

THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION

CIRCULAR TO TRADE CREDITORS AND HIGHVELD SYNDICATION INVESTORS

relating to

AN ARRANGEMENT

between

ORTHOTOUCH LIMITED
REGISTRATION NUMBER: 2010/004096/06
("THE COMPANY")

and

THE TRADE CREDITORS AND THE HIGHVELD SYNDICATION
INVESTORS
("TRADE CREDITORS" or "HS INVESTORS")

of and relating to

ORTHOTOUCH LIMITED

(THIS ARRANGEMENT SIGNED ON 7 OCTOBER 2014)

1. If you are in any doubt as to the action you should take, please consult your legal adviser, accountant, banker, or other professional adviser immediately.
2. If you are unable to attend the meeting of trade creditors or HS Investors to be held **on 12 November 2014, at 10am at Full Gospel Church Camping Grounds, 3c, 8 Jan Smuts Avenue, Irene Centurion** 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 relevant proxies (**Annexures "K" and "L"**) being the pages immediately following those constituting this Circular, in accordance with the instructions contained therein, to **Orthotouch Limited, Management Offices, First Floor Cedar Square Shopping Centre, Corner Cedar Road and Willow Avenue, Fourways, 2055** or fax same to **086 691 5114** or email same to **proxies@orthotouch.co.za**, to be received not later than the dates and times stipulated in the **Important Dates, Times and Venue** schedule of this Circular.
3. If a proxy form for a relevant meeting is not received by the time set out in the **Important Dates, Times and Venue** schedule, it may nevertheless be handed to the Chairman of the meetings up to 30 minutes before the commencement of the relevant meeting, together with an affidavit stating adequate reasons for lateness.
4. This circular shall be distributed by publication on the website of Orthotouch Limited at www.orthotouch.co.za and by registered post and may be viewed on the website of Orthotouch Limited at www.orthotouch.co.za.
5. Trade creditors and HS Investors who are entitled to attend and participate in the meetings are advised that they or their proxies may so participate, by means of electronic communication, in accordance with the provisions of the Arrangement.

This document is a Circular to the Trade Creditors and the Highveld Syndication Investors of ORTHOTOUCH LIMITED (“the Company”), relating to an Arrangement in terms of Section 155 of the Companies Act, Act 71 of 2008, as amended (“Companies Act)

and incorporates

- The Notice convening the meetings of Trade Creditors and HS Investors in terms of Section 155 of the Companies Act
- Important Dates, Times and Venue schedule, stipulating the dates, times and venue of the meetings of Trade Creditors and HS Investors
- Relevant information in terms of Section 155 of the Companies Act
- Proxy Forms for Trade Creditors and HS Investors

IMPORTANT DATES, TIMES, VENUE AND CORPORATE INFORMATION

ORTHOTOUCH LIMITED

REGISTRATION NUMBER: 2010/004096/06

MEETINGS IN TERMS OF SECTION 155 OF THE COMPANIES ACT

Notice is hereby given in terms of Section 155 of the Companies Act of meetings of Trade Creditors and HS Investors of and in regard to Orthotouch Limited, which are being convened under the Chairmanship of DP Cohen (“the Chairman”) at the venue, date and times fixed by the Chairman, namely at the **Full Gospel Church Camping Grounds, 3C, 8 Jan Smuts Avenue, Irene Centurion** on **12 November 2014**, commencing at **10:00** with the meeting of Trade Creditors and the meeting of HS Investors following immediately thereafter.

Last day to lodge Forms of Proxy for Trade Creditors’

and H S Investors’ meetings: 10h00 on Monday 10 November 2014

Trade Creditors’ meeting: 10h00 on Wednesday 12 November 2014

HS Investors’ meeting: 10h00 on Wednesday 12 November 2014

Meeting Venue:

FULL GOSPEL CHURCH CAMPING GROUNDS, 3C, 8 JAN SMUTS AVENUE, IRENE CENTURION

Notes:

- Notice is hereby given in terms of Section 155 of the Companies Act of **meetings of the Trade Creditors and HS Investors of Orthotouch Limited**, which are being convened under Chairmanship of D P Cohen (“the Chairman”) at the venue, date and time fixed by the Chairman, namely at **Gospel Church Camping Grounds, 3C, 8 Jan Smuts Avenue, Irene Centurion** on **12 November 2014**, commencing at **10h00** for purposes of considering and, if deemed fit, approving with or without modification, the Arrangement proposed by Company.
- **The attention of Trade Creditors and HS Investors are specifically drawn to the provisions of, respectively paragraphs 2.2.3.1 and 2.2.4 below, regarding the use of Proxy Forms and the various purposes for which Proxy Forms are to be used.**
- 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 no later than 30 (thirty) minutes before the commencement of the meetings, together with an affidavit stating adequate reasons for lateness.
- These dates, times and venue are subject to change. Any such change will be published to all affected persons.
- Trade Creditors and HS Investors who are entitled to attend and participate in the meetings are advised that they or their proxies may so participate, by means of electronic communication, in accordance with the provisions of the Arrangement.

SYNOPSIS OF THE PROPOSED ARRANGEMENT

The HS Companies previously conducted business as investors in commercial, retail and industrial property for which they outsourced management. In this process, the HS Companies acquired certain properties and relevant rights to properties. The properties were let to tenants with the intention of deriving income returns to the HS Companies.

The HS Companies, for reasons not pertinent to this arrangement, ran into financial difficulty during late 2010 through to early 2011, with the result that, on 24 March 2011, the HS Companies entered into an Agreement (“**the Agreement**”) in terms of which, *inter alia*, they contracted to sell the properties forming the subject matter of the Agreement to Orthotouch.

Orthotouch was at that stage a public company which had never traded, was substantially owned by the NAG Trust and effectively controlled by Nic Georgiou through that entity.

The Agreement was subject to the due fulfilment of two conditions precedent namely-

- the approval of the transaction by the then **SRP**; and
- the subsequent approval of the transaction envisaged in the Initial Orthotouch Agreement by the shareholders of the HS Companies in General Meeting.

In terms of the Agreement, Orthotouch commenced paying interest to historical investors in the HS Companies (“**HS Investors**”), calculated on the full amount of their individual historical investments in the HS Companies, at an interest rate of 6% (six per centum) per annum, notwithstanding the fact that the conditions precedent had not yet been fulfilled, and in particular, during the process during which Georgiou and his advisors attempted to procure fulfilment of the conditions precedent.

It is a well-known fact that even prior to the HS Companies getting into financial difficulties as aforesaid, a group of individuals termed herein, for want of a better name, “**the detractors**”, sought to bring about the failure and demise of the HS Companies.

The detractors were, and continue to date, to be comprised of a number of persons, inclusive of brokers, accountants, valuers, attorneys, auctioneers, liquidators and others, some working in concert and others individually, but in most instances operating covertly, to bring about the liquidation of the HS Companies, to enable the detractors to lay their hands on the assets of the HS Companies and to generate vast possible income to themselves, following their calculated destructive activities.

In this process, the detractors attempted to use and abuse the media, to assist them in their efforts to also derail the Business Rescue Plan relating to the HS Companies which followed the Agreement, and which was approved in respect of the HS Companies during 2011, in order to procure the continued negative effects sought by them, and to some extent were successful in doing so.

During this process of attempting to procure the fulfilment of the conditions precedent, the Company, funded at the instance of Georgiou, commenced paying interest to HS Investors as aforesaid, in March 2011.

Orthotouch has since March 2011 to date paid more than R800 million to HS Investors.

Had interest been calculated and paid on the value of the properties at the time when Business Rescue proceedings in respect of the HS Companies commenced, being only some R2,6 billion, as opposed to the value at which the properties were syndicated, Orthotouch would as at the date of the proposing of the Arrangement referred to below, have been more than R200 million in credit, and there would have been no arrears due to HS Investors.

The reason why the offer by Orthotouch to the Business Rescue Practitioner was made on syndication value, was that Orthotouch believed that its offer would receive the backing of investors and brokers and above all, financial institutions. This was not the case and as a result the affairs of Orthotouch need to be restructured in terms of a Scheme of Arrangement in terms of Section 155 of the Companies Act, 71 of 2008, which Arrangement forms the subject matter of a Circular dispatched to trade creditors and HS Investors of Orthotouch, of which this Synopsis forms part.

In terms of this Arrangement, the claims of the trade creditors of Orthotouch and the HS Companies are being restructured in full and final settlement, and trade creditors are expected to receive payment in full of their claims.

Furthermore in terms of the Arrangement, the claims of HS Investors are likewise being restructured, in full and final settlement, and in particular, HS Investors' claims in regard to interest are restructured, and HS Investors are afforded the opportunity to make elections as to the repayment of their historical investments in the HS Companies, based on the undermentioned Alternatives elections.

Alternative 1

HS investors electing **Alternative 1**, become entitled to be paid their pro rata shares of the full amount of their historical investments, on the tenth anniversary ("**tenth anniversary**") of the final date ("**the Alternative 1 Capital**") and during the period from such acceptance until the tenth anniversary, HS Investors having elected this Alternative 1, will receive interest, calculated and payable at 4% per annum, monthly in arrears, on the perceived value, as from the final date, the Alternative 1 Capital being payable on the tenth anniversary, as envisaged in paragraph 2.2.5.3 of the Arrangement.

Alternative 2

HS investors electing **Alternative 2**, become entitled to be paid their pro rata shares of the actual aggregate values of the Properties, on 31 March 2017 (“**the Alternative 2 Capital**”), which value is guaranteed by the Company and the financial proposer to be at least R2 billion, and pending such payment, will receive interest, calculated and payable at 6% per annum, monthly in arrears, on the amount of R2 Billion, as from the final date, the Alternative 2 Capital being payable on 31 March 2017, as envisaged in paragraph 2.2.5.4 of the Arrangement.

Alternative 3

HS investors electing **Alternative 3**, agree to convert their rights, title and interest in and to their claims, their (“**listing entitlement**”), against the Company and the HS Companies, in respect of the values of their claims as at the final date, into shares in The Capital Growth Fund Limited (“**CGF**”), a new Property Fund, to be listed as a REIT in the property sector on the main board of the JSE Limited (“**JSE**”). Details of CGF and a summary of the details of the proposed listing appear from **Annexure “J”** to the Arrangement, as envisaged in paragraph 2.2.5.5 of the Arrangement.

The listing of **CGF** by way of introduction on the JSE, will allow HS Investors the opportunity to convert their historical investments in the HS Companies into ordinary shares or a combination of ordinary and secured redeemable preference shares in CGF.

All the ordinary shares and all the preference shares in CGF will be listed on the JSE (subject to approval by the JSE), allowing the owners of the ordinary and preference shares to trade in their shares on the JSE.

Proviso 1

HS Investors shall at their discretion be entitled to select **any one or a combination of** the above three Alternative Options.

Proviso 2

The acceptance of any of the Alternatives, is in full and final settlement of all claims of HS Investors, as defined in the Arrangement document, save to the extent that such claims arise from the acceptance of any Alternative/s in terms of the Arrangement.

Proviso 3

Any HS Investors not having made an election, or not having made an election in respect of the full value of their claims, as envisaged in paragraph 2.2.5.6.3 of the Arrangement, shall in the event of the Arrangement being approved, adopted and sanctioned, be deemed to have elected **Alternative 1**, in respect of any portion of their full claims in regard to which they did not clearly make an election.

Proviso 4

In the unlikely event of the JSE, for any reason, refusing to allow the listing of CGF on the JSE as envisaged in the Arrangement, then the provisions of the Arrangement shall remain effective and shall be fully implemented in respect of HS Investors and CGF, with CGF remaining and conducting business, in the normal course, as an unlisted Fund, the intention remaining thereafter, to list CGF on the JSE as soon as the JSE approves such listing.

In the interim, pending implementation of relevant elections made, an amount of R10 million per month will be paid, for pro rata distribution, to all HS Investors, on the 7th day of each month, commencing 7 October 2014 or as soon as practical during October 2014, in respect of interest payments, for the period 1 September 2014, up to relevant implementation dates of relevant elections.

OPSOMMING VAN VOORGESTELDE REËLINGSKEMA

Die HS Maatskappy het voorheen handel gedryf as beleggers in kommersiële, kleinhandel en industriële eiendom waarvoor hulle bestuur uitgekontraakteer het. In hierdie proses het die HS Maatskappy sekere eiendomme en relevante regte ten opsigte van eiendomme bekom. Die eiendomme is uitverhuur aan huurders met die doel om inkomste te genereer vir die HS Maatskappy.

Die HS Maatskappy, vir redes wat nie betrekking het op hierdie Reëlinskema nie, het finansiële probleme begin ervaar gedurende 2010 tot 2011, met die gevolg dat op 24 Maart 2011, die HS Maatskappy 'n Ooreenkoms ("**die Ooreenkoms**") gesluit het ingevolge waarvan, *inter alia*, hulle onderneem het om die eiendomme wat die onderwerp was van die Ooreenkoms, aan Orthotouch te verkoop.

Orthotouch was op daardie stadium 'n publieke maatskappy wat nog nooit handel gedryf het nie en wat hoofsaaklik besit was deur die NAG Trust en effektiewelik beheer was deur Mnr Nic Georgiou ("**Georgiou**") deur daardie entiteit.

Die Ooreenkoms was onderhewig aan die nakoming van twee opskortende voorwaardes, naamlik –

- die goedkeuring van die transaksie deur die destydse **SRP**; en
- die daaropvolgende goedkeuring van die transaksie in die vooruitsig gestel in die Oorspronklike Orthotouch Ooreenkoms deur die aandeelhouders van die HS Maatskappy in Algemene Vergadering.

Ingevolge die Ooreenkoms, het Orthotouch begin rente betaal aan die historiese beleggers in die HS Maatskappy, bereken op die volle bedrag van hul individuele historiese beleggings in die HS Maatskappy, teen 'n rentekoers van 6% (ses persent) per jaar, ondanks die feit dat die opskortende voorwaardes nog nie vervul was nie, en in besonder, tydens die proses waartydens Georgiou en sy adviseurs probeer vervulling van die opskortende voorwaardes behaal het.

Dit is 'n bekende feit dat selfs voor die HS Maatskappy in finansiële probleme soos voormeld, beland het, 'n groep individue hierin na verwys (by gebrek aan 'n beter naam "**die teenstryders**"), probeer het om die mislukking en ondergang van die HS Maatskappy te bewerkstellig.

Die teenstryders wat bestaan uit 'n aantal persone, insluitend makelaars, rekenmeesters, waardeerders, prokureurs, afslaaers, likwidateurs en ander, sommige wie in samewerking werk en ander individueel, maar wie in die geheim werk, werk uiteindelik saam ten einde die likwidasië van die HS Maatskappy te bewerkstellig, ten einde die teenstryders in staat te stel om hul hande te lê op die bates van die HS Maatskappy en groot moontlike inkomste te genereer aan hulself, na hulle berekende vernietigende aktiwiteite.

In hierdie proses, het die teenstryders probeer om die media te misbruik, om hulle te help in hul pogings om die Ondernemingsreddingsplan wat verband hou met die HS Maatskappy wat gevolg het op die Ooreenkoms, en wat gedurende 2011 ten opsigte van die HS Maatskappy goedgekeur is, te ontspoor, ten einde die voortgesette negatiewe gevolge deur hulle nagestreef, te verkry, en tot 'n mate was hulle suksesvol.

Gedurende hierdie proses en poging om die nakoming van die opskortende voorwaardes te vervul en terwyl die Maatskappy befonds word deur Georgiou, begin die Maatskappy gedurende Maart 2011 rente te betaal aan HS Beleggers.

Orthotouch het sedert Maart 2011 tot op datum meer as R800 miljoen aan HS Beleggers betaal.

Sou rente bereken en betaal gewees het op die waarde van die eiendomme, in die orde van R2.6 miljard, gedurende die Ondernemingsreddingsverrigtinge ten opsigte van die HS Maatskappy, in teenstelling met die waarde waarteen die eiendomme gesindikeer was, sou Orthotouch met meer as R200 miljoen in krediet gewees het en sou daar geen agterstallige bedrae betaalbaar aan HS Beleggers gewees het nie.

Die rede hoekom die aanbod deur Orthotouch aan die Ondernemingsreddingspraktisyn teen sindikasie waarde gemaak was, was omdat Orthotouch geglo het dat sy aanbod die steun van beleggers en makelaars en bo alles, finansiële instellings sou ontvang. Dit was nie die geval nie en as gevolg daarvan moet die sake van Orthotouch geherstruktureer word ingevolge 'n Reëlinskema in terme van Artikel 155 van die Wet op Maatskappy, 71 van 2008, waarvan die Reëlinskema die onderwerp vorm van 'n Omsendbrief gestuur aan handelskrediteure en HS Beleggers van Orthotouch, waarvan hierdie Opsomming deel vorm.

Die eise van die handelskrediteure van Orthotouch en die HS Maatskappy word in terme van die Reëlinskema geherstruktureer in volle en finale vereffening, en dit word verwag dat handelskrediteure volle betaling van hul eise sal ontvang.

Verder ingevolge die Reëlinskema, word die eise van HS Beleggers ook geherstruktureer, in volle en finale vereffening, en in besonder, word HS Beleggers se eise in verband met rente geherstruktureer en het HS Beleggers die geleentheid om keuses te maak aangaande die terugbetaling van hul historiese beleggings in die HS Maatskappy, gebaseer op die onderstaande Alternatiewe keuses.

Alternatief 1

HS Beleggers wat vir Alternatief 1 stem, is geregtig om pro-rata volle betaling te ontvang van hul historiese beleggings, op die tiende herdenking ("**tiende herdenking**") van die finale datum ("**die Alternatief 1 Kapitaal**") en gedurende die tydperk van aanvaarding van Alternatief 1, tot die tiende herdenking, sal HS Beleggers wat Alternatief 1 kies, rente ontvang, bereken en betaalbaar teen 4% per jaar, maandeliks agteruit, op die waargenome waarde, soos vanaf die finale datum, die Alternatief 1 Kapitaal synde betaalbaar op die tiende herdenking, soos beoog in paragraaf 2.2.5.3 van die Reëlinskema.

Alternatief 2

HS Beleggers wat vir Alternatief 2 stem, is geregtig om pro-rata volle betaling te ontvang van die werklike totale gemiddelde waardes van die eiendomme, soos op 31 Maart 2017 ("**die Alternatief 2 Kapitaal**"), wat gewaarborg word teen ten minste R2 miljard, en tot datum van betaling, sal rente betaal word, bereken en betaalbaar teen 6% per jaar, maandeliks agteruit, op die bedrag van R2 miljard, vanaf die finale datum tot datum van betaling van die Alternatief 2 Kapitaal, die Alternatief 2 Kapitaal synde betaalbaar op 31 Maart 2017, soos beoog in paragraaf 2.2.5.4 van die Reëlinskema.

Alternatief 3

HS Beleggers wat vir Alternatief 3 stem, kom ooreen om hul regte, titel en belang in en tot hul eise teen die Maatskappy en die HS Maatskappye, hul ("**noteringsregte**"), ten opsigte van die waardes van hul eise teen die finale datum, te omskep in aandele in The Capital Growth Fund Limited ("**CGF**"), 'n nuwe Eiendomsfonds, wat as 'n REIT in die eiendom-sektor op die hoofbeurs van die JSE Beperk ("**JSE**") genoteer staan te word. Besonderhede van CGF en 'n opsomming van die besonderhede van die voorgestelde notering blyk uit **Aanhangsel "J"** tot die Reëlinskema, soos beoog in paragraaf 2.2.5.5 van die Reëlinskema.

Die notering van CGF by wyse van bekendstelling op die JSE, sal toelaat dat HS Beleggers die geleentheid kry om hul historiese beleggings in die HS Maatskappye te omskep in gewone aandele of 'n kombinasie van gewone en versekerde aflosbare voorkeuraandele in CGF.

Al die gewone aandele en al die voorkeuraandele in CGF sal genoteer word op die JSE (onderhewig aan goedkeuring deur die JSE), wat die eienaars van die gewone en voorkeuraandele die geleentheid sal gee om handel te dryf in hul aandele op die JSE.

Voorbehoudsbepaling 1

HS Beleggers sal na hul eie diskresie geregtig wees om enige een of 'n kombinasie van die bogenoemde drie Alternatiewe te kies.

Voorbehoudsbepaling 2

Die aanvaarding van enige van die Alternatiewe, is in volle en finale vereffening van alle eise van HS Beleggers, soos omskryf in die Reëlinskema dokument, behalwe tot die mate waartoe sodanige eise spruit uit die aanvaarding van enige Alternatiewe in terme van die Reëlinskema.

Voorbehoudsbepaling 3

Enige HS Beleggers wat nie 'n keuse gemaak het nie, of wat nie 'n keuse ten opsigte van die volle waarde van hul eise, soos beoog in paragraaf 2.2.5.6.3 van die Reëlinskema gemaak het nie, sal, indien die Reëlinskema aanvaar en bekragtig word, aanvaar word Alternatief 1, te gekies het, ten opsigte van die gedeelte van hul volle eise ten opsigte waarvan hulle nie duidelik 'n keuse gemaak het nie.

Voorbehoudsbepaling 4

In die onwaarskynlike geval dat die JSE, vir enige rede, weier om die notering van CGF op die JSE soos beoog in die Reëlinskema toe te laat, sal die bepalinge van die Reëlinskema van krag bly en ten volle ten opsigte van HS Beleggers en CGF geïmplementeer word, met CGF wat sal bly sake doen, in die gewone loop, soos 'n ongenoteerde Fonds, die bedoeling daarna steeds te wees om CGF op die JSE te noteer, sodra die JSE notering goedkeur.

In die tussentyd, hangende die implementering van relevante keuses, sal 'n bedrag van R10 miljoen per maand betaal word, vir pro-rata verdeling, aan alle HS Beleggers, op die 7de dag van elke maand, in aanvang op 7 Oktober 2014 of so spoedig prakties moontlik gedurende Oktober 2014, ten opsigte van rente, vir die tydperk 1 September 2014 tot relevante implementering datums van relevante keuses.

