Company by restructuring its affairs, business, property, debt and other liabilities, and equity in a manner that maximises the likelihood of the Company continuing in existence on a solvent basis (“**Primary Objective**”); or

6.1.1.2. if the aforementioned is not possible, results in a better return for the Company’s creditors or shareholders than would result from the immediate liquidation of the Company (“**Secondary Objective**”).

6.1.2. The proposal set out in this BR Plan seeks to achieve the Secondary Objective of business rescue, as indicated herein.

6.1.3. The main proposal is as outlined below.

### **6.2. Rescue Process**

6.2.1. Based on the deep financial distress of the Company, the affairs of the Company cannot be restructured to maximise likelihood of it continuing on a solvent basis. The bingo licence was therefore sold to Tsogo Sun. It is therefore not possible for the BR Practitioner to propose a BR Plan that preserves the operations of the Company.

6.2.2. This plan proposes that the Company ceases to operate. The Company may have to be wound-up or deregistered, once the BR Plan has been fully implemented.

### **6.3. Liquidation**

6.3.1. In the event that the process to sell the bingo licence is unsuccessful, the Proceedings will be converted into an immediate liquidation.

6.3.2. The resultant Liquidation Dividend for Unsecured Creditors is likely to be Rnil cents in the Rand in the case of a forced sale liquidation realisation of the assets.

**6.4. Property Available to Pay Creditors Claims**

6.4.1. Creditors will be paid from the proceeds of the bingo licence sale.

6.4.2. The following property is available to pay creditors' claims:

Cash proceeds from the sale of tangible assets	RNil
Expected net proceeds from sale of licence	10,000,000
<b>Cash available for settlement of creditors</b>	<b>R10,000,000</b>

6.4.3. In the event of a liquidation, Creditors will not receive a dividend but those that prove their claims would be liable for a contribution.

**6.5. Effect of the Proposal on Concurrent Creditors**

This BR Plan proposes the following:

6.5.1. The available cash of R10 million, from the sale of the Bingo Licence be applied to settle BR Claims and pay any applicable BR costs.

6.5.2. The BR Practitioner anticipates that the proceeds from the sale of the Bingo Licence will be sufficient to fully settle all Preferent and Unsecured Creditors, excluding the subordinated claims, that will share the residue remaining after payment of Preferent and other Unsecured Creditors.

6.5.3. Based on the indicative BR Dividends calculation per **Annexure C**, which is based on the assumption that Tsogo Sun will make payment for the purchase, the BR Practitioner anticipates that the expected dividend of approximately 100 cents to the Rand is paid to creditors, provided that:

6.5.3.1. the conditions precedent to the Sale Agreement has been met; and

6.5.3.2. there are no material claims that become proved between the date of publication of the BR Plan and Substantial Implementation Date.

**6.6. Effect of the Proposal on fixed asset suppliers**

6.6.1. The Company terminated operations effective 30 November 2022 per the lease termination date.

6.6.2. Suppliers with equipment installed at Arnostyle have been requested to remove their equipment between 1 December 2022 and 10 December 2022 per the period the landlord has afforded the Company to vacate the premises.

6.6.3. Where applicable, suppliers will be requested to adjust their claims accordingly to reflect any value of the reclaimed equipment.

**6.7. Effect of the Proposal on the Employees of the Company**

6.7.1. The Company terminated operations effective 30 November 2022 per the lease termination date.

6.7.2. The employees have been advised to stay at home from 1 December 2022 and await the conclusion of the proceedings. The employees have in any event been paid their full salaries.

6.7.3. The Company will not be resuming operations and it is therefore necessary that the Company retrenches its entire workforce.

