



DRAFT AMENDED BUSINESS RESCUE PLAN

in respect of

INCA MASONRY PRODUCTS

(Registration Number 2005/019702/07)

(Issued on 29 November 2017)



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1. IMPORTANT NOTICE AND ACTION TO BE TAKEN

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

2. INTERPRETATION AND PRELIMINARY

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

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

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

- “ABSA”** means ABSA Bank Limited, registered as a bank in accordance with the Banks Act 94 of 1990 (as amended);
- “Acquittance”** means a document executed by a Creditor in terms of which that Creditor notifies the BR Practitioner that it will not, to the extent of the amount stated in that document, look to the Company for any distribution or other benefit under this Agreement;
- “Act”** means the Companies Act 71 of 2008 (as amended);
- “Affected Persons”** shall bear the meaning ascribed thereto in Section 128(1)(a) of the Act and in relation to the Company means shareholders, creditors and employees of the Company;
- “BR”** means the business rescue proceedings in respect of the Company set out in Chapter 6 of the Act, commencing and terminating in accordance with section 132 of the Act;
- “BR Adoption Date”** means the date on which this plan is finally adopted in accordance with section 152 of the Act;
- “BR Claims”** means the secured, statutory, preferent or concurrent claims of creditors of the Company at the BR Commencement Date of, the cause of action in respect of which arose prior to or on the BR Commencement Date, including claims, actual and contingent, prospective, conditional and unconditional, liquidated or unliquidated, assessed or unassessed, whether or not due for payment or performance, including for the avoidance of any

doubt all claims arising out of any agreements entered into by the Company prior to the BR Commencement Date, all such claims to be determined, calculated and admitted as secured, statutory preferent or concurrent in accordance with the same ranking as envisaged by the Insolvency Act, and attached to them upon the issue of a winding-up order against the Company, whether or not such claims are proved;

“BR Commencement Date” means 10 October 2017, being the date on which the BR commenced in terms of section 132 (1)(b) of the Act;

“BR Commencement Date Creditors” means creditors with BR Claims against the Company as at the BR Commencement Date, and which BR Claims are accepted by the BR Practitioner as valid and enforceable against the Company as at the BR Commencement Date, as listed in **Annexure A**, including Disputed Creditors;

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

“BR Practitioner” or “BRP” means Siphon Sono appointed by the Company in accordance with the provisions of section 129 (3)(b);

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

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

| | |
|-----------------------------|--|
| “Company” or “Inca” | means Inca Masonry Products Proprietary Limited a private company, incorporated in accordance with the Company laws of South Africa, herein duly represented by the BR Practitioner; |
| “Creditors” | means, collectively, BR Commencement Date Creditors and Post-BR Commencement Creditors; |
| “Disputed Creditors” | means those Creditors whose BR Claims are disputed by the Company; |
| “Dti” | means the National Department of Trade and Industry of the Republic of South Africa; |
| “Dukathole” | means Cholla CC, trading as Dukathole Brickworks, a close corporation registered in accordance with the laws of South Africa; |
| “EBITDA” | means Earnings Before Interest Tax Depreciation and Amortisation; |
| “ECDC” | means the Eastern Cape Development Corporation; |
| “Employees” | means all employees of the Company that were in its employ as at the BR Commencement Date, and who will be in its employ as at the Implementation Date; |
| “Excluded Claims” | means the claims of SARS, Buffalo City Metropolitan Municipality, KSD Municipality, Kimberly Municipality on the one hand, and on the other hand, those claims arising from deductions made from Employees remuneration, in respect of medical, pension, union contributions, and other similar funds, which were due and payable to the respective parties prior to BR Commencement Date; |

| | |
|------------------------------|--|
| “Implementation Date” | means the date on which the BR Practitioner files a notice with CIPC of the substantial implementation of this Plan as set out in section 152 (8) of the Act; |
| “Insolvency Act” | means the Insolvency Act 24 of 1936 (as amended); |
| “Lease” | means the written agreement of lease entered into between the respective landlord and the Company; |
| “LRA” | means the Labour Relations Act 66 of 1995 (as amended); |
| “Mathupha” | means Mathupha Capital Proprietary Limited, a private company registered in accordance with the laws of South Africa; |
| “Month” | means – in reference to a number of months, from a specific date, a period commencing on that date to the immediately preceding day on the same date of any subsequent month; and in any other context, a month of the calendar, that is, one of the 12 months of the calendar, and "Months" and "Monthly" has a corresponding meaning; |
| “Moratorium” | means the automatic and general moratorium on legal proceedings or executions against the Company, its property and its assets and on the exercise of the rights of Creditors of the Company whilst the Company is under BR; |
| “NEF” | means the National Empowerment Fund Trust, a development finance institution established by the Government of South Africa; |

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

“Post-BR Commencement Creditors” means creditors of the Company with Post-BR Commencement Claims which lodged Post-BR Commencement Claims against the Company in writing during the Post-BR Commencement Period with the BR Practitioner in accordance with the Act, and which Claims are accepted in writing by the BR Practitioner as valid and enforceable against the Company;

“Post-BR Commencement Period” means the period from the day immediately succeeding the BR Commencement Date up to and including the Implementation Date;

“Preferent Creditor” means, as the context may require, a BR-Commencement Date Creditor or a Post-BR Commencement Creditor whose BR Claim or Post-

BR Commencement Claim respectively, would rank in whole or in part as a statutory preferent claim in insolvency proceedings or a winding-up in terms of the Insolvency Act;

“Prime Rate”

means the nominal annual (compounded monthly in arrears) rate of interest from time to time publicly quoted as such by ABSA Bank Limited, calculated on a 365-day factor irrespective of whether or not the year is a leap year;

“SARS”

means South African Revenue Service;

“Secured Creditors”

means, as the context may require, a BR-Commencement Date Creditor or a Post-BR Commencement Creditor whose BR Claim or Post-BR Commencement Claim respectively would rank in whole or in part as a secured claim as defined in section 2 of the Insolvency Act;

“Shareholders”

means the shareholders of the Company at the BR Commencement Date as listed by name and percentage of Shares held in the Company;

“Shareholders Claims”

means the BR Claims of Shareholders against the Company as set out in **Annexure A**;

“Shares”

means the entire issued share capital of the Company;

“Sheerprops”

means Sheerprops 181 Proprietary Limited, a private company duly incorporated in accordance with the laws of South Africa;

“Signature Date”

means the date of publication of this Plan by the BR Practitioner;

