

AMENDED PROPOSED BUSINESS RESCUE PLAN

PUBLISHED TO THE AFFECTED PERSONS OF

Nottingham Farm CC

Registration nr: 2001 / 024039 / 23

BY

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&

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ON

1 December 2023

Amended on 11 December 2023



TABLE OF CONTENTS

1. DEFINITIONS	3
2. EXECUTIVE SUMMARY	6
3. SALIENT FEATURES.....	10
3.1. PART A – BACKGROUND OF THE COMPANY.....	10
3.2. PART B – PROPOSAL BY THE PRACTITIONER/S.....	12
3.3. PART C – ASSUMPTIONS AND CONDITIONS USED	20
4. MEETING TO DETERMINE THE FUTURE OF THE COMPANY.....	24
5. CONSIDERATION OF THE BUSINESS RESCUE PLAN	24
6. QUALIFICATION OF BUSINESS RESCUE.....	24
7. OVERVIEW OF THE BUSINESS RESCUE PROCESS.....	26
8. INVESTIGATION OF THE AFFAIRS OF THE COMPANY	27
9. VOTING ON THE PLAN	28
9.1. The first vote.....	28
9.2. The second vote	28
10. ANNEXURES TO THE BUSINESS RESCUE PLAN	29

1. DEFINITIONS

- 1.1. “**Acquittance**” means a document executed by a creditor in terms of which that creditor advises the Business Rescue Practitioner/s that such creditor will not look to the Business or the Business Rescue Practitioner/s for any payment of benefit under the Business Rescue Plan, to the extent of the amount stated in the acquittance;
- 1.1. “**Act**” means the Companies Act 71 of 2008 as amended;
- 1.2. “**Affected Persons**” means affected persons as defined in Section 128 (1) of the Act and in relation to the Company means a shareholder, a creditor and the employees of the Company;
- 1.3. “**Assets**” means all assets of the Business as reflected in the books of account of the Business as at the commencement date;
- 1.4. “**Auction Value**” means an estimate of the realisable value of the Business assets on a public auction where a sale is concluded on a forced sale, upon the fall of the hammer, to the highest cash bidder during an auction which was reasonably well advertised and attended by members of the public;
- 1.5. “**BRP/s**” means Pat Pattinson and Jaco Durandt as defined in Regulation 126 to the Act;
- 1.6. “**BR360 C**” means Business Rescue 360 Cape (Pty) Ltd which contracts Pat Pattinson and Jaco Durandt as the Business Rescue Practitioner/s of the business;
- 1.7. “**Business Rescue**” means the proceedings in terms of Chapter 6 of the Act and as defined in Section 128 (1)(b);
- 1.8. “**Business Rescue Plan**” means this document which is a business rescue plan prepared in terms of Section 150 of the Act and published by the Business Rescue Practitioner/s on the 1st of December 2023.
- 1.9. “**Claims**” means secured, preferent or concurrent claims as envisaged in the Insolvency Act, against the Business, the cause of action in respect of which arose, prior to or on the commencement date, of whatsoever nature and from whatsoever cause, including claims, arising from contract or delict, actual and contingent, prospective, conditional and unconditional, liquidated and unliquidated, assessed and unassessed and whether or not due for payment of performance, specific or otherwise, and including all claims arising out of any agreements entered into by the Business on or prior to the commencement date, all such claims to be determined, calculated and admitted as secured, preferent or concurrent in accordance with the same ranking, as envisaged in the Insolvency Act, that attached to them upon the issue of a winding up order in respect of the Business, whether or not such claims are proved;

- 1.10. “**Creditor/s**” means all legal entities, including natural persons, having secured, preferent and/or concurrent claims against the Business as at the commencement date as envisaged in the Insolvency Act;
- 1.11. “**Concurrent Creditors**” means creditors having concurrent claims as envisaged in the Insolvency Act;
- 1.12. “**The Business**” means Nottinghill Farm CC (in business rescue), a business duly incorporated in terms of the Laws of South Africa under registration number 2001 / 024039 / 23;
- 1.13. “**Commencement Date**” means 14 September 2023 being the date upon which the resolution to voluntarily begin with business rescue proceedings was filed with the Commission;
- 1.14. “**Commission**” means the Companies and Intellectual Property Commission of South Africa which is a division of the Department of Trade and Industry and is responsible for the register of companies in South Africa;
- 1.15. “**Disputed Claim**” means a claim that was submitted, but not approved by the practitioner/s. These claims will be confirmed or amended prior to distribution and are dealt with in terms of the included dispute resolution mechanism in this plan.
- 1.16. “**Factoring**” means that a creditor consents to accept a full and final settlement of its outstanding historic debts to an amount less than offered in the plan, but paid immediately upon acceptance between the Business and the Creditor;
- 1.17. “**Historic Debt**” means the debt owed by the Business as at the date of filing;
- 1.18. “**Independent Creditors**” means all Creditors having Claims against the Business other than creditors related to the Business and its subsidiaries and/or directors;
- 1.19. “**Insolvency Act**” means the Insolvency Act 24 of 1936 as amended;
- 1.20. “**Legal Moratorium**” means the moratorium granted by section 133 of the Act in terms of which no legal action against the Business can be commenced;
- 1.21. “**Moratorium period**” means the period after the publication of the business rescue plan during which the Business proposes to make no payments towards the historic debts;
- 1.22. “**PCF**” means Post Commencement Financing provided by a financier to the Company as envisaged in terms of section 135 of the Act;
- 1.23. “**Power of Attorney**” means the legal document that is received by a person to obtain the authority to act for another person in legal or financial matters, in the specified format

provided by the BRP/S;

- 1.24. “**Preferent Creditors**” means creditors having preferent claims as envisaged in terms of the Insolvency Act;
- 1.25. “**Proceedings**” means business rescue proceedings as provided for in Chapter 6 of the Act;
- 1.26. “**Proof of Claim**” means the full and total claim of a Creditor against the Business, in the specified format provided by the BRP/S subject to the final approval by the BRP/S;
- 1.27. “**Related Parties**” means, as provided in Section 2 of the Act, all persons and/or companies and/or legal entities related either directly or indirectly to the Business as at the Commencement Date;
- 1.28. “**Secured Creditors**” means creditors having secured claims as envisaged in the Insolvency Act;
- 1.29. “**Statutory Obligations**” means, the legally mandated duties and responsibilities that directors must fulfill in their role as custodians of the company. These obligations are designed to promote good corporate governance, transparency, accountability, and the protection of the interests of the company, its shareholders, employees, and creditors. These obligations include, but are not limited to, any and all submissions to SARS, provident funds, bargaining councils and other statutory bodies;
- 1.30. “**Substantial Implementation**” means in terms of section 132(2)(c)(ii) of the Act, the notice that is to be filed by the BRP/S confirming that a Business Rescue Plan has been implemented;
- 1.31. “**The Final date**” means the date upon the last payment in respect of the adopted Business Rescue Plan at a meeting envisaged in terms of section 152 of the Act is made;
- 1.32. “**The Meeting**” means the meeting convened in terms of section 151 (1) of the Act;

2. EXECUTIVE SUMMARY

2.1. The Business, known as Nottinghill Farm (Hereinafter referred to as “Nottinghill” or “The Business”) is a business based in East London and the main source of income generated in the business is the sale of tomatoes to retailers. They provide normal table tomatoes as well as specialty tomatoes to a wide range of distributors with a national footprint.

2.1.1. The business also sells small batches of snacking cucumbers for local retailers and for a select few in the Western Cape.

2.1.2. The business was established in 2001 and is currently owned by the sole member – Theo Scheepers [100%].

2.2. The Business became financially distressed and had no other option but to file for business rescue in terms of the Act¹ on 14 September 2023.

2.3. The Business then timeously notified all the affected persons known to the practitioner/s of the business rescue proceedings as per the Act.²

2.4. The BRP/S received their notice of appointment on 15 September 2023.

2.5. Based on the information received from the Business, the BRP/S concluded that the business is in fact financially distressed and that a reasonable prospect of a successful Business Rescue does exist, especially when considering the second part of the definition of a rescue and have prepared this proposed business rescue plan for consideration by the creditors of the business.

2.6. It was thus concluded in terms of the Act³ as read with the judgment of *Carrol vs Michael Carrol* that a better outcome than immediate and traditional liquidation is possible and will be sought.

Both farms will be put to auction, and offers will be considered based on value and a further addendum to the plan will be published (and voted on) wherein the proposed offer to creditors will be contained. Therefore, both farms will be on auction, but the conditions will be subject to confirmation of the proposed addendum.

¹ Section 129 of the Companies Act 71 of 2008.

² Section 129 (3)(a).

³ Section 128 (1)(b)(iii).

2.6.1. The farms, belonging to the business will be auctioned on a public platform, for the benefit of the creditors. The business will not cease trading in its entirety and at the end of the rescue process, the business will be handed back to the directors and shareholders to continue trading on the remaining farm (if applicable) – or for its final winding up. A practitioner may only file for liquidation if he is of the reasonable belief that a reasonable prospect of a rescue no longer exists. Such a determination is ordinarily made long before a business rescue plan can even be published.

2.6.1.1. Please note Annexure D for the list of assets.

2.6.2. The processes set out in this proposed business rescue plan will provide a substantially better outcome for all parties when compared to immediate and traditional liquidation. The business will be selling off some of its material assets, in an effort to allow for an organic turnaround of the business.