Arrangement

between

ORTHOTOUCH LIMITED

REGISTRATION NUMBER: 2010/004096/06

and

THE TRADE CREDITORS

and

THE HIGHVELD SYNDICATION INVESTORS

of and relating to

ORTHOTOUCH LIMITED

In terms of Section 155 of the Companies Act 71 of 2008

(This Arrangement dated 7 October 2014)

AN ARRANGEMENT BETWEEN ORTHOTOUCH LIMITED AND THE TRADE CREDITORS OF AND THE HIGHVELD SYNDICATION INVESTORS RELATING TO ORTHOTOUCH LIMITED, INCORPORATING CERTAIN AFFAIRS OF THE HIGHVELD SYNDICATION COMPANIES, IN TERMS OF SECTION 155 OF THE COMPANIES ACT, NO 71 OF 2008 (AS AMENDED), WHICH HAS BEEN PROPOSED BY ORTHOTOUCH LIMITED TO SUCH TRADE CREDITORS AND HIGHVELD SYNDICATION INVESTORS BY THE DELIVERY AND NOTIFICATION OF THE PROPOSED ARRANGEMENT CONTAINED HEREIN TO TRADE CREDITORS AND HIGHVELD SYNDICATION INVESTORS BY THE BOARD OF DIRECTORS OF ORTHOTOUCH LIMITED

1. INTRODUCTION AND BACKGROUND

- 1.1. This document contains the terms and conditions of a proposed arrangement which, if agreed to by the trade creditors of Orthotouch (“**trade creditors**”) and the Highveld Syndication Investors (“**HS Investors**”) relating to Orthotouch Limited (“**the Company**”) and the Highveld Syndication Companies (“**the HS Companies**”), will become effective upon the arrangement being sanctioned by the High Court of South Africa in terms of section 155 (7) b) of the Companies Act, no 71 of 2008 (as amended) (“**the Act**”).
- 1.2. The definitions as contained in **Chapter 1** below, apply to this **SYNOPSIS OF THE ARRANGEMENT**.
- 1.3. This arrangement is divided into **Three Chapters** –
 - 1.3.1 **Chapter 1**- Definition of terms.
 - 1.3.2 **Chapter 2** - Substance of the arrangement containing the **Three Parts** as required in terms of section 155 (3) of the Act.
 - 1.3.3 **Chapter 3** – Administrative provisions.
- 1.4. The **Three Parts** of **Chapter 2** are –
 - 1.4.1 **Part A – Background** incorporating –

- 1.4.1.1 a complete list of all the material assets of the Company, as well as an indication as to which assets are held as security by trade creditors and HS Investors as of the date of the proposal;
- 1.4.1.2 a complete list of the trade creditors of the Company as of the date of the proposal, as well as an indication as to which trade creditors would qualify as secured, statutory preferent and concurrent in terms of the laws of Insolvency, and an indication of which of the trade creditors have proved their claims;
- 1.4.1.3 a complete list of the investors in the Company and the particulars of the current sole shareholder in the Company;
- 1.4.1.4 the probable dividend that would be received by trade creditors, in their specific classes, if the Company was to be placed in liquidation;
- 1.4.1.5 the probable dividend that would be received by HS Investors, if –
 - 1.4.1.5.1 the Company was to be placed in liquidation, or
 - 1.4.1.5.2 the HS Companies were to be placed in liquidation;
- 1.4.1.6 a complete list of the holders of the Company's issued securities, and the effect that the proposal would have on them, if any; and
- 1.4.1.7 whether the proposal includes a proposal made informally by a "creditor" or an "investor" as envisaged in Section 155 (3) (a)(v) of the Act.
- 1.4.2 **Part B – Proposals** including –
 - 1.4.2.1 the nature and duration of any proposed debt moratorium forming part of the arrangement;
 - 1.4.2.2 the extent to which the Company is, and, as an ancillary effect of approval and sanctioning of this arrangement, the extent to which the HS Companies are to be released from the payment of their debts, and the extent to which any debt is proposed to be converted to equity in the Company, or another company;

- 1.4.2.3 the treatment of contracts and the ongoing role of the Company, and in particular the agreement between the Company and the HS Companies, “**the 2014 Orthotouch / HS Companies Agreement**”, disclosed and discussed in 2.3.3.4 of **Part C – Assumptions and Conditions**, the entering into and the coming into effect of which agreement, are terms of the arrangement, and such agreement being one of the **Ancillary Contracts** to the arrangement, being agreements ancillary to the arrangement;
- 1.4.2.4 the property of the Company that is proposed to be available to pay trade creditors’ and HS Investors’ claims;
- 1.4.2.5 the order of preference in which the proceeds or value of property of the Company will be applied to pay trade creditors and HS Investors if the proposal is adopted; and
- 1.4.2.6 the benefits of adopting the proposal as opposed to the benefits that would be received by trade creditors and HS Investors if the Company or the HS Companies were to be placed in liquidation.
- 1.4.3 **Part C – Assumptions and Conditions** including –
- 1.4.3.1 a statement of the conditions that must be satisfied, if any, for the proposal to come into operation and be fully implemented;
- 1.4.3.2 the effect, if any, that the arrangement contemplates on the number of employees, and their terms and conditions of employment;
- 1.4.3.3 a projected balance sheet and statement of assets and liabilities for the Company, and a statement of income and expenses for the ensuing three years of the business of the Company, have not been prepared, in view of the unknown permutations that may ensue, pursuant to the implementation of the arrangement, once sanctioned.
- 1.4.3.4 those assumptions and conditions pertaining to the 2014 Orthotouch/HS Companies Agreement to have been concluded as a condition to the becoming effective of the arrangement, and the approval of the arrangement as a condition to the be-

coming effective of the 2014 Orthotouch/HS Companies Agreement.

1.4.4 **Chapter 3** - Administrative provisions.

This document is signed by and is binding upon the Company, and conditional, only, on the approval and sanctioning of the arrangement, and will become binding on the HS Companies, the financial proposer and the Receiver as defined and appointed, and the trade creditors and the HS Investors, upon the later of the adoption, sanctioning and lodging of this arrangement with the Commission, but with effect from the effective date, in regard to the rights, interests, entitlements and obligations placed upon and/or contracted for, in respect of any of them.

1. **CHAPTER 1 – DEFINITIONS**

Unless inconsistent with or otherwise indicated by the context –

- 1.1 **“the Act”** means the Companies Act, no 71 of 2008 (as amended);
- 1.2 **“1973 Act”** means the Companies Act, no 61 of 1973 (as amended);
- 1.3 **“acquittance”** means a document executed by a trade creditor or HS Investor in terms of which that trade creditor or HS Investor advises the Receiver that such trade creditor or HS Investor will not look to the Company or the Receiver for payment of any consideration or receipt of any other benefit under the arrangement, to the extent of the amount stated in the **acquittance**;
- 1.4 **“affected persons”** means affected persons as defined in Section 128 (1) of the Act and in relation to the Business Rescue proceedings in respect of the HS Companies and in respect of each of the HS Companies, means a shareholder, investor, creditor and/or employee of such HS Company, and to the extent to which trade creditors and HS Investors are affected persons, such creditors and investors;
- 1.5 **“Ancillary Contracts”** means the four agreements recorded in 1.4.2.3 above and forming part of the Inspection Documents;
- 1.6 **“arrangement”** means the arrangement contained herein in terms of Section 155 of the Act, between the Company and its trade creditors and HS Investors and, for purposes of in-

terpretation, includes the synopsis of the arrangement;

- 1.7 **“arrears”** means all interest payments payable to HS Investors in terms of the Plan, which may be or were in arrear in respect of payment to any HS Investors as at 28 February 2014, subject to the hereinafter contained provisions relating to HS22 Investors;
- 1.8 **“assets”** means all assets of the Company as at the final date, which includes all the rights, title and interest of the Company in and to the Properties, as envisaged in the Plan or in terms of contracts or arrangements entered into by the Company subsequent to the adoption of the Plan, and as such Properties, rights, title and interest remain as at the final date following the implementation of the Plan, a list of which Properties including the rights, title and interest of the Company in and to the Properties as of the final date, being attached hereto as **Annexure “A”**, which Annexure includes an indication as to which assets, if any, are held as security by trade creditors and HS Investors;
- 1.9 **“business”** means the business carried on from time to time by the Company ;
- 1.10 **“Business Rescue proceedings”** means the Business Rescue proceedings in respect of the HS Companies, having been commenced with on the commencement dates recorded in 1.16 below;
- 1.11 **“BRP”** means Klopper as senior Business Rescue Practitioner of the HS Companies as defined in Regulation 126 to the Act;
- 1.12 **“capital sum”** means the sum or sums, less any relevant acquittance, that may eventuate, that has been or will be provided by the financial proposer to the Company, for payment to the Receiver on behalf of the Company, to be distributed by the Receiver to trade creditors in accordance with the provisions of this arrangement, in an amount of **R65 639 609,00** as envisaged in 2.2.3 and, specifically 2.2.3.15 below;
- 1.13 **“Chairman”** means Derek Pedoe Cohen who has been appointed to this office by the Company for the purpose of the arrangement, the meetings and the procuring of the sanctioning of the arrangement;
- 1.14 **“claims”** means secured, preferent or concurrent claims of creditors (including claims of HS Investors as referred to below in this paragraph 1.14), as envisaged in the Insolvency Act, against the Company, the HS Companies or any of their number, Georgiou, the Geor-

giou Family and/or the directors or any of their number, the cause of action in respect of which claims arose at any date prior to the final date and as at the final date, of whatsoever nature and from whatsoever cause arising, 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 or performance specific or otherwise, and including all and any claims arising out of any agreements entered into by the Company and/or the HS Companies on or prior to the final date, (excluding any claims relating to any period after the commencement date, which have not yet been discharged as at the final date, in respect of post commencement costs and funding incurred during the Business Rescue process of the HS Companies and further excluding claims of professional advisors and consultants regarding their costs and fees due in respect of the HS Companies and the Company), all such claims (other than those relating to post commencement costs and funding as referred to above) to be determined, calculated and admitted as secured, preferent or concurrent in accordance with the same ranking, as envisaged in the Insolvency Act, or otherwise where applicable, and this definition of “claims”, specifically, includes all or any claims of HS Investors, as envisaged, recorded or provided for in the Plan, including all or any claims that will have attached to, or will attach to HS Investors upon the issue of a winding up order in respect of the Company and/or the HS Companies or any of their number, whether or not such claims are proved, any “claim” to be included in the definition of “debt” as envisaged in 1.22 below;

- 1.15 **“the Commission”** means The Companies and Intellectual Property Commission, the dti Campus (Block F Entfufukweni) 77 Meintjies Street, Sunnyside, Pretoria;
- 1.16 **“commencement date ”** means 7 September 2011 in respect of HS15, HS 16, HS17, HS18, HS 20, HS21 and HS 22, and 14 September 2011 in respect of HS19, which are the dates upon which the resolutions beginning the Business Rescue Proceedings were filed with the Commission;
- 1.17 **“the Company” or “Orthotouch”** means Orthotouch Limited, (Registration number 2010/004096/06), a public company, having share capital, duly incorporated and registered in terms of the Company Laws of South Africa;
- 1.18 **“concurrent creditors”** means creditors having concurrent claims, and as envisaged in terms of the Insolvency Act;
- 1.19 **“Court”** means the High Court of South Africa (Gauteng North Division);

- 1.20 **“creditors”** means all legal entities, including natural persons, having claims, be they secured, preferent and/or concurrent, against the Company and/or any of the HS Companies or any of their number and/or any other person referred to in 1.14 above, as at the final date (excluding specifically HS Investors, to any extent to which they may be or may have the view that they are “creditors”, as opposed to “HS Investors” as defined in 1.38 below, in respect of any of their claims against the Company and/or the HS Companies or any of their number, all “claims” of HS Investors being restructured and dealt with, separately from “claims” of creditors, other than HS Investors, in terms of this arrangement);
- 1.21 **“days”** means calendar days, and accordingly includes Saturdays, Sundays and public holidays;
- 1.22 **“debt”** means any indebtedness of whatsoever nature and from whatsoever cause arising, owed by the Company, the HS Companies or any of their number, Georgiou, the Georgiou Family and/or the directors or any of their number, to any trade creditors and/or HS Investors, the cause of action in regard to which indebtedness arose prior to the final date, any “debt” to be included in the definition of “claims” as envisaged in 1.14 above;
- 1.23 **“directors”** means the directors of the Company as at the final date;
- 1.24 **“effective date”** means the date of sanction of the arrangement by the Court in terms of section 155 (7) of the Act;
- 1.25 **“final date”** means the date on which the Order sanctioning this arrangement in terms of section 155 (7) of the Act is filed with the Commission;
- 1.26 **“financial proposer”** means Zephan, being the party who will procure that the Company be placed in funds so as to pay any portion of the capital sum;
- 1.27 **“Georgiou”** means Nicolas Georgiou;
- 1.28 **“Georgiou Family”** means the family of Georgiou, which for the purposes hereof includes the children of Georgiou and a number of companies and trusts through which he and they conduct business in the property industry;
- 1.29 **“HS Companies”** means HS15, HS16, HS17, HS18, HS19, HS20, HS21 and HS22 collec-

tively or any one of them (“**HS Company**”) or any number of them;

- 1.30 “**HS 15**” means Highveld Syndication No. 15 Limited, a public Company, having a share capital, duly incorporated and registered in terms of the Company Laws of South Africa under Registration Number: 2003/031064/06;
- 1.31 “**HS 16**” means Highveld Syndication No. 16 Limited, a public Company, having share capital, duly incorporated and registered in terms of the Company Laws of the South Africa under Registration Number: 2003/031129/06;
- 1.32 “**HS 17**” means Highveld Syndication No. 17 Limited, a public Company, having share capital, duly incorporated and registered in terms of the Company Laws of South Africa under Registration Number: 2003/025913/06;
- 1.33 “**HS 18**” means Highveld Syndication No. 18 Limited, a public Company, having share capital, duly incorporated and registered in terms of the Company Laws of South Africa under Registration Number: 2003/030778/06;
- 1.34 “**HS 19**” means Highveld Syndication No. 19 Limited, a public Company, having share capital, duly incorporated and registered in terms of the Company Laws of South Africa under Registration Number: 2003/030144/06;
- 1.35 “**HS 20**” means Highveld Syndication No. 20 Limited, a public Company, having share capital, duly incorporated and registered in terms of the Company Laws of South Africa under Registration Number: 2005/029425/06;
- 1.36 “**HS 21**” means Highveld Syndication No. 21 Limited, a public Company, having share capital, duly incorporated and registered in terms of the Company Laws of South Africa under Registration Number: 2005/027601/06;
- 1.37 “**HS 22**” means Highveld Syndication No. 22 Limited, a public Company, having share capital, duly incorporated and registered in terms of the Company Laws of South Africa under Registration Number: 2005/027390/06, and HS Investors having invested historically in HS22, shall be defined, for all purposes of this arrangement, as “**HS22 Investors**”;
- 1.38 “**HS Investor**” or “**HS Investors**” means, to the specific exclusion of trade creditors, any person or legal entity, be it any individual, company, trust, close corporation or other legal

entity, in the widest sense, having a claim or claims, and/or who had invested any funds, at any date prior to the final date, in or in regard to the HS Companies in respect of any Property Syndication related business having been conducted by the HS Companies or any of their number, notwithstanding the nature of such investment, including, specifically, claims in the widest sense of interpretation of such defined word “claims”, in this arrangement, emanating from and relating to any such “investment” or “investments”, and without derogating from the generality of the aforesaid, any such investment having been made by any HS Investor, whatever the nature, for whatsoever reason and in whatsoever amount such investment was made, and in particular, following which investment any investor had its legal relationship, in the widest sense, with any of the HS Companies, affected, regulated and/or restructured by or by virtue of the implementation or not of the Plan, and further in particular, to the extent that such HS Investor, by virtue of the Plan, obtained any form of rights, including, specifically, contingent, conditional and subordinated claims, and again, in the widest sense, such last-mentioned rights having been acquired following the approval and adoption of the Plan on 14 December 2011, and “investor” or “investors” shall have a corresponding meaning;

- 1.39 “**HS Investors’ arrears**” means arrears in respect of the HS Investors for the period 1 March 2014 up to and including 31 August 2014, excluding arrears in respect of HS22 Investors, in respect of HS22 Investors’ February 2014 arrears;
- 1.40 “**HS22 Investors’ February 2014 arrears**” means arrears in respect of the HS22 Investors, for any period up to 28 February 2014;
- 1.41 “**Insolvency Act**” means the Insolvency Act, no 24 of 1936, as amended;
- 1.42 “**Inspection Documents**” means the documents pertaining to the Initial Orthotouch Agreement, the Resubmitted Offer, the Plan and the 2014 Orthotouch/HS Companies Agreement, referred to, respectively, in paragraphs 2.1.2, 2.1.21, 2.1.23 and 2.1.55 below, together with any Appendices to such four documents, the 2014 Orthotouch/HS Companies Agreement being attached to this arrangement document as **Annexure “B”**, the initial Orthotouch Agreement, the Resubmitted Offer and the Plan (not being specifically attached to this arrangement document), together with the 2014 Orthotouch HS Companies Agreement, constituting the **Ancillary Contracts** referred to in 1.4.2.3 and 1.5 above and 2.3.3 below, and which four documents, together with **Annexure “A”** and **Annexure “B”** and certain further relevant documents, annexed to this arrangement document, as **Annexures “D”, “E”, “F”, “G”, “H”, “I” and “J”**, all constitute the Inspection Documents, the list of Inspec-

tion Documents being annexed to this arrangement document as **Annexure "C"**;

- 1.43 **"interim interest payments"** means the interest payable to HS Investors for the period, and under the circumstances envisaged in 2.2.4.4 below;
- 1.44 **"Klopper"** means Johannes Frederick Klopper, the BRP;
- 1.45 **"LTV"** means Loan to Value, being the percentage of the value of a property which a bank would lend funds against, to the owner of the property, from time to time, utilising the property as security;
- 1.46 **"liquidation value"** means the liquidation value of the assets as calculated in 2.1.62 and as envisaged in 2.2.5.1 below;
- 1.47 **"meeting"** means the meetings (or any adjourned meetings) of trade creditors on the one hand and HS Investors on the other hand, to be convened for the purpose of considering the arrangement;
- 1.48 **"perceived value"** means the value of the Properties as same was perceived by Georgiou and the HS Companies as at 24 March 2011, and for purposes of the Initial Orthotouch Agreement, in the aggregate amount of some R2.6 billion, and as such Properties were valued for the purposes of the Company applying for bank finance during May 2011, and as envisaged in 2.2.5.1 below;
- 1.49 **"Plan"** means the Business Rescue Plan in respect of the HS Companies developed and prepared in terms of Section 150 of the Act and published by Klopper on 30th November 2011, effective from the commencement date of the Plan, and which Plan was approved and adopted on 14 December 2011 in terms of the provisions of the Act;
- 1.50 **"preferent creditors"** means creditors having preferent claims, and as envisaged in terms of the Insolvency Act;
- 1.51 **"proposal"** means the proposal of the arrangement by the Company to trade creditors and HS Investors, as contained in this arrangement document;
- 1.52 **"Properties"** means the immovable properties, including all the rights, title and interest of the Company in and to any of the Properties referred to in this paragraph 1.52, indicated on

Annexure “D” hereto, the content of **Annexure “D”** having been changed in respect of sales and acquisitions of certain Properties, as detailed in **Annexure “E”** hereto, resulting in the Properties detailed in **Annexure “A”** hereto, constituting the portfolio of Properties forming the subject matter of this arrangement under circumstances detailed and as dealt with in 2.1.45 and 2.1.46.1 below;

- 1.53 **“Property”** means all and any fixed (immovable) property of the Company, including all and any rights to or in respect of any fixed (immovable) property, and, in particular, as such properties and such rights relate to or flow from the Plan, as at and in respect of any period prior to the final date;
- 1.54 **“Receiver”** means Derek Pedoe Cohen who undertakes to act as Receiver under the arrangement, and who will also act as Chairman at all meetings in connection therewith;
- 1.55 **“review”** means an application to the Court in which the applicant merely seeks to prove his rejected or partially rejected claim, or any security or preference, as a fact, whereupon the Court may order the Receiver to act in accordance with such proved facts;
- 1.56 **“sanction”** means the sanction of the arrangement by the Court in terms of Section 155 (7) (b) of the Act;
- 1.57 **“secured creditors”** means creditors having secured claims, and as envisaged in terms of the Insolvency Act;
- 1.58 **“SRP”** means the Securities Regulation Panel as established in terms of the 1973 Act;
- 1.59 **“stated value”** means an estimate of the realisable value of the assets, being immovable property and rights to immovable property, where a sale is concluded on a forced sale basis, but not under liquidation circumstances, being an projected aggregate value of R1,7 billion and as envisaged in 2.2.5.1 below;
- 1.60 **“trade creditors”** means to the specific exclusion of the HS Investors in respect of any of their claims, all or any creditors of the Company and/or the HS Companies or any of their number, including those as, specifically, listed in **Annexure “H”** hereto;
- 1.61 **“statement of assets and liabilities”** means the statement of assets and liabilities referred to in 2.1.47.3 below, and as recorded in 2.1.59 below and in **Annexure “F”** hereto;

- 1.62 “TRP” means the Transaction Regulation Panel, effectively the successor of the SRP, as established in terms of the Act;
- 1.63 “Zephan” means Zephan Properties Proprietary Limited, Registration Number 2003/020174/07, a company duly registered and incorporated in, and according to the Company laws of, South Africa, in its own right and as the case may be as a representative of Georgiou and the Georgiou Family in their dealings with Orthotouch;
- 1.64 any reference in the arrangement to the singular shall include the plural and vice versa;
- 1.65 any reference to any gender shall include the other gender;
- 1.66 any reference to natural persons shall include legal persona/e and *vice versa*.

2. CHAPTER 2 – THREE PARTS, AS REQUIRED IN TERMS OF SECTION 155(3) OF THE ACT

2.1 PART A – BACKGROUND

- 2.1.1 The HS Companies previously conducted business as investors in commercial, retail and industrial property for which they outsourced management. In this process, the HS Companies acquired certain of the Properties and relevant rights to the Properties as envisaged in 1.52 above. The Properties were let to tenants with the intention of deriving income returns to the HS Companies.
- 2.1.2 The HS Companies, for reasons not pertinent to this arrangement, ran into financial difficulty during late 2010 through to early 2011, with the result that, on or about 24 March 2011, the HS Companies entered into an agreement in terms of which, *inter alia*, they contracted to sell the Properties (excluding the rights to acquire further properties in terms of the Plan) to Orthotouch (“**the Initial Orthotouch Agreement**”), forming **Inspection Document No 1**, to the Inspection Documents, details of which Inspection Documents are reflected in **Annexure “C”** hereto.

- 2.1.3 Orthotouch was at that stage a public company which had never traded, was substantially owned by the NAG Trust and effectively controlled by Georgiou through that entity.
- 2.1.4 The Initial Orthotouch Agreement was subject to the due fulfilment of two conditions precedent (“**conditions precedent**”), namely –
- 2.1.4.1 the approval of the transaction by the then **SRP**; and
- 2.1.4.2 the subsequent approval of the transaction envisaged in the Initial Orthotouch Agreement by the shareholders of the HS Companies in General Meeting.
- 2.1.5 In terms of the Initial Orthotouch Agreement, Orthotouch commenced paying interest to historical investors (**HS Investors**), calculated on the full amount of their individual historical investments in the HS Companies, at an interest rate of 6 % (six per centum) per annum, notwithstanding the fact that the conditions precedent had not yet been fulfilled, and in particular, during the process during which Georgiou and his advisors attempted to procure fulfilment of the conditions precedent.
- 2.1.6 It is a well-known fact that even prior to the HS Companies getting into financial difficulties as aforesaid, a group of individuals termed herein, for want of a better name, “**the detractors**”, sought to bring about the failure and demise of the HS Companies.
- 2.1.7 The detractors were, and continue as at the date of this arrangement, to be comprised of a number of persons, inclusive of brokers, accountants, valuers, attorneys, auctioneers, liquidators and others, some working in concert and others individually, but in most instances operating covertly, to bring about the liquidation of the HS Companies, to enable the detractors to lay their hands on the assets of the HS Companies and to generate vast possible income to themselves, following their calculated destructive activities.
- 2.1.8 In this process, the detractors attempted to use and abuse the media, to assist them in their efforts to also derail the Business Rescue Plan, which followed the Initial Orthotouch Agreement, and in order to procure the continued negative effects referred to below, and to some extent were successful in doing so.

- 2.1.9 During this process of attempting to procure the fulfilment of the conditions precedent, the Company, funded at the instance of Georgiou, commenced paying interest to HS Investors as aforesaid in March 2011.
- 2.1.10.1 By the time the HS Companies were placed in Business Rescue on 7 September 2011 (from 1 March 2011 to 31 August 2011), an aggregate of R128,481,590 in respect of interest payments, to HS Investors, in full and up to date, had been made.
- 2.1.10.2 Despite the inability to procure fulfilment of the conditions precedent and after the Business Rescue process commenced, Georgiou continued to procure the funding of the Company, and the Company continued to pay interest, to HS Investors, up to the date of adoption and approval of the Plan on 14 December 2011, in full and up to date (from September 2011 to November 2011), in a further aggregate amount of R64,240,795.
- 2.1.10.3 Since the adoption and coming into effect of the Plan, and to date (from 1 December 2011 to date), a further aggregate amount of R614,863,579 has been paid at the instance of the Company to HS Investors, during the Business Rescue process of the Company.
- 2.1.10.4 The total amount paid to HS Investors since the entering into of the Initial Orthotouch Agreement, and to date, amounts to R807,585,964.
- 2.1.11.1 In the case of HS22, the HS22 Investors originally (prior to the involvement in the HS Companies by Georgiou), opted for a “growth type” investment, with no interest being payable on investments made in HS22 by HS22 Investors.
- 2.1.11.2 In terms of the Plan, HS22 Investors were afforded the opportunity to convert their “growth”, only, related rights as envisaged in 2.1.11.1 above to “interest” related rights, which some 49% of the HS22 Investors did.
- 2.1.11.3 The option to convert was however exercised by HS22 Investors after an inordinate delay on the part of HS22 Investors, by which time the ability to continue with interest payments at the high rate specified in the Plan, was already being stretched.