“Unsecured Creditors”

means a BR Commencement Date Creditor or a Post-BR Commencement Creditor, as the context

may require, which is not a Secured or Preferent Creditor;

“VAT” means value-added tax in terms of the Value-Added Tax Act 89 of 1991;

- 2.3 Any reference to:
- 2.3.1 a **“clause”** shall, subject to any contrary indication, be construed as a reference to a clause in this plan;
- 2.3.2 **“law”** shall be construed as any law (including common or customary law), or statute, constitution, degree, judgment, treaty, regulation, directive by-law, order or any other legislative measure of any government, supranational, local government, statutory or regulatory body or court;
- 2.3.3 a **“person”** shall be construed as a reference to any person, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality, of two or more of the foregoing).
- 2.4 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision of this plan.
- 2.5 Unless the context dictates otherwise, an expression which denotes any gender includes both the others; and to a natural person includes an artificial person and to the singular includes the plural, and vice versa in each case.
- 2.6 The annexures to this plan form an integral part hereof and words and expressions defined in this plan shall bear, unless the context otherwise requires, the same meaning in such annexures.
- 2.7 When any number of days is prescribed in this Plan same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a Business Day, in which the last day shall be the next succeeding Business Day.

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

3. STRUCTURE OF THE BUSINESS RESCUE PROPOSAL

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

3.1 PART A - BACKGROUND

This part sets out the background to the Company and its divisions and the factors that resulted in the Company being financially distressed and being placed under supervision and in business rescue.

3.2 PART B - TERMS OF THE BUSINESS RESCUE PLAN

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

3.3 PART C – ASSUMPTIONS AND CONDITIONS

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

PART A – BACKGROUND

4. CORPORATE INFORMATION

4.1 SHAREHOLDING STRUCTURE

As at Commencement Date the authorised and issued share capital of the Company comprised of 1 000 Class A ordinary shares of R1.00 each and 1 000 Class B ordinary shares of R4 800.00 each. The share capital is held as follows:

| Shareholder | %holding |
|--------------------|-----------------|
| NEF | 49% |
| ZM TINI | 36% |
| BT Gabelana | 15% |

4.2 DIRECTORS

As at the Publication Date, the Directors of the Company were:

ZM Tini
AWS Smart
BT Gabelana

4.3 COMPANY INFORMATION

4.3.1 Financial year: 30 June

4.3.2 Registered address: Mdantsane Access Road
East London
5201

- 4.3.3 Business address: Mdantsane Access Road
East London
5201
- 4.3.4 Postal address: PO Box 3208
Cambridge
East London
5206
- 4.3.5 Auditors: Birch Bruce Chartered
Accountants

5. COMPANY BACKGROUND

5.1 BRIEF DESCRIPTION OF OPERATIONS

- Inca has been manufacturing superior, quality concrete products since 1981. The Company's products have been used extensively across various segments including residential, commercial, municipal and industrial applications.
- The Company manufactures a wide range of concrete masonry products such as stock bricks, face bricks, building blocks, paving blocks, retaining blocks and various precast items, from its East London and Mthatha plants.
- The Company has a total staff complement of 131 permanent employees, and when in full operation employs an additional 80 temporary workers.
- Inca has built a reputation in the trade for producing the most consistent, quality concrete products available in the marketplace. Most of the Company's products have the SABS mark and are regularly tested for quality from an on-site laboratory.
- The products are supplied to the Border Kei Region from Port Alfred in the South to Cradock/ Aliwal North in the North and up to Mount Frere and Port St. Johns in the East.
- The company is a member of Concrete Manufactures Association and

Master Builders Association.

- Inca has been is been the business of supplying materials to various contractors for Government subsidised housing projects. In addition, he Company supplies to the private sector in the form of contractors, developers and retail merchants.
- The Company's top customers include:

| East London | Mthatha |
|--------------------------|-------------------------|
| Umhlele Heights | Unik Civils Engineering |
| SL Contractors CC | Jodan Construction |
| MMS Developments | |
| MG Construction | |
| Dewing Construction | |
| Mawezo Plant and Civils | |
| Cash sales | |
| Civils 2000 | |
| Rumdel Construction Cape | |
| The J&J Saunders | |
| Umhlele Heights | |

- Inca has no contracts with any of its customers, however management believes that their top customers are loyal to Inca and will continue to support Inca going forward.

5.2 CURRENT TRADING SITUATION AND FINANCIAL DISTRESS

- Despite the demand for the Company's quality products, it was forced to temporarily cease operations in September 2017, due to working capital constraints. The Company has for a long time not had any shareholder capital injection and thus has always relied on supplier credit facilities for its working capital requirements.
- A five week strike that endured from the last week of August 2016 to the first week of October 2016 contributed negatively to the Company's perennial working capital constraint. During this period, the Company

had to deplete its finished goods stocks to generate sales and was not able to respond to demand for products not in stock.

- Following resumption of work by the striking employees, the Company was forced to use the months of October and November to build up stocks, but the building trade closure from the middle of December 2016 to the middle of January 2017 starved the Company of the normally high third quarter sales, and also delayed payments for the December sales.
- Cash resources completely dried out in August, forcing the Company to default on its various obligations, notably salaries and wages, as well as raw material supplier payments.
- Due to the parlous financial situation, the Company attempted to place its factory workers on the UIF lay-off scheme, but could not reach agreement with labour. Eventually, the Department of Labour was invited to advise on various options for the employees that desperately needed access to their UIF benefits. Eventually, the factory employees contracts were “terminated”, with the reason for the termination being indicated as “contract expired”.
- The attempts to access capital have so far been focused on applications for grant funding from the Dti and ECDC, but regrettably a grant of R2 million that has been approved by the Dti, in principle, still has not been paid to the Company. ECDC were apparently of the view that they would only consider injecting funds if the Company were to be placed in business rescue, which clearly was the correct advice, but which advice was delayed.