2.7. The BRP/S convened and presided over a first meeting of creditors and staff on 4 October 2023.⁴

2.8. The affected persons will now have the opportunity to peruse the Proposed Business Rescue Plan before voting on it no later than 11 December 2023.

2.9. The details pertaining to this vote will be sent out in a Circular shortly.

2.10. Please use the time provided to address any questions, queries and suggested amendments to the Business Rescue Practitioner/s, via email, before the meeting to vote on this plan. This will allow the Business Rescue Practitioner/s the time needed to consider any suggestions.

2.11. Further please note that unfortunately no further proof of claims can be accepted by the Business Rescue Practitioner/s as ample time and opportunity was provided and these claims form the basis of determining the voting rights of the affected persons.

2.12. The Practitioner/s cannot accept liability for any late claims and/or post-business rescue debt and/or any other matters that arise after the vote on this plan.

⁴ Section 147 (1).

2.13. It is important to note that the person representing the creditor during the meeting to vote needs to be the appointed public officer or the appointed proxy of the creditor.

2.13.1. If a creditor appoints a proxy, then the proxy needs to be in possession of a Power of Attorney document and mandated to ensure they can vote on the proposed business rescue plan and be in a position to apply their own minds during the meeting, considering discussions and amendments that might take place during the meeting.

2.13.2. If you have not received a Power of Attorney document to complete, please contact the Business Rescue Practitioner/s.

2.14. The Business Rescue Practitioner/s are confident that this Proposed Business Rescue Plan will result in a far better outcome than that of an immediate and traditional liquidation but accept no liability for the outcome of the auction of the farms that is being proposed herein and eventualities after the adoption of the plan.

2.15. Calculations and projections provided are based on information provided by the owners, management, accounting statements and the affected persons.

2.16. Due to the limitations in law, the practitioner/s did not have the time nor the funds or the *locus standi* to perform a full investigation, due diligence or confirmation audit on the information received nor to employ third parties to verify and scrutinise same.

2.17. The costs relating to the business rescue proceedings will be settled from the available proceeds in full prior to any distributions. These costs can be settled from any funds that become available during the rescue process at any time as and when these fees become due.

2.17.1. These costs include but are not limited to practitioner's fees and contingencies, short-term insurance, auctioneers and or brokers fees and expenses, accounting and other continued statutory obligations such as the full VAT due to SARS resulting from the auction.

2.18. The practitioner/s will file for substantial implementation as soon as is practicable after the proposed business rescue plan has been adopted, and the following milestones achieved:

2.18.1. The successful completion of the auction of the immovable property, and the funds paid into a third-party trust account for disbursements.

2.18.2. Publication of the addendum and vote thereon.

2.18.2.1. Implementation of proposals in terms of the addendum.

3. SALIENT FEATURES

The salient features of this Proposed Business Rescue Plan are set out as follows:

3.1. PART A – BACKGROUND OF THE COMPANY⁵

3.1.1. The Business, known as Nottinghill Farm (Hereinafter referred to as “Nottinghill” or “The Business”) is a business based in East London and the main source of income generated in the business is the sale of tomatoes to retailers. They provide normal table tomatoes as well as specialty tomatoes to a wide range of distributors with a national footprint.

3.1.2. The business also sells small batches of snacking cucumbers for local retailers and for a select few in the Western Cape.

3.1.3. The business was established in 2001 and is currently owned by the sole member – Theo Scheepers [100%].

3.1.4. Per the Act⁶; the assets of the Business are as per the attached Annexure D containing a List of Material Assets.

3.1.5. Per the Act⁷; The liability of the business is based on the proof of claims received from 10 creditors (totaling 16 claims) and totals about R21 625 692.94. A list of creditors with their respective claims is attached as Annexure B.

3.1.5.1. These claims are then broken down into the following Classes:

Secured Claims	: 9 Claims	for about R19 909 634.61
Concurrent Claims	: 6 Claims	for about R609 050.47
“Disputed” Claims	: 1 Claim	for about R1 107 007.86

*The “Disputed” claim above is an interconnected party loan – the value of which is still to be confirmed.

⁵ Section 150 (2) of the Companies Act.

⁶ Section 150(2)(a)(i).

⁷ Section 150(2)(a)(ii).

3.1.5.2. It must be noted that the proof of claims submitted to the Business Rescue Practitioner/s does not automatically assure the Creditor that they will receive this amount as discrepancies might be found when comparing the amount in the books of the Business to the proof of claim received.

3.1.5.3. Please further note that this plan refers to the fact that no legal fees, interest, collection fees or any cost other than the capital amounts can be provided for on the historic debts due to creditors. Only the capital amounts due will be considered in the dividend calculation if such debt is not specifically provided for in this proposed Business Rescue Plan.

3.1.5.3.1. The above section specifically excludes ABSA – thereby allowing ABSA to continue charging the relevant interest and fees per the agreements. This is simply because ABSA is a verified credit provider with valid credit agreements in place.

3.1.6. The Business Rescue Practitioner/s remain of the opinion that this proposed business rescue plan will provide for a much better return to all the affected parties than could materialise in an immediate and traditional liquidation.

3.1.7. Below is a complete list of the holders of the Company's issued securities.⁸

Name	Issued Securities
Theo Scheepers	: 100% (Sole member of CC)

3.1.8. Attached as Annexure F⁹ is a copy of the written fee agreement of the practitioner/s as approved by the business and the directors.

3.1.8.1. With the adoption of this proposed business rescue plan, it will be considered that creditors have approved this fee agreement.

3.1.9. No creditor has made any representations to the Business Rescue Practitioner/s and this business rescue plan includes no informal proposal made by a creditor.¹⁰

⁸ Section 150(2)(a)(iv).

⁹ Section 150(2)(a)(v).

¹⁰ Section 150(2)(a)(vi).

3.2. PART B – PROPOSAL BY THE PRACTITIONER/S¹¹

3.2.1. This Proposed Business Rescue Plan does not make provision for a specific moratorium period¹² to be granted, payments will be made to the creditors of the business as soon as the funds are made available, after the sale of the immovable asset/s; and the business rescue costs settled, in terms of this proposed business rescue plan.

3.2.2. It is proposed that the immovable property that belongs to the business would ordinarily be auctioned within 40 business days of the adoption of this proposed business rescue plan. However, Cognisance must be taken of the fact that over December, there are multiple *dies non days* which means the auction will likely take place sometime later on in the new year. It is thus proposed that the auction be held during the first week of March 2024. Giving the auctioneers sufficient time to generate interest in the property in order to maximize the potential offers on the assets.

3.2.3. As stated in the executive summary, both of the farms belonging to the business will be put to auction so that we are able to review all potential offers received and then an addendum will be published, and voted on by the affected persons regarding the potential dividends to be received and how disbursements will be made.

3.2.4. All offers received will be Subject to Confirmation (STC) by the holders of the respective guarantees.

3.2.4.1. These guarantees are explained in further detail below under the section dealing with individual creditors.

3.2.5. The immovable property available for sale is described in detail in terms of Annexure D, it does however hold an approximate total market value of R29.4million as provided in the desktop valuation. The forced sale value, however, will be substantially less and an estimate to be received would be around half of the value in terms of the desktop valuation – although the practitioners make no guarantees in this regard.

¹¹ Section 150 (2).

¹² Section 150(2)(b)(i).

3.2.6. Furthermore, the crops to be harvested early next year are expected to bring in approximately R3.3million in turnover for the farm, to be used to settle the Humansdorp Co-Op in terms of the bond that they hold.

3.2.7. Although the order and preference of payments is addressed later in this plan, it is important to note the following regarding the funds that will become available from the sale of this property.

3.2.7.1. The funds will be used in accordance with the Companies Act:

3.2.7.2. The settling of the business rescue costs, which as referred to includes the practitioners' fees, contingencies, statutory obligations (including but not limited to SARS), third party costs and insurance incurred during the business rescue process. Irrespective of the secured creditors being settled or not.

3.2.7.3. Thereafter the settling of the Secured Creditors exposure in so far as is possible and in terms of the various agreements provided to the practitioners.

3.2.7.3.1. The full detail of the proposed settlement will be outlined in the proposed addendum to the rescue plan to be published and voted on after offers have been received during the auction process – thereby effectively allowing all affected parties an opportunity to vote based on more factual information regarding the proposed dividends.

3.2.8. Should the property not be sold at the public auction it will be dealt with as follows:

3.2.8.1. The assets will be marketed by various property practitioners for a period of 3 months to try obtaining offers on the property.

3.2.8.2. Should, after the period of 3 months, a successful purchaser not have been obtained, a final auction will be scheduled for 1 month from that date.

3.2.8.3. Should, at this final auction, a successful buyer yet again not be obtained, the assets will be surrendered back to the owners of the business and the practitioners will file for Substantial Implementation and the creditors will be within their rights to pursue their debts in the ordinary course of business.

3.2.9. The offer in terms of this plan and the payment that is to be made to all creditors shall be in full and final settlement of such debt and all creditors shall by adoption of the Proposed Business Rescue Plan accede to the discharge of the whole of the debt in terms of the Act,¹³

3.2.9.1. ABSA will specifically be granted this right to pursue any 3rd party surety for any shortfall if there is such a shortfall in terms of the proposed offer.

3.2.10. Dispute Resolution Mechanism:

3.2.10.1. Should any affected person dispute any of the provisions of this business rescue plan, such disputes may be raised at any time prior to the voting on the business rescue plan. These disputes, of whatsoever nature will be addressed after the adoption of the plan.