- 2.1.11.4 This notwithstanding, an aggregate amount of R24 199 268 was paid to HS22 Investors in interest payments from 24 March 2011 to date.
- 2.1.11.5 It is recorded that, for the purposes of this arrangement, and, specifically, for purposes of voting at the meetings and participating as to the value of their claims, in the restructuring process of HS Investors' claims as envisaged in 2.2.4 and 2.2.5 below, **the quantum of the claims** of HS22 Investors –
- 2.1.11.5.1 having opted for “growth” related rights, and remained with this choice, as envisaged in 2.1.11.1 above, will be the pro rata value of relevant claims in the books of account of HS22, at which investments were historically made, and as remains payable as at, respectively, the date of the meetings and the final date, but including a “growth” component on and added to such historical pro rata values, under circumstances where such growth component, effectively “replaces” interest not elected or received (“**growth forgone**”);
- 2.1.11.5.2 having opted for “interest” related rights, as envisaged in 2.1.11.2 above, will be the pro rata value of relevant claims in the books of account of HS22, at which investments were historically made, and as remains payable as at, respectively, the date of the meetings and the final date, on the basis that any arrears will be capitalised, save for the HS Investors' February 2014 arrears.
- 2.1.11.6 The provisions of this arrangement, pertaining, specifically, to HS22 Investors are recorded in 2.2.4.2 below.
- 2.1.12 It is noteworthy that during the 42 month period since the entering into of the Initial Orthotouch Agreement on 24 March 2011, referred to above, and to date, and despite the exceptionally high interest rate paid, having regard to the circumstances referred to in, specifically, 2.1.35 and 2.1.46.1 below, interest payments fell in arrears, only for 6 months, in respect of HS15 to HS21, in addition to HS22 Investors February 2014 arrears.
- 2.1.13 During the process of attempting to procure the fulfilment of the conditions precedent, the Company and Georgiou received information to the effect that certain detractors had been communicating with representatives of the then SRP with the view to influencing such representatives of the SRP, to the effect of the SRP not approving the implementation of the Initial Orthotouch Agreement, with the view to scuttle the

transaction envisaged in the Initial Orthotouch Agreement, in order to engineer the liquidation of the HS Companies, in the process, and for the purposes of the detractors, as referred to in 2.1.7 above and 2.1.16 below.

2.1.14 Georgiou was aware, from this early stage, that –

2.1.14.1 due to the worldwide recession and the general decrease in property values worldwide, the value of the Properties at the time of the conclusion of the Initial Orthotouch Agreement, was approximately 50% of the value at which they had been syndicated;

2.1.14.2 apart from the recession any problems referred to in 2.1.14.1 above, the syndication values at which the Properties had been syndicated to investors by the then management of HS Companies, included fees paid by the syndicators to their network of brokers; and

2.1.14.3 Properties had in certain instances been over priced in that amounts in excess of the then actual values of such Properties were accepted as being required to purchase such Properties.

2.1.15 Georgiou nevertheless, in the belief based on his vast experience in the property industry over many years, that Orthotouch would be able to raise funding at an LTV of less than 50%, in order to achieve what is stated in 2.1.29 and 2.1.30 below, was prepared to pay interest to HS Investors calculated on the **full syndication values** of Properties and not the current values of the Properties at any relevant point in time, being the perceived value of the Properties, as referred to in 1.48 above and 2.2.5.1 below.

2.1.16.1 The conditions precedent to the Initial Orthotouch Agreement failed by reason of the fact that the TRP approval had not yet been obtained at the time when an application was launched, at the instance of detractors, for the liquidation of HS19 and the HS Companies were placed under severe threat of liquidation.

2.1.16.2 The application was launched during September 2011. This application was opposed and the matter was disposed of.

- 2.1.16.3 A further application for business rescue of HS19 was launched, again at the instance of detractors, during September 2011.
- 2.1.16.4 This second application was opposed, successfully defeated and a punitive costs order was granted.
- 2.1.16.5 This same group of detractors, as at the date hereof, continues to seek the liquidation of HS Companies and through that process, the Company, with scant, if no, regard for the interests of the HS Investors, and in a pure effort to line the pockets of themselves, their attorneys, affiliated associates, liquidators and the like.
- 2.1.17 In fact, whilst Georgiou and his advisors were still attempting to procure the fulfilment of the conditions precedent and whilst Georgiou continued to procure the funding for the Company, in order to enable the Company to pay interest to HS Investors, and whilst interest payments were being made timeously and up to date, actions continued to be taken by the detractors, accentuating, what appeared to be self-centred behaviour of the detractors.
- 2.1.18 As a result of the applications and continuing activities of the detractors, and in order to protect the HS Companies from the actions of detractors, and to avoid further liquidation aimed actions, with inevitable disastrous effects, the HS Companies were placed under Business Rescue proceedings in terms of section 129 of the Act by virtue of resolutions adopted by the HS Companies, which were filed with the Commission on the commencement date.
- 2.1.19 The Commission issued a Certificate in terms of which Klopper was licensed to serve as BRP and he was appointed as BRP to the HS Companies.
- 2.1.20.1. The first meetings of creditors and affected persons (including HS Investors) in respect of the HS Companies were held on 21st September 2011 in respect of HS 15 - HS 18 and HS20 - HS22 and on 30th September 2011 in respect of HS19. Upon conclusion of the meetings referred to above, the BRP formed the view that there is a reasonable prospect of publishing and having adopted a Business Rescue Plan, which would result in a better return to HS Investors than would result from the liquidation of the HS Companies.

- 2.1.20.2. That view was based upon the belief by the BRP that, no matter what the outcome of the Business Rescue process in general would be, any liquidation would have disastrous effects on all affected persons and, furthermore, because the Company indicated to the BRP shortly after the commencement of Business Rescue proceedings, that it intended submitting an offer to the BRP, substantially on the same terms as the Initial Orthotouch Agreement, in order for what was intended by the Initial Orthotouch Agreement to still be achieved.
- 2.1.21 As a result of the failure of the conditions precedent, the Company, upon invitation of the BRP, submitted an offer to acquire the Properties (“**the Resubmitted Offer**”), during November 2011, which offer was substantially in the same terms as the Initial Orthotouch Agreement, and is included, as **Inspection Document No 2**, in the Inspection Documents.
- 2.1.22 In terms of the provisions of section 128 of the Act, Business Rescue proceedings also include proceedings to facilitate, if it is not possible for the HS Companies to so continue in existence, a better return for the HS Companies’ then creditors and investors, than would result from the liquidation of the HS Companies.
- 2.1.23 Based on the Resubmitted Offer, the BRP formed the view that there was a reasonable prospect of publishing a Business Rescue Plan (“**the Plan**”), **Inspection Document No 3**, which would be adopted and would result in a better return to investors in the HS Companies, than would result from the liquidation of the HS Companies.
- 2.1.24 When making the Resubmitted Offer, Georgiou was again under the mistaken belief that the Company would be able to raise funds on an LTV of less than 50%, and that the Company would receive, at the very least, the full support of the HS Investors and their brokers who had earned commissions in the process of marketing investments in the HS Companies, and above all, financial institutions, and that, as a result, Georgiou would be able to sweat the Properties and business of the Company, in order to achieve what is envisaged in 2.1.29 and 2.1.30 below.
- 2.1.25 The Resubmitted Offer therefore was again made on the basis that the interest would be calculated on full syndication values, and therefore the full amounts historically invested by HS Investors in the HS Companies, prior to the involvement of Georgiou.

- 2.1.26 Pursuant to the provisions of section 150 (1) of the Act and after consultation with the HS Investors, other affected persons and the shareholders of the HS Companies, a Plan was submitted for consideration and possible adoption at a meeting of affected persons to be held in terms of section 151 and considered in terms of section 152 of the Act.
- 2.1.27 The meeting was held on 14 December 2011 and the Plan was adopted by more than 99% of HS Investors present and voting.
- 2.1.28 Of significance is the successful receipt, consideration and approval of the proposed Plan by affected persons, **under the conscious and active guidance, and on the advice of financial advisors (brokers) of affected persons, being HS Investors**, forming the subject matter of this arrangement.
- 2.1.29 It is hugely significant to note that the success of the Plan relied on a number of critical matters, to be successfully procured, provided for therein, namely -
- 2.1.29.1 the obtaining of an initial loan from a pre-determined financial institution, of R200 million, to be utilised for purposes of working capital and financing the initial tranches of interest payments pursuant to the adopted Plan;
- 2.1.29.2 the ability for the Company to trade freely in Properties in order to increase the value of the property portfolio of the Company; and
- 2.1.29.3 the ability of the Company to obtain, on an ongoing basis, finance for its operations, including working capital and funding for upgrading of Properties, calculated at a 50% LTV, initially amounting to a required R1 billion funding facility, to further the objectives of the Company.
- 2.1.30 The initial working capital referred to in 2.1.29.1 above and other funding referred to in 2.1.29.3 above, were to be utilised for the following purposes-
- 2.1.30.1 initial working capital to the Company –
- 2.1.30.1.1 to service the interest payments to HS Investors;
- 2.1.30.1.2 to service the short term financial needs of the Company;

- 2.1.30.2 to provide other funding for the Company –
- 2.1.30.2.1 required to take transfer of the Properties;
- 2.1.30.2.2 required to repay bonds over encumbered Properties;
- 2.1.30.2.3 to refurbish existing Properties on an ongoing basis; and
- 2.1.30.2.4 to acquire further properties, and refurbish or further develop such further acquired properties on an ongoing basis,

all such funding and actions being required to place the Company in physical ownership, possession and control of the Properties, on an unencumbered basis, in order to grow the portfolio of Properties so as to attain a value of the portfolio required to pay the HS Investors in full, by December 2016, in terms of the Plan.

- 2.1.31 Due to the continued interference of the detractors and particularly their continued interference in the operations of the Company, and them effectively preventing the availability of any bank funding as was anticipated in and for purposes of the Plan, the key goals referred to in 2.1.29.1, 2.1.29.2 and 2.1.29.3 above, became totally unachievable and consequently the ability of the Company to achieve its objectives, became completely impossible. The Company is still attempting to raise the funding envisaged by 2.1.29.1 and 2.1.29.3 above, but is having no success and finding this impossible.
- 2.1.32 Examples of the interference by detractors and the consequences of same are that -
 - 2.1.32.1 the loan of R200 million envisaged in 2.1.29.1 above, which had been granted during early November 2011, by a commercial bank (“**the First Banking Institution**”) in terms of an agreed Term Sheet, was withdrawn, **telephonically**, approximately 5 days before the Resubmitted Offer was submitted, for no apparent reason, other than what would appear to be interference by detractors;
 - 2.1.32.2 in fact, R30 million of the approved loan had been advanced by 17 November 2011, at a cost (banking fees) of R4 million, which amount was deducted from the R30 million, with R26 million paid to the HS Companies, which amount was utilised for purposes of paying interest to HS Investors;

- 2.1.32.3 during early 2012, the First Banking Institution insisted upon Georgiou having to repay the R26 million, plus interest, without this having been agreed in the Term Sheet, when the R200 million loan was withdrawn;
- 2.1.32.4 the banking fees of R4 million were later repaid;
- 2.1.32.5 despite the fact that banks were at that time, in the economic circumstances prevailing, generally financing property at a LTV in the region of 60%, the Company failed to obtain finance at less than 50%, the attitude of the banks being that there was “reputational risk” which could attach to them if they lent funds to Orthotouch, without explaining what “reputational risk” entailed. From discussions with bank officials, “reputational risk” seems to entail an aversion by the banking fraternity to provide funding to the HS Companies and “their legacy”, a perception applied to the Company, purely because the Company was to acquire the “tainted” assets of the HS Companies, as banks felt and continue to feel that the perceived “incorrectness” of Property Syndication Business and “losses suffered” by elderly investors in Property Syndication related investments, would “rub-off” on them, whether they had to call up security or not.
- 2.1.33 For example –
- 2.1.33.1 the banks with which Georgiou, the indirect shareholder of the Company, had been dealing with generally, started to tighten up on then existing facilities of Georgiou and his businesses, and began to refuse new facilities, not only to Georgiou but to the Georgiou family;
- 2.1.33.2 the BRP and the Internal Legal Adviser to the Company met with a different commercial bank (“**the Second Banking Institution**”) to apply for finance. Prior to that meeting the BRP had informally met with a senior executive of the Second Banking Institution who had indicated to him that there should be no problem at all in obtaining finance at an LTV of less than 33% and invited him to make a formal application to obtain such finance. When the meeting was held, the BRP and the Internal Legal Advisor were politely told that the Second Banking Institution would not grant any finance to the Company due to “reputational risk”. The bizarre explanation afforded for the meaning of “reputational risk”, was that if the Second Banking Institution was to support the Company and if matters did not go well

“they” (**the Second Banking Institution**) would be blamed for the losses suffered by “old people” who had invested in the HS Companies;

- 2.1.33.3 during or about August 2012, after many months of negotiation, the Georgiou family was successful in negotiating funding with the First Banking Institution for various of the family’s entities and for the Company. The terms of that funding were recorded in a Term Sheet dated 17 August 2012, which was a highly confidential document. On 17 August 2012 due to an error on the part of the Internal Legal Advisor of the Company, that Term Sheet was distributed to the directors of Orthotouch;
- 2.1.33.4 the former Chairman of Orthotouch saw fit, despite his fiduciary obligations, to release the document into the public domain. It appeared that the detractors then covertly placed a document titled “Opsomming Van Gebeure” under the door of a senior executive of the First Banking Institution, which resulted in the finance envisaged in terms of the Term Sheet, being immediately withdrawn;
- 2.1.33.5 during or about April 2013, after many months of negotiation, yet another commercial bank (“**the Third Banking Institution**”) invited a team from Orthotouch and the BRP to present to their most senior executives a high level summary of Orthotouch’s position, in an endeavour to enable the hierarchy of the Third Banking Institution to understand Orthotouch and to afford them finance. At the very commencement of that meeting, the Orthotouch representatives were advised by Third Banking Institution’s main senior executive, that one of their executives “had a Doctorate” on Orthotouch. The high level presentation was not even accepted into the hands of the executives present at the meeting, and no funding was forthcoming, without any explanation as to why, other than to state that one of their executives had a “Doctorate” on Orthotouch.
- 2.1.34 All of the actions of the aforesaid banks, in denying Orthotouch funding, despite the fact that more than sufficient security and serviceability was at all times available, were clearly influenced and possibly even controlled by the detractors, whose sole aim was and remains to starve Orthotouch of the required funding to meet its objectives.
- 2.1.35 The HS Companies received low income from the portfolio of Properties, as the portfolio of Properties yielded relatively low income, due to the distressed state of the Properties, following the historical troubles having been experienced by the HS Companies, prior to

the involvement of Orthotouch, as a result of no funding being available to refurbish and further develop the portfolio, and to grow the portfolio, so as to increase income and value for the portfolio. This notwithstanding, Georgiou, through Zephan, still “topped up” interest payments, out of own resources, thereby suffering losses, to the extent of R1,195,867,069 (One Billion One Hundred and Ninety Five Million Eight Hundred and Sixty Seven Thousand Hundred and Sixty Nine Rand) giving rise to an additional loan account of some R383 million in favour of Zephan, owing by the Company as at the date hereof.

- 2.1.36 At the time of the listing on the JSE of a new property fund during 2013, (“**the Fund**”) into which certain of the Company’s Properties were to be sold, in exchange for cash and/or shares, so as to create liquidity for the Company, in order to enable bonds over Properties to be settled and cancelled and in furtherance of the intended listing of the property portfolio of Orthotouch, in order to achieve the goals set out in the Plan, and most importantly, the goals of the Company being that of being able to take transfer of the Properties and borrow funds required to upgrade and grow the portfolio of Orthotouch, which goals were in essence the same as those envisaged in 2.1.29 and 2.1.30 above, the Third Banking Institution withdrew its financial support at the last minute, because of the “involvement of Orthotouch” in the proposed listing.
- 2.1.37 A **Fourth Banking Institution** then agreed to advance the funds then not advanced by the Third Banking Institution, necessary for the Fund to list on the JSE, provided that the prices of some properties due to be introduced into the listing, including some of those to be acquired from Orthotouch, be adjusted downwards by some R177 million, less the costs of required tenant installations and letting fees, such costs to be incurred in order to fill vacancies in the relevant properties, which costs could be substantial, depending on the nature of tenanting ultimately procured, and which aggregate amount will only be known after the vacancies have been filled, the net amount in respect of which would then be recoverable as an “agterskot”, based on the extent of filling of vacancies in respect of such properties.
- 2.1.38 As far back as 7 November 2012, Amanda Visser wrote an article in Business Day headed ‘Business rescue ‘a boat without a paddle.’ ” In that article she wrote “*The biggest stumbling block in the path of a successful business rescue remained the securing of bridging finance.*”

- 2.1.39 She further wrote “..., *in most cases the companies will need an additional injection of working capital. Without this post-commencement financing, business rescue is akin to a boat without a paddle, leaving the few South African companies that have the option of saving their businesses without any hope of doing so.*”
- 2.1.40 More recently on 6 August 2014, Linda Ensor wrote an article in Business Day under the heading “*Business rescue under scrutiny as remedies fail to save stricken firms.*”
- 2.1.41 This article stated “.....*the success rate for business rescue could be as low as 12%..*”
- 2.1.42 “Resistance on the part of banks had not helped, especially when withholding finance once the rescue process had begun.
- 2.1.43 Also, as secured creditors, the banks tend to dominate. “If the bank has more than 25% of the voting powers, it has full power, as you need 75% of the votes to approve a plan.” If they don’t vote in the plan, the company goes into liquidation, which could be the better option for the banks, which often want their money quickly.”
- 2.1.44 Had Georgiou been aware that the Resubmitted Offer would have resulted in a situation where the detractors (which included brokers and HS Investors) would escalate their endeavours to liquidate the HS Companies, and that no funding would be forthcoming (despite more than ample security and serviceability) to enable Orthotouch to meet its objectives, Georgiou would not have made the Resubmitted Offer, alternatively if he did make same, he would only have offered to pay interest calculated on the then current value of the Properties.
- 2.1.45.1 The material assets of Orthotouch were comprised solely of rights in and to immovable property in respect the Properties recorded in the schedule attached hereto marked **Annexure “D”**. The portfolio of said Properties have been changed by virtue of certain sales and acquisitions of a number of Properties, which movements are detailed in **Annexure “E”**. The sales and acquisitions were concluded in terms of the Plan, to enable Orthotouch to meet its objectives in terms of the Plan. The current portfolio is reflected in **Annexure “A”** hereto.
- 2.1.45.2 From the outset, since the commencement date and since adoption of the Plan on 14 December 2011, the rental income derived from the Properties was insufficient to pay monthly interest to the HS Investors in terms of the Plan and the shortfalls during the

Business Rescue proceedings were subsidised by Zephan leaving an amount, on loan account, of R383,221,547 owing to Zephan.

- 2.1.46.1 It is significant to record at this juncture that the value of the assets which Orthotouch acquired was based upon valuations done during May 2011, by the HS Companies. The value of approximately R2.6 Billion referred to in the Plan, was accepted as the perceived value for the concluding of the Initial Orthotouch Agreement.
- 2.1.46.2 In concluding the Initial Orthotouch Agreement, Georgiou was well aware that the distressed value of the Properties comprising the assets would be substantially less, due to vacancies, but he was confident that given the opportunity to trade properly with such Properties and to obtain the requisite funding from banks, Orthotouch would be able to meet its stated objectives and ultimately be profitable.
- 2.1.47 As a result, Orthotouch finds itself in a position where, although some R808 million has been paid in regard to interest to HS Investors prior to, in terms of the Plan, and to date -
- 2.1.47.1 the Properties have not been able to be transferred to Orthotouch from the HS Companies and Zephan, the company which, in terms of the Plan, was to also transfer Properties to Orthotouch;
- 2.1.47.2 Orthotouch has been unable to obtain the funding, envisaged in the Plan, required to upgrade and grow the portfolio of Properties as envisaged in and for purposes of the Plan;
- 2.1.47.3 although the value of the assets has been largely preserved under the management of Georgiou and the directors of the Company, at R1,902,146,800 as will appear from the Statement of Assets and Liabilities, as recorded in **Annexure "F"** hereto,

Orthotouch currently has difficulty to continue to maintain the monthly interest payments to HS Investors, without the assistance of Zephan, or to realise the end-goals envisaged by the Plan, i.e., the growth of the portfolio of Properties as envisaged in 2.1.30, for the following reasons -

- 2.1.47.3.1 Orthotouch has no tangible assets, save for rights flowing from the Plan, and thus the HS Companies may have to be liquidated, leaving Orthotouch with claims against a liquidated group of companies (the HS Companies);
- 2.1.47.3.2 Orthotouch has not had, and currently does not have the funds required to transfer the Properties to it;
- 2.1.47.3.3 Orthotouch has been unable to obtain bank funding; and
- 2.1.47.3.4 due to the constant interference of the detractors, Orthotouch has been unable to properly conduct its business as envisaged in and for the purposes of the Plan.
- 2.1.48 In the unlikely event of the detractors having succeeded in liquidating Orthotouch, the Plan would have failed and the BRP would have been duty bound to have liquidated the HS Companies, with the extreme negative results of such unnecessary action.
- 2.1.49 The liquidation of the HS Companies would best serve the interests of the detractors, but certainly not those of trade creditors and HS Investors.
- 2.1.50 It is unlikely that Orthotouch can or will be liquidated by any of the HS Investors, as they do not have claims against Orthotouch directly, save under circumstances where the detractors in their infinite ingenuity, somehow orchestrate an untoward and unlawful liquidation, which scenario could, at this point in time, in fact be only a theoretical liquidation scenario of the Company, as sketched in 2.1.61 below.
- 2.1.51 At this juncture it is of importance to note that HS Investors are not, and never have been, direct creditors or, shareholders of, or investors in the Company (Orthotouch), HS Investors only having contingent claims against Orthotouch, by virtue of the rights of HS Investors in terms of the Plan, but primarily against the HS Companies.
- 2.1.52 It is the view of the BRP and the directors, that the proposed arrangement contained herein, is a realistic restructuring plan and arrangement and a commercially sound and business like alternative to the inability to reach the envisaged end goals of the Plan, and any possible liquidation of the HS Companies or any of their number.

- 2.1.53 The proposed arrangement will enable the financial proposer to revive and grow Orthotouch, by having procured the funding necessary to recapitalise Orthotouch, and ensure that the goals of the arrangement proposed herein are achieved.
- 2.1.54 It is in the opinion of the BRP, that it is **of utmost importance**, in the best interests of HS Investors –
- 2.1.54.3 to create an alternative solution to serve the best interests of HS Investors, as was intended by the proposing and adopting of the Plan, in the circumstances set out in 2.1.29 and 2.1.30 above;
- 2.1.54.4 to create an alternative to the inability to reach the envisaged end goals of the Plan;
- 2.1.54.5 to avert any possible liquidation of the HS Companies or any of their number and the serious negative effects of loss of value for HS Investors, which will be the consequence of a liquidation the HS Companies or any of their number;
- 2.1.54.6 to the extent that much ado has been made about the liquidation of “Orthotouch” by the detractors, that it is to be borne in mind that due to the actions of the detractors and the consequent actions of the banks, the success of Orthotouch was effectively fraught with difficulty from the outset, and that as a further result thereof, the Company has been unable to take possession of the assets of the HS Companies, in an attempt to cure the ills of the HS Companies and their historical funding structures and management decisions, which very ills would have led to the liquidation of the HS Companies, ably orchestrated by the detractors, had Orthotouch not, with sound commercial intention and capacity, stepped in, fully supported by Georgiou and Zephan under circumstances where they had no reason to step in, save for their belief that they could with Georgiou’s vast experience, grow the Property portfolio of the HS Companies, bolstered by a further R500m worth of properties to be introduced by Zephan, and the expected support from the Banking Fraternity, which was required to enhance the value of the fairly tainted HS Company Properties, which were to the greater extent, in a state of stress and/or disrepair.
- 2.1.55 In order to commence with the formulation and proposal of the restructuring plan and arrangement alternative referred to in 2.1.52 above, Orthotouch entered into an

agreement with the HS Companies (“**the 2014 Orthotouch/HS Companies Agreement**”), a copy of which is appended hereto as **Annexure “B”**.