5.3 HISTORICAL FINANCIAL INFORMATION

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

| | 2015 | 2016 | 2017 |
|-------------------------------------|-----------------|----------------|------------------|
| | Audited | Audited | Unaudited |
| | R'000 | R'000 | R'000 |
| Assets | | | |
| Non-Current Assets | | | |
| Property, plant and equipment | 5 132 | 4 010 | 3 317 |
| | 5 132 | 4 010 | 3 317 |
| Current assets | | | |
| Trade and other receivables | 11 109 | 5 231 | (386) |
| Inventories | 8 537 | 6 636 | 1 770 |
| Cash and cash equivalents | 1 419 | 1 165 | 561 |
| | 21 065 | 13 033 | 1 945 |
| Total assets | 26 198 | 17 043 | 5 262 |
| Equity and liabilities | | | |
| Equity | | | |
| Share capital | 4 801 | 4 801 | 4 801 |
| Retained income | (16 157) | (8 653) | (19 466) |
| | (11 356) | (3 852) | (14 665) |
| Non-current Liabilities | | | |
| Loans from shareholders | 10 971 | 200 | 200 |
| Other financial liabilities | 1 175 | 3 638 | 3 150 |
| Finance leases | - | - | 203 |
| | 12 146 | 3 838 | 3 553 |
| Current Liabilities | | | |
| Trade and other payables | 19 819 | 16 114 | 16 374 |
| Other financial liabilities | 5 589 | 943 | - |
| | 25 408 | 17 057 | 16 374 |
| Total liabilities | 37 554 | 20 895 | 19 927 |
| Total Equity and Liabilities | 26 198 | 17 043 | 5 262 |

- Inventory from R6.6 million in 2016 to R1.7 million in 2017 is largely attributable to the labour action between August 2016 to October 2016. from R6.6 million. In addition, lack of working capital has made it impossible for the Company to build inventories up.
- The negative net asset value is a result of cumulative losses mainly over the last financial years.
- The financial liability of R3.2 million comprises of an interest free loan by the NEF as well as an ABSA instalment sale agreement accounted for as a finance lease, in respect of a motor vehicle.
- The trade and other payables have remained almost unchanged between 2016 and 2017, as most of the suppliers suspended the Company's credit due to non-payment caused by declining liquidity.

5.3.2 The Company's Income Statement performance is set out below:

| R'000 | 2015 | 2016 | 2017 |
|---------------------------------------|----------------|----------------|-----------------|
| | Audited | Audited | Unaudited |
| Revenue | 78 195 | 63 371 | 41 138 |
| Cost of sales | (62 565) | (52 206) | (32 252) |
| Gross profit | 15 631 | 11 165 | 8 886 |
| Other income | 989 | 2 438 | 1 940 |
| Operating expenses | (18 784) | (16 373) | (21 347) |
| Operating Profit/Loss | (2 165) | (2 770) | (10 521) |
| Interest Income | 60 | 2 | - |
| Finance costs | (929) | (983) | (292) |
| Profit/Loss before taxation | (3 034) | (3 751) | (10 813) |
| Taxation | (2 748) | - | - |
| Profit/Loss for the period | (5 783) | (3 751) | (10 813) |
| | | | |
| Operating Profit Loss | (2 165) | (2 770) | (10 521) |
| Add: Depreciation & Amortisation | 333 | 243 | 693 |
| EBIDTA | (1 832) | (2 527) | (9 828) |
| | | | |
| <u>Income statement ratios</u> | | | |
| Sales growth | -4% | -19% | -35% |
| Gross profit margin | 20% | 18% | 22% |
| Opex growth | 27% | -13% | 30% |
| Opex as % of sales | 24% | 26% | 52% |
| Net profit/(loss) margin | -7% | -6% | -26% |

- The decline in revenue from about 2014 reflects a negative compounded annual growth rate of 16%, largely a result of loss of market share as a result of entry of informal brick manufacturers in the formal trade, introducing low quality products that the market has been flooded with.
- The labour action referred to previously resulted in a significant

reduction of revenue from R63 million in 2016 to R41 million in 2017.

- Gross Profit margins have averaged between 18% and 20% over the period under review.
- Operating expenses comprise largely of employee costs and other production costs of a largely fixed in nature, and have shown an upward trend despite the downward declining revenues.
- The negative EBITDA has been a feature for the past few years, largely a reflection of declining revenues contrasted with increasing costs. The significant negative EBITDA in 2017 is a result of the labour strike that caused significant revenue losses during the period of no production.

6. STEPS TAKEN SINCE THE APPOINTMENT OF THE BR PRACTITIONER

6.1 ADMINISTRATIVE MATTERS

6.1.1 Business Rescue Timelines

| EVENT | DATE |
|--|------------------|
| Directors' resolution passed to commence Proceedings | 09 October 2017 |
| Notice of resolution filed with CIPC | 10 October 2017 |
| File notice to CIPC re BR Practitioner appointment | 11 October 2017 |
| Publish notice on filing for Business Rescue | 17 October 2017 |
| Publish notice of BR Practitioner appointment | 17 October 2017 |
| First meeting of creditors held | 25 October 2017 |
| First meeting of employees held | 25 October 2017 |
| First date to publish the BR Plan | 15 November 2017 |
| Approval of extension to publish BR Plan | 15 November 2017 |
| Amended date to publish the BR Plan | 17 November 2017 |
| Meeting to consider the Plan held on | 30 November 2017 |

6.1.2 Management Control

In terms of section 140(1)(a) of the Act, the BR Practitioner took over full management control of the Company in substitution for its board and pre-existing management, but as he was entitled to do, the BR Practitioner delegated certain functions to some of the Directors who are part of the Board and pre-existing senior management of the Company. The BR Practitioner has paid particular attention to the functions entailing the administration of the affairs of the Company and to protect its assets, to ascertain the viability of the different divisions of the Company and to ascertain whether the Company could be rescued or whether it was necessary to dispose of certain of the Company's assets to achieve a better dividend for Creditors in Business Rescue as compared to the dividend that would accrue to Creditors and Employees on a liquidation

7. **TAX AFFAIRS**

7.1 The Company's Commencement Date liability to SARS is the amount of R1 293 732, comprising of capital in the amount of R1 152 892 and interest and penalties in the amount of R140 481.

7.2 The Company has submitted all its post- BR Commencement tax returns, but is in arrears to the extent of R48 488 in respect of unpaid VAT, inclusive of penalties and interest.

8. **DISPUTED CLAIMS AND LITIGATION**

8.1 There are currently no disputed claims, but the BR Practitioner reserves the right to dispute any claim, in accordance with provisions set out in this BR Plan.

9. TRADING FOLLOWING COMMENCEMENT DATE

9.1 CASH ADMINISTRATION

In order to minimise the operating expenses of the Company, the BR Practitioner continues to:

- monitor the cash flow and financial position;
- control payments; and
- enforce general controls.

9.2 EMPLOYEE MATTERS

9.2.1 Staff Review

9.2.1.1 A review of Employees has been undertaken in conjunction with management which included:

- a head-count analysis by division;
- salary packages;
- length of service;
- critical staff; and
- retrenchment costs.