3.2.10.2. Should the dispute arise out of the adoption of the plan or as a result of any supposed voting irregularities, these disputes must be resolved.

3.2.10.3. Such disputes must however be raised within 5 working days from the adoption of the proposed business rescue plan and notice must be formally provided to the practitioners in this regard to prevent the plan from being implemented.

3.2.10.4. The implication of the abovementioned is that the creditors shall have no further right of recourse and shall not be entitled to enforce the debt, or any balance thereof owed by the business immediately before the beginning of the Business Rescue Process as the Business Rescue Plan does not provide for the institution of any further action. An extract from the Act is given below for ease of reference.

¹³ Section 154(1).

Section 154: Discharge of debts and claims

“A Business Rescue Plan may provide that, if it is implemented in accordance with its terms and conditions, a creditor who has acceded to the discharge of the whole or part of a debt owing to that creditor will lose the right to enforce the relevant debt or part of it.

If a Business Rescue Plan has been approved and implemented in accordance with this Chapter, a creditor is not entitled to enforce any debt owed by the Company immediately before the beginning of the Business Rescue Process, except to the extent provided for in the Business Rescue Plan.”

3.2.11. The order of payment of claims and costs for this business rescue will follow the parameters as set out in Section 134 and 135 of the Act¹⁴ and is summarised as follows:

3.2.12. First - The fees and expenses still due to the practitioners in terms of Section 143 of the Act¹⁵ will be paid in terms of Section 135 of the Act.¹⁶ These expenses will include all costs to facilitate the business rescue process including but not limited to the accounting costs, broker fees, short-term insurance, banking fees and statutory obligations as defined in the definitions to this rescue plan.

3.2.13. The practitioners' fees are per the annexed agreement.

3.2.14. Second - All creditors, including but not limited to staff, sub-contractors and or suppliers who have assisted the business with the completion of the ongoing trading of the business will be settled next from proceeds if available, for any of the work done or goods supplied to complete this work completed post business rescue commencement.

3.2.15. It is important to note that disbursement to creditors in this category can only be made with the consent of the secured creditor, or from surplus funds from the sale of the property.

3.2.16. Third – any party that provided post-commencement finance will be repaid their respective loans, but no interest or fees will be paid.

3.2.16.1. No post-commencement finance due at the time of publication.

¹⁴ Section 150(2)(b)(v).

¹⁵ Section 143.

¹⁶ Section 135 (3)

3.2.17. Fourth – Secured Creditors: the only secured creditors are ABSA Bank, the Humansdorp Co-Op and Claude Randall.

3.2.17.1. ABSA Bank has provided a Term Loan Facility - Acc Number 30-5050-1233 (the facility was at the time of **commencement of Business Rescue**, due in the amount of R10 718 881.09).

3.2.17.2. Further to the above, ABSA Bank holds Various other Term loan Facilities and Asset Finance Agreements at the time of **commencement of Business Rescue** – the full details of which are contained in Annexure B with the relevant amounts and the respective class of creditor.

3.2.17.2.1. ABSA Bank holds valid securities for their debt and the practitioners recognize these securities.

3.2.17.2.2. These securities are as follows:

3.2.17.2.2.1. General Notarial Bond over all moveable assets to the value of R1 000 000.00 dd 2004/04/26.

3.2.17.2.2.2. 1st CCMB for R60 000.00, 2nd CCMB for R1 360 000.00, 3rd CCMB for R880 000.00 & 4th CCMB for R900 000.00 & 5th CCMB for R1 300 000.00 (Total R4 500 000.00) over Portion 3 of Farm 767 East London.

3.2.17.2.2.3. Cession of loan account in Sable Sands Trading 1014 CC.

3.2.17.2.2.4. 1st CCMB of R10 000 000.00 over Port 1 of the Farm 421 East London Rd, East London.

3.2.17.2.2.5. Limited Suretyship of R397 000.00 by TE Scheepers (Member) including cession of loan account

3.2.17.2.2.6. Limited Suretyship of R397.000-00 by Sable Sands Trading 1014 CC including cession of loan account

3.2.17.2.2.7. Cession of loan account in Sable Sands Trading 1014 CC

3.2.17.2.2.8. Limited Suretyship of R216 000.00 by TE Scheepers (Member) including cession of loan account

3.2.17.2.2.9. Limited Suretyship of R213 000.00 by Sable Sands Trading 1014 CC including cession of loan account

3.2.17.2.2.10. Limited Suretyship of R11 500 000.00 by TE Scheepers

(Member) including cession of loan account

3.2.17.2.2.11. Limited Suretyship of R11 500 000.00 by Sable Sands Trading 1014 CC including cession of loan account

3.2.17.2.2.12. Unlimited Suretyship by TE Scheepers (Member)

3.2.17.2.2.13. Unlimited Suretyship by Sable Sand Trading 1014 CC

3.2.17.2.2.14. Unlimited Suretyship by Wonderhill CC

3.2.17.2.3. ABSA bank will retain their right to continue raising interest and fees as per their original agreements as this form of funding is ongoing.

3.2.17.2.4. The sale of any of the immovable assets as proposed hereinabove will be subject to the approval of the bank in terms of the various securities in place over these assets in the order of preference as awarded to the bank.

3.2.17.2.5. Again, the sale of any of these assets will be subject to confirmation and will be contained in the addendum after receipt of offers in terms of the auction to be held.

3.2.17.3. The Humansdorp Co-Op has provided production loans on two occasions for varying amounts. These loans amounts are per the received claim R2 203 816.63.

3.2.17.3.1. The Co-Op has a bond over the produce of the farm as a security for their loans that were provided. The Co-Op has been amenable to the rescue process and has allowed continued production on the farm to date which has allowed the business to continue operations without disruption.

3.2.17.3.2. The Co-Op will be settled first and foremost – from the sale of the crop when it is harvested early next year as proposed in this plan. The income generated from the sale of the crop should be sufficient (approximately in the amount of R3.3million) to settle the Co-Op and we would like to thank the Co-Op for their continued support during this rescue process.

3.2.17.4. **Claude Randall** holds a 2nd Mortgage bond as security - which was given for the balance of the purchase price of the property as described in the mortgage bond.

3.2.17.4.1. Mortgage bond registered on the 9th of May 2019.

3.2.17.4.2. In the sum of R2 400 000.00 and an additional R600 000.00.

3.2.17.4.3. Per paragraph 5 (a) of the abovementioned mortgage bond – there is a “Non-prejudice” clause given in favour of ABSA Bank for their various bonds and securities over the property. Simply stated, ABSA will stand first in line in respect to any funds received from the sale of any immovable assets.

3.2.17.4.4. Should any funds remain after ABSA has been settled in full – Claude Randall’s mortgage bond will be the next secured creditor to be settled.

3.2.18. Again, and for clarity, any proposed dividends to ABSA, Claude Randall or any other creditor will be detailed in the addendum to the rescue plan to be published and voted on after the auction date. Giving the affected persons sufficient information to apply their minds accurately as provided for in terms of the Act.¹⁷

3.2.19. Fifth – SARS will receive any of the post-business rescue funds that are due to them in terms of the ordinary course of business before any concurrent creditors, but after business rescue fees and costs, and potential staff dues.

3.2.19.1. SARS will further receive the full VAT on the assets sold during the auction without any compromise should it be due to SARS.

3.2.19.2. All remaining debt due to SARS will also be considered concurrent debt and paid in proportion with the rest of the concurrent creditors.

3.2.20. Sixth – The staff of the business:

3.2.20.1. The staff of the business will be addressed in full in the addendum to be published after the auction. The reason for this is simply that the uncertainty regarding the sale of the farms (one or both) does not allow for this matter to be adequately addressed herein.

3.2.20.2. Please do note that should both farms be sold, and should it become necessary to retrench staff, same will be included in the addendum for voting purposes and staff will be treated in the strictest accordance with the relevant labour laws and provision will be made for retrenchment packages in the addendum and the staff

¹⁷ Section 150(2).

packages will rank accordingly in terms of the applicable laws and judgments.

3.2.20.3. All staff are of course able to attend the various creditors meetings and voice any potential concerns – we believe in the inclusion of staff in these decisions. Consideration will be given to the amounts due in terms of potential retrenchment packages in the addendum to follow the auction.

3.2.21. Seventh – The Concurrent Creditors will share in any remaining funds from the sale of the assets of the business should there be any excess after the secured creditors have been paid as per the above.

3.2.21.1. It is impossible to predict the outcome of the auction and as such no formal dividend can be calculated/provided.

3.2.21.2. Although the Business Rescue Practitioners are confident that this Business Rescue Plan will result in a far better outcome than that of an immediate and traditional liquidation, they accept no liability for the outcome of the auction and eventualities after the adoption of the plan.

3.2.22. The main benefits of adopting this business rescue plan are:¹⁸

3.2.22.1. There is no risk of a cost contribution in business rescue and creditors cannot be held liable to fund any part of the business rescue process should they lodge their claims.

3.2.22.2. The business rescue process will allow for disbursement to creditors much faster than would be possible in a traditional liquidation because.

3.2.22.3. The process is not subject to the cumbersome supervision of the Master of the High Court and provisions of the Companies Act and Insolvency Act relating to meetings of creditors, submissions and approvals of accounts and advertising thereof.

