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AGRI PROTEIN TECHNOLOGIES (PTY) LTD

REGISTRATION NUMBER: 2010/011495/07

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MINUTES OF THE FIRST MEETING OF CREDITORS AND EMPLOYEES IN TERMS OF SECTIONS 147 AND 148 OF THE COMPANIES ACT 71 OF 2008 (“THE ACT”) HELD BY WAY OF MICROSOFT TEAMS MEETING ON THURSDAY 11 FEBRUARY 2021

1. Present:

- 1.1. J F (HK) Klopper - Business Rescue Practitioner Chairman (“BRP”) - HK;
- 1.2. Tony Flynn Business Rescue Practitioner Chairman (“BRP”)
- 1.3. Volant Wills - Director
- 1.4. Vanessa Wostenholme - Director
- 1.5. The creditors and affected persons on MS Teams:

2. Apologies for non- attendance:}

- 2.1. None

3. Introduction of BRPs

- 3.1. All parties present were requested to announce themselves on the call.
- 3.2. HK requested that all questions relating to the business rescue process and issues discussed at the meeting be dealt with under the “general” agenda item.

4. Welcome

- 4.1. HK welcomed all present

5. Background

- 5.1. HK informed the meeting that Business Rescue (“BR”) proceedings commenced on 2 February 2021 when the Company’s Board of Directors filed the resolution dated 25 September 2020 with CIPC
- 5.2. HK further informed the meeting that the company appointed the BRPs on 2 February 2021 by completing and filing the necessary notice to with CIPC as is required in terms of Section 129 (3) (b) of the Act.
- 5.3. The BRPs gave notice in terms of the provisions of the Section 129(3)(a) of the Act to all affected persons on 4 February 2021 and convened the first meeting of creditors in compliance with Section 147 of the Act to be held later today.
- 5.4. HK reported that the same notice also served as compliance with Section 129(4)(b) of the Act which requires that the company must give notice of the appointment of the BRPs.

6. THE BUSINESS RESCUE PROCESS

- 6.1. HK informed the meeting that the BR process was introduced by way of legislation that came into law during 2011.
- 6.2. HK mentioned that this emanated from other jurisdictions in the world such as the USA/ CANADA/Australia/UK.
- 6.3. He stated that the term “rescue” means a re-organisation of a company’s affairs in order to restore it to a profitable entity and thereby avoid liquidation.
- 6.4. HK reported that the first object of Business Rescue is to keep the distressed entity going by resuscitating it instead of shutting it down or putting it under liquidation with the consequent loss of jobs and with creditors and suppliers being left unpaid.
- 6.5. HK reported that the Act sets out that objectives of the Business Rescue Process in the following terms: **[Section 128(1)(b)]**
“the development and implementation, if approved, of a Plan to Rescue the company by restructuring its affairs, business, property, debt and other liabilities, and equity in a manner that maximizes the likelihood of the company continuing in existence on a solvent basis or, if it is not possible for the company to so continue in existence, results in a better return for the company’s creditors or shareholders than would result from the immediate liquidation of the company “
- 6.6. HK reported that it is submitted by the BRPs that the circumstances necessary for the implementation of a proper restructuring in a BR process are in place and that there is, as a consequence, the reasonable prospects of rescuing the company’s business as defined in the Act.
- 6.7. He furthermore stated that companies are by implication in terms of the Act duty bound to file a resolution for BR when there are reasonable grounds to believe that the company is financially distressed and referred the meeting to Section 129 (7) of the Act. Directors who fail to act in terms of section 129 (7) of the Act might become personally liable for the company’s debt.
- 6.8. HK reported that the Act provides for tight timelines but with the proviso that the timelines may be extended by creditors holding a majority voting interest.