9.2.2 There are currently no plans for retrenchment, but this position could change, depending on the attainment of short- term revenue targets or if the employees are not transferred.

9.2.3 Employee Meetings

A first meeting with the Employee Representatives was convened on 25 October 2017. At this meeting the business rescue process was explained, and

possible outcomes available to staff were presented. Assistance was also given to staff by providing answers to their various queries. Other meetings of a consultative nature have also been held with union shop stewards and employee representatives, to clarify a number of issues.

9.3 CREDITORS

9.3.1 At the BR Commencement Date Creditors

The Company's known Creditors, excluding Contingent Claims are set out in **Annexure A** hereto, and in aggregate amounted to R24.0 million including customer deposits of R1.7 million, and classified as follows under the laws of insolvency (ie. if the company was liquidated):

| | R'000s |
|------------------------------------|---------------|
| Secured Creditors | 3 306 |
| Preferred Employees Claims | 971 |
| Preferred Claims of Employee Funds | 46 |
| Preferred Claims - SARS | 1 293 |
| Concurrent Creditors | 18 350 |
| | 23 966 |

9.3.2 Expired Lease

A lease agreement in respect of the East London premises, previously concluded with Sheerprops and variously extended, expired on 31 December 2015, but the Company has remained in occupation since. Failure to renew or conclude a new lease agreement follows a dispute by the Company that Sheerprops is not entitled to lease one of the subdivided portions of the property, as that portion is owned by the South African Government, having devolved from the erstwhile Ciskeian Government. Sheerprops, on the other hand, maintains that it entitled to continue leasing all three portions of the subdivided land and it has an enforceable right to have the portion in question transferred to itself, pursuant to a sale agreement that was concluded with the erstwhile Ciskei Government.

Despite the absence of a lease agreement, the Company has paid a monthly rent of R87 891 (excluding VAT) to Sheerprops since 1 January 2016 until July 2017, contrary to Sheerprops' requirement of a monthly rent R98 438 (excluding VAT), pending resolution of the dispute.

Sheerprops has initiated legal proceedings to, among other things, evict the Company from the premises. Summons for a rent interdict were served on the Company on the 11 October 2017.

To resolve the impasse, the BR Practitioner has engaged with Sheerprops, through its attorneys, and has agreed to certain terms that were proposed by Sheerprops, subject to the approval of this BR Plan, the result of which would be a conclusion of a three year lease agreement. The agreed terms are:

- Inca withdraws the dispute it previously raised with regards to the escalation of R10 547 per month, which up to 31 July 2017 accumulated to R200 393;
- The arrear rentals for August, September and October 2017 be recognised at the escalated rental amount of R98 438;
- The amounts in 1) and 2) above be secured over a rent interdict that is the subjects of the summons issued on 11 October 2017;
- Rental since commencement of business rescue proceedings be incorporated as costs of business rescue proceedings, to be settled ahead of concurrent creditors;
- All amounts due up to commencement of business rescue be settled from the date on which a new lease is concluded, in 12 monthly instalments; and
- Rental for November and December 2017 be settled on 1 December 2017, following approval of the business rescue plan.

The lease agreement will provide for Inca's first right of refusal, to acquire the leased properties from Sheerprops, and will contain appropriate indemnities relating to Sheerprops right to lease the properties to the Company.

9.3.3 Investigation into the Affairs of the Company

9.3.3.1 Following his appointment, the BR Practitioner consulted with the management of the Company in order to:

- ascertain the financial position of the Company;
- identify the assets and liabilities of the Company; and
- identify all of the Company's leases and outstanding rentals.

9.3.3.2 The foregoing information has been received by the BR Practitioner from the senior management of the Company and has been relied upon by the BR Practitioner.

9.3.3.3 The BR Practitioner has taken the steps required in terms of section 141(2)(c) of the Act to ascertain whether there have been any voidable transactions or whether there has been any reckless trading, fraud or any other contraventions of any laws relating to the Company.

9.4 BUSINESS RESCUE INITIATIVES

9.4.1 Post Commencement Finance

The BR Practitioner negotiated and concluded a shareholder's loan from the NEF for an amount of R2 million, as bridging finance until the Dti pays the approved grant of a similar amount. The loan will be repaid from the proceeds of the grant, expected to be paid on or before 31 March 2018, according to promises made by the Dti to the NEF. In the event that the grant is for some reason not received by 31 March 2018, then the Company is obliged to repay the loan within 36 months, commencing on 1 April 2018.

9.4.2 ECDC grant application

The BR Practitioner has recently followed up with the ECDC on the possibility

for the grant previously applied for by the Company. The ECDC have requested certain financial information, which the BR Practitioner will furnish in due course. The ECDC has not, however, made any commitment and therefore the grant might not be approved. The Company had applied for R5 million, which the ECDC was willing to consider but one of its requirements was that the Company needed to be placed in business rescue, as the funding that could be availed would not address the Company's cash flow requirements in the ordinary course of business.

10. MATERIAL ASSETS OF THE COMPANY

10.1 The material assets of the Company at BR Commencement date comprised set of land and buildings and:

| Description | Book Value |
|-------------------------------|-------------------|
| | R' 000s |
| Property, plant and equipment | 3 092 |
| Inventories | 695 |
| Debtors | 354 |
| Total | 4 141 |

Property, plant and equipment has been valued by Willie Nortje of Aucor as per **Annexure B**.

11. CREDITORS VOTING INTEREST

11.1 A creditor has a voting interest equal to the value of the amount owed to that Creditor by the Company on the date of publication of the Business Rescue Plan;

11.2 A Creditor who has a Disputed Claim or a Contingent Claim, will only be allowed to vote in the sole discretion of the BR Practitioner.

11.3 In terms of Section 145(4)(b) of the Act, a Concurrent Creditor who would be subordinated in liquidation has a voting interest, as independently and expertly

appraised and valued at the request of the Practitioner, equal to the amount, if any, that the creditor could reasonably expect to receive in such a liquidation of the Company.

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

11.5 If the value of a Claim of a BR Commencement Date Creditor has changed since the date of commencement of business rescue proceedings, the amount of the claim as at the date of publication of this plan will be accepted.

12. **FEE AGREEMENT**

12.1 The BR Practitioners' remuneration is at the tariff for a medium sized company based on the Company's public interest score at the BR Commencement Date. The public interest score calculated in terms of Regulation 26(2) of the Act as at the BR Commencement Date is 218 points.