3.2.22.4. This proposed business rescue plan removes the attorney's fees associated with a liquidation and removes the costs of a liquidator and the Masters Fees.

¹⁸ Section 150(2)(b)(vi).

3.3. PART C – ASSUMPTIONS AND CONDITIONS USED¹⁹

3.3.1. This Business Rescue Plan is based on the following assumptions.²⁰

3.3.1.1. Firstly, based on the assumption that all the creditors have submitted their claims or are satisfied that the amounts contained in Annexure B are correct.

1.1.1.1.1. The Business Rescue Practitioner/s have contacted all the affected persons, known to them, that might have a claim against the Business via email and/or telephone.

1.1.1.1.2. The Business Rescue Practitioner/s have provided the creditors with ample time and opportunity to supply their proof of claims.

1.1.1.2. This Proposed Business Rescue Plan is based on the assumption that no liquidation proceedings have commenced against the business prior to the filing for Business Rescue.

1.1.1.3. It is further assumed that the business is in fact a legally registered business and is registered with the Commission as “in business” or alternatively “in business rescue”.

1.1.1.4. While the Business Rescue Practitioner/s have taken every effort to secure the most reliable and accurate information, this plan is based on the information received from the relevant parties and although the Business Rescue Practitioner/s have endeavored to confirm its accuracy, the funds and time allotted to them during Business Rescue Proceedings in addition to the limitations in law did not allow for a full due diligence or confirmation audit to be performed.

1.1.1.4.1. This proposed business rescue plan is thus prepared based on the assumption that the information provided is accurate. The Business Rescue Practitioner/s and their associates make no representation as to its accuracy

¹⁹ Section 150 (2).

²⁰ Section 150(2)(c)(i).

and cannot be held liable for any eventualities arising from the use of the information provided.

1.1.1.5. Irrespective of these assumptions, this proposed business rescue plan will be binding on all creditors should a successful vote on the plan be achieved in terms of the Companies Act.²¹

3.3.1.2. This Business Rescue Plan is based on the following conditions that need to be satisfied for it to be fully operational.²²

3.3.1.2.1. The First condition is that a successful vote in favour of the Proposed Business Rescue Plan needs to take place in terms of the Act²³ for the plan to come into operation.

3.3.1.2.2. The second Condition is that no contracts, agreements or commitments have been entered into during the business rescue proceedings without the Business Rescue Practitioner's express consent and signature to any documentation during the business rescue proceedings.

3.3.1.2.2.1. This has the result that any such agreements are void and cannot be entertained or honoured by the business in terms of The Companies Act.²⁴

3.3.1.2.3. The third condition is that a full freeze on all directors' loan accounts with the Business is put into place. Repayments of the members debit loan accounts (monies owed by the members to the business) will be actively pursued by the practitioner/s for the benefit of the creditors.

3.3.1.2.3.1. All credit loan accounts will be frozen, and no director/shareholder will receive any repayment on these loans until such time as all creditors have been paid in terms of this proposed business rescue plan.

²¹ Section 152 and Eravin Construction Matter.

²² Section 150(2)(c)(i).

²³ Section 151 and 152.

²⁴ Section 137(4).

3.3.1.2.4. The fourth condition relates to SARS obligations by the business - The business will continue to honor its obligations to SARS with regards to the statutory submissions and obligations that have to be maintained going forward.

3.3.1.2.5. The fifth condition is that after the date of adoption of this Plan, the rights of all creditors against the Company shall be confined to the right to claim payment in terms of this plan.

3.3.1.2.6. The sixth condition is that any compromise contemplated in this business rescue plan is conditional upon the company fully meeting its obligations to creditors as set out in this business rescue plan. In the event of any breach by the company of its obligations to creditors in terms of the business rescue plan, the practitioners reserve the right to provide the creditors with a new or amended business rescue plan for consideration.

3.3.1.2.7. The seventh condition is that no directors, shareholders, or surety will be permitted to claim against the business for any claims against them as a result of any compromise reached in this proposed business rescue plan.

3.3.1.3. These conditions will allow the BRP/S sufficient leverage while they implement the proposed business rescue plan to ensure a successful transition from the current operations to that of the proposed operations as proposed in this plan.

3.3.2. Once the following has been completed the plan will be considered as having been fully implemented:²⁵

3.3.2.1. a successful vote on this proposed plan has been achieved and that disbursement to creditors is limited to the extent as allowed for in this proposed business rescue plan and no creditor will be permitted to pursue any remaining debt due by the business or sureties, other than as provided for in this business rescue plan.

²⁵ Section 150(2)(c)(i).

3.3.2.2. the successful completion of the auction and or sale of immovable asset, and the funds paid into a third-party trust account for disbursements.

3.3.2.3. the completion of the distribution calculations once the asset has been sold.

3.3.3. The BRP/S will, at this point and at their sole discretion, file a Notice of Substantial Implementation of the Business Rescue Plan in accordance with the Act.²⁶

3.3.4. It is proposed that the Company will continue trading in its current format in a smaller capacity after the implementation of this BR Plan²⁷ and therefore the projected income statement will be provided in the addendum, if relevant.

²⁶ Section 132(2)(c)(ii).

²⁷ Section 150(2)(c)(iii).

4. MEETING TO DETERMINE THE FUTURE OF THE COMPANY²⁸

4.1. This Proposed Business Rescue Plan is published to the affected persons on 1 December 2023 and a meeting to vote has been scheduled to take place on 11 December 2023, a circular will follow with details of the meeting to vote.

4.2. Should you not be in a position to attend the meeting you may appoint a proxy to vote on your behalf and the practitioner/s will accept such nominations.

5. CONSIDERATION OF THE BUSINESS RESCUE PLAN²⁹

5.1. Two votes will take place during this meeting as per the Act;³⁰

5.2. The first vote will be to determine if the affected persons wish to adjourn the meeting and have the Business Rescue Practitioner/s make amendments to the Proposed Business Rescue Plan.

5.3. The second vote will be to determine if the Proposed Business Rescue Plan will be approved and implemented subject to the rest of the conditions set out in the Act.³¹

5.4. This plan does not make provision to alter the rights of any class of holders of securities, thus a third vote by the holders of securities is not required.

6. QUALIFICATION OF BUSINESS RESCUE

6.1. Business Rescue is a process introduced by Chapter 6 of the Companies Act of 2008 and the aim of it is clearly stated in the Act.³²

6.2. The first part of the definition of Business Rescue states that it is a process designed at rehabilitating financially distressed Businesses.

²⁸ Section 151.

²⁹ Section 152.

³⁰ Section 152 (1).

³¹ Section 152.

³² Section 128 (1)(b).

6.3. The second part of the definition is that if a turnaround of the Business is not possible that the Business Rescue Process must provide a better return to creditors and shareholders than what would be realised through the immediate and traditional liquidation of the Business.

6.3.1. This is further confirmed in the matter of *Carroll v Michael Carroll CC* (2018/22808) [2019] ZAGPPHC 74 (15 March 2019)) Re: Section 141(2) does not apply if a better return is received by creditors compared to the dividend to be received by creditors upon immediate liquidation.

6.4. This is done via the temporary supervision of the Business by a Business Rescue Practitioner or practitioners, where these practitioners must determine the exact financial position of the Business and prepare a Business Rescue Plan which the creditors will vote on.

6.5. In order for a Business to qualify for Business Rescue some conditions must exist as per the Act.³³

6.6. The first condition is that the Business must be financially distressed as defined in the Act.³⁴

6.7. The second condition is that the Business Rescue Practitioners must believe that a reasonable prospect of a rescue exists as defined in the Act.³⁵

6.8. Based on the initial investigation of the Business by the Business Rescue Practitioners, from the information provided to them, it was determined that the Business qualifies for both conditions as required by the Act.

6.9. The Business was indeed financially distressed as it could not pay all its expenses as and when they became due.

6.10. The Practitioners were at the time of the first creditors' meeting of the view, based on the information provided to them at that time, that a reasonable prospect of a successful rehabilitation of the business did exist.

³³ Section 129 (1).

³⁴ Section 129 (1)(a).

³⁵ Section 129 (1)(b).

7. OVERVIEW OF THE BUSINESS RESCUE PROCESS

7.1. The Business commenced Business Rescue Proceedings in terms of the Act³⁶ by virtue of passing a resolution stating that it is in financial distress and therefore needed to file for Business Rescue.

7.2. The process of business rescue as contained in Chapter 6 of the Companies Act was duly followed with the following milestones achieved:

Action	Date
Business Rescue Resolution passed	14 September 2023
Resolution adopted by CIPC	15 September 2023
Business Rescue Practitioners Appointed	15 September 2023
Business Rescue notice submitted to affected persons	11 September 2023
First meeting of Creditors and Staff	4 October 2023
Business Rescue Plan published	1 December 2023
Vote on the proposed business rescue plan	11 December 2023

³⁶ Section 129.

8. INVESTIGATION OF THE AFFAIRS OF THE COMPANY

8.1. The business rescue practitioner/s did investigate the affairs of the business as per the Act.³⁷

8.2. Subsequent to this investigation the business rescue practitioner/s concluded that:

8.2.1. The practitioner/s still believe there to be a reasonable prospect to provide a better return to the affected persons than in a liquidation.