- 2.1.56 The 2014 Orthotouch/HS Companies Agreement provides for the HS Companies supporting the arrangement, its approval, adoption and sanctioning.
- 2.1.57 In compliance with Section 155 (3) (a) of the Act the following are annexed hereto -
- 2.1.57.1 lists of the material assets of the Company, being, the Properties to which the Company has had and has rights as envisaged in 1.8 and 1.52 above, as contained in **Annexures “A”, “D” and “E”** hereto;
- 2.1.57.2 complete lists of the investors and creditors in the Company as at the final date, as **Annexures “G” and “H”** respectively, on which lists it is indicated that (**Annexure “G”**) the Company has no “investors”, but only has one shareholder, and that the HS Investors are contingent, conditional and subordinated creditors of the Company, and that (**Annexure “H”**) the Company does not seem to have any creditors who would qualify as secured, preferent and concurrent creditors in terms of the Insolvency Act, and, in the particular circumstances of the Company, the only creditors of the Company being Zephan and sundry professional advisors and consultants in respect of their unpaid costs and fees, the specific position as to trade creditors, being reflected on **Annexure “H”** hereto.
- 2.1.58 In terms of the Act, the Company is required to provide details of the probable dividend that would be received by “creditors”, in their specific classes, and by the “investors”, if the Company was to be placed in liquidation, as is more fully dealt with in 2.1.64 below, bearing in mind what is stated in 2.1.47 up to and including 2.1.51 above.
- 2.1.59 The assets of the company have been valued by the directors to the best of their ability, under the circumstances set out above, and particularly in an environment of constant harassment by detractors and negative perceptions being created in the market and amongst financial advisers and HS Investors by detractors. The resultant statement of assets and liabilities form **Annexure “F”** hereto, and is as follows -

ORTHOTOUCH LIMITED			
STATEMENT OF ASSETS AND LIABILITIES AS AT 31 JULY 2014			
ASSETS	Notes		July 2014
Non-cur			
Fixed Assets			
Land & Buildings	1		2 437 514 428
Current Assets			
Trade and other Debtors	2		87 574 372
Total Assets			2 525 088 801
EQUITY /			
Capital and Reserves			
			100
Retained Income			
Valuation Impairment	3	(2 145 667 344)	
Accumulated Loss	4	(1 195 867 069)	(3 341 534 412)
			(3 341 534 312)
Non-current Liabilities			
Long Term Borrowings			
Subordinated Loan : Zephan Properties	5	500 000 000	
Highveld Syndication 15		253 000 000	
Highveld Syndication 16		309 000 000	
Highveld Syndication 17		232 200 000	
Highveld Syndication 18		345 800 000	
Highveld Syndication 19		602 000 000	
Highveld Syndication 20		678 900 000	
Highveld Syndication 21		1 332 000 000	
Highveld Syndication 22		857 962 112	
Highveld Syndication 22B		132 819 000	5 243 681 112
Other Long Term Liabilities			
Zephan Properties Loan Account		365 215 804	
Zephan Properties Trading Account		18 005 743	383 221 547
Current Liabilities			
Highveld Syndication 15 - interest		7 322 788	
Highveld Syndication 16 - interest		8 936 488	
Highveld Syndication 17 - interest		6 716 728	
Highveld Syndication 18 - interest		9 950 748	
Highveld Syndication 19 - interest		17 420 775	
Highveld Syndication 20 - interest		19 781 449	
Highveld Syndication 21 - interest		37 811 150	
Highveld Syndication 22 - interest		61 137 130	
Highveld Syndication 22B - interest		5 503 591	174 580 845
Trade and Other Creditors	6		65 139 609
Total Equity and Liabilities			2 525 088 801

Notes: In respect of Notes 1,2,3,4, and 5 above, refer to **Annexure "I"** hereto.

2.1.60 The effects on the Company's creditors (the trade creditors) and the HS Investors, upon the HS Companies being liquidated, and the Company being placed in liquidation as a result, are more fully dealt with in 2.1.61, 2.1.62, 2.1.63 and 2.1.64 below.

2.1.61 In what follows, the assets of the Company (based on the forced sale value of the Properties, in a liquidation scenario of the HS Companies, following by a theoretical

liquidation of the Company as referred to in 2.1.50 and 2.1.51 above) are represented at the "Liquidation Value" (Forced Sale Value) of the assets, as referred to in in 2.1.61.1 below), as at the date hereof, and the liabilities of the HS Companies, and as a consequence, the Company, are as follows –

Assets				
Land/Buildings @ Forced sale value	1 462 508 657.22	179 606 326.33	1 282 902 330.90	1 462 508 657.22
Debtors (Recoverable)	87 574 372.46	-	87 574 372.46	87 574 372.46
	1 550 083 029.68			
<i>Total Output VAT</i>		179 606 326.33		
				1 550 083 029.68
Disbursements				
Bond of security:				
As per Annexure "A"	17 670 946.54	2 170 116.24	15 500 830.30	17 670 946.54
Master's fees:				
As per Annexure "A"	25 000.00	-	25 000.00	25 000.00
Liquidator's Fee				
3% on immovable assets	50 017 796.08	6 142 536.36	43 875 259.72	50 017 796.08
10% on debts	998 347.85	122 604.12	875 743.72	998 347.85
Less VAT amount x 10% x 14%	-2 514 488.57	-308 796.84	-2 205 691.73	-2 514 488.57
	48 501 655.35			
Bank charges:				
Provision	50 000.00	-	-	50 000.00
Realisation Costs				
Valuation (Estimate)	34 200.00	4 200.00	30 000.00	34 200.00
Agent Commission & Advertising (Based on 5%	83 362 993.46	10 237 560.60	73 125 432.86	83 362 993.46
Taxed Bill of Costs:				
Attorney of Record: Estimate	228 000.00	28 000.00	200 000.00	228 000.00
Advertising:				
Government Gazette Form F1	73.00	8.96	64.04	73.00
Media 24 t/a Die Burger	570.00	70.00	500.00	570.00
Independent Newspapers	731.88	89.88	642.00	731.88
	1 374.88			
Post liquidation Income Tax due				
Based on interest earned	-	-	-	-
Allowances:				
Postage & Petties	399.00	49.00	350.00	399.00
Provisions:				
Bank Charges	1 000.00	-	1 000.00	1 000.00
Advertising Costs	140.00	-	140.00	140.00
Provisions for rates and clearance	120 000 000.00	-	120 000 000.00	120 000 000.00
	120 001 140.00			
<i>Total Input VAT</i>		18 396 438.33		
VAT Payable to SARS				161 209 888.00
Total Output VAT	179 606 326.33			
Total Input VAT	-18 396 438.33			
Available for Distribution				1 118 997 432.45
				1 550 083 029.68

- 2.1.61.1 The assets of the Company consist of rights to Properties. The valuation of the assets is based on the projected distressed sale value of the Properties as reflected in the schedule forming part of paragraph 2.1.61 above. It is estimated that, in the event of a forced liquidation sale of the Properties including the rights to the Properties, the estimated liquidation value of the Properties and rights to the Properties, will be R1,462,508,658, as estimated in 2.1.61 above.
- 2.1.61.2 The statement of assets and liabilities was prepared by chartered accountants contracted by the Company for purposes of the preparing and auditing of the financial statements of the Company, which process was delayed and hampered as a consequence of the complex situation that arose after the adoption of the Plan, and because of the intertwined accounting records that existed pursuant to the Business Rescue proceedings of the HS Companies and the bringing of properties belonging to Zephan into realm of the Plan, under the difficult circumstances recorded in this paragraph 2.1 above. No audit was carried out and the Company took such measurements and adopted such procedures and conducted such enquiries in relation to the figures as the Company considered necessary in the circumstances to enable the Company to produce the statement of assets and liabilities.
- 2.1.61.3 The amount owing by trade and other debtors is being reflected at the amount deemed to be recoverable from such debtors.
- 2.1.61.4 In compliance with Section 155 (3) (a) (iii) of the Act, there follows below a comparative analysis of the total of all expenses incurred or to be incurred together with the calculation of the amount which will in all likelihood become available for distribution to the trade creditors and HS Investors in the event of -
- 2.1.61.4.1 the liquidation of the HS Companies and Orthotouchs' theoretical liquidation under the circumstances referred to in 2.1.61 above, be proceeded with to its final conclusion, where the anticipated dividends are spelt out; and
- 2.1.61.4.2 the arrangement being duly approved and adopted by trade creditors and HS Investors and sanctioned as envisaged in 2.3.1 below.
- 2.1.62 In a liquidation scenario, the realisation of the assets and the expenses relating to such realisation will be as appears from the schedule reflected under 2.1.61 above.

2.1.63 Based on the aforesaid calculations, the distribution to all parties relevant in a liquidation scenario of the HS Companies and, as a consequence, the Company, will be as follows-

Creditor	Nature of Claim	Total	Secured	Preferent	Concurrent	Subordinated Syndication, ranks before Zephan	Subordinated Zephan, ranks last	Secured	Preferent	Concurrent	Subordinated Syndication, ranks before Zephan	Subordinated Zephan, ranks last	Deficiency
Long term - Syndication Creditors													
Highveld Syndication 15	Long term	253 000 000	-	-		253 000 000	-	-			34 498 158		218 501 842
Highveld Syndication 16	Long term	309 000 000	-	-		309 000 000	-	-			42 134 114		266 865 886
Highveld Syndication 17	Long term	232 200 000	-	-		232 200 000	-	-			31 661 946		200 538 054
Highveld Syndication 18	Long term	345 800 000	-	-		345 800 000	-	-			47 152 028		298 647 972
Highveld Syndication 19	Long term	602 000 000	-	-		602 000 000	-	-			82 086 526		519 913 474
Highveld Syndication 20	Long term	678 900 000	-	-		678 900 000	-	-			92 572 330		586 327 670
Highveld Syndication 21	Long term	1 332 000 000	-	-		1 332 000 000	-	-			181 626 666		1 150 373 334
Highveld Syndication 22	Long term	857 962 112	-	-		857 962 112	-	-			116 988 587		740 973 525
Highveld Syndication 22B	Long term	132 819 000	-	-		132 819 000	-	-			18 110 715		114 708 285
Subordinated creditors (long term)													
Zephan Properties Loan Account	Long term	500 000 000					500 000 000					-	500 000 000
Concurrent creditors (current)													
Zephan Properties Loan Account	current	365 215 804	-	-	365 215 804			-	-	365 215 804			-
Zephan Properties Trading Account	current	18 005 743	-	-	18 005 743			-	-	18 005 743			-
Trade and Other Creditors	Trade	65 139 609	-	-	65 139 609			-	-	65 139 609			-
Concurrent creditors (current)- arrear interest													
Highveld Syndication 15 - interest	interest	7 322 788	-	-		7 322 788		-	-		998 509		6 324 279
Highveld Syndication 16 - interest	interest	8 936 488	-	-		8 936 488		-	-		1 218 547		7 717 941
Highveld Syndication 17 - interest	interest	6 716 728	-	-		6 716 728		-	-		915 868		5 800 859
Highveld Syndication 18 - interest	interest	9 950 748	-	-		9 950 748		-	-		1 356 848		8 593 900
Highveld Syndication 19 - interest	interest	17 420 775	-	-		17 420 775		-	-		2 375 433		15 045 342
Highveld Syndication 20 - interest	interest	19 781 449	-	-		19 781 449		-	-		2 697 326		17 084 122
Highveld Syndication 21 - interest	interest	37 811 150	-	-		37 811 150		-	-		5 155 791		32 655 359
Highveld Syndication 22 - interest	interest	61 137 130	-	-		61 137 130		-	-		8 336 436		52 800 694
Highveld Syndication 22B - interest	interest	5 503 591	-	-		5 503 591		-	-		750 450		4 753 141
		5 866 623 113	-	-	448 361 156	4 918 261 957	500 000 000	-	-	448 361 156	670 636 276	-	4 747 625 681
					Concurrent claims	448 361 156							
					100.00	c/Rand							
					Subordinated Syndication claims	670 636 276							
						c/Rand	13.64						

2.1.64 It should be noted from the above that upon the liquidation of the HS Companies and Orthotouch's theoretical liquidation, HS Investors and trade creditors will receive a liquidation dividend of **only** some **13,64** cents in the Rand, which will become payable many years from now, upon the conclusion of the liquidation process and with no payment of any income to the HS Investors during that period.

2.2 PART B – PROPOSALS TO TRADE CREDITORS AND HS INVESTORS

2.2.1 DETAILS OF THE NATURE AND THE DEBT MORATORIUM PROPOSED IN TERMS OF SECTION 155(3)(b)(i) OF THE ACT

2.2.1.1 The HS Companies previously conducted business as investors in commercial, retail and industrial property for which they outsourced management. In this process, the HS Companies acquired the Properties and relevant rights to the Properties as

discussed above. The Properties were let to tenants with the intention of deriving income returns to the HS Companies.

2.2.1.2 By virtue of the Initial Orthotouch Agreement, the Company had, effectively, taken over the business of the HS Companies in terms of the Plan.

2.2.1.3 It is proposed that a moratorium on all legal actions against the Company and the HS Companies be and remain in place until after the arrangement proposed herein, has been duly considered by trade creditors and HS Investors and until the sanction and filing with the Commission of the arrangement. After sanction of the arrangement, no moratorium is envisaged, save for the subordination of the ceded claims and loan recorded in 2.2.3.14 below, which will be required, as the claims of all trade creditors and HS Investors will have been and will, for all purposes, be deemed to have been fully and effectively restructured into their compromised and restructured form, nature and extent, by virtue of the provisions of this arrangement, as approved and adopted by trade creditors and HS Investors and sanctioned by the Court, in full and final settlement of all claims of trade creditors and HS Investors as at the final date, as envisaged in 2.2.2.2 below.

2.2.2 **THE EXTENT TO WHICH THE COMPANY AND OTHER PARTIES ARE RELEASED FROM THE PAYMENT OF THE COMPANY'S AND THE HS COMPANIES' DEBTS AND ANY CONVERSION OF DEBTS TO EQUITY IN THE COMPANY OR ANY OTHER COMPANY IN TERMS OF SECTION 155(3)(b)(ii) OF THE ACT, AND BY VIRTUE OF THE TERMS AND CONDITIONS OF THIS ARRANGEMENT**

2.2.2.1 The Company, through its directors, makes the proposals contained in this arrangement, and, in particular as is contained in this paragraph 2.2.2, to the trade creditors and the HS Investors, and the financial proposer, by appending his signature to this arrangement, agrees to procure that the Company and the financial proposer, as the case may be, perform their respective obligations in terms of this arrangement.

2.2.2.2 With effect from the effective date, but subject to the arrival of the final date, the claims of all trade creditors and HS Investors will have been and will, for all purposes, whatsoever, be deemed to have been fully and effectively restructured into their compromised and restructured form, nature and extent, by virtue of the terms and conditions of this arrangement, as approved and adopted by trade creditors and HS

Investors at the meetings, and sanctioned by the Court, in full and final settlement of all claims of trade creditors and HS Investors as at the final date, as envisaged in this paragraph 2.2.2.2 and elsewhere in this arrangement, in consideration for the rights of trade creditors to receive the amounts receivable by them in terms of the provisions of 2.2.3.15 below and in consideration for the rights of HS Investors to receive the rights receivable by them in terms of the provisions of 2.2.4 and 2.2.5 below, and, specifically, in conversions of the claims of HS Investors as envisaged in 2.2.5.5 below.

- 2.2.2.3 To any extent relevant in law, required to render any of the terms and conditions of this arrangement effective on any party (“**other party**”) other than the Company, such terms and conditions shall, notwithstanding anything otherwise provided by law, be regarded as a *stipulatio alteri* in favour of such other party, as agreed and accepted between the Company and such other party by virtue of the terms and conditions and the acceptance and approval of the terms and conditions of this arrangement, by any such other party, as procured and given effect to by this arrangement and as approved and sanctioned by the Court, including in respect of the Ancillary Contracts.
- 2.2.2.4 It is recorded, for clarity purposes and in order to remove all doubt, that the provisions of 2.2.2.2 above and elsewhere in this arrangement, record the full and final settlement nature and extent of this arrangement and its sanctioning, in regard to all and any claims (as defined in 1.14 above) of all or any trade creditors and all or any HS Investors, as at the final date, against the Company, the HS Companies and any other party referred to in this regard, in this arrangement.
- 2.2.2.5 At the request of Brokers and Advisors of HS Investors, having assisted and/or advised HS Investors in regard to their historical investments in the HS Companies, and the promoters of the business of the HS Companies and the attorneys of such promoters and the HS Companies, Orthotouch has been requested to provide, in this arrangement, as a special term and condition to this arrangement, that, with effect from the effective date, but subject to the arrival of the final date, all claims, by or at the instance of HS Investors, or any of their number, against such Brokers, Advisors, promoters and/or attorneys and/or any of their representatives, shall have been settled, in full and final settlement, as envisaged in 2.2.2.2 above.

2.2.2.6 For purposes of 2.2.2.5 above, the provisions of 2.2.2.3 and 2.2.2.4 above, shall apply *mutatis mutandis* to the Brokers, Advisers, promoters, attorneys and/or their representatives, as referred to in 2.2.2.5 above.

2.2.2.7 The extent that the Act requires a recordal of any conversion of debt of the Company to equity, it is recorded that there is no such conversation, save pursuant to the provisions of 2.2.5.5 below.

2.2.3 **ARRANGEMENT PROPOSED BY THE COMPANY TO TRADE CREDITORS**

2.2.3.1 The arrangement proposed by the Company to the trade creditors, specifically, is recorded in this paragraph 2.2.3. **Trade creditors' attention is drawn to the Proxy Form attached to these arrangement related documentation, as Annexure "K", in regard to and requiring their voting at the meeting of trade creditors.** For those trade creditors not making use of Forms of Proxy to vote at the meeting of trade creditors, **Voting Slips**, providing for voting at the meeting of trade creditors, in a manner other than by Proxy, will be handed out at the meeting of trade creditors.

2.2.3.2 Upon the liquidation of any company, it would ordinarily be the liquidator's duty to realise that company's assets for the benefit of creditors and investors of the Company as soon as possible, but this process of winding up the affairs of a company is provided for in terms of the Insolvency act as read with the provisions of Chapter XIV of the Companies Act 61 of 1973 which are still in force in terms of the transitional arrangements in terms of the Act.

2.2.3.3 It is reasonably safe to assume that, having regard to the present delays being experienced with regard to the winding up of companies, and the delays being experienced in the office of the Master of the High Court, that were the Company to be liquidated, it would take at least 3 (three) to 4 (four) years, if not longer, for a liquidation of a company in the nature of the Company to be finalized.

2.2.3.4 Under liquidation circumstances, the market for fixed property in the nature of the assets of which rights attach to the Company will be limited by virtue of the specialized nature of the Company's assets. Where a company is placed in liquidation, the liquidators would be obliged to realize the assets for the best possible price on behalf of the creditors and investors of the company and in circumstances

where, in a liquidation process, purchasers expect bargains and are reluctant to pay realistic prices for assets.

- 2.2.3.5 The following is expected to unfold in the event of the liquidation of the Company –
- 2.2.3.5.1 all costs of administration and realization and fees of the liquidator having been incurred in the liquidation process of the Company, will be paid in full;
 - 2.2.3.5.2 all post commencement costs and funding will be paid in full;
 - 2.2.3.5.3 creditors (including HS Investors) may expect to receive, only, **13.64** cents in the Rand to in a liquidation scenario.
- 2.2.3.6 As is required in terms of Section 155 (3) (a) (iv) of the Act, it is recorded that the shares in the Company are presently held by NAG Trust, and will so be held as at the final date. The HS Investors are not shareholders of the Company and have no “investments” in the Company. They are merely contingent, conditional and subordinated creditors of the Company, and are not defined as “trade creditors” for purposes of this arrangement, and to any extent to which HS Investors have contingent, conditional and subordinated claims against the Company, such claims are settled, in full and final settlement, in terms of the provisions of this paragraph 2.2, in consideration for the rights obtained by HS Investors in terms of 2.2.4 and 2.2.5 below.
- 2.2.3.7 No debt of the Company is to be converted to shareholding (equity) in the Company in terms of the agreement, save pursuant to the provisions of 2.2.5.5 below.
- 2.2.3.8 This proposal does not include a proposal informally made by a creditor or investor of the Company as required to be stated in terms of section 155 (3) (a) (v) of the Act.
- 2.2.3.9 The financial proposer shall provide the capital sum to the Company by way of a loan to the Company to be apportioned for the benefit of the trade creditors to whom the arrangement is proposed, of an amount equal to the capital sum, such loan to be subordinated in favour of the claims of other creditors of the Company as envisaged in this arrangement.

- 2.2.3.10 For the purposes of the arrangement, payment of the capital sum shall be made by the financial proposer, for and on behalf of the Company, to the Receiver on the final date, but not later than within 7 (seven) days of the date upon which demand is made by the Receiver to the financial proposer and the fulfilment of the conditions referred to in 2.3 below and pending such demand, payment of the capital sum shall, prior to the commencement of the meetings, be secured to the Chairman's satisfaction and thereafter to the Receiver's satisfaction, by way of a banker's or other guarantee approved of by the Chairman and thereafter the Receiver.
- 2.2.3.11 Subject to the terms of this arrangement, the Receiver shall pay the aggregate of the capital sum plus any interest earned thereon, to trade creditors to any extent applicable, in accordance with the provisions of 2.2.3.15 below.
- 2.2.3.12 If the capital sum or any part thereof is paid to the Receiver at any date prior to the date of payment of amounts to trade creditors in terms hereof, such amount shall be invested in an interest bearing account with a registered commercial bank approved of by the Receiver, in the name of the Chairman or the Receiver, and all interest accruing thereon shall accrue to the Receiver, in his capacity as an agent of the Company and be applied by him together with the capital sum in the manner and for the purposes set out in the arrangement.
- 2.2.3.13 In consideration for the right of trade creditors and HS Investors to receive the amounts and other rights proposed as receivable by them in terms of this arrangement, including any portion of the capital sum, and with effect from the effective date, but subject to the arrival of the final date and the fulfilment of the conditions contained in 2.3 below –
- 2.2.3.13.1 the claims of all trade creditors and HS Investors against the Company as at the effective date ("**the ceded claims**") reduced by an amount equal to one cent in the Rand thereon, shall be deemed to have been purchased by and ceded to the financial proposer or a nominee of the financial proposer, with effect from the effective date, subject to the provisions of 2.2.3.13.2 below; and

- 2.2.3.13.2 the rights of all trade creditors and HS Investors shall be confined to the right to claim payment or exercise other rights in terms of this arrangement, and no trade creditor and no HS Investor shall have any other claim of whatsoever nature and howsoever arising against the Company, the HS Companies or any of their number, Georgiou, the Georgiou Family, the directors, or sureties for debts of the Company and/or the HS Companies, after the final date, by virtue of the full and final settlement nature of this arrangement as envisaged in 2.2.2.2.
- 2.2.3.14 With effect from the effective date, the ceded claims, together with the claims of the financial proposer arising by virtue of the financial proposer having lent and advanced the capital sum to the Company, as envisaged in this arrangement, shall be deemed to have been subordinated by the financial proposer or the said nominee of the financial proposer in favour of all other creditors of the Company from time to time, as may come into existence after the effective date, pro-rata and upon such terms and conditions as may be determined between the Company, the financial proposer and the auditors to the Company from time to time, until such time as, in the opinion of the auditors of the Company for the time being, the assets of the Company, fairly valued, exceed the liabilities of the Company. The terms and conditions of such subordination shall be recorded in the books of account of the Company by the auditors for the time being of the Company, the manner in which such subordination is to be so recorded being within the discretion of the said auditors in order to comply with the provisions of this clause 2.2.3.14.
- 2.2.3.15 **THE ORDER OF PREFERENCE IN WHICH THE PROCEEDS OF PROPERTY OF THE COMPANY (AND THE PROCEEDS OF THE CAPITAL SUM) WILL BE APPLIED TO PAY TRADE CREDITORS IF THE PROPOSAL IS ADOPTED IN TERMS OF SECTION 155 (3) (b) (v) OF THE ACT.**
- 2.2.3.15 Subject to the terms of this arrangement, the Receiver shall pay the aggregate of the capital sum plus any interest earned thereon, in the following manner, and order of preference –
- 2.2.3.15.1 to secured trade creditors, the amounts which would have been paid to them in a winding up of the Company, in order to discharge in full, the secured portion of their claims against the Company subject however, to a maximum amount of

R500,000 being payable in this regard to secured creditors, any balance not so ranking, constituting concurrent claims;

2.2.3.15.2 to preferent trade creditors, a maximum amount of R500,000 being payable in this regard to preferent creditors, any balance not so ranking, constituting concurrent claims;

2.2.3.15.3 to concurrent trade creditors, the balance remaining, subject, however, to a maximum amount of R64,639,609, being available to be distributed to concurrent trade creditors on a pro rata basis,

provided that no trade creditor shall be paid more than 100c (one hundred cents) in the Rand on its claim.