12.2 A company is regarded as a medium sized company if its public interest score falls between 100 and 300.

12.3 To date, the BR Practitioner has charged out his time at the prescribed tariff rates set out in regulation 128 of the Act.

13. **INFORMAL PROPOSALS MADE BY CREDITORS**

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

14. **OBLIGATION TO INVESTIGATE THE AFFAIRS OF THE COMPANY**

14.1 Section 141(2)(c) of the Act states that if, at any time during business rescue, the BR Practitioner concludes that there is evidence, in the dealings of the Company before business rescue began of –

- “(i) voidable transactions, or a failure by the Company or any director to perform any material obligation relating to the Company, the practitioner must take any necessary steps to rectify the matter and may direct the management to take appropriate steps;
- (ii) reckless trading, fraud or other contravention of any law relating to the Company, the practitioner must –
 - (aa) forward the evidence to the appropriate authority for further investigation and possible prosecution;
and
 - (bb) direct the management to take any necessary steps to rectify the matter, including recovering any misappropriated assets of the Company.”

14.2 The BR Practitioner has not identified any transactions that he considers to be voidable transactions.

15. VOTING BY PROXY

15.1 Voting by proxy will be allowed as long as the form of proxy attached to the notice of the meeting is lodged with the BR Practitioner in terms of section 152 of the Act. Creditors and Affected Persons are required to lodge their forms of proxy by no later than 10h00 on the day before the meeting.

15.2 All forms of proxy given on behalf of a company, a legal entity or a trust must be accompanied by a valid and duly authorised resolution supporting the appointment of the signatory to the proxy.

PART B – PROPOSAL

16. OBJECTIVE

- 16.1 The purpose of business rescue, as set out in section 128(1)(b)(iii) of the Act, is to develop and implement a plan that either:
- 16.1.1 rescues the Company by restructuring its affairs, business, property, debt and other liabilities, and equity in a manner that maximises the likelihood of the Company continuing in existence on a solvent basis (“Primary Objective”); or
 - 16.1.2 if the aforementioned is not possible, results in a better return for the Company’s creditors or shareholders than would result from the immediate liquidation of the Company (“Secondary Objective”).
- 16.2 This proposal seeks to achieve the Primary Objective of business rescue.
- 16.3 The objective of this proposal is to provide creditors and employees with information, so that they may:
- 16.3.1 assess the likely outcome of the dividend yield calculation under business rescue, as set out in **Annexure D**; and
 - 16.3.2 be assured of the likelihood of obtaining a better outcome under business rescue for all Affected Persons, when compared to a liquidation.

17. CLAIM SETTLEMENT PROPOSALS

17.1 SUMMARY PROPOSAL

As the Company has run out of working capital and has ceased trading, it is not in a position to settle any of its BR Creditors from its operations, and therefore the BR Practitioner has entertained two proposals from two investors, namely Dukathole and Mathupha, for the acquisition of assets in the case of Dukathole and for subscription for shares in the case of Mathupha. Based on the dividend that Unsecured BR Commencement Date Creditors would receive under each of the proposals, as well as other factors as summarised below, the BR Practitioner recommends that the proposal from Mathupha be accepted. The factors taken into account include the following:

- Mathupha's proposal offers a concurrent dividend of approximately 25 cents to the Rand, as against Dukathole's 20 cents to the Rand (the calculation of the dividend is contained in the BR Dividend Calculation per **Annexure D**);
- Mathupha's balance sheet is significantly stronger, with capacity to take on debt to fund Inca's growth, cash resources 4 times those of Dukathole, current ratio of 4 versus 3 for Dukathole, owners' equity 2 x times that of Dukathole;
- Both Mathupha & Dukathole are profitable but the risk profile of Mathupha's cash flows is very low, with its customer being Transnet (risk of bad debts low).
- Mathupha's main business through its Rail 2 Rail subsidiary is a strong and stable business, which is a different business altogether, thus limits concentration risk and offers diversification opportunity to Mathupha, whereas concentration risk increases in the case of Dukathole;
- The extent of possible retrenchments under Mathupha's proposal is likely to be minimal, as the extent of duplication in employee roles between itself and Inca is likely to be largely at senior management

level only, and thus will retain a maximum number of jobs in the long run;

- Mathupha has developed an innovative strategy that will incorporate collaboration between Human Settlements, banks, and RDP contractors, to alleviate working capital problems that RDP contractors encounter due to Human Settlements payment delays. This will contribute to the growth of Inca and improve its own working capital from improved payments from RDP contractors, aided by Mathupha's scheme;
- As Mathupha proposes to subscribe for shares in Inca, the approved grant of R2 million from Dti will not be affected as the grant is approved for a specific entity, unlike in the case of an asset purchase structure that results in Inca as a company having to cease operations after transfer of assets and employees; and
- The NEF has agreed to convert its secured loan of R3.2 million to equity, creating room for Mathupha's cash resources to include a cash reserve of R3.6 million for Inca's working capital requirements, in addition to group credit facilities for purchase of cement and aggregates, leveraged by Mathupha's balance sheet.

The BR Practitioner acknowledges that the Dukathole proposal, although not recommended, is strong enough to be considered in case the Mathupha proposal were to fail for some reason. Dukathole is in the same industry as Inca and is a significant market player in the Eastern Cape, and already distributes its products to Mthatha and East London, mainly from its Queenstown site. Inca acquisition would therefore allow the Dukathole group to service its market far more efficiently than is currently able from remote locations in the case of the Mthatha and East London markets. The BR Practitioner is however of the view that the Mathupha proposal is relatively easier to implement and presents a low risk for the aggregated businesses.

The company profiles of Dukathole and Mathupha are annexed hereto as **Annexure E** and **F** for more information on the respective companies.

The BR Practitioner further acknowledges that if it were not for the urgent need for the Company to resume operations, a much more open bid process could have produced more options that could have resulted in an improved proposal to creditors. A few other enquiries were made by various parties, but such parties required more time to conduct their investigations and due diligence investigations. The parlous financial position of Inca has served to risk the BR Practitioner's choice to the two options discussed above, that required very limited due diligence following their prior exposure to the Company.

17.2 STRUCTURE FOR SETTLEMENT OF BR CLAIMS

17.2.1 Secured BR Commencement Date Creditors

Based on the Mathupha capital injection, arrears on the vehicle instalment sale agreements will be paid, and the balance of the Claims will be settled in accordance with the existing agreements.

