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**MINUTES OF THE FIRST MEETING OF EMPLOYEES' REPRESENTATIVES IN TERMS OF SECTION 148 OF THE COMPANIES ACT, 2008**

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**Date:** 31 May 2017

**Time:** Scheduled Time - 17h00  
Commencement Time: 17h12  
Closed: 18h15

**Venue:** Hostel Canteen for Shift A and Shift B workers Saxendrift Farm No.20 Annex Saxendrift No.21

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1. All persons in attendance were asked to sign the attendance register and include their employee numbers.
2. Peter van den Steen ("van den Steen") apologised for being a few minutes late, and asked if a translator was needed for the meeting. It was established that Jerry Mpisekhaya ("Mpisekhaya") would be the translator.
3. van den Steen introduced himself as one of the business rescue practitioners of the company. He relayed Trevor Murgatroyd's ("Murgatroyd") apologies for not being in attendance, who he explained was attending to urgent matters for the company.
4. van den Steen explained that the company was placed in business rescue by order of court and that the judge appointed van den Steen and Murgatroyd as the joint interim business rescue practitioners.
5. van den Steen explained that the business rescue practitioners had to wait for their appointment to be ratified by the creditors, at the first meeting of creditors, and advised that approval was provided by the creditors at a meeting held earlier in the day.
6. van den Steen advised that also at the first creditors' meeting, the creditors approved an extended date for the publication of the business rescue plan for the company to 30 September 2017 on the basis that the company is a large business, with complicated issues and that the timeframe of 25 days from the date of the business rescue practitioners' appointment was unrealistic.
7. van den Steen explained that at the meeting, two principal matters had to be dealt with (a) whether the business rescue practitioners believe there is a reasonable prospect of rescuing the business; and (b) the employees' right to appoint an employees' committee.
8. van den Steen explained that the rescue plan, which is already in place, would include ramping up the new Wouterspan Plant and selling off non-core assets. van den Steen confirmed that part of the job of the business rescue practitioners is to determine whether the plan is reasonable and workable.
9. van den Steen explained that the employees may form a committee and appoint their fellow employees to represent them on the committee. van den Steen confirmed that the employees' representatives consisted of members of the National Union of Mineworkers ("NUM") and non-unionised members. van den Steen confirmed that he is happy to deal with NUM and in relation to the non-unionised members he is happy that they form a small committee if they feel that it is necessary.
10. van den Steen stated that plans must be made (through Mpisekhaya) in advance if van den Steen is required to speak to the employees. van den Steen advised that he will be on the mine regularly and that if the employees' representatives wish to speak to van den Steen, arrangements must be made.
11. van den Steen explained that the Labour Relations Act, 66 of 1995 is still in full force. van den Steen stated that business rescue proceedings are very different to liquidation proceedings as in a liquidation almost always all people immediately lose their jobs and claims are capped, however, in business rescue the rights of employees remain intact.
12. Van den Steen opened the meeting for questions and confirmed that he would also take questions after the meeting, and through Mpisekhaya if needed.
13. The following questions were asked –

**Q1:** Are employees not meant to have shares in the company?

**A1:** van den Steen advised that employees' conditions of employment remain in place and that this meeting is not the forum for such discussion.

**Q2:** What does business rescue mean?

**A2:** van den Steen explained business rescue proceedings in detail.

**Q3:** When will the company be said to be rescued?

**A3:** van den Steen will be investigating the affairs of the company to determine why the company is in the state that it is in.

**Q4:** An employee raised a concern about how van den Steen will resuscitate the company based on the turnaround strategy. He also mentioned that there are three subsidiaries in business rescue and he asked what has happened to the others?

**A4:** van den Steen explained that this is a meeting of employees of HC van Wyk Diamonds Limited and that the first meetings of employees are required to take place in terms of the law. He further explained that he is not able at this meeting to provide employees with all detail about how the company will be rescued. He will need to consider the existing turnaround plan with management and mould it into a new rescue plan which will form the basis of the business rescue plan which will be voted on by creditors.

**Q5** Why do you think there is a potential to rescue the business?

**A5:** van den Steen stated that from his limited knowledge at present, major changes have already taken place and it appears that the company is starting to show improvement already. van den Steen stated that the mine has been able to pay most of its bills since such changes were made which indicates that he ramp-up of the new plant has a much better chance of success. van den Steen advised that there will be more interventions but that this is subject to the outcome of the business rescue practitioners' investigations. van den Steen stated that the employees need to understand that as business rescue practitioners, there are two options – to rescue the company if there is a reasonable prospect of success or if there is no reasonable prospect of success, to place the company in liquidation on application to court. Employees therefore need to continue working as before in order to facilitate the business rescue practitioners in their attempt to rescue the company.