8.2.2. The company remains in financial distress and the business rescue process must continue.

8.2.3. Due to the limitations of the law, the practitioner/s did not have the investigative powers, time or funds to investigate all potential aspects of non-compliance, however, the practitioners are duty-bound to state the following:

8.2.3.1. In terms of Section 141 of the Companies Act, the practitioners are obliged to investigate, correct and/or report any matters presented to them, or discovered by them.

8.2.3.2. In terms of Section 150 (2) The practitioners must further include all the information reasonably required, in the proposed business rescue plan, for the creditors to apply their minds as to either vote for or against the proposed business rescue plan.

8.3. This proposed Business Rescue Plan is published to the creditors of the Company without prejudice by the Business Rescue Practitioner/s and their associates.

³⁷ Section 141.

9. VOTING ON THE PLAN

9.1. *The first vote*

9.1.1. This vote will be to determine whether the creditors wish for the Business Rescue Practitioner/s to end the meeting, amend this Business Rescue Plan and then present an amended plan at a follow-up meeting.

9.1.2. The Business Rescue Practitioner/s request that these amendments are received before the meeting so as to include these in the discussions of the voting meeting with the creditors.

9.2. *The second vote*

9.2.1. This vote will be to determine whether the creditors accept or reject the Proposed Business Rescue Plan.

10. ANNEXURES TO THE BUSINESS RESCUE PLAN

10.1. The following annexures are attached to this Proposed Business Rescue Plan:

Annexure A:	Outcome of 1st Creditors Meetings
Annexure B:	List of Creditors of the Business
Annexure C:	Company Registration Documents
Annexure D:	Material list of Assets of the Business
Annexure E:	Certificate of the Business Rescue Practitioners
Annexure F:	Written Fee Agreement (Proposal)
Annexure G:	Disclaimer

We thank you for your time offered to determine the future of this Business Rescue process for **Nottingham Farm CC.**

Nottingham Farm Close Corporation

Registration nr: 2001 / 024039 / 23

Annexure A : Outcome of 1st Creditors Meeting

5 October 2023

CIRCULAR 03

THIS DOCUMENT IS A CIRCULAR TO THE AFFECTED PERSONS RELATING TO THE BUSINESS RESCUE PROCESS OF **NOTTINGHILL FARM CC** IN TERMS OF THE COMPANIES ACT, 71 OF 2008 AS AMENDED (THE ACT).

OUTCOME OF THE 1ST MEETING OF CREDITORS

The business rescue practitioners¹ wish to advise all the affected parties the outcome of the 1st meeting of creditors of **Nottingham Farm CC** (Herein after referred to as “Nottingham” or “The Business”) - held on 4 October 2023.

Mr Pattinson gave a brief introduction of the Business Rescue team and welcomed all of the affected persons to the meeting.

CONDITIONS FOR BUSINESS RESCUE

The practitioner explained the process of filing for business rescue and why a business would consider business rescue and the conditions of filing for business rescue.

1. The first question - Is the Company Financially distressed?

YES

- 1.1. Based on information at hand, yes, the business cannot pay its debts as and when they become due and payable, therefore it is clear that the business is in financial distress in terms of the Act² and has filed for Business Rescue in terms of the Act³.
- 1.2. Had the directors decided not to file for business rescue, they would be compelled in terms of the Act⁴ to deliver a formal written notice to every affected person detailing:
 - 1.2.1. That the business is in financial distress.
 - 1.2.2. The reasons for the financial distress.
 - 1.2.3. The reasons for the company's decision to not file for business rescue.

¹ Pat Pattinson, Senior Business Rescue Practitioner and Jaco Durandt, Junior Business Rescue Practitioner.

² Section 128(1)(f) of the Companies Act 71 of 2008.

³ Section 129 of the Companies Act.

⁴ Section 129(7) of the Act.

2. Second Question - Does a reasonable prospect of a rescue exist? YES

2.1. Based on the information provided to the practitioner to date.

2.1.1. At minimum a better outcome than traditional liquidation will be sought.

2.2. The practitioner believes there to be a reasonable prospect of success as will be discussed later in the meeting.

2.2.1. Further, should a rehabilitation of the business not be possible, the practitioners will be required to at the very least seek a better outcome for the affected persons than that which they would receive in an immediate and traditional liquidation. As provided for in terms of the Act⁵ and the judgment of *Carroll v Michael Carroll*.⁶

ABOUT THE BUSINESS:

PAT PATTINSON & JACO DURANT

BR360

About the Business

Mr Theo Scheepers started the CC in 2001.

Member	%
Theo Scheepers	100

- Based in East London, Nottinghill Farm primarily deals in the sale of tomatoes to major retailers on a national scale.
- They do majority of their work with round table tomatoes, but they do a wide range of specialty tomatoes as well.
- Additionally, they do a very small volume of snacking cucumbers for the Eastern and Western Cape.

⁵ Section 128(1)(b)(ii) of the Act.

⁶ *Carroll v Michael Carroll* CC In Re: In the application for the Liquidation of: Michael Carroll CC (under supervision) (2018/22808) [2019] ZAGPPHC 74.

REASONS FOR THE FINANCIAL DISTRESS:

1. The cause for the business' financial distress is primarily due to the moth plague that has been experienced and which has systematically gotten worse since 2021.
 - 1.1. The plague reached its peak in 2022 and in actual fact wiped out the entire crop in December 2022 and also the entire crop of April 2023.
 - 1.2. The loss of these crops led to the inability of the business to repay certain production loans which were sourced to fund the Dec 2022 and April 2023 crops. With the crops being destroyed, it became impossible to repay those production loans on the original terms as agreed and thus the more urgent financial distress.
2. In addition to the production loans, there are various long-term loans that are for the funding of the farms themselves and the monthly servicing of this debt has also been somewhat impossible due to the loss of these crops. Albeit that this is not the more pressing issue, as the debt is secured, the inability to pay the monthly instalments due to the loss of crops has exacerbated the financially distressed situation in which the business finds itself.

IMPORTANT DATES:

Board Resolution Submitted	:	14 September 2023 (133 Protection date)
		CIPC returned : 15 September 2023
Practitioner Appointment Submitted	:	15 September 2023
		CIPC returned : 15 September 2023
1 st Meeting of Creditors	:	04 October 2023

FORMING A COMMITTEE

1. The Business Rescue Practitioners advised the attendees that they can form a committee of creditors in terms of the Act.⁷
 - 1.1. The attendees voted against this proposal.
 - 1.1.1. The business rescue practitioners will thus interact with all the creditors of the business directly.

REQUEST FOR AN EXTENSION

1. The plan is currently due to be published on the 19th of October 2023.
2. Based on the discussions had in this meeting, the practitioners confirmed that they will be seeking an extension of the time to publish the business rescue plan until at the latest, the 31st of October 2023.

⁷ Section 147.

3. The reasons for asking for an extension are as follows:
 - 3.1. The practitioners require some time to determine the exact financial position of the business and to correctly allocate claims in their respective classes.
 - 3.2. The practitioners have already had discussions with the member of the business, and it has been agreed that the course of action to be taken will be to sell the larger farm (the one which does not contain the pack house) in order to settle as much of the debt as possible – the full details of this will of course be contained in the business rescue plan.
 - 3.2.1. The business can then continue to trade from the smaller farm under more manageable conditions, with far less debt to service.
 - 3.3. The practitioners also require some time to get the full details of the farm to inform the decision of the best way to go about the sale of the farm in a timeline that will suit the creditors.
4. The proposed extensions was voted on during the meeting and the creditors unanimously accepted the proposed publication date for the proposed business rescue plan. Thus the plan will be published by no later than the 31st of October 2023.

PROOF OF CLAIMS

1. The practitioner confirmed that Jaco Durandt has sent out the proof of claim forms and these proof of claim forms must be completed and returned to Jaco Durandt on the prescribed document. Same is also available – along with all other documentation relating to the business rescue – on the website of the practitioner at <https://pattinson.biz/> under the “Business Rescue” tab at the top right of the page.

CLAIMS HAVE BEEN RECEIVED FROM THE FOLLOWING CREDITORS:

1. Should your name not be on the list below, this means that a claim has not been received by the practitioners and you should please submit one soonest, on the prescribed form as mentioned above.
 - ABSA Bank – various accounts including Vehicle Asset Finance
 - Intelligro

Kind Regards

Quinton Pattinson
patp@businessrescue360.co.za
082 749 6462

Jaco Durandt
jacod@businessrescue360.co.za
076 773 4595

Nottingham Farm Close Corporation

Registration nr: 2001 / 024039 / 23

Annexure B : List of Creditors of the Business

It must be noted that the proof of claims submitted to the Business Rescue Practitioners does not automatically assure the creditor that they will receive this amount as discrepancies might be found when comparing the amount in the books of the business to the proof of claims received.

Due to the limitations in law, the practitioners did not have the time nor the funds or the *locus standi* to perform a full investigation, due diligence or confirmation audit on the information received nor to employ third parties to verify and scrutinize same.

Please further note that this plan refers to the fact that no legal fees, interest, collection fees or any cost other than the capital amounts can be provided for on the historic debts due to creditors. Only the capital amounts due will be considered in the dividend calculation if such debt is not specifically provided for in this proposed Business Rescue Plan.