The NEF's loan will be converted into a shareholder loan that will be payable at the discretion of the Company, in accordance with the shareholders agreement to be concluded between the shareholders.

17.2.2 Post-BR Commencement Claims of Employees

The arrear salaries and benefits of employees occurring during business rescue proceedings, except bonuses that have been waived by mutual agreement with employees, will be paid in full soon after adoption of the BR Plan, from the proceeds of the bridging finance secured from the NEF.

17.2.3 Preferred BR Commencement Date Claims of Employees

The arrear wages in respect of employees that are currently on lay-off, which accrued prior to BR Commencement Date, will be paid in full soon after adoption of the BR Plan, from the proceeds of the bridging finance secured from the NEF.

The arrear salaries that accrued prior to BR commencement Date will be paid in full from shareholder loans to be advanced by Mathupha pursuant to the offer incorporated into this BR Plan.

17.2.4 BR Commencement Date Unsecured Creditors

Other than the Excluded Claims, all unsecured BR Commencement Date Claims will be acquired by Mathupha at an effective dividend rate of 25 cents to the Rand, and will be effectively ceded to Mathupha with effect from the date on which Mathupha pays the consideration contemplated in this BR Plan. For the avoidance of doubt, if Mathupha fails to pay the consideration of 25 cents on or before Implementation Date, no transfer of Claims would be deemed to have occurred.

17.2.5 BR Commencement Date Excluded Claims

These Claims will be settled by the Company from the proceeds of a shareholder loan to be injected by Mathupha, at a compromise of 25 cents to the Rand. To the extent that any Excluded Claims were previously claimed as input VAT by the Company, any VAT previously claimed will be subject to section 22 of the VAT Act. The BR Practitioner estimates that the VAT claw-back as a result of the compromise contemplated with respect to Excluded Claims will not exceed R50 000, and will be payable to SARS.

17.3 EXISTING AGREEMENTS AND CONVERSION OF CLAIMS TO EQUITY

17.3.1 Treatment of Existing Agreements:

The Company currently has a number of executory contracts that are continuing since the BR Commencement Date. These include asset financing agreements

and rental of facilities and equipment. Other than those contracts that have been or will be cancelled, the executory contracts will continue and will be paid in accordance with the respective agreements, subject to any arrears being brought up to date not later than the date of substantial implementation of this BR Plan.

17.3.2 Conversion of Claims to Equity

This BR Plan provides for conversion of the NEF's secured claim of R3.2 million to an effective interest of 20% in the equity of the Company. The equity of the Company after implementation of the BR Plan will be held as follows:

| | |
|--------------------|-------|
| Mathupa | 60% |
| NEF | 20% |
| Women's Consortium | 15% |
| Z M Tini | 5% |
| | <hr/> |
| | 100% |
| | <hr/> |

18. **TIMELINE FOR DISTRIBUTING TO CREDITORS**

Creditors that have lodged Claims after the BR Adoption Date, outside of the period stipulated in this BR Plan forfeit their right to participate in distributions that have been made prior to the lodgement of their Claims, but shall nevertheless be entitled to participate in any distributions made subsequent to the lodgement of their Claims in accordance with the waterfall set out in clause 19 (*Order of Distribution – Payment Waterfall*).

19. **ORDER OF DISTRIBUTION – PAYMENT WATERFALL**

19.1 In terms of the Act, Creditors are to be paid the Distributable Amount in the following order of priority (to the extent that there are funds available to pay all categories of Creditors in terms of the waterfall below).

19.1.1 The costs of the BR Practitioner and any other costs, legal costs, the costs of the Advisors and other costs associated with Business Rescue in relation to the

Company and the preparation of this Business Rescue Plan (“Business Rescue Costs”);

19.1.2 Employees for their employment during business rescue (to the extent that they have not been paid for their services during business rescue) and to the extent necessary, the relevant retrenchment costs.

19.1.3 Secured PCF Creditors;

19.1.4 Unsecured PCF Creditors;

19.1.5 Preferred Claims of Employees arising prior to BR Commencement Date.

19.1.6 Unsecured Creditors, including:

19.1.6.1 The shortfall owing to Secured Creditors, who will be paid as such to the extent that their security is realised. Any residual Claim remaining after realisation of said security will be treated as an Unsecured Claim; and

19.1.6.2 Shareholder loan Claims which are not subordinated will be entitled to the same amounts as Concurrent Creditors (for the sake of clarity, no amount will be payable in relation to subordinated shareholder loan claims).

20. **MORATORIUM**

20.1 The intention of a moratorium is to give a company the best possible chance to implement the BR Plan so as to allow a company sufficient time to restructure its affairs and particularly its liabilities so as to enable it to return to a sustainably solvent position.

20.2 The commencement of business rescue proceedings places a moratorium on legal proceedings against a company. This means that creditors, even though their rights may be secured, will not be able to take action against a company for non-payment of debts during business rescue.

- 20.3 In the current circumstances, the moratorium in relation to the Company commenced on the Commencement Date and is expected to remain in place until the BR Practitioner files a notice of substantial implementation of the BR Plan with the CIPC.

21. **EFFECT ON CREDITORS**

21.1 LANDLORDS

- 21.1.1 The Company shall enter into a new leased agreement in respect of the East London premises, incorporating the following salient features:

- Tenure, 3 years effective from 1 January 2018;
- Rental, R110 717 per month, excluding VAT;
- Escalation, 8% per annum;
- Lease premium, R47 092.17 per month for 12 months, commencing 1 January 2018; and
- First right of refusal to acquire the property from the Lessor.

21.2 CONTRACTS

Any contracts considered to be onerous to the Company have been or will be renegotiated or cancelled either by (i) agreement between the parties thereto and the BR Practitioner and, (ii) failing agreement, the BR Practitioner will apply to court to cancel all the Company's' obligations under such Contracts. In the event that the counterparties to the Contracts claim damages against the Company, such damages Claims:

- 21.2.1 Must be brought against the Company before the date of Substantial Implementation, failing which, a Creditor in these circumstances will be precluded from bringing a damages claim against the Company;
- 21.2.2 Shall be deemed to have been compromised in terms of this Business Rescue

Plan and shall be regarded as Concurrent Claims for the purposes of the BR Plan. As such, the counterparties to Contracts who bring a damages Claim timeously (i.e. before or during the Additional Claims Period) shall only be entitled to receive an amount as a Concurrent Creditor pursuant to the provisions of this BR Plan and if the Claim is not disputed. If such Claim is disputed the matter will be resolved in terms of the Dispute Resolution process set out herein; and

- 21.2.3 Any Creditor that has a Claim for damages will be obliged to limit their Claims to either the actual direct damages suffered or to limit its claim to a figure equivalent to a maximum of three (3) month's contractual payment whichever amount is the lower and no claims for contingent or indirect damages will be accepted by the BR Practitioner. Such damages claims will be treated as unsecured Claims for the purposes of the waterfall for payment referred to in clause 19.