6.7.4. This BR Plan therefore contemplates that all Employees of the Company will be retrenched.

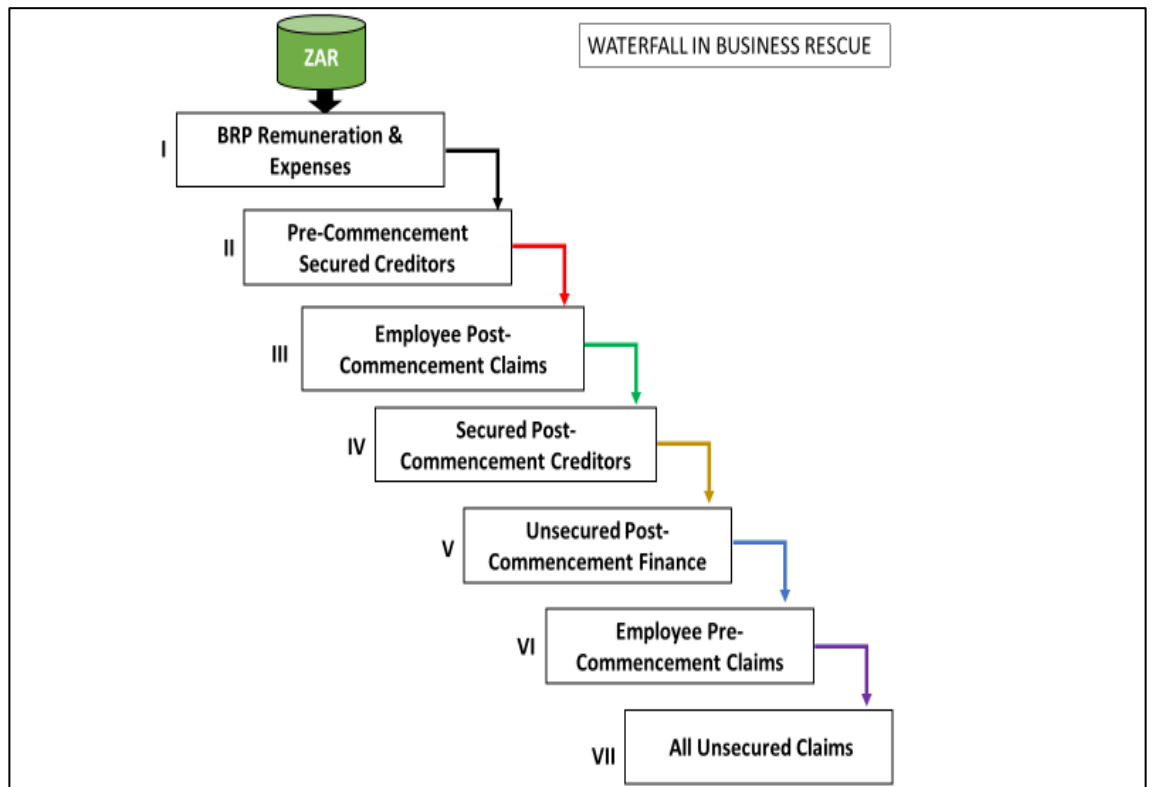
6.7.5. It is proposed that the Company will issue notices in terms of section 189(3) to all Employees.

6.7.6. The issuance of the section 189(3) notices will be the first step in a statutory consultation process which, it is envisaged, will commence after the adoption of the Business Rescue Plan as part of the implementation of the Business Rescue Plan to ensure that the retrenchment process is concluded expeditiously.

6.7.7. The Company and the consulting parties will hold consultation meetings as scheduled.

**6.8. Order of Distribution**

6.8.1. In terms of the Companies Act, Creditors are to be paid the amounts to be distributed in the following order of priority (to the extent that there are funds available to pay all categories of Creditors in terms of the waterfall below):



6.8.2. This BR Plan proposes that the cash that is available for distribution to the creditors be applied as follows:

<b>Cash Available for Distribution</b>	<b>R10 000 000.00</b>
Less: BRP Remuneration & Legal Expenses	R600 000
	<hr/>
	R9 400 000
Less: Employee Post-Commencement Claims	R200 000
	<hr/>
Available for settlement of "Unsecured Creditors"	R9 200 000
Less: Unsecured Creditors (Detailed List in Annexure A)	R5 649 004
	<hr/>
<b>Cash Available for Subordinated loans</b>	<b>R3 550 996</b>

6.8.3. Based on the expected net cash proceeds from the sale of the Bingo Licence, the BR Practitioner expects that the claims of both the Preferent and Unsecured Creditors will be settled in full.

6.8.4. The probable dividend which Creditors should receive, in their respective classes, as a result of the adoption of the BR Plan will therefore be as follows:

Class	Dividend
Employee Claims during business rescue	100 cents
Unsecured BR-Commencement Creditors	100 cents

## 6.9. Discharge of Debts and Claims

- 6.9.1. If the BR Plan is Adopted and implemented in accordance with its terms and conditions as set out in the rescue process, all Claims (excluding the SARS Claim, which will be compromised through settlement/expunged) will not be compromised.
- 6.9.2. If the BR Plan is Adopted and implemented in accordance with its terms and conditions as set out in the rescue process, Creditors will be deemed to have acceded to the discharge of the whole or part of a debt owing to that Creditor and will lose the right to enforce the relevant debt or part thereof in accordance with Section 154(1) of the Companies Act.
- 6.9.3. Accordingly, in terms of Section 154(2) of the Companies Act, if a BR Plan has been approved and implemented, a Creditor will not be entitled to enforce any debt owed by the Company immediately before the beginning of the Proceedings, except to the extent provided for in this BR Plan.