- 6.9. HK further stated the directors of the company are not removed from office as a result of the BR Proceedings and that they continue to exercise their functions but that they are now subject to the authority of the BRP They must act in accordance with their instructions.
- 6.10. HK reported that in terms of Section 140 of the Act the BRP has inter alia the following duties and powers:
 - 6.10.1. have full management control of the companies in substitution for its board and pre-existing management;
 - 6.10.2. may delegate any power or function to a person who was part of the board or pre-existing management of the company;
- 6.11. HK also stated that The BRP may also:
 - 6.11.1. remove from office any person who forms part of the pre-existing management of the company; or
 - 6.11.2. appoint a person as part of the management of a company, whether to fill a vacancy or not, subject to Section 140 (2)
- 6.12. HK informed the meeting that the BRP are responsible to:
 - 6.12.1. develop a business rescue plan to be considered by affected persons, in accordance with Section 150 of the Act; and
 - 6.12.2. implement a business rescue plan that has been adopted in accordance with the Act.
 - 6.12.3. For this purpose, the Practitioner must engage with the creditors of the company, shareholders, the management of the company and other affected persons.
- 6.13. HK stated that in terms of Section 141 of the Act the BRP must investigate the company's affairs, business, property and financial situation to assess whether there is any reasonable prospect of the companies being rescued as contemplated in the Act. He did however express his reservations about the practical implementation of this provision in the Act as BRP do not have the powers to interrogate witnesses as provided for in terms of the Laws of Insolvency.
- 6.14. HK however reported that The BRP have an obligation to report any contravention of any law, reckless trading, fraud, misappropriation of assets or any criminal activity and are further obliged to rectify any contravention including recovering misappropriated assets.

- 6.15. HK reiterated that the BRP are given wide powers to manage the company's business and to deal with its assets in order to Rescue the company and that their prime function is to develop and implement a Business Rescue Plan.
- 6.16. Following upon that HK reported that the BRP have the right to suspend, either partially or wholly, any provision of an agreement to which the company is a party at the commencement of BR Proceedings. HK stated that the wide scope of this provision entitles the BRP to cancel only those terms of contracts that are unfavourable to the company by way of an Order of Court or, of course, by mutual consent.
- 6.17. Returning to the issue of the Business Rescue Plan HK stated that the BRP must publish their business rescue plan within 25 days of their appointment or such longer period as may be allowed by the holders of the majority of the creditors' voting interests.
- 6.18. HK reported that the business rescue plan must comply with the provisions of Section 150 of the Act and must contain information such as:
 - 6.18.1. a list of the company's assets;
 - 6.18.2. a list of the creditors of the company;
 - 6.18.3. the probable dividend that would be received by creditors in a liquidation;
 - 6.18.4. a list of the company's shareholders;
 - 6.18.5. a copy of the written agreement, concerning the practitioner's remuneration;
 - 6.18.6. a statement whether the business rescue plan includes proposals informally made by creditors
 - 6.18.7. The business rescue plan must furthermore contain details of the proposals, assumptions made, and conditions contained in the plan.
- 6.19. HK mentioned that what may be contained in business rescue plan, save for the compliance with certain basic information, may contain a wide variety of "techniques" available to restructuring professionals worldwide, such as, inter alia:
 - 6.19.1. the sale of the business;
 - 6.19.2. the conversion of debt to equity;
 - 6.19.3. repayment of debt over a fixed term;
 - 6.19.4. a compromise between the company and its creditors;

- 6.19.5. an informal winding down of the company's affairs which entails the sale of assets and the pro rata distribution of the proceeds to creditors.
- 6.20. HK stated that the effect of the adoption of a Business Rescue Plan is that once it has been adopted, the Business Rescue Plan becomes binding on the company, its creditors and the members. Even dissenting creditors will become bound by the Plan. When the Plan is substantially implemented, the Practitioner must file a notice of the substantial implementation thereof which then brings the proceedings to an end.
- 6.21. HK reported one of the most important consequences of the commencement of BR Proceedings is that there is an automatic moratorium on legal proceedings against the company. The rights of creditors may likewise not be exercised against the company. No legal proceedings, subject to a few limited exceptions, may be instituted or continued unless the Practitioner has consented in writing or the Court has given leave to do so.

7. PRESENT FINANCIAL POSITION AND PROSPECTS OF RESCUING THE COMPANY.

- 7.1. HK requested TF to deal with this topic and presented a balance sheet as at 30 January 2021. He stated that fixed assets as per the financial statements are circa R116,8m, and current assets circa R12m. He reported that the realisable value of these assets will be substantially lower once valued and that the valuation process is under way.
- 7.2. TF confirmed that the BRP's have engaged valuers to provide us with a forced sale value of the company's movable assets. This is expected to be received in the next few days.
- 7.3. He stated that the level of liabilities in the company is key and that the long-term liabilities, being the holding companies' claims, are substantial and which emanate from them funding the company.
- 7.4. TF stated that an attempt will be made to sell the business as a going concern but that we will engage with interested parties who have contacted us with a view to making offers. He stated that it will be more than likely that the second objective of business rescue, being to place creditors in a better position than in the immediate liquidation of the company, will be pursued.

8. PROOF OF CLAIMS

- 8.1. HK stated that the Act states that the BRP may receive proof of claims by creditors.