Nottinghill Farm			FINANCE SHEET			
Nr	Creditor	Acronym	Capital Amount	Interest & Admin Fees	Amount Due	% Voting Interest
1	ABSA Overdraft Facility - Acc Number 40-5381-4707	SC	R 1 498 521,80		R 1 498 521,80	6,93%
2	ABSA Term Loan Facility - Acc Number 30-5050-1233	SC	R 10 718 881,09		R 10 718 881,09	49,55%
3	ABSA Term Loan Facility - Acc Number 30-4578-7218	SC	R 350 893,61		R 350 893,61	1,62%
4	ABSA Term Loan Facility - Acc Number 30-5397-5263	SC	R 2 712 753,42		R 2 712 753,42	12,54%
5	ABSA Surety on Sable Sand Debts	SC	R 20 000,00		R 20 000,00	0,09%
6	ABSA Asset Finance - Acc Number 95694832	SC	R 201 724,30		R 201 724,30	0,93%
7	ABSA Asset Finance - Acc Number 95973030	SC	R 401 370,75		R 401 370,75	1,86%
8	Inteligro	CC	R 44 381,50	R 5 744,00	R 50 125,50	0,23%
9	Intermark (CONNECTED ENTITY)	CC	R 474 127,48		R 474 127,48	2,19%
10	HumansDorp Co-Op	SC	R 2 203 816,63		R 2 203 816,63	10,19%
11	Claude Randall	SC	R 1 801 673,01		R 1 801 673,01	8,33%
12	AECI Plant Health	CC	R 6 007,80		R 6 007,80	0,03%
13	Coopers Inc	CC	R 1 381,00		R 1 381,00	0,01%
14	Department of Water Affairs & Forestry	CC	R 593,69		R 593,69	0,00%
15	Sable Sands	D-CC	R 1 107 007,86		R 1 107 007,86	5,12%
16	Stark Ayres	CC	R 82 559,00		R 82 559,00	0,38%
TOTAL		16	R 21 625 692,94	R 5 744,00	R 21 631 436,94	100,00%

SUMMARY BY CREDITOR ACRONYM		Count	Capital Amount	Interest & Admin Fees	Amount Due	%
SC	Secured Creditors	9	R 19 909 634,61	R -	R 19 909 634,61	92,04%
CC	Concurrent Creditors	6	R 609 050,47	R 5 744,00	R 614 794,47	2,84%
PC	Post Commencement Finance	-	R -	R -	R -	0,00%
D-SC	Disputed Secured Creditors	-	R -	R -	R -	0,00%
D-CC	Disputed Concurrent Creditors	1	R 1 107 007,86	R -	R 1 107 007,86	5,12%
D-PC	Disputed Post Commencement Finance	-	R -	R -	R -	0,00%
TOTAL		15	R 21 625 692,94	R 5 744,00	R 21 631 436,94	100,00%

Nottingham Farm Close Corporation

Registration nr: 2001 / 024039 / 23

Annexure C : Company Registration Documents (CoR123.1)



COMPANIES AND INTELLECTUAL PROPERTY COMMISSION REPUBLIC OF SOUTH AFRICA

Date: **15/09/2023**
Customer name: **JACO DURANDT**
Customer code: **JA2976**
E-mail address: **JACO@PE-PARALEGAL.CO.ZA**
Rereference Number: **60000765284**

The Commission has received a form CoR123.1 Notice to Commence Business Rescue Proceedings in terms of section 129 or court order commencing business rescue proceedings in terms of section 131 of the Companies Act, 71 of 2008, dated 14/09/2023 for:

Company / Close Corporation Name: **NOTTINGHILL FARM CC**
Registration Number: **2001/024039/23**
Company / Close Corporation Status: **BUSINESS RESCUE**

The application was duly registered on 15/09/2023 and the effective date of commencement of business rescue proceedings is recorded as 14/09/2023.

Yours sincerely,

Commissioner: CIPC

The Companies and Intellectual Property Commission of South Africa
P.O Box 429, Pretoria, 0001, Republic of South Africa
DoceX 256, Pretoria
Contact centre 086 100 2472
www.cipc.co.za



2001/024039/23



60000765284



Certificate of Confirmation

Registration Number: **2001/024039/23**
Enterprise Name: **NOTTINGHILL FARM**

ENTERPRISE INFORMATION

Registration number: **2001/024039/23**

Enterprise Name: **NOTTINGHILL FARM CC**

Registration Date: **18/04/2001**

Business Start: **18/04/2001**

Enterprise Type: **CLOSE CORPORATION**

Enterprise Status: **BUSINESS RESCUE**

Financial Year End: **FEBRUARY**

Main business/Main object **AGRICULTURE HUNTING AND RELATED SERVICES**

Tax number: **9026384140**

Addresses:

	Postal Address	Address Of Registered Office
	P O BOX 13017 VINCENT 3363 5217	77 FRERE ROAD VINCENT EAST LONDON 3363 5247

Company Records Location:

The Companies and Intellectual Property Commission of South Africa

P.O Box 429,Pretoria, 0001, Republic of South Africa
Docex 256, Pretoria
Contact centre 086 100 2472
www.cipc.co.za



2001/024039/23



60000765284



Certificate of Confirmation

Registration Number: 2001/024039/23
Enterprise Name: NOTTINGHILL FARM

Registration Number: 2001/024039/23
Enterprise Name: NOTTINGHILL FARM CC

AUDITORS

Name

Postal Address

ACTIVE MEMBERS / DIRECTORS

Full Name	Director Type	ID Number	Appoint. Date	Cellphone Number	Address
SCHEEPERS THEODORUS ERNST	MEMBER	5602075088086	18/04/2001	0836517385	Postal:12 LYNTON ROAD, SUNNYRIDGE,EAST LONDON,3363,5201 Residential Address: 12 LYNTON ROAD, SUNNYRIDGE,EAST LONDON,3363,5201



2001/024039/23





60000765284

Nottingham Farm Close Corporation

Registration nr: 2001 / 024039 / 23

Annexure E : Material List of Assets of the Business

Addendum to Agri Valuation Report completed for:		Portia Dyantyi		
Property Description	Portion 1 of Farm No. 421 East London RD			
Client Name	Nottinghill Farm CC			
Registered Owner	Nottinghill Farm CC			
Account Number	Unknown			
Previous Valuation:	Yes			
Valuation Type	Valuation Date	Valuation amount	Replacement Cost (Incl VAT)	
Formal Valuation - New loans/readvances	Tuesday, May 11, 2021	R 19,700,000	R 52,000,000	
Current Valuation:	Valuation Company	DDP VALUATION AND ADVISORY SERVICES (PTY) LTD		
Valuation Type	Valuation Date	Valuation amount	Replacement Cost (Incl VAT)	Replacement Cost (Excl. VAT)
Formal Valuation - New loans/readvances	01/May/2023	R 17,600,000	R 45,662,839	R 39,706,817
Valuation method	Absa bonds?	Undivided Share	Ownership Percentage	
Combination of methods	Yes	Yes	100%	
Type of property	Owner occupied/Owner operated			
Land Size (Ha)	40.3121	Gross Building Area (GBA) m ²	48,276.00	
Weighted Average Land Rate/Ha	R 104,501	Total Land Value	R 4,212,674	
Decrease in value from previous valuation?	Yes	% decrease since previous valuation	10.7%	
Comment on possible reason for decrease in previous valuation	The replacement cost rate per square meter for the Greenhouses stated in the previous report, was overstated compared to our market research. The age and quality of the buildings also appears to have been overstated.			
Rates & Taxes up to date	Yes			
Comments on Rates & Taxes	Not Applicable			
Appropriate Water Rights have been confirmed	Yes			
Anything that needs to be highlighted to the Bank	The caterpillar of the Tuta Absoluta moth has had a significantly detrimental effect on the tomato producers of the East London Registration Division in the last 12 - 18 months. This has resulted in smaller yields and diminished returns.			
Land Claim Identified	No			
Property rating	Lettability:	Saleability:	Building Condition:	
	Acceptable	5 = Average	5 = Average	
Valuer's comments:				
Intensive hydroponic tomato farm with significant infrastructure in a fair to average condition generally.				
This valuation is subject to:				
The water entitlement document is still in the name of the previous owner. It is recommended that the name be changed to the client's name and the new certificate be handed to ABSA Bank Ltd as soon as it is available.				
<i>I, the undersigned, hereby confirm the following:</i>				
<i>The property and its value is deemed:</i>		Acceptable	<i>for mortgage purposes.</i>	
<i>I am further aware that the information provided above will be used in the review process of the subject property and that this information was confirmed in the attached valuation report.</i>				
 Khetani Mashimbyi: Valuation Consultant - CPF 55021609 Professional Associated Valuer Registration number: 6353/9 5-May-23				