22. EFFECT OF THE BUSINESS RESCUE PLAN ON EMPLOYEES

- 22.1 Other than pursuant to a restructuring that may be required, necessitating retrenchments, this BR Plan does not contemplate any retrenchments.
- 22.2 Should a necessity arise for the restructuring of the business, resulting in potential retrenchments, a consultation process will be conducted in accordance with section 189 of the LRA.
- 22.3 Salaried employees that have a contractual right to annual bonuses have agreed to forfeit such bonuses as would have been due for payment in December 2017. The BR Practitioner consulted with the employees, through their representatives, to reach agreement in this regard, as the employees' contribution to assist the Company to recover financially.

23. BENEFITS OF ADOPTING THE BUSINESS RESCUE PLAN

The benefits to Creditors of adopting the Business Rescue Plan compared to a liquidation are as follows –

23.1 DIVIDEND

The estimated BR Dividend payable if this BR Plan is implemented is significantly higher than the estimated Liquidation Dividend. The Liquidation Dividend for Concurrent Creditors is estimated to be approximately 2 cents to the Rand, at best, if the Company were to be placed in liquidation at the date of publication.

23.2 TIMING

23.2.1 The BR Plan will be implemented in a far shorter time-frame than liquidation proceedings.

23.2.2 The anticipated time period estimated for completing the business rescue and making payment of dividends is approximately 2 months from date of adoption of this plan.

23.2.3 The average time it takes to conclude a liquidation process and pay liquidated dividends can be between 18 – 24 months, or longer depending on the complexity of the estate.

23.3 EMPLOYEES

23.3.1 Employees will receive full salaries in respect of their arrear and Post-BR Commencement Date salaries and will continue in their employment.

23.3.2 Employees that may be retrenched as part of Business Rescue would receive full retrenchment packages, which are considered to be remuneration and therefore payable as post-commencement finance in terms of section 135(1) of the Act. In liquidation the preferent portion of the severance package is capped at R32 000.00 per employee. Such payments would only be made once the final liquidation and distribution account has been approved at the end of the

liquidation process.

23.3.3 In liquidation all jobs will be lost immediately unless the liquidator agrees to continue trading against an indemnity.

23.3.4 Preservation of employment to a significant majority of the current permanent employees.

24. **RISKS OF THE BUSINESS RESCUE PLAN**

The amount which Creditors could receive in terms of the Business Rescue Plan could potentially be as predicted by the BR Practitioner, but may be adversely affected by, *inter alia*, the following factors:

24.1 unforeseen litigation of any nature whatsoever, howsoever arising, from any cause of action whatsoever;

24.2 late claims and unforeseen damages claims arising from the cancellation of any contracts or agreements of any nature whatsoever, howsoever arising;

24.3 any changes in legislation that impacts Business Rescue;

24.4 any challenges to this Business Rescue Plan, the rejection thereof of any amendments thereto;

24.5 any regulatory challenges of any nature whatsoever, howsoever arising;

24.6 any unforeseen circumstances, outside of the control of the BR Practitioner of any nature whatsoever howsoever arising that impacts on Business Rescue; and

24.7 material discrepancies in the information made available to the BR Practitioner by the director and senior management.

PART C – ASSUMPTIONS AND CONDITIONS

25. EFFECT OF THE BUSINESS RESCUE PLAN ON EMPLOYEES

Please refer to clause 22 (*Effect of the Business Rescue Plan on Employees*) in this regard.

26. TERMINATION OF BUSINESS RESCUE

The business rescue will end:

- 26.1 if the BR Plan is proposed and rejected and no Affected Person or Affected Persons act to extend the BR Plan in any manner contemplated by the Act; or
- 26.2 this BR Plan is adopted and implemented (with the conditions fulfilled) and the BR Practitioner has filed a notice of substantial implementation of the BR Plan with the CIPC;
- 26.3 this BR Plan is adopted but is not implementable due to failure to settle BR Claims in accordance with the adopted BR Plan, for whatever reason; or
- 26.4 a court orders the conversion of the business rescue proceedings into liquidation proceedings.

27. SUBSTANTIAL IMPLEMENTATION

Substantial implementation will be deemed to have occurred upon all of the following having taken place if:

- 27.1 the Final Payment Distribution has been made to Creditors.

28. PROJECTED BALANCE SHEETS AND STATEMENTS OF INCOME AND EXPENSES

28.1 The projected balance sheets of the Company for the ensuing 3 years, together with explanatory notes and key assumptions are set out below:

| Projected Balance Sheet | Jun-18 | Jun-19 | Jun-20 |
|-------------------------------------|---------------|---------------|---------------|
| | R'000 | R'000 | R'000 |
| Assets | | | |
| Non-Current Assets | | | |
| Property, plant and equipment | 2 645 | 2 973 | 2 801 |
| | 2 645 | 2 973 | 2 801 |
| Current assets | | | |
| Trade and other receivables | 2 580 | 8 200 | 8 500 |
| Inventories | 2 210 | 5 850 | 6 850 |
| Cash and equivalents | 4 172 | 9 365 | 18 103 |
| | 8 962 | 23 415 | 33 453 |
| Total assets | 11 607 | 26 388 | 36 254 |
| Equity and Liabilities | | | |
| Equity | | | |
| Share capital | 16 551 | 16 551 | 16 551 |
| Retained income | (6 539) | 1 137 | 9 803 |
| | 10 012 | 17 688 | 26 354 |
| Current Liabilities | | | |
| Financial leases | 95 | - | - |
| Trade and other payables | 1 500 | 700 | 9 900 |
| | 1 595 | 8 700 | 9 900 |
| Total liabilities | 1 595 | 8 300 | 9 900 |
| Total equity and liabilities | 11 607 | 26 388 | 33 24 |

28.1.1 Key assumptions:

- Purchase of new pullets R1.2 m FY19, R1.0 FY20 and R0.8 m FY21;
- Credit returns effective FY19, on strength of Mathupa buying power.