2.2.3.15.4 No assets of the Company are utilized to pay the claims of any creditors of the Company.

2.2.3.16 **THE TREATMENT OF CONTRACTS AND THE ONGOING ROLE OF THE COMPANY IN TERMS OF SECTION 155(3)(b)(iii) OF THE ACT**

The Company is a party to the Ancillary Contracts, forming part of the Inspection Documents, and in particular, the 2014 Orthotouch/HS Companies Agreement, which Agreement will remain in force and effect after the sanctioning of the arrangement.

2.2.3.17 **PROPERTY OF THE COMPANY THAT IS PROPOSED TO BE AVAILABLE TO PAY TRADE CREDITORS' CLAIMS AS IS PROVIDED FOR IN SECTION 155(3)(B)(IV) OF THE ACT**

2.2.3.17.1 Rights in and to the Properties as reflected on **Annexures "A", "D" and "E"** hereto, are to be retained by the Company for purposes of this arrangement and only the capital sum is available for and will be utilized to pay claims of trade creditors.

2.2.3.17.2 All costs and charges, including legal costs and expenses, relating to the structuring and proposing of the arrangement documents and including the Chairman's and Receiver's remuneration, shall be paid by the financial proposer, but on behalf of the Company, and no amounts whatsoever are de-

ductible from the capital sum for this purpose, or is payable by the Company in this regard.

2.2.4 **ARRANGEMENT PROPOSED BY THE COMPANY TO HS INVESTORS**

2.2.4 The arrangement proposed by the Company to HS Investors, specifically, is recorded in this paragraph 2.2.4, as read together with 2.2.5 below, and comprises of the rights of HS Investors to obtain, in full and final settlement and full substitution of their claims, the rights against and in respect of the Company, the HS Companies and the other parties recorded in 2.2.2.2, 2.2.2.3, 2.2.2.4 and 2.2.2.5 above, as proposed to them in this arrangement, the specific restructuring arrangements being recorded in this paragraph 2.2.4 and further, in 2.2.5 below, with effect from the effective date, but subject to the arrival of the final date. **HS investors' attention is drawn to the Proxy Form attached to this arrangement documents, as Annexure "L", in regard to and requiring their voting at that meeting of HS Investors, and their process of electing one or a combination of the Alternative Options available to HS Investors as envisaged in 2.2.4.6.2 below.** For those HS Investors not making use of Forms of Proxy to vote and make elections at the meeting of HS Investors, **Voting and Election Slips**, providing for voting and election, at the meeting of HS Investors, in a manner other than by Proxy, will be handed out at the meeting of HS Investors.

2.2.4.1 **Full and Final Settlement HS Investors**

All claims and accompanying rights of all HS Investors, in general, will have been restructured, in full and final settlement, in terms of this arrangement, and without derogating from the generality of the aforesaid, as specifically recorded in this paragraph 2.2.4, and further in 2.2.5 below.

2.2.4.2 **HS22 Investors Specific Arrangements**

2.2.4.2.1 HS22 Investors, in addition to the general arrangements applicable to HS Investors, will have their rights and claims being restructured as specifically recorded in this paragraph 2.2.4.2.

2.2.4.2.2 HS22 Investors shall have the right to receive the HS22 Investors' February 2014 arrears and growth forgone, in the manner as recorded in 2.2.4.2.3 below.

- 2.2.4.2.3 Following the arrival of the final date, HS22 Investors shall be entitled to be compensated for the HS22 Investors February 2014 arrears and growth forgone, by being entitled to exercise the rights recorded in 2.2.4.2.4.2.1 below, in respect of their pro rata portions (values) of the HS22 Investors February 2014 arrears, as the **First and Prior Claim** provided for in 2.2.4.2.4.2.1 below (available, **only**, to HS22 Investors), to be exercised by all HS22 Investors, of rights in terms of this arrangement, available to HS22 Investors.
- 2.2.4.2.4 For purposes of this arrangement, and, specifically, for purposes of voting at the meetings and participating as to value of their claims, in the restructuring process of HS Investors' claims as envisaged in this paragraph 2.2.4, the quantum of the claims of HS22 Investors –
- 2.2.4.2.4.1 having opted for “interest” related rights as envisaged in 2.1.11.2 above, will be the pro rata value of their claims in the books of account of HS22, at the value at which investments were historically made by relevant HS22 Investors, and as remains payable as at, respectively, the date of the meetings and the final date, on the basis that any arrears will be capitalised, save for the HS Investors' February 2014 arrears, which are to be dealt with as envisaged in 2.2.4.2.3 above, in accordance with 2.2.4.2.4.2.1 below;
- 2.2.4.2.4.2 having opted for “growth” related rights as envisaged in 2.1.11.1 above, will be the pro rata value of their claims in the books of account of HS22, at the value at which investments were historically made by relevant HS 22 Investors, and as remain payable as at, respectively, the date of the meetings and the final date, **but including** a “growth” component, on and added to such historical pro rata values, in accordance with 2.2.4.2.4.2.1 below;
- 2.2.4.2.4.2.1 **First and Prior Claim**
A First and Prior Claim, in respect of interest and growth foregone, up to 28 February 2014, at 6% per annum, as envisaged in 2.2.5.2.1.
- 2.2.4.2.4.2.2 **Remaining claim value after value of First and Prior Claim**
Original value of claim at 14 December 2011, plus growth at 6% per annum from 1 March 2014 to 31 August 2014, as envisaged in 2.2.5.2.2.

2.2.4.3 **Capitalisation of HS Investors arrears**

All HS Investors arrears, up and including 31 August 2014 shall, following the arrival of the final date, be capitalised against the aggregate quantum of the claims of HS Investors as the day before the final date.

2.2.4.4 **Interim Interest Payments to HS Investors**

Following the arrival of the final date, HS Investors shall be entitled to accept and be deemed to have accepted, the payment to all HS Investors, in substitution of any interest payments provided for in the Plan, and save as otherwise provided for in this arrangement, of the aggregate amount of the interim interest payments, being the aggregate amount payable to HS Investors, on a pro-rata basis, from 7 October 2014, in respect of the month of September 2014, and thereafter, on the 7th (seventh) day of each month following thereafter, up to the date of final implementation of the election process envisaged in 2.2.4.6 below, out of an aggregate amount of R10 million per month, being available for this purpose, first pro rata payments commencing on 7 October 2014 or as soon as practical during October 2014, and, depending on which of the three Alternative Options referred to in 2.2.4.6 below is elected, or becomes applicable to any relevant HS Investor, until the date upon which the effect of such election is implemented, in terms of the provisions pertaining to such elections, as envisaged in 2.2.4.6 below. The approval and sanctioning of this arrangement, shall be deemed to be full approval, acceptance and ratification, by HS Investors of, specifically, the provisions of this paragraph 2.2.4.4, as part of the overall restructuring of the claims of HS Investors as envisaged elsewhere in this arrangement.

2.2.4.5 **Election Process for HS Investors**

HS Investors shall have the right to participate in the election process (and receive the rights against the Company and otherwise following such process), recorded in 2.2.4.6 below, being the **Three Alternative Options** as recorded in 2.2.4.6 below, available for election by HS Investors.

2.2.4.6 **Three Alternative Options**

Following the implementation of the arrangement pertaining to the trade creditors, as dealt with in 2.2.3 above, and the proposals recorded in 2.2.4 up to and including 2.2.4.5 above, the Company hereby proposes the following further arrangements between the Company and HS investors, for consideration and acceptance by HS investors and, following such consideration and acceptance, for the purposes of HS investors voting upon the HS investors related arrangement, in general and specifically –

- 2.2.4.6.1 as to the acceptance, as expressed by HS Investors, wishing to so elect and accept the arrangement, by utilising the Form of Proxy annexed to this arrangement as **Annexure “L”**, and as referred to in 2.2.4.6.2 below; and
- 2.2.4.6.2
- 2.2.4.6.3 after acceptance, as indicated on the Form of Proxy, the execution of elections by HS Investors, again, by utilising the Form of Proxy referred to below, such execution of elections to have been made by electing HS Investors prior to or as at the date of the meetings, in respect of all or any combination of the **Three Alternative Options** recorded in 2.2.5 below (“**Alternative Options**”), with reference to and by utilising the instructions contained in the Form of Proxy relating to HS Investors, annexed to this arrangement document as **Annexure “L”** and as to electing one or a combination of the Alternative Options contained in the Form of Proxy relating to HS Investors, annexed to this arrangement document as **Annexure “L”**, as to which of the Alternative Options specific individual HS Investors wishes to elect, as being and becoming applicable to them, upon such election, or deemed election as envisaged in 2.2.5.6.3, below, after the sanctioning of the arrangement.
- 2.2.4.7 With effect from the final date, no payments or repayments of or in respect of any amount of capital having historically been invested by any HS Investor in or in regard to any HS Company, and no further payments, in regard to interest, shall be due to HS Investors following from or in terms of the Plan, or from whatever other cause arising, save as provided for in this paragraph 2.2.4, and as furthermore specifically provided for, following the acceptance of any one or any combination of the three Alternative Options recorded in 2.2.5 below.

2.2.4.8 As is required in terms of Section 155 (3) (a) (iv) of the Act, it is recorded that all the shares of the Company are presently held by NAG Trust and will so be held as at the final date.

2.2.4.9 HS Investors are specifically urged to consider the content of this paragraph 2.2.4 and its sub-paragraphs, carefully, as same specifically restructures and regulates the future rights, title and interest of HS Investors in and to the Company and/or the HS Companies and/or the other parties envisaged in 2.2.2.2, 2.2.2.3, 2.2.2.4 and 2.2.2.5 above, to the exclusion of any and all other rights, title and interest of HS Investors against the Company and/or the HS Companies and/or such other parties, prior to and after the final date, and consequently, prior to and after the proposed sanctioning of the arrangement, in respect of all claims of HS Investors.

2.2.5 **ALTERNATIVES AVAILABLE TO HS INVESTORS IN TERMS OF THE ARRANGEMENT**

2.2.5.1 The values attributable to the assets of the Company for purposes of HS Investors considering the three Alternative Options are the liquidation value, the perceived value and the stated value, as recorded in 1.46, 1.48 and 1.59 above.

2.2.5.2 For purposes of 2.2.4.2.4.2 above, -

2.2.5.2.1 HS22 Investors shall have claims, on account of the First and Prior Claim (envisaged in 2.2.4.2.4.2.1 above) prior to and to be added to the claims of HS22 Investors provided for in 2.2.5.2.2. below, in an aggregate amount of R93,506,504, against the stated value;

2.2.5.2.2 HS22 Investors shall have, including the First and Prior Claim, claims in the aggregate amount of R387,056,690, against the stated value;

by utilising the Forms of Proxy referred to in 2.2.4.6 above, to elect, to having their claims converted into any one or any combination of the **three sets of Alternative Rights (“Alternative Rights”)**, against the Company, following making alternative

elections envisaged by the three Alternative Options, with effect from the effective date, but subject to the arrival of the final date –

2.2.5.3 **Alternative 1**

HS investors electing **Alternative 1**, become entitled to be paid their pro rata portions of the full amount of their historical investments on the tenth anniversary (“**tenth anniversary**”) of the final date (“**the Alternative 1 Capital**”) and during the period after such election, until the tenth anniversary, HS Investors having elected this Alternative 1, will receive interest, calculated and payable at 4% per annum, monthly in arrears, calculated on the perceived value, as envisaged in 2.2.5.1 above, as from the final date, the Alternative 1 Capital being payable on the tenth anniversary.

2.2.5.4 **Alternative 2**

HS investors electing **Alternative 2**, become entitled to be paid their pro rata portions of the actual aggregate values of the Properties, on 31 March 2017 (“**the Alternative 2 Capital**”), which value is guaranteed by the Company and the financial proposer to be at least R2 billion, and pending such payment, will receive interest, calculated and payable at 6% per annum, monthly in arrears, calculated on an amount of R2 Billion, as from the final date, the Alternative 2 Capital being payable on 31 March 2017.

2.2.5.5 **Alternative 3**

2.2.5.5.1 HS investors electing **Alternative 3**, agree that they elect to convert their rights, title and interest in and to their claims (“**listing entitlements**”), in respect of the values of their claims as at the final date, calculated, on a pro rata basis, with reference to, and of, the fair market value of the Properties due to be introduced into the listing of Capital Growth Fund Limited (“**CGF**”), as envisaged in paragraph 4 of **Annexure “J”** to the arrangement document, into shares in CGF, a new Property Fund, to be listed as a REIT in the property sector on the main board of the JSE Limited (“**JSE**”). Details of CGF and a summary of the details of the proposed listing appear from **Annexure “J”** hereto.

- 2.2.5.5.2 The listing of CGF will take place by way of introduction on the JSE, and will allow HS Investors the opportunity to convert their historical investment in the HS Companies into ordinary shares or a combination of ordinary and secured redeemable preference shares in CGF.
- 2.2.5.5.3 All the ordinary shares and all the preference shares in CGF will be listed on the JSE (subject to approval by the JSE), allowing the owners of such ordinary and preference shares, to trade their shares on the JSE.
- 2.2.5.5.4 Following the JSE rules applicable to a REIT listed company on the JSE, six monthly, distributions will be made by CGF to ordinary shareholders, as is the norm with JSE listed REIT property funds. The JSE Listings Requirements provides that a REIT listed property fund must pay out at least 75% of its profit after interest before taxation, to ordinary shareholders, as a distribution.
- 2.2.5.5.5 HS Investors may elect to receive between 50% and 100% of their listing entitlements in ordinary shares.
- 2.2.5.5.6 HS Investors may however only elect to receive a maximum of 50% of their listing entitlements in the form of secured redeemable preference shares. This is so regulated, as to ensure that the debt to equity ratio of CGF does not exceed a ratio of 50:50. The repayment of the face value of the preference shares will be secured against a pro rata share of the property portfolio to be introduced into and transferred to CGF, for and in the process of the listing of CGF on the JSE.
- 2.2.5.5.7 The interest payable on the preference shares is fixed at 10% per annum payable monthly in arrears.
- 2.2.5.5.8 HS Investors must read **Annexure "J"** for a proper understanding of the Listings Proposal in respect of CGF contained in this paragraph 2.2.5.5, and the proposed rights attaching to the ordinary and preference shares of CGF.
- 2.2.5.5.9 HS Investors electing Alternative 3, should furthermore complete the attached Form of Proxy, marked as **Annexure "L"** to this arrangement document, so as to make an election between receiving ordinary or a combination of ordinary and preference shares in CGF, should such electing HS Investor, already at

this stage, prior to the listing of CGF, wish to make an election as to a percentage split between ordinary and preference shares in CGF, on the understanding that, in terms of the Pre-Listing Statement of CGF, for JSE listing purposes, HS Investors having elected Alternative 3, will get the opportunity to make such percentage split election. Any percentage split election made, on a Form of Proxy, will however be binding on HS Investors having made such election on a Form of Proxy or on Voting and Election Slips, by any relevant HS Investor in the aforesaid use of a Form of Proxy or Voting and Election Slip.

2.2.5.5.10 Should HS Investors electing Alternative 3 and electing a percentage split, not make an election envisaged in 2.2.5.5.9 in respect of the total value of such HS Investors' listing entitlements, as to ordinary and preference shares, then such lastmentioned non-electing HS Investors shall be issued ordinary shares in CGF, in respect of that portion of such value, in regard to which a specific percentage split was not made of their listing entitlements.

2.2.5.6 HS Investors are required to make the elections, and the result and effect of their elections, as recorded in this paragraph 2.2.5, will be subject to the **5 Provisos** recorded in 2.2.5.6.1 up to and including 2.2.5.6.5 below.

2.2.5.6.1 **Proviso 1**

HS Investors shall at their discretion, be entitled to select any one or any combination of the above Alternative Options, with reference to stated percentages of their pro rata Alternative Rights, by indicating any such chosen percentage split, on the Form of Proxy, **Annexure "L"** to this arrangement document, in the spaces specifically provided for this purpose.

2.2.5.6.2 **Proviso 2**

The selection of any of the Alternative options is in full and final settlement of all claims of HS Investors making elections, save to the extent that such claims arise from the acceptance of any Alternative/s in terms of this arrangement.

2.2.5.6.3 **Proviso 3**

Any HS Investors not having made an election between the Alternative Options, or not having made elections in respect of the full extent of their Alternative Rights, shall in the event of the arrangement being approved, adopted and sanctioned, be deemed to have elected Alternative 1, in respect of any portion of the Alternative Rights in regard to which election as to the full extent of their Alternative Rights have not been made.

2.2.5.6.4 **Proviso 4**

In the unlikely event of the JSE, for any reason, refusing to allow the listing of CGF on the JSE as envisaged in this arrangement, then the provisions of this arrangement shall remain effective and shall be fully implemented in respect of HS Investors and CGF, with CGF remaining and conducting business, in the normal course, as an unlisted Fund, the intention remaining thereafter, to list CGF on the JSE as soon as the JSE approves such listing.

2.2.5.6.5 **Proviso 5**

The transfer process of all and any Properties, due to be transferred to the Company and/or CGF in terms of or for purposes of this arrangement, shall be attended to by attorneys Connie Myburgh & Partners Incorporated.

2.2.6 **THE BENEFITS OF ADOPTING THE PROPOSAL AS OPPOSED TO THE BENEFITS THAT WOULD BE RECEIVED BY CREDITORS AND INVESTORS IF THE COMPANY WAS TO BE PLACED IN LIQUIDATION AS IS REQUIRED IN TERMS OF SECTION 155(3)(B)VI OF THE ACT**

2.2.6.1 If the arrangement is adopted by trade creditors and HS Investors and sanctioned, the cumulative effect will, financially, be as recorded in 2.2.3 and 2.2.4 above.

2.2.6.2 Having regard to what was stated above, it is clear that the arrangement is to the advantage of all trade creditors and HS Investors.

- 2.2.6.3 All projected distributions to trade creditors and HS Investors, should the arrangement be adopted, are recorded in this arrangement.
- 2.2.6.4 It would appear to be in the best interests of trade creditors and HS Investors that a liquidation of the Company be averted and that the arrangement as proposed herein be adopted and, if deemed necessary, sanctioned, as will appear more fully from the financial effects of the arrangement as demonstrated herein.

2.3 PART C – ASSUMPTIONS, CONDITIONS AND ANCILLARY MATTERS

- 2.3.1 This arrangement, and its becoming effective, is subject to the fulfilment of the following conditions precedent –
- 2.3.1.1 the financial proposer successfully acquires all of the issued shares in the Company, at the election of the financial proposer;
- 2.3.1.2 the requisite majorities, both in number and in value, of trade creditors and HS Investors, approve and vote in favour of acceptance and thus, adoption, of the arrangement at the meetings of trade creditors and HS Investors;
- 2.3.1.3 the application to Court in terms of section 155 (7)(a) shall have been made and the arrangement sanctioned in terms of section 155 (7) (b);
- 2.3.1.4 the filing of the Order sanctioning the arrangement with the Commission in terms of Section 155 (8) (a) of the Act and being attached to the Company's Memorandum of Incorporation in terms of section 155(8) (b); and
- 2.3.1.5 **Derek Pedoe Cohen** act as Chairman for meetings and be appointed as Receiver.
- 2.3.2 The Inspection Documents recorded in **Annexure "C"** hereto are available for inspection at the offices of Orthotouch Limited, Management Offices, First Floor Cedar Square Shopping Centre, Corner Cedar Road and Willow Avenue, Fourways, 2055
- 2.3.3 The attention of HS Investors is specifically drawn to the content of the Inspection Documents, and in particular in order to have an understanding of the Inspection

Document and in particular the remaining effective or not, of the Ancillary Contracts, referred to in 1.4.2.3 above, to the following extent -

- 2.3.3.1 as far as the Initial Orthotouch Agreement is concerned, same remains effective, to any extent to which it is, until the day before the final date, and will cease to be effective with effect from the final date;
- 2.3.3.2 as far as the Resubmitted Offer is concerned, same remains effective, to any extent to which it is, until the day before the final date, and will cease to be effective, with effect from the final date;
- 2.3.3.3 the Plan will, in the discretion of the BRP, have been substantially implemented in terms of the provisions of Section 132 (3) of the Act, and the Business Rescue proceedings in respect of the HS Companies will be terminated in the discretion of the BRP, whereupon the BRP will file a Notice of Substantial Implementation of the Business Rescue proceedings in terms of Section 132 (2)(b) of the Act; and
- 2.3.3.4 the 2014 Orthotouch/HS Companies Agreement will be dealt with and become effective, as envisaged in 2.3.4.1 and 2.3.4.2 below.
- 2.3.4.1 The 2014 Orthotouch/HS Companies Agreement between Orthotouch and the HS Companies appended hereto as “**Annexure B**”, and as referred to and discussed in 2.1.55 and 2.1.56 above, pertaining to the agreement between Orthotouch and the HS Companies accepting and agreeing to the terms of this arrangement, is subject to the condition that this arrangement is approved, adopted and sanctioned as envisaged in 2.3.1.2 and 2.3.1.3 above.
- 2.3.4.2 The approval and adoption of this arrangement as envisaged in 2.3.1.2 above shall, for all purposes required in terms of the Act, be deemed to constitute the approval by the shareholders of the HS Companies of this arrangement, and of the entering into of the 2014 Orthotouch/HS Companies Agreement and the becoming effective thereof as envisaged in 1.4.2.3 above;
- 2.3.4 Upon the sanctioning of the arrangement, the trade creditors and HS Investors who are entitled to attend and participate in the meetings are advised that they or their proxies may so participate, by means of electronic communication in accordance with the provisions of the arrangement.

3 CHAPTER 3 – ADMINISTRATIVE PROVISIONS

3.1 PROOF OF CLAIMS FOR PURPOSES OF PARTICIPATING IN THE DISTRIBUTION UNDER THE ARRANGEMENT

3.1.1 All claims of trade creditors and HS Investors falling to be dealt with in this arrangement shall be proved (if necessary, having regard to the provisions of 3.1.2 below), considered and adjudicated upon by the Receiver for purposes of sharing in the distribution or exercising the rights envisaged in this arrangement, as if claims against the insolvent estate of the Company and/or the HS Companies as if the Company and/or the HS Companies has been placed in liquidation, in terms of and subject to the provisions of the Insolvency Act, the 1973 Act and the Act, and consequently, without derogating from the generality of the aforementioned, the nature and the monetary value of claims as being preferent or concurrent, and the priority and preference in which claims rank with one another for purposes of sharing in any consideration receivable by trade creditors or any rights receivable by HS Investors in terms of this arrangement, shall be determined in terms of and as if such claims are claims against a Company in liquidation in terms of the provisions of the Insolvency Act, the 1973 Act and the Act, as at the fixed date

3.1.2 **Trade creditors and investors reflected in the books of account of the Company**

3.1.2.1 Trade creditors and HS Investors who are reflected in the books of account of the Company and/or HS Companies, as trade creditors and HS Investors, shall be regarded by the Receiver as trade creditors and HS Investors for the amounts for which they so appear to be trade creditors and HS Investors, and as secured or preferent trade creditors and investors to the extent that such security or preference is reflected in the books of account and records of the Company and/or the HS Companies, as the case may be, unless the Receiver in writing, by email or otherwise, advises any particular trade creditor or HS Investor that he rejects such claim or security or preference, in which event that trade creditor or HS Investor shall be required to lodge and prove his claim in terms of the provisions of 3.1.3.1 and 3.1.3.2 below, within a period of 14 (fourteen) days after receipt of such written advice.