Addendum to Agri Valuation Report completed for:		Portia Dyantyi		
Property Description	Portion 3 of Farm No. 767 East London RD			
Client Name	Nottinghill Farm CC			
Registered Owner	Nottinghill Farm CC			
Account Number	Unknown			
Previous Valuation:	Yes			
Valuation Type	Valuation Date	Valuation amount	Replacement Cost (Incl VAT)	
Formal Valuation - New loans/readvances	Tuesday, May 11, 2021	R 9,700,000	R 24,000,000	
Current Valuation:	Valuation Company	DDP VALUATION AND ADVISORY SERVICES (PTY) LTD		
Valuation Type	Valuation Date	Valuation amount	Replacement Cost (Incl VAT)	Replacement Cost (Excl. VAT)
Formal Valuation - New loans/readvances	01-May-2023	R 9,000,000	R 21,842,040	R 18,993,078
Valuation method	Absa bonds?	Undivided Share	Ownership Percentage	
Combination of methods	Yes	Yes	100%	
Type of property	Owner occupied/Owner operated			
Land Size (Ha)	9.4581	Gross Building Area (GBA) m ²	16,994.00	
Weighted Average Land Rate/Ha	R 129,595	Total Land Value	R 1,225,719	
Decrease in value from previous valuation?	Yes	% decrease since previous valuation	7.2%	
Comment on possible reason for decrease in previous valuation	The replacement cost rate per square meter for the Greenhouses stated in the previous report, was overstated compared to our market research.			
Rates & Taxes up to date	Yes			
Comments on Rates & Taxes	Not Applicable			
Appropriate Water Rights have been confirmed	Yes			
Anything that needs to be highlighted to the Bank	The caterpillar of the Tuta Absoluta moth has had a significantly detrimental effect on the tomato producers of the East London Registration Division in the last 12 - 18 months. This has resulted in smaller yields and diminished returns.			
Land Claim Identified	No			
Property rating	Lettability:	Saleability:	Building Condition:	
	Acceptable	5 = Average	5 = Average	
Valuer's comments:				
Intensive hydroponic tomato farm with significant infrastructure varying in condition from below average (relative small component), fair to good with a combined rating of average				
This valuation is subject to:				
The water entitlement document is still in the name of the previous owner. It is recommended that the name be changed to the client's name and the new certificate be handed to ABSA Bank Ltd as soon as it is available. It is recommended to retain an amount of R140 000 until such certificate has been received and confirmed to be in order				
I, the undersigned, hereby confirm the following:				
The property and its value is deemed:		Acceptable	for mortgage purposes.	
I am further aware that the information provided above will be used in the review process of the subject property and that this information was confirmed in the attached valuation report.				
 D Pienaar: Valuation Consultant - CPF Professional Associated Valuer		The value is based on the sales approach in terms of the land (14% of total value), plus the depreciated improvement value (86% of the total value) The improvement ratio of 86% is higher than the norm, but is considered to be realistic due to the small land extent and substantial improvements.		

MOVABLE ASSET REGISTER PROGRESS FARM OCTOBER 2023

	ITEM	DETAILS	AMOUNT
	EQUIPMENT		
1	Knap Sack / Weed sprayers	x 1	1 000
2	Spare Fertiliser Injection Pumps (needs repairs)	x 2	1 000
3	Stihl Mistblowers	x 2	2 000
4	Bushcutter (needs repairs)	x 1	2 000
5	Welding Machine	x 1	500
6	100l Electric Compressor	x 1	1 500
7	3kw Electric Motor / Pump	x 1	3 500
8	10,000 L water tank	x 2	15 000
9	Electric house pump	x 1	1 000
10	Electric Spray Pump (needs repairs)	x 1	500
11	500L Green Spray Tanks	x 3	3 000
12	Hanna & Growquip fertiliser injectors	x 3	15 000
13	Office equipment & furniture (belongs to Wonderhill CC)		
14	Husgavana Ride On Lawnmower (needs repairs)	x 1	10 000
15	Polinator Blowers, 4 x weed eaters, spades and other gardening equipment		20 000
16	Wood & Metal Tomato Bins	x 50	4 000
17	Plastic Mass Bins	x 40	40 000
18	Trolleys & ladders	x 20	10 000
19	Wheelbarrows - metal	x 2	1 000
20	Green Knap Sack weed sprayers	x 2	400
21	EC/HP Handheld meters	x 4	
22	Tecnomia hand lance with 60m pipe line	x 1	2 000
23	2500 Corn Planter	x1	2 500
24	Dam Scoop	x 1	10 000
25	62.5 KVA Diesel Generator	x 1	75 000
	Dam 1:		
26	50,000 L Reservoir Frames (1 x needs repairs)	x 2	8 000
27	50,000 L Reservoir Liner	x 1	5 000
	Pumphouse		
28	15 kw Submersible Pump x 2 km pipeline	x 1	20 000
29	16 Stage Spare Submersible Pump	x 1	7 000
30	Rain station Controller	x 2	4 000
31	Dosertron PH regulator pumps	x 1	2 000
32	EC/HP Handheld meters	x 4	4 000
33	CON 20 Filter systems	x 2	5 000
34	Carbon Filter with 2 x 2500l Tanks	x 1	50 000
35	4 KW Irrigation Pump/ Motor	x 2	4 500
36	1 KW Fertiliser mixing pumps	x 6	10 000
37	Ozone purification systems with pump and venturi	x 2	10 000
38	Green 5,000 L fertiliser tanks	x 3	9 000
39	Green 2,500 L fertiliser tanks	x 4	
40	28000 L Reservoir & Liner	1	20 000
41	8 Ton Truck - 1992 model not roadworthy	x 1	100 000
42	4 Ton Fuso Trucks (2014 & 2015 models)	x 2	240 000
43	Landini Tractor with Blade	x 1	100 000
44	Landini Tractor with Hyster Attachment	x 1	90 000
45	Tractor trailers	x 2	30 000

Second House:			
46	5,000L Jojo Tank	x 1	4 000
47	Electric water pump at tank	x 1	1 500
48	2,500 L Jojo Rainwater Tank	x 1	3 000
49	Electric Rainwater pump at tank	x 1	1 500
50	40,000L reservoir with plastic liner	x 1	10 000
51	50L Electric Compressor	x 1	1 000
52	CON 20 Filter systems with automatic backwash	x 2	5 000
53	22kw Irrigation & fertilizer Pump	x 1	4 500
54	Colt 2.8 Clubcab Farm Bakkie	x 1	30 000
Dam 2:			
55	18kw Electric motors	x 2	6 000
56	5hp Waterpump - Petrol	x 3	4 000
57	High Pressure Spray Pump	x 1	2 000
			1 011 900

MOVABLE ASSET REGISTER NOTTINGHILL FARM OCTOBER 2023

	ITEM	DETAILS	AMOUNT
1	Landini R8000 Tractor	x 1	50 000
3	Argus Automatic Irrigation System	x 1	50 000
4	2500 l Jojo Tank	x 1	2 000
5	1500 l Jojo Tank	x 3	3 000
6	14 Bag Sand Fiter	x 1	5 000
7	3 Bag Sand Filter	x 2	3 000
10	5000 l Jojo Tank	x1	4 000
11	10000 l Jojo Tank	x 2	15 000
12	Small Trailer for Tractor (needs repairs)	x 1	5 000
13	1000 L Water Tanks	x 2	15 000
14	Dosing pump for Acid	x 2	3 000
15	4kw Water Pump	x 1	4 500
16	2.2 kw Water Pump	x 1	2 000
17	Various ladders, hoes, spades, tools & equipment.		10 000
18	0.75 KW Pool Pump	x 2	1 500
	32.5 KVA Diesel Generator	x 1	40 000
			213 000

2023-09-26

NOTTINGHILL FARM CC

ANNEXURE A

Account Number/s	Outstanding Balance	Arrears	Asset	Interest Rate
95694832	R201,724.30	R0.00	GWM STEED 5 2.0 S-Cab	12.46%
95973030	R401,370.75	R0.00	GWM P-SERIES DCab 2.0LS	12.79%
TOTAL	R603,095.05	R0.00		

Nottingham Farm Close Corporation

Registration nr: 2001 / 024039 / 23

Annexure E : Certificate of the Business Rescue Practitioners

1 December 2023

BUSINESS RESCUE CERTIFICATE
In terms of Chapter 6 of the Companies Act, No 71 of 2008
for
Nottinghill Farm CC
With Reg nr: 2001 / 024039 / 23

Herewith we, the undersigned appointed Business Rescue Practitioners for the abovementioned company, certify the following with regards to the proposed Business Rescue Plan as published to the affected persons on 1 December 2023:

1. Any and all actual information provided in the plan appears to be accurate, complete, and up to date.
2. The financial statement projections are estimates made in good faith on the basis of factual information and assumptions provided by the directors, staff or external service providers of the company, and as set out in the statements.
3. Due to the limitations in law, the practitioners did however not have the time nor the funds to perform a full due diligence, confirmation audit on the information received, nor employ third parties to verify and update any outstanding annual financial statements and accompanying tax returns.

Quinton (Pat) Pattinson
Snr Business Rescue Practitioner
patp@businessrescue360.co.za



Jaco Durandt
Junior Business Rescue Practitioner
jacod@businessrescue360.co.za



Nottingham Farm Close Corporation

Registration nr: 2001 / 024039 / 23

Annexure F : Written Fee Agreement (Proposal)

PROPOSAL MADE BY:

Business Rescue 360 (PTY) LTD t/a BR360

2021 / 534306 / 07

*(duly represented by Quinton Pattinson and Jaco Durandt)
(hereinafter referred to as the "Consultancy")*

TO

Business Trading Name : Nottinghill Farm
Business Registered Name : Nottinghill Farm CC
Business Registration No : 2001 / 024039 / 23
Contact : Theodorus Ernst Scheepers

*(duly represented by Theodorus Ernst Scheepers)
(hereinafter, referred to as "the Client")*

WHEREAS The Client wishes to enter into a professional working agreement with **BR360**, and

WHEREAS **BR360** accepts this request based on the terms as set out in this proposal, and

The parties hereby agree as follows:

PROJECT SCOPE AND FEES

Herewith the proposal of the terms and objectives of our engagement and the nature and limitations of the services that BR360 will provide.

BR360 proposes to perform the following services as requested by the client and report to the client the outcomes resulting from our work. The client upon signature hereof will have agreed to accept the terms as set out for this project by BR360.