**Q7:** The decision to opt for business rescue, which is something we support by the way, is it as a result or reaction to liquidation process?

**A7:** van den Steen explained that bringing the application to place the company in business rescue was in reaction to the liquidation application, but that the applicant to such application was not the directors of the company, it was brought by an affected party (being an employee of HCWV).

**Q8:** Are you able to express your view on one of the claims by of one of creditors?

**A8.1:** Van den Steen asked which creditor.

**A8.2:** NUM's attorney answered CML Mining.

**A8.3:** van den Steen advised that he understood that there is a claim from CML Mining Limited or C-Rock Mining Limited but that it is disputed. He explained that such dispute would need to be resolved in terms of a mutually agreed upon dispute resolution process during business rescue.

**Q9:** Does business rescue place the liquidation process on ice or is the application struck from the roll?

**A9:** van den Steen confirmed that the liquidation proceedings are suspended during business rescue and that if the company is successfully rescued, the pending liquidation application will need to be dealt with in the business rescue plan and by the court. van den Steen explained that if a court order is granted, the company will be freed from business rescue.

**Q10:** On the committee – when the plan is put in place - is the committee going to participate?

**A10:** Van den Steen explained that any employee is free to make proposals and to provide input about the plan, which will be considered. van den Steen explained that the business rescue practitioners have a discretion whether or not to accept such proposal/s. van den Steen stated that when the business rescue plan is published, a meeting is held 10 days later for the creditors to consider and vote on the plan. While only those employees who are creditors of the company can vote on the plan, provision is made at the meeting for the views about the plan to be expressed by the employees.

**Q11:** Please could you introduce the team?

**A11:** van den Steen stated that he had introduced himself at the beginning of the meeting. He introduced Natalie Harten (from the law firm Falcon and Hume Inc in Johannesburg) and Brenda Barreto (with whom he confirmed employees are familiar).

**Q12:** During the creditors meeting – what will happen if the creditors vote against the plan?

**A12:** van den Steen stated that if creditors vote against the plan, the creditors can request the business rescue practitioners to consider alternate options; to make changes to the plan. The option of an affected person applying to court to set aside a vote on the basis that it is inappropriate was also considered. van den Steen explained that he tries to work with the creditors so that this does not happen.

**Q13:** When is the best time to nominate representatives for the employees committee? Also, in relation to ramping up at Wouterspan, the earth moving equipment is lagging. Is the committee the appropriate place to raise the need to bring in some equipment, because the employees believe that without machinery, the strategy will fail.

**A13:** van den Steen invited the employees to form a committee after the meeting and to consider all issues that the employees want to raise with van den Steen.

**Q14:** Are the business rescue practitioners independent?

**A14:** van den Steen confirmed that the business rescue practitioners are independent.

**Q15:** Due to the fact that this is an in-depth and long process, is there a way to get financial assistance for the machines?

**A15:** van den Steen advised that the business rescue practitioners need to understand what the requirements are. van den Steen advised that if something is critical and the need for the money is justified, the business rescue practitioners will try obtain money. van den Steen confirmed that at the moment there is very little money available but that there is a plan to generate money.

**Q16:** How do you propose that the employees form the committee?

**A16:** van den Steen suggested that about 5 or 6 people should sit on the committee, but that this is up to the employees. If a committee is formed, the names and contact details of the representatives can be forwarded to Mpisekhaya who will provide them to the business rescue practitioners.

**Q17:** There are three entities under business rescue – will there be one plan for all the entities?

**A17:** van den Steen advised that three different plans could be compiled (one for each entity) or one plan could be compiled dealing with all three of the legal entities. van den Steen expressed his preference for having three different plans as the persons entitled to vote on the different plans differ.

**Q18:** In the meetings which were held for the creditors to vote, were the creditors of all of the entities present or just the creditors of HC van Wyk Diamonds Limited?

**A18:** van den Steen confirmed that separate meetings were held for the creditors of each of the entities.

**Q19:** Tjaart Willemse advised that a board meeting was held a week prior to this meeting and that the shareholders indicated their willingness to support the company financially.

**A19:** The employees said this was good news.

**Q20:** The point was made that it is difficult to ask questions when there is not a lot of information available to the employees. It was recommended that the importance of, and transparency with, employees (and/or the employees' committee) be recognised as the company is dependent on employees.

**A20:** van den Steen noted the point and confirmed that the intention of the employees' committee is to create a channel for the sharing of information. van den Steen emphasized that the relationship between the employees and the company is mutually beneficial as "without the employees there is no company and without the company there are no employees".