3.1.2.2 Trade creditors and HS Investors who allege that they are trade creditors and HS Investors for amounts or rights which differ from that appearing in the books of account of the Company, and the HS Companies are required to lodge and prove their claims in accordance with the provisions of 3.1.3.1 and 3.1.3.2 below, within 14 (fourteen) days after the final date.

3.1.3 **Trade creditors and HS Investors with claims rejected or not reflected in the books of account and records of the Company and the HS Companies**

3.1.3.1 Trade creditors and HS Investors envisaged in 3.1.2 above who are required to lodge and prove their claims, must lodge their claims with the Receiver for proof, at the offices of the Receiver within the periods envisaged in 3.1.2.1 and 3.1.2.2 above, failing which they will be deemed to have abandoned their rights so to lodge and prove their claims.

3.1.3.2 Claims shall be proved to the satisfaction of the Receiver as if he was the officer presiding at a meeting for the proof of claims within the meaning of Section 44 of the Insolvency Act, as read with Section 366 of the 1973 Act, supported by affidavits which are to contain such information and are to be accompanied by such supporting documents as are required for proving claims in accordance with the aforesaid statutory provisions.

3.1.3.3 The Receiver's decision shall be subject to review by the Court upon the application of any party affected thereby, provided that any such review proceedings shall be brought within 30 (thirty) days of receipt of advice of that decision in writing from the Receiver, acting in that capacity. Should the affected party fail to make such an application, he shall be deemed to have waived his right to dispute such decision and shall thereafter be barred from bringing such review proceedings.

3.2 DUTIES AND POWERS OF THE RECEIVER

3.2 The Receiver shall, after the final date -

3.2.1 forthwith notify –

- 3.2.1.1 all known trade creditors and HS Investors that the arrangement has been sanctioned, and particularly draw their attention to the provisions of the arrangement and their rights and obligations thereunder;
- 3.2.1.2 all known trade creditors and HS Investors reflected in the books of account of the Company and/or the HS Companies, as envisaged in 3.1.2.1 above, that they are or are not regarded as being trade creditors and HS Investors for purposes of participating in the arrangement, and for the amounts for which they so appear to be trade creditors and HS Investors in the books of account of the Company and/or the HS Companies providing such amount if requested or disputed by any relevant trade creditor or HS Investor; and
- 3.2.1.3 all known trade creditors and HS Investors envisaged in 3.1.2.1 above that their claims for purposes of participating in the arrangement, will be deemed to be as advised to them in terms of 3.1.2.1 above, unless trade creditors and HS Investors establish some other claim or a claim for some other amount, in the manner envisaged in 3.1.2.2. above.
- 3.2.2 provided he is satisfied that the claim of any particular trade creditor or HS Investor, as it appears in the books of account of the Company and/or the HS Companies, is incorrect or for any other reason rejectable by him, advise such trade creditor or HS Investor in writing of the fact that he rejects such claim, and that such trade creditor HS Investor thereupon is obliged to prove its claim in terms of the provisions of 3.1.2 above and 3.1.3 above;
- 3.2.2.1 have the right, to the exclusion of trade creditors and HS Investors to –
- 3.2.2.1.1 take all steps necessary to procure the due and proper implementation of this arrangement, and to enforce due compliance by the Company and the financial proposer of any obligations imposed upon them or assumed by the Company and/or the financial proposer in terms of the arrangement;
- 3.2.2.1.2 defend any proceedings brought against him and/or the Company and/or the HS Companies or any of their number, arising out of this arrangement;

- 3.2.2.1.3 be entitled to dispute any claim of any trade creditor of HS Investor or the validity of any preference or security claimed by any trade creditor or the valuation placed by any secured creditor on any security;
- 3.2.2.1.4 be entitled, in his discretion, to compromise and/or otherwise determine by agreement the amount of any claim proved or to be proved in terms of 3.1.2 and 3.1.3 above;
- 3.2.2.1.5 be entitled to engage the services of legal, audit, administration and other professional advisors and/or service providers in connection with any matter concerning his functions and duties, in terms of this arrangement, including any matter to be attended to by any such legal or other professional advisors, in the discretion of the Receiver, in order for the Receiver to give effect to any aspect or term of this arrangement, and to protect, further and ensure the integrity and achieving of the purposes of this arrangement, to dispense with taxation of and to agree the amount of the reasonable fees and charges of such legal or other professional advisors and to pay the remuneration and disbursements of the person so engaged from the resources of the Company or the HS Companies, in his discretion;
- 3.2.2.1.6 at all times 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 arrangement;
- 3.2.2.1.7 in his discretion, be entitled to settle any disputes with the Company the HS Companies and the financial proposer, in the process of the implementation of the arrangement;
- 3.2.2.1.8 be entitled to pay or deal with a claim, as and when he deems fit, notwithstanding that all claims against the Company and/or the HS Companies have not yet been proved or that the liquidation and distribution account referred to in 4 below has not yet been finalised;
- 3.2.2.1.9 be entitled and obliged to accept acquittances from trade creditors and HS Investors up to the amount or in respect of the full or part of any rights which would have been awarded, paid and/or received by them to such trade creditor

or HS Investor as a dividend on his claim or providing of rights in terms of this arrangement.

4 LIQUIDATION AND DISTRIBUTION ACCOUNT

- 4.1 As soon as reasonably possible after final determination of the claims of trade creditors and HS Investors, and the implementation of this arrangement, the Receiver shall, draw a liquidation and distribution account (“**the account**”) as if he was a liquidator under a winding-up order, or otherwise in the discretion of the Receiver, in a manner fitting the purposes of this arrangement.
- 4.2 Such account shall, inter alia, reflect the name of each and every trade creditor or HS Investor whose claim has been duly proved or admitted, the amount of the claim and the amount of the dividend or other rights to be awarded to such trade creditor or HS Investor under the account.
- 4.3 Notice by email shall be given by the Receiver to the Company, the HS Companies, financial proposer, and to all known trade creditors and HS Investors of the Company and the HS Companies, that the account is lying for inspection for a period of 7 (seven) days calculated from the third business day succeeding that upon which the notice is despatched, but the failure of the Receiver to give such notice shall in no way entitle any person to initiate a late objection nor shall such failure invalidate such account or any distribution made pursuant thereto.
- 4.4 Any person objecting to the account shall be obliged to lodge notice of his objection (stating the full grounds thereof) with the Receiver before the expiry of the period of 7 (seven) days referred to in 4.3 above, failing which the account shall be deemed to be accepted by all interested parties. The Receiver shall rule on any objection so lodged and shall give the creditor written notice of his ruling, which notice shall be delivered by email.
- 4.5 Any objector referred to in 4.4 above, or any other person, aggrieved by any ruling of the Receiver, shall be entitled to institute review proceedings in the Court within 14 (fourteen) days of the receipt by the trade creditor or HS Investor concerned of the notice referred to in 4.3 above. Failing institution of review proceedings as aforesaid the right of objection shall lapse and the objector shall be deemed to have accepted the account.

- 4.6 Notwithstanding any provision to the contrary contained in 4.1 above and 4.5 above inclusive, the Receiver shall be entitled to prepare a liquidation and distribution account in respect of payment of dividends or awarding of other rights, in terms of the arrangement, to trade creditors and HS Investors, despite finality not yet having been reached regarding the nature and extent of the claims of trade creditors and HS Investors or the identity of all concurrent trade creditors and HS Investors, subject to the Receiver having made proper provision for the payment of any dividend or the award of other rights, due to any trade creditor or HS Investor whose claim has not yet been admitted.

5 DOMICILIUM AND NOTICES

- 5.1 Each trade creditor or HS Investor is hereby deemed to have chosen domicilium citandi et executandi for all purposes arising out of or in connection with the arrangement at the address stated by that trade creditor or HS Investor in his proof of claim form, or, in the event of any trade creditor or HS Investor not having lodged a proof of claim form, then at the address as reflected in the books of account and records of the Company and/or the HS Companies.
- 5.2 Notices despatched by the Chairman or the Receiver in accordance with the arrangement shall -
- 5.2.1 rebuttably be deemed to have been received by the addressee reflected on such notices on the next business day after despatch thereof by email or on the seventh business day if despatched by pre-paid registered post to the addressee's domicilium citandi;
- 5.2.2 rebuttably be deemed to have been received by the addressee reflected on such notices on the next business day after despatch thereof by email or on the seventh business day after despatch thereof by pre-paid registered post to the addressee's last recorded address with the Company or the HS Companies.

6 CERTIFICATE IN TERMS OF SECTION 155(5) OF THE ACT

I, the undersigned, the Director of the Company, do hereby certify that –

- 6.1 *the* factual information provided hereinbefore appears to be accurate, complete, and up to the date; and

6.2 projections provided are estimates made in good faith on the basis of factual information and assumptions as set out in the statement.

Signed
N Georgiou
Duly authorised

SIGNED at SANDTON on 7 OCTOBER 2014

AS WITNESS:

Signed

For: **ORTHOTOUCH LIMITED**

Name Inserted
(Names of witness in block letters)

Signed
Duly Authorised

SIGNED at SANDTON on 7 OCTOBER 2014

AS WITNESS:

Signed

For: **FINANCIAL PROPOSER**

Name Inserted
(Names of witness in block letters)

Signed
Duly Authorised

SIGNED at SANDTON on 7 OCTOBER 2014

AS WITNESS:

Signed _____

For: **THE CAPITALGROWTH FUND**

Name Inserted

(Names of witness in block letters)

Signed _____
Duly Authorised

SIGNED at SANDTON on 7 OCTOBER 2014

AS WITNESS:

Signed _____

For: **RECEIVER**

Name Inserted

(Names of witness in block letters)

Signed _____
Duly Authorised

**List of Properties including rights, title and interest of Orthotouch
in and to the properties as of the final date**

ANNEXURE "A"

Source	Property name	Value
18	Absa Witbank	7 727 273
20	Banbury Crossing	57 401 110
Zephan	Belhar	115 582 120
Zephan	Edgars Kroonstad	34 623 120
Zephan	Eskom	9 553 660
19	Fruit & Vegetable City Klerksdorp	11 939 383
16	Goldwill	6 474 646
21	Home Affairs PE	67 357 482
Zephan	Mbizi	47 092 584
20	Nedcor Germiston	12 768 975
Zephan	Riverview	17 723 310
Zephan	safeways	649 159 510
Zephan	safeways bulk (50 000m ²)	150 000 000
19	Spar Plaza Potgietersrus	37 776 318
20	Standard Bank Nelspruit	46 065 755
20	Wilpark Conference Centre	30 075 864
Gov	22 & 24 George Lubbe	25 814 779
Gov	28 George Lubbe	4 406 687
Gov	Absa Maitland	59 927 476
Gov	Absa United	60 398 724
Gov	African / Liberty Life	159 068 651
Gov	C N A	27 496 198
Gov	Classic Building	7 223 909
Gov	DME	17 311 964
Gov	Domitek	8 307 719
Gov	Fort drury	167 203 672
Gov	Katleho	60 382 281
Gov	Laboria House	23 169 084
Gov	Metropolitan	26 636 314
Gov	Nedbank	22 668 571
Gov	SA Eagle	28 749 424
Gov	Sediba, Fountain & Landbou.	105 665 684
Gov	Transtel / Trustfontein	44 212 182
New	Augusta/GlenEagles	48 550 000
New	McFlea	12 000 000
New	Midas	8 000 000
New	Penny Lane	27 000 000
New	St Andrews Str	39 000 000
New	Tile Africa- Bloem	9 000 000
New	WW Bloem	69 000 000
New	WW Secunda	36 000 000
New	WW Welkom	39 000 000
TOTAL		2 437 514 429

AGREEMENT

BETWEEN

HIGHVELD SYNDICATION NO. 15 LIMITED

and

HIGHVELD SYNDICATION NO. 16 LIMITED

and

HIGHVELD SYNDICATION NO. 17 LIMITED

and

HIGHVELD SYNDICATION NO. 18 LIMITED

and

HIGHVELD SYNDICATION NO. 19 LIMITED

and

HIGHVELD SYNDICATION NO. 20 LIMITED

and

HIGHVELD SYNDICATION NO. 21 LIMITED

and

**HIGHVELD SYNDICATION NO. 22 LIMITED
 (“THE HS COMPANIES”)**

and

**ORTHOTOUCH LIMITED
 (“ORTHOTOUCH”)**

1. The Parties record and agree that the HS Companies are creditors of Orthotouch, their claims presently being governed in terms of the Business Rescue Plan having been adopted during December 2011, by the so-called “HS Investors”, as defined in the Arrangement referred to in 3 below.
2. The Parties further record that the HS Investors in the HS Companies constitute affected parties in the Business Rescue proceedings referred to in 1 above, and are indirectly creditors of Orthotouch.
3. The directors of the HS Companies have been advised that Orthotouch needs to restructure its affairs in terms of an Arrangement in terms of Section 155 of the Companies Act, and having being advised of the reasons for such restructure, consider it prudent in the circumstances to support the Arrangement rather than to risk a liquidation of the HS Companies.
4. As a consequence of what is stated in 3 above, the HS Companies and Orthotouch hereby agree to the proposals contained in the Arrangement, and, if accepted, approved and sanctioned by the Court, the implementation of the Arrangement, including, specifically, the implementation of the aforesaid Business Rescue Plan, as envisaged in the Arrangement, and the transfer to Orthotouch or its nominee, of all the Properties and rights to Properties of the HS Companies, envisaged so to be transferred, in terms of and for purposes of the Arrangement.

SIGNED at CAPE TOWN on 25 SEPTEMBER 2014

AS WITNESS:

Signed _____

For: **HS COMPANIES**

Name Inserted

(Names of witness in block letters)

Signed
J F KLOPPER N.O.

Duly Authorised

SIGNED at FOURWAYS on 3 OCTOBER 2014

AS WITNESS:

Signed _____

For: **ORTHOTOUCH LIMITED**

Name Inserted

(Names of witness in block letters)

Signed
N GEORGIU

Duly Authorised

SIGNED at FOURWAYS on 7 OCTOBER 2014

AS WITNESS:

Signed _____

For: **DIRECTORS OTHER THAN THE PRACTITIONER**

Name Inserted

(Names of witness in block letters)

Signed
F P VAN OUDTSHOORN

Duly Authorised

LIST OF INSPECTION DOCUMENTS

1. Initial Orthotouch March 2011 Agreement.
2. November 2011 Resubmitted Offer.
3. Business Rescue Plan dated November 2011.
4. List of Properties including rights, title and interest of Orthotouch in and to the Properties as at the Final Date (**Annexure "A"**).
5. 2014 Orthotouch/HS Companies Agreement (**Annexure "B"**).
6. Schedule of Properties as at Inception of Business Rescue Plan (**Annexure "D"**).
7. Movements in respect of Properties (**Annexure "E"**).
8. Statement of Assets and Liabilities (**Annexure "F"**).
9. List of Investors (**Annexure "G"**).
10. List of Trade Creditors (**Annexure "H"**).
11. Schedule of Notes Content (**Annexure "I"**).
12. Proposed Listing Background (**Annexure "J"**).

Schedule of Properties taken on at 14 December 2011

ANNEXURE "D"

Source	Property name	Value
18	12 Main Road Mellville	4 193 485
18	14 Main Road Mellville	6 985 733
18	5 Main Road Mellville	6 221 658
18	7 Main Road Mellville	15 063 242
18	9 & 11 Main Road Mellville	28 221 291
18	Absa Witbank	7 727 273
18	Beacon Isle	22 077 664
22	1 Charles	107 044 630
22	10 Charles	19 547 978
22	12 Charles Crescent	19 896 800
22	9 Charles Crescent	30 324 040
20	Absa Brakpan	16 758 791
20	Banbury Crossing	57 401 110
19	Basil Green	30 565 369
Zephan	Belhar	115 582 120
20	Blairgowrie	85 190 358
Zephan	Bosveld Pick n Pay	79 921 480
21	Bruma - sale proceeds	29 090 836
Zephan	Capital Protea	24 768 730
16	Cascades	14 424 350
22	Cell C	127 923 588
Zephan	Cherry Lane	122 014 000
19	Corporate Park	20 308 704
20	Eastlynne	34 971 264
16	Edenterrace	33 937 036
Zephan	Edgars Kroonstad	34 623 120
Zephan	Eskom	9 553 660
22	Ethos	59 168 700
21	Everite	63 540 750
20	Flora	82 874 725
15	Forum	38 000 000
19	Fruit & Vegetable City Klerksdorp	11 939 383
20	Game Paarl	29 609 556
21	Glen Gables	59 613 263
16	Goldwill	6 474 646
21	Group 5	17 948 133
21	Highveld Centurion	63 781 147
19	Highway Gardens	31 612 125
21	Home Affairs PE	47 357 482
20	ILO House	10 745 622
19	Joshua Door	22 977 509
15	Key Largo	38 969 472
Zephan	Kyalami Downs	138 006 740
19	Leaping Frog	140 330 188
21	Lifestyle on Kloof	102 282 859
18	Lyttleton Shopping mall	60 657 774

20	Markinor House	19 273 110
Zephan	Mbizi	45 409 090
19	Meschcape Edenvale	30 213 569
21	Millhouse	28 198 960
20	Nedcor Germiston	12 768 975
21	Ormonde - sale proceeds	27 840 909
Zephan	Panorama	77 820 848
21	Park Plaza H	77 685 178
21	Pemburry	44 150 490
22	PriMovie Park	75 283 500
Zephan	Rietfontein	28 372 000
Zephan	Riverview	17 723 310
Zephan	Rock Cottage	67 908 760
15	Safeside	16 248 248
Zephan	safeways	464 159 510
Zephan	safeways bulk (50 000m ²)	150 000 000
17	Southdale	164 192 090
19	Spar Plaza Potgietersrus	27 776 318
20	Standard Bank Nelspruit	26 065 755
19	Storegate	34 992 762
19	Storegate Vacant Land (bulk 2000m ²)	6 000 000
16	The Piazza	105 000 000
21	Tyger Manor	55 178 176
21	Vaal	27 307 120
Zephan	Venter Centre	71 481 410
16	Waterford	41 774 724
Zephan	Willows shopping centre	100 270 325
20	Wilpark Conference Centre	35 075 864
18	Wilrogate	107 013 484
19	Wilropark Centre	8 802 344
20	Wonderboom Plaza	21 413 660
TOTAL		4 145 628 871

Orthotouch property movements to Final Date

ANNEXURE "E"

Source	Property name	Properties sold	Properties purchased
18	12 Main Road Mellville	4 193 485	
18	14 Main Road Mellville	6 985 733	
18	5 Main Road Mellville	6 221 658	
18	7 Main Road Mellville	15 063 242	
18	9 & 11 Main Road Mellville	28 221 291	
18	Beacon Isle	22 077 664	
22	1 Charles	107 044 630	
22	10 Charles	19 547 978	
22	12 Charles Crescent	19 896 800	
22	9 Charles Crescent	30 324 040	
20	Absa Brakpan	16 758 791	
19	Basil Green	30 565 369	
20	Blairgowrie	85 190 358	
Zephan	Bosveld Pick n Pay	79 921 480	
21	Bruma - sale proceeds	29 090 836	
Zephan	Capital Protea	24 768 730	
16	Cascades	14 424 350	
22	Cell C	127 923 588	
Zephan	Cherry Lane	122 014 000	
19	Corporate Park	20 308 704	
20	Eastlynne	34 971 264	
16	Edenterrace	33 937 036	
22	Ethos	59 168 700	
21	Everite	63 540 750	
20	Flora	82 874 725	
15	Forum	38 000 000	
20	Game Paarl	29 609 556	
21	Glen Gables	59 613 263	
21	Group 5	17 948 133	
21	Highveld Centurion	63 781 147	
19	Highway Gardens	31 612 125	
20	ILO House	10 745 622	
19	Joshua Door	22 977 509	
15	Key Largo	38 969 472	
Zephan	Kyalami Downs	138 006 740	
19	Leaping Frog	140 330 188	
21	Lifestyle on Kloof	102 282 859	
18	Lyttleton Shopping mall	60 657 774	
20	Markinor House	19 273 110	
19	Meschape Edenvale	30 213 569	
21	Millhouse	28 198 960	
21	Ormonde - sale proceeds	27 840 909	
Zephan	Panorama	77 820 848	
21	Park Plaza H	77 685 178	
21	Pemburry	44 150 490	
22	PriMovie Park	75 283 500	
Zephan	Rietfontein	28 372 000	
Zephan	Rock Cottage	67 908 760	

15	Safeside	16 248 248	
17	Southdale	164 192 090	
19	Storegate	34 992 762	
19	Storegate Vacant Land (bulk 2000m ²)	6 000 000	
16	The Piazza	105 000 000	
21	Tyger Manor	55 178 176	
21	Vaal	27 307 120	
Zephan	Venter Centre	71 481 410	
16	Waterford	41 774 724	
Zephan	Willows shopping centre	100 270 325	
18	Wilrogate	107 013 484	
19	Wilropark Centre	8 802 344	
20	Wonderboom Plaza	21 413 660	
Gov	22 & 24 George Lubbe		25 814 779
Gov	28 George Lubbe		4 406 687
Gov	Absa Maitland		59 927 476
Gov	Absa United		60 398 724
Gov	African / Liberty Life		159 068 651
Gov	C N A		27 496 198
Gov	Classic Building		7 223 909
Gov	DME		17 311 964
Gov	Domitek		8 307 719
Gov	Fort drury		167 203 672
Gov	Katleho		60 382 281
Gov	Laboria House		23 169 084
Gov	Metropolitan		26 636 314
Gov	Nedbank		22 668 571
Gov	SA Eagle		28 749 424
Gov	Sediba, Fountain & Landbou.		105 665 684
Gov	Transtel / Trustfontein		44 212 182
Gov	Trebob		52 246 603
New	Augusta/GlenEagles		36 200 000
New	McFlea		12 000 000
New	Midas		8 000 000
New	Penny Lane		27 000 000
New	St Andrews Str		39 000 000
New	Tile Africa- Bloem		9 000 000
New	WW Bloem		59 000 000
New	WW Mitchells Plain		28 000 000
New	WW Secunda		36 000 000
New	WW Welkom		39 000 000
	TOTAL	3 075 991 256	1 194 089 922

ORTHOTOUCH LIMITED
STATEMENT OF ASSETS AND LIABILITIES AS AT 31 JULY 2014

ANNEXURE "F"

<u>ASSETS</u>	<u>Notes</u>	<u>July 2014</u>	
<u>Non-current Assets</u>			
Fixed Assets			
Land & Buildings	1		2 437 514 428
Current Assets			
Trade and other Debtors	2		87 574 372
Total Assets			<u><u>2 525 088 801</u></u>
<u>EQUITY AND LIABILITIES</u>			
Capital and Reserves			100
Retained Income			
Valuation Impairment	3	(2 145 667 344)	
Accumulated Loss	4	<u>(1 195 867 069)</u>	<u>(3 341 534 412)</u>
			(3 341 534 312)
<u>Non-current Liabilities</u>			
Long Term Borrowings			
Subordinated Loan : Zephan Properties	5	500 000 000	
Highveld Syndication 15		253 000 000	
Highveld Syndication 16		309 000 000	
Highveld Syndication 17		232 200 000	
Highveld Syndication 18		345 800 000	
Highveld Syndication 19		602 000 000	
Highveld Syndication 20		678 900 000	
Highveld Syndication 21		1 332 000 000	
Highveld Syndication 22		857 962 112	
Highveld Syndication 22B		<u>132 819 000</u>	5 243 681 112
Other Long Term Liabilities			
Zephan Properties Loan Account		365 215 804	
Zephan Properties Trading Account		<u>18 005 743</u>	383 221 547
Current Liabilities			
Highveld Syndication 15 - interest		7 322 788	
Highveld Syndication 16 - interest		8 936 488	
Highveld Syndication 17 - interest		6 716 728	
Highveld Syndication 18 - interest		9 950 748	
Highveld Syndication 19 - interest		17 420 775	
Highveld Syndication 20 - interest		19 781 449	
Highveld Syndication 21 - interest		37 811 150	
Highveld Syndication 22 - interest		61 137 130	
Highveld Syndication 22B - interest		<u>5 503 591</u>	174 580 845
Trade and Other Creditors	6		65 139 609
Total Equity and Liabilities			<u><u>2 525 088 801</u></u>

LIST OF INVESTORS

The Company has no "investors" but only one shareholder, the NAG Trust.