PROJECT PURPOSE

To submit the business to voluntary business rescue proceedings in order to facilitate the rehabilitation of the business by providing for the temporary supervision of the business and the development and implementation of a business rescue plan to restructure the affairs and liabilities of the business in a manner that maximises the likelihood of the company continuing in existence on a solvent basis or alternatively provide for a better return to the affected parties than would result from the immediate and traditional liquidation of the business.

PROJECT DESIRED OUTCOME

The desired outcome is the successful implementation of a business rescue process, achieving the goals as set out in the definition of business rescue contained in section 128(1)(b)(i) to (iii) of the Companies Act (the Act).

Where "Business Rescue" means the proceedings as set out in Chapter 6 of (the Act) to facilitate the rehabilitation of the company that is financially distressed.

PROJECT COSTING

BR360 proposes the following fee structure for the completion of the abovementioned project.

The terms of which are as follows:

The Lead Business Rescue Practitioner has agreed to be paid a retainer of R 70 000 (Plus VAT) per month for the duration of the business rescue process.

The Secondary Business Rescue Practitioner has agreed to be paid a retainer of R 15 000 (Plus VAT) per month for the duration of the business rescue process.

Contingencies:

In terms of the Companies Act Section 143(2), the consultancy will be entitled to contingencies, the consultancy hereby proposes the following:

1. Although the business and the consultancy may reach an agreement in relation to terms for payments and fee structures, it is a requirement in terms of the Companies Act, that the agreed to fees must be approved by creditors at a meeting called for that purpose.

- ~~2. The Business Rescue Practitioners will each be entitled to receive a success fee on the adoption of the proposed business rescue plan equivalent to 25 hours' worth of business rescue practitioner fees at normal rates (Plus VAT if applicable).~~
3. The Business Rescue Practitioners will be entitled to share in a 10% dividend on all immovable assets sold as part of the Business Rescue of the Company.
 - a. This 10% is to be shared with the "agent" – be this a real estate agent, broker, auctioneer or any other party that facilitated the sale.
4. The Business Rescue Practitioners will be entitled to share in a 10% dividend on all movable assets sold as part of the Business Rescue of the Company.
 - a. This is in line with what a liquidator will be entitled to in terms of a sale of moveable assets.
5. Should the business be sold as a going concern and or the shares or members interest or part thereof be disposed of the Business Rescue Practitioners shall be entitled to share a commission of 10%.
 - a. This 10% is to be shared with the "agent" – be this a real estate agent, broker, auctioneer or any other party that facilitated the sale.
- ~~6. The Business Rescue Practitioners shall be entitled to a success fee of 10% of any post commencement finance that is raised for the business during the business rescue process or thereafter.~~
7. The Business Rescue Practitioners will each be entitled to receive a success fee as soon as they file for substantial implementation of the business rescue process equivalent to 25 hours' worth of business rescue practitioner fees at normal rates (Plus VAT if applicable).

LIQUIDATION DEPOSIT

The consultancy requires a liquidation deposit to be paid into the trust account of an attorney nominated by the business rescue practitioner. This deposit is required to cover the costs should the company have to enter liquidation proceedings for whatever reason. Confirmation of such liquidation deposit is required before commencement of the business rescue proceedings.

AGREEMENT OF TERMS

1. This fee agreement must be read with the terms and conditions as set out in the letter of engagement, memorandum of agreement and any other agreement that may be concluded between the client and the consultancy.
2. All third party and sub-contractor's fees are for the account of the client.
3. Penalty interest equal to the maximum Mora Interest allowed as per the Prescribed Rate of Interest Act (Act No. 55 of 1975) will be levied on all outstanding invoices.
4. The client shall within five (5) working days of receipt of invoices raise any queries it may have in respect of such invoices, whereafter the amounts reflected will be accepted as correct and the client will be barred from raising any further queries.

5. All attorney's debt collectors' costs will also be recovered from the client on the attorney-and-client scale or on the official tariffs applicable to registered debt collectors. This is inclusive of the collection commission costs of the debt collector at a rate of no more than 15% on the full amount outstanding.
6. The client will place all the equipment, not yet secured with any other party of the business, as security and all invoices raised will be considered as secured on this basis.
7. The solvency or insolvency of the client shall have no effect upon the terms of payment of these fees. Reliance will be placed on the security over the assets as per point 5 above and should it not be possible to attach any such items, a deposit will be required to commence work and to secure fees at the onset of the project.
8. The client will be responsible for the payment of the costs relating to the professional indemnity cover for the appointed business rescue practitioner/s. It is a requirement in law that practitioners obtain professional indemnity cover for each individual rescue appointment.
 - a. It is a requirement of our Professional Indemnity Insurance that we limit our liability in regard to professional engagement services provided, to a maximum of two times fees billed for a specific project or matter. The client and BR360, therefore agree and accept that BR360's liability in respect of professional engagements, shall be limited in this way.
9. The submission and payment of any statutory obligations remains the responsibility of the directors/shareholders of the company.

Signature

Name

Date

Signed at

By signing this document, the client confirms that this letter and the contents herein have been brought to their attention, and that the signatories have been duly authorized by the relevant parties to sign this letter on their behalf and the signature confirm the accuracy of the information provided and that BR360 may use this information for invoicing, referencing and marketing purposes.

Nottingham Farm Close Corporation

Registration nr: 2001 / 024039 / 23

Annexure G : Disclaimer

DISCLAIMER

All the affected parties' attention is specifically drawn to the disclaimer provisions set out hereunder:

1. The business rescue practitioners have compiled this proposed business rescue plan¹ based on the information provided to them by, *inter alia* the directors, creditors and third parties which information the business rescue practitioners will endeavour to confirm its accuracy.
2. The BRPs have relied on the information provided and accepted all documents delivered to them as being authentic and a true reflection of the business, its property and its financial situation.
3. However, as a result of the limitations in law and availability of funds and time, the practitioners have not carried out a full confirmation audit of the company's documents as provided, nor have the practitioners had adequate time and/or opportunity to independently verify all the information provided.
 - a. This does not deter from the fact that the practitioners present the information as contained in the proposed business rescue plan as 'reasonable' and 'fair'. Where estimates are made,² these are estimates only, but are made in good faith³ and the practitioners acknowledge that the affected persons must be able to adequately apply their minds when considering the proposed rescue plan and to determine whether or not to vote in favour of the adoption of such plan.⁴
 - b. The business rescue practitioners have taken all reasonable and necessary steps to verify information and data provided to them within the time constraints and resources available to them and the company as provided for in the Act.⁵

¹ Section 150 of the Companies Act 71 of 2008.

² Where forecasts - specifically financial forecasts - are made, they are based on the data made available to the BRPs and in good faith.

³ Section 150 (4) (b) of the Act.

⁴ Section 150 (2) of the Companies Act 71 of 2008.

⁵ Chapter 6 of the Companies Act.

- c. Business rescue is inherently a public affair and the BRPs have a duty to disclose to any affected persons sufficient and accurate information for such affected person and/or creditor to make an informed decision as to the affairs of the company and to vote on the plan. This implies that certain trade secrets, client data and other information will inevitably be made available to affected persons.⁶
4. The BRPs have, where relevant, engaged expert third party professionals such as legal advisors, accountants, valuers and financial advisors and have relied on such professional opinions in compiling this proposed business rescue plan.
5. The BRPs do not express an opinion outside of their expertise and where relevant, such opinions are informed by advice received from the relevant professional.
 - a. Any such statement of opinions expressed by the BRPs are so given in good faith and based on the information the BRPs believe to be true and correct.
6. The BRPs do not accept any responsibility, in any way whatsoever, to any party in respect of any errors that may be the result of incorrect information that was provided to them and used in this proposed business rescue plan.
7. All affected parties are advised to obtain independent legal opinion in respect of the content of this plan. Should they require such opinions, the BRPs cannot advise an affected person, as such action may be deemed to be prejudicial.
 - a. Nothing contained in this proposed business rescue plan shall be deemed to constitute legal 'advice'. Although reference is made to the Companies Act and various other forms of legislation, the BRPs hereby confirm that they are not attorneys and the opinions given and statements made are simply their understanding of the law and such statements/opinions are given without prejudice.

⁶ The Protection of Personal Information (POPI) Act, as an essential data protection legislation, acknowledges the need for businesses to safeguard personal information and trade secrets. In compliance with the Act's requirements, balanced with the Companies Act requirements, certain elements of personal information or proprietary knowledge may be included within the business rescue plan to ensure its validity and efficacy.

8. The Act⁷ compels the BRPs to investigate the affairs of the company, however the BRPs do not have powers like that of a liquidator to subpoena witnesses and interrogate them. The investigations into the affairs of the company are based on the information provided and the documents made available to the BRPs, by those willing to provide such information.
9. All notifications made to affected parties and particularly the creditors, are based on the information provided to the BRPs by the directors and as extracted from the accounting records made available to the BRPs. The BRPs have taken all reasonable and necessary steps to determine who are affected persons and given such persons due notice.
10. The BRPs have contacted all the affected persons, known to them, that might have a claim against the business via email and/or telephone.
11. This proposed business rescue plan will be binding on all creditors should a successful vote on the plan be achieved in terms of the Act.⁸

⁷ Section 141 of the Companies Act 71 of 2008.

⁸ Section 152 of the Companies Act 71 of 2008.