28.2 The projected statements of income and expenditure for the Company for the ensuing 3 years, together with explanatory notes and key assumptions are set out below:

| Projected Income Statement | Jun-18 R'000 | Jun-19 R'000 | Jun-20 R'000 |
|-----------------------------------|-------------------------|-------------------------|-------------------------|
| Revenue | 37 136 | 85 350 | 94 100 |
| Cost of sales | (25 744) | (58 174) | (63 988) |
| Gross profit | 11 392 | 27 370 | 30 112 |
| Operating expenses | (16 320) | (19 400) | (21 146) |
| Operating profit | (4 928) | 7 976 | 8 966 |
| Other income | 2 268 | 25 | (25) |
| Profit before taxation | (2 660) | 7 951 | 8 941 |

28.2.1 Explanatory notes and key assumptions:

- Production forecast to commence January. Will run blocks in Mthatha on Plant 5 first as demand there is very high. Plant to run pavers on Plant 1 & 2 in east London first as well as bricks on Plant 3. These products have good added values demand is also high. By February the Company will be running all plants. Sales seasonal with steady growth until April and demand increasing significantly the second half of the calendar year. A notable change is that paver demand is high throughout the year due to government specifications for certain roads and walkways.
- Due unexpected positive sales mix the gross margin % is forecast to increase significantly as the year progresses.
- Operating expenses will reduce as with greater production throughout, the recovery of production labour and overhead increase significantly. Also cost reduction in the form of reduced Director's salaries (between 20 and 35%), the waiver of December 2017 bonus and leave pay pay-outs for salaried and wage employees has reduced overhead costs significantly. Accordingly only absolute essential expenses for the running of the business are being incurred in order to minimise costs.

As the Company reaches full capacity, however, the Company will of course incur higher labour as machines will be fully manned.

- Other income of R2 million in December is the Dti grant which has been confirmed in principle and payment of this expected early in December.
- Sales are forecast to increase significantly in the June 2019 financial year with the cash flow restrains to purchasing raw materials a thing of the past.
- We perceive no problem in winning our customer base back as we inundated with enquiries from them wanting to know when they can commence ordering our highly quality product.
- Interest for the period 2019-2021 will reduce significantly as e are forecast little cost to be incurred for late payments.

29. **DISPUTE RESOLUTION**

29.1 Save as provided for in section 133 of the Act, in respect of all or any disputes by the BR Practitioner on Claims submitted by Creditor(s) and Employees, which disputes include, but are not limited to, disputes on the existence or otherwise of Claim(s), on quantum of Claim, security claimed by a Creditor, the nature of the security, the extent and value of the security and the like (“the dispute”) such dispute can only be resolved in accordance with the dispute mechanism outlined below.

29.2 The dispute mechanism procedure will be as follows:

29.2.1 All creditors who have received notification from the BR Practitioner of a dispute are within 15 days from the date of notification of the dispute by the BR Practitioner, to contact the BR Practitioner and to meet with him during this period in an attempt to reach agreement on the dispute.

29.2.2 If the Creditor does not avail itself of this 15 day opportunity or if after having availed itself and the dispute is not resolved within the 15 day period, the Creditor will be afforded 7 days (reckoned from the date of expiry of the 15 days)

to nominate a retired judge as an expert (not as an arbitrator or mediator) to preside over and to resolve the dispute. Should the Creditor not make this nomination the BR Practitioner will do so on his/her/its behalf and this nomination will be binding on the Creditor(s).

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

29.4 The expert will in his sole and absolute discretion determine:

29.4.1 the venue at which the dispute is to be resolved;

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

29.4.3 the date(s) for the determination of the dispute;

29.4.4 will give his award / determination within 5 days of the completion of the process as determined by him;

29.4.5 will as part of his award / determination determine who is liable for the costs of the determination such costs to include his costs, legal costs, venue costs, recording equipment (if applicable), transcript of evidence (if applicable) and the like.

29.5 The Creditor/s agrees that, save for any manifest error the determination of the expert will be final and binding on the Creditor/s, the Company and the BR Practitioner and will not be subject to any subsequent review or appeal application / procedure / process.

29.6 The expert shall be entitled to make an award for costs in his discretion.

29.7 The Creditor, the Employee/s, the Company and the BR Practitioner agree to use their utmost endeavours to ensure that the entire dispute is determined by the expert within the 30-day period as set out above.

30. **EFFECT ON CLAIMS**

After the adoption and implementation of the Business Rescue Plan, the Company will be discharged from the debt in accordance with Section 154(1).

31. **ABILITY TO AMEND BUSINESS RESCUE PLAN**

31.1 Provided that any amendment will not be prejudicial to any of the Affected Persons, the BR Practitioner shall have the ability, in his sole and absolute discretion, to amend, modify or vary any provision of this Business Rescue Plan, provided that at all times the BR Practitioner acts reasonably. The Amendment will be deemed to take effect on the date of written notice of the amendment to all Affected Persons.

31.2 Should the BR Practitioner wish to effect an amendment to the plan that will be prejudicial to any of the Affected Persons, he will convene a further meeting of creditors and call for a vote to approve the amendment. A simple majority of votes cast by the holders of independent voting interests will be sufficient to approve the amendment.

31.3 It is specifically recorded that the provisions of business rescue shall *mutatis mutandis* apply to the extension or reduction of any timeframes by the BR Practitioner.

32. **SEVERABILITY**

Any provision in this BR Plan which is or may become illegal, invalid or unenforceable shall be ineffective to the extent of such prohibition or unenforceability and shall be treated *pro non scripto* and severed from the

balance of this BR Plan, without invalidating the remaining provisions of this BR Plan or affecting the validity or enforceability of such provision in any other jurisdiction.

33. **CONCLUSION**

For reasons set out above, the implementation of the BR Plan will result in Unsecured Creditors receiving a dividend of approximately 25 cents in the Rand, as opposed to a liquidation in terms whereof Concurrent Creditors will receive a dividend of no more than 2 cents in the Rand.

34. **BRP'S CERTIFICATE**

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

- (a) any actual information provided herein appears to be accurate, complete and up to date;
- (b) the BR Practitioner has relied on financial information including opinions and reports furnished to them by senior management of the Company and Advisors;
- (c) any projections provided are estimates made in good faith on the basis of factual information and assumptions as set out herein;
- (d) in preparing the BR Plan, the BR Practitioner has not undertaken an audit of the information provided to him by the senior management of the Company and by the Company's Auditors, although where practical, the BR Practitioner has endeavoured to satisfy himself of the accuracy of such information.

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