

**SWORN STATEMENT OF RELEVANT FACTS  
MADE IN TERMS OF SECTION 129(3)(a) OF THE COMPANIES ACT,  
71 OF 2008 (AS AMENDED) ("THE COMPANIES ACT")  
TO COMMENCE BUSINESS RESCUE PROCEEDINGS IN  
DARKROCK (PTY) LTD  
REGISTRATION NUMBER: 2016/161752/07**

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I, the undersigned,

**DAVID MATTHEW CILLIERS**  
(Identity number 880130 5052 089)



do hereby make oath and say that:

1. I am the sole director and sole shareholder of DarkRock (Pty) Ltd (Registration number 2016/161752/07) ("the Company").
2. The facts and allegations herein contained are, save where the context indicates a contrary intention or where it is stated by me to the contrary, within my personal knowledge and are to the best of my knowledge and belief both true and correct.
3. In terms of a resolution of the Company's board of directors dated 29 January 2020 ("the Resolution"), a copy of which I attach as Appendix I the Company's board resolved to, *inter alia*, place the Company into supervision pursuant to Section 129(1) of the Companies Act and I am authorised to represent the Company in this regard and in making this sworn statement.
4. **BRIEF HISTORY OF THE COMPANY**
  - 4.1 The Company was formed in April 2016.
  - 4.2 The Company conducts the business principally as a mining exploration and coal trader.

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4.3 The Company trades from 2<sup>nd</sup> floor Alice Lane Centre which is also its registered office.

5. **FINANCIAL DISTRESS**

5.1 For the reasons set out below it is my view that the Company is financially distressed in that:-

5.1.1 it appears to be reasonably unlikely that the Company will be able to pay all of its debts as they become due and payable within the immediately ensuing six months; and

5.1.2 the Company has made substantial loans to certain companies totalling approximately R256 million and these loans cannot and will not be paid in the short term and in full;

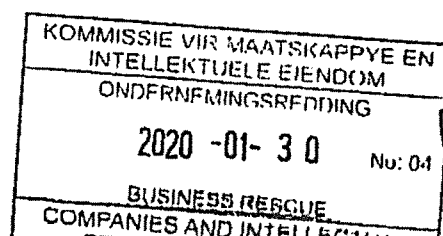
5.1.3 a company known as Kleinfontein Colliery (Pty) Ltd (in business rescue) and its holding company collectively is a net debtor of the Company for approximately R46 million. It was placed in business rescue last week. It is anticipated that it will not pay this debt for a number of months and in full;

5.1.4 thus although the Company has assets it is illiquid and has no cash;

5.1.5 it appears reasonably likely that the Company will become insolvent within the immediately ensuing six months;

5.1.6 the Company's major creditor S G Coal (Pty) Ltd demanded immediate payment of its debt of approximately R36 million. This debt is due and payable and the Company cannot pay it at present

5.2 Because of this it is necessary that the Company be placed under supervision to facilitate the rescue of the Company by providing for *inter alia*:-



- 5.2.1 a temporary moratorium on the legal proceedings and enforcement actions against the Company; and
- 5.2.2 during this period the development and implementation, if approved by creditors, of a plan to rescue the Company by restructuring its affairs, business, debts, liabilities and equity in a manner that maximizes the likelihood of
  - (a) the Company continuing in existence, on a commercially solvent basis, into the foreseeable future; and if that is not possible
  - (b) the Company providing a better return for the Company's creditors, stakeholders and/or shareholders than would result from the immediate liquidation of the Company.