## 6.10. Treatment of Existing Agreements

- 6.10.1. The Company ceased operations effective 30 November 2022. All contracts with the Company will be cancelled either by (i) agreement between the parties thereto and the BR Practitioner or, (ii) failing agreement, the BR Practitioner will apply to court to cancel all the Company's obligations under such Contracts. In the event that the counterparties to the contracts claim damages against the Company:
- 6.10.1.1. litigation in respect of such damages must be brought against the Company before the date of Substantial Implementation Date, failing which, a Creditor in these circumstances will be precluded from bringing a Claim for damages against the Company;
- 6.10.1.2. their Claims shall be deemed to have been compromised in terms of this BR Plan and shall be regarded as Unsecured Claims for the purposes of the BR Plan. As such, the counterparties to Contracts who bring their damages claim timeously (i.e. before

Substantial Implementation Date) shall only be entitled to receive an amount as an Unsecured Creditor pursuant to the provisions of this BR Plan and if the Claim is not disputed. If such Claim is disputed the matter will be resolved in terms of the Dispute Resolution process set out herein; and

6.10.1.3. any Claim for damages will be limited to either the actual direct damages suffered or to an amount equivalent to a maximum of three months' contractual payment, whichever amount is the lower and no claims for contingent or indirect damages will be accepted by the BR Practitioner. Such damages will be treated as Unsecured Claims.

#### **6.11. Benefits of Adopting the Business Rescue Plan Compared to Liquidation**

6.11.1. Dividends envisaged in this BR Plan are likely to be far better than the dividends that would be paid in liquidation.

6.11.2. The BR Plan will be implemented in a far shorter time-frame than liquidation proceedings. The average time it takes to conclude a liquidation process and pay liquidation dividends can be between 18 – 36 months, or longer depending on the complexity of the estate.

6.11.3. In the event that the business is rescued employees will receive their unpaid remuneration and severance packages in full, whereas in liquidation employees may not receive any remuneration given the current context where there would be limited assets that would be realised.

#### **6.12. The Effect of the BR Plan on Holders of the Company's Issued Securities**

6.12.1. This BR Plan will not affect the rights of the holders of the Company's issued securities.

## **7. Part C – Assumptions and Conditions**

### **7.1. Assumptions**

The main assumptions are that:

- 7.1.1. As the regulatory authority has approved the sale of the licence, Tsogo Sun will meet its obligations in terms of the Sale Agreement and make payment of the agreed sale amount;
- 7.1.2. The amount and timing of payment to Creditors may be affected by, *inter alia* the following adverse events:
  - 7.1.2.1. delays in receiving the proceeds of the licence sale as contemplated in this BR Plan;
  - 7.1.2.2. unforeseen litigation of any nature whatsoever, howsoever arising, from any cause of action whatsoever;
  - 7.1.2.3. significant late Claims and unforeseen damages Claims arising from the cancellation of any contracts or agreements of any nature whatsoever, howsoever arising;
  - 7.1.2.4. any changes in legislation that impacts business rescue;
  - 7.1.2.5. any challenges to this BR Plan, the rejection thereof of any amendments thereto;
  - 7.1.2.6. any regulatory challenges of any nature whatsoever, howsoever arising;
  - 7.1.2.7. any unforeseen circumstances, outside of the control of the BR Practitioner of any nature whatsoever howsoever arising that impacts on Business Rescue; and
  - 7.1.2.8. material discrepancies in the information made available to the BR Practitioner by the directors and management.

### **7.2. Conditions for the BR Plan to come into operation and Substantial Implementation**

- 7.2.1. The BR Plan will come into operation and Substantial implementation will be deemed to have occurred under the following circumstances:
  - 7.2.1.1. Adoption of the BR Plan;
  - 7.2.1.2. Payment to Affected Parties as contemplated in the BR Plan.



**7.3. Employee Matters**

- 7.3.1. An Employee Representatives Committee was formed in terms of section 144(3)(c) of the Companies Act for the purposes of consulting with the BR Practitioner. The Employee Representatives Committee was comprised of members of staff and management.
- 7.3.2. The Employee Representatives Committee will be further consulted on the commencement of the retrenchment processes following adoption of the BR Plan.
- 7.3.3. Employees have been paid their full salaries to date.
- 7.3.4. As at the BR Commencement date of 10 October 2022 the Company had 11 employees in its employ. There has since been 1 resignation at the end of October. As a result, as of the date of publication of this BR Plan, the company had 10 employees on its payroll.