8.2. HK however stated the BRP will require that the claims by creditors be submitted in the format that is ordinarily required for the proof of a claim under liquidation circumstances in terms of the Laws of Insolvency in order to ensure that a complete “audit” of all claims against the company could simultaneously be achieved. HK informs that the creditors’ claims can be sent to us electronically. We do not need you to deliver hard copies to office and we can also avoid any contact with paper unnecessarily. You more than welcome to keep the originals with yourselves and scan and email the claims to us and if we have queries, we will obviously engage with the you. One of the major reasons why we do follow that type of process is that it gives us a complete audit of the claims as it does serve as a very strong way of verifying the existence or not of a claim.

9. DETERMINATION AS TO WHETHER A CREDITORS COMMITTEE SHOULD BE APPOINTED

- 9.1. HK advises the determination as to whether we should appoint a creditors’ committee.
- 9.2. He stated that the concept of a creditors’ committee is applicable or more appropriate in cases such as SAA and EDCON one had huge groups of employees and various levels of creditors.
- 9.3. The creditors’ committee cannot instruct the BRPs or direct them to do anything but can only make recommendations.
- 9.4. It was under the circumstances submit that we would rather engage creditors as a whole body as opposed to appointing a creditors’ committee.

10. GENERAL

- 10.1. HK invited an opportunity for questions.
- 10.2. Jacky from Wastebusters requested clarity on the position of creditors who continue to do work for the company. HK explained the distinction between pre– and post- business rescue claims. He explained that creditors with claims as the business rescue date, being 2 February 2021, need to be determined as at that date. We draw a distinction between the pre business rescue and post commencement of business rescue costs. To the extent that any service provider or supplier is requested to deliver X or some service or do some work for the company post the date of business rescue, such cost are paid as a first charge, in other words, it falls under the concept of post commencement finance, if it is agreed upon with the BRPs that someone must come in to render a service of whatever nature then those invoices for that will be paid separately on a different basis.

- 10.3. Steward Brown of Fluid Energy had 3 questions.
- 10.4. His first question was that, as they own the boiler equipment and the supply tank in the steam reticulation equipment, they would have had other opportunities to deploy this capital somewhere else, and now we are holding back in terms of taking the equipment out and putting it somewhere else. Obviously, we would like to leave it there and we would like to be part of the solution to Agri Protein's problem. They wanted the BRPs to get back to them in terms of a timeline so that they can make an educated decision as the deployment of that equipment.
- 10.5. The second question was funding related. He wanted clarity when Agri Protein got notification from their holding company that they would not receive further funding, when certain retrenchments happened, and he also had questions in relation to the Agri Protein balance sheet.
- 10.6. HK responded that the BRPs will probably take a decision in relation to the use of equipment by the end of the week and that they will engage with them on a one-on-one basis. By Friday we will come back to you on a one on one basis.
- 10.7. HK mentioned that TF already elaborated on the balance sheet. TF said the BRPs are embarking on a process whereby creditors must submit their claims for proof and as we receive actual proof of claim documents, we will determine the true liabilities.
- 10.8. Stuart further asked as to whether there to be any value in intellectual property that might be sold off and HK responded that if there is anything of that nature that the BRPs will deal with that.
- 10.9. Rika Govender - asked how we deal with the IP going forward. It was agreed that we would have to pick this up offline.
- 10.10. HK said the BRPs will be going through a process of verifying claims in conjunction with the Company's management and its Board of Directors which will be a tedious process.
- 10.11. TF said that the business rescue plan will actually set out the proposals once we manage to finalise them. If there will a sale of part of the business or the whole business or even a wind down that plan will be put out to all of the creditors.
- 10.12. Stuart Brown expressed concerned about creditors' ranking and HK explained that the Companies Act says that we must assess claims in terms of the Laws of Insolvency as to whether

a creditor is secured, preferent or a concurrent/unsecured creditor. A handful of people such as SARS, UIF claims and employees' claims are preferent.

10.13. HK stated that the statutory date for the publishing of the business rescue plan is 9th March 2021 which is a very tight timeline. He recorded that this date may be extended by creditors' majority vote.

10.14. After some more debate and bearing in mind that there is an Easter Weekend at the end of March it was agreed that the business rescue plan would be published by no later than 6 April 2021.

10.15. The 6th of April 2021 was proposed and accepted as the date by which the business rescue plan must be published and if then necessary a further extension will be sought then.

A handwritten signature in black ink, appearing to be 'J F KLOPPER & A N FLYNN', written over a horizontal line.

J F KLOPPER & A N FLYNN

BUSINESS RESCUE PRACTITIONERS