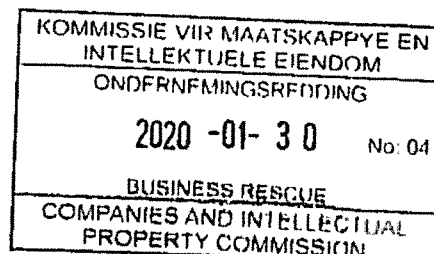
**6. RELEVANT FACTS TO THE SUPERVISION**

- 6.1 The Company has approximately 3 employees at present. It recently retrenched approximately 12 employees.
- 6.2 The Company's public interest score is 415 and is made up as follows:

Number of employees	3
Third party liabilities	39
Turnover for current financial year	372
Shareholders	1

**7. REASONS FOR FINANCIAL DISTRESS**

- 7.1 The following factors have led to the Company's financial distress:
  - 7.1.1 lack of cash;



DL [Signature]

7.1.2 the Company's business model is no longer sustainable.

8. **THE COMPANY'S POTENTIAL RESCUE**

8.1 By placing the Company under supervision the Company intends utilising the moratorium on payment of its liabilities to:

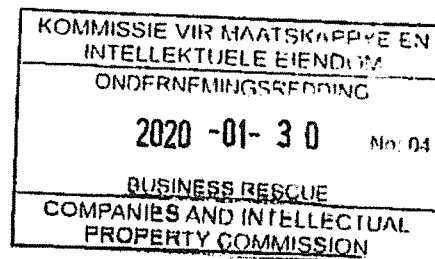
8.1.1 review and change its business model to render it profitable;

8.1.2 collect its outstanding debts sell off the Company's non-core assets;


8.1.3 generally restructure it in a manner that renders it solvent.

9. At this time the Company is faced with no other option other than to place itself into business rescue and with the assistance of a business rescue practitioner develop and implement a plan to rescue the Company. This it will do by *inter alia* restructuring its liabilities, capital, possibly changing its business model and the like to the extent that it can become profitable once again and can continue in existence on a solvent basis. If this in due course is not possible then the business rescue practitioner has the right to realise the business and assets of the Company at a higher price and more efficiently than will take place if the Company were to be placed in liquidation and on the basis that the Company's creditors would receive a better return than they would if the Company was placed into liquidation.

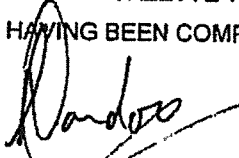
10. Save for a single matter where DarkRock (Pty) Ltd is the plaintiff against E&T Global Investments (Pty) Ltd the Company is not currently involved in any other litigation proceedings.



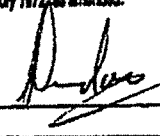
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DEPONENT

SIGNED AND SWORN TO BEFORE ME AT ROSEBANK ON THIS 29<sup>TH</sup> DAY OF JANUARY 2020, THE DEPONENT HAVING ACKNOWLEDGED IN MY PRESENCE THAT HE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, THE PROVISIONS OF GOVERNMENT GAZETTE R1478 OF 11 JULY 1980 AS AMENDED BY GOVERNMENT GAZETTE R774 OF 20 APRIL 1982, CONCERNING THE TAKING OF THE OATH, HAVING BEEN COMPLIED WITH.

  
COMMISSIONER OF OATHS

CAPACITY: CHARTERED SECRETARY  
FULL NAMES: SHAMANI NAIDOO  
PHYSICAL ADDRESS: 3RD FLOOR, 30 JELlicoe AVENUE, ROSEBANK, 2196

I certify that the deponent has acknowledged that he/she knows and understands the contents of this affidavit, that he/she does not have any objection to taking the oath, and that he/she considers it to be binding on his/her conscience, and which was sworn to and signed before me and that the administering of the oath complied with the regulations contained in the Government Gazette No. R 1258 of 21 July 1972, as amended.  
SHAMANI NAIDOO  
Commissioner of Oaths  
Chartered Secretary ACIS  
Member number: M0182016  
Date: 29/01/2020 Signature:   
Place: Rosebank  
3rd Floor, 30 Jellicoe Avenue, Rosebank, 2196

KOMMISSIE VIR MAATSKAPPYE EN INTELLEKTUELE EIENDOM  
ONDERNEMINGSREDDING  
2020 -01- 30 No: 04  
BUSINESS RESCUE  
COMPANIES AND INTELLECTUAL PROPERTY COMMISSION

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