**7.4. Termination**

The Proceedings will end:

- 7.4.1. if the BR Plan is rejected and neither the BRP, nor an Affected Person acts in any manner contemplated in section 153(1) the Act; or
- 7.4.2. this BR Plan is Adopted and implemented (with the conditions fulfilled) and the BRP has filed a notice of substantial implementation of the BR Plan with the CIPC; or
- 7.4.3. a court orders the conversion of the Proceedings into liquidation proceedings.

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## **CHAPTER 3 - GENERAL**

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### **8. Litigation**

There is currently no litigation that we are aware of involving the Company and third parties.

### **9. Dispute Resolution**

9.1. Save as provided for in section 133 of the Companies Act, in respect of all or any disputes by the BR Practitioner on Claims submitted by Creditor, which disputes include, but are not limited to, disputes on the existence or otherwise of a Claim, on quantum of the 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 can only be resolved in accordance with the dispute mechanism outlined below.

9.2. The dispute mechanism procedure will be as follows:

9.2.1. Any Creditor that has received a notification from the BR Practitioner of a dispute must contact the BR Practitioner in order to resolve such dispute within 15 days from the date of the notice.

9.2.2. If the Creditor does not avail itself of this 15-day opportunity then the BR Practitioner’s decision is final. If after having availed itself and the dispute is not resolved within the 15 day period, the Creditor will be afforded 7 days (reckoned from the date of expiry of the 15 days) to nominate a retired judge 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 BR Practitioner will do so on its behalf and this nomination will be binding on the Creditor.

9.3. 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 he 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 BR Practitioner to do so, the BR Practitioner is then entitled to choose another retired judge who is available to act and is agreeable to act.

- 9.3.1. The expert will in his sole and absolute discretion determine:
- 9.3.2. the venue at which the dispute is to be resolved;
- 9.3.3. the rules, regulations and procedures that will govern the determination of the dispute;
- 9.3.4. the date(s) for the determination of the dispute;
- 9.3.5. will give his award / determination within 5 days of the completion of the process as determined by him; and
- 9.3.6. will as part of his award / determination determine who is liable for the costs of the determination such costs to include his costs, legal costs, venue costs, recording equipment (if applicable), transcript of evidence (if applicable) and the like.
- 9.4. The Creditor agrees that, save for any manifest error the determination of the expert will be final and binding on the Creditor, the Company and the BR Practitioner and will not be subject to any subsequent review or appeal application / procedure / process.
- 9.5. The expert shall be entitled to make an award for costs in his discretion.
- 9.6. The Creditor, the Company and the BR Practitioner 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.

## **10. Amendment of the Business Rescue Plan Subsequent to Adoption**

- 10.1. Should the BR Practitioner wish to effect an amendment to the BR Plan that will be prejudicial to any of the Affected Persons, he will convene a further meeting of creditors and call for a vote to approve the amendment.
- 10.2. It is specifically recorded that the provisions of business rescue shall mutatis mutandis apply to the extension or reduction of any timeframes by the BR Practitioner.

**11. Late Claims**

11.1. Creditors who, for whatever reason, did not submit their claims to the BR Practitioner prior to the date of Adoption of the BR Plan, may at any time up until 90 calendar days after the date of Adoption, submit to the BR Practitioner, documentation in support of their claim against the Company and upon receipt and acceptance thereof by the BR Practitioner such claims will be considered valid and form part of the Adopted BR Plan.

11.2. Creditors who, for whatever reason, do not submit their claims to the BR Practitioner within 90 days after the Adoption Date will be deemed to have abandoned their claim/s and their right to participate in any distribution under this BR Plan and shall have no further Claims against the Company.

**12. Severability**

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

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## CHAPTER 4 – CONCLUSION AND BRP CERTIFICATE

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### 13. Conclusion

For the reasons set out above, it is the view of the BRP that, notwithstanding the inevitable risks and challenges:

- 13.1. there is a reasonable prospect that the Company can be rescued within the meaning of the Companies Act;
- 13.2. this BR Plan balances the rights and interests of all relevant stakeholders; and
- 13.3. should the BR Plan not be Adopted, the Proceedings will have to be converted to liquidation proceedings.

### 14. BRP's Certificate

I, the undersigned, Sipho Sono, hereby certify to the best of my knowledge and belief that:

- (a) any actual information provided herein appears to be accurate, complete and up to date; and
- (b) projections provided are estimates made in good faith on the basis of factual information and assumptions as set out contained in this BR Plan.

*Sipho Sono*

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Sipho Sono, in his capacity as the duly appointed  
Business rescue practitioner (in terms of the Act)