TRADE CREDITORS OF THE COMPANY, AND THE HS COMPANIES

1. The sole trade creditor of the Company and the HS Companies, as envisaged in paragraphs 1.60 and 2.1.57.2 of the arrangement document to which this document forms **Annexure “H”**, is Zephan Properties (Proprietary) Limited, (“**Zephan**”), by virtue of Zephan having funded the payment of the claims of all trade creditors of the Company and the HS Companies as well as the amounts owing to sundry professional advisors and consultants, as at the final date, since the commencement date of the Plan, and will do so up to the final date, on the basis that Zephan assumed and continues to assume full liability to pay such trade creditors’ claims.
2. The capital sum as defined in paragraph 1.12 of the arrangement relates, solely, to the claims of trade creditors due to be paid as at the final date, excluding current actual loan account related claims of Zephan as at the final date, such sum being the maximum sum available to trade creditors (other than Zephan), in general, and specifically, for purposes of and as defined in paragraph 2.2.3.15 of the arrangement.
3. The capital sum shall be provided to the Company by Zephan (“**the financial proposer**”) as defined in paragraph 1.26 of the arrangement, for purposes of paragraph 2.2.3.15 of the arrangement and as envisaged and regulated for in paragraphs 2.2.3.9 and 2.2.3.10 of the arrangement.

Schedule of notes content**1. Land & Buildings**

Absa Witbank	7 727 273
Banbury Crossing	57 401 110
Belhar	115 582 120
Edgars Kroonstad	34 623 120
Eskom	9 553 660
Fruit & Vegetable City Klerksdorp	11 939 383
Goldwill	6 474 646
Home Affairs PE	67 357 482
Mbizi	47 092 584
Nedcor Germiston	12 768 975
Riverview	17 723 310
safeways	649 159 510
safeways bulk (50 000m ²)	150 000 000
Spar Plaza Potgietersrus	37 776 318
Standard Bank Nelspruit	46 065 755
Wilpark Conference Centre	30 075 864
22 & 24 George Lubbe	25 814 779
28 George Lubbe	4 406 687
Absa Maitland	59 927 476
Absa United	60 398 724
African / Liberty Life	159 068 651
C N A	27 496 198
Classic Building	7 223 909
DME	17 311 964
Domitek	8 307 719
Fort drury	167 203 672
Katleho	60 382 281
Laboria House	23 169 084
Metropolitan	26 636 314
Nedbank	22 668 571
SA Eagle	28 749 424
Sediba, Fountain & Landbou.	105 665 684
Transtel / Trustfontein	44 212 182
Augusta / Glen Eagles	48 550 000
McFlea	12 000 000
Midas	8 000 000
Penny Lane	27 000 000
St Andrews Str	39 000 000
Tile Africa- Bloem	9 000 000
WW Bloem	69 000 000
WW Secunda	36 000 000
WW Welkom	39 000 000
	<u>2 437 514 429</u>

2. Trade and Other Debtors

Lyttleton Shopping mall - Outstanding Property Sale proceeds	6 000 000
Blairgowrie - Outstanding Property Sale proceeds	25 000 000
1 Charles Crescent	(283 521)
22 & 24 George Lubbe Street	383 597
Absa Brakpan Building	(1 048 047)
Absa Maitland Street	832 634
ABSA United Building	(152 709)
African Life	1 044 474
Airport Shopping Centre (Belhar) (a)	2 168 129
Basil Green	(21 223)
Blairgowrie Plaza	3 109 572
Capital Protea Hotel Pretoria	49 989
CCMA House	101 380
Classic building	234 629
CNA Building	(662 226)
Commercial Union / ILO House	8 965
Corporate Park Corner Shopping Centre	(286 830)
DME Building	627 359
Domitec Building	168 868
East Lynn Shopping Centre	(400 036)
Edgars Kroonstad Building	(344 439)
Flora Park	(11 571)
Fort Drury Complex	(923 548)
Fruit & Veg Klerksdorp (Game Centre)	6 225
Game Paarl	70 285
Glen Gables	1 663 708
Highveld Shopping Centre Centurion	1 032 699
Katleho Building	(520 322)

Laboria House	1 189 386
Liberty Life	(866 839)
Lifestyles on Kloof	4 579 411
Mbizi Lodge (Caravan Park)	-
McFlea	97 059
Metropolitan Building	35 340
Nashua House (PE)	(15 863)
Nedbank Building	330 284
Nedcor Germiston	804 842
Park Plaza Hotel Santon	-
Pembury Retirement Lodge cc	2 103 913
Pri-movie Park	2 263 440
SA Eagle	320 234
Saveways Crescent Centre (witbank)	17 775 176
Sediba, Fountain Towers & VLU Bldgs	35 996
Spar Plaza Potgietersrus	3 089 913
St Andrews Street Centre	(523 478)
Standard Bank Centre Nelspruit	26 057
Storegate Building	(262 200)
Tile Africa	94 461
Trustfontein/Transtel Building	1 101 502
Tyger Manor	864 487
Willows Shopping Centre (Zelpy 2095)	3 750 685
Wilpark Conference Centre	12 934 393
Wonderboom Plaza	(112 512)
Woolworths Building: Mitchell's Plain	103 411
Woolworths Building: Secunda	11 985
Woolworths Building: Welkom	(4 749)
	<u>87 574 372</u>

3. Valuation Impairment

Properties added per BRP from Syndications	2 598 013 768
Syndications Link Loan Accounts	(4 743 681 112)
	<u>(2 145 667 344)</u>

4. Accumulated Loss

Total Income from Rentals for period Dec 2011 to July 2014	1 015 728 220.18
Less:	
Total Direct Expenses	(533 685 796)
Collection Fee @ 4% of Total Income	(40 629 129)
Interest paid to Investors	(790 879 424)
Loss from Sales of Buildings	(181 181 855)
Increase in Values of Properties due to Improvements/Revaluation	69 033 494
Banks Costs as per Loan Zephan	(220 823 040)
Interest to Zephan	(513 429 540)
Accumulated Loss	<u>(1 195 867 069)</u>

5. Subordinated Loan : Zephan Properties

Subordinated Loan from Zephan Properties in favour of all creditors and Highveld Syndication companies	<u>500 000 000</u>
--	--------------------

6. Trade and Other Creditors

Deposits held	262 284
Municipal Deposits	1 400
Supplier Control Account	54 732 049
Vat / Tax Control Account	10 143 876
	<u>65 139 609</u>

7. Contingent gain

Certain properties sold by the property vendors to a listed property fund were sold at a price arrived at after deducting a value for vacancies. Orthotouch was one of these vendors of such properties which were sold for a value of R1 370 698 688 and this amount was used to settle the bonds against the properties in order to facilitate the transfer of the remaining properties earmarked for Orthotouch.

In order to allow the property vendors to gain from future rental streams relating to letting of vacant spaces, a "Conditional Deferred Payment Agreement" (CDPA) was entered into, in terms of which Orthotouch as one of the vendors to the fund would be entitled, for a period of up to three years from date of transfer, to lease the Vacant Premises to prospective tenants, subject to the vendor paying for all costs relating to obtaining the tenant, as well as complying with certain other tenant specific conditions, which have to be met before the deferred payment may be made.

Should all the vacant spaces relating to the Orthotouch properties sold be let, Orthotouch's extra deferred payment could be as much as R 177 698 892. However there is no certainty that all the vacancies will be filled within the period of the agreement, and there are certain letting costs such as Tenant installations, broker commissions, property improvements, etc which would have to be met by Orthotouch before these vacancies may be filled, and any consideration will be offset against the Zephan Loan account.

The directors are of the opinion that these costs could approximate 40% to 60% of the value of such deferred payment, and as a result of this uncertainty no value has been established in these statements.

A further point to note is that, owing to certain potential investors and funders not wanting any association with Orthotouch, it was decided that these transactions would be channelled through a selected vendor, and the eventual resultant shares / cash would then be processed through the Zephan Properties Pty Ltd loan account in Orthotouch.

8. Preparation of Statement of Assets and Liabilities

The Statements of Assets and Liabilities have been prepared from information given by the directors as at 31 July 2014. The Statement has not been audited or Reviewed.

PROPOSED LISTING OF THE CAPITAL GROWTH FUND LIMITED BY WAY OF INTRODUCTION, AS A REAL ESTATE INVESTMENT TRUST ON THE MAIN BOARD OF THE JSE LIMITED

HS Investors and all readers of this annexure and all information included in the proposal relating to the listing of CGF and supporting information thereto should not treat the contents as advice relating to legal, taxation, investment or any other matters and should consult their own professional advisers concerning the consequences of converting their historical aggregate "claims", as defined in paragraph 1.14 and as referred to as relevant "listing entitlements" in paragraph 2.2.5.5.1 of the arrangement document to which this document forms Annexure "J" ("HS Investment/s") into shares in CGF.

HS investors should inform themselves as to:-

- *the legal requirements within their own countries for the conversion of their HS Investment into CGF shares, subscription, purchase, holding, transfer or disposal of CGF shares;*
- *any foreign exchange restrictions applicable to the conversion of their HS Investment into CGF shares, subscription, purchase, holding, transfer or disposal of shares which they might encounter; and*
- *the income and other tax consequences which may apply to them as a result of the conversion of their HS Investment into CGF shares, purchase, holding, transfer or disposal of shares. HS Investors must rely upon their own representatives, including their own legal advisers and accountants, and not on any information regarding the listing of CGF, as to legal, tax, investment or any other related matters concerning CGF and an investment therein.*

The information contained in this document and information provided in the listing of CGF constitutes factual information as contemplated in section 1(3)(a) of the South African Financial Advisory and Intermediary Services Act 2002 and should not be construed as an express or implied recommendation, guidance or proposal that any particular transaction in respect of the HS Investor's HS Investment is appropriate to the particular investment objectives, financial situations or needs of a HS Investor or any reader of this information.

1. Corporate structure and business strategy

A new company by the name of The Capital Growth Fund Limited ("**Capital Growth Fund**" or "**CGF**") registration number 2013/207911/06 has been incorporated as a public company. The company is currently dormant and will only start trading if it acquires properties from Orthotouch by acquiring the properties, or the right to the properties should the HS Investors support the listing of Capital Growth Fund.

The primary business of CGF is to invest into quality income generating properties including vacant land with development potential, as well as

new property ventures under development in both South Africa and internationally. CGF will establish a development arm that will cover greenfields developments of land into retail centres and brownfields development through refurbishment, upgrade or other improvement to existing retail, industrial and office buildings.

2. Why a listing by way of introduction?

The main reason for a listing by way of introduction is to create a platform (the listed vehicle) so as to raise capital in the form of equity and debt, to create value for shareholders and to allow investors the opportunity to freely realise value on a public regulated exchange.

3. Why should I support a listing by way of introduction?

The listing by way of introduction of CGF is a catalyst to allow:

- 3.1. A HS Investor to convert his HS Investment into ordinary or ordinary and preference shares in a newly created property fund that will be listed on the JSE;
- 3.2. A HS Investor to trade in his listed ordinary or ordinary and preference shares on the JSE if he wants to realise his capital;
- 3.3. A HS Investor who elect to receive ordinary shares in CGF to receive 6 monthly distributions of at least 75% of the profit after interest before taxation generated by CGF as stipulated by the JSE in terms of their Real Estate Investment Trust ("REIT") regulations;
- 3.4. A HS Investor who elect to receive preference shares in CGF to receive monthly interest payments on their preference shares;
- 3.5. All REIT profit distributions and interest payments to be regulated in terms of the JSE Listings Requirements and administered by Computershare as the CGF's transfer secretaries;
- 3.6. Improved market profile, reputation and awareness. Being listed on the JSE lifts the profile of the company and ensures regulatory compliance;
- 3.7. Improved relations with various stakeholders through improved reporting and disclosures. The JSE Listings Requirements provides timelines for all reporting and their internal compliance division monitor compliance with timelines and disclosure requirements;
- 3.8. Comfort to local and international investors;
- 3.9. Shares and listed debt in CGF that can trade on the JSE trading platform providing ease of liquidity to buy and sell shares and listed debt;

- 3.10. Ready access to capital from local and international equity investors in the form of listed shares and debt in CGF;
- 3.11. A less dilutive method of raising capital because listed property funds in general trade at a premium to the net asset value of the listed fund (depending on the return on equity employed) and capital is "cheaper" because of the regulatory environment prescribed and enforced by the JSE;
- 3.12. Flexibility of using listed shares as currency in acquisitions and other corporate actions. Using shares assists CGF in acquiring quality property portfolios and paying for it by way of a fresh issuance of shares and debt; and
- 3.13. Access to BBBEE structuring alternatives so as to secure long term leases with government departments so as to enhance the value of the property portfolio. Government currently rent a big portion of CGF's properties. It is unfortunately impossible for Orthotouch to introduce high profile broad based black empowerment partners to Orthotouch without Orthotouch providing vendor assistance. The lack of black empowerment credentials in Orthotouch resulted into a reluctance from government to enter into long-term leases. It will be easier for CGF to attract the buy-in of high profile broad based black empowerment groups once CGF lists on the JSE. This will enhance the value of CGF property portfolio exponentially.

4. How will my economic interest in the to be listed CGF be determined?

Your investment in ordinary or ordinary and preference shares in CGF will be determined by dividing the fair market value of the properties of Orthotouch as determined by an independent property valuer(s) (approved by the JSE for the purposes of listing of CGF) by the aggregate of all the HS Investor's HS Investments, multiplied by the face value of any relevant portion of your HS Investment (listing entitlement), which you elect to convert into shares in CGF.

5. The election between ordinary shares or a combination of ordinary and secured redeemable preference shares in CGF

5.1. Ordinary shares

5.1.1. Election to receive ordinary shares in the to be listed CGF

You must elect to receive your entitlement in ordinary shares in CGF or in a combination of ordinary shares and secured redeemable preference shares. The ordinary shares and the preference shares will be listed on the JSE. The maximum number of ordinary shares as a % of your entitlement that you can elect to receive is 100% and the minimum is 50% so as to ensure a maximum debt to equity ratio of 50:50. The balance of your entitlement must be converted into secured redeemable

preference shares should you elect to receive the minimum of 50% of your entitlement in ordinary shares.

5.1.2. Rights and entitlement of ordinary shares to future distributions

All the ordinary shares will be listed on the Main Board of the JSE in the listed property sector. All ordinary shares will rank *pari passu* to future distributions. All the ordinary shares will be issued at R10 per ordinary share.

It is estimated by CGF management that future distributions made to ordinary shareholders in CGF will give a return of approximately 10% per annum on the purchase price of the property portfolio (on the assumption that 100% of distributable profits is distributed).

A detailed profit and distribution forecast will be prepared by CGF and a JSE accredited reporting accountant will provide a report on the forecast as provided for in section 8 of the JSE Listings Requirements. The profit and distribution forecast and the reporting accountants report thereon will be included in CGF's pre-listing statement.

5.1.3. Election methodology

You are required to complete the Form of Proxy (**Annexure "L"**), which contains election options, attached to the arrangement document to which this document forms **Annexure "L"**, and as referred to in paragraph 2.2.5.5.9 of the arrangement document, to make your election so as to indicate whether you wish to, in addition to other elections available to you as indicated on **Annexure "L"**, elect to receive ordinary shares or a combination of ordinary and preference shares in CGF, and in the specific percentages indicated on such Form of Proxy, and as to the particular percentages of relative elections.

5.2. Secured redeemable preference shares

5.2.1. General terms of the preference share issue

Four different classes of preference shares will be created and issued by CGF namely Class A, Class B, Class C and Class D secured redeemable preference shares. All preference shares will be issued at R10 per preference share. The interest payable on all the preference shares is fixed at 10% per annum payable monthly in arrears before the 7th day of each month. The repayment of the issue price ("face value") of all the preference shares will be secured on a R10 for R10 basis against the properties transferred to CGF. All the preference shares will be listed and traded on the JSE subject to the JSE approving the listing.

5.2.2. The different classes of preference shares issued

The repayment terms of the four classes of preference shares are different. The repayment terms are as follow:

- 5.2.2.1. Class A preference shares: the face value of the preference share must be redeemed by Capital Growth Fund within 24 months from the date of issue;
- 5.2.2.2. Class B preference shares: the face value of the preference share must be redeemed by Capital Growth Fund within 36 months from the date of issue;
- 5.2.2.3. Class C preference shares: the face value of the preference shares must be redeemed by Capital Growth Fund within 48 months from the date of issue; and
- 5.2.2.4. Class D preference shares: the face value of the preference shares must be redeemed by Capital Growth Fund within 60 months from the date of issue.

5.2.3. *The ratio in which the preference shares will be issued*

The secured redeemable preference shares will be issued to you in the following ratio should you elect to receive secured redeemable preference shares:

- 5.2.3.1. 15% in Class A secured redeemable preference shares;
- 5.2.3.2. 15% in Class B secured redeemable preference shares;
- 5.2.3.3. 30% in Class C secured redeemable preference shares; and
- 5.2.3.4. 40% in Class D secured redeemable preference shares.

5.3. *Illustrative calculations*

To illustrate the effect of the above lets assume that you are entitled to R1 million in shares in CGF calculated in terms of the provisions of paragraph 4 above. As a minimum you must elect to receive 50% amounting to R500 000 of ordinary shares issued at R10 per ordinary shares by way of a fresh issuance of ordinary shares. You can elect to receive a greater portion of your entitlement in ordinary shares up to a maximum of 100% being the full benefit. You will therefore receive between 50 000 and 100 000 ordinary shares issued at R10 per share.

Assuming you elect to receive 50% in ordinary shares and 50% in secured redeemable preference shares the value of your preference share entitlement will then be R500 000. You will be issued with R75 000 worth

of Class A preference shares, R75 000 worth of Class B preference shares, R150 000 worth of Class C preference shares and R200 000 worth of Class D preference shares. In aggregate you will receive 50 000 (R500 000 divided by R10) secured redeemable preference shares. The interest payable on all the classes of preference shares will be 10% per annum. An aggregate amount of R50 000 (R500 000 x 10%) interest will be received per annum. The interest is payable monthly in arrears and the monthly payment will amount to approximately R4 167.

6. Can the listing of a property portfolio created by way property syndication companies be successful?

6.1. Listing of Safari Investments RSA Limited

Safari Investments RSA Limited ("Safari") (share code SAR) listed on 7 April 2014 as a REIT on the JSE. Safari was established as public company on 7 July 2000 by way of amalgamation of three property syndication companies namely Safari Investments Atteridgeville Proprietary Limited (Atlyn shopping center in Atteridgeville), Safari Investments Pretoria Proprietary Limited (Denlyn shopping center in Mamelodi) and Safari Investments Sebokeng Proprietary (Sebokeng shopping center). The Safari Investments Heidelberg Proprietary Limited (Victorian shopping center in Heidelberg) property syndication merged with Safari with effect from 15 January 2014.

6.2. Return on Safari syndication loan accounts converted into Safari shares

Safari syndication loan account beneficiaries converted their individual loan accounts by way of election into Safari ordinary shares on 6 August 2013. The loan accounts were converted into Safari shares at an issue price of R6.92 per Safari share. DEA-RU Proprietary Limited acted as the advisor to the restructuring of Safari prior to listing and as advisor and bookrunner to the Safari listing and capital raising process. Institutional investors subscribed for R462 million worth of Safari shares at an average bookbuild price of R7.63. The Safari board allocated R374 million worth of Safari shares to new investors at an issue price of R7.63 per Safari share at a premium to the Safari net asset value. Approximately 4.7 million Safari shares have traded on the JSE since 7 April 2014 at a volume weighted average share price of approximately R8.25 per Safari share up to July 2013. Safari paid a maiden dividend of 20 cents per share in July 2014. An aggregate return for shareholders who converted their loan accounts of approximately 22% since 6 August 2013.

7. The JSE listed property sector performance

7.1. Growth in the JSE listed property sector

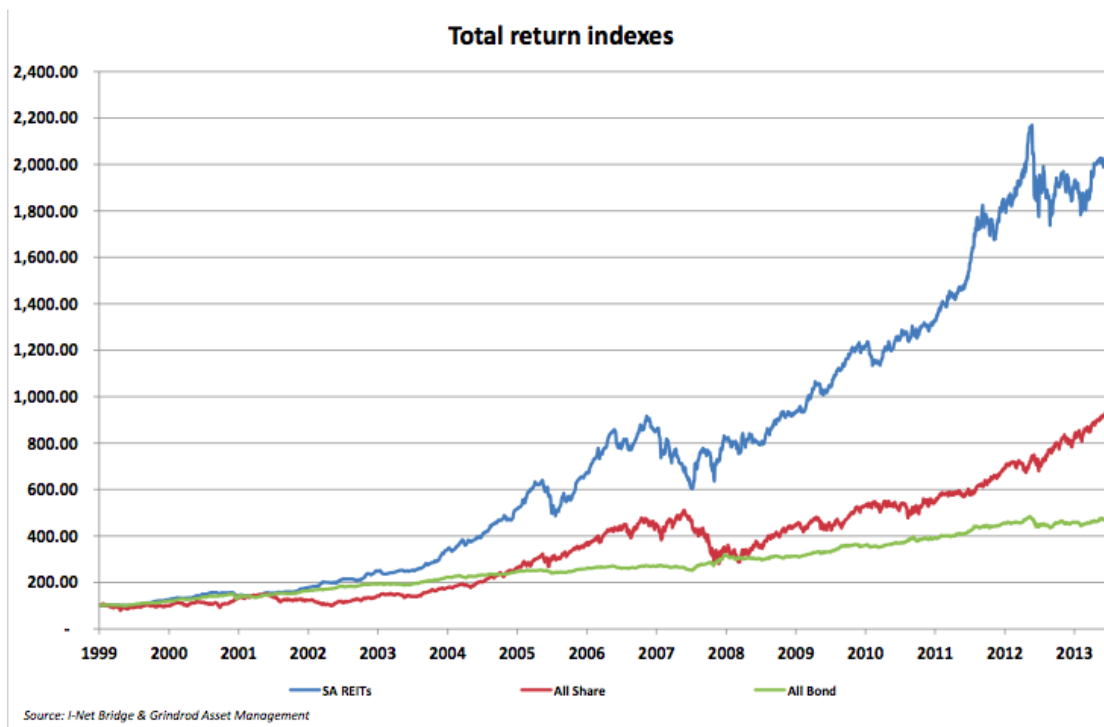
The aggregate value of the companies listed in the JSE listed property sector has grown from approximately R25 billion in 2000 to more than

R250 billion in 2014. One of the most important reasons for the phenomenal growth is the access to cheaper capital in the form of listed equity and listed debt that a listing on the JSE Main Board provides. The JSE provides a liquid platform on which listed companies can raise capital in South Africa and overseas. The JSE has been voted the best regulated exchange in the world three years in a row. The JSE's continuing obligations compliance division ensures that all the JSE Listings Requirements and corporate governance provisions are strictly adhered to enhancing investor confidence.

7.2. Key performance indicators extracted from the SA REIT Associations' chart book

A copy of the SA REIT Associations' monthly chart book for July 2014 ("the Chart Book") is of reference. Key observations include:

- 7.2.1. The total REIT return index on page 3 of 19 of the Chart Book illustrates that if an investor invested R100 in listed property in 1999 then his investment would have been worth approximately R2 000 in July 2014. A return on investment in excess of 120% per annum over a 15-year



period.

- 7.2.2. There is a direct correlation between SA REIT yields compared to Long Bond Yields as illustrated on page 15 of 19 of the Chart Book;

- 7.2.3. The SA REIT distribution growth has been in excess of 10% in the last quarter as illustrated on page 16 of 19 of the chart book; and
- 7.2.4. The monthly value of SA REIT units traded on the JSE is in excess of R7 billion as illustrated in the graph on page 19 of 19 of the Chart Book.

8. Listing by way of introduction

8.1. The JSE Listings Requirements

An application is made to the JSE by way of a pre-listing statement containing information on the fund to be listed and its properties as provided for in the JSE Listings Requirements. The JSE application and approval process takes approximately 4 weeks from the date of completion and submission to the JSE of the first draft of the pre-listing statement. The listing of CGF is not subject to raising any capital in the form of equity or debt prior to the listing. Debt and equity will most probably only be raised post the listing on the JSE once a platform to create and realise value have been established and as and when capital is needed. Raising capital prior to the listing of the fund on the JSE will be too value dilutive to all stakeholders.

8.2. JSE Main Board Listings Requirements

Section 4.28 of the Listings Requirements provides that a company listing on the JSE Main Board must satisfy the following listings criteria *inter alia*:

- 8.2.1. Par 4.28 (a): CGF must have a minimum issued share capital of R25 million. This will be achieved by issuing more than R25 million worth of ordinary shares to HS Investors.
- 8.2.2. Par 4.28(b): CGF must have not less than 25 million equity shares in issue. This will be achieved by issuing a minimum of 25 million equity shares to HS Investors.
- 8.2.3. Par 4.28(c) and par 13: CGF must have a forecast profit of more than R8 million before taxation and distributions to shareholders for the next financial year. This should be easily achievable according to CGF management based on the revenue generated by the properties that will form the subject of the listing.
- 8.2.4. Par 4.28(d): CGF must control its assets. CGF will own the properties and will meet this requirement.
- 8.2.5. Par 4.28(e): At least 20% of each class of the securities of CGF must be held by the public. It is envisaged that more than 90% of the issued securities of CGF will be held by members of the public because all HS Investors are "public" as defined in the JSE Listings Requirements.

8.2.6. Par 4.28(f): The number of the public shareholders in respect of the listed securities shall be at least:

8.2.6.1. 300 for equity securities; and

8.2.6.2. 50 for preference share.

These shareholder spread requirements will be met by issuing the required number of equity securities and preference shares to HS Investors.

8.3. *The JSE's REIT requirements and REIT legislation*

Amendments to the Income Tax Act have recently been promulgated and the newly incorporated REIT legislation came into effect on 1 April 2013. All the large JSE Listed property funds have converted their traditional linked unit listed structure to a REIT structure.

To qualify as a REIT the JSE has the following qualification requirements (in addition to the JSE Listings Requirements listed in paragraph 8.2 above):

8.3.1. CGF must have gross assets worth at least R300 million. This requirement will be met by transferring more than R300 million worth of properties to CGF.

8.3.2. CGF must be a property entity. CGF will be a property entity.

8.3.3. A minimum of 75% of CGF's revenue must be derived from rental revenue. More than 75% of CGF's revenue will be derived from rental revenue.

8.3.4. CGF must, to the best of the directors' knowledge, qualify for a tax deduction of distributions under section 25BB(2) of the Income Tax Act for the current financial year. This requirement will be met because at least 75% of profit will be distributed to shareholders of CGF and more than 75% of revenue will be derived from rental revenue.

8.3.5. CGF's total borrowings cannot exceed 60% of the gross asset value. CGF will list with an approximate 50:50 debt to equity ratio and this requirement will be met.

8.3.6. The audit committee must confirm to the JSE that as part of its terms of reference it has adopted the policy referred to in paragraph 13.46 (h)(i) of the Listings Requirements and that the company complies with the following provisions set out in the Listings Requirements:

- 8.3.6.1. adopted and implemented an appropriate risk management policy, which policy as a minimum is in accordance with industry practice and specifically prohibits CGF from entering into any derivative transactions that are not in the normal course of CGF's business;
- 8.3.6.2. reporting in the annual report each year that the audit committee has monitored compliance with the policy and that CGF has, in all material respects, complied with the policy during the year concerned; and
- 8.3.6.3. reporting to the JSE, in the annual compliance declaration referred to in paragraph 13.49(d) of the Listings Requirements, that the audit committee has monitored compliance with the policy and that CGF has, in all material respects, complied with the policy during the year concerned.

CGF's newly established audit committee will take the necessary actions so as to assist them so as to provide the required confirmations.

- 8.3.7. CGF must comply with the general continuing obligations as determined by the JSE and more specifically those set out in section 13.49 of the Listings Requirements as amended from time to time;
- 8.3.8. The board of CGF must confirm that CGF will comply with the following provisions, as set out in section 13.49 of the Listings Requirements:
 - 8.3.8.1. CGF will distribute at least 75% of its total distributable profits as a distribution to the holders of its listed securities by no later than 6 months after its financial year end, subject to the relevant solvency and liquidity test as defined in section 4 and 46 of the Companies Act;
 - 8.3.8.2. CGF will procure that, subject to the solvency and liquidity test and the provisions of section 46 of the Companies Act, the subsidiaries of CGF that are property entities incorporated in South Africa will distribute at least 75% of their total distributable profits as a distribution by no later than 6 months after their financial year ends; and
 - 8.3.8.3. Interim distributions may occur before the end of a financial year-end.

8.4. REIT taxation status

The REIT tax legislation, introduced in the Income Tax Act, came into effect on 1 April 2013. CGF's status as a REIT entails, among others, the following tax consequences:

- 8.4.1. CGF will not pay capital gains tax on the disposal of immovable property, the disposal of shares in other REITS or the disposal of shares in property companies;
- 8.4.2. CGF may claim a tax deduction for qualifying dividends to its shareholders;
- 8.4.3. Dividends distributed by CGF to its resident shareholders are subject to normal tax (and exempt from dividends tax); and
- 8.4.4. Dividends distributed to foreign shareholders are subject to dividends tax.

In order to qualify for the REIT tax benefits the Fund's shares must be listed as a REIT as defined in the Listings Requirements.

9. Directors of CGF

A number of directors have been appointed in anticipation of the listing of CGF. They have accepted the appointments as directors subject to the successful outcome of the section 155 scheme.

9.1. *Independent Chairman: Mr Alasdair Urquhart (Tiny) Barnetson ("Mr Barnetson")*

Mr Barnetson is a CA (SA). He has extensive (more than 30 years) experience in the property and hospitality sectors. He was the managing director of Ovland Limited, a property development company, Ovenstone Investments Limited, Ovbel Limited and Boardprop / Atlas Properties Limited, a property loan stock company. He held numerous offices including as the President of the South African Property Association (SAPOA), Chairman at St Albans College Council and Chairman of Waterkloof House Preparatory School Council and Trust.

9.2. *Independent non-executive director: Mr Takis Christodoulou ("Mr Christodoulou")*

Mr Christodoulou has a Bachelor of Science in Quantity Surveying (BSC (QS)) and a Bachelor of Science in Building Management. He has been a member of the South African Institute of Building since 1978. He has more than 30 years experience in the property sector and is known for quality retail developments in high growth nodes such as the Pretoria East node with a value in excess of R1.2 billion.

9.3. *Independent non-executive director: Mr Nicolaos Baltasoucos ("Mr Baltasoucos")*

Mr Baltsoucos is a CA (SA) and has extensive knowledge of all spheres of commercial property.

9.4. *Non-executive director: Ronnie Mamoepa ("Mr Mamoepa")*

9.4.1. Mr Mamoepa's work experience includes:

- 9.4.1.1. 1991-1992: Head of Communication, ANC PWV Region;
- 9.4.1.2. 1992-1994: National Spokesperson, ANC Headquarters;
- 9.4.1.3. 1994-1996: Member of Gauteng Provincial Legislature -Head of Communication- office of Premier Tokyo Sexwale;
- 9.4.1.4. 1996-1998: Director ANC Information and Publicity, ANC Headquarters;
- 9.4.1.5. 1998-1999: Head of Communication, Office of Deputy President, Thabo Mbeki;
- 9.4.1.6. 1999-2000: Head of Communication, office of Deputy President Jacob Zuma;
- 9.4.1.7. 2000-2009: Head of Communication- Ministry of Foreign Affairs under Minister Dlamini Zuma;
- 9.4.1.8. 2009-2014: Head of Communication- Ministry of Home Affairs under Ministers Dlamini Zuma/Naledi Pandor/Malusi Gigaba; and
- 9.4.1.9. 2014: current Head of Communication, office of Deputy President Cyril Ramaphosa.

9.4.2. He has shares in:

- 9.4.2.1. Leswikeng Minerals & Energy Proprietary Limited which owns a stake in African Equity Corporation;
- 9.4.2.2. African Equity which owns 25% of Phatsima Holdings
- 9.4.2.3. Phatsima Properties Limited which has an equity stake in:
 - 9.4.2.3.1. Phatsima Industrial- Widney Transport Components;
 - 9.4.2.3.2. JHI Real Estate Proprietary Limited;
 - 9.4.2.3.3. Consolidated Power Projects;

- 9.4.2.3.4. Phatsima Consulting which has shareholding in Oasys Innovations and IQ Busines Group;
- 9.4.2.3.5. Phatsima Brick and Clay (Pty) Ltd with a stake West End Claybrick;
- 9.4.2.3.6. Phatsima Emerging Markets with a stake in Real People; and
- 9.4.2.3.7. Phatsima Quarries (Pty) Ltd with a stake in Drift super Sand
- 9.4.2.4. Lephatsi Investments
- 9.4.2.5. Koni Media which has a stake in Leo Burnett media and advertising company; and
- 9.4.2.6. BEE-Net with a stake in Cell-C.

9.5. *Chief executive officer: Mr Michael Kyriakides ("Michael")*

Michael was born in Cyprus and immigrated to South Africa at the age of seventeen. Michael has an electrical engineering background with extensive experience in the retail and property sectors. He has been passionately involved in the last few years with redevelopment of commercial property sites for the Georgiou Group. Michael brings to the Capital Growth Fund his ability to complete projects with speed, in time and within budgets. His vast experience in the retail sector, gives him an added advantage in identifying possible redevelopment opportunities in the commercial property sector. He has in many occasions turned around properties with low income yields, to high income producing properties. He is also involved in all other aspects of property management, including financial, leasing, sales and marketing. His hands-on approach to property management and his ability to motivate and manage people ensures the best results are obtained. 1 million ordinary shares in the Fund have been issued to Mr Michael Kyriakides, in terms of his employment agreement, aligning his interest with the interests of shareholders of the Fund.

9.6. *Financial director: Mr Murray James Barnetson ("Murray")*

Murray is a CA (SA) who articulated as a chartered accountant with Ernst & Young. He has more than fourteen years' experience as a financial director both in the UK and South Africa.

10.1. The purchase price

CGF will acquire the properties and / or the right to take transfer of the properties at fair market value from Orthotouch. The principle is that the properties must be acquired by CGF at fair market value so as to prevent

future impairments in fair value that will negatively affect the CGF's performance and its ability to raise Capital on the JSE.

10.2. Independent property valuer to determine purchase price

An independent valuer will be appointed by the directors of CGF to determine the fair market value of the properties acquired by CGF. The independent valuer's appointment must be approved by the JSE in terms of Section 13 of the JSE Listings Requirements before he can value the properties. The JSE will only approve the valuer for purposes of valuing the properties for the listing if they are happy that he has the necessary competency and that he is independent to all stakeholders who are part of the scheme process so as to protect the interests of all investors (all inclusive the "Independent Valuer").

10.3. The election by a HS Investor

A HS Investor electing to convert his HS Investment into shares in the listing of CGF, in due course, and in the listing process, will receive his entitlement from CGF by way of a renounceable letter of entitlement entitling him to either ordinary shares or ordinary shares and secured redeemable preference shares in CGF. A HS Investor can elect to either receive 100% of his entitlement in ordinary shares or he can elect to receive a combination of ordinary shares and redeemable preference shares as consideration. The maximum number of preference shares that a HS Investor can elect to receive is 50% of his entitlement so as to ensure that CGF's debt to equity ratio is not higher than 50:50 on the date of listing.

10.4. Issue price of the ordinary and preference shares

The issue price of the ordinary shares and preference shares will be equal to the HS Investor's pro rata HS Investment based on the fair market value of the properties as determined by the Independent Valuer.

11 Conditionality

The listing is subject to:

- 11.1. The JSE approving the listing of the preference and ordinary shares issued by CGF;
- 11.2. The Competition Commission approving the acquisition of the properties by CGF;
- 11.3. Obtaining Exchange Control approval as provided for in section 16 of the JSE Listings Requirements;

11.4. Other which may be applicable.

12 Share buy backs

12.1. A special resolution has been passed by CGF in terms of which CGF can buy back ordinary shares and preference shares in the open market (the "Share Buy Back(s));

12.2. The special resolution provide:

12.2.1. that the directors of CGF can only buy back the shares after the listing of CGF on the JSE;

12.2.2. the Share Buy Backs must be effected on the open market through the JSE electronic trading system. No off market transactions can be done;

12.2.3. the ordinary shares can only be bought back at a price that is less than 80% of the net asset value of CGF from time to time;

12.2.4. the preference shares can only be bought back at a price that is less than 80% of the issue price of the preference shares;

12.2.5. all ordinary shares bought back must be cancelled by CGF effectively reducing the number of shares in issue in CGF and increasing the net asset value of CGF's ordinary shares in issue and therefore the intrinsic value of the listed ordinary shares in CGF;

12.2.6. all preference shares bought back must be cancelled effectively increasing the net asset value of the ordinary shares in CGF because of the reduction of debt and thereby increasing the intrinsic value of the ordinary shares in the Fund;

12.2.7. the Share Buy Backs can only be done if CGF meets the solvability requirements provided for in the Companies Act (as amended);

12.2.8. the Share Buy Backs is subject to the provisions of the JSE Listings Requirements and a JSE SENS announcement must be made for every 5% of the issued share capital of CGF bought back; and

12.2.9. the Share Buy Backs will be funded by using up to a maximum of 25% of the profit after interest before taxation available for distribution to ordinary shareholders in CGF. The JSE Listings Requirements provide that a minimum of 75% of the profit after interest before taxation must be paid to the ordinary shareholders of CGF.

The Share Buy Backs is solely within the discretion of the directors of CGF. The intention is to list CGF on the JSE by way of introduction. To list by way of introduction requires that a pre-listing statement must be submitted to

the JSE so as to approve the listing. No Capital is raised from third parties as part of the listing process given the negative market sentiment towards Orthotouch and the perceived risk in the eyes of new institutional investors of loan account beneficiaries flooding the market on day of listing driving the price down. An issue of shares for cash in CGF to institutional investors will only be done once the price of the ordinary share traded on the JSE stabilises.

- **Capital expenditure**

The board of CGF will analyse the capital expenditure requirements of all the properties acquired by CGF. Capital expenditure will only be authorised and incurred on the properties if the return on the investment is value enhancing to ordinary shareholders.

- **Property portfolio and asset management functions**

The property portfolio management and asset management functions for all properties other than government occupied properties will be internalised by CGF so as to ensure that a dedicated performance driven team is responsible for extracting optimal value from the property portfolio being managed. It is envisaged that the property management and asset management functions for government properties will be externalised by way of a legal agreement(s) between CGF and the external property manager and asset manager on an arms length basis. The property management fee will amount to between 2% and 3% of gross rental collections and the asset management fee will amount to approximately 1.5% of the assets under management with an equity incentive in CGF if the asset manager enhances the value of the portfolio. The shareholders of the external property manager and asset manager will be a combination of strategic black partners, broad based BEE partners, CGF management and strategic advisors. The property and asset management functions regarding government properties will be externalised so as to try and secure government tenants under long term value enhancing lease agreements. The salient features of the above agreements will be included in the CGF pre-listing statement.

- **Resolutions passed by CGF so as to prepare CGF for the proposed listing**

A number of ordinary and special resolutions have been and will be passed by CGF so as to prepare CGF for listing purposes including:

- 15.1. Adopting a new memorandum of incorporation for CGF so as to make it JSE compliant;
- 15.2. Placing the unissued shares in CGF under the control of the directors of the Fund;

- 15.3. Authorising the directors to issue more than 30% of the shares in issue as provided for in section 41 of the Companies Act;
- 15.4. A general authority to issue shares for cash;
- 15.5. A general authority to buy back shares in the open market;
- 15.6. A special authority to do share buy backs in the open market;
- 15.7. Authorising a dividend reinvestment programme in terms of which ordinary shareholders can re-invest their distributions in CGF should they elect to do so;
- 15.8. The adoption of a performance based share incentive programme so as to incentivise the management and staff of CGF to maximise the returns for the shareholders of CGF effectively aligning the interests of all stakeholders; and
- 15.9. To do such things and to prepare and sign all documentation and or pass resolutions on behalf of CGF so as to enable and implement a listing of CGF on the JSE.

16. Timeline for the listing

It is estimated that CGF will be listed within 6 months after approval of the Arrangement.

17. Costs of listing CGF on the JSE

The estimated cost of listing of CGF is estimated to amount to between 2% and 3% of the gross value of the properties transferred to CGF excluding transfer costs and rates and taxes payable to the deeds offices and local government.

This fee includes:

- 17.1. the JSE documentation and listings fees,
- 17.2. publishers fees regarding the cost of publishing the abridged pre-listing statement in the newspapers;
- 17.3. the costs of an investor relations programme,
- 17.4. reporting accountants reports on pro forma financial information, opinion on profit and distribution forecast, value and existence opinion and audit opinion on pro forma balance sheet;

- 17.5. attorneys fees;
- 17.6. 1 million shares in CGF issued to DEA-RU Proprietary Limited to assist and advise CGF with the structuring and the listing process as they have done as part of the Safari Investments RSA Limited structuring and listing process. The number of shares issued will be adjusted downwards if less than R1 billion worth of properties are transferred to CGF as part of the listing process or within 12 months post the listing of CGF on the JSE in terms of an agreement between CGF and DEA-RU; and
- 17.7. Other general expenses authorised by the board of CGF necessarily incurred so as to implement the listing of CGF on the JSE.

18. Pre-listing statement on CGF

A pre-listing statement on CGF will be prepared in due course if the proposal is accepted. The pre-listing statement will be emailed to all HS Investors who support the listing once the JSE approves the pre-listing statement.

FORM OF PROXY
FOR USE AT THE TRADE CREDITORS' MEETING:

ORTHOTOUCH LIMITED

REGISTRATION NUMBER: 2010/004096/06

("THE COMPANY")

For use by trade creditors at a meeting convened in terms of Section 155 of the Companies Act 71 of 2008 at Full Gospel Church Camping Grounds, 3c, 8 Jan Smuts Avenue, Irene Centurion on 12 November 2014 at 10h00 ("the meeting").

I/We _____ being a secured / preferent / concurrent* trade 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 trade creditors' meeting which will be held for the purpose of considering and, if deemed fit, agreeing -

_____ with modification*

_____ without modification*

* Delete what is not applicable. If a trade creditor agrees that the Arrangement proposed may be modified, he/she may indicate the manner and the extent of such modification to which the proxy may agree, on a separate sheet, which must be attached hereto. If a trade creditor fails to indicate whether the Arrangement may be adopted with or without modification or fails to indicate the manner and the extent of any modification to which the proxy may agree, such failure will be deemed to authorise the authorised proxy, to adopt the Arrangement with or without modification as he deems fit

to the Arrangement ("the Arrangement") to be proposed thereat by the Company and at any adjournment of the meeting, and to vote for or against the adoption of Arrangement in accordance with the following instructions -

(indicate with an X)

For the arrangement: _____ Against arrangement: _____

SIGNED at _____ on this _____ day of _____ 2014.

Signature

Assisted by me (where applicable)

NOTES

- 1. A trade 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. A trade creditor should also indicate, by deleting which is not applicable, whether its claim is secured, preferent or concurrent.
- 2. Form of proxy must be lodged to If a proxy form for a and investors' meeting is not received by the time set out above, it may nevertheless be handed to the Chairman of the meetings up to 30 minutes before the commencement of the relevant meeting, together with an affidavit stating adequate reasons for lateness.
- 3. Trade creditors who are entitled to attend and participate in the meetings are advised that they or their proxies may so participate, by means of electronic communication in accordance with the provisions of the Arrangement.

**FORM OF PROXY
FOR USE AT HIGHVELD SYNDICATION INVESTORS' MEETING:**

ORTHOTOUCH LIMITED

REGISTRATION NUMBER: 2010/004096/06

("THE COMPANY")

For use by HS Investors at a meeting convened in terms of Section 155 of the Companies Act 71 of 2008 at **Full Gospel Church Camping Grounds, 3c, 8 Jan Smuts Avenue, Irene Centurion on day 12 November 2014 at 10h00 ("the meeting")**.

I/We _____ being a HS Investor in regard to 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 HS Investors' meeting which will be held for the purpose of considering and, if deemed fit, agreeing -

_____ with modification*

_____ without modification*

* Delete what is not applicable. If a HS Investor agrees that the Arrangement proposed may be modified, he/she may indicate the manner and the extent of such modification to which the proxy may agree, on a separate sheet, which must be attached hereto. If a HS Investor fails to indicate whether the Arrangement may be adopted with or without modification or fails to indicate the manner and the extent of any modification to which the proxy may agree, such failure will be deemed to authorise the authorised proxy, to adopt the Arrangement with or without modification as he deems fit

to the approval and sanctioning of the Arrangement ("**the Arrangement**") to be proposed thereat by the Company and at any adjournment of the meeting, and to vote for or against the adoption of Arrangement in accordance with the following instructions -

(indicate with an X)

For the arrangement: _____ Against arrangement: _____

In addition to the above approval election, HS Investors are invited and should, make elections as to which of the **Three Alternatives provided for in paragraph 2.2.5 of the Arrangement**, they choose to elect, should the Arrangement be sanctioned in terms of the Companies Act, in accordance with the instructions provided by HS Investors so electing, by indicating their elections and relative elected percentages to their claims to be converted into pro-rata portions within reference to and applicable to which of the Three Alternative Options provided for in paragraph 2.2.5 of the Arrangement

(indicate with an X)

For Alternative 1: _____

For Alternative 2: _____

For Alternative 3: _____

Percentage of full claims converted into rights in terms of Alternative 1
(indicate relevant %)

Percentage of full claims converted into rights in terms of Alternative 2
(indicate relevant %)

Percentage of full claims converted into rights in terms of Alternative 3
(indicate relevant %)

_____ %

_____ %

_____ %

HS Investors are invited to make elections as to what percentage of their listing entitlements, they wish to divide/split between Ordinary and Preference shares in CGF, as referred to in paragraph 2.2.5.5.9 of the Arrangement, by indicating such election, as per specific percentages elected **(indicate relevant %)**

_____ % Ordinary shares and/or _____ % Preference shares.

SIGNED at _____ on this _____ day of _____ 2014.

Signature
Assisted by me (where applicable)

NOTES

1. A HS Investor 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 to if a proxy form for and investors' meeting is not received by the time set out above, it may nevertheless be handed to the Chairman of the meetings up to 30 minutes before the commencement of the relevant meeting, together with an affidavit stating adequate reasons for lateness.
3. HS Investors who are entitled to attend and participate in the meetings are advised that they or their proxies may so participate, by means of electronic communication in accordance with the provisions of the Arrangement.
4. In order to accommodate future electronic communication, please provide your
Cell Phone No: _____ and e-mail